

August 2014

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Recommended Citation

Myers, Rhonda L. and Mengistu, Berhanu (2014) "The Impact of the Higher Education Regulatory Environment on For-Profit Higher Education Institutions," *Journal of Public Management & Social Policy*: Vol. 20: No. 1, Article 5.
Available at: <http://digitalscholarship.tsu.edu/jpmssp/vol20/iss1/5>

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The Impact of the Higher Education Regulatory Environment on For-Profit Higher Education Institutions

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The growing presence and transient nature of for-profit higher education institutions in the United States (US) pose governance and regulatory challenges for bureaucratic structures, legislatures and non-profit postsecondary institutions. One such challenge is the perceived lack of governance and regulation of for-profit higher education institutions. The inability of data to meet the assumptions of both multiple linear regression and Poisson regression required utilization of ordinal logistic regression to investigate the impact of the higher education regulatory environment (independent variables) in the US on the presence of for-profit higher education institutions (dependent variable). The study found that state higher education governance structure and two regional accrediting agencies influence the prevalence of for-profit colleges and universities. These findings suggest that policies that support the growth of for-profit higher education institutions as part of state economic development goals undermine policies that attempt to regulate higher education in that state, resulting in the need for strengthened state governance as well as laws and policies that are congruent with state and federal economic development goals.

In 2010, there were approximately 4,589 colleges and universities operating with a physical presence across the United States (NCES 2012) enrolling approximately 20.1 million students. These institutions include private and public, for-profit and non-profit technical and career, 2- and 4-year, and graduate level. The total number of private for-profit degree-granting institutions in the US is 1,310, which accounts for 28.5% of all higher education institutions (NCES 2012). For-profit higher education institutions are colleges and universities registered as businesses and/or firms owned by either a family (or individual) or private and/or public corporations that seek to earn profits as a result of their operations. Also referred to as proprietary colleges and/or universities, they have increased in the number of institutions from 724 in 2000 to 1,310 in 2010 (80.9%). This accounts for

the fastest growth among all sectors of higher education.

The growing presence and transient nature of for-profit higher education institutions (FPHIED) pose governance and regulatory challenges. A major challenge is related to the complexity associated with private higher education governance. Differences in state governance of FPHIEDs allow institutions to incorporate in one state and open branches or additional campuses in other states. Getting established in a state or locale with the fewest barriers is common among other types of businesses, and is a strategy utilized to minimize regulatory obstacles to incorporation. It is unclear, however, how influential the regulatory environment is on location decisions. Recent studies have found limited to no impact of the regulatory environment on location decision-making (Holt, Purcell, Gray and Pedersen 2006; Toole and Koop 2011). , Some argue, however, that FPHIEDs participate in “accreditation shopping that occurs when colleges and universities establish institutions in states under the jurisdiction of more accommodating accrediting agencies (Kinser 2005). Accreditation shopping is an example of what classical location theorist Predöhl (1928) referred to as substitution. Substitution happens when a firm chooses the most efficient means of obtaining a desired result, which in this case is regional accreditation. What results is the limited ability of some states to hold accountable FPHIEDs that operate within their respective borders.

Another challenge is the lack of direct regulation by the US Department of Education (DOE). Regional accrediting agencies recognized by the US DOE serve as by-proxy regulators of higher education in the US. At least on its face by-proxy regulation suggests there is limited direct federal regulation of higher education. While this type of higher education regulation is consistent across all institutions in the US, the problem is public institutions are also accountable at the state level but FPHIEDs are not. This means that FPHIEDs have fewer regulatory checks than their public and non-profit counterparts.

This paper examines the governance of higher education and is focused on determining the higher education regulatory factors that may influence the prevalence of for-profit higher education institutions in the US. The goal is to determine if states should regulate FPHIEDs more or less. The key research question is what higher education governance factors influence the presence of 4-year degree granting FPHIEDs in the US.

To this end, the paper is organized as follows: the first section outlines the theoretical framework; the second section describes the data and methodology for the study; the third section presents and analyzes the results, and concludes with a discussion of policy implications.

Business Regulation

This study tests the theory that stronger regulations (higher education regulations) result in fewer businesses (FPHIEDs), and likewise, weaker regulations result in more. This principle was noted with the mercantile system in the early years of America. According to Edwards (1998), independent competitors conducted business in the suburbs and rural areas in order to flee regulatory influence because regulatory enforcement was strongest in the cities. Other examples are seen with US companies moving operations from the US to Mexico to decrease costs associated with compliance with regulatory mandates including, but not limited to, wages and labor laws.

