The Politics of Higher Education

Mark Schneider
American Institutes for Research/American Enterprise Institute

mschneider@air.org

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Most of my career I was an academic political scientist teaching courses on the public policy process. In 2004, I came to Washington on a year's sabbatical to finish a book on charter schools. Four years later, having fully succumbed to Potomac fever, and serving as the Commissioner of the National Center for Education Statistics, I told my home university, the State University of New York at Stony Brook, that I was not returning. On a trip back to Stony Brook to clean out my office, my colleagues asked me to give a talk to the political science faculty and graduate students about my time as an official in the U.S. government.

At first I demurred, saying that I no longer considered myself an academic and therefore did not have much to say to an academic department. After some back and forth, I agreed.

I opened my talk along the following lines: "After 30 years of teaching public policy, I should be sued by my former students for, at best, wasting their time, or at worst for malpractice. Little I taught in all those years would prepare anybody for even a mid-level job in the policy branches of government."

The discomfort in the room was palpable but since academics are trained to ask questions, the tenor of the questions that followed was along the lines: "Well, something you taught must have some relevance." Finally I admitted that James Q. Wilson's work, especially his 1989 volume *Bureaucracy*, was important (although even Wilson's insightful work did not encompass all the craziness of modern government bureaucracy, where, for example, in less than one year I fired the same person twice, once for a clear constitutional violation—and that person still works for the government).

I then suggested that my experience with various aspects of higher education while at the Department of Education suggested that some classic political science works on the power of

interest groups were close but were still wrong—not because they overestimated the power of interest groups, but because they often *underestimated* it.

In the following pages, I look at the politics of student loans and then the politics of information systems to illustrate just how powerful interest groups can be in driving higher education policy—and these politics certainly impose limits on how far and how fast we can go toward accountability in higher education.

The Power of Interest Groups

Political scientists have long used the term "iron triangle" to describe the relationship that builds up over time among interest groups, Congress (especially congressional committees) and the bureaucracy, as they interact to create and maintain public policies and government rules and regulations.

Built into this concept is the assumption that bureaucratic agencies seek to build their own power base often at the expense of the citizens the agency was established to serve. This comes about because an agency's resources are determined by members of Congress, who are more strongly influenced by well organized (and comparatively well endowed) interest groups than by the citizens who are the "consumers" of the services most agencies were presumably established to serve.

As the term "triangle" implies, there are three focal points in the system. At one point sit interest groups, often representing an industry or a set of producer groups with overlapping goals in shaping public policies, rules and regulations. The goals these groups share are often tightly focused, reducing obstacles to organizing. In addition, their greater resources (both financial and personnel) give these groups a natural organizing advantage over "citizen/consumer" groups.

At the second point in the triangle sit members of Congress (especially those on committees or subcommittees with direct responsibility for writing the laws that affect the specific interests of those groups and overseeing the relevant agencies). From the iron triangle perspective, members of Congress actively support the goals of interest groups in exchange for resources and political support.

Bureaucrats occupy the third point in the triangle. Rather than being an independent force to support the interests of citizen/consumers, they are pressured by the other actors in the triangle to skew their actions in favor of the interest groups. The relationships between these three sets of actors are cemented by repeated interactions, by the flow of resources (for example, information and campaign contributions), and by the "revolving door" in which personnel move between industry, Congress and government.

Notably missing from the iron triangle are consumers—the intended beneficiaries of the services provided by government agencies. Compared to the concentrated power of organized interest groups, most consumer groups face challenges in mobilizing to protect their interests. Often citizens who are the potential members of a consumer group are geographically scattered, find it hard to identify and mobilize members of the group, and often lack the time, money and other resources needed to lobby or otherwise affect policies and the delivery of services.

Faced with this imbalance in power, it is easy for an agency to switch its focus away from the citizens it was designed to serve in favor of the interest groups that can make its life more pleasant and more rewarding.[1]

The ***iron*** in iron triangle carries with it the implication of a highly stable and enduring set of relationships. Indeed, because of this durability, iron triangles were often described as

constituting ***subgovernments,*** implying a power to determine policy without oversight or input from broader public interests.

Recent research has transformed the concept of iron triangles. Policy studies now tend to employ the term “policy subsystem” as the lens for viewing public policy. Embedded in the idea of subsystems is a more dynamic view of public policy than the stability implied by iron triangles.

In contemporary theories of policy subsystems, competing coalitions with varying levels of power are viewed as contesting for dominance and recent studies see change as more common than assumed from the iron triangle perspective. The theory of “punctuated equilibrium” has now become the lens by which political scientists view the policy process.

Closely associated with the 2005 work of Jones and Baumgartner, in this punctuated equilibrium perspective, winners and losers can change surprisingly quickly. Much of the research in this vein has sought to identify the factors that disrupt relationships within a policy subsystem.[2]

I begin by exploring explore some of the core characteristics generally evident in the politics of higher education by looking at student aid and higher education information systems. In the case of student aid, changes in external conditions (what Jones and others would term an “exogenous shock”) resulting from the credit crisis of 2008 may have disrupted the entrenched politics of what looked like a highly stable subgovernment. In the case of information systems, change is more slowly creeping up on those who have fought to keep information out of the hands of consumers.

The Escalating Cost of Higher Education

We need to begin with a basic fact: higher education is costly and getting ever more so. For example, between 2004 and 2007, while the Consumer Price Index increased by about 10%, the price of attending a college or university increased by around 17%.[3] This recent growth in higher education costs in excess of inflation is not an aberration. According to the 2008 "Measuring Up" report issued by the National Center for Public Policy and Higher Education, since the early 1980s, the growth in college tuition and fees have outstripped the changes in the Consumer Price Index by a factor of four and, according to their calculations, outstripped even growth in the cost of medical care.[4]

In the next section of this chapter, I focus on the role that student aid has played in enabling colleges and universities to increase their tuition at such a pace. Much of this "enabling" flows from the power of financial interests, which for long created federal policies, especially loan policies, that generated large profits for financial institutions and allowed the rapid growth of college and university tuition, but imposed high costs on students, their families, and taxpayers in general.

