

TOWARD INSTITUTIONAL AUTONOMY OR NATIONALIZATION?  
A CASE STUDY OF THE FEDERAL ROLE IN U.S. HIGHER EDUCATION  
ACCREDITATION

by

Leah K. Matthews  
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## **Dedication**

To James,  
whose encouragement, support  
and unwavering belief in me  
made this possible.

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## **Abstract**

### **TOWARD INSTITUTIONAL AUTONOMY OR NATIONALIZATION? A CASE STUDY OF THE FEDERAL ROLE IN HIGHER EDUCATION ACCREDITATION**

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The centerpiece of the United States government's commitment to assuring that more Americans enroll in college and earn a degree is a massive system of federal financial aid that delivers billions of dollars to millions of students enrolled in accredited universities across the country. Since 1952, the federal government has relied upon private accrediting organizations to serve as the gatekeepers for federal aid programs, using accreditation status to determine whether institutional quality is worthy of enrolling students who receive federal aid. This dissertation is a case study of the federal role in higher education accreditation. It examines the changes to federal policies that took place between 1992 and 2008 that related to the Secretary of Education's criteria for recognizing accrediting organizations and their capacity as gatekeepers of federal financial aid. Data obtained from observations, interviews, and historical documents are analyzed using the policy theories of Deborah Stone and John Kingdon. The findings are pertinent to higher education accreditation and policy research.

## **Chapter 1: Background**

Accreditation is higher education's principal means of evaluating and assuring quality of education and continual improvement. For over a century it has been a key feature of the independence and autonomy of American higher education, using a process of self-study and peer review to apply standards for colleges and universities in relation to the mission and educational objectives established by the institution. With the implementation of the Veterans Readjustment Act of 1952, the federal government turned to accreditation as a way to determine education quality. The federal government utilized these private organizations as stewards of federal financial aid dollars distributed to students attending accredited institutions and formalized the process with the Higher Education Act of 1965. This process remains in place for determining the availability of federal funding to students and institutions—no small matter, given the current level of federal investment. During the 2010–2011 academic year, the federal government distributed an estimated \$169 billion in financial aid to students attending accredited institutions (Baum & Payea, 2011).

### **General Statement of the Problem**

Questions and controversies regarding federal involvement in accreditation and its use of private nongovernmental accreditation organizations have continued to ebb and flow as the 1965 Higher Education Act (HEA) has gone through reauthorization

processes by Congress. Peter Ewell (2008) referred to the “principal–agent problem” when describing this relationship: “When the agent (private accreditation) to whom oversight authority is delegated is a different entity from the principal (government) it may not establish standards or act upon them in a way the principal would have done,” he wrote, continuing, “the result is a dynamic of greater and greater prescription of the agent’s activities by the principal to ensure that the government’s wishes are carried out” (p. 89).

The complexities of the principal–agent dynamic have, at times, come to a head in the relationship between private accreditation and the federal government and in calls for reform of higher education (Fincher, 1972). In 1979, frustrated that accrediting organizations refused to assert externally imposed standards of quality on accredited institutions, Joseph Califano, the Health Education and Welfare Secretary, recommended that the Office of Education stop relying on accreditation as the method by which institutions receive federal financial aid. Instead, he recommended that eligibility rest on state authorization alone (Orlans, 1980). A perspective of the emerging federal role by a Circuit Court Judge provides another example of the turbulent relationship between private accreditation and the federal government in the late 70s and early 80s. Fed up with the proliferation of legislation, regulations, and judicial opinions affecting higher education that stemmed from the federal-accreditor relationship, the Circuit Judge for the U.S. Court of Appeals for the District of Columbia reviewed a decade’s worth of litigation on the subject and asserted that critics of governmental involvement in higher education and accreditation grossly overstated the real impact of the legislative

developments that occurred in the 1970s (Edwards, 1980). Then, in 1993, convinced that academic accreditation and the independence of the nation's colleges and universities were threatened by the government's urge to regulate higher education, nine regional accrediting bodies and seven national accrediting bodies came together to form the National Policy Board to challenge "restrictive and onerous government intrusion" that resulted from the 1992 HEA reauthorization (Atwell & Rogers, 1994).

The relationship between higher education accreditation and the federal government today remains a topic of debate. Some view the U.S. Department of Education as asserting its direct involvement in assessing matters that relate to the academic quality of higher education (Broad, 2010; Field, 2010; Hauptman & Fritschler, 2010; Lederman, 2010). Former Assistant Secretary for Postsecondary Education Lee Fritschler and policy analyst Arthur Hauptman are among those who expressed concern regarding proposals that called for increasing federal involvement that followed the reauthorization of the HEA in 2008:

Should these proposals become reality, there would be a tremendous shift in the relationship between government and higher education in this country ... these proposals seem largely to ignore the traditional role of faculty in judging whether and what students have learned, and the responsibility of institutions in establishing credit hours ... a terrible misstep. (Hauptman & Fritschler, 2010)

Molly Corbett Broad, President of the American Council for Education, also raised concern about increasing federal involvement. Broad called for higher education

institutions to understand fully the process of accreditation, noting that the leadership of these institutions was in need of a wake-up call. She wrote, “Higher education has so far navigated its way through the environment of increased regulatory interest without substantial changes to our system of quality assurance or federally mandated outcomes assessment. But that has only bought us time” (Broad, 2010, Commentary section, para. 4).

Federal involvement sometimes bypasses the U.S. Department of Education and members of Congress communicate their expectations directly to privately operated accrediting organizations. For example, in an open letter to the North Central Association of Colleges and Schools Higher Learning Commission, Senator Durbin called for timely public release of information about the March 2012 accreditation review of the University of Phoenix. Senator Durbin called on the Commission to include information about the institution’s programs and practices, in order to help prospective students and their families make informed decisions about postsecondary education choices (Durbin, 2012).

Higher education accreditation consists of a myriad of privately operated nongovernmental organizations that state and federal governments have long relied upon as a means of assuring quality and improving quality in U.S. colleges and universities. Accreditation is an enterprise that was envisioned and created by U.S. colleges and universities without federal involvement. It aligns with a system of values that support institutional autonomy, encourage quality and improvement, and respect the institution’s responsibilities for establishing its priorities.

## **Research Question**

There is a need for research that examines the evolution of the role of the federal government in higher education accreditation. This study sought to respond to this need and framed the inquiry around the following research question:

How are changes to federal policies for higher education accreditation that took place between 1992 and 2008 perceived by decision makers and association officials who represent the interests of U.S. Institutions?

The methodology employed for this dissertation was case study. It utilized an intensive description and analysis of a phenomenon such as a program, an institution, a person, a process, or a social unit (Merriam, 1998). For this study, the case was perspectives of higher education policy changes that took place between 1992 and 2008.

The process of developing higher education policies and regulations involves agenda setting and policy formation activities that take place in the federal government. To frame the data gathered in the case study, I used Kingdon's (2003) multiple streams theory and Stone's (2002) polis model of decision making. Kingdon's theory posits that separate streams of problems, policies, and politics come together at certain times and rise to a decision agenda that becomes enhanced if all three streams are coupled together. Kingdon described the opportunity for the timeliness of decision making as a policy window and explained that a policy window opens "because of change in the political stream or ... because a new problem captures the attention of governmental officials and those close to them," thereby providing the opportunity for action in the form of policy proposals and alternatives (p. 203). Deborah Stone described the decision making process

as a polis model. In Stone's explanation, policy decisions are reached through political processes grounded in the meanings of goals, problems, and solutions that utilize emotion, stories, and symbolism to influence public opinion. Kingdon's multiple streams theory and Stone's polis model are used to frame the various influences on the legislative process to amend the 1965 HEA in 1992, 1998, and 2008 and the resulting regulatory framework for accreditation recognition.

### **Origins of Higher Education and Accreditation**

A brief overview of the history of higher education and accreditation provides background of the federal government's role and accreditation's role in higher education. This background contributes to understanding the context of the research problem. Also described below are the onset of these roles and how they have changed and evolved over time.

To begin, the United States does not have a centralized system of oversight that presides over colleges and universities, nor does it have a government-sponsored approach to quality assurance that is typical in most other countries. Federal involvement with institutional quality has historically been limited to those characteristics and capacities that determine adequate stewardship of federal funding through financial aid programs (Ewell, 2008). U.S. higher education functions in a decentralized manner, with the responsibility for licensing authority and degree authorization distributed among the 50 states. The institutions themselves are self-governing. Faculty members within the institutions are primarily responsible for academic leadership and decisions related to curricula and evaluating student achievement. Qualities such as these contribute to higher



education's diversity and independence. Institutional independence, or autonomy, is a central attribute of U.S. higher education. Early U.S. institutions such as Harvard, William and Mary, and Yale established independent governance structures that paved the way for the institutions that followed in their footsteps (Harclerod & Eaton, 2005). This continued as higher education grew and expanded in the United States. This pattern of autonomous operations established independence and academic freedom as strong traditions in higher education. These characteristics continued to replicate and evolve out of the growth of democracy in American life (Brubacher & Rudy, 2008).

The right to institutional independence from governmental control has a history of passionate defense. An example of prominence in this regard is *Dartmouth College v. Woodward*. In 1769, Dartmouth College received a charter from the King of England establishing it as a college, and in the years that followed, the State of New Hampshire granted lands to the college, with the college taking on the function of providing higher education in the state (Johnson, 1983). On June 27, 1816, New Hampshire amended the charter of Dartmouth College, reconstituting it as Dartmouth University with a new board of trustees and establishing the power of the state to name future board members (Johnson, 1983). The trustees of the original college sued the state of New Hampshire, claiming that under the U.S. Constitution, the state had no authority to pass laws impairing the obligations of contracts (Johnson, 1983). The U.S. Supreme Court ruled in 1819 that the state could not alter the charter of a private institution, and after this ruling, every state legislature with collegiate reform ambitions had new limitations upon it (Johnson, 1983). This important ruling paved the way for future protections of

institutional autonomy and independence among higher education institutions. Another example is a confrontation that took place between Grove City College, a private liberal arts college in western Pennsylvania, and the U.S. Department of Education. The dispute began in 1978 when Grove City College officials refused to sign an assurance of compliance with Title IX of the Education Amendments of the 1972 reauthorization of the HEA, which included draft provisions prohibiting discrimination (Graham, 1998). Grove City College officials refused to sign because they would not submit to a promise of future compliance with a yet unknown regulatory framework. All parties to the Grove City College dispute agreed that the college had not engaged in discrimination of any form prohibited by federal or state law, but because Grove City officials would not sign the statement of assurance, federal officials cut off all funding to students (Graham, 1998). The college and the four students whose financial aid was terminated filed suit, that resulted in a series of appeals that ultimately landed before the U.S. Supreme Court in 1984; the Court in a 6–3 opinion affirmed that indirect aid such as tuition grants and loans did trigger Title IX coverage and that federal officials could terminate the students’ financial aid eligibility (Graham, 1998). In 1997, Grove City College withdrew completely from all federal student loan programs. The Dartmouth and Grove City College examples provide insight into institutional commitment to independence from government involvement.

Accreditation, like higher education, formed independently of any federal participation. The creation of voluntary organizations to develop and promote quality standards for educational institutions is a uniquely American approach to academic

quality review (Harclerod & Eaton, 2005). The concept began to emerge toward the latter part of the 19th century, when problems were identified and conditions were created that led to a renewed search for educational quality (Semrow et al., 1992). The early ideas for how to coordinate the review of academic quality that appeared at the end of the 19th century were developed in response to problems and concerns that were evolving within higher education. Harclerod and Eaton (2005) identified the key factors and concerns that contributed to this unrest from 1870 to 1910 as

(1) the breakdown of the fixed, classical curriculum and the broad expansion of the elective system; (2) the development and legitimization of new academic fields (psychology, education, sociology, American literature); (3) the organization of new diversified types of institutions to meet developing social needs (teachers colleges, junior colleges, land-grant colleges, research universities, specialized professional schools); (4) the expansion of secondary and postsecondary education leading to the question: What is a college? and (5) a lack of commonly accepted standards for admission to college and for completing a college degree. (p. 263)

Thelin (2004) also wrote about the disarray of higher education and the lack of commonly accepted expectations for academic quality that surfaced as important issues between 1890 and 1910. Thelin pointed out issues such as social tracking and fragmentation between different curriculum studies, misleading enrollment and retention data, low levels of bachelor's-degree completion, and college alumni associations counting alumni as only having been enrolled (i.e., completing a degree was not required

for alumni status). Thelin attributed these issues to a lack of coherent planning in college admissions:

Most colleges adjusted to the growing interest in college attendance simply by admitting more students ... the only sign of institutional concern was the attempt to administer some basic screening on academic preparation. Eventually, this lack of systematic admissions would catch up with prestigious colleges whose pool of applicants stretched the limits of the campus' ability to accommodate large numbers. (p. 174)

As concerns about the state of higher education began to perpetuate, the idea of a peer evaluation process began to take form as a means to address the concerns. In 1872, the University of Michigan sent out an evaluation team of faculty to assess candidates for college readiness and report the results of their assessment (Harclerod, 1990). This practice caught on with other institutions. Shortly thereafter, groups of higher education institutions and educators in various regions of the United States began to organize private, voluntary membership groups for the purpose of evaluating aspects of educational quality (Harclerod & Eaton, 2005). These groups of educators worked to form stronger and more explicit academic standards and to form regional associations in geographic areas defined as New England, the middle states, the southern states, and the north central United States that by 1895 covered most of the United States (Harclerod, 1990). The first list of accredited colleges was published by the North Central Association in 1913, listing 75 institutions in 15 states, followed by the southern association in 1920 and the middle states in 1921 (Semrow et al., 1992). From there, the

regional associations began to mature into accreditation organizations with formal publications of accreditation expectations and lists of accredited institutions.

The process eventually developed into specific quality criteria and accreditation standards that addressed the “evaluation of an institution as a whole,” resulting in the creation of a self-evaluation methodology, a judgment of the self-evaluation by a visiting group of peers, and the final decision on educational quality and improvement by an elected board of peers based upon data gathered during the visitation (Nyquist, 1961, p. 10). The regional associations began to examine and improve upon their own approaches to accreditation, fine tuning the evaluation and peer-review procedures (Nyquist, 1961). These practices were established to assure educational quality, improve quality in colleges and universities, and build on the fundamentals of academic quality, continuous improvement, self-regulation, and peer/professional review as a means of establishing accountability in higher education (Ewell, 2008). Accrediting organizations were attentive to honoring institutional autonomy in setting academic direction; to valuing the freedom of faculty to decide what, how, and whom to teach; and to respecting the individual mission and purpose of the institution in evaluating its effectiveness (Harclerod, 1980).

Higher education accreditation’s practice of peer review and self-regulation continues today. In the decades that followed these early practices, the broader implementation of higher education accreditation, emerging public policy agendas, social problems, and events in American history and politics would bring about changes to the higher education landscape. The federal government would develop and implement

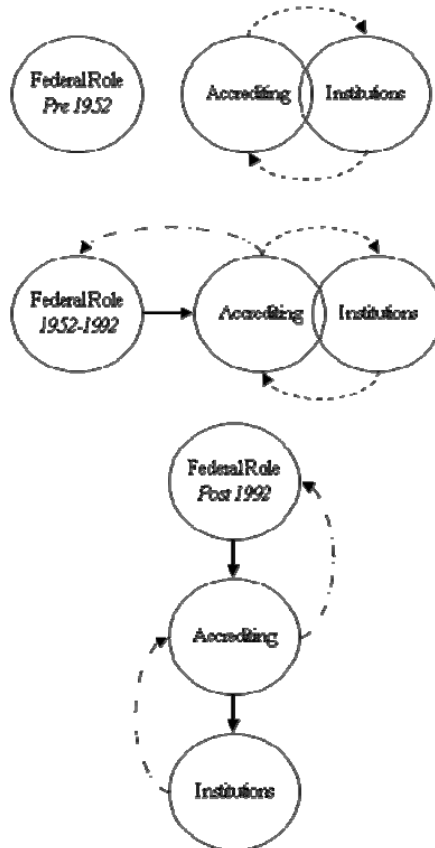
policies to put accrediting organizations to use in ways not anticipated by their founders, as these methods were available and appeared to be well suited to carrying out quality assurance (Ewell, 2008).

### **Theoretical Framework for the Study**

Much has been written about the HEA and accreditation. However, there is limited research that explains the multiyear transformation of the federal government's role in higher education and its reliance on private accrediting organizations to determine education quality, particularly following the 1992 amendments of the HEA. Searches of the education literature databases EBSCO, ERIC, ProQuest, Project Muse, and JSTOR did not render a study in this area.

The theoretical framework for this study (Figure 1) sets forth a visual interpretation of the evolving relationship between the federal government and accreditation, and by extension, higher education. This framework is based upon the concept that two events marked the onset and strengthening of the principal–agent relationship of the federal government with accrediting organizations: The Veterans Readjustment Act of 1952 and the 1992 Higher Education Amendments to the 1965 HEA. The dotted lines signify a reciprocal arrangement for information sharing between accreditors and the institutions; the dotted/dashed lines signify a regulatory obligation for information sharing between accrediting and the federal government; and the solid lines signify the onset of a principal–agent relationship, first between the federal government and accreditor and then between the accreditors and institutions. The literature review

presented in the next chapter provides a more extensive description of the background of this evolution.



*Figure 1.* Theoretical framework showing the onset of the principal–agent relationship between the federal government and accreditation.

### **Definitions of Terms**

Terminology commonly used to describe higher education policy, procedures, and accreditation processes and the definitions of these terms are provided as a resource to the reader of this study.

*Accreditation* – a process of external quality review created and used by higher education to scrutinize colleges, universities, and programs for quality assurance and quality improvement. It is carried out by private nonprofit organizations designed for this specific purpose (Eaton, 2009).

*Gatekeeping* – a term used broadly within higher education accreditation vernacular to summarize accreditation’s responsibility to be a reliable indicator of institutional quality that assures the appropriate use of federal financial aid programs at higher education institutions.

*Institutional autonomy* – the conviction that colleges and universities are independent self-governing enterprises and deliberately established as freestanding institutions outside of government authority (Ewell, 2008).

*Higher Education Act of 1965* – Public Law Number 89-329 (HEA); legislation signed into law on November 8, 1965, as part of Lyndon B. Johnson’s Great Society agenda, which made federal financial aid available to assist students with securing advanced education beyond secondary school (Johnson, 1965).

*Higher education institution* – an educational institution in any state that admits as regular students persons having a certificate of graduation from a school providing secondary education; is legally authorized within such state to provide a program of education beyond secondary education; is a public, nonprofit, or for-profit entity; and is accredited by a federally recognized accrediting agency or association.



*National Advisory Committee on Institutional Quality and Integrity (NACIQI)* – an advisory committee that exists pursuant to Section 114 of the Higher Education Act of 1965, as amended, and that was established under the Higher Education Act Amendments of 1992 (Public Law Number 102-325) to advise the Secretary of Education on matters related to accreditation and to the eligibility and certification process for institutions of higher education. The eighteen members of the committee are leaders from higher education, business, the public, and students. The House, the Senate, and the Secretary of Education each appoint six members to the committee.

*Negotiated rulemaking* – a process that emerged in the 1980s as an alternative to traditional procedures for drafting federal regulations. It brings together representatives of the agency (for example, the Department of Education) and the various interest groups (higher education institutions and associations) to negotiate the text of a proposed rule and reach a consensus through a process of evaluating their own priorities and making tradeoffs to achieve an acceptable outcome on the issues of greatest importance to them. The details for carrying out this process are in the *Negotiated Rulemaking Sourcebook* (Pritzker & Dalton, 1995).

*Negotiating rulemaker* – an individual who participates in the negotiated rulemaking process.

*Reauthorization* – the legislative process, typically carried out every 5 years (in the case of the Higher Education Act), whereby Congress reviews and either renews, terminates, or amends existing programs.

*Recognition criteria* – regulations used by the Secretary of Education in recognizing accrediting agencies to ensure that these agencies are, for the purposes of the Higher Education Act, as amended, or for other federal purposes, reliable authorities regarding the quality of education or training offered by the institutions or programs they accredit.

*Veterans' Adjustment Act of 1952* – Public Law Number 82-550, also known as the Korean War GI Bill of 1952, offered financial benefits to veterans of the Korean War. The significance of this legislative event as it relates to this study is that it initiated the idea of authorizing federal reliance on private accreditation in administering veterans' educational benefits. The essentials of this reliance structure and the legislative assumption upon which it rested would continue with the 1965 HEA and remain unchanged (Finken, 1994).

