

FIELDS OF ACTION: CHARTING THE DYNAMICS OF STATE AUTHORIZATION AND  
CAMPUS-STATE TENSIONS IN POSTSECONDARY OVERSIGHT

by

SEAN MIKEL BASER

(Under the Direction of Erik C. Ness)

ABSTRACT

Numerous policies and reforms have been proposed and implemented to increase accountability and improve performance in higher education in the United States (U.S.), which has included an emphasis on the state's role in authorizing colleges and universities to operate and award degrees. The recent surge in peer-reviewed and grey literature has offered insights into postsecondary authorization, yet significant gaps persist in our current understanding of how state authorization plays out. These include a narrow focus on institutions and a lack of historical and theoretical perspectives. To that end, this dissertation investigated the historical development of state charters, authorization, and licensure for postsecondary institutions, in addition to analyzing how the theory of Strategic Action Fields (SAF) explains the dynamics of oversight, the roles of key actors, and the manifestation of governance tensions within state-level postsecondary education. I conducted a systematic, historical review of state authorization from its roots in Papal charters issued in medieval Europe to the present-day authorization processes in the U.S. I build on the theory of SAFs to explain how social actors interact and vie to maintain or change order in distinct yet interlocking social fields of postsecondary oversight. This theory provides an important meso-level and actor-centered perspective to help understand how social

actors comprehend how the field works, who the actors are, how other actors behave, and the rules of the field.

Findings revealed an extensive array of actors involved in the oversight process. This dissertation highlighted the complexity of the regulatory landscape in postsecondary education. I argued that chartering, authorization, and licensure for private institutions represented a paramount state role. This stance challenged the focus of previous research, which predominantly centered on public institution governance. Specifically, this research underscored the significance of historical synthesis in understanding state governance and oversight, presenting a new conceptualization of postsecondary oversight that accommodates the complexities and diverse needs of today's higher education landscape. The implications of these findings are profound. They support a more nuanced and effective oversight framework that is responsive to the evolving needs of students, the public, and the state.

INDEX WORDS: State Authorization; Governance; Oversight; Strategic Action Fields; State Agencies; Accountability

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*A man only learns in two ways, one by reading, and the other by association with smarter people.*

- Will Rogers

To Megan and Marcy

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## **CHAPTER I**

### **INTRODUCTION**

Over the past decade, numerous policies and reforms have been proposed and implemented to increase accountability and improve performance in United States (U.S.) higher education (Education Commission of the States, 2023). Several factors account for the ever-growing focus on institutional accountability and performance, including the rising cost of higher education, questions about the value of a traditional college degree and experience, intermediary influences, wide-sweeping public regulatory reforms, and the plethora of stories about colleges leaving students saddled with debt (Tandberg, 2018; Tandberg et al., 2019). The regulatory triad—composed of the federal government, accrediting agencies, and state governments—has been the prominent actor in holding institutions accountable, ensuring quality, and protecting students (Helm, 1979; McCann & Laitinen, 2019, November 19). In the triad, states “regulate the establishment of institutions and their right to grant degrees through a formal authorization process” while “regional accreditation agencies serve a quality assurance and enhancement function required for postsecondary education institutions to receive federal funding” (Ness, Baser, & Dean, 2021, pp. 3-4). The federal government and regional accreditors have received most of the attention within the media, research, and national policy debates on accountability in higher education, with state authorization only recently joining the limelight. This narrow coverage unfortunately neglects the salient role of state governments to authorize, regulate, and coordinate postsecondary education.

States play a central role in regulating, governing, and coordinating higher education (Hearn & McLendon, 2012; McGuinness, 1997; Rubin, 2023). Throughout the U.S., statewide governing and coordinating boards perform a number of functions, such as appointing the chief executive of the system or institutions, allocating resources among institutions, setting tuition and fee policies, approving and terminating programs, establishing faculty personnel policies, managing information and accountability systems, lobbying for institutional interests, and leading statewide master planning (McGuinness, 1997, 2016; McLendon, 2003b). While some reports on oversight discuss regulatory and authorization functions (McGuinness, 1997; Millard, 1979), most have focused on other functions (namely, executive appointment, budget allocation, and program approval). However, the state's chartering, authorizing, and licensing of public and private institutions to operate predates statewide governing and coordinating efforts. Indeed, most governing and coordinating activities are based on the existence of established institutions. This authorization function is often conducted by an agency that is not affiliated with the governing entity for public colleges and universities. Thus, despite the multifaceted functions of statewide governance and coordination, it remains clear that the state's preeminent role is the authorization and regulation of postsecondary institutions' operation.

This role exists within multiple fields, both externally as a member of the regulatory triad and consortiums, and internally in how they structure the accountability systems within their state. The number and types of state authorizers and the types of institutions they regulate varies between states. Some states are responsible for regulating accredited and non-accredited institutions, both degree-granting and nondegree granting. Others are responsible for authorizing for-profit and non-profit institutions. Some states delegate the authorization of career schools (e.g., barber, cosmetology, truck driving) to boards or commissions, while others embed them

within traditional postsecondary authorizing structures. Indeed, some of these institutions are outside the accountability purview of accreditation and the federal government because they do not participate in financial aid or they operate as non-accredited institutions, heightening the role of the state in their institutional accountability. As such, it is evident that state governments and policymakers are responsible for designing and governing a complex postsecondary education accountability system. Despite the fundamental role of state governments in institutional accountability and authorization, state authorizing agencies and accountability systems remain understudied in academic literature.

The peer-reviewed literature on state authorization, oversight, and regulatory systems in the U.S. has developed slowly, lagging behind governance research on other members of the regulatory triad and forms of accountability (Tandberg et al., 2019). The current literature base varies by topic and is divided between traditional academic journals and legal reviews. Existing academic research and legal reviews have generally focused on specific organizational, policy, and legal elements of state authorization as well as international, state, and cross-border regulations (Lane et al., 2013); distance education and National Council for State Authorization Reciprocity Agreements (NC-SARA) (Onwuameze, 2017; Ozdemir & McDaniel, 2013; Weeden et al., 2021); and for-profit and proprietary institutions (James, 2011; Schade, 2014; Simmons, 2013; Taylor, 2010). This peer-reviewed scholarship has demonstrated a disjointed policy and legal landscape for state authorization in the U.S. Despite these contributions, the academic literature on state authorization and governance provides an incomplete picture of the complexity of the state's regulatory and oversight functions.

Most of the knowledge about state authorization has emerged through books and grey literature (namely, policy reports). Researchers, policy scholars, and other stakeholders have

created a robust understanding of state authorization and oversight in the U.S., spanning at least 50 years (Dayton & Jung, 1980; Harnisch et al., 2016; Helliwell & Jung, 1975; Merisotis, 1991; Tandberg et al., 2019). In the 1970s and 1980s, grey literature focused on the consumer protection function of state authorizing agencies, the landscape of authorization, the influx of career schools and their impact on the regulatory landscape, and potential strategies to effectively license and regulate institutions (Dayton & Jung, 1980; Hamilton et al., 1976, 1978; Helliwell & Jung, 1975; Kaplan, 1975). The 1990s and 2000s, however, experienced somewhat of a lull in the grey literature on state oversight. Only a handful of public reports were released, focusing on strategies for licensing proprietary and for-profit institutions (Lee & Merisotis, 1990; Merisotis, 1991)—a focus that continued in the decades that followed.

Attention to state authorization and oversight has flourished since 2010. This newfound attention has resulted from a renewed focus on state authorization in higher education by key intermediary actors, the influx of for-profit institutions, and the massification of distance education, among other factors (Kelly et al., 2015a; Tandberg et al., 2019; Tandberg & Martin, 2019). Intermediaries have called for states to take a more pronounced role in accountability through authorization, with State Higher Education Executive Officers (SHEEO) leading a research initiative that produced several methodologically sophisticated reports (Dell, 2021; Harnisch et al., 2016). Taken together, contemporary work has provided rich descriptions and legal analyses of state authorization (Bruckner, 2020; Contreras, 2017). It has examined various states' structures, processes, and capacities through multi-case studies, inventories, and surveys (Boatman & Borowiec, 2021; Fowles, 2021; Hall-Martin, 2021; Hutchens et al., 2021; Natow et al., 2021; Ness, Baser, & Dean, 2021); explored the expansion of distance education through NC-SARA (Ward et al., 2021; Weeden et al., 2021); evaluated the relationship of authorization

with college closures (Dell et al., 2021); investigated college closures (Burns et al., 2022; Burns, Bryer, et al., 2023; Burns, Weeden, et al., 2023); and offered recommendations and strategies to enhance the state's role in the regulatory triad and holding institutions accountable through authorization.

### **Problem Statement**

While the recent influx in peer-reviewed and grey literature has provided insights on postsecondary authorization, critical gaps remain in the current understanding of how state authorization functions in the U.S. First, a historical lens is severely lacking in contemporary scholarship. Most conceptualizations begin with the Higher Education Act of 1965 (Natow et al., 2021; Tandberg et al., 2019) and ignore the significant events shaping state authorization between 1970 and 1995, with the exception of some noting the Education Commission of the States' (ECS) 1973 model legislation (Harnisch et al., 2016). Yet, there is ample evidence—the charter of Harvard, Dartmouth Case, Flexner Report, and Veterans Approval Agencies—that the history of state authorization extends well before 1965.

Second, most research and surveys (see: NC-SARA survey) have been positioned at the state or agency level, neglecting the institutional differences that emerge in process-level analyses. Ness, Baser and Dean (2021) addressed the importance of examining state authorization at the process level to distinguish institutional characteristics in their 50-state inventory. Nevertheless, in their report, they aggregated process-level calculations of stringency to a state-level score. This process-based approach was implemented in recent studies on college closure in order to connect relevant oversight policies to the correct institution type (Burns, Weeden, et al., 2023) Moreover, due to time constraints, their inventory did not include authorization and program approval processes for public institutions (Venters, 2021), NC-SARA,

or processes handled by career boards and commissions (e.g., cosmetology, barber, truck driving).

Third, several recent multi-case studies have focused on a particular facet or institution type in various states, but this work does not comprehensively describe the complete network of authorization within a state (Boatman & Borowiec, 2021; Natow et al., 2021; Weeden et al., 2021). Jung et al. (1977a) is the only study that used a holistic approach, capturing the entire state authorization landscape. No recent work has focused on the composition of authorization and licensure systems in states. Fourth, research has yet to examine the governance of state authorization. Thus, little is known about who the board members are, how they are appointed, and what role they have in the authorization process. Given the highly political nature of state governing boards, this has important implications for accountability and quality assurance practices.

Fifth, surprisingly little is known about the intra- and inter-state relationships of state authorization systems. Much is to be learned about the extent to which various state authorizing agencies collaborate with state actors, other members of the regulatory triad, institutions, regional compacts, SARA, intermediary organizations, and other actors. While we have long known state authorization is composed of a complex network of actors (Contreras, 2020b; Hamilton et al., 1978), no contemporary study has provided an in-depth analysis of how states structure and maintain accountability systems for postsecondary education.

Sixth, the state authorization and governance literature bases have developed in isolation, limiting our understanding of campus-state dynamics and the balance between public accountability and institutional autonomy, especially for private institutions. Despite their marginal position in state governance policies since the 1970s, private institutions, particularly

for-profit colleges, have gained national attention for abrupt closures, predatory practices, and poor student outcomes. Private college students incur more debt and face higher risks of institutional closure (Burns et al., 2022; National Center for Education Statistics, 2023). When closures occur, especially due to fraud, the public bears the cost of loan cancellations. Integrating these knowledge bases is vital for understanding conflicts inherent in public boards regulating private competitors. A clearer grasp of state authorization within broader postsecondary oversight can enhance research, policy, and practice.

Finally, the theoretical understanding of state authorization and accountability is significantly underdeveloped, with many studies relying upon principal-agent theory (Lane, 2007; Ness, Baser, & Dean, 2021). Few studies have employed other theories from sociology and public policymaking to understand how states design and administer state authorization processes. As state authorization has emerged as a key research interest in academic and policy circles and remains at the forefront of policy debates, we must better understand the nuances of state authorization—both the complex network within the state and the relationships with external stakeholders.

### **Purpose & Research Questions**

The purpose of this dissertation is to highlight the complex nature of postsecondary oversight and state authorization in the U.S. This dissertation addresses key limitations in postsecondary authorization literature by applying a historical perspective, exploring the interplay between state governance and private institutions, and employing alternative theoretical frameworks to understand state authorization and accountability in U.S. higher education. To that end, I conduct a systematic, historical review of state authorization from its roots in Papal charters issued in medieval Europe to the present-day authorization processes in the U.S. I build

on a theory of strategic action fields (SAFs) (Fligstein & McAdam, 2015) to explain how social actors interact and vie to maintain or change order in distinct yet interlocking social fields of postsecondary oversight. This theory provides an important meso-level and actor-centered perspective to help understand how social actors comprehend how the field works, who the actors are, how other actors behave, and the rules of the field. Moreover, it provides insight as to links among various actors and how strategic actions exacerbate power imbalances among incumbents, challengers, and governance units. Importantly, this theory can help to explain the historical evolution of oversight to understand how various actors compete in a contested state oversight arena.

This dissertation poses the following research questions:

1. What is the historical development and evolution of state charters, authorization, and licensure for postsecondary institutions in the U.S.?
2. To what extent and how does the strategic action fields (SAF) framework explain oversight of state-level postsecondary education?
  - a. Who are the incumbents, challengers, and governance units that have played a role in the development?
  - b. What have been the key issues, positions, framings, and rules associated with postsecondary oversight and authorization?
  - c. Is there a social field or fields that link together actors responsible for governing, administering, or supporting state authorization processes and postsecondary oversight?

- d. How do strategic action fields, specifically during settled times and in episodes of contention, manifest in the historical campus-state tension around postsecondary oversight?

### **Significance**

This study aims to demonstrate the salient role states play in the authorization, licensure, and chartering of postsecondary institutions. In the U.S., the relationship between public and private postsecondary institutions and the state has historically been a delicate balance of maintaining institutional independence while upholding public accountability. Indeed, private postsecondary institutions are required to obtain state authorization and licensure, adhere to accreditation criteria, participate in consumer protection activities, comply with financial aid regulations, and meet various reporting and disclosure obligations. When these institutions fail to rigorously follow these regulations, or when enforcement is weak, adverse outcomes can arise.

These negative impacts include the growth of for-profit schools that take advantage of lenient oversight, offering debt-ridden degrees that result in poor returns on investment for students. Additionally, lax lending practices and weak oversight of predatory institutions contribute to a burgeoning student debt crisis. The lack of thorough oversight can also lead to the rise of diploma mills and fraudulent credentials, creating significant disparities in the quality of education provided by different institutions (Bender & Davis, 1972; Contreras, 2013; Reid, 1963). Such issues not only compromise the integrity of the higher education system but also erode public confidence, especially in light of educational scandals. Each of these factors plays a part in weakening the overall effectiveness and reputation of higher education in the U.S. Understanding and effectively navigating the complex state authorization system reveals strategies to enhance the effectiveness of postsecondary

oversight in the U.S. It also shows that many of today's issues are the same as those faced in the past.

This dissertation adds to the narrow body of contemporary research on state authorization and postsecondary oversight in higher education (Contreras, 2020b; Dell, 2021; Tandberg et al., 2019; Venters, 2021). It uses a historical lens to trace how postsecondary authorization evolved from chartering institutions to complex systems of agencies and commissions segmented by institution type. By examining the nuance of how states structure postsecondary authorization and oversight systems through a historical lens, findings from this study will help researchers better understand how and why state accountability systems have developed into complex policy systems. Further, the historical lens provides evidence that states hold a fundamental role as the stewards of higher education accountability and quality (Harnisch et al., 2016), which predates state coordination and extends well beyond the regulatory triad.

This dissertation contributes to the research on state governance and coordination in higher education by adding depth to our understanding of the campus-state relationship. It does so through the development of the history of state authorization. Specifically, it explores the relationships between different actors as a contested struggle for resources and power, which has resulted in the current system in respective states. This struggle often involves governance units that have been structured to preserve the status quo and existing power dynamics between challengers and incumbents. This power struggle manifests in various forms, sometimes occurring between institutions and the state, or between different agencies, or a mix of these interactions.

The conceptual map of Georgia's oversight system helps to illuminate the complexity of the postsecondary oversight system in different states. Challenging the outdated common typologies of statewide governance—governing, coordinating, and planning—this research argues for a more nuanced understanding, akin to Lacy's (2011) centralization measure. By synthesizing the work of previous scholars (Maryland Governor's Study Commission on Structure and Governance of Education & Maryland State Department of Education, 1974; McGuinness et al., 1994; Ness, Baser, & Dean, 2021), this concept map offers an innovative perspective that moves beyond traditional models and conceptualizations in higher education governance. In doing so, this dissertation aligns with the spirit of the landmark 1959 exploratory study on governance (Glenny, 1959), aiming to ignite a reevaluation of the governance heuristic in higher education to encompass the authorization function, thereby reflecting the complexities of the modern-day postsecondary education system.

Finally, this study aims to add to the theoretical base in postsecondary governance. Applying SAF theory to a postsecondary oversight system offers valuable insights into how higher education exists in the U.S. Many studies of postsecondary oversight frame the campus-state issue as a principal-agent problem (Lane, 2007; McLendon, 2003b; Ness, Baser, & Dean, 2021). While principal-agent theory has value in explaining a one-to-one oversight relationship (McCubbins et al., 1987; McCubbins & Schwartz, 1984), it has less value in explaining a state oversight system with many principals, agents, policies, and rules (O'Toole, 1986). SAF theory helps illuminate the interactions among actors within the oversight system, such as higher education institutions, licensure and authorization entities, state political actors, intermediaries, accreditors, interest groups, and different postsecondary

institution types. Understanding these interactions provides valuable insights into the power dynamics and strategic behavior within the regulatory field. For instance, examining how state political actors employ their power to influence oversight of higher education institutions provides a deeper understanding of the negotiations and strategic maneuvers within the regulatory field. The strategic action fields approach can help illuminate the limitations of simple conceptualizations of governance. By providing a holistic examination of state authorization, this exploratory study aims to start a discussion around how states organize their state accountability structures and the various actors that have influenced state charters, authorization, and licensure.

## CHAPTER II

### LITERATURE REVIEW & CONCEPTUAL FRAMEWORK

State governance and coordination of higher education in the U.S. involves a complex interplay between institutions and the state. The campus-state relationship has been framed as a “fundamental, even paradoxical, tension between the dual demands of institutional autonomy and public accountability, or between the university’s right to regulate its affairs from within and the state’s authority (and responsibility) to regulate the university’s affairs from without” (McLendon, 2003b, p. 57). Over the past 25 years, much of public oversight and state governance research has focused on the relationship between public colleges and the state (namely, state-level and multi-campus boards and agencies) and the effect this relationship has on policy and student outcomes (Hammond et al., 2020; Hearn & McLendon, 2012; McGuinness, 2016; McLendon, 2003b; Rubin, 2023). However, the tension between institutional autonomy and public accountability also extends to the oversight and governance of private postsecondary institutions.

The campus-state relationship for private postsecondary institutions in the U.S.—long marked by a delicate balance between institutional autonomy and public accountability—is evident through numerous public policies and regulations (McGuinness, 2016; Millard, 1977, 1979; Thelin, 2019). For example, private institutions must adhere to state authorization and licensure, meet accreditation standards, engage in consumer protection efforts, comply with financial aid policies, and fulfill reporting and disclosure requirements (McGuinness, 1997; Millard, 1979). When adherence to these requirements is lax or enforcement is not stringent, it

can contribute to a cascade of negative consequences. These consequences include the proliferation of for-profit predatory schools exploiting weak oversight, degrees with poor return on investment (ROI) due to misalignment with job market demands, a student debt crisis exacerbated by unchecked lending practices, the emergence of diploma mills and credential fraud in the absence of rigorous scrutiny, significant variability in educational quality across institutions, and the erosion of public trust due to educational scandals (Ewell & Wellman, 1997). All these issues collectively undermine the integrity and effectiveness of the nation's higher education system.

Ultimately, this chapter aims to challenge existing frameworks on state higher education governance to illustrate the importance of integrating public oversight of private postsecondary education as a core component of state governance and coordination. While the responsibility of authorizing and licensing institutions has become a function of state governing and coordinating boards in many states, most states have at least one postsecondary sector that is handled by a different state organization (Ness, Baser, & Dean, 2021). This dissertation conceptualizes the state boards, agencies, commissions, and other bodies responsible for state authorization and licensure of postsecondary institutions as pivotal to public oversight and state governance of U.S. postsecondary education (Millard, 1976a). These entities, sometimes overlapping with traditional governance structures, are gatekeeping actors in balancing institutional autonomy with public accountability for the entire postsecondary system (Glenny & Dalglish, 1973; McGuinness, 2016; McGuinness et al., 1975). This chapter begins with a presentation of important developments and prominent research on state higher education governance arrangements. The chapter concludes by reviewing Fligstein & McAdam's (2015) Strategic Action Fields (SAF) theory as a framework to understand the intricate web of state, regional, and national actors in

higher education governance, offering insights into the complex governance landscape overseeing postsecondary education in the U.S. (Fligstein & McAdam, 2015).

### **State Oversight of Postsecondary Education**

In this section, I review the literature on state governance and coordination in higher education. I begin by providing a general definition for terms that will be used throughout many of the studies. Next, I provide an overview of the traditional perspectives and classifications of governance. I consider state governance perspectives, patterns, typologies, and the role of private institutions in state regulatory structures (Hearn & McLendon, 2012; McLendon, 2003b; Rubin, 2023). Given one focus of this dissertation is reconsidering typologies of public oversight and state-level governance, this section does not include information about institution-level boards (Hearn & McLendon, 2012; Kerr & Gade, 1989). Finally, I end with a section on alternative framings for state governance and coordination that use different classifications and theoretical and methodological perspectives.

#### ***Definitions: Governance, Coordination, and Planning***

Several terms—governance, coordination, and higher education service agencies (“planning agencies”)—frequently emerge in the postsecondary governance literature. McGuinness (1997) suggests “states establish policies and organizational structures to carry out two basic functions in postsecondary education: first, to *govern public colleges and universities*, and second, to *coordinate statewide postsecondary education services*, which may include private as well as public institutions” (McGuinness, 1997, p. 2, emphasis in original). While governance and coordination have been operationalized in various ways and are ever-changing terms (McGuinness, 1997), they represent two of the main models of state postsecondary oversight in the U.S. Additionally, administrative planning agencies have also emerged as

informal and voluntary organizations that help coordinate states without a state governing or coordinating structure. Understanding the characteristics and antecedents of these higher education arrangements can help us understand why certain structures exist in each state as well as the underlying power struggles around functions, structures, and responsibilities.

Governing boards of higher education are charged with overseeing the operation of public colleges and universities. Generally, governing boards have corporate status independent of state government and are responsible for appointing the chief executive of the system or institution, allocating resources among institutions, setting tuition and fee policies, approving and terminating programs, establishing faculty personnel policies, lobbying for institutional interests, and sometimes carrying out state coordinating responsibilities (Berdahl, 1971; McGuinness, 1997; McLendon, 2003b). Of these responsibilities, appointing the institutional chief executive and establishing faculty personnel policies are perceived as the most distinguishing characteristics of governing boards.

Kerr and Gade (1989) identified three types of governing boards: consolidated governance systems, segmental systems, and campus-level boards. Consolidated governance systems are considered “fully consolidated” when one board covers all two-year and four-year public campuses and “partially consolidated” when one board covers all four-year public campuses while another board covers all two-year public colleges (Kerr & Gade, 1989). Segmental systems are governance arrangements where separate boards oversee specific sectors of the public higher education system (e.g., research universities, regional universities, and community colleges). Finally, campus-level boards have absolute responsibility over a single campus when the institution is not overseen by a consolidated governing board or multicampus

system. States with campus-level boards in a consolidated system may delegate certain responsibilities to campus-level boards or have the board serve in an advisory capacity.

Statewide coordination refers to the policies, structures, and processes “states employ to ensure their colleges, universities and statewide postsecondary systems operate collectively in ways that are aligned with state priorities and serve the public interest” (McGuinness, 1997, p. 3). Common coordinating activities include statewide master planning, academic program review and approval, information and accountability system management, and budget and resource allocation (McGuinness, 1997; McLendon, 2003b; Millard, 1977). As higher education has adopted new management models and faced new challenges, state coordinating boards have conducted policy analysis, defined and approved missions, administered student financial aid programs, increased quality assurance strategies, and licensed and authorized institutions (McGuinness, 1997; McLendon, 2003b). To demonstrate the heterogeneity across states, numerous conceptualizations include subtypes of coordinating systems. Perhaps the clearest conceptualization places coordinating board systems into two buckets: regulatory and advisory (Kerr & Gade, 1989; Waller et al., 2000). Regulatory coordinating systems have the authority to review and approve academic programs, with some states providing regulatory power over the budget process (McGuinness, 1997; Waller et al., 2000, p. viii). Advisory coordinating systems hold less power than regulatory systems. They review and provide recommendations to institutional governing boards and state policymakers.

Higher education service agencies, or planning agencies, are the least common type of governance arrangement. These entities exist in states without a statewide governing or coordinating system (e.g., Michigan) and are generally institution membership organizations. Because of this, planning agencies serve a function more like nonprofit intermediary

organizations, advising statewide planning and facilitating communication between institutions and other sectors (Waller et al., 2000). They largely operate on a voluntary basis, yielding responsibility to institution boards and multi-campus systems for governance and coordination.

Together, governance, coordination, and planning make up the contemporary basis of most governance studies. While these terms were frequently generated in respect to four-year public universities, these terms remain relevant for the governance and coordination of two-year colleges and other institution forms and coordinating functions and responsibilities. The sections that follow will review how these terms became the dominant paradigm to understand and examine state postsecondary governance.

### ***Traditional State-level Postsecondary Governance Arrangements***

In the late 1950s, public higher education governance underwent a significant transformation as states reevaluated their governance systems (Hearn & Griswold, 1994).<sup>1</sup> Before the 1950s, most states managed public colleges in a similar way to private institutions (McLendon, 2003b; Thelin, 2019). In these instances, each campus had its own board of trustees responsible for policy and financial decisions, functioning independently from any broader system or statewide authority. However, many states departed from this fragmented approach to coordinate a response to significant increases in college enrollments, federal acts requiring the expansion of state higher education systems, sharp competition between institutions, and enhanced regulatory power of state governments (Glenny, 1959; Hearn & Griswold, 1994; McLendon, 2003a). States adopted more centralized structures by consolidating local campus

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<sup>1</sup> By 1935, there were at least 12 states with a consolidated governing board for higher education (Brody, 1935; McLendon, 2003b) A more detailed review of state governance before the 1950s is provided in the systematic historical review (chapter 4) and by McLendon (2003b).

boards into state-level boards that were charged with governing the entirety or a specific segment of higher education in the state.

The rise of statewide governing boards between 1950 and 1970 initiated an ongoing debate about the degree of centralization in higher education governance and its effects on the balance between individual campus independence and state oversight (Glenny, 1959; Hearn & McLendon, 2012; Lacy, 2011; McLendon, 2003b; Moos & Rourke, 1959). In 1959, state postsecondary governance was influenced by two contrasting opinions (Glenny, 1959; Moos & Rourke, 1959). Glenny (1959) advocated for a more centralized approach to governing public colleges and universities, driven by the complexities and expanding scale of higher education and state governments. He saw centralization as a means to enhance system-wide efficiency, despite potential challenges in balancing governance roles and state priorities. On the other hand, Moos and Rourke (1959) strongly favored institutional autonomy, arguing that freedom from state control was crucial for the creativity and effectiveness of higher education institutions. They cautioned against the risks of excessive centralization, suggesting it could erode the quality and originality of state colleges and universities. The debate laid the groundwork for understanding the continuum between centralization and decentralization in higher education governance. Their contrasting viewpoints have illuminated the ongoing tension between state control and campus autonomy, a dynamic that has been central to governance studies in this field for the past six decades.

In addition to helping set the stage for the debate between centralization and decentralization, Glenny (1959) provided an exploratory taxonomy of state governance based on planning, allocation, and budgeting functions. In his landmark qualitative study of twelve states, he identified three common structures of higher education governance. First, the consolidated

governing board, which Glenny labeled as a “governing agency,” is a single board responsible for coordinating and governing all public institutions within a state. Second, the coordinating board, which Glenny labeled as a “coordinating agency,” is a state board responsible for coordinating existing institutional boards, with the institutional boards retaining control of most matters. The final type of state governance structure Glenny (1959) identified was the “voluntary system in which representatives of each institution of higher learning meet to coordinate an activity of common concern, usually the requests for appropriations from the state legislature” (p. 2). Glenny’s three-type classification system represents one of the earliest attempts at classifying state governance structures in higher education, with two of the types remaining prominent categories in contemporary research.

Scholars continued to examine and develop classifications of state postsecondary governing arrangements through the 1960s and 1970s (Berdahl, 1971; Glenny & Dalglish, 1973; Paltridge, 1965). Building on Glenny and others’ work (Martorana & Hollis, 1960), Paltridge (1965) and Berdahl’s (1971) classifications serve as two of the most influential classifications in terms of scope and lasting use in policy and academic circles (Hearn & McLendon, 2012; Lacy, 2011). Paltridge (1965) created a taxonomy of 41 state governing boards, identifying five types and three subtypes of governance arrangements:

- Type 1: No coordinating organization
- Type 2: Coordination by voluntary, inter-institution level association
- Type 3: Coordination by a single or a consolidated governing board
- Type 4: Coordination by a governing-coordinating board
- Type 5: Coordination by an advisory or regulatory board

- Type 5a: Advisory board (institutional representatives or other professional educationists)
- Type 5b: Advisory board (public representatives)
- Type 5c: Regulatory board without governing functions (public representatives)

Paltridge (1965) found that the landscape of higher education coordination in the U.S. evolved between 1939 and 1965. Specifically, his longitudinal study demonstrated that there was a tangible decrease in states without formal or voluntary coordination mechanisms before 1960. Between 1960 and 1965, there was a distinct trend where voluntary organizations were often supplanted by statutory bodies, accompanied by a significant rise in the creation of statutory coordinating agencies, especially in states that had previously shown minimal coordination efforts. Paltridge's classification system for higher education governance arrangements would become the basis for Berdahl's standard classification of state boards.

Berdahl (1971) developed a typology of voluntary boards, statewide coordinating boards, and consolidated governing boards. Much like scholars before him (Glenny, 1959; Paltridge, 1965), he positioned the governance arrangements on a continuum from least (voluntary boards) to most (consolidated governing boards) powerful in terms of responsibilities and scope of control over campus affairs (Lacy, 2011; McLendon, 2003b). One novel contribution was his evaluation and determination that state governing structures, functions, and powers could vary significantly within an arrangement type. This variance presents challenges to categorizing states into uniform categories while maintaining the nuance that exists within each system.

Berdahl also distinguished between substantive autonomy and procedural autonomy to elucidate the difference between the state's ability to determine an institution's goals and the ability to determine how those goals are accomplished (Lacy, 2011). From the perspective of an

institution, substantive autonomy “involves the freedom to protect the academic core of the institution—who is to be admitted, what is to be taught and by whom, and how learning is to be evaluated,” and procedural autonomy “involves the freedom to decide how funds appropriated will be used, how funds will be accounted for, and how personnel will be hired” (McLendon, 2003b, p. 68). This distinction demonstrates the limitation in adopting an absolute structuralist or functionalist approach. As Lacy (2011) notes, “though structural differences may be noted and identified, the means through which higher education is managed in a state is not consistent within structural types or even consistent within a given state structure from year to year” (p. 11). Indeed, political science and policy process scholarship has demonstrated that political and power struggles can reshape how policies and systems were originally designed.

Policy scholars, associations, and commissions continued to develop typologies to describe public postsecondary governance arrangements through the 20<sup>th</sup> century (Hearn & McLendon, 2012). The Maryland Governor’s Study Commission on Structure and Governance of Education produced a report visualizing state K-12 and higher education governance structures for public education (Maryland Governor’s Study Commission on Structure and Governance of Education & Maryland State Department of Education, 1974). Rather than develop a typology of governance types that states are assigned to, they constructed network diagrams to show the structural relationships between education boards in every state. The most prominent and consistently reported of these classifications emerged from the Education Commission of States (ECS) and Aims McGuinness via the State Postsecondary Education Profiles series (Berve, 1978, 1983; Burns et al., 1983; McGuinness, 1981, 1986, 1988, 1997; McGuinness et al., 1994; Millard, 1976b). In addition to typologies of higher education governance, McGuinness and others developed extensive reports, narratives of recent

governance changes, and descriptions of powers and functions of each state's governance arrangement. McGuinness and ECS would continue this work into the 2000s and 2010s, developing typologies and summaries of postsecondary governance.

