

INPUTS, OUTCOMES, QUALITY ASSURANCE

A CLOSER LOOK AT STATE OVERSIGHT OF HIGHER EDUCATION

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Executive Summary

Amid growing concerns about the quality and cost of American higher education, policymakers are searching for reforms that can both increase the supply of affordable and effective postsecondary options and maintain consumer protection. Much of the focus has tended toward the federal student aid programs and policies that govern access to those programs. Though states play an important role in authorizing postsecondary institutions to operate in their state, observers have paid comparatively less attention to how they carry out that responsibility.

This paper aims to present lessons for regulatory reform by examining how states organize their authorization process. The intent is not to summarize every aspect of each state's authorization policy, as states differ tremendously in how they structure their approval pathways for institutions. Instead, the goal is both to draw out broad patterns across states and, where useful, to identify specific examples of states that have taken a unique approach—for better or worse—to the regulatory process. We examined different dimensions of state statute and regulation and combined that information with insights from various experts who navigate these processes every day.

This paper explores:

- **Who is involved in state authorization processes?** Since board members and staff can have significant influence over the implementation of a policy, we looked at the people who oversee state authorization processes. States rely on a variety of entities to carry out this role, from existing state agencies or boards to separate boards created specifically for this purpose.
- **What do state authorizers require of new institutions?** We reviewed the common features of state authorization processes that govern new

applicants, first coding “input” requirements—faculty qualifications, facilities and equipment, and academic programs—that authorizers usually require of institutions. We also looked at various state boards' timelines, fees, and required consumer-protection mechanisms, such as refund policies, surety bonds, student-protection funds, and complaint procedures.

- **What do authorizers measure in the renewal process?** We examined state renewal processes with an eye toward the extent to which states measure performance outcomes—graduation rates, job-placement rates, wage data, default rates, and so on—and base renewal decisions on those outcomes. Overall, most states require providers to report on student outcomes. However, interviewees suggested that few states actually renew authorizations on the basis of those outcomes.

The paper concludes by recommending a better way for states to authorize postsecondary institutions: a risk-based approach, in which state authorizers would focus their resources on cases that pose the most risk to consumers. Authorizers could set up oversight boards independent of the political process and the existing higher education system in the state, require new entrants to provide basic documentation to establish a minimum level of seriousness, and have a well-designed set of consumer protections to weed out poorly structured or fraudulent institutions. In particular, states could require organizations to put up private capital as insurance against failure, which would also help to separate serious providers from diploma mills.

Once an authorized institution begins to enroll students, regulators should be on the lookout for alarms—outcome measures that might trigger a more

in-depth investigation of a potentially troubled institution. Because some of these data are not readily available, states should take steps to invest in the necessary infrastructure, such as connecting wage information from unemployment insurance databases to

postsecondary-enrollment information. State regulators could then use those data to renew organizations that have proven successful and to weed out those that have not. Reciprocity agreements could also help reduce the burden on authorizers and institutions.

Inputs, Outcomes, Quality Assurance: A Closer Look at State Oversight of Higher Education

This paper is the fourth in a series examining higher education quality assurance from a number of perspectives.

Long considered the best in the world, American higher education is at an important inflection point. Rising tuition prices and lackluster student outcomes have led to a national debate about the quality of existing colleges and the need for more innovation in the sector. These discussions have typically focused on federal rules governing access to student financial aid—in particular, the federal government’s reliance on third-party accreditation as the main gatekeeper for public resources. Higher education observers have paid less attention to how state governments approach their responsibility to authorize or license postsecondary institutions that operate in their state. To be eligible for federal aid dollars, an institution must be formally approved by the state in which it is operating. Federal law says little about what this state authorization process must entail, and states vary widely in what they require of existing and new institutions.¹

To be sure, the last several years have seen a large uptick in policymaker interest regarding state authorization policies, largely thanks to new regulations from the Department of Education and to coordinated investigations and lawsuits by Democratic state attorneys general.² After taking office, the Obama administration unveiled a slate of “program integrity” regulations; one of those regulations required that institutions obtain explicit authorization from each state in which they are operating. This change was intended to prod state regulators to look more closely at institutions authorized in another state that offer

programs to their residents—primarily online—without the state’s explicit approval.³ The rule was eventually thrown out by the courts, but evidence suggests that it did spur state regulators to keep an eye on cross-border providers.⁴

Not surprisingly, many institutions opposed the administration’s state authorization requirements, arguing that complying with 50 separate state regulatory processes is unreasonably burdensome.⁵ A set of states have responded with a budding effort to establish reciprocity agreements that would help alleviate some of these compliance burdens for existing online providers.⁶

Despite this flurry of activity and criticism, researchers have paid less attention to what lessons we might draw about how to—and how not to—regulate higher education from the actual content of state regulations. State statutes and regulations determine who authorizes postsecondary institutions, what criteria authorizers must use to judge those institutions, and how authorized providers should be monitored and held accountable for their performance. Despite this crucial role, we know less than we should about how states vary in their approach to authorizing new providers and reauthorizing existing ones and about what we might learn from different approaches.⁷

It is an opportune time to ask these questions. Like federal reformers, state regulators who wish to promote postsecondary innovation and quality face a basic tension: how do you balance efforts to increase flexibility and lower barriers to entry with the need to protect consumers and taxpayers? At the federal level, discussions of how to create space for innovative approaches tend to agree on the problem (accreditation and federal regulation), but they often run aground when it comes to

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questions about what should replace these pieces of the current system. Wholesale change at the federal level entails considerable risk, so the ability to experiment and learn from different approaches is key to informing these policy debates. States provide one potential source of information. They play a key role in the existing system, and some reformers have called for devolving even more power to the states.⁸ Whether states are currently well-equipped to do this job is an important question, as are questions about how one might improve states' role. In other words, reformers would be wise to look at states as laboratories of democracy that can provide useful lessons about how to reform quality assurance in higher education.

In that spirit, this policy brief asks a series of formative questions on state authorization. Are state oversight policies flexible enough to allow new, innovative models into the market, or are they bureaucratic and compliance driven, making it more difficult for new ideas to gain approval? Do regulatory policies and approval processes focus on inputs—measures of an organization's physical and human resources—or on the outcomes they produce? How much do states vary in terms of the fees they charge and the length of the licensure process? And what do states require of institutions in terms of consumer protections, such as mandatory refunds, trial periods, and other safeguards?

To shed light on these topics, we analyzed state policies directly and conducted interviews with various stakeholders, both within and outside of institutions, who have to navigate these processes. The intent is not to describe each state's policies in detail nor to do a systematic empirical analysis of state regulation, but instead to highlight broad themes across states and to describe instances where particular states' policies stand out. To be clear, we make no effort to assess the "effectiveness" of different state regulatory regimes, a concept that is difficult to define, let alone measure. Instead, we examine state policies in reference to our prior beliefs that an ideal regulatory policy should strike a balance between openness to new models and the need to protect consumers. We recognize that different observers would likely strike different balances between these two concepts and encourage other analysts to conduct further research on this important topic.

