

Reauthorizing the *Higher Education Act*:
An Analysis of the Role of the For-Profit Higher Education Sector

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Dedication

This dissertation is dedicated to all of my teachers. May I always be a student.

Abstract

This research project examines the influence of the for-profit college sector on the 2008 reauthorization of the *Higher Education Act*. It is based on interviews with Congressional staff, college lobbyists, and higher education reporters, as well as the *Congressional Record* and advocacy materials. Findings indicate that the for-profit college sector was able to advance specific elements of the sector's policy agenda using access and influence strategies, such as information sharing, lobbying, and political contributions. Findings reveal that the same members of Congress receiving the most political contributions from the for-profit sector were identified as those members most involved in the reauthorization. The main success of the sector was change to the 90/10 Rule, and the main failure was that the final law did not include a single definition of an institution of higher education. Implications for research and practice were also discussed.

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CHAPTER 1

INTRODUCTION

In the midst of the civil rights movement, President Lyndon B. Johnson signed into law the *Higher Education Act of 1965* in order “to strengthen the educational resources of our colleges and universities and to provide financial assistance for students in postsecondary and higher education” (Pub. L. No. 89-329). The *Higher Education Act of 1965* (HEA) has been reauthorized and amended in 1968, 1972, 1976, 1980, 1986, 1992 and 1998, and most recently in 2008 as the *Higher Education Opportunity Act of 2008*. It is the major piece of federal legislation governing U.S. higher education. The law includes student financial aid and a variety of other programs intended to strengthen higher education institutions and promote access to college for students.

The 1998 reauthorization expired on September 30, 2003 and required that the law’s provisions be reauthorized or amended by then or Congress would need to act to temporarily extend the existing provisions. A reauthorization could include changes to existing language, additional language and new programs, or the elimination of language. Congress worked for nearly five years – during the 108th, 109th, and 110th Congresses – to reauthorize and update the HEA. From 2003 until the reauthorization in 2008, Congress passed dozens of temporary extensions as well as legislation changing certain provisions in the law, while Congressional staff, Members of Congress, lobbyists, and college officials worked towards a final reauthorization of the HEA. Both houses of Congress debated, drafted, and passed legislation to finalize a bill that was signed into

law by President George W. Bush on August 14, 2008. This most recent reauthorization expires in 2013.

Like any other policy arena, higher education has its own set of “special interest” groups that pay close attention to policy development and actively advocate or lobby for or against specific policy in legislation considered by Congress, such as HEA. During the decade that Congress worked to finalize this most recent reauthorization of the HEA many educational organizations and lobbyists, representing all types of higher education institutions and organizations, attempted, as in previous reauthorizations, to influence various provisions in the HEA.

This study examines how the for-profit higher education industry attempted to influence federal higher education policy, specifically provisions in HEA. A for-profit college, which in the HEA is referred to as a “proprietary institution of higher education” (P.L. 110-315, Section 102) is generally understood to be an educational organization that is managed and governed by a private organization or corporation (National Conference of State Legislators, <http://www.ncsl.org/issues-research/educ/for-profit-colleges-and-universities.aspx>). In federal law, for-profit colleges are defined for purposes of their participation in federal student financial aid programs, which are authorized in the HEA. During the timeframe of this study, Section 102 of the HEA included this definition and stated that in order for the federal government to consider an organization as an institution of higher education for purposes of participation in federal financial aid programs, the institution must provide an eligible program of training to prepare students for gainful employment in a recognized occupation, admits as regular students only persons having a certificate of graduation from a school providing

secondary education or the recognized equivalent of such a certificate, is legally authorized within the state to operate, is not a public or other nonprofit institution, is accredited by a nationally recognized accrediting agency or association recognized by the United States Secretary of Education, has been in existence for at least 2 years, and has at least 10 percent of the school's revenues from sources that are not derived from federal financial aid funds provide by the HEA (P.L. 89–329).

Examples of for-profit colleges are Capella University, DeVry University, University of Phoenix, and Kaplan University, among others, as well as many of the arts, bartending, and culinary schools across the country. For-profit colleges are also referred to as “education businesses” (Harnish 2012).

The analysis here is based on the *Congressional Record*, advocacy materials, and federal lobbying and election contribution records, and key players in the reauthorization process will be interviewed to examine how the for-profit sector attempted to influence federal higher education legislation and the extent to which they were successful.

