



Will Colleges Fight Rule By Reg, Or Be Hushed By The Money?

By Neal McCluskey
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I have written in the recent past about the pervasiveness and dangers of rule by regulation, and touched a bit on how this has affected higher education. I've also noted how much – but not all – of regulatory control of higher ed could be avoided were colleges not addicted to federal dollars. Well, last week a report came out on this topic from the Task Force on Federal Regulation of Higher Education, basically a group of higher ed leaders asked by several U.S. senators to report on the federal regulatory burden. Given the makeup of the task force, its findings should probably be taken with a grain of salt – members had an incentive to give worst-case estimates of the regulatory burden they face – but the numbers should still give Americans pause. Here are some big ones:

- The Higher Education Act has roughly 1,000 pages of regulations attached to it.
- The 2013-2014 Federal Student Aid Handbook – one example of sub-regulatory, U.S. Department of Education guidance – is more than 1,050 pages long.
- The Handbook for Campus Safety and Security Reporting – basically guidance for the Clery Act – is roughly 300 pages long.
- Colleges devote about 26.1 million hours annually to filling out federal forms. Moving on from the broad numbers, the report laments numerous rules in-depth, including regulation of accreditors, verification of student aid eligibility, and several Clery Act problems. And then there's this statement, buried too deep in the report but oh, so timely, for reasons going far beyond higher education: "in recent years, the Department has increasingly used the regulatory process not in response to any specific legislative change enacted by Congress, but rather as a means to achieve its own policy objectives."

Of course, this last complaint addresses the worst possible manifestation of rule by regulation: regulations promulgated not through law, but presidential fiat. The question now is, will colleges boldly stand up to this, or will they mainly whisper their complaints because they like federal dollars too much? Alas, I'm betting on the latter.

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