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Gabriel Serna

University of Northern Colorado, sernagab@msu.edu

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# The “Gainful Employment Rule” and Student Loan Defaults: How the Policy Frame Overlooks Important Normative Implications

By Gabriel Serina

Gabriel Serina is assistant professor of Higher Education and Student Affairs Leadership at the University of Northern Colorado.

*This essay examines normative aspects of the gainful employment rule and how the policy frame and image miss important implications for student aid policy. Because the economic and social burdens associated with the policy are typically borne by certain socio-economic and ethnic groups, the policy frame and image do not identify possible negative connotations associated with higher levels of student loan default and debt-burden. This essay argues that little attention has been paid to the normative associations surrounding this policy and the ways that the framing of the issues creates a specific image for policymakers and the tax-paying public.*

**Key Words:** *Gainful employment, student loan default*

For-profit higher education institutions have been a part of the American higher education landscape for at least the past century, though their presence has only truly been felt for roughly the past twenty years (Bennett, Luchesi, & Vedder, 2010; Breneman, Pusser, & Turner, 2006; Kinser, 2007; Millora, 2010; Ruch, 2001; Tierney & Hentschke, 2007). This increased presence has also resulted in increased attention to the admissions, recruitment, and financial aid practices of such institutions. One need only look to recent articles in *The Chronicle of Higher Education* and *Inside Higher Ed* to understand the scrutiny these institutions face regarding federal student loan defaults, questionable financial aid practices, and promises of gainful employment (Blumenstyk, 2011a, b; Fain, 2014; Field, 2010, 2011, 2014). Prior to the gainful employment rule’s implementation, concerns were raised by the U.S. Government Accountability Office (GAO, 2011a, b) and its director Gregory Kutz (2011). Similarly, multiple individuals- including, David Hawkins (2011), Director of Public Policy and Research for the Association for College Admission Counseling; Dr. Michale McComis (2011), Executive Director for the Accrediting Commission for Career Schools and Colleges; Robert Shireman (2011), Deputy Undersecretary for the U.S. Department of Education; and Mary Mitchelson (2011), Acting Inspector General for the U.S. Department of Education- were called before the Senate Committee on Health, Education, Labor, and Pensions to provide testimony. Based on these hearings, the Department of Education enacted regulations under

the heading “gainful employment” in 2011 that would define gainful employment and effectively limit the amount of debt students enrolled in for-profit educational institutions or vocational programs could incur based on a set of measures established by the US Department of Education (ED) (NACUBO, 2011; ED, 2011).

Though ED implemented the rules in July 2011, challenges to the new regulations were soon brought in federal court. In mid-2012 “gainful employment” regulations as implemented were found to be arbitrary in their chosen metrics. While the ruling delayed the implementation of the policy, it also made explicit the notion that ED had authority to define and monitor gainful employment measures and outcomes. This led the Obama administration to announce new steps to combat concerns about student loan debt levels and default through updated regulations decidedly focused on the for-profit sector (ED, 2014; Fain, 2014; Field, 2014). Based on the most recent version of the regulations, two primary debt-to-income measures tests are to be employed and cohort rates rather than total default rates will be used to determine eligibility for participation in federal aid programs.

Given the great deal of attention focused on loan default rates and debt incurred by students at for-profit institutions, it is important to understand how the policy frame misses some rather important normative concerns. Therefore, in this essay I examine the empirical considerations and normative aspects that the gainful employment rule engenders and how the policy frame and image<sup>1</sup>, while useful, misses important implications for student aid policy<sup>2</sup>. Because the economic and social burdens associated with the policy are typically borne by certain socio-economic and ethnic groups, the policy frame and its image do little to identify possible negative connotations of certain groups that are associated with higher levels of student loan default and debt-burden based on the research literature. This essay argues that little attention has been paid to the normative associations surrounding this policy and the ways in which the framing of the issues creates a specific image for policymakers and the tax-paying public.

In addition to the preceding, this essay will consider how empirical and economic considerations have taken center stage in the process of defining the policy’s image and the negative consequences associated with it. For example, Karen Gross (2014) and Jacob Gross & Nicholas Hillman (2014) all note that current metrics are seriously flawed and miss many important contextual factors. This is not to suggest that analyzing student aid policy in a quantitative manner is itself un-useful; in fact, doing so provides fruitful results and information. The goal of this analysis is instead to draw out the importance of the inclusion of normative implications that this policy engenders but which up to now have been largely omitted from the policy debate. Moreover, I am not suggesting that the normative implications considered here are specific to the gainful employment rule, but rather that this type of policy framing may be problematic on the whole and could extend to other areas of higher education policy. Perhaps by understanding the normative implications of this specific policy it may become clearer how policy formulation and implementation in higher education can benefit from including normative concerns more directly.