Making Sense of 50 Separate State Regulatory Regimes

All states regulate higher education differently. State authorization applies to all types of postsecondary institutions—public, nonprofit, and for-profit—though in practice public institutions generally receive their authorization via legislative charter, at least in their home states. Authorization in a state is typically required if an institution is deemed to have a "physical presence" in the state—a definition that hinges on certain types of activities, such as advertising to students, employing faculty, or providing on-the-ground services. Like most regulations, these "physical presence" triggers differ across states. The application and approval processes, as well as the criteria used to approve and deny applications, tend to be established in statute, and states tend to appoint boards to oversee the approval processes for nonstate institutions. Once approved, an institution is typically required to apply periodically to renew its status.

Variation in process and policy across states is further complicated by variation within states according to institutional characteristics. Typically, states feature more than one pathway and distinguish between proprietary and nonprofit, degree-granting and nondegree, workforce development and academic higher education, and accredited and unaccredited institutions. Some states have entirely separate boards to oversee those different pathways to authorization. While most states do not draw distinctions across all of these characteristics, states rarely have a single process for all postsecondary institutions seeking authorization.

To illustrate how a state can have multiple pathways to authorization based on different institutional characteristics, figure 1 shows a flowchart from the Texas Higher Education Coordinating Board, made available to help institutions navigate the state's authorization processes.

The variety of approaches across states and institution types makes it difficult to summarize the authorization experience of a typical institution. In this paper, therefore, the goal is not to code every aspect of state policies and then produce conclusive, quantitative measures of regulatory burden or openness, but to draw out the main features of state-regulatory policies and note outliers—states that have a particularly burdensome

FLOWCHART OF APPROVAL PROCESSES FOR DEGREE-GRANTING COLLEGES AND UNIVERSITIES, TEXAS HIGHER EDUCATION COORDINATOR BOARD



or streamlined policy.⁹ Where possible, we do rely on quantitative measures to summarize how many state authorizers share a particular approach.

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The most direct method of analysis was to review state policies themselves. To do so, we relied heavily on a state authorization survey conducted by the State Higher Education Executive Officers Association (SHEEO).¹⁰ Through its survey, SHEEO directly asks state officials to provide up-to-date information on their state authorization policies, including what state boards oversee what schools and what those boards require of postsecondary organizations seeking authorization. State officials are able to update this information at any point, with prompts from SHEEO to do so on at least a quarterly basis. Because the survey relies on self-reporting by the state officials administering these regulations, the information is most likely accurate, if not always as detailed as one might like.

When a state's response to a particular SHEEO survey question was less informative than desired, we reviewed the state's laws and regulations to clarify the answer. In doing so, we first followed any regulatory or statutory references mentioned in the SHEEO survey. If we needed further clarification, we reviewed sections of a state board's regulatory documents that were likely to contain information on the particular dimension we were trying to analyze. Finally, if we still did not find the information we were seeking, we used keywords to search through the entire regulatory text. We used keyword searches to find specific information for input-based requirements, tuition-refund policies, and outcome measures—items not always mentioned in detail in the SHEEO survey.¹¹ We then coded state boards on a number of different dimensions.

Because states can have multiple authorization boards for different types of institutions, we obtained information for 70 separate authorizing entities across

the 50 states and the District of Columbia.¹² The unit of analysis for most of the analysis is the authorizer, not the state.

Simply examining state policies in a vacuum can mask realities on the ground. Therefore, we wanted to hear from actual practitioners about their experiences with state authorization policies. To that end, we conducted a series of 10 semistructured interviews with individuals who have some background with state authorization processes. Most were representatives from institutions—public, private, and for-profit—that must navigate state authorization in multiple states. We also interviewed experts from law firms and nonprofit organizations representing higher education interests. Interview subjects had the option to remain anonymous to allow them to speak candidly, and some chose this option. Consistent with the analysis of state policy, we used the interviews to elicit both broad impressions about how states approach the oversight role and specific examples of states that stand out for particular elements.

We focus our discussion on three basic questions. Recognizing that the institutions that oversee a process can often have as much influence over policy as the written statute, the first section examines the “who” of state authorization policy. That is, what types of boards or commissions have states built to oversee the regulatory process, and who typically sits on them—state agency officials, representatives from higher education, employers, or community and consumer advocates? How much power do they actually have?

The second section of the paper describes how states handle market entry, or the process of approving new institutions with no prior background in the state. This section examines state requirements across several dimensions, including documentation of inputs, such as faculty credentials, facilities, and curricula; the average timeframe for approval; licensure fees; and required consumer protections.

The third section examines renewal policies, meaning the process for existing institutions to renew their authority to operate in the state. This section includes a specific emphasis on the degree to which state boards measure institutional outcomes. After all, if the goal of state authorization policies is to protect consumers, then the most direct way to assess whether an

institution is serving students well is to examine how those students have fared.

Who Is Involved in State Authorization Processes?

Before looking at what state authorization processes require of institutions, it is important to consider who oversees those processes and ultimately makes decisions about institutional approval. While state law establishes the basic elements of a state's authorization policies, the agency staff and the board members who oversee their work can affect how authorization processes play out in practice.

States have created a variety of oversight mechanisms. In some cases, oversight of postsecondary authorization actually falls to the state board of education. Other states have a special board for any private postsecondary institutions, such as California's Bureau for Private Postsecondary Education (BPPE), or specifically for for-profit institutions, such as the Kentucky Commission on Proprietary Education or Arkansas State Board of Private Career Education. Some states have tasked any sort of board or commission to oversee this process. In Michigan, for instance, the Department of Licensing and Regulatory Affairs, which licenses all businesses in the state, approves providers on its own. South Dakota charges its secretary of state with overseeing the process.

Who sits on the boards? We coded each according to whether the state statute defined specific quotas for the types of people that must make up the membership—how many representatives from higher education, business, the community, and so on. Statutes often set specific quotas for independent commissions to ensure that different perspectives are balanced, including, for example, industry and consumer representatives or Republicans and Democrats. In the context of state authorization, analysts have raised concerns that some state oversight boards have been captured by representatives affiliated with for-profit colleges, at times because vacancies have allowed those representatives to obtain a *de facto* majority.¹³

Our analysis of the 61 appointed boards found that the majority (52) are subject to membership quotas

established by statute. Specifically, 20 are required to have representatives from private higher education institutions already operating within the state; 18 boards must have representatives from public higher education. Of New Hampshire's 22 higher education commissioners, 17 are drawn from the ranks of private and public colleges within the state.¹⁴ We will discuss the possible implications of such representation.