While this dissertation is not acutely concerned with the impact of governance, important insights can be gained from how scholars conceptualize governance in quantitative and qualitative studies. There has been a growing interest in studying the impact of statewide governance models in higher education. This research includes both descriptive studies, focusing on analyzing governance systems actions on policy adoption or implementation, and empirical studies, analyzing the effects of these systems on various policy areas.

Empirical studies have explored the relationship between these governance structures and different policy outcomes, such as funding and academic standards in higher education (Hearn & McLendon, 2012; Tandberg & Griffith, 2013). Research shows that centralized governance models can impact state educational spending, but findings are mixed. Some studies indicate that centralized models lead to reduced funding, potentially due to limited direct political engagement by educational institutions (Tandberg, 2010a, 2010b; Tandberg & Ness, 2011). However, other research contradicts these findings (McLendon et al., 2009). Studies also suggest that state agencies can influence the interplay between state political factors and funding (Tandberg, 2013). While progress has been made in understanding these dynamics, the field acknowledges the need for more detailed research to unravel these complex policy relationships. Particularly, the impact of public oversight and governance structures on community colleges and private postsecondary institutions remains understudied.

### *Emerging and Non-Traditional Conceptualizations of Postsecondary Governance*

This section of the literature review delves into emerging and non-traditional conceptualizations of postsecondary governance, highlighting their contribution to the broader discourse on governance in higher education. Recent scholarship in postsecondary governance has ventured beyond traditional conceptualizations, introducing several emerging classifications and models. Notably, a significant focus of this new scholarship is on governance structures within the public, two-year sector. Though still in its infancy, this line of research has made considerable progress in contextualizing the governance of two-year institutions in relation to their influence and size within the sector. Additionally, there is an exploration of alternative classifications of state governance and centralization as well as non-traditional forms of governance and functions, such as state authorization.

**Public Community College and Two-Year Institution Governance.** The governance structures of state-level community colleges have increasingly gravitated toward heightened state oversight and a more centralized approach. Before 1950, local tax revenues were the primary financial support for these institutions, underlining their deep-rooted connection with local communities—a trait that has been a consistent feature of community colleges (Cohen et al., 2013). Local authorities wielded most of the control for community colleges, with state educational boards playing a more subdued role in governance until around 1960 (Dougherty, 1994). However, from 1963 to 2015, there was a notable increase in states adopting specialized state boards for community colleges, growing from six to nineteen states (Fletcher & Friedel, 2017). This trend toward more state involvement was often justified by the promise of increased funding from state policymakers to leaders of community colleges. This transition reflects a move toward more centralized governance structures, where state authority and funding play a

pivotal role. Yet, how this centralization affects decision-making within these colleges remains a complex and under-explored area.

Most of the research on statewide community college governance primarily provides descriptive accounts. A number of scholars have formulated typologies for these governance structures (Fletcher & Friedel, 2017; Garrett, 1992; Katsinas, 1996; Tollefson & Fountain, 1992; Tollefson et al., 1999), drawing insights from broader governance frameworks (Glenny, 1985; McGuinness, 2016). These typologies not only distinguish between governance in two-year and four-year institutions but also serve as foundational tools for further empirical studies (Hearn & McLendon, 2012). While the consensus among scholars points towards a general trend of centralization in community college governance, the extent of this centralization varies significantly across different states. This variation reflects the unique blend of educational sectors as well as the political, social, organizational, and economic factors that each state brings to its governance structure and policy formation.

**Alternatives to Traditional Conceptualizations Governance and Centralization.** The relatively more recent work of Richard Richardson and colleagues on state postsecondary governance marked a small shift from traditional typologies (Bowen et al., 1997; Bracco et al., 1999; Richardson et al., 1999; Richardson & Martinez, 2009). Moving away from categories like planning agencies and consolidated governing boards, they categorized states into federal, unified, and segmented (confederated systems or confederated boards) (Bowen et al., 1997; Richardson et al., 1999). Using case studies of several states, they determined segmented states lack a cohesive agency and use multiple governing boards for state oversight, while unified states have a single board for governing public institutions, and federal systems balance powers

between state and institutional boards. Richardson and Martinez (2009) expanded this analysis to include additional states, outlining five structural designs of governance in higher education:

1. Statewide planning
2. Statewide coordination and regulation
3. Self-governing public IHE's<sup>2</sup>
4. Use of the Private Sector
5. Extensive Two-Year Colleges

Nonetheless, this work had several weaknesses. First, their methodology did not provide a comprehensive overview of all 50 states or changes over time. To develop mutually exclusive categories of governance types across 50 states that have validity, a greater number of states need to be included. Second, as Lacy (2011) notes, their findings largely align with existing typologies, especially in unified systems resembling consolidated governing boards. Finally, the classification system fails to provide a novel perspective on how to structure a complex system, though they accurately highlight some of the limitations of past scholarship.

The most robust alternative to the traditional group-based governance classification system is observed in Austin Lacy's (2011) work. He pointed out the flaws in using the historical three-type governance typology for its inability to flesh out the heterogeneity between board types on functions, structure, and centralization. Lacy (2011) addressed the gaps in the current typology of state governance in higher education by developing a Bayesian latent variable model that positioned states along a 50-state continuum of centralization. Lacy replaced the old model's broad categorization, which had significant variations within each category, with a detailed 1-50 ranking continuum for a clearer depiction of governance structures. This innovative approach

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<sup>2</sup> Institutions of Higher Education

used 19 indicators (e.g., board composition, budget powers, program powers, ratio of institutions to boards) and incorporated existing typologies and qualitative case studies to establish informed priors. Twenty-five qualitative pieces of information were then integrated into the measurement model over a 25-year period (1985-2009). Lacy then tested if the extent to which state socio-economic and political factors predicted changes in his governance continuum. While there are additional qualitative and quantitative factors that can be considered for inclusion in the analysis, the study represents the most comprehensive and innovative approach to studying state governance and centralization to date.

### ***Public Oversight of Private Institutions: Where Do They Fit In?***

In summarizing the landscape of state-level postsecondary governance, it is evident that the diversity and evolution of these systems are deeply rooted in each state's unique socio-political context. The journey from minimal governance structures before the 1950s to the rapid adoption of statutory and voluntary systems of governance in the three decades that followed to a later shift toward decentralization and market-driven approaches illustrates the dynamic nature of educational governance. A key aspect of this evolution is the ongoing theoretical debate between centralization and decentralization, or accountability versus autonomy, which has significantly influenced the governance models employed across different states.

The emergence and refinement of governance classifications, such as governing boards, coordinating boards, and planning agencies, has played an important role in understanding the evolution of these governance shifts. Typologies and conceptualizations have been instrumental in empirical studies of how models of state oversight affect policy outcomes. Moreover, later reports expanded these typologies to include detailed descriptions of each state's governance structure, covering the development, structure, functions, and authority. These typologies not

only reflect the transition in governance structures but also the philosophical shifts in managing postsecondary education—from a period of centralized planning in the mid-20th century to market-driven strategies in later decades. These comprehensive reports have been instrumental in providing a clearer understanding of the various governance models and their impact on institutions, state governments, and the public.

However, it is important to recognize the limitations of these typologies, particularly their predominant focus on the centralization versus decentralization debate, the relatively limited consideration of two-year public colleges, and the coordination and authorization of private institutions. While these typologies have been instrumental in the study of how governance impacts higher education, they have focused on formal and manifest forms of oversight (Lane, 2007). As such, these studies have failed to capture informal, latent forms of oversight that may not be visible, but are crucial to effective oversight.

Finally, there have been several other classifications of state postsecondary governance as it relates to the accountability function of state authorization and licensure (Ness, Baser, & Dean, 2021). These classifications and a full consideration of non-state accountability forms will be addressed in later chapters. The regulatory triad, policymakers, intermediary organizations, state attorneys general, and consumer feedback all play an important role in carrying out the oversight function for higher education. With a few notable exceptions (Ewell & Wellman, 1997), traditional studies of governance of public colleges and universities have rarely been integrated with public oversight of private colleges or other non-state accountability structures in higher education.

To better understand the complexity and variation within this system, it may be necessary to adopt Lacy's (2011) viewpoint. Lacy suggests that the traditional typologies and

classifications of postsecondary governance, which were first established in 1965, have not adequately captured the significant changes that have occurred since then. Understanding how this entire regulatory system functions and interacts in the U.S. is crucial to better research, policy, and practice for ensuring the public has access to a quality, postsecondary education system.

### **Strategic Action Fields**

This dissertation is grounded in the theory of strategic action fields (SAF) (Fligstein & McAdam, 2015). Numerous theories and frameworks were considered, including those covering organizations, institutions, networks, social movements, political economy, systems, regulatory governance, and principal-agent relationships (Ball & Junemann, 2012; Brenner & Elden, 2009; Bressers & O’Toole, 2005; Foucault, 1991; Hecllo, 1978; Jessop, 1990, 2002; Mintrom & Vergari, 1998; Moe, 1984; O’Toole, 2015; Slaughter, 2014b; Slaughter & Rhoades, 2004; Waterman & Meier, 1998). SAF emerged as the preferred theory of choice. It builds upon several of these theoretical foundations, namely organizational and social movement theories, to explain the interactions between different social actors as they vie to maintain or change order in distinct yet interlocking social arenas. The meso-level and actor-centered focus of the theory makes it appropriate for studying interactions within the postsecondary system, addressing the individual and structuralist limitations of micro- and macro-level theories on postsecondary oversight and political economy.

The following section reviews the fundamental elements of SAF theory, its common applications, particularly in higher education, and its potential for enhancing understanding of postsecondary oversight and authorization systems. This theory offers valuable insights into the complex dynamics that have shaped these regulatory systems into what they are today.

### ***Background, Assumptions, and Elements***

Building upon the work of sociologists, social movement scholars, and organization researchers (Bourdieu, 1983, 1986; DiMaggio & Powell, 1983; Giddens, 1984), Fligstein and McAdam (2015) proposed a theory of fields to explain how different actors change or maintain social order in “circumscribed social arenas” (p. 3). These defined social domains—strategic action fields (SAF)—refer to a:

constructed mesolevel social order in which actors (who can be individual or collective) are attuned to and interact with one another on the basis of shared (which is not to say consensual) understandings about the purposes of the field, relationships to others in the field (including who has power and why), and the rules governing legitimate action in the field. (p. 7)

Several assumptions underpin the theory of SAF. SAFs are meso-level social fields that are larger than individuals but smaller than society. Within these fields, social actors compete and cooperate with other actors who have an understanding about what is happening in the field as well as a set of shared understandings as to the purpose, rules, and power dynamics of the field.

SAFs are contested arenas by nature. Conflict in SAFs is associated with field actors vying for positions. These strategic actors are comprised of incumbents and challengers (Gamson, 1975; Jenkins, 1983). Incumbents maintain structural and power advantages within SAFs. Incumbents’ interests are often reflected as the dominant view within the field. On the other hand, challengers are detractors of the prevailing social order within the field. They are the opposition to the status quo in SAF. In some cases, it may be in a challenger’s best interest to avoid disrupting the social order and play by “the rules of the game,” which inherently favor incumbents.

Fligstein and McAdam depart from other institutional theorists in their conceptualization of a contentious field. They contend the “taken for granted” reality of new institutional theorists by which routine social order and reproduction are the norm and “change is relatively rare and never really intentional” (Fligstein & McAdam, 2011, p. 5). They continue:

There is constant jockeying going on in fields as a result of their contentious nature. Actors make moves and other actors have to interpret them, consider their options, and act. Actors who are both more and less powerful are constantly making adjustments to the conditions in the field given their position and the actions of others. This leaves great latitude for the possibility of piecemeal change in the positions that actors occupy. Even in “settled times,” less powerful actors can learn how to take what the system will give them and improve their positions in the field. (p. 5)

To disrupt or change the rules of an SAF, skilled social actors need immense social and human capital, environmental aptitude, and the ability to mobilize and coordinate other actors (Fligstein, 2001). However, the fundamental power advantage of incumbents constrains the ability of challengers to disrupt the social order. As a result, skilled social actors often need to couple their goals, knowledge, and resources with an external disruption or shock to mobilize challengers in episodes of contention (Fligstein, 2001; Fligstein & McAdam, 2011). While a meso-level theory, Fligstein and McAdam (2015) emphasize the role of individuals as a building block to SAFs through microfoundations. These microfoundations—the actions, strategies, and motivations of individuals—help to explain individual-level relationships as well as how individuals shape the emergence, stability, and disruption of SAFs (Jasper, 2006). These microfoundations are influenced by the broad environment in which SAFs are embedded (i.e., the state) as individuals make sense of the environment that is changing around them.

The SAF is “stable” or “settled” when the disruption caused by the crisis subsides. Factors contributing to a relatively stable SAF include a shared understanding of the rules of the field and significant power imbalances that make it difficult for the status quo to be challenged.

On the other hand, factors contributing to a contested SAF include major changes to rules and norms, the introduction of new actors with different objectives and resources, and societal disruptions like the Great Recession, the Black Lives Matter movement, or Moms for Liberty. These factors can reshape the rules of the field and existing power structures, opening opportunities for social actors to challenge the status quo. The status as a settled or stable SAF is not constant. SAFs are arenas of perpetual struggle for power and influence, with incumbents seeking to maintain their positions and challengers aiming to acquire power.

### ***Strengths and Weaknesses of SAF Theory***

SAF theory provides valuable insights into social order and change in a wide range of fields. Like any theory, it possesses both strengths and weaknesses. The theory's complexity and flexibility can be both a blessing and a curse. It may pose difficulties in how researchers and practitioners interpret and apply the theory. Researchers may struggle to operationalize and define the boundaries of an SAF, much like difficulties defining what the "state" is (Jessop, 1990, 2002). Nevertheless, comprehensiveness is also a strength of the theory. It can be applied to a diverse range of social movements, organizational fields, and policy events. The applicability includes economic markets for government bonds, structures in academia, social movements, and professional sports. SAF considers both macro-level structures and micro-level actor behavior, enabling it to elucidate stability and change.

The theory is also empirically grounded. The authors base their theory on meticulous analysis of data, lending it credibility and accuracy. Furthermore, while SAF boasts empirical grounding, the theory is young and remains in development. To that end, it has not undergone as extensive testing as other social theories, like institutional theory. This limitation is being

addressed more and more because of the theory's utility in explaining conflict/change and stability/order among social actors in a wide range of contexts.

### ***Applications of the Theory in Higher Education***

From the theory's inception, SAF has been applied to higher education. For example, Fligstein and McAdam (2015) contend that many SAFs have formal governance structures that oversee regulations internal, using accrediting agencies as an example of a powerful incumbent in the field. Importantly, these governance units are not neutral intermediaries between incumbents and challengers. Rather, they "reinforce the dominant logic, and safeguard the interests of the incumbents. Ordinarily, then, governance units can be expected to serve as defenders of the status quo and are a generally conservative force during periods of conflict within the SAF" (Fligstein & McAdam, 2011, p. 5). The relevance of these governance units is writ large in higher education. Authorization agencies and governance bodies establish the guidelines and policies, collaborating with other members of the regulatory triad.

The higher education field is made up of federal and state governments, other state agencies, accreditors, institutions, students, parents, faculty, businesses, interest groups, and other intermediary organizations. Importantly, any conceptualization of a postsecondary SAF would be remiss without highlighting the inherent connection between higher education and the knowledge economy and state (Jessop, 2002; Slaughter & Rhoades, 2004). Higher education has been used by external stakeholders and has served as an active contributor to the marketization of postsecondary structures and activities. This has been exacerbated by significant links with other fields and the state through connections to the political economy, corporations, military, and philanthropy.

Fligstein and McAdam's (2015) theory has been applied in higher education in recent conceptualizations of academic capitalism, historical sociological events, and policy advocacy and interest groups (Barnhardt et al., 2017; Cantwell, 2015; Dusdal et al., 2021; Haddad, 2021; Kauppinen et al., 2017; Ness, Rubin, & Hammond, 2021; Ryan, 2018; Slaughter, 2014b; Taylor, 2016; Taylor et al., 2018; Taylor & Cantwell, 2015). This work has highlighted the complicated relationships among higher education stakeholders, institutional fields, the role of governing board members, advocacy for higher education court cases, global education, shifting institutional priorities, and the salient influence of interest groups, philanthropic organizations, and intermediary organizations in higher education policymaking. Further, these studies have demonstrated that a complex network of social actors compete on issues, with power dynamics often shifting based on the specific issue. These nested and overlapping fields have often been used to support arguments of academic capitalism. Networks, mechanisms, and micro foundations of institutions, faculty, staff, and corporations help to explain shifts in how the marketization of higher education has shifted the power dynamics on knowledge production at the individual and meso-level. In several studies, this framework has been used to support the historical analysis of a policy event or institutional case (Barnhardt et al., 2017; Taylor, 2016). These studies solidify the theory's utility as a historical tool to conceptualize the phases of contest and settlement and understand how social actors change over time.

While existing studies have focused their attention on a range of issues, including governing boards at elite institutions and the development of cross-national associations, a study conceptualizing postsecondary authorization and oversight structures through a SAF lens is ripe for analysis. Existing studies on postsecondary authorization and oversight have largely relied on principal-agent theory to explain the web of oversight in the U.S. and elsewhere (Lane, 2005,

2007; Lane et al., 2013; Ness, Baser, & Dean, 2021). However, the challenges of multiple principals and multiple agents have long been an issue plaguing principal-agent theory. In higher education, institutions and agencies can have numerous principals and agents. While principal-agent theory can help to explain the monitoring activities of agencies over institutions, it fails to capture the relationships and competition between actors in higher education SAFs.

### ***Strategic Action Fields as a Postsecondary Oversight Framework***

Applying SAF theory to a postsecondary oversight field offers valuable insights into how higher education exists in America. SAF theory helps illuminate the interactions among actors within the field, such as higher education institutions, licensure and authorization entities, state political actors, intermediaries, accreditors, interest groups, and different postsecondary institution types. Understanding these interactions provides valuable insights into the power dynamics and strategic behavior within the regulatory field. For instance, examining how state political actors employ their power to influence oversight of higher education institutions provides a deeper understanding of the negotiations and strategic maneuvers within the regulatory field.

SAF theory aids in establishing what is happening in the postsecondary oversight social field as well as comprehending the rules and norms that define the boundaries of the field. Analyzing the creation, maintenance, and evolution of these rules and norms offers insights into how the regulatory conditions in many states are linked to national and subnational disruptions. External events, such as consumer protection developments in the 1970s and 2010s, provide key moments that shifted how states consider authorization relative to other policy changes and social movements. This understanding can be deepened by studying how higher education institutions collaborate and compete to lobby for favorable policies from state and federal

political actors. For example, how did the for-profit industry lobby for favorable policies? How does the for-profit industry use advertising to capture market share? Did they use their social links to elites to capture high-level positions in the USED? SAF sheds light on these questions and other strategic maneuvers and networking strategies (i.e., micro foundations) employed by skilled actors.

Another important aspect of SAF theory is its ability to highlight the dynamics of change within the postsecondary oversight field. It helps uncover how new actors enter, existing actors exit, and how the rules and norms adapt over time. This dynamic can vary depending on the specific SAF in play. For example, among accredited institutions in the regulatory triad, accreditors have held the incumbent position for institutional oversight since the 1950s. In contrast, in other postsecondary fields that do not rely on accreditation, the state authorizing agency, secretary of state, or consumer protection department may be the incumbent or governance unit in the oversight field. Strong governing boards of traditional public colleges almost always assume the incumbent role, while licensure boards and authorization-specific boards emerge as challengers in the broader system.

Variations in institution types can give rise to different incumbents and challengers. Public institutions supported by state charters are often the strongest incumbents having no authorization responsibilities, followed by traditional private nonprofit colleges, which are often exempted from certain oversight processes. On the other hand, challengers such as for-profit institutions and non-accredited institutions often face extensive reviews in many states. This exemplifies the power imbalance that emerges in many institution-based SAFs within postsecondary oversight in the U.S.

SAF theory provides a nuanced framework for studying postsecondary oversight fields. There are dozens of SAFs in postsecondary oversight, with a unique oversight field in each state. By exploring the interactions, rules and norms, and dynamics of change within these fields, this study uses SAFs to gain deeper insights into the complexities and variations that exist within and across social arenas.

## **CHAPTER III**

### **RESEARCH DESIGN**

This dissertation focuses on the complex nature of public oversight of higher education in the U.S. I position state authorization as an influential responsibility and mechanism in the postsecondary accountability system. Given the historical and exploratory nature, I rely upon less-conventional qualitative strategies to collect and analyze data on postsecondary oversight systems. I conduct a systematic review of available knowledge on charters, authorization, and licensure, extending from the roots of charters in medieval Europe to authorization in the present day. This systematic review helps to contextualize state authorizing and licensing agencies within the traditional scholarship on postsecondary governance and underscore the latent and manifest accountability forces. I conclude the systematic review with a contemporary example of a state's postsecondary oversight system to demonstrate the complexity of public oversight of postsecondary education. I discuss the data collection, trustworthiness, and other relevant aspects within each phase to guide readers through the systematic nature of the study.

#### **State Authorization in the U.S.: A Historical Review**

I employ a historical perspective to review academic and grey literature on how state authorization has developed in the U.S. (Boote & Beile, 2005; Georgiou, 2021; Hart, 1999; Torraco, 2016). Systematic reviews employing a historical structure organize “the review according to the temporal or historical development of the topic and the chronological development of the literature on the topic” (Torraco, 2016, p. 11). Historical approaches place “the research in a historical context to show familiarity with state-of-the-art developments”

(Hart, 1999, p. 27) and help draw connections between older and recent literature and elucidate the origins of literature and knowledge (Georgiou, 2021). Conducting a historical systematic review enables researchers to examine the evolution of ideas and perspectives on a topic over time, providing a deeper understanding of the context in which research was conducted and the development of knowledge in that field.

I build on the foundational work of Jung et al. (1977a), Millard (1979), Lee and Merisotis (1990), and Contreras (2020b) to examine state authorization knowledge through a historical policy framework (Hearn & McLendon, 2012; McLendon, 2003b). The scope of this dissertation calls for a sweeping approach to trace developments over time and understand how the structures of authorization have shifted. Historical change has shaped how governments organize oversight systems and structures to authorize or exempt a wide array of post-secondary institutions. The convoluted nature of state charters, authorization, and licensure makes a historical review a practical choice. A stakeholder-based (state actors, federal actors, intermediaries) approach becomes unruly and repetitive as the actors are often coupled with one another—this is especially difficult considering the broader social movements and higher education happenings that influenced authorization and accountability.

Contemporary scholarship and reports have largely developed without engaging earlier research on state authorization. Indeed, most conceptualizations begin with the Higher Education Act of 1965 (Natow et al., 2021; Tandberg et al., 2019) and ignore the significant events shaping state authorization between 1970 and 1995—with the exception of some noting the ECS’s 1973 model legislation (Harnisch et al., 2016). Yet, there is ample evidence—the charter of Harvard, the Dartmouth Case, the Flexner Report, and Veterans Approval Agencies—that the history of state authorization extends well before 1965 (Brody, 1935). In some instances, the influence of

federal policy developments in the 1980s and 1990s has been misrepresented. The result of this has been an ever-increasing gap in understanding how state authorization policies have evolved since reviews in the 1990s (Lee & Merisotis, 1990; McGuinness, 1997; Merisotis, 1991). This knowledge gap has implications for research, policy, and practice. Today's calls for greater state involvement in quality and consumer protection are similar to those made 50 years ago. There are valuable lessons to be learned from past efforts to avoid repeating past mistakes.

While uncommon to many historical reviews of the literature (Georgiou, 2021), I employ a systematic and iterative approach to collect, review, and analyze research, reports, and archives on state authorization (Alexander, 2020; Murphy et al., 2020; Snyder, 2019). Systematic reviews use a detailed methodology to systematically search, identify, appraise, and synthesize all relevant research on a specific topic. The approach to the review allows state authorization issues and the attention afforded to state oversight to be better understood relative to historical developments.

### ***Phase 1: From the Medieval Charters to World War II***

The first phase of the systematic review is to evaluate the development of how and why states have authorized postsecondary institutions to operate, from the charters of medieval colleges in Europe to the colonial colleges to the institutions at the end of World War II. This phase of the systematic review involves a broad search of government archives, histories of higher education, legal cases, and other reports. I focus primarily on the role of charters, legal acts of incorporation, and information about state licensing requirements for professional organizations. Importantly, because “state authorization” and “postsecondary authorization” were not popular labels at the time, those terms were not fruitful in historical searches. I anticipated a scarcity of studies using these terms due in part to the limited attention given to

state authorization and licensure before the federal expansion of financial aid. However, institutional sagas by historians of higher education, studies on institutions, and histories of higher education offer nuanced insights about how institutions were established (Burke, 1982; Herbst, 1982; Thelin, 2019).

To carry out this review, I constructed a chronological account of significant events that underline the mechanisms by which postsecondary institutions are granted approval to establish and operate. This began with a review of landmark histories of higher education and the establishment of colleges in the colonies and early America. First, I delved into the history of charters to gain insights into their foundational roots. Subsequently, I traced the evolution of charters throughout different periods in American history, organizing the analysis around key historical epochs, up until World War II.

I also conducted targeted searches of the Education Resources Information Center (ERIC), library archive, and Google Scholar for reports, articles, and other documents with time-based information on the establishment of postsecondary institutions, federal and state regulation, licensure standards, diploma mills, and societal trends on business regulation and consumer movements. To supplement these sources and ensure credibility, I also used strategies of referential backtracking, author tracing, and researcher checking to expand the number of resources reviewed (Alexander, 2020). This phase provided important context for how states approach authorization in an era of higher education massification.

### ***Phase 2: World War II to the Present Day***

In the second phase, I employ a systematic approach to review academic and grey literature based on state authorization between 1940 and 2023 (Alexander, 2020). Several nonlinear, iterative steps characterize the process for a systematic review. These include

formulating the research objectives, developing a review protocol, searching the literature, screening research based on inclusion criteria, assessing the quality of articles, extracting applicable data from articles, analyzing and synthesizing data, and reporting the findings (Snyder, 2019; Xiao & Watson, 2017). To that end, my review aimed to answer how research on state authorization and licensure has evolved since World War II, with a particular focus on the topics, actors, and policies on state oversight. A secondary goal of this review was to dispel myths and reconcile inconsistencies in current research on the historical development of state authorization laws and policies (Blackburn & Conrad, 1986).

With these research objectives in mind, I developed and validated a rigorous review protocol to mitigate researcher bias and increase the reliability of the review (Lincoln & Guba, 1986). I began by defining inclusion and exclusion criteria and identifying databases and repositories for state authorization resources. Research in the search included journal articles, dissertations, conference proceedings, and quality reports publications from intermediary organizations and government entities between January 1, 1940, and December 31, 2022. I used ERIC, Google Scholar, SHEEO's repository of resources, and the University of Georgia's library multi-search engine. The primary search syntax used the "AND" Boolean operator for two sets of terms, including one descriptive set (i.e., institutional, postsecondary, and state) and another set describing terms used for authorization (i.e., charter, approval, authorization, and licensure). To supplement these searches, I employed a secondary search strategy for authorization-adjacent terms, including "diploma/degree mills," "NC-SARA," "regulatory triad," "financial aid," "for-profit," "state oversight," "quality assurance," "consumer protection," "state postsecondary review entities," and combinations of ERIC Thesaurus Terms (e.g., state planning, government

role, quality assurance). Together, this search yielded more than 300 reports, studies, talks, and articles broadly related to state authorization, state oversight, and consumer protection.

Next, I conducted a thorough desk review of the abstracts, introductions, and methods to exclude articles, conduct targeted searches, and employ referential backtracking strategies. Studies were excluded for several reasons, such as studies with little attention afforded to authorization or licensure, duplicate or nearly identical articles (Natow et al., 2023; Natow et al., 2021), and articles that were of low quality. Throughout the desk review, I kept memos about key actors (e.g., Education Commission of States, State Higher Education Executive Officers association, and the American Institutes of Research) and research reports mentioned in studies to identify additional reports that may have been missed in the original searches. Together, these strategies led to a diverse sample of more than 100 books, articles, and reports, and provide a critical account of the key policy events, research on higher education, the functions of intermediary organizations, and how authorization fits into the broader higher education accountability system.

The analysis of the full sample of studies was conducted using Endnote, Microsoft Excel, and extensive memo taking and the creation of summary narratives. First, I collected and stored the bibliographic data and searchable PDFs for each article in EndNote. Second, I included deductive codes through columns that tagged the class of research (e.g., traditional or grey), the type of article (e.g., journal, government report, dissertation, conference proceeding, or intermediary report), class of methods (e.g., quantitative, qualitative, descriptive), research strategy (e.g., surveys, case studies, inventory, regression, or quasi-experimental), theoretical frameworks (e.g., principal-agent theory or human capital theory), source organization, primary institutions of interest, and the locale of the study (Georgiou, 2021; Murphy et al., 2020). While

many of the articles did not include this information given the type of article (e.g., conference talks and blogs), articles were coded when appropriate.

The primary analysis technique included drafting narratives to describe key events and connect threads across decades of research using different terms. This allowed for the organic emergence of inductive codes for analysis, including focusing events, such as state authorization conferences, federal legislation and rulemaking on state authorization, social movements, and model legislation. I then identified patterns among codes and memos, and generated themes based on their frequencies, structures, and processes. I presented the findings of the systematic review in a chronological manner to compare research on state authorization in different eras. To improve the quality of the study, an extensive fact checking exercise was implemented to identify additional sources, focusing on search efforts on articles that provide an alternative perspective (i.e., testing the null) to confirm information.

### **Contemporary Oversight System: Georgia**

Finally, I provide a brief review of Georgia's oversight and governance system, underscoring the unique complexity inherent to each state's structure yet illustrating a common theme: every state's postsecondary system extends beyond the conventional governing and coordinating boards and planning agencies typically associated with public institutions. This review aims to showcase Georgia's convoluted oversight system, acknowledging that while every state has a distinct architecture, they all share a complexity that surpasses the usual breakdown.

An important guiding principle of this research is to support the identification of the many overlapping fields (e.g., licensure, public charters, authorization, veterans' approval, and finance commissions) with other latent and manifest forms of postsecondary oversight across

each state. To that end, the primary strategy for this review is the use of visualizations to highlight the traditional and non-traditional oversight structures. I used Microsoft PowerPoint to develop cascading conceptual maps of Georgia's postsecondary oversight system along several dimensions (Maryland Governor's Study Commission on Structure and Governance of Education & Maryland State Department of Education, 1974; McGuinness et al., 1994; Ness, Baser, & Dean, 2021). These maps provide the clearest indication of the complexity of the system.

While several conceptualizations of state governing board structures and state authorization structures have been put forward, they have rarely been integrated. By describing and illustrating state oversight in a new way, theoretical and conceptual insights can be gained. Furthermore, several recent multi-case studies have focused on a particular facet or institution type in various states, but this work has failed to comprehensively describe the complete network of postsecondary authorization within any state (Boatman & Borowiec, 2021; Natow et al., 2021; Weeden et al., 2021). The most comprehensive postsecondary oversight inventory has been developed by ECS (Pechota et al., 2020); however, many independent state authorizers, such as the Georgia Nonpublic Education Commission, are not included in the analysis. Few studies or reports have focused on how states integrate public oversight of public and private institutions and other postsecondary programs into a single analysis.

### **Limitations**

Despite efforts to ensure a robust data collection and analysis, several limitations exist in this research analysis strategy. The first set of limitations are common to most descriptive, systematic reviews, and case study analyses. Although this study doesn't align perfectly with the case study literature, there is considerable overlap between the limitations of my approach and

those typically associated with case studies. Consequently, I rely on insights from the case study literature to analyze and mitigate potential limitations inherent in my study. These approaches have been critiqued by some scholars for a lack of rigor, generalizability, validity, and reliability (Gerring, 2012; Simons, 2009; Tight, 2017; Yin, 2018). Criticisms regarding the lack of rigor stem from disordered research, such as poor research designs and write-ups (Yin, 2018). However, the potential lack of rigor can be reconciled with a clear research design that has a strong theoretical base and addresses the necessary conditions of validity and reliability.