Problem Statement

During the decade that Congress worked to update the HEA, the lobbying industry grew. In 1998, spending on lobbying activities totaled \$1.44 billion, of which more than \$30 million was spent by education groups; lobbyists registered with the federal government totaled 10,689, of which 654 were registered lobbyists working on education-related issues. By 2007, spending on lobbying activities reached \$281 billion, of which nearly \$88 million was spent by education groups; 15,665 total lobbyists were

registered with the federal government, of which 1,691 were working on education-related issues (Center for Responsive Politics, retrieved from www.opensecrets.org).

Meanwhile, students attending for-profit colleges received a growing proportion of federal financial aid during that same time period. For the academic school year 1997-98, for-profit colleges received 12.2 percent of federal Pell Grants. By academic year 2005-06, for-profit colleges received 18.6 percent of federal Pell Grants. During that same time period, the proportion of Pell Grant dollars at public four-year institutions declined from 36.4 percent to 31.6 percent (The College Board). Similar trends exist in campus-based aid programs, the Stafford loan programs, and the federal PLUS loan program.

As the proportion of aid grew at for-profit colleges, the proportion of federal financial aid dispersed to public college students declined. Meanwhile higher education funding generally has experienced a shift within and into the system, and Tierney (2007) argues for-profit colleges “have tended to benefit from these developments” (p. 39). These changes include shifts in expenditures for higher education from governments and institutions to households *and* shifts in government subsidies for higher education from institutions to individuals.

While the for-profit higher education model has existed for some time, the industry has expanded and grown tremendously in the past 20 years (Tierney 2007), in large part due to financial-aid and other higher-education policies at the state and federal levels. In 2001, 766,000 students were enrolled in a for-profit college. By 2010, that number ballooned to 2.4 million, an increase of 225 percent. Meanwhile, during that same time period, enrollment grew by 31 percent at all associate or higher degree-

granting higher education institutions (Lee 2012). During the 2000-2001 academic year, students attending for-profit colleges received \$1.1 billion in Pell Grant assistance, and by the 2009-2010 academic year, students attending for-profit colleges received \$7.5 billion in Pell Grant assistance (U.S. Department of Education). From 2005 to 2010, the number of for-profit colleges grew from 909 institutions to 1,215 institutions, expanding from 20.7 percent of all institutions to 26.2 percent of all institutions (Jaschik 2011). According to a 2010 U.S. Senate report, in 2009, “profits at 16 of the largest for-profit schools totaled \$2.7 billion” (Harkin). Using filing data from the U.S. Securities and Exchange Commission, the same report stated, “The average operating profit in FY2005 among publicly traded for-profit higher education companies was \$127 million. The same number in FY2009 was \$229 million, an increase of 81 percent.

According to a 2009 *Motley Fool* stock review of ITT Educational Services, which offers technology-oriented undergraduate and graduate degree programs through its ITT Technical Institutes and Daniel Webster College, “All of these [for-profit school] companies are growing sales, profits, and enrollments by 20% or more... In ITT's case, sales grew 34% and net profit 50% year-over-year in the just completed third quarter. For 2010, the company is expecting another 25% increase in sales and profits... For-profits enjoy juicy operating margins over 25%.” (<http://caps.fool.com/Blogs/mfi-stock-review-itt/298895>). Shares of the Apollo Group Inc., the parent company of the University of Phoenix, more than doubled from 2006 to 2009 and revenue was \$1.1 billion during the final quarter of 2009 (Golden 2009). A *Forbes Magazine* article described the Career Education Corporation, one of the large for-profit colleges, as “a company built to

swallow federal student assistance in the way a whale gathers up plankton” (Kruger 2004). This growth is fueled by government funds.

In fact, the foundation on which the for-profit college sector exists is based in the original Higher Education Act, which for the first time provided “direct aid to needy students” attending any college accredited by an entity recognized by the U.S. Department of Education (p. 115). At the time, the *Higher Education Act of 1965* was quite controversial as it was a major shift in the federal finance of higher education (Alexander, 1998). Chambers (1968) explained in summarizing the opposition to the Act of 1965 that the creation of direct aid to students would over-magnify the role of private education in the United States and actually contribute to the restriction of access by shifting the cost of higher education onto the student and their families, effectively reversing the common policy and practice at that time of providing access to college at zero or nominal cost. The public college sector also voiced concern that this shift in policy would over time increase tuition at untenable rates. It is interesting to note that perspective in current times as the debate over rising tuition, ballooning student loan debt, and the questions of who should pay for and who benefits from a college educated society intensifies.