Additionally, 17 boards are required to have at least one student member, and three states require representation from organized labor. California is the only state that explicitly requires a slot for consumer advocates, specifically, 3 of the BPPE's 12 members.¹⁵ Some states actively require that members be drawn from the general public, while others simply have geographic quotas. North Dakota, for instance, requires that six of its public members be drawn from six groups of contiguous counties.¹⁶

An important question is whether these boards, and the appointees who sit on them, have any real decision-making power. Interviewees suggested that while this varies across states, in most places the full-time agency staff are the key decision makers, while appointees to the board are simply supposed to oversee those decisions. In other words, agency staff often hold considerable power in making the actual authorization decisions. As Susan Aldridge, president of Drexel University Online, said succinctly, "I think the staff strongly influence the outcomes—that's what I've seen in many of these cases."¹⁷ Aaron Lacey, a partner in law firm Thompson Coburn LLP's higher education practice, drew this analogy: "It's like with any company or institution where you have a governing board and a management team; the folks on the board typically aren't the ones making the day-to-day decisions."

For better or worse, the importance of agency staff means that institutional relationships with specific staff members can be key to navigating the authorization process. As Lanna Dueck, associate dean for institutional integrity at Rio Salado Community College, said, "Regulations are regulations. But, it's the relationship that you build with the regulator that makes or breaks the experience of how that regulation is operationalized at your institution." This can create a large amount of unpredictability for institutions. As Lacey pointed out:

Where you have regulators who have a strong understanding of—and respect for—the structure and boundaries of their law, it’s actually easier for institutions because they can predict what the likely outcome is going to be of whatever their action is. . . . It’s much harder . . . when you’re dealing with regulators who shoot from the hip, because you look at the law and you say, “Well, there’s no issue here,” and you build a new program or launch a new initiative, and then you find out your investment is in jeopardy because a staff member has their own particular take on their rules, or worse, an unfavorable take on your institution.

Such uncertainty may discourage new entrants from applying at all.

A strong, independent oversight body with the capacity to make informed judgments can help ensure that the authorization process is not simply captured by incumbent colleges and universities.

Thus, the power and make-up of these oversight boards provides a potential avenue for reform. Lessons from charter school authorizing in K–12 suggest that independence from entrenched interests is key.¹⁸ While consumer advocates have worried about for-profit capture—the assumption being that fellow for-profits will lower standards—from our perspective policymakers should be worried about capture by *any* segment of the existing higher education sector in the state. Providing existing institutions with veto power over who enters the market sets up a clear conflict of interest, as existing institutions may have incentive to limit competition from new entrants offering a similar product.¹⁹ Ensuring that members of the employer community—both for-profit and nonprofit—have equal sway in decision making would counterbalance this potential incentive for protectionism.

Second, reformers should consider ways to bolster the power and capacity of oversight boards vis-à-vis

state bureaucrats. Independent commissions serve as key regulatory bodies in areas such as finance, communications, and trade and are structured so as to be insulated from the political whims of any given administration. Career bureaucrats are not so insulated. A strong, independent oversight body with the capacity to make informed judgments can help ensure that the authorization process is not simply captured by incumbent colleges and universities.

Market Entry: What Is Required of New Institutions?

In this section we describe some common features of the state authorization processes that govern new applicants. We refer to “new institution” here as both institutions that are starting fresh and existing schools in other states that wish to operate in a new one, either with a physical campus or online. We focus here on the educational inputs that state statutes typically require of applicants, how long it takes for a new institution to receive approval, how much it costs to obtain such authorization, and any consumer protections required of new entrants.

Inputs. State authorization processes require institutions to produce substantial documentation about the various inputs of their educational programs, such as faculty members’ qualifications, details about facilities and equipment used in the instructional process, and requirements focused on what library resources an institution has available. These requirements can impose significant compliance burdens on institutions, and, to the degree they are prescriptive, may foreclose innovative models that do not look like a traditional college. What is more, these inputs might not correlate with whether an institution is truly going to serve students well.

One of the most common requirements is that institutions must document their faculty’s qualifications. In practice, this often means that institutions are required to turn over copies of faculty curriculum vitae (CV), often in hard copy and, in some especially burdensome cases, notarized. In all, 61 out of 70 state boards have authorization requirements

around faculty qualifications in some manner, covering 46 of the 51 states and the District of Columbia. Of those 61 boards, 25 specifically ask institutions for faculty CVs, résumés, or a documented list of qualifications. For instance, the Massachusetts Department of Higher Education requires institutions to submit “curriculum vitae of all faculty already retained by the institution, including those pledged to the institution as of specific dates.”²⁰

The CV requirements were raised frequently during our interviews, both for the burden they impose and because they are perceived as an antiquated and poor measure of institutional quality. As Vickie Schray, senior vice president of regulatory affairs and public policy at Bridgepoint Education, said, “the [requirement] I think is the goofiest is the faculty résumés. In some cases we report hundreds and hundreds of them, because we have faculty all over the country. It blows my mind that they want to take the time to review each and every résumé.” Dueck made a similar point, explaining, “Some of these regulations were written when distance education was very different that it is today . . . for example, requesting résumés for all faculty, including adjuncts. . . . In reality, for some institutions the number of adjunct faculty ranges in the hundreds, making this highly time intensive.”

In addition to asking for CVs and résumés, state authorizers are often interested in institutions’ student-faculty ratios. Statutes for 11 state boards out of the 70 explicitly mention measuring these ratios, while an additional 12 authorizers insist on campuses having sufficient faculty in relation to students. Required ratios were less common, but a small number of states do prescribe a specific student-faculty ratio; the Ohio Board of Regents, for instance, requires “instructional staff shall be provided in a ratio of not more than thirty full-time equivalent students to one full-time equivalent faculty member.”²¹ More often, authorizers require something such as “a faculty/student ratio sufficient to support the number of students enrolled” (the Georgia Nonpublic Postsecondary Education Commission) or a “student-teacher ratio . . . reasonable at all times in keeping with generally accepted teaching modes for the subject matter” (the South Carolina Commission on Higher Education).²² What these ratios mean in practice is anybody’s guess.²³

Most state authorization boards also require that institutions produce documentation regarding their facilities and equipment. This includes information about buildings and grounds, laboratory equipment, and classroom space and layout. Of the 70 state boards, 64 have facility requirements in some capacity, including in 47 of the 51 states and the District of Columbia. Of the 64 boards with facility requirements, 13 ask explicitly for floor plans, site plans, blueprints, or square footage of facilities.