Federal Student Aid and College Finances

Here's how George Miller, Chairman, U.S. House of Representatives Committee on Education and Labor, describes the current student loan industry, which is built around federal government policy:

> "We were paying these exorbitant subsidies to bankers who were taking government money, loaning it to somebody else, getting government guarantees that the loans would be paid back, and then taking all these profits". Congress asked itself: "Hey, chump, what is it you don't get about what's going on here?"[5]

The current federal system of financial aid traces back largely to 1972, when Congress decided to provide federal aid to students rather than to institutions, creating Basic (now Pell) Grants instead of expanding the existing campus-based student grant program. This focus on student aid has characterized federal postsecondary education policy ever since.[6] Pell grants are the largest source of federal higher education grants and now are funded at about $18 billion per year, with the Obama Administration asking for large increases. Pell grants are funded 100 percent from the federal treasury, with no matching or maintenance-of-effort requirements placed on institutions.

In addition to these grant programs, student loans constitute another component of federal student aid. Oversimplifying a complex system, there are two paths through which the federal government delivers loans to students. First, there are student loans issued through the William D. Ford Federal Direct Loan Program (FDLP), often referred to as "Direct Loans." This is a US Department of Education program in which the department acts as a lender. The Direct Loan program was signed into law by President Clinton in 1993; however, the level of funding for the Federal Direct Student Loan Program has been dwarfed by the other avenue for federal loans: the Federal Family Education Loan Program (FFEL). FFEL was created by the Higher Education Act of 1965 and in 2007-08, FFEL served 6.5 million students and parents, generating around $55 billion in new loans (or 80 percent of all new federal student loans).

In the FFEL Program, private lenders make federally-guaranteed student loans to parents and students. Students are steered to the government's direct program or to outside lenders, depending on their school's preference. Many believe that the Direct Loan program costs the federal government less money and there are many who believe that the Direct Loan program may treat students who are having difficulty in repaying their loan better; nonetheless, about 75

percent of postsecondary institutions participate in FFEL (approximately 4,000 institutions nationwide). Some suspect that this choice is driven by "deals" that colleges and universities have negotiated with the private lenders who participate in FFEL.

Under the subsidized loan program, loans are made by private firms such as Citigroup, Bank of America and Sallie Mae, with both the subsidy and the maximum interest rate for borrowers set by Congress. Under existing law, lenders face little risk: the government pays a lender 96 to 98 percent of the interest and principal it is owed should a student default on a loan. Under FFEL guaranty agencies are paid to provide default insurance for lenders, work with delinquent borrowers to help them avoid default, and collect or rehabilitate defaulted student loans.

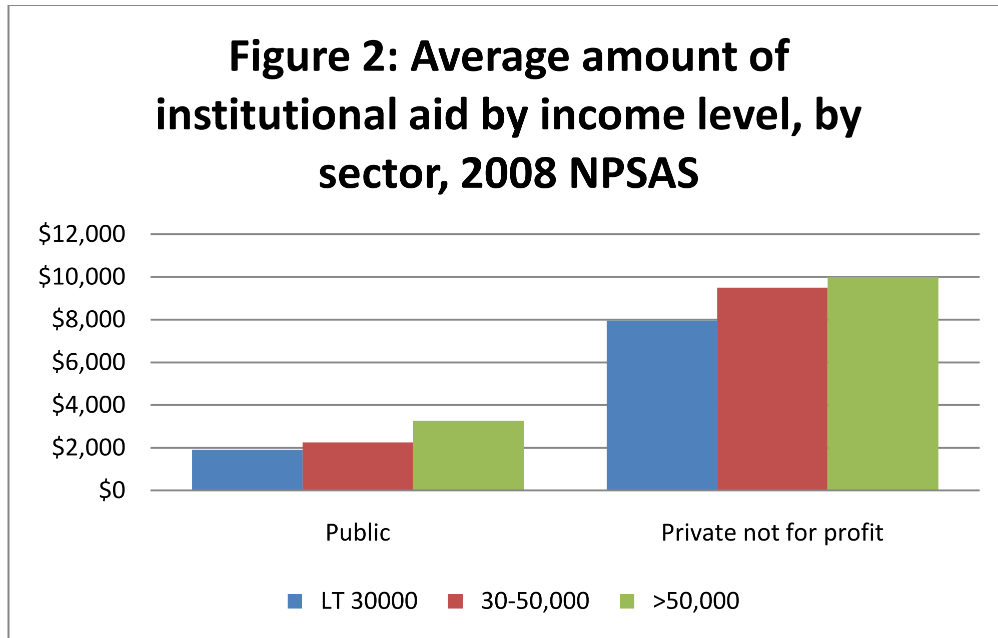
This arrangement created a very powerful set of interests, populated by big banks and other organizations such as Sallie Mae,[7] which have considerable resources, money, personnel, and incentives to keep this very expensive system alive.

Many analysts argue that this system has fueled the growth of higher education expenditures. According to Jon Oberg, a former state budget administrator and federal researcher in education finance, it is "axiomatic…institutions can and do use federal student-aid to reduce their own unrestricted institutional aid to students in order to meet other budget needs, such as faculty salaries or new programs."[8]

Oberg further argues that the "higher aid, higher tuition" financing model has many advantages for colleges and universities: when federal student aid goes up, institutions can either continue their own aid or decrease it to free up the displaced dollars for other institutional purposes.[9] Since the federal government does not tie Pell grants to any performance criteria, such as graduation rates for Pell students, institutions are more than happy to tap this added

source of revenue, which frees up their own resources for expanding services in which they are interested (including as we saw above administrative ones). This is compounded by the fact that these grants are also not effectively tied to any differences in price.

