The Program Integrity Triad:

Balancing Accountability, Quality, and Regulatory Compliance in Higher Education

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Abstract

The 1992 reauthorization of the Higher Education Act established the Program Integrity Triad which consists of the federal government, state government, and institutional accreditors. The role of the Triad is to determine quality at postsecondary institutions and gatekeep the billion-dollar U.S. higher education industry.

A review of the literature shows the historical evolution of the Triad and the impact of the subsequent reauthorization and continuing resolutions. The analysis explores the imbalances and tensions within the Triad regarding accountability, quality assurance, and the increasing regulatory burden on institutions. Utilizing various theoretical frameworks, the paper investigates the motivations and interactions of each member, revealing challenges in achieving effective oversight. Ultimately, the paper examines the ethical implications of this ongoing imbalance and provides policy recommendations aimed at rebalancing the Triad to better serve students, achieve desirable outcomes, and ensure the integrity of the higher education enterprise.

Keywords: Program Integrity Triad, Higher Education, Federal Student Aid, State Authorization, Accreditation.

Contents

Introduction

More than 100 years before the formation of the United States of America, institutions of higher education existed on this land. Early settlers who crossed the Atlantic Ocean for opportunity and religious freedom recognized a need to develop educational programs and training for leaders in the community. In 1636, Harvard University was founded to educate future ministers for the New England Colony. A few decades later in 1693, The College of William and Mary was founded and offered an arts and sciences curriculum to engage students in intellectual work across a variety of disciplines. In 1862, the Morrill Act set aside federal lands to establish land-grant institutions.

Since the 1600s, higher education has evolved into a $993 billion-dollar industry (National Center for Education Statistics, 2023). In fiscal year 2023, $114.1 billion federal tax dollars were borrowed by 9.7 million students and their families to pay for postsecondary education through the Office of Federal Student Aid (FSA) program of the United States Department of Education (USDE) (Federal Student Aid, 2023). This funding can make up to 90% of a college or university's revenue (Lee & Looney, 2019). Approximately 4 million people are employed in academic institutions to serve these students (National Center for Education Statistics, 2021). The USDE employs over 4,100 people to manage the FSA program (Federal Student Aid, n.d.).

In 1965, President Lyndon Johnson, a former teacher who believed education was a catalyst to end inequality and racial injustice, signed into law the Higher Education Act of 1965 (HEA) (Berube, 1991). The HEA was the key catalyst to the expansion of the FSA program which has made postsecondary education and the promise of social mobility a reality for many Americans. Twenty years earlier, federal loans for postsecondary education were offered after

World War II as part of the Servicemen's Readjustment Act of 1944, or what is commonly known as the G.I. Bill, and it was a model for the FSA program (Looney & Yannelis, 2024; Morris et al., 2023; Smith & Webster, 2024). It provided resources and established measures of quality and accountability for postsecondary institutions. In the 1992 reauthorization of the HEA, the Program Integrity Triad (Triad) was introduced as the gatekeepers of higher education. The three members of the Triad are the federal and state government, and federally recognized accreditors.

Each of these actors has had a separate role in higher education since the late 1800s but the HEA pulled them together and gave them equal power and responsibility in the ongoing operations of the billion-dollar higher education industry. Since the introduction of the Triad in 1992, responsibilities and expectations have evolved along with higher education. Yet, there is an ongoing concern that the Triad is out of balance and not providing effective oversight to manage the higher education enterprise in terms of quality, accountability, and cost which are at the heart of the debate.

Several outcomes have arisen from this imbalance that have implications for students, families, institutions, the value proposition of higher education, and the political discourse. For example, there are approximately 296 federal student consumer regulations that colleges and universities must comply with to have access to federal financial aid for their students (Higher Ed Compliance Alliance, n.d.). The repercussions of being out of compliance can result in a hefty fine. Every year, the USDE publishes a school fine report. In 2023, the amount of noncompliance fines collected was approximately $1,036,200 million from twenty institutions (Federal Student Aid, n.d.a). The ongoing efforts by institutions to comply with regulations also exacts a significant cost. In 2015, Vanderbilt University published a report from fiscal year 2013 to 2014 that analyzed the cost of federal compliance for thirteen institutions across the country of varying sizes. Applying the findings to the entire US higher education sector, they found that federal regulatory compliance cost the education industry $27 billion-dollars annually (Vanderbilt University, 2015). Based on the average rate of inflation in the United States over the past ten years, that amount is almost $36 billion-dollars today (Alioth Finance, 2025). There are several drivers of federal regulations but regardless of the purpose, it puts a significant drain on the operational budgets of institutions which impacts their primary mission: providing a quality education.

The unmitigated burden of federal regulations is just one of the issues related to the current imbalance of the Triad and it is coinciding with increased cost to the student consumers and public skepticism regarding the value and quality of higher education (Fry et al., 2024). For this reason, the Triad needs to be evaluated and rebalanced in order to meet the competing demands of all stakeholders.

Literature Review

Since the introduction of the Triad, the roles of each member have evolved as the higher education industry has grown, become more accessible, and become more expensive. The recurring themes in the literature include accountability, quality, and regulatory burden and how each member of the Triad interacts with and impacts these priorities.

The Higher Education Act

In 1965, President Lyndon Johnson signed the HEA into law as part of the Great Society which was domestic legislation enacted to provide resources that would improve societal outcomes. Increased federal funding to education was a significant part of his agenda (Berube, 1991; Hannah, 1996). Since then, the HEA has been reauthorized eight times: 1968, 1972, 1976, 1980, 1986, 1992, 1998, & 2008 (Fountain, 2023). It is organized into eight titles:

- Title I, General Provisions;
- Title II, Teacher Quality Enhancement;
- Title III, Strengthening Institutions;
- Title IV, Student Assistance;
- Title V, Developing Institutions;
- Title VI, International Education Programs;
- Title VII, Graduate and Postsecondary Improvement Programs;
- Title VIII, Additional Programs (Federal Student Aid, 2020)

Title IV, *Student Assistance* consists of nine parts that detail the programs, loans, and grants that flow from the federal government to postsecondary institutions. The programs authorized under this title are the primary sources of federal aid that support postsecondary education and are one of the most significant pieces of the legislation in the HEA. It also includes the regulatory requirements institutions must meet in order to participate in federal financial aid funding. In section H: Program Integrity, the HEA describes the role of each member of the Triad (S.1150 - 102nd Congress, 1991-1992).

Reauthorization

The 1972 reauthorization expanded federal aid for higher education institutions and set the groundwork for the system of aid that we have currently in place. It created the Basic Education Opportunity Grant which would later become the Pell Grant (Flores, 2015). This needs-based grant provided funding to low-income students for undergraduate education. In 2023-2024, the maximum amount awarded to an individual Pell Grant recipient was $7,395 and the entire program cost the federal government $25.8 billion (National Association of Student Financial Aid Administrators, 2023). Title IX and other initiatives around equitable access to education for traditionally minoritized populations were also introduced in the 1972 reauthorization.