The Mississippi Commission on Proprietary School Registration requires each institution comply with and document particular features of its actual classroom facilities. First, the board mandates that “regular classrooms shall contain a minimum of 600 square feet of floor space, or a minimum of 20 square feet per student enrolled, whichever is greatest.”²⁴ The specifications for classroom equipment are even more detailed. Every institution must provide “appropriate equipment for students and instructors,” with “appropriate” meaning there must be:

- Individual student seats and desks or tables and chairs chosen for comfort;
- Instructor’s desk;
- Filing and storage facilities;
- Sufficient chalkboard, whiteboard, tack board, or equivalent;
- Window coverings to improve visual comfort and energy efficiency; and
- Adequate laboratory facilities, equipment, and supplies for courses.²⁵

In that same vein, the North Carolina Office of Proprietary School Services has institutions submit “school floor plan[s] showing doors, windows, halls, and seating arrangement; also offices, rest rooms, and storage space. . . . Lighting showing kind and intensity shall be indicated for each room; the type of heating and cooling system used.”²⁶ And in terms of classroom equipment, the Nebraska Private Postsecondary Career Schools office asks institutions to provide information on “the major items of equipment available . . . relative to year, make, and model and with

respect to state of the art technology . . . the location(s) where such instruction shall be given and a description of the physical facilities thereof . . . [and] the maximum enrollment that such equipment will accommodate.”²⁷

Of the 70 state boards, 48 have requirements around library resources. For example, the North Carolina Board of Governors, which licenses all nonpublic or out-of-state degree-granting institutions with a physical presence in North Carolina, includes detailed requirements for institutional libraries:

Space assigned for library usage should convey a pleasant and inviting atmosphere and give a feeling of spaciousness and quietness conducive to study. A central and single location is desirable. The library should have good lighting, adequate ventilation, and proper temperature and humidity control. Layout of the area should stress functionality while retaining as much flexibility as possible. The book collection should be arranged on open shelving readily accessible to patrons who, ideally, will be provided with seating immediately adjacent to the books. Size or square footage requirements will be dependent upon the size of the student body, number of volumes in the collection, and the type of instructional program emphasized by the college.²⁸

State authorization policies also tend to have many requirements related to content and academic programs. State boards require institutions to document a variety of different aspects of their curricula, including details of academic programs, syllabi, and the process for awarding credit. Overall, 66 of the 70 state boards have some kind of authorization requirements around academic programs.

Twenty-three authorizers have general-education requirements for undergraduate degrees. The Minnesota Office of Higher Education, for example, requires that a bachelor of science degree contain a minimum of 45 quarter or 30 semester credits distributed across at least the four areas of “Communication, Natural Sciences/Mathematics, Humanities, and Social Science.”²⁹ Also related to academic content, 17 of the 70 state boards ask for syllabi. For example, the New York Office of College and University Evaluation imposes the following lengthy requirements on an institution’s syllabi:

Syllabi are demonstrably consistent with, or superior to those of comparable courses and programs at comparable institutions; syllabi embed the content and skill expectations of professional associations in the field. . . . Syllabi are reflective, comprehensive and confirm the expertise and pedagogical skill of the instructor, and should include the following items . . . course description; course objectives; prerequisites; credits allocated; assignments; method of assessing student achievement, including the assessment rubrics at the course and project levels; basis of grade determination; bibliographic and other resources; other course policies related to integrity of credit.³⁰

In terms of the structure of academic programs, 47 boards have credit-hour or clock-hour requirements that define degrees and certificates. For example, the Florida Commission on Independent Education requires that the duration of the “Associate of Applied Science” degree shall be a minimum of 1,200 clock hours of instruction, 60 semester credit hours, or 90 quarter credit hours.³¹ These requirements are obviously designed to ensure that students receive a minimum amount of educational instruction per degree. But they could also create conflicts with emerging competency-based education programs that are not tethered to seat time.³²

Dueck summed up the breadth and burden of all of these various academic, faculty, and facilities requirements in her interview:

Our mission and purpose, our policies and procedures, our infrastructure and facilities, our institutional assessment as far as program reviews, student services, finances and administration, our governing board, degree information, catalog, all degree, program requirements, objectives, course descriptions or a sample course. Our academic freedom statements, testing or testing policy, library, library resources, our academic records, advertising procedures and sampling of advertising, our administration, and their names and qualifications, job placement, financial aid, and our closure procedures if we were have to engage in some type of teach-out.

Timelines. How long does it typically take for an institution to get authorized? The amount of time it takes likely has some effect on market entry; waiting for months—or even longer—to get approval to operate could dramatically increase the costs and uncertainty of starting a new institution. A thorough review certainly takes time, and in slowing down the process, a state could be discouraging potential applicants who would benefit state residents.

The majority of state boards generally take between three months and a year to approve new institutions, but it varies greatly across states. In South Dakota, for instance, it takes merely a week for its secretary of state's office to process and approve an authorization application.³³ Other boards also have relatively quick turn-arounds; of the 66 state boards that reported on the typical length of authorization, 25 process applications in less than three months.³⁴

On the other hand, many states take much longer. We found that 35 state boards indicated it could take 6 months or more to approve an institution, with 15 boards stating that approval could take up to a year or more. Five boards claimed it would take at least a year. Two of the longest reported potential time windows for approval were under the New York Bureau of Proprietary School Supervision (11 to 20 months) and the Oklahoma Board of Private Schools (six months to more than two years).³⁵

Interviewees consistently mentioned that approval times are a burden to institutions. Lacey highlighted,

To establish a new nonprofit institution in New York . . . the timeline is around two and a half years. It's almost equivalent to going through a process of acquiring regional accreditation. The applications are tremendous, there's a detailed self-evaluation, and New York will only accept applications for a new institution between July 1 and August 1. So you really can only apply once a year, and you have a month to do so.

The amount of time it takes a board to approve an institution is also not always correlated with the complexity of its regulatory process. Numerous interviews revealed that state boards often lack the staff needed to process applications in an expedited manner. In some cases, states have actually capped the number of

programs they will approve in a given year from any single institution. As Aldridge pointed out, “[Arkansas is] difficult because they only authorize 10 programs at a time. At Drexel, with our full-time programs, full-time degree completion programs, master's degrees, and certificates, we probably have 150 of them. So, how do we choose which 10 are going to be authorized by the state of Arkansas?”

Part of this is almost surely a capacity problem in some states; they have limited staff, and may actually be dependent on the fees they charge to run the office. Some observers argued that institutions might be willing to pay more in fees if the extra revenue helped speed the process up. Lacey pointed out that it seems as though “most schools would be happy to pay a few hundred bucks more [in fees] if it meant they could get a program approved in three months instead of six.”

Fees. The fees associated with the state authorization process can represent a significant cost to new providers. States frequently require institutions to pay a slew of charges at the onset, including different combinations of application fees, authorization fees, new program fees, admissions agent fees, site visit fees, and others. As was the case with application-approval times, the fee structure for state authorization processes varies greatly from state to state.

The most basic type of fee is a simple application fee. Of the 70 state boards polled in the SHEEO survey, 56 charge either an initial authorization fee, an application-processing fee, or a fee for simply notifying the board that the institution seeks authorization. These fees range from high, such as Hawaii, Massachusetts, and New Hampshire (all \$10,000), to minimal, such as Wyoming (\$100), Missouri (\$200), and Nebraska (\$360).³⁶ When totaling the initial fees of each of the 56 boards that reported them, 10 fall under \$1,000; 30 fall between \$1,000 and \$4,999; and 16 charge \$5,000 or more.

