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ABSTRACT

State oversight of private colleges and proprietary schools and the criteria used in evaluating institutions are considered. The primary approaches used by states in licensing and authorizing schools to operate and grant degrees are identified; minimum standards, honest practice, and realization of objectives. Tables show the current regulatory status and the variety of state agencies having oversight responsibility for both degree-granting and nondegree-granting institutions for private postsecondary education. Currently 43 states and the District of Columbia have some form of licensure or authorization procedures for private degree-granting institutions. All states except Utah have some form of licensure law for nondegree-granting institutions. Ten categories of criteria often found in state regulations are identified, along with examples of the types of information sought by many states. The criteria concern: purposes and objectives; administration and governance; finances; curriculum and program of studies; faculty; physical plant; library; student services, admissions, and refund policy; publications, and college records. Implications of telecommunications for states and the proprietary sector are briefly discussed. A statement on accreditation and authorization of distance learning through telecommunications is appended. (SW)

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SECTOR**

by

Bruce N. Chaloux

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State Oversight of the Private and Proprietary Sector

by
Bruce N. Chaloux*

The role of the states in the oversight of postsecondary education resembles, in many instances, a patchwork quilt. It is a quilt of 51 pieces, each unique in structure and scope. Despite the lack of similarity among the states, and despite claims that the autonomy of the states is the stitching for our patchwork quilt of public and private postsecondary education, many argue that there does exist a national "system" of higher education services. Few would argue that the variety, diversity, and quality of American higher education enterprise is the best available.

Nowhere are these differences among states more graphic than in the oversight of the proprietary sector. The proprietary sector remains an enigma to many state higher education agencies and poses many problems for state planners.

A fundamental problem is the lack of a common definition for proprietary education. A recent SHEEO study, "State Oversight of Degree Granting Authority in Proprietary Institutions," by John Wittstruck revealed a variety of definitions among states, ranging from "for profit" (the most common) to no specific definition. Often the states refer to occupational or trade and technical schools as proprietary, whether or not the institutions are "for profit" operations.

Some problems relate directly to the "profit motive" of proprietary institutions. Many consider this motive incongruous with the goals and objectives of education, suggesting that the profitability of an operation is often gained by sacrifices in the quality of the

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educational product.

Other problems are tied directly to the perception that proprietary schools are more closely aligned with secondary education than with postsecondary education. This view is supported by state regulatory approaches to proprietary institutions, which are often assigned to state departments of education, and not to state higher education coordinating or governing bodies. Conversely, the proprietary sector views itself as an important player in postsecondary education, enrolling thousands of students annually and providing important and needed educational services. The proprietary sector argues that the "profit" motive is misunderstood and that the quality of the educational product, as measured by the successful placement and work results of its students, is not recognized.

Somehow the proprietary sector has failed to communicate the nature of its activities to the states, and states have generally excluded the proprietary sector from higher education planning processes. There is a general lack of understanding and a major communication problem for both.

The State Higher Education Executive Officers Association (SHEEO), the Association of Independent Colleges and Schools (AICS), and the National Association of Trade and Technical Schools (NATTS) began to address this communication problem in April, 1985, when representatives from the three national organizations met to discuss a wide range of topics. Although the meeting was a small step, it was an important catalyst for greater understanding about the roles and responsibilities of each organization. However, fundamental concerns and major differences remain.

Many of the current issues and concerns are long-standing. The historical context of these concerns is discussed in the next section of this paper, which is followed by a

review of state oversight activities and the criteria used in evaluating institutions. The paper concludes with a brief discussion of the implications of telecommunications for states and the proprietary sector and some thoughts on where states and the proprietary sector might go from here.

THE ISSUES REVISITED: A HISTORICAL CONTEXT

All of our societal institutions changed in some fashion after the turbulent 1960s. In postsecondary education, we witnessed the "golden age" of higher education, with massive increases in the number of students attending college, many new institutions, major facilities expansion on existing campuses, and significant curricular changes and program growth. For the most part, state higher education agencies, either governing or coordinating bodies, played a direct role in nurturing growth while maintaining concern for quality education during this period.

One result of this expansion period was an increase in outreach activities, including many off-campus, out-of-state, and out-of-region instructional programs. These programs were initiated by both independent nonprofit and for-profit institutions, as well as many public institutions. Unfortunately, degree mills and bogus operations also flourished in the late 1960s and early 1970s. These inferior-quality programs threatened to taint institutions with quality off-campus outreach programs. This period also witnessed changes in the traditional roles and responsibilities of the partners in the so-called "triad" which included the federal government, state government and the accrediting community.