The next reauthorization in 1992 created the Federal Direct Loan Program (FDLP) which allowed students to borrow directly from the federal government, simplified the process and expanded access by having fewer requirements and lower cost loans. Although the FDLP was intended to improve access, critics now consider it a significant contributor to the current student loan debt crisis (Looney & Yannelis, 2024). The 1992 reauthorization also introduced the 90/10 rule which requires for-profit institutions to obtain at least 10% of their revenue from non-federal sources (Lee & Looney, 2019). During the late 80s and early 90s a number of for-profit institutions were identified as “predatory” actors offering degrees for very little course-work and saddling students with significant debt. “Over a period of six years, loan defaults at these institutions increased 338 percent to 39 percent” (Flores, 2015, p. 7). The results of several investigations prompted by the federal government and led by Senator Sam Nunn (D-Georgia) called for increased oversight. In a 1984 report by the Government Accounting Office, it was noted that 80% of for-profit schools had suboptimal academic standards and one third misrepresented themselves (Delisle et al., 2023; GAO, 1984). By the early 90s, politicians were referring to these schools as “flight by night” or “diploma mills” (Beaver, 2012). Ultimately the federal investigations put the blame on accreditors for not protecting students against fraud at for-profit institutions (Flores, 2015).

In response to the fraudulent actors of the 80s and 90s, the 1992 reauthorization created the State Postsecondary Review Entities (SPREs) that worked with the USDE to identify problematic institutions and enforce standards (McCann & Laitinen, 2019; Smith & Webster, 2024). The federal government could now block access to financial aid based on a bad SPRE review (McCann & Laitinen, 2019). In states that had strong oversight of postsecondary institutions, SPREs seemed redundant and for states that had less so, they found them to be an unnecessary overreach of the federal government. Overall, the higher education community was not in favor of SPREs and in particular, private institutions which saw them as a violation of their autonomy (McCann & Laitinen, 2019).

Lastly, the 1992 reauthorization gave the USDE the authority to establish standards for approving accreditation agencies. These standards required accreditors to establish requirements and expectations for the institutions that they accredited, and those expectations had to address the quality of the curriculum, faculty qualifications, length of program, recruiting and admissions practices, student support services, and financial stewardship (Pelesh, 1994).

Unfortunately, the SPREs and the newly implemented standards were short-lived. They were eliminated in the mid-1990s during the federal deregulation era led by Speaker of the

House Newt Gringrich (R-GA) and House Majority Leader Dick Armey (R-TX) as part of the legislative agenda called the Contract with America (McCann & Laitinen, 2019; Rainwater, 2006). The gains made by the federal government in the early 90s to strengthen quality and accountability through federal regulation were rolled back.

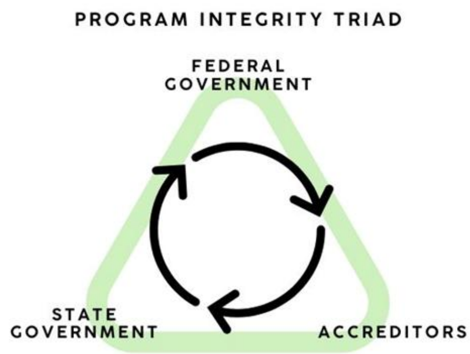
From that point in time until today, the swing between deregulation and increased regulation has aligned with the political party currently in power with Republicans favoring fiscally conservative policies and less federal regulations and Democrats favoring more funding in the higher education space. Accreditors themselves have also continued to lobby to limit federal oversight to allow institutions to define success through meeting their mission rather than a universal set of standards (Hartle, 2013). The result is an ongoing imbalance and tension in the Triad and a lack of clear authority as to who is the gatekeeper to billions of federal financial aid.

Since the last reauthorization in 2008, there have been several extensions and continuing resolutions to the act. "The HEA has been amended numerous times; these amendments have ranged from minor technical amendments to amendments that have represented major changes to certain programs" (Fountain, 2023, p. 43). Two major attempts at reauthorization came in 2017 with the Republican led Prosper Act and in 2019 with The College Affordability Act but neither were successful. There continues to be disagreement along party lines of how to address accountability, affordability, quality assurance, and student debt relief.

The Triad

Figure 1

Program Integrity Triad



Federal Government

Up until the mid-1800's, education was managed on the state level. In 1867, the Office of Education was created by the federal government as part of the Department of the Interior. It had little involvement in the activities of higher education institutions but was charged with gathering state level data. In 1939, the Office of Education was moved to the Federal Security Agency which oversaw the post New Deal expansion of public welfare and social programs (Natow, 2022). After World War II, the G.I. Bill provided federal dollars for tuition and living expenses for veterans which led to the growth of public university systems and community colleges (Kelchen, 2018; Natow, 2022). With a growing interest in research and national security because of the Cold War, the National Defense Education Act 1958 was passed and the cabinet-level Department of Health, Education, and Welfare was created in 1953. In 1979, President Jimmy Carter moved the USDE to a separate cabinet-level agency where it remains today (Natow, 2022).

The USDE is managed by the Secretary of Education who is appointed by the President. Because the Secretary is appointed by the President, they are implicitly charged with carrying out the President’s agenda (Waterman, & Ouyang, 2020). Under the leadership of The Secretary of Education sits the FSA and the Office of Postsecondary Education (OPEID). The primary role of the FSA is to manage the financial policies defined in Title IV of the HEA. There are several programs housed in the OPEID but the one most connected with the Triad is the Office of Policy Planning and Innovation. This Office administers the review process for accreditation agencies which includes recommendations from the Accreditation Group who are staff members of USDE and the National Advisory Committee on Institutional Quality and Integrity (NACIQI) (U.S. Department of Education, n.d.a.).

NACIQI is an advisory board with 18 appointed members serving six-year terms. The Secretary of Education, Senate, and House of Representatives each appoint six members. Membership is composed of higher education administrators from all different types of institutions, associations, and interest groups, as well as public policy experts. NACIQI occasionally provides the Secretary with policy recommendations. The most recent report was in President Donald Trump’s first term when he issued the Executive Order 13777, Enforcing the Regulatory Reform Agenda, which asked federal agencies to examine unnecessary federal regulations. The resulting report, *2018 Accreditation Policy Recommendations on Regulatory Reform*, focused on regulatory relief, the reduction of technical compliance for high performing institutions with strong outcomes, and supporting innovation (NACIQI, n.d.).

Besides reauthorizing the HEA, higher education has been regulated by the federal government through amendments and continuing resolutions. There are two committees in the U.S. Congress that develop higher education policy: The Senate Committee on Health, Education, Labor, and Pensions (HELP) and the House Committee on Education and the Workforce. Under the Biden administration, Senator Bernie Sanders (I-VT) held the position as

Chairperson of HELP and supported reforms that simplified the Public Service Loan Forgiveness (PSLF) program as well as other initiatives that would provide student debt relief (Sanders, 2024). In January of 2025, Senator Bill Cassidy (R-LA) was appointed Chairperson and has been a vocal critic of the Biden student debt relief policies (HELP, 2024). The House Committee on Education and the Workforce gained a new Chairperson under the new Trump administration. Representative Tim Walberg (R-MI) took over for Representative Virgina Foxx (R-NC) who held the position since 2023. During her tenure, Representative Foxx championed legislation that would hold colleges and universities accountable for student outcomes, called for institutions to be more efficient, and has criticized the Biden administration's student debt relief policies. Walberg will most likely follow in Foxx's footsteps. Foxx has been a strong advocate for reducing the federal involvement in higher education by reducing regulations and advocating for transparency and accountability from institutions (House Committee on Education & the Workforce, 2017). Foxx has supported bipartisan legislation that would require institutions to report student level success indicators so families can make informed decisions. In January 2024, Foxx introduced the College Cost Reduction Act (H.R. 6951), which includes provisions for a postsecondary student data system. Notably, this system would primarily focus on students receiving federal financial aid, differing from previous legislation that took a more comprehensive approach (Knott, 2024).

