GETTING OUR HOUSE IN ORDER

Clarifying the Role of the States in Higher Education Quality Assurance

September 2016

Teresa E. Taylor, Arthur L. Coleman, Bethany M. Little, and Amber N. Saddler

EducationCounsel
Policy | Strategy | Law | Advocacy

Acknowledgements
This paper was developed with the support of Lumina Foundation. It was significantly informed and guided by feedback from a diverse group of stakeholders in higher education, including Lumina Foundation staff, policy and practice experts and researchers, state practitioners, and leaders from national organizations. Special thanks is due to the following individuals who attended "braintrust" meetings to explore these issues: Tom Allison, Julie Bell, Paula Compton, David Croom, Joseph Garcia, Thomas Harnisch, Robyn Hiestand, Marshall Hill, Nicholas Hillman, Sally Johnstone, Amy Laitinen, Paul Lingenfelter, Peter McPherson, Jesse O'Connell, Iris Palmer, George Pernsteiner, Russ Poulin, Travis Reindl, Ken Sauer, Brian Sponsler, Sean Tierney, and Ralph Wolff.

The paper builds on prior EducationCounsel work related to higher education quality assurance and accountability, most notably *Getting Our House in Order: Transforming the Federal Regulation of Higher Education as America Prepares for the Challenges of Tomorrow* (March 2015), also developed with the support of Lumina Foundation.

About EducationCounsel
EducationCounsel is a mission-based education consulting firm that combines significant experience in policy, strategy, law, and advocacy to make dramatic improvements in education outcomes throughout the United States. EducationCounsel develops and advances evidence-based ideas to strengthen educational systems and promote expanded opportunities and improved outcomes for all students in order to close achievement gaps and significantly improve education outcomes for all children from early childhood through postsecondary education. Issues of higher education access and diversity have been central to its work since its formation. EducationCounsel team members help lead the work of the College Board's Access and Diversity Collaborative. EducationCounsel is affiliated with Nelson Mullins Riley & Scarborough LLP.

For more information, please visit http://www.educationcounsel.com.

©2016 EducationCounsel. All rights reserved.

Please note: This paper is intended for informational and policy planning purposes only. Nothing herein constitutes specific legal advice. Legal counsel should be consulted to address institution- or state-specific legal issues.

Introduction and Overview

States play many roles related to higher education: establishing and nurturing state institutions, administering state financial aid programs, promoting student access and success, and supporting myriad other efforts to promote and sustain higher education. This paper focuses the state's role in quality assurance, an essential state function in today's higher education environment where too many students enter the system but are left without a meaningful credential.

For decades after World War II, states often acted as "proud parents" of their higher education systems and made funding institutions and students one of their top spending priorities.[1] Today, however, states face a wide array of increasing demands from health care, the criminal justice system, K-12 education systems, and other social services while also under pressure to reduce taxes and cut state budgets.[2] Given this – and the fact that colleges and universities can raise funds through tuition – many states have reduced higher education funding, especially in the wake of the financial downturn.[3]

This state divestment – a topic of much recent attention – has impacted the state's quality assurance system in two important ways. First, as students and families are increasingly shouldering more of the financial burden of paying for college, they depend on regulatory and information systems that promote quality postsecondary programs that offer valuable credentials. States are uniquely positioned to play this role because they are primarily responsible for authorizing public and private institutions to operate in the first place.[4] Second, divestment has affected the state's administrative role in overseeing higher education, with many state agencies and regulatory bodies having to do more with less.[5]

States remain significant investors in and supporters of American higher education. They seek the effective, efficient use of limited state resources and the positive economic and workforce benefits that accrue from well-educated citizens and strong institutions of higher education. And other actors within the national quality assurance system – the "triad" of states, the federal government, and accrediting agencies – depend on states effectively playing their role. Thus, as policy conversations continue, the goal should not be to ignore or diminish the state role but to better understand it. This includes an examination of how different actors within the triad are *intended to act* and *actually act*.

---

[1] Michael P. Meotti, *The States and Higher Education: An Evolving Relationship at a Pivotal Moment*, CHANGE (2016), http://www.changemag.org/Archives/Back%20Issues/2016/January-February%202016/higher_ed_abstract.html.

[2] Karin Fischer & Jack Stripling, *An Era of Neglect*, CHRON. HIGHER EDUC. (Mar. 2, 2014), http://chronicle.com/article/An-Era-of-Neglect/145045/.

[3] E.g., Michael Mitchell & Michael Leachman, Center on Budget & Policy Priorities, *Years of Cuts Threaten to Put College Out of Reach for More Students* (May 13, 2015), http://www.cbpp.org/research/state-budget-and-tax/years-of-cuts-threaten-to-put-college-out-of-reach-for-more-students.

[4] The federal government does authorize a few institutions to operate, such as the national military service academies, and some institutions were created before their states came into existence.

