

THE HERITAGE LECTURES

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Getting
Government
Out of Higher
Education

By Jon Westling



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202/546-4400

Getting Government Out of Higher Education

By Jon Westling

One of the pleasures of visiting Washington is the sense of reassurance which gleams from the limestone and marble buildings, the Capitol dome, and the sober monuments. Those of us who live and work far outside the Beltway sometimes need that reassurance, which is a little like the need parents feel when leaving a son or daughter in the safekeeping of a university. After eighteen years of the hard and loving work of raising a child, parents rightly expect a college to be vigilant, caring, and prudent. Nonetheless, as the station wagon pulls away from the curb in front of the dormitory, many a parent suppresses a shudder at what may actually lie ahead.

That feeling is particularly familiar to me because less than a week ago, Boston University submitted an important set of forms to the Department of Education: our application for continued certification to participate in "Title IV Student Financial Aid Programs." Except in certain government agencies, of course, eight or nine pounds of paperwork is not the equivalent of a child, but I do feel a certain parental responsibility to this certification homunculus. Boston University labored over it for fourteen weeks and spent about 2,700 hours of employee time feeding it data. We stayed up nights when it had the colic, and we even changed it frequently, as we found that the bureaucrats at DOE who devised the 26 separate schedules hadn't bothered to consult over definitions such as what constitutes an "academic program."

Anyway, we have now entrusted our little bundle to the DOE and, like the parents in the station wagon, are putting a brave face on our fears. We have confidence that those DOE people are scrupulous and that it was somehow our own fault that it took 2,700 hours—almost 1 1/2 man-years—to complete the form, since those scrupulous DOE folk say right on page three of the instructions, "the estimated time to complete the application is three hours."

The instructions also say, "Most institutions will have the information required for the application readily available." This, I admit, is a little more worrisome. I grant that my experience as a university administrator is limited entirely to twenty years at Boston University, so it may be that other colleges and universities routinely permute data on admissions and financial aid according to six or seven disparate formulas. We don't, but Boston University will be able to catch up now that DOE has shown us this remarkable productivity-enhancing tool.

Filling in this application helped Boston University accomplish one of the goals of education: It made us a little more self-aware. We now know, for example, that of the 35,979 students who enrolled in at least one Boston University course in 1994, precisely ten did not possess a high school diploma. Thanks to the DOE, our cup runneth over with such factoids—although, I admit, we are not entirely sure what most of them have to do with our eligibil-

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He spoke at The Heritage Foundation on May 3, 1995.

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ity to participate in Title IV programs. One would think DOE would observe that our default rate on guaranteed student loans is 4.7 percent, which is 21.3 percent below the so-called “cohort-default rate threshold,” and that would be that.

The United States is, by any account, the world’s leader in higher education. It has achieved that status by building in the last two hundred years a tremendously diverse array of independent colleges and universities which grew up with distinct educational philosophies and missions. Many were begun by religious denominations, others by self-educated visionaries, some by businessmen and entrepreneurs concerned with the need for educated workers. Typically, they adopted the form that Thomas Jefferson gave to the University of Virginia: They were governed by boards of trustees charged with making sure the institution lived up to its educational mission.

A lot has changed, little of it for the better. Higher education today is beset with self-inflicted problems. The wrenching of curricula to fit the bizarre doctrines of multiculturalism has left a dislocated and miseducated generation of college graduates. At all-too-many supposedly elite campuses, students imbibe the theory of writing but can’t write beyond a junior high school level. At more than a few universities, we have the shameful spectacle of students—and faculty members—shouting down speakers whose views they find exceptional. Faculty unions, tenured layabouts, charging grant overhead for floral arrangements—the sweet whiff of corruption—all these derelictions of responsibility are now well-known, especially to this audience. Tempting as it is, however, I have not come here today to bury these faults deeper in obloquy.

For, in addition to the self-inflicted wounds, higher education bears some other bruises. I draw your attention to the Good Samaritan who thrashes us with a club each time one of us staggers to his feet. I refer, of course, to the federal government and its handy cudgel, the Department of Education.

