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ABSTRACT

The role of postsecondary accreditation and its relation to student consumer protection are discussed in this monograph. The importance of this concept is examined in light of increased marketing efforts on the part of higher education institutions. It is emphasized that students are consumers and their rights should be protected. Possible areas of abuse compiled from student complaint analyses and literature include: refund policies, recruiting and admissions practices, advertising, instructional programs and staff, disclosure in written documents, equipment and facilities, job placement services, student orientation practices, housing facilities, keeping of student records, misrepresentation or misuse of accreditation status, and financial stability. The responsibilities of students, state agencies, and federal agencies for protecting student consumer rights are discussed. Efforts to reduce the incidence of student abuse through the use of federal eligibility standards in administering federal student aid assistance programs are examined. It is suggested that the accreditation process can provide assistance in improving student consumer protection provisions. A stronger emphasis on the examination of student rights during institutional self-study, site visits, and continuing self-evaluation and improvement is recommended. (SF)

An Occasional Paper

ACCREDITATION AND STUDENT CONSUMER PROTECTION

Steven M. Jung

THE COUNCIL ON POSTSECONDARY ACCREDITATION

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INTRODUCTION

In the most important sense of consumer protection, accreditation plays an invaluable role. The process of accreditation is designed to evaluate and attest to the quality of education offered by the institution, and the cruelist deception that can be practiced in education is to fail to offer the student a real opportunity to achieve a satisfactory educational experience.

Those who are most concerned with "student consumer protection," however, tend to focus on the evils of fraud and abuse or the desirable conditions of full disclosure and due process. Specifically, they want students to receive better protection with regard to such matters as truth in advertising, recruiting practices, tuition refund policies, the handling of complaints, etc. And they often assume that the accrediting process can, or should, guard students from bad practices in these areas.

The accrediting bodies, most particularly the institutional accrediting agencies, are prepared to look into matters of this kind at the time of the periodic review and to receive and handle complaints at any time. However, as the Council on Postsecondary Accreditation often has had to point out, nongovernmental accrediting organizations are not set up to monitor institutional practices on a day-by-day basis, nor do they have the authority to regulate institutional behavior in detailed ways. The primary responsibility for student consumer protection, COPA has argued, should rest with the states.

With this Occasional Paper, Steven M. Jung, Principal Research Scientist at the American Institutes for Research in the Behaviorial Sciences and author of the recent study, *Improving the Consumer Protection Function in Postsecondary Education*, writes that accreditation *can* and *should* play an important role in protecting students from educational malpractice. And, while recognizing the unique and in some ways limited role that nongovernmental accreditation plays, Dr. Jung has suggested ways by which the accrediting process can more effectively address this concern.

COPA believes that this is a thoughtful and challenging essay and publishes it in the hope that it will stimulate informed discussion of the issue of accreditation and student consumer protection and that it will prompt a generous consideration by the accrediting community of Dr. Jung's proposals.

Kenneth E. Young
President
The Council on Postsecondary Accreditation

BACKGROUND

Private, non-governmental, voluntary accreditation of postsecondary educational institutions plays an important role in protecting students from educational malpractice. This role is inseparable from one of accreditation's major purposes, which is to determine and then certify that an accredited institution has met established standards of educational quality, relative to its stated educational goals. At a recent national conference on the topic of accreditation and student consumer protection, 94% of the accreditation agency representatives who responded to a preconference questionnaire agreed that "helping member institutions to improve their safeguards for student consumers is a legitimate role for a recognized accreditation agency."

This stated view appears somewhat inconsistent with the views of many observers outside the accreditation community. Writing from the perspective of his 1974 study of accreditation and institutional eligibility for federal assistance programs, Harold Orlans wrote that "the attempt of some [federal government] officials to plant consumer protection in the accreditation process is as promising as a crop of Arctic coconuts" (Orlans, Levin, Bauer, & Arnstein, 1974, p. 2).

From the same perspective, the Student Financial Assistance Group (SFAG), in its 1977 report containing recommendations for improved management of federal assistance programs, wrote that "accrediting agencies are most concerned with evaluating the overall quality of educational programs offered by an institution and are neither adequately trained nor do they desire to evaluate the capability of an institution to properly administer student financial aid programs" (SAFG, 1977, p. 34). "Experience has shown that institutional program participation based primarily on eligibility determinations such as the criterion of educational quality (accreditation) have been inadequate to preclude fraud and abuse" (SAFG, 1977, p. 37). Elaine El-Khawas, speaking before the 1977 Summer Meeting of the Council on Postsecondary Accreditation, pointed out the "erroneous and oversimplified" public expectation that "accreditation implies consumer protection purposes — fair practice, full disclosure, and protection against fraud — are being met."