## **Chapter 2: Literature Review**

This chapter presents an overview of the literature related to higher education accreditation and federal policy. The databases EBSCO, ERIC, ProQuest, ProQuest Congressional, Project Muse, and JSTOR were searched using the terms higher education, higher education accreditation, regional accreditation, 1965 Higher Education Act reauthorization, higher education amendments, negotiated rulemaking, higher education policy, and accreditation federal recognition criteria. The first section of the literature review summarizes the history of the federal government's involvement in higher education quality assurance and accreditation. The second section focuses on commentary, analysis, and selected case studies of the reauthorizations of the 1965 Higher Education Act (HEA) amendments for the timeframe of 1992 through 2008. Selected citations from these statutes and from the relevant sub-sections of the Code of Federal Regulations (C.F.R) that implemented the statutes are included in the literature review. The reauthorizations of the HEA often took an entire 2-year congressional term or more for consideration. This is noted because, in some instances, the literature examines the length of time required for the reauthorization process and the impact this had on the eventual regulations that were formed to implement the legislation. Important elements of the literature review are Congressional Research Service (CRS) reports. These carefully prepared reports provide in-depth, accurate, objective, and timely

analysis of current and proposed legislation and reveal how issues and concerns were presented to Congress in the months (and sometimes years) leading up to an HEA reauthorization. Finally, the third section provides a review of Kingdon's multiple streams decision model and Stone's polis model at the end of this chapter because of their use and application to frame the findings in Chapter 3: Methodology.

### **Early Involvement: The GI Bill and the Onset of the Federal Connection**

American colleges and universities became unwitting partners in postwar federal policies almost as an accident and afterthought (Thelin, 2004). Prior to the onset of initiatives to expand the accessibility of higher education, federal involvement in quality assurance had been limited to a Commissioner on Education position established in 1867 to publish a directory of higher education institutions and summary data (Harclerod, 1990). That would change, however, due to multiple social, policy, and political influences that emerged following World War II. Focused intently on postwar recovery in 1944, the government guaranteed returning veterans education and unemployment benefits under Public Law Number 78-346, the Servicemen's Readjustment Act (also known as the GI Bill). This bill focused on strategies to prevent returning GIs from precipitously entering the labor market in order to allow factories time to switch from tank manufacturing to other industrial purposes (Thelin, 2004).

The Servicemen's Readjustment Act represents an important transformative event in the accessibility of college education and within the history of higher education. Thelin (2004) wrote, "One legacy of the 1944 GI Bill was that quantitative change prompted qualitative change in the structure and culture of the American campus" (p. 265). Another

perspective is that the GI Bill resulted in the belief that “everyone could go to college” becoming firmly established in the minds of the American people; college was no longer reserved for an elite few (Cohen & Kisker, 2010, p. 195). But the most significant new development was the onset of the federal role due in large part to the increase in federal funding directed toward institutions and student assistance (Harclerod, 1990). With the commencement of federal financial contributions in the form of education benefits to American soldiers, a new role for the government would begin to emerge in higher education.

The successor to the GI Bill, Public Law Number 82-550, the Veterans Readjustment Act of 1952 (also known as the Korean War GI Bill), pushed the involvement of the federal government deeper into higher education. Because of widespread abuse of the government’s funding that occurred following the Servicemen’s Readjustment Act of 1944, the Veterans Readjustment Act sought to implement provisions that limited access to federal education benefits to institutions accredited by organizations listed as recognized by the U.S. Government (Thelin, 2004). The Korean War GI Bill directed the U.S. Commissioner of Education to publish a list of approved accrediting organizations to provide the public with assurance of the educational quality of the institutions that held accreditation status. This arrangement was merely a clerical function; nevertheless it helped to establish accreditation as a more prominent feature of U.S. higher education. Cohen and Kisker (2010) summed up this unique arrangement:

The accreditation process had been higher education’s way of managing itself in the absence of the national ministry of education found in most

other nations. And in peculiarly American fashion, the federal agency most responsible for education accredited the accrediting groups. (p. 263)

Accreditation organizations became known as the gatekeepers of the federal funding that flowed to higher education institutions listed as accredited by an organization posted on the U.S. Commissioner's list of approved accrediting organizations. States would continue to monitor and sanction educational institutions within their borders for licensure and degree-granting approvals, and the federal government would make determinations of institutional eligibility for federal funds based upon information provided by independent accrediting agencies. With almost two dozen separate funding acts to administer, the Veterans Administration and the U.S. Commissioner of Education made extensive use of lists provided by accrediting associations to determine institutional eligibility (Harclerod, 1990). The resulting arrangement that came into existence became known as the "triad," with the federal government determining institutions' eligibility to receive federal monies through a certification process, the states chartering and licensing institutional activities and degree-granting authority, and accreditation organizations carrying out determinations of educational quality and institutional improvement.

The federal government's use of accreditation and its foothold on accreditation became firmly established. Harold Orlans (1975), a noted scholar of policy and higher education, offered this reflection on the effects of federal involvement and the voluntary aspect of accreditation: "The use of accreditation to determine eligibility for government funds and other public benefits has lent an involuntary and public character to accrediting

activities that were once regarded as entirely voluntary and private” (p. 2). The use of accreditation would evolve over time; as federal financial aid programs multiplied and expanded access to higher education to millions of Americans, the complexity of the federal–accreditor relationship would increase as well.

### **The Higher Education Act of 1965**

Higher education experienced an event that surpassed the significance of the Servicemen’s Readjustment Act and the Veterans Readjustment Act. The 1965 Higher Education Act was an act to “strengthen the educational resources of our colleges and universities and to provide financial assistance for students in postsecondary and higher education” (Higher Education Act of 1965, p.1). This was an important piece of legislation that came to fruition during the crest of the civil rights movement and the War on Poverty of the mid-1960s (Gladieux, King, & Corrigan, 2005). From the land-grant college movement to the GI Bill and the Korean War GI Bill, federal policy had continually taken an interest in expanding educational opportunities, with a major policy stream being financial support. But as the centerpiece of Lyndon Johnson’s Great Society, “the Higher Education Act of 1965 embodied for the first time an explicit federal commitment to equalizing higher education opportunities” (Gladieux et al., pp. 174–175). As such, the Johnson administration and Congress gave major attention to providing college access for both the financially disadvantaged and talented as well as to enacting legislation for higher education that would address poverty and discrimination throughout the United States (Keppel, 1987). President Johnson’s initiative was intent upon addressing the need for more higher education opportunities for lower and middle-income

families (Keppel, 1987). The arc of his initiative included providing program assistance for small and less developed colleges, supplying additional and improved library resources at higher education institutions, and improving the utilization of college and university resources to help deal with national problems like poverty and community development (Keppel, 1987).

The HEA was President Johnson's response to these needs. The ability of the Johnson administration, the House, and the Senate to work together on this initiative was enhanced significantly because all were controlled by the Democratic Party, a factor noted by Francis Keppel, the U.S. Commissioner of Education during the early evolution of the 1965 HEA (Keppel, 1987). He wrote, "Careful collaboration among the branches of government and the higher education community will be required if we are to achieve the full potential of the Higher Education Act in the coming years" (p. 49). The HEA would undergo multiple reauthorizations over the next 40 years.

One of the more challenging aspects of the HEA was that it expanded an already complex system of financial assistance opportunities for students and institutions. Programs such as College Work–Study, Supplemental Educational Opportunity Grants (SEOG), National Defense Loans (now called Perkins Loans), and Guaranteed Student Loans (now called Stafford Loans) were designed to identify the college-eligible poor and facilitate their access to higher education with grants to replace the contributions that their families could not afford to make. Gladieux, Hauptman, and Knapp (1997) explained the background of this legislative expansion as follows:



Earlier federal support had been prompted by specific national concerns: fostering a democratic citizenry, sponsoring research in the national interest, meeting perceived personnel shortages in the economy, compensating those who had served the country in wartime, and promoting scientific and military preparedness. With the 1965 legislation, a new dynamic began to shape the federal role in higher education, putting a spotlight on a broader moral imperative: removing inequitable barriers to individual opportunity. (p. 108)

Federal appropriations for student aid would continue to grow with the onset of new programs such as the Basic Educational Opportunity Grants (now known as Pell Grants) and the State Student Incentive Grant (SSIG) program that provided matching federal funds for need-based state scholarship programs as well as federal incentives to help generate credit financing for students through federally guaranteed loans (Gladieux et al., 1997). The continuing issue at hand, however, was the commitment of millions of dollars in federal funding that was flowing toward higher education and how to establish a more structured gatekeeping function that assured the responsible stewardship of taxpayer dollars. The literature shows that although the academic community was wary of growing entanglement with federal financing and uneasy about where this could lead in the future, it did not want to refuse the funding (Brubacher & Rudy, 2008; Ewell, 2008; Finken, 1994; Gladieux et al., 1997; Hannah, 1996; Keppel, 1987).

On November 8, 1965, President Johnson signed the Higher Education Act (HEA) to become Public Law Number 89-329 at his alma mater, Southwestern Texas State College (Keppel, 1987). Upon signing the law, President Johnson declared:

This legislation passed by this Congress will swing open a new door for the young people of America. For them, and for this entire land of ours, it is the most important door that will ever open--the door to education. And this legislation is the key which unlocks it. To thousands of young men and women, this act means the path of knowledge is open to all that have the determination to walk it. It means a way to deeper personal fulfillment, greater personal productivity, and increased personal reward. This bill, which I will make law, is an incentive to stay in school. It means that a high school senior anywhere in this great land of ours can apply to any college or any university in any of the 50 States and not be turned away because his family is poor. (Johnson, 1965)

Since its initial approval, the HEA has undergone a complex process to continue its authority and to amend, extend, fund, and establish new programs called reauthorization.

Over time, federal student-assistance programs would grow to become a major source of student and institutional income. The length and specificity of federal regulations that defined the process of listing approved accrediting organizations would begin to take on a more structured format (Ewell, 2008). Growing federal investment in higher education made possible by the HEA required the federal government to somehow determine institutional eligibility to receive federal funding, and the government turned to existing practices in accreditation to do this job (Ewell, 2008).

A formalized process to review and approve accrediting organizations came soon after Congress passed the HEA. During the 1968 reauthorization of the HEA, the

Commissioner on Education (the Commissioner) included amendments that changed the level of federal involvement from a ministerial role that maintained a list of accreditors to establishing a Division of Accreditation and Institutional Eligibility (Finken, 1994). This new division created an Institutional Eligibility Advisory Committee to review all policies, develop criteria for the recognition of accrediting associations, and recommend accrediting associations for federal recognition (Finken, 1994). The criteria for judging and listing accrediting associations initially sought to accomplish certain social goals such as fostering ethical practices, monitoring nondiscrimination in admissions, and assuring the fairness of refund policies (Harclerod, 1980). In 1974, however, the Commissioner published new criteria for the recognition of accrediting agencies that required accrediting organizations to demonstrate, among other things, the inclusion of a representative of the public in decision making bodies; the capability and willingness to foster ethical practices among the institutions and programs they accredit; the ability to assure equitable tuition refunds and nondiscriminatory practices in admissions and employment; and the encouragement of experimental and innovative programs (Commissioner's Recognition Procedures for National Accrediting Bodies and State Agencies, 1974).

As a result of this regulatory framework, the Commissioner on Education's office became more involved in reviewing and assessing the activities of accrediting organizations (Finken, 1994). The relationship began to take on the qualities of a principal-agent dynamic (Ewell, 2008). The Commissioner on Education needed accreditors to carry out the review and assurance of institutional quality through its

extensive volunteer network, and accreditors needed the Commissioner for recognition and the “prestige and power that recognition accorded” (Finken, 1994; pp. 101–102). The relationship of the federal government to accrediting organizations changed from a primarily clerical role to that of a quasiregulator (Pelesh, 2008). This arrangement would, for the most part, remain in place through the end of the 1980s, with the federal government limiting its attention to how accreditation involved public representatives in decision making, promoted ethical practices, and encouraged innovation and experimenting as part of the accreditation process (Finken, 1994).

### **Reauthorizing the Higher Education Act**

The HEA underwent reauthorization in 1968, 1972, 1976, 1980, 1986, 1992, 1998, and 2008. Hannah (1996) offered a description of this process:

The HEA reauthorization process usually begins in the fall two years before the last reauthorization is due to expire. During the fall, the House committee responsible for higher education issues a call for proposals due early the next year. Congressional committees hold hearings during spring and summer, draft legislation and hold mark-up sessions over the fall and winter, moving through committee, floor and conference debates and votes the following spring and send an approved bill to the president by summer. (pp. 7–8)

With each reauthorization of the HEA, a date for the next reauthorization is established. If reauthorization of the HEA does not occur within the prescribed deadline, such as in the instance of the 10-year period following the 1998 reauthorization of the HEA, authorization to fund the HEA programs will be extended for one additional fiscal

year under the General Education Provisions Act (GEPA) and then incrementally through a series of Higher Education Extension Acts (Smole, Naughton, Kuenzi, & Skinner, 2008). The current reauthorization of HEA, the Higher Education Opportunity Act (Public Law Number 110-315), extends funding authorization through fiscal year 2014 and is due to expire on September 30, 2014.

A focal point of this literature review is HEA reauthorizations that dealt with institutional autonomy, accreditation, and state involvement. The HEA is a complex piece of legislation that authorizes programs and activities that fall into four main categories: student financial aid, support services to help students complete high school and enter and succeed in postsecondary education, aid to strengthen institutions, and aid to improve K–12 teacher preparation at postsecondary institutions. There are seven titles in the HEA:

- Title I—General Provisions
- Title II—Teacher Quality Enhancement Grants
- Title III—Institutional Aid
- Title IV—Student Assistance
- Title V—Developing Institutions
- Title VI—International Education Programs
- Title VII—Graduate and Postsecondary Improvement Programs

The section of Title IV that deals specifically with federal recognition of accrediting bodies and institutional eligibility to participate in Title IV funding programs is Part H: Program Integrity. In short, Part H is the legislative framework that sets forth the specific

areas that accreditors are required to implement in carrying out the accreditation process and establishes institutional eligibility criteria for participation in Title IV financial aid programs for students.

### **1992–2008: A New Era of Federal Involvement**

The early 1990s would mark a shift in the federal government's involvement as it took a more assertive role in response to soaring cohort default rates on federal loans, fraud and abuse among institutions accredited in the for-profit sector, and public demands for more accountability for educational quality. This section of the literature review describes and discusses the research on accreditation and the reactions by the accrediting community to a new era of federal involvement.

**1992: Accreditation's big adjustment.** A review of the discussions and analysis surrounding the HEA reauthorizations of 1992–2008 offers insight into the tensions revealed in the literature review. The most significant tensions described in the literature revolve around massive federal spending on higher education. The use of accreditation as the gatekeeper of federal funding and the dependence of accredited institutions on access to federal student aid programs that are critical to sustaining their existence were at the forefront of this debate.

By assigning accreditors a more aggressive oversight role, which as membership organizations they were ill-prepared to discharge, the pending legislation at the time would expose the central contradictions in accreditation's gatekeeping responsibility (Ewell, 2008). Higher education policy would enter into a new era of federal involvement, and accreditation would find itself in the middle of intense debate about its

role in quality assurance and its accountability to taxpayers for the millions of dollars the federal government poured into student financial aid programs (Finken, 1994). Research topics that address the expansion of federal investment in higher education made possible by the HEA, the emergence of the federal government as an unwitting yet major force in U.S. higher education, calls for accountability in higher education, and pressures on accreditation to be more painstaking in their role of discharging obligations of quality assurance describe the contributing factors to a stressful environment for accreditation.

In 1991–1992, the HEA was particularly vulnerable to the crosscurrents of political forces and public outcry. This was partially attributed to widespread decline in public confidence in higher education, questions about why the cost of tuition was rising faster than inflation, extensive media coverage of scandals in athletics and rising crime rates on campus, and horror stories about loan abuse and default rates by the for-profit sector (Hannah, 1996). During the 1992 reauthorization, discussion of accreditation and accountability focused intently on the role of accreditation in assuring that institutions and programs met administrative and fiscal responsibilities in relation to federal student grant and loan programs (Pelesh, 1994). Accreditation was under particular scrutiny because accreditation decisions on institutions had been accepted by the federal government as sufficient evidence of educational quality to warrant the distribution of federal student financial aid and grants to students attending accredited institutions (Schenet, 1992). But hearings on these institutions produced evidence that fraud and abuse of Title IV programs was running rampant, particularly in the for-profit sector. Congress held accreditation responsible (Stedman & Riddle, 1997).

The Senate Permanent Subcommittee on Investigations held a series of hearings in the 101<sup>st</sup> Congress on student aid program abuses and issued a report in May 1991 finding extensive fraud and abuse within the Guaranteed Student Loan program that focused specifically on schools within the proprietary (also referred to as *for-profit*) sector of higher education. A Congressional Research Service report prepared by Margot A. Schenet (1992) provided analysis of the differences between two bills proposed for the HEA reauthorization (H.R. 3553 and S. 1150) and described in detail the issues within for-profit institutions, noting that the Guaranteed Student Loan program default rate and default costs were at an all-time high. Schenet attributed concerns in part to the exploitation of the loan programs by for-profit institutions, stating that “such schools exploit the ready availability of loans and other student aid to lure students into their programs who are not equipped to support loan repayments and suffer the consequences of default” (p. 1). The report explained that in order to “avoid activating fears about Federal interference in educational decision making” (p. 2), state licensing and accreditation were relied upon to determine standards of program quality and institutional eligibility to participate in federal funding programs. Clearly, this process had not been effective in preventing massive fraud in financial aid programs, and Congress was looking for alternatives to accreditation for gatekeeping of financial aid or ways to intensify federal oversight of accreditation.

Much of the proposed legislation that Schenet analyzed in her Congressional Research Services (CRS) report to Congress in January 1992 resonated with this controversy:



The higher education establishment has in the past opposed most attempts to revise the criteria for recognition, arguing that any expansion of or greater specificity in such criteria could be a step towards government interference with curricula and academic freedom. On the other hand, proposals to drop the accreditation recognition process also cause opposition from the higher education community due to fears that the alternative would be more stringent eligibility requirements imposed directly on individual schools by the Federal Government. (p. 6)

Schenet's report also described the tension between the House and Senate during the deliberations that led up to the 1992 reauthorization. "The House reauthorization measure, H.R. 3553, essentially removes accreditation by deleting it as a requirement for institutional eligibility, the Senate reauthorization bill attempts to strengthen accreditation standards indirectly through the [federal] recognition process" (p. 8). Schenet summarized the issue: "What is left unresolved is how to assure the quality of the educational experience received by Federal aid recipients without engendering charges of federal interference in academia" (p. 6).

A case study by Susan Hannah provided a qualitative account of the events leading up to, during, and subsequent to the 1992 reauthorization of HEA. Hannah (1996) referred to the 1992 reauthorization of the HEA as a "case study in the consequences of an incremental and fragmented federal policy-making progress" (p. 498). She described the politics of the 1992 reauthorization as important because they resulted in a significant shift in federal policy away from a historical commitment to promote access to higher

education through grants based on need toward a broader strategy of insured loans regardless of family income and toward more direct involvement with the recognition of accrediting bodies.

Hannah based her study of the 1992 reauthorization of the HEA on her interviews with more than 50 Congressional staff, higher education association lobbyists, Department of Education and White House officials, and policy consultants who were involved in the reauthorization process. Her study and analysis focused primarily on the changes to the legislation that impacted the funding of higher education—the direct loan pilot, eligibility of less-than-half-time students, the use of a single federal aid application form, and the authorization of funding for increased state oversight of higher education institutions. Hannah described her research as a “case study in the political realities of the federal policy process and fragmented decision making structure” (p. 523). Hannah’s case study of the federal policy-making process and the effects of incremental and fragmented decision making illustrated how shifts in the power of actors and constraints in the environment shaped the outcome of the 1992 reauthorization. Reviewing her case study helps to provide a frame of reference for the review of studies that address other topics of significance, such as the motivations that drove the actors that called for the accreditation provisions under Part H, the extremely controversial State Postsecondary Review Entities (SPREs), and dissatisfaction with the federal–state–accreditation partnership (the triad).

The literature written on the 1992 reauthorization that is available in the EBSCO, ERIC, ProQuest, Project Muse, and JSTOR data bases, shows that higher education

policy analysts and accreditation experts were attentive to the probability that conflict among the triad could propel the federal government toward becoming more involved in the direct oversight of higher education and the activities of the states and accrediting organizations. Fred Harclerod (1990) authored a paper that anticipated and attempted to deflect the growing conflicts surrounding the 1992 reauthorization:

Quite clearly, the police power of the states or the federal government is not something that can be transferred to a voluntary nongovernmental [accrediting] agency. The almost countless interconnections among the various states, the several voluntary accrediting associations, and the many agencies of the federal government make [the triad] a mosaic that is impossible at this stage in the history of our country to separate. (p. 25)

Despite the conviction expressed by Harclerod and others in the accrediting community, efforts mounted to split up the triad. One draft of Part H proposed to transform completely the state role in the HEA by implementing SPREs in state higher education governing or coordinating boards (Rainwater, 2006). Under SPRE, states would receive federal funds to employ staff to carry out compliance reviews of institutions triggered by high loan default rates, a provision that was highly objectionable to many colleges and universities. The purpose and authority for State Postsecondary Review Program as stated in the statute under Part H, Subpart 1, Sec. 494 of the Higher Education Amendments of 1992 were the following:

- (a) PURPOSE. —It is the purpose of this section to authorize the Secretary to enter into agreements that (1) designate one State postsecondary review entity

in each State to be responsible for the conduct or coordination of the review under section 494C(d) of institutions of higher education reported to the State by the Secretary pursuant to section 494C(a), for the purposes of determining eligibility under this title and (2) provide Federal funds to each State postsecondary review entity for performing the functions required by such agreements with the Secretary.

