



# PROTECTING STUDENTS AND TAXPAYERS

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THE FEDERAL GOVERNMENT'S FAILED  
REGULATORY APPROACH AND  
STEPS FOR REFORM

HANK BROWN

SEPTEMBER 2013

CENTER ON HIGHER EDUCATION REFORM  
AMERICAN ENTERPRISE INSTITUTE



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## The Federal Government's Failed Regulatory Approach and Steps for Reform

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When it comes to federal funding of higher education, the government's approach to quality assurance and consumer protection is a public policy and regulatory failure by almost any measure.

For nearly half a century, the federal government has largely outsourced the determination of which colleges and universities are eligible to receive federal taxpayer money—in the form of student grants and loans—to member-based, geographically oriented accrediting agencies. The rationale was to ensure that students attended quality institutions from which they were likely to graduate and be employable, thereby safeguarding students and ensuring taxpayer dollars were well spent. This outsourcing of responsibility, however, has failed to protect consumers and taxpayers.

Accrediting agencies have three primary—and, many say, conflicting—roles. The first is to assist colleges and universities with self-improvement through a process of peer evaluation. Second, since many states and funders will not pay for enrollment at nonaccredited institutions, and most colleges and universities will not transfer course credits earned at nonaccredited schools, accrediting agencies ostensibly protect consumers from “diploma mills.” Finally,

accrediting agencies serve as gatekeepers for the US Department of Education in determining eligibility for federal education funding.<sup>1</sup> This third role is especially important: since federal funding is the lifeblood of most higher education institutions, accreditation determines whether a school can remain financially viable.

Unfortunately, the current regulatory regime that relies on accrediting agencies

- Fails to accomplish congressional intent (and therefore puts billions of federal tax dollars at risk);
- Interferes with the autonomy and independence of American higher education; and
- Undermines America's global leadership in higher education by stifling innovation.

These flaws are not new. For more than three decades, there has been a steady stream of studies on the limits and defects of accreditation.<sup>2</sup> It is time to acknowledge that further studies of the problem are unnecessary and that Congress must reform and

modernize the process for determining college and university eligibility for federal funds. Drawing on my experience as a US congressman and senator and, later, as president of the University of Northern Colorado and the University of Colorado, I have collaborated with the American Council of Trustees and Alumni (ACTA) and the former chair of the Colorado Commission on Higher Education, Richard O'Donnell, to present a variety of suggestions for reform, ranging from modest tweaks to completely new approaches. These include:

- Separating eligibility for federal education funding from the accreditation process;
- Ensuring transparent performance metrics;
- Allowing for expedited self-certification by colleges, universities, and other education providers;
- Allowing and encouraging new agencies for higher education quality assurance, and giving institutions the opportunity to choose from a range of qualified, approved accrediting agencies;
- Creating institutional-level and student-level accountability for quality assurance; and
- Expanding the number of states designated as accrediting agencies.

I do not argue that all of these steps must be taken to reform accreditation. Rather, reformers should consider each of these ideas as possible components of a larger effort.

### **A Brief Overview of Accreditation**

The first modern accreditors were the New England Association of Schools and the Middle States Association of Colleges.<sup>3</sup> They were formed in the late 19th century by those who wished to define what a

bachelor's degree should signify and to facilitate the exchange of best practices among peer institutions.<sup>4</sup> Soon, other accrediting agencies began developing in the same mold.

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The Veterans' Readjustment Assistance Act of 1952 introduced a major change. It stipulated that students could only use funding provided by the act to attend accredited institutions, meaning the role of accrediting agencies began to expand to include acting as gatekeepers who would determine which institutions qualified to receive federal dollars. This gatekeeper function was augmented by the Higher Education Act of 1965, in which Congress gave the secretary of education the power to determine whether an accrediting agency or association is a "reliable authority as to the quality of education or training offered." Those that were could then deem colleges eligible to receive federal education funding.<sup>5</sup>

Today, six regional agencies form the heart of accreditation in America. They are regional monopolies that control access to federal funding for virtually every type of college and university in their geographic area—from private universities and community colleges to for-profit trade schools and non-profit liberal arts colleges.<sup>6</sup>

These regional accrediting agencies are membership organizations, meaning that the colleges and universities they oversee fund the accrediting body through dues and fees. While the regional accrediting agencies employ professional staffs to coordinate their activities, the bulk of the work is undertaken by hundreds of volunteer faculty and staff from the very institutions being accredited.<sup>7</sup> In practice, this means

that the agencies charged by Congress with determining if a college is eligible to receive federal dollars are funded and staffed by the institutions whose quality they are supposed to ensure, a conflict of interest this paper will explore.

