

# CLASP

Policy solutions that work for low-income people

June 20, 2023

The Honorable Miguel Cardona  
U.S. Secretary of Education  
U.S. Department of Education  
Office of Postsecondary Education  
400 Maryland Avenue SW  
5th Floor  
Washington, D.C. 20202

Comments on: **Docket ID ED-2023-OPE-0089 - Notice of Proposed Rulemaking on Financial Value Transparency and Gainful Employment (GE), Financial Responsibility, Administrative Capability, Certification Procedures, Ability to Benefit (ATB) - (88 FR 32300)**

Dear Secretary Cardona:

On behalf of the Center for Law and Social Policy (CLASP), I would like to thank you for the opportunity to comment on proposed new regulations to promote transparency, competence, stability, and effective outcomes for students in postsecondary education.

CLASP is a national, nonpartisan, nonprofit advancing anti-poverty policy solutions that disrupt structural and systemic racism and sexism and remove barriers blocking people from economic security and opportunity. With deep expertise in a wide range of programs and policy ideas, longstanding relationships with anti-poverty, child and family, higher education, workforce development, and economic justice stakeholders, including labor unions and worker centers, and over 50 years of history, CLASP works to amplify the voices of directly-impacted workers and families and help public officials design and implement effective programs.

CLASP understands the importance of ensuring that students have an equitable opportunity at accessing, affording, and completing postsecondary education. Evidence indicates that students with a postsecondary credential earn more than those with just a high school diploma.<sup>1</sup> However, disparities within our postsecondary education system still exist. High college costs and insufficient financial aid push Black families to borrow more compared to their white peers.<sup>2</sup> Black families have fewer financial resources and rely more on federal financial aid, specifically federal student loans.<sup>3</sup> On average, Black student borrowers have more federal student loan debt compared to their white peers, \$53,200 and \$39,500 respectively.<sup>4</sup> Furthermore,

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<sup>1</sup> Daugherty, Lindsay. "The Credentials Students Earn Beyond a High School Diploma." RAND Corporation, 2021, <https://www.rand.org/pubs/perspectives/PEA1141-4.html>.

<sup>2</sup> Judith Scott-Clayton and Jing Li. "Black-white disparity in student loan debt more than triples after graduation." Brookings Institution, October 2016, <https://www.brookings.edu/research/black-white-disparity-in-student-loan-debt-more-than-triples-after-graduation/>.

<sup>3</sup> Victoria Jackson, Brittani Williams, and Jalil B. Mustafa. "Parent PLUS loans are a double-edged sword for black borrowers." The Education Trust, June 2023, <https://edtrust.org/resource/parent-plus-loans-are-a-double-edged-sword-for-black-borrowers/#:~:text=Black%20families%20rely%20heavily%20on,to%20take%20out%20PLUS%20loans.>

<sup>4</sup> Mihaela Henderson, Mary Drummond, Erin Thomsen, Shauna Yates, Jennifer Cooney. "Baccalaureate and Beyond (B&B: 16/20): A First

Black students with a bachelor's degree earn less compared to their white peers, \$64,369 and \$85,024 respectively.<sup>5</sup> Making college more affordable for Black borrowers is one mechanism to dismantle systemic and racist policies. The racial wealth gap perpetuates the conditions that force Black students and families to borrow more than their peers because Black parents often have lower incomes and less wealth than their white counterparts. In 2021, the median household income for Black households was \$48,297 compared to \$77,999 for non-Hispanic white households.<sup>6</sup> In 2019, the median wealth in a Black household was \$24,100 compared to \$188,200 in a white household.<sup>7</sup>

Additionally, history has shown that Black students and students with low incomes are more likely to attend predatory schools that often leave these students worse off than when they started their postsecondary education journey.<sup>8</sup> These students were often misled into taking on loans through admission and recruitment efforts based on misrepresentations regarding the students' future employment and earnings possibilities. The U.S. Department of Education (Department) must hold institutions of higher education accountable for student outcomes and prevent these institutions from taking advantage of the most vulnerable student populations.