[5] A few recent examples include: KFOR-TV & K. Querry, *By the Numbers: Winners and losers of Oklahoma's proposed budget*, NEWS CHANNEL 4 (May 24, 2016, 5:01 pm), http://kfor.com/2016/05/24/by-the-numbers-winners-and-losers-of-oklahomas-proposed-budget/ ("State Regents for Higher Education was hit with an additional budget cut, even after its funding was cut by nearly 16 percent last fiscal year.); Meagan Ellsworth, *Texas leaders ask agencies to cut four percent from budgets*, COURIER OF MONTGOMERY COUNTY (June 30, 2016, 10:44 pm), http://www.yourhoustonnews.com/courier/news/texas-leaders-ask-agencies-to-cut-percent-from-budgets/article_64a3e2be-0f11-5c5c-a178-5d85f1c8cf2e.html.

The paper aims to help stakeholders better understand the complexities of the state role. Guided by published research and the perspectives of leading state experts, stakeholders, and researchers, this paper aims to inform policy by:

1. Discussing the triad today;
2. Examining the array of state roles related to higher education quality assurance; and
3. Positing a list of core responsibilities that all states should fulfill to support effective quality assurance systems.[6]

Several infographics are included throughout the paper to help clarify the various relationships and responsibilities at play. The appendix provides a closer look at the unique responsibilities of different state actors and the areas in which different actors' responsibilities overlap.

1. The "Triad" Today

The "triad" – the shared role of the federal government, accrediting agencies, and states related to postsecondary quality assurance – has overseen American institutions of higher education for decades.[7] Relationships have evolved over the years (and will no doubt continue to do so), but the core areas of responsibility are relatively straightforward, at least in theory.

- **The federal government** ensures that institutions have sufficient financial responsibility and capacity to support effective higher education programs to protect taxpayer interests in spending federal money wisely. Federal actors also can convene and help define expectations for other members of the triad for purposes of institutions' federal funding eligibility.
- **States** grant most institutions the basic authority to operate, either by establishing public institutions or by granting private institutions the lawful ability to charge students for providing education services in the state. Along with this state authority come significant consumer protection responsibilities (e.g., investigating and resolving claims of waste, fraud, abuse).[8]
- **Accrediting agencies** examine the many factors that affect institutional quality to ensure that quality is sufficient to merit accreditation status (one condition for federal financial aid

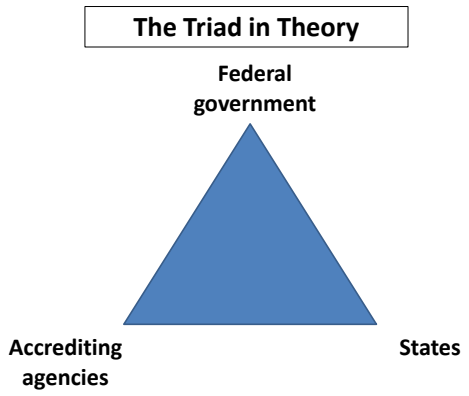
[6] This paper was developed in light of experience and several scholarly works, including JAMIENNE S. STUDLEY, NACIQI, HIGHER EDUCATION ACT REAUTHORIZATION: ACCREDITATION POLICY RECOMMENDATIONS 3-5 (2012), *available at* https://www2.ed.gov/about/bdscomm/list/naciqi-dir/2012-spring/teleconference-2012/naciqi-final-report.pdf; MATTHEW FINKIN, CHEA, WHO WATCHES THE WATCHMAN? THOUGHTS ON THE FEDERAL RELATIONSHIP TO ACCREDITATION IN HIGHER EDUCATION (Jan. 2009), http://www.chea.org/pdf/2009_AC_Who_Watches_the_Watchman_Finkin.pdf; David Longanecker, *Higher Performance Higher Education: The Federal Role,* NEA HIGHER EDUC. J. (April 11, 1995), http://www.nea.org/assets/img/PubThoughtAndAction/TAA_95Spr_03.pdf.

[7] STUDLEY, NACIQI, *supra* note 6, at 3-8.

[8] The federal government has long relied on the states' roles as authorizer and investor. See, e.g., Jamienne Studley, Dear Colleague Letter, U.S. Dep't of Educ. (June 19, 2015), http://ifap.ed.gov/dpcletters/GEN1510.html (explaining that institutions offering postsecondary education programs and seeking Title IV eligibility must be legally authorized by a state that can review and act upon student complaints); 20 U.S.C. § 1015f (describing the College Access Challenge Grant program's requirement that states maintain their funding commitment to public colleges at a level equal to the average amount provided over the five preceding fiscal years and to students at private colleges through sustained financial aid).

eligibility).[9] The accreditation process includes guided institutional self-study, peer review and site visits, and regular communication between the accreditor and the institution.