Many blame the lack of adequate state oversight for the growth of diploma mills, citing correctly that the states traditionally have been legally responsible for authorizing educational activity within state boundaries. But prior to the 1970s most states were not faced with the problem of institutional oversight beyond their own institutions. Thus the states' reaction, not surprisingly, was to develop new laws, regulations, and standards to review private degree-granting institutions. This was accomplished with the help of the federal government, which, in the Educational Amendments of 1972, facilitated the variety and diversity of postsecondary education by extending eligibility for federal

assistance to many post-high school programs, institutions, and other educational operations. State "1202" commissions were created to ensure comprehensive statewide planning. With the extended eligibility came the problem of ferreting out the viable, ethical educational endeavors from those with a dubious orientation. This task fell in part to state licensing agencies, which, as noted earlier, were only beginning to develop strategies for dealing with this set of problems.

The changing state role, which was traditionally (and remains so) one of consumer protection, also affected the accrediting community. Nongovernmental, voluntary accreditation was and is a process to ensure that educational institutions meet established criteria and standards. Accrediting bodies, especially regional associations, were slow to react to this off-campus explosion. It was not until The Council on Postsecondary Education was created (a merger of the National Commission on Accrediting and the Federation of Regional Accrediting Commissions of Higher Education) in 1975 that a general policy statement regarding inter-regional activities was developed.

Many argue that accreditation, especially regional accreditation, has taken on a quasi-public nature and that the processes of accreditation and state licensing are essentially the same. Although this is not the case, the 1972 Higher Education Amendments only intensified the rivalry between the states and the accrediting community.

Three other events are worthy of note: The 1973 Education Commission of the States (ECS) "model legislation," the Airlie House Conference of 1975, and the 1976 "Keystone Conference."

- o The ECS "model legislation" responded to state needs for help in creating and

enacting statutes or amendments to deal with the escalating problem of inferior institutional quality. The "model legislation" offered a broad set of provisions for use by states in the oversight of postsecondary institutions and was very much consumer-oriented. The report may be the single most influential document on the licensing process for state agencies. To this day it is a basic resource for states developing or revising their laws and regulations.

- o The Airlie House Conference in 1975 was the first national effort to review various problems and approaches to state licensing of private degree-granting institutions. However, many of the issues discussed at that conference are still unresolved, including the problem of states having no licensing laws or inadequate regulations, the lack of a national clearinghouse for information about institutions operating in more than one state, and the general absence of definition regarding the roles of states and the accrediting community in ensuring institutional integrity and quality. (In fairness, much has been accomplished on the latter issue, owing to the "Keystone Conference.")
- o The 1976 "Keystone Conference" was an effort of the now defunct Postsecondary Education Convening Authority to bring together representatives from the states, accrediting agencies and the federal government to rekindle the "triad" concept of partnership and cooperation concerning institutional approval, accreditation and eligibility. Although a number of tangible significant outcomes from that conference remain, including formal networks such as PROANDI (Persons Responsible for Oversight Activities of Non-Public Degree-Granting Institutions) and less formal communication linkages, no formal policies for cooperative

arrangements were developed. Many have called for a second "Keystone" conference, believing that changes in the roles of the "triad" partners since 1976 would foster new and beneficial progress. Lack of funding and coordination have precluded a second meeting.

The Council on Postsecondary Accreditation (COPA), the State Higher Education Executive Officers Association (SHEEO), and representatives of the U.S. Department of Education have continued to meet to discuss issues of mutual concern. During 1982-84, COPA and SHEEO jointly sponsored a study (see appendix) on assessing long distance learning via telecommunications (Project ALLTEL), and have continued the working relationship by creating a joint liaison committee to consider issues of mutual concern. Despite these efforts, the relationships between state higher education agencies and accrediting bodies remain uneven.

STATE OVERSIGHT

William Clohan's recent articles in the Association of Independent Colleges and Schools publication, "Compass" (March 1985), noted the "desire" of many states to "police education within their boundaries," and the "intrusion of state governments into what has historically been the province of collegial accrediting bodies." Many state officials would argue that their role increased only after the failure of the accrediting process to provide adequate protection for the educational consumer. These arguments do not alter the factor that, in the 1980s, states are in the business of proprietary oversight.