(b) PROGRAM AUTHORITY.—The Secretary shall, in accordance with the provisions of this subpart, enter into agreements with each of the States to carry out the purposes of this subpart. If any State declines to enter into an agreement with the Secretary for the purposes of this subpart, the provisions of this subpart which refer to the State, with respect to such State, shall refer to the Secretary, who shall make appropriate agreements with agencies or organizations of demonstrate competence in reviewing the institutions of higher education. (p. 196)

Apart from raising constitutional questions about the extent to which Congress could specify state oversight responsibilities, the SPREs posed an alternative to accreditation, and this mobilized opposition within the higher education community (Ewell, 2008). SPRE was never funded. Most of its provisions were abandoned after the 1994 election cycle, and all references to SPRE were ultimately withdrawn from the statute during the 1998 HEA reauthorization.

The events and opposing views surrounding the SPREs have an important place in higher education accreditation literature. The controversy regarding this piece of

legislation has been studied as a means to understand better the interactions between the federal government and the states' role in monitoring postsecondary institutions (Lovell, 1997) and to understand federal attempts to initiate reform. A case study of the SPRE by Terese Rainwater (2006) provided an analysis of this higher education reform effort from the 1992 reauthorization. The reasons why Congress withdrew funding for SPRE and ended its implementation exemplify the discourse about the federal role in higher education accreditation. Rainwater established the historical context as follows:

Between 1952 and 1992, the mechanism of postsecondary education accountability at the federal level evolved into an affiliation among the federal government, states and national and regional accreditation agencies called the "Triad." States were responsible for establishing requirements for granting institutional licensure, accreditation agencies were responsible for making judgments about institutional quality and the federal government was responsible for allocating and ensuring that federal funds for student aid were used for their intended purpose. (p. 108)

Rainwater's case study called attention to the reasons why the attempt to establish a formal partnership between state agencies and the federal government failed. Her study identified the three primary reasons as (a) state objections to the dominance of the Department of Education during implementation; (b) opposition by independent colleges that argued that the SPRE proposal extended federal and state authority into curricula, faculty, and tuition; and (c) the appearance that states were creating two sets of standards to implement SPRE: one set for proprietary schools and another set for everyone else.

Rainwater's study complemented that of Hannah; it offered important insight into the turmoil caused by direct federal intervention to address issues in higher education.

Rainwater asserted that had Congress and the Department of Education remained focused on the problem of fraud, waste, and abuse, the newly created SPREs might have gained their establishment and provided a role in overseeing the administration of federal financial aid at proprietary institutions. The Rainwater case study demonstrated how the events surrounding the proposal of SPRE and its ultimate demise weakened the triad and created uncertainty regarding the roles and authority wielded among the triad.

Another perspective of the 1992 reauthorization in the literature is a case study written by Mark Pelesh. In his case study, Pelesh (1994) portrayed the aftermath of the 1992 reauthorization from his perspective as a negotiating rulemaker for an accrediting organization. Signed by President George H.W. Bush on July 23, 1992, Public Law Number 102-325 reauthorized the HEA for 5 years. The next step would be a process to develop the regulations to implement the new amendments to the law, one of which required the Department of Education to utilize negotiated rulemaking in establishing the federal regulations. Pelesh described the effect that the rulemaking process had on higher education accreditation. "The concept of negotiated rulemaking was proposed by Philip Harter in 1982 as a potential solution to the problems associated with traditional rulemaking," wrote Pelesh, continuing, "the central notion underlying the concept is that direct negotiations among the administrative agency and the diverse interests affected by proposed regulations can lead to more efficient development of final rules and a greater likelihood of consensus" (p. 155). Pelesh described how the Department of Education

went to work to begin implementing the negotiated rulemaking process in accordance with the HEA amendments just weeks after President Bush signed the bill in 1992 and invited all interested parties to submit lists of issues for consideration during negotiated rulemaking.

A description of negotiated rulemaking process is located in Part G, Sec. 492 of the Higher Education Amendments of 1992:

The Secretary shall convene regional meetings to obtain public involvement in the development of proposed regulations for parts B, G, and H of this title. Such meetings shall include individuals and representatives of the groups involved in student financial assistance programs under this title, such as students, legal assistance organizations that represent students, institutions of higher education, guaranty agencies, lenders, secondary markets, loan services, guaranty agency servicers and collection agencies ... After holding regional meetings and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations implementing parts B, G, and H of this title as amended by the Higher Education Amendments of 1992 and shall submit such regulations to a negotiated rulemaking process ... Participants in the negotiations process shall be chosen by the Secretary from individuals nominated by groups participating in the regional meetings described in subsection (a)(1), and shall include both representatives of such groups from Washington, D. C. and industry participants. To the extent possible, the Secretary shall select individuals reflecting the

diversity in the industry, representing both large and small participants, as well as individuals serving local areas and national markets. (p. 194)

Pelesh's observations of negotiated rulemaking described the tensions and frustrations that continued to grow between the Department of Education and the higher education community following the 1992 reauthorization. Pelesh (1994) cited numerous disruptions to the process that included postponements due to changes in the administration, a lack of familiarity with protocols and mediation techniques for negotiated rulemaking, revisions to protocols by the Department of Education, disagreements among negotiators, and arguments that draft rules departed substantially from consensus positions that had been achieved during negotiated rulemaking sessions. Pelesh's description of the SPRE negotiating sessions paralleled that of Rainwater and contributed to an understanding of why SPRE failed. Rainwater (2006) wrote that SPRE had a disastrous effect on the relationship among the Department of Education, the states, and the institutions, resulting in widespread agreement that another SPRE-like experiment would be a mistake. "Consultations and discussion of SPRE occurred outside the negotiations," wrote Pelesh, "and the frustrations [experienced by] these negotiators resulted in a letter to Secretary Riley ... formally objecting that the Department was not engaging in true negotiated rulemaking" (p. 160). Pelesh's case study offers insight into why the SPRE was neither funded nor implemented and was ultimately rescinded during the 1998 reauthorization.

The individual studies by Hannah, Rainwater, Pelesh, and Harclerod portray a sense of mistrust and frustration with the process of developing the federal regulations



necessary to carry out the reauthorizations of the HEA. Finding a way to strike a balance between accountability and institutional autonomy was at the heart of the challenges faced during the 1992 reauthorization. Representatives of accreditors and institutions were fearful that state efforts to exercise authority over institutions would replace the customs of accreditation. Institutions feared that negotiated rulemaking ignored the importance of a diversified and decentralized higher education enterprise. The Department of Education's failure to structure the negotiated rulemaking process that aligned with the Harter model contributed to the lack of consensus. Pelesh (1994) summarized:

The Department did have the ability to engage the parties more deeply in the process, thereby winning a greater contribution and commitment to the regulatory process. It chose not to do so, it would appear, because of a desire to create the impression of progress in accordance with congressional wishes. In so doing it created only the facade of negotiated rulemaking. (p. 164)

The 1992 reauthorization of the HEA signaled a new level of federal involvement in influencing higher education through its recognition-based controls on accreditation. For the first time since 1952 (when the federal government began relying on accreditation for judgments about higher education quality), standards for federal scrutiny of accrediting organizations were built into the HEA.

**1993–1998: Questions of quality assurance.** The literature written on higher education accreditation and federal recognition shows that the focus leaned toward accreditation and accountability as Congress and higher education associations prepared for the next reauthorization of the HEA in 1998. For example, the Education Commission of the States (ECS) held a series of meetings from 1994 through 1997 at the Wingspread Center in Racine, Washington, to bring together policymakers, accrediting organizations, and educators to examine the roles these groups played in monitoring quality and improvement and how to create a more effective system of accountability. This work culminated in a report entitled *Refashioning Accountability: Toward a “Coordinated” System of Quality Assurance in Higher Education* (Ewell, Wellman, & Paulson, 1997). The report outlined a number of problems with the triad and criticisms of accreditation to include the assertion that “in political circles, confidence is eroding about the effectiveness of institutional accreditation in the system of accountability” (p. 10). Ewell et al. proposed a framework to begin implementing a coordinated system of quality assurance built upon the premise that a new national approach to accountability and quality assurance in higher education was needed due to a “growing conviction that the present system is both ineffective and unwieldy” (p. 30). The report and its proposal never got off the ground, and higher education policy makers, educators, and accreditors continued to grapple with the issue. “The problem with drawing any real conclusions from these findings is that there are no common criteria for success or even a common definition of accountability,” wrote Nancy Shulock (2003), asserting that “the search continues for appropriate and valid performance indicators” (p. 3).

Meanwhile, Congress was beginning to prepare for reauthorization. In their CRS Issue Brief, *The Higher Education Act: Reauthorization by the 105<sup>th</sup> Congress*, Stedman and Riddle (1997) identified issues of importance for the next reauthorization:

- Access to postsecondary education for low-income students or students from certain minority groups and how to cope with rising college costs;
- The forms of assistance: the balance among grants, loans, and work–study;
- Standards and accountability: whether eligibility should be predicated to some degree on standards of academic quality;
- Efficiency of the student aid system; and
- Teacher education and recruitment.

The emphasis on accountability was different as compared to the debates and preparations that led up to the 1992 reauthorization. However, the examination of the tensions in the federal recognition of accreditors remained a topic of interest (Wolanin, 1997). In her analysis of higher education policy, Patricia Strach (2009) wrote about higher education funding proposed during Clinton’s 1996 presidential campaign and how the politics of higher education necessitated “downplaying federal intervention” (p. 80). Strach explained,

I have found that higher education funding operates under important constraints. The GI Bill set the capacity for future education debates by creating a successful model of higher education funding that could be replicated but not expanded. Indeed, every time legislators seek to step

into the arena of higher education funding, they must find ways and use policy tools that appear to have limited federal involvement. (p. 80)

Strach's study illustrated how the tradition of higher education's independence and autonomy continued to collide with the policy-making process and placed constraints on funding decisions in a manner that was unique to higher education. It also showed that, over time, the reauthorizations of the HEA were beginning to have more presence in the thinking of policy analysts outside the higher education domain.

This kind of interest was also present in research by William Doyle (2010), who conducted an analysis of legislative behavior by examining patterns of voting behavior in reauthorizing the HEA—a policy area that “was once considered uncontroversial” (p. 620). Doyle's study covered voting behavior from 1965 through 2004 and examined the characteristics of these voting patterns using a Euclidian spacial voting model that assumes quadratic utility over legislator choice. His analysis of roll-call voting added to an understanding of the politics of higher education. His study found that the reauthorization of the HEA was typically a heavily lopsided vote and that “all the heavy lifting is done at the committee and sub-committee level in the House and Senate” (Doyle, 2009, p. 640). Doyle's research findings suggested that higher education policy has become more controversial over time, that there have been many more controversial votes, and that “votes on higher education have taken on a distinctly partisan tone” (p. 640).

This attention to understanding the impact of higher education policy also involves studies that are peripheral to accreditation issues but nevertheless insightful into

the impact of higher education policy. One such study sought to understand how federal funding affected accessibility. Astin and Oseguera (2004) examined how HEA amendments changed the accessibility and equity of higher education for underrepresented and low-income groups and whether higher education policies impacted access to the best institutions in the United States. To explore this question, Astin and Oseguera relied on data from the Cooperative Institutional Research Program's (CIRP) entering Freshman Survey, an annual assessment that has been conducted since its inception in 1966. Their analysis of three decades of data (1971–2000) from national samples of entering college freshmen showed “substantial socioeconomic inequities in who gains access to the most selective colleges and universities in the U.S.” (p. 338). Furthermore, Astin and Oseguera stated that U.S. higher education “is more socioeconomically stratified today than at any time during the past three decades” (p. 338). These findings illustrate how recent HEA reauthorizations, intended to expand and support access to higher education, are potentially moving in the opposite direction and in particular contravention to the purpose and meaning of Johnson's vision for a great society.

The financing of higher education and student loan default rates appeared as a continuing topic of debate in the post-1992 reauthorization literature, particularly as higher education policy shifted from grants to loans as the primary means for providing access for low- and moderate-income families (Prisco, Hurley, Carton, & Richardson, 2002). Discussions and hearings leading up to the 1998 reauthorization of the HEA suggested that there might be a possible link between high student loan default rates and

the quality of certain higher education institutions (Department of Education Oversight, 1996). This idea raised complicated questions about the characteristics of students who default and the type of institutions they attend, as well as concerns about using student loan default rates to assess the quality of institutions. The connections between federal financial aid, higher education accreditation as a gatekeeper of federal funding, and the search by the federal government for a tangible metric that could be used to determine educational quality are a recurring theme. The research on why students default on their loans tends to draw from four perspectives: economic, sociological, psychological, and federal (Christman, 2000). Although expansive, the research is not necessarily meaningful. One study that presented a thorough background of the research was a study that identified, reviewed, and summarized 41 studies of student loan default conducted between 1978 and 2007, most of which were done after 1991 (Gross, Cekic, Hossler, & Hillman, 2009). The methodology employed by Gross et al. for their study utilized qualitative data analysis software to “flag key findings with predetermined codes such as race/ethnicity or institutional type as well as emergent codes” (p. 20). They used this approach in combination with empirical research that employed multivariate statistical techniques that controlled for multiple complicating factors such as choice of major, type of institution, type of student loan, graduation status, post-college employment and income, and student loan repayment status. Overall, they found the literature to be inconclusive regarding predictors of student loan default and that default rates are “not good vehicles for assessing the quality of institutions” (p. 27). Also noted was their commentary on the quality of the research they reviewed:

We are struck by the relative dearth of recent research on student loan default using large national data sets and rigorous statistic methods. While other areas of financial aid policy such as student debt or the impact of financial aid on persistence have received substantial research attention, a series of studies on student loan default has not been undertaken for more than a decade. (p. 27)

The final version of the 1998 HEA reauthorization went into effect on October 1, 1998. It included an approach to distance learning that reinforced accreditation in assuring quality in this area and authorized the Secretary of Education to choose a group of institutions at which regulatory provisions could be waived to promote the expansion of distance learning at those institutions. It altered the cohort default rate calculation by extending from 180 days to 270 days the period of payment delinquency after which the federal government would deem a borrower to be in default. It continued accreditation as the principal means of assuring quality in higher education institutions that receive federal support and brought about an improved reputation for the for-profit institutions within the higher education community.

**1999–2008: New expectations for accreditation.** Accountability remained an important theme following the 1998 reauthorization. The literature shows that researchers grappled with how to define accountability and implement accountability in practice while Congress looked ahead to another reauthorization of HEA that would continue to treat accountability as a main talking point. Studies of accountability systems were undertaken to explore and understand the extent to which such systems resulted in improvement to quality. For example, Huisman and Currie (2004) studied the impact of

accountability on higher education policies in Europe and the United States; they observed a “shift from professional to political accountability that uses ‘soft’ mechanisms that seem to offer little change in the quality of education” (p. 529). Huisman and Currie employed a methodology that examined higher education accountability at a national policy level in four countries: France, Norway, the Netherlands, and the United States; reviewed data on the perceptions of how accountability was actually implemented at a university from each country; and reviewed empirical data on attention to “accountability at the national level” (p. 530). One quote cited in their findings from a faculty member at the University of Oslo provided a particularly interesting perspective on accountability being implemented: “Maybe we should call it *countability*, because it is always a question of quantity, not quality. They are counting teaching hours, articles written, conferences attended and projects planned. We use quite a lot of time to report about what we are doing” (p. 541). This study provided a unique contribution to education policy literature on how a federal role in determining the evaluation of education quality plays out in practice, particularly given that Huisman and Currie found “noticeable gaps between policy demands for harsher, managerial forms of accountability and a lack of its implementation at the institutions they studied” (p. 549).

Accountability appears in the literature in other areas, particularly in Congressional Research Service Reports. In his Issue Brief to Congress updated May 6, 2003 on reauthorizing the HEA, James Stedman identified issues for consideration that included attention to identifying ways to influence implementing accountability such as



- Measures that might be used to hold participating institutions accountable for educational outcomes;
- Factors influencing college prices and the appropriate federal role, if any, in addressing price increases; and
- Impact of the growth in postsecondary distance education. (p. 5)

Within the brief, he wrote,

There is increasing interest in the Congress in holding higher education institutions that are benefitting from billions of dollars in federal funding accountable for the educational outcomes of their students. The Congress may consider whether default rates are reasonable and effective measures to hold institutions accountable for educational outcomes. It may be argued that default rates will rise at institutions that fail to educate their students because such students will not be able to enter successfully the world of work and repay their student loan obligations. Congress may debate use of alternative accountability measures more directly tied to educational outcomes that may include the rates at which students complete their programs of study. (p. 8)

The theme of accountability resounded in other sectors of society concerned about political rhetoric that focused on accountability and government-imposed solutions. A report prepared on behalf of the Business–Higher Education Forum (Rust & Reed, 2004) called for colleges and universities to provide more extensive information about what students were learning. The paper expressed apprehension that the forthcoming reauthorization of the HEA “could set the stage for an expanded federal role in

accountability patterned after the No Child Left Behind legislation and linked to federal concern over the rising costs of higher education” and that the “absence of alternative measures of institutional performance may have created a vacuum that policy makers will try to fill” (p. 14). A report prepared by the National Commission on Higher Education Accountability that was organized and convened by the national association of State Higher Education Executive Officers (SHEEO) provided specific recommendations for ways to improve accountability and performance in higher education, calling the current system that combined accreditation, state, and federal oversight “cumbersome, over-designed, confusing, [and] inefficient” and charging that it “overburdens policymakers with excessive, misleading data and it overburdens institutions by requiring them to report it” (Keating et al., 2005). The National Commission’s report provided specific and detailed recommendations for those with key roles and responsibility for the performance of higher education: governors, legislators, state boards, and executives for higher education; and the federal government, institutional trustees and leaders, accrediting organizations, and faculty and students (pp. 16–22). The National Commission supported its premise that “a practical division of labor combined with a rigorous focus on priorities at each level of responsibility can transform accountability from a political struggle to a collaborative effort” (p. 14), with statistics that showed declining academic performance among American students.

The reports by the Business–Higher Education Forum and the National Commission on Higher Education Accountability may have had strong words for how accountability should be done, but the highest profile event to take place between the

1998 HEA reauthorization and the 2008 HEA reauthorization was the convening of the Commission on the Future of Higher Education (the Commission) by U.S. Secretary of Education Margaret Spellings. Secretary Spellings announced the formation of the Commission at a press conference held on September 19, 2005 at the University of North Carolina in Charlotte, and stated:

The new Commission is charged with developing a comprehensive national strategy for postsecondary education that will meet the needs of America's diverse population and also address the economic and workforce needs of the country's future ... the Commission will engage students and families, policymakers, business leaders, and the academic community in a national dialogue about all key aspects of higher education. Through public hearings to be held around the country, the Commission will attempt to answer questions such as: What skills will students need to succeed in the 21st century? How can we make sure America stays the world's leader in academic research? And, how can we make sure opportunities for quality higher education and best jobs are open to all students? (Secretary Spellings, 2005)

The members of the Commission came from a cross-section of the higher education community and the public. The members included Carol Bartz, Chairman of the Board, President and CEO Autodesk, Inc.; Nicholas Donofrio, Executive Vice President for Innovation and Technology, IBM; James Duderstadt, President Emeritus, University Professor of Science and Engineering Director, The Millennium Project University of Michigan; Gerri Elliott, Corporate Vice President, Worldwide Public

Sector, Microsoft Corporation; Kati Haycock, Director, The Education Trust; The Honorable James B. Hunt, Jr., Chairman, James B. Hunt, Jr. Institute for Educational Leadership and Policy and Former Governor of North Carolina; Jonathan Grayer, Chairman and CEO, Kaplan, Inc.; Robert Mendenhall, President, Western Governor's University; Charles Miller, Private Investor, Former Chairman of the Board of Regents, University of Texas System; The Honorable Louis Sullivan, President Emeritus, Morehouse School of Medicine, Former Secretary of the U.S. Department of Health and Human Services; Sara Martinez Tucker, President and CEO, Hispanic Scholarship Fund; Richard Vedder, Adjunct Scholar, American Enterprise Institute, Distinguished Ohio University Professor of Economics; Charles M. Vest, President Emeritus, Professor of Mechanical Engineering, Massachusetts Institute of Technology; David Ward, President, American Council on Education; and Robert Zemsky, Chair and Professor, The Learning Alliance for Higher Education, University of Pennsylvania (U.S. Department of Education, 2006)

The Commission's final report, *A Test of Leadership: Charting the Future of American Higher Education* (U.S. Department of Education, 2006), pointed out problems within higher education and criticized accreditation. The Commission wrote, "Accreditation, the large and complex public-private system of federal, state and private regulators, has significant shortcomings" (p. 14). Further, it stated,

Accreditation agencies play a gatekeeper role in determining the eligibility of institutions and programs to receive federal and state grants and loans. However, despite increased attention by accreditors to learning assessments, they continue

to play largely an internal role. Accreditation reviews are typically kept private, and those that are made public still focus on process reviews more than bottom-line results for learning or costs. The growing public demand for increased accountability, quality and transparency coupled with the changing structure and globalization of higher education requires a transformation of accreditation. (p.14)

The commission also recommended that accreditation place more emphasis on outcomes and stated:

Accreditation agencies should make performance outcomes, including completion rates and student learning, the core of their assessment and a priority over inputs or processes. Accreditation, once primarily a private relationship between an agency and an institution, now has such important public policy implications that accreditors must continue to speed up their efforts towards transparency as this affects public ends. (p. 24)

The U.S. Department of Education implemented a negotiated rulemaking process to develop regulations out of the recommendations of the report absent a reauthorization of HEA by Congress. The negotiated rulemaking process was abated in June 2007. The Senate Health, Education, Labor, and Pensions (HELP) Committee finally rolled out a bill, S. 1642 (passed July 24, 2007), for the long-overdue reauthorization of HEA. This was followed by H.R. 4137 (passed February 7, 2008), which would lead to the Higher Education Opportunity Act of 2008.