But the triad *in practice* is highly complex because it implicates 50 different state systems of higher education quality assurance, as the graphics below illustrate. (The colors are solely for visual effect to show that each state has a unique approach to its quality assurance system.) Generalizing across states can be challenging because state political, economic, historical, and social contexts can differ greatly – not to mention the differences in state governing structures and priorities for higher education.[10] For example, there is considerable variability in states' level of reliance on accreditation as a prerequisite for initial or continued state authorization for some or all institutions.[11]



Over time, lines between triad members have blurred as federal investment and expectations have increased.[12] For example, the federal government has created detailed expectations for accrediting agency standards through the recognition process (including monitoring of federal requirements for institutions such as adherence to federal credit hour parameters) and has attempted to define "state authorization" with greater clarity. Throughout these efforts, accrediting agencies, states, and institutions have voiced concerns that federal expectations did not fully take into account contextual differences and on-the-ground realities.[13]

---

[9] For additional discussion of accreditors' role and how it could evolve to meet the needs of today's higher education system, see EDUCATIONCOUNSEL, FRAMEWORK FOR RISK-INFORMED, DIFFERENTIATED ACCREDITATION (2016), *available at* http://educationcounsel.com/?publication=framework-risk-informed-differentiated-accreditation.

[10] A 50-state comparison of postsecondary governance structures showed a range of variability in many areas, including state-level coordinating or governing agencies, system and institutional governing boards, and state student assistance and loan agencies. AIMS C. MCGUINNESS & MARY FULTON, EDUCATION COMMISSION OF THE STATES (ECS), 50-STATE COMPARISON: POSTSECONDARY GOVERNANCE STRUCTURES (2007), http://www.ecs.org/postsecondary-governance-structures/.

[11] A 2010 study of the relationships between states and accrediting agencies found "[considerable] variation across states in language, assigned responsibilities, and behaviors." PETER EWELL, MARIANNE BOEKE, & STACEY ZIS, NATIONAL CENTER FOR HIGHER EDUCATION MANAGEMENT SYSTEMS (NCHEMS), STATE USES OF ACCREDITATION: RESULTS OF A FIFTY-STATE INVENTORY (2010), *available at* http://www.nchems.org/pubs/docs/CHEAStateStudy_2010_11.30.10.pdf.

[12] STUDLEY, NACIQI, *supra* note 6, at 3-5.

[13] The recent controversy related to the state authorization provisions within USED's proposed "Program Integrity" rules illustrates this problem. USED had proposed that states conduct an "active review" of institutions as a condition for private institutions' federal financial aid eligibility. This proposal was likely to require a large majority of states to make statutory changes and to dedicate significant new resources to the process – but the ultimate responsibility to ensure

States, of course, do not carry out quality assurance functions alone – and their role could be enhanced with greater clarity about the roles of the federal government and accreditors. But the state role within the triad remains an important one, especially as it becomes increasingly clear that the existing system provides insufficient protections of taxpayer and student investment in the current higher education landscape.[14] The next section goes more deeply into the unique actors, roles, and responsibilities related to the state role in postsecondary quality assurance.

2. The State Role in Higher Education Quality Assurance

Defining the state "role" in higher education quality assurance requires examining many layers of complexity. There is no single role that states play; states perform many functions within and beyond the triad to assure the quality of institutions of higher education and protect the interests of students and taxpayers. These state functions are carried out by multiple actors with different priorities, responsibilities, and interests related to higher education that can change over time, especially after elections. And each state plays its postsecondary quality assurance role in a unique way, making generalization difficult.

But a review of existing state practices, the research base, and expert and practitioner perspectives can help explicate these complexities. As a starting point, understanding the state role solely through its place in the triad is a bit like looking in the wrong end of the telescope. Instead, the state role is best understood through the state's own perspective. That means looking more closely at the larger state "ecosystem" of actors that have a variety of interests and responsibilities related to quality assurance.

Though each state is unique, a few general groups of actors tend to exist in each:

- ***Core actors*** whose primary purpose, responsibility, and authority relates to higher education, such as the State Higher Education Executive Officer (SHEEO), the State Higher Education Agency (or Agencies),the State Governing or Coordinating Board of State College and University Systems, the State Professional Licensing Boards, and institutions of higher education
- ***Key influencers*** with much broader portfolios but who have important authority and influence over higher education, such as the state legislature, governor, and attorney general
- ***In-state partners*** that have important interests in higher education but do not have specific quality assurance roles, such as students and families and the state Chamber of Commerce as well as in-state employers and businesses