Finally, the General Accounting Office in its recent report on the U.S. Office of Education (USOE) eligibility process concluded that "because of the voluntary nature of accreditation and lack of specific standards and monitoring practices, accrediting associations are generally unprepared to deal with [most student consumer protection] matters, such as advertising accuracy, tuition and domitory refunds, and [other] policies" (Comptroller General, 1979, p. 36).

It seems likely that the views expressed above accurately portray the most widely perceived role of accreditation in protecting students as consumers. Why is it that the strong sense of responsibility expressed by the accreditation representatives at the recent national conference is so different from this prevailing perception? In the past the answer to this question has been clouded by other issues, such as fear on the part of accreditation representatives that they were being co-opted to carry out police responsibilities more properly reserved for government regulatory agencies. *Are* accreditation and student consumer protection at all compatible? If so, under what circumstances and with what limitations? And how might the relationship be strengthened? This paper attempts to explore these questions and suggest tentative answers.

THE CONCEPT OF STUDENT CONSUMER PROTECTION

Students as Consumers

Some observers of postsecondary education have claimed that there is a vast difference between the conventional marketplace concept of purchasers and sellers and the complex relationship that exists between students and an educational institution (e.g., Enteman, 1975). Pernal (1977) suggests five areas where he feels the concept of student as consumer breaks down:

- The student is a participant in rather than a passive receiver of the services being provided
- Much of the post-training value of a postsecondary education (e.g., the marketability of the degree or diploma) is dependent upon the initiative and characteristics of the student rather than upon the education
- An institution cannot provide a warranty as to the effectiveness of services provided
- Colleges don't *sell* anything, or, even if they do, what is sold cannot be defined
- In the case of public and private non-profit institutions, at any rate, there is no "profit" motive

Such objections miss an essential point. While it is clear that a good deal of responsibility for learning rests with the student, it is also clear that more and more institutions are out to "market" their services, and students are the targets of these marketing efforts. Regardless of whether or not an institution is organized as profit-seeking or non-profit, it must pay its faculty and maintain its facilities; it is, in effect, a business and must operate as such. The vision of the college as a passive and altruistic provider for those students clever or fortunate enough to have found their way to campus is no longer valid. Moreover, students invest considerable amounts of their own time and money (and public monies as well) in purchasing the educational services being offered. They have definite expectations about

the outcomes of their education, and are often encouraged in these expectations by institutional recruiting practices. While it is always worth noting that students have responsibilities too, they *are* consumers and *can* reasonably expect protection of their rights as consumers.

The Nature of Student Consumer Abuse

There is little agreement as to what constitutes student consumer abuse. Abuse is often talked about as the junior partner of fraud, as in the cliché "fraud and abuse." But fraud involves deliberate deception, and the legal remedy for fraud is normally restitution of any damages caused by the fraudulent act, often accompanied by criminal penalties designed to reduce the likelihood of future fraudulent acts. Although pure fraud occasionally occurs in education — as in cases where students buy nonexistent educational programs from fly-by-night salespersons who obtain partial payments and then disappear — it is sufficiently rare to be left to the province of state and local law enforcement agencies.

Abuse, on the other hand, is a more general term that implies unfairness and unconscionability as well as deception. It is *not* necessarily deliberate, nor must damages be demonstrable before abuse can be said to have occurred. In a 1975 study designed to explore the nature of student abuse, Jung, Hamilton, Helliwell, McBain, and Fernandes described the fourteen categories of abusive institutional policies, practices, and conditions listed in the table below. This list was based on an extensive literature review and on an analysis of student complaint and investigation files at the U.S. Office of Education and the Federal Trade Commission. Although other such lists have appeared from time to time (e.g., Willett, 1975; Bell, 1975), all make it clear that the *essential* elements of student consumer abuse are: (1) engendering or maintaining false expectations; (2) failure to provide the educational opportunities promised or implied; and (3) failure to offer mechanisms for hearing and redressing legitimate student grievances.