## **Summation of the Higher Education Accreditation Literature**

The review of the literature to this point has drawn upon a collection of analyses and research that focused on the federal policies in higher education accreditation most relevant to this study. The literature review considers the public, institutional, and governmental reactions to the considerable growth in higher education and the pressures on accreditation, especially with regard to its responsibilities to the public and accountability. The literature review describes how access to federal financial aid programs grew along with higher education enrollments and how, at times, it was significantly driven by expansions in the for-profit sector of higher education. Finally, the literature provides a longitudinal narrative of the policy-making process that was ushered in under a new era for higher education accreditation beginning with the 1992 HEA.

It is important to note that although the literature provided a solid foundation for the study of the federal role in higher education accreditation it did not, on balance, show that theory guided the research or was used to analyze and discuss findings. Theory plays an important role in this study as an interpretive framework for the findings. The final section of the literature review, therefore, provides an overview of the theories applied in this study.

### **Policy and Decision Making Theory and Models**

Sudden changes can happen whether or not the policy community is ready or the problems facing the country have changed (Kingdon, 2003). Kingdon's multiple streams theory is a useful tool in understanding the policy decision making process. Given that a central aspect of the case study is policy decision making, a theory-based approach to

frame the interpretation of the case study findings was implemented that used the multiple streams theory from Kingdon (2003) and Stone's (2002) polis model of decision making.

Kingdon (2003) described a theory whereby separate streams of problems, policies, and politics come together at certain times and rise to a decision agenda that becomes enhanced if all three streams are coupled together. Kingdon's approach makes use of a model originally presented by Cohen, March, and Olsen (1972) that was born out of their studies of universities and the approach to decision making that they described as a form of "organized anarchies" (p. 1). They described decision making—or choice opportunity—as

a garbage can into which various kinds of problems and solutions are dumped by participants as they are generated. The mix of garbage in a single can depends on the mix of cans available, on the labels attached to the alternative cans, on what garbage is currently being produced and on the speed with which the garbage is collected and removed from the scene.

(p. 2)

Cohen et al. labeled their theory the "garbage can model." Out of the ideas of Cohen et al., Kingdon developed his own theory to apply to the federal government's decision making process. In this model, Kingdon adapted the general features of Cohen et al. as a means to understand agenda setting and policy development in the federal government. According to Kingdon's theory, there are three process streams in the federal

government: (a) problem recognition, (b) the formation and refining of policy proposals, and (c) politics.

Kingdon has long studied the decision making practices of the United States Congress. In *Congressmen's Voting Decisions* (Kingdon, 1989), Kingdon studied the voting patterns of the members of the House of Representatives with particular attention to voting that occurred under pressure of time and information but toward consensus in decision making. Based upon his data gathered from interviewing a sample of the representatives, Kingdon found the importance of party leadership, ranking committee members and the executive branch as low factors influencing the decision making in the 91<sup>st</sup> Congress and suggested that some reinterpretation of aspects of Congressional decision making could undergo further study. In another study, Kingdon described a set of models for legislative decision making that built upon his original published work in *Congressmen's Voting Decisions* (1973). He summarized the major features of the voting patterns as past voting behavior, cue-taking, predisposition-communication, goals, and consensus and sought to weave the characteristics of these models toward constructing an integrative model of decision making (Kingdon, 1977). He then compared the integrative model with decision making data he had on file for 222 legislative voting cases. His analysis showed that "wide varieties of decision-makers may use versions of a similar general approach to their decision making" (p. 594).

There are decision models in the policy-making domain that stand in contrast to Kingdon's theory. One such model is the rational model. The rational model is a static procedure for policy making that progresses as follows: (a) identify objectives; (b)



identify alternative courses of action for achieving objectives; (c) predict the possible consequences of each alternative; (d) evaluate the possible consequences of each alternative; and (e) select the alternative that maximizes the attainment of objectives (Stone, 2002, p. 8). At its core, the rational model is a model based upon economic theory in which “each step can be seen as part of a strategy to control a decision rather than merely get through the agony of deciding” (Stone, p. 245). Stone contrasted the rational model and ridged approach to decision making with a decision model called the *polis*. “In the polis,” she wrote, “statements of goals are means of gathering political support ... meant to enlist the aid of others in bringing it about ... the relationship is interactive” (pp. 243–245). The discussion of the rational and the polis models is included to support an awareness of alternative theories relative to policy development and the possibility of how the alternate theory could emerge in carrying out the study.

There are other works within which Stone accounted for human actions and interventions as precursors to agenda setting and policy making. In *Causal Stories and Policy Agendas* (1989), she wrote “Causal argument is at the heart of political problem definition; problem definition is centrally concerned with attributing bad conditions to human behavior instead of to accident, fate or nature” (p. 299). She made the argument that causal theories have important consequences for politics beyond the mere demonstration of human control and call for a redistribution of power by suggesting the types of people who should be entrusted with reform (Stone, 1989). She attributed this need to political actors that deliberately portray problems in ways calculated to gain support for their side (Stone, 1989).

The premise that social processes and values influence policy design and implementation is a recurring theme in Stone's work. *The Disabled State* (1984) described Stone's ideas for why government has assumed more responsibility for people who are unable to work. In this study, Stone balanced the value of the work ethic with the principle of universal need. She challenged that if the category of disability is drawn narrowly enough, the work ethic is reinforced, but if it is allowed to expand, then so does the range of social responsibility (Stone, 1984). Her study entailed a historical analysis of how politicians dealt with disability policies in the United States, England, and Germany. She contended that the concept of disability is neither medical nor juridical, but political in nature.

Kingdon's theory addresses how streams of problems, alternative solutions, and politics develop independently of one another and none necessarily happen in a particular order or with a structured approach. To Kingdon's point, policymakers do not set about to first identify problems and then seek solutions to the problems; solutions may actually precede the problems to which they eventually become attached. Kingdon, however, dismissed the idea that agenda formation is a marginal or gradual process of development. His approach is that policy issues may suddenly emerge and couple quickly with a solution that then becomes directed by different forces and styles of decision making. What is missing from Kingdon, however, is how the human element of personal values enters into the decision making process. The application of Stone's polis model is incorporated in the analysis along with Kingdon's theory. In the polis, personal values influence the shifting of the agenda and the redefinition of goals; decision makers state

goals ambiguously so as to keep undesirable alternatives off the agenda and seek to create maximum social good for a broad public (Stone, 2002). The application of Stone's polis filled a gap in Kingdon's multiple streams approach to policy decision making. The application of these theories brings a balanced approach to understanding how higher education policies have emerged and changed over time.

## **Chapter 3: Method**

This chapter describes the methodology that was used to implement the policy case study. It begins with a review of the research design and the research question. The next section describes the interview process and the characteristics of the sixteen participants who provided interviews, observations, and the historical document review. A chronology of the observations is provided. The chapter concludes with a review of the data analysis procedures and a discussion of the limitations.

### **Research Design**

The research design for this study originated from a concept map that went through many adaptations and revisions. Concept mapping revealed the theoretical framework, helped shape the parameters for the study, and refined the research questions. Maxwell (2005) described concept mapping as a visual display or picture of what the theory says is going on with the phenomenon that is studied. He wrote, “creating concept maps: to pull together, and make visible, what your implicit theory is ... This can allow you to see the implications of the theory, its limitations, and its relevance for your study” (p. 47). As I referred to Maxwell as a guide for working with a concept map, the research design took on a structure that showed how I might approach examining potential connections among the HEA reauthorizations that occurred between 1992 and 2008 as well as individual characteristics of each reauthorization. Upon my completion of the

concept map, federal involvement in higher education accreditation for this time frame emerged as a case study. Reviewing the literature on higher education accreditation within the EBSCO, ERIC, ProQuest, Project Muse, and JSTOR data bases, revealed a gap in the policy research that examined these connections across multiple reauthorizations and therefore confirmed the importance of the research. Kingdon's (2003) multiple streams theory and Stone's (2002) polis model were added to the concept map to provide a framework for interpreting the influences that surrounded the legislative and regulatory courses of action during the reauthorization timeframe of 1992–2008. The research question that developed out of this process, as identified in Chapter 1 is: how are changes to federal policies for higher education accreditation that took place between 1992 and 2008 perceived by decision makers and association officials who represent the interests of U.S. Institutions?

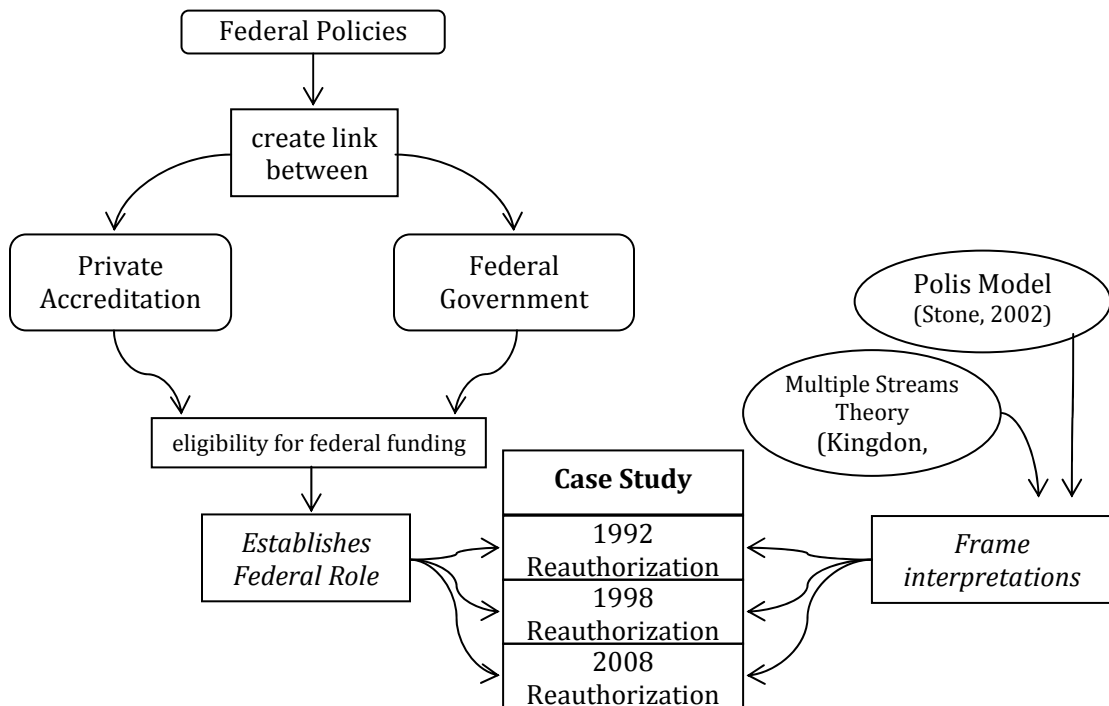


Figure 2. Concept map of research design developed using Maxwell, (2005).

It is important to note that there are many policy areas covered by the 1965 HEA amendments of 1992, 1998, and 2008. The focus of this study is very narrow in relation to the entirety of the HEA. The policy case study concentrates only on the provisions in the HEA that pertain to the recognition of accrediting organizations under Part H (Program Integrity) of the 1965 HEA and Title 34 of the Code of Federal Regulations, Part 602.

The literature on qualitative research attends to the process of tying the nature of the research question to the characteristics of case study. Merriam (1998) wrote that the single most defining characteristic of case study research lies in delimiting the object of

study—the case. The object of study for this research is the HEA reauthorizations of 1992–2008. The study homed in on a historical review of the accreditation policies that emerged from the 1992, 1998, and 2008 reauthorizations of the 1965 HEA. This review pinpointed the time when certain policies took effect, identified the impact to accreditation and institutional autonomy, and provided a baseline analysis for the application of Kingdon (2003) and Stone (2002). The data collection process involved the review of legislative and policy documents, interviews with individuals experienced with higher education accreditation and higher education policy, and observations of higher education policy implementation such as public meetings held by the Department of Education.

The use of case study accommodated a diversified approach to collecting data and created a framework that brought focus to the principal intentions of the study. Stake (1995) identified the foremost concern of the case study as generating knowledge of the particular and favored the use of case study to discern and pursue understanding of issues that are fundamental to the case itself. The background presented in the literature review, the statement of the problem, and the research question for this case study are consistent with Stake’s premise in this regard.

The case method is preferred when the inquirer seeks answers to how or why questions, when the inquirer has little control over events being studied, when the object of the study is a contemporary phenomenon in a real-life context, and when it is desirable to use multiple sources of evidence (Schwandt, 2007). This study was undertaken to examine how federal interactions with higher education accreditation changed over time

and to gain understanding of the circumstances and situations that revolved around these interactions. The presence of three HEA reauthorizations within the timeframe engendered a distinction to this study that involved the use of a multicase study method. A description of multicase study research by Stake (2006) supports the conceptualization of multiple cases existing within the overall case study of the HEA reauthorizations that took place between 1992 and 2008:

In multicase study research, the single case is of interest because it belongs to a particular collection of cases. The individual cases share a common characteristic or condition. The cases in the collection are somehow categorically bound together ... members of a group or examples of a phenomenon. (pp. 5–6)

Taken together, the HEA reauthorizations of 1992, 1998, and 2008 and resulting regulations represented the overall “case” for the study. The individual reauthorizations of 1992, 1998, and 2008 represented different periods of time with different issues of influence on the reauthorization. Because each reauthorization represented an individual case that fell within the overall case study, the application of multicase study methods was included in the research design.

Stake (2006) emphasized the importance of the group or category of related cases, explaining that multicase research starts with a group of related cases and that in order to understand the broader case as a whole, researchers study some of its single cases, its sites, or its manifestations—but it is “the broader case overall that the researcher seeks to understand” (p. 6). Stake’s explanation of single cases existing within an overall case



study offered a strategy that was particularly useful to my research design. The 1992, 1998, and 2008 reauthorizations of the HEA each represented a policy component that could stand on its own as a “case,” and each case was studied to gain understanding of the events and circumstances that situated the case and that contributed to understanding the meaning of the overall policy case study. Hence, the inclusion of multicase analysis in the research design contributed to the understanding of the cumulative impact of the three reauthorizations of the HEA and how these reauthorizations contributed to the federal role in higher education.

### **Policy and Decision Models as Interpretive Tools**

The policy process is complex. Evaluators of policy need to understand how the process works in order to engage in meaningful analysis. The use of policy theory was incorporated carefully into the method in order to support the development and understanding of how higher education policies emerged. Kingdon’s multiple streams theory and Stone’s polis model were used to explain how ideas, concerns, problems, and politics combined to create the higher education policy agendas of 1992 through 2008. The essence of Kingdon’s theory is that “separate streams of problems, policies, and politics come together in certain critical times, solutions become joined to problems and both of them are joined to favorable political forces” (Kingdon, 2003, p. 20). Stone’s polis brings the human experience to the decision making and agenda development process. Stone (2002) wrote, “in the polis, controlling the number and kinds of alternatives considered is the essence of the political game; keeping things off the agenda is a form of power as important as getting them on” (p. 245).

The application of Kingdon and Stone in the research design supports developing an understanding of how policy agendas were created and how policy decisions were made. As discussed in the background and literature review chapters, a principal agenda of policy makers in reauthorizing the HEA was to strengthen the criteria by which accreditation is reviewed and evaluated as a reliable authority on the quality of higher education as a means to assure the appropriate use of federal monies allocated to financial aid programs that are then awarded at accredited institutions. Agenda setting is a selection process by which people in and around the federal government “attend to some subjects in the development of potential agenda items rather than others” (Kingdon, 2003, p. 232). The ideas derived from the examination of decision making relative to higher education policy explain why some policy areas remained stable (i.e., accreditation as gatekeepers, student loan default) and other policy areas flowed on and off the policy agenda (state involvement in accreditation).

Kingdon’s multiple streams theory is well suited for examining and understanding the process of amending legislation such as the HEA reauthorizations. Kingdon’s description of the “policy window” is particularly relevant to the research design. He wrote,

The “policy window” ... is open for only a while, and then it closes.

Enabling legislation that comes up for renewal, for instance, and many potential changes in the programs can be proposed only in the context of the renewal consideration. Or an unanticipated influx of new members of Congress makes action on certain items possible. Thus an item suddenly

gets hot. Something is done about it, or nothing, but in either case policy makers soon turn their attention to something else. So opportunities pass and if policy entrepreneurs who were trying to couple a solution to the hot problem miss the chance, they must wait for the next opportunity.

(Kingdon, 2003, p. 88)

The literature review provided detailed descriptions of the emotional reactions within the higher education community to certain developments in higher education policy, such as the SPRE, high student loan default rates, proliferation of for-profit institutions, and federal encroachment into areas of academic domain. The emotive undertone plays to the strength of ambiguity in politics, drawing support from different subgroups that might disagree on specifics but unite to agree on a policy for differing reasons. Stone's polis puts a fine point on these circumstances: "Vague goals in statutes allow legislators to vote for a law and pass the conflicts on to an administrative agency for interpretation and implementation" (p. 245). The data I collected (e.g., reactions to attempted implementation of SPRE, student loan default, negotiated rulemaking) revealed a distinctive pattern of this very process: Congress handing a thorny legislative framework to the Department of Education to regulate and implement. Interpreting the data using Kingdon's theory and Stone's polis model contributed an important context and meaning to the study and is discussed in detail in the next chapter.

### **Participants**

The sixteen individuals asked to participate in the interviews for this study were selected based upon specific criteria. Patton (2002) supported the use of purposeful

sampling as the primary resource for developing a strategy for identifying participant characteristics. He explained as follows: “The sampling strategy must be selected to fit the purpose of the study, the resources available, the questions being asked, and the constraints being faced” (p. 242). Identifying the sampling strategy for participants was an important aspect of this research. The selection process mattered as well. There is a distinction to be made in this research design between purposeful sampling and participant selection. Reybold, Lammert, and Stribling (in press) addressed selection through a lens of subjectivity. “The product of a study must be consciously attentive to the relationship between selection choices and findings,” they explained; “there must be an accounting for the relationship between the researcher and those chosen to represent a reality” (p. 6).

The sampling and selection procedures were vitally important considerations, given the political nature of the higher education environment at the time of this study. In response to new federal regulations for accreditation that went into effect on July 1, 2011, prominent higher education associations in Washington, D.C. were developing their own strategies and positions regarding federal involvement in higher education at the same time that I was collecting data for the study. The delicacy of this environment in higher education was heightened due to my professional situation as a senior official in one of these higher education associations. I had to be very careful that I did not approach a participant for an interview who might misconstrue my request as having reasons other than dissertation research. Requesting interviews with individuals in positions of power and authority presented unique challenges. Such interviews have been described as elite

interviews (Thomas, 1995). Kezar (2003) described the setting for an elite interview as an inquiry that enriches the research process through focusing on the specialized knowledge that the interviewee possesses. She emphasized the researcher's responsibility to understand the "balance between rights (academic freedom) and obligations" of the interviewee (p. 398). Hence, such factors were important to consider in the participant selection process.

It was essential that the participants in the interviews came from backgrounds with solid experience in higher education policy and were able to provide detailed descriptions of their experiences and perspectives so as to contribute to an in-depth understanding of the case. Use of purposeful sampling (Patton, 2002) helped to assure that I selected highly qualified participants but did not imperil my professional position or my organization in the process. I also included variation in the participant selection process as a means to collect information on whether there were central themes that emerged from a cross-section of higher education policy experts. My use of variation in purposeful sampling employed the following criteria:

1. Participants varied in terms of their type of affiliation with higher education organizations and associations (e.g., board of directors, executive officer, legal counsel);
2. Participants reflected an array of experiences (e.g., accreditation leadership, legislative affairs, negotiated rulemaker, former higher education officials);  
and

3. Participants had experience with the HEA reauthorizations at different times between 1992 and 2008.

The participants that granted interviews for the study held senior-level legislative affairs positions at their respective associations and organizations during the HEA reauthorization between 1992 and 2008. This was an important factor because such a position would have necessitated a keen understanding of the reauthorization processes, the ability to convey organizational concerns during reauthorization, and the ability to convey interpretation and understanding of the issues to their organization members.