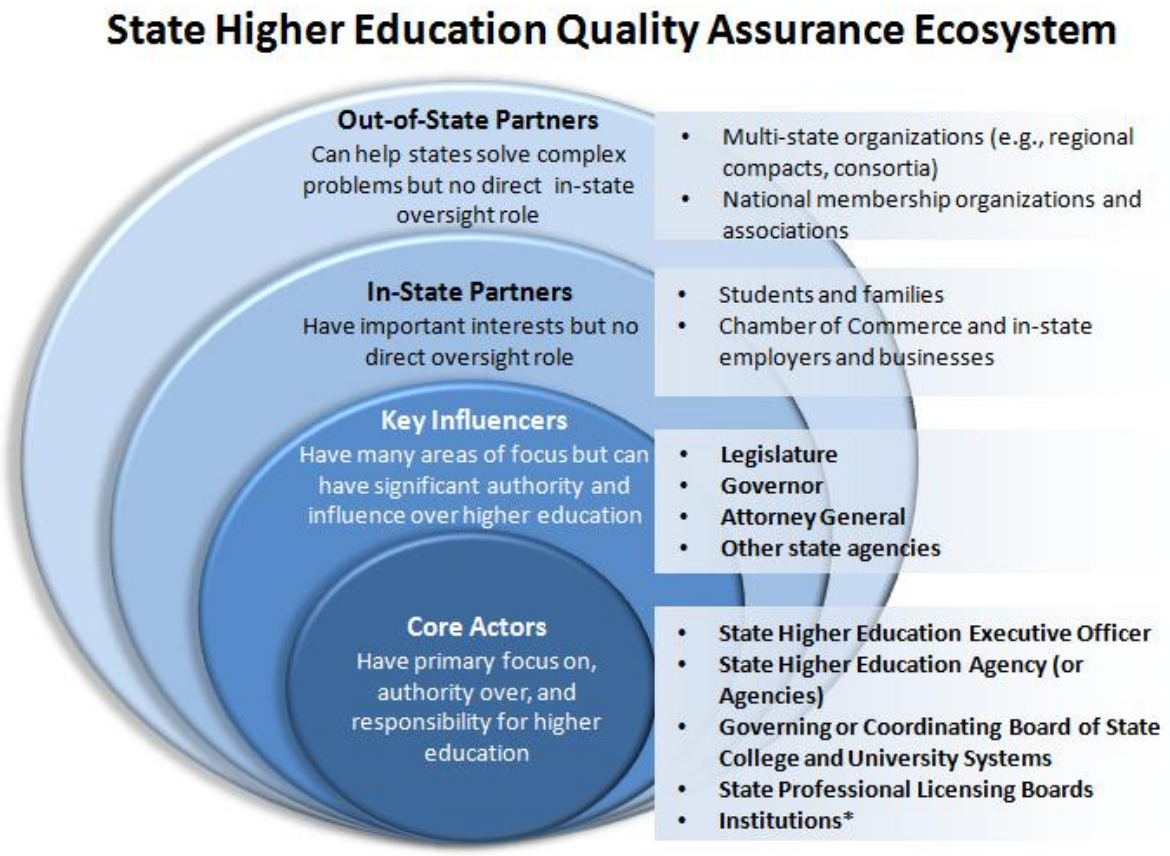
---

that states made these changes fell on private institutions, not the states themselves. Due in part to this mismatch, negotiated rulemaking on this issue failed in 2014. Russ Poulin, *State Authorization Negotiated Rulemaking: What Happened? What's Next?*, WCET BLOG (May 29, 2014) (estimated that 45 states would need to make at least some changes under the rules proposed at the time), https://wcetblog.wordpress.com/2014/05/29/state-auth-negreg-what-happened/.

[14] The recent failure of Corinthian Colleges, for example, has been a flashpoint for many and an example of the broader concern that oversight structures may not be setting expectations and monitoring institutional results. More broadly, the continuing challenges related to student retention and completion at many institutions from all sectors suggest that current quality assurance measures are insufficient for the changing higher education landscape.

- ***Out-of-state partners*** that may help the state carry out its oversight role by providing collaborative solutions to complex problems: Multi-state organizations (e.g., regional compacts, consortia) and national membership organizations and associations

The graphic below illustrates these relationships. The appendix goes into greater detail about the specific responsibilities within the broader ecosystem, including both those that are generally shared by multiple actors and those that tend to be carried out by a specific actor.



** Institutions wield significant influence in their states, but are answerable to the other core actors and key influencers for assessment of the quality and value of their own programs. Thus, this paper does not discuss their role in detail.*

How these roles play out *in practice* may not be the same as intended *in theory.* State actors do not always work in concert or communicate effectively with one another; at times, they can even be pitted against each other.[15] Moreover, momentum can be lost during leadership transitions as priorities change, personnel changes over, and lines of responsibility blur between and among actors.

[15] For example, Kentucky's governor, legislature, and attorney general have been at loggerheads over several higher education issues in 2016, including state funding levels for higher education, the appointment of the Board of Trustees for the University of Louisville, and the attorney general's ongoing investigations of for-profit institutions operating in the state. Danielle Douglas-Gabriel, *Kentucky's attorney general sues governor over higher-education cuts*, WASH. POST (April 12, 2016), https://www.washingtonpost.com/news/grade-point/wp/2016/04/12/kentuckys-attorney-general-sues-governor-over-higher-education-cuts/; *Kentucky AG Moves to Stop Louisville Board Overhaul*, INSIDE HIGHER ED (June 23, 2016), https://www.insidehighered.com/quicktakes/2016/06/23/kentucky-ag-moves-stop-louisville-board-overhaul.

The "key influencers" have significant other responsibilities in the state beyond higher education. Their attention is divided and, though they *could* take on the listed responsibility for higher education, they do not always have the time, resources, or drive to do so. And sometimes there are conflicts between their higher education quality assurance responsibilities and demands from other responsibilities such as employment or economic development. Meanwhile, the "core actors" may have the focus, experience, and expertise to carry out their roles, but do not usually have the visibility and influence on their own to drive bigger picture interests such as the state's vision for higher education and the budget to support it.