There are also 52 national accrediting organizations that largely focus on specific types of colleges, such as career and technical, online, or religious.<sup>8</sup> These national accreditors also serve as gatekeepers for federal funding and, like their regional counterparts, are funded and largely staffed by the institutions they regulate.

## A Failure to Accomplish Congressional Intent

Congress thought accreditation would be a good proxy for institutional quality. This assumption was wrong.

Many accredited public and nonprofit colleges and universities across the country fail even basic tests of quality yet remain accredited. The evidence of their failure is writ large in the media, in scholarly studies, and in major federal surveys.

**Student Outcomes.** In *Academically Adrift: Limited Learning on College Campuses*, researchers Richard Arum of New York University and Josipa Roksa of the University of Virginia found that 45 percent—almost half—of the students at a wide range of accredited four-year colleges and universities showed no growth in such core collegiate skills as writing, analytical reasoning, and critical thinking in their first two years.<sup>9</sup> Thirty-six percent of students experienced no significant improvement in their mastery of these skills over four years of schooling. Arum and Roksa concluded: “Gains in critical thinking, complex reasoning, and writing skills (i.e., general collegiate skills) are either exceedingly small or empirically non-existent for a large proportion of students.”<sup>10</sup>

Other studies corroborate these findings. The National Adult Literacy Survey and the National

Assessment of Adult Literacy conducted by the Department of Education in 1992 and 2003 found that the majority of four-year college graduates could not effectively compare viewpoints in newspaper editorials or calculate the total cost of food items based on their cost per ounce. Moreover, mathematical and verbal literacy rates decreased during this time period among all degree levels—associate’s, bachelor’s, and graduate degrees.<sup>11</sup> Course rigor has declined, evidenced by rampant grade inflation. In December 2012, the *Economist* noted that, “A remarkable 43% of all grades at four-year universities are A’s, an increase of 28 percentage points since 1960. Grade point averages rose from about 2.52 in the 1950s to 3.11 in 2006.”<sup>12</sup> And employers consistently report that college graduates lack the skills and knowledge needed for America to compete in the global marketplace.<sup>13</sup>

Contrary to popular belief, quality issues are not limited only to career and technical colleges, for-profit universities, or even undergraduate programs.<sup>14</sup> Perhaps the most troubling evidence that colleges and universities can fail to provide a meaningful education for their students and yet remain accredited are abysmal graduation rates at certain schools. Federal dollars can flow to schools that graduate less than a quarter of their students in six years. Among the most egregious examples are

|  |                            |
|--|----------------------------|
| The University of the District of Columbia | 7.7 percent                |
| Louisiana State University–Alexandria      | 11.1 percent               |
| Texas Southern University                  | 13.3 percent               |
| Chicago State University                   | 13.9 percent               |
| University of Maine Augusta                | 18.8 percent               |
| Indiana University East                    | 18.1 percent <sup>15</sup> |

For over 80 percent of students to enroll (and in most cases, take out federal loans and receive federal grants) and never graduate is scandalous. Yet these and other institutions with similarly unacceptable academic outcomes continue to be accredited.

It took nearly three decades for the Middle States Association of Colleges and Schools accrediting agency to revoke accreditation and turn off the spigot of federal taxpayer dollars to Southeastern University. Granted accreditation by Middle States in 1977, Southeastern's federal student loan default rates had soared to 42 percent by 1987.<sup>16</sup> The university is a clear failure as an academic institution. To say Southeastern's graduation rates were feeble would be an understatement: in 2009, the school's graduation rate was 14 percent.<sup>17</sup>

Yet, "because it had ceded most of its regulatory authority to the accreditors," higher education policy analyst Kevin Carey writes,

The federal government could only do so much—as long as Southeastern remained accredited, the government had to keep cutting the checks. And Middle States had little appetite for tough sanctions. Throughout the 1980s and '90s, it periodically put Southeastern on various forms of probation and encouraged it to improve via sternly worded letters. But none of that was publicized to students, who continued to enroll and borrow every year.<sup>18</sup>

Middle States finally revoked Southeastern's accreditation in 2009, but not until decades of poor performance had passed, during which time thousands of students, many low-income and disadvantaged, had been ill served.

**Student Loan Debt and Default.** Low graduation and high dropout rates are especially harmful to the students Congress is trying to use the accreditation process to protect: those who take out student loans. In 2009, 29 percent of students who took out loans dropped out of school (up from 23 percent in 2001).<sup>19</sup> Accrediting agencies fail to enforce standards and good-faith admissions practices, instead allowing colleges to enroll unqualified students with little chance of leaving the institution with anything besides debt.