Negotiated Rulemaking. The HEA was due for reauthorization in 2013 but a comprehensive overhaul of the legislation has not been accomplished to date. Since then, Congress has extended the HEA through continuous resolutions and amendments that are implemented by OPEID. The process used to implement HEA legislation is called negotiated rulemaking. The Administrative Procedure Act (APA) of 1946 established the framework for how federal agencies create and implement regulations.

Negotiated rulemaking is the process established by law for implementing any regulations related to student financial aid programs under Title IV of the HEA (Natow, 2023). It involves establishing a committee and direct negotiations between the USDE and key stakeholders to reach a consensus on proposed rules before they are published for public comment. The department must announce its intent to establish or revise a regulation in the Federal Register and invite public input and nominations from the committee members. The makeup of the committee consists of stakeholders from diverse perspectives which include students, higher education administrators from public and private institutions, consumer advocacy groups, and state and federal financial aid representatives. The committee meets several times to attempt to come to consensus about a regulation. Once consensus is reached, the USDE will publish the rule in the Federal Register for public comment. The Department will review the comments, make any adjustments needed, and publish the final version in the Federal Register. Most rules of this type go into effect on July 1. If consensus is not reached, the USDE has the authority to develop its own rule, publish it for comment, make adjustments, and submit the final rule to the Federal Register.

While some of the strengths of negotiated rulemaking include making higher education regulations more inclusive, effective, and providing for data informed decision making, it has faced significant criticism from lawmakers, institutions, and policy experts (Lubbers, 2014; Natow, 2017). Two major criticisms are that it takes a significant amount of time to complete the negotiated rulemaking process and changes can be rolled back depending on the administration in power because the USDE is an executive level agency which falls under the President's purview. This regulatory pendulum can give stakeholders whiplash and is the result of implementing regulations based on continuing resolutions and amendments rather than updating HEA legislation wholesale (Rosen, 2024).

On the student level, one example of the regulatory pendulum effect is the Borrower Defense to Repayment (BDR) rule which offered debt relief to borrowers that were victims of fraudulent institutions. Established in 1994, Obama strengthened and simplified the process but during Trump's first term, he rolled back the Obama rule, making it more difficult for borrowers to qualify. Subsequently, the Biden administration, worked to restore the Obama era rule but met with challenges. In January of 2025, the Supreme Court agreed to review the BDR but the Trump administration asked the Supreme Court to pause the review signaling a potential new direction for the legislation (Blake, 2025).

Another criticism of negotiated rulemaking is that if it does not work, the Department can develop its own rules putting legislative decision making in the hands of appointees rather than elected representatives (Selin et al., 2022). This was seen in the final rule published for the Program Integrity and Institutional Quality: Distance Education and Return of Title IV, HEA Funds (TICAS, 2024; National Association of Student Financial Aid Administrators, 2024). The committee could not come to consensus regarding certain safeguards for distance education so the department wrote the final rule. The final rule added a definition for distance education and established a requirement for institutions to report student enrollment in distance education in a procedure not yet defined by the USDE (U.S. Department of Education, 2025). Trying to anticipate the resources needed and procedures that will need to be implemented in order to be in compliance with the ever expanding and vague federal regulatory decisions leaves many higher education stakeholders in limbo.

Federal Regulatory Compliance. The Higher Education Compliance Alliance, a group created by the National Association of College and University Attorneys (NACUA), developed a federal compliance matrix which is shared on its website for colleges and universities (n.d). It lists the 294 federal regulations for which higher education institutions must comply in order to participate in the Title IV federal financial aid programs. Federal regulations can vary from mandated campus programs, to the required disclosures of data such as graduation and retention rates. Some regulations are fairly straightforward to implement while others require a considerable amount of discernment on the part of higher education staff, administrators, and compliance experts. Because of the breadth and scope of the regulations, institutions spend a considerable amount of the federal financial aid funding that they receive on meeting regulatory requirements (Olt, 2020; Vanderbilt, 2015; Woodhouse, 2015).

In 2015, Vanderbilt University studied the cost of federal compliance at thirteen institutions of higher education of different sizes and types. They looked at three different areas of compliance: research, higher education, and general regulations. They found that the cost of federal compliance was estimated to be $27 billion (Vanderbilt University, 2015). Nicholas Zeppos, Chancellor of Vanderbilt University testified at a U.S. Senate committee in 2015 that the cost of compliance equated to $11,000 of tuition dollars for every Vanderbilt student. Zeppos made it clear that much of the cost of compliance at Vanderbilt is paid through research funding, so it is not actually passed on to the student (Woodhouse, 2015). Zeppos's goal was to contextualize the impact of federal regulation so the effect could be understood for institutions of every size. These regulations make a considerable impact on small, private, mission-driven institutions. Olt noted that:

> “Small liberal arts colleges (SLACs) are stretched to meet the same or similar compliance requirements as large institutions, although their funding and staffing may be far less. Though larger institutions may be burdened, they can usually benefit from an economy of scale in staffing and have a flow of appropriations and research grants” (2020, p. 28).

The substantial number of regulations can be overwhelming for some institutions to implement in the timeframe given from the federal government. If a final rule is published in the Federal Register by November 1, it goes into effect the following July 1 giving institutions only nine months to implement. Further, there is no indication that these compliance activities improve the outcomes or performance of higher education institutions (Olt, 2020). Rather than focusing on being innovative or entrepreneurial to attract a shrinking population of college-age students, institutions are bogged down by complying with federal regulations which impacts their competitiveness in the free market (Popper et al., 2021).

There can be significant repercussions for institutions that do not comply with federal regulations. The Clery Act which was signed into law in 1990, requires the reporting and public disclosure of crimes committed in or around campuses. Violation of The Clery Act can incur a large fine. Between 2010 and 2017, the USDE charged $5 million in fines against colleges for violating The Clery Act with the median fine being $47,250. “A nearly $2.4-million fine (the largest on record) was levied against Pennsylvania State University in the aftermath of the Jerry Sandusky child-abuse scandal” (Bauman, 2018).

Title IX, which prohibits sex-based discrimination, has been a victim of the regulatory pendulum over the past three administrations. In January of 2025, the USDE reinstated the 2020 Title IX rules from President Trump's first administration which requires live hearings and enhanced protections for accused students in sexual misconduct cases (Alonso, 2025). The expense to comply with these regulations takes away from the mission of universities and requires attention and resources that stretch many institutions.

Accreditors

Our current process of higher education accreditation grew out of the late 19th century voluntary system established by private institutions and associations. The purpose was to establish standards of quality and expectations for colleges and universities (Flores, 2015; Kelchen, 2018). Accreditation is significant because in order for institutions to participate in federal student loan programs, they must be accredited by an organization recognized by the USDE. At some institutions, up to 90% of revenue comes from federal student aid funds so it would be near impossible to conduct business without access to Title IV funding (Lee & Looney, 2019). There are three main types of accrediting organizations that are recognized by the USDE: national, institutional, and programmatic. Institutional accreditors recognize entire universities and colleges rather than individual programs and gives them access to Title IV funding. NACIQI, which is composed of a diverse selection of stakeholders, recommends accrediting agencies to the USDE for approval after an extensive data gathering process (Hartle, 2013).

