



## Higher Ed Watch

A Blog from New America's Higher Education Initiative

### Guest Post: In House Vote on Gainful Employment, Did Politics and Money Win Out Over Students and Taxpayers?

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**Issues:** [For-Profit Colleges](#)

[Editor's Note: On Friday, the U.S. House of Representatives approved [an amendment](#) to a continuing resolution for the remainder of the 2011 fiscal year that would prohibit the Department of Education from finalizing or enacting a regulation it has proposed that would cut off federal student aid to for-profit college programs whose students take on the most unmanageable levels of debt (in relation to their expected earnings) and have the poorest record of repayment. The House [voted 289 to 136](#) for the amendment, with 58 Democrats joining all but four Republicans in passing it. In this guest post, Craig Smith, the Deputy Director of Higher Education for the American Federation of Teachers, takes aim at the arguments made by the amendment's proponents in favor of blocking the Education Department from moving forward with its [proposed "Gainful Employment" rule](#).]

By Craig Smith

Last week, a majority of the members of the House of Representatives voted to block the Department of Education from issuing or implementing a regulation it has proposed on "gainful employment" or even enforcing the reporting and disclosure requirements that the agency included in the "program integrity" regulations it issued in November. This vote sent a clear message that a majority of House members, Republicans and many Democrats, are not interested in accountability for career education programs and don't really care that one sector of our higher education system is responsible for nearly half of all student loan defaults.

So what is the rationale behind blocking this regulation? A review of the debate that took place on the House floor on Thursday night shows that it is the same old spin and misdirection that the for-profit higher education industry has put out for the past year. Rep. John Kline (R-MN), the chairman of the House Education and Workforce Committee, set the tone with one of the for-profit sector's favorite themes: the proposed regulations are an attack on for-profit schools. "That's what this is: an attack on the private sector of education" asserted Kline. This was of course repeated over and over. Here is Rep. Judy Biggert (R-IL):

*Moreover the gainful employment rule applies almost exclusively to one sector of higher education . . . Somehow there is the notion that the bad actors of the Federal higher education loans world is exclusively within the proprietary college sector. This is preposterous, but the fact is that the administration has chosen to discriminate against these schools.*

The problem with that claim is that the regulation actually applies to ALL career education programs whether at a public community college, a private college or a for-profit college. In fact, the regulation applies to more programs in the public sector than any other sector. The fact that the majority of "bad actors" are in the for-profit sector is a problem with the sector not the regulation.

This assertion is countered by the seemingly contradictory claim that the rule is too broad. Rep. Alcee Hastings (D-FL) says the rule is "very broad and its implementation so burdensome that many schools will undoubtedly close." Rep. Jeff Flake (R-AZ) says it is "overly broad." Rep. Edolphus Towns (D-NY) is concerned that the regulation "will apply an unnecessary broad-brush approach to a complicated situation."

In fact the rule is focused so narrowly with such modest thresholds, it might be impossible to make it narrower. To be impacted by the rule, career education programs (not schools) will have to be routinely sending students into the workforce who cannot earn enough money to pay off any principal on their federal student loans AND are using an inordinate amount of their income that they do earn to pay just the interest on their loans. Anyone who believes that these minimal thresholds are too broad is basically arguing that programs should not be regulated at all. Oh wait.

Here was another favorite theme in the debate from Representative Kline:

*We all support transparency and accountability. We should empower students with good information about all institutions*

so they can make the most informed choice about their education.

Curious, because this amendment would stop the Department from implementing [regulations that have already been finalized](#) that would “would require proprietary institutions of higher education and postsecondary vocational institutions to provide prospective students with each eligible program's graduation and job placement rates.”

Finally, we get perhaps the most pernicious fiction in this debate -- that this regulation will restrict student access. According to Rep. Kline, “the Department of Education put forward regulations that will deny students access to many of these [proprietary] institutions.” Rep. Hastings echoes this concern stating that “rushing into a blanket approach that will limit student access to higher education and fail to adequately address problem institutions is not the way to go.”

Actually, the regulation does not regulate students in any way or limit their access. It regulates programs and if a program does not meet very modest standards, it would no longer be eligible to admit students who are using federal student aid. However, students already in the program would be able to continue in that program and any other students are free to choose another program at that school or attend a different college.

Stopping a program that is failing students from misusing federal student aid is not limiting student access. It is protecting students, particularly low-income and minority students, from programs that are leaving students with unmanageable levels of student debt, but without the training they need to obtain gainful employment. These students will still have access to thousands of other programs and institutions. As Rep. Keith Ellison (D-MN) said during the debate:

*By the logic of some of the proponents of this amendment, we should say that, look, any loan shark, pawn shop, payday lender, we ought to just thank them because, you know what, they serve the poor. Well, they had better serve the poor in a fair, scrupulous way and not take advantage of people in a circumstance where they are at a disadvantage.*

Certainly, one can argue that understanding the ins and outs of this proposed regulation can be complicated. But isn't it incumbent on our elected officials to get the facts straight rather than perpetuate the fiction created by an industry that is reaping profits on the backs of students and taxpayers?

*Craig Smith is the Deputy Director of Higher Education for the [American Federation of Teachers](#) where his primary responsibilities are field services and communications with an emphasis on political and legislative action. Prior to joining the AFT's national staff, he was a full-time faculty member and local union president at Salt Lake Community College. Craig blogs regularly on [AFT's Faculty and College Excellence website](#). His views are his own and not necessarily reflect those of the New America Foundation.*

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