The DOE no doubt means well. Congress has asked it to fix the problem of soaring default rates in the federally insured student loan program. The problem itself is not intractable, but the combination of experts and tools and instructions which Congress and DOE have assembled is cause for some apprehension. Imagine balancing your checkbook with the aid of three economists, a socket wrench, a can of spray paint, and a copy of Black’s Law Dictionary, and you will have some sense of the situation. I’ll come to the details in a minute. If matters proceed in this fashion, we still will not have a balanced checkbook, but government bureaucrats will be in charge of virtually every detail of what colleges and universities do.

In speaking of threats, I do not mean to sound like the moping owl in the ivy-mantled tower who “does to the moon complain.” Along with the threats, there are some great opportunities, and this is an occasion to point those out too. If we can pull back from the brink, we will find that American higher education still has tremendous potential to contribute to the vigor, the intellectual and spiritual richness, and the prosperity of American life.

But the brink is real. American higher education is on the verge of losing its most precious asset. It is abandoning or being forced to abandon its robust independence, and it will fade into something worse than mediocrity if the government’s regulatory assault is not stopped.

Before describing that regulatory rampage, I should say a word or two about my perspective. “Never confess, never, never confess,” says Joseph Conrad’s deeply observant man of the sea, Marlowe. I will nonetheless divulge that I was a civil rights protester in the early 1960s. I retain a strong conviction that society can change for the better and that govern-

ment has an important part to play in that process. I agree with Edmund Burke that, “A state without the means of some change is without the means of its conservation,” and that to criticize is one thing, but “at once to preserve and to reform is quite another.”

Until the 1960s, the federal government intruded very little into university management. The GI Bill and the research funding that followed World War Two were accompanied by surprisingly little red tape. Lyndon Johnson’s Great Society, however, changed this. By establishing numerous programs designed to expand access to higher education, the federal government became enmeshed in the attempt to re-shape higher education.

Many of these programs had broad bipartisan and public support. At first, the reams of new government regulations seemed a harmless enough price for programs that promised to benefit everyone, including colleges and universities. Few had the foresight to see that, over the next thirty years, Congress would transform programs meant to open doors to educational opportunities into welfare systems.

Federally insured student loans, for example, were designed with the help of conservative legislators as a means of providing greater access to higher education with a minimum of government involvement. Initially, they expanded opportunity on an equal basis, assisting anyone who met the usual criteria for getting into college. Over these thirty years, however, they have been increasingly used by the government as a low-visibility way to subsidize selected institutions.

The program began with default rates comparable to those accepted by commercial lenders. In 1972, the government lifted the ceiling beyond what any commercial lender would tolerate—and, finding it was good, lifted it again in 1976, in 1978, and in 1983. It is now 25 percent for most institutions and more for “historically black colleges and universities [and] tribally-controlled community colleges.” The average default rate at proprietary schools is over 30 percent.

At the same time, the government began lowering the minimum academic standards necessary to qualify for loans. Today, neither a high school diploma nor equivalency exam is required for taking out a federally guaranteed loan for what is called “post-secondary” education. Finally, the default rates have soared partly because the government is unwilling to require “disadvantaged” members of society to pay back the loans.

In short, today’s student loan crisis is largely the result of permitted defaults by unqualified students who borrowed money to attend vocational schools which provided inadequate education and few job prospects.

Neither universities nor private lenders would have, on their own, permitted the student loan crisis. The key ingredient was Congress, which insisted that the real decisions about who would receive the student loans would be made by the federal government. This is one instance of how the federal government’s attempts to direct higher education have gone awry. I do not have time to present anything like a systematic account of the destruction Congress has wrought in this area in the last three decades, but I will try to give you a Cook’s tour of the most monumental follies. Our first stop has been the Great Convergence, formerly known as the Great Divide. Rivers once flowed east and west from this point. Institutions, ideas, and people went their separate ways. But Congress, through some elegant diversions, has now ensured that everything flows to Washington.

I should also like to suggest some ways in which these monuments to folly can be replaced with the verdant fields and pleasant vistas of good sense. In the case of federally insured student loan programs, good sense points in one clear direction. The programs

should again be made commercially viable. The exemptions for those institutions which are allowed to exceed the 25 percent default rate should be abolished, and the tolerated default rate should be lowered to a commercially acceptable level. No student who is not a high school graduate or who has not passed a high school equivalency examination should be considered qualified for federally insured student loans.

