

Gainful Employment Within the Post Secondary Education Field

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Public Administration 611 – Law and Public Policy

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American Public University System

Commented [CB1]: Nice work Charles! Good job setting the historical precedent. I would like to have seen you go into the politics behind the act too – maybe on a future paper! Well done. Just a few small grammatical errors you could catch with one more proof.

Abstract

For-Profit school systems in today's time are under a lot of scrutiny by politicians and many laws have been put in place to address how school systems should get federal funding. However, while there is a lot of pressure on the for-profit sector, the question can be raised as to the laws and regulations that have been put into place to regulate the for-profit school sector. One regulation that has been put into place recently is the gainful employment requirement that a college or university has to achieve in order to get federal funding. This research project will provide an overview of for-profit schools including their legal obligations, effectiveness of the for-profit schools, and policy implications on the for-profit schools through the use of scholarly articles. Once the information has been gathered I plan on giving my recommendation if for-profit schools should have to adhere to different regulations than that of non-profit schools.

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Getting accepted and going to get a higher education at a College or University is one of the most memorable moments that people have after getting out of high school. The people that have made the decision to get a higher education are not thinking about the College or University in regards to if it is a non-profit or a for-profit college or university. They are just excited that they have been accepted and what they are going to be able to achieve from getting a better education. However, it is important to understand the difference of a for-profit school compared to a non-profit school. It is also important to understand that for-profit schools have really come under a lot of scrutiny by politicians and many laws have been put in place to address how school systems should get federal funding. This research paper will provide an overview of for-profit schools including their history, legal obligations, effectiveness of the for-profit schools, and policy implications on the for-profit schools. Once all of the information has been reviewed one will be able to see that for-profit schools are being treated unfairly in regards to having to adhere to different regulations than that of non-profit schools.

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What the Paper is Not Looking Into

There are many different types of for-profit schools that could be looked at within this study. There are elementary, middle and high schools that are run by for-profit companies. There are charter schools, private schools, and even virtual schools at the elementary and secondary level. However, for the purposes of this study the only type of for-profit schools that will be looked at and recommendations made about schools that operate within the post secondary level. The reason is due to the limitations of time that are given to write this research paper.

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The Differences between For-Profit and Non-Profit Schools

It is important to understand the differences between a for-profit college or university compared to a non-profit college or university. The primary and biggest difference is that for-profit colleges and universities are operated in a manner that is concerned ~~with~~ making a profit for the shareholders involved with for-profit schools (Bennett, Lucchesi, & Vedder, 2010). A non-profit organization is not in operation to make a profit. The only business that they are in is to teach the students and they are not concerned with making a profit while doing so. Another difference between a for-profit school and a non-profit schools is where the majority of the money comes from to operate the college. A non-profit college or university is one that relies “heavily on government appropriations and private donations” (Bennett, Lucchesi, & Vedder, 2010, p. 5). A for-profit school is one that gets the majority of its funds from the tuition the students pay to attend the school (Bennett, Lucchesi, & Vedder, 2010). Another difference is that for-Profit schools are able to change and offer different types of educations to their students in a quicker manner, whereas a non-profit is not able to respond to market conditions as quick or at all.

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It is also important to look at the facilities of both for-profit schools and non-profit schools. For-profit schools “have fewer square feet of space per student, use their space more intensively and, most important, generally do not own it – they rent from private entrepreneurs” (Bennett, Lucchesi, & Vedder, 2010, p. 7). One of the reasons why for-profit schools normally rent is because it allows them to quickly respond to market conditions and the needs of the students that attend the for-profit schools. If a school was to own a location then it would make it harder for the school to respond to the students that are attending because a certain program might be growing at a quick rate and in order to meet the needs of the students, the for-profit school can find another location to rent to meet the needs of the students that are in the program.

Commented [CB6]: Good, as an example the nonprofit institutions are all moving toward online programs to capture that nontraditional student and the for profits have been there for years.