Concerns about the generalizability of descriptive research are often misguided (Flyvbjerg, 2006; Gerring, 2012; Thomas, 2010). The goal of case study analysis is “to expand and generalize theories (analytic generalizations) and not to extrapolate probabilities (statistical generalizations)” (Yin, 2018, p. 21). Nevertheless, I complemented the historical review with an exploratory assessment of Georgia’s postsecondary oversight structures, strengthening the transferability of results. To that end, this study produces practical findings generalizable to authorizing staff in other states as it relates to the historical evolution of state structures, potentially explaining the organized chaos of their state’s postsecondary system. Nevertheless, when intentionally designed, descriptive and historical policy analysis is an effective way to analyze policy change with various actors competing for power and influence in a complicated environment.

Additionally, the existing views and beliefs I hold about the role of state authorization, intermediary organizations, and market-driven reforms in higher education may influence how I interpret and discuss the data collected for the systematic review and the state authorization system in Georgia. I led the data collection and validation efforts on the Ness, Baser and Dean (2021) inventory and other inventories related to college closures and renewal processes (Burns,

Weeden, et al., 2023), which may influence how I perceive and analyze processes and structures. Through analytic memos, I interrogated my potential biases and remain transparent about my methods and challenges to ensure the study was carried out with sincerity (Tracy, 2010).

### **Trustworthiness**

Given the qualitative and systematic literature research designs used in the study, several different strategies were employed to enhance the quality of this study. I relied on Tracy's (2010) eight "big-tent" criteria for excellent qualitative research and Lincoln and Guba's (1986) evaluative criteria for trustworthiness. First, a detailed historical analysis of state authorization systems is relevant and timely, especially on the heels of the state authorization research and practice initiative led by SHEEO, which largely neglected the research in the 1970s. This study challenges key assumptions of existing research and theoretical frameworks as well as the normative view of postsecondary authorization involving traditional higher education colleges and universities.

This dissertation is marked by rigor, "a rich complexity of abundance" in terms of theoretical constructs, data and time in the field, samples, contexts, and data collection and analysis processes (Tracy, 2010, pp. 840-841). Sharing values of rigor, credibility refers to establishing confidence in the "truth" of one's findings (Lincoln & Guba, 1986; Tracy, 2010). I used several techniques to establish credibility and rigor, including prolonged and persistent engagement (multiple data collection and analysis cycles), triangulation of methods (systematic reviews and descriptive strategies) and triangulation of sources (documentation, archives, and literature). I also established credibility by using peer debriefing processes for conceptualizing important moments in state authorization history as well as the development of state conceptualizations.

This dissertation meets the resonance criteria of quality through naturalistic generalizations and transferability. Resonance is described by Tracy (2010) as a “researcher’s ability to meaningfully reverberate and affect an audience” (p. 844). Transferability, which refers to how well the results can be generalized to other contexts, was supported by rich, thick descriptions of the wide range of postsecondary authorizing agencies and key stakeholders connected to the state authorization systems (Lincoln & Guba, 1985). To ensure confirmability of my findings, I created an audit trail of methods using a logbook. Moreover, I developed comprehensive summary documents of state oversight and agency processes, extensive field notes, and numerous protocols to alleviate researcher bias (Lincoln & Guba, 1985). In sum, the data collection and analysis strategies employed help to ensure a robust systematic historical review and contemporary example that sheds light on the convoluted state authorization systems throughout the United States.

## **CHAPTER IV**

### **A HISTORY OF STATE AUTHORIZATION**

This chapter provides a comprehensive review of how state governments authorize postsecondary education institutions to operate in the U.S. I begin by clarifying the constitutional responsibility of states for postsecondary authorization, highlighting key developments in conceptualizations of state authorization, and offering a holistic definition of state authorization that frames this dissertation. Following this introduction, I provide a comprehensive and historical review of state authorization, considering the role of state and federal governments, the regulatory triad, intermediary organizations, social movements, the proliferation of higher education, for-profit education, and other major events that influenced how states have approved postsecondary entities to operate within their borders. I weave academic and grey literature on state authorization, approval, and licensure throughout the chronological review.

#### **What is State Authorization?**

State authorization represents how most postsecondary institutions secure and maintain the right to operate as an education entity in the U.S. American federalism provides the basis for which level of government holds responsibility for higher education and state authorization. State authority for higher education is granted through the reserve clause of the Tenth Amendment, which maintains that any powers not delegated to the federal government by the Constitution are reserved to the states or people. With no mention of education appearing in the U.S. Constitution, it has historically been considered a function of the state. This provision means the “United States has no Ministry of Education or other centralized federal authority

exercising control over the quality of postsecondary educational institutions” (U.S. Department of Education, 2022, June 30, para. 3). As such, except for a handful of institutions authorized by the federal government or tribal governments, the lion’s share of postsecondary institutions are authorized by state governments (Contreras, 2020b). This means that states have the primary responsibility for developing the policies, structures, and norms for authorizing all postsecondary schools, colleges, and universities within its borders, whether accredited or not.

### ***Key Developments in the Conceptualization of State Authorization***

Over the past 75 years, numerous definitions of state authorization<sup>3</sup> have been put forward by intermediary organizations, government agencies, legislatures, academics, and legal scholars about what constitutes state authorization of a postsecondary institution (Education Commission of the States, 1973; Harnisch et al., 2016; Jung et al., 1977a; Millard, 1979; Tandberg et al., 2019). Several important developments have emerged from this work that inform this study’s definition. First, definitions generally describe three to four avenues of institutional authorization throughout the history of higher education: charters, legal acts of incorporation, authorization or approval, and licensure (Millard, 1979). Institutions approved by charter have been granted formal authority to operate through a colonial or state government charter or state legislation. Simply, it is a legal document that establishes and defines the existence, purpose, powers, and structure of a postsecondary organization. For example, the charter granted to Harvard in 1650, as well as resolutions by the Georgia Assembly to approve the Board of Regents’ creation of Georgia Gwinnett College in 2005, are examples of postsecondary charters (Morison, 1935). Legal acts of incorporation, also known as corporate

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<sup>3</sup> While “state authorization” has emerged as the predominant umbrella label for postsecondary institutional approval at the state level in recent years, this has not always been the case. Other terms have also been used in combination with state or institution, including charter, incorporation, approval, and licensure. This study uses state authorization as an umbrella term for all state approval processes to operate as a higher education entity.

charters or articles of incorporation, refer to the formal document filed with a state or other government entity's corporate authority to establish a business or other entity, such as a postsecondary institution. They include similar information about the institution as a charter and are often categorized with charters in the research (Kivinen & Poikus, 2006).

Authorization or approval, on the other hand, has often been associated with the formal processes to authorize an institution to operate. For most state agencies, articles of incorporation are a requirement of authorization. These processes, which are most often targeted at nonpublic and out-of-state institutions, are generally carried out by a state agency, ranging from independent authorizing agencies to state higher education systems to the secretary of state to the department of commerce (Jung et al., 1977a; Ness, Baser, & Dean, 2021; Wittstruck, 1984). Additionally, these agencies are the entities that are most likely to authorize traditional postsecondary structures, including universities, colleges, and technical schools. The final category—licensure—refers to institutional approval processes used by state professional licensing boards, such as a board of cosmetology, board of massage therapy, or a state medical board (Bender, 1976; Jung et al., 1977a; Millard, 1979). Generally, the requirements for licensure are tightly coupled with national standards of associations or accrediting entities. In some cases, state approval through an authorizing agency may also be required for operation, in addition to licensure through a state board. Together, charters, authorization, and licensure constitute the primary channels for being authorized as a postsecondary institution.

Second, state authorization has been posited to include the processes to approve an institution to operate and/or offer programs and confer degrees (Contreras, 2020b). Both institution and program approval are core statewide coordinating functions (McGuinness, 2016). The distinction is salient as state authorizing agencies vary widely on whether they have one or

both authorizing powers. For instance, a public governing board may not have absolute power to charter a public institution, but they likely hold degree-granting authority (Helm, 1979; McGuinness, 2016; Venters, 2021). In other cases, an authorizing agency may incorporate program or degree approval within institutional approval processes for nonpublic institutions. Considering this nuance permits for a comprehensive definition of authorization that includes all institutional actors and all postsecondary approval processes.

Third, the massification of distance education and the development of the State Authorization Reciprocity Agreement (SARA) have led to an increased consideration of online education in contemporary conceptualizations of state authorization (Natow et al., 2021; Onwuameze, 2017; Ward et al., 2021; Weeden et al., 2021). In fact, most institutional webpages on state authorization specifically focus on the online and cross-border aspects of authorization. For example, one system defines state authorization as “a combination of federal, state and professional licensing board regulations which impact in-person and online education offered across state lines within the United States” (University of Maine System, n.d.). The expansion of SARA and online education has opened the door to an alternative authorization process facilitated by regional compacts and national intermediaries (Gandara et al., 2017). In turn, it has led to an emphasis on SARA and distance education in definitions of state authorization.

Finally, while minimal attention has been given to exemption processes in recent years, these processes play a crucial role in authorizing postsecondary institutions in many states (Chaloux, 1985; Education Commission of the States, 1973; Hollander et al., 1978; Jung et al., 1977a; Merisotis, 1991; Reid, 1963). Exemptions have long played a role in state approval of postsecondary institutions, from religious exemptions to exemptions based on accreditation (Jung et al., 1977a). Exemptions in state statutes are one of the many lasting impacts of the 1973

model legislation proposed by the Education Commission of the States (ECS) (Education Commission of the States, 1973; Merisotis, 1991). To accurately define what state authorization is, it is important to know what it is not. Exemption processes play a central role in most states and have for decades, with several reports recommending an end to their overuse in the 1970s (Jung et al., 1977a). In sum, any current definition of state authorization should consider these salient characteristics to ensure a complete definition that elucidates the wide range of actors and processes that composes a state's postsecondary authorization system.

### *Defining State Authorization*

For this dissertation, state authorization refers to the structures, policies, and processes states employ to (re)approve an entity to establish and operate as a postsecondary institution or offer a postsecondary program. Building on the developments outlined above, there are important caveats that should be noted about how this definition will be used to frame this dissertation. I use the term “postsecondary institution” and “postsecondary program” in the broadest sense possible—that is, any education that results in a credential beyond high school. With this perspective, state authorization enables a wide range of postsecondary institutions to operate and grant credentials to students. Historically, reports and research on state authorization have focused on the authorization of postsecondary institutions and programs receiving federal financial aid, including colleges and universities offering academic degrees as well as technical schools and colleges providing career-focused, nonacademic credentials (Contreras, 2013). However, except for a few reports (Boatman & Borowiec, 2021; Chaloux, 1985; Jung et al., 1977a), numerous program types have largely been omitted from most recent considerations of state authorization. These schools include other trade schools that focus on specific training for a career, such as cosmetology and barber schools, real estate schools, flight training schools,

language schools, massage therapy schools, coding schools, and automobile and truck driving schools, among many others. I incorporate state Veteran's Approval Agencies into the state authorization field, given their longstanding history and similar function to state approval for federal financial aid. Aligning with the most comprehensive study of authorization and licensure (Jung et al., 1977a), this definition attempts to be more inclusive of all types of postsecondary institutions and state postsecondary approval programs.

In addition to the institution types considered, I intentionally include processes used by states to exempt institutions from the authorization process. To date, few studies have robustly studied the exemption process, which can make up a considerable amount of the institutions that are authorized by state agencies. For example, of the 557 institutions authorized by the Georgia Nonpublic Education Commission, about 40% of the institutions were approved via exemption (Georgia Nonpublic Postsecondary Education Commission, 2022). Further, exemptions have been granted to institutions that have since closed (e.g., Virginia's Stratford University) and left hundreds of students without a teach-out plan (Burns, Bryer, et al., 2023). By also centering exemptions as an institutional norm in state authorization, this study aims to uncover insights about the implementation of exemptions, perspectives of agency staff and leadership about their use, and their role in the broader state authorization system. The inclusive definition enables an interrogation of the traditional higher education regulatory state (i.e., laws and state higher education agencies), in addition to how "the fragmentation of regulatory power" manifests among a multitude of state and non-state actors with "considerable diversity in the norms and mechanisms of control" (Scott, 2008, p. 653). Taken together, this definition aims to allow for the examination of the various actors, processes, and norms underpinning the postsecondary regulatory system.

## **Postsecondary Approval: From Medieval Europe to World War II**

State authorization for colleges in the U.S. has evolved from a complex interplay of socio-political factors. These factors have included the influence of secular and religious charters from Europe, the development of a federalist system that led to state control of higher education, important court decisions like the Dartmouth Case, major federal policy changes in higher education (e.g., the Morrill Acts), the proliferation of diploma mills in professional fields, and consumer movements. Together, these developments helped contribute to a fragmented system of higher education incorporation and regulation at the state level.

### ***Medieval Europe's Influence on Postsecondary Institution Approval in America***

The history of state authorization in the U.S. precedes the establishment of the American colonies. European colonizers crossed the Atlantic with new plants, animals, infectious diseases, technologies, and ideas. Among those ideas were traditions, structures, and frameworks for postsecondary education, including a framework for formally establishing colleges and universities through charters issued by religious and government authorities (Scott, 2006). While the specifics of university charters depended on the political and religious landscape of the time, several key structures influenced how postsecondary institutions were established in Colonial America.

During the Middle Ages, the status of postsecondary institutions as universities was formalized through imperial charter or papal bull<sup>4</sup> (Gieysztor, 1991; Nardi, 1991). Postsecondary institutions in this era emerged from “cathedral and municipal schools” with a demand for “trained elites to serve the bureaucracies of church and state and the emerging

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<sup>4</sup> A papal bull is a formal decree or charter issued by a Pope of the Catholic Church, typically concerning administrative issues, doctrine, or significant announcements. It is authenticated with a seal known as a bulla (Saint Paul University, 2023).

professions of the clergy, law, and medicine” (Perkin, 2007, p. 161). A few institutions—Naples, Toulouse, and Rome—were granted charters and established through a top-down directive of a Pope or emperor in the 12<sup>th</sup> and 13<sup>th</sup> centuries (Kivinen & Poikus, 2006; Verger, 1991). Prior to the formalization of a university through a charter, institutions were founded in a grassroots manner by scholarly guilds to “safeguard the well-being and integrity of scholars” (Kivinen & Poikus, 2006, p. 204). For instance, the University of Bologna and University of Paris were initially created by students and teachers, respectively (Kivinen & Poikus, 2006). One outlier is the Schola Medica Salernitana for medicine, which emerged as a respected center for medical education. However, the institution never received an official charter or recognition from a governing body, despite ties with the Church.

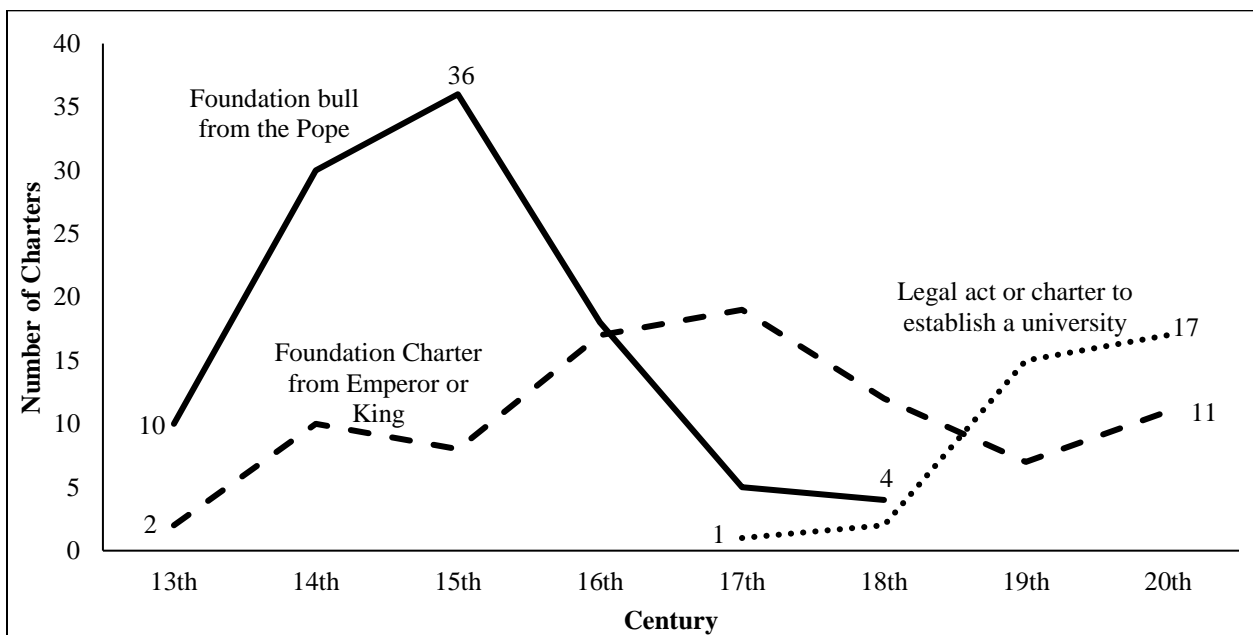
To better understand the context of university charters, Kivinen and Poikus (2006) developed an inventory of 225 charters of foundation for universities from the 13<sup>th</sup> to the 21<sup>st</sup> centuries. The inventory cataloged the institution, the date of the charter, and whether the charter was a legal act or charter to establish a university, foundation bull from the Pope, or a foundation document from an emperor, king, or other local ruler. Given the quasi-religious and secular government structure, institutions sought approval and legitimization from myriad authorities, including the Pope, kings, emperors, and other local rulers (Verger, 1991). In Figure 1, I present a line chart of the data collected by Kivinen and Poikus (2006). While the research is not exhaustive in covering all university charters of the period, it provides important insights on the development of chartering authorities over the past 800 years.

Popes were the predominant issuers of university charters in the Middle Ages (Kivinen & Poikus, 2006). In fact, among the universities chartered in the 14<sup>th</sup> and 15<sup>th</sup> centuries, “only Treviso 1318, Prague 1347, Orange 1365 and Pavia 1361 obtained their rights through a

document confirmed by an emperor; and at least Prague and Orange later acquired a papal bull confirming their rights” (Kivinen & Poikus, 2006). As the reign of the Catholic Church subsided in the 16<sup>th</sup> century, secular governments and authorities, often with religious ties, assumed the function of issuing university charters (Nardi, 1991; Verger, 1991). In particular, the founding of Harvard University in 1636 (chartered 1650) by the Massachusetts Bay Colony served as a turning point in the authority issuing a charter via a legal act or charter, which would be the chartering process used by states for the next 300 years.

**Figure 1**

*Sample of Charters Issued by Authority by Century*



*Note.* The data was collected from the appendix of Kivinen and Poikus (2006). The analysis presented is a sample of institutional charters between the 13<sup>th</sup> century and 20<sup>th</sup> century.

The process for receiving an official charter was multi-faceted (Kivinen & Poikus, 2006). First, a locally written document concerning the institution’s founding was sent to papal and imperial offices. Then, if approved, these offices extracted relevant details from the request and integrated the language into standard documents. An official charter or papal bull provided an institution and specific programs with legitimacy as a university, though unofficial and

fraudulent use of the university label was widespread (Perkin, 2007). Charters specified a variety of items, including the emergence of academic guilds and special protections for teachers, masters, and students; special privileges, *ius ubique docendi*, for faculty to teach at any university (teaching license in practice); the economic and legal privileges granted to universities; the civic and religious goals and benefits of education; the training of public servants; and the continued pursuit of education for knowledge and peace (Kivinen & Poikus, 2006; Nardi, 1991; Verger, 1991). Importantly, it provided the specific purpose of an institution, which varied across Europe's medieval universities and was often tied to the community in which the institution was founded (Kivinen & Poikus, 2006). Institutions receiving a charter were characterized as such:

(1) That the school attracted or at least invited students from all parts, not merely those of a particular country or district, (2) That it was a place of higher education; that is to say, that one at least of the higher Faculties—Theology, Law, Medicine—taught there, (3) That such subjects were taught by a considerable number—at least by a plurality—of Masters. (Rashdall, 1895, p. 9)

The association with prestige and status led institutions to view an official charter, especially one issued by the Roman Catholic Church, as a salient component to secure a prestigious reputation. Haskins (1941) clarifies this notion, suggesting that “every European University, new or old, regarded it as highly important, if not essential, to secure a papal bull conferring the *ius ubique docendi*” (p. 283). Even institutions chartered by a king or local ruler continued to seek recognition by the Pope, including the University of Paris for theology, the University of Bologna for law, and the University of Cambridge. Other institutions, such as Oxford, also sought official charters through authorities for the associated prestige, with less

success (Haskins, 1941).<sup>5</sup> A charter's legitimacy extended to the students, faculty, and graduates of these institutions. In some instances, they were provided specific privileges by imperial rulers, such as no taxes and excusal from certain obligations of citizens (Haskins, 1941; Kivinen & Poikus, 2006). In addition to institutional legitimacy and special rights, graduates of chartered schools were considered experts qualified to teach others in the profession, a privilege that many European institutions sought (Haskins, 1941).

The charters granted by religious and secular authorities in the Middle Ages parallel contemporary authorization structures in several ways, including a distinct (from other business types) approval process to operate as a university, the role of governments as an assessor of quality of universities, the salience of the credentials of faculty in determining quality, the wide variety of definitions used for university and postsecondary institutions, the many purposes of higher education, and the determination of quality based on the specific program (e.g., law, theology, and medicine) (Perkin, 2007; Thelin, 2019). These chartering processes and corporate structures used in Europe (namely, Scotland) influenced how institutions were chartered and incorporated in Colonial and early America.

### *Chartering the Colonial Colleges*

Royal and colonial government charters played a crucial role in college-building and served as the predominant avenue of authorization to confer degrees in colonial America. Charters for colonial colleges prescribed the institution's mission, purposes (e.g., training clergy and public servants), curriculum, and governance structures (Burke, 1982; Geiger, 2016b; Hofstadter & Smith, 1961; Wright, 2007). Securing a charter was not straightforward. It required

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<sup>5</sup> University of Oxford never obtained a papal bull for its licenses, but the institution wrote the Pope and other clergy of the Roman Catholic Church for the coveted privilege (Haskins, 1941). The institution was able to persuade British rulers to grant them rights and privileges (Kivinen & Poikus, 2006).

political maneuvering and persistent policy entrepreneurs—usually the president and other community leaders—to be granted a charter (Geiger, 2016a; Herbst, 1982; Thelin, 2019). For royal charters, colleges were legitimized in a similar way to their English counterparts through the issuance of an official founding document that provided official status as a higher education institution (Elliott & Chambers, 1934; Morison, 1935; Thelin, 2019). Royal authorities issued charters to all colonial colleges, though these charters were generally the final step of legitimacy for an institution. Some institutions were established by a charter by the British Crown, including William & Mary, Dartmouth College, and King’s College (Rutgers) (Geiger, 2016a; Hofstadter & Smith, 1961; Thomson, 1971). Despite the increase in the number of royal charters granted relative to those granted within the United Kingdom, there was generally only one college in each colony (Herbst, 1982; Thelin, 2019). The restriction on charters was one component that contained the proliferation of new colleges in the British colony.

Most of the colonial colleges were established and granted degree-granting authority through colonial or provincial governments. For example, Harvard received a charter of incorporation from the Massachusetts General Court in 1650, with the backing of the colony to grant degrees (Blackmar, 1890; Morison, 1935; Reid, 1963). Other colonial colleges were founded by colonial governments, local religious entities, or a hybrid of the two. These colleges “were remarkable and complex, a hybrid of legacies, transplants, deliberate plans, and unintended adaptations” (Thelin, 2019, p. 11). The blurring of authority with college charters during the colonial era set the stage for the emergence of public-private issues that became increasingly pronounced in the 1800s (Geiger, 2016b). As the system of colleges evolved, the various sources of charters contributed to a complex legal and political landscape for higher education institutions (Burke, 1982; Herbst, 1982). This intricate interplay between colleges and

the state laid the groundwork for the legal disputes and public-private tensions that would eventually culminate in landmark cases like *Dartmouth College v. Woodward*.

Religion was one characteristic of charters in colonial America that departed from the English royal charters and European charters preceding the founding of colonial colleges. Kivinen and Poikus (2006) note that “the more liberal or pluralistic North American conditions show in the emphasis on freedom of religion as early as the university charters of the 18<sup>th</sup> century” (p. 201). The College of New Jersey’s (Princeton) charter specifically mentions that religious affiliation cannot be used to restrict board members, faculty, students, and others from higher education (Hofstadter & Smith, 1961). The impact of colonial colleges’ attention to religious freedom in charters cannot be overstated. Freedom of religion has been mentioned in most charters since the 19<sup>th</sup> century (Kivinen & Poikus, 2006). Despite the freedom of religion espoused in numerous charters, religious tolerance remained limited at colonial colleges (Herbst, 1982; Thelin, 2019). Institutions like Harvard and Dartmouth continued to make the dissemination of Christian faith as an objective of the institution, both to British students and the local native populations (Hofstadter & Smith, 1961; Wright, 2007). Enrollments and degree attainment in the colonial colleges were predominantly focused on religious studies and preparation for ministry (Burke, 1982; Geiger, 2016a). Even with this principle of religious freedom in the colonies, colonial colleges were marked by a rich diversity of Christian faiths intertwined with higher education charters and institutional origins.

Many institutional charters and projects were unsuccessful. Indeed, it was no easy task to open a college in the Colonial Era. For instance, the first institution of higher learning chartered in the English colonies was Henrico College in 1618 (Geiger, 2016a; Thelin, 2019). The Virginia Company of London negotiated with King James to receive financial support and managed to

have a library donated to the institution (Wright, 2007). However, the college's progress was halted after Chief Openchancanough and the Powhatan Indian Indigenous Algonquian people attacked Henrico, killing 400 settlers, including the college's rector, George Thorpe (Geiger, 2016a). By 1624, the Virginia Company's charter was revoked, and the college never opened. Politics became another factor that hindered the success of charters. For example, George Whitfield sought a royal charter to expand his orphanage and boarding school into Bethesda College but failed partly due to the monarch's reluctance to trust evangelicals to lead an institution (Dyer, 2004). These examples demonstrate the salient challenges institutions faced in receiving a charter and opening their doors to students during the colonial era.

Charters from provincial governments and the British Crown served as the primary authorizing entities for a college to operate and confer degrees in the colonial era. Most charters for colonial colleges were granted with funding and the backing of the charterer (Geiger, 2016a; Thelin, 2019). And for good reason. The chartering process was often fraught with tension and conflict, as institutional leaders struggled to balance the competing interests of religious leaders, local government officials, and their own constituents (Herbst, 1982; Thelin & Krotseng, 1983). Similar to European colleges that preceded the colonial colleges, institutional leaders and communities faced political, financial, and physical challenges in their efforts to be granted a charter (Burke, 1982; Herbst, 1982). Some institutions, for instance, were unable to obtain a charter due to differences in religious or political views with the most legitimate charterer of that time. Nevertheless, the colleges that received a charter and survived the colonial period and Revolutionary War demonstrated remarkable resilience, having been established on a strong legal foundation (Burke, 1982). As Thelin (2019) notes, "by the close of the colonial period the American colleges were characterized by two features: their charters and legally incorporated

structures were strong; and their structures and protections ensured flexibility and endurance” (p. 40). While circumstances surrounding the acquisition of charters varied widely across and within colonies, the enduring strength of their legal foundations and articles of incorporation shaped the establishment of higher education institutions for centuries to come.

### ***Charters in the Early Republic: A Mixed Bag for State Control***

The Declaration of Independence and the Reserve Clause ushered in an era for who was responsible for the provision of education, which saw states transition into serving as the legitimate authority on the provision for postsecondary education and business regulation within their state. For instance, in the first session of the 8<sup>th</sup> New York State Legislature in 1784, the Assembly established the Regents of the University of the State of New York, a consolidated governing board, to oversee all education activities in the state (Millard, 1979). It was not only the country’s first state educational board, but also one dedicated to higher education. Three years later the law restructured the state’s governance structure, allowing Cornell to have its own board (Millard, 1977). While its structure shifted to the contemporary conceptualization of a coordinating board (McGuinness, 2016; McLendon, 2003b; Millard, 1977), the Regents maintained oversight over colleges and academies in order “to enable them to mold the several institutions into a unity that would serve the best interests of the people of the State as a whole” (Abbott, 1958, p. 14). Millard (1979) draws on New York to illustrate the salience of the state’s role in the early and broad oversight of education: “Thus the board of regents was in fact the first state agency established to authorize institutions to operate, to grant degrees, to insure reasonable quality, and, you will note, to insure that they would serve the best interests of the people of the state as a whole” (p. 122). This provision included shepherding public and private postsecondary education.

A handful of states joined New York by creating a board responsible for education governance before the 19<sup>th</sup> century; only 17 had central agencies by the time of World War II (Millard, 1977). New York's focus on institutional quality was a trademark of its state board for years to come, even receiving credit for starting accreditation (Dickey, 1974). Due to the decentralized nature of education governance, where states held the primary responsibility and possessed distinct cultures and political landscapes, the establishment of state regulatory agencies for education was irregular at this point, with only a few being formed prior to the 20th century. The Regents' explicit control over private and public education previews a philosophical debate about the extent to which states should regulate private institutions, a clear competitor to the state's public colleges and universities (Jung et al., 1977a; Manning, 1978; Orleans, 1980).

Institutional creation and legitimization in the national era following the formation of America was largely a continuation of a confounding hybrid of public-private charters in higher education, complicating the distinction between public and private institutions (Burke, 1982). Reid (1963) explains that following the designation of education as a state responsibility in 1791, "incorporators of colleges and universities turned naturally for their charters to state governments, and those charters have since provided them with considerable protection from political interference and government dictation" (p. 53). State charters or articles of incorporation were the primary avenues for both private and public institutions to be recognized to offer degrees through the middle of the 20<sup>th</sup> century (Blackmar, 1890; Elliott & Chambers, 1934; Reid, 1963). The conditions of the charter, the resources provided, and the powers granted to the institution varied across states. Until the massification of higher education through federal financial aid programs, most chartering processes for an institution were via legal acts or aligned

with incorporating any other business enterprise through a fee to the secretary of state or other state official (Millard, 1979).

The colonial colleges established prior to the American Revolution underwent significant change in the new national era. Despite this, the existing charters of these colleges remained relatively stable. The immediate changes involved the removal of references to the British monarchy in institution names and chartering documents, reflecting the shift in political context and the desire for a distinctly American identity (Hofstadter & Smith, 1961; Thelin, 2019). In the decades following the Revolutionary War, some schools and stakeholders viewed it as an opportune or necessary time to change their charters for a new era. Notably, some institutions, such as Yale and William & Mary, progressively increased the level of public influence by allowing public representation on their boards and the infusion of public resources (Thelin, 2019; Whitehead & Herbst, 1986). The relationship between New Hampshire and its chartered college, Dartmouth College, was especially unsettled and fraught with uncertainty.

*Dartmouth v. Woodward* (1819), the *Dartmouth College Case*, stands as a salient moment in American history, not only for its impact on the legal principle of institutional autonomy and private contracts, but also for its enduring effect on college building and the college-state relationship (Clapp, 1934; Whitehead & Herbst, 1986). In 1816, New Hampshire attempted to change the institution's charter and replace the existing board of trustees of Dartmouth College with a new board of overseers appointed by the governor and legislature, effectively turning Dartmouth into an institution subject to state control. Dartmouth College contested the change, and the Supreme Court ruled that the original charter of Dartmouth College issued by King George III in 1769 was a private contract that predated the state, and thus the state could not replace the Board of Regents and overtake the institution (Harnisch et al.,

2016; Reid, 1963). However, as Millard (1979) notes, the significance to state authorization is “that the Court did not challenge the basic responsibility of the state to license or charter, or to set the condition under which a charter or license could be granted” (pp. 122-123). Indeed, the Dartmouth Case established the legal basis and secured autonomy from legal interference for a multitude of public and private institutions that would emerge in the years that followed (Reid, 1963; Whitehead & Herbst, 1986). The implications of the Dartmouth Case have historically focused on the private-public relationship or the contract clause; however, the case also set the stage for how the federal government considers contracts between state authorizing agencies and private enterprises.