## **The Gainful Employment Rule: Background and Overview**

In reaction to concerns from the Government Accountability Office (GAO, 2011a), Congress, and the tax-paying public, the U.S. Department of Education proposed a policy rule entitled “gainful employment” in July of 2010. The policy was aimed at more clearly defining “gainful” college education with regard to employment. It also generated debt restrictions to stem what was considered to be excessive loan burden accumulated by students at for-profit higher education institutions. While the policy also applied to occupational training at more traditional public and private institutions, the rhetoric and politics surrounding the policy issue were and remain decidedly focused on for-profit educational institutions. Another important consideration is that these institutions tend to enroll higher proportions of students from socio-economically disadvantaged<sup>3</sup> backgrounds and underrepresented groups<sup>4</sup> (Bennett, Luchesi, & Vedder, 2010; Field, 2010, 2011; GAO, 2011a,b; Kutz, 2011). The policy as initially proposed sought to limit student loan debt by subjecting gainful employment programs to a three-measure test of program graduate data. In the most recent iteration of the regulations these measures have changed and are now based on two primary metrics that are to be discussed as part of the rulemaking session to take place in 2014 (ED, 2014). To be clear, debt measures included in the policy are aimed at programs on the whole, so as a result individual students may have ratios that exceed the thresholds outlined in the policy while the institution can still meet overall compliance requirements, if aggregate ratios remain within thresholds (NACUBO, 2011; ED, 2011).

Programs must meet at least one of the measures to pass the gainful employment rule threshold for compliance. In other words, the program meets with compliance measures if it can show that the annual debt-to-discretionary income of a program’s typical graduate is not more than 30%, *or* that a program’s graduates’ debt-to-total earnings ratio is less than 12% on average. If an institution fails on both income measures twice in a three-year period, they would not qualify to participate in federal aid programs (Field, 2014). Therefore, although expressed as a two-measure rule, a program must meet only one of these measures to remain in compliance (NACBUO, 2011; ED, 2011). For those programs below the thresholds but within a certain zone on debt-to-income measures of 8-12% or 20-30% for cohort default rates, new regulations would be adopted. In this case institutions would not be allowed to remain in these “zones” for more than four consecutive years or they would become ineligible to participate in Title IV programs. Also, as long as the program is within these zones it must warn students that they may not be eligible for future aid (ED, 2014; Fain, 2014; Field, 2014).

These thresholds are intended to provide information for prospective students and to serve as an early warning system. The goal of this warning system is two-fold. First, it is intended to provide more information for students in order for them to make the best choices between programs with differing levels of risk regarding their ability to obtain federal funds. Second, it is intended to allow students to differentiate between programs that still have sufficient time to make required changes to meet the thresholds and those programs in imminent danger of losing federal funding (ED, 2014). Gross (2014) states that as far as defaults are concerned,

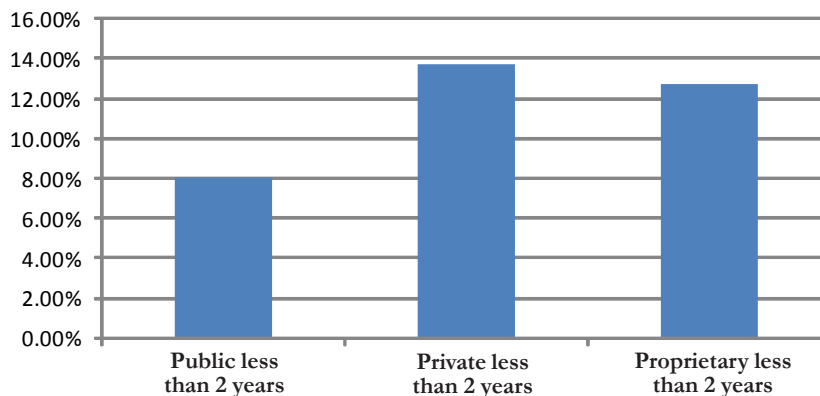
reported averages may not provide enough information for student decision-making. This is a significant limitation of this early warning system.

## Literature Review

The empirical literature regarding default rates among students from for-profit colleges indicates that for-profit school students account for a disproportionate share of student loan defaults (Bennett, Luchesi, & Vedder, 2010; Blumenstyk, 2011 a, b; GAO, 2011b; Hentschke, Lechuga, & Tierney, 2010; Hentschke, 2010; Kutz, 2011; Ruch, 2001; Scanlon & McComis, 2010; Tierney & Hentschke, 2007). The same literature also shows that these students tend to have larger debt-burdens upon departure or graduation and that the primary populations served by for-profit educational institutions are from underrepresented and low-income backgrounds (Deming, Goldin, & Katz, 2012). Furthermore, it is also clear that students from low-income backgrounds, which tends to be correlated with status as an underrepresented minority, are also more likely to default on student loans in general (Bennett, Luchesi, & Vedder, 2010; Field, 2010, 2011; GAO, 2011b; Gross, Cekic, Hossler, & Hillman, 2009; Kinser, 2009; Kutz, 2011; Millora, 2010; Tierney & Hentschke, 2007). The only empirical evidence of student loan-defaults within what was then considered an acceptable range from students that have attended for-profit institutions was presented by Ruch (2001). However, subsequent literature, as well as recent reports by Blumenstyk (2011a, b), show that this is simply not the case based upon the available data. The National Student Loan Data System (2011) provides evidence that, as compared to public institutions, both non-profit privates and for-profit institutions have much higher default rates in their programs, with duration of less than 2 years.