Accordingly, participant criteria were the following:

1. Participants must hold (or have held within the past 5 years) an executive or senior-level position of responsibility within an educational organization (e.g., executive director, president, vice president of legislative affairs, vice president for government relations, director of policy studies, etc.); and
2. Participants must possess at least 5 years of experience in that position.

I selected participants from a listing of current and former executive officers of U.S. Department of Education-recognized accrediting organizations such as the New England Association of Schools and Colleges Commission for Institutions of Higher Education (NEASC-CIHE); noted legislative experts in leadership positions at organizations such as the American Association of Universities (AAU), the Council for Higher Education Accreditation (CHEA), and the American Association of State Colleges and Universities (AASCU); former senior staff members of the Department of Education who participated in negotiated rulemaking sessions; and higher education

policy experts who participated in negotiated rulemaking between 1992 and 2008. I selected these organizations based upon my personal knowledge and professional affiliations and also because these organizations have a history of experience analyzing federal involvement in higher education. The aforementioned organizations represent their relevant constituencies in meetings with federal and state policymakers, track trends in higher education, conduct research, analyze higher education issues, publish information, and advise their members of legislative and regulatory developments and the potential impact on their institutions.

In meeting with and interviewing the participants, I learned that several of them satisfied more than one of the participant criteria, offering even broader perspectives than I had anticipated. Table 1 provides the array of interview participants and how they met the selection criteria.

Table 1

*Participant Criteria*

Participant number	Education association	Negotiating rulemaker	Regional accrediting	National accrediting	Department of Education
1		x		x	
2			x	x	x
3		x	x		
4				x	
5	x	x			
6	x				
7	x				
8		x		x	
9		x		x	
10	x			x	
11	x				x
12	x				
13	x				
14	x		x		
15				x	
16		x	x		

**Data Collection**

Data collection for this study took place for approximately 7 months from July 1, 2011 through February 19, 2012. As discussed earlier, I employed several methods for collecting data that included interviewing, observation, analysis of documents, the use of visual materials, and the use of personal experience (Denzin & Lincoln, 2005). I was also attentive to data collection practices specified for case study. Data collection for the case study involved three strategies commonly used in qualitative research: interviewing, observation, and document review (Merriam, 1998; Stake, 2006). Observations provided



the opportunity to examine what took place with the current application of federal regulations as it relates to accreditation. Talking formally through interviews and informally with individuals involved with higher education and the review of accrediting organizations was also an important source of data. Examining documents and other written materials also provided important context (Merriam, 1998). As explained by Patton (2002), “Multiple sources of information are sought because no single source of information can be trusted to provide a comprehensive perspective ... using a combination of observations, interviewing, and document analysis will enable the use of different data sources to validate and cross-check findings” (p. 297). Data collection for this case study is described in more detail below.

**Observations.** The observations provided an important source of information that helped to inform my understanding of accreditation’s perspectives and concerns regarding federal involvement in higher education accreditation. The process of observation enabled me to draw inferences about these perspectives that I would not have been able to obtain by relying exclusively on interview data (Maxwell, 2005, p. 94).

I observed meetings of the National Advisory Committee on Institutional Quality and Integrity (NACIQI) along with approximately 50 other higher education association representatives who had a stake in higher education accreditation. The NACIQI met to review and discuss topics such as the challenges and perspectives on quality in higher education accreditation, the future role of accreditation in higher education, the tensions that demands for accountability have brought to the accreditation–federal relationship, and whether accreditation can retain its fundamental principles while meeting increasing

demands for accountability. The NACIQI also met to advise the Secretary of Education (or his designee, the Assistant Secretary for Postsecondary Education) regarding the recognition of accrediting organizations as reliable authorities concerning the quality of education and training offered by postsecondary educational institutions for participation in federal financial aid programs authorized under Title IV of the HEA. I observed the NACIQI meetings that took place February 4, 2011, June 6–8, 2011 and December 14–16, 2011.

Between the NACIQI meetings, the U.S. Department of Education Accreditation and State Liaison office held a meeting on August 11, 2011 for accrediting organizations to provide an overview of the process for continuing their federal recognition. I observed this meeting, and it was attended by approximately 40 accrediting organization representatives. This meeting followed a presentation of the expectations for accrediting organizations given earlier in the month by Eduardo M. Ochoa regarding federal regulations on state authorization requirements, gainful employment, and credit hour approval determinations (Ochoa, 2011). Accrediting representatives were given the opportunity to ask the Department of Education staff their questions about the regulations and how the accrediting organizations were to comply with the regulations in order to remain recognized by the Secretary of Education. Much like the NACIQI meetings, the opportunity to observe this particular meeting gave me the opportunity to understand the accrediting organizations' concerns as well as the expectations the Department of Education had for accreditation to comply with federal recognition criteria.

My observation of two higher education association meetings rounded out the baseline of my understanding of how higher education accreditation reacts and responds to the federal role. The Council on Higher Education Accreditation (CHEA) convened regional, national, and specialized accrediting organization representatives on June 24, 2011 and October 18, 2011 to develop and refine a strategy to sustain a balance in the federal–accreditation relationship that preserves the longstanding leadership role of the academy in setting standards for academic quality. The Association of Specialized and Professional Accreditors (ASPA) held a meeting on September 11, 2011 to discuss the federal role within the context of specialized accreditation activities. The meeting included a presentation by the American Council on Education (ACE) that shared ideas for how accreditation could improve and respond to growing demands for transparency and public accountability.

Maxwell (2005) notes that observations provide a “direct and powerful way of learning about people’s behavior” (p. 94). The foci of the observations were to garner insights into how people reacted during discussions about the federal regulations for accreditation recognition, observe how representatives of the Department of Education responded, and gain understanding of various viewpoints that could not be obtained through the interview process. A listing of the observation details is provided in the table below.

Table 2

*Observation Schedule*

Meeting	Date	Time	Duration	Setting
National Advisory Committee on Institutional Quality and Integrity	02/04/11	8:30 am	5:00:00	Alexandria, VA
	06/08–10/11	8:30 am	7:00:00	Hotel Meeting Room
	12/14–16/11	8:30 am	7:00:00	Hotel Meeting Room
U.S. Department of Education Accreditation & State Liaison	08/11/11	9:00 am	3:00:00	1800 K Street Northwest Washington, DC
Association for Specialized and Professional Accreditation	09/11/11	9:00 am	7:00:00	Atlanta, GA Hotel Meeting Room
Council for Higher Education Accreditation	06/24/11	8:30 am	8:00:00	Washington, DC
	10/18/11	9:00 am	4:00:00	Hotel Meeting Room

**Interviewing.** Prior to conducting interviews, I obtained approval from the Human Subjects Review Board (HSRB) for my Informed Consent Form, email message requesting an interview, and phone call script. The interviews of 16 participants, all of whom met the selection criteria, took place using a consistent process that was framed by an interview guide (Patton, 2002). The interview guide assured that the “same basic lines of inquiry are pursued with each person interviewed” (Patton, p. 343). The interview guide also assured the best use of time for the interviews and made interviewing a number of individuals (given my approach to the variation of participants described above) systematic and comprehensive, “keeping the interactions focused while allowing individual perspectives and experiences to emerge” (Patton, pp. 343–344). The questions for the interview guide were derived from the insights and understanding I gathered

during the literature review (see Appendix). Using my notes from the observations, I was able to provide prompts and follow-up questions as needed to supplement the prepared questions in the interview guide.

At the beginning of each interview, I presented the participant with an HSRB-approved Informed Consent Form and ensured that the participant understood the content of the form. In addition, I asked for permission to make an audio recording of the interview. I asked the participants the questions in the interview guide that were prepared in advance as well as additional questions based on the participant responses. Soon after the interviews took place, I transcribed the interview recordings and then sent the transcript to the participants via email for their review. In my email, I requested that the participants provide me with written confirmation that the transcript accurately represented their responses to the interview questions and whether they would like to offer any additional clarification to their responses. I then confirmed the accuracy of each transcript with each participant and received written confirmation of such via email.

**Document review.** Document review provided important sources of information that described federal involvement in higher education that could not be observed or determined from an interview process. The document review process included the examination of Part H amendments from the HEA reauthorizations in 1992, 1998, and 2008; the accreditation provisions from the HEA reauthorized in 1992, 1998, and 2008; the regulations (Code of Federal Regulations 34, Section 495, Subsections 602.15–602.28) that were created to implement this legislation; transcripts from NACIQI meetings; transcripts from Congressional hearings on higher education and accreditation;

and USDE staff analysis of accrediting organization recognition petitions to the Secretary of Education. Access to all of these documents was available via the Internet and the George Mason University library.

### **Data Analysis**

Case study analysis procedures were drawn from strategies described by Merriam (1998) and Stake (2006). For this study, the 1992, 1998, and 2008 HEA reauthorizations represent individual cases that reside within a policy case study as a whole. Stake offered specific strategies for handling data analysis from multiple sources. Stake emphasized, “it is best that the issues of the individual cases not merge too quickly into the main research questions of the overall multicase study” (p. 46). Keeping this concept in mind, I included in the data analysis process aspects of Stake’s cross-case analysis procedure as described here:

The main activity of cross-case analysis is reading the case reports and applying their findings of situated experience to the research questions ...

These research questions guide the multicase study of the program or phenomenon. The analysis is not simply a matter of listing the case findings pertinent to each research question; the findings need to keep their contextual meaning during the authoring of the multicase report. (p. 47)

Using this approach helped to reveal connections across the case. In addition, it brought to light the evolution of different priorities and influences on higher education policy that took place between 1992 and 2008. In my study, the separate cases are the 1992, 1998,

and 2008 reauthorizations. As anticipated, common themes emerged for each reauthorization. Each case showed distinctive characteristics that were revealed as I completed my interviews, observations, and document review. Consistent with Stake’s recommendations, I used cross-case analysis after coding my data from the interviews, observations, and document review.

Stake (2006) recommended the use of worksheets to organize the analysis of multicase data. I developed a worksheet (see Table 3) after reviewing Stake’s suggestions for this approach and organized the presence of themes that emerged upon coding the data.

Table 3

*Cross-Case Analysis Worksheet: Presence of Themes within Each Policy Case*

	Case A 1992 Reauthorization	Case B 1998 Reauthorization	Case C 2008 Reauthorization
Title of theme	Narrative description of each theme and how it ties to the individual case.		
Theme 1			
Theme 2			
Theme 3			
Theme 4			

Interview transcripts, documents, and field notes from meeting observations were coded with words and/or phrases that summarized and condensed the data and assigned each unit of data its own unique code (Merriam, 1998; Saldaña, 2009). This process involved careful reflection on patterns emerging from the data. As I examined each piece of data, I looked for indicators as to whether Kingdon's theory had any presence within the data. For example, was a policy, problem, and/or political stream apparent in the data? I also referred to my notes on Stone and the polis model during this process, asking myself, was there confusion or a sense of urgency during this legislative process? Who in the political process had a stake in the outcome? As I developed and assigned a code to each piece of data, I identified potential categories to organize coded data. Saldaña (2009) explained that within the first cycle of coding, some codes may be subsumed by other codes, relabeled, or dropped altogether. As I reviewed the data I combined codes and edited the categories. I repeated this process until I felt satisfied that I had thoroughly vetted the data and constructed appropriate categories, highlighting those that could be used to support the development of themes.

The next step in the analysis process involved progressing toward the "thematic, conceptual and theoretical" and toward "transcending the reality of the data" (Saldaña, 2009, p. 11). At this point in the analysis, I identified and sorted the themes that aligned with individual cases and developed short narrative pieces that described the details of the themes that I then entered on the chart for each case. From these pieces of narrative and by using the visual structure provided by the worksheet, I developed broader and



more comprehensive interpretations and narrative descriptions of the case overall as well as the findings therein.

### **Limitations**

In considering the potential limitations of the study, I was most concerned with potential bias that could result from my professional affiliations and connections to the higher education accreditation sector. I did bring a construction of my own perspective of higher education and accreditation to the research situation. On one hand, this was a positive attribute; I came into this research process with a very good working knowledge of higher education policy and accreditation. It was this experience, however, that shaped my own opinions about federal involvement in higher education. This would necessitate careful attention to my interactions with other individuals' constructions or interpretations. Merriam (1998) wrote, "The key concern is understanding the phenomenon of interest from the participants' perspectives, not the researcher's. This is sometimes referred to as the emic, or insider's perspective, versus the etic, or outsider's view" (pp. 6–7). I made every effort to be cognizant of my emic perspective, conducting my research from a neutral standpoint, and to "negotiating layers of meaning" with a careful awareness of how my experiences might shape the investigation and its findings (Merriam, p. 23).

Stake (2006) summed up the importance of the researcher facing and addressing potential biases: "It is an ethical responsibility for us as case researchers to identify affiliations and ideological commitments that might influence our interpretations for the readers of the study and for ourselves" (p. 87). The affiliation I identify with in the

context of Stake is this: I possess 12 years of experience working in higher education accreditation, and my current position is Vice President of Recognition Services at the Council for Higher Education Accreditation. I am responsible for directing the review of 60 higher education accrediting organizations (regional, national, and specialized) for recognition by the Council's Board of Directors. Although following the legislative and policy agendas of Congress and the U.S. Department of Education are not my direct responsibility, I participate in the review of the literature produced by the organization that analyzes the government's role in higher education and accreditation.

### **Research Credibility**

Qualitative researchers think in terms of trustworthiness when describing the credibility and dependability of their research (Denzin & Lincoln, 2005). Patton (2002) also identified the terms *trustworthiness* and *authenticity* as the language he preferred to use when describing credibility in qualitative research. He explained further that any credible research strategy requires that the researcher “does not set out to prove a particular perspective or manipulate the data to arrive at predisposed truths” (p. 51). It is confidence in this truth and confidence in the conclusions of the research that instill credibility. I used the following procedures as drawn from Merriam (1998) and from Patton (2002) to assure the credibility and reliability of this study.

1. Member checks – I continually reported back to the participants to determine whether narrative and quotations were accurate representations of the interviews and kept their affirmations on file.

2. Long-term observation – The research study collected data over a 6-month period from mid-July 2011 through January 2012.
3. Clarifying researcher bias – I described my professional responsibilities in higher education accreditation and my commitment to avoiding researcher bias.
4. Integrity of analysis – I described in detail how I would analyze and code the data and develop findings. Engaging in this process and systematically following through on the methods proposed for the case study contributed to credibility.

## **Chapter 4: Findings**

This chapter presents a discussion of the findings of the case study. The findings are presented in three segments beginning with a description of the cycles of analysis that were employed to identify the themes that emerged within the data for the individual case studies of the 1992, 1998 and 2008 HEA reauthorizations. Next, a discussion of the interview content, document content and observation data is presented in a detailed narrative to develop further the themes using Kingdon and Stone as interpretive tools. Confidentiality of the interview participants is handled by using a numerical identifier for each participant. The chapter concludes with an analysis of the overall findings.

Etic and the emic perspectives contributed to the process of interpreting the patterns in the data and formulating the findings. Maxwell (2005) describes the importance of attending to these distinctions when analyzing qualitative data. Hence, insights derived from the researcher's concept, or an etic perspective, were grounded in the theoretical framework and research question for this study. Insights obtained from the emic perspective stemmed from concepts garnered through participant interviews, observations and document review.

### **Descriptive Codes**

The units of data within the transcripts, observation field notes, and documents produced 36 distinct codes that served as basic identifies of important and recurring

topics. The coding process assigned short-hand designations to various aspects of the data (Merriam, 1998) so that the similarly coded units of data could be grouped into categories of common characteristics (Saldaña, 2009) and then examined carefully for themes. Saldaña (2009) emphasizes the importance of understanding that coding and categorizing are separate and distinctive components of data analysis. He wrote, “qualitative codes are essence-capturing and essential elements of the research story that, when clustered together according to similarity and regularity... actively facilitate the development of categories and thus analysis of their connections.” (p. 8) These procedures, as outlined by Merriam and Saldaña, guided the coding and analysis process.

Working with paper copies of the transcripts and field notes from the observations and document review, units of data were identified by descriptive codes written in the margins of these documents. Table 4.1 identifies the 36 descriptive codes developed during this process.

Table 4

*Descriptive Codes*

A: Accreditation	IGI: Inspector general influence
AB: Accreditation as buffer	IN: Institutional improvement
AC: Accountability	LR: Loosen restrictions
AF: Affordability	NA: National accreditation
AS: Accessibility	NS: National standards
BA: Bad actors	PA: Political appointees
CHR: Credit hour rule	PE: Political environment
CS: Career staff	PI: Program integrity
DE: Distance Education	PR: Peer review
FL: Federal link	RA: Regional accreditation
FLV: Federal lever	SA: Sector accreditation
FIN: Finance	SC: Spellings commission
FP: For-profit sector	SLD: Student loan default
FWA: Fraud, waste and abuse	SFA: Student financial aid
GE: Gainful employment	SH: Safe harbor
GK: Gatekeeping	SLO: Student learning outcomes
IC: Incentive compensation	WP: Word processing

## **Cross-case Presentation of Descriptive Codes**

Moving beyond the basic description of the data to the next level – the construction of themes that represented recurring patterns – revealed a “deeper level of meaning” that began to materialize for the case study (Merriam, 1998, p. 179). This involved determining where the descriptive codes emerged within each of the three HEA reauthorizations and how these units of data showed patterns or recurring regularities. To keep the coding process organized and easily retrievable, a system of color-coding the reauthorizations in 1992, 1998 and 2008 using a spreadsheet format distinguished the units of data and the locations of discussion and vignettes that captured the essence of each of the reauthorizations. Systematically comparing units of data within one reauthorization to units of data within the other two reauthorizations showed how certain basic topics were located within each reauthorization timeframe. Other topics were located within two of the reauthorization timeframes or within just one reauthorization timeframe. Organizing the codes among the three reauthorizations that occurred within the broader case study provided essential groundwork for further analysis and interpretation (Saldaña, 2009). The result of this cycle of analysis appears in Table 4.2 below. The codes for basic topics that appear in the data for each reauthorization are indicated by underlined font; the codes for basic topics that appear in the data for two of the reauthorizations are indicated by italicized font; and the codes for basic topics that appear in reference to only one reauthorization are circled.

Table 5

*Cross-case Analysis of Descriptive Codes.*

Case A 1992 Reauthorization			Case B 1998 Reauthorization			Case C 2008 Reauthorization		
<u>A</u>	<i>AB</i>	<u>AC</u>	<u>A</u>	<u>AC</u>	<u>CS</u>	<u>A</u>	<i>AB</i>	<u>AC</u>
<i>AF</i>	<i>AS</i>	<i>BA</i>	<i>DE</i>	<u>FP</u>	<u>FL</u>	<i>AF</i>	<i>AS</i>	<i>BA</i>
<u>CS</u>	<u>FL</u>	<i>IN</i>	<u>GK</u>	<u>LR</u>	<u>PE</u>	<u>CHR</u>	<u>CS</u>	<i>DE</i>
<i>FIN</i>	<u>FP</u>	<u>FWA</u>	<u>PI</u>	<u>PR</u>	<u>RA</u>	<i>FLV</i>	<u>FP</u>	<u>FL</u>
<i>IGI</i>	<u>GK</u>	<i>FLV</i>	<u>SFA</u>	<i>SLO</i>		<i>FIN</i>	<u>IC</u>	<u>GE</u>
<i>NA</i>	<u>PE</u>	<u>PI</u>				<u>IA</u>	<i>LV</i>	<i>IGI</i>
<u>PR</u>	<u>RA</u>	<i>SLD</i>				<u>GK</u>	<i>PA</i>	<i>NA</i>
<u>SFA</u>						<u>NS</u>	<u>PR</u>	<u>PE</u>
						<u>PI</u>	<u>SC</u>	<u>RA</u>
						<u>SA</u>	<u>SH</u>	<i>SLD</i>
						<u>SFA</u>	<u>WP</u>	<i>SLO</i>

**Themes**

Once the descriptive codes were determined among the three reauthorizations, certain themes appeared in each reauthorization to include consideration of the frequency with which the descriptive codes appeared within the data. The topics with the strongest



presence in the data: accountability, federal financial aid, and federal recognition, and the federal link appeared in nearly every interview transcript as well as in documents and observation notes that spanned all three reauthorizations. Codes that appeared in only one of the three reauthorizations helped to identify the characteristics of a theme that appeared within the context of the individual case. Examples of codes appearing in just one reauthorization are student loan default rates (1992 reauthorization), loosening restrictions (1998 reauthorization), and credit hour rule (2008 reauthorization). Continually referring to the research question, kept the process focused on “visualizing the multicase project as a whole” (Stake, 2006, p. 65). How are changes to federal policies for higher education accreditation that took place between 1992 and 2008 perceived by decision makers and association officials who represent the interests of U.S. Institutions?