As a result, a sense of purpose and vision shared across state actors is often missing, which can prevent the establishment and maintenance of effective policies and processes for institutional quality assurance. This has been true for decades, but may be particularly concerning today. Changes in institutional size, educational delivery methods, and the range of institutions' activities present significant challenges to existing quality assurance systems and mechanisms. Indeed, our rapidly evolving higher education sector has in many ways outgrown oversight structures that were created when institutions operated a confined geographic area.

States will no doubt continue to wrestle with their own dynamics related to higher education over time, with change as the only constant. Most of these conversations will necessarily be state-specific, motivated by the unique context of the affected state. But states also do not operate within a vacuum. Federal actors and accrediting agencies alike depend on the performance of state roles to enable them to carry out their own responsibilities, most notably states' authorization of public and private institutions to operate and an expectation of corresponding consumer protection. The next section posits a list of state responsibilities within the triad that can apply to all states.

3. Identifying Core State Responsibilities Within the Triad

Creating common understanding of general state responsibilities can help clarify expectations and roles within the triad.[16] A realistic assessment of state capacity should also inform how state responsibilities are defined, especially given the expanding scale of American higher education and the resulting need to cover more ground *and* avoid duplication of efforts among triad members. This requires more than a simple assessment of staffing and budget in state agencies. Available expertise, appropriate decision-making authority, and political will and incentives should also be taken into account.

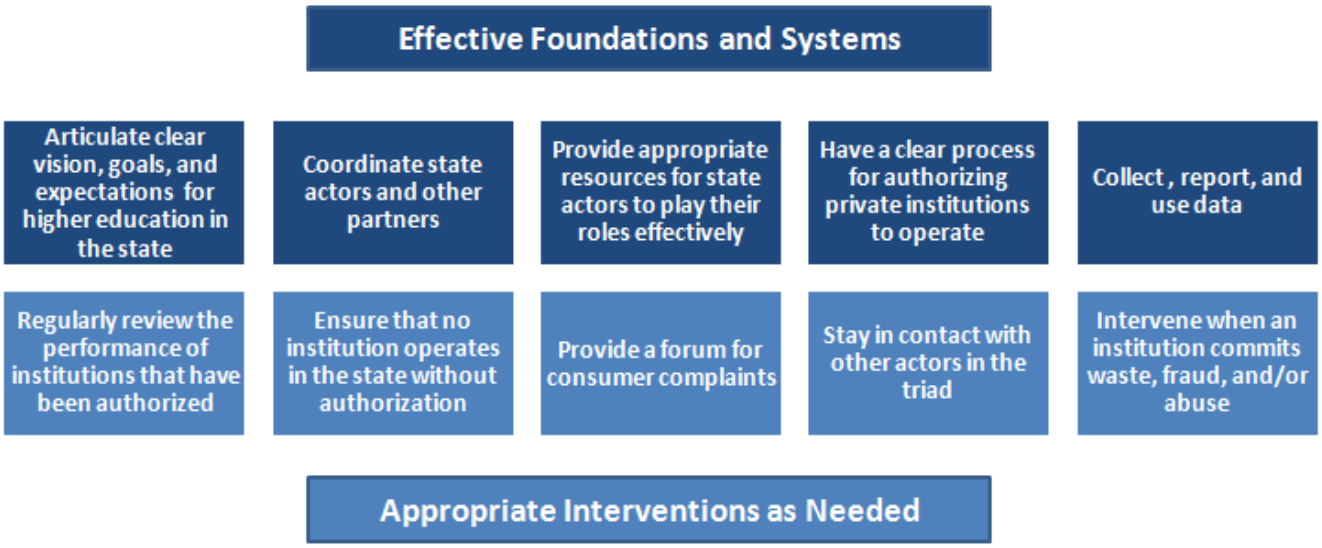
A quality assurance system for institutions of higher education that can drive better student outcomes requires a state role that is functional and relatively consistent. States should have responsibilities only in those areas where they have a direct interest in regulatory goals being achieved. In other words, states should oversee those quality assurance systems linked to the accomplishment of their own goals for supporting in-state institutions, providing valuable opportunities for in-state students, encouraging in-state economic growth, and using state resources effectively.

[16] See also ART COLEMAN, TERRI TAYLOR, BETHANY LITTLE, & KATE LIPPER, GETTING OUR HOUSE IN ORDER: TRANSFORMING THE FEDERAL REGULATION OF HIGHER EDUCATION AS AMERICA PREPARES FOR THE CHALLENGES OF TOMORROW 10 (2015), *available at* http://educationcounsel.com/?publication=getting-our-house-in-order-transforming-the-federal-regulation-of-higher-education-as-america-prepares-for-the-challenges-of-tomorrow.