State oversight takes many forms. Terms such as chartering, licensing, authorizing, approving, and even accrediting exacerbate the problem. Generally, authorization refers to degree-granting activities and licensure to nondegree-granting activities, although

these distinctions are not universal. Terms and definitions that all state oversight agencies and accrediting bodies can agree on remain a problem.

States use a variety of approaches in licensing and authorizing institutions to operate and grant degrees in their jurisdictions. The three primary approaches are minimum standards, honest practice, and realization of objectives, although some states use a combination of these approaches. With the minimum standards approach a state agency evaluates whether an institution meets specified criteria at prescribed levels -- for example, a certain number of library materials, full-time faculty, laboratory facilities and classroom space. It is not unlike the approach used by accrediting agencies. The "honest practice" methodology is used to determine whether an institution fulfills claims made to the public. It is most concerned with such issues as reliability and accuracy of published materials and the adequacy of refund policies and other consumer protection measures. "Realization of objectives" asks the questions: Has the institution set reasonable objectives and does it have the potential for achieving those objectives?

By far the most popular approach is the minimum standards approach, which requires an institution to meet a prescribed set of standards and criteria not unlike those employed by accrediting agencies. In fact, the state's use of minimum standards fostered in the late 1960s and early 1970s by the off-campus activities noted earlier and the ECS model legislation, is at the heart of many of the concerns about state oversight activities of the accrediting community, especially the Association of Independent Colleges and Schools (AICS) and the National Association Trade and Technical Schools (NATTS).

The number of state agencies, in a single state, charged with some aspect of regulating postsecondary education in their state compound confusion about state practices and deflects any form of comprehensive statewide planning. This is particularly true for the

proprietary sector, whose institutions are faced with satisfying the requirements of agencies ranging from the SHEEO office to the department of Motor Vehicles. Which agency has oversight responsibility is often determined by the degree-or nondegree-granting status of the institution. Rarely is the SHEEO agency responsible for nondegree-granting institutions. The following table shows the current regulatory status and the variety of state agencies having oversight responsibility for both degree-granting and nondegree-granting institutions for private postsecondary education.

STATE OVERSIGHT OF PRIVATE POSTSECONDARY EDUCATION

Degree Granting

Nondegree Granting

	Regulations	Controlling Agency	Regulations	Primary Controlling Agency
Alabama	Yes	State Department of Education Accreditation and Licensure	Yes	Same
Alaska	Yes	Commission on Postsecondary Education (S)	Yes	Same
Arizona	Yes	Board of Private Postsecondary Education	Yes	Board of Private Technical and Business Schools
Arkansas	Yes	Department of Higher Education (S)	Yes	Department of Vocational and Technical Education
California	Yes	Department of Education Private Postsecondary Education Division	Yes	Same
Colorado	Yes	Commission on Higher Education (S)	Yes	Board for Community Colleges and Occupational Education
Connecticut	Yes	Board of Higher Education (S)	Yes	Board of Education, Private Occupational School Approval
Delaware	Yes	Department of Public Instruction	Yes	Same
District of Columbia	Yes	Educational Institution Licensure Commission	Yes	Same
Florida	Yes	Department of Education, Board of Independent Colleges and Universities	Yes	Department of Education, Board of Independent Postsecondary Vocational, Technical, Trade and Business Schools

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Georgia	Yes	Department of Education, Private College Standards	Yes	Department of Education, Proprietary School Standards
Hawaii	No	None	Yes	Department of Education, Accreditation and Licensing Section
Idaho	No	None	Yes	Board of Education and Board of Regents of the University of Idaho
Illinois	Yes	Board of Higher Education (S)	Yes	Board of Education, Nonpublic School Approval
Indiana	Yes	Commission for Postsecondary Proprietary Education	Yes	Same
Iowa	No	None	Yes	Department of Public Instruction, Guidance Services Section
Kansas	Yes	Board of Regents (S)	Yes	Department of Education, Proprietary Schools and Land Transfers
Kentucky	Yes	Council on Higher Education (S) and Board of Proprietary Education	Yes	Board of Proprietary Education
Louisiana	No	None	Yes	Department of Education, Proprietary School Commission
Maine	No	None	Yes	Department of Educational and Cultural Services, Division of Higher Education Services
Maryland	Yes	Board of Higher Education (S)	Yes	Same, different section of agency
Massachusetts	Yes	Board of Regents of Higher Education (S)	Yes	Department of Education, Office of Private Schools
Michigan	Yes	Department of Education	Yes	Same, Proprietary School unit

