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ABSTRACT

This paper presents an overview of the nature and structure of higher education in the United States, with a specific focus on higher education in the state of Nebraska. Although the United States has no official national system of higher education, the federal government plays an important role in the regulation and funding of colleges and universities, both directly and indirectly, through legislation, the enforcement of individual constitutional rights, and adjudication. Higher education in the United States is extensive and diverse, with some 1,624 public and 2,014 private institutions in existence during 1992-93, enrolling over 15 million students. Higher education in Nebraska is similar in many respects to other states. State-supported institutions include the four campuses of the University of Nebraska system and three state colleges, as well as six community colleges. There are 17 independent colleges and universities, most of which have some religious affiliation. There are also 46 private career schools which provide training in some specific aspect of business or industry. The administration, mission, and activities of the University of Nebraska are summarized. (MDM)

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SELECTED CHARACTERISTICS OF HIGHER EDUCATION  
IN THE UNITED STATES AND THE STATE OF NEBRASKA

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ON TRAINING OF HIGHER EDUCATION ADMINISTRATORS  
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## Introduction

The purpose of this paper is to present an overview of the nature and structure of higher education in the United States, with a specific focus on higher education in the State of Nebraska. The first two sections provide a general discussion of some basic legal concepts and some basic nation-wide data. The last two sections provide more specific information about the higher education system in Nebraska.

Because there is such diversity across the country, Nebraska higher education is used here as an illustrative case. Nebraska is basically a rural state, located in the center of the United States, with a relatively small population. According to the 1990 U.S. Census, the United States population was 248,709,873, with Nebraska accounting for 1,578,385, or only about 0.6% of the national total. Nevertheless, higher education in Nebraska has many of the characteristics typical of higher education across the United States.

Please note that throughout this paper the terms higher education and postsecondary education will be used interchangeably.

The purpose of this paper is not to suggest that what is presented should be a model for others to follow; rather, the purpose is to provide information that others may find to be interesting and perhaps useful.

## Legal Structure for Higher Education

The discussion in this section could be referenced to many different sources, including constitutional and statutory provisions, court decisions, journal articles, and books; however, for the sake of clarity and simplicity, there are only a few specific citations to legal references. An excellent reference for all the concepts discussed is The Law of Higher

Education, 2nd ed. (1985) by William A. Kaplin.

From a legal perspective, there is no official national system of higher education in the United States; rather, there is a set of fifty separate state systems, along with a small number of distinct systems for the District of Columbia, the U.S. Service Schools, and U.S. territories.

The federal government is a government of limited powers, enjoying only those powers conferred by the United States Constitution. The Constitution does not mention education, and thus does not delegate power over education to the federal government. But this is not to say that the federal government does not become involved in higher education, because federal involvement is significant in several important ways.

First, many constitutional powers of federal government, particularly the spending power, the taxing power, the commerce power, and the civil rights enforcement power, are broad enough to extend to matters involving higher education. Pursuant to these powers, Congress appropriates money for numerous federally-funded programs in higher education and imposes certain requirements about how these programs are to be conducted. In addition, Congress has enacted much legislation that prohibit various forms of unjustified discrimination, based on such personal characteristics as race, color, religion, sex, national origin, and disabilities, both in employment practices and in educational opportunities.

Second, the constitutional protections of personal liberties grounded in the Bill of Rights (the first ten amendments to the Constitution) and the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment are major factors in defining the relationships between public

sector higher education institutions and their employees and students. For example, the concept of academic freedom, which is grounded in First Amendment protections of freedom of expression, enables faculty to pursue and discuss controversial ideas without undue fear of employment sanctions. Other examples are the protections against mistaken or unjustified faculty dismissals and student expulsions afforded by the Due Process Clause and the prohibitions of racially segregated colleges and universities grounded in the Equal Protection Clause. But because these constitutional protections serve as constraints on the powers of government, it is only public sector institutions that are directly affected; however, private sector institutions extend some of these same protections to faculty and students by institutional policy or various kinds of contracts. Also, both public and private sectors are subject to an array of statutes prohibiting various forms of discrimination, as is noted above.