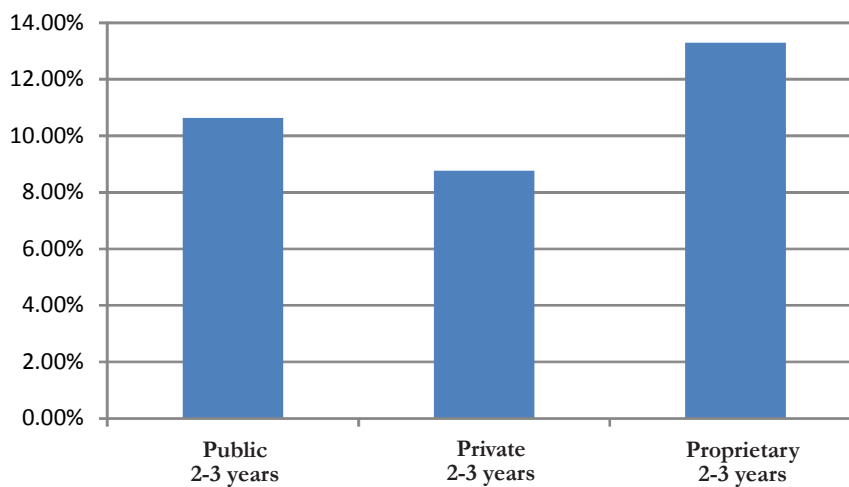
For example, using data from NSLDS, for the years 2007-2009, the average default rates at public institution programs of less than 2 years were 8.03%, non-profit privates 13.73%, and for-profits 12.7% (see figures on the next page). In this instance, one might ask why the same policy attention and the rules governing program integrity in terms of marketing, recruitment, and admissions do not also apply to non-profit programs of less than two years. Moving further along in the data, the average across the same years for these institutions for programs at public institutions with a duration of 2-3 years was 10.6%, non-profit privates 8.8%, and at for-profits 13.3%. When one moves beyond 2-year programs the differences in defaults become more significant across institutional types with for-profits at the top (see Figure 3). However, it is clear that in terms of loan defaults, students at non-profit private and for-profit institutions in programs with a duration of less than 2 years at have higher default rates. The reason for increased attention may be due to the overall default rates associated with proprietary institutions instead of program type. For example, average default rates across the same three years for all programs show that public institutions have a rate of approximately 6.4%, non-profit privates 4.1%, and for-profits 12.5%. In other words, it may be that the legislation, although aimed in many ways at for-profit institutions, also aims to limit defaults in vocational programs at all types of institutions.

**Figure 1. Average Student Default Rates 2007-2009, Programs Less than 2 Years**



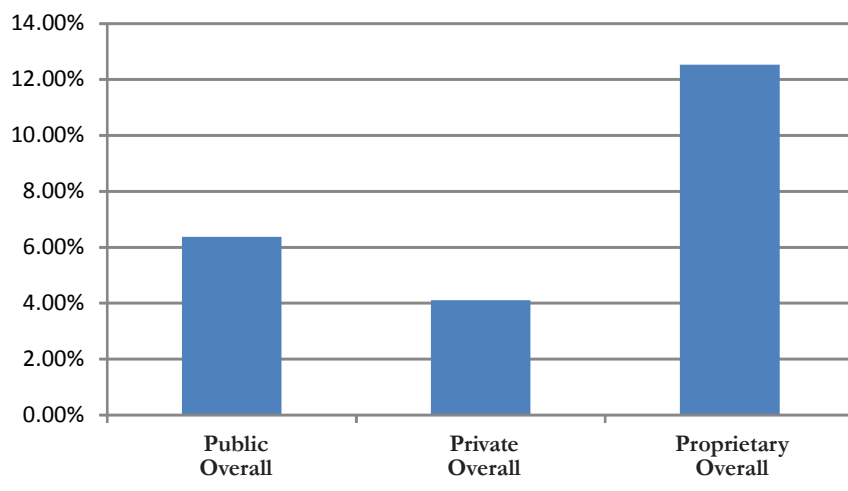
Source: National Student Loan Data System (2011) from <http://www2.ed.gov/offices/OSFAP/defaultmanagement/instrates.html>

**Figure 2. Average Student Default Rates 2007-2009, Programs 2 - 3 Years**



Source: National Student Loan Data System (2011) from <http://www2.ed.gov/offices/OSFAP/defaultmanagement/instrates.html>