One of the most politically vocalized reasons for government regulations is citizen and consumer protection. Regulation can be thrust upon industry as a result of pressures placed on policy-makers (Peltzman 1976). In this instance, governmental regulation is

established to protect the interests of the public, balance the playing fields within industry, and to restrict or minimize corruption (Stigler 1971). Protecting the public interest from industry appeals to politicians because it provides a platform on which to base industry regulation and help garner support to for re-election to office. Weighty attention to industry interests result in corruption, moral hazard, and ultimately market failures. This constitutes the normative theory of market-failure, or public interest theory of regulation, which legitimates regulations in the face of deficiency in the market (Edwards and Edwards 1974; Jakee and Allen 1998).

Higher Education Regulation

Higher education has been historically scrutinized for a lack of formal regulation. While policy-making in the US tends to emanate from the federal level and extend to the state level, this has not been the case for higher education. To the contrary, on the surface it appears that few, if any, federal regulations of higher education actually inform state higher education policies.

More recently the former Deputy Undersecretary of the US Department of Education, Robert Shireman, criticized the regulation of higher education. At the federal level, higher education regulation has primarily consisted of proxy measures of federal regulation that rely heavily on regional accreditation agencies establishing and enforcing standards for US higher education. Accrediting agencies receive funding to administer standards, but have no formal regulatory power. In fact, the incentive to adhere to regional accreditation standards lies in an institutions eligibility to receive Title IV federal student aid funds. Essentially, a college/university must oblige regional accrediting agencies in order for its students to be able to receive over \$150 billion in federal student aid funds.

In the April 29, 2010 edition of *insidehighered.com*, Deputy Undersecretary Shireman likened the accreditation agencies to Wall Street ratings agencies that are charged with regulating an industry they rely on for funding support. His claim is based on a “conflict of interest” assumption. Institutions pay accreditation agencies for membership, while agencies, in turn, regulate institutional quality. The absence of a coordinated system of regulation by state and federal agencies has resulted in a “lack of firepower” to regulate higher education in the US, according to former Deputy Undersecretary Shireman. Also resulting are overarching higher education policies developed at the state level that tend to be fragmented. This section will outline the current state of higher education governance and regulation at the state, federal and accreditation agency levels.

HIED Governance Pre-1990

State-Level Governance Pre-1990

A number of states in the US redesigned their existing higher education governance systems more than 60 years ago. In fact, McLendon et al (2007, 647) claim “The modern era of [US] public higher education governance dates to the late 1950s...” During that time higher education was primarily unregulated. Postwar explosion of enrollments and public funding on higher education prompted investigations into new governance models that would enhance efficiency and coordination.

Federal-Level Governance Pre-1990

In addition to state-level governance of US higher education institutions, there is a proxy for federal-level oversight of higher education: regional and national accrediting agencies. Accreditation arose as a means to differentiate college from high school education and to

protect academic freedom. Present day "...[a]ccreditation aims to preserve and enhance quality in higher education. It is a voluntary exercise in which an institution or program agrees to engage in self-study operating within the guidelines of a recognized accrediting agency" (Bloland 1999, 362). Accreditation is a peer-reviewed process that examines the success of the institution in meeting agency selected characteristics of a good quality educational program and fulfilling its own mission. Regional accreditation jurisdiction is made up of states within the region. For example, the Southern Association of Colleges and Schools has jurisdiction over eleven states including, but not limited to Alabama, Florida, Texas and Virginia.

The enforcement power of accreditation in the US is based on an institutions eligibility to receive Title IV funds. In the 1940s accreditation in the US was linked to the ability of an institution to receive federal funds and loans through the passage of the Servicemens' Readjustment Act of 1944, namely the GI Bill (Martin 1994). The use of accreditation served as a means for the federal government to ensure accountability without exerting direct federal control over higher education.