SUMMARY OF INSTITUTIONAL ABUSE CATEGORIES DERIVED FROM STUDENT COMPLAINT ANALYSIS AND LITERATURE

1. Inequitable refund policies and failure to make timely tuition and fee refunds
2. Misleading recruiting and admissions practices
3. Untrue or misleading advertising
4. Inadequate instructional programs
5. Unqualified instructional staff
6. Lack of necessary disclosure in written documents
7. Inadequate instructional equipment and facilities
8. Lack of adequate job placement services (if promised), and lack of adequate follow-up of graduates
9. Lack of adequate student orientation practices
10. Inadequate housing facilities
11. Lack of adequate practices for keeping student records
12. Excessive instability in the instructional staff
13. Misrepresentation or misuse of chartered, approved, or accredited status
14. Lack of adequate financial stability

ROLES AND RESPONSIBILITIES FOR PROTECTING STUDENTS FROM ABUSE

Student Role

In the past, America's *caveat emptor* tradition has assigned to students a major responsibility for protecting themselves from consumer abuse. This tradition remains strong, and many consumer advocates have attempted to educate students to make them more effective educational consumers. The theory behind these efforts is that more knowledgeable consumers will be able to identify abusive practices and avoid them by attending more scrupulous institutions. In the early '70s, the Federal Trade Commission (FTC) directed an extensive media campaign toward vocational school students, urging them to carefully investigate all advertising or recruiting claims made by schools (especially the proprietary vocational and trade schools over which the FTC exercises regulatory authority). The campaign (called the "Charley's School" campaign because of its central comic-strip character, an evil, seedy-looking school owner) was widely attacked by school trade associations as being unfair to their members, and this lack of subtlety was probably the ultimate cause of its withdrawal by the FTC.

In 1977, the Federal Interagency Committee on Education rendered a more sophisticated student guide called *Look Out for Yourself*, which was disseminated widely by the Department of Health, Education, and Welfare. Additional efforts in this regard include an Office of Education-funded multi-media student consumer guide, designed to serve as the basis for a high school consumer education unit (Hamilton, Wolff, Jung, & Dayton, 1977), instructional booklets prepared by the National Student Educational Fund (1976) under a grant from the Fund for the Improvement of Postsecondary Education, and popular magazine articles prepared by knowledgeable spokespersons (e.g., Green, 1977).

Although no attempts have been made to systematically evaluate the impact of these materials, their utility is no doubt attenuated by: (1) the lack of propensity among many consumers to read self-help literature; and (2) continued growth of governmental funding programs and declines in traditional student enrollments that combine

to bring ever more sophisticated sales and recruitment techniques into the educational marketplace. It seems clear that simply educating consumers is insufficient to prevent many cases of abuse; there remains a strong need for additional safeguards.

Roles of Governmental Regulatory Agencies

State agencies. Through their police powers, state governments exercise basic authority for protecting the rights and property of their citizens. Almost all states have Unfair or Deceptive Acts or Practices (UDAP) statutes designed to prevent abusive practices, theoretically including those in the education sector (see Sheldon & Zweibel, 1977). A recent study of state oversight of postsecondary education (Jung, Hamilton, Helliwell, & Wheeler, 1977) demonstrated that state UDAP (and consumer fraud) laws and enforcement procedures are rarely if ever used against educational institutions. The "front line" of regulatory action against abusive practices in most states is represented by laws requiring educational institutions to be licensed or authorized by state agencies designated for this purpose.

Jung et al. (1977) provided an extensive review of these laws and the enforcement resources and capabilities of state licensing and authorizing agencies in all 50 states. They found a great deal of current activity and interest in this area, and considerable variability in both needs for and stringency of oversight. Nevertheless, they concluded that extensive improvement is necessary in many states to bring existing coverage up to a minimum standard represented by a Model State Licensing Law developed in 1973 by the Education Commission of the States (see ECS Report No. 114, 1978).

In many states, accreditation plays a major role in determining the extent to which institutions are subjected to state licensing requirements. Jung et al. (1977) reported that as of January 1977, 24 states had statutory provisions allowing accredited nondegree-granting schools to be fully or partially exempted from their basic institutional licensing requirements, and 18 states allowed similar exemptions for degree-granting institutions. Exemptions ranged from complete freedom from state oversight to slightly less extensive annual reporting requirements. Most state regulatory agency personnel interviewed in 20 states reported that they felt blanket exemptions for accredited schools were unwarranted and contributed directly to their inability to eliminate perceived student abuses, especially in cases of shoddy branch campus operations or "external" programs operated by institutions whose accreditation resided only with the home campus. This study recommended that all states should consider removing blanket exemptions from state licensing requirements for accredited schools or programs, substituting instead conditional exemptions that could free accredited institutions from stringent monitoring and oversight but would still permit state agency officials to investigate and prosecute confirmed violations of student consumer protection provisions contained in state licensing

laws. A similar recommendation was made by the General Accounting Office in its recent report on the Office of Education institutional eligibility process (Comptroller General, 1979), to be discussed subsequently.