### ***Federal Charters in the 19<sup>th</sup> Century***

During the early republic, several attempts were made to establish national universities and military academies through federal charters. One notable effort was the proposal to create a “national university” with the support of influential leaders, such as Thomas Jefferson, Benjamin Rush, and George Washington (Castel, 1964). Although the bill made it out of committee, it failed to pass a vote in the full House of Representatives in 1817, illustrating the challenges of gaining widespread support for a federal charter (Thomas, 2014). However, there were two early exceptions to the state-dominated landscape of higher education authorization in the antebellum period: the Military Academy and the Naval Academy (Crackel, 2002; Leeman, 2010). These institutions were established through acts of Congress, providing them with a unique status as federally chartered institutions.

For example, the U.S. Military Academy at West Point was established through a charter when President Thomas Jefferson signed into law the Military Peace Establishment Act in 1802, which included a provision to establish a military academy (Military Peace Establishment Act,

1802; McDonald & Crackel, 2018; “Military peace establishment act of 1802,”). This act formally authorized the institution’s existence and operations as a training institution for engineers of the U.S. Army (Crackel, 2002). The contents of the legal act included similar components to other institutional charters of that era. It outlined the academy’s purpose and structure, established a leadership structure, and included the president’s direct authorization to procure books and other items to create the institution (Military Peace Establishment Act, 1802”Military peace establishment act of 1802,”). The military academy at West Point stands as a significant example in postsecondary authorization as its distinct legal foundation placed it under the oversight and support of the federal government (Blackmar, 1890). These charters also serve as prime examples of the federal government utilizing higher education institutions as strategic instruments to cultivate and support their own interest (i.e., military strength and capabilities).

Federal charters were not exclusively granted to military academies in the 19<sup>th</sup> century. Two notable examples are Gallaudet University and Howard University, both located in Washington, D.C. Gallaudet University, chartered by an act of Congress in 1864, is a federally recognized institution specializing in providing education for deaf and hard-of-hearing students, the only institution of its kind in the world (Armstrong, 2014; Christiansen & Barnartt, 2003). This charter was particularly significant at the time as it affirmed the federal government’s commitment to supporting specialized education for deaf and hard-of-hearing students (Greenwald & Van Cleve, 2008). Similarly, Howard University, chartered by an act of Congress in 1867, played a crucial role in addressing the educational needs for people who were enslaved, Black Americans (Dyson, 1941; Logan, 1969). These two universities emerged during a time when the intellectual capacity and educational possibilities of people who were enslaved or deaf

were subjects of intense debates seeded in overt racism and pseudo-science (Hilliard, 1974). The granting of federal charters to institutions like Howard and Gallaudet is unique, and perhaps the consequence of locality. Nevertheless, these institutions offer a rare glimpse into the federal government using postsecondary authorization and charters for a non-military purpose. Instead, the purpose of these charters was to increase access to quality education for populations intentionally boxed out of postsecondary opportunities.

While there were limited instances of federal charters to establish institutions, federal support for higher education emerged through land grants and funding for capital projects, research, and financial aid (Blackmar, 1890; Thelin, 2019). Because of the prevailing state power in education and the strong distrust in a centralized national government, the federal government has primarily resorted to providing supplementary support to higher education, ceding postsecondary education governance and authorization to the states. The military academies and Howard and Gallaudet stand as exceptional examples of federally chartered institutions.

### ***The Higher Education Boom***

During the 19<sup>th</sup> and 20<sup>th</sup> centuries, the U.S. experienced a remarkable expansion of higher education. Enrollments swelled. The landscape of higher education witnessed a surge in the establishment of new colleges and universities, contributing to the proliferation of institutions throughout much of the era (Burke, 1982; Geiger, 2016a). Despite the economic and political challenges faced by the new nation and higher education institutions between 1800 and 1820 (Geiger, 2016b), enrollments and the number of institutions nearly doubled during this period (Burke, 1982; Provasnik et al., 2022; Snyder, 1993). This growth trend accelerated over the next four decades, as the rush for higher education in America gained momentum. During this time, the higher education landscape experienced a significant increase in the opening, failing, and

eventual success of numerous institutions. Though the Civil War halted much of the growth for institutions and enrollment (Provasnik et al., 2022; Snyder, 1993), following the war, higher education would have yet another boom (Geiger, 2016b; Thelin, 2019), with the number of colleges (namely, multipurpose institutions and denominational colleges) sustaining significant increases in the number of higher education institutions operating each decade through the end of the century.

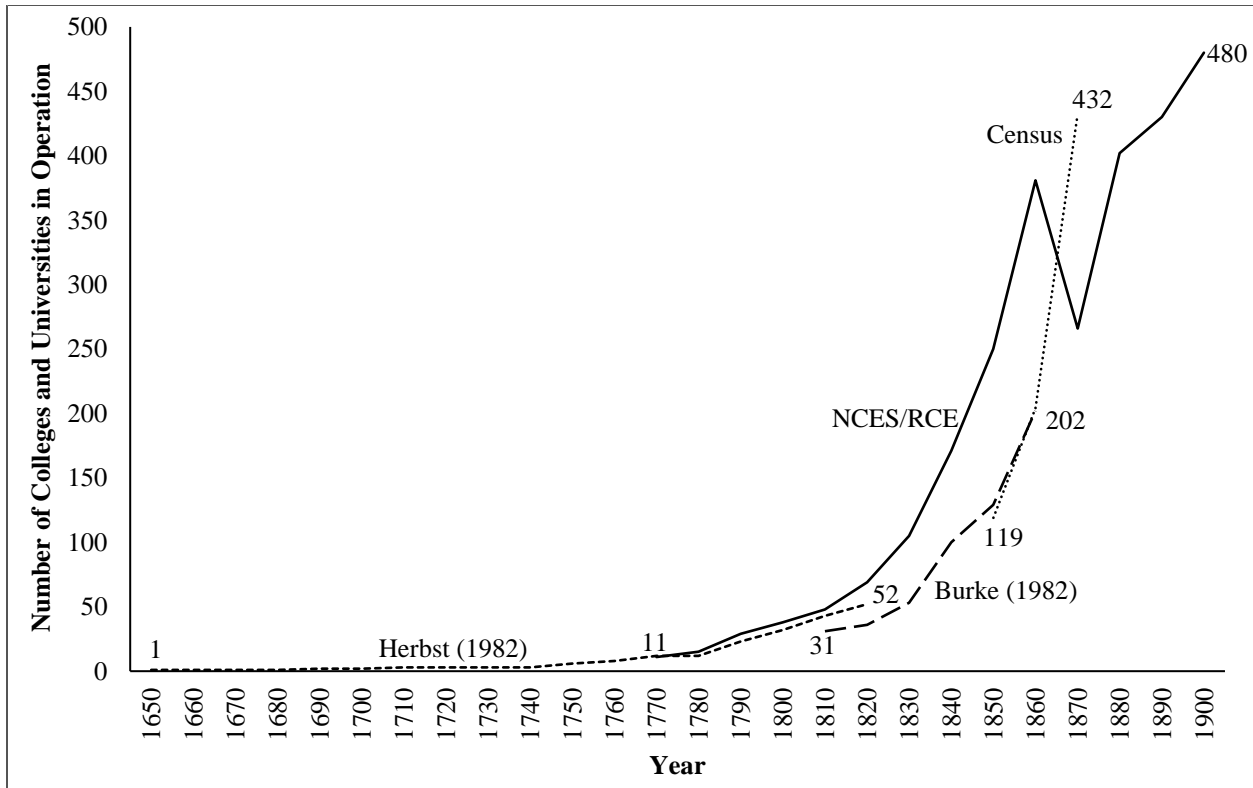
**The Numbers Game.** In Figure 2, I present a meta synthesis review of research and surveys that have attempted to count the number of colleges and universities operating in America between 1650 and 1900 (Burke, 1982; De Bow, 1853; Herbst, 1982; Snyder, 1993). Building upon the work of Burke (2016), I examine the differences in estimates provided by sources such as the National Center for Education Sciences (NCES), Report of the Commissioner of Education (RCE), the U.S. Census, and Burke's (1982) American Collegiate Populations. I incorporate more years of data and additional sources, including the counts detailed in Herbst's (1982) Crisis to Crisis, expanding the range of institutions included in the analysis. By considering these diverse sources and perspectives, my analysis provides a comprehensive and holistic review of the estimates concerning the number of colleges and universities operating prior to the 20th century.

The data shows that the number of colleges and universities in the U.S. grew steadily between 1650 and 1900. In 1650, there was only one college in the U.S. By 1900, there were over 400 colleges and universities. The figure also demonstrates that variations exist in the data obtained. For example, the NCES/RCE data shows that there were 480 colleges and universities in 1900, while the Census data shows that there were only 430. This difference is likely due to the different methods used to collect the data and how college was defined (Burke, 2016).

However, the general trends in institutions operating are consistent until the Civil War when NCES reports a significant drop in the number of colleges and universities before quickly rebounding in the final few decades of the century.

**Figure 2**

*U.S. Colleges and Universities in Operation by Initial Year of Decade (1650–1900)*



*Note.* Data represents colleges and universities that were in operation at the beginning of each decade (Burke, 1982; De Bow, 1853; Herbst, 1982; Snyder, 1993). NCES = National Center for Education Statistics. RCE = Reports of the Commissioner of Education.

An important aspect of the institutional boom story revolves around the disagreement regarding the number of postsecondary institutions and colleges (Burke, 2016; Thelin & Krottseng, 1983). This disagreement stems from the varying methods of data collection and reporting used by the federal government, institutions, and researchers, as well as debates over what should be classified as a college or university, or another type of higher education institution (Burke, 2016). Although the debate over the number and stability of institutions has

largely subsided since the 1980s (Burke, 2016), there are valuable insights to be gained from the tumultuous and diverse landscape of higher education in the 19<sup>th</sup> century, particularly concerning postsecondary authorization and accountability.

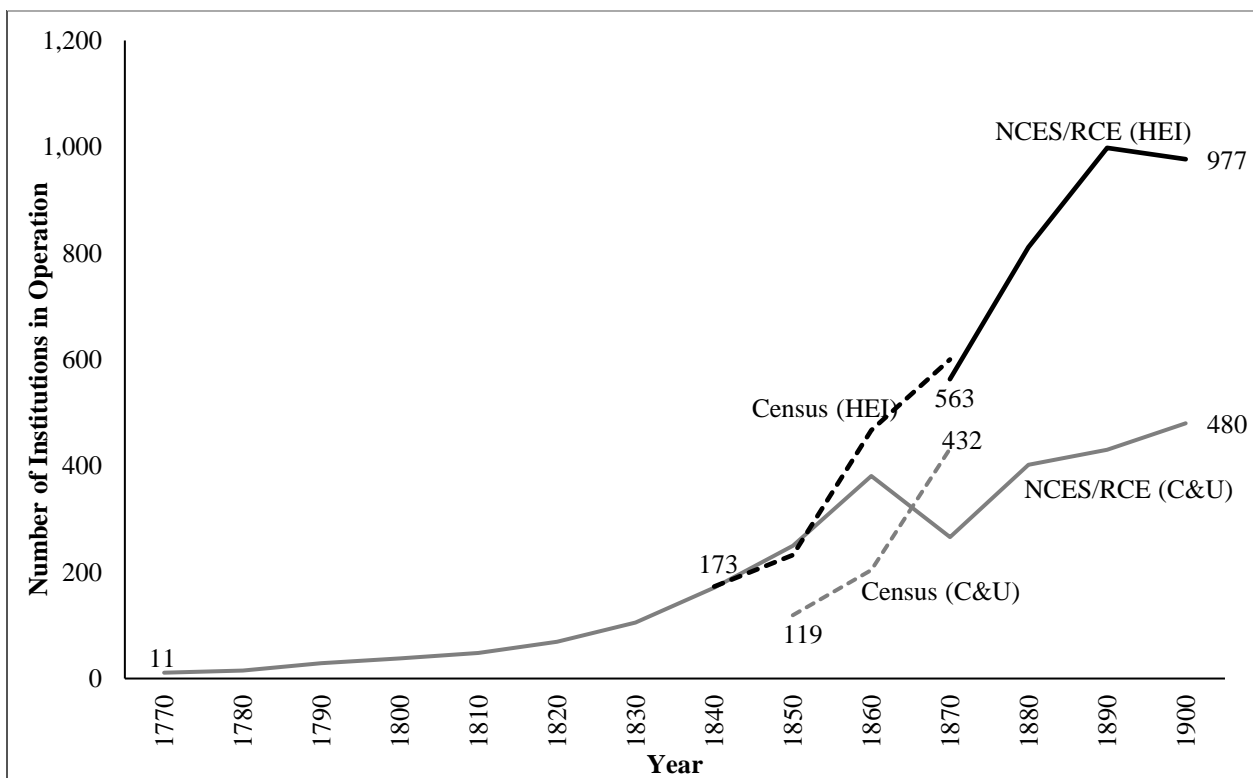
To begin with, charters and acts of incorporation were granted to more and new types of educational establishments (Hofstadter & Smith, 1961; Provasnik et al., 2022). This period witnessed the emergence of institutions dedicated to women's education, Black education, normal schools, medical schools, law schools, seminaries, and academies (De Bow, 1853; Geiger, 2016a; Thelin, 2019). Indeed, the landscape of postsecondary education became increasingly convoluted during the 1800s, blurring the lines between secondary education, postsecondary institutions, and colleges and universities. As a result, the definitions and methodologies used in historical surveys and academic research for counting the number of postsecondary institutions diverged during this era, with some (Tewksbury, 1932) ostracized for high estimates.

Research on the early decades of institutional creation in the 1800s often centered on the classical colleges and universities offering curricula that emphasized traditional academic studies to White men (Herbst, 1982). Over the century, these curricula slowly evolved as institutions served more populations and offered sciences, mechanical arts, and other programs as the result of industrialization, philanthropy, social movements, student protests, and federal, state, and local initiatives (Geiger, 2016b; Thelin, 2019). The first comprehensive account of higher education institutions that was disaggregated by institution type originated with the 1840 and 1850 censuses (Burke, 2016; De Bow, 1853). The more inclusive "higher education institution" encompassed a broad range of institutions and departments, such as literary colleges, theological schools, medical schools, law schools, normal schools, agricultural schools, and military schools.

The variations in estimates provided by researchers and federal surveyors can largely be attributed to discrepancies in the definitions of postsecondary education institutions, how women’s institutions and seminaries were considered, reporting and sampling errors, and disparities in data collection methods—sometimes even within the same survey (Burke, 2016). The differentiation of institution types begins to manifest in policy and practice, illuminating a key characteristic of contemporary state authorization policies that diverge based on institution type.

**Figure 3**

*U.S. Postsecondary Institutions in Operation by Initial Year of Decade (1770–1900)*



*Note.* Data represents a comparison of all higher education institutions and a subset of colleges and universities that were in operation at the beginning of each decade (De Bow, 1853; Provasnik et al., 2022; Snyder, 1993). NCES = National Center for Education Statistics. RCE = Reports of the Commissioner of Education. C&U = College and University. HEI = Higher Education Institution.

Figure 3 showcases an analysis of how different definitions of postsecondary institutions manifested in Census and NCES data on institutional estimates (De Bow, 1853; Provasnik et al.,

2022; Snyder, 1993). The grey lines are carried over from Figure 2, representing estimates on the number of colleges and universities (i.e., literary colleges and colleges and universities). The black lines denote Census and NCES estimates for all postsecondary institutions in the U.S., including literary colleges, colleges and universities, theological schools, medical schools, and law schools, among others (De Bow, 1853). The figure reveals a notable and rapid increase in the number of higher education institutions during this period, increasing from about 170 institutions in 1840 to 980 institutions by the turn of the 20<sup>th</sup> Century. In fact, by 1900, the NCES estimated that there were nearly as many postsecondary institutions designated as medical schools, normal schools, academies, and other special schools as there were colleges and universities.

Difficulties associated with establishing and sustaining institutions posed another significant challenge in estimating the number of colleges and universities during the 19<sup>th</sup> century. This challenge carried over from the preceding era and continued to be a recurring theme in the 20<sup>th</sup> and 21<sup>st</sup> centuries. A considerable number of institutions that were established ultimately failed to maintain their operations, leading to their closure (Burke, 1982; Provasnik et al., 2022). Much like during the Revolutionary War and War of 1812, the upheaval and disruptions caused by the Civil War further exacerbated the already volatile nature of institutional creation and survival during the 19<sup>th</sup> century (Burke, 1982; Thelin, 2019). As a result of closures and methodological factors, accurately tracking the number of postsecondary institutions became increasingly challenging. Despite these challenges, the counts of institutions in the 19<sup>th</sup> century still hold significant importance in understanding the entire postsecondary landscape. They also have contemporary value for discerning the differences between institutional counts by the U.S. Department of Education (USED) that are limited to Title IV

institutions and institutional counts of state authorizing agencies. Because states hold the responsibility for overseeing all postsecondary education, the broader definition of postsecondary institution is an important development to understand the complete context of authorization and licensure, which extends beyond traditional colleges and universities. They provide valuable insights into the historical trends of institutional creation, survival, and closure, shedding light on the dynamic nature of higher education during that era.

**Factors for the Surge.** The factors contributing to the surge in the creation and chartering of institutions during this period can be attributed to a wide collection of factors. Rapid population growth and westward expansion of the U.S. served as a salient factor. As the population increased and settlers migrated to new territories, the demand for educational institutions grew (Thelin, 2019). The need for schools and colleges to serve these expanding communities became paramount, leading to the establishment of new institutions throughout the country. Improved access to postsecondary education played a pivotal role in the proliferation of colleges during this period. Recognizing the importance of education beyond the privileged elite, the demand for higher education access extended to a broader population, helping lead to the emergence of specialized institutions and programs, such as normal schools, technical institutes, women's seminaries, law schools, medical schools, and manual labor institutions (Naylor, 1973; Reynolds, 1992; Thelin, 2019; Thelin & Trollinger, 2014). Furthermore, the Second Great Awakening and the prevailing religious zeal of the time led to the establishment of numerous denominational institutions (Tewksbury, 1932; Thelin & Krotseng, 1983), especially in the latter half of the century (Potts, 1971). The revivalist movement sparked an increased interest in education among Protestant groups settling in new American territories and states (Burke, 1982). As the era progressed from the early 19<sup>th</sup> century on, the postsecondary institution landscape

became increasingly convoluted as the population multiplied and the demand for different types of education materialized.

Industrialization and the increasing federal presence in higher education helped support the continued diversification of American higher education in the latter half of the 19<sup>th</sup> century and early 20<sup>th</sup> century. Industrialization during the gilded age helped lead to an increased need for skilled workers in factories, coal mines, finance, oil fields, and railroad, though this was no utilitarian beacon of the 1950s. Postsecondary education was viewed as a conduit to gaining the skills needed to support emerging industries. The increased wealth that emerged with industrialization helped to support the rise of the middle class, increasing the demand for higher education even further. Colleges and universities became entangled in the industrial revolution as industrialists like Andrew Carnegie and John D. Rockefeller increased their influence via philanthropy in developing higher education institutions, curricula, and standards for higher education (Barrow, 1990; Drezner, 2011). The Industrial Revolution had a profound impact on the creation and development of higher education institutions in the U.S. It led to an increase in the number of institutions, a change in the curriculum, increased levels of standardization, and an increase in the demand for higher education.

Complementing industrialization, the U.S. Congress passed numerous pieces of legislation that facilitated institutional development. One such example is the Morrill Land-Grant Acts, which established a system of land-grant colleges focused on utilitarian education (Johnson, 1981). These institutions aimed to provide higher education opportunities to the working class, contributing to the diversification of the postsecondary landscape (Geiger & Sorber, 2013). In some states, the Morrill Acts manifested into new agricultural and mechanical colleges, and later Black colleges (Thelin, 2019). In other states, this meant using federal monies

to establish a technical-focused school at an existing institution (Geiger, 2016a). These acts helped to expand education in the South and to historically minoritized populations (Thelin, 2019). While the Morrill Acts illustrated the populist nature of education during that time, the role they played in truly expanding access to the masses has often been overstated (Geiger, 2016b). The Hatch Act of 1887 further bolstered the growth of colleges and universities by providing federal funding for agricultural experiment stations, which were often extensions of the land-grant colleges (Geiger, 2016a). This support facilitated scientific research and innovation in the agricultural sector. It also forced states to begin to more seriously think about coordinating postsecondary funds at a system level.

Moving into the 20<sup>th</sup> century, the Smith-Lever Act of 1914 and Smith-Hughes Act of 1917 continued the federal government's involvement by providing funding for agricultural and vocational education at land-grant colleges (Geiger, 2016a). The passage of the Smith-Hughes Act signaled the success of a coalition of interest groups' objective to instill a vocational perspective in education and set the precedent of the federal-state financing relationship in education (Hillison, 1995). In short, it represented the first federal legislation on vocational education and provided financial assistance for states to support education in agriculture and home economics. While much of the debate has been around the populist push for vocational education and legislating of curriculum differentiation and tracking (Baser et al., 2021; Labaree, 2010), the law required states to designate a state board of vocational education that managed education outside of the traditional high school curriculum. In response, some states created vocational boards separate from the state board of education, signaling a multi-agency approach to state oversight and guidance. These acts were supplemented by other congressional support related to agricultural, technical, and military education between 1880 and 1920 (Thelin, 2019).

While they were not direct charters, these acts provided federal assistance for the establishment in various states, further fueling the growth of higher education institutions across the country.

Finally, a regional and philosophical shift in how charters were granted to postsecondary institutions helped stimulate institutional creation. Thelin (2019) notes:

In the new United States—especially in the South and the West—the granting of charters came to be regarded as an aspect of political patronage and the spoils system. It was an easy, inexpensive way for legislators and governors to reward supporters. An important corollary of this new approach was that the granting of the charter carried no promise, explicit or implicit, of financial support from the state government. (p. 43)

The transformation in the criteria for granting charters brings to the forefront the evolving interplay between education and state politics. Indeed, it encapsulates the persistent necessity for diverse resource channels and the perpetuation of a politicized chartering process, wherein institutions are subject to the discretion of the political elite (Thelin, 2019). This development serves as an additional catalyst in the exponential proliferation of higher education institutions throughout the 19<sup>th</sup> century and into the 20<sup>th</sup> century. Collectively, the influence of the Second Great Awakening, population growth and westward expansion, democratization of education, federal support through acts like the Morrill Acts, industrialization, and a shift in how charters were granted all contributed to the remarkable boom in colleges during the 19<sup>th</sup> century. It was an era that shaped the modern university with professional and graduate schools, introduced education to broader citizenry, and illustrated the growing diversification in postsecondary institution types. However, the rapid expansion of colleges also brought about a darker side to the educational landscape.

### ***Weeding out Diploma and Degree Mills: Accountability Efforts before World War II***

The lack of federal or state oversight and regulation spurred innovation in terms of the increase in institutions during the 19<sup>th</sup> century, but it also led to the proliferation of institutions

known as “diploma mills” and “degree mills” (Bender & Davis, 1972; Ezell & Bear, 2005; Reid, 1963; Stewart & Spille, 1988). Numerous definitions have been put forward for these terms, many of which conflate the two (Contreras, 2017; Ezell & Bear, 2005), a trap this dissertation falls into for simplicity. While used interchangeably, Contreras (2017) describes the difference:

A diploma mill provides a fake educational document, but without any actual evidence or documentation, although it may bear the name of a genuine education institution. A degree mill provides a degree with what purports to be documentation, but it is issued by a fake college. (p. 7)

In practice, the difference between a diploma mill and degree mill is blurred, and there is little difference in how states address these moral hazards. Diploma and degree mills both claim to be higher education institutions but offer illegitimate academic degrees and diplomas in exchange for payment (Ezell & Bear, 2005). These dubious organizations engage in practices where awarded degrees are fabricated, falsified, or misrepresented, rendering them practically useless. In most cases, they award degrees to students who were not required to fulfill educational objectives associated with a postsecondary program. While institutions are positioned as the antagonists in the degree and diploma mill story, the customers buying these degrees are not always an unknowing victim of a predatory organization. Indeed, “meaningless degrees purchased by dishonorable customers with the intent of defrauding prospective clients and employers” are an important part of the story as well (Contreras & Gollin, 2009, p. 40). Together, these actors help to create a sinister field of postsecondary education based on fraud and misrepresentation.

In the U.S., diploma and degree mills have taken advantage of the growing demand for higher education and lax laws since the new nation era. The standards to incorporate a school to offer degrees were minimal and, in many states, granted “practically unlimited powers to confer degrees” (Reid, 1963, p. 55). Diploma mills emerged in medicine, law, and other fields. They

operated physical campuses and in paper-based correspondence programs, and often offered degrees based on experience. In some cases, conferring degrees was a traveling roadshow.

John Cook Bennett serves as a notable example to illustrate the emergence and proliferation of diploma mills in the first half of the 19<sup>th</sup> century. Bennett earned his “doctorate” in medicine after an apprenticeship with his uncle (Thelin, 2019), going on to be “the president of the medical departments in two universities and chancellor of two others,” among many other professions (Smith, 1997, p. X). In a manner reminiscent of Lyle Lanley selling the monorail to Springfield and surrounding towns in *The Simpsons*, Bennett traversed the Midwest, establishing institutions and bestowing counterfeit diplomas and degrees, ultimately earning the moniker of the “diploma peddler” (Smith, 1994; Thelin, 2019). Even if he was a peddler, there is no doubting he was an innovator in a lawless postsecondary landscape, conferring masters and doctorates in academic fields that were rare during that era—also offering doctorates to women, though not in medicine (Smith, 1994). As his schemes unfolded, Bennett would often be ousted from an institution either due to their closure or when people became aware of his fraudulent activities. Nevertheless, he resurfaced at other establishments and organizations to perpetuate similar peddling.

Putting the outrageousness and problematic nature of Bennett aside (Smith, 1997), Thelin (2019) highlights implications of Bennett’s endeavors for state authorization and approval:

The case illustrates inability or disclination of state governments to require accountability from chartered institutions. Dependence on market forces made American higher education susceptible to innovations, and even to abuses. Furthermore, although the selling of academic and professional degrees for a fee was suspect practice, the fact that it occurred demonstrates the latitude institutions had in managing their activities and affairs. (Thelin, 2019, p. 58)

Diploma and degree mills continued to surge with the higher education community following the Civil War. Geiger (2000) notes that many of the doctorates conferred between

1880 and 1900 were fraudulently conferred by a diploma or degree mill. The evidence of abuse, especially in proprietary medical institutions, was increasingly noticed by policymakers, associations, philanthropists, and other universities (Fox, 1980). University presidents, like Daniel Coit Gilman and Charles Eliot, embraced the need for more science in medicine and professionalizing universities offering a traditional academic curriculum (Barr, 2010). By the first year of the 20<sup>th</sup> century, calls for quality assurance and standards for admissions and graduation for medical programs led to an association-based system of reviewing and classifying schools. For instance, the American Osteopathic Association began reviewing and approving schools in 1901 (Bogue & Hall, 2003). This opened the door to the review and inspection of schools to weed out diploma and degree mills.

The American Medical Association (AMA), which had been active in the field of medicine (e.g., specialty medicine, pharmaceuticals, vaccines, reports) for 50 years at this point, stepped deeper into the quality review space for medical schools (Dickey, 1974). The AMA was an active lobbying group that fought throughout the 1800s to have licensure requirements for medical schools and practitioners. In 1869, the AMA passed a resolution regarding specialty medical schools related to state charters, resolving “That it shall not be proper for specialists to advertise themselves or to assume any title not specially granted by a regularly chartered college” (American Medical Association, 1959, p. 675). By 1900, “forty-one states had enacted laws governing the entry of physicians into the practice of medicine” (Dickey, 1974). They drafted model legislation for states and worked with other professional agencies to build coalitions for adoption. Model legislation is a centrally drafted law proposed as a template for multiple independent legislatures (e.g., states). Following a reorganization in 1901, the AMA created a Committee on Medical Education charged with evaluating medical education,

developing a rating system for medical schools, and recommending improvements (Bogue & Hall, 2003). In 1906, it conducted a number of inspections of medical schools and published a list of classifications the following year. In 1907, the council also recommended the creation of state licensing boards to:

- (1) make annual personal inspections of medical schools located in their respective states;
- (2) to award no undergraduate a license to practice;
- (3) to pass on preliminary education attainments and to issue to each successful candidate a certificate entitling him admission to any school in the state choosing to receive that candidate;
- (4) to extend as far as possible, the principle of reciprocity. (American Medical Association, 1959, p. 458)

To the final point, the AMA formed a special committee to study interstate reciprocity and the creation of a national standards board in the first few years of the century. One hundred years later, the National Council for State Authorization Reciprocity Agreements (NC-SARA) would be formed to develop standards for distance education, hoping to improve quality and extend a similar principle of reciprocity. The AMA set the precedent in licensure, paving the way for numerous other professional associations to adopt similar practices.

The fraud in medical schools also led to numerous reports from the federal government and associations, such as the Flexner Report in 1910 and a report from the Commissioner of the Bureau of Education (Dickey, 1974; United States Bureau of Education, 1880). Both reports found diploma mills and recommended a host of reforms, including state licensing boards. Later reports from the AMA recommended universities take a more active role in graduate medical education, indicating a departure from the strong proprietary influence in the field.

In response to the reports and efforts of organizations like the AMA, some states developed governance structures to hold medical schools accountable, though extensive standards-based, on-site reviews were not implemented until World War II (Swanson, 1974). Despite the negligible standards associated with these medical charters, they represent the

earliest evidence in American history of the state's "regulatory responsibility over authorization of institutions to operate and to grant degrees" (Millard, 1979, p. 123). The exponential growth of institutions and the proliferation of diploma mills necessitated a shift in focus towards ensuring accountability and quality in higher education.

Due to the decentralized nature of American higher education and the absence of a central ministry to oversee institutions, accreditation emerged as a means to define the criteria that distinguish a postsecondary institution as a college or university. Accreditation also served as a mechanism to address concerns related to quality and accountability in higher education, including the proliferation of diploma mills and the need to differentiate colleges from high schools (Ezell & Bear, 2005). During the progressive era, several regional accrediting agencies were established, such as the New England Association of Schools and Colleges (1885), Middle States Association of Colleges and Schools (1887), North Central Association of Schools and Colleges (1895), Southern Association of Colleges and Schools (1895), Northwest Association of Colleges and Universities (1917), and Western Association of Schools and Colleges (1924). Seeking membership in regional accrediting bodies became a way for institutions to gain greater legitimacy beyond their charters or legal acts of incorporation. As the 20th century progressed, accreditors assumed a more active role in ensuring quality. For instance, the North Central Association established a committee on Revision of Standards in 1929 to develop a report for establishing the principles for evaluating and accrediting higher education institutions (Russell & Reeves, 1936). It also developed the mission-oriented approach to accreditation in 1934, which attempted to address the tension between stringent standards and increasing institutional diversity (Bogue & Hall, 2003). However, it was not until after World War II that accrediting

agencies implemented the standards-based, periodic review of institutions that characterizes much of their work today.

### ***Conclusion***

This section delved into the historical factors and developments that shaped postsecondary institution approval in America before World War II. The influence of Medieval Europe was highlighted. Here, we saw the diversification of chartering entities through a quasi-religious and secular government structure. These institutions, which included traditional universities and professional institutes, sought approval and legitimization from myriad authorities, including the Pope, kings, emperors, and other local rulers. This laid the groundwork for the chartering of colonial colleges and the establishment of education systems in the early republic through Royal and government charters.

Following the ratification of the Constitution, state governments assumed the primary role in chartering postsecondary education institutions through legal acts of incorporation or charters. While less common, the 19<sup>th</sup> century observed the introduction of federal charters to military academies, Howard University, and Gallaudet University. Despite the struggles faced during the new national era, early signs of the institutional boom in postsecondary education began to emerge, laying the groundwork for the subsequent surge in the establishment of colleges and universities and other postsecondary institutions that would last for the next 200 years, only to be interrupted by significant wars and financial depressions. The surge was driven by various factors such as population growth, westward expansion, industrialization, the Second Great Awakening, and philanthropy. As a result, denominational colleges and postsecondary institutions emerged that were dedicated to women's education, Black education, normal schools, medical schools, law schools, seminaries, and academies. A significant number of

professional schools were proprietary institutions, which raised doubts about their credibility and legitimacy.