The situation has attracted the attention of national leaders. The Dodd-Frank Wall Street Reform and Consumer Protection Act established a student loan ombudsman within the Consumer Financial Protection Bureau to assist borrowers with private student loan complaints. In his first report, the ombudsman observed:

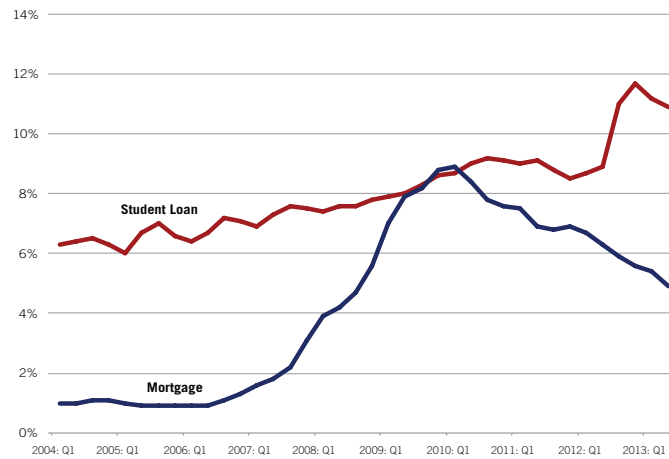
Outstanding student loan debt is now over \$1 trillion, with private student loans accounting for more than \$150 billion. There are at least \$8 billion of private student loans in default, representing more than 850,000 individual loans. Private student loans are issued by banks and credit unions, state-affiliated and non-profit agencies, schools, and other financial companies.<sup>20</sup>

And the ombudsman's focus was on only the 15 percent of the trillion-dollar student loan market that is private, not the \$850 billion in federal student loans. The federal government spends over \$185 billion annually in student financial aid through loans and grants.<sup>21</sup> Yet, students as consumers and taxpayers as funders can rightly ask if they are being protected.

- Among student loan borrowers, 9.1 percent default within two years of graduation.
- While the default rate is highest among for-profit proprietary schools at 12.9 percent, the rate is quite high at public institutions: 8.3 percent. This year, the Department of Education released a three-year default rate, which shows that 13.4 percent of the students attending a public college or university default within three years.<sup>22</sup>
- There are over 200 colleges and universities where the three-year default rate on student loans is 30 percent or more.<sup>23</sup> Note that these are all accredited institutions. While 73 percent of these 218 institutions are for-profit, the list also includes both private non-profit and public colleges and universities.<sup>24</sup>



**Figure 1: Percentage of 90-Plus-Day Delinquency in Student Loans versus Mortgages**



Source: Adapted from New York Federal Reserve, *Quarterly Report on Household Debt and Credit*, 2013, [www.newyorkfed.org/householdcredit/2013-Q2/index.html](http://www.newyorkfed.org/householdcredit/2013-Q2/index.html). NOTE: Data presented on a quarterly basis.

In the mortgage industry, default rates of this type set off alarm bells. During the housing crisis, the Fannie Mae serious delinquency rate (90-plus days or in foreclosure) peaked in February 2010 at 5.59 percent, and it peaked at 4.20 percent for Freddie Mac that same month.<sup>25</sup> In November 2012, the Federal Reserve reported that the percentage of student loans 90-plus-days delinquent soared to 11 percent in just one quarter—double the Fannie Mae rate but without the national alarm bells.<sup>26</sup>

Evidence of limited student learning, grade inflation, low graduation rates, high dropout rates, and high default rates all point to a failure to ensure quality. Instead of ensuring that federal aid only follows students to quality schools, accreditation allows taxpayer money to finance low-quality institutions that fail to educate and often even to graduate their students. In the end, too many students are left with a degree worth little or no degree at all.

Accreditation has given students, parents, and public decision makers little useful information about institutions of higher education. The consumer knows only one thing: the seal of approval has been bestowed. That seal of approval does not

mean a college or university actually meets high standards or provides students with quality learning and training opportunities. Congress's belief for over 40 years that it could rely on membership-based accrediting agencies to evaluate the quality of education and training has proven misguided.

## Interference in the Autonomy and Independence of American Higher Education

In most cases, a board of regents, trustees, or directors is the ultimate authority for any of America's roughly 4,000 colleges and universities, whether public, nonprofit, or for-profit.

In some states, the trustees or regents of public universities are constitutional officers elected by the people. In other cases, they are appointed by the governor or legislature.

The same accreditors who seem to have neglected their responsibilities to safeguard academic standards and educational quality increasingly intrude in governance and institutional matters. They use their bully authority and their potential to stop the flow of federal money to tie the hands of America's colleges.