Many states also charge fees either in addition to or instead of the initial application fee. In particular, 29 boards ask a fee for each additional new program. The Tennessee Higher Education Commission, for example, charges a fixed \$500 for each proposed program on top of their initial application fee of \$3,000.³⁷ The Wisconsin Educational Approval Board charges a

variety of programmatic fees, ranging from \$2,500 for an initial associate degree program to \$5,100 for an initial doctoral degree program.³⁸ Of the 29 boards with programmatic fees, 9 charge under \$500; 14 between \$500 and \$2,499; and 6 charge \$2,500 or more per program. Twenty-three state agencies have both some sort of initial fee and some kind of programmatic fee. Three state authorization boards—the Montana University System, Oklahoma State Regents of Higher Education, and South Dakota Secretary of State’s Office—charge no fees to prospective institutions.³⁹

What ends up being a bigger cost than their fees is really the staff time. The time spent on institutional research dwarfs what they’re paying in fees.

Fees are not the only expense institutions incur, of course. As Russ Poulin, deputy director of research and analysis for the WICHE Cooperative for Educational Technologies, emphasized, “What ends up being a bigger cost than their fees is really the staff time. You have a dedicated staff person trying to figure out all these regulations. Then they have to go talk to their counsel, their provost, and their president, after they already talked to each department. The time spent on institutional research dwarfs what they’re paying in fees.”⁴⁰ Costs do not stop there, though. According to Aldridge, “If you intend to . . . serve students in all 50 states, it’s not unreasonable to assume what your staff cost, as well as what licenses fees, expenses for individuals to travel to your campus and so on cost, could be a half million dollars.” These high transaction costs likely dissuade some would-be entrepreneurs from applying to particular states.

Consumer Protections. State authorization statutes almost always feature consumer-protection provisions. We look at three key protections here: a refund or trial period policy that ensures students can get their money back within a certain timeframe, a surety bond or other protection fund designed to reimburse students in cases where an institution fails, and finally,

some type of process where students can register complaints against an institution.

With respect to refund policies, almost all state boards—62 of 70—have a requirement of some sort. Some states are more prescriptive than others with respect to these policies. Twenty-eight boards simply require that institutions have such a policy and that it fit within broad goals, such as being “fair and equitable” (Texas Higher Education Coordinating Board) or “clear, well-publicized, and reasonable” (Ohio Board of Regents).⁴¹ The remaining 34 boards, however, impose some type of minimum standards on those policies, such as the exact percentages of tuition and fees that an institution must refund for different periods of student enrollment. New York’s Office of College and University Evaluation, for example, has a tuition-refund policy that states that the institution’s share of tuition shall be “for the first term or quarter of any program . . . zero percent of the quarter’s tuition if the termination is during the first week of instruction; or twenty-five percent of the quarter’s tuition if the termination is during the second week of instruction” and so on.⁴²

Interestingly, many interviewees said highly specific refund policies create significant issues for institutions, not because providing refunds is unreasonable, but because the policies often conflict across states. Aldridge explained, “There are times when the refund policies of the institution or the refund policies of a state conflict with another state. That’s fairly common if they’re very specific about the exact timeframe within which refunds need to occur, and so on.” Poulin suggested that to alleviate these conflicts, states simply shift toward guidelines—rules stating that any refund policy must fall within certain parameters. The Missouri Department of Higher Education, for example, provides some specific parameters but still leaves much discretion to institutions:

The school must have a fair and equitable student tuition refund policy, as determined by the department. . . . The enrollment agreement shall contain a statement of the refund policy and the formula or rules for calculation of refunds due to students withdrawing or whose enrollment is otherwise discontinued. The tuition refund policy must specify fees or other

expenses that are nonrefundable beyond the period of cancellation.⁴³

While conflicts across refund policies sow confusion, Poulin also argued that refund policies can be a key quality-assurance mechanism: “When I worked in a system office, one of the key things we looked for was tuition refund policies. That one factor can pretty much tell you whether somebody is fly-by-night or not. Most legitimate institutions have a fairly generous refund policy where you can go several weeks in; those who are really in it for the money tend to give you only a few days.”

Surety bonds and student-protection funds are another common consumer protection. State boards use both of these tools to achieve a similar end: requiring that institutions set aside some money that would help make students whole if the institution fails to uphold its obligation. Surety bonds require an institution to set aside a specific amount of money as part of its application for authorization. Student-protection funds, on the other hand, typically require that an institution annually contribute a set amount—typically a fraction of tuition dollars collected or students enrolled—to a common fund, either over a fixed period of time or for perpetuity.

Surety bonds are quite common across state boards: 50 of the 70 boards require surety bonds for at least a segment of the institutions they authorize. They vary tremendously in terms of the amounts institutions are required to put forward. At the high end, the District of Columbia requires a \$100,000 bond, and the Maryland Higher Education Commission requires bonds in the range of \$300,000 to \$500,000.⁴⁴ At the low end, the Kentucky Council of Postsecondary Education and the Kansas Board of Regents require bonds of \$10,000 and \$20,000 respectively.⁴⁵

Student-protection funds are somewhat less common, with 23 of the 70 boards having some sort of fund to protect students. These funds typically tie an institution’s annual contribution to its tuition revenues. In California, for example, institutions pay \$0.50 per \$1,000 of tuition received.⁴⁶ Fourteen state boards have both a surety-bond requirement and a student-protection fund.

Finally, every state agency has a complaint procedure

that allows students to lodge complaints against institutions: 68 of 70 state boards have such procedures in place, while in Louisiana and South Dakota complaints are heard by the states’ respective state attorney general offices.⁴⁷ Complaint procedures were often highlighted in interviews as valuable tools for identifying sources of trouble. As Dueck said, “I think something that might be more proactive, and this is what they’ve done, is having a very clear student complaint process that’s outlined for the student and clearly actionable. Then we can know who the bad apples are and we can put power back in the student’s hand.” She emphasized, however, the importance of a “student complaint process that has some type of third-party verification, not just an institutional process.”

The renewal process seems like an obvious place to focus on student outcomes as at least one criterion for continued access.

Aldridge echoed that sentiment, saying, “I think it’s absolutely critical for students to know where the notification point is if under any circumstances they have an issue or a complaint. I don’t take that lightly, I take that very seriously. And I think that’s the most important part of this entire discussion.”

Are Renewal Processes Based on Outcomes?

Many state boards also have renewal processes for institutions they authorize, with renewals generally required every one to two years. One question is whether state boards examine institutions’ performance as part of their renewal process. Performance measures may be hard to come by as a source of information for an institution’s initial authorization. But the renewal process seems like an obvious place to focus on student outcomes as at least one criterion for continued access.