Minimal laws and standards regarding incorporation of postsecondary institutions led to the rise of diploma and degree mills, especially in medicine and other professional fields. The growth of these mills prompted the involvement of organizations like the American Medical Association (AMA), which recommended a greater level of state influence in the oversight of graduate medical education and promoted the principle of reciprocity. Further, accreditation agencies emerged to address concerns of quality and accountability. The AMA and accreditation became crucial in distinguishing legitimate institutions from diploma mills and degree mills and ensuring higher education standards were upheld. Collectively, these historical developments have shaped the approval of postsecondary institutions in America, laying the foundation for the development of the regulatory triad and systems for state authorization that would become prominent in the years following World War II.

### **The State Authorization Era**

The State Authorization era of higher education—as I’ve cunningly christened it—emerged after World War II, marking a shift from historical state policies on charters and legal acts of incorporation to a renewed focus on the state’s regulatory function. The post-war period brought significant changes, including increased federal financial aid and research funding, resulting in a notable growth in the number and size of postsecondary institutions. However, much like the eras before it, this expansion also led to the rise of diploma mills and problematic for-profit institutions. Consequently, ensuring quality became a pressing concern. The federal government and states emphasized the need for accreditation and state authorization as crucial measures for maintaining standards and stopping fraud and abuse in higher education.

This section aims to present a comprehensive narrative on the evolution of state authorization from World War II to the present day. It emphasizes the central importance of state authorization and explores its interconnected factors through academic and grey literature. The discussion encompasses the involvement of various entities such as the federal government, accrediting agencies, intermediary organizations, and broader social movements. Based on Lee and Merisotis's (1990) concept of three "waves" of consumer protection interest, I analyze the progression of state authorization starting from World War II using their waves which extend through the 1990s. Notably, I also highlight the emergence of a new wave of state authorization initiated during the Obama administration.

***First Wave: Defining the State's Role in Accountability (1944-1965)***

The initial wave of state authorization arose after World War II, driven by the return of soldiers, a perceived national need for stronger defense, and growing access to higher education. The massification and increase in institutions necessitated increased accountability measures that had begun to emerge in the early 1900s. The role of states in authorization and approval was further clarified with the implementation of federal financial aid programs when states were designated as approval entities. In the final few years of the first wave, states emerged as a quality assurance solution to diploma mills, in addition to accreditation.

**Federal Financial Aid: Clarifying the State's Role in the Regulatory Triad.** Since World War II, the federal interest in higher education accountability has centered on the administration of student financial aid programs and capital projects, often in a fragmented way (Gladieux & Wolanin, 1976; Millard, 1979). Following World War II, Congress passed the Servicemen's Readjustment Act of 1944 (known as the GI Bill) to spur the economy and mitigate widespread unemployment of returning soldiers (Thelin, 2019). Through the 1944 GI

Bill, Congress authorized the Veterans Administration (VA) to provide tuition, books, and stipends to veterans attending an approved postsecondary institution. As a result of the GI Bill, higher education enrollments swelled, and so too did the for-profit sector's prominence in American higher education. In fact, the 1944 GI Bill represented the first time significant federal tax monies flowed to students attending for-profit institutions.

Congress relied on the states to serve as the approval apparatus for institutional eligibility for the 1944 GI Bill (Eckelberry, 1945; Lee & Merisotis, 1990). Specifically, to become eligible for the funds, Congress required institutions to be approved by a state approval agency or the Administrator of the VA. The states were effectively the sole agency determining eligibility for the program after the Administrator of the VA announced the agency would only approve institutions in special circumstances (Eckelberry, 1945). Further, as a part of the bill, states were required to provide a list of the “educational institutions (including industrial establishments), within such jurisdiction, which are qualified and equipped to furnish education or training” (United States House of Representatives, 1948, p. 9). Prior to this bill, the federal government had refrained from requiring states to create boards of higher education through financial funding, a tactic used in other public sectors and vocational education through the Smith-Hughes Act of 1917 (McGuinness et al., 1975). Through this act, Congress explicitly delegated the responsibility of institutional oversight of veterans' education programs to the states.

The organization of approving agencies for the GI Bill and the accountability processes employed by states varied widely (Eckelberry, 1945). State governors primarily designated the state department of education to serve in the state approval agency role, though other states used the state department of veterans' affairs, created a new state approval agency for veterans education, or relied on other industry-specific state agencies (Eckelberry, 1945; United States

House of Representatives, 1952). In an early analysis of institutional approval for the GI Bill, Eckelberry (1945) conducted a survey of state approval agencies to understand how states approved five institution types and determined whether the approval process was based on traditional academic standards. He asked agencies to indicate which of the following elements were used for institutional approval:

mere request by the institution, mere possession of a charter, written reports by the institution to the state department of education, inspection of plant and equipment under the direction of the state department of education, inspection of staff and program in addition to plant and equipment, accreditation by a national or regional accrediting agency, and any other basis. (Eckelberry, 1945, p. 122)

Eckelberry found that states employed a variety of strategies (namely, accreditation and site visits), with most states using at least one of the elements in institutional approval. He concluded that most approved institutions seemed worthy of the designation but cautioned states from becoming complacent to avoid approving unworthy diploma mills. His study represents the first academic inventory of a state approval agency for higher education. However, his institutional analysis occurred before the exponential expansion of nondegree-granting, unaccredited, and for-profit institutions.

Soon after the passage of GI Bill, President Harry S. Truman formed the Commission on Higher Education, commonly known as the Truman Commission, in 1946 (Gilbert & Heller, 2013; Russell, 1949a; Zook, 1947). It represented the first blue-ribbon commission focused exclusively on higher education (Ris, 2022). The commission was chaired by George F. Zook, president of the American Council on Education, and its objective was to support the administration's "Fair Deal" policy package by examining the areas of need for higher education in the nation and suggesting action to address these areas (Lingenfelter, 2018; Truman, 1963; Zook, 1947). Ultimately, Truman positioned higher education as an opportunity for democracy

and peace, calling for the establishment of a robust higher education system that would fortify democratic principles in the aftermath of World War II (Truman & Zook, 1945). The Truman Commission produced a comprehensive report on higher education in the U.S., which made broad recommendations to address areas of improvement (Ris, 2022). The six-volume and nearly 400-page report by the Truman Commission presented a set of proposals, including recommendations on the:

abandonment of European concepts of education and the development of a curriculum attuned to the needs of a democracy; the doubling of college attendance by 1960; the integration of vocational and liberal education; the extension of free public education through the first 2 years of college for all youth who can profit from such education; the elimination of racial and religious discrimination; revision of the goals of graduate and professional school education to make them effective in training well-rounded persons as well as research specialists and technicians; and the expansion of Federal support for higher education through scholarships, fellowships, and general aid.

In conclusion the report urges establishment of community colleges; the expansion of adult education programs; and the distribution of Federal aid to education in such a manner that the poorer States can bring their educational systems closer to the quality of the wealthier States. (Truman, 1963, p. 236)

George Zook and John Dale Russell, then-Director for Higher Education in the U.S. Office of Education, advocated for the Commission's findings in numerous outlets and policy arenas (Harry S. Truman Library, n.d.; Lingenfelter, 2018; Lingenfelter & Mingle, 2014; Russell, 1949a, 1949b; Zook, 1947). However, some critics expressed concerns about the report's call for expansion, particularly through federal government involvement, fearing potential government control and limitations on intellectual freedom (Lingenfelter & Mingle, 2014). Although the immediate impact of the report did not result in significant changes in policies and practices, its influence became apparent in the subsequent decades as the nation faced a surge in births, increased postsecondary enrollments, and the emergence of diverse types of educational institutions (Ris, 2022). Importantly, it implicates states as the primary facilitator

of education opportunity. This forced the nation to grapple with a higher education system that catered to more students across various institutions.

In the five years after the GI Bill's passage, "the number of privately owned schools in the U.S. increased from approximately 1,878 to about 5,635" (United States House of Representatives, 1952, p. 12). This rapid expansion led to claims of widespread fraud, with the for-profit industry viewed as the primary culprit (Proffitt, 1979). In a 1952 report investigating the distribution of GI Bill funds, a House committee found that private schools took advantage of the program by falsifying cost data and attendance records; overcharging for supplies, books, and tools; billing records for students not enrolled at the institution; and having an unethical level of influence over Veterans' Administration and state officials (United States House of Representatives, 1952). The report detailed how many states were effective in the approval process, but only after the federal government approved funds to state agencies for approval activities in 1946. The funding was too little and too late in most cases. State approval agencies were not adequately prepared for the influx of newly created institutions, with the committee suggesting that much of the fraud and abuse could have been avoided if the federal government would have provided funding to states in 1944. The House Committee concluded that the federal-state relationship must be improved to safeguard educational benefits of institutions.

Regarding the state's role in oversight, they noted:

States would have paid for itself many times by eliminating racket schools and large overpayments which resulted from the irregular activities of such schools. If educational benefits are extended to new groups of veterans, it is imperative that the Congress safeguard the interest of the veteran, the Federal Government, and the public by providing adequate funds for a thorough supervisory program by the states of both veterans and schools. (United States House of Representatives, 1952, p. 110).

While the lion's share of studies on postsecondary authorization have neglected the state approval agencies of the 1944 GI Bill, there are several important implications for state

authorization. First, it represented the first act of Congress on postsecondary education in which the federal government explicitly deferred an approval process to state agencies. State agencies were the central figure in approving institutions, responding to complaints, and holding institutions accountable. Second, studies of these agencies indicate that accreditation, site visits, and other academic standards used to determine eligibility in the 1940s and 1950s continue to be used by contemporary state authorizing agencies (Ness, Baser, & Dean, 2021; Tandberg et al., 2019). Third, in response to widespread abuses, Congress included additional provisions for accountability when it passed the Veterans Readjustment Assistance Act (the Korean War GI Bill) in 1952 (Tandberg et al., 2019). Importantly, this bill charged the Commissioner of Education to develop a list of accreditors that institutions must be approved by in order to receive federal funding (Conway, 1979). This marked the federal government's formal connection to accreditation as a quality assurance strategy. Taken together, the 1940s and 1950s set the foundation for how the federal government interacts with state and non-governmental accountability structures.

**Combatting Degree Mills with State Authorization: An Early Approach.** Formalized authorizing structures started to emerge in response to the implementation of the GI Bill and the widespread expansion of higher education. Millard (1979) noted of the time that “states, through their legislatures, [became] progressively more aware of the need to regulate, beyond the requirement of simple incorporation, various types of educational institutions” (p. 123). With fears of an increasing number of diploma mills, researchers, states, accreditors, and associations began to increase attention on state-level policies to regulate institutions and protect students from fraud (Millard, 1979; Reid, 1963). By 1949, the National Education Association's Association for Higher Education created a Committee on Fraudulent Schools to tackle degree

mills and call “nationwide attention to the unethical educational activities allowed in several states which had no laws governing degree-granting powers of institutions” (Bender & Davis, 1972, p. 14). The committee developed a model state law in 1950 to eliminate fraudulent institutions, including definitions, exemptions, license requirements, fees, renewal processes, the duties and powers of the state agency, and procedures for suspending or revoking a license (See: Bender & Davis, 1972, Appendix B). A decade later, the American Council on Education and the National Commission on Accrediting prepared model laws aimed at controlling degree mills and transparency in educational advertising (Millard, 1979).

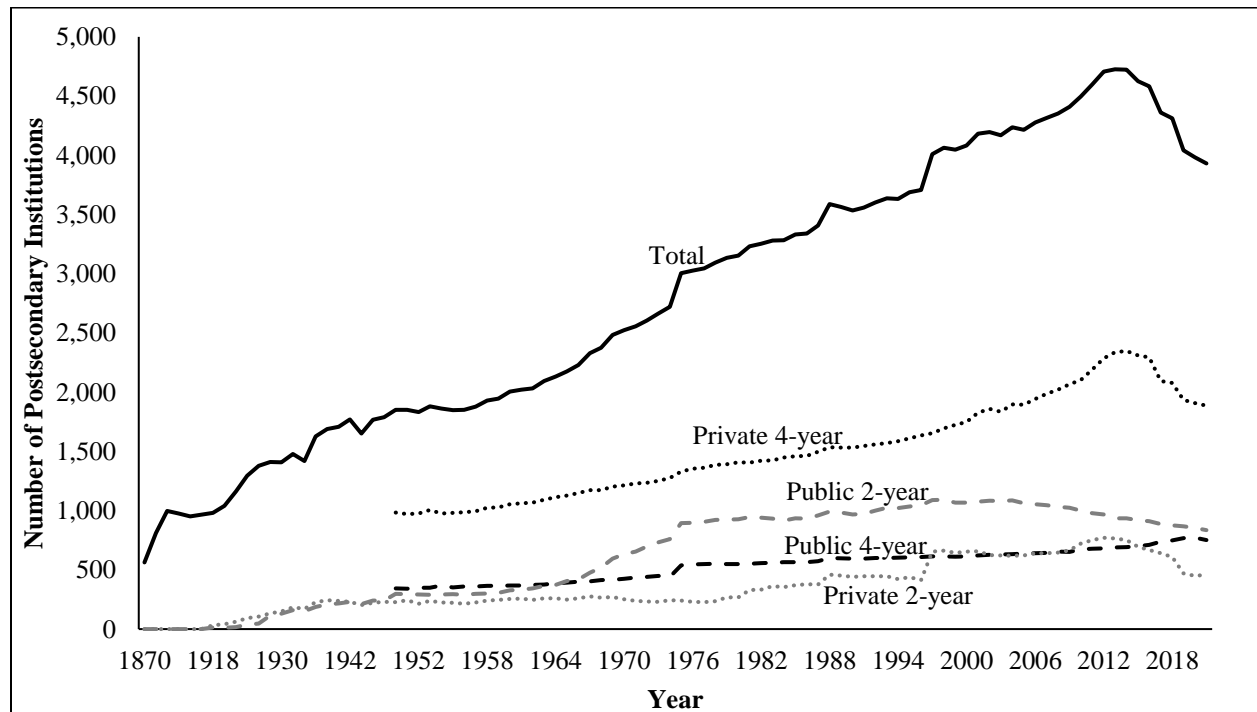
Although these model laws failed to gain support due to their perceived stringency, the effort holds several significant implications. The laws showed that legislative concern continued to increase with “more and more states adopt[ing] different types of legislation applying to different groups of institutions” (Millard, 1979, p. 124). Policymakers’ concerns were two-fold: protecting consumers from fraudulent operations and ensuring the integrity of education by clearly delineating quality institutions from illegitimate ones. Additionally, the model legislation showcased the involvement of foundations in funding state authorization research, as well as the contribution of intermediary organizations and the academic community in providing technical expertise and research support. These cases draw attention to the use of model legislation, a policy instrument that would become prevalent in subsequent decades. Notably, this model legislation primarily targeted proprietary institutions and aimed to eliminate fraudulent practices. This early legislative divergence based on institution types foreshadowed the broader trends observed in the future.

These early efforts previewed the continued focus on degree mills, introduced the practice of model legislation for states, and demonstrated the breadth of institution types that

states were responsible with incorporating, chartering, authorizing, and/or licensing. The efforts were understandable. The number of institutions and the students enrolled in higher education increased significantly (see Figure 4), surging through the late 1950s and early 1960s as families viewed higher education as the “key to social mobility, increased income, and to personal fulfillment” (Millard, 1979, p. 124). However, as seen in previous periods of expansion, the growth of higher education brought both positive and negative consequences. While it provided educational opportunities to a wider community, it also created opportunities for predatory institutions and unscrupulous students to exploit the system for fraudulent purposes. Consequently, there was a growing focus on state regulatory structures.

**Figure 4**

*U.S. Postsecondary Institutions by control and level of institution (1870–2021)*



*Note.* Data in this figure represent postsecondary institutions in all states that had been admitted to the United States at the time of data collection as well as the District of Columbia (Provasnik et al., 2022). Degree and nondegree postsecondary institutions are included in estimates through 1995-96, with only degree-granting included thereafter. Beginning in 1974-75, the data encompasses branch campuses.

Legislative interest in state approval coincided with the development of standards-based accreditation and state planning, coordinating, and governing boards of the late 1950s and 1960s that were trying to manage the surge in enrollments, the sprawl in state systems, interinstitutional rivalries, and an increasing regulatory capacity (Bogue & Hall, 2003; McLendon, 2003a; Russell, 1949b, 1951). In his visionary talk, Russell (1951) outlined the “purposes and functions of state coordination, which anticipated virtually every purpose and approach for state coordination and governance proposed or attempted in the United States since 1951” (Lingenfelter, 2018, p. 21). Russell’s advocacy for state action did not end with the Truman Administration. In 1952, he became the Chancellor and Executive Secretary of the State Board of Educational Finance for New Mexico. Russell’s move would be monumental for state-level governance of postsecondary education.

In 1954, Russell invited state executive officials to Sante Fe to the “Conference of Executive Officers of Statewide Boards of Higher Education” (Lingenfelter & Mingle, 2014). Leaders from Florida, Georgia, Iowa, Kansas, Mississippi, New York, North Dakota, Oklahoma, and Oregon were invited to discuss a common set of issues, including the coordination of instructional programs, capital outlay programs, and other phases of institutional operation; administrative relationships among institutions, central boards, state agencies, and the legislature; and the development of budgetary procedures (Lingenfelter, 2018). This conference served as the founding event for the State Higher Education Executive Officer’s Association (SHEEO). While the association would not have an independent staff for more than a decade, it established one of the most influential intermediary actors in the state policy, governance, and authorization arenas. It was a sign of what was to come as well. Between 1950 and 1975, the number of states with a state governing or coordinating board increased from 17 in 1950 to 47 in

1975 (Berdahl, 1971). The movement for centralizing state higher education, especially public higher education, kicked into overdrive during the period (McLendon, 2003b).

Russell was not the only one in the 1950s pushing the envelope on state governance and coordination. He was joined by T.R. McConnell, Clark Kerr, Earl McGrath, Lyman Glenny, and John Gardner, among other thought leaders, who supported research, developed centers for the study of higher education, and helped shaped thinking on public governance on higher education (Cain, 2007; Lingenfelter, 2018). The passage of the Higher Education Act (HEA) in 1965, subsequent reauthorizations, and the focus of states on consumer protection and quality in higher education led to a golden age of state authorization in the late 1960s through the 1970s that was built on the shoulders of early thought leaders like Russell.

### ***Second (Tidal) Wave: The Golden Age of State Authorization***

The Second Wave of state authorization can be traced back to the passage of the HEA of 1965. This pivotal legislation solidified the state's central role as a crucial component in the operation and oversight of postsecondary institutions, making it an essential member of the regulatory triad. I refer to this era as the Golden Age of State Authorization for two reasons. First, an increasing number of states developed regulatory structures and policies that went beyond mere charters or incorporation between 1965 and 1975, providing comprehensive oversight to both public and private institutions. Second, there was a remarkable surge in attention given to state authorization, licensure, and incorporation by various stakeholders, including governments, academics, associations, and interest groups. This heightened focus, which paralleled a broad consumer movement of the 1960s and 1970s (Finch, 1985; Lee & Merisotis, 1990; Millard, 1979), is evidenced through numerous policy reports, extensive

inventories, model legislation, and a multitude of conferences hosted by prominent organizations like the ECS, SHEEO, and AIR, among others.

**The Higher Education Act of 1965.** The enactment of the HEA of 1965 had a monumental impact on higher education. The HEA led to significant changes by formalizing a coordinated approach to accountability at the federal level for the first time (Brown, 2016). Several provisions of the HEA and subsequent amendments have immense implications for state authorization. First, building on the federal action (e.g., Perkins Grant and federal research support) in the National Defense Education Act (NDEA) of 1958, the HEA of 1965 expanded the federal role by introducing key federal financial-aid programs (Title IV) aimed at improving access. As an integral component of President Lyndon B. Johnson’s “Great Society” programs, Johnson envisioned the law “as a vehicle for increasing opportunities for traditionally underserved groups, such as racial and ethnic minorities and the economically disadvantaged, to gain access to higher education” (Brown, 2016, p. 2). The NDEA and HEA helped to usher in an era of massification, in terms of enrollments and the number and types of institutions operating. For example, the largest period of institutional growth “occurred between 1960 and 1970, when 521 new institutions were founded” (Gumport et al., 1997, p. 10). This massification of higher education had implications for state governments with the responsibility of authorizing the operation of the influx of institutions as well as how the federal government ensures institutions act in compliance with the law.

Perhaps the most important development of the HEA of 1965 for state authorization was the provision solidifying the role of the program integrity triad (also known as the regulatory triad) (Helliwell & Jung, 1975; Helm, 1979). The HEA designated the regulatory triad—composed of state agencies, accrediting agencies, and the federal government—to serve as the

gatekeepers for institutional eligibility to Title IV funds (Kaplan, 1975). Each member plays a role in the process. In the triad, the USED ensures compliance with Title IV policies, state governments provide the legal authority for an institution to operate, and accrediting bodies attest to the quality of an institution (Tandberg et al., 2019). The HEA of 1965 represented one of the early instances where the federal government explicitly recognized the fundamental role states play in authorizing postsecondary institutions.

**Ringling the Fire Alarm of Fraud! The FTC takes Notice.** The Federal Trade Commission (FTC) is the federal agency entrusted with safeguarding consumers and fostering business innovation. Consequently, the agency had a natural connection to consumer protection matters in higher education. The model legislation developed by the National Education Association (NEA) even included a provision allowing for the use of complaints to obtain “desist” injunctions (Bender & Davis, 1972, p. 15). With the proliferation of degree mills and fraudulent colleges, numerous journalists began exposing the deceptive sales and recruitment practices employed by proprietary institutions (Bender & Davis, 1972; Millard, 1979). In response, the FTC embarked on an extensive investigation into the private career school sector, gathering testimony from over 900 individuals over a period of six years. During this process, the FTC proposed a trade regulation rule that would require institutions to furnish consumer information to students, including graduation rates, refund policies, and enrollment agreements (Lee & Merisotis, 1990). However, the proprietary sector initiated legal action, resulting in the regulation never being implemented. Nevertheless, elements of the proposed consumer protections could be observed by other members of the regulatory triad.

**The Higher Education Act of 1972.** Federal actors continued to make attempts to clarify the state’s role in higher education accountability in the decades that followed the HEA’s initial

passage. The 1972 educational amendments to the HEA allowed for-profit colleges to access financial aid programs, shifted aid from institutions to students, and incentivized states to have a statewide planning agency (commonly referred to as “1202 Commissions”) (McKinney, 1974; McLendon, 2003b; Millard, 1979; Slaughter & Rhoades, 2004). Congress charged state agencies to focus on “long-range planning with an eye toward avoiding duplication of academic programs” and had an “explicit provision that independent colleges and universities were to be included along with state institutions in discussions of statewide public policy” (Thelin, 2019, p. 339). Initially, state approaches to comply with the law were wide ranging. Some used existing governing structures. Others created new planning agencies. The varied approaches to structuring 1202 Commissions were an intentional strategy of Congress, heavily influenced by an executive assistant to the chancellor of the University of Maine and doctoral student, Aims McGuinness (Gladieux & Wolanin, 1976). Common activities of 1202 Commissions included:

outlining the inventories of educational resources, determining the supply and demand for college graduates, assessing the feasibility of providing state aid to private institutions, reducing program duplication, developing state plans for lifelong learning, reviewing the impact of federal and state financial aid, cooperating to implement the Comprehensive Employment Training Act, and implementing statewide management information systems for postsecondary education. (Salazar, 1977, p. 81).

In addition to these common activities, some states charged commissions with examining licensure and program approval policies. For example, California’s 1202 Commission—the Postsecondary Education Commission—sought to “assess the impact of state licensure requirements” (Salazar, 1977, p. 47). In 1976, the proposed activities of Maine’s 1202 Commission—the State Board of Education—included: “review and make recommendations regarding existing legislation concerning licensing, degree-granting authority, program approval, evaluation, and accreditation” (Salazar, 1977, p. 58). While the impact of Section 1202 (and 1203) of the 1972 educational amendments remains up for debate, the activities of California and

Maine demonstrate that some states used Congress's charge to develop a statewide planning agency to examine institutional and program authorization.

Federal support for statewide planning agencies persisted throughout the 1970s and into the early 1980s. While Congress avoided prescribing states to use a specific structure for 1202 Commissions, the HEA required states to consider the full slate of postsecondary institutions in the state, not just the public colleges and universities. However, despite this support and charge, most states failed to adopt a comprehensive approach to planning that included all postsecondary sectors, particularly tax-paying proprietary institutions (Wallhaus, 1985). Instead, a patchwork of agencies continued to provide oversight, with "state higher education agencies focus[ing] their energies on those sectors that are the primary consumers of state revenues" (Wallhaus, 1985, p. 6). As a result, the intention of the mandates outlined in Sections 1202 and 1203 of the HEA—encouraging states to comprehensively plan about higher education—were never fully realized (Wallhaus, 1985). Yet, the federal government's interest in regulating postsecondary institutions (namely, proprietary institutions) continued into the 1980s.

**Model Legislation That Stuck.** Most of the attention to state authorization and regulatory policies emerged in the mid-1970s following the 1972 educational amendments to the HEA. One of the most important developments for how states should structure their authorization system was the introduction of model state legislation in 1973 produced by an ECS task force formed in 1971 (Education Commission of the States, 1973). The ECS was an interstate compact developed by John Gardner of the Carnegie Corporation and approved by all state legislatures in 1965. Like SHEEO, it was created to support policy and research on education, though it encompassed the full spectrum of P-20 education. In 1969, Richard Millard, former chancellor of the Massachusetts Board of Higher Education, became the director of

postsecondary education at ECS. It's at this point that he becomes the preeminent thought leader on state authorization for the next 20 years. He also helped to facilitate cooperation between SHEEO and ECS that endures today (Lingenfelter & Mingle, 2014). Millard, ECS, and others attempted to unveil the mystery of state regulatory bodies in higher education.

Following the lead of governance experts like Aims McGuinness and Robert Berdahl (Berdahl, 1971; Gladieux & Wolanin, 1976), the ECS task force's 1973 model legislation was meant to be flexible to the wide-ranging governance structures of the state, knowing some states would rely upon a coordinating or governing entity and others would create a separate agency (Education Commission of the States, 1973). The model legislation provided states with a user-friendly, fill-in-the-blank style template with alternative formats to allow for it to scale to all states. It also included traditional sections, including a short title, purpose, definitions, exemptions, minimum standards, agent's permit, denial of authorization, due process, complaints, judicial review, bonds required, fees, preservation of records, and funding (Education Commission of the States, 1973).

The model legislation allowed the designated state agency to regulate postsecondary institutions by:

establishing minimum standards of education, business practices, health and safety, and fiscal responsibility; prohibiting misleading advertising or solicitations and the granting of false or misleading credentials; regulating the use of academic terminology such as the labels "college" and "university"; providing for the preservation of academic records if an institution closes, and providing remedies to the public from fraudulent institutions. (Dickey, 1974, p. 57)

Despite the NEA and AIR's model legislation failing to gain traction in states (Bender & Davis, 1972), the ECS's model legislation achieved success. By 1977, this model legislation had spread to at least 23 states through a national interaction model (Berry & Berry, 2014; Gandara et al., 2017; Jung et al., 1977a; Rogers, 1962/2010), with these states adopting either the complete

legislation or modified parts to suit their specific needs. The collaboration among government, institutions, and intermediary actors, combined with the rise in fraudulent activities in the for-profit sector and the increasing number of institutions, contributed to greater acceptance of the model legislation among state actors.

**Shining the Light on the State's Authorization Role.** During and following the reauthorization of the HEA in 1972, state authorization, licensure, and approval were at the forefront of policy discussions on state oversight for postsecondary education (Birch, 1979; Gladieux & Wolanin, 1976; Jung et al., 1977a). Knowledge production on state authorization and oversight, like the governance literature of the time, primarily focused on describing the structures, processes, and practices of state authorization agencies and boards. The 1970s provided the richest source of descriptive information about state authorization agencies and their processes ever. During this time, practitioners, academics, intermediaries, and policymakers convened at conferences and workshops to improve state oversight and authorization. Numerous scholars conducted rigorous research studies, including inventories, surveys, and site visits of authorizing agencies (Bender, 1976; Birch, 1979; Education Commission of the States, 1973, 1975; Hamilton et al., 1976, 1978; Helm, 1979; Jung et al., 1977a; Millard, 1978; Walton, 1976). Their aim was to comprehend the landscape of authorizing agencies and oversight in the U.S. These studies collectively highlighted the intricate nature of state oversight across various inter- and intra-state dimensions.

The focus on state authorization in the 1970s was largely due to the actions of intermediary organizations and the federal government (Helm, 1979). In addition to the ECS's model legislation, intermediary organizations (namely, SHEEO, AIR, and ECS) and the federal government played a crucial role in convening stakeholders at conferences, workshops, and

seminars to share information and support research on state authorization (Bender, 1976; Education Commission of the States, 1975; George Washington University Institute for Educational Leadership, 1975; Manning, 1978; Marchese, 1976). There were at least five convenings or conferences in which state authorization and/or licensure drove the content. These convenings and seminars helped shape the thought and philosophy of state oversight, especially as it relates to the state's role in the regulatory triad and relationship with private education.

Throughout the 1970s, the regulatory triad was by no means a well-oiled machine of accountability (Fowler, 1976). Communication was poor between all three actors. The tenuous relationship between the federal government and accreditors, in particular, was largely a result of predatory and poor performing colleges that received accreditation taking advantage of financial aid programs (Manning, 1988). Accreditors had been designated the quality assurance mechanism for institutions to receive financial aid, and the federal government wrestled with how to achieve more accountability in light of these issues. The result was that some stakeholders called on states to take a heightened role in quality assurance, thereby assuming some functions of accreditors (Orlans, 1980). This illuminates a philosophical debate central to authorization about the relationship between the state, quality assurance, and authorization that endures today. What role does the state play in quality assurance in postsecondary education? And, what role, if any, should the state or its subsidiaries (i.e., public higher education governing boards) play in the oversight of private higher education?

Thurston Manning and Harold Orlans argued a conflict of interest emerges when the state assumes a more stringent regulatory role over private education (Manning, 1978; Orlans, 1980). Their argument is based on the idea that the state, being a major provider of postsecondary education through public colleges and universities, becomes a direct competitor to private

institutions (Helm, 1979). Therefore, they contend that the state should not exert extensive oversight over private institutions because competitors should not be regulating each other. Despite the conflict of interest, Orleans was not convinced of the federal government's "de facto policy of relying on private accreditation bodies to prevent consumer abuse" (Jung & Proffitt, 1978, p. 11). Proponents of the state's increased role argue that accrediting bodies failed to hold institutions accountable and ensure student success (Helm, 1979; Hollander et al., 1978). They also assert that the state has a responsibility for consumer protection and education, per the reserve clause of the 10<sup>th</sup> amendment (Millard, 1979). The clarity surrounding the philosophical roles of accreditors and states in the regulatory triad is not as clearly defined as has often been portrayed.