HIED Governance Post-1990

State-Level Governance Post-1990

Since 2000, interest in the broader scope of governance of higher education systems has increased. Only a relatively few studies examine governance in state higher education agencies (Kezar 2006; Shakespeare 2008). One major study of state-level higher education governance was published by Kezar in 2006, in which members of state higher education agencies, legislators and college presidents were interviewed in an effort to assess the effectiveness of state higher education agencies. Kezar employed a business model approach that emphasizes boards of directors in her examination of higher education governance due to the lack of research on higher education governance board models. The limited attention to state-level governance prompted some academics in higher education policy to call for an extended research agenda that addresses the political implications and impacts of and on higher education (McLendon 2003).

Federal-Level Governance Post-1990

The US Department of Education used the accreditation process as a means to regulate postsecondary institutions (Bloland 1999) since the early 1990s. The 1992 reauthorization of the Higher Education Act of 1965 required accreditation by the recognized regional agencies as a condition of eligibility to receive Title IV federal student aid funds. As a result, accreditation became a highly contested issue that ignited significant debate within the higher education accreditation community. Practitioners and scholars were concerned with the amount of control and influence the federal government, through the US DOE, was exerting on schools and accrediting agencies. Accreditation and the accrediting agencies were increasingly viewed as being heavily influenced by federal and state governments, and therefore, not an independent entity (Bloland 1999; Brittingham 2008). Some within the higher education industry argued that "education is not one of the powers delegated to the federal government" and, therefore, the federal government should mind its own business (Neal 2008, 25). Others argued the need for federal regulation of higher education because of past practices of discrimination, skyrocketing costs of attendance and the large amounts of federal dollars that support higher education.

The use of accreditation as a means to become and remain eligible for Title IV funds led to speculation that some for-profit higher education institutions participate in “accreditation shopping” (Kinser 2005, 76). Kinser presented a qualitative study of 65 for-profit institutions in the US, all of which were accredited by regional accreditation agencies. His work revealed inconsistencies in the operation of the six regional accrediting bodies. The lack of consistency could bolster concern that one agency’s distinctive policies could cause “...regional accreditation as a national policy of quality control...” to suffer (Kinser 2005, 76). In short, the literature would suggest these things but they are outside the scope of this study. In sum, citizen and consumer protection have served to driving factor in the push for regulation. Even in the midst of public outcry, the federal government and the states have yet to fully address regulating higher education in the US in a way that is aggregated across to two levels of government. State level governance of HIED has appeared to strengthen overtime but its impact has not been fully determined in the literature. The hands-off regulatory approach of the federal government has become increasingly criticized. This regulatory quandary has resulted in limited research on HIED governance and its effectiveness, as well as greater and more complex enforcement issues.

Hypotheses

This study set forth three hypotheses. First, it was hypothesized that stronger state higher education governance structure are more likely to result in lower numbers of FPHIEDs. The second hypothesis suggests that stronger state higher education regulatory characteristics are more likely to result in lower numbers of FPHIEDs. Finally, the third hypothesis surmises that the NCACS jurisdiction is more likely to result in high numbers of FPHIEDs that states in other regional accrediting agency jurisdictions (i.e., MSACS, NEACS, NWCCU, SACS, and WASC). NCACS was responsible for approving half of all for-profit higher education with distance education programs, suggesting that NCACS is accommodating towards FPHIEDs (Kinser 2005).

Methodology

Research Design

Ordinal logistic regression (OLR) is employed in this study to investigate the impact of the higher education regulatory environment in the US on the presence of for-profit higher education institutions. For the purposes of this study, the presence of FPHIEDs is operationalized as the number of FPHIEDs in a metropolitan statistical area (MSA), and characterized into three categories: none, low and high. OLR has its foundation in logistic regression which allows the prediction of a dichotomous outcome variable from continuous, discrete and/or dichotomous independent variables (Mertler and Vannatta 2005; Tabachnik and Fidell 2007). ORL is the most appropriate technique because of the categorical and ordered nature of the dependent variable. It is used here to identify the combination of independent variables that best predict membership into one of two or more categories of the number of FPHIEDs in an MSA.

Data Collection and Analysis

Secondary data were collected from the US Census, National Center for Education Statistics (NCES), Bureau of Economic Analysis (2009), Organization for Economic Cooperation and Development (OECD) and the Council of Higher Education Accreditation (CHEA) from 2000, 2007, and 2009, respectively. The rationale for the use of secondary data includes the limited availability of FPHIED location decision-makers. In most cases, the individuals

who made the location decisions of FPHIEDs are no longer with those respective institutions. Additionally, there is limited data on FPHIEDs in both the higher education and business literatures.

