
Regional

Post secondary education needs common sense

Everybody hates red tape. Obviously there are good reasons why regulations exist. From avoiding embezzlement to plain accountability we know that regulations must exist. The problem is that excessive (and bad) regulations can be damaging to both private and public enterprise, and higher education is not an exception.

During the 2013-14 fiscal year, the federal government provided nearly 20 million grants and loans to students from low- and middle-income families totaling more than \$160 billion. For the same period the National Institutes of Health increased their support to postsecondary institutions to roughly \$30 billion, while the National Science Foundation provided nearly \$7 billion. Millions more came from other federal agencies.

The agency in charge of making sure postsecondary institutions that benefit from federal support are in compliance with all laws and regulations is the U.S. Department of Education. The mandates that have to be followed for compliance run about 2,000 pages of text. They tend to be so complicated and obscure that the government has to issue amendments or clarifications at a rate of more than one per work day.

The consequence is a complicated and confusing web of regulations that are expensive to comply with, and that distract postsecondary institutions from their main business: educating students.

Given all of the above, in 2013, a bipartisan group of U.S. Senators established a task force of college and university presidents and chancellors to study federal regulation of higher education broadly and identify potential improvements. This group just published

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their report and the results of their work were astonishing in many ways.

In addition to making very sound recommendations, the 141-page document titled, "Recalibrating regulation of colleges and universities," provides facts and figures that are astounding, although not totally surprising.

For example, they concluded that, "Many rules are unnecessarily voluminous and too often ambiguous, and that the cost of compliance has become unreasonable." Among the recommendations and conclusions of the panel was for the Department of Education to recognize "good faith" efforts by postsecondary institutions to comply. Another conclusion was that the government appears indifferent to the regulatory burden it imposes.

The panel also concluded that, "Many regulations are unrelated to education, student safety, or stewardship of federal funds—and others can be a barrier to college access and innovation in education."

Just to give you an idea of how much work is behind complying with all federal regulations, colleges and universities have to be aware of the nearly 175,000 pages in the "Code of Federal Regulations," which means hundreds of thousands, if not millions, are spent just trying to keep up with all mandates. Last year, Stanford University alone spent \$29 million just to remain in compliance with government regulations

— about 7.5% of what they collect in tuition money from students. That is one of the many reasons why students' tuition and fees keep increasing year after year. In fact, one of the recommendations of the panel is for the Department of Education to better assess the cost of compliance.

To make things worse, the Department of Education is very slow on acting on those regulations. They have been known to take up to 17 years in some cases in ordering corrective measures when they see violations. And when conducting their own investigations they follow procedures that seem to defy common sense.

Take, for example, the notorious case of the 2007 mass shooting at Virginia Tech. It took four years for the Department of Education to mandate fines to the institution for violations of the Clery Act (aimed at keeping and disclosing crime information by colleges and universities), and they did so without ever consulting with any representative of Virginia Tech about the tragedy. They did not even visit the campus to conduct an investigation.

Other recommendations of the task force report were aimed at streamlining compliance procedures in order to reduce costs, eliminate barriers to innovation and shed more clarity about proper policies and procedures.

Yet, these are not the only barriers institutions of higher education face today in terms of compliance. In addition to the federal regulations, states keep increasing their own regulations, become more intrusive into the business of education. This, of course, is paradoxical since state governments are providing less and less money but impose more oversight.

At one time I worked for a state institution that had levied a cap on the number of vehicles state universities could own. The number mandated was arbitrary and began to create unnecessary problems. For example, one of the faculty members in one of the institutions that had already reached the cap received a major federal grant that included funds for him to buy an all-terrain vehicle he needed for his fieldwork. Yet, before buying it he had to receive a special dispensation from the governor of the state despite the fact that he was not even using state money for the purchase.

Sometimes postsecondary institutions inflict the damage themselves. I have been personally involved in authorizations for small amounts of money that require a dozen of signatures to be approved. Add to that regulations that are virtually impossible to enforce because either the language is too vague or because lack of common sense in their application.

For example, I once witnessed how the office of institutional compliance at a university tried to force the hiring of a legally blind person as a video editor, despite the fact that it is impossible for a person with that disability to perform such a job.

If we want institutions of higher education to be more responsive to the societal needs, then we have to ensure that external and internal regulations make sense and don't give accountability a bad name.

Dr. Aldemaro Romero Jr. is a writer and college professor with leadership experience in higher education. He can be contacted through his website at: <http://www.aromerojr.net>

The opinions expressed in this column are those solely of the author.