New educational institutions or ones which have exceeded the default rate threshold should be required to put up an insurance bond to protect against future loan defaults. I would add to this that tuition refund regulations should be clearly defined; the current state of confusing formulae leads to abuse.

We should take a close look at the patterns of abuse and respond accordingly. Physicians, for example, are close to the top in the rankings of those who default on student loans. This could be corrected almost overnight by barring Medicaid and Medicare reimbursements to doctors who default on their student loans and who fail to make amends within one year. That principle can be extended. Loan recipients who default and fail to make amends within one year should be barred from receiving any federal funds or contracts.

These initiatives will return student loan programs to what was originally intended: expanded educational opportunity at modest cost. In 1970, the taxpayer's bill for guaranteed student loans was \$2.3 million on a volume of \$770 million. In 1993, the bill had grown to \$5 billion on a volume of \$18 billion. Adjusted to 1993 dollars, the cost to taxpayers per dollar loaned has risen from about .28 cents in 1970 to 28 cents in 1993. That is a 9,900 percent increase.

If we knew then what we know now, or if the clock could be turned back thirty years, perhaps we would not choose to go down the road of federally insured student loans. In that case, there would be far fewer colleges and universities, and there would be far fewer students at those which remained. But this is like wishing for a United States with an agrarian economy. We can't undo the past. This society has made a commitment to mass higher education. The attempt to reel in the percentage of the young who attend college to a European or Japanese level is not politically feasible, even in the unlikely event that we decided it would be a good idea.

Besides, as we have seen, there are simple ways in which the federally insured student loan crisis can be—and should have been—solved. Unfortunately, Congress and the Department of Education had an entirely different idea. They responded by adding yet more bureaucratic regulation and by making the programs even less commercially viable. The most intrusive part of this misguided response involves university and college accreditation.

I approach this topic with a little trepidation. H.L. Mencken once called the Bible Belt “the Sahara of the Beaux Arts.” Accreditation is something like the Death Valley of the life of the mind. It is a dusty plain, leagues below the sea level of normal human cogitation, inhabited by scorpions and sidewinders. I could tell tales of college administrators stranded in this desperate landscape and languishing after mirage oases labeled “the assessment movement” and “teaching portfolios.” But that's for another time. What I am concerned with now is the invasion of the dirt-bikers.

Accreditation at its best puts quacks out of business, but it is more typically a technique used by professional interests to feather their own nests. The most egregious example is the American Bar Association, which has a stranglehold on American legal education. Many of the ABA accreditation rules have only gossamer connections to the quality of legal education, but all of them have a laser-like focus on the perquisites of being a law professor—down to specifying the number of square feet in each faculty member's office. You can get a

fair picture of the world of specialized accreditation by imagining 250 or so would-be ABAs, each carping for a finer grade of ivory in its part of the tower.

When all is said and done, however, we university administrators have a certain grudging respect for the specialized accreditors. Some know their business, and at worst they are driven by old-fashioned greed. In any case, specialized accreditors do not come close to the other great branch of academic accreditation, the regional accreditation agencies, for exemplifying lassitude, incompetence, and day-to-day bewilderment, combined with a solemn sense of rectitude and, of course, a desire to augment their authority. I realize that that description could apply rather well to several government agencies, but the regional accreditation agencies are not—or not quite—part of government. They are part of that shadowy world of quasi-governmental agencies which enjoy governmental authority but are largely unaccountable.

The six regional accreditation agencies, which accredit whole institutions rather than specific programs, gain their prominence from the stipulation that only accredited colleges and universities can participate in federal financial aid programs, including the Title IV student loan programs.

In 1992, when Congress recognized that default rates had gotten out of hand, it observed, correctly, that some of the worst offenders were schools that it had exempted from the loan-default rate ceilings, along with a small number of proprietary schools. You and I could probably think of several solutions to this problem. I've sketched some of those earlier. But it's unlikely that in our most demented fantasies we would come up with the particular answer that Congress wrote into the Higher Education Act Amendments of 1992. Instead of merely shutting off the spigot to the offending institutions, Congress decided to turn the regional accreditation agencies into an enforcement wing of the Department of Education.

Instead of isolating problem institutions and kicking them out of the program, it told accreditation agencies that they would be responsible for fixing the problem, on pain of losing their ability to operate. This brings us to our current pass, in which the Department of Education and several of the accreditation agencies, operating under the curious but imposing title "The National Policy Board," have developed a proposal to nationalize accreditation.