Dependent and Independent Variables

The number of FPHIEDs, observed at the MSA level in the US, served as the dependent variable (DV). The DV was originally observed as count data, but recoded into the following categories: none, low and high numbers of FPHIEDs in an MSA. While the “none” category indicates the absence of FPHIEDs in an MSA, the “low” category includes between 1 and 4 FPHIEDs, and the “high” category includes 5 or more FPHIEDs in an MSA. Categorical cut-points were selected because they approximated a more even distribution in the number of MSAs represented in each category of the DV.

The independent variables used in this study are state higher education governance structure (governance), state higher education regulation of FPHIEDs (regulation), regional accreditation agency and population. Their use is grounded in the public administration, economic development, and higher education literatures. Theories of economic regulation assert that high levels of regulation restrict economic development by constraining new competitors and allowing for unequal distributions of control in favor of politically powerful firms. Their influence on non-traditional for-profit entities, like higher education institutions, is less clear however. Governance is theorized to have similar effects on economic growth and development is regulation.

Higher education governance structure predictors are categorized as either governing boards or coordinating bodies. Governing boards are characterized as statutory bodies “...established by legislation in the form of statutes or legal instruments” to conduct state higher education business (Thynne 2006, 172). These types of agencies are set up by legislative action that is not easily changed by the government or the agency. Coordinating bodies are state higher education agencies with legislatively delegated authority, which serve as a link between the legislature and the higher education institutions within that state. Coordinating bodies are described primarily by the principle-agent nature of their relationship with the legislature (McLendon 2003). Governing boards have more power to constrain and control higher education within the state and are, therefore, considered to exhibit higher levels of higher education governance. Coordinating bodies, on the other hand, have the ability to recommend and advise institutions to act. Conversely, states with coordinating bodies have lower levels of higher education governance.

State higher education regulatory characteristics are based on state requirements imposed on FPHIEDs as a condition of operating within their respective state. For example, some states have no requirements for FPHIEDs to operate within their boundaries (lowest level of regulation). Other states require state agency approval before FPHIEDs are permitted to operate (medium level of regulation). Yet other states require Department of Education approval through regional accreditation prior to granting permission to FPHIEDs to function within their borders (highest level of regulation). Therefore, states with more stringent requirements of FPHIEDs prior to operating within their borders are considered to have higher levels of regulatory characteristics.

There are six regional accrediting agencies approved by the US Department of Education: Middle State Association of Colleges and Schools (MSACS), New England Association of Schools and Colleges (NEASC), North Central Association of Colleges and Schools (NCACS), Northwest Commission on Colleges and Universities (NWCCU),

Southern Association of Colleges and Schools (SACS), Western Association of Schools and Colleges (WASC). Table 1 lists the regional accrediting agencies and their respective state and territory jurisdictions.

Table 1. Regional Accrediting Agencies and Jurisdiction (as of January 2014)

Agency Name	States/Territories within Jurisdiction
MSACS	DC, DE, MD, NJ, NY, PA, Puerto Rico, US Virgin Islands
NEASC	CT, ME, MA, NH, RI, VT
NCACS	AZ, AR, CO, IL, IN, IA, KS, MI, MN, MO, NE, NM,ND, OH, OK, SD, WV, WI, WY
NWCCU	AK, ID, MT, NV, OR, UT, WA
SACS	AL, FL, GA, KY, LA, MS, NC, SC, TN, TX, VA
WASC	CA, HI, Guam, Samoa, Northern Mariana Islands, Palau, Micronesia, Marshall Islands

Source: Adapted from Texas Education Agency Ask Ted, Data retrieved July, 2010

Limitations

The scope of this study is limited in its exclusion of some factors that influence the establishment of for-profit organizations such as the availability of and/or location of rentable/leasable space. It may be that the location selections are better explained in terms of proximity to major interstates and local roads or the availability of quality office space. These factors have been found to be significant in traditional business decision-making literature, but have not been generalized to this sub-category of for-profit enterprises: higher education institutions. Additionally, these variables are specific to final site selections, which often occur after a boarder location decision has been made (Bailey, Badway and Gumport 2001). Therefore, these variables were excluded from this study.