Accrediting agencies establish standards that institutions must meet in order to be accredited initially, as well as re-accredited. After the initial accreditation, an institution has to apply to be re-accredited after a predetermined number of years. Accrediting agencies use a self-study process and peer review to evaluate institutions. A self-study with corresponding evidence is produced by institutions under review and submitted to a team of higher education professionals selected from similar institutions. The peer reviewers volunteer to participate in the process. After the self-study and evidence is reviewed, the team visits the institution to gather more evidence and confirm information detailed in the self-study. Research has shown that the accreditation process and the role of the accrediting agency has a significant impact on institutions. Cura and Alani found that " … there is a positive relationship between quality and accreditation. The accreditation process is considered a vehicle to introduce institutional changes since it provides an equal evaluation of the weakness, strengths, and improved opportunities" (2018, p. 80).

Because the federal government has limited control over the states, Terry Hartle, Senior Vice President at the American Council of Education is concerned that NACIQI and the USDE have used accrediting organizations as federal compliance enforcers (2013). In a statement before HELP, Hartle, noted that:

> "The history of the last 20 years has been one of continual tweaking of the Triad largely in the direction of placing more and more responsibility on accreditors. This has happened because accreditation is the strongest and most viable arm of the Triad" (Hartle, 2013).

Accreditation and accreditors may be the most stable actors in the Triad since the changes of political parties in power causes NACIQI to vacillate. This was demonstrated after the Accrediting Council for Independent Colleges and Schools (ACICS) lost its recognition in 2016 during the Obama presidency but during Trump's first term, this decision was reversed. In 2021, shortly after Biden became President, the recognition was removed again based on the recommendation of the USDE (Natow, 2022).

With little control over the role of states in the Triad and increasing pressure to make higher education accountable, the federal government relies on accreditors to police institutions compliance activity. The weight put on accreditors by the USDE to enforce federal regulations as part of their periodic review is a misuse of its role. "The law currently requires accreditors to focus on inputs—compliance with bureaucratic requirements unrelated to desired student outcomes, including completion, employment, equity and value" (Higher Learning Advocates, 2017). Others feel that the federal government has little oversight over accreditors. According to a 2019 report from the think tank New America, research suggested that the federal government appears to have very little control or interest in the work of the accrediting organizations (McCann & Laitinen, 2019). There is even more concern around recent federal rulings that remove the geographical boundaries for accreditors. In the 2019 USDE ruling that removed the geographical regional barriers for accreditors, concern was raised that institutions would engage in "accreditation-shopping." This led to the department issuing guidance in July of 2022 for institutions changing accreditors and released a statement on the website:

> "The goal is to prevent a race to the bottom in quality standards among accrediting agencies and ensure that institutions cannot switch to an accrediting agency with less rigorous standards simply to evade accountability from an accrediting agency that investigates practices or takes corrective action against an institution" (US Department of Education, 2022).

There continues to be ongoing debate around what the primary role of accreditation is within the Triad. From the perspective of accreditors and their advocates the role is to ensure quality. From the perspective of the federal government and political actors, it is to ensure compliance with the ever-evolving regulations as well as to be the gatekeeper of billions of federal funds. When accreditors are required to focus attention on compliance less focus is given to quality. Since the federal government has less control over the states and institutions that operate in them than accreditors, it continues to use the accreditation process to its advantage.

State Government

Control over education was not given to the federal government by the founding fathers. “This would imply that the power to provide and regulate education would be under the control of the States since there is no mention of education in the U.S. Constitution and for the first hundred or so years, it was” (Natow, 2022). Slowly the federal government has taken more and more control of higher education through regulatory policies surrounding the HEA and Title IV federal financial aid programs. Though the federal government has more latitude with controlling accreditors than it does with the states, the regulatory levers that are pulled on the states can impact their ability to regulate institutions in their state. The effects of federal regulations on states exacerbates some of the contemporary higher education issues.

During the late 19th century and early 20th century, states regulated their postsecondary institutions fairly autonomously. Cooperation with the federal government was established after the passing of the GI Bill in 1944 which utilized the state approval process to identify schools and training programs of quality (Kelchen, 2018). This was further strengthened after the passing of the Veterans Readjustment Assistance Act of 1952 which required states to establish agencies to approve programs and share institutional and enrollment data with the federal government (Smith & Webster, 2024). The HEA reauthorization of 1992, which established the Triad, moved the states from a loose association with the federal government in the regulation of higher education to a partner in quality, accountability, and gatekeeping.

According to the HEA, in order for an institution to conduct educational activities within a state, it must be authorized by that state. The state also must have in place a process and procedure for registering complaints (Fountain, 2023). Each state has a different set of criteria and expectations that an institution must comply with in order to conduct business in the state.

Some require a complex process, while for others it can be minimal (Fountain, 2023; Natow et al., 2021; McCann & Laitinen, 2019; Tandberg et al., 2019). For example, the Pennsylvania Department of Education (PDE) notes on its website that it has, “limited jurisdiction over colleges, universities, and seminaries.” However, an institution in the state must be authorized and PDE will investigate student complaints (Pennsylvania Department of Education, n.d.). Being authorized in a home state is required before an institution can apply for candidacy with an institutional accreditor.

Even after the establishment of the Triad in 1992, many states did not embrace their role as a partner and predatory actors took advantage of this lack of state oversight (Smith & Webster, 2024). In addition to establishing the Triad in the 1992 reauthorization, Congress sought to increase states' role in consumer protection by requiring states to create SPREs which were organizations that would assist the USDE in monitoring institutions. The federal government also moved to provide funding to states that worked with the USDE to identify institutions that were not meeting quality standards. This effort was never enacted after the House and Senate were turned over to the Republican Party during the midterm elections in 1994 (McCann & Laitinen, 2019; Tandberg et al., 2019) though, they were able to establish specific guidelines and expectations around state authorization (Tandberg et al., 2019).

With the arrival of online distance education, and institutions operating in multiple states, the federal government passed legislation to increase states’ participation in the Triad. Tandberg et al., explained that in 2016, the department was able to publish a final rule that requires institutions to be authorized in all states in which they are providing education in order to receive Title IV funding (2019). This rule was criticized by institutions, states, and higher education advocates because of the limited capacity that the stakeholders had to enact the legislation.

“Challenges states … faced when responding to these federal policies include insufficient staff capacity to effectively respond to federal policy, limited communications with USDE, complexity of federal regulations, and high costs of compliance” (Natow et al., 2021, p. 2). Because of the enormous task to meet these regulations, the federal government allowed institutions to utilize a reciprocity agreement to comply. The only reciprocity agreement available was the National Council for State Authorization Reciprocity Agreement (NC-SARA) and is still the only one states can join. (Natow et al., 2021; McCann & Laitinen, 2019; Tandberg et al., 2019). Through NC-SARA, institutions do not have to meet the specific higher education laws in each state, rather they must abide by the regulations set forth by NC-SARA. The only law that institutions which are conducting business across state lines need to abide by are defined by NC-SARA as general-purpose law “that applies to all entities doing business of any type in the state, not just institutions of higher education (Smith & Webster, 2024; National Council for State Authorization Reciprocity Agreement, 2024). Since the implementation of NC-SARA, critics have felt that it does not do enough to meet the expectations of the HEA.