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Minnesota	Yes	Higher Education Coordinating Board (S)	Yes	Department of Education, Private Vocational Schools
Mississippi	Yes	Commission on College Accreditation	Yes	Commission of Proprietary School and College Registration
Missouri	Yes	Coordinating Board for Higher Education (S)	Yes	Same
Montana	Yes	Board of Regents	Yes	Department of Commerce Consumer Affairs Unit
Nebraska	Yes	Coordinating Commission for Postsecondary Education (S)	Yes	Department of Education, Private Vocational Schools and Veterans Education
Nevada	Yes	Commission on Postsecondary Education	Yes	Same
New Hampshire	Yes	Postsecondary Education Commission (S)	Yes	Same Education Approving Agency
12 New Jersey	Yes	Department of Higher Education (S)	Yes	Department of Education, Division of Vocational Education, Private Business and Correspondence Schools
New Mexico	No	None	Yes	Commission on Postsecondary Education Board of Education Finance
New York	Yes	Department of Education, Division of Academic Program Review	Yes	Same, different division
North Carolina	Yes	Board of Governors of the University of North Carolina (S)	Yes	Department of Education, Division of Veterans Education
North Dakota	Yes	Board for Vocational Education and Board of Higher Education	Yes	Board for Vocational Education, Private Vocational Schools
Ohio	Yes	Board of Regents (S) and Board of School and College Registration	Yes	Board of School and College Registration

Oklahoma	Yes	Regents for Higher Education (S)	Yes	Board of Private Schools
Oregon	Yes	Educational Coordinating Commission (S)	Yes	Department of Education, State Approving Agency
Pennsylvania	Yes	Department of Education, Division of Postsecondary Education Services (S)	Yes	Same
Rhode Island	Yes	Office of Higher Education (S)	Yes	Same, different section
South Carolina	Yes	Commission on Higher Education (S)	Yes	Department of Education, State Approving Section
South Dakota	Yes	Department of Education and Cultural Affairs	Yes	Same
Tennessee	Yes	Higher Education Commission (S) and Commission on Postsecondary Vocational Education	Yes	Same
Texas	Yes	Coordinating Board, College and University System (S)	Yes	Division of Proprietary Schools and Veterans Education
Utah	No	None	No	None
Vermont	Yes	Department of Education, Division of Adult and Vocational Education	Yes	Same
Virginia	Yes	Council of Higher Education(S)	Yes	Department of Education, Proprietary School Service
Washington	Yes	Council for Postsecondary Education (S)	Yes	Department of Education, Commission for Vocational Education
West Virginia	Yes	Board of Regents (S)	Yes	Department of Education, Bureau of Vocational, Technical, and Adult Education
Wisconsin	Yes	Educational Approval Board	Yes	Same

Wyoming

No

None

Yes

Department of Education,
Certification and
Accreditation Services
Unit

(S) Denotes SHEEO Agency

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Currently 43 states and the District of Columbia have some form of licensure or authorization procedures for private degree-granting institutions. However, not all of these states use evaluative criteria or procedures for assessing institutions. Some merely register the institutions while others grant exemptions on the basis of regional or national accreditation. Arguably, only 37 or 38 states have effective oversight procedures in place today — a continuing problem and concern for all states, especially in dealing with institutions operating in many states.

All states except Utah have some form of licensure law for nondegree-granting institutions. As the table reveals, state oversight of nondegree-granting institutions tends not to rest with the SHEEO agency, but rather with a division of the state department of education. The table does not include all state agencies involved in the licensure process, only the primary agency. Many states have numerous agencies involved in the oversight activity, usually in specialized training areas.

What is clear from the review of state oversight activities is the patchwork effect noted earlier, the lack of clear definitions, and the confusing array of state agencies involved. The proprietary sector, especially nondegree-granting institutions, is generally not in the sphere of influence of state higher education agencies.

