Throughout this course, I wrote policy memos having to do with the for-profit higher education sector and the various reforms that federal lawmakers are considering adopting on this sector. This policy area has received much attention in the past decade and has led to many contentious discussions and debates regarding the role of proprietary schools in the education market. While many have argued that the scrutiny that for-profit colleges have received is an example of government overreach and unfair political targeting, others see government oversight as just and necessary in order to protect students and consumers from abuses in this education market. Proprietary schools are a component of the larger education reform efforts being studied, debated, and formulated in this most important of policy areas.
Executive Summary

With $1.2 trillion dollars in federal loan obligations, the United States federal government is strongly attempting to curb and regulate the once booming for-profit college industry. Many economists and public officials worry that the high rate of student debt and student loan defaults, particularly those generated by the for-profit college sector, may lead to the next big financial crisis in the United States. The Federal government is interested in helping college students “maximize” their student aid through the obtainment of a quality education and job prospects that will lead to loan repayment. To help do that, it is imperative that the government push meaningful and common sense regulation on the for-profit college industry.

For-profit colleges, also known as proprietary or career colleges, have been under heavy scrutiny since the late 2000’s. After years of attempting to adopt regulations on the industry, the Department of Education has recently concluded a negotiated rulemaking process and has adopted rules that it hopes will increase transparency, curb fraud, and increase accountability for the industry. To increase the quality of for profit colleges and colleges in general, it is first necessary to impose regulations that curb risk taking and pass federal and state statutes that will “round out” and flesh out the new federal rules.

Even if the newly proposed federal rules were to remain in place under the new congress and presidential administration, further research on how to increase retention rates and quality of for-profit programs is essential. Despite the industry setbacks, in all likeliness, the for-profit college sector will continue to play a role in higher education, albeit a different form.

Policy Background

The Higher Education Act (HEA) was passed in 1965 and with it came an increased presence in education policy from the Federal government. The HEA was meant to expand college access to Americans and through Title IV, help students fund their college education with use of grants and loans. In 1979, the United States Education Department was created. Even though the increased fed-
eral action in education was meant to help spur the robustness and competitiveness of the American economy, claims of “government overreach” in educational policy have been a constant source of political stress.

**Policy Environment** Historically, states have been the main managing entity in education policy. This is because the American constitution says nothing about education and hence, according the tenth amendment, any power not delegated to the federal government nor prohibited by it to the States, are reserved for the States. The Federalism vs States rights dichotomy has and continues to instill strong passions in Americans. Closely associated with this is the “business rights vs. government interference” dichotomy. These two politically heated arguments engulf the current for-profit college debate. However, this American sentiment of self-reliance and rugged individualism has the capacity to cloud thinking on the often subjective concept of the public interest.

Today, for profit college supporters view increasing regulations on their industry as governmental overreach. Even though for-profit colleges accept billions annually in federally backed grants and loans, many argue that private business interests are and will continue to be stiffened by regulations imposed by supposed ideological bureaucrats.

**Key Values** Discussion and debate on reform of this industry is passionate because education is something that is deeply ingrained in the American culture. Americans value education to advance economically and socially. In the early republic, education was viewed to protect liberty by preparing and maintaining an educated citizenry. However, it should also be noted that Americans also value individualism and advancement through hard work. The idea of having the government determine who wins and who loses in business seems antithetical to the American value of reliance on oneself and on one's work ethic. It is under this environment that one must also consider the private vs public interest. Success in business, if it damages the public interest, must be mitigated. In today's environment, it has been argued that proprietary schools are benefiting at the ex-
pense of the public interest.

**Constitutional Issues** As mentioned in the above section, the tenth amendment to the Constitution stipulates that powers not granted to the federal government nor denied by it to the States belong to the States. The federal government has made incursions in educational policy by pointing out that Article 1 sec. 8 provides for the “General welfare” of American citizens, which has been interpreted as providing the federal government with implied power in education since education leads to better opportunities and hence, a better life. It also has been pointed out that the 14th amendment declares that states can’t abridge the privileges of citizens (with education being an implied privilege).