Arthur Hauptman is another analyst who has argued that student loans have driven the growth of tuition and other charges over time. Exploring the difference between price effects and substitution effects that are part of Oberg's observations, Hauptman argues that loans have a larger effect driving up prices than grants. Traditional student-loan policies use total costs of attendance as calculated by the institution to determine eligibility to borrow. Under current arrangements, the cost of attendance is determined by the sticker price for tuition and room and board, even though most students aren't paying it. And the cost of attendance is also laden with what Hauptmann calls "consumer choice"—including fancy dorms, great gym facilities, and upscale food plans. Because the cost of attendance is key in determining the amount of aid needed and the amount borrowed, Hauptman argues that "it is hard to believe that this arrangement has not been a factor in the level at which colleges set their tuition and fees."[10] Hauptman ties substitution effects more closely to grants than to loans. In his view, institutions will use government funds to pay for activities they otherwise would have financed from internal funds. This is particularly evident in the allocation of internal campus resources for student aid. Simply put, as the federal government has increased Pell grants to pay for access for low income students, many institutions now direct more of their own money to student aid for middle class students. As a consequence, these students may be more likely to receive institutional aid than low income students. Indeed, as figure 2 shows, institutional aid, in both public and in private not for profit schools, increases with income, a trend that, according to Kevin Carey and Erin Dillon, has increased over time.[11]



Here we see classic subgovernment politics: colleges and universities (the "producer" interest groups) work with the Congress to provide Pell grants which may have little effect on student well being—but benefit the colleges and universities greatly.[12] As Congress pumps up Pell grants, colleges and universities pump up their tuition and use the added monies for many purposes besides ensuring access and completion by low income students, who are the intended beneficiaries of the Pell program.

As Lord Acton famously observed that "Power tends to corrupt, and absolute power corrupts absolutely." This observation can, without too much damage be rewritten to apply to the student loan industry: "Money tends to corrupt and lots of money tends to corrupt lots more." Unfortunately, the amount of money generated by the student loan industry has provided much temptation to the members inside the iron triangle of student aid.

The student loan industry—a strong point in the iron triangle.

The development of powerful financial interests coalescing around federal student aid traces back to the creation of Sallie Mae as a Government Sponsored Enterprise (GSE) in 1972. Built on the model of Fannie Mae and Ginnie Mae in the housing market, Sallie Mae was charged with maintaining a secondary market for student loans. The goal was to have Sallie Mae ensure the liquidity of the FFEL Program by buying student loans from lenders.[13] This provides education lenders with fresh capital to make new student loans. In the early 1990s, as part of the Clinton Administration's "reinventing government" initiative, Sallie Mae became a model of how to convert GSEs into private, for-profit entities.

Even as it shed its government status, Sallie Mae was allowed to keep its name for purposes of "branding." This lead to confusion among borrowers, many of whom probably did not realize that the organization was no longer government-connected and that its profit motive had changed dramatically.[14]

Right behind Sallie Mae at this point in the iron triangle is Nelnet, which was arguably the main beneficiary of Senator Ted Kennedy's effort to help a different company, the Massachusetts-based Nellie Mae, which wanted to convert from non-profit to for-profit status. As described by The Institute For College Access and Success (TICAS) in a 2005 briefing paper "Before 1996, it was difficult for non-profit secondary markets to convert to for-profit, because some of their assets and debt instruments could not legally be held by a for-profit entity. Then, late one night in Washington, D.C., at the urging of executives of non-profit student loan charities, a Senator quietly inserted an amendment into a tax bill, opening the door to conversion."[15]

Nellie Mae, the intended beneficiary, did take advantage of the Kennedy amendment, but was ultimately bought out by Sallie Mae in 1999. Other non-profits, including Nelnet, also seized the opportunity presented by the law and converted to for-profit status. Sallie Mae and Nelnet became large multifunction student loan companies, originating loans, servicing them, and collecting them. Many of the executives who arranged to convert from non-profit to for-profit status made fortunes.[16]

In 1997, Nelnet told the Securities and Exchange Commission (SEC) that it was going to diversify out of the student loan business. To ease the diversification, Nelnet asked the SEC to allow it to retain the existing tax-exempt student loan bonds in an affiliated entity rather than selling them. The SEC approved.[17] However, by 2004, Nelnet had used its tax-exempt bonds with special subsidies guaranteeing a 9.5% return to extract hundreds of millions of dollars in subsidies from the U.S Department of Education.[18] Nelnet was not alone in collecting millions in payments—much of these were in fact overpayments, perhaps as much as $1.2 billion.[19]
The US Department of Education's Inspector General released an audit report in 2006 describing the illegality of Nelnet's actions. While Secretary of Education Margaret Spellings cut off future payments, she rejected the IG's recommendation that Nelnet be forced to return $278 million in overpayments. Spellings justified this action by citing the confused actions and advice issued by the department, which she claimed left the department open to lawsuits by Nelnet.

This was only a prelude to 2007, which was truly an *annus horribilis* for the loan industry and began to signal some serious challenges to existing practices. In May 2007, Secretary Spellings testified to Congress that: "Federal student aid is crying out for reform. The system is redundant, it's Byzantine, and it's broken. In fact, it's often more difficult for students to get aid

than it is for bad actors to game the system. For example, throughout the 1990s, millions of dollars meant to help families foot the bill for college were subject to waste, fraud, and abuse."[20]

No doubt driving the Secretary's description of a broken system were the various student aid scandals that made the headlines, almost day after day as an endless array of kickbacks, conflicts of interest, illegal claims, payoffs, and investigations captured the nation's attention. Among the attractions:

- The New America Foundation showed that financial aid officials at Columbia, Southern California, the University of Texas, and Johns Hopkins held stock or took undisclosed payoffs from lenders, while others had invested in these companies. In March of 2007, Eugene W. Hickok, a former deputy secretary of education under President Bush agreed to pay $50,000 for breaking conflict-of-interest rules by failing to sell off hundreds of shares of Bank of America stock during his tenure, despite the fact an earlier department's ethics ruling.
- At about the same time, the Washington Post reported that Sara Martinez Tucker, who as Undersecretary of Education had a direct role in supervising the student loan industry, had more than $10,000 invested in five of the nation's largest lenders. While this was technically not a violation of government rules, since the cutoff is $15,000, the propriety of these holdings was questionable.