We found that 44 of the 70 state boards require institutions to report some measure of student outcomes. The most frequent type of reported outcome, by far, is graduation rates, with 43 of those 44 state boards

requiring institutions to report such information.⁴⁸ Far fewer boards—only 31—require any outcomes measures besides graduation rates, however. Breaking down those requirements more specifically:

- 43 boards require graduation rates,
- 28 require job-placement rates,
- 10 require retention rates,
- 4 require licensure exam passage rates,
- 4 require cohort-default rates, and
- 3 require wage data.

In general, boards designated to authorize non-degree, career-related, or proprietary institutions are more likely to require the reporting of outcome measurements.

California's BPPE requires extensive reporting on performance. Each authorized institution must annually produce a "Student Performance Fact Sheet," which asks schools for each program's completion rate (on time), completion rate (150 percent of the time), placement rate in the fields for which the program is designed, number of graduates employed in their field above and below 32 hours per week, licensure passage rate, and wage and salary information for graduates employed in their field. The fact sheet also asks for the institution's federal cohort-default rate. The BPPE compiles the data collected from each institution and makes them available online.⁴⁹

In addition to requiring that institutions report outcomes, a handful of states establish specific thresholds that institutions must meet to maintain its authorization. The Florida Commission for Independent Education, for example, requires an improvement plan from unaccredited institutions whose placement rate falls below 60 percent, with potential for license revocation should the institution's placement rate not improve.⁵⁰ The Oregon Department of Education's Private Career School office may put a program on probation should its completion or placement rate drop below 50 percent.⁵¹ Such outcome thresholds are extremely rare, however.

While most states require providers to report on student outcomes, interviewees suggested that few states

actually renew authorizations based on them. Some of this is clearly a data issue, as reliable performance data might not exist in many cases. For example, the second most common reported measure of performance is placement rates. But these are frequently calculated using imperfect follow-up surveys done by institutions themselves, surveys that almost always suffer from a low response rate and bias, as certain types of students are more prone to respond.

Even when reliable data are available, however, interviewees expressed doubt that state agencies had the capacity to develop and oversee a performance-based renewal process. As Aldridge mentioned, "I don't believe many of the states have really been staffed to be able to manage the evaluation of outcomes. Many states we have worked with were understaffed and underprepared to manage them."

Moving Toward Risk-Based Oversight

The resulting picture of state regulation is one that is heavy on input measurements, requires reasonable consumer protections, and pays only limited attention to student outcomes for authorization renewal. Unfortunately, aside from providing some protection from "fly-by-night" institutions, these policies often fall short when it comes to protecting consumers. At the same time, they burden institutions, both existing institutions and potential market entrants. As Dueck mentioned, "In some states . . . you can compare [authorization] to a mini-accreditation process. . . . It's frustrating. . . . We're spending precious taxpayer dollars on managing regulation, instead of on serving students."

Aldridge summed up her perception of the status quo by saying, "The processes are complex, expensive and burdensome. And I'm not certain that [they] . . . are really leading to the type of quality oversight that the states would like to achieve." Lacey also was skeptical about the value-add of much of this input documentation, stating, "Certainly some of it's really just box checking."

Is there a better way? In contrast to the compliance-driven approach that currently dominates state authorization policies—asking institutions to "check the box" on a variety of inputs traditionally associated

with higher education—a risk-based approach would be better. Under such an approach, state boards would focus on cases that pose the most risk to consumers, specifically new market entrants or existing actors that raise red flags. This would take a significant amount of burden off well-performing institutions while allowing authorizing bodies to focus their scarce resources on potential trouble spots in the market. Critically, though, in assessing those risks, authorizers should be looking for clues about the educational quality an institution offers students rather than simply examining whether a school has the elements of a traditional higher education institution.

Moving away from an input-based, compliance-driven approach would help authorizers use their scarce resources effectively.

State authorizers could require new entrants, for example, to provide basic documentation of their plans, allowing regulators to weed out potentially fraudulent or unserious applicants. This documentation need not be nearly as extensive as what most state boards currently require of new entrants; the intent is not to guarantee educational quality but simply to ensure the application is serious. Authorizers in this model should see it as their role to give credible applicants latitude to allow new ideas and models a chance to succeed in the marketplace.

On top of this basic application process, a well-designed set of required consumer protections would also help to weed out poorly structured or fraudulent institutions. For example, as was mentioned earlier, authorizers could require that institutions have a substantive refund policy—that is, one that permits refunds after more than a few days of enrollment—while leaving flexibility to avoid conflicts with other states. State authorizers should also establish a clear complaint procedure to identify poorly performing institutions.

Requiring providers to post bonds before getting access to the market—as many states already do—can also separate less serious applicants while protecting students if a school closes. By forcing providers to

put up some of their own capital or that of a bank or investor, surety bonds also give them greater “skin in the game.” Because fly-by-night providers will be less able to attract the necessary investment or credit from the private market, such a requirement can help separate the serious from the unscrupulous. Some start-ups may see this as a hurdle to entry, but good ones with solid plans should be able to attract the necessary capital from the private sector.

Once an authorized institution begins to enroll students, regulators should look out for alarms that might trigger a more in-depth investigation of a potentially troubled institution. One such alarm might be the complaint process. But beyond complaints, a variety of general outcomes measures—retention and graduation rates, placement and earnings data for program graduates, loan default or repayment rates, to name a few examples—could serve as early warning signs of an institution failing to serve its students well. To be sure, such data are not always readily available to state authorizers. Therefore, states should take steps to invest in data infrastructure. For example, more states should work to connect wage information from unemployment insurance databases to postsecondary enrollment information. Such infrastructure would facilitate and simplify the kind of performance-based accountability that states should move toward.

Moving away from an input-based, compliance-driven approach would also help authorizers use their scarce resources effectively. Authorizers could significantly reduce the time spent processing paperwork-intensive applications from all institutions and instead focus on the highest-risk institutions. This does not mean that states should not also consider additional resources for authorizers; charging higher fees might be one approach that would allow the authorizer to approve institutions more quickly and through a process that is more streamlined, reliable, and transparent.

Another consideration for reformers is independence. Higher education regulation should not be based on whether a provider mimics traditional models with fidelity. Instead, it should aim to provide institutions with the autonomy and flexibility to experiment with new and better ways to serve students, so long as outcomes show that the institution is serving students well. In that spirit, authorizers should have a degree

of independence from the political process and from established players in the marketplace. That means a particular set of institutions, public or private, should not have an outsized role in the authorizing process.

Even with well-designed, risk-based authorizing processes in place, requiring institutions to maintain compliance with different processes across all 50 states will impose significant burdens. Policymakers should therefore consider reciprocity agreements that could make it easier for an institution to offer programs across groups of states so long as it meets the requirements of a participating state.