A recent SHEEO study, "State Level Academic Program Review and Approval: 1984 Update," by Robert Barak revealed that 47 states have some form of authority for the approval of new degree programs, although only nine states have some level of authority to approve some degree programs for private institutions. The approval process varies from state to state with, for example, New York having total control over the independent sector and Virginia having authority to approve only degree levels and not specific programs. The majority of states do not include proprietary school programs in

their approval process -- another example of the exclusion of proprietary schools from statewide planning and coordination.

EVALUATIVE CRITERIA

The nature of state oversight for degree-granting institutions is quite different from that for nondegree-granting institutions. Nowhere is this more evident than in the evaluative criteria used by states in assessing proprietary institutions.

Generally, evaluation of degree-granting institutions focuses mainly on qualitative concerns and the educational validity of the activity. Although this is present to some extent in the nondegree-granting sector, the concern for consumer protection is far more prevalent.

Degree-granting Institutions

While specific criteria that states use to evaluate an institution vary significantly, a general framework emerges from an analysis of state regulations. The ten categories most often found in state regulations are presented below, along with examples of the types of information sought by many states.

1. Purposes and Objectives -- provide a statement of the institution's educational philosophy and the nature and philosophy of the operation; provide a statement of the goals, purposes, and/or objectives of the institution.
2. Administration and Governance -- develop and maintain bylaws consistent with the stated purposes of the institution; provide information specifying members of the governing board, their tenure, responsibilities, and procedures for member

selection; specify the duties of the chief executive officer; state the role of the governing body in determining institutional policy; state the role of the faculty in the making of educational policies; state the education and experience qualifications of directors, administrators, and supervisors.

3. Finances — provide a statement of financial support, including expenditure per student, income per student, debt service costs, and financial procedures, have a qualified and bonded business officer; adopt appropriate accounting procedures approved by a recognized organization; show the financial stability of the institution and the capability of fulfilling its commitments to students.

4. Curriculum and Program of Studies — indicate the content of each course of program of instruction, training, or study as may reasonably and adequately achieve the stated objective for which the course or program is offered; clearly indicate the level of instruction for each course or program of study, i.e., undergraduate, graduate, secondary, etc.; describe remedial programs (if any) that are provided for students with academic weaknesses; describe provisions made to ascertain that students have mastered the basic skills needed to do postsecondary level work; describe policies concerning transfer of credit from other institutions; describe the appropriate educational credentials given by the institution upon satisfactory completion of training.

5. Faculty — encourage faculty to engage in continuing professional study and/or research appropriate to their responsibilities; require faculty to teach in their specialized field(s) of competency; employ full-time faculty to insure continuity and stability of the educational program; provide an adequate number of personnel to insure reasonable size classes, advising loads, etc.

6. Physical Plant -- provide physical plant with formal academic classrooms appropriate to educational programs and size of faculty and student body; describe plant needs and plans for expansion; provide laboratory and other special facilities as deemed necessary in stated objectives.
7. Library -- provide formal library facilities to accommodate the needs of institutional instructional strategies; operate a program for continuous acquisition of library materials; state percentage of the budget allotted to the library.
8. Student Services, Admissions and Refund Policy -- require entering students to possess a high school diploma (or equivalent) for enrollment; have a fair and equitable cancellation and refund policy for tuition, housing, etc.; provide an adequate program of educational, occupational and personal counseling.
9. Publication -- require that publications be in sufficient quantity to supply interested persons requesting materials; provide complete informational material concerning the institution that is likely to affect the decision of the student to enroll there.
10. College Records -- maintain adequate records to show attendance, progress, or grades, and that satisfactory standards relating to attendance, progress and performance are enforced; maintain student financial records.

Nondegree-granting Institutions

The variety of state agencies charged with licensing nondegree-granting proprietary

institutions is reflected in the diversity of evaluative criteria used. Many of the categorical areas noted earlier appear in the regulations for the nondegree-granting institutions. Most licensing agencies seek information about the objectives of the institution, faculty, library resources, etc. However, the fundamental difference is the intent of the criteria, which are generally oriented toward consumer protection.

Most states have developed criteria that reflect the occupational specialties of programs and instruction for different types of institutions. These criteria emphasize the employability of the student upon completion of his/her training, up-to-date training methods and instructional equipment, and vocational competencies for entry into the job market.

Many states address the proprietary nature of the institutions by placing a special emphasis on disclosure of information. Advertising, promotional literature, catalogs, and other institutional information are all scrutinized for false or misleading statements. This emphasis on "truth in advertising" often follows Federal Trade Commission standards.