The status of state authorization and oversight during the 1970s is perhaps best reviewed through several related projects and reports of the American Institutes of Research (AIR) (Jung et al., 1977a). Researchers, with funding from the U.S. Office of Education, led the most robust research projects on state authorization and consumer protection throughout the 1970s, publishing literature reviews, original research, and numerous reports (Dayton & Jung, 1980; Hamilton et al., 1976, 1978; Helliwell & Jung, 1975; Jung et al., 1977a). Among those reports, Jung et al. (1977a) remains the most extensive study of institutional licensing, state authorization, and state oversight ever published. And, it's not close. Jung and Proffitt (1978) provide a summary of the comprehensiveness of the study in a talk provided at an ECS seminar for state leaders of higher education:

The study is based on a detailed analysis of about 95 percent of the total number of state laws and regulations passed before January 1, 1977, that dealt with institutional licensing and approval. In connection with this analysis, over 900 pages of common format abstracts were prepared...In addition, the study is based on over 150 hours of telephone interviews with officials in all 50 states and the District of Columbia, and in-depth site interviews with over 100 officials in 20 states. These interviews gave us extensive data

on enforcement resources and needs of 184 state agencies—82 exercising authority over private institutions and 102 with some form of governance responsibility for publicly supported institutions. We were able to collect and record over 200 critical incidents where state licensing/regulating agencies had been conspicuously successful or unsuccessful in dealing with institutional policies, practices, or conditions potentially abusive to students. (p. 11)

The study stands as the landmark text in state authorization and licensing, though one would not know it based on contemporary state authorization research. In their extensive literature review, the authors identified a number of potentially abusive institutional policies and practices that guided their larger study. Some of these included:

- 1) Financial instability
- 2) Misleading advertising and recruiting practices
- 3) Inadequate disclosure of necessary information to students and prospective students
- 4) Inferior instructional programs and facilities
- 5) Inferior instructional faculty and staff
- 6) Inadequate recordkeeping policies and practices
- 7) Inadequate follow up of former students and inferior job placement services, if offered
- 8) Inadequate or nonexistent tuition and fee refund policies
- 9) Misleading representation of accreditation or approved status (Jung et al., 1977b, p. 48)

Using these and other factors as the basis, the analysis included numerous tables with detailed information on consumer protection provisions in state laws and regulations across 14 categories, many of which were focused on mitigating the aforementioned issues. These included requirements on the institutional purpose, governance, and operation; course descriptions; credential requirements; instructional and administrative qualifications; facilities; financial stability; public disclosure of material facts on enrollment agreements and contracts; advertising practices; recordkeeping procedures; financial practices; refund policies; and placement and post-education outcomes (Jung et al., 1977a).

The study also conducted a state-by-state analysis on key topics, such as the “Location of the licensing function within the state bureaucracy, the authorized enforcement strategies, dates

of recent rulemaking activity, treatment of out-of-state institutions, and comparisons with the similar provisions of the 1973 ECS model state legislation” (Jung & Proffitt, 1978, p. 12). The breadth of the data collection and analysis provided the clearest picture regarding the landscape of state authorization. Whereas most efforts of the 1970s were concerned with identifying the agencies and structures, this study was a comprehensive dive into how those agencies and structures were implemented in practice. The study’s findings were plentiful. For example, as of 1977, 48 states (and D.C.) had licensing authority over private nondegree-granting institutions, 38 had licensing authority over traditional private degree-granting institutions, and 5 had licensing authority over nondegree-granting institutions that may cover degree-granting under specific circumstances. Three states (Missouri, Utah, and Vermont) did not have laws for licensure for private nondegree-granting, and eight states (Alabama, Arizona, Iowa, Missouri, New Mexico, North Dakota, Utah, and Washington) did not have any licensing laws for private degree-granting institutions.

The evaluation of the content of the laws and regulations provided important insight into the priorities of states. For example, among the 48 states with private nondegree-granting requirements, only Maine did not have requirements for advertising, sales, and recruiting practices. Vermont, in particular, was noted as having a stringent policy of requiring agent permits (Jung et al., 1977b). Much of this part of the analysis was in the vein of private nondegree-granting versus private degree-granting elements. The reasons for this are practical and one of the clearest findings of the study: “State authorizing/oversight requirements are much more extensive for private nondegree-granting institutions, less extensive for private degree-granting institutions, and almost nonexistent for public institution” (Jung et al., 1977b, p. 38). The research demonstrated that accredited degree-granting institutions were exempt from most

authorization laws. Exemptions also extended to religiously affiliated institutions, vocational institutions, and institutions subject to control from a state licensing board (e.g., barber, cosmetology, and similar schools). This is perhaps unsurprising given the exemptions provided in the ECS model legislation suggested these items; however, the report is one of the first to shine a light on the widespread use of exemptions.

The report concluded with numerous recommendations and conclusions to address weaknesses in consumer protection and state oversight. First, regarding changes to state agencies, AIR recommended that agencies build capacity and hire more staff, enact stronger laws and regulations, and improve coordination among licensing and authorizing agencies within and across state lines. The team provided caveats as to why adopting these recommendations may be difficult, including challenges with the legislature, strong opposition by postsecondary institutions and accrediting agencies, limited agreement among state education agencies, and the reluctance of law enforcement and attorneys general to make an example out of institutional actors violating state laws and regulations (Jung et al., 1977a). Based on their findings on law and regulations, Jung et al. (1977b) recommended the elimination of nontrivial exemptions for four institution types: 1) accredited institutions, 2) institutions that are only indirectly overseen by state professional licensing boards, 3) older and well-established institutions, 4) institutions that are organized as nonprofit. Furthermore, they contended the need for more oversight over degree-granting institutions, which would result in the standardization of requirements across nondegree- and degree-granting institutions. Other recommendations included the elimination of other gaps identified in the ECS model legislation analysis, a call for greater intrastate cooperation among agencies and greater interstate communications around requirements. Finally, they ended with the need to improve enforcement of the policies. This final recommendation

aligned with the notion of the mid-1970s that states were proficient in establishing laws and regulations, but less proficient in the actual enforcement of those policies.

The decision to put such an emphasis on this report and use original language was intentional, albeit forcing the reader through list after list. This research has not been mentioned by most literature, reports, and other information published since 2010. This is ultimately a travesty. Most of the issues and findings still hold merit today. Sweeping exemptions remain a problem. Capacity issues also endure (Hall-Martin, 2021). Wide variations in the processes based on institutions continue. Third, with the exception of several studies based on the Ness, Baser and Dean (2021) inventory, this study is the exclusive example to account for and analyze such an expansive set of state authorizing agencies and processes.

Finally, many of the inventories, surveys, and other state studies that emerged during and in the immediate years following were heavily influenced by the research methods and findings of this research and other consumer protection studies produced by AIR (Bender, 1976; Birch, 1979; Education Commission of the States, 1973, 1975; Hamilton et al., 1976, 1978; Helm, 1979; Jung et al., 1977a; Millard, 1978; Walton, 1976). Some of these studies, which were frequently limited to specific authorization practice based on institution type, demonstrated a similar complex landscape of state authorization agencies, accreditors, postsecondary institutions, government agencies, and other intermediary organizations. Another report focused specifically on analyzing consumer complaints, which helped to illuminate areas for improving consumer protection through state oversight (Jung et al., 1976). This specific report presented a “regulatory” approach and “non-regulatory” approach. The regulatory approach included laws, regulations, and guidelines for states. The non-regulatory approach included actions state agencies could take without the development of new regulations. It demonstrated some political

savvy of AIR researchers. The salience in the decision, much like the alternatives in the ECS model legislation, was a logical choice to build buy-in and account for growing apprehension to implement new regulations in many state governments (Hamilton et al., 1978). The decision foreshadowed future developments on state accountability, as the focus on state authorization and licensure would not reach similar levels for another 30 years.

### *Third Wave: 1980s and 1990s*

The 1980s ushered in a new era for the federal government's role in postsecondary higher education and regulation, notably marked by the Department of Education beginning its controversial operations as a cabinet-level agency. However, much like decades before, the for-profit college and private career college sectors continued to expand enrollment and reach (Hearn, 1992), supported largely by federal financial aid. The continued focus is hardly surprising. During the 1980s, private career colleges increased their proportion of all Pell Grant aid distributed from 11.5% in 1980–1981 to 26.6% in 1987–1988 (Lee & Merisotis, 1990). As more students were receiving aid and loans while attending proprietary institutions, so too did the number of students that defaulted on loans (Mingle, 1990). In 1984, the Government Accountability Office (GAO) published an extensive report outlining how proprietary schools were not complying with the USED's Pell Grant Program requirements. Regarding state authorization, the GAO reviewed 12 states and described typical requirements of state authorization as equipment and facilities, curriculum, administrative and instructional staff, student enrollment policies, student tuition and refund policies, advertising and marketing materials, and business processes. Their report highlighted several issues that led to student attrition at proprietary schools, including misleading advertisement, overstated job placement rates, and institutions not adhering to federal guidelines on academic progress. They found that

capacity issues plagued institutional oversight of federal programs by state agencies, with staff shortages limiting the effectiveness of compliance with licensing requirements (U.S. Government Accountability Office, 1984).

The GAO's report, along with the continued growth of the career colleges throughout the 1980s, led to the third wave of interest in the consumer rights of proprietary school students (Lee & Merisotis, 1990). Much of the federal focus on state authorization and institutional oversight in the back half of the 1980s was a continuation from the decades prior. By and large, the focus revolved around consumer protection and institutional accountability practices for several overlapping institutional sectors receiving federal financial aid: for-profit, private, vocational, and career schools (Fitzgerald & Harmon, 1988; Lee & Merisotis, 1990). In a 1988 report commissioned by the USED, Fitzgerald and Harmon (1988) found the regulatory triad's ability to protect consumer rights and ensure accountability for private vocational-technical institutions was insufficient. In particular, proprietary institutions in three states studied by Fitzgerald and Harmon (1988) were found to have skirted federal regulations and used predatory recruiting practices due to lax state licensure and accreditation standards. State licensure agencies lacked the capacity to adequately oversee these institutions and accreditors. Much of the reports on state licensing emerging in the late 1980s foreshadowed that the accountability structures for proprietary institutions would be an element of the 1991 reauthorization of the HEA (Fitzgerald & Harmon, 1988; Lee & Merisotis, 1990).

Throughout the 1990s, states wrestled with decentralizing state public boards (McLendon, 2003a), along with distance education and issues with proprietary institutions. Congress continued to use the reauthorization of HEA as a mechanism to clarify the role of state authorization in determining eligibility for student financial aid programs, with varying degrees

of success. During the 1992 reauthorization of the HEA, Congress created the State Postsecondary Review Program, which would provide federal funding for states to create a state postsecondary review entity (SPRE) (Higher Education Amendments, “Higher education amendments of 1992,” 1992). The federally funded state office would work with USED and accreditors to provide institutional oversight and determine institutional eligibility for Title IV funds. Aligning with government performance movements of the time, SPREs were responsible for monitoring and evaluating institutions on performance indicators like graduation and retention rates (Hittman, 1995; Underwood & Rieck, 1999). However, the program never received federal funding to reimburse states and was repealed in the 1998 amendments to the HEA (Office of Federal Student Aid, 1998). Despite the lack of federal funding for the program, the prospect of the law compelled some states to create a review entity. For example, Georgia and Hawaii enacted laws and regulations for a statewide review entity to exist within the purview of its State Postsecondary Education Commission in the mid-90s (Hawaii State Postsecondary Review Entity, 1995).

While the HEA amendments of 1998 repealed the review entities, Congress further clarified the state’s role in program integrity and institutional eligibility for student financial aid programs. The new law required each state to furnish authorization information to the USED upon request and notify USED of any revocations of authorization or credible evidence that a school committed fraud (Office of Federal Student Aid, 1998). It is important to position the success of these changes within the context that Reagan, Bush, and Clinton all followed New Public Management principles focused on cutting regulatory red tape across all government sectors to improve performance (Gore, 1993; Hood, 1991). Taken together, the 1992 and 1998

HEA amendments previewed a more active federal government that defined the role of states in authorizing and licensing institutions as a consumer protection mechanism for Title IV funds.

#### ***Fourth Wave: Contemporary Push for State Oversight***

Over the past two decades, the function of state authorization has continued to be considered in the postsecondary accountability arena. The 2000s and the massification of online education led to new interstate challenges in state authorization. Distance education introduced new challenges and helped spur another enrollment boom among for-profit colleges, such as the University of Phoenix. However, despite numerous scandals within the for-profit sector (namely, predatory admissions and recruiting practices) and calls for increased accountability for Title IV funds in the distance education space, federal action on state authorization was limited until the Obama administration.

**Federal Action on State Authorization.** Executive action and rulemaking have been the primary avenues for federal policy development on state authorization since 2010. The Obama administration was the first to actively engage with state authorization, largely in response to the expansion of distance education. In 2010, the USED introduced program integrity regulations that clarified “what is required for an institution of higher education, a proprietary institution of higher education, and a postsecondary vocational institution to be considered legally authorized by a state” (U.S. Department of Education, 2010, p. 66833). The regulations were enacted through the USED’s negotiated rulemaking process, though they were later vacated by courts on technical grounds (Contreras, 2020b; Tandberg et al., 2019). Nevertheless, the efforts built institutional awareness on state authorization in distance education and helped to garner support for the SARA created in 2013 (Tandberg et al., 2019).

SARA is an interstate reciprocity agreement among the regional compacts and member states that allows participating “states and territories to accept programs and courses offered by higher educational institutions from other participating states without requiring an additional authorization in each” by establishing “comparable national academic standards for approved participating institutions for all members of the agreement” (Shiffman & Hall, 2019, p. 1). As of 2021, most states, territories, and the District of Columbia are members of SARA, except for a notable absence in California. At the national level, SARA is managed by NC-SARA, which is a private nonprofit intermediary organization that organizes and advocates for state authorization.

States join SARA for several reasons. SARA is intended to streamline the state authorization process for colleges and universities as well as “improve the capacity of each state’s regulators to manage a demanding workload, save the institutions significant costs, and encourage expanded opportunities for students in all participating states to take online courses offered by postsecondary institutions based in another state” (Shiffman & Hall, 2019, p. 2). Critics of SARA contend that the interstate reciprocity agreement fails to protect students because of its limited scope to accredited institutions and the lax requirements (Perry & Cochrane, 2018; Perry & Massaro, 2018). For institutions to be eligible to participate in the reciprocity agreement, the institution must be located and authorized in a SARA member state or district, accredited by a federally recognized accrediting body, agree to a student refund policy, and meet financial responsibility requirements (nonpublic institutions), among other requirements.

The USED continued efforts to clarify the role of state authorization in distance education and at foreign locations when it conducted another negotiated rulemaking process, releasing a final rule on both facets in 2016 (New America, n.d.). The regulation required all

institutions participating in the Title IV program to be authorized in every state where they enroll students in distance education courses. Interestingly, postsecondary institutions could comply with the new regulation by participating in a state authorization reciprocity agreement, “an agreement between two or more states that authorizes the college to provide distance or correspondence education to students who live in the other states covered by the agreements” (New America, n.d., p. 2). Similar to the 2010 regulatory language on state authorization, the 2016 regulation was subject to litigation, and later delayed due to the change in leadership and objectives in the USED under the Trump administration.

In 2019, Secretary of Education Betsy DeVos called for a negotiated rulemaking process around state authorization, the third rulemaking process in the decade with state authorization as a topic. Counter to the two preceding rulemaking processes which enhanced accreditors and the state’s role in accountability, the final rules released in 2020 relaxed regulation regarding USED’s oversight of accreditors and accreditors’ oversight of institutions. Despite reaching consensus among the committee on a different draft of the policy, the final regulation restricted a state’s ability to enforce individual state laws governing higher education programs when it joins a reciprocity agreement, such as SARA (Weissman, 2019). Responses to the regulations were mixed (American Council on Education, 2019; Weissman, 2019), but the election of Joe Biden introduced a new administration eager to roll back the changes of the Trump administration. The Biden administration proposed language to roll back these regulations in a 2022 negotiated rulemaking process on program integrity.

Despite the salient relationship, few studies have examined the federal-state relationship regarding state authorization (Natow et al., 2021). In a recent qualitative study of five states, Natow et al. (2021) found that state agencies learn about federal policy from a variety of actors,

and respond to federal policy changes by revising state regulations and informing institutions of federal policy changes. Several challenges of responding to federal policy changes emerged for state agencies, including staff capacity, limited communications from USED, the complexity of regulations, and the high costs of compliance. The role of intermediary organizations, such as NC-SARA and Western Interstate Commission for Higher Education (WICHE), was highlighted for supporting states in implementing federal policies. Natow et al. (2021) concluded with a set of recommendations to improve the federal-state relationship and agency capacity to respond to an ever-changing federal policy environment.

The federal government has historically had a secondary, yet complex, relationship with institutional authorization. It has delegated the responsibility of postsecondary authorization to the states through constitutional, statutory, and regulatory policy. Except for a few instances (e.g., military academies and tribal institutions), postsecondary authorization and oversight is a responsibility of the state. While the federal government defers to the states, it has sought to develop and implement a strategy to protect consumers and hold accountable institutions that are receiving federal financial aid (Office of the Assistant Secretary for Education, 1975). Strategic efforts have introduced lasting elements of institutional accountability, such as student default rates, placement rates, and consumer complaints procedures.

Since the passage of the first GI Bill, the federal government has attempted to clarify the role of state authorization in the oversight of financial aid programs through the HEA, policy reports, audits, and negotiated rulemaking processes. The federal role in higher education has often coincided with an increasing number of students using federal financial aid to attend proprietary schools associated with predatory practices, student complaints, and institutional closures. Additionally, through amendments to the HEA of 1965, the federal government

compelled states to create plans and/or develop entities (e.g., 1202 Commissions and State Postsecondary Review Entities) charged with approving institutions for federal financial aid. Until the past couple of decades, Congress was the party largely responsible for clarifying the role of state authorization through reauthorizations of the HEA. However, as the USED increased the focus on state authorization through negotiated rulemaking processes, the situation has ebbed and flowed with which political party is in the White House. All in all, while the federal government has steadily increased its engagement with state authorization, its role is inherently one that is supplementary to the states and applicable only to postsecondary institutions participating in federal financial aid.

**State Authorization Returns to the Limelight.** The 2010s marked the onset of the second golden age of state authorization, primarily driven by the debt crisis, accrediting agencies with lenient standards, and rampant misconduct in the for-profit sector. State authorization once again gained recognition as an underutilized tool to augment federal government and accreditor efforts in safeguarding consumers. Although academic literature on state authorization and licensure during this period remains limited, numerous associations, media members, and other stakeholders called for enhanced research and a greater emphasis on understanding the state's role in the regulatory triad, including an improved comprehension of NC-SARA and state authorization. This second golden age can be split as the years before and the years after the Tandberg White Paper and SHEEO initiative on state authorization. Table 1 provides an overview of key events for state authorization after World War II.

**Table 1***Significant Events in the History of State Authorization after World War II*

<b>Year</b>	<b>Event</b>
1944	Servicemen’s Readjustment Act of 1944 (GI Bill)
1946	Truman Commission on Higher Education
1950	National Education Association’s Model Legislation for Degree Mills
1952	Veterans Readjustment Assistance Act (The Korean War GI Bill)
1954	Conference of Executive Officers of Statewide Boards of Higher Education
1958	National Defense Education Act of 1958
1960	ACE and National Commission on Accrediting’s Model Legislation
1965	Higher Education Act of 1965
1972	Reauthorization of Higher Education Act of 1972
1972	AIR Project on Proprietary and Nonproprietary Training Programs
1973	Education Commission of State’s Model Legislation
1974	First National Conference on Consumer Protection in Postsecondary Education
1974	Second National Conference on Consumer Protection in Postsecondary Education
1975	Airlie Conference
1975	USOE Conference on Institutional Eligibility
1976	Keystone Workshop for State Licensing and Approving Officials
1977	AIR Landmark Study of State Oversight in Postsecondary Education
1978	Seminar for State Leaders in Postsecondary Education (Inservice Education Program)
1979	United States Department of Education Established
1984	Government Accountability Office’s Report on Proprietary Schools
1992	Requirement of State Postsecondary Review Entities
1998	Repealing of State Postsecondary Review Entities
2010	USED Regulatory Action on Distance Education
2013	NC-SARA established
2018	SHEEO White Paper
2021	SHEEO State Authorization Initiative: Learning Community and Research Projects
2023-24	Negotiated Rulemaking on Program Integrity

Information regarding state authorization has predominantly been gathered, reported, and published by diverse entities including state associations, membership-based organizations, think tanks, consulting firms, and the media (Contreras, 2020a; Delgado, 2018; Harnisch et al., 2016; Kelly et al., 2015b; McCann & Laitinen, 2019, November 19; Tandberg et al., 2019; Taylor et al., 2016). These stakeholders have delved into the history of state authorization, conducted

surveys of state authorizers to gain insights into the state authorization landscape, and put forth numerous recommendations to enhance state authorization. Alan Contreras has served as a central voice in postsecondary authorization, publishing several books and reports on the subject. The books provide an extensive overview of the legal issues of state authorization and contemporary issues (e.g., NC-SARA) facing authorizing agencies.

Notably, since 2011, a valuable source of information has been the State Authorization Guide, a collaborative project between the NC-SARA and the WICHE Cooperative for Educational Technologies' State Authorization Network. This guide offers comprehensive insights into each state's laws, programs, and processes related to state authorization, primarily focusing on out-of-state distance education programs. It encompasses key aspects such as the responsible agency for state authorization, regulated educational providers, exemptions, distance education, the application process, interstate reciprocity, consumer protection, student complaints, and enforcement.

Utilizing state authorization surveys and conducting interviews with campus leaders, Kelly and colleagues (2015b) discovered notable variations among states in terms of the actors involved in the authorization process and the requirements for institutional authorization and reauthorization. However, despite these positive advancements, there remains a scarcity of empirical research examining the effectiveness, outcomes, and experiences associated with different state authorization strategies and processes (State Higher Education Executive Officers Association, 2021, para. 1). Furthermore, in an ECS report, Harnisch et al. (2016) provided a brief overview of state authorization and made several recommendations for "improving state authorization for a new era." They recommended that agencies establish upfront baseline standards with the support of national and accrediting agencies, require continued oversight of

institutions that extends beyond initial authorization, focus on high-risk and unaccredited institutions, and develop a coordinated state approach to authorization. Additionally, they suggested state agencies should prevent conflicts of interest and regulatory capture, ensure appropriate funding and regulatory expertise (capacity), and foster and promote a culture of competent enforcement. The culmination of their work resulted in a recommendation for a comprehensive research agenda, encompassing several potential topics. Strikingly, the recommendations for this new era closely align with those put forth in the AIR studies and other reports from the 1970s (Helliwell & Jung, 1975; Helm, 1979; Jung et al., 1976; Jung et al., 1977a).

Despite the increased attention to state authorization, scholarly literature remained limited in the 2010s. State authorization has been employed by various authors to situate their research on for-profit institutions (Ward & Tierney, 2017) and distance education (Onwuameze, 2017) within a meaningful context. In one such study, Ward and Tierney (2017) explored the factors contributing to regulatory enforcement against for-profit colleges in a specific state. The authors discovered that geographical diffusion between states and the ability of students at for-profit colleges to repay student loans were predictive indicators of a state initiating legal action against such institutions. Another study conducted by Ozdemir and McDaniel (2013) evaluated the state authorization process for distance education at George Mason University, with the aim of offering guidance to leaders of other four-year institutions. Despite these promising developments, there is little “empirical research on the effectiveness or outcomes of different strategies for state authorization, the process of state authorization, or the experience of individuals involved in state authorization” (State Higher Education Executive Officers Association, 2021, para. 1). An important characteristic of this literature is that state

authorization has often been treated as a secondary component within broader research endeavors.

**The Second Golden Age of State Authorization.** The recent surge in attention towards state authorization within policy, academic, and practitioner circles can be attributed to public college closures, the ever-increasing debt crisis, and, importantly, to the efforts of SHEEO, Arnold Ventures, and other entities committed to expanding knowledge on authorization (Tandberg et al., 2019). A pivotal moment came with the publication of several white papers by David Tandberg, then-Vice President of Policy Research and Strategic Initiatives at SHEEO, Dustin Weeden, and their colleagues at SHEEO. These papers emphasized the need to revisit the state's role in institutional monitoring and oversight (Tandberg, 2018; Tandberg et al., 2019; Tandberg & Martin, 2019).

Among these papers, Tandberg et al. (2019) provided a comprehensive outline of key issues in state authorization, critiques of current practices, and recommendations for states. Similar to previous waves of research, Tandberg et al. (2019) proposed recommendations such as enhancing capacity within authorization offices, improving mechanisms for measuring and enhancing quality, strengthening consumer protection measures, avoiding regulatory capture, ensuring independence of boards and agencies, promoting a research agenda on state authorization, developing a shared understanding of its importance and purpose, and aligning authorization with broader state quality assurance initiatives. They also explored various potential metrics, assurances, requirements, information, and actions for states to consider. Again, many of these align with metrics proposed in ECS model legislation and examined by AIR researchers.

Building on the white paper, SHEEO, with support of the Lumina Foundation and Arnold Ventures, established a learning community and research project on state authorization. The learning community project was designed to “help nine state teams evaluate and strengthen their authorization processes to protect students better and improve quality in higher education” (State Higher Education Executive Officers Association, 2023, para. 1). SHEEO used site visits, blogs, webinars, and other opportunities for collaboration to address common challenges faced by state authorizing agencies. These included timely challenges such as COVID-19 and establishing metrics to evaluate financial viability.

The research project on state authorization and affiliated projects (e.g., college closures) has resulted in the biggest boom in empirical research on state authorization ever. While none had the scope of the AIR landmark study, these seven papers provided descriptive, qualitative, and quantitative examinations of state authorization in myriad contexts (see Dell, 2021 for a detailed review of each study), including alternative credentials (Boatman & Borowiec, 2021), federal policy (Natow et al., 2021), online education and NC-SARA (Ward et al., 2021), typology and inventory development via traditional methods (Ness, Baser, & Dean, 2021) and machine learning techniques (Fowles, 2021), college closures (Dell et al., 2021) and legal analyses (Hutchens et al., 2021).

The scholars supported by these grants, in addition to others, have continued to produce research regarding state authorization and program approval, capacity, SARA, college closures, and sex trafficking in massage schools (Bruckner, 2020; Bruecker & Seldin, 2021; Colston et al., 2020; Hall-Martin, 2021; Venters, 2021; Weeden et al., 2021). This scholarship has employed a diversity of methods, including legal, quantitative, and qualitative analysis. Some projects focused on the program approval processes for public institutions and found a wide variety of

approaches (Venters, 2021). More recently, SHEEO has a three-part series in collaboration with National Student Clearinghouse to examine the impact of college closures on students outcomes (Burns et al., 2022; Burns, Bryer, et al., 2023). These reports have demonstrated the challenges that closures cause for students that attempt to continue their education following an institutional closure. These reports also make a number of novel recommendations, including that “state authorization policies should require institutions to submit and implement contingency plans in the event of college closure” and “states should ensure authorization offices have the capacity, resources, and authority needed to serve students in the event of a closure” (Burns, Bryer, et al., 2023, p. 10). The work on these projects is ongoing, and there are additional grant-funded research endeavors focusing on renewal processes currently underway.

### **Contemporary Example of State Oversight in the United States: Georgia**

This section examines how Georgia oversees its colleges and universities today, showcasing the complex roles and groups involved. Although each state is different (Ness, Baser, & Dean, 2021), all states deal with a mix of stakeholders and oversight mechanisms in higher education. Using Georgia, I outline the oversight structure (Figure 5), detailing the authorization for public institutions through charters and acts, for private institutions through authorization, and for career and professional schools through licensure. Additionally, I discuss the roles of the Georgia Student Finance Commission in financial aid and the Georgia Department of Veterans Service in vetting institutions for veterans’ education benefits. The analysis also covers political and policy figures who influence oversight, board appointments, and funding of state agencies that regulate postsecondary institutions.

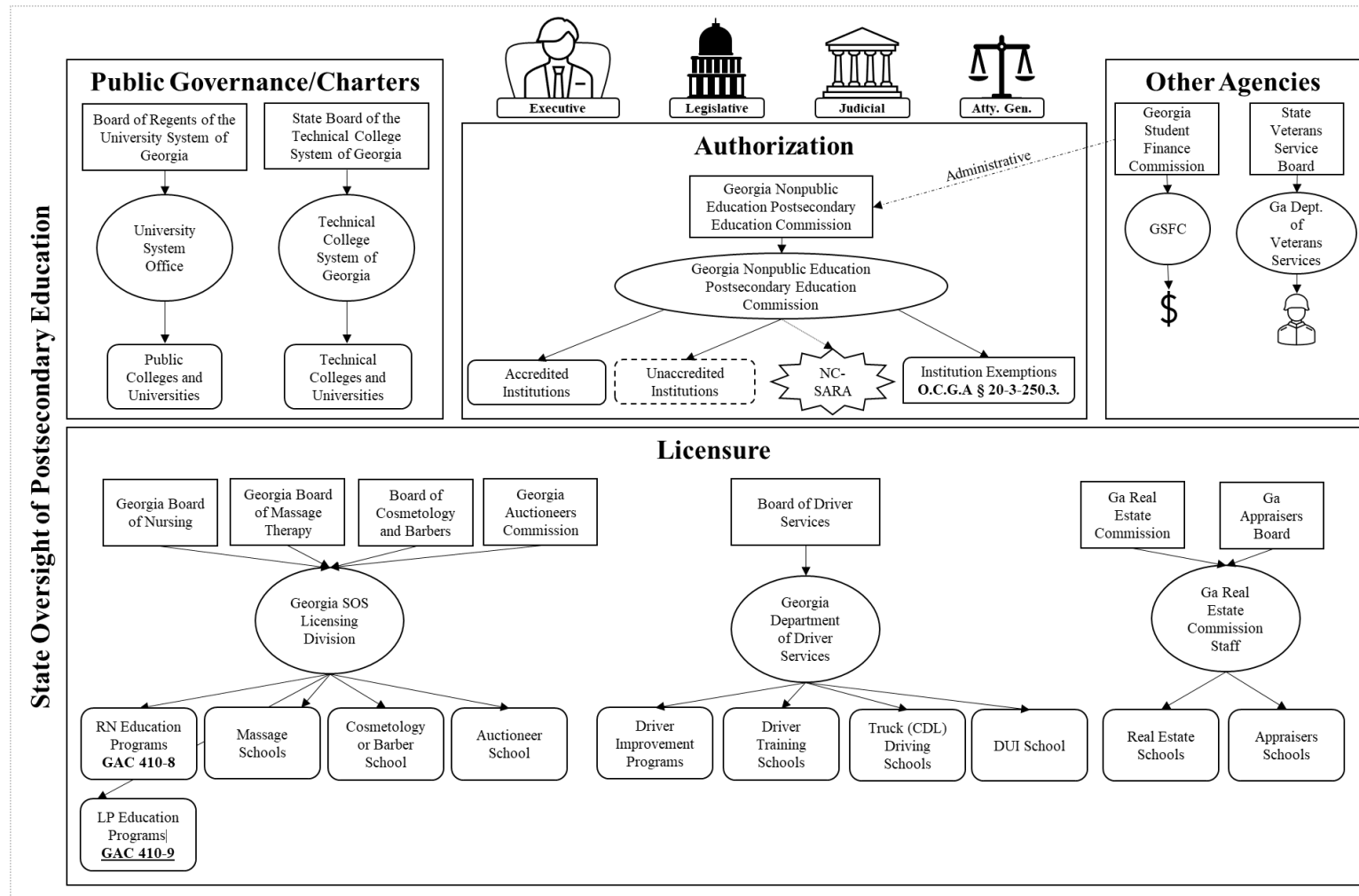
### ***Institution & Program Approval for Public Institutions***

In Georgia, the traditional structures for governing public postsecondary education are divided between the University System of Georgia (USG) and the Technical College System of Georgia (TCSG) (Figure 5). USG is overseen by the 19-member Board of Regents and encompasses 26 public colleges and universities offering associate degrees or higher, with the University System Office providing centralized administration (Education Commission of the States, 2020). The system is among the largest in the U.S., with an enrollment of about 340,000 students (University System of Georgia, 2022). On the other side, TCSG is a separate entity responsible for the oversight of 22 public technical colleges serving about 95,000 students. The USG's legal authority is engrained in the state's constitution, whereas TCSG has statutory authority which was established via executive order (Education Commission of the States, 2020).

The administrative offices of each board oversee policy implementation, academic and operational program supervision, research, data analysis, and institutional support. While the boards guide strategic direction and policy, the administrative offices execute these policies, ensuring alignment with educational and operational goals. The state authorization function for these agencies is multi-faceted. At the institution level, colleges and universities within USG and the technical institutions within TCSG are established, consolidated, or dissolved through charters or public acts, a collaborative effort between the board, governor, and state legislature. For example, the most recent addition to the University System of Georgia, Georgia Gwinnett College, was created in 2006 through such legislative and board cooperation. At the program level, each board is responsible for approving, modifying, and terminating academic programs. Notably, USG and TCSG are the entities that are most commonly discussed in governance and higher education literature (McGuinness, 2016; McLendon, 2003b).