The Western Association of Schools and Colleges (WASC) accrediting agency has repeatedly interfered in the governance of institutions under its watch. WASC decided to second-guess an institution's "Great Books" curriculum and pushed to make it more open.<sup>27</sup> When the University of California Regents attempted to investigate and address evidence of runaway administrative costs, they found themselves accused of being "unnecessarily harsh" with administrators.<sup>28</sup> As recently as December 2012, these same accreditors were at the University of Hawaii demanding reports on the selection of a new athletic director and administrative decision-making procedures.<sup>29</sup>

WASC is not alone. An even more egregious instance of interference occurred at the University of Virginia. Although current University of Virginia

policy reserves complete authority to the board in matters of the appointment and oversight of the president, the Southern Association of Colleges and Schools (SACS) placed UVA “on warning,” concluding that the university failed to comply with standards regarding governing processes and had failed to consult the faculty before terminating President Teresa Sullivan in 2012.<sup>30</sup> SACS raised no questions about UVA’s academic quality, but instead said that employees should have a say in the hiring and firing of their president, a responsibility that lies with the governing board.<sup>31</sup>

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With its warning, SACS sought to overrule authority given by the state legislature to the University of Virginia Board of Visitors, who are appointed by the governor to select, evaluate, and, if appropriate, terminate the president. In a complaint filed with the Department of Education against SACS, ACTA argued: “The notion, suggested by SACS, that the board must give the Faculty Senate advance notice of its intention to terminate the president is both ludicrous and in utter violation of the board’s statutory and fiduciary responsibility to serve the public interest. Whether the accreditors like it or not, the authority of the UVA board is plenary.”<sup>32</sup>

Further south, SACS twice told Florida governor Rick Scott to limit his involvement in a state university’s affairs. The first warning came when SACS learned the governor publicly suggested Florida A&M University suspend then-president James Ammons a month after the hazing death of a student. SACS’s second warning to Scott came when he weighed in on the selection of a new University of Florida president.<sup>33</sup> It is a misunderstanding of the

roles and responsibilities of a governor for SACS to assert that the chief executive officer of a state does not have the right and duty to express opinions on matters of import to state-owned, operated, and extensively taxpayer-funded universities.

It is important to remember that accreditors are not independent, objective voices. The organizations consist of the very faculty and administrators who benefit from federal dollars and whom the trustees legally oversee.<sup>34</sup> As such, accreditors act more like a guild or union, protecting the interests of their members and using the threat of loss of federal funding to supplant those who are, by state constitution, statute, and organizational structure, truly responsible for oversight.

Boards and state officials are effectively being discouraged from their oversight responsibility and from pursuing the innovations their institutions need in deference to accretor pressure. Such capitulation poses a threat to the very essence of American higher education. When accreditors are allowed to overrule trustees’ decisions, the result is a reduction in the diversity, flexibility, and independence that has made American higher education great.

### **A Failure to Protect America’s Global Leadership in Higher Education**

Congress has historically wanted to minimize federal involvement in higher education, recognizing that lay governance and minimal governmental intrusion have been unique and historic strengths of American higher education. As the *Economist* once wrote: “America’s system of higher education is the best in the world. That is because there is no system.”<sup>35</sup>

Making accrediting agencies gatekeepers to federal funds while claiming they remain private entities, however, puts form over substance. In their gatekeeping role, accreditors wield immense power as agents of the federal government.

Higher education around the world is undergoing tremendous change—so much so that it has almost

become a cliché to say that it is facing disruptive innovation. Nearly 15 percent of US college students study without ever setting foot in a physical classroom.<sup>36</sup> The lecture as the primary means of delivering learning is rapidly being replaced by new teaching methods that blend technology and classroom experiences in ways that improve student outcomes. America's leading universities and faculty are creating massive online open courses in which hundreds of thousands of students enroll in a single course from anywhere in the world.<sup>37</sup>

Yet, when America's colleges and universities should be focused on improving learning, reducing costs, and innovating, the accreditation process often stands in the way of urgently needed reform.

In fact, many accreditors have even been hostile to innovations like online learning options. Recently, the Higher Learning Commission of the North Central Association of Colleges and Schools suddenly shut down an innovative online program at Tiffin University, citing violations of bureaucratic process rather than serious academic concerns.<sup>38</sup>

The accreditation process also hinders innovation through the direct and indirect costs it imposes on colleges, diverting financial and human resources away from more productive uses and contributing to the high price that leaves so many students in debt. Stanford University provost John Etchemendy noted that in one year alone (out of at least a four-year process) Stanford's reaccreditation by WASC cost the university \$849,000 in staff time and that "the opportunity cost is incalculable."<sup>39</sup>

As Shirley Tilghman, former president of Princeton University, observed, there "is no effort to apply anything resembling a cost-benefit approach that would focus the accreditors' attention and limited resources on the institutions that are of greatest concern to the federal government." Rather than focusing on the universities most likely to put students and taxpayer dollars at risk, accrediting agencies force America's top universities to engage in the same onerous documentation and processes as the most egregious diploma mill.<sup>40</sup>

In the end, the modern accreditation regime fails on all fronts. Accreditors flunk their quality assurance function by failing to take note of what is really important for protection of the public's investment in higher education, all the while interfering where they have no special authority or expertise. They are no longer effective at peer counsel, since, as proxies of the federal government, they are also high-stakes regulators. It is the worst of all worlds for students, taxpayers, and universities.