Requirements for nondegree-granting and degree-granting institutions differ significantly in the financial area, in particular the bonding requirements to protect the rights of students. Tuition refund policies are closely monitored and many states require institutions to post large bonds to protect students if programs are discontinued or institutions close. Many states also require agents of institutions to be bonded and licensed.

Clearly, the evaluative criteria for nondegree-granting institutions reflects the consumer movement of the 1970s, when a few proprietary schools were cited for abuses. The

attendant publicity called attention to fraudulent practices and abuses in this sector of postsecondary education. Despite the efforts of federal, state, nongovernmental accrediting bodies and various associations, concern about quality in the proprietary sector remains.

THE TELECOMMUNICATIONS REVOLUTION

The newest challenge to the state higher education agencies is the rapidly increasing use of telecommunications to deliver educational services. Telecommunications technology may well have an impact similar to that of the off-campus explosion of the late 1960s and early 1970s. Many proprietary institutions, both degree and nondegree granting have turned or may soon turn to technology to provide greater educational services to their students. Again, the states and the accrediting bodies will be challenged to ensure the quality and integrity of these educational activities and will face a new set of programming dynamics for which contemporary standards and criteria may not be appropriate.

These concerns were the impetus for Project ALLTEL, a two-year study on assessing long distance learning by telecommunications that sought strategies that would ensure quality without erecting barriers to impede the innovative uses of the technology.

Telecommunications poses challenges that may catalyze significant changes in the relationship between state oversight agencies and accrediting bodies. The most significant challenge is the problem of "physical presence," defined as the degree of activity taking place in the state. As this term becomes more precisely defined by the courts, it will become the central issue upon which state regulation of telecommunications will be shaped. Traditionally, physical presence has been measured

by the number of facilities, the presence of faculty and the degree of classroom instruction. But telecommunications activities may well alter these traditional views and render current practices obsolete, ineffective, and more important, illegal. Such changes may require new reciprocal agreements among the states, more formal procedures for sharing of information, and a stronger working relationship with the accrediting community.

The "Statement on Accreditation and Authorization of Distance Learning Through Telecommunications" is appended to this paper. It sets out general principles for the assessment, by both state agencies and accrediting bodies, of instructional programs by telecommunications, suggests a strategy for evaluation that links states and the accrediting bodies, and discusses in some detail the concept of "physical presence" and its importance in implementing the proposed strategy.

A number of states have adopted or formally endorsed the products of the ALLTEL study, including the Institutional Profile for Telecommunications Instruction, a data collection instrument. The Southern Association of Colleges and Schools is currently field-testing a set of documents based on and similar in content to the ALLTEL Profile.

Given the interest and experience of the proprietary sector in the use of technology to deliver instruction, representative organizations should consider adopting or adapting Project results for their own use. This may be a starting point for more direct involvement of the proprietary sector in statewide planning.

CONCLUSION

Despite a long history of providing postsecondary educational services to millions of

people, the proprietary sector remains a mystery to many state higher education agencies and generally falls outside of statewide higher education planning efforts. Part of the problem, as noted earlier, is one of terminology. Another aspect of the problem is the number and variety of state agencies involved in the oversight of proprietary schools and the lack of a coherent set of evaluative criteria for assessing the schools' educational activities. However, the single greatest problem has been a lack of communication and dialog among the various constituencies involved with the proprietary sector. Little formal communication has occurred since the 1976 Keystone Conference, except for infrequent and ad hoc meetings at the local level. The efforts of SHEEO, NATTS and AICS in organizing the April, 1985 meeting to discuss issues of common concern can become the foundation upon which a new set of relationships can be developed.

To develop comprehensive policies for the proprietary sector, dealing with such issues as student aid, program review and approval, state authorization and licensing criteria, and statewide planning, all parties involved will need to expose and discuss many biases and perceptions. Failing to do so will harden relations even more, and further threaten the existing diversity of our system of higher education.

SHEEO, AICS, and NATTS can and should be leaders in creating more effective channels of communication and information-sharing. The first step was taken at the 1976 Keystone meeting. The three sponsoring organizations must continue to build upon the momentum generated at that meeting. Perhaps a national conference — a "Keystone II" — could gather representatives from the various state authorizing and licensing agencies, national and regional accrediting associations, federal officials, and related association representatives. Participants might explore ways to create better lines of communication, review existing approaches to licensure, and resume discussions begun in 1976 on a host of still-existing problems and issues of mutual interest and concern.