Results and Discussion

Selected Descriptive Statistics

Data for 366 MSA were used to compile demographic and demand variables, population, median family income, unemployment rates, educational attainment and racial composition. The total number of MSAs represented in this study constitutes 97.8% of all MSAs in the US, or 366 of 374. Four-year, degree-granting for-profits colleges/universities in the US (N=530) are located in approximately 127 of 366 MSAs (34.7%). Using MSA level data account for regional market forces, which have long been argued to influence business decisions (Brown 1979; Predöhl 1928).

All the variables used in the study were continuous but were transformed into interval variables for use in the regression model. Average MSA population was 703,156; however, the average was skewed by outlier MSAs including Los Angeles and New York City MSAs with more than 12 million people each. The average MSA median family income in 2007 (as reported in 2010) was \$57,894. MSAs had an average unemployment rate of 9.15%. Average MSA educational attainment was 85.22% for HS/GED. The

average percent of Blacks in the MSA population was 10.43%. Table 2 lists descriptive statistics for selected variables.

Table 2. Descriptive Statistics

Variable	N	Mean	S.D.	Range
Population	366	703,156	1,589,493	19,014,620.00
Median Family Income	363	57,893.96	9845.68	67,095.00
MSA Unemployment Rate	363	9.15	3.07	29.10
Educational Attainment: HS/GED Completion	366	85.22	5.61	35.80
State Corporate Tax Rate	321	6.55	2.5	12.00

Regression Analysis

It was hypothesized that elevated levels of state higher education governance structure would decrease the odds of higher numbers of FPHIEDs. For a one unit increase in state higher education governance structure, there is a .22 decrease in the ordered log odds of higher levels of FPHIEDs, given all of the other variables in the model are held constant. As a result, a one unit decrease in the state HIED governance structure (i.e., from governing board to coordinating body), increases the odds of more FPHIEDs locating within that state by 1.25 times.

Higher levels of state higher education regulatory characteristics were projected to result in decreased odds of higher numbers of FPHIEDs. Holding all other variables constant, there is a .06 decrease in the ordered log odds of a high level of FPHIEDs with a one unit increase in state higher education regulatory characteristics. Consequently, a one unit decrease in the state higher education regulatory characteristics increases the odds of more FPHIEDs locating within that state by 1.06 times.

Membership in Middle State Association of Colleges and Schools (MSACS) results in a 3.72 decrease in the ordered log odds of being in a higher level of FPHIEDs, holding all other variables in the model constant. Therefore, membership in MSACS jurisdiction increases the odds of being in a lower category of FPHIEDs by 41.42 times. Membership in the New England Association of Colleges and Schools (NEACS) results in a 1.16 decrease in the ordered log odds of being in a higher level of FPHIEDs, holding all other variables constant. Thus NEACS membership increases the odds of fewer FPHIEDs locating within that state by 3.17 times. Northwest Commission on Colleges and Universities (NWCCU) membership results in a .68 decrease in the ordered log odds of being in a higher level of FPHIEDs, given all other variables in the model are held constant. Consequently, membership in NWCCU increases the odds of fewer FPHIEDs locating within that state by 1.97 times. Southern Association of Colleges and Schools (SACS) membership results in a .30 decrease in the ordered log odds of being in a higher level of FPHIEDs, holding all other variables equal. Therefore, SACS membership increases the odds of fewer FPHIEDs by 1.36 times. Membership in the Western Association of Colleges and Schools (WASC) results in a .35 decrease in the ordered log odds of being in a higher

level of FPHIEDs, given that all other variables are held constant. WASC membership decreases the odds of fewer FPHIEDs locating within that state by 1.42 times.

MSACS, MSA population, and HS/GED are statistically significant at $p < .05$. Higher education governance structure is significant at $p = .031$. The OLR model explained a highly satisfactory portion of the variance in the dependent variable based on the widely used estimate of Nagelkerke's Pseudo $R^2 = .545$ (Meyers, Gamst and Guarino 2006; Tabachnick and Fidell 2007). Nagelkerke's Pseudo R^2 is a goodness-of-fit test that attempts to identify the proportion of variance explained by the predictor variables, and was selected because it corrects the Cox and Snell R^2 for its inability to report a perfect fit ($R^2 = 1.0$). Nagelkerke Pseudo R^2 is one of the most reported R^2 estimates in logistic regression (Burns and Burns 2008; Meyers, Gamst and Guarino 2006). See Table 3 below for the OLR model.