Federal agencies. Federal regulatory agencies enter the field of consumer protection via two very different avenues. First, and most directly, is through the authority of the Federal Trade Commission as granted by amendments to the Federal Trade Commission Act of 1914. The extent of this authority has been demonstrated very graphically by the recent passage of a trade regulation rule affecting proprietary nondegree-granting vocational and home study schools (*Federal Register*, December 28, 1978). This rule, to go into effect in 1980, is a more stringent version of a rule first promulgated in 1972. It will require: (1) hour-for-hour pro rata refund policies; (2) a 14-day cooling off period, during which students may decline enrollment and receive complete refunds; and (3) affirmative disclosure of program dropout rates for institutions enrolling over 100 students per year. In addition, schools advertising that their programs result in employment outcomes must also affirmatively disclose their job-related placement rates, calculated on the basis of FTC-prescribed procedures. The new rule will apply whether or not a school is accredited, although it is currently being contested in the courts by several proprietary school accrediting agencies.

The other avenue through which federal influence is exercised on student consumer protection is through requirements enacted as a condition for institutional participation in federal financial-assistance programs. For example, federal benefits to veterans who attend post-secondary programs are conditioned upon approval of the programs by State Approval Agencies (SAAs), required by Congress and funded by the Veterans Administration (VA) for the specific purpose of preventing some of the abuses that characterized this program immediately following World War II. Federal law does permit SAAs to exercise much less stringent control over academic as opposed to vocationally-oriented programs and to grant "blanket" approval for the programs of institutions accredited by "recognized" accrediting agencies. The process by which a "recognized" agency becomes listed for this purpose is administered by the U.S. Commissioner of Education, and will be discussed in the next section.

The largest federal programs of financial assistance to postsecondary education (amounting in FY 1979 to a little under $4 billion, or about 10 percent of the total estimated cost of higher education in the United States), are administered by the U.S. Commissioner of Education through Title IV of the Higher Education Act of 1965. A great deal of public concern was expressed during the period 1972 to 1976 because of documented and alleged abuses of students who were receiving Basic Educational Opportunity Grants, Guaranteed Student Loans, and other federal aids under these programs. Because

of the rapid growth of these programs from 1972 on, the multi-faceted system by which institutional eligibility for participation was established, and a general lack of any monitoring or enforcement capabilities, the federal government had little or no way to eliminate abusive institutions from program participation. It could either attempt to show criminal fraud (punishable under non-educational statutes), or request reviews of offending schools by accreditation agencies, in the hope that they might investigate and bring about voluntary self-improvements or remove accreditation (and, most likely, eligibility).

However, regulations promulgated in 1975 and 1977 under the Education Amendments of 1972 (for the Guaranteed Student Loan Program) and 1976 (for all Title IV programs) have resulted in considerably more direct federal authority to limit, suspend, or terminate the eligibility of institutions found to be in violation of federal program standards. A new Office of Compliance has been set up within the USOE Bureau of Student Financial Assistance, with statutory authority to investigate and limit, suspend, or terminate eligibility in cases of failure to comply with standards of financial responsibility, administrative capability, and/or misrepresentation. The regulations call for: maintenance of appropriate student records; public disclosure of statistics regarding the employability of graduates; fair practices in advertising, recruiting, and admitting students; and fair and equitable refund policies *(Federal Register*, August 10, 1978).

USES OF ACCREDITATION IN ADMINISTERING FEDERAL STUDENT ASSISTANCE PROGRAMS

The "Tripartite" Eligibility System

Beginning with the 1952 Korean GI Bill (PL 82-550), Congress sought to reduce the incidence of student abuse in veterans' educational programs by allowing State Approving Agencies to utilize private, non-governmental accreditation agencies as "reliable authorities" as to the quality of education or training offered by member educational institutions. The legality of this apparent federal delegation of authority to a private, nongovernmental agency in determining eligibility for federal funds has been questioned from time to time (e.g., Finkin, 1973), but its low cost (to the government) and protection from direct federal interference in setting educational standards have caused the same or similar wording to be used in more than 25 subsequent federal aid statutes (Division of Eligibility and Agency Evaluation, 1978).

The term "tripartite" with regard to this federal eligibility system was originally applied because, in addition to maintaining *accreditation* by a recognized agency, most of the federal eligibility statutes discussed above also require that institutions seeking eligibility (1) be licensed or authorized by the *state* in which they are located and (2) comply with the *federal* regulations applicable to the particular aid program for which they seek eligibility. As previously noted, until recently state regulatory agency involvement has been uneven and direct federal involvement has been almost nonexistent.

The language of these laws requires the U.S. Commissioner of Education to periodically publish a list of the nationally-recognized accreditation agencies deemed to be sufficiently reliable authorities. This "listing" or recognition requirement has also sparked controversy in recent years, particularly during that period from 1972 through 1976 when direct federal action to stem abuses seemed impossible (Bell, 1974).