Also in 2007, as a result of the investigations by Andrew Cuomo, NY State's Attorney General, into the relationship between colleges and student loan agencies resulted in multimillion dollar settlements with lenders and with over a dozen schools for inflated loan prices created by revenue sharing agreements. Cuomo described an "unholy alliance" between lenders and universities and threatened legal action in order to convince colleges and lenders to mend their

ways. As a result, six universities reimbursed students over $3 million and ten major lenders paid between $500,000 and $2 million into a national education fund established by Cuomo. Spurred on by Cuomo's findings, a Senate investigation found many of the practices Cuomo documented were practiced throughout the nation.

Given the money involved, financial interests and university practices coalesced to grow a system that has been marked long marked by fraud and abuse. At the same time, the flow of money from interest groups to powerful members of Congress was unabated.

In 2006, according to Fortune Magazine's Bethany McLean,[21] three of the top six individual contributors to the National Republican Congressional Committee were Nelnet's president and its co-CEOs. Nelnet itself is the committee's largest corporate donor. Mike Enzi, the Wyoming Republican who was the chairman of the Senate Committee on Health, Education, Labor, and Pensions, has a political-action committee called Making Business Excel. In 2006, top contributors were the employees of Sallie Mae, who gave $20,000; of Corinthian Colleges, who gave $15,348; and of Nelnet, who gave $10,000. Sallie Mae continues to give generously to lawmakers and political action committees, more than $583,000 in 2008, divided nearly equally between the parties. That's more than any company in the finance/credit sector, including American Express, Visa and MasterCard. Nelnet gave out $142,000 in political donations, also split fairly evenly between the two parties.[22]

Well lubricated, this system survived repeated scandals and investigations and is only now teetering on the edge of dissolving because of the exogenous shocks of the credit crisis of 2008/9—a crisis from which the student loan market was not exempt. In May of 2008, Congress enacted the "Ensuring Continued Access To Student Loans Act" to keep money flowing to students by pumping liquidity into the market for student loans, buying loans from lenders in the

federal guaranteed loan program who were unable to meet demand. The spiraling Wall Street crisis of the Fall of 2008 made it even tougher for college students to borrow to cover tuition. Using the authority given to her in May, Secretary Spellings increased the amount of federal support for the FFEL, buying back billions of dollars of these loans.

Many critics of FFEL had always viewed private lenders as unnecessary middlemen in the business, driving up costs.[23] As the Department of Education increased its purchases, the number of people who saw these lenders as unnecessary grew and the distinction between the Direct Lending program and the FFEL seemed to be dissolving.

While scandals and high costs were long part of student loan policy, the relationship between Congress, the financial industry, and parts of the Department of Education seemed remarkably durable – a sturdy iron triangle. However, the credit crisis seems to have been so fundamental a challenge to this subgovernment, that change became the order of the day.

Indeed, in the Spring of 2009, President Obama called for an end to FFEL, with predicted savings of over $80 billion. The President proposed using these savings to beef up Pell Grants. As Inside Higher Education observed:

> The administration has trumpeted at every turn the possibility of achieving the financial aid officers' holy grail of a Pell Grant entitlement (which the Education Department is now calling an "appropriated entitlement"), a major expansion of the Perkins Loan Program, and the creation of a $500 million a year fund to encourage college completion -- all with the money generated by essentially shifting all federal student lending out of the bank-based FFEL program and entirely into the competing Direct Student Loan program.[24]

While the idea of a Pell entitlement seems to have fallen by the wayside in the face of Congressional opposition, the end of the FFEL program seems likely.[25] Given the amount of money involved, it is not surprised that the private student lending industry and its allies in Congress will continue to maneuver to thwart this plan. For example, Sallie Mae, the nation's largest student lender, hired two prominent lobbyists, Tony Podesta, whose brother, John was

White House Chief of Staff under President Bill Clinton from 1998 until 2001 and led the Obama transition, and Jamie S. Gorelick, a former deputy attorney general in the Clinton administration.[26] Sallie Mae also tapped other Washington lobbying firms for help, including Clark & Weinstock, Global USA, ML Strategies, and Von Scoyoc Associates, which together were paid over $300,000 in the first half of 2009. According to an analysis by Danielle Knight in the Huffington Post, this was just the opening gambit in Sallie Mae's attempt to "leverage its lobbying muscle and years of showering money on lawmakers to push an alternative plan that would position itself not only as a survivor, but a clear winner - with an even larger share of the market."[27] Key to this strategy company is Sallie Mae's argument that if lenders are still allowed to originate and service the loans that the government holds, they could produce similar savings that could also go toward Pell Grants. But here's the essential part of the strategy: Sallie Mae proposed that companies that don't already service loans wouldn't be able to participate in the new system. This of course could leave Sallie Mae a more open field with the possibility of winning even a bigger market share.

Sallie Mae started clearly started down this path in June of 2009: as major changes in the FFEL were becoming increasingly likely, the U.S. Education Department announced that four lenders had won contracts to service the existing portfolio of federal student loans. Two of the lenders that won the competition were, surprise, surprise, Nelnet, Inc., and Sallie Mae Corporation.[28]

According to Inside Higher Education, the competition was "controversial" because the department limited it to lenders of a certain size, freezing out smaller nonprofit and other lenders and biasing the outcome in favor of Sallie Mae and Nelnet.[29] The more things change…

The Revolving Door

One aspect of policy subsystems is a revolving door through which personnel move between the private sector and public service. The revolving door is problematic to the extent that these public officials may be inclined to use their authority to shape policies that benefit the industry they are supposed to regulate in the public's interest. The flow between government and industry can go either way, with many government officials moving to the private sector, which benefits from the official's contacts and experience.[30] Also common is the flow from industry to government in which government should benefit from the expertise these individuals have acquired, but a relationship in which many fear the person may use their power and authority to benefit the industry from which they came (and to which they are likely to return after a stint in government).