A worksheet adapted from Stake’s (2006) multiple case study analysis procedures was implemented to support the development of themes and identify the prominent characteristics of each theme within each case. Stake defines a theme, or finding, as a “central idea having importance related to its situation... is somewhat context-bound, and is more local than universal.” (p. 64) Table 3 provides an overview of the themes that became apparent during the third cycle of the analysis and includes a brief description that shows how the themes apply to each of the three reauthorizations.

Table 6

*Characteristics of Themes within Each Policy Case.*

Theme	1992 Reauthorization	1998 Reauthorization	2008 Reauthorization
<u>Accountability</u> of higher education accreditation	Policy framework tightens: Expansive investigations of for-profit institutions and national accreditors due to the magnitude of student loan default rates, direct federal oversight of institutions regarding financial responsibility	Policy framework loosens: student achievement benchmarking required for national accreditors that review for-profit institutions, attention given to distance (online) education, for-profit sector migrates to regional accreditors	Policy framework tightens: credit hour rule, state authorization, misrepresentation and gainful employment are federal response to renewed growth in for-profit sector and concerns about student loan debt in the for-profit sector
<u>Gatekeeping</u> of federal funding	Gatekeeping role of accreditors is homed via the federal recognition process; SPREE proposed to assure institutional compliance with federal requirements	Gatekeeping role expanded to accommodate a distance education demonstration project where financial aid awarded only if enrollment does not exceed 50%, a ban on incentive compensation is lifted and “safe harbor” provisions implemented for the for-profit sector	Gatekeeping role coexists with federal oversight: direct lending establishes the U.S. Department of Education as sole distributor of federal financial aid, credit hours as currency, institutions offering distance education must obtain approval from every state, gainful employment rule measures graduate ability to repay federal loans based upon income earned
<u>Leverage</u> through Federal recognition of accrediting organizations	Revisions to Part H: required accreditors to assess recruiting and admissions, advertising, program length, success in	Revisions to Part H: removed the requirement that accreditors assess institutional student loan default rates and	Revisions to Part H: implemented new provisions in the areas of student achievement, appointment of the

	student achievement, student complaints, default rates and Title IV compliance of their accredited institutions	Title IV compliance, removed the requirement that accreditors judge tuition levels in relation to course length, implemented the review of distance education	national advisory committee, due process associated with accreditor review and appeal procedures, institutional mission, distance education, transfer of credit, monitoring of enrollment growth, information to the public and religious mission
<u>Linkage</u> between accreditation and federal student aid eligibility	Education Secretary Lamar Alexander proposes ending the link between accreditation and federal student aid eligibility	The link between accreditation and federal student aid eligibility is static, but questions whether institutional eligibility to be uniformly applied to all sectors of higher education or distinguished between public, private non-profit and for-profit sectors	The future of the link between accreditation and federal student aid eligibility is uncertain; proposals at the U.S. Department of Education range from severing the link, to modifying the link, to maintaining the status quo

### **Cross-case Description of Themes**

Excerpts from interview transcripts, document review and observation notes support and expand upon the presence of the themes within the data. The review of transcripts from Congressional hearings on the HEA reauthorizations provided important historical background for the events that could not be observed as well as insight into the human experiences of HEA reauthorization (Merriam, 1998). Placing the themes of accountability, gatekeeping, federal recognition and linkage within the context of an

expanded, descriptive narrative constructs a deeper understanding of the federal role in higher education accreditation and how it has changed over time.

**1992 Reauthorization narrative.** Several of the interview participants for this study who were familiar with the Senate hearings that took place between May 1991 and October 1991 describe these events as pivotal episodes that brought about the inception of increased federal involvement into accreditation. The reports and transcripts from the Senate hearings underpin these assertions that a turning point occurred for higher education and accreditation.

The application of Kingdon's (2003) multiple streams theory constructs meaning and understanding of the perception that the 1992 reauthorization was a turning point in higher education accreditation's history. It provides an example of how the timing of a serious problem, the political setting and the policy environment opened a policy window that resulted in changes to federal policies. These changes, as described by this study, culminated in the 1992 reauthorization of the Higher Education Act as follows:

*The problem stream* – high rate of federal student loan default, particularly among private for-profit schools, constituted a public matter that required attention by policy makers

*The policy stream* – proposed changes to the Higher Education Act submitted primarily by the Department of Education's Office of Inspector General provided solutions for policy makers to consider

*The politics stream* – media reports of fraud, waste and abuse in for-profit schools and lax oversight by national accreditors undermined public trust and confidence in the system of using private accreditation to monitor federally funded programs.

The diagram provided in Figure 3 provides a visual representation of the problem stream, the policy stream, and the politics stream that occurred prior to the 1992 HEA reauthorization.

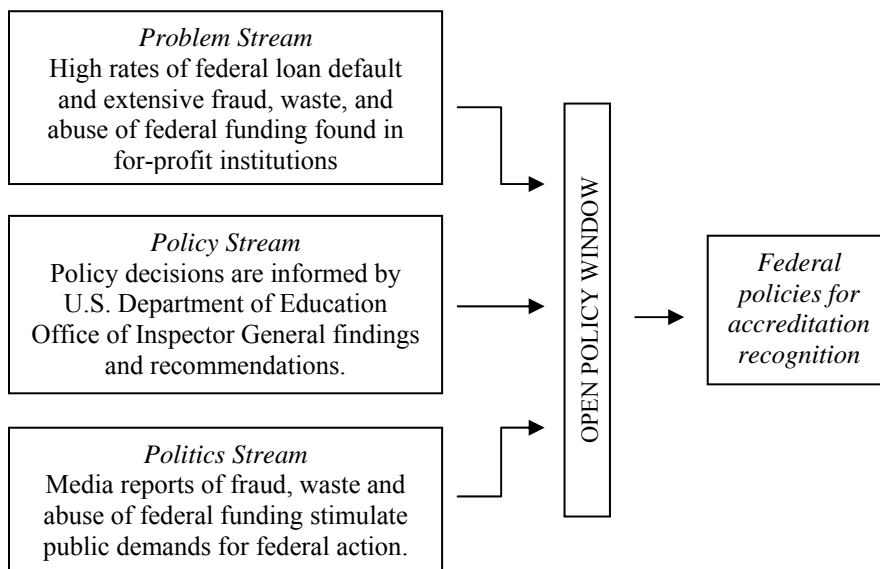


Figure 3. Kingdon’s Multiple Streams in the 1992 HEA Reauthorization

The convergence of these three streams created a dynamic political climate. These dynamics, in turn, facilitated broad policy changes in higher education. The following account of these events provides a more detailed illustration of Kingdon’s theory.

The streams began to form in the late 1980s, not long after President Carter signed the Inspector General Act (Public Law 95–452, October 12, 1978) and the

Department of Education Organization Act (Public Law 96-88, October 17, 1979). One of the first tasks of the newly formed Department of Education and its Inspector General Office was to take stock of the Title IV funding programs that provided financial aid to students in higher education. The Senate Permanent Subcommittee on Investigations, chaired by Senator Sam Nunn, received a series of reports from the U.S. Department of Education Office of Inspector General (OIG) regarding extensive fraud, waste and abuse occurring within the Guaranteed Student Loan Program (GSLP) authorized by Title IV of the Higher Education Act. Hearings on the topic took place during the 102<sup>nd</sup> Congress. The hearings included extensive reporting and testimony from the OIG that the GSLP had “deviated from its intended purpose and stated goals, was plagued by fraud and abuse at every level, lacked meaningful oversight and management controls and had become inefficient, ineffective and far too costly” (Senate Report 102-58, Abuses in Federal Student Aid Programs, 1991, p. 2 ). At the center of these concerns were for-profit career and technical institutions that provided postsecondary education and the federally recognized national accrediting organizations that accredited them. The report indicated that “39% of the students enrolled in these institutions as of September 30, 1987 had defaulted on their GSLP loans.” (Senate Report 102-58, p. 4) The report stated further:

... unscrupulous, inept and dishonest elements among the for-profit sector had flourished throughout the 1980s by exploiting the ready availability of billions of dollars of guaranteed student loans and the weak and inattentive system responsible for them, leaving hundreds of thousands of students with little or no

training, no jobs and significant debts that they cannot possibly repay. (Senate Report 102-58, p. 6)

The report blamed the problem on the HEA reauthorization of 1986. During that reauthorization, Congress removed prior limitations on proprietary school borrowers and made the process of making loans to attend a for-profit institution, which had previously been considered as too risky, more attractive (Senate Report 102-58). Senator Roth described his concerns with the problem in the following way:

Because of the deceptive practices of such schools, these students have to pay for an education they never received. Lacking proper training, they are not able to get jobs by which they can repay their federally guaranteed loans and thus suffer the added humiliation of seeing their credit ratings destroyed in the process. (Senate Report 102-58, p. 10)

The report criticized the accreditors of these institutions for failing to fulfill their responsibility to assure that the for-profit schools provided students with quality of education; an assurance that the U.S. Department of Education relied upon in certifying the for-profit institutions to participate in Title IV programs. The report also criticized the U.S. Department of Education for failing to follow its procedures to properly monitor accrediting organizations and complained that the Secretary of Education's National Advisory Committee on Accreditation and Institutional Eligibility (NCA) members were "not knowledgeable about the accreditation issues for which they were responsible" (Senate Report 102-58, p. 25).

An examination of the regulations that were implemented by the NCA following the 1986 HEA reauthorization reveals that the federal recognition process for accrediting organizations was more procedural than substantive. In order to be recognized, the U.S. Department of Education, at the time, had only limited requirements for accreditors that required the organizations to

- Have sufficient experience in the programs for which it seeks to be recognized;
- Be national or regional in scope;
- Have sufficient resources to carry out its functions;
- Have national recognition as the appropriate accrediting body;
- Have written documents describing its standards and procedures; and
- Adhere to an accreditation process that included institutional self-analysis, on-site review and reevaluation at reasonable intervals (39 Code of Federal Regulations, §149, 1988).

The content of Senate Report 102-58 called into question whether accreditation status was a reliable indicator of institutional quality. Frustrations with the Senate hearings and the failed recognition process in the Department of Education were mounting. In response to the criticisms of the federal recognition process for accreditation, Education Secretary Lamar Alexander proposed to end the link between accreditation and federal student aid eligibility and suggested that the U.S. Department of Education could monitor directly the quality of education at colleges and trade schools (Jaschik, 1991).



Ultimately, the 1992 reauthorization of the Higher Education Act did not include severing the link between accreditation and eligibility to participate in federal financial aid programs. But the coupling of the problem streams and the policy streams ultimately resulted in significant changes to higher education policy. As described in the literature review, the most significant aspects of the legislation were (a) the creation of State Postsecondary Review Entities (SPREs), (b) the extension of the federal regulatory control over the process for recognizing all accrediting organizations, and (c) the direct federal oversight of institutions regarding financial responsibility (Higher Education Amendments, 1992). Under Part H, the 1992 reauthorization specified the requirements that accrediting agencies had to meet in order to be recognized by the Secretary of Education as "gatekeepers" for Title IV or other federal purposes (Higher Education Amendments, 1992). The criteria and requirements that were listed under Section 496 of Part H in the HEA mandated that accreditors have and implement standards to assess schools in recruiting and admissions, advertising, program length, success in student achievement, completion and other outcome measures, student complaints, default rates and Title IV compliance of their accredited institutions (Higher Education Amendments, 1992).

Another provision of the 1992 reauthorization that was not in Part H is an important policy revision regarding the percentage of correspondence students that could be enrolled at an institution. Because for-profit correspondence schools were identified in the Department of Education's OIG report as engaging in extensive fraud (S. Rep. No. 102-58, 1990), a special provision was added to Section 481 of the 1992 amendments

under Institutional Eligibility. This provision excluded from Title IV eligibility any institution that offered more than fifty percent of its courses in a correspondence format or enrolled more than fifty percent of its students in correspondence courses (Higher Education Amendments, 1992). It became known as the fifty percent rule. Essentially, a school with students enrolled in correspondence coursework had to enroll an equal number of students in its residential programs or risk loss of Title IV eligibility for all students enrolled. As the internet and online learning evolved during the 1990s, the U.S. Department of Education would interpret the fifty percent rule to include distance education offered via the internet and call upon accrediting organizations to monitor growth and educational quality in distance education programs. The fifty percent rule is mentioned here because it contributes to understanding the broader implications of how the level of federal involvement with higher education and accreditation would evolve over the next sixteen years.

The requirements that stemmed from the 1992 HEA reauthorization became applicable to *all* of the accrediting organizations recognized by the U.S. Department of Education. The data from the study, however, shows that changes were brought about in response to concerns about high student loan default rates at for-profit institutions, fraudulent use of Title IV funding at correspondence schools and the national accrediting organizations that accredited them. The interview data indicate that with these changes, federal recognition of accrediting organizations would begin to influence and change the process of accreditation in ways that were never before imagined

Participant 4 who was part of an accrediting organization at the time offered this observation:

The 1992 Higher Education Act marked a significant, dramatic, tsunami level departure from higher education accreditation in this county. When Congress got involved, it was contentious and adversarial and was precipitated by high student loan defaults at for-profit schools. But when the HEA and the final regulations were passed, it swept in everybody in higher education.

Participant 1, who was also involved with an accrediting organization at the time perceived the 1992 HEA reauthorization as “draconian” and a “very heavy club” wielded by the federal government. Participant 2, who was on the staff at the Department of Education at the time, had this point of view of the 1992 HEA reauthorization:

The department’s general counsel office, the Office of Inspector General, and staff had concerns about the very high default rates that seemed to be centered primarily in the for-profit sector, so they were looking at that and trying to control that and some folks in the department felt that one of the ways to do that was to be stricter with accrediting agencies in terms of the accrediting agency evaluation and recognition process.

Yet in talking with Participant 10 who was part of a for-profit association and then a chief executive officer of an accrediting organization during the events leading up to the 1992 HEA reauthorization offered this observation about how accrediting organizations for public and private non-profit colleges and universities responded to the situation:

The regional accreditors wanted it both ways. They wanted to be the gatekeepers for federal student financial aid... but at the same time, they wanted to enjoy all of what they called the academic freedoms, they wanted no oversight. Their reaction to any kind of federal oversight was to blame it on the for-profit institutions and national accreditors.

The 1992 HEA reauthorization became Public Law Number 102-325 when it was signed law by George H. W. Bush on July 23, 1992. From there, the U.S. Department of Education had a new challenge on its hands: to implement negotiated rulemaking as a means to create the regulatory framework and new recognition requirements for accrediting organizations. “This was a completely new process to the Department of Education and higher education” said participant 14, who was part of an accrediting organization at the time, “no one in higher education knew what was involved and, for that matter, neither did the staff at the U.S. Department of Education.” Participant 9 was a negotiator who represented accreditation at the rulemaking sessions that followed the 1992 HEA reauthorization. Discussing the rule making process (referred to as neg-reg or negotiated rulemaking) Participant 9 offered additional details:

Neg-reg was something new for the higher education community. I don’t think that many of the folks who came to the organizational sessions had a concept of what it was and the Department, basically, did not follow a lot of the key precepts. In the organizational sessions, the Department, presented a set of rules, protocols, procedures... to those they had selected to be negotiators, none of whom had been oriented to what this process was about. There was almost a

rebellion that happened right off the bat. A lot of the representatives of the higher education community didn't want to feel as though they had to commit on behalf of their organizations. And by the same token, the Department was saying that it wouldn't necessarily abide by the agreements reached either. And so what happened was that neg-reg lapsed into this process where Department officials, most of whom were sort of mid-level career people without any political direction, presented drafts of regulations to the negotiators. We all reacted to them, usually negatively, and criticized what they had done. Their response, rather than negotiate, was to say thank you for your views, we'll think about it.

The vignettes and interview excerpts from the interview data provide insights into a complex and contentious reauthorization process that was followed by a complex and contentious negotiated rulemaking session. This created a tumultuous environment for implementing new policies.

After almost two years of negotiated rulemaking sessions and commenting procedures, the U.S. Department of Education published final regulations, including new recognition criteria for accrediting organizations under 34 CFR Subsection 602, on April 29, 1994. The new rules went into effect on July 1, 1994 (The Secretary's Procedures and Criteria for the Recognition of Accrediting Agencies, 1994). A negotiating rulemaker who participated in the process and was interviewed for this study had this to say about the conclusion of their experience, "the final regulations continued to confirm the conversion of accreditation from a collegial, peer review process to an administrative, regulatory process ... and heavily emphasized the concept of accountability."

The discussion of the data to this point show that the themes of accountability, gatekeeping, leverage of accreditation, and linkage have a strong presence within the data pertaining to the 1992 HEA reauthorization. The resulting legislation brought about significant changes to the accreditation-federal relationship that, in effect, established a formal authority structure for government oversight of accreditation. Accrediting organizations had, for many decades, received direction, expectations for enhancement, and proposals for accreditation standards from their member institutions with an aim toward peer review and institutional improvement. The 1992 reauthorization represents a shift from what was once the province of the higher education community to a domain of federally constructed mandates for accreditation (accountability). As of 1992, accrediting organizations that did not abide by the regulatory framework (leverage) in carrying out their responsibilities as reliable indicators of educational quality (gatekeeping), would face the loss of their federal recognition status by the U.S. Department of Education (linkage).

**1998 Reauthorization narrative.** The Higher Education Act was reauthorized again in 1998 (Higher Education Amendments, 1998). The central issues around this reauthorization were different from the 1992 reauthorization. Congressional Research Services (CRS) reports (Riddle, 1997; Schenet, 1998; Irwin, 1998) that presented background and analysis to Congress as well as the participants in the interviews describe Congress in 1997-1998 as more focused on student achievement outcomes and distance education than on regulating the higher education accrediting system. In general, the data gathered from the interviews regarding the reauthorization indicate that overall, the 1998

reauthorization process was considered mutually respectful. One participant in the interviews noted that the interactions with the Department of Education and Congress leading up to the 1998 reauthorization “was a return to normalcy, it was collegial and engaging.”

The descriptive codes for the 1992 and 2008 reauthorization timeframes, such as leverage, federal link, and student loan default, appear in the data for the 1998 reauthorization timeframe but within a different context, suggesting that the process was not predicated by the problem and policy streams that plagued the 1992 reauthorization. The themes of accountability, leverage, gatekeeping, and linkage are present in this reauthorization, but within a much different context. The federal government and the Department of Education seemed satisfied with the process of relying upon recognized accrediting organizations to determine standards of program quality with the federal government (accountability and linkage). Regulations put in place during the 1992 reauthorization that were being implemented by accrediting organizations bolstered the reputations of these organizations and their ability to monitor accredited institutions (gatekeeping and leverage). Unlike the 1992 reauthorization of the HEA where reforming the triad to deal with problems of fraud and abuse and growing student loan default rates singled out the for-profit sector of higher education, the HEA considered for reauthorization during the 105<sup>th</sup> Congress, as described by Schenet in her Congressional Research Services Report (1998) had different tone, content, and issues for Congress to consider, such as:

- Should institutional eligibility continued to be uniformly applied to all sectors of higher education or should there be distinctions made based upon whether an institution was public, private non-profit, or for-profit?
- Should educational outcomes, student achievement, or other measures of quality be used to determine eligibility or differentiate by type of institution?
- Are exceptions needed to accommodate new and more expansive forms of distance learning programs?

The interview data further show that the outcome of the 1998 reauthorization of HEA was for the most part well-received in the higher education community. The Higher Education Amendments of 1998 included changes in federal policy for recognizing accrediting organizations that eliminated some of the most strident provisions from 1992. One of the most prominent changes to Part H was the elimination of State Postsecondary Review Entities (SPREs) (Higher Education Amendments, 1998). Although the SPREs never were implemented, one participant in the study commented that the SPREs' elimination ended concerns that the federal government was requiring and funding the formation of new state agencies that would duplicate the work done by federal officials and accreditors. Changes proposed for Part H of the HEA included removing the requirement that accreditors assess institutional student default rates and determine institutional compliance with federal administrative rules (Higher Education Amendments, 1998). Finally, the Higher Education Amendments of 1998 implemented the removal of the requirement that accreditors render judgments about tuition levels in



relation to course length and to measure program length in clock or credit hours. Other areas of revision to Part H within the Higher Education Amendments of 1998 included:

- Requiring institutions to provide evidence of legal authority to operate in the state.
- Requiring accreditors to include distance education reviews, as appropriate, when assessing institutional quality.
- Allowing accrediting organizations to make unannounced visits to potentially problematic institutions instead of unannounced visits to every institution on a recurring basis.

The baseline requirements for federal recognition of accrediting organizations, for the most part, remained consistent with Part H in the Higher Education Amendments of 1992. There was little, if any, uproar or negative reaction to the process by accreditors or higher education institutions.