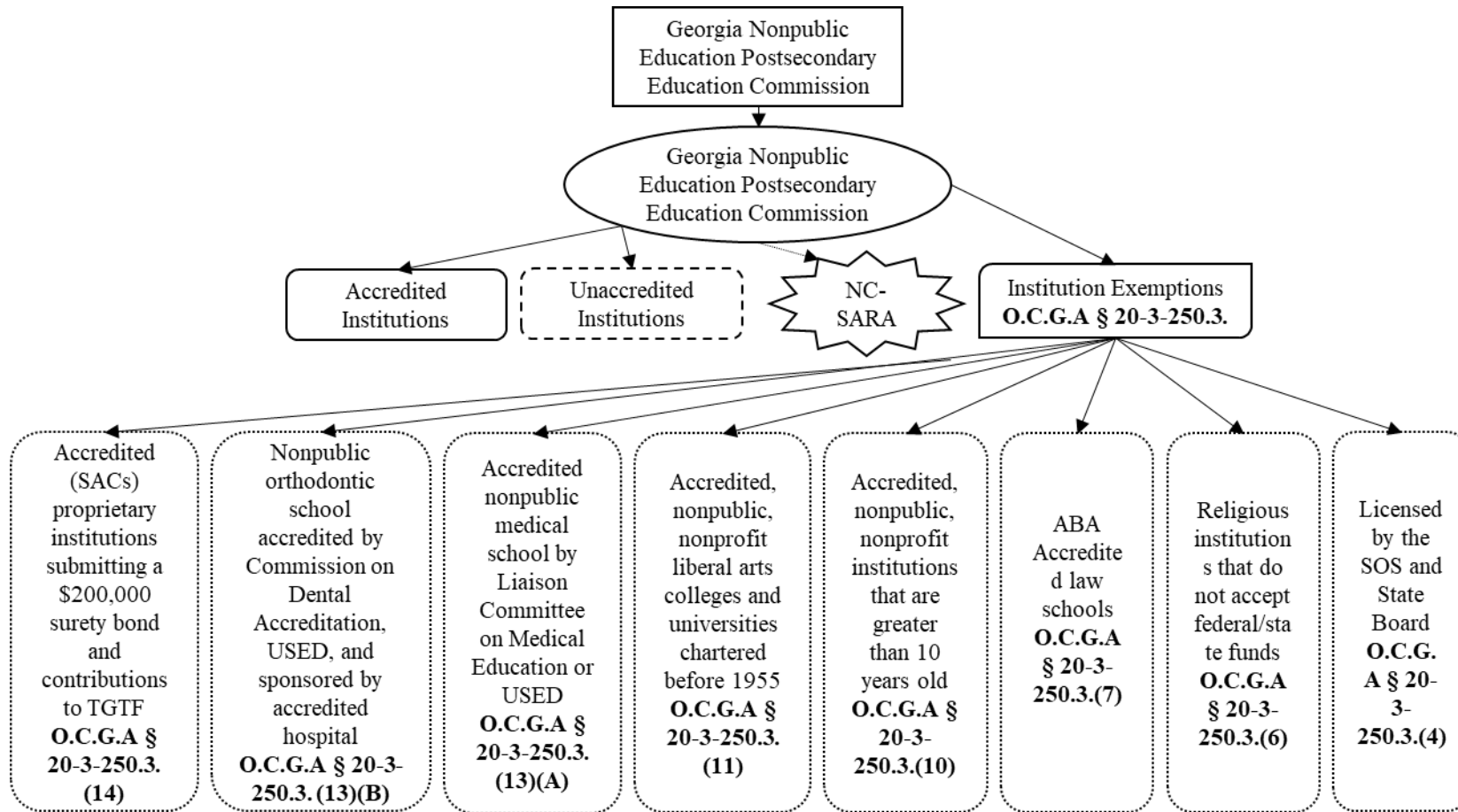
**Figure 5**

*State Oversight of Postsecondary Education in Georgia*



**Figure 6**

*State Authorization of Private Institutions: An Examination of Exemptions*



### *State Authorization of Private Institutions*

The Georgia Nonpublic Postsecondary Education Commission (GNPEC) is the central postsecondary regulatory body in Georgia, tasked with the authorization and oversight of private postsecondary institutions and out-of-state institutions offering education in the state. Established in 1990, GNPEC operates as an independent agency, ensuring that both degree-granting and nondegree-granting institutions comply with educational standards and regulations set forth in the Nonpublic Postsecondary Educational Institutions Act of 1990 (Georgia Nonpublic Postsecondary Education Commission, 2023). The Commission’s governance structure includes an 11-member board appointed by the Governor and approved by the Senate. This board includes members from degree-granting institutions, nondegree-granting institutions, and exempt institutions, reflecting a diverse representation of the postsecondary education sector. GNPEC is led by an executive director, who is also appointed by the Governor. The Nonpublic Postsecondary Education Commission is connected to the Georgia Student Finance Commission, but only for administrative functions (Georgia Nonpublic Postsecondary Education Commission, 2023).

To operate legally in Georgia, institutions must obtain a Certificate of Authorization from GNPEC, which must be renewed annually. In fiscal year 2022, GNPEC authorized more than 350 institutions—127 degree-granting and 226 nondegree-granting—to provide education to about 116,000 Georgia students (Georgia Nonpublic Postsecondary Education Commission, 2022). GNPEC has distinct application processes for accredited (n = 131) and nonaccredited (n = 222) institutions, requiring nonaccredited institutions to provide more information to the agency and students. Together, these institutions collected more than \$980 million in tuition and fees from students enrolled at authorized institutions (Georgia Nonpublic Postsecondary Education

Commission, 2023). As the NC-SARA portal entity for Georgia, GNPEC also plays a crucial role in overseeing state authorization reciprocity agreements for distance education.

In addition to those explicitly authorized, GNPEC administers a robust exemption system for certain institutions (Georgia Nonpublic Postsecondary Education Commission, 2023). Some institutions may be completely exempt from all requirements, while others might only be required to submit certain aspects, such as financial audits or surety bonds. Exemptions are granted based on several criteria, including accreditation status, licensure by other agencies, religious affiliations, or long-standing operation (Figure 6). Law schools approved by the American Bar Association (ABA) are also exempt from state authorization processes, effectively delegating authorization to the ABA. In fiscal year 2022, more than 220 institutions were exempt from certain requirements of authorization, with more exemptions added during the 2022 legislative session (Georgia Nonpublic Postsecondary Education Commission, 2023). Taken together, GNPEC represents the primary regulatory entity for private postsecondary education in Georgia.

### ***State Licensure of Private Institutions: The Boards and Commissions***

In Georgia, the licensure of private postsecondary institutions not covered by GNPEC involves the collaboration of several boards and agencies (Figure 5). Many of these institutions are identified as exemptions within the state statutes for GNPEC. The Georgia Secretary of State's Licensing Division manages most licensure processes and supports state boards overseeing specific industries and education sectors. Among these, the Georgia Board of Nursing oversees education programs for Registered Nurses (RN) and Licensed Practical Nurses (LPN), while the Georgia Board of Massage Therapy regulates massage schools. Additionally,

cosmetology and barber schools are under the jurisdiction of the Board of Cosmetology and Barbers, and the Georgia Auctioneers Commission is responsible for auctioneer schools.

In addition to the Secretary of State, other boards and agencies provide postsecondary oversight in Georgia. The Department of Public Safety, through its Board of Driver Services, regulates for-profit and nonprofit truck driving schools and manages driver improvement programs, driver training schools, and CDL truck driving schools. The Georgia Real Estate Commission staff administers the licensure process for real estate schools and also serves as the administrative agency for the Georgia Appraisers Board to license appraisers' schools. These boards and agencies each have specific educational and operational standards for the schools they supervise, often based on industry and professional standards. This list of licensure processes highlights the diversity of boards, agencies, and structures overseeing various institution types, each enforcing specific educational and operational standards to ensure quality education and compliance with professional criteria in their fields.

### ***Other Postsecondary Agencies in Georgia***

In Georgia, the oversight of postsecondary education extends beyond public charters, state authorization of private and out-of-state institutions, and industry-specific licensure. The Georgia Student Finance Commission (GSFC) is a pivotal entity in this framework, administering financial aid programs and overseeing student outreach and access initiatives. It plays a significant role in managing the HOPE Scholarship along with other financial aid programs, thereby facilitating access to both public and private institutions for students across the state. Furthermore, the Georgia Department of Veterans Services, designated as the State Approving Agency (SAA), plays a crucial role in the approval and supervision of educational and training programs for veterans under the Veterans Educational Assistance Program. This

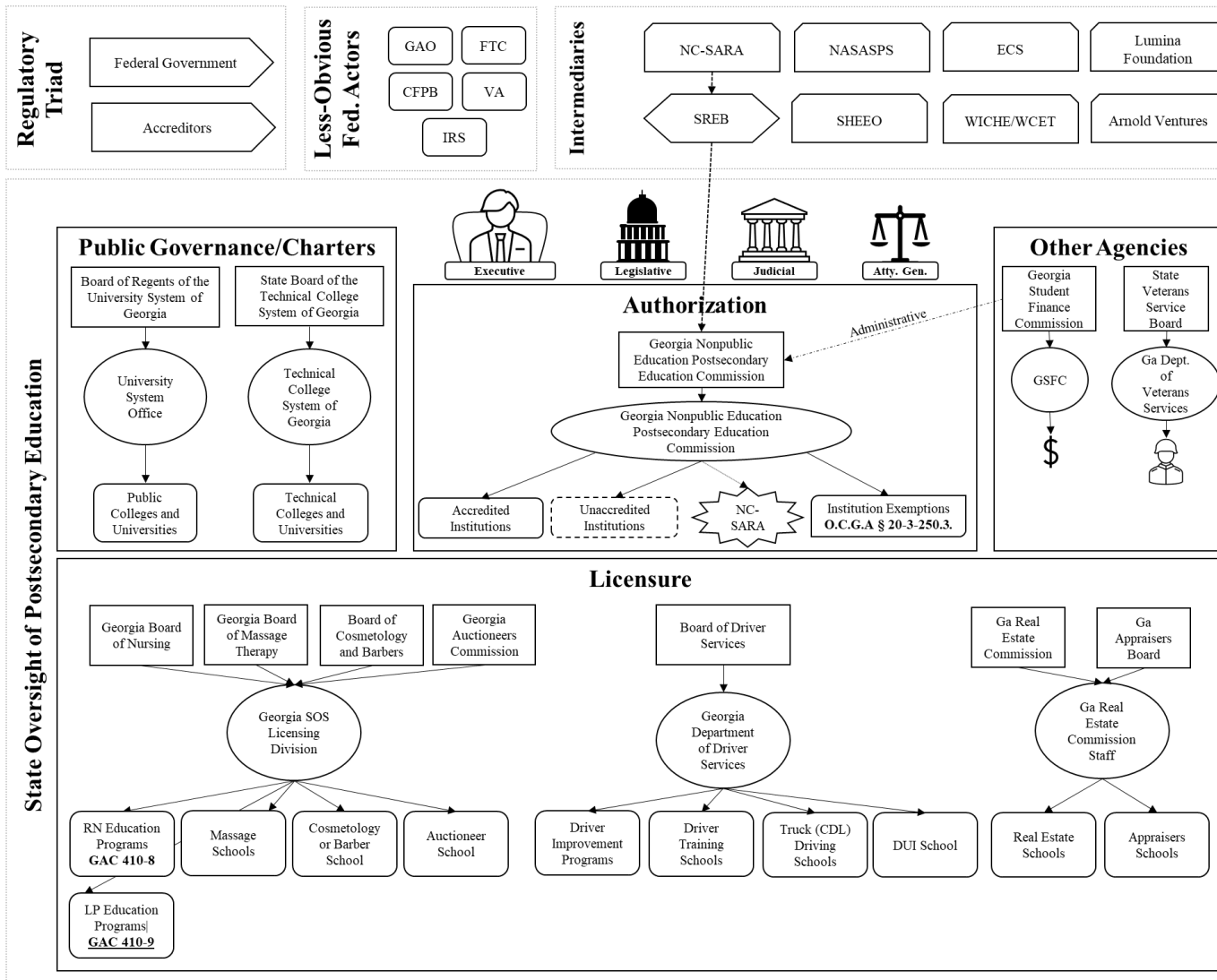
includes a meticulous process to ensure institutions meet stringent standards, enabling veterans and other eligible individuals to receive educational benefits under the GI Bill. Thus, the involvement of various actors in the oversight and approval of postsecondary education in Georgia reveals a complex network of agencies, each playing a role in a broad regulatory framework, underscoring the intricate mechanisms of educational oversight within the state.

### ***Executive, Legislative, and Judicial Responsibility in Postsecondary Oversight***

The oversight of higher education in Georgia (and across the nation) is highly dependent upon political actors. Indeed, state oversight involves a collaborative effort involving the executive, legislative, and judicial branches of the state government. The executive branch, spearheaded by the governor, is instrumental in appointing board members to the entities charged with higher education oversight, establishing the budgets and priorities for these agencies, and, through the attorney general, playing a crucial consumer protection role by prosecuting institutions that violate state laws. The legislative branch, meanwhile, is responsible for creating the laws that frame the governance structure within the state and has a significant influence on public budgeting processes. It approves and passes budgets and laws that can either support or hinder the capacity of agencies responsible for regulating postsecondary education. The judicial branch complements these efforts by interpreting the laws and regulations that guide policymakers and agency staff, and by serving as the venue for legal cases brought against institutions.

**Figure 7**

*Oversight of Postsecondary Education in Georgia*



### *The Regulatory Triad in Georgia*

Within the regulatory triad, federal oversight and independent accreditors work alongside state actors, playing integral roles in upholding federal financial aid standards and ensuring educational quality across institutions. In Figure 7, I complicate the accountability system by including the regulatory triad and regional and national intermediary organizations influential in the space. The federal government plays a pivotal role in the regulatory triad overseeing higher education, primarily through its administration of financial aid programs under Title IV of the HEA. This involvement ties federal funding directly to institutional compliance with certain federal standards, including those related to financial stability, administrative capability, and academic quality. The USED also enforces regulations that protect students from fraudulent practices and ensure access to quality education. In this framework, the federal government not only collaborates with state authorizers and licensing agencies but also mandates state authorization as a prerequisite for institutions to qualify for federal financial aid. This requirement sets a baseline of adherence to both state and federal regulations, emphasizing the critical role of state-level oversight in conjunction with federal standards to ensure institutions access federal funds.

Accreditors play a vital role in the higher education regulatory triad, ensuring institutions meet rigorous standards of quality and effectiveness. Through the process of accreditation, these independent bodies assess and validate the educational quality of postsecondary institutions and programs, a prerequisite for accessing federal financial aid. Independent accrediting bodies require state authorization as a fundamental prerequisite before granting accreditation to a Georgia institution or program. This process emphasizes the foundational position of state authorization in the broader educational accountability landscape.

For institutions that are unaccredited or not seeking federal financial aid, the primary accountability structure lies solely with the state of Georgia, namely GNPEC. In such cases, state-level oversight becomes the critical mechanism for regulating educational standards and operational compliance. This underscores the pivotal role of state agencies in ensuring the integrity and quality of postsecondary education within their jurisdiction, highlighting the importance of robust state regulatory frameworks to safeguard educational excellence and consumer protection in the absence of federal financial aid incentives or accreditation requirements.

### ***Intermediary Organizations in State Authorization***

Intermediary organizations play a critical role in supporting state authorization agencies, serving as membership associations, providing research and analysis, and funding initiatives to improve accountability at the state level (Natow et al., 2021). NC-SARA and Southern Regional Education Board (SREB) stand as two important agencies in the realm of state authorization for distance education. SREB acts as the regional compact for Georgia, helping to facilitate NC-SARA's interstate reciprocity agreement, which simplifies the process for institutions to offer online education across state lines. This collaboration streamlines state authorization within Georgia, highlighting the essential functions of NC-SARA and SREB in supporting the accessibility and regulatory compliance of accredited degree-granting institutions offering distance education.

On another front, the National Association of State Administrators and Supervisors of Private Schools (NASASPS) and SHEEO are key membership organizations representing agencies and entities involved in approving and authorizing institutions. NASASPS serves as a membership organization for state regulators and focuses on improving and promoting effective

state regulation of private postsecondary education. SHEEO offers research support and represents its member agencies, many of which are their state's authorizing agency (Ness, Baser, & Dean, 2021). SHEEO holds a longstanding role in the broader ecosystem of state authorization by providing essential data, policy analysis, and opportunities for collaboration among state agencies. Various funders contribute to the landscape of state authorization by supporting convenings, research, and initiatives aimed at enhancing the effectiveness and efficiency of state authorization processes. Through the combined efforts of these entities and their supporters, state authorizing agencies are supported through convenings, information about regulatory changes, and research information to improve practice.

### ***Less Obvious Federal Actors***

In the landscape of oversight for postsecondary institutions, entities like the Department of Education, accrediting agencies, and the National Council for State Authorization Reciprocity Agreements (NC-SARA) are well-recognized. However, less obvious actors such as the Government Accountability Office (GAO), Federal Trade Commission (FTC), Consumer Financial Protection Bureau (CFPB), U.S. Department of Veterans Affairs, Internal Revenue Service (IRS), and the Office of Inspector General (OIG) within the Department of Education also play crucial roles. The GAO, an independent agency working for Congress, scrutinizes federal spending on education, ensuring accountability in policies and mitigating fraud (U.S. Government Accountability Office, 1984, 2011). The FTC protects students against deceptive practices by for-profit colleges (Federal Trade Commission, 2021), while the CFPB oversees student loan services to guard against abusive practices (Consumer Financial Protection Bureau, 2023, December 19). The Department of Veterans Affairs ensures educational institutions meet standards for veterans to receive benefits, and the IRS monitors institutions' compliance with tax

laws. These entities complement the regulatory framework, offering additional consumer protection mechanisms and oversight to safeguard the interests of students and uphold the quality of postsecondary education.

## **Conclusion**

This chapter presented a comprehensive overview of the issues, patterns, and trends related to state authorization, representing the first of its kind since at least the early 1980s. Adopting a revisionist approach to history, popularized in the 1980s, I critically examined existing information on the history of state authorization (Blackburn & Conrad, 1986). I built upon preceding works and original documents by exploring the evolution of charters from medieval Europe to the contemporary era. This historical approach illuminated recurring themes within the state authorization narrative. It encompassed various aspects, including the use of legal acts of incorporation and charters, the influence of institutional booms, social movements, and war. Additionally, it examined specific considerations for religiously affiliated institutions, concerns regarding interstate authorization and consumer protection, the prevalence of exemptions, and the impact of for-profit and proprietary education. The chapter also explored philosophical debates regarding the role of states in ensuring accountability, a contemporary example of state oversight, and the complex landscape of different institution types.

## **CHAPTER V**

### **DISCUSSION**

This dissertation examined the intricate evolution of postsecondary oversight and state authorization within the U.S. from a historical perspective. In this chapter, I revisit the research questions introduced in Chapter 1, guided by a historical analysis of postsecondary oversight and the theory of strategic action fields (SAFs) (Fligstein & McAdam, 2015). My discussion includes three key sections. First, I discuss the evolution of state authorization and the development of a contemporary oversight model, highlighting how the integration of SAFs challenges traditional views on governance and oversight. My findings showcase the extensive array of actors engaged in the oversight process, underscoring the complexity of the regulatory landscape in postsecondary education. I argue that the functions of state chartering, authorization, and licensure, particularly for private institutions, represent the paramount state role, transcending traditional governance functions and powers. Second, I describe the positions, issues, rules, and contested arenas in this reconceptualized oversight landscape, and examine how SAFs reveal the dynamics of campus-state tensions over time. Third, I delve into the strategic interactions among actors, exploring the roles and power dynamics between incumbents, challengers, and governance units, and the impact of strategic actions within these fields using a few scenarios. The chapter concludes by considering the implications of these findings for policy, research, and practice, offering insights into the complex fabric of higher education oversight, especially for private institutions.

## **Fields of Oversight: Complicating Governance Conceptualizations**

In Chapter 4 of this dissertation, I introduced a detailed figure illustrating contemporary postsecondary oversight in the state of Georgia with numerous actors interacting within a postsecondary oversight system. This contemporary oversight model, coupled with history, illuminated the foundational role states play in authorizing institutions to operate and confer degrees—a critical precondition for the broader coordination functions and responsibilities within higher education. The SAFs of postsecondary oversight include a complex arena filled with a variety of actors, including those responsible for the oversight, authorization, and licensure of both public and private educational institutions, as well as agencies approving educational programs for veterans' benefits. The inclusion of the regulatory triad and intermediary organizations, alongside federal entities like the Government Accountability Office and the Federal Trade Commission, further enriches this contemporary oversight model. The dynamics among these actors, influenced by specific issues and strategic interactions, reinforce the multifaceted nature of postsecondary oversight.

This contemporary oversight model broadens and introduces complexity to conventional understandings of governance by deliberately incorporating the public regulation of private education into the overarching schema of postsecondary oversight. Unlike the conventional models that primarily focus on public institutions and centralization (Kerr & Gade, 1989; Lacy, 2011; McGuinness, 2016), this approach acknowledges the significant role states play across the entire postsecondary system, including private postsecondary education. It emphasizes the broader scope of state oversight, with numerous actors, often overlooked, playing central roles. This departure from traditional models highlights the comprehensive function of authorization as a gatekeeping mechanism by the state (Bruckner, 2020; Harnisch et al., 2016), thereby

challenging previous research that predominantly focused on public four-year and two-year governance functions, powers, and responsibilities.

Further, this contemporary oversight model illustrates the complexity of SAFs within postsecondary oversight, showcasing the intricate ways in which these fields intersect across various dimensions—including institution type, actors, financial aid eligibility, course modality, and accreditation status. By focusing on the approval mechanisms for institutions, this model calls attention to the diversity and breadth of institutions that fall outside the purview of traditional oversight mechanisms. Institution types, their degree levels, and their accreditation and financial aid statuses emerge as distinct but interrelated fields, each with its own set of actors, rules, and strategic interactions. These categorizations provide a structured way to identify and analyze the various SAFs that coexist within the broader landscape of higher education governance. The contemporary oversight model illuminates the potential for overlap and interaction between public and private institutions, particularly in relation to their accreditation status and eligibility for state or federal financial aid.

### **Key Actors in Postsecondary Oversight**

Numerous actors are involved in the postsecondary oversight process, including state agencies, the federal government, elected officials, accreditors, and intermediary organizations, among others. State agencies constitute a diverse and multifaceted network within the SAF of postsecondary oversight, serving as the primary regulatory bodies for higher education institutions (Contreras, 2020a). These entities, ranging from state systems of higher education to departments of education to specialized licensing and authorizing boards, play critical roles in enforcing state policies, standards, and regulations that govern the operation and quality of both public and private institutions (Ness, Baser, & Dean, 2021). Their responsibilities encompass a

broad spectrum of oversight functions, including the authorization to operate, program approval, financial viability assessments, and consumer protection measures (Tandberg et al., 2019).

Through their regulatory actions, state agencies not only ensure institutional compliance with state mandates but also safeguard the interests of students and the public.

Within the SAF framework, state agencies can play multifaceted roles. They may act as dominant incumbents or governance units with the power to license educational institutions, thus directly shaping the structure and dynamics of the education market. Conversely, in scenarios where oversight is distributed among various agencies, a single agency might emerge as a challenger within the postsecondary ecosystem, striving for influence amidst traditional governance structures. These roles are not fixed; agencies can oscillate between being powerful regulators and active challengers, depending on the context and prevailing strategic actions within the field. Their strategic interactions with other actors, such as accrediting bodies, federal agencies, and educational institutions, highlight their central role in shaping the contours of postsecondary education oversight. Through a combination of regulatory oversight and strategic collaboration, state agencies navigate the complex landscape of postsecondary oversight and accountability.

The federal government, a key yet subsidiary player in postsecondary oversight, subtly shapes state authorization mechanisms through its secondary role. While the USED and federal policymakers traditionally delegate authorization and quality assurance to states and accreditors, their influence permeates the governance landscape (Millard, 1979). Legislative actions have prodded states into establishing or enhancing oversight mechanisms, such as state approval agencies post-GI Bill, 1202 commissions, and state postsecondary review entities in the 1990s, even when federal support waned or initiatives were terminated. Additionally, the federal

government's role extends beyond direct oversight to influence research and educational integrity by funding research and investigations into educational fraud and overseeing research grants and initiatives across various agencies (Slaughter, 1990, 2014b; Slaughter & Rhoades, 2004). This broader engagement emphasizes the federal government's nuanced but pivotal role in the SAF of postsecondary oversight, catalyzing states to refine oversight frameworks and indirectly steering the direction of educational research and integrity initiatives.

This field-based framing also helps to identify certain political actors and the power they wield in an oversight system. While the influence of the Governor on higher education governance is documented in both higher education and political science literature (Rubin, 2021, 2023; Tandberg & Griffith, 2013), employing SAFs allows for a bottom-up examination of embedded fields and offers insights into the extent of this influence across various SAFs for postsecondary oversight. For example, the Governor's appointing power over state boards and sometimes executives leading the agency emerges as a crucial social link connecting myriad public agencies, institution types, processes, and decision-makers. From the perspective of SAFs, the Governor's significant appointing power over state boards and agencies can be seen as a critical mechanism that shapes the field's structure and dynamics. This power determines who occupies key positions within the governance structures of postsecondary oversight. It also significantly influences the direction, policies, and practices of these entities. Indeed, a governor with social skill can mobilize resources, form alliances, and generate consensus, which in turn stabilizes the field or potentially leads to its transformation. The appointments can be seen as strategic actions aimed at maintaining field stability by ensuring that governance units align with the broader policy goals of the executive branch.

Educational institutions, state agencies, the federal government, and policymakers, along with a range of other stakeholders and actors, all play a role in shaping the landscape of postsecondary oversight. These actors encompass intermediary organizations that spearhead research, federal agencies that enforce regulations, and state offices managing financial aid. The scope of their influence is broad, with some touching on specific aspects of postsecondary education (e.g., consumer advocate for student loans) and others influencing broader public policies at state, regional, and national levels that overlap with postsecondary education (e.g., consumer protection). These actors' roles are fluid, often shifting in response to current issues, thereby embodying the dynamic interplay of interests in the higher education sector (Cook, 1998; Ness & Baser, 2023; Ness et al., 2015; Newmark & Nownes, 2018).

NC-SARA and regional compacts exemplify the significant role of non-state actors within the strategic action framework, particularly in postsecondary oversight (Tandberg et al., 2019). They have assumed a crucial intermediary role in managing the substantial expansion of distance education over the past two decades. These entities facilitate cross-state collaboration and standardize practices in distance education, highlighting their importance in an era where distance learning is on the rise and scrutiny over regulatory stringency has intensified. These initiatives have accelerated the seamless movement of students across state lines by streamlining authorization processes. The pivotal position of NC-SARA and similar organizations emphasizes the dynamic interplay within SAFs, reflecting the adaptive and evolving nature of governance mechanisms as they respond to the shifting contours of the higher education landscape.

Accreditors play a pivotal role in the SAF of postsecondary oversight, acting as crucial intermediaries between state regulatory bodies and educational institutions. Operating within a complex web of governance, they serve both as enforcers of quality standards and as catalysts for

institutional improvement (Bogue & Hall, 2003). As entities that straddle the line between public expectation and institutional autonomy, accreditors influence the landscape of higher education by setting the thresholds for academic quality and operational integrity. Their strategic actions, from accreditation reviews to policy advisements, not only uphold the educational standards, but also shape the evolving norms and practices within the field of postsecondary education oversight. Their evaluations and accreditations are instrumental in enabling institutions to access federal financial aid, effectively linking federal priorities with state oversight mechanisms.

Other intermediary organizations have historically played a significant role in licensing and authorization. For instance, the American Medical Association (AMA) played a pivotal role in shaping state standards for medical education and training during the 19<sup>th</sup> and 20<sup>th</sup> centuries through influential action, such as the Flexner Report (Starr, 2017). These developments, significantly influenced by foundations and associations, led to the closure of many medical schools for Black students (McCambly et al., 2024). These organizations helped to shape the metrics that have been used to measure quality in medical education. In the 1970s, the ECS facilitated model legislation and convened discussions on the topic. The landmark study on state oversight conducted by AIR in 1977 further exemplified the involvement of intermediary organizations (Jung et al., 1977a). More recently, SHEEO has revitalized attention afforded to state authorization policies and practices. The theory of SAFs helps to better understand how these diverse participants negotiate their positions, exercise power, and engage with traditional education authorities (Slaughter, Sheila, 2014).

The insights garnered from Georgia's example and the broader discussion reinforce the need for regulatory frameworks that are both flexible and responsive to the diversity of institution types and the evolving challenges of governance in higher education. This study's

exploration into the SAFs of postsecondary oversight complicates traditional governance models by highlighting the intricate web of actors and dynamics shaping the regulatory landscape. It necessitates a reevaluation of governance conceptualizations in light of these complexities.

Nonetheless, using Georgia as the primary example for the contemporary oversight model developed in this dissertation has limitations. First, there's an inherent limitation in generalizing from an N-of-1 example, which may not capture the full diversity of state approaches. Second, while aiming to highlight key players, this model may not include every actor involved, indicating that the list of actors presented is representative but not exhaustive. However, despite these caveats, the framework serves as a critical roadmap for deciphering the complex landscape of postsecondary oversight in higher education across various states. While the specific actors and agencies involved may differ in their form or function, the foundational premise remains consistent: effective oversight necessitates a clear understanding of what is being overseen—namely, the institutions and the students they serve, including aspects related to financial aid and veterans' benefits. Thus, although the exact conditions observed in Georgia may not be universally applicable, the intricate system comprising numerous authorizing agencies, governance and coordinating bodies, licensure, and veterans' approval agencies, in conjunction with the regulatory triad and non-state actors, reveals a pattern of complexity that is likely to be mirrored across all state systems. This acknowledgment of diversity within a framework of commonality underscores the adaptability and relevance of the Georgia model as a heuristic tool for understanding the nuanced fabric of postsecondary oversight beyond its immediate context.

## **Positions, Issues, Rules, and Contested Arenas in State Authorization**

State authorization in the U.S. has undergone significant evolution, marked by the complex interplay among influential actors, political contexts, educational advancements, and state-campus dynamics. Chapter 4 explored these changes, uncovering a detailed history that defines today's system. I previously highlighted the main figures in postsecondary oversight, considering all authorized institutions within a state. This history and the present setup have evolved through strategic actions, issue framing, and the often-disputed rules set by these stakeholders. These concepts from the theory of SAFs help us to understand past conflicts between campuses and states regarding oversight, pinpoint shifts in key players, and identify contentious periods.

### ***Positions and Framings***

Within this section on positions and framings regarding state authorization, I spotlight two significant sub-themes: the foundational role of state authorization as a precursor to all regulatory functions, and the pervasive tension between campuses and states, evident across diverse institution types. These themes illuminate the deep-rooted challenges and pivotal dynamics at play within the regulatory landscape of higher education.

**State Authorization as the Foundation.** First, the state's fundamental role as the primary authorizing, chartering, and licensure entity for postsecondary institutions emphasizes its pivotal position in the educational landscape. The 10<sup>th</sup> Amendment is frequently highlighted by governance and state higher education scholars as a cornerstone in determining the responsibility for higher education between federal and state governments. However, contemporary discussions often overlook the fact that the state's role extends beyond the mere governance and coordination of public higher education. It is common to view authorization and degree approval as

governance functions. This has sparked debates on whether authorization, chartering, and licensure fall under state governance or coordination, or whether these duties predate such functions. This “chicken or the egg” conundrum questions the traditional placement of these responsibilities in entities beyond typical governing boards, including independent agencies, secretaries of state, or consumer protection agencies, suggesting an intentional strategy to diversify oversight mechanisms.

The hesitation of states to delegate the function of authorizing private education to public governing or coordinating boards may stem from a concern over potential conflicts of interest (Manning, 1978; Orlans, 1980). Public institutions, which are under the purview of these boards, could be seen as direct competitors to private educational entities. Entrusting a competitor with the power to authorize and oversee could inadvertently bias the regulatory process, potentially stifling competition or influencing decisions that affect the viability and operational freedom of private institutions. It also could lead to regulatory capture, where the regulatory process is biased, possibly stifling competition or influencing decisions detrimental to the operational freedom and viability of private institutions (Harnisch et al., 2016; Tandberg et al., 2019; Tandberg & Martin, 2019). This scenario raises questions about fairness and impartiality in oversight, as states seek to maintain a balanced and equitable higher education ecosystem where both public and private institutions can thrive without undue advantage or disadvantage.