There was a revolving door between the financial aid industry and the Department of Education that became part of the problem in federal student aid policies. Three officials in the department's Federal Student Aid Office — Theresa Shaw, its head; Matteo Fontana; Stanley Dore; and Mariana O'Brien — all worked at Sallie Mae, the nation's largest student lender. The Department of Education's Office of Inspector General audited the offices responsible for the federal student assistance system and, in 2006, found that appointed personnel felt their mission was that of "partnership" with the loan industry rather than protecting the interests of students and taxpayers.[31] In 2009, the Inspector General wrote a more pointed report recommending an assessment of the damage done and calling for corrective action where conflicts of interest existed.[32]

Other doors revolved: In June of 2008, documents revealed that Sallie Mae, the nation's largest student loan company, had a contractual relationship with USA Funds, the nation's

largest guarantor, that gave Sallie Mae extensive control over the very agency that is supposed to supervise its work. In 2000, the Department of Education's IG recommend that the department forbid this relationship as a conflict of interest. However, in December of 2004, the IG's recommendation was overruled by Matteo Fontana, as just noted a former Sallie Mae employee, then acting as head of the Department's office that oversees lenders and guarantee agencies. Fontana was placed on paid leave in April 2007, following reports that he owned stock in Student Loan Xpress, another student-loan company, clearly a conflict of interest since he was serving as a government official in charge of regulating those companies.

When Enough is Enough

Even iron can break when put under enough stress and even though triangles are among the most durable forms in nature, they too can fail when subject to enough stress. Whether or not the accumulating scandals and investigations would have been sufficient to break this iron triangle is unknown—but what we do know is that the tsunami of the most recent fiscal crisis seems finally to produce a "stress test" that this iron triangle apparently could not survive.

While the political system of student loans seem to be on the edge of radical transformation, next we turn to much more glacial change that is emerging around information about higher education. Many believe that any system of accountability requires reliable information that is widely disseminated and readily available. Unfortunately, that's not what we have—an absence rooted in strong opposition from entrenched interest groups.

Why You Don't Know What You Should Know: The Politics of Higher Education Information Systems

While I was on the periphery of the student loan debacle, as Commissioner of NCES, I was intensely involved in the conflicts over the flow of information about higher education to the public. Indeed, in the space of three years, I was "called on the carpet" several times because of impolitic remarks I made regarding the need to get more information into the hands of consumers. In an interview to Inside Higher Education a few months after I took office, I was depicted as favoring "IPEDS on Steroids"[33] (IPEDS is the Integrated Postsecondary Data System, the nation's most comprehensive higher education data system—more on this below). My (perhaps naïve) belief was that taxpayers, who put so much money into higher education, and parents and students who are literally betting thousands upon thousands of dollars in tuition and potentially years of their life pursuing a degree, should know more about how well colleges and universities were doing. Sounds reasonable, but the uproar from the higher education "community" was deafening, including calls from members of Congress demanding that the "privacy" of students be protected from the intrusive behavior of federal bureaucrats.

An even louder uproar ensued when I proposed to collect data on higher education accountability practices through IPEDS. The proposed changes in IPEDS asked institutions to answer three questions: did they participate in any accountability tests? If so, which ones? And if they published these results, where?

The proposal did not endorse any particular accountability strategy, it did not ask schools to take any, it did not ask schools to give NCES the results so that we could publish them. This (again naively) seemed to be a collection and dissemination of information already in the public

domain. Again, the uproar was deafening and the proposed data collection was killed (and my position as Commissioner almost went down in flames along with the proposal).

My own experiences are part of a much larger problem. The Commission on the Future of Higher Education noted many problems facing America's system of postsecondary education. According to the Commission, compounding these problems

> …is a lack of clear, reliable information about the cost and quality of postsecondary institutions, along with a remarkable absence of accountability mechanisms to ensure that often left scratching their heads over the answers to basic questions, from the true cost of private colleges (where most students don't pay the official sticker price) to which institutions do a better job than others not only of graduating students but of teaching them what they need to learn.[34]

While the politics of student aid have increasingly been subject to public scrutiny, so far the absence of good information on so many aspects of our higher education system has escaped public scrutiny and often seems like a technical issue best left to statisticians and data geeks. But without good information, parents, consumers, taxpayers and government officials are left with no way of judging which colleges are doing their jobs better and cheaper than others.

In the next section I look at why reliable information on two critical pieces of information, the price of attendance and true graduation rates, is still shrouded in a fog. To set the context regarding price, we begin with a look at "institutional aid" the money that institutions themselves give to students. Institutional aid is a fundamental component of "yield management"—the practices that colleges and universities engage in to attract the numbers and kinds of students they want. These practices are fundamental to any college's admission process, but the question is the degree to which information about current practices is skewed too far in the favor of colleges and against parents and students. These kinds of "information asymmetries" are known to distort markets and often impose costs on consumers.

The Growing Importance of Institutional Aid

Institutional aid is a large and growing part of how students finance their education. While this aid is essential to students, it is costly to colleges and universities. Students want as much information about who gets this aid to help them understand what they too should receive and of course they want as much aid as possible. Colleges and universities want to keep that information private, in part because they want to keep aid to a level that is just enough to attract the students they want—but no higher.

This is not unlike other markets which leads to well known behaviors. One behavior was noted by Adam Smith in 1776 in *The Wealth of Nations*: "People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices."

Many industries ranging from food companies, to oil companies, to airlines to ice companies, have been called out for such collusion, and one can easily see why colleges and universities would also want to work together to coordinate their aid offers: As higher education becomes ever more costly, price may become increasingly important in consumer choice and institutional aid becomes a way of discounting prices to seal the deal with students[35]. Since this discount comes out of endowment or other revenues, colleges naturally want to avoid price competition.