APPENDIX

Statement on Accreditation and Authorization of Distance Learning Through Telecommunications

Introduction

This statement summarizes the results of a two year study on assessing long distance learning by telecommunications. The study, cosponsored by the Council on Postsecondary Accreditation and the State Higher Education Executive Officers Association, focused on the rapid development and use of telecommunications to offer postsecondary education, and the need to ensure the quality and integrity of this instructional activity. It was supported by a grant from the Fund for the Improvement of Postsecondary Education, whose views it does not necessarily reflect.

A series of task forces and advisory committees were responsible for developing the components in the statement. During their deliberations, each group affirmed the need to address the quality of telecommunications instruction within the existing assessment framework, which includes state authorization, nongovernmental voluntary accreditation, and institutional self-regulation. This belief is reinforced in the principles and procedures which follow. The following definition was used during the study.

Telecommunications instruction is any course or series of courses offered or sponsored by a postsecondary education institution, consortium of institutions, or other organization, for which credit is offered or awarded toward a certificate, diploma, or degree. The course or courses must have, as the primary mode of delivery, television, video cassette or disc, film, radio, computer, or other supportive devices which build upon the audio-video format. In many instances, the telecommunications course is supported by textbooks, study guides, library resources, and other study aids, and may also involve personal interaction with

faculty, tutors, or other educational personnel by telephone, mail, or in face-to-face meetings.

I. General Principles

- A. The assessment of programs delivered by telecommunications should take place within the context of an institution's or other organization's total educational mission.
- B. The policies and procedures for assessing long distance learning should not discourage the development and use of technology for educational purposes. Specific requirements by state authorizing agencies and accrediting bodies should accommodate constructive innovation.
- C. The focus of states' authorization and of nongovernmental accreditation activity in long distance learning by telecommunications should be on postsecondary institutions and other organizations which award credit that can be applied toward academic degrees, or which provide other credentials that have credit bearing significance such as programs leading to certification of proficiency or licensure. Authorization and accreditation requirements should not apply to those institutions and organizations which are involved only in the production of courses or support materials.
- D. State authorization activities are and should be the initial step and a necessary prerequisite to accreditation in the assessment of long distance learning by telecommunications.

- E. The states have a responsibility in consumer protection which should be reinforced as necessary. States without adequate authorization legislation are urged to develop such legislation.
- F. Institutions and other organizations involved in telecommunications instruction, as in other instructional activities, should use and further develop rigorous outcome measures to assess program effectiveness. Accrediting bodies and state authorizing agencies should validate and use such measures to the greatest possible extent in their evaluation activities.
- G. The focus of the assessment activity for long distance learning by telecommunications conducted by educational institutions should be accreditation, either institutional or professional as appropriate to the offerings.
- H. The interests of higher education and the general public are best served when institutions voluntarily seek appropriate approval even in situations in which they may not be required to do so. Toward this end, the accreditation and authorization of telecommunications-based educational programs should be thorough and reasonable. If this can be accomplished, then the institutional burden of seeking approval will be a reasonable price to pay for increased public confidence.
- I. The necessity of an institution's seeking state authorization depends in large measure upon the institution's "physical presence" in the state or states in which it wishes to operate. Although there is yet no clear legal definition of "physical presence" the following guidelines have been developed.

1. The act of transmitting an electronic signal into another state without any other contact within that state does not, under current laws, constitute physical presence. Similarly, the use of an interstate interactive computer system to deliver educational services, absent any other in-state contact, would not necessarily create jurisdiction over the out-of-state institution.
2. The use of interstate mail and telephone services to provide instructional and related services to students involves protected interstate commerce and, therefore, generally cannot be subjected to state regulation.
3. The presence of an institutional recruiter (agent) in a state may constitute sufficient physical presence of an institution in that state to subject it to licensure. It may also subject the institution to other legal constraints.
4. Support services that include institutional representatives in a state, such as tutors, counselors, or instructors, in most instances establish physical presence sufficient to afford the state jurisdiction through its approval mechanism.

II. Procedures

- A. A primary and fundamental objective is the development of close working relations among state authorizing agencies, accrediting bodies, and institutions. They should undertake to reexamine and develop regulations,

standards, and criteria for use in the evaluation of instruction delivered by telecommunications. State agencies and accrediting bodies should work together to ensure that state authorization provisions and procedures and accrediting standards complement each other. By undertaking this joint effort, a second objective of reducing the multiple and repetitive procedures currently required for institutions operating in several jurisdictions may be realized.