### **Financial Aid Transparency**

We support the regulation's efforts to provide students with information regarding the financial value of programs which should include clear information on the cost of attendance, sources and amounts of each type of aid, whether the aid must be earned or repaid, the net price, and instructions for accepting or declining aid or adjusting award amounts. With college tuition consistently rising faster than inflation and given the growing necessity of a postsecondary credential to compete in today's economy, it is critical for students, families, and taxpayers to have accurate and transparent information about the possible financial consequences of their postsecondary program career options when choosing whether and where to enroll.<sup>9</sup>

### **Ability to Benefit**

We support the Department's proposed regulation to amend Ability to Benefit (ATB) by adopting the Higher Education Act (HEA) definition of eligible career pathway program. ATB is a provision of the federal Higher Education Act that allows postsecondary students without a high school diploma or its equivalent to receive federal financial aid. Through the ATB provisions, underrepresented and under-resourced students have the opportunity to pursue postsecondary education. We appreciate ED for amending ATB language to include the "eligible career pathway" definition as defined in the Higher Education Act (HEA) to ensure that students

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Look at the 2020 Employment and Education Experiences of 2015-16 College Graduates." U.S. Department of Education, National Center for Education Statistics, 2022, <https://nces.ed.gov/pubs2022/2022241.pdf>.

<sup>5</sup> "Mean earnings in the United States in 2021, by highest educational degree earned and ethnicity/race." Statista, August 2022, <https://www.statista.com/statistics/184259/mean-earnings-by-educational-attainment-and-ethnic-group/#:~:text=U.S.%20mean%20earnings%20by%20educational%20attainment%20and%20ethnicity%20and%20race%202021&text=In%202021%2C%20the%20mean%20income,Americans%20with%20a%20Bachelor's%20degree.>

<sup>6</sup> "Real Median Household Income by Race and Hispanic Origin: 1967 to 2021." U.S. Census Bureau, Current Population Survey, 1968 to 2022 Annual Social and Economic Supplements, <https://www.census.gov/content/dam/Census/library/visualizations/2022/demo/p60-276/figure2.pdf>.

<sup>7</sup> Emily Moss, Kriston McIntosh, Wendy Edelberg, and Kristen Broady. "The Black-white wealth gap left Black households more vulnerable." Brookings, December 2020, <https://www.brookings.edu/blog/up-front/2020/12/08/the-black-white-wealth-gap-left-black-households-more-vulnerable/>.

<sup>8</sup> Body, Dyvonne. "Worse off than when they enrolled: the consequences of for-profit colleges for people of color." Aspen Institute, March 2019, <https://www.aspeninstitute.org/blog-posts/worse-off-than-when-they-enrolled-the-consequence-of-for-profit-colleges-for-people-of-color/>.

<sup>9</sup> Brock, Melissa. "How much has college tuition outpaced inflation?" Sofi Learn, March 2022, <https://www.sofi.com/learn/content/college-tuition-inflation/>.

are enrolling in programs that align with labor market needs.

## Gainful Employment

Gainful employment (GE) regulations were initially established under the Obama administration to protect students from low-quality programs that would leave them with unmanageable debt and few opportunities for high-quality employment, and to protect taxpayers from subsidizing low-quality programs. These regulations are especially important to students who are low-income, first generation, and Black, Latinx, and immigrants—all of whom are more likely to take on student loan debt.

For-profit colleges disproportionately enroll Black and Latinx students, women, and adult learners.<sup>10</sup> Students who attend for-profit institutions take on more educational debt, have worse labor market outcomes, and are more likely to default.<sup>11</sup> 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.<sup>12</sup> Unfortunately, students' investment in for-profit colleges often fail to pay off. Graduation rates are lower among students who attend for-profit colleges<sup>13</sup> and 75 percent of Black non-completers who were enrolled in for-profit colleges in 2003-2004 defaulted on their student loans.<sup>14</sup>

At CLASP, we strongly support the Department's efforts to protect low-income students and students from underrepresented and under-resourced backgrounds from accumulating unmanageable debt and enrolling in programs that do not lead to a high-quality job. However, we believe that the Department could further strengthen GE regulations to ensure that Black, Latinx, Indigenous students, immigrants, youth, and individuals impacted by the criminal legal system are protected from low-quality programs.