**Issue Diagnosis**

**Causal Claims** In 2010, a report by the Government Accountability Office (GAO) and a 2012 Senate report, commonly referred to as the “Harkin” report, offered direct evidence that many for profit colleges in the United States had engaged in fraudulent recruitment practices. Under-cover video investigations by the GAO revealed that four career colleges encouraged fraudulent financial aid practices and 15 for profits were found to have engaged in dishonest and questionable admissions practices (such as inflating potential post-graduation salaries and placement rates). The 2012 Senate report found that out of the billions of dollars that the industry takes in federal grants and loans, 22.4% percent of it is spent on recruitment and marketing, and 19.4% accounted as revenue, while only 17.7% was spent on instruction. These two reports suggested changes in recruitment practices, which helped lead to changes and regulations such as the ban of bonuses based on monthly recruitment goals. Additional state and federal investigations over the past five years have revealed other worrisome activities, such as lack of program transparency.

The revenues of proprietary schools are largely due to the high cost of academic programs offered by these schools. For profits are private and public companies that rely on tuition, investors, and federal financial aid dollars to operate (up to 90% of their revenue in some cases). High tuition costs, and the high debt that comes with it,
have a high correlation to student default rates. In 2011, $32 Billion in federal money went to for-profit companies. According to the Harkin report, it has been estimated that many for-profit associate degree programs cost up to four times more than those offered by traditional community colleges with little difference in quality. Bachelor's degrees have been found to cost 19% more than comparable Bachelor's degrees at their equivalent competitive institutions. With such high costs, up to 96% of students in for profit schools take out loans compared to 48% at four year schools and 13% at community colleges. Higher cost isn't necessarily a negative in a competitive market economy, but taken in conjunction with dubious program quality, the for-profit industry contributes highly to heavy student loan borrowing and a high degree of student loan defaults after graduation. According to the Institute for Public Access and Success, in 2014 for-profits had a 48% student default rate on student loans while only having 12% of national students in BA degree programs.

The demographics of the for-profit student population reveal very stark differences with the student population of more traditional community colleges and public four year schools. For-profit students tend to be from families with lower levels of income, tend to have lower levels of education, tend to be working adults and tend to have families to support. Profit students use the highest levels of grant aid due to having the highest financial need.

The National Center for Ed Statistics reported that only 12% of enrollees in for-profits would have access to other schools if it weren't for their open enrollment admission policies. For-profits argue that their schools open opportunity for students who are "nontraditional" and who might not have the academic history to enroll in four-year schools.

Although for-profit schools vary widely in programs of study and admission criteria, it is argued that relative lack of academic support and lax admission policies contribute to lower academic rigor which, studies suggest, influences slight employer distrust and hesitation in hiring candidates with for-profit degrees.

Variables

It is evident that to improve some of these issues, modifications in institutional culture and behavior are needed. Regula-
tory options could include the prohibition of performance pay for recruitment, adding recruitment training and professionalizing the delivery of information which focuses on ethical business standards and compliance, raising level of sanctions for outright abuse, increase deterrence activities such as the creation of quality assurance programs, the opening of employer ethics hotlines, and standardization of consumer information disclosures.

Economic variables can be tampered with to mitigate some of the causal factors mentioned above. Actions such as reducing the revenue rate levels that for-profits can obtain from federal financial aid can influence increased financial liabilities. The current rule is called 90/10 which means that for-profits cannot obtain more than 90% of their revenue from federal financial aid, which leaves the other 10% to be obtained from other sources. Requiring disclosures of legal status and consumer information are also options available. Requiring colleges to put in more of their own money in operating and liability costs will make schools have more “skin in the game” and thus, curb risk taking. In tandem with this, the removal of arbitration agreements and class action waivers will decrease reliance on codes of silence.

To affect industrial variables, governments could explore expansion in availability of student remediation services as well as career counseling. Demand for such services is high in colleges. Shifting the focus on individual educational corporations to include accreditors would expand the net of accountability. In June 2016, a federal panel recommended that the largest for profit accreditor, the Accrediting Council for Independent Colleges and Schools (ACICS), not receive recognition from the Federal government. In September 2016, the ED rescinded recognition. This decision signaled the increased scrutiny and shift that government regulators now have with college accreditors and assurers of quality.

**Stakeholders, values and target population** Key stakeholders in the for-profit college reform discussion include business investors, state and federal government, student organizations, trade associations, and the American taxpayer. Critics against the regulation of the industry argue that for-profit colleges offer services to those students who are
typically underserved by brick and mortar public colleges. Too much regulation, they argue, stifles innovation and hurts education access to non-traditional students.