The arid landscape of accreditation is now roaring with joy-riding regulators, the dirt-bikers of Death Valley. Again, the solution is common sense. Congress must intervene to keep government from taking over accreditation. The linkage between accreditation and the Department of Education must be broken, and the government-mandated monopoly of accreditation agencies should be abolished.

I can think of several very concrete things Congress could do to bring some sanity back to this process. First, Congress should change the Higher Education Act Amendments of 1992 to eliminate the requirement that higher education accrediting agencies themselves be accredited. This requirement is at the bottom of DOE's attempt to take over accreditation and of the National Policy Board's attempt to nationalize the system.

Accreditation agencies should be, in effect, accredited by their customers. If they have anything worthwhile to offer colleges and universities, colleges and universities will pay them for it. Generally, colleges and universities will pay to be reviewed by the agency which has the strictest standards that the institution thinks it can pass. A free market in accreditation agencies will quickly stratify, with the toughest agencies attracting the best colleges and universities. The public will benefit from a genuine ranking system.

Congress should eliminate the link between accreditation and eligibility for federal funds, including federally guaranteed student loans (Title IV). Accreditation should be about the quality of academic programs, not about the rate at which students default on government-backed loans.

Congress should also stipulate that the Department of Education has no role to play in accrediting institutions of higher education. The DOE has made clear that it is not a good judge on issues of academic quality, and the prospect of its telling others how to promote academic quality is grimly amusing.

Let us leave Death Valley. I have a great deal of hope that the current Congress will undo the mischief of years past, but it is a vast and bleak landscape, and relief is long overdue. The next stop on this tour is the Old Growth Forest, a place of deep calm, even torpor, where the government has decided there will be no harvesting of even the most mature trees. The Old Growth Forest lies in pleasant Tenure County. The deep calm exists because those who live there know that no matter how feeble their performance, how desultory their efforts to keep up with the times, and how pressing the need to start new seedlings, Congress has determined they can stay put so long as they can breathe.

As of January 1994, universities and colleges are no longer permitted to have a mandatory retirement age for faculty. This intrusion into the terms of faculty employment nominally makes professors like workers in any other sector of the economy. But in reality, it does nothing of the kind, because no other part of the economy is encumbered with the tenure system. This law has effectively given tenured faculty a lifetime appointment.

The problem clearly has two sides. Universities and colleges should be seeking ways to reform or abolish tenure. The traditional legs on which tenure stands are economic security and academic freedom. Economic security is a fine thing, but in universities it should never trump competence. And the major threats to academic freedom today come not from a repressive society but from repressive ideologies espoused mostly by those who live under the cover of tenure. Boston University successfully abolished tenure in its Medical and Dental Schools in 1973, and we have been making some inroads in other areas since, most recently by offering some faculty members long-term contracts instead of tenure. It is, however, a hard nut to crack. A single institution has to have powerful attractions to recruit individuals who have the possibility of guaranteed lifetime employment at a competing institution.

By outlawing mandatory retirement for faculty, the government is making the effort to eliminate tenure even more difficult, and it is—inadvertently—closing opportunities for many other people. The life of most senior faculty members is generally not so strenuous. Many faculty members are willing to keep going in the absence of a stick or a carrot that gives them some incentive to stop. The result is that there is less turnover and fewer positions for faculty members who are attempting to establish their careers.

The Old Growth Forest is getting older. Congress must repeal the law which prohibits universities and colleges from setting mandatory retirement ages for faculty.

The next stop on our tour is the High Plateau, the setting for a wonderful new institution, Learning Disabled University. LDU got its start from laws designed to prohibit discrimination against the handicapped. The Americans With Disabilities Act and Section 504 of the Rehabilitation Act are being used—perhaps contrary to legislative intention, but nonetheless—to force colleges and universities to lower academic standards.

Children are now reaching college having been swaddled for years in the comforting illusions of learning disabled theory. Enormous numbers of students in grade school and high school have been diagnosed “learning disabled.” In Massachusetts, almost one in five students is crammed into this category. The national average is twelve percent. Are we in the midst of a silent genetic catastrophe?