Third, the federal judicial system has jurisdiction over most disputes that involve issues of federal constitutional law or federal statutory law or that involve citizens of different states. The body of case law generated by federal courts in resolving disputed issues of constitutional and statutory law establishes certain parameters for the governance and administration of higher education.

But although the impact of federal government on American higher education is substantial, the legal structure of higher education, both public sector and private sector, is essentially a matter of state law.

Public sector institutions of higher education are created by state law, some by state constitution and some by state legislation. Private

sector institutions of higher education are created voluntarily, usually as corporations, pursuant to state constitutional and statutory provisions that provide for the creation of various private enterprises that the law recognizes as legal entities. Thus, the legal authority for the governance and administration of higher education is grounded in the laws of a particular state.

An example of one of the more notable legal concepts pertaining to postsecondary education is that of tenure, by which faculty in both public and private institutions are provided substantial protections against unjustified or mistaken dismissals from employment. The protections of tenure in the public sector are grounded in state statutes, institutional policies, and employment contracts; in the private sector, tenure is extended through institutional policies and employment contracts. In either sector, the basic protections of tenure are grounded in state law.

There are many legal disputes that arise in the relationships between a postsecondary institution and its employees, students, or external parties; while certain general principles of law are reasonably uniform across the nation, many of these disputes will be resolved according to specific state law. As examples, litigation involving issues of contract law (enforceable agreements) or tort law (civil wrongs, such as defamation and negligence) are likely to be resolved in a state court forum, on the basis of the laws of that state.

#### Higher Education in the United States

One of the functions of the federal government is to collect, compile, and publish data about American education. The National Center for Education Statistics, which is part of the U.S. Department of

Education, publishes annually a Digest of Education Statistics. The following information pertaining to higher education in the United States was taken from the 1993 edition of that publication. Data are reported for different years, depending on the most recent year for which data were available.

Given that there is no mandated national system of higher education, much diversity is to be expected, and much diversity is to be found.

Postsecondary education in this country is diverse; American colleges and universities offer a wide range of programs. For example a junior college may offer vocational training or the first 2 years of training at the college level. A university typically offers a full undergraduate course of study leading to a bachelor's degree as well as first-professional and graduate programs leading to advanced degrees. Vocational and technical institutions offer training programs which are designed to prepare students for specific careers. ... (p. 165).

During 1992-93, there were a total of 3,638 institutions of higher education, including some branch campuses that reported separately. Of these institutions, 1,624 were under public control, and 2,014 were under private control; 2,169 were universities or other 4-year institutions, and 1,469 were 2-year institutions. According to the 1991 data reported for private institutions, about 36% were independent nonprofit, about 17% were independent for profit, and about 47% were religiously affiliated.

In the fall of 1991, the total enrollment, including both full-time and part-time, was 15,282,661. Of these students, 56.9% were enrolled in universities or other 4-year institutions, 37.0% were enrolled in 2-year institutions, and 6.0% were enrolled in various non-collegiate postsecondary institutions; the public sector enrolled 75.9%, and the

private sector enrolled 24.1%. Of the total postsecondary enrollment, 45.1% were men and 54.9% were women. The 1990 Census determined the United States population to be 248,709,873; thus, about 6% of the total population is enrolled in postsecondary education.

Of the 1.1 million bachelors degrees conferred in 1990-91, the largest numbers were in business and management, social sciences, education, engineering and engineering technology, health professions, and psychology. Of the 339,000 masters degrees, the largest numbers were in education and business and management. Of the 39,700 doctorates, the largest numbers were in education, engineering and engineering technology, physical sciences, and life sciences.