It is argued by the for-profit industry that proprietary schools have grown and been successful due to the flexibility and innovation that comes out of constantly seeking profits and efficiency. The core value of providing educational opportunity to those who have not been given it is a source of pride for the industry. From the offering of evening courses to the early development of online degrees, for profit schools claim that requiring regulations on one sector and not another will make competitiveness tougher and affect schools’ capacities to remain open and serve students. Consumer protection advocates on the other hand have framed this issue as one of economic justice and one of protection of civil rights, particularly the right to a quality education.

Ultimately, increased calls for transparency and quality in this industry will benefit all young Americans and their families by ensuring that information and standard business ethics are delivered every time in college enrollment. In the immediate, the target population for the imposition of regulations will consist of governing boards of for-profit companies, as well as accrediting companies that are relied on to ensure quality.

Policy Window With the introduction of regulations during the tenure of president Obama (chief among them the College Scorecard and gainful employment) the policy window remains open. The Corinthian College and ITT Technical Institute shut downs and bankruptcies, along with the ACICS decision, are catalyzing events that are bound to keep the pressure on passing and implementing reforms. It has been argued by U.S. undersecretary of education Ted Mitchell that to strengthen accreditation standards, Congress should update the Higher Education which has been up for renewal since 2013. A two-year extension was due to expire in 2016. The policy window is quite contentious, but remains open.
Criteria Matrix Analysis

Although the policy window for reform is open, it is unclear whether it will remain as open as it is now. Taking that into account, policy options under consideration were analyzed under the following criteria: The impact level of the policy, the costs and benefits of the policy (not necessarily quantitative), political feasibility under today's environment (in the context of recent nationwide elections), and negative side effects.

The policy options under consideration include:
- Limiting mandatory arbitration agreements & class action waivers will increase accountability and increase liabilities if students were to have demonstrable and good faith claims on an institution. Recent catalyzing events have made this policy more feasible than in years past. It is acknowledged that not all class action lawsuits have merit and some segments of the population will attempt to take advantage of the openness.
- Requiring institutions to pose letters of credit if they fail to comply with existing regulations (such as 90/10 and appropriate student debt to income ratios). Expected outcomes will decrease risks taken by for-profit colleges.
- Requiring increases in remedial college services and programs such as career counseling, life coaching, study techniques, and post-graduation services. Research has shown that schools that invest in such programs yield positive student retention and college satisfaction. Remedial content costs money and more than likely, colleges will increase tuition for provision of such services. Politically this option is low. Even though colleges are in the business of preparing students, requiring colleges to comply with unfunded mandates usually prompts resistance. Expected outcomes include higher levels of student success in class and better preparedness for the work force upon graduation. Better preparedness will reduce student loan deferments, forbearances and defaults.
- Require schools to disclose school performance information such as ratings, graduation rates and program placement rates. Catalyzing events necessitate increased transparency and such transparency would have a moderate impact. The expected outcome is that it will yield to more informed decision making by prospective
American Higher Education

leges and other institutions of higher learning support reform of the for-profit industry, even as policy options will most certainly affect those same organizations. The major stakeholders in the regulatory discussion include:

Supporters

• Government Agencies: Department of Veterans Affairs, Department of Education. The Department of Veterans Affairs manages GI Bill benefits and it has a strong interest in providing veterans and their families with quality education access. Likewise, the Department of Education has a high interest in curbing for-profit abuse. The department provides more than $100 Billion dollars in loans annually to qualified American students so that they may pursue a quality education. Their interest and level of power is high. It must be kept in mind that mistrust of large government is common in the United States and an imposition of tough regulations on the for-profit industry could produce political resistance among the public.

• Advocacy Groups: Debt Collective, American Association of University Professors, American Council on Education (ACE). Higher education advocacy groups are many, but all share a common vision of equitable distribution of quality education. Membership consisting of teachers and public-minded individuals in high in these groups. Political support and rapid response of rank and file members is an advantage of these groups.

Opponents

• Trade Associations: Career Education Colleges Universities (CECU). CECU is the main trade group for the for-profit industry, but it has seen a fall in membership and a fall in income in recent years. Still highly influential in Washington, CECU is highly organized and contributes heavily to political races through its Political Action Committee.

• Proprietary Schools Corporations: Career Education Corporation, University of Phoenix, Education Management Corporation (EDMC), Ashford University, DeVry University, Laureate International.
students which leads to less reliance on aggressive recruitment practices. Some students might not have the academic preparedness to meet minimum admission requirements.