The data from the interview transcripts regarding the period of time following the 1998 reauthorization indicate a more collaborative and receptive approach to policy making that included the for-profit school community in a constructive manner. Of particular note is the shift in the reputation of the for-profit sector and its accreditation organizations to a more positive standing. Participant 6 who represented an association of private and public institutions had this reflection about the political environment surrounding the 1998 HEA reauthorization:

Something we heard over and over again was, “Why can’t traditional colleges be more efficient? Look at the for-profit sector... they are growing enormously, they

are serving all sorts of students and their delivery model allows them to use technologies... so why can't you deliver a quality education like they do at a cheaper price?" Many policy makers in Congress were asking me these types of questions.

Extensive lobbying of Congress by the for-profit sector associations proved effective. The national accreditors that reviewed these schools appeared to make gains in their reputation with Congress. An article run by the *Chronicle for Higher Education* reflected the change in sentiment:

Only six years ago, facing hostility from Congress and the Administration, as well as media scrutiny over an explosion of fly-by-night schools trying to reap profits from federal student-aid programs, for-profit schools had to battle hard just to avoid being thrown out of the aid programs. But with Congress close to reauthorizing the mammoth HEA, these schools are on the verge of winning back much of what they lost in 1992. And lawmakers, against the advice of the Education Department... are going further by treating the schools as esteemed members of the higher education community. (Burd, 1998)

The 1998 HEA reauthorization became Public Law No. 105-244 when it was signed law by President William Jefferson Clinton on October 7, 1998. The Department of Education again convened negotiated rulemaking sessions to hammer out the regulatory framework. These sessions took place without the turmoil and consternation that occurred during the negotiated rulemaking that followed the 1992 reauthorization. A participant who was involved with negotiated rulemaking at this time had this to say about their

experience, “the Department of Education listened to the negotiators that participated in the process and paid attention to the perspectives and concerns ... to some degree there is value and meaning in the negotiated rulemaking processes.” After the sessions of negotiated rulemaking concluded, final revisions to the regulations resulting from the 1998 HEA reauthorization went into effect for accrediting organizations on July 1, 2000 under 34 CFR, Subsection 602 (The Secretary’s Procedures and Criteria for the Recognition of Accrediting Agencies, 2000).

The policy process surrounding the 1998 HEA reauthorization contrasts with the policy process of the 1992 reauthorization. The 1992 reauthorization exemplifies the Kingdon multiple streams model of decision making. There were clear delineations of the problem, policy and political streams that coupled together to form a policy window that facilitated significant changes to the HEA. However, the 1998 HEA reauthorization is exemplified by Stone’s polis model. Stone (2002) portrays the influences on decision making in the polis with this point: “statements of goals are not only wishes and intentions, they are means of gathering political support, they are portrayals of a future meant to enlist the aid of others in bringing it about” (p. 243). She explains further:

Another part of the strategy in the polis is to make one’s preferred outcome appear as the only possible alternative. An alternative that remains unarticulated, unnamed and unexamined does not lurk around as the focus of discontent, resentment and renewed hope. (p. 246)

Stone’s polis model was an important contributing factor to the 1998 reauthorization. The data and interview content describe a significant, coordinated effort

among higher education associations, and particularly by the for-profit school association, to lobby Congress for changes as the HEA reauthorization approached. Again, Stone provides important insight. The lobbying effort by the higher education community amounted to “persuasive appeals mounted by people with stakes in the outcome” (p. 243).

Some participants in the interviews indicated that their associations were worried about how the negotiated rulemaking processes relaxed certain regulations that had reined in the for-profit sector. Some of the interview participants expressed concern when reflecting upon the incentive compensation rules that were enacted under the Code of Federal Regulations Part 34, Subsection 669.14 and how the rules allowed more flexibility in making incentive compensation payments to college recruiters (Safe Harbor Regulations, 2002). The U.S. Department of Education issued the regulations commonly referred to as "safe harbors" that allowed for 12 activities or payment arrangements that schools could use without violating the ban against incentive compensation. The safe harbors allowed (1) adjustments to employee compensation that are not based "solely" on the number of students recruited, admitted, enrolled, or awarded financial aid; (2) compensation to recruiters who enroll students in nontitle IV eligible programs; (3) compensation for contracts with employers to provide training; (4) profit-sharing bonus plans; (5) compensation based upon program completion by students; (6) compensation for pre-enrollment activities; (7) compensation for managerial and supervisory employees; (8) token gifts; (9) profit distributions; (10) compensation for Internet-based

activities; (11) compensation to third parties for non-recruitment activities; and (12) compensation to third parties for recruitment activities (Safe Harbor Regulations, 2002).

Reflecting on the decision by the Department of Education to implement rules that permitted compensation payments, some representatives of the higher education community stated that they were troubled by the possibility of future fraud and abuse; “the Department, it pretty much created this problem... it sold out on incentive compensation and I think they realized that they were in a little mess there”, stated Participant 3. Participant 5 expressed a more precise viewpoint,

We had a good deal of concern about these twelve safe harbors. We felt we had seen a pattern of abuse in the recruiting process that was really being fueled by the use of commissions paid to recruiters. That was a step backwards when it came to regulations. We thought the regulations needed to be tightened.

As negotiated rulemaking for the 1998 HEA reauthorization was winding down, another activity in higher education was coming to closure, the Distance Education Demonstration Program that was authorized by Congress in the 1998 reauthorization of HEA (U.S. Department of Education, 1999). The purpose of the demonstration program was to

1. Test the quality and viability of expanded distance education programs currently restricted under the HEA;
2. Provide for increased student access to higher education through distance education; and

3. help determine the most effective means of delivering quality education via distance education, the specific statutory and regulatory requirements that should be altered to provide greater access to distance education and the appropriate level of Title IV student financial assistance for students enrolled in distance education programs (U.S. Department of Education, 1999).

The results of the Distance Education Demonstration Project were provided to Congress in a report that included a recommendation to remove the fifty percent rule explained as follows:

The Department has uncovered no evidence that waiving the 50% rules, or any of the other rules for which waivers were provided, has resulted in any problems or had negative consequences. Three years of experience working with the demonstration program participants indicates that the potential risk to Title IV student financial assistance programs has more to do with the financial viability and administrative capability of the institution than with the mode of delivery in which the education is offered. (U.S. Department of Education, 2003)

The legislative event that brought this recommendation to fruition was the Higher Education Reconciliation Act that amended the Higher Education Act of 1965 to revise title IV student assistance program requirements. The Higher Education Reconciliation Act, which is Title VIII of the Deficit Reduction Act of 2005, was approved by the Senate on December 21, 2005, the House on February 2, 2006 and signed by President Bush on February 8, 2006. Buried within this budget bill was the small but important provision that eliminated the fifty percent rule that was previously instated in 1992 to

limit student enrollment at institutions that offered distance education. Within the provision under Title VIII, Section 8002, telecommunications courses in which students are enrolled at an institution of higher education where the courses are leading to a recognized certificate, associate or bachelor's degree were no longer considered "correspondence" courses and were eligible for Title IV aid (Deficit Reduction Act, 2005).

The growth in online education that followed the enactment of this legislation, combined with the relaxed rules on incentive compensation made possible by the 12 safe harbors, would serve as an important backdrop for the next HEA reauthorization.

Participant 7 characterized the events as "Significant. Totally, totally, totally significant. The floodgates were opened with only the accreditor to stand between access to federal funding and prodigious growth in the for-profit sector that offered distance education."

**2008 Reauthorization narrative.** Reauthorizations normally occur every five years however, nearly a decade passed between the 1998 and 2008 HEA reauthorizations. Higher education evolved and changed within this ten-year timeframe, particularly in the for-profit sector and through the expansion of distance education offered via the internet. The beginning of 2002 saw the ramp-up of presentations to the House Committee on Education and the Workforce staff and the Senate Health, Education, Labor and Pensions Committee staff in anticipation of Congress reauthorizing the HEA in 2003. The interview participants described how organizations such as the American Association of Universities (AAU), the National Association of Independent Colleges and Universities (NAICU), the American Council on Education (ACE), and the American Association of State Colleges and Universities (AASCU) engaged in such efforts. "We went to the Hill"

said one participant, “we had a legislative conference where hundreds of leaders from our sector came in and walked the Hill to revisit [provisions] that were instituted during rulemaking, and we did this year after year.”

Because reauthorization did not occur by 2003, Congress passed extensions of the 1998 reauthorization so that federal financial aid programs would continue to flow to students and accredited institutions. Reauthorization of the HEA moved slowly, and according to several participants in this study, it moved too slowly for then Secretary of Education, Margaret Spellings. As Participant 9 put it:

There wasn't a new administration but Spellings was a new Secretary at that point and she was a reformer and she came with that reformer reputation. After fixing K-12, as she put it in her Texas twang, she was going to fix higher education. She surveyed the landscape and she saw accreditation as a lever that she could pull to make some big changes in higher education.

In order to operate that “lever” Secretary Spellings put in place a Commission on the Future of Higher Education (the Commission) that operated from 2005 through 2006. The Commission's work triggered criticism about higher education's capacity to manage its own affairs and its ability to make sound judgments about finance, investment, curriculum, and quality. The Commission's report, *A Test of Leadership: Charting the Future of U.S. Higher Education* portrayed higher education as insular and failing to be responsive to students and society; it accused accreditation of lacking accountability, of reinforcing ideology, and failing to sustain academic rigor (U.S. Department of Education, 2006). The report also took a direct shot at accreditation stating, “the growing



public demand for increased accountability, quality and transparency coupled with the changing structure and globalization of higher education requires a transformation of accreditation.” (p.14)

Twelve of the sixteen interview participants viewed the Spellings Commission as having a bearing on the Higher Education Amendments of 2008. The participants described the concerns they felt when Secretary Spellings convened a negotiated rulemaking session soon after the Commission published the report. Participant 6 offered a perspective of the Secretary’s decision to move ahead with the rulemaking process absent the reauthorization of the HEA:

The Spellings Commission was the biggest manifestation of the process that was happening outside of the legislative reauthorization, and yet it had a direct bearing on the shape of that legislation. We were very concerned about where the Spellings Commission might go with respect to accreditation. There was this notion about how accreditors looked at student learning outcomes and generally the trend in accreditation is to have institutions factor this into their self-study and describe how they can demonstrate that they are meeting standards that they are putting forth in a way that is consonant with their mission. Because the accountability fervor was so strong at that time – and it remains strong to this day – there was so much interest in trying to figure out whether the federal government can standardize something.

Participant 12 perceived the Spellings Commission and the U.S. Department of Education as acting deliberately to take control of higher education and without regard to the legislative process of reauthorization:

Spellings went for it, she saw that there was a lever where she can go without having to go to Capitol Hill and fight out the battles in the House and the Senate and have all these college presidents and their football coaches calling their members of Congress. She already had the authority to recognize accrediting bodies, she had a detailed statute to interpret and implement ... and so, she went for it.

Participant 7 described the Spellings Commission as “having a mania over graduation rates ... there was this focus on achievement and attainment by students that you could call an interference with institutional autonomy, even though accreditation is supposed to be self-regulation.” Participant 4 compared the Spellings Commission to “Kabuki Theater” and continued, “I’ll tell you why I say that. I think it was highly orchestrated in which the players were hand-picked by the department and selected on political grounds because they espoused a certain position that fit with the department’s preconceptions.”

Participant 8 described the setting as “very politically charged” and that “the higher education community, particularly traditional higher education and regional accreditation, were really pushing back against what they perceived as Spellings forcing a quantitative student achievement outcome on higher education.”

The Spellings Commission’s recommendations in its 2006 report generated consternation among accreditors, with its call for “creating a robust culture of

measurement, accountability, and transparency.” (p. 14). Several of the participants described how the higher education community mobilized every resource it had available to lobby Congress to put a stop to Secretary Spellings’ momentum. “The Spellings Commission was disproportionately focused on its views of traditional education and disproportionately focused on well known, brand name institutions instead of looking at the entire landscape of institutions of higher education,” commented participant 6, “we mobilized to pressure Congress to do something about it.” On June 15, 2007, Senator Edward Kennedy released a letter sent to Secretary Spellings to the press. The letter was sent on behalf of the Senate Committee on Health, Education, Labor, and Pensions, urging the Department of Education to refrain from proposing new regulations on accreditation until after Congress reauthorized the Higher Education Act. The letter to Dr. Spellings said, in part:

The Committee on Health, Education, Labor, and Pensions is moving forward with reauthorization of the Higher Education Act. We’re writing to let you know that we plan to make changes to the section of the law that deals with accreditation. We believe these changes will strengthen our nation’s accreditation system by clarifying the Department of Education’s responsibilities with respect to recognizing accreditation agencies and organizations, and by specifying the criteria that these agencies should examine when reviewing institutions of higher education. (Senator Edward M. Kennedy, 2007)

On July 31, 2008, Congress completed the reauthorization of the Higher Education Act (HEA) by passing the Higher Education Opportunity Act—five years late

and after an unprecedented 14 extensions of the statutory deadline. President Bush signed the bill into law on August 14, 2008.

There were changes in eight accreditation-related areas within the HEA that included: 1) alterations in federal language addressing student achievement, 2) transfer of credit, 3) providing information to the public, 4) due process and accreditor review and appeals of decisions, 5) distance education, 6) the role of institutional mission, 7) the appointment and composition of the federal advisory committee and 8) monitoring growth (Higher Education Opportunity Act, 2008). After a round of negotiated rulemaking held from late 2009 to early 2010, the Department of Education proposed a set of regulations for the federal recognition of accrediting organizations. The rulemaking committees did not reach consensus on a number of the issues, leaving the Department of Education free to propose regulations. The Department of Education issued final regulations on October 29, 2010 that became effective on July 1, 2011 (The Secretary's Procedures and Criteria for the Recognition of Accrediting Agencies, 2010). Key accreditation-related regulations that resulted from the 2008 reauthorization pertained to credit hour, state authorization, incentive compensation, and gainful employment, to include:

- Under the final regulations regarding credit hour, institutions were required to use the federal definition of credit hour as their starting point for making academic judgments about the credits associated with courses and programs if the institutions were to continue to be eligible for federal funding such as student aid.

- New state authorization rules required that all institutions offering postsecondary education through distance or correspondence education in states within which the institution was not physically located to provide evidence (such as licensure) that they can meet those states' authorization requirements.
- Final regulations for incentive compensation eliminated the twelve safe harbor provisions that allowed institutions to compensate college recruiters and admissions officers based on success in enrolling students.
- The gainful employment regulations called for institutions to provide evidence that certain educational programs prepared students for gainful employment in a recognized occupation based on student debt-to-income levels and loan repayment rates.<sup>1</sup> (The Secretary's Procedures and Criteria for the Recognition of Accrediting Agencies, 2010)

The publication of the regulations resulted in a torrent of frustration and outrage by the higher education community. The interview data attested to this. Many participants perceived that the federal regulations represented an overreach by the Department of Education. Participant 12 linked the resulting regulations to the unfinished business of the Spellings Commission:

The career staff at the Department of Education had things they wanted to accomplish that lingered from the 2007 negotiated rulemaking that took place

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<sup>1</sup> Because of the controversies surrounding the gainful employment provisions, the Department of Education postponed implementation of the gainful employment provisions until July 1, 2012.

after the Spellings commission ... the department wrote some rules that ... the associations felt were overreaching. It is a complete bastardization of the legislation and the intent of the legislation and it's essentially the department saying we don't care what the legislation says, were going to do what we want. It's a complete overreach.

Participant 2 expressed a similar viewpoint of the 2008 reauthorization in comparison to the 1992 HEA reauthorization:

It is far more intrusive than it was following the 1992 amendments. That is where this all started. But the 1992 HEA and regulations were not anywhere near as intrusive as where the laws and regulations are today. I am scared about it. It is going to destroy accreditation as we know it.

Participant 7, who represents the interests of accredited institutions at a Washington, DC-based association had these comments in response to questions about how new regulations impact the accreditation process at the institutions represented by his association:

I remain really frustrated ... It is all totally beside the point, totally misguided, totally a byproduct of well intentioned but woolly headed staff people that don't have experience in higher education but say they operate within political constraints. What makes me mad is not having to do more work, it's when we have to do more work that doesn't help anybody. It's just more work.

The 2008 reauthorization process revealed an approach to policymaking that is more frenetic than the preceding reauthorizations of 1992 and 1998. As set forth earlier in

this chapter, the 1992 reauthorization presented an exemplar of the Kingdon multiple stream theory. The 1998 reauthorization resembled a decision making process that could be explained by Stone's polis. The 2008 reauthorization process returned to the Kingdon model, but took place under circumstances that were not as orchestrated as the 1992 reauthorization. The 1992 reauthorization caught the higher education community by surprise. The 2008 reauthorization was so long in coming that the higher education community had plenty of time to prepare and lobby Congress in the interests of their constituencies. This long period of gestation leading up to the 2008 reauthorization, as well as other factors, align with the Kingdon model and the opening of a policy window:

- Streams of processes developed and operated independently of one another (e.g., the Spellings Commission and the Higher Education Reconciliation Act)
- The decision making process resulted in a number of solutions (credit hour rule, gainful employment, state authorization) for which there were no immediate problems

Kingdon (2003) wrote "Once we understand these streams taken separately, the key to understanding policy change is their coupling. The separate streams come together at critical times. A problem is recognized, a solution is available, and the political climate makes the time right for change." (p. 88)

### **Summary**

The multiple case study method used to examine the data for the three reauthorizations identified four common themes across the case study as a whole: accountability, linkage, leverage, and gatekeeping. These themes show a pattern that

appears in each reauthorization and the case as a whole. The pattern is that accountability, linkage, leverage, and gatekeeping serve the purpose of advancing a federal interest in higher education that is moving in the direction of nationalization. These themes reveal the connections between the federal investment in higher education and the tensions that are born out of this investment. It is in the federal interest that taxpayer funds are used in accordance with the belief that a well-educated citizenry promotes the well-being of society. It is in the federal interest that there is consumer protection and that consumers have the information needed to make choices about higher education. It is in the federal interest that taxpayer dollars are used to meet these goals. It is in the federal interest that higher education account for academic quality and student achievement. The themes link this array of federal interest to form one central idea – that the changes to federal regulations over higher education accreditation between 1992 and 2008 are slowly amalgamating into a national system of standardization for higher education that is wielded by the Secretary of Education via the system for recognizing accrediting organizations. The tension is whether higher education can retain its independence, diversity, and precious academic freedoms in this environment.

The federal recognition process for accreditation is reaching a point of precision and prescription to an extent that accrediting organizations are held firm to every regulation and granular requirement of the recognition process regardless of the individual qualities and characteristics. Whether classified by region (i.e., New England, Southern, Western), by national orientation (i.e., career-related, faith-related) or even by profession (i.e., teaching, psychology, law), every accrediting body that enables



institutions to receive a form of federal funding must achieve compliance with federal recognition regulations. An example of this development took place during the NACIQI meeting on June 8, 2011. The Association of Theological Schools Accrediting Commission (ATS) appeared before NACIQI at this meeting to respond to a list of 35 instances cited by the Department of Education where ATS did not comply with federal recognition regulations. In his testimony before the NACIQI and the Department of Education staff the President of ATS, Daniel Aleshire, attempted to explain the consequences of forcing ATS to make changes to comply with the regulations:

There are some things that the regulations call us to do that just don't occur much. We will invent the structures. We will move forward but they are not going to make us a better accrediting agency in that sense. And there are some compliance issues that we will comply with, and do so with integrity, but we have a concern that they will make us a less effective agency. For example, we need to change who are the public members on our commission. We have historically gone to public members who represent the consumers of the graduates of our schools: denominational officials, adjudicatory officials, and persons who supervise the work of our graduates. The conclusion is that because we are an institutional accreditor ... we fit the category that means [such persons] cannot be considered for public members. It eliminates from our public membership the constituency that is most closely connected to the work of the graduates of our schools.

We will make the change. We will find people who will contribute to the work of the board of commissioners, but we think we will have lost something in the process. In the end, we won't be advancing the work of theological schools as they educate a generation of religious leaders because we have responded to these areas. (Aleshire, 2011)

After meeting with ATS, NACIQI voted to recommend to the Secretary of Education that ATS be granted a period of no more than twelve months to correct the deficiencies identified by the U.S. Department of Education staff or ATS-accredited institutions could lose eligibility to offer federal financial programs to students (U.S. Department of Education, 2011). This decision, along with similar decisions made for eight other accrediting organizations that were reviewed at the June 2011 NACIQI meeting, indicated a significant shift in the federal role from holding accrediting organizations accountable for educational quality to exerting its own interests and ideas about what contributes to educational quality, academic excellence and student achievement.

The actions by the NACIQI signaled a future for accreditation where the federal government plays an expanded role in judging academic quality and in directing the operations of accrediting organizations. The 2008 reauthorization of the Higher Education Act that was followed by negotiated rulemaking session in 2009 and 2010 resulted in federal regulations published on July 1, 2011 that direct accreditors in the review of credit hour (federal definition of a credit hour), that propose to judge the success of institutions by examining employment of graduates (gainful employment), and prescribe the role for states in authorizing distance education programs (state

authorization). It challenges the context within which higher education and the academic community interact with accreditation. The NACIQI review of ATS is an example of the federal government is taking over the decisions about what is best for the operations of the accreditor that reviews theological institutions instead of changes that are generated by the best thinking by institution leadership and faculty working together with their accreditor. The premise is that the only way to improve accreditation and education quality is through greater government oversight and regulation, diminishing the freedoms enjoyed by accrediting organizations and their institutions and placing the responsibility for quality in the hands of federal officials.