### Recommendation #1: Include Parent PLUS Loans in Debt to Earnings Test

GE regulations include a debt-to-earnings (DTE) test that compares the median debt of program graduates to their earnings. DTE's median debt measure includes most federal loans and private loans, but the measure does not include Parent PLUS loans. Parent PLUS loans are federal loans taken out by a parent of a student and must be used to help cover the cost of college for the student. Parent PLUS loans account for \$104 billion in outstanding federal student loan debt; accounted for 23% of all federal education loans disbursed for undergraduates; and disproportionately impacts Black borrowers and families.<sup>15</sup> By excluding Parent PLUS loans, the U.S. Department of Education is undercounting debt obligations and creating a major loophole for institutions of higher education to take advantage of the system.

Parents earning low incomes and Black and Latinx parents rely on Parent PLUS loans to help pay for their child's education. Black parents borrow more relative to their incomes and assets and often struggle with repayment. In the 2015-16 academic year, 5.4% of Black parents took out a Parent PLUS loan — a higher percentage than any

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<sup>10</sup> "Mapping Exploitation: Examining For-Profit Colleges as Financial Predators in Communities of Color." Student Borrower Protection Center, July 2021, <https://protectborrowers.org/for-profit-mapping/>.

<sup>11</sup> Stephanie Riegg Cellini. "The alarming rise in for-profit college enrollment." Brookings, November 2020, <https://www.brookings.edu/blog/brown-center-chalkboard/2020/11/02/the-alarming-rise-in-for-profit-college-enrollment/>.

<sup>12</sup> Peter Smith & Leslie Parrish. "Do students of color profit from for-profit college?: poor outcomes and high debt hamper attendees' futures." Center for Responsible Lending, October 2014, <https://www.responsiblelending.org/student-loans/research-policy/CRL-For-Profit-Univ-FINAL.pdf>.

<sup>13</sup> Kevin Lang and Russell Weinstein. "Evaluating student outcomes at for-profit colleges." National Bureau of Economic Research, June 2012, [https://www.nber.org/system/files/working\\_papers/w18201/w18201.pdf](https://www.nber.org/system/files/working_papers/w18201/w18201.pdf).

<sup>14</sup> Miller, Ben. "New Federal Data Show a Student Loan Crisis for African American Borrowers." Center for American Progress, October 2017, <https://www.americanprogress.org/article/new-federal-data-show-student-loan-crisis-african-american-borrowers/>.

<sup>15</sup> Victoria Jackson, Brittani Williams, and Jalil B. Mustaffa. "Parent PLUS loans are a double-edged sword for black borrowers." The Education Trust, June 2023 [https://edtrust.org/resource/parent-plus-loans-are-a-double-edged-sword-for-black-borrowers/#:~:text=Direct%20PLUS%20\(Parent%20Loans%20for,cover%20the%20cost%20of%20college](https://edtrust.org/resource/parent-plus-loans-are-a-double-edged-sword-for-black-borrowers/#:~:text=Direct%20PLUS%20(Parent%20Loans%20for,cover%20the%20cost%20of%20college).

other race and ethnicity.<sup>16</sup> Given that many underrepresented and under-resourced families rely on Parent PLUS loans, excluding these loans from DTE calculations could result in underestimating the amount of debt families accumulate for educational programs. Additionally, excluding Parent PLUS loans would create a loophole to allow high-debt programs to pass the DTE test by directing families toward Parent PLUS loans.