Discussion

Higher education governance has been relatively unchanged over the last 20 years, while many other aspects of the higher education environment experienced tremendous expansion. In other words, governance of higher education has lagged behind the major shifts in the higher education environment. The changes in the higher education setting have primarily occurred in the area of private, for-profit colleges and universities. This sector has proven to be a challenge to regulate at the state and federal levels. While increased criticism has triggered a call for improved governance and regulation of for-profit higher education, there has been little attention given to what governance and regulatory factors actually influence the behavior of FPHIEDs. This study identified the higher education governance factors that influence the number of FPHIEDs present in a given state.

This study shows that some higher education governance factors influence the prevalence of FPHIEDs, while others have no impact. Specifically, three higher education governance factors influenced the number of FPHIEDs present: state higher education governance, MSACS and NEACS regional accrediting agencies. Other higher education governance factors did not influence the presence of FPHIEDs. The non-influential higher education governance factors were state higher education regulatory characteristics, four of six regional accrediting agencies (North Central Association of Colleges and Schools, Northwest Commission on Colleges and Universities, Southern Association of Colleges and Universities, and Western Association of Schools and Colleges).

Previous studies have shown the influence of a wide range of governance, demographic and demand factors on the location decisions of for-profit businesses overall, but not for-profit higher education institutions specifically. This research included governance, demographic and demand factors found to be significant in previous location decision and education studies. Only a small number of factors emerged as significant predictors. While few hypotheses were supported at the bivariate or multivariate levels, the ordinal logistic regression models explained a large amount of the variance (Nagelkerke's Pseudo $R^2 = .545$).

Predictor Variables

This study supports the theory that higher levels of governance restrain FPHIEDs based on ordinal logistic regression modeling, and identifies the two governance factors that influence the number of FPHIEDs: state higher education governance structure and MSACS, a regional accrediting jurisdiction. Also supported is the finding that high levels

of for-profit higher education institutions locate in places with higher levels of population, which is consistent with most business and economic theory that population is a driver of business decision-making (Khalil, Ellaboudy and Denzau 2007). Areas with high rates of population spur economic investment and development. Therefore, as MSA populations increase, so does the likelihood of increasing the prevalence of FPHIEDs.

Governance Implications

State higher education governance structures were redesigned in the late 1950s into what currently exists in the US. The modern structures have lagged behind the advancement of the for-profit sector of higher education. Lynn, Heinrich and Hill (2001) claim that governance is important to achieving policy or organizational objectives. As a result, politicians might change governance structures in an effort to generate more satisfactory outcomes. This study found evidence that state higher education governance structures have statistically significant impact on the number of FPHIEDs present within an MSA. In essence, MSAs with state higher education governing bodies have fewer FPHIEDs within their respective borders.

This suggests the need to strengthen state higher education governance structures, from coordinating bodies to governing bodies, as means to regulate the behavior of FPHIEDs. Therefore, strengthened higher education governance structures give greater authority to state agencies to regulate FPHIEDs and have the ability to enhance higher education policy. Unintended is the potential for greater restriction of public and private non-profit institutions. Currently there is concern that non-profit postsecondary institutions, particularly public institutions, are heavily regulated and overburdened. Increased regulations of FPHIEDs may increase the regulations of all higher education institutions.

Policy Implications

Stronger governance structures have the ability to improve the development and effectiveness of policy (Lynn, Heinrich, and Hill 2001). This study assumes that state higher education policies are established to regulate the behaviors of higher educational institutions in the state. While the findings lack evidence to support any statistically significant impact of the state higher education regulatory characteristics on the behaviors of FPHIEDs, the implications have policy significance. Policy evaluations of higher education and economic development policies at both the state and federal levels are needed to determine effectiveness in meeting stated objectives, and to determine the impact of unintended consequences. For example, state higher education policy that regulates FPHIEDs may be deemed effective. However, its restriction of FPHIEDs may undermine economic development policies that seek to lure business and industry into the state. In the same way, federal higher education policies should be evaluated. Some federal policies that seek to increase postsecondary educational achievement may, in fact, encourage the proliferation of FPHIEDs and ultimately minimize the value of higher education attainment. Another unintended consequence is that by increasing regulations of FPHIEDs, and therefore restricting their operations, the higher education options of minorities and working adults will be limited. Because FPHIEDs target minorities and working adults, restraining FPHIEDs will likely limit the educational opportunities of those populations, thereby undermining postsecondary achievement goals at state and national levels.