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Non-profit schools generally have large campuses and more square feet of space per student. Generally speaking non-profit schools have large recreational facilities and sports complexes for students to take part in or attend (Bennett, Lucchesi, & Vedder, 2010).

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The History of For-Profit Schools

When looking at the for-profit school industry it is important to have a clear understanding of the history of the industry. The first records of for-profit schools within the America’s “indicate that by as early as 1660 Dutch settlers had well-established evening schools for teaching of mathematics, reading, and writing” (Ruch, 2003, p. 52). These schools did not have to have any sort of oversight from the government or governmental approval to be run (Ruch, 2003, p. 52). Over time the demand for these types of schools grew and programs were added that would allow people to be taught skills that were in high demand during these early years such as “surveying, navigation, and bookkeeping” (Ruch, 2003, p. 52). These early for-profit schools were taught by the people that were trained as “clergy, who made their living as teachers and tutors” (Ruch, 2003, p. 52). One of the biggest proponents of for-profit education was Benjamin Franklin because he was actually a product of the system (Ruth, 2003).

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Since the 1660’s the growth of for-profit colleges and universities has come very far. The one college that really helped shape the for-profit post secondary industry into what it is today is that of University of Phoenix. The University of Phoenix went public for-profit in 1994 and shortly after many other schools followed and went public for-profit (Ruth, 2003). Today there are millions of people that attend for-profit post secondary schools. In the academic year of 2010-2011 alone the for-profit schools enrolled “about 12 percent of all post secondary students, [which was] about 2.4 million” people (National Conference of State Legislatures, 2013, para. 1). A short list of for-profit secondary institutes today is: University of Phoenix,

American Public University System, Strayer University, and Grand Canyon University. These are just a few of the for-profit secondary schools that are in operation today. Some of the advantages that the for-profit colleges have is that they have more online degree programs and are tailored towards people that are older or have or looking to change their careers.

Legal Obligations of For-Profit Schools

The legal obligations of for-profit schools is that they are educating the students that are attending these schools. If a student has chosen a for-profit school then the legal obligations are not any different than them attending a non-profit school. The expectation of the student is that they are going to get an education that will benefit them in some sort of career that they are pursuing. Thus meaning that the legal obligation of a for-profit school is that they are indeed educating the students who are attending the college or university.

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Why the Negative Publicity?

The question can be asked if for-profit schools have been around for a long time why all of a sudden have they started getting a bad reputation? The reason is due to some investigations that were carried out by the government and media that showed the for-profit schools carry out some behavior that was not good. The for-profit schools were taking part in behavior that was considered deceptive, and the schools also took part in carrying out “aggressive and manipulative tactics to enroll as many students as possible, without regard for their potential for success or ability to afford tuition, in an effort to maximize profits” (National Association for College Admission Counseling, 2015, para. 5). In other words, these reports coming out caused many people to lose faith in for-profit colleges and universities and made them think all schools that were for-profit acted the same. The reason why these reports caused people to lose faith in the for-profit schools is because the reports showed that the companies that ran the schools made

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profits more important than the individuals that went to the schools. Thus meaning that people would lose faith in the schools that were operated by for-profit companies.

If the general public is given negative information then it is going to cause people to lose faith in whatever is being reported. The media did not help for-profit schools. The media caused some people to lose faith in for-profit schools due to the negative information about the schools released to the public. For example, the media has come out saying how much money the people who are running these schools are making. Also, the media is pointing out the default rates that are being caused from students at the for-profit colleges. The media has pointed out that students who have attended schools that are for-profit are more likely to default on their student loans compared to the counterparts of students from non-profit schools (Grose, 2011). The information that came out about for-profit colleges showed the majority of the money that for-profit schools got was from federal aid programs (Grose, 2011). Thus giving people the impression that the for-profit schools were taking advantage of the students and straddling them with a lot of debt that they would not be able to repay after they left the school they were attending. The last piece of information that came out when the for-profit schools were getting a lot of negative attention was the amount of money that the people running these schools made. Grose (2011) pointed out that the CEO of the company that runs Strayer University “pocketed \$41.9 million” in one year “or more than 24 times the \$1.75 million paycheck earned by Columbia University President Lee Bollinger, the top-paid Ivy League school head” (p. 18). In other words, the information that was coming out about the for-profit schools caused many people to lose faith in the schools and wanted to see more oversight given to these schools. The oversight would ensure the companies that ran the schools would not be able to take advantage of the students attending these for-profit schools.