The United States postsecondary education system has experienced this previously. In the 1990s, policymakers implemented the Cohort Default Rate (CDR) which measures the percentage of a school's borrowers who enter repayment on federal student loans during a federal fiscal year and default within the next 3 years. The government failed to include Parent PLUS loans in the CDR metric which resulted in colleges encouraging families to take on Parent PLUS loans debt over other federal student loans. This created a loophole for predatory institutions to game the postsecondary education system.<sup>17</sup> This time, the government should include Parent PLUS loans in DTE metrics to help prevent institutions from gaming the system and to ensure that higher education investments are being made in the best interest of students and their families. Failing to include Parent PLUS loans in DTE would result in dozens of for-profit programs passing the accountability metric.<sup>18</sup>

CLASP strongly urges the U.S. Department of Education to include Parent PLUS loans in debt to earnings calculations.

### **Recommendation #2: Include the earnings of non-completers**

The proposed regulations evaluate college quality based on the earnings of students who graduate. However, college programs have an obligation to benefit completers and non-completers because students have invested their time and money into these programs. By excluding non-completers GE regulations do not take into account the experiences of most students. Black and brown students are more likely to drop out of programs.<sup>19</sup> Only 49.8% of Black students enrolled in four-year public institutions and 28.2% of Black students enrolled in two-year public institutions completed their degree in six years—the lowest rate compared to other races and ethnicities.<sup>20</sup> Leaving out non-completers will make some low-quality programs look more effective than they are, helping these programs skirt GE sanctions.

CLASP strongly urges the U.S. Department of Education to include non-completers in the metric to better capture students' experiences and incentivize colleges to help all students gain in-demand skills.

### **Conclusion**

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, Black, Latinx, and immigrant students move out of poverty. However, mere access to postsecondary education is not enough. We must reduce students' financial burden in pursuing postsecondary education and invest in resources to help students complete their program. Investments in postsecondary education and training programs must lead to a good quality job and

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<sup>16</sup> Ibid.

<sup>17</sup> Sandy Baum, Kristin Blagg, and Rachel Fishman. "Reshaping Parent PLUS Loans." Urban Institution, April 2019, [https://www.urban.org/sites/default/files/publication/100106/2019\\_04\\_30\\_reshaping\\_parent\\_plus\\_loans\\_finalizedv2.pdf](https://www.urban.org/sites/default/files/publication/100106/2019_04_30_reshaping_parent_plus_loans_finalizedv2.pdf).

<sup>18</sup> Caldwell, Tia. "Six Ways to Strengthen Gainful Employment Regulations." New America, May 2023, [https://d1y8sb8igg2f8e.cloudfront.net/documents/Strengthen\\_Gainful\\_Employment\\_Regulations.pdf](https://d1y8sb8igg2f8e.cloudfront.net/documents/Strengthen_Gainful_Employment_Regulations.pdf).

<sup>19</sup> Causey, J., Huie, F., Lang, R., Ryu, M., & Shapiro, D. "Completing College 2020 : A National View of Student Completion Rates for 2014 Entering Cohort (Signature Report 19)." National Student Clearinghouse Research Center, December 2020, [https://nscresearchcenter.org/wp-content/uploads/Completions\\_Report\\_2020.pdf](https://nscresearchcenter.org/wp-content/uploads/Completions_Report_2020.pdf).

<sup>20</sup> Shapiro, D., Dundar, A., Huie, F., Wakhungu, P., Yuan, X., Nathan, A & Hwang, Y., A. "Completing College: A National View of Student Attainment Rates by Race and Ethnicity – Fall 2010 Cohort." National Student Clearinghouse Research Center, April 2017, <https://nscresearchcenter.org/signaturereport12-supplement-2/>.

protect students from low-quality programs that would leave them worse off than they began.

We thank the Department for developing a thoughtful proposal for the gainful employment definition and for their consideration of our comments. If you have any further questions, please contact India Heckstall at [iheckstall@clasp.org](mailto:iheckstall@clasp.org).

Sincerely,

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