The following procedures are suggested as an initial step toward meeting those objectives:

1. With respect to the states:

- a. States should provide mechanisms to exchange information with each other and with accrediting bodies concerning standards, procedures, and actions relating to the authorization of institutions to operate and grant degrees.
- b. State authorizing agencies should seek more uniform authorization requirements so that educational institutions eventually can receive authorization in all jurisdictions through common assessment procedures.
- c. The states have constitutional and statutory responsibility to provide and supervise education. In those states where statutes providing supervision of postsecondary institutions currently do not exist, appropriate legislation should be sought, and the means for reviewing and authorizing educational operations and institutions should be established. Due consideration should be given to

instruction delivered by telecommunications.

The State Higher Education Executive Officers Association should continue to work closely with the states to attain these objectives.

2. With respect to regional, national, and specialized accrediting bodies:
 - a. Accrediting bodies should continue to develop standards and procedures for off-campus programs, including instruction delivered by telecommunications, in harmony with the COPA policy statement on off-campus operations and institutional and accrediting bodies agreements of understanding.
 - b. Accrediting bodies, through COPA, should create better mechanisms for the exchange of information with each other and with all affected state agencies concerning standards, procedures, and actions relating to the accreditation of institutions and programs and their off-campus activities, including instruction delivered by telecommunications.
 - c. Accrediting bodies, as they do now for all other programs, should require institutions involved in long distance learning by telecommunications to have the appropriate authorization to operate in any state in which they wish to offer instruction.
 - d. Accrediting bodies should require demonstration by an institution or, in the case of specialized accreditation, by the program under evaluation that its students achieve the educational objectives set

for them. Currently accepted criteria of accreditation can be applied to institutions and programs offering long distance learning or using telecommunications and other electronic techniques. These criteria require, in accordance with accreditation standards, that institutions or programs:

- 1) Have clearly defined and appropriate educational objectives.
- 2) Have the resources and structure needed to accomplish these objectives.
- 3) Demonstrate that these objectives are being accomplished.
- 4) Give reasons to believe that these objectives will continue to be accomplished.

The Council on Postsecondary Accreditation should continue to work closely with accrediting bodies to attain these objectives.

III. Implementation

The following specific procedures are suggested to effect these recommendations:

- A. An institution should give to the appropriate state agencies and accrediting bodies advance notice of intent to initiate programs using telecommunications that provide credit applicable toward degrees.
- B. To obtain appropriate recognition from state agencies and accrediting bodies, the following strategy is suggested:

1. An institution would provide documentation on the objectives and scope of its programs using telecommunications, including provision for instruction and instructional support. This information would be provided on the Institutional Profile for Telecommunications Instruction, a document designed to provide state agencies and accrediting bodies with crucial information about teleccommunications-based activities.
2. State agencies and accrediting bodies would review the documentation to determine whether the instruction and instructional support meet the established requirements and standards.
3. The documentation would be audited, as appropriate, by state agencies and accrediting bodies and certified as being complete, accurate, and representative of the institution's telecommunications activities. The certified document could then be made available to any state agency or accrediting body needing such information.
4. If proper quantity and quality controls are evident, approval would be granted by state agencies and accrediting bodies to include the activity within the institution's recognized status.
5. If necessary to reach a sound decision, a state agency or accrediting body may request additional documentation or schedule an on-site visit. The institution, for its part, may withdraw its request without prejudice or appeal any adverse decision to the appropriate body or bodies consistent with due process procedures.

- C. Interregional or other agreements envisioning a single accrediting activity for an institution, conducted cooperatively by two or more accrediting bodies, should be fully implemented as they relate to long distance learning so that the accreditation of an institution can be conducted in a single process.

Conclusion

The principles and procedures recommended in this statement were formulated to ensure the highest quality and integrity of instruction delivered by telecommunications. If adopted by state authorizing agencies and accrediting bodies, there will be a better likelihood of increased cooperation between them, and an important step will have been taken toward instituting common, reasonable and thorough approval practices.

Endorsed by the State Higher Education Executive Officers Association, August 1, 1984, and by the Council on Postsecondary Accreditation, October 11, 1984.