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What Has Negative Publicity Caused?

As a result of the negative publicity it has caused some regulations to come out that can affect the entire education system as a whole. The regulations that came out as a result of the negative publicity ~~are is~~ known as the gainful employment regulations. The basis for these regulations coming out is because the government wanted to ensure two things with the regulations. First, the government wanted to ensure that it was getting a bang for its buck or a return on its investment from aid and student loans that it was giving out to students in college (Heller, 2011). Second, the government wanted to make sure that the students attending the for-profit colleges are not being taken advantage of (Heller, 2011). Originally the regulations that were proposed involved the rules that included the “the Debt-to-Income Test and the Debt Repayment Test” (Xu, 2014, p. 58). However, the Debt Repayment Test was actually “invalidated upon judicial review” (Xu, 2014, p. 58). The reason why the regulations were invalidated was because the debt repayment test was considered by the court to lack any real rational basis (Xu, 2014). In other words, the government has been working on a way to impose regulations on the for-profit postsecondary sector for a few years now.

The Department of Education did put forth a new set of rules that apply towards the gainful employment rule. The final rule that has been put in place as of July 1, 2015 states that graduates of programs can't have “loan payments greater than 12 percent of their total earnings and greater than 20 percent of their discretionary earnings” (Bidwell, 2015, para. 8). In other words, if a for-profit school has graduates that have student loans and the payments are more than 12 percent then the school would fail the gainful employment regulations that have been set forth. Furthermore a for-profit school will be placed on warning if the graduates of the programs

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“have loan payments between 8 percent and 12 percent of their total earnings, or between 20 percent and 30 percent of their discretionary earnings” (Bidwell, 2015, para. 8).

Gainful Employment is Not a New Concept

The gainful employment provision of federal law is not a new concept. The words gainful employment has been in Title VI of the Higher Education Act since 1965. However, in 1992 the verbiage of the Title VI of the Higher Education Act changed when it was changed by Congress to basically state that for-profit secondary schools would be treated differently than that of non-profit secondary schools (Mendelsohn, 2012). However, the gainful employment was never really defined within the law. Thus prompting the Department of Education to pass regulations that would be imposed against the for-profit secondary schools.

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What happens if a School is Not in Compliance with Gainful Employment

It needs to be pointed out what can happen to a for-profit school in the event that it does not do well in regards to the gainful employment regulation that has been put into effect. The actions that can be carried out towards a for-profit school are-is pretty severe. The reason why is because if a program that is being run by a for-profit fails the gainful employment regulation it would mean that the school would not actually be “eligible to receive federal financial aid” (Bidwell, 2015, para. 8). If a for-profit school loses access to get federal financial aid from its students in certain programs, it would mean that it could hurt the for-profit school because a lot of the money that it gets is from federal financial aid programs.

Commented [CB16]: recent DoD policies toward the University of Phoenix are also making it difficult by saying they will restrict aid going to that institution.

What Has One For-Profit School Done?

There has been one for-profit school that has looked at the for-profit status and has thought about making a change of their tax status. That school is Grand Canyon University. Grand Canyon University has looked into taking steps to becoming a non-profit school (DeTar,

2014). If Grand Canyon University did decide to become a non-profit school it would mean that it would leave the negative publicity for-profit schools have gotten behind. Another advantage of becoming a non-profit school is that it would actually be able to save money on the amount of taxes the University has to pay to the federal and state governments since it is a for-profit organization. The way that Grand Canyon would go non-profit is by raising enough money to buy out the shareholders and stakeholders who own stock within the company.