In the late 1950s and early 1960s, prior to the *Higher Education Act of 1965*, Milton Friedman proposed that it was the individual who benefited from education and so should be central to choosing and paying for college (1955). This funding policy perspective and those that followed serve as the underpinning for the federal government’s “student choice” rationale and the practice in current higher education policy that funds the student, rather than the institution. This model, in which the funding

follows the student rather than flowing directly to the institution, led to the current environment, in which special interests lobby to encourage maximal participation in federal financial aid programs by the students who attend their institutions.

For-profit colleges are heavily reliant on federal financial aid for their operations and bottom line profits (Sterling 2000; Berg 2005; Lederman 2009). The growth of financial aid programs, through grant and loan, have directly fueled the recent jump in profit margins, as well as their incentives to recruit more and more students to attend their institutions. Nearly all of the revenue of the for-profit college sector comes from federal financial aid programs. A concern about this fact created provisions in the HEA called the 85/15 Rule (later the 90/10 Rule), which mandated that no more than 85 percent (later 90 percent) of a for-profit college's revenue can come from Title IV federal student aid. With a majority of their revenues coming from government sources, for-profit colleges, therefore, are nearly completely dependent on the growth of financial aid programs for their revenue increases.

For-profit colleges over the past several decades have worked to identify policies that inhibit growth and have sought to change those policies to enhance profits (Sterling 2000; Tierney 2007). In addition, for-profit higher education institutions have embarked on academic endeavors that have traditionally belonged to non-profit higher education institutions, bringing them into competition for students and funding. This competition has also resulted in shifts in funding from public institutions to for-profit colleges.

The increased enrollment at for-profit colleges and the growing number of Pell grant recipients at for-profit colleges may be a confluence of several new realities including the aggressive way in which for-profit colleges recruit students who are eligible

for federal financial aid and the reduced enrollments of students at some state-supported institutions that have had to reduce their enrollments due to state budget situations (Lederman 2009). Furthermore, for-profits are heavily reliant on federal financial aid for their operations and bottom line profits (Sterling 2000; Berg 2005; Lederman 2009).

As the for-profit college industry grows, as these institutions receive a growing proportion of federal financial aid, and as these institutions become a more popular college choice for students from low-income families, concerns have been raised by policy makers, higher education policy leaders, and other stakeholders about the academic integrity of for-profit colleges and the value of a for-profit degree (Lederman 2009). These questions of academic integrity are not new concerns, as the for-profit higher education sector has been under close scrutiny for decades (Sperling 2000; Berg 2005; Loonin and Devanthery 2005). Proponents of for-profit colleges have often had to defend themselves against the assertion that for-profit schools “are operated like businesses that emphasize profits at the expense of learning” (Kirp 2003).

Furthermore, ongoing investigations and concerns about the operations of for-profit education institutions have proliferated in recent years, especially regarding recruitment policies, fraud and abuse in the financial aid programs, and student loan default rates (Epstein 2009). Towards the beginning of the reauthorization debate, the Department of Education Inspector General at the time noted that “while fraud and abuse does occur at non-profit and public sector institutions, historically, fraud and abuse predominantly involves proprietary schools” (Higgins 2005), warning that rapid growth is a risk factor for abuse.

In 2008, employees of Kaplan University filed a whistleblower lawsuit accusing the institution of defrauding the federal government of \$4 billion by enrolling unqualified students and padding enrollment figures (Blumenstyk 2008;). In 2009, the University of Phoenix settled a whistleblower lawsuit at a price of \$80.5 million for “obtaining federal student-aid funds under false pretenses” (Blumenstyk 2009). Increasingly the media and the general public have raised, issues related to student-loan burden of for-profit college students (Burd 2009). Burd points out that while the credit crash of 2008 led Sallie Mae to end their practice of offering subprime private educational loans to for-profit colleges students, for-profit colleges have since started offering private loans *directly* to students. Private educational loans do not carry the same terms as federal student loans, and, in a class action lawsuit filed in 2009, students at one for-profit allege they unwittingly took out private student loans that came with an 18 percent interest rate. In November 2009, National Public Radio’s *Marketplace* ran a two-part series on for-profit colleges, including a special focus on questionable lending and recruitment practices. The report raised concerns that students take out large student loans to attend institutions like the University of Phoenix. Many students then are unable or unwilling to pay the loans back – leading to larger default rates in the for-profit sector than in the non-profit sector. Some students, according to the report, were even led to believe that their student loans were grants and were obviously surprised to learn that their “free” college education – that they soon learned was “despised by the academic and professional world” – actually came with tens of thousands of dollars in debt (Burd 2009). In more recent months and years since the reauthorization, concern about loan default rates has surfaced, as well (