> “Current federal regulations … allow state authorization reciprocity agreements that prohibit member states from enforcing their higher education specific consumer protection laws against out-of-state distance education schools, even though consumer protection is the primary purpose of the HEA’s state authorization requirement” (Smith & Webster, 2024).

This criticism led to several proposals around state authorization during the 2023 - 2024 USDE negotiated rulemaking process. The committee did not come to consensus so the department could have developed its own regulations. The regulations would have given states more power to impose higher education laws on institutions conducting business in their state. This would limit the role of NC-SARA. Even though critics did not feel NC-SARA was doing enough to protect distance students, the USDE decided that the process for updating regulations that NC-SARA put into place internally with input from members, would improve standards. In December of 2024, the USDE terminated the negotiated rulemaking process that would have diminished the strength of NC-SARA (National Council for State Authorization Reciprocity Agreement, n.d.).

Analysis

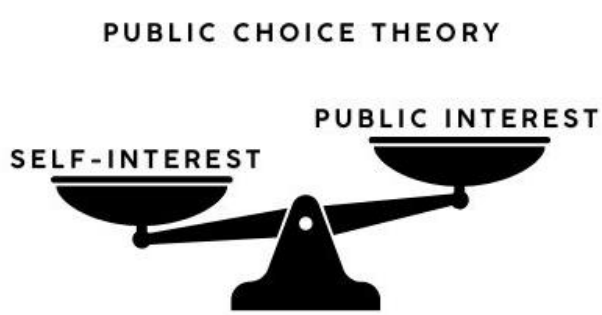
To understand the impact and influence of the major stakeholders in the Triad, four theoretical frameworks were choses to further explore the implications for the higher education enterprise: Public Choice Theory, Principal-Agent Theory, Systems Theory, and Neo Institutionalism Theory.

Public Choice Theory

Voters hope that their elected officials will act in the best interest of the people they represent, but according to Public Choice Theory, the actions of political actors tend to favor their own interests and not the collective interests of the bureaucracy. Public Choice Theory is a behavioral theory that examines political decision making through an economic framework (Amadae, 2003; Buchanan & Tullock, 1965). It removes the ideological veil from the work of policymakers and suggests that incentives and self-interest are at the core of decision making. Self-interest behaviors can occur at the individual, party, or governmental level. Through the lens of Public Choice Theory, the outcomes of the federal government, state government, and accreditors' self-interest within the higher education enterprise can be examined.

Figure 2

Public Choice Theory



Federal Government

Reflecting on the theme that emerged in the literature of accountability in higher education, the federal government has not developed policies or provided guidance that clearly holds each member of the Triad accountable. To their benefit, the federal government has pointed to the lack of oversight from the states and accreditors in order to take regulatory action which has centralized power over time (Natow, 2022). Compliance has become the lever the USDE uses to try and improve accountability and quality because consensus and reauthorization of the HEA cannot be reached in the current political climate. Return on investment and the value of a college degree is another theme that the federal actors politicize and use for their own self-interest. This allows the current party in power to amend legislation to either expand or contract access to federal financial aid programs or debt relief in favor of their ideology and strengthen their power and influence.

State Government

State governments vary in how they demonstrate their self-interest in the higher education industry. The federal government has set baseline expectations for state authorization, but how states enact these regulations vary state by state. Some have extensive processes while others have very little. By abdicating their role in the Triad, states can lean on both the federal government and accreditors to regulate higher education. With limited budgets, states redirect their limited resources to meet other priorities (Natow et al., 2021). It also allows them to lay blame to the federal government and accreditors when constituencies are unsatisfied with outcomes.

Accreditors

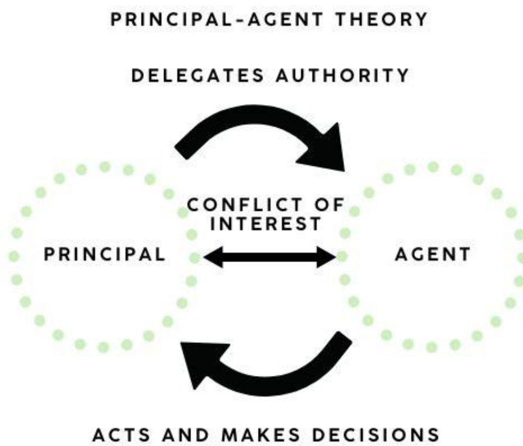
Accrediting bodies have consistently been criticized for falling short in their federally imposed role as gatekeepers of federal financial aid. They walk a tightrope trying to remain relevant as the bastion of quality while being required to uphold the regulatory requirements set forth by the USDE (Hartle, 2013). Accreditors' main lever is the peer-review process that utilizes higher education administrators and faculty as peer-authorities that determine accreditation or reaccreditation of institutions. It is only in the self-interest of accreditors and their members to demonstrate that accreditation works as a way to ensure quality, accountability, and a return on investment. Accreditors very rarely pull accreditation from an institution, and when they do so it is usually because of financial concerns. When issues do arise during the peer-review process, institutions are given a generous amount of time to respond to the citation and correct the issue (McCann & Laitinen, 2019).

Principal-Agent Theory

The Triad is an interdependent relationship between each member, which should ensure that each actor is accountable and the goals for higher education in the United States are accomplished. This relationship can be framed using Principal-Agent Theory which examines how the principal, who is the decision maker, interacts with the agent, who is charged with carrying out the decisions and vice versa. Each member of the Triad can potentially take on the role of decision maker or agent. "Accountability policies generally follow a Principal-Agent relationship, in which the principal … tries to generate a set of desired outcomes from the agent using a set of rewards or sanctions designated in a performance contract" (Kelchen, 2018, p.7).

Figure 3

Principal-Agent Theory



Federal Government

Acting as the principal, the federal government is responsible for developing and approving higher education policy and the USDE enacts policies through regulations. States and accreditors are agents of this process and are charged with implementing policy. Because the federal government is far removed from the day-to-day actions of agents, holding them accountable is a challenge. Information asymmetry is a result of the Principal-Agent relationship and occurs when agents have more information than the principal and can use that information to calculate risk (Rabossi, 2017). When agents are aware of this imbalance of information and they have competing priorities, as in the case of states and higher education accreditors, they can act in their own self-interest which is referred to as the moral hazard problem (Alam, 2022). The outcome of this relationship between the federal government and agents is a limited scope of accountability with measures focused on compliance rather than quality (Kelchen, 2018).

State Government

As agents in the Principal-Agent relationship, states' primary responsibility within the Triad is to authorize institutions. The process for doing this varies from state to state and the federal government has implemented minimal expectations of states for authorizing institutions. As the agent, states have local priorities regarding higher education which may include economic development, workforce training, and funding concerns. Performance-based funding has been one way that states have tried to meet the priorities and ensure accountability within their states (Mizrahi, 2021). When so many local considerations are at play for states, states fall short in their role and are not fully engaged in the expectations of the Triad.

Accreditors

Accreditors have the closest relationship to higher education institutions and have the opportunity to ensure both compliance and quality. Although accreditors are dependent on institutions to accurately to report their compliance to standards, the peer-review process provides an opportunity for accreditors to evaluate quality in a way that the federal government or states cannot. Accreditors review not just curriculum but student services, faculty qualifications, and institutional governance. The main criticism of the peer-review process, which utilizes volunteer faculty and administrators, is that it is too lenient and rarely results in accreditors taking significant action against an institution for not meeting outcomes (McCann & Laitinen 2019). Within the Principal-Agent framework, there is potential for moral hazard problems within the peer-review system.