**Figure 3. Average Student Default Rates 2007-2009, All Programs**



*Source:* National Student Loan Data System (2011) from <http://www2.ed.gov/offices/OSFAP/defaultmanagement/instrates.html>

It is evident from the numerous studies cited above, and the data on student loan defaults, that default rates are higher among students associated with specific student characteristics: attending a for-profit institution, minority background, or low-income. It is also patently the case that for-profit institutions provide a service to students whom may find it difficult, if not impossible, to access higher education otherwise. That is, for-profit institutions serve an under-served demographic (Breneman, Pusser, & Turner, 2006; Hentschke, 2010; Deming, Goldin, & Katz, 2012; Hentschke, Lechuga, & Tierney, 2010). They provide access to higher education for a population that might not otherwise obtain access, as evidenced by for-profit institutions' significant enrollments of underrepresented and socio-economically disadvantaged students. The reason that they do this could be related to at least three reasons.

First, these institutions often maintain admissions standards that fall on the lower side of the spectrum when compared to traditional non-profit college and universities. Second, they typically employ a cadre of specialists that help students traverse the intricate institutional hierarchies related to financing their education. Third, one simply needs to examine the often significant role played by marketing in the for-profit sector. Marketing efforts from many for-profit institutions has been shown to often target vulnerable populations (Schade, 2014). This is why the policy image matters so much in this case. As noted by Hossler (2004), most non-profit institutions seek to balance revenue generation with class diversity and prestige. Because these three goals can often work at cross-purposes, traditional non-profit institutions are typically not equipped to help these students navigate an often complex admissions and financial aid process. Even community colleges have recognized the struggles associated with providing needed support during the initial stages of the enrollment experience (Cooper, 2010).

Moreover, the goal of the gainful employment policy is to define gainful employment and to limit debt burden by adopting a formula to determine what ED considers appropriate based upon statistical analysis. However, the final provisions adopted allow more time for institutions to comply and lessens the number of institutions that would have initially been rendered ineligible under the preliminary proposal. This calls into question the true motives behind this policy action. The regulations are aimed primarily at the for-profit sector, thus implicitly framing the policy as a problem with student defaults from this sector. Given these intricacies, it becomes necessary to understand the normative implications such data and empirical findings suggest.

In the case of student loans, students have come to bear a greater share of the costs associated with obtaining a degree. This has especially been the case as state and federal governments have become more comfortable with cost-sharing and the economic ideals of derived private benefits (Johnstone, 2004; Johnstone & Marcucci, 2010). In the event that a student and his or her family is unfamiliar with the process of attending and paying for college, the goals of program integrity and the policy rules overall should consider both the economics of the situation as well as the framing of the problem. In other words, socio-economically disadvantaged students, who are often from underrepresented groups, may be more vulnerable to misleading marketing or understatement of the potential benefits of seeking a very expensive college degree, given their larger numbers at for-profit institutions (Deming, Goldin, & Katz, 2012; GAO, 2011a). What is more, the framing of the policy as a “consumer protection” appears double-edged. On the one hand, it aims to protect these students from large or unsustainable debt-burden. On the other, it explicitly ignores the characteristics and conditions that have largely contributed to the student loan-default problem (ED, 2011) and the social justice issues that accompany these circumstances. By ignoring characteristics correlated with higher levels of debt-burden and debt-default, ED has chosen a policy frame that disproportionately focuses on a specific part of the population—students at for-profit institutions. In so doing, they have likely contributed to implicit, but negative, connotations associated with students who attend these institutions because of the policy’s focus on loan-default regulations aimed primarily at this higher education sector.

## **Student Debt and Default**

Student loan debt can quickly become unmanageable when students, expecting a well-paying job after graduation, utilize debt to cover both educational costs and other household expenditures (such as housing and food) that accrue while the student is enrolled. Therefore, a reliance on debt can become a vicious cycle for these individuals. Unlike students who are wealthier or have access to greater social capital and family resources, students from low-income backgrounds (which tend to be correlated with underrepresented status) may have no other recourse but to borrow while in college. Subsequently, these students may be more likely to default on their debt if its level is too high, they are under- or unemployed, or if they are simply unaware of the numerous repayment options available to them (K. Gross, 2014). Further, the much higher prices students face at for-profit educational institutions may exacerbate this situation, as students are



required to obtain more debt to cover these higher costs. Hence, the probability of default is already higher for underrepresented and low-income students based on contextual factors omitted in the policy's framing (Bennett, Luchesi, & Vedder, 2010; Field, 2010, 2011; GAO, 2011b; Gross, Cekic, Hossler, & Hillman, 2009; Kinser, 2009; Kutz, 2011; Millora, 2010; Tierney & Hentschke, 2007).