There is a history of private higher education institutions working together to limit these outlays. Most notably, in 1989, the U.S. Department of Justice investigated a group of colleges for violating the Sherman Antitrust Act by conspiring to restrain price competition through the financial aid that they offered students. By actively sharing information about students and aid packages, the so-called "Overlap Group" reduced competition for students and limited their costs

by offering similar aid packages. A Wall Street Journal article written by Gary Putka and published in May 1989 described the Ivy League schools, which were at the heart of the investigation, as "part of a price-fixing system that OPEC might envy". Based on this investigation, in 1991, the Department of Justice sued nine colleges and universities for price fixing.[36]

That prosecution ended the active collusion embodied in that system. However, in 1992 Congress enacted an exemption from the antitrust laws to allow colleges that admit students without regard to their ability to pay to discuss aid eligibility. This “temporary” exemption has been renewed several times and in 2008, the exemption was again extended, to 2015. Under the exemption, schools are allowed a limited amount of collaboration on financial aid practices in the hope that such collaboration will further the government’s goal of promoting access by facilitating the flow of student aid.

In 1998, 28 schools formed the 568 Presidents’ Group (named after the original congressional antitrust exemption—Section 568 of the Improving America's Schools Act) to share information about financial aid. In addition, six schools attended meetings to listen to discussions. Members of the group are all private 4-year schools that have highly selective admissions policies.[37]

There is other evidence of how institutions can engage in “some contrivance to raise prices.”[38] Consider the “inside the beltway” fight that took place between the major higher education associations (The “Big Six”), which represent a powerful force in Washington, and the Clinton Administration over a scholarship provision of the GEAR UP program.[39]
GEAR UP was a competitive grant program offering federal matching funds to states and local school districts, aimed at making students and families start preparing for higher education as

early as the seventh grade. An option for grantees was to offer sizable college scholarships, at least equal in size to Pell grants.

The Clinton Administration wanted any GEAR UP scholarships offered by state and local grantees be used to reduce student loan or work-study burdens. The higher education community was willing to accept the money, but wanted the freedom to use the scholarships to replace other aid (the substitution effect noted earlier).

Then Deputy Secretary of Education Frank Holleman met with the assembled presidents of the Big Six and argued that the legislation was clear: the scholarships were meant to reduce loan and work burdens. David Warren, president of the National Association of Independent Colleges and Universities (NAICU), handed Holleman a legal brief arguing that colleges had the right to choose their own students and federal regulations must not limit such choice. Holleman refused to concede, but in the final negotiated regulations, the Department of Education and the Big Six agreed that colleges could use GEAR UP scholarships for purposes other than reducing loan and work burdens, but the colleges would have to inform sponsors of how they were using the money. This transparent flow of information could cause problems as sponsors learned that their scholarships were not benefiting the intended beneficiaries.

When the Clinton Administration ended, the Big Six pressed the Bush Administration for repeal of the regulation—and indeed it was soon gone. The ability of higher education institutions to continue to substitute federal funds for institutional funds remained unchecked and the opportunity to lower the debt burden on low income students through GEAR UP funds disappeared.[40]

A Creaky Federal Information System

Underlying much of the lack of information is an outdated and inadequate federal data system—the Integrated Postsecondary Education Data System—that, for all its problems, is supported by the higher education industry, in part because it is so flawed.

All institutions of higher education that accept federal student aid (such as Pell grants) must provide information to IPEDS on an annual basis—and around 6700 institutions including research universities, state colleges and universities, private religious and liberal arts colleges, for-profit institutions, community and technical colleges, non-degree-granting institutions, such as beauty colleges, do so. This makes IPEDS the only national system for collecting institutional level data from such a wide range of schools.

As noted above, the Spellings Commission singled out the lack of data on the real price students pay for attending schools and on graduation rates as key limits on accountability. IPEDS collects data about the characteristics of higher education institutions—so theoretically IPEDS should have this information. However, the design of IPEDS is flawed.

Much of IPEDS data focuses on time, full-time, degree- or certificate-seeking undergraduate students. For example, its price data is based on the "sticker" tuition and fee data and its student financial aid data includes the percentage of full-time, first degree- or certificate-seeking students who receive different types of grants and loans, as well as the *average* dollar amount of aid these students receive at each institution. The *average* aid package doesn't help a student figure out what she might expect given what other students like her have received (and keeps the institution's control over institutional aid data paramount).

IPEDS is also the only national source for graduation rate data across the range of institutions in the country. IPEDS collects what's known as the "Student Right to Know" (SRK) graduation rates, which, like IPEDS financial aid data, are based on first-time, full-time, degree-

or certificate-seeking undergraduate students. Under the SRK, graduation rates are calculated as the percent of an entering cohort of these types of students that graduates from that college or university within 3 years (for a two year college) or 6 years (for a four year institution). Under government rules, students who transfer from their first institution and graduate elsewhere are counted as non-completers by the first institution.

While this all sounds technical, the effects are profound—because less than half of postsecondary students in the United States fit into the category of students IPEDS tracks. IPEDS might be an adequate information system if the United States hadn't changed since the 1950s or if all institutions were Harvard, which graduates almost all of its freshman class within six years and from which almost no students transfer. But because the world has changed and most schools are not Harvard, IPEDS does not capture the experience of the majority of American students.

As a result, a parent or student trying to estimate what a more typical student attending a more typical institution of higher education might pay or how likely that student is to graduate is out of luck.

We know the solution: IPEDS should be abandoned in favor of a student level data base (often referred to as student unit records or SUR). Indeed in 2005, NCES issued a report that investigated the feasibility of such a system.[41] The report succinctly notes the problem:

> The current IPEDS framework cannot accurately capture changing enrollment and completions patterns in the postsecondary education sector, especially given increasing numbers of nontraditional students, and cannot describe the prices various types of students face after financial aid is taken into account. To do so, it would be necessary to collect accurate student–level information on persistence systemwide...It would also be necessary to collect student–level information on prices and financial aid, in order to calculate net prices that take into account the individual circumstances of each student. By its very nature, a UR system would enable the collection of data that would lead to more accurate estimates of these variables.