Neo Institutionalism Theory

Neo Institutionalism Theory was developed in the mid-20th century as a consequence of postindustrial society. As industry and institutions became more complex and centralized, formal structures of organization began to arise. These structures created systematic networks that supported expanded economic markets, technology, and centralized government. “When the relational networks involved in economic exchange and political management become extremely complex, bureaucratic structures are thought to be the most effective and rational means to standardize and control subunits” (Meyer & Rowan 1977, p. 342). According to Neo Institutionalism, as formal structures develop over time and incorporate rules, practices, and procedures, a gap is created between the work activities and the institutional norms. Institutions are shaped by these behaviors and this causes inefficiencies, inertia, and competing priorities that do not always best supply the market or people it serves (Meyer & Rowan, 1977).

Formal structures of organization provide legitimacy for institutions which allows them to gain external validation and be more competitive. “Such elements of formal structure are manifestations of powerful institutional rules which function as highly rationalized myths that are binding on particular organizations” (Meyer & Rowan 1977, p. 343). They also experience isomorphism which is the tendency for organizations to become similar over time to gain legitimacy (DiMaggio & Powell, 1983; Diogo et al., 2015).

Federal Government

Through the lens of Neo Institutionalism, we can examine the role of the formal structure of the federal government within the Triad and its impact on accountability, quality, and regulatory burden. The complex structure of the USDE and how higher education policy is enacted, contributes to the Triad’s inability to define the roles and expectations of its members because of its interdependency. Federal level policy tends to build upon existing policy which also adds to the complexity and makes accountability difficult. The detachment between the formal structure of creating them from the goals of higher education policy can be seen in the regulator burden which is focused on compliance rather than quality. Evidence of this is apparent in the recent Program Integrity and Institutional Quality rule that was finalized in January of 2025. Noted in the Federal Register, the intention of the “new regulations for distance education will help the Department better measure and account for student outcomes, improve oversight over distance education, and ensure students are receiving effective education by requiring students' distance education enrollment status” (U.S. Department of Education, 2025). The mechanism the USDE intends to use to enact this rule is for institutions to report counts of students in distance education programs. This is an entrenched and perhaps ineffective method of ensuring compliance that has not demonstrated that it improves the quality or outcomes of higher education (Olt, 2020).

State Government

Since the first passing of the HEA, states were responsible for authorizing institutions that operated in their state. The process for authorization varied from state to state and the other members of the Triad had little power to change how states handled authorization. States developed their formal structure and exerted their autonomy and legitimacy around state authorization in response to their role in the Triad rather than to ensure quality.

In response to the growth of distance education, the USDE introduced new federal regulations in the early 2000s that required institutions to be authorized in each state where they enrolled students (Natow et al., 2021). This created an urgency for states to enact this legislation but many were unprepared because of Neo Institutional behaviors like entrenchment, inertia, and an inability to pivot. The result was the creation of NC-SARA. Since the development of NC-SARA, legislators have voiced concerns that states have abdicated their responsibility in the Triad and have done little to promote quality and protect student consumers in their state in distance education programs. These Neo Institutional behaviors contribute to the imbalance in the Triad.

Accreditors

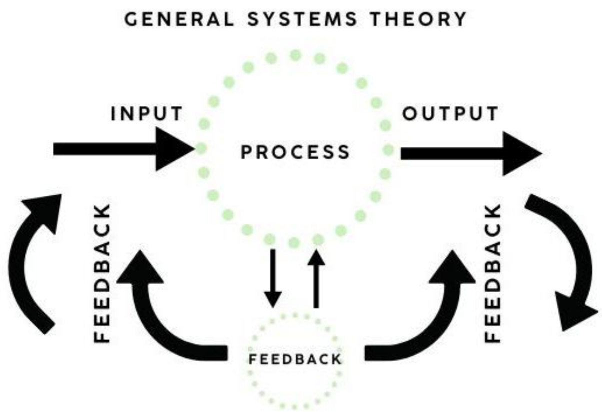
Accreditation standards are shaped by professional norms and best practices developed by academic and administrative experts and are highly entrenched in the academy. The foundation of accreditation from the late 1800s was to ensure consistency in curriculum and program length in order to establish institutional legitimacy. The resulting isomorphism of institutions allows accreditors to set standards of governance and student success metrics based on shared beliefs about what is a quality institution. Within the Triad, accreditors have the distinct role of determining quality. Because these behaviors are highly entrenched, accreditation can be seen as an impediment to innovation.

General System Theory

Emerging from the study of biological systems, General Systems Theory (GST) was developed by Ludwig von Bertalanffy in the late 1930s as an explanation of how organisms interact with their environment (von Bertalanffy, 1972). Since its development, GST has been applied to other disciplines and has offered a shift from conceptualizing systems as complete and whole to existing "in a dynamic exchange with their environment" (Van Assche, 2019). According to von Bertalanffy, systems are built by multiple subsystems that are perpetually reorganizing and seeking equilibrium. These systems are open, so they are receiving and sending new information and processing it constantly. The environment of the system has as much to do with shaping the system as the internal subsystems (Adams & Lanford, 2021).

Figure 4

General Systems Theory



Federal Government

Understanding the federal government's role in the Triad system through the lens of GST can help to identify imbalances that affect higher education. As a subsystem, one of the main roles of the federal government is to enact higher education legislation which can be a lengthy and contentious process and is subject to the regulatory pendulum. From a GST perspective, this process could potentially hinder innovation because it cannot respond quickly enough to the other members of the Triad. If the Triad was balanced, this "sluggishness" within the system would be identified and the Triad recalibrated. "A system wants to maintain a general state of balance among all external and internal operating forces" (Adams & Lanford, 2021).

State Government

States' primary role in the Triad is state authorization. Although there are some federal guidelines around this process, each state can determine how they authorize institutions. Considering GST, the contribution of the states to the Triad can vary considerably. This variation in how institutions are authorized or held accountable makes it significantly difficult to determine if the states are providing the oversight expected within the system. If the states are only providing information that meets the minimum expectation into the Triad system, there is little information in the feedback loop to determine if standards are being met. Seeking equilibrium in the system and a more consistent approach among the states would help bring balance to the Triad.

Accreditors

The final subsystem within the Triad is the accreditor which has the most significant amount of information about individual institutions compared to the other members of the Triad. Much of the information is utilized and shared within the subsystem. One tenant of GST is that systems are self-organizing and as they become more complex, they can start to close and pull away from the central steering system. Reflecting on the imbalance of the Triad, the complexity of the accreditation process and the significant amount of information that accreditors gather could cause the subsystem to close and provide less information to the other subsystems from the frame of GST. Although, according to Assche et al., "complex systems can be both self-organizing and centrally steered" (2019 p. 313). It is unclear what changes or inputs are needed to improve information sharing between accreditors and other Triad members and avoid the closing of sub-systems

Ethical Implications

Reflecting on the Triad, Kelchen (2017) noted, "… as dissatisfaction with colleges' performance has increased, it has become increasingly unclear where the role of one of these agencies ends and the next agency's role begins" (p. 7). This inability to identify the responsibilities of each member of the Triad and determine their role in accountability, quality, and the regulatory burden has ethical implications effecting all stakeholders, with perhaps the most significant impact on students.