LDU is trying to keep LD philosophy students safe from the perplexities of Aristotle, to accommodate foreign language majors who have foreign language phobia, and to comfort physics students who suffer from dyscalculia, which is, of course, the particular learning disablement that prevents one from learning math.

I do not wish to imply that Boston University has escaped all the moonbeams illuminating campuses coast to coast. A month or so ago, I discovered that our Office of Disability Services had, without permission, begun issuing exemptions from the language and math requirements on precisely the bases I described. I put a stop to it, and now I await as intrepidly as a brewer of hot coffee the lawsuits that are sure to follow. I think, for example, of the suit against Tufts University, filed by a student who claimed that Tufts was required under the ADA to accommodate her psychological disability, which consisted of an aversion to taking tests.

Nor do I wish to mislead you by suggesting that Learning Disabled University is entirely the province of students and their LD counselors. I think, for example, of the former philosophy professor that Boston University fired after finding him guilty of sexually assaulting another faculty member and of forcing his attentions on three undergraduate students. He responded with the novel defense that his lecherous behavior was the result of a disability: namely, inhibitions chronically lowered by his ingestion of prescription drugs. He is now suing Boston University, claiming that his behavior was protected by the ADA and the Rehabilitation Act. I wish I were making this up, but I'm not.

The disability laws are sacred cows, but they must at the very least be tethered so that they cannot be used to force universities to lower academic and other standards.

My tour of follies in higher education has concentrated on sites that have benefited, so to speak, from Congress's helping hand. The Great Convergence of student loan programs, the Death Valley of accreditation, the Old Growth Forest of mandatory retirement, and the High Plateau, home to Learning Disabled University, could not have become what they are without the wise counsel of Congresses past.

I am conscious that in this speech I have been finding a great deal of fault with existing arrangements. Burke, whom I referred to before, also observed that “those who are habitually employed in finding and displaying faults are unqualified for the work of reformation.... By hating vices too much, they come to love men too little.” In fact, I do not think I am habitually employed in finding fault; this is a rather special occasion.

Also, by concentrating on the evils brought on higher education by the government, I do not mean to suggest that only government can solve the problems it has created. Boston University, for example, has a number of initiatives which show how universities can help get government off the back of higher education.

We have sought to lessen our dependence on federal research funding through Boston University's Community Technology Foundation, a venture capital fund established to develop the commercial potential of the work of our own researchers. We have invested about \$60 million in Seragen, Inc., a start-up biotechnology company based on a break-

through by a researcher in our Medical School. Seragen is currently in Stage III Clinical Trials for a promising treatment of cutaneous T-cell lymphoma.

Disregarding Conrad's advice yet again, I must also note that Boston University has received several large federal grants—earmarked funds, if you will—which paid part of the costs of very expensive science and engineering facilities on our campus. The Heritage Foundation is a place where one does not expect such a statement to be met with resounding applause, but I mention it for good reason. Our nation's universities are one of its major sources of commercially developable ideas and patents. The nation as a whole stands to gain a great deal economically and in other ways by treating some universities, in some respects, like venture capital firms. The public should invest in those who have the energy, the know-how, and the overall promise to deliver—and then wait and see. Government micro-management of research grants is wasteful. Perhaps paradoxically, and certainly contrary to the assumptions of many, pork barrel projects often give the public its best return.

That's my apostasy for the day. Boston University has taken some other steps that I am more confident you will agree are in the right direction. We have shown it isn't necessary to take a laissez-faire attitude toward drugs, toward uncivilized behavior in the dorms, and toward bully-boy political behavior on the streets in order to attract students.

We have shown that it is still possible to have a university that isn't kidding when it says that its principal mission is the pursuit of truth.

I observed at the outset that leaving a child at college for the first time leaves a parent with some anxiety. I rather facetiously compared that to the anxiety a university administrator feels entrusting to the DOE the mounds of make-work the federal government now demands of us. There is, however, a more serious side to this anxiety. Most children learn to live responsibly with the freedom of campus life as a prelude to the responsibilities of full adulthood. With some trepidation, parents grant their children the independence to live up to the challenges.

We'd like a government that has at least that much faith in its citizens. American higher education is one of this country's most outstanding accomplishments. A federal government that is prudently supportive is all we need. Most things we can do better on our own.

