September 13, 2018

Ashley Higgins
U.S. Department of Education
400 Maryland Avenue, SW
Mail Stop 294-20
Washington, DC 20202

Re: Docket ID ED-2018-OPE-0042

Dear Ms. Higgins,

Thank you for the opportunity to comment on the Department of Education's (ED) proposed rule rescinding the gainful employment (GE) regulations.

The Center for Law and Social Policy (CLASP) is a national, nonpartisan anti-poverty non-profit advancing policy solutions for low-income people. We develop and promote policies to ensure low-income students and students of color have equitable access to high-quality, affordable postsecondary pathways and credentials. As such, we are deeply concerned by ED's proposal to rescind the gainful employment rule.

Gainful Employment rescission disproportionately harms low-income students and students of color

GE helps protect students from low-quality programs that have a history of leaving students in debt with few opportunities for quality employment. These regulations are especially important to students who are low-income, first generation, and students of color—all of whom are more likely to take on student loan debt.

However, the NPRM asserts that GE "creates unnecessary barriers for institutions or programs that serve larger proportions of women and minority students." While we appreciate the Department acknowledging that these students face greater labor market barriers, we do not believe that access to programs that produce the worst outcomes will help these populations achieve greater labor market access.

The Department correctly notes that for-profit colleges disproportionately enroll students of color, women, and adult students. However, ED fails to recognize that for-profits consistently produce worse outcomes for these students compared to other types of institutions. According to a staff report by the New York Federal Reserve Bank, "students who attend for-profit institutions take on more educational debt, have worse labor market outcomes, and are more likely to default than students attending similarly selective public schools."[1] Additionally, a recent Brookings report found that students who attend for-profits have a 10-point higher rate of default after controlling for factors such as family background, educational attainment or employment or earnings measures.[2] Indeed, the Department's own proposed rule ED-2018-OPE-0027 (borrower defense to repayment) shows that of the claims that had been processed as of January 2018, 98 percent came from students who attended just two for-profit colleges.

Students of color will be especially harmed by the GE rescission. Black and Latinx students are more likely to attend for-profit institutions, and because of public policies that have created and exacerbated racial and ethnic wealth inequality[3] Black students are also more likely than other students to take on student loan debt. Both Black and Latinx for-profit college graduates are also much more likely to take on student loan debt than their counterparts at public or non-profit institutions. Unfortunately, that investment in for-profit colleges often fails to pay off for those students.[4] Graduation rates are lower among students who attend for-profit colleges,[5] and a recent analysis shows that 75 percent of Black student borrowers who enrolled in for-profit colleges in 2003-2004 and did not complete defaulted on their student loans.[6]

Gainful Employment does not devalue career and technical education or single out for-profit institutions

The NPRM also suggests that GE devalues career and technical education, and inaccurately claims that for-profit colleges are singled out under the rule. We strongly disagree. The best career and technical education programs are those that equip students with in-demand skills and credentials and lead to quality employment. By those measures, it is difficult to imagine how programs that leave students with large debt loads and low earnings can be considered high-quality career and technical education. While GE only covers non-degree programs at community colleges and private non-profit institutions, the regulation covers all programs at for-profit colleges, not just career and technical education programs. Contrary to the department's claim, the aim of this rule is not to devalue career and technical education, nor is it to single out for-profits —it is just the case that the worst programs are disproportionately housed at for-profit institutions.

The College Scorecard is no substitute for accountability

ED notes in the NPRM that it plans to update the College Scorecard to provide program-level outcome information on all Title IV-eligible programs. The Department appears to suggest that the scorecard will act as a replacement of sorts for GE. Unfortunately, the College Scorecard—while a potentially useful resource for students deciding between programs and institutions—is no substitute for accountability. GE allows ED to evaluate programs based on measurable, relevant criteria and crucially, allows the Department to strip Title IV eligibility from programs that consistently fail on these measures. A College Scorecard cannot replace that function. According to The Institute for College Access and Success, in 2017, 350,000 students graduated from failing GE-eligible programs, incurring $7.5 billion in debt.[7] Without GE, even if these programs continue to fail their students, they can remain eligible for federal student aid.

Postsecondary education can be transformative—it can help students learn new knowledge and skills, expand their career opportunities, earn higher wages, and help low-income students, students of color, and immigrants move along pathways out of poverty. However, mere access to postsecondary education is not enough. That education must be high-quality, affordable, and accessible to students regardless of their race, ethnicity or socioeconomic status. Gainful employment was designed to protect students from low-quality programs that leave them worse off than they began. We urge the Department not to abdicate its role to protect students from programs that will harm, not help their futures.

Sincerely,

Angela Hanks
Director, CLASP Center for Postsecondary and Economic Success

[1] Luis Armona, Rajashri Chakrabarti, Michael F. Lovenheim, "How Does For-Profit College Attendance Affect Student Loans, Defaults, and Labor Market Outcomes?" Federal Reserve Bank of New York Staff Reports, April 2018 **https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr811.pdf?la=en**.
[2] Judith Scott-Clayton, "What Accounts for Gaps in Student Loan Default, and What Happens After" Brookings, June 21, 2018, **https://www.brookings.edu/research/what-accounts-for-gaps-in-student-loan-default-and-what-happens-after/**.
[3] Angela Hanks, Danyelle Solomon, and Christian Weller, "Systematic Inequality" Center for American Progress, **https://www.americanprogress.org/issues/race/reports/2018/02/21/447051/systematic-inequality/**.
[4] "Gainful Employment: A Civil Rights Perspective" Leadership conference on Civil and Human Rights, March 6, 2015, **http://civilrightsdocs.info/pdf/reports/Gainful-Employment-WhitePaper.pdf**.
[5] Ibid.
[6] Ben Miller, "New Federal Data Show a Student Loan Crisis for African American Borrowers" Center for American Progress, October 16, 2017, **https://www.americanprogress.org/issues/education-postsecondary/news/2017/10/16/440711/new-federal-data-show-student-loan-crisis-african-american-borrowers/**.
[7] "How Much Did Students Borrow to Attend the Worst-Performing Career Education Programs?" The Institute for College Access and Success, August 2018, **https://ticas.org/sites/default/files/pub_files/ge_total_debt_fact_sheet.pdf/**