The average amount of federal student loan debt in 2024 was $37, 853 and that is a 36% increase in the last 10 years (Hanson, 2024). Unless a student is enrolled in a program that leads directly to a high paying position, this debt makes it harder for graduates to achieve predictable milestones like buying a house or starting a family. As long as an institution is accredited by an institutional accreditor, it can offer federal financial aid to students. There is very little accountability for the individual academic program they intend to pursue or the degree they will receive. Until recently, there has been little transparency required from colleges and universities regarding the ability for students to secure employment based on their degree and their ability to pay back their federal loans. Although the decision of what to major in at college is ultimately an individual student's decision, many question the ethics of enrolling a student in a program that will earn them a low paying job with a high debt burden.

In 2023, in an attempt to address this, the Financial Value Transparency and Gainful Employment Act (FVT/GE) was passed and went into effect July 1, 2024. The intention of the FVT/GE is "to make available data more meaningful to students and to the general public" (Federal Student Aid, n.d.b.). This is a recent piece of legislation addressing accountability for program level outcomes, using the lever of access to Title IV funds. The Gainful Employment piece of the legislation focuses on career training and certificate programs and requiring that they pass a debt-to-earnings ratio and demonstrate that their graduates will make more than a typical employee with just a high school diploma. If they fail the measure, the institution will not have access to Title IV funding for that program beginning in 2026. The Value Transparency piece of the legislation requires all institutions to provide the USDE with debt-to-earnings information by program, and to post this information on the institution's website. If a student chooses to enroll in a certificate or graduate program that does not meet the threshold, they will be required to officially acknowledge that they understand the information before enrolling (Schwartz, 2024; U.S. Department of Education, 2023).

The student debt crisis impacts many families but has had a higher impact on students of color or those that historically have not had access to higher education. Jiménez & Glater found that the burden of debt disproportionately affects these populations and does not provide the social-economic lift into the middle class as intended (2020). "Twelve years after enrolling, the typical Black student borrower owes more on their federal student loans than they initially borrowed, whether or not they graduated" (Miller, 2017). Women also have challenges when it comes to affording college and their debt after graduating. The American Association of University Women noted that 56% of college students in 2016 were women and they tend to take out larger student loans than men. Because of the gender pay gap, it takes them longer to get out of debt (Miller, 2017). The effects of student loan debt on borrowers are complicated and multifaceted, and a one-size-fits-all approach will not meet the needs of the variety of consumers.

The other major ethical dilemma around student loan debt is forgiveness, with some arguing that it is unfair to taxpayers that their dollars are used to forgive the educational debt of others. In 2022, the Biden administration announced a student loan debt forgiveness program that would cancel up to $10,000 of federal student loan debt for borrowers earning under $125,000. The proposal was challenged by Republican led states and the Supreme Court struck it down in June of 2023 (Salman & Xie, 2025). After the debt forgiveness program was struck down, the Biden administration introduced the SAVE Plan which would lower payments for low-income borrowers, forgive remaining debt for those who have made payments for 10 - 20 years, and to prevent unpaid interest from growing. They also overhauled the Public Service Loan Forgiveness (PSLF) program, which has been around since 2007 and was introduced by President George W. Bush. The PSLF forgives loans for employees of nonprofits after 120 payments. Lastly, the Biden administration provided relief to borrowers that were scammed by for-profit institutions (U.S. Department of Education, n.d.b.).

If Biden had successfully been elected for another term, the administration had plans for additional student loan debt relief programs. These programs were not supported by the Republicans and after Trump was elected, his administration began to dismantle the legislation Biden put into place (U.S. Department of Education, n.d.b.). This is a perfect example of the regulatory pendulum that has had serious, practical ramifications for regular Americans who are uncertain about how this will impact their lives and how to plan for their education. The inability of Triad to define each member's role, mitigate self-interest, and properly gate-keep federal financial aid has resulted in significant ethical and economic consequences for higher education institutions and students. Elected officials on both sides of the aisle believe that reform and reauthorization of the HEA is needed and that accountability, quality, and regulatory burden are major issues, but no one can agree on how to make it happen (Delisle et al., 2023).

Policy Recommendations

Federal Government

Determining which institutions and programs can access to Title IV funds is the single most powerful tool that the federal government can use as a member of the Triad. Therefore, it needs to achieve a more equitable system for approving funds distribution based on institutional outcomes. Much of the current regulatory burden on institutions relates to data and information sharing, in an effort to improve transparency for families so they can make an informed decision. Prior to the FVT/GE, which looks at outcomes on a program level, the federal government was already utilizing a few metrics to monitor poor-performing schools on the institutional level like the Cohort Default Rate (CDR). The CDR was established over 30 years ago and identifies institutions that have a large number of students that have or could not pay back their federal student loans. If an institution exceeds 30% in any single year, it must develop a default prevention plan. An institution with a CDR of 30% or more for three years in a row or 40% or more in a single year risks losing the ability to offer federal student loans and Pell Grants to their students (Delisle et al., 2023). Since the CDR focuses on entire institutions, it did not consider the variety of programs and outcomes at individual institutions and could indiscriminately impose sanctions (Delisle et al., 2023). Besides the CDR, the USDE also utilizes a composite score developed from institutions' annual financial statements and if the score is low, it might be subjected to heightened monitoring (U.S. Government Accountability Office, 2017). Recent accountability legislation like Senator Foxx's Prosper Act of 2017 moved away from default rates and instead focuses considered loan repayment rates. This increases the share of students' unearned aid funds that an institution must pay pack if a student drops out which is referred to as Return to Title IV (R2T4) legislation (Delisle at al., 2023). This is a step in the right direction, but it still does not consider the nuanced factors that can impact outcomes at an institution. Currently the USDE collects a significant amount of data on individual institutions, and the organization of big data is getting more and more sophisticated. The path forward is a bipartisan approach to reauthorizing the HEA that considers specific characteristics of institutions like mission, student profile, program profile, as well as repayment rates. The FSA “should assess which elements signal the most risk, and tie those elements to increased oversight with greater discretion for sanctions” (McCann & Laitinen, 2019). This approach would also have to account for programs and degrees like education and social work that do not lead to high paying jobs but are important to society. Institutions might move away from offering these important programs if these variables are not considered or loan forgiveness programs like PSLF are discontinued. With the passing of the FVT/GE, legislators are starting to consider more than just the macro view of an institution. This may result in more equitable and economically responsible access to Title IV funds allowing the federal government to fulfill its role in the Triad.