The USOE institu onal eligibility staff often found itself in a position of depending heavily on accreditation agencies to deal with student complaints, a position that came to be viewed with extreme concern by some of the agencies. For example, the Association of

Independent Colleges and Schools (a USOE-recognized agency accrediting private and predominantly proprietary business schools and colleges) was sued for $4.5 million by a Texas school whose accreditation (and hence eligibility) was removed for alleged failure to meet AICS standards (see Fulton, 1975). In another case, a bill was introduced into Congress in 1975 containing language that, if enacted into law, could have *forced* accrediting agencies to investigate alleged consumer abuses and remove the accreditation of institutions found guilty (Bell & Pettis, 1975). This atmosphere of government regulatory agency impotence, with virtual dependence on a nongovernmental and nonregulatory partner, was clearly *not* the situation envisioned by the founders of the tripartite eligibility system. It ultimately led to a flurry of activity designed to rectify the imbalances that had arisen. (For a more detailed discussion of the role of accreditation in the tripartite eligibility system, see Kaplin, 1975, and Trivett, 1976.)

The Great Probity Debate

What has come to be called the Great Probity Debate (by Manning, 1977) was actually an attempt begun in 1975 by the U.S. Office of Education to codify in law the widely held view that accreditation testifies not only to the quality of the education or training offered but also to the *probity* (or continuing high ethical principles) of the institution being accredited. The locus for this attempt was the USOE Accreditation and Institutional Eligibility Staff (AIES),* a unit that was established in 1968 to administer the Commissioner's statutory authority to recognize and list nationally-recognized accreditation agencies. Speaking before accreditation agency representatives in February of 1976, the head of the AIES stated that USOE's policy discussions had focused on:

> How to incorporate, through the USOE recognition process, the principle that accrediting agencies should address institutional and program probity *as an aspect of their determination of quality*. (This principle, I believe, is accepted by most accrediting bodies as expressing an essential product of the accrediting process.) (Proffitt, 1976, p. 2)

While Mr. Proffitt's belief about principle may have been essentially correct, his department's legislative proposals to Congress for inclusion in the reauthorization of the Higher Education Act were met by a storm of protests. To better understand the motives for these protests, several additional facts must be noted. First, the accreditation community was still in a state of turmoil caused by the intemperate rhetoric of the previously-mentioned Orlans study (Orlans et al., 1974), which had broadly attacked the federal government's heavy reliance on accreditation as a partner in the tripartite

*Now the Division of Eligibility and Agency Evaluation within the Bureau of Higher and Continuing Education.

eligibility system. That study called for a reorganization that would have provided alternative routes to eligibility apart from accreditation. These calls were echoed in a report prepared for the Advisory Council on Education Professions Development (Arnstein, 1975) and in other forums as well.

Second, the previously mentioned lawsuits and Congressional initiatives had added fuel to a long-standing distrust of federal motives on the part of accreditation representatives (see, e.g., Dickey & Miller, 1972). As the public attention to educational consumer protection was being greatly increased through newspaper articles (e.g., the *Boston Globe*, 1974) and national conferences (e.g., Education Commission of the States, 1974, 1975), their suspicions grew that USOE was lining up accreditation as a scapegoat for its own failure to properly manage federal student aid funds. This view was expressed most strongly by Kenneth E. Young, head of the Council on Postsecondary Accreditation (COPA):

> This [proposal to add probity to the federal recognition criteria] is a reaction to blistering criticism from certain members of Congress, primarily because of highly publicized instances of illegal and improper conduct (not always in accredited institutions). It is believed that USOE would expect "probity" to be defined *and interpreted* in a manner making accrediting associations . . . responsible for any such problems that might arise in the future. (Young, 1976. p. 2)

> [Accreditation] is *not* the same thing as eligibility for federal funds; it is *not* an appropriate mechanism for policing specific federal program requirements; *nor* is it an effective means of monitoring the financial stability of educational institutions. The basic purpose of accreditation remains the evaluation of educational quality. (Young, 1975, p. 2)

A final complicating factor in the probity debate was the *process* by which the AIES/USOE/DHEW legislative provisions were formulated, which was perceived by at least some higher education representatives as being secretive, with "few, if any, persons in the higher education community, including officers and members of COPA, [being] given an opportunity to see or comment on the proposed . . . changes." (National Association of State Universities and Land-Grant Colleges, 1975). In his enlightening commentary on the debate, Manning (1977) noted that this secrecy, although later partially rectified when USOE extended the opportunity for public comments, added to the overall qualms of those who suspected a federal conspiracy.