The report notes that technical problems are solvable and that privacy issues could be addressed—so that moving IPEDS to a modern information system is not a "could" question; rather it is a "should" question that asks:

> … whether the federal government should develop a system that is based upon individually identifiable information about enrollment, financial aid, and attainment. This system would, for the first time, give policymakers and consumers much more accurate and comprehensive information about postsecondary education in this country. Some of the benefits of a UR system include the collection of new data that would measure the success rates of students at institutions to which family and federal student aid monies flow, provide more accurate consumer guidance, and improve federal programs that support those families and students.

The "should" question answers itself. However, the 2008 reauthorization of the Higher Education Opportunity Act, specifically bans the US Department of Education from collecting such individual student level data.[42] By now the readers should guess where the political problem came from: Like the GEAR UP fight discussed above, much of the higher education lobby (especially NAICU) pushed to keep the flawed IPEDS intact to preserve the information asymmetry that allows them to continue their practices with limited scrutiny.

The current higher education opposition strategy emphasizes the importance of privacy (a combination of technical concerns and an emphasis on distrusting government from holding data) and emphasizes voluntary efforts by higher education institutions to provide information that the industry lobbies to prevent NCES from presenting.[43]

It should be noted that much of the data that are presented on these voluntary sites come from IPEDS (and hence share the same fundamental problems of IPEDS). Moreover, because the sponsoring organizations do not want to encourage competition between institutions that are voluntarily participating, these web sites are not designed to allow the "kitchen table" side-by-side comparison of schools that consumers want.[44]

Finally, it should be noted that many institutions provide much of the same information contained in the NCES student unit record proposal to the National Student Clearinghouse. But the Clearinghouse is a private organization supported by individual colleges and universities and has no obligations nor incentives to make data widely available. While NCES is committed to have a reasonable balance between data in and information out, the Clearinghouse faces a different calculation.

Absent any tsunami of the size that is threatening the student loan industry, improvements in the national system of information will only slowly emerge—and, if, as the saying goes, "the past is prologue to the future," those changes will be fought by the higher education lobby.

Conclusions

As noted in the opening sections of this chapter, political scientists seek to understand the factors that preserve subsystems and those that lead to change. Among the factors analysts have identified that preserve the status quo and make change difficult is the high status of the interest groups involved in the policy subsystem (doctors and the AMA are the clearest examples) and the aura of success (e.g., the American pharmaceutical industry).

Both of these factors have benefited higher education. The argument that the United States has the best system of higher education in the world populated by Nobel Prize winners producing world class science has benefited the industry and preserved it from careful scrutiny and reform. Yet we spend more on higher education than any other nation and many, including the President, now argue that we are no longer the best educated society in the world. Moreover,

given our mediocre college graduation rates, students and their families are accumulating large debt in pursuit of degrees they will never receive.

No wonder that, as documented by the 2009 report by Public Agenda and The National Center for Public Policy and Higher Education, public support for colleges and universities is low. That study found that over half of its respondents believed that higher education is run like most businesses, with less concern for educational mission than profit.[45] Throughout this chapter, we have seen events and practices that may support those attitudes—and may be creating the opportunities for large scale change.

The seemingly never-ending scandals of the student loan industry began prying open a window for policy change but it took a tsunami the size of the fiscal crises of 2008/2009 to finally swamp the existing system of student financial aid.

In the pursuit of better information about outcomes and costs, the conditions for reform are accumulating more slowly, but at some point more accurate information about the costs and outcomes of colleges and universities will be made more widely available and more usable.
As we achieve these changes, we can imagine the creation of a viable system of accountability for a higher education system delivering a world class education at a reasonable price.

[1] Olson 1971 and Lowi 1979 provide the classic analyses.

[2] See Cashore and Howlett 2007; Jones, Sulkin, and Larsen, 2003; Breunig and Koski, 2006; Wood, 2006; Wood and Doan 2003.

[3] Calculated from the "cost of attendance" measure from IPEDS (the U.S. Department of Education's Integrated Postsecondary Education Data System).

[4] http://measuringup2008.highereducation.org/ Downloaded 27 July 2009.

[5] Quoted in E.J. Dionne's column

http://www.washingtonpost.com/wp-dyn/content/article/2009/09/20/AR2009092001298.html

[6] Student aid makes up the bulk of the activities of the US Department of Education, employing about a third of its employees, consuming about one-quarter of its discretionary appropriations, and accounting for the bulk of ED's entitlement spending. Most Federal aid is governed by Title IV, first included in the Higher Education Act of 1965, and which now occupies most of the over 1000 pages of the Higher Education Opportunities Act of 2008, the latest reauthorization of the HEA.

[7] Sallie Mae is the nation's largest student loan company, managing more than $125 billion in debt for more than 10 million borrowers. http://en.wikipedia.org/wiki/Sallie_mae

[8] Oberg 1997

[9] Oberg 1997

[10] Interview July 17, 2008.

[11] For an extended analysis of this see Kevin Carey and Erin Dillon, Drowning in Debt: The Emerging Student Loan Crisis. http://www.educationsector.org/analysis/analysis_show.htm?doc_id=964333

[12] Indeed, some have even pointed out that there is little evidence showing that Pell grants have increased access to higher education (e.g., Hansen 1983; Kane 1994; Heller 1997; McPherson and Schapiro 1998). In 2002, the Government Accountability Office concluded that "Little information is available to Congress on the relative effectiveness of title IV grants and loans…in promoting postsecondary attendance, choice, and completion..." Student Aid and Tax Benefits. September 2002. http://www.ed.gov/about/bdscomm/list/acsfa/gao02751.pdf

[13] Another major initial function of Sallie Mae was to warehouse loans – lending to banks using student loan paper as collateral – but this function has sharply declined over time.

[14] see, e.g., Collinge, 2009

[15] "How Non-Profit Student Loan Officials Get Rich" http://www.ticas.org/ticas_d/2005_05_25_Briefing.pdf

[16] TICAS 2005, Collinge 2009

[17] This approval was contained in a letter from the SEC's Division of Enforcement Management on February 10, 1998 in response to the request from Nebraska Higher Education Loan Program Inc. (SEC Ref. No. 97-471-CC).