States do have an interest in ensuring that their state institutions and students alike are eligible for federal financial aid, particularly in an era of rising costs and concerns about affordability. But states may have fewer incentives to uphold federal compliance requirements because they do not have direct authority in shaping and carrying out those rules. This is especially true given that, in addition to student and consumer protection responsibilities, states have clear interests in preserving the jobs and economic contributions that institutions provide to their local communities and the state as a whole. Sometimes these state economic interests can come into conflict with the state's interest in quality assurance in higher education.

Finally, the responsibilities carved out for states need to be distinct but malleable enough to adapt to 50 different contexts. Given history, resources, and priorities, some states will choose to take a more active role in some areas and a more passive role in others. Some states may have larger hills to climb than others, particularly those with low student completion rates and/or a tradition of limited state action related to higher education quality assurance.

Drawing from research and discussions with leading researchers, practitioners, and policy experts, the chart below describes a set of 10 potential state responsibilities that can likely apply to all 50 states. They are divided into two categories: (1) effective foundations and systems and (2) appropriate interventions as needed. We offer this list simply to show what the state role *could be* to promote more informed policy discussions at every level. Each responsibility is discussed in detail after the graphic.



Effective Foundations and Systems. These responsibilities can allow a state to create a healthy environment for higher education in the state.

- ***Articulate clear vision, goals, and expectations for higher education in the state.*** This is an important foundation for the state's role, even as each state will interpret different roles and responsibilities in its own way. This responsibility can, of course, be complicated by the many competing interests and actors in higher education. For example, in addition to concerns about serving in-state students well, states also have a clear interest in the success of their in-state

public and private institutions as economic engines, job creators, and providers of ongoing workforce development and training. Articulating a vision, goals, and expectations for higher education in the state can provide an opportunity to reconcile these competing interests and ground the actions of different state actors in an aligned purpose.

- ***Coordinate state actors and other partners.*** Carrying out the state's role in higher education quality assurance requires the contributions of many different actors and agencies. And only when these actors work collaboratively can the state role be fully carried out. Elected leaders and higher education executives should likely take initial steps: articulating a clear vision and goals that span the state's entire higher education "ecosystem" and then empowering administrators to carry them out with appropriate resources and authority.
- ***Provide appropriate resources for state actors to play their roles effectively.*** State higher education agencies are in need of sufficient resources and qualified staff to fulfill their responsibilities and respond to the ever-shifting higher education landscape. States may want to examine current and projected postsecondary enrollment growth as it considers how to resource state agencies.
- ***Have a clear process for authorizing private institutions to operate.*** States should include some of their own independent analysis of an institution's ability to carry out its mission and serve the state's students, and not rely solely on the institution's accreditation status or federal compliance. This process may vary, however, depending on the type of institution and/or type of programs offered. And all states should take care to make their processes well-publicized and understandable by a wide array of stakeholders, including poilcymakers, institutions, accrediting agencies, the federal government, and the general public, to name a few.
- ***Collect, report, and use data.*** The responsibility of collecting and reporting primarily falls to the SHEEO and state higher education agency (and, depending on the state, perhaps the coordinating or governing board). But all actors within the system should *use* those data in their decisionmaking. Indeed, effective data collection, reporting, and use can be one of the most important roles that the state can play today, particularly given limitations in federal data collection and reporting efforts. States that can connect education and workforce data sets can provide especially important insights for students, taxpayers, and policymakers alike.[17]

Appropriate Interventions as Needed. These responsibilities come into play when a problem occurs. It is worth noting that states may differentiate treatment of institutional sectors because oversight structures and regulatory tools may differ depending on the type of institution. The state has more direct oversight over its public institutions through annual budgets, reporting requirements, institutional leadership appointments, data collection, and legal counsel. Private institutions, on the other hand, have more general freedom to operate, but nevertheless remain accountable for state consumer protection and other generally applicable laws.

- ***Regularly review the performance of institutions that have been authorized.*** Approving an institution to operate is only a first step in a longer term relationship between a state and an institution. Strong data systems can be an important foundation for these efforts.

---

[17] See, e.g., JAMEY RORISON, MAMIE VOIGHT, & JENNIFER ENGLE, EMPLOYING POSTSECONDARY DATA FOR EFFECTIVE STATE FINANCE POLICYMAKING (2016), *available at* http://www.ihep.org/sites/default/files/uploads/docs/pubs/employing_postsecondary_data_for_effective_state_finance_policy.pdf.