## Ideas for a Modern Regulatory Approach

As long as Congress continues to spend taxpayer money to subsidize the cost of a college education via loans and grants, there are four main goals its regulatory approach should achieve:

- Protect students;
- Protect taxpayers;
- Protect university and college independence and autonomy; and
- Allow innovation in the provision of post-secondary learning to retain America's global leadership in higher education.

Below are a number of options—from relative tweaks to more radical reform—that Congress might consider to replace the failed higher education regulatory structure with a modern structure oriented toward consumer protection.

Many of these ideas are likely to find bipartisan support from the House and Senate and also from the Obama administration. In the policy document accompanying his 2013 State of the Union Address, President Obama called on Congress

to consider value, affordability, and student outcomes in making determinations about which colleges and universities receive access to federal student aid, either by incorporating

measures of value and affordability into the existing accreditation system; or by establishing a new, alternative system of accreditation that would provide pathways for higher education models and colleges to receive federal student aid based on performance and results.<sup>41</sup>

Especially notable is that the president's last proposal, "establishing a new, alternative system of accreditation," does not refer only to colleges and universities but to "higher education models and colleges." This approach opens the door for students to use federal loans and grants to learn from innovative individual courses and alternative education providers, such as software coding academies and workforce skills boot camps.

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**Together, the statements of President Obama and Senator Rubio signal a willingness to fix a broken accreditation system and remove barriers to innovation in American higher education.**

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Barely six months after his State of the Union call for better value and quality measures in higher education, President Obama articulated his vision for "a new ratings system to help students compare the value offered by colleges and encourage colleges to improve." He has announced his intention to "seek legislation allocating financial aid based upon these college ratings." In many ways, President Obama has created a blueprint to dismantle the current, ineffective system of college accreditation and replace it with a metrics-based approach.<sup>42</sup>

Similar sentiments have been expressed on the other side of the aisle. President Obama's openness to new higher education models was echoed by Senator Marco Rubio (R-FL) in his response to the State of the Union. Senator Rubio argued that "We need student aid that does not discriminate against programs that nontraditional students rely on—like online courses or

degree programs that give you credit for work experience."<sup>43</sup>

Together, the statements of President Obama and Senator Rubio signal a willingness to fix a broken accreditation system and remove barriers to innovation in American higher education. This paper will now address reforms that would help realize these goals.

**1. Separate the quality enhancement role of accreditation from the gatekeeping role that controls access to federal student aid.** End the conflicting roles of accrediting agencies and the conflict of interest inherent in its process. Removing control over access to student financial aid from the six regional accreditors would return the accreditation system to its original purpose: improving teaching and learning at peer institutions.

Once they accepted the role as the outsourced agents for the federal government's determination of eligibility for federal tax dollars, accrediting agencies suddenly started answering to two masters. On the one hand, accrediting agencies are owned by their member colleges and universities. This makes perfect sense if the goal is mutual self-improvement. It would be a bit like a group of friends hiring a personal trainer to improve their fitness. The trainer is the expert and may even bark orders, but ultimately there is no question who is in charge and paying the bills.<sup>44</sup>

This voluntary, nongovernmental system of quality assurance and self-improvement was undermined when accreditors took on the dual and conflicting job of being gatekeepers to federal funding. To maintain their good standing as an outsourced agency for the Department of Education, accreditation agencies must do as the federal government wants, even if it conflicts with the mission and needs of their members. It would be a bit like a law saying that to receive food stamps you need to pay a trainer, but the only trainers you can hire must enforce a gluten-free diet whether you need one or not. Tilghman observed that accrediting agencies "are now middlemen, uneasily positioned between an upper and nether

millstone. They must justify themselves to their members on the one hand and the federal government on the other.”<sup>45</sup>