[18] The "9.5% program" forms yet another part of the sorry spectacle of money going from the taxpayers to the financial industry. The Higher Education Act guaranteed lenders a 9.5% return on loans funded through nonprofit bonds floated before 1993. This was a time of high interest rates and this guarantee was needed to keep loans flowing. This was supposed to be a short term fix and the loans were supposed to be canceled as market conditions changed. However, when interest rates declined, many lenders actually expanded this loan program through a variety of accounting mechanisms, which produced the large profits for Nelnet and others.

[19] In early September 2009, a law suit filed by Jon Oberg was unsealed, in which he is asking 10 loan companies to reimburse the federal government $1 billion in these improper payments http://www.forbes.com/feeds/ap/2009/09/01/business-financial-administration-financial-impact-us-student-loans-nebraska_6839189.html Also see http://chronicle.com/article/Government-Losses-on-Loan-L/1169/

[20] Secretary Spellings' Prepared Testimony Before the House Committee on Education and Labor. 10 May 2007. http://www.ed.gov/news/pressreleases/2007/05/05102007.html

[21] http://money.cnn.com/2006/11/13/magazines/fortune/democrats_student_loans.fortune/?postversion=2006111313

[22] http://thehill.com/leading-the-news/beneficiaries-of-sallie-mae-nelnet-fight-obamas-student-aid-proposal-2009-03-09.html

[23] http://www.ed.gov/students/college/aid/ffelp-facts.html

[24] http://www.insidehighered.com/layout/set/dialog/news/2009/05/22/loans Note that this is much the same argument used by the Clinton Administration in enacting direct loans in the first place.

[25] Indeed, as of this writing, the House of Representatives enacted legislation that terminates FFEL in favor of a program of direct lending.

[26] For more on Sallie Mae's lobbying efforts see "Lobbying Showdown over the Future of Student Loans." http://www.huffingtonpost.com/2009/07/29/lobbying-showdown-over-th_n_247506.html

[27] http://www.huffingtonpost.com/2009/07/29/lobbying-showdown-over-th_n_247506.html

[28] The other two were AES/PHEAA, and Great Lakes Education Loan Services, Inc.,

[29] http://www.insidehighered.com/news/2009/06/18/qt#201449

[30] Truth in advertising—after serving as the Commissioner of Education Statistics, I moved to the American Institutes for Research (AIR) as a Vice President.

[31] http://www.ed.gov/about/offices/list/oig/auditreports/a04e0009.pdf

[32] http://www.ed.gov/about/offices/list/oig/auditreports/a07f0017.pdf

[33] http://www.insidehighered.com/news/2006/12/01/ipeds

[34] Page x, intro, http://www.ed.gov/about/bdscomm/list/hiedfuture/reports/final-report.pdf

[35] See, for example, Baum and Lapovsky, 2006.

[36] Interestingly, Putka also reported that Ivy League presidents had met to discuss faculty salaries, a much more serious offense in the eyes of many, especially faculty who saw this as another anti-competitive move.

[37] For more details see the GAO report Schools' Use of the Antitrust Exemption Has Not Significantly Affected College Affordability or Likelihood of Student Enrollment to Date. http://www.gao.gov/new.items/d06963.pdf

[38] See, for example, Sommers 2002 http://www.collegefinancing.com/collusion.pdf; or the 2006 GAO report noted above http://www.gao.gov/new.items/d06963.pdf

[39] The Six include ACE's president, as the convener, and the chief executive officers of five other Washington, D.C., associations: the Association of American Universities (AAU), the National Association of State Universities and Land-Grant Colleges (NASULGC), the National Association of Independent Colleges and Universities (NAICU), the American Association of State Colleges and Universities (AASCU), and the American Association of Community Colleges (AACC). These organizations represent the major sectors of accredited higher education institutions in the United States. For more on this lobby see "Inside the higher ed lobby: welcome to One Dupont Circle, where good education-reform ideas go to die" by Ben Adler. Downloaded August 2, 2009 from http://www.thefreelibrary.com/Inside+the+higher+ed+lobby:+welcome+to+One+Dupont+Circle,+where+good...-a0168162445

[40] For more on this, see http://chronicle.com/article/Colleges-Are-Relieved-as-Ed/35091/ and http://chronicle.com/article/Amid-Outcry-Education-Depa/5489/

[41] Feasibility of a Student Unit Record System Within the Integrated Postsecondary Education Data System http://nces.ed.gov/pubs2005/2005160.pdf

[42] The act allows states to collect these data (and over 40 do), the quality of these data systems vary widely and the degree to which they "talk" to each other ("inoperability" to use the jargon) is still a serious question.

[43] An example: in 2005, NCES undertook a concerted effort to allow consumers to more easily access the data in IPEDS through a website called College Navigator http://nces.ed.gov/COLLEGENAVIGATOR/ NAICU objected to this. At about the same time, it started its UCAN(University and College Accountability Network) http://www.ucan-network.org/, claiming that this effort made government efforts to improve consumer information

unnecessary. Launched in 2007, UCAN now has 728 schools providing 47 elements. Other types of institutions have followed suit: for example see College Portraits http://www.collegeportraits.org/ which is part of the Voluntary System of Accountability developed by the National Association of State Universities and Land-Grant Colleges and the American Association of State Colleges and Universities or Transparency by Design http://www.collegechoicesforadults.org/ focusing on adult learners who are interested in online and distance education programs offered by for-profit institutions.

[44] Perhaps not surprisingly, NCES' College Navigator has this function. On non-governmental efforts, see Inside Higher Education, The Challenge of Comparability, August 4, 2009, http://www.insidehighered.com/news/2009/08/04/transparency or Inside Higher Education, The Competition to Be Transparent, September 29, 2008 http://www.insidehighered.com/news/2008/09/29/vsa

[45] Squeeze Play 2009: The Public's Views on College Costs Today. http://www.highereducation.org/reports/squeeze_play_09/index.shtml