A for-profit school looking into going non-profit just shows that it might be beneficial for a school to not be for-profit with the regulations that have been put forth that are going to be used towards for-profit schools. One can also conclude that if Grand Canyon University does indeed go non-profit then many other for-profit schools would possibly consider going non-profit as well. With that said it is important to point out that at one point in Grand Canyon's history it was a non-profit school. Thus meaning that it might be looking at going back to non-profit status just because that is the model that is more beneficial towards the school.

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For-Profit Schools Being Treated Unfairly

By looking at all of the information one can see that for-profit schools are being treated unfairly because they are having to adhere to different standards than that of non-profit schools. Barton (2015) noted that a task force of college and university Presidents met and came out with a report that stated all higher education regulations should actually be related to education (para. 2). With that said one could argue that putting regulations in place that only affect the for-profit post-secondary school sector is going against the thought that regulations which are being passed by the Department of Education should only be related to education.

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If regulations on higher education are not used correctly then it can actually cause some regulations to "act as barriers to innovation" (Barton, 2015, para. 7). In other words, if

regulations are put in place such as the gainful employment rules and other regulations could actually hurt all areas of higher education. Thus meaning that there is the possibility some students who can only attend a for-profit post-secondary school could be hurt by the actions carried out by the Department of Education and the regulations that they pass.

Issues

The issues that surround the for-profit post-secondary field of education is how will the schools be affected by the gainful employment law? Another issue is why ~~are~~ non-profit post-secondary schools being treated differently than for-profit schools? A third issue that for-profit post-secondary schools are facing is the amount of money that is being paid to the people that ~~are~~ ~~is~~ running the schools.

Recommendations

By looking at the for-profit post-secondary schools and the issues they are facing one needs to have a clear understanding of the recommendations that are presented in order to know how to respond and act over the next few years. The first recommendation is that the for-profit post-secondary schools need to make sure the amount of money they are paying the people who are running the schools is brought down and is not as high as it currently is. With that said the likelihood of this taking place is slim to none. The reason is because the people who are running the schools are not going to voluntarily give up pay. A second recommendation is that the for-profit schools partner up with the Association of Private Sector Colleges and Universities and go after the Higher Education Act and try to get it changed. The law as it is written is unfair for for-profit colleges who are being treated differently than that of non-profit colleges and universities. More than likely a for-profit school will actually sue the Department of Education once it loses access to federal funds due to the gainful employment act. When this takes place will be when the gainful employment regulation will have the possibility to be reviewed by the court. In the meantime the for-profit post-secondary schools need to try to get laws passed by Congress to treat both non-profit and for-profit schools the same. This is possibility the best course of action,

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because a college should not be treated any differently just because it is a non-profit or for-profit post-secondary school. Studies have been done that show the for-profit post-secondary schools do indeed meet the needs of many students that attend these schools. Thus meaning that if they are treated differently than non-profit schools then it could end up hurting many students in the long run. It is important to say that the recommendation is to not do away with the Higher Education Act. The recommendation is just that the gainful employment act should be put towards both for-profit and non-profit colleges the same. The reason is because there are non-profit colleges that should have their degrees looked at because the cost of the degrees at some non-profit schools is pretty high. Thus meaning that if federal funding is being used at these post-secondary schools then they should be working within the gainful employment rule as well. A third recommendation that needs to be looked at by the for-profit schools is the degrees that they are offering is actually going to benefit the students without burdening the students after they have completed their degrees. The reason why the for-profit schools need to do this is to make sure they are not charging too much for the classes and if it is not being a success then the college or university needs to make a decision on possibly ending that program. The reason is if a for-profit school takes the initiative to review their own programs before losing funding then it could make the school look better within the media. The reason is because if a school stops a program and puts more efforts towards other programs it could gain more awareness for its programs and get talked about in a good manner.

Conclusion

For-Profit post-secondary schools are going through a tough spot right now and are facing the regulations that have been spelled out by the Department of Education about gainful employment. The for-profit post-secondary schools have to take action in order to make sure

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