In addition to the problem of serving two masters, accreditation as it currently stands is subject to regulatory capture. Regulatory capture occurs when the regulated are able to influence and control their regulators. Often this occurs through revolving-door hiring practices, lavish entertainment, and invitations to participate in elegant retreats and conferences. Accrediting agencies, however, have accomplished a level of control beyond regulatory capture. In their case, the regulated are also the regulators. As noted in the alternative recommendations included in the Department of Education’s National Advisory Committee on Institutional Quality and Integrity, “Funding of the accrediting agencies comes from the same institutions they are supposed to regulate. The very people who benefit from federal funds, moreover—administrators and faculty who constitute accrediting teams—are the self-same people that determine whether federal funds should flow. They know they will in turn be judged by similar accrediting teams, making them loath to apply rigorous quality measures.”<sup>46</sup>

Once accreditation is separated from the gatekeeping function for federal student aid, colleges and universities could choose among a broad range of recognized agencies to evaluate and benchmark their programs. The accountability metrics crucial to protecting students and taxpayers would be much more effectively and efficiently handled outside the accreditation process. Institutions, meanwhile, would enjoy a greater level of autonomy and freedom to innovate when freed from the obligation to satisfy the accreditor’s idiosyncratic positions on matters of governance and policy best left to the boards of trustees or regents that govern colleges and universities.

**2. Ensure transparent performance metrics.** Think of the disclosures needed to buy a home and take out a mortgage. They are voluminous—including everything from lead paint and mold to the total cost of loan repayment and mortgage interest charged. There

is little comparable information for consumers taking out student loans.

In early 2013, the Department of Education launched a new “College Scorecard” website where students can find information like cost, average debt, and loan default rates, which is a step in the right direction.<sup>47</sup> The website, however, lacks context to help families and students understand debt loads, provides no information about postgraduation employment, and does not allow side-by-side comparisons of colleges. This project is similar to the Student Right to Know before You Go Act introduced by Senator Ron Wyden (D-OR), with the cosponsorship of Senator Rubio. Congress could go even further to increase higher education transparency.<sup>48</sup>

President Obama has already called for new metrics by which to rank colleges and universities. This could be the opportunity to provide to the public such key data as

- University failure rates (dropouts, extended time-to-degree completion);
- Student loan burdens;
- Repayment and default rates on student loans;
- Key measures of student learning gains (or whether the school even measures them);
- Average 10-, 20-, and 30-year income of graduates in each major; and
- Job placement rates for vocational programs.

Requiring this disclosure along with the financial disclosures—with hefty penalties for misrepresentation—would go a long way toward protecting the public while avoiding the need for the accreditation bureaucracy.

**3. Allow for expedited self-certification by universities and other education providers.** Building on the idea of ensuring more transparent performance metrics, Congress could allow institutions that voluntarily submit to rigorous disclosure requirements to

self-certify and bypass regional accreditation agencies altogether.

This model would be similar to that used for generations by companies and nonprofits throughout America, which disclose key information to the Securities and Exchange Commission (SEC) or the Internal Revenue Service (IRS) and are then allowed to proceed with selling equity to or taking charitable contributions from the public.

The Department of Education already requires colleges and universities, for-profit as well as nonprofit, to document financial viability and submit audited financial statements annually. In addition to financial statements, under an expedited approach to federal approval, institutions could submit audited statements that detail three critical areas related to quality:

- Assets—faculty qualifications and learning resources;
- Process—how student academic records and financial accounts are maintained; and
- Outcomes—objective measures of student success.

Upon receipt of these audited quality statements (along with the existing financial statements), a college or university would be deemed to have self-certified and thus be approved to be a recipient of federal funding, without the need for an accrediting agency's involvement. Just as the SEC and the IRS have the right to audit corporate or charitable nonprofit disclosures, so the Department of Education would have the right to audit quality statements and sanction misrepresentation. This expedited process would work particularly well for institutions that are already regulated and approved by state higher education agencies—which includes all public universities and colleges and most private occupational and technical colleges.

If accreditors genuinely want to be private peer review teams, they can—by returning to the voluntary

system of quality assurance and self-improvement that existed before they were made gatekeepers of federal funds. Expedited self-certification would at least partially remove accreditors from their gatekeeping role, freeing them to pursue their original aims.

#### **4. Allow and encourage new agencies for higher education quality assurance.**

Currently, accreditors do not sell their services in competition with other firms. Rather, for the vast majority of colleges and universities, six regional accreditors operate as regional monopolies. If a university believes its accrediting agency is stifling innovation, putting unreasonable demands on the institution, interfering with the state constitutional prerogatives of a governing board, or driving too costly a process, the university has no realistic alternative body to which to turn. In fact, the Higher Education Act makes it extremely difficult for a college to switch, keeping universities hostage to an accrediting agency no matter how poorly the accreditor is doing its job. The act states,

The Secretary [of Education] shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is in the process of changing its accrediting agency or association, unless the eligible institution submits to the Secretary all materials relating to the prior accreditation, including materials demonstrating reasonable cause for changing the accrediting agency or association.