According to 1989 data, American institutions of higher education had a total of 2,473,116 employees. Of the total employee force, 1,531,071 were professional staff, and 942,045 were nonprofessional staff; 1,720,769 were employed in the public sector, and 752,347 were employed in the private sector.

Finally, the enterprise of higher education involves the expenditure of substantial financial resources. In 1990-91, the total expenditures were about \$146 billion--\$92,961,093,000 in the public sector, and \$53,126,743,000 in the private sector.

#### Higher Education in the State of Nebraska

Nebraska has a system of higher education that is similar in many respects to systems found in the other forty-nine states. Thus, a review of the characteristics of Nebraska higher education will provide some insight into the kinds of institutions and programs that are found across the United States.



Nebraska has a Coordinating Commission for Postsecondary Education, which was created by a 1990 amendment to the state constitution, and which officially began operation January 1, 1992. As the name implies, this entity has been vested with constitutional and statutory authority to coordinate postsecondary education in the state. It should be noted that this new Coordinating Commission was given substantially more authority than a predecessor postsecondary coordinating commission; as the Coordinating Commission has sought to exert this new authority, there have been some conflicts with some of the postsecondary institutions.

One of the tasks of the Coordinating Commission is to prepare an annual report on public and independent colleges and universities and private career schools in Nebraska. Most of the information that follows was taken from the December 1993 report, which was entitled A Factual Look at Higher Education in Nebraska.

The Coordinating Commission has categorized postsecondary institutions into five sectors--University of Nebraska, State Colleges, Community Colleges, Independent Colleges & Universities, and Private Career Schools. The data reported below are for 1991-92.

The University of Nebraska sector included four institutions--University of Nebraska-Lincoln, University of Nebraska at Omaha, University of Nebraska at Kearney, and University of Nebraska Medical Center. The University offers a comprehensive, diverse array of academic and professional preparation programs. Degrees may be earned at the bachelors, masters, specialists, and doctoral levels.

The State Colleges sector included three institutions--Chadron

State College, Peru State College, and Wayne State College. All three institutions offer programs at the bachelors degree and masters degree level, and two offer programs at the specialists level in educational administration. Years ago these were teachers colleges, and the majority of their enrollments are still in the field of education.

The Community Colleges sector included six areas, each of which has a defined geographic territory--Central (3 campuses), Metropolitan (3 campuses), Mid Plains (3 campuses), Northeast (1 campus), Southeast (3 campuses), and Western (2 campuses). These colleges offer a wide variety of vocational, technical, and academic courses; many of their programs lead to the 2-year associate degree.

The Independent Colleges & Universities sector included seventeen separate institutions, most of which have some religious affiliation. Their programs tend to have a liberal arts orientation. Their emphasis is on the bachelors degree, but some offer masters degrees, and the one relatively large university (Creighton) offers doctorates and professional degrees in law and in some medically-related fields.

The Private Career Schools sector included a total of forty-six institutions, most of which provide training in some specific aspect of business or industry. Schools in this sector offer awards and degrees of less than the baccalaureate level.

The total 1992 fall headcount enrollment for all five sectors was 125,179 students. The percentage distribution by sector was as follows: University of Nebraska, 42%; State Colleges, 7%; Community Colleges, 29%; Independent Colleges & Universities, 15%; and Private Career Schools, 7%. Of the total enrollment, 78% were enrolled in public

institutions and 22% were enrolled in private institutions; about 45% were men and about 55% were women.

### The University of Nebraska

The University of Nebraska is the major higher education sector in the state. It is governed by a board of eight Regents, each of whom is elected by the residents of a geographic territory within the state. The Board of Regents meets each month to conduct the affairs of the University. The Board employs a President, who serves as the chief executive officer of the system. Each of the four campuses is headed by a Chancellor.

The basic structure of the University of Nebraska is explained clearly in the "Role and Mission Statement" for Central Administration.