A larger problem lies in the sheer level of debt incurred in the process as well as the prospects for gainful employment, given the number of possible obstacles facing many socio-economically disadvantaged students (see Gross, Cekic, Hossler, & Hillman, 2009, for a full discussion). For example, Deming, Goldin, & Katz (2012) utilize regression analysis to examine default data spanning 2004-2009 across institutions, controlling for a number of institutional factors including demographic composition and locality effects. Their findings show higher default rates than those calculated from NSLDS above using only three years of data. Their results indicate that for-profit default rates are 8.7 points higher than four-year public and private non-profit institutions and 5.7 points higher than for non-profit public community colleges. Moreover, Deming, Golden, & Katz (2012) indicate that these institutions serve primarily underrepresented, non-traditional, and socioeconomically disadvantaged students. The study also provides evidence that students who attend and graduate from programs at for-profit institutions often have much larger debt-burdens upon exit, have higher levels of loan-default, and after six years have higher levels of unemployment and lower pay relative to students at non-profit institutions. The authors go on to highlight the fact that at least as far as retention is concerned, at the certificate and associate degree levels, for-profits do a good job of keeping students enrolled and graduating them from these programs. However, the study underscores the sentiment many for-profit students shared regarding the quality and price of their education. In short, they were less satisfied and often did not feel their education was worth the cost.

### **The Gainful Employment Rule Policy Frame**

ED has essentially defined the gainful employment rule in terms of financial metrics which bound methodological approaches (Dunn, 2012; Guba, 1984) for understanding the policy's impacts and the image it creates. This approach and policy frame effectively limits and omits what are considered important normative concerns regarding the populations typically served by these types of institutions. Further, this policy frame arguably perpetuates negative images of students (and by extension borrowers) at these types of institutions. For example, much of the language in the rule is aimed at defining gainful employment by operationalizing the problem as an issue with "taxpayer burden" in terms of defaults. The gainful employment rule aims to protect students at for-profit educational institutions from large or unsustainable debt-burden but explicitly ignores many of the characteristics and normative conditions that the research literature has shown to impact student loan-default and debt-burden (ED, 2011). Specifically, the policy frame also does not 1) take into account individual circumstances because of the policy's focus on the problem as an economic issue, 2) address what is likely stigmatization of socio-economically disadvantaged and underrepresented students who are

more likely to attend for-profit institutions, because the rules effectively limit the policy primarily to this sector, and 3) consider how emphasis at the institutional level may create completion barriers for students whose institution has exceeded the established debt-measure limits. By creating a policy that is broad enough that its stated purpose is consumer protection, but omits any language related to the consumers it argues need protection, the policy explicitly overlooks normative considerations. In fact, the language in the final policy stated that although ED was asked to consider socio-economic status and demographics, policymakers agreed that this request was unwarranted. For example, under thresholds for debt measurement ED (2011, para. 76, p. 34393) states:

The Department does not agree that the thresholds should be adjusted to reflect the demographics or economic status of the students enrolled in gainful employment programs. Students are not well served by enrolling in programs that leave them with debts they cannot afford to repay, regardless of their background. Moreover, as illustrated in the Student Demographics section of the RIA, there are institutions and programs achieving strong results with students from disadvantaged backgrounds, and many programs serving even the most disadvantaged students are performing well under the debt measure.

On its face, the department's assertion that students do not gain from attending a program where they leave with unmanageable debt is true; however, the statement does not consider the demographics or economic status of the groups who typically attend these institutions. Thus, gainful employment is a broad-based policy that omits two very important reasons correlated with attendance and departure of individuals at these institutions. First, it fails to consider the fact that students attending these institutions may inherently have more difficulty repaying loans. Second, these students tend to leave with higher levels of debt than their peers at more traditional institutions because borrowing is often the only way they can afford to access higher education at all. This notion is supported in a literature review by Gross, Cekic, Hossler, & Hillman (2009) which indicates that students from underrepresented backgrounds and/or who have less resources or familial assistance tend to default on student loan repayment at higher rates. This review highlights the findings of a host of studies, including: Boyd (1997), Gladieux & Perna (2005), Podgursky, Ehlert, Monroe, Watson, & Wittstruck (2002), and Harrast (2004) (all cited in Gross, Cekic, Hossler, & Hillman, 2009), which each provide evidence that demographic and socioeconomic factors matter in terms of student debt.

By stating the policy's goal primarily in terms of economic considerations and "taxpayer burden," its normative implications are underscored. Namely, that the role played by student characteristics and background is ignored by this framing especially as related to the type of institutions they generally attend and for debt levels and repayment. Additionally, recent reports in the *Washington Post* (de Vise, 2011) and *Inside Higher Ed* (Nelson, 2011) suggest that even the provisions that have been adopted nonetheless miss their economic protections in the short-term; under pressure and

intense criticism from the for-profit sector, the economic and “consumer protections” the policy sought to implement were dampened in the final adoption, which extended grace and implementation periods, weakened thresholds, and lessened punitive actions (ED, 2011). Therefore, even the consumer protections included in the final policy language were watered-down to some extent.