In the end, the probity language did *not* find its way into the Education Amendments of 1976. Perhaps the most enduring and unfortunate result of the Great Probity Debate was the impression it left with outside observers who were unfamiliar with accreditation —

a vivid one of truculent accreditation associations and accreditors fighting with tooth and nail against equally concerted attempts by the federal government to coerce them into taking an interest in student consumer protection.

Regardless of the unfairness of this vision, a directly related result was the emergence of the new federal institutional monitoring and compliance review mechanisms within USOE's Bureau of Student Financial Assistance. These new mechanisms have made virtually moot the entire issue of accreditation's role in limiting or terminating institutional eligibility for USOE student assistance programs and have added yet another layer of federal bureaucracy with which institutions must deal. For example, regulations applicable to all Title IV programs (*Federal Register*, August 10, 1978) indicate that regardless of accreditation status, the Commissioner of Education may require a certified audit of any postsecondary institution if: (1) its guaranteed student loan or direct student loan program default rate exceeds 20%; (2) it has an annual dropout rate in excess of 33%; or (3) it has a deficit net worth. Further, the Commissioner may initiate steps to suspend or terminate eligibility for any substantial misrepresentation by an institution regarding the nature of its educational program, its financial charges, or the employability of its graduates. Allegations of misrepresentation may be received directly from students, prospective students, parents, or the general public and will be investigated directly by the Bureau of Student Financial Assistance, without any involvement by accreditation agencies.

IMPROVING STUDENT CONSUMER PROTECTION THROUGH ACCREDITATION

Apart from any regulatory or eligibility role, the accreditation process offers numerous opportunities to assist educational institutions in improving student consumer protection provisions. In this section, these opportunities are discussed in relation to the normal stages of the accreditation process: periodic institutional self-study, peer review and verification, and continuing institutional evaluation and self-improvement.

Institutional Self-Study

During the past two years, several suggestions have been published (e.g., Jung, 1978; Dayton & Jung, 1978) for increasing the attention devoted to consumer protection issues during the formal institutional self-study that is normally conducted prior to initial accreditation or reaccreditation.* The self-study guidelines for regional accreditation agencies normally do not address consumer protection directly, stressing instead such broad categories as curriculum, institutional governance, student services, and so forth.

Self-study guidelines for the national private vocational school accreditation agencies, such as the National Association of Trade and Technical Schools and the Association of Independent Colleges and Schools, contain much more detailed ethical standards, with specific requirements and prohibitions on such topics as advertising and recruiting, tuition refunds, and disclosure of material facts.

The general approach for improving self-studies represented by the latter guidelines is to focus systematic attention on institutional policies, practices, and conditions that have in the past proven to be abusive to students as consumers. Carrying this approach one step further under USOE sponsorship; Jung, Hamilton, Helliwell, Gross, Bloom, Shearer, and McBain (1976) employed the critical incident technique to develop a 53-item questionnaire for use as part of the

*It should be noted that the author does distinguish between institutional and specialized program accreditation. Since the former is most often involved in evaluating institution-wide policies and practices, institutional accreditation will normally be more concerned with student consumer protection issues.

self-study process. Each item on the questionnaire provides a *direct indicator* of potential for abuse. Responses are: (1) *easily recorded*, without the necessity of highly subjective judgments or obtrusive data collection requirements; (2) *verifiable*, so that disagreements in recording can be easily resolved; (3) related to conditions, policies, and practices that are *modifiable* and within the power of every institution to modify; and (4) *quantifiable*, so that differences in magnitude can easily be calculated and norms can be estimated.

In this regard, Jung (1977) pointed out that using *direct* indicators (for example, questions about specific policies, practices, and conditions that have the potential for abuse) is far more defensible than the use of indirect indicators (for example, dropout rates, training-related job placement rates, loan default rates, etc.), which are: (1) much more a function of the types of students enrolled than of institutional practices and are thus *not easily modifiable;* (2) often require extensive (and expensive) data collection efforts, which are *extremely difficult to standardize* for making valid institutional comparisons; and (3) *unverifiable* and easily subject to misinterpretation.

A USOE-sponsored field test of the questionnaire, called the Institutional Self-Study Form (ISSF), was conducted during 1977 and 1978 in nine regionally accredited institutions, which ranged from small specialized schools to large multi-purpose universities. The results of this field test (reported by Dayton & Jung, 1978) were promising, and were then disseminated to representatives of all USOE-recognized accreditation agencies at a November 1978 conference jointly sponsored in Chicago by USOE and the North Central Association of Colleges and Schools (Summary Report on...Accreditation and...the Student as Consumer, 1978).