The University of Nebraska is one University comprised of four campuses: the University of Nebraska-Lincoln, the University of Nebraska at Omaha, the University of Nebraska Medical Center, and the University of Nebraska at Kearney. Teaching, scholarly research and creative activity, and statewide outreach are at the heart of the work and aspiration of the entire University. Each campus has a unique role and mission which should be recognized, enhanced and developed.

The place of the University of Nebraska-Lincoln in the higher education system of the state is set out the "Role and Mission Statement" for that campus.

The University of Nebraska-Lincoln, chartered by the Legislature in 1869, is that part of the University of Nebraska system which serves as both the land-grant and the comprehensive public University for the State of Nebraska. . . .

Through its three primary missions of teaching, research, and service, UNL is the state's primary intellectual center providing leadership throughout the state through quality education and the

generation of new knowledge. . . .

The University of Nebraska-Lincoln has been recognized by the Legislature as the primary research and doctoral degree granting institution in the state for fields outside the health professions. . . .

The nature of the institution and breadth of activities carried on can be shown by this excerpt from the UNL "Role and Mission Statement" that identifies the various colleges and other units.

UNL pursues its missions through the Colleges of Architecture, Arts and Sciences, Business Administration, Engineering and Technology, Home Economics, Journalism, Law, Teachers College, the University-wide Graduate College, and the Institute of Agriculture and Natural Resources which includes the College of Agricultural Sciences and Natural Resources, the Agricultural Research Division, the Cooperative Extension Division, International Programs Division, and the Conservation and Survey Division. Special units with distinct missions include the University Libraries, the Division of Continuing Studies, International Affairs, the Lied Center for Performing Arts, the Bureau of Business Research, the Nebraska Educational Television System, the Sheldon Memorial Art Gallery, the University of Nebraska State Museum, the University of Nebraska Press, the Water Center, the Nebraska Forest Service, the Nebraska State-wide Arboretum, and Intercollegiate Athletics.

According the Office of Institutional Research, the total fall 1993 headcount enrollment was 24, 695. Also, UNL benefits from a substantial contingent of international students; according to the Office of International Affairs, a total of 1,800 international students and visiting scholars were on campus during the spring of 1994.

Because of the ongoing relationship with East China Normal University, a brief description of Teachers College and the Department of Educational Administration seems appropriate.

Teachers College has six major academic units--the Center for Curriculum and Instruction, the Department of Adult and Vocational Education, the Department of Educational Administration, the Department of Educational Psychology, the Department of Health and Human Performance, and the Department of Special Education and Communications Disorders. The College also includes a number of other special units--an educational test institute, an instructional design center, a research support center, a student services center, a word processing center, an adult literacy center and a recently-created center for the study of higher education--and other special interests groups, focused on topics such as multicultural education, technology, and international education.

To carry on its programs, Teachers College has 112 professional staff and 60 support staff. The total headcount enrollment for the fall semester of 1993 was 1,960 undergraduate students and 1,655 graduate students.

The Department of Educational Administration, which currently has 10 faculty and 3 support staff, carries on graduate-level teaching, research, and service. Programs focus on both elementary-secondary education and higher education. During the spring semester of 1994, about 400 students were enrolled in Department or Department-related programs; of these students, about 100 had courses of study that emphasized higher education administration. In addition to instructional programs, Department faculty conduct research in educational administration and provide service to many educational institutions and agencies.

### Concluding Comments

Higher education in the United States is an extensive enterprise, with much diversity from state to state and among institutions within individual states. The extent and diversity of higher education in Nebraska is reasonably representative of that found across the nation.

This diversity of institutions and programs is generally viewed as a strength of higher education. Because different states and different communities have different needs, the absence of a mandated uniform system makes it possible for each state and community to develop the kinds of institutions and programs that will best serve the needs of that locale. Although states and communities do learn from one another, the best system of higher education is most likely to be developed by those who will be its immediate supporters and patrons.

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