State Government

State regulation of higher education varies considerably from state to state and has been the most inconsistent member of the Triad (McCann & Laitinen, 2019). The 2019 federal negotiated rulemaking which led to increased regulations around distance education was a favorable move for the state's role in the Triad. Although there has been criticism at the federal level around the NC-SARA compact, it has exposed the differences in how states authorize institutions and has opened the debate around states' fulfillment of their role in the Triad. It has also encouraged better cooperation among states especially for programs that lead to professional licensure (National Council for State Authorization Reciprocity Agreements, n.d.a). Strengthening the role of state-to-state reciprocity agreements keeps more of the regulation of higher education in the states rather than going to the federal government. It also requires states to enact better oversight of private institutions that provide distance education because they agree to the same guidelines for participation in NC-SARA as public institutions. In the short time that NC-SARA has been in existence, it has continued to evolve and set higher expectations for quality and accountability in response to all stakeholders. States need to continue to develop their involvement with NC-SARA and should work toward a more consistent authorization process for both distance and traditional programs and institutions across state lines. This type of cooperation is already done on the professional program level. Students that attend a Nursing program and get licenses in one state have reciprocity to work in a neighboring state. More standardization across states will discourage federal involvement and keep state authorization at the local level where outcomes can be assessed and improvements made in a timely manner. Lastly, if states took more responsibility for monitoring federal compliance at their institutions, rather than it being mostly in the hands of accreditors, they would have better knowledge of each individual institution within their state.

Accreditors

Accreditors have the most knowledge of individual institutions because of the annual reporting requirements and the peer-review process. Because of this, the federal government has relied on accreditors to monitor federal compliance requirements. Accreditors believe that their primary purpose is to judge the quality of institutions within the scope of their mission (Hartle, 2013). As federal policy evolves to consider the unique factors that make up an institution - mission, student population, geographic location, and workforce needs, it is even more important for accreditors to focus on the characteristics of an institution rather than compliance. If federal compliance monitoring was given to the states, accreditors could move away from accountability and gatekeeping and focus on equity, quality, and outcomes. If this becomes the direction, accreditors will need to be open to establishing a consistent level of quality across all approved accrediting associations and adhere to an outcomes-based minimum standard (McCann & Laitinen, 2019). Lastly, because accreditors are closest to institutions, minimizing their monitoring requirements for high performing institutions, will allow them to focus more on institutions that are not meeting the needs of their students.

Summary

Since the introduction of the Triad in the 1992 reauthorization of the HEA, it has served as the gatekeeper for the billion-dollar higher education industry. The federal government, state government, and accreditors are responsible for ensuring accountability, quality, and compliance for the almost 4,000 postsecondary institutions in the United States. In the last 30 years, higher education has become more accessible, expensive, and complex and the Triad has been challenged to keep up with the changing landscape of higher education. The last complete reauthorization of the HEA was in 2008. The inability of legislators to come together and enact a thorough reauthorization of the HEA has inhibited the Triad from evolving to meet the needs of the current state of higher education. The Triad is out of balance and it is having a lasting impact on all stakeholders.

Although education is under the purview of the states according to the U.S. Constitution, the passing of the HEA in 1965 has given the federal government a heavy hand in regulating postsecondary education. One of the key mechanisms the federal government uses to manage higher education is through regulatory compliance. For an institution to have access to Title IV funding, they must comply with all federal regulations. There are almost 300 federal regulations imposed on institutions. Because the HEA has not been reauthorized since 2008, the regulations are enacted by amendments and continuous resolutions through the negotiated rulemaking process. This process brings together stakeholders from across the industry in an attempt to develop non-partisan regulations. Many of the regulations are focused on transparency efforts to help to inform the student consumer. There are two committees in the Senate that develop higher education legislation: The Senate Committee on Health, Education, Labor, and Pension (HELP) and the House Committee on Education and the Workforce. Legislation that comes out of these committees is heavily influenced by the administration that is in power. When regulations change with each incoming administration, institutions must absorb the cost to enact them with limited resources.

Being out of compliance can lead to a significant fine. Smaller institutions struggle to comply with the number of federal regulations since they are required to meet the same requirements as larger institutions. Compliance has become a major part of the operations of higher education institutions, and it can take away from the mission of the institution which is providing a quality education, but it seems to be the primary lever that the federal government uses in their role in the Triad.

The federal government also approves institutional accreditors. For an institution to receive Title IV federal financial aid, it must be accredited by the USDE. NACIQI is the advisory board within the USDE that recommends accreditors. It is composed of higher education administrators, associations, interest groups, and policy experts.

Accreditors develop standards that institutions must meet in order to be accredited or re-accredited and they utilize the peer-review process to evaluate institutions. Higher education professionals volunteer to be peer reviewers for accreditors. The process includes a self-study and evidence inventory developed by the institutions going under accreditation or reaccreditation. Accreditors look to see if institutions are meeting the standards but they are also charged with making sure that institutions are meeting federal requirements. The federal government uses accreditors for this compliance effort although accreditors believe their primary role in the Triad is to monitor standards of quality. With the ever-increasing number of federal regulations, accreditors are being pulled away from evaluating quality and it impacts their role in the Triad.

The federal government has the least amount of leverage with the states' role in higher education regulation. As a member of the Triad, states must authorize institutions that are providing education in their state. Every state’s process is different, and some require an extensive process for authorization while others are less arduous. After the growth of distance education, in the early 2000s the federal government enacted regulation that required all institutions, even those offering distance education, to be authorized in a state where they are conducting business. This legislation was a heavy lift for many states. The federal government allowed states to join a reciprocity agreement in order to meet this regulation. The only reciprocity agreement is NC-SARA and most states are members. NC-SARA has been criticized for not meeting the standards expected for state authorization and failing to meet the expectation for states in the Triad. Member states cannot impose additional higher education specific regulations beyond those of NC-SARA which to some, does not seem to be enough. Although there has been recent legislation that has challenged the rigors of NC-SARA, membership still currently meets the federal requirement for state authorization.

The imbalance of the Triad has had several implications for stakeholders, but the largest impact has been on the students. Because of the rising cost of postsecondary education in the last 30 years, most students use federal student aid to finance their education. Regardless of what a student decides to study, if an institution is accredited, a student has access to federal financial aid. Not all degrees lead to high paying jobs leaving many students unable to pay off their student loans and unable to move forward in their life.

The student loan crisis led the Biden administration to enact loan forgiveness legislation supported by the Democrats and highly criticized by the Republicans who felt it was unfair for taxpayers’ dollars to pay off student loan debt. If Biden was elected for a second term, his administration intended to move forward on additional student debt relief initiatives. As soon as Trump was in office, his administration stopped these efforts. Debt relief is controversial, and it does not serve to balance the Triad and improve their gatekeeping role.

Without a full reauthorization of the HEA, the Triad will be challenged to address the current imbalance and improve outcomes and the student loan debt crisis. Federal compliance continues to be the main driver of change. Current legislation is pushing for more transparency and accountability on institutions with a loss of federal financial aid dollars as a consequence. Although this is a reasonable path forward, institutions have a variety of missions that impact outcomes. Some serve a large percentage of first-generation college students or Pell Grant recipients. It is important that regulations consider the variety of institutions and the students they serve to determine acceptable outcomes.

About the Author:

Leslie Worrell Christianson has over thirteen years of higher education experience spending seven of those years as the Associate Provost/Associate Vice President for Academic Affairs at Marywood University in Scranton, Pennsylvania. Prior to her administrative appointment, she served as the User Services and Copyright Librarian at the rank of Associate Professor and was awarded tenure at Marywood. She has a Master of Science in Library and Information Science and will complete her Ph.D. in Strategic Leadership and Administrative Studies in May of 2026. Cultivating a culture of data-informed decision making, Christianson has a successful record leading initiatives and managing projects that require innovation, working across units, streamlining processes, and improving practices. She attributes her success to open communication, team building skills, excellent problem-solving skills, and a dedication to building an inclusive and equitable workplace.

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