- ***Ensure that no institution operates in the state without authorization.*** Though rare, there have been some recent instances of a sham institution operating without appropriate state authorization.[18] States are often the first line of defense in addressing these situations and protecting students from such fraudulent enterprises. Federal authorities may also be important partners in this area, particularly when sham institutions affect core federal interests such as concerns about immigration and visa fraud.
- ***Provide a forum for consumer complaints.*** States can serve as important venues for students to share their concerns. Not all concerns will rise to the level of impacting state policy and/or its relationship with an institution. But, as guardians of their citizens, states are uniquely positioned to hear student complaints, identify means to address the complaint, and track those complaints to identify trends over time.
- ***Stay in contact with other actors in the triad.*** Too often, the members of the triad stay in their lanes without communicating and collaborating with each other when problems arise. States can be leaders within the triad by calling attention to problematic institutional practices and providing an opportunity for triad members to work together to address the situation. States can also use information gathered and shared by the federal government and accrediting agencies to inform their own decisions related to quality assurance.
- ***Intervene when an institution commits waste, fraud, and/or abuse.*** States play an important consumer protection role which directly implicates the state attorney general or other law enforcement officials, actors that only play a quality assurance role when consumer protection or other laws may have been violated. The state role in this area also differentiates among higher education sectors. As the primary benefactor and sponsor of public institutions, the state itself takes responsibility for guarding against waste, fraud, and abuse. The state does not play the same role for the private institutions within its purview, instead relying on the institutions to police themselves through sound governance, compliance with state and federal requirements, and appropriate interactions with their accreditors. But the state may need to step in when private institutions do not oversee themselves appropriately and cause harm to students, using a different set of mechanisms (e.g., state attorney general investigations) than those typically used for engagement with public institutions.

States can and should interpret these responsibilities within their own contexts, but additional clarity can enhance the performance and effectiveness of all actors within the quality assurance system. In other words, discussion of these issues may inform recommended roles and responsibilities both among the many state actors *and* in the state's overall role within the triad.

[18] See, e.g., Miriam Jordan, *Federal Agents Raid Suspected Fake Schools: Foreigners on U.S. student visas allegedly paid millions but didn't take classes*, WALL ST. J. (March 11, 2015, 8:09 pm), http://www.wsj.com/articles/federal-agents-raid-schools-in-los-angeles-catering-to-foreign-students-1426105401.

Conclusion

Building systems to carry out these state responsibilities likely presents a different challenge for each state. Some are already well on their way, while others do not yet have the capacity or policy foundations in place. Some challenges are being taken on by individual states, while others – like the State Authorization Reciprocity Agreements and investigations of some for-profit institutions – are being addressed by states working together.

It is more important than ever to clarify roles and responsibilities for higher education quality assurance. Despite significant regulation and activity by the federal government, states, and accrediting agencies, too much is slipping through the cracks, as evidenced by poor to middling student outcomes at too many institutions and the precipitous closure of a growing number of institutions.[19] The failure of Corinthian Colleges, a flashpoint for many policymakers and advocates, may be a warning sign that the current system is not working for the higher education sector it is intended to govern.

Before we can design solutions to these challenges, it is essential to understand the tools at our disposal. This paper intends to clarify the role of states in the triad by revealing the complexities inherent in state action and actors, reflecting on the state of the triad, and offering a set of common responsibilities that could be embraced by all states. Understanding is only one step, however, in the broader effort to improve higher education quality assurance to meet the demands of today's students, economic interests, and evolving higher education landscape. Working with the federal government, accreditors, and other stakeholders, states should identify and implement strategies to encourage institutional quality and positive student outcomes – and take steps to intervene when problems arise.

[19] Over the past 12 years, the graduation rate within 150 percent of normal time at four-year institutions has ranged between a low of 54.3 percent (cohort year 1997) to a high of 56.4 (cohort year 2000). It is currently 54.4 percent. IPEDS Trend Generator, *What is the graduation rate within 150% of normal time at 4-year postsecondary institutions?*, http://nces.ed.gov/ipeds/trendgenerator/tganswer.aspx?sid=7&qid=19 (last visited July 5, 2016).

Appendix: Specific State Actors, Roles, and Responsibilities Related to Higher Education Quality Assurance

This appendix provides additional detail on the complexities of the state role in higher education quality assurance by describing the array of state responsibilities and actors generally involved (though, of course, there is wide variation in how different states structure positions and carry out these roles).[20] The first chart identifies state responsibilities that tend to be *shared* across different state actors. The second chart focuses on the *unique* responsibilities that generally fall to a specific actor.[21]

	State Responsibility	State Actors Involved
Shared State Responsibilities	Establish a vision, goals, and policy agendas for higher education in the state	• Legislature • Governor • State Higher Education Executive Officer • Governing or Coordinating Board of State College and University Systems
	React to constituent demands (e.g., students, parents, institutions, and businesses)	• Legislature • Governor • State Higher Education Executive Officer • State Higher Education Agency (or Agencies) • State Governing or Coordinating Board of State College and University Systems
	Authorize institutions to operate	• Legislature (for public institutions) • Governor (for public institutions) • State Higher Education Agency (or Agencies) (for private institutions)
	Propose and revise legislation	• Legislature • Governor • State Higher Education Agency (or Agencies)
	Set budgets	• Legislature • Governor

[20] For example, some roles are played by different actors depending on the state, including the authorization of private institutions to operate State Higher Education Executive Officers Association, SHEEO State Authorization Surveys and Reports, http://www.sheeo.org/node/434 (last visited May 16, 2016).