This dissertation argues that the function of deciding who is permitted to operate as a postsecondary institution, deeply influenced by politics and history, predates the traditional governance of higher education and even the Declaration of Independence. The Dartmouth College case, primarily a contractual dispute, played a pivotal role in shaping authorization processes, focusing more on contractual rights between the state and institutions rather than

governance per se (Millard, 1979). It established that while states could not violate existing contracts, they retained the authority to grant authorization.

Furthermore, states have historically delegated the authorization and degree approval roles to various agency types (Contreras, 2020c; Ness, Baser, & Dean, 2021). The federal government does not mandate approval from a specific governance board; instead, state authorization or approval from any recognized state board suffices for institutions to qualify for federal financial aid. This principle also applies to most accrediting bodies, emphasizing that state authorization predates accreditation and serves as the sole quality assurance mechanism for non-accredited institutions. Thus, the state's responsibility to approve and oversee both public and private higher education institutions, as outlined by the 10<sup>th</sup> Amendment, is a fundamental duty (Bruckner, 2020). This responsibility underpins why the federal government has traditionally been cautious about infringing upon state authority in this area, highlighting the deep historical roots and political nuances of state authorization in the higher education landscape.

**Campus-State Tension.** Second, the enduring tension between campus autonomy and state accountability represents a fundamental paradox within the relationship between campuses and states, shaping the strategic interactions among various actors within the SAFs of postsecondary oversight (McLendon, 2003b). This tension, which has evolved from medieval European origins to the contemporary American higher education landscape, serves as a crucial axis influencing policy debates and regulatory practices (Thelin, 2019). While traditionally viewed within the context of public oversight of public institutions, this dynamic is arguably even more pertinent in the realm of private institution accountability, highlighting a critical area

for policy focus and strategic action in safeguarding educational quality and consumer protection.

Contemporary challenges, including the rise of online education and the attention to predatory for-profit educational models, have added new dimensions to the autonomy-accountability tension. Regulatory innovations such as the State Authorization Reciprocity Agreement (NC-SARA) attempt to streamline state oversight while preserving institutional flexibility, embodying the ongoing effort to balance these competing imperatives (Tandberg et al., 2019). As McLendon (2003b) suggested, the trajectory of state governance reforms in higher education is characterized by a persistent negotiation between the push for greater institutional autonomy and the pull of increased accountability measures. This negotiation is not merely a matter of policy design but reflects deeper philosophical and strategic considerations about the role of higher education in society and the mechanisms through which it is governed and held accountable.

### *Issues*

The landscape of postsecondary oversight and state authorization in the U.S. has been shaped by a complex interplay of issues that have evolved from the nation's founding through the contemporary era. First, central to this evolution has been the relationship between institutional growth and state authorization, a dynamic that highlights the challenges and responses to expanding educational demands and funding. From the demographic changes in early American history, which spurred the establishment of colleges, to the post-World War II era, marked by significant population shifts and college booms, the regulatory framework for higher education has been forced to adapt to an ever-changing system.

Second, the history of authorization is intrinsically linked to institutional closures. The process of opening colleges naturally entails the possibility of their closure. This connection between charters, authorization, licensure, and the closure of institutions has been a contentious aspect of higher education regulation. From the outset, establishing colleges in colonial America was fraught with challenges, leading to numerous institutional failures during both the national era and the Civil War era. This trend of institutional vulnerability has continued into modern times, as recent research (Burns et al., 2022; Burns, Bryer, et al., 2023; Burns, Weeden, et al., 2023) demonstrates the ongoing challenges in sustaining viable educational institutions.

Another enduring challenge in higher education oversight has been the issue of diploma mills, degree mills, and predatory colleges, which have historically necessitated significant regulatory attention. These entities have often emerged alongside periods of expansive institutional growth and the broadening of financial aid eligibility to include private institutions. Prior to World War II, the rise of diploma mills led to critical developments, such as the creation of accreditation systems and the influential Flexner Report, which aimed to elevate educational standards and integrity (Reid, 1963). In the aftermath of the GI Bill, the focus on combating diploma mills intensified, a concern that extends into the present, where such institutions persist in compromising educational quality and consumer protection. Recent efforts to address these challenges include negotiated rulemaking sessions by the USED, aimed at refining regulations governing for-profit colleges and ensuring they comply with financial and educational standards (Natow et al., 2021). Specifically, discussions around the 90/10 rule, which limits the amount of revenue for-profit colleges can derive from federal student aid, highlight the ongoing attempts to regulate institutions that may exploit federal funding to the detriment of educational quality and student outcomes.

Additionally, interstate agreements on authorization and licensure have significantly influenced the landscape of postsecondary oversight. Initiatives such as the early recommendations by the AMA and the dialogues of the 1970s set the stage for state collaboration. The rise of internet-based education in the 1990s, followed by the exponential growth of distance education in the 2000s, highlighted the necessity for such cooperation, culminating in the creation of NC-SARA. Despite the cooperation achieved, NC-SARA faces critiques, notably that it operates at the level of its least stringent member state, with some states reportedly diminishing their oversight standards upon joining. The early 2024 negotiated rulemaking sessions have centered on the debate over allowing states to impose additional regulations atop NC-SARA's baseline, a move that challenges the principle of reciprocity by potentially reintroducing the barriers NC-SARA aimed to eliminate.

The interplay between state oversight and religious affiliation in U.S. higher education has remained a consistent theme, tracing back to the religious foundations of medieval Papal charters. This historical connection extended into early American education, where charters often safeguarded religious freedoms, contributing to a denominational boom throughout the 19th century. Today, religious exemptions to state authorization demonstrate the nuanced balance between regulatory oversight and the protection of religious liberties within the educational landscape. These exemptions reflect a careful approach by states to respect religious freedoms, particularly when institutions offer degrees, indicating a reluctance to infringe upon religious rights unless necessary for academic credentialing.

### ***Rules of the Game***

The regulatory landscape of state authorization presents a nuanced picture, especially when contrasting the oversight of public and private institutions. Public colleges can sometimes

be subject to stringent scrutiny, particularly in terms of state policymakers and program approval. On the other hand, private institutions, especially for-profit and nondegree-granting entities, face intense regulatory focus on financial viability. This emphasis on financial health reflects concerns over the potential risks these institutions pose to students and the broader educational ecosystem.

Exemptions within regulatory frameworks play a critical role in shaping the oversight of higher education institutions, revealing a nuanced landscape where power dynamics and traditional structures significantly influence regulatory applicability. Institutions that hold prominent positions within the traditional higher education hierarchy, particularly those with accreditation, are more likely to benefit from exemptions. This trend underscores an implicit recognition of the credibility and perceived stability these institutions bring, based on their compliance with established quality standards. Consequently, the more an institution aligns with the traditional pillars of higher education, such as accreditation status, the more it may navigate the regulatory environment with ease. This dynamic highlights the significance of exemptions in regulatory frameworks, while also pointing to the broader implications of traditional higher education structures in determining regulatory oversight and accountability.

The enforcement and effectiveness of regulatory rules in higher education authorization fundamentally rests on the presumed capacity of the overseeing agencies, a challenging issue that has persisted across decades. This challenge became particularly pronounced following the anti-regulation movements of the 1980s and 1990s, which embraced New Public Management principles aimed at reducing bureaucracy and slashing regulatory oversight and led to diminished capacity for thorough oversight after years of progressively expanding regulations (Hood, 1991; Pollitt & Bouckaert, 2017; Slaughter, 2014a; Slaughter & Leslie, 1997). The repercussions of

these shifts are evident in agencies that find themselves understaffed and overburdened, often resorting to outsourcing critical oversight functions to consultants or, in some cases, delegating entire processes to accrediting bodies. This reliance on exemptions and external entities does not only reflect the strained capacity of regulatory agencies. It also raises questions about the integrity, depth, and collaborative nature of oversight, emphasizing a fundamental issue that underlies the enforcement of all rules within the realm of higher education authorization.

The rules governing state authorization of postsecondary education are critically defined by strategic actions within the field, where specific frameworks, like the Education Commission of the States (ECS) 1972 model legislation, have played a pivotal role in shaping the regulatory landscape. This foundational structure has influenced many states' regulatory frameworks and continues to impact current oversight practices, suggesting the importance of further exploration through text similarity analyses to assess its lasting effects. By offering a flexible blueprint for regulatory adaptation, this legislation illustrated how SAFs dynamically interact with regulatory rules, highlighting the significant influence of regulatory frameworks on the governance and oversight of postsecondary education.

### ***Rupture, Settlements, and Episodes of Contention***

The historical evolution of state authorization in U.S. postsecondary education, as analyzed through the lens of SAFs, showcases a continuous cycle of rupture and settlement, marked by episodes of contention that have significantly influenced campus-state relations. During periods of relative settlement, such as the era following the 1970s boom, the regulatory framework experienced stability, creating a predictable environment that allowed both educational institutions and regulators to operate within a set of known parameters. These times of relative calm enabled incremental adjustments and the integration of new educational

practices and societal demands, all without major upheavals in the distribution of power among the key actors in the field.

Contrastingly, episodes of contention represented periods of significant disruption, triggered by challenges including the proliferation of diploma mills, political encroachments, the growth of for-profit colleges, and the advent of online learning. These disruptions necessitated a reassessment of the regulatory status quo. This propelled both established authorities (incumbents) and emerging entities (challengers) to engage in strategic actions aimed at influencing regulatory outcomes. Incumbents often endeavored to strengthen or modify regulations to uphold the principles of educational integrity and public confidence. Meanwhile, challengers varying from innovative educational platforms to reform-minded organizations advocated for changes that would accommodate new modes of education delivery and evolving market demands.

This interplay between periods of stability and turbulence demonstrates the dynamic essence of SAFs, where ongoing negotiations between maintaining autonomy and ensuring accountability are central to the evolution of higher education oversight. Through these cycles of rupture and settlement, the regulatory framework is perpetually reshaped, illustrating the constant balancing act between preserving traditional values of higher education and adapting to the ever-changing educational landscape and societal needs. This pattern illuminates the vital role of strategic action within these fields. The outcomes of these contentions shape the future directions of postsecondary education governance, demonstrating the field's inherent capacity for adaptation and reform in response to internal and external pressures.

## **Strategic Interactions Between Actors: A New Oversight Framework**

Building upon the key actors and foundational elements outlined previously, this section applies the theory of SAFs to better understand state oversight and governance within postsecondary education in several areas. The application of SAFs to state oversight in postsecondary education helps to explain the intricate dynamics and strategic interactions between state entities, educational institutions, accrediting bodies, and other stakeholders. Through SAFs, we can understand how these actors negotiate power, navigate regulatory environments, and respond to changes in policy, oversight, and governance structures. This framework reveals the underlying mechanisms that facilitate or hinder collaboration and conflict resolution among actors, offering insights into how states can effectively oversee and regulate postsecondary education. SAFs also illuminate the multifaceted and contested nature of oversight in the educational sector.

### ***Strategic Exemptions and Delegated Oversight***

At the heart of SAFs is the recognition of the educational sector as a contested arena, where various actors—state entities, higher education institutions, accrediting bodies, and others—engage in ongoing negotiations over resources, legitimacy, and authority. These actors are not monolithic; they possess differing levels of power and pursue divergent interests, often leading to dynamic and sometimes contentious relationships. In response to the diversity of institutions and processes, states have frequently developed federated, decentralized systems of oversight. The time intensity of quality reviews of so many institutions is challenging for states to manage effectively given the limited capacity often allotted by policymakers and decision-makers. Consequently, state agencies are compelled to engage in strategic decision-making, prioritizing oversight functions to minimize risks and maximize the use of their resources. This

intricate interplay and strategic prioritization often lead to the use of exemptions and the delegation of oversight responsibilities as a means to manage the field's complexity.

**Exemptions.** When state agencies opt to exempt institutions from all or part of their oversight processes, this act can be interpreted as a strategic maneuver within the SAF. The scope of exemptions is broad and their application has been consistently scrutinized (Jung et al., 1977b), including the 2024 negotiated rulemaking process. Exemptions often favor established institutions with a strong foothold in the field—typically incumbents—which possess the necessary social skill to navigate the complex web of educational governance. These incumbents, due to their prestige, accreditation status, resources, or historical standing, are perceived to have sufficient internal mechanisms to assure quality, and thus are deemed to require less external oversight.

The exemptions, therefore, are not merely administrative decisions but strategic actions that solidify the incumbents' position within the field. They allow institutions to operate with more autonomy, a key asset in the competitive landscape of higher education where agility can translate into innovation and growth. This dynamic underscores the balance of power within the field, wherein the state agency, acting as a governance unit, selectively applies its regulatory capacity, thereby shaping the structure and the hierarchy of the field itself.

Exemptions are often strategic and are granted to institutions that can assert their authority and legitimacy within the field. Religious institutions, for example, are frequently exempt from certain state oversight processes to prevent any encroachment on religious freedom, in line with constitutional protections. This kind of exemption is a tacit acknowledgment of the special status these institutions hold within the educational and social landscape, and reflects a strategic balance between regulatory oversight and the preservation of religious autonomy.

Similarly, historic nonprofit and regionally accredited institutions often receive exemptions due to their established reputation and the assumption that their longevity and accreditation status are indicative of quality and reliability. These institutions, by virtue of their sustained presence and endorsement by accrediting agencies, are seen as less risky and hence less in need of state surveillance. This exemption could be seen as a reward for institutions that have successfully navigated the accreditation process and have proven their worth over time.

Public higher education institutions, while they may be exempt from certain state processes, are not free from accountability. They are held to alternative structures of accountability, often involving legislative oversight, public transparency requirements, and other forms of state and federal regulation. This bifurcation in the application of oversight—where public institutions are subject to one set of rules and private, religious, or long-standing accredited institutions to another—demonstrates the intricate stratifications within the field. It illustrates how SAFs are not monolithic but are composed of multiple layers, with each layer having its own set of rules and power dynamics.

These exemptions also shed light on the role of state agencies as more than just passive enforcers of regulations. By choosing where and how to apply their regulatory power, these agencies actively shape the field, effectively deciding which institutions are trustworthy enough to self-regulate and which require closer scrutiny. This decision-making process is influenced by a complex interplay of historical context, political pressures, societal values, and the strategic actions of various actors within the field. As such, the granting of exemptions is a clear illustration of the embeddedness and interconnectedness of different educational, legal, and social fields within the broader SAF of postsecondary oversight.

**Delegating to the Accreditors.** Another strategy agencies use is delegating many of the quality control functions to accreditation agencies. This punting shifts the locus of oversight from state agencies to accrediting bodies, which can either be seen as a diffusion of responsibility or a calculated move to leverage the specialized expertise of a trusted member of the regulatory triad. For state agencies, this strategy could minimize the administrative burden, reallocating resources to other critical areas, or it could be a response to the institutional pressures and political landscapes that influence regulatory practices.

Accreditation agencies, in this context, may become de facto governance units within their own right, overseeing a substantial aspect of institutional performance and compliance. This shift can lead to a change in the field's dynamics as institutions aim to align with the standards set forth by accreditors, which may differ from state mandates. The strategic actions of these accreditation agencies, in turn, influence the field's rules and norms, potentially leading to field convergence, where state and accreditation standards become increasingly aligned, or field divergence, where conflicting standards create a more complex regulatory environment.

The delegation of quality control responsibilities to accrediting agencies represents a nuanced strategic action within the framework of SAFs. State agencies shifting oversight functions to accreditors is not merely an abdication of duties but a deliberate strategy influenced by the complexities of the educational landscape. By transferring the oversight mantle to accrediting bodies, state agencies effectively engage in strategic decision-making that aligns with SAF's tenets of resource optimization and leveraging specialized expertise. This decision reflects an understanding of the different capacities and competencies between state agencies and accrediting bodies, acknowledging that accreditors possess the focused knowledge and mechanisms to evaluate institutional quality more effectively.

This strategy demonstrates the dynamic interplay of power within the SAF, where accrediting agencies emerge as significant governance units with substantial influence over educational standards and institutional compliance. Their role in shaping the educational field's norms and practices illustrates the fluid nature of governance and oversight within postsecondary education, where the boundaries of authority and accountability are continually negotiated among actors. The reliance on accrediting agencies introduces a layer of complexity to the regulatory landscape as it necessitates alignment between state and accreditation standards. This can lead to field convergence, where the criteria for institutional evaluation become unified across different governance levels, or field divergence, where discrepancies between state and accreditor standards complicate compliance efforts. Such strategic delegation highlights the adaptability of state agencies within the SAF, as they navigate institutional pressures, political considerations, and the imperative to ensure educational quality amidst resource constraints.

The strategic granting of exemptions and the delegation of oversight responsibilities to accrediting agencies not only illustrate state oversight systems and agencies' tactical maneuvers but also highlight the dynamic roles of challengers and incumbents within postsecondary education oversight. Exemptions often solidify the position of incumbents—established institutions with significant resources and historical legitimacy—granting them more autonomy and reinforcing their dominance within the field. These institutions utilize their social skill and established position to negotiate or even influence the regulatory landscape to their advantage, further entrenching their status within the educational sector.

Conversely, this strategic regulatory environment presents opportunities for challengers—emerging institutions and non-traditional educational models—that seek to disrupt or alter the established order. Challengers may advocate for regulatory reforms or seek

exemptions as a means to level the playing field, challenging the incumbents' dominance by highlighting innovative approaches or addressing gaps in the current educational ecosystem. Therefore, the strategic use of exemptions and delegation serves as a balancing act by state agencies to manage oversight efficiently, while simultaneously shaping the negotiation of power, legitimacy, and innovation within the field. This interplay between incumbents and challengers, mediated by strategic actions like exemptions, underscores the contested nature of postsecondary education oversight and the complexity of ensuring quality and accountability across a diverse spectrum of institutions.

### ***The Incessant Challengers: The For-Profit Industry***

Similarly, the strategic positioning of for-profit institutions within regulatory frameworks illustrates another application of SAFs. These institutions often operate under different constraints and incentives compared to their public and nonprofit counterparts. By viewing these relationships through the SAF lens, state oversight bodies can better anticipate and respond to the strategic moves of for-profit institutions, ensuring that regulatory frameworks remain robust, equitable, and adaptable to the changing landscape of postsecondary education.

For-profit institutions emerge as pivotal challengers within the postsecondary oversight SAF. These entities, often scrutinized by traditional regulatory frameworks, advocacy groups, and the media, have nonetheless secured their foothold in the educational sector through strategic maneuvering and innovative approaches. Their actions—ranging from lobbying for more favorable regulations to establishing alliances with institutions sharing similar challenges—reflect a deep engagement with the regulatory landscape aimed at reshaping the rules to better suit their operational models and educational philosophies.

This assertive stance is not merely about ensuring survival in a competitive marketplace; it represents a deliberate strategy to challenge and possibly redefine the norms and standards that govern postsecondary education. By leveraging their unique positions, for-profit and non-traditional institutions actively contest the regulatory status quo, advocating for changes that recognize the legitimacy and value of their educational offerings. Their efforts to influence policy and practice highlight the dynamic nature of SAFs, where challengers seek to alter the balance of power and influence within the field, pushing against established boundaries and prompting a reevaluation of what constitutes quality and success in higher education.

For-profit institutions and specialized non-traditional schools have been at the forefront of challenging traditional accreditation norms, actively advocating for recognition and legitimacy through national accreditors. Their push for distance education and unconventional forms of academic credit represents a strategic effort to broaden the definitions of quality and effectiveness in postsecondary education. By aligning with national accreditors, often seen as more flexible or innovative compared to regional bodies, these challengers seek to legitimize alternative educational models that cater to diverse student needs and learning modalities. This advocacy disrupts conventional accreditation pathways and pressures the broader educational ecosystem to accommodate and recognize a wider range of instructional methods and credentials. The strategic action of for-profit and non-traditional institutions in advocating for these changes highlights their role in reshaping the landscape of postsecondary education and challenging entrenched norms.

Taken together, these institutions embody the role of challengers within the SAF, utilizing their agility, market orientation, and willingness to innovate as tools to navigate and ultimately transform the regulatory environment. Their strategic actions emphasize the contested

nature of postsecondary oversight, illustrating how diverse actors negotiate power and authority in an ever-evolving educational landscape.

### ***Strengths and Weaknesses of SAFs as a Postsecondary Framework***

Using SAFs to examine postsecondary oversight offers a nuanced understanding of the complex interplay among various actors within the higher education landscape. A key strength of applying SAFs is its ability to capture the dynamic nature of governance and oversight, highlighting how incumbents, challengers, and governance units interact and vie for influence over the regulatory system. This theoretical approach sheds light on the multifaceted relationships and power dynamics that traditional governance models might overlook, offering insights into how strategic actions by different stakeholders influence policy and practice. SAF's emphasis on the roles of social skill and strategic maneuvering in shaping the field allows for a deeper exploration of how state agencies, accrediting bodies, and educational institutions navigate the regulatory environment and shape the rules of the field. This perspective is particularly valuable in understanding how changes in external conditions, such as political shifts or technological advancements, can disrupt settled fields, leading to episodes of contention and subsequent reconfiguration of the oversight landscape.

However, the application of SAFs to postsecondary oversight is not without its challenges. One limitation is the framework's broad applicability, which, while a strength in capturing complexity, can sometimes lead to difficulties in operationalizing specific aspects of the field for empirical investigation. The focus on dynamic interactions and the fluid nature of fields may also complicate efforts to develop specific policy recommendations, as the framework inherently emphasizes the contingent and contested nature of governance. Despite these challenges, SAFs' comprehensive approach to understanding strategic interactions in

postsecondary oversight offers valuable theoretical insights that can inform both research and practice, encouraging a more adaptive and responsive governance system that accounts for the evolving nature of higher education.

### **Implications for Research and Policy**

The exploration of state oversight in postsecondary education, as detailed in this dissertation, offers a comprehensive analysis that bridges historical developments with contemporary challenges. By applying a historical lens and utilizing SAFs as a theoretical framework, this study presents a nuanced understanding of the dynamic interplay between various actors within the realm of postsecondary oversight. This section outlines the implications of the findings for research and policy, emphasizing the value of historical synthesis, new conceptualizations of governance, and the strategic use of exemptions and delegated oversight.

### ***Implications for Research***

Several implications emerge for research. First, this study showcases the importance of understanding state governance and oversight from a historical perspective. It reveals that delving into the history of how state oversight has evolved over the past 250 years offers invaluable insights into the shifts in governance practices and state systems. Such a historical approach deepens our academic discussions on education governance and helps scholars, funders, and policymakers see the cyclical nature of challenges and solutions in this field. Recommendations presented in the 1970s about reigning in exemptions and expanding the state's role in postsecondary oversight are eerily similar to those presented in contemporary reports (Burns et al., 2022; Burns, Bryer, et al., 2023; Burns, Weeden, et al., 2023; Helm, 1979; Hollander et al., 1978; Jung et al., 1976). This connection can help to better understand the

landscape of postsecondary authorization, the impact of oversight mechanisms and interventions, and future areas for research.

This dissertation emphasizes that the debate on how much the government should oversee private education isn't a recent phenomenon. These discussions have long grappled with finding the right balance between accountability and autonomy, and between stringency of regulation and innovation. The explicit inclusion of private institutions in an oversight framework of public oversight of postsecondary education offers a broader perspective on oversight and campus-state relations (McLendon, 2003b; Millard, 1979). This inclusion highlights the complexity of interactions between state entities and educational institutions. The research calls attention to a previously narrow focus on public education, especially on four-year colleges, suggesting that there is more to explore beyond these traditional boundaries. It highlights a significant gap in our understanding of other oversight mechanisms like licensure, state approval agencies for veterans' education, and their relationships with various educational and regulatory players.

Importantly, the application of SAF introduces a new way of understanding governance, moving beyond traditional principal-agent models and limited theoretical frameworks to a deeper analysis of power dynamics and strategic actions in the educational sector (Lane, 2005, 2007). This innovative approach uncovers several nuanced aspects of governance. It challenges the often-simplistic use of principal-agent theory, which typically portrays interactions as direct and straightforward, even in complex, multi-layered relationships between agencies and institutions or policymakers and agencies. The explicit contracts found in postsecondary appointment processes or postsecondary accountability may prove relevant for the authorization and licensing processes by state agencies. However, SAF acknowledges that the principal-agent perspective

may not fully capture the accountability system's intricate web of overlapping issues and actors, which extends beyond the state's capacity for oversight and effective regulation enforcement.

By embracing a broader view that encompasses all involved actors, this approach facilitates a clearer understanding of the social networks linking leaders and governance entities, as well as the dynamic between established figures and challengers across various issues (Barringer et al., 2020; Taylor et al., 2018). This expansive lens highlights significant areas of state postsecondary oversight that have previously been neglected. Given the contested nature of postsecondary oversight, identifying these overlooked areas sheds light on the current state of governance and cultivates fertile ground for future research. Such investigations could delve into the interconnectedness of state postsecondary governance and regulatory systems, offering insights into the mechanisms that underpin effective oversight in an ever-evolving educational landscape. This research could examine the relationship between elected officials and governance units that oversee state regulating agencies, a topic studied in traditional postsecondary governance (Rubin, 2021, 2023). For example, how much influence and power does the governor wield when the individual appoints the members of more than 25 boards overseeing sectors of postsecondary education?

Other areas for research include detailed examinations of exemptions and authorization-via-accreditation policies for institutions receiving Title IV funding. How do these policies interact with existing state reciprocity agreements? Analyses of existing inventory data at the agency and process level are also warranted, especially when disaggregated by the type of institution (e.g., accreditation, for-profit, or degree-granting status) (Ness, Baser, & Dean, 2021). Little is known about institutional licensing of most career schools as most existing reviews of authorization have neglected those processes unless directly integrated into the primary degree-

granting and nondegree granting authorization processes, with a few exceptions (Boatman & Borowiec, 2021). Finally, there are plethora of questions related to the actors and advocacy groups that compete within state postsecondary oversight systems. State oversight is contested. It is unlikely that this will ever change. Understanding how interest groups advocate for various policies within federal, state, and local contexts is salient. The USED's negotiated rulemaking process is effectively a facilitated, contested arena of challengers and incumbents hosted by a governance unit with specific rules of the game. This process greatly affects daily operations in higher education, and it's important to understand how these policies are developed and implemented. In sum, numerous research avenues exist to deepen our understanding of state authorization and oversight. To date, we have merely begun to explore this complex field.

### ***Implications for Policy***

This dissertation uncovers several policy implications, illuminating the complexities of state oversight and its pivotal role in shaping effective interventions across postsecondary education. A key finding is the sustained effort since the 1970s by a core group of actors, including the federal government and intermediary organizations, to promote a more significant role for states in the authorization process. These efforts have been marked by convening stakeholders, providing research support, and proposing model legislation. The research and convening capabilities of intermediary organizations, often bolstered by external funding, have been particularly influential, with notable surges in the 1970s and again in the 2010s and 2020s (Dell, 2021; Education Commission of the States, 1975). This ability to gather diverse stakeholders to share ideas and scale solutions has shown tremendous promise in enhancing the efficacy of state oversight mechanisms.

Furthermore, the dissertation highlights the transformative impact of model legislation on state oversight practices (Jung et al., 1977a), advocating for the development of adaptable regulatory models that cater to the unique contexts of different states to improve scalability. Although legislation itself may be more difficult to change than the 1970s, the potential for scaling lies in adaptable regulations, applications, and other support materials, offering a fruitful avenue for organizations and researchers keen on influencing policy.

The research also highlights the intricate nature of state oversight and the pressing need for policies adept at navigating the evolving educational and societal landscapes. It urges policymakers to deliberate on the strategic use of exemptions and delegated oversight to craft regulatory frameworks that are both flexible and robust. Such frameworks should be capable of maintaining educational quality across a diverse range of institutional types, addressing the multifaceted challenges of state oversight while fostering an environment of innovation and accountability within the postsecondary education sector. In essence, crafting such perfectly balanced policies might seem like trying to thread a needle while riding a roller coaster—an exhilarating challenge, but perhaps not impossible with proper funding, support, and cohesiveness across actors.

For practitioners, this dissertation illuminates the strategic positioning required to navigate the regulatory environment effectively. Staff at institutions and state agencies must recognize their roles within the SAF—whether as incumbents, challengers, or governance units—and adapt their strategies accordingly. The reliance on accrediting bodies for quality control and to support resource-strapped state regulatory agencies stresses the necessity of a collaborative oversight approach, emphasizing the importance of upholding high educational standards. As postsecondary education continues to evolve, particularly with the rise of online

and non-traditional education models, adaptive oversight strategies are crucial for ensuring accountability and quality assurance across all educational offerings.

## **Conclusion**

In conclusion, this dissertation offers a fresh perspective on the complexities of state oversight in postsecondary education, highlighting the strategic interactions that define this domain. By providing a historical synthesis, introducing new conceptualizations of governance, and applying the SAF framework, this dissertation contributes valuable insights for research, policy, and practice. It calls attention to the strategic use of exemptions and the delegation of oversight responsibilities, emphasizing the importance of adaptable, responsive regulatory frameworks that can address the diverse needs of today's higher education landscape.

The primary aim of this dissertation was to explain the complex nature of postsecondary oversight and state authorization in the U.S. using a historical lens. In this comprehensive historical review, I traced the evolution of state authorization from its earliest instances in medieval Europe to the present-day practices in the U.S. In doing so, this dissertation not only uncovered the roots and transformations of state authorization mechanisms but also situated these developments within a broader socio-political and regulatory context. Findings highlighted the enduring tensions, negotiations, and shifts that have marked the field of postsecondary education. By charting this historical trajectory, this dissertation offered a detailed exploration of the regulatory landscape, revealing an intricate interplay between educational institutions, state agencies, students, policymakers, accrediting bodies, and other stakeholders over time.

My investigation was guided by the theory of SAFs, a theoretical framework that illuminates the dynamics between various social actors within the realm of higher education oversight. This approach shed light on the historical progression of state charters, authorization,

and licensure as well as helped to identify the key players—incumbents, challengers, and governance units—involved in shaping the rules of the game, the issues, and the processes. Through this lens, I examined the pivotal issues, debates, and regulatory frameworks that have influenced postsecondary oversight and authorization, as well as the formation and interaction of social fields that underpin governance and administration in this sector. My findings demonstrate how SAFs elucidate the underlying tensions and contentions that have historically marked the relationship between campus and state in the oversight of private and public postsecondary education.

While this dissertation is rooted in meso-level theory, it also signals a pivotal shift in societal perspectives toward higher education, indicating a broader reevaluation at the macro level of the logic of good faith (Meyer & Rowan, 1977). At a time when the value of higher education is under unprecedented scrutiny—questioning the economic returns for individuals, states, taxpayers, and society at large—this shift implicates the application of the logic of good faith in the realms of institutional accountability and state oversight. The erosion of implicit trust in higher education organizations has led to a call for increased oversight. Trust in these institutions appears varied, with public universities and prestigious private Ivies traditionally enjoying greater confidence than others. However, the increasing frequency of closures of non-compliant institutions, alongside growing critiques of accreditation quality and the emphasis on return on investment, suggests a potential decline in the logic of good faith even among entities previously held in high esteem. This changing environment has prompted the definition of more explicit institutional goals, thereby reducing the once prevalent goal ambiguity and complicating the evasion of direct scrutiny. Consequently, inspections and evaluations have evolved from ceremonial acts to exercises in direct scrutiny. In the March 2024 Negotiated Rulemaking, this

notion was highlighted when the USED and student advocates suggested eliminating the use of exemptions by state regulators for public institutions, accredited institutions, and institutions in operation for at least 20 years. Ultimately, the focus on institutional quality and the calls for oversight are more pronounced than ever, compelling a reevaluation of the logic of good faith.

In this dissertation, I redefined the understanding of postsecondary oversight and state authorization in the U.S. by providing a comprehensive historical synthesis, presenting a new conceptualization of governance, and applying the theory of SAFs to explore the intricate dynamics of state governance. Through a detailed examination of the socio-political and historical contexts that have shaped state oversight mechanisms, I underscore the strategic nature of exemptions and delegated oversight, advocating for a nuanced approach that considers the capacity and strategic considerations of state agencies. By enhancing our understanding of state oversight, findings from this dissertation can be leveraged to improve outcomes for students, ensure public accountability, and uphold the integrity of the higher education system, thereby supporting a more effective governance framework that is responsive to the evolving needs of students, the public, and the state in the contemporary educational landscape.

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