The Secretary shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is accredited, as an institution, by more than one accrediting agency or association, unless the institution submits to each such agency and association and to the Secretary the reasons for accreditation by more than one such agency or association and demonstrates to the Secretary reasonable cause for its accreditation by more than one agency or association.<sup>49</sup>

While many institutions are accredited by more than one agency—for example, the law school and business school at a university may each have a specialized accrediting agency—almost all institutions are also accredited as a whole by a regional accreditor. For purposes of federal funds, the latter is really all that matters.

This state of affairs has drawn commentary from a number of influential observers. Jim Yong Kim, former president of Dartmouth, criticized the geographic structure of accreditation as “unsuited to American higher education,” noting that accrediting agency staff often substitute their own judgment for that of an institution’s trustees and administrators.<sup>50</sup> Stanford University provost Etchemendy argued that “accreditation is no substitute for public opinion and market forces as a guide to the value of the education we offer.”<sup>51</sup> The American Council of Education convened a taskforce drawn from colleges and accrediting bodies, and although the taskforce did not recommend the complete elimination of the regional system, it observed that “the current regional basis of accreditation is probably not the way America would structure the system if starting from scratch.”<sup>52</sup>

If Congress wants to continue outsourcing the determination of eligibility for federal funding but remedy some of its problems, it could declare an end to regional accreditors as noncompetitive monopolies and allow institutions to pick from a full spectrum of accreditors, rather than be limited by geography.

Congress could direct the secretary of education to certify other entities that can serve as agencies to determine the quality of education or training offered at educational institutions. Whether JD Powers or a state higher education regulatory body, any number of entities other than the current regional accrediting agencies would be well positioned to take on the task of policing diploma mills and other substandard entities. They would not have the conflict of being a membership organization engaged in peer improvement in addition to ensuring quality. They would focus solely on the latter.

One benefit of opening up the range of entities eligible to certify quality is that it would free colleges and universities to find entities that specialize in their mission. As higher education entrepreneur and StraighterLine founder Burck Smith says, “Today, accreditation applies to over 4,000 colleges with widely divergent missions. Some, like the Ivies, are extremely selective and expensive. Some, like community colleges, are ‘open-access’ and much more affordable. Clearly, every college should not be required to meet the same outcomes.”<sup>53</sup> Another benefit would be encouraging innovation. The current accreditation system restricts new providers from offering high-quality, credit-bearing courses that adult and other nontraditional learners can access online. Unless that expert has the time, resources, and inclination to go through a process of approval and adoption by an existing college or university, his course cannot get accredited. It is time for us to see some innovative agencies that specialize in certifying providers offering courses instead of degree programs. Congress should heed President Obama’s State of the Union call and direct the secretary of education to include agencies that will accredit not just entire colleges and universities but also individual courses, competency-based learning tools, and other models of higher education.

Instead of the monopolistic regional accreditors we have today, a more diverse array of quality assurance organizations would allow freedom of choice and true institutional peer review to arise.

## **5. Create institutional-level and student-level accountability for quality assurance.**

Accrediting agencies wield such power because Congress relies on them to ensure that students do not use federal tax dollars in the form of grants and loans at poor-quality institutions. Even if the accrediting agencies had succeeded in ensuring educational quality, there are no eligibility criteria for the massive loans of taxpayer money students take for education. With student loan delinquency and default rates double those of Fannie Mae and Freddie Mac during the height of the

mortgage crisis, accrediting agencies failing to prevent predatory lending, and students graduating with debt but little learning, it is time for Congress to get to the root of the problem by preventing students from borrowing taxpayer dollars without eligibility criteria.

Creating such standards for loans, combined with relying on state agencies to shut down diploma mills, would go a long way toward eliminating the need for the accreditors' gatekeeping role over federal student aid. Among the options are:

- *Establish underwriting standards.* Currently students can take out taxpayer-funded loans with no consideration of their ability to repay the loan. In fact, the only underwriting criterion is that federal loans cannot be used at unaccredited institutions. Congress could create lending standards that deny or cap loan amounts based upon unemployment rates or average income in the field a student is studying. Students would retain the right and freedom to major in whatever subject they want, but there would be a limit on the level of taxpayer subsidy for studies in fields with few jobs and low average income.
- *Require satisfactory academic progress to qualify for ongoing loans and grants.* Accrediting agencies have typically paid little or no heed to the grading practices at schools, allowing the Lake Wobegone effect to emerge. Congress could require that students maintain a certain grade point average (with institutional curbs placed on grade inflation to ensure maintenance of rigor) to remain eligible for loans and grants. Congress could also require that these funds only be used at colleges that have rigorous processes in place to measure value-added learning.