- Create a streamlined process for group-wide loan discharges of whole groups who have been subject to abuse. The impact in curbing for-profit college abuses using this tool will be low. The OMB estimates that streamlining loan forgiveness languages will lead to increased applications for loan forgiveness and cost up to $16 Billion dollars over 10 years. This policy is the most unappetizing financially, but the most feasible in terms of social equity and justice. Political feasibility is high because of the very public face of campus closings. This policy most likely will be implemented in conjunction with policies meant to penalize behavior.

It is my heuristic judgement that in the immediate, federal efforts to streamline the student loan discharge process, and the imposition of penalties for schools found to be out of federal compliance are urgently needed in order send a strong message that the government will not leave students affected by large scale school closings on the line with debt for fraudulent conduct. With 80,000 ex Corinthian and 45,000 ITT-Tech students facing debt collection, the short-term damage must be addressed first. Clarifying and streamlining the process of loan forgiveness, in conjunction with requiring fraudulent schools to put up “letters of credit” and removing mandatory arbitration clauses helps mitigate risks that schools take.

Other major reforms would be needed to address the causal factors more fully, including those mentioned in the matrix analysis, but with limited time and resources, those reforms are not politically feasible in the current environment. Reforming of the tax code (which directly affects student loans), and passing statutes that limit the level of money in politics are policies that are larger, and more difficult issues to address under a narrow policy window. However, proposed bills in Congress

Stakeholder Analysis

In politics, as in business, extenuating circumstances tend to produce strange bedfellows. In today’s environment, community col-
Investors: Camden Partners, Holdings Inc., Charles Koch Foundation.
Conservative and Libertarian think tanks: Americans for Tax Reform, The CATO Institute, American Enterprise Institute, Heritage Foundation, Heartland Institute

The main beneficiary of reform in this sector would be the American higher education consumer since in the American marketplace, knowledge is power. Although regulation policies target the upper management of private for-profit schools, investors will most likely suffer losses in brick and mortar business ventures. For-profit online education is still highly profitable and it is highly likely that many investors will shift and/or increase their presence onto that education platform. A 2015 study by Equity for Education found a total of 226 private equity firms that have publicly described their investments in education, especially online educational services.

Despite the open policy window, constraints remain. Despite the shifting political winds in support of the policies options described in this report, for-profit trade associations and private equity firms still have a high level of funds and power. Political constraints include the industry's surprisingly high influence in Congressional circles. Community colleges and other higher education stakeholders agree with general reform claims, but can just as quickly support resistance efforts to policies that would affect their interests. Also, due to a highly critical press, some for-profit colleges have sought to shift to nonprofit status. The policy battles seem to be shifting to a different field.

Implementation Analysis

After many years of analysis and policy battles, the Department of Education completed a negotiated rule-making process and has published new rules that affect for-profit colleges. Proposals include: getting rid of arbitration agreements, streamlining student loan discharge qualifications, and imposing financial penalties. These decisions leave other policy battles for future dates. Barriers to implementation include:
Statutory Factors

- Language vagueness and lack of specific directives in implementation rules. Coordination issues with individual states is not addressed in proposed rules.
- Unfunded mandate as of now. The proposed policies will most certainly have a high economic impact and hence, be subject to additional OMB review. Little budget impact analysis provided by OMB as of yet.

Non-Statutory Factors

- A new congress, a new presidential administration, and 33 of 50 governorships and majority of legislatures have conservative stances on education. The roll back of existing regulations on industry had been a talking point during the campaign trail and congressional majorities in the house and senate, along with a conservative Supreme Court and president could make repeal efforts likely.
- Implementation of policy options has been given a timeline of July 1st, 2017.
- States are generally wary of dictates coming out of Washington. Little detail on federal-state partnership.

Educational reform in the for-profit industry is a multi-faceted "wicked problem." With increased scrutiny, decline of enrollment, and school closures in the for-profit college sector, many students will be left geographically isolated from institutions of higher education. Not discussed in the policy debates, is the central issue of rising college costs and reduced state budgets on education funding. Also, not addressed are the changes needed to increase actual educational quality.

Conclusion

Despite the selective issues proposed in this paper, it is my judgement that the most pressing issues in today's environment are addressed. Reform in the for-profit sector has been mounting over the years, and with increased penalties, increased liabilities, a modification in the debt forgiveness standard, and an increase in availability of consumer information, the American public will be better
informed and better able to consider their educational options without having to fear being taken advantage of. 2017 is an opportunity for elected officials to renew the HEA (which expired in 2013 and was extended until 2015. Language clarification of new federal rules, public accessibility to economic impact reports, and continued rule-making must be part of the HEA renewal. Much needed reform has been a long time coming. Real benefits to the American consumer will be the result.