The reaction of the Department of Education (ED) to the concerns raised by the GAO, Congress, and the public have framed the nature of the proposal, as well as to define it as policy in the event of its adoption. In this case, ED defined the boundaries of the policy proposal as a strategy to fix an economic problem. It is likely that this definition of the problem was spurred by increasing attention from the media, scholars, and government surrounding the disproportionate student-loan defaults from students who had attended for-profit institutions. Moreover, the profit-motive of such institutions has in recent years been questioned, especially when significant attention to student loan-default rates increased (Bennett, Luchesi, & Vedder, 2010; Blumenstyk, 2011 a,b; GAO, 2011a; Hentschke, Lechuga, & Tierney, 2010; Hentschke, 2010; Kutz, 2011; Ruch, 2001; Scanlon & McComis, 2010; Tierney & Hentschke, 2007). Many policy-makers feel that “profit” and “education” should not be included in the same sentence, while others disagree, which likely played a role in the framing of the gainful employment policy. This perception of the problem has served to define the policy image and frame in a very specific way. In other words, ideology probably played a more important role in framing this policy in terms of consumer protections given the emphasis on taxpayer burden.

Baumgartner & Jones (1991, 1993) show that a policy’s image or frame matters not only for whether or not it is adopted but where and how, as well as the amount of attention and possible revisions it may face. Additionally, Rosen (2009) restates the importance of policy as both a rhetorical and symbolic tool. Therefore, it could be argued that ED, by responding in such a manner, has reacted to the problematic image that resulted from increased concern with student-loan default rates by students both departing and graduating from for-profit institutions. It may also be the case that the policy question and proposal were meant as a symbol to be taken as evidence that the Department of Education is addressing the issue. However, in this same process little if any attention was paid to the normative implications surrounding this policy, its framing, and its image - namely the fact that the economic concerns and social burden are decidedly borne by certain social and racial groups. While it is true that the policy aims to “protect” these consumers, framing the policy in such a way reifies what could be argued to be a tainted image that accompanies loan defaults given the propensity of underrepresented and socio-economically disadvantaged students, statuses which are highly correlated with one another, to attend such institutions.

While the policy addresses the problem of deceptive marketing, recruitment, and admissions practices that some for-profit higher education institutions undertake to attract students, who subsequently borrow in order to cover educational expenses, with the promise of “gainful employ-

ment” after graduation, it does so in a separate set of program integrity regulations (ED, 2011). However, this action limits the requirements to the for-profit sector, whose students are primarily those who have not historically been represented in higher education.

## **Discussion**

Before analyzing the normative aspects of the policy under consideration, it is important to highlight a larger issue concerning normative analysis: specifically, the frequent omission of normative features embedded in student aid policy analysis. This is in addition to the embedded nature of these features in the formulation of policy proposals in this domain. For example, Birkland (2005) and Dunn (2012) highlight the necessary interplay between empirical evidence, both qualitative and quantitative, and common societal values and interests. Birkland goes on to say that in many instances, at least in American history, emotion and ideology have overridden empirical evidence at different stages in the policy process. For example, during the “food stamp debates” of the 1980s and 1990s, significant anecdotal evidence, which might have been more closely related to ideological evangelism, was offered in defense of “individual initiative and limited government” (p. 9) in order to illustrate the policy’s shortcomings. This example shows how important normative considerations are when framing a debate. In the food stamp case, those who participated in the program were inherently lacking in individual initiative based on the policy’s framing and image. In the current political environment, where much of the same rhetoric and virtues are being extolled, this seems to be the case as well. The normative implications of the gainful employment rule as currently framed suggest that default rates and debt levels are a problem at for-profit institutions. The policy fails to recognize why students from certain backgrounds might attend these institutions, why they might be at higher risk for default, and how the non-profit sector might better serve these individuals.

Turning to financial aid, student loan policy debates tend to be guided by a rational and scientific approach of analysis and evaluation.<sup>5</sup> Financial aid policy surrounding student loans and related defaults are no exception to this trend. Policy questions are often framed in such a way that leads to primary emphasis on quantitative data and methods, thus omitting what could be critical qualitative data and/or normative considerations, as seems to be the case in the current context. The concern is that studies of student aid and student aid policies that fail to incorporate important normative aspects in the formulation and implementation process, by basing decisions mainly on quantitative analysis and financial metrics, may omit important facets that affect public policy and conceptions of social justice. In other words, omission of normative concerns affects the way in which the policy is understood and, subsequently, how the public, government, and students and families interpret the policy and its goals.