## **Chapter 5: Discussion**

The purpose of this study was to understand how federal regulation over higher education accreditation changed between 1992 and 2008, what accounted for these changes, and how the shifting role in federal involvement has been perceived by those who represent the interests of higher education. The themes of accountability, leverage, gatekeeping, and linkage led to the development of the overall finding that the federal recognition process for accrediting organizations is driving higher education into a nationalized system of quality assurance, expanding the federal role. In this final chapter of the case study, the discussion of the future of higher education accreditation is framed by the literature and draws upon the rich history of American higher education's independence, academic freedoms, and the chronology of events leading up to and including the HEA reauthorizations of 1992–2008. The discussion focuses on three areas that I recommend higher education direct attention to as it prepares for the next reauthorization of the HEA anticipated in 2013 or 2014. The three areas are negotiated rulemaking, the for-profit sector of higher education, and contrasting perspectives of accountability.

### **Negotiated Rulemaking**

It is unlikely that the federal government is going to withdraw, even marginally, from its involvement in higher education accreditation. The 2008 reauthorization of the

Higher Education Act and the subsequent actions taken by the U.S. Department of Education to implement the regulatory framework through the negotiated rulemaking process engender this reality. During the complicated negotiated rulemaking sessions that followed the 1992, 1998, and 2008 HEA reauthorizations, higher education experts hammered out the details of federal regulations, shaping the process that the Department of Education and NACIQI uses for recognizing accrediting organizations. The work of the negotiated rulemaking that followed the 2008 reauthorization resulted in changes to the regulations that expanded federal authority into the areas of credit hour, state oversight of distance education, how institutions compensate for recruitment activities, gainful employment as an indicator of quality, and specific procedures for appeals panels that review accreditor decisions to withdraw accreditation.

As I reviewed the literature during the early stages of honing the research question and developing the research design for this study, I imagined that a better understanding of the negotiated rulemaking process was key to understanding the changing federal role in higher education and accreditation. The writings and studies of Atwell & Rogers (1994), Bonham (1977), Brubacher & Rudy (2008), Christman (2000) and Doyle (2010) described the political and problem streams leading up to each reauthorization. In-depth coverage of the reactions to new legislation within the HEA by the higher education community as presented by Broad (2010), Finken (1994), Gladieux, King, & Corrigan (2005), and Pelesh (1994) directed my attention to the critical policy areas in the Secretary's recognition criteria that were developed through negotiated rulemaking. Clearly, negotiated rulemaking was an important event that followed each

reauthorization, receiving coverage by the higher education press (e.g., Field, 2010; Lederman, 2010; Jaschik, 1991). The rulemaking process was influential even when the process did not result in the promulgation of regulations, as in the case of the negotiated rulemaking that followed the Spellings Commission (U.S. Department of Education, 2006). Although members of Congress called on Secretary Spellings to cease the rulemaking activity that followed the Commission's report, the Spellings Commission was still able to deliver the message that federal officials needed to engage in strengthening higher education accreditation, calling it weak, lacking rigor, and failing to adequately assure quality.

A pattern of growing criticism of higher education accreditation was first apparent with the negotiated rulemaking implemented after the 1992 reauthorization as an alternative to traditional procedures for drafting federal regulations and continued through the reauthorization in 2008. I looked to Kingdon's (2003) discussion of agenda setting for guidance on how to incorporate a review of negotiated rulemaking into my own study and to frame an understanding of how agendas formed for negotiated rulemaking. "Agendas might be the inexorable march of problems pressing the system," he wrote, suggesting that "governmental agendas and alternatives might be a process of gradual accumulation of knowledge and perspectives among the specialists in a given policy area" (p. 17). Because negotiated rulemaking convenes the most experienced and knowledgeable specialists in higher education accreditation, I sought out individuals with negotiated rulemaking experience to participate in my interviews. I anticipated that their reflections on participation in negotiated rulemaking would proffer a rich data set about

the federal role in accreditation. I pressed the interviewees with questions about where agendas for the meeting came from, how language was proposed for the regulations, and how federal officials interacted with the negotiators. Negotiated rulemaking was discussed in the interviews, but it was only one part of a broader mosaic of other federal influences and involvement. During the interviews, participants reflected on their visits to the Hill, described legislative strategizing sessions by their education associations, shared observations of NACIQI meetings and Senate hearings, and revealed their personal beliefs about the federal role in higher education.

Agenda setting in the negotiated rulemaking is an important part of the process. The agendas carry out directions from Congress set forth in legislation as interpreted by the U.S. Department of Education staff. These interpretations frequently misaligned with interpretations of the legislation by negotiators, but discussions of this misalignment during the interviews were slim in terms of insights. The emic, or the participants' concepts, together with the other sources of data signaled a much broader sphere of influence behind the federal role in higher education and the future of accreditation. Negotiated rulemaking was important, but it was just one part of a broader expanse of influence on higher education accreditation. The events leading up to and following each negotiated rulemaking session are just as vital to understanding the context of the federal role in higher education accreditation. The examination of negotiated rulemaking provides an important source of insight and information about the policy development process, even though this study showed that is not a singular force behind growing federal involvement in higher education accreditation. The descriptions of the process

and its outcomes provide a valuable resource for higher education case study and can contribute to preparations for the next reauthorization of the Higher Education Act to take place in 2013–2014.

### **The For-Profit Sector of Higher Education**

The case study showed a pattern of federal concerns with the for-profit sector of higher education resulting in federal involvement with higher education accreditation that then expanded into all of higher education. The CRS reports, in particular, described a number of exploits in the for-profit education sector that preceded the controversial 1992 HEA reauthorization (Irwin, 1998; Schenet, 1992; Stedman & Riddle, 1997). Some of the most damaging and condemning opinions about for-profit higher education were described in the transcripts of the infamous Nunn hearings and the report issued after the hearings (Senate Report 102-58). These events culminated in sweeping changes in the federal recognition criteria for accreditation. Despite changes in the regulatory framework and the accreditation reviews of for-profit institutions, skepticism remained along with concerns that the profit motive compromised quality of education, that for-profit institutions continued to drive up student loan default rates for government financed student loans, and that the money earned from the loans (guaranteed by the federal government) made up the majority of the for-profit revenues while students received questionable quality in their education programs (Stedman & Riddle, 1997; Smole et al, 2008). The tensions between supporters and critics of the for-profit sector are palpable in the data from the study, consistent with the representations of these tensions described in the literature.



The success of the for-profit institutions in rehabilitating their image during the 1998 HEA reauthorization resulted in the repeal of the 50% rule and the enactment of the Twelve Safe Harbors that loosened restrictions on recruitment practices. But fresh criticisms are emerging about for-profit higher education institutions. These criticisms could be the beginning of a new chapter in the history of opposition to for-profit institutions. The open letter written by Senator Richard Durbin to The Higher Learning Commission regarding the March 2012 accreditation review of the University of Phoenix is an example. In the letter, Senator Durbin reminded HLC of recent investigations by the U.S. Government Accountability Office and that such investigations merited careful review of all the University's practices. He continued, stating "Many of us in Congress are working to help raise the standards of postsecondary education ... We have limited federal resources for student financial aid, making it imperative that participating institutions offer their students quality education." (Durbin, 2012) Such action by a high-ranking Senator sent a signal to the public that federal lawmakers intend to continue their involvement in higher education accreditation. The higher education community of public institutions and private non-profit institutions need to be aware of the expectations for the accreditation review of a for-profit institution. The case study shows that when such involvement leads to changes to the federal recognition criteria for accreditation it annexes all of higher education. It is not a for-profit issue; it is a higher education issue. Awareness of this trend will help to inform the deliberations among higher education associations as they work with their institutions to prepare for the next reauthorization of the HEA.

## **Diverse Meanings of Accountability**

A chronological account of the history of accreditation's relationship to the federal government, beginning with the 1952 Veterans Readjustment Act through the 2008 Higher Education and Opportunity Act and toward the next reauthorization of HEA, reveals evolving views of accountability. Ewell (2008) identified the inception of the link between accreditation and the federal government as bringing about a principle-agent dynamic to the relationship with accountability primarily viewed as gatekeeping of federal aid dollars. This paved the way for federal influences on reforming accreditation and new perspectives of its responsibilities. Questions as to whether accreditation processes were rigorous enough and effective as gatekeepers of federal financial aid resonated among scholars of higher education and within the federal government, particularly between 1992 and 2010 (Atwell & Rogers, 1994; Doyle, 2010; Eaton, 2003; Finken, 1994; Huisman & Currie, 2004; Keating et.al, 2005; Lovell, 1997; Shulock, 2003; Wolanin, 1997). The catchall term used in reference to this state of affairs: accountability.

Conflicting views on the meaning of accountability may be cultivating the next Kingdon-style policy window for changes to the regulatory structure in the accreditation-federal relationship. Higher education currently operates in the midst of different meanings of accountability in the accreditation-federal relationship. The literature review showed CRS reports referred to accountability as a central responsibility of accreditation to taxpayers. The Spellings Commission compared its meaning of accountability to No Child Left Behind legislation. Differing versions of the meaning of accountability

appeared in Congressional hearings, in the press, in association publications, and government documents. Disparate views of accountability may contribute to widespread confusion about accreditation and the federal role.

**Accountability and accreditation.** For accreditation, accountability means assurance by the academic community that quality improvement contributes to successful student achievement within the context of an institution's mission (Eaton, 2003; Kerr, 1994; Harcleroad, 1990; Harcleroad & Eaton, 2005). Accreditation works with institutions and their academic leadership, relying on the expertise of peer reviewers for external assessment of accountability that stimulates institutional improvement. Accreditation accountability means providing the public with information about accreditation status, including members of the public in accreditation decisions, and offering the public the opportunity to comment on institutions seeking accreditation. It is the engagement of the broad academic community in the development of education quality standards and in the evaluative process to determine that quality standards are met.

**Accountability and the institutions.** For accredited institutions, accountability means commitment to academic quality (Cohen & Kisker, 2010; Ewell, 2008; Huisman & Currie, 2004; Rust & Reed, 2004). During one of my interviews, Participant 6 described accountability as a driving force behind academic reform efforts among accredited institutions and pointed to the Voluntary System of Accountability Program that was implemented in 2007 by the Association of Public and Land-grant Universities (APLU) and the American Association of State Colleges and Universities (AASCU).

Participant 11 described an institution-driven initiative that is operating in the service of accountability: the Association of American Colleges and Universities Liberal Education and America's Promise (LEAP) Essential Learning Outcomes. These examples of academically driven efforts to support institutional quality and improvement may take place in diversified settings, but all are directed toward the aspiration of enhanced accountability at the institution level that is consistent with mission.

**Accountability and the government.** There is a third view of accountability held by the federal government that is different from accreditation and higher education institutions. For government, accountability means stewardship of the expenditure of federal funding; it means becoming more involved in how accreditation operates (e.g., credit hour rule, state authorization) and more uniformity in how institutions assure student achievement (e.g., gainful employment). Accountability is synonymous with consumer protection (Durbin, 2012; Finken, 1994; Lederman, 2010; U.S. Department of Education, 2006). In federal terminology it suggests that accreditation's primary function is to protect the public from substandard institutions and poor education quality. Accountability can be achieved and monitored more effectively at the national level through standardization of accreditation processes.

### **Toward Nationalization**

The current regulatory framework for the recognition of accrediting organizations is a demarcation point in the history of accreditation's relationship to the federal government and its future as the primary means for assuring and improving quality in higher education. The public-private partnership between accreditation and government

that was formed in 1952 started to change in 1992 when the process of recognizing accreditors evolved into close scrutiny of accreditation standards and how accreditors make decisions (Broad, 2010; Eaton, 2003; Harclerod & Eaton, 2005; Prisco, et. al, 2002; Rainwater, 2006). It is a movement toward nationalization in higher education. Driven by a quest for greater accountability, the government has focused on how the criteria for federal recognition of accreditation can bring about changes in higher education. Nationalization refers to a top-down approach to imposing a system of federal standards. Nationalization of higher education accreditation refers to (1) the growth of the requirements in federal statute that accreditors must meet as a condition of recognition by the Secretary of Education and (2) the intent that these requirements be carried out in the review process for accredited institutions at every level within the U.S. higher education system. Over the last twenty years, accrediting organizations have been transformed through the use of statutory implements and government expectations for accreditation set forth in the federal recognition criteria. These criteria require accreditors to focus on implementing a growing array of federal regulations and procedures at an increasingly fine level of detail that some accreditors find do not translate into quality education and student achievement (Aleshire, 2011).

### **The Value of Accreditation**

As the debate about the meaning of accountability transpires, the effectiveness of higher education in the United States is questioned. The cost of a college education, concerns regarding lack of rigor, and doubts about how much or how little students are learning when they attend college manifest in criticisms of higher education (Arum &

Roska, 2011, Bok, 2006; Hersh & Merrow, 2006). Accreditation is included in this dialog and is drawn into the debate about accountability, academic quality, and student achievement. However, endeavors to identify precisely what is amiss in terms of student learning and, by extension, the system of federal recognition, accreditation, and eligibility for federal financial aid seem to push higher education toward a system of standardized assessment.

There is value in sustaining the determination of educational quality in higher education as a non-governmental function. The strength of American higher education has been its freedom from federal involvement in the determination of educational quality, institutional improvement, and student achievement. Accreditation utilizes talent and experience in a cost-effective manner through volunteers who work with the accrediting organizations in the spirit of peer review that is replicated across institutions and programs. Movement toward a nationalized accreditation process that puts the locus of control not with the institutions but with the federal government could jeopardize this approach to quality review.

### **Ethical Underpinnings**

Higher education's independence and diversity have underpinnings in the alignment between values and actions. Mallory and Thomas (2003) wrote that "defining an institutional identity and core values must go beyond rhetoric and become realized fully through actions and engagement" (p. 14). It is to take seriously the responsibility for educating a diverse citizenry and prepare students for a pluralist society by bringing to the foreground common principles of moral understanding that holds the academy

together (Keohane, 2006). Actions to engage in ethical principles and value statements espoused by an institution tend to be intertwined with institutional mission and vision. An institution's mission and vision serve as the foundation upon which an accreditation evaluation is framed. Accreditation takes into consideration how institutional improvements and decision making are consistent with the institution's values. It is a cyclical process that reinforces institutional independence and supports diversity. When those associated with an institution know and embrace its distinctive values, it serves the greater purpose of addressing pressing ethical issues on campus and in society at large (Mallory & Thomas, 2003).

The competing expectations for accountability as described in this case study may put a strain on an institution's efforts to maintain its values in action. Consider the community college that values giving every eligible person seeking entrance into a postsecondary education program the opportunity to attempt working toward a postsecondary credential. The community college strives to meet this mission of open admissions only to be faced with the challenge to provide evidence of student success for all enrollments in the college (in the form of a federally imposed gainful employment statistic) or risk losing federal financial support toward carrying out the mission of the institution. A topic for future study might examine how changes to accrediting processes that connect to changes in federal statute are perceived within the context of institutional alignment of values and actions.

## **On Kingdon and Stone**

Kingdon's multiple streams theory and Stone's polis model were effective tools for examining and explaining the HEA reauthorizations and the resulting policies. In view of the multi-case structure of the case study, Kingdon offered a fitting framework to explain the intersection of the policy, problem, and politics streams for the 1992 and 2008 HEA reauthorizations and Stone provided a context for examining the 1998 HEA reauthorization. I suggest that Kingdon's framework alone cannot explain long-term patterns of policy development in higher education. It is not that this is an obstacle to policy analysis, but it does represent a shortcoming if one exclusively relies upon Kingdon as a framework for understanding policy creation. Stone's description of how competing forces influenced by self-interest and public interest generated influence over the decision makers provided insight into the 1998 HEA reauthorizations and the success of the for-profit sector of higher education in influencing policy changes. Stone was an appropriate fit for examining the 1998 HEA reauthorization where Kingdon's approach to policy analysis was clearly present in the 1992 and 2008 HEA reauthorizations. As higher education policy is studied in the future, the application of Kingdon and Stone should be considered in the analysis process.

## **Recommendations for Future Study**

The accreditation system in the United States plays an essential role in determining quality that ties to eligibility for federal financial aid. Accreditation has accepted that responsibility to assure that accredited institutions meet expectations for academic quality and student achievement. While peer review has been central to this



process, accreditation continues to be challenged to maintain the gatekeeping elements of its functions. Future study of accreditation that builds upon this case study could include:

- How U.S. institutions might envision a new system of accreditation that aligns with sector based expectations rather than a regional system of accreditation
- Exploring the possibility of separating accreditation and gatekeeping of federal financial aid functions
- Undertaking a comprehensive survey of what the public really needs to know about accreditation and institutional quality when making a decision about post-secondary education
- Applying the multiple case study analysis process across an array of institutions that have undergone accreditation during the timeframe of 1992 through present day to examine how their functions have changed as a result of new accreditation requirements and the extent to which the changes tie to federal expectations of the accrediting organization

## **Conclusion**

Higher education is at an important decision point about accreditation, the federal role, and the future. The current system of federal recognition, accreditation, and federal financial aid relies upon a variety of players, terminology, meanings, and processes, which in turn produces tensions, confusion, and frustrations among competing interests and ideas about the future direction of higher education. Perhaps the greatest tension is that between the view of accreditation's primary responsibility as a gatekeeper for institutional eligibility for federal financial aid and the view that accreditation's role is

education quality assurance and institutional improvement. The challenge for accreditation is to balance the competing demands of the federal government, the institutions, and the public while serving as a buffer against calls for change in higher education.

The time may have arrived for accreditation to separate from federal financial aid gatekeeping and return to its primary purpose of independently determined quality assurance and institutional improvement. In essence, break the link. Accreditation could sustain its value and significance in higher education if it withdraws from recognition by the Secretary of Education for these reasons: Accreditation is central to decisions about transfer of credit and decisions about accepting students for graduate studies and advanced degrees. Disciplines in the areas of law, teaching, psychology, medicine, business, dentistry, engineering, physical therapy, and social work, to name a few, rely upon institutional and programmatic accreditation as a means to determine the acceptance of graduates into their professions and readiness to undertake requisite certification examinations. Accreditation status is an indicator of quality to prospective students outside the United States in making a decision about attending a college or university in the United States. The U.S. Department of State program, EducationUSA, that operates in 170 countries around the world relies on accreditation status to advise international students about higher education opportunities in the United States. Accreditation's link to federal financial aid programs has no bearing or influence on these activities.

In valuing the future preservation of institutional diversity and academic freedom, higher education should reflect upon the changing role of the federal government in

directing the activities of accreditation. Higher education in the United States is unparalleled in its diversity, academic freedoms, education quality, and institutional autonomy. These are the hallmarks of the American higher education system, a system supported through the process of self-regulation: accreditation.

## Appendix

### Interview Guide

1. Describe your current position (or previous positions) and your involvement with the Higher Education Act reauthorizations of 1992 through 2008.
2. What do you remember as the most challenging about that experience?
3. What do you remember as having the most significance on higher education in the U.S?
4. What issues during the reauthorizations were particularly important to you and why?
5. Looking back at your experiences in higher education between 1992 and 2008, what would you do differently and why?
6. What are the issues that impacted the ability of the negotiated rulemaking process –specifically the sessions following the 1992, 1998 and 2008 HEA reauthorizations – to reach consensus? Can you provide specific examples?
7. What drives the negotiated rulemaking agenda?
8. What is your perception of the federal role in higher education?
9. How should we judge academic quality in higher education and who should participate in that judgment?

10. How would you describe the impact accreditation processes and requirements have on institutional autonomy?
11. How does federal recognition of accrediting organizations impact institutional autonomy?
12. What might we expect from the next reauthorization of the Higher Education Act? How should higher education prepare?
13. How aware are college and university leaders of the Higher Education Opportunity Act and resulting accreditation provisions? Does this matter? Why?
14. The USDE is considering regulatory language that would require institutions to disclose to the public graduation and employment data and the median loan debt for students that complete an educational program that prepares students for gainful employment in a recognized occupation. Programs that do not demonstrate that students obtain employment that lead to the ability to repay the loan debt would lose eligibility to participate in federal financial aid programs. How should the higher education community respond to this proposal?
15. Is accreditation a valuable process? Why?
16. What are the most critical issues facing higher education today?

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## **Curriculum Vitae**

Leah K. Matthews received her Bachelor of Arts in Education and Music from Westminster College in New Wilmington, Pennsylvania in 1989. She went on to receive her Master of Public Administration at the University of Oklahoma in 1996, concentrating on federal policies for education programs that support armed services family members. Ms. Matthews completed her Doctor of Philosophy in Education at George Mason University in 2012 and presently serves as Vice President for Recognition Services at the Council for Higher Education Accreditation in Washington, DC.