**APPENDIX**

*Appendix A: Criteria-Matrix Analysis*

<table>
<thead>
<tr>
<th>Requirements</th>
<th>Impact</th>
<th>Benefit</th>
<th>Cost</th>
<th>Ethical Consideration</th>
<th>Possible Effects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Removal of mandatory arbitration</td>
<td>Moderate</td>
<td>Reduces liability protection.</td>
<td>*Precise economic impact analysis lacking inappropriate.</td>
<td>Intermediate</td>
<td>Opens schools up for litigation under questionable claims.</td>
</tr>
<tr>
<td>Penalties for failing regulation standards (triggering of interest on credit)</td>
<td>High</td>
<td>Decreases risk taken by for profits. Increases accountability. Increased reputation of compliant Fis up market share to compliant schools.</td>
<td>Varied. 10% of Title IV funds received. Transfers from post institutions to government range from 55 million to 3.8 billion for federal government. Precise economic impact analysis lacking. ITT Tech ordered to pay 247 million, up from 194 million.</td>
<td>High</td>
<td>Could lead to college bankruptcy and closure. Many rely on up to 90% of Title IV aid. Could add to more defense to repayment student claims.</td>
</tr>
<tr>
<td>Require remedial services (career counseling, life coaching, tutoring)</td>
<td>Moderate</td>
<td>Reduces dropout rate. Increases graduation rate. Evidence of remediation success.</td>
<td>Students pay an estimated combined 1.5 billion for remedial content for educational content. <em>Education Reform Now</em></td>
<td>Low</td>
<td>150 Million for compliance with federal mandates already. Amount certainly to increase. <em>Hitchings report</em></td>
</tr>
<tr>
<td>Require consumer information disclosures and increased admission requirements</td>
<td>Moderate</td>
<td>Increases quality of instruction by preventing &quot;watering down&quot; of rigor. Current criteria are &quot;open admissions&quot; for many for-profits.</td>
<td>It has been pointed out that the &quot;open enrollment&quot; policies contribute to enrollment of under-prepared students. No serious studies on this.</td>
<td>High</td>
<td>Not all college applicants will be able to overcome entrance requirements.</td>
</tr>
<tr>
<td>Clarify defense-to-repayment</td>
<td>Low</td>
<td>Along with penalties for schools, sends clear message of consumer protection. Restores Pell Grant eligibility.</td>
<td>OMB estimate $16 Billion per year cohort over 10 years (reduced from 42.6 Billion). As of 2016, 3,786 claims approved totaling $3.6 Million and another 103.1 million (7,651 discharges) have been processed.</td>
<td>Can create a negative public image of &quot;bailout&quot; or &quot;amnesty&quot;</td>
<td></td>
</tr>
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## Appendix B: Stakeholder Analysis Works Consulted

<table>
<thead>
<tr>
<th>Stakeholder</th>
<th>Issue</th>
<th>Position</th>
<th>Public Image</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Veterans Affair, Department of Education, American taxpayer</td>
<td>Have expertise in various fields. Coalition with Department of Education (inter-agency taskforce)</td>
<td>Supportive</td>
<td>Mistrust of large government is common. Imposition of regulations could produce political resistance among the public. Both are seen as bloated bureaucracies.</td>
</tr>
<tr>
<td>Career Education Colleges Universities (CECU)</td>
<td>Contributes heavily to lobbying and political campaigns. Represents more than 600 educational institutions. Effectively delayed gainful employment rules up until 2015</td>
<td>Opposed</td>
<td>Has received negative public image due to strength of resistance to proposed regulations. Does not have membership.</td>
</tr>
<tr>
<td>Advocacy Groups: Debt Collective, Generation Progress, Higher Ed Not Debt</td>
<td>Small size. Consists of students and professors. Coalitions with other groups and have been successful in getting media attention and policy proposals.</td>
<td>Supportive</td>
<td>Have been semi successful in bringing class action lawsuits.</td>
</tr>
<tr>
<td>National Association of Student Financial Aid Administrators (NASFA)</td>
<td>NASFA is the largest postsecondary institution with institutional membership in Washington D.C. It focuses primarily on student aid legislation and regulatory analysis. Relies on a 20,000 membership.</td>
<td>Supportive</td>
<td>Public image is positive. Provide professional financial aid services to students and serve as advocates for college access and quality.</td>
</tr>
</tbody>
</table>

**Worked Cited**