In the case of the “gainful employment” rule, the policy has been framed as an economic policy issue, at least on its face. The normative implications of the policy proposal, namely the stigma attached with debt-default and the characteristics associated with higher levels of debt and default, received little if any attention. The policy solution, adoption, and initial

proposal were framed as a response to employment and wages, larger debt-burden, and high default rates of students who attend for-profit institutions. Of second-order was that a vulnerable cross-section of the population was likely being exploited and that a certain stigma was possibly being attributed to students who attended these institutions. As illustrated in the Literature Review, the large amount of research on the topic is not ambiguous regarding who attends these institutions, who is most likely to default, and who accrues the most debt (Bennett, Luchesi, & Vedder, 2010; Field, 2010, 2011; Deming, Goldin, & Katz, 2012; GAO, 2011a,b; Gross, Cekic, Hossler, & Hillman, 2009; Hinze-Pifer & Fry, 2010; Kinser, 2009; Kutz, 2011; Millora, 2010; Tierney & Hentschke, 2007).

Nevertheless, the policy is defined in terms of financial metrics associated with a social problem. For example, J. Gross and Hillman (2014) indicate that public perception of student loan debt and default can drive how the policy is understood. Negative connotations and policy framing surrounding student defaults and higher debt-burdens are associated with for-profit institutions and the students they serve. This is done while omitting the introduction of some of the important characteristics associated with default and debt burden into the policy itself. Even when such topics enter the debate, they are often couched in terms of “taxpayer burden” and the costs incurred by the federal government under the generic title of “consumer protections.” Moreover, although, the possible lack of clarity and information about debt-accrual is mentioned explicitly (GAO, 2011a; Kutz, 2011), little concern is given to the possible stigmatizing effect framing the policy in such a way may have, especially given its nearly myopic focus on the for-profit sector.

In a related vein, economic theory has also been used to justify the increased presence of for-profit higher education institutions. Market ideals, typically based on economic theory primarily applicable to the private sector, are used implicitly to blame individuals for their own financial plight and serve as the basis for a policy frame of this type. In a comprehensive analysis of for-profit higher education, Bennett et al., (2010, pp. 53-54) state:

The concept of consumer sovereignty asserts that the consumer ultimately determines how a society’s resources will be allocated based on their decisions of what to buy and what not to buy. Profits will only be generated in markets in which the product is in high demand. Profit creates the incentive for firms to provide more of the product, thus automatically drawing resources into productive activities that satisfy consumers’ wants and needs.

The authors’ statement is correct if, and only if, they assume that price reflects the marginal benefit of the service<sup>6</sup> to the consumer. They are also correct if they assume that the price is market clearing and that no information asymmetries exist. However, given the economic structure of the higher education sector this is not the case because institutions have much more information than students and families in the admissions process. In the context of underrepresented and socio-economically disadvantaged students, this is likely a false assumption. The very basis for subsidizing

higher education is to lower the effective price the student/consumer faces so as to encourage enrollment (GAO, 2011; Kutz, 2011; Neill, 2009). Thus, the analysis leaves out what are arguably important characteristics specific to higher education and in particular to for-profit higher education. Specifically, that the consumer does not confront the true costs for an education measured by price in a private market, and as evidenced in the empirical literature significant information asymmetries exist. In other words, for-profits can extract higher levels of tuition and fees because the student does not fully understand the costs and benefits associated with a degree from a program. Additionally, this could also be the reason that students at these institutions employ large amounts of debt to finance their degrees. That is, the profit motive of these institutions can create an incentive to help students find ways to pay for their education.

Finally, the policy proposal also does not address how it might create barriers to completion. Students in the middle of a college career at a for-profit institution may be forced to withdraw due to what some consider are arbitrary limits on their ability to obtain debt financing for their college education (Field, 2010, 2011). In the final rules, the policy is decided at the program level, and as a result student experience and background is all but left out of the equation. Therefore, students may be *forced* to exit a program without a degree, yet with a large debt burden and fewer prospects for employment, thus effectively limiting future choices.

Overall, the policy frame leaves many normative implications unaddressed. While it is unclear whether the policy will have the intended impact on decreasing student loan defaults, its normative impacts and implications seem rather clear. First, students from socio-economically disadvantaged or underrepresented backgrounds who are unfamiliar with the student aid and college-going process may be vulnerable to marketing and recruitment practices that promise gainful employment. This promise however comes at what is clearly a steep cost even with the new rules in place. A second concern is that by framing the policy as a solely quantitative economic issue, important social justice issues remain largely ignored. Even with more information, for-profit students may not complete their degree because of misunderstandings regarding debt ratios impacting the institution and its eligibility for federal grants and loans. It is unlikely that students in this predicament would find relief in the current policy given the rhetoric surrounding it, which implicitly places blame for out-of-control debt and loan defaults on students' misuse of debt. It also does so while simultaneously focusing on a specific higher education sector. In the same way, ED's decision to ignore what the research literature has shown to be important indicators of possible loan-defaults, higher debt-burden and more unemployment, underscores the policy's rather narrow focus. This, therefore, is an important aspect that should be included in the student aid policy debate and the framing of social problems and potential solutions.

### **Limitations of the Essay**

While this essay has aimed to analyze a specific policy proposal and its implementation, it became clear that the “gainful employment rule” intersects many other student aid policy domains and normative issues.