These measures might also put limits on how many times a student may drop out of college and reenroll using federal grants and loans. Conversely, for students who

show great academic progress and quickly advance toward their certificate or degree, the amount of grants or loans could increase, to reward their focus on learning and academic achievement.

- *Provide college grants and loans only to college-ready students.* Congress could state that taxpayer money to fund a college education should only be spent on students who are ready for college. This would require students to demonstrate, before receiving federal loans and grants, that they have met certain college-readiness standards. Many state K–12 systems have adopted college-readiness curricula in high schools, and federal financial aid could be limited to those students who successfully complete such a curriculum.
- *Allow universities to curb excessive student-loan debt.* Congress could also authorize institutions to limit the amount of debt students may assume. Too often, students use student loans (which can appropriately be used to pay for room and board, as well as tuition) to purchase cars, spring break trips, and other expenses that they may not need to obtain an education.<sup>54</sup>
- *Require colleges and universities to share risk in student financial aid.* To reduce predatory admissions policies by colleges and universities, Congress could demand more institutional commitment to student success, using thresholds to establish risk-sharing requirements for universities. For example, each year, colleges would be required to pay down the total dollars in student loan delinquency of their graduates and dropouts that exceed an indexed threshold.<sup>55</sup>

Furthermore, Congress could require an educational return on investment for every



federal dollar invested. In this scenario, Congress would establish a threshold. For example, institutions with overall graduation rates below 25 percent would be ineligible for federal dollars. Schools would also be required to show whether students receiving Pell Grants and federal loans are graduating at a reasonable rate for an at-risk student population. If not, the institution would also be ineligible for further federal funds. A provision for institutions that are successful in graduating at-risk students with demonstrated, verifiable learning gains could grant students at these schools an even higher level of federal aid or different loan repayment rates.

**6. Rely on the states.** All 50 states regulate the public and private colleges, universities, and occupational schools in their state to protect consumers against fraud and diploma mills. Congress could rely on this extensive, existing regulatory infrastructure rather than accrediting agencies.

For decades, the secretary of education has recognized the New York State Board of Regents and the commissioner of education as an accreditation authority for degree-granting institutions in New York. Currently, the Board of Regents and the commissioner accredit 24 New York colleges and universities. If it works in New York, it is likely to work in the other 49 states. Additionally, since the 1964 Nurse Training Act, the secretary has relied on a number of other state agencies for nursing accreditation, as well as for other vocational training accreditation.

A robust state role could eliminate much of the costly, burdensome, and failed regulatory apparatus of the existing system of accreditation.

## Conclusion

Nearly 50 years of outsourcing higher education quality assurance to regional accreditation agencies has

proven to be a dismal failure. Overall graduation rates are low, scandalously so at some institutions. The student loan burden in this country is growing at a dizzying pace: default rates are extremely high, and the cost to taxpayers is staggering. Many students achieve no significant learning gains in college, and employer dissatisfaction with newly hired college graduates continues to grow.

Fixing the quality assurance and accountability system of American higher education is an urgent priority. In the context of the upcoming review and reauthorization of the Higher Education Act, Congress needs to reform and modernize the process for determining college and university eligibility for receiving federal taxpayer funds.

President Obama has proposed a set of reforms to fix what is broken about American higher education.<sup>56</sup> His proposals to promote transparency and accountability metrics and encourage sector-wide innovation are promising and could move policy in the direction of some of the reforms proposed herein. However, the president has not yet offered any comprehensive proposals to reform college accreditation. Absent such proposals, any plan to reform higher education remains incomplete.

In this paper, I have pointed to several common-sense changes. Access to federal student aid needs to be based on clear metrics that establish an institution's fiscal integrity and disclose its student learning and student success outcomes. Colleges and universities should have a choice of authorized and approved accrediting bodies whose seal of approval would be a reflection of the standards of their peers. As soon as we leave behind the cartel approach, wherein the member institutions in a given geographical region shut out new and innovative providers, students will have the benefit of an expanded range of choices of education providers. Accreditors will have a meaningful future by returning to their heritage as associations that provide peer-evaluation, quality enhancement, and benchmarks for academic quality.

With the relatively simple changes suggested in this report, the United States can have a fully functional

system of higher education quality assurance that protects the taxpayer investment in student financial aid. Most importantly, a reformed system would help protect students and their families from the devastating consequences of uninformed investment in educational services that will have no return except years of staggering debt. The dream of American higher education—high academic standards and broad, affordable access—depends on making these prudent changes to our system of quality assurance.

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