[21] To create these charts, we referenced a range of reports, websites, and other resources, including ANDREW P. KELLEY, KEVIN J. JAMES, & ROONEY COLUMBUS, AMERICAN ENTERPRISE INSTITUTE (AEI), INPUTS, OUTCOMES, QUALITY ASSURANCE: A CLOSER LOOK AT OVERSIGHT IN HIGHER EDUCATION (2015), *available at* https://www.aei.org/publication/inputs-outcomes-quality-assurance-a-closer-look-at-state-oversight-of-higher-education/; PAUL LINGENFELTER WITH JAMES MINGLE, PUBLIC POLICY FOR HIGHER EDUCATION IN THE UNITED STATES: A BRIEF HISTORY OF STATE LEADERSHIP (2014), http://sheeo.org/sites/default/files/publications/Public_Policy_Higher_Ed_Lingenfelter_Mingle_062014.pdf; MEGHAN WILSON BRENNEMAN ET AL., NCHEMS, GOOD POLICY, GOOD PRACTICE II: IMPROVING OUTCOMES AND PRODUCTIVITY IN HIGHER EDUCATION: A GUIDE FOR POLICYMAKERS (2010), *available at* http://www.nchems.org/pubs/docs/GoodPolicy_GoodPractice_II_2010.pdf; Peter Ewell, Marianne Boeke, & STACEY ZIS, NATIONAL CENTER FOR HIGHER EDUCATION MANAGEMENT SYSTEMS (NCHEMS), STATE USES OF ACCREDITATION: RESULTS OF A FIFTY-STATE INVENTORY (2010), *available at* http://www.nchems.org/pubs/docs/CHEAStateStudy_2010_11.30.10.pdf; NCHEMS, STRENGTHENING COLLEGE OPPORTUNITY AND PERFORMANCE: FEDERAL, STATE, AND INSTITUTIONAL LEADERSHIP (2010), *available at* http://www.nchems.org/pubs/docs/CrossTalk1110InsertFINALproof.pdf; DENNIS JONES, THE LEGISLATIVE ROLE IN IMPROVING HIGHER EDUCATION PRODUCTIVITY 4 (2008), *available at* http://www.wiche.edu/info/gwypf/jones.pdf.

		• State Higher Education Executive Officer • State Higher Education Agency (or Agencies)
	Represent higher education interests to elected officials	• State Higher Education Executive Officer • State Higher Education Agency (or Agencies) • Governing or Coordinating Board of State College and University Systems
	Allow the state to participate in multi-state activity	• Legislature and governor (if authorizing language needed) • State Higher Education Agency (or Agencies)

The next chart focuses on unique roles played by different actors. It is important to note that even in these distinct roles, a state actor rarely operates unilaterally. Shared responsibilities, then, carry into most of these efforts.

Unique Responsibilities for Different Actors	State Actor	Distinct Roles Played by That Actor
	Legislature	• Has oversight responsibility over the use and effectiveness of state funds for higher education (e.g., by creating performance funding systems) • Influences tuition levels for public institutions • Creates scholarship and financial aid opportunities for students • May approve or confirm the governing bodies of public institutions and/or public systems • Creates, dissolves, and vests other bodies with responsibility and authority (e.g., Task Forces, commissions, and committees to explore complex problems and/or to test innovative solutions)
	Governor	• Can veto legislation • Makes appointments to certain state leadership positions • Represents the state with employers, local communities, and other stakeholders • Leads coordination among agencies and departments
	Governing or Coordinating Board of State College and University Systems	• Oversees state public institutions and systems of public institutions • Develops educational, fiscal, and personnel polices for institutions within the state system • Coordinates resource-sharing between institutions within the state system • Appoints or approves chancellors and university presidents • Facilitates system-wide financial audits and other goal setting activities
	State Higher Education Executive Officer	• Leads the state higher education agency • Sits on the state board (often as a non-voting member that leads deliberations) • Sits on other state decisionmaking bodies • Represents the state agency within and outside the state • Represents the public interest in higher education to the public, governor, legislature , and institutions
	State Higher Education Agency (or	• Supports and staffs the board of the state university system • Implements board policies and procedures • Provides budget recommendations to the legislature and governor

	Agencies)	• Authorizes public and private institutions to offer educational programs to students in the state • Monitors institutional performance • Administers state financial aid programs • Coordinates institutions and other state actors • Collects data and maintains state data systems • Undertakes outreach to students and communities • Accepts complaints from students and other constituents
	State Attorney General	• Represents the state's legal interests and enforces state laws, which can include filing suit on behalf of the state against other actors and institutions with alleged violations of consumer protection and/or business practices laws • Renders formal or advisory opinions on legal subjects or matters to government officials • Counsels state agencies and the state legislature • May represent state public institutions and agencies • Disseminates information regarding legal issues in the state • Organizes with other state attorneys general to support or advocate for laws or court decisions affecting higher education • Shares enforcement authority with the federal government • May appoint inspectors general and/or ombudsmen for special issues
	State Professional Licensing Boards	• Creates entry requirements for different professions • Administers state licensing examinations • Manages licensing awards and renewals • Collects data and maintains data systems • Accepts complaints from students, licensees, and other constituents