Therefore, some limitations remain. First, questions of education quality have largely been left out of this analysis in order to focus on the specific policy. Second, the role of faculty in curricular affairs and governance in for-profit educational institutions has also been omitted. Third and finally, the analysis of distinct markets and competition pressures that exist between for-profit colleges and universities and non-profit public and private colleges and universities were also not the focus of the analysis. It is important to note that these topics are all related to the current analysis; however, they must be left to future studies.

## Conclusions

The “gainful employment” rule firmly falls within the bounds of the current debate on student aid policy as well as social equity. ED has defined the “gainful employment” rule as a societal problem that was subsequently framed as an economic issue. In so doing, this essay argues that the policy has omitted important normative implications that accompany student aid policy and questions of equity, especially given the rather robust research literature on the topic. As noted recently in *Inside Higher Ed* (K. Gross, 2014; J. Gross & Hillman, 2014), many concerns around student debt and default remain regarding appropriate metrics, philosophical positions, public perception, and information asymmetries. These concerns are not limited to for-profit institutions but somehow, under the gainful employment rule, have risen to prominence in debates on federal aid policy.

ED has enacted the policy to ensure that students attending programs in recognized occupations were in fact being prepared for gainful employment by primarily for-profit institutions. It did so by establishing a definition of gainful employment that essentially, through rules aimed at diminishing the debt-burden and defaults of students who attend proprietary institutions, has specified conditions that would allow an institution which exceeds certain ratios to be ineligible for federal Title IV funds. However, ED has also left out an important normative aspect of the policy: that students from under-privileged and under-represented backgrounds tend to disproportionately bear the burden of student loan defaults in the for-profit sector. The policy neglects at least three related normative concerns. First, in its focus on the policy issue as an economic one it does not take into account the nature of individual circumstances. Second, it fails to address concerns with the possible stigmatization of disadvantaged students attending for-profit institutions by employing such a frame and limiting the rules primarily to this sector. Finally, it does not consider how, due to emphasis at the institutional level, it may create completion barriers for students at institutions that reach the debt-limit imposed by the “gainful-employment” rule.

Finally, while the spirit of the policy appears to be defining what gainful employment should entail after graduation, its economic definition and emphasis on consumer protections framed as taxpayer burden remove what are essentially normative concerns of equity, access, and social justice. This is not to suggest that economic evaluation and quantitative measures are not useful, but rather that normative implications should also be considered. This is especially the case with a policy that is clearly aimed at a

specific sector, and arguably at students within that sector. With the omission of normative implications reemerges the concern that rational and scientific approaches that remove or bracket important normative aspects of the policy process and analysis may omit important social aspects that affect and inform the way in which policy is formulated, implemented, and subsequently understood and perceived.

#### **Nexus: Connecting Research to Practice**

- For-profit institutions provide a service to students who may find it difficult, if not impossible, to access higher education otherwise. However, little attention was paid to the normative implications surrounding gainful employment, its framing, and its image for students attending for-profit institutions. Practitioners should be mindful of how policies frame particular sectors of higher education and the potential effects of such framing on student perceptions.
- The normative implications considered here are not specific to the gainful employment rule. Practitioners should be mindful of the underlying beliefs and assumptions embedded in policies.
- Because the policy does not take into account the nature of individual circumstances it does not consider how, due to emphasis at the institutional level, it may create completion barriers for students at institutions that reach the debt-limit imposed by the “gainful-employment” rule. Practitioners at institutions will likely be challenged to find innovative ways to help individual students achieve successful outcomes if debt-limits are reached.



## *Endnotes*

<sup>1</sup> As noted by Rein and Schoen “framing is a way of selecting, organizing, interpreting, and making sense of a complex reality to provide guideposts for knowing, analyzing, persuading and acting. A frame is a perspective from which an amorphous, ill-defined, problematic situation can be made sense of and acted on” (1993, p. 146). This is closely related to Baumgartner & Jones definition of image: “This process is the interaction of beliefs and values concerning a particular policy... with the existing set of political institutions-the venues of policy action” (1991, p. 1045) which in turn can be positive or negative.

<sup>2</sup> Given the controversial nature of the policy highlighted in this article, it is important to state that the author has no affiliation or bias with or toward the for-profit industry financially or otherwise. The author’s only affiliation in any higher education sector is to a public university as an assistant professor and research institute affiliate.

<sup>3</sup> Socio-economically disadvantaged means those students who are from families with below-average incomes.

<sup>4</sup> Underrepresented in this case encompasses a wide range of minority students including those from African-American, Hispanic/Latino, Native American backgrounds, and women and non-traditional students.

<sup>5</sup> For example, although Dunn and Birkland both speak to the normative aspects of the policy process and analysis, the methods they cover and offer as “off-the-shelf” are certainly geared more toward quantitative methods and data elements related to positive analysis.

<sup>6</sup> The use of “service” here is obviously an assumption that higher education and its outputs (degrees) have become commoditized.

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