One such process, called State Authorization Reciprocity Agreements (SARA), is already in the works for distance-education programs. It enables institutions that are authorized in a partner state to offer online learning to residents of any other SARA state without going through every state's individual authorization process. This is certainly a positive step toward less redundancy and waste.⁵² However, because institutions still must obtain approval in a home state, policymakers should not see reciprocity as a substitute for other reforms. Instead, they should see it as a complement to their own efforts to streamline and harmonize their processes even further.

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interviewees who requested anonymity, for taking time to contribute to the development of this work.

Notes

1. Higher Education Act of 1965, Pub. L. No. 89-329, Title 1, Part A, Sec. 101 (December 26, 2013).

2. For examples of stepped-up attorney general enforcement, see Deanne Loonin and Jillian McLaughlin, *State Inaction: Gaps in Oversight of For-Profit Higher Education*, National Consumer Law Center, December 2011, www.nclc.org/images/pdf/pr-reports/state-inaction-for-profit-higher-edu.pdf.

3. US Department of Education, "Program Integrity Questions and Answers: State Authorization," June 22, 2015, www2.ed.gov/policy/highered/reg/hearulemaking/2009/sa.html.

4. Southern Regional Education Board, "State Authorization," www.sreb.org/page/1740/state_authorization.html.

5. See American Council of Education, "Letter to Rep. Virginia Foxx, Chairwoman, Subcommittee on Higher Education and Workforce Training," June 10, 2011, <http://cl.ly/2s3i3w240m2W0r201G0n>.

6. See National Council for State Authorization Reciprocity Agreements, "About," www.nc-sara.org/about.

7. Jason E. Lane, Kevin Kinser, and Daniel Knox, "Regulating Cross-border Higher Education: A Case Study of the United States," *Higher Education Policy* 26 (2013): 147–72.

8. Andrew P. Kelly, "At Last! Promising Higher Ed Ideas from Washington," AEIdeas, November 1, 2013, www.aei.org/publication/at-last-promising-higher-ed-ideas-from-washington/.

9. Some studies have attempted to rate states on the extent to which they are open to out-of-state providers. See Institute for a Competitive Workforce, *Leaders and Laggards: A State-by-State Report Card on Public Postsecondary Education*, US Chamber of Commerce, July 12, 2012, www.uschamberfoundation.org/publication/leaders-laggards-state-state-report-card-public-postsecondary-education.

10. State Higher Education Executive Officers Association, "SHEEO State Authorization Survey and Reports," www.sheeo.org/node/434.

11. For input-based requirements, the keywords were: standards, requirements, report, disclose, library, resources, holding, building, physical, facility, space, equipment, technology,

square feet, floor plan, faculty, qualification, instructor, person, personnel, teacher, academic, program, class, course, credit, clock hour, syllabus, curriculum, instruction, general education, and calendar. For tuition-refund policy, the keywords were: tuition, refund, policy, fees, fund, finance, cancellation, bond, catalog, report, and disclose. For outcomes, the keywords were: completion, graduation, graduate, placement, retention, wage, salary, licensure, passage, exam, default, number, rate, data, report, disclose, annual, enrollment, and outcome.

12. SHEEO actually surveys 72 boards, but we excluded the Puerto Rico Council on Education as well as the Oklahoma Board of Career and Technology Education, since it approves only the public technology center schools and colleges of Oklahoma.

13. Loonin and McLaughlin, *State Inaction*.

14. Title I: The State and Its Government, Chapter 21-N, Department of Education, Part 8-a Division of Higher Education (June 16, 2014), www.gencourt.state.nh.us/rsa/html/I/21-N/21-N-8-a.htm.

15. California Department of Consumer Affairs, Bureau for Private Postsecondary Education, "Advisory Committee Members," www.bppe.ca.gov/about_us/committee.shtml.

16. Chapter 15-20.1-02, "State Board for Career and Technical Education—Director of Career and Technical Education—Appointment, Qualifications, Assistances, Duties," www.legis.nd.gov/cencode/t15c20-1.pdf?20150810103946; Title 15.1, Chapter 15.1-01-01, State Board of Public School Education—Composition," www.legis.nd.gov/cencode/t15-1c01.pdf?20150810104026.

17. All quotations are from personal interviews conducted between January and June 2015 unless otherwise specified.

18. Kevin J. James, *Quality Assurance in Other Sectors: Lessons for Higher Education Reformers*, American Enterprise Institute, February 2015, www.aei.org/wp-content/uploads/2015/01/Quality-Assurance-in-Other-Sectors.pdf.

19. For instance, in New York, a new institution must submit an application for review. After the state's Office of College and University Evaluation reviews the institution's application, it then "conducts a planning review that includes a canvass of all colleges in the region of the proposed institution." The comments from other institutions may affect the new institution's proposal for authorization. For more information, see New York Office of College and University Evaluation, "Approval & Registration: Protocol for Opening a College in New York State," June 2, 2015, www.highered.nysed.gov/

ocue/aipr/Protocolforopeningacollege.htm.

20. CMR 2.00: Degree-Granting Regulations for Independent Institutions of Higher Education, Massachusetts Department of Higher Education (January 10, 1997), www.mass.edu/forinstitutions/academic/documents/610CMR.pdf.

21. 3333-1-08 Standards for Issuance of Certificates of Authorization under Section 1713.03, Ohio Revised Code, <http://codes.ohio.gov/oac/3333-1-08>.

22. State of Georgia Nonpublic Postsecondary Education Commission, "Minimum Standards," <http://gnpec.org/about-gnpec/minimum-standards/>; and Commission on Higher Education, "Regulations Governing Nonpublic Postsecondary Institutions," www.che.sc.gov/CHE_Docs/AcademicAffairs/License/Regulations2012.pdf.

23. One agency with a particularly lengthy collection of faculty requirements is the Rhode Island Office of Higher Education. Like other boards mentioned above, Rhode Island asks institutions to submit faculty qualifications for each "present and anticipated faculty member," including "name; rank; highest degree earned, institution awarding, and area of study; relevant experience; tenure status; full-time/part-time status; and courses to be taught." They also require that "faculty [are] sufficient in number and kind . . . to sustain quality courses, programs, and services." However, they additionally have schools "describe the average work schedule for full-time and part-time faculty, indicat[ing] the average time devoted to actual teaching, including preparation and tutoring, research, public service, and other professional duties." If the school has part-time faculty, the board wants to know "the rationale for the use of part-time faculty." Furthermore, Rhode Island requests that institutions "describe the provisions for encouraging and expediting opportunities for professional development and ensuring that faculty remain current in their fields," and also "describe the policies and procedures used to recruit, appoint, promote, and retain faculty." Whereas each requirement individually may seem reasonable or inconsequential, in aggregate the burden for institutions builds.

24. Regulations for State Oversight of Proprietary Institutions Operating or Recruiting in Mississippi § 3.15.1.1 and § 3.13.1.2 (July 2013), www.mccb.edu/pdfs/pg/CPSCRRRegAPA.pdf.