An interesting feature of the field test was the simultaneous use of the ISSF with representatives of different groups on the campus, including students, faculty, and administrators. This approach allowed the self-study coordinators to look at the sometimes different perceptions of these groups regarding the institutions' consumer protection provisions. In several instances, it suggested the need for better communications with these groups about what was actually being done.

Peer Review and Verification

The spectre of accreditation agency site visit teams policing institutional consumer protection provisions was one of the prime motivators of the Great Probity Debate. Indeed, as Dayton and Jung (1978) pointed out in the final report on the ISSF field test, many of the peer review team members expressed some reluctance to engage in overt verification of an institution's responses to the self-study questionnaire. Accreditation agency representatives at the Chicago conference suggested that this reluctance could be overcome if consumer protection provisions were made part of the explicit agency standards for recognition, and if members of site visit teams could be

trained to offer constructive alternative approaches to solving potential consumer problems revealed by a self-study. Several agencies reported taking steps in both directions (Summary Report...,1978).

Clearly, as the regulatory climate surrounding student consumer protection becomes less politically charged, as language becomes more constructive and less accusatory, there will be more willingness to make the site visit an occasion for productive dialogue between team members and institution staff.

Continuing Institutional Self-Evaluation and Improvement

Perhaps the most encouraging developments in the recent past have been initiated by organizations representing postsecondary institutions themselves. These developments have called for a more straightforward recognition that student consumer protection is an institutional responsibility, one that will become increasingly preempted by governmental regulatory interventions unless it is taken more seriously and exercised more successfully. One highly visible effort has been launched by the American Council on Education (ACE) through its publication of *New Expectations for Fair Practice* (El-Khawas, 1976). Calling for periodic and systematic review of institutional policies and practices, the ACE publication provides illustrations of fair practice in eight areas: official publications, admissions and recruitment, financial assistance, record keeping, instructional programs and requirements, career counseling, grievance procedures, and student services and conduct. Each institution is urged to translate the spirit of the suggestions offered into policies and practices best suited to its own circumstances and student body. While promoting the publication, ACE has attempted to establish an atmosphere that will lead to a new consensus on the meaning of "fair and equitable" practices throughout the higher education community.

In a related effort, ACE has established an Office of Self-Regulation Initiatives, which is: (1) collecting codes of good practice from various professional groups; (2) identifying areas where such codes of generally accepted behavior should be updated (or new codes added); (3) working with other appropriate groups to prepare revised or new codes; and (4) planning dissemination and educational activities.

An important topic not treated by the "Fair Practices" approach is financial instability, a condition that contributes to consumer abuse directly through institutional closures and bankruptcies, and indirectly through program and service cutbacks that impinge on educational quality. With USOE support, ACE and the National Association of College and University Business Officers are currently embarked on the preparation of an institutional self-evaluation manual that will enable college officials to measure their institution's status relative to its peer institutions and to take necessary measures for improvement if first tier indicators are unfavorable (see Dickmeyer & Hughes, 1979).

ACCREDITATION AND THE FUTURE OF STUDENT CONSUMER PROTECTION

Although the breathless exposés and highly charged debates of 1974-75 have subsided, perusal of large urban newspapers or occasional exposure to radio and television advertising is enough to convince even the most casual observer that student consumer protection remains a necessity. Recent attempts to strengthen both the state regulatory role, through institutional licensing and authorizing, and the federal regulatory role, with regard to monitoring institutional participation in Title IV student assistance programs, have removed accreditation from the national spotlight by drastically reducing the importance of initial eligibility determinations as a factor in student consumer protection efforts. The conflicts that stirred the Great Probity Debate — whether accreditation should or could testify to and enforce institutional probity — have for the present been pushed into the background.

Nevertheless, it will be extremely unfortunate if accreditation's role in improving student consumer protection is forgotten. For one thing, recent federal regulatory efforts, as exemplified by the FTC Trade Regulation Rule and the new USOE regulations for ensuring institutional fiscal and administrative capability, are disappointingly simplistic — and unlikely to do much more than increase the total cost of education for all students. By focusing on indirect indicators such as dropout rates, loan default rates, and training-related placement rates, these regulations are forcing the establishment of complicated student follow-up procedures that will add more red tape to the web which already encircles postsecondary education but will do little to curtail student abuses.