The research presented here supports the need for more consistent and strengthened federal regulations of FPHIEDs. Currently, the structure that devolves federal regulation to independent regional accrediting agencies seems inadequate. Four of the six regional accrediting agencies were not found to have statistically significant influences on the number of FPHIEDs. Differences found between regional accrediting agencies require consistency to ensure regulatory equity across the US states. Therefore, a federal level evaluation of regional accreditation policies is necessary to assess equity and equality across agencies in the regulation of FPHIEDs. Higher education regulatory consistency across US states is beneficial. The establishment of uniform federal standards and policies minimizes “accreditation shopping” (Kinser 2005). It facilitates less complex evaluation of institutional adherence to federal regulations. Additionally, it mitigates concerns of discrimination among regional accrediting agencies (AAUP 2007).

Formulation of new policies, strengthening current policies, and evaluating all higher education policies that regulate the operations of FPHIEDs, such as higher education regulations and/or consumer protection laws, will serve to benefit the public good. The result is either further protection of the public from the profit-seeking behaviors of FPHIEDs or promotion of economic development objectives. For example, if a state desires to limit the spread of FPHIEDs and/or decrease the risk of diploma mills within its borders it should consider strengthening its higher education policies. California is a state that could potentially benefit from increased regulations of higher education institutions. California currently hosts a large number of FPHIEDs but the state higher education agency exhibits no regulatory characteristics. On the other hand, a state such as Delaware may desire to increase the educational choices of its residents while recruiting new businesses to its state. Delaware may consider loosening its regulations of FPHIEDs and permit them to establish physical campuses in their state.

How states implement plans to achieve higher education and economic outcomes is another consideration related to for-profit higher education regulation. State higher education agencies that exhibit strong governance structures can take a bottom-up approach to implementation, primarily because they have legislative authority to act. For example, governing bodies can develop their own programs to regulate for-profit higher education institutions. Once the program or policy is developed, those agencies can implement them. This is a bottom-up model of implementation. The result of such an implementation is diversity of regulation of FPHIEDs across the states in the US (Matland 1995). From a top-down approach, however, state agencies must administratively implement changes in state higher education governance structure and policies from elected officials. Implementation done in this way focuses on the language of the policy, which purposes to guide the actions of state agency administrators. Public administrators must clarify policy goals, and then execute policies in ways that minimize impact on other, sometimes contradictory, legislative goals (Howlett and Ramesh 2003; Matland 1995). Hence, legislators must be specific about goals pertaining to the regulation of for-profit higher education institutions and/or economic development initiatives, as both can work in support of each other or against each other. For example, restricting FPHIEDs can undermine recruitment and preservation of businesses in a state. Additionally, public agencies that historically do not interact, such as consumer protection agencies and higher education agencies, must work together to maximize effectiveness in meeting legislative objectives. The top-down approach requires state higher education administrators to take care to match implementation practices to legislatively sanctioned objectives and outcomes (Howlett and Ramesh 2003).

Conclusion

The paper examined the impact of the US higher education regulatory environment on the presence of FPHIEDs and found that strong state higher education governance structures had negative impact on the prevalence of FPHIEDs. Additionally, states within the jurisdictions of perceivably stronger regional accreditation agencies are more likely to have fewer FPHIEDs (the strength of the regional accrediting agencies is suggested in the literature but outside the scope of this study). Thus, the claim that tougher regulations suppress business and economic growth is supported. Consequently, for states that desire to decrease the prevalence of FPHIEDs, legislatures need to strengthen state higher education governance structures. At the end of the day, public policy is a question of preference. In other words, states who desire to decrease the prevalence of FPHIEDs can choose to strengthen their regulatory agencies/bodies. Conversely, states that want to increase the presence of FPHIEDs should weaken their governance structures. In the long term, states with stronger higher education regulatory agencies, suggesting improved quality, would attract better institutions and better outcomes, ultimately contributing to a well-educated workforce.

Rhonda Myers, currently serving as Coordinator of Student Success at NOVA - Alexandria Campus, is a higher education practitioner with public administration professional training and is passionate about students achieving their educational goals through academic achievement, leadership, and professional development.

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