25. Ibid.

26. North Carolina State Board of Community Colleges Code 2A SBCCC § 300.1.B.9 (February 2015), www.nccommunitycolleges.edu/sites/default/files/legal/sbccc/subchapter/title_2_chaptera_subchapter_3001february15.pdf.

27. Nebraska Administrative Code, Title 92, Chapter 41 § 004.02B, § 005.04, and § 005.05 (May 5, 2013), www.education.ne.gov/Legal/webrulespdf/CLEANRule41_2013.pdf.

28. Rules and Standards for Licensing Nonpublic Institutions to Conduct Post-Secondary Degree Activity in North Carolina, Standard 4.B.9 (December 2004), www.northcarolina.edu/sites/default/files/licensure_of_nonpublic_institutions_rules_standards_master_updated_1-08.pdf.

29. Minnesota Office of Higher Education, “Baccalaureate Degree Standards,” www.ohe.state.mn.us/pdf/baccalaureate.pdf.

30. New York Office of College and University Evaluation, “Approval & Registration: Department Expectations: Curriculum (Application for Registration of a New Program – Task 3),” www.highered.nysed.gov/ocue/aipr/guidance/gpr11.html.

31. Florida Statutes and State Board of Education Rules § 6E-2.004.10.c (March 2014), www.fldoe.org/core/fileparse.php/5423/urlt/chapter6e_rules.pdf.

32. For more specific discussion of how state authorization regulations may inhibit the expansion of competency-based programs, see Aaron Lacey and Christopher Murray, *Rethinking the Regulatory Environment of Competency-Based Education*, American Enterprise Institute, May 2015, www.aei.org/wp-content/uploads/2015/05/Rethinking-the-CBE-regulatory-environment.pdf.

33. State Higher Education Executive Officers Association, “South Dakota Secretary of State’s Office,” http://sheeo.org/sheeo_surveys/user/71.

34. In the SHEEO survey, four boards did not report an answer to the typical timeframe for authorization: the California Bureau for Private Postsecondary Education, the Kentucky Commission on Proprietary Education, the New Jersey Secretary of Higher Education, and the Oklahoma State Regents for Higher Education.

35. State Higher Education Executive Officers Association, “New York Bureau of Proprietary School Supervision,” http://sheeo.org/sheeo_surveys/user/59; and State Higher Education Executive Officers Association, “Oklahoma Board of Private Schools,” http://sheeo.org/sheeo_surveys/user/65.

36. State Higher Education Executive Officers Association, “Hawaii Postsecondary Education Authorization Program,” http://sheeo.org/sheeo_surveys/user/83; State Higher Education Executive Officers Association, “Massachusetts Department of Higher Education,” http://sheeo.org/sheeo_surveys/user/11; State Higher Education Executive Officers

Association, “New Hampshire Department of Education: Higher Education Commission,” http://sheeo.org/sheeo_surveys/user/55; State Higher Education Executive Officers Association, “Wyoming Department of Education,” http://sheeo.org/sheeo_surveys/user/82; State Higher Education Executive Officers Association, “Missouri Department of Higher Education,” http://sheeo.org/sheeo_surveys/user/24; and State Higher Education Executive Officers Association, “Nebraska Department of Education Private Postsecondary Career Schools,” http://sheeo.org/sheeo_surveys/user/53.

37. State Higher Education Executive Officers Association, “Tennessee Higher Education Commission,” http://sheeo.org/sheeo_surveys/user/73.

38. State Higher Education Executive Officers Association, “Wisconsin Educational Approval Board,” http://sheeo.org/sheeo_surveys/user/81.

39. State Higher Education Executive Officers Association, “Montana University System,” http://sheeo.org/sheeo_surveys/user/25; State Higher Education Executive Officers Association, “Oklahoma State Regents for Higher Education,” http://sheeo.org/sheeo_surveys/user/66; and State Higher Education Executive Officers Association, “South Dakota Secretary of State’s Office,” http://sheeo.org/sheeo_surveys/user/71.

40. WICHE is the Western Interstate Commission for Higher Education, an association representing 16 states and territories that fosters collaboration on education-related matters. For more information, see Western Interstate Commission for Higher Education, “About Us,” www.wiche.edu/about.

41. Texas Administrative Code: Education Rule § 7.4.20.C (December 2009), [http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=T&app=9&p_dir=F&p_rloc=160846&p_tloc=14988&p_ploc=1&pg=2&p_tac=&ti=19&pt=1&ch=7&rl=4](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=T&app=9&p_dir=F&p_rloc=160846&p_tloc=14988&p_ploc=1&pg=2&p_tac=&ti=19&pt=1&ch=7&rl=4); and Ohio Administrative Code Section 1713.03 § C.3.f.iii, <http://codes.ohio.gov/oac/3333-1-08>.

42. New York State Education Law § 5002.3, www.counsel.nysed.gov/pamphlet9/appenda5001.

43. Rules of Department of Higher Education, 6 CSR 10-5.010 (E) Student Cost Standards, Part 3 (January 29, 2013), www.sos.mo.gov/adrules/csr/current/6csr/6c10-5.pdf.

44. Education Licensure Commission Notice of Final Rulemaking § 8006.1, osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/FINAL%20CLEAN%20DEGREE%20REGS%20EFF%203.18.11.pdf; and Code of

Maryland Regulations § 13b.02.02.07, www.dsd.state.md.us/comar/comarhtml/13b/13b.02.02.07.htm.

45. These are minimum amounts; see Kentucky Administrative Regulations § 13 KAR 1:020.8, www.lrc.ky.gov/kar/013/001/020.htm; and Private Postsecondary Rules & Regulations, 88-28-3 Certificates of Approval, www.kansasregents.org/about/rules_regulations/private_postsecondary_rules_regulations?showall=&start=3.

46. Title 5. California Code of Regulations Division 7.5, California Code of Regulations § 76120.A www.bppe.ca.gov/lawsregs/regs.shtml.

47. State Higher Education Executive Officers Association, “Louisiana Board of Regents,” http://sheeo.org/sheeo_surveys/user/20; and SHEEO, “South Dakota Secretary of State’s Office.”

48. The North Dakota Department of Career and Technical Education only requires job-placement rates.

49. Title 5. California Code of Regulations Division 7.5, General Provisions Article 2 § 74112, www.bppe.ca.gov/lawsregs/regs.shtml.

50. Florida Statutes and State Board of Education Rules § 6E-2.004.10.c (March 2014), www.fldoe.org/core/fileparse.php/5423/urlt/chapter6e_rules.pdf.

51. Oregon Administrative Rules § 715-045-0001, http://arcweb.sos.state.or.us/pages/rules/oars_700/oar_715/715_045.html.

52. For more information, see National Council for State Authorization Reciprocity Agreements, “About.”

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