For example, if they are to be anything more than a sham, student follow-up procedures require:

- Standardized definitions of and distinctions between programs of study
- Systematic sampling and non-respondent follow-up procedures
- Standardized procedures for handling temporary withdrawals, transfers to other programs, pregraduation employment or

"job outs," and enrollments by already employed persons designed to upgrade job skills

- Comparable methods for calculating ratios and percentages across *all* institutions being monitored

Such requirements are unlikely to be forthcoming. Indeed, it is doubtful whether they can ever be enforced by the federal government. Because they are not likely to be comparable, such indirect statistics are prone to dangerous misuse and misinterpretation; they may give an *illusion* of objective comparability without the necessary substance.

Moreover, stronger state licensing and oversight efforts are threatened by the pervasive anti-regulatory atmosphere reflected by Proposition 13 in California (see Lekachman, 1978). Recently, Jung (1978) quoted a state legislator who, while helping to vote down a proposed state licensing law for degree-granting institutions, said "Hell, no one ever died from a poor education, and, besides, licensing costs money!" The trend is away from more public support for state regulatory intervention in the name of consumer protection, away from the provision of more public funds for any purposes of intervention in the free marketplace, and away from serious concern for the individual student who, through ignorance, is subjected to educational malpractice.

Accreditation agencies, then, need to actively promote student consumer protection, not only through their own policies but also through more active involvement in educating students as consumers and educating the public about the need for more enlightened and efficient government regulatory practices. Specifically, the following steps need to be taken in the near future.

Individual accrediting bodies and COPA need to combat actively the false public view that accreditation is neither interested in nor involved in improving student consumer protection at member institutions. While the view may have been promoted for good reasons (e.g., to avoid being co-opted for governmental regulatory purposes), it is no longer productive. The steps taken by institutional accreditation agencies in the course of evaluating and improving educational quality already include review of many policies, practices, and conditions that might be abusive; as a result, there is evidence to suggest that accredited institutions have significantly lower potential for abuse than non-accredited institutions (e.g., Jung et al., 1977).

In a different vein, accreditation representatives need to actively encourage more effective *state* licensing and oversight of *all* postsecondary institutions, both accredited and unaccredited. The major focus of state oversight should be to ensure that all institutions and programs operating within the state meet certain *minimum student consumer protection requirements*, especially requirements designed to eliminate abuses such as those listed in the table on page 5. Efficient state agency oversight would include systematic procedures for: (1) periodically monitoring institutional policies, practices, and

conditions with direct potential for student abuse; (2) handling and investigating student and citizen complaints, including a widely publicized central clearinghouse to which complaints can be submitted; (3) tuition indemnification and permanent record repository provisions to ensure tuition refunds and access to transcripts for students in the event of school closures; and (4) obtaining court injunctions to immediately suspend school operations thought to be abusive during the time when due process requirements are being observed. Such procedures need not be overly expensive and generally can be justified in terms of the public monies saved by prevention of student abuse.

Accreditation agency representatives can assist by writing letters or testifying in favor of sound state regulatory proposals and appropriations for their operation. Further, they should point out the potential benefits of state agency utilization of accreditation, not as a *substitute* for state oversight but as an adjunct to it, especially in making the extremely difficult judgments about how to improve educational quality within institutions that have met minimum student consumer protection standards.

At the federal level, all accreditation agencies, not just those accrediting primarily proprietary vocational schools, need to become knowledgeable about the FTC Trade Regulation Rule outlined in the *Federal Register* of December 28, 1978. The language of the FTC hearing record summarized there makes some of the most flagrantly misleading vocational school advertising pale in comparison. Overgeneralizations, using words such as "frequently," "widely used," "widespread" when referring to the shoddy practices of a few schools, unfairly indict an entire industry.* Moreover, the FTC points out (p. 60804) that its exemption of traditional degree-granting schools is only conditional and that, in the future, the Commission may consider amending the rule to apply to degree programs. Accreditation representatives of member institutions need to speak out to their elected representatives in Congress against the unfairness of the FTC rule and its overly simplistic remedies (e.g., pro rata refunds, enforced disclosure of program dropout statistics).

Finally, accreditation agencies need to serve as spokespersons and catalysts for efforts to expand institutional self-study and self-improvement in the area of student consumer protection. It is important to stress that students *are* consumers, that they *can* be abused by institutional policies, practices, and conditions, and that, in the long run, voluntary improvements can be more effective than any form of government regulatory involvement.

*For example, on p. 60802, the record asserts that "the majority of vocational school students are enrolled after contacts with a commissioned sales person in which deceptive representations are frequently used or the discriminate enrollment policies attending the use of the 'negative sell' sales policy are present." Actual research studies of the proprietary school industry show that a minority of students are enrolled by commissioned recruiters and, while the potential for abuse under these circumstances is greater, misrepresentations occur in only a tiny percentage of cases.

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