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New Rules Worry Christian Colleges

Government's solution to for-profit problems may threaten schools' autonomy.

Naomi Schaefer Riley | posted 11/01/2010 10:35AM

Today the Department of Education (DOE) will finalize a new set of regulations that have many private colleges and universities concerned and religious institutions downright alarmed. Formulated in response to allegations of financial-aid fraud at some for-profit institutions, these 80-odd pages of rules contain 14 different directives, one of which could provide a back-door threat to the ability of Christian colleges to control curriculum, admissions, and hiring standards. (Another rule, requiring for-profit universities to demonstrate a minimal rate of post-graduate employment, has been delayed after it drew protests.)

The directive, mandated for implementation by July 1, 2011, asks states to develop a procedure (if they don't already have one) to license private educational institutions. The procedure must be a "substantive" one, and if schools do not comply the states are required to take "adverse action" against the institutions. (Under current law, as long as a school is approved by a federally recognized accreditor and is allowed to operate in a particular state, that school will be eligible to receive Title IV financial aid for its students.)

The new rule threatens to introduce another layer of bureaucracy to higher education. And while some states will probably exercise restraint in implementing new rules for universities, the concern is that others may not.

As Hank Brown, former president of the University of Colorado, and Bill Armstrong, president of Colorado Christian University, wrote in a recent op-ed in *The Denver Post*, "Who can doubt that various interest groups will soon begin to clamor for ideas to be mandated by law as requirements for college classrooms?" Armstrong said in an interview that the new regulations "could set the stage for the renewal of the culture wars" as various groups clamor to determine the content of the curriculum. Should states be involved, Armstrong asks, "in whether colleges teach evolution or intelligent design, or whether a family is a man and a woman or two men?"

Indeed, some states already impose a religious test in deciding which educational institutions receive funds from state coffers. Students at Houghton College and Nyack College, both in New York, are ineligible to receive certain state financial aid because the schools are considered "pervasively sectarian." So it would be easy to imagine states imposing similar tests for federal financial aid if they were made gatekeepers.

Terry Hartle, senior vice president of the American Council on Education (which represents over 2,000 schools that are public and private, for-profit and nonprofit), says he understands the government's desire to protect taxpayer dollars and ensure educational quality, but he worries that "state bureaucrats will use the new authority to go well beyond these mandates" and "get into the business of judging curriculum, student admissions, and faculty hiring."

For religious schools that often have particular approaches to all three, the implications are unsettling. Paul Corts, president of the Council for Christian Colleges and Universities, wrote in an email that new state regulations "could inadvertently or intentionally be especially onerous to our institutions that are trying to

incorporate a Christian/biblical worldview in virtually every aspect of our institutional programs."

Organizations like ACE and the CCCU registered their objections during the public comment period over the summer (the directives were published in the *Federal Register* in June), but no response has been issued from the DOE. Rep. Bob Inglis of South Carolina circulated a letter to his colleagues in the House of Representatives on October 22 asking them to urge the DOE to delay the finalization of the rules. He suggested that the "sweeping regulatory remedies ... may compromise the integrity, freedom, and flexibility of private colleges and universities across the country."

Senator Lamar Alexander of Tennessee expressed concern that "increase[d] state government supervision" would reduce the "independence and autonomy" that undergird the strength of the U.S. education system. "Private colleges and universities are currently supervised by their accrediting agencies, and the Secretary of Education approves those agencies," he said. "If that system needs improvement, we should have that conversation—not hand over the management of private colleges and universities to bureaucrats in Nashville or Sacramento or Boston."

Jane Glickman, a spokeswoman for the DOE, said she was unaware of these objections. When asked whether there was a chance the department would be reconsidering matters, she responded, "Nothing is going to be delayed."

There was recent hope among some higher education leaders that the DOE would carve out an exemption for religious institutions to prevent the sort of interference discussed above. In a revised set of regulations released on Thursday, there was a very small exemption. If religious institutions were already exempted from state authorization by state law or the state's constitution, then that exemption would continue.

But in order to qualify for that exemption, schools must meet the DOE's new definition of a religious school. According to the DOE, "an institution is considered a religious institution if it is owned, controlled, operated, and maintained by a religious organization lawfully operating as a nonprofit religious corporation and awards only religious degrees or religious certificates including, but not limited to, a certificate of Talmudic studies, an associate of biblical studies, a bachelor of religious studies, a master of divinity, or a doctor of divinity."

This definition excludes colleges from Georgetown to Notre Dame and from Baylor to Wheaton. Not only are many of the country's religious schools not maintained or operated by a religious organization, but almost all of them award degrees that are not religious. And a few religious schools operate as for-profit institutions as well.

The almost 900 pages of new regulations released last week (which include comments as well as 82 revisions to the original document) have left many scratching their heads. Anne Neal, president of the American Council of Trustees and Alumni, says she doesn't understand how the introduction of state authorization would prevent the kind of problems that inspired the regulations in the first place. The fraudulent practices engaged in by a few for-profit schools are already illegal under federal law.

Hartle suggests that the fundamental problem with the regulations is that they fail to recognize how different American colleges and universities are from one another. "The more you try to fit all institutions of higher learning into a single box, the harder it gets to preserve the great diversity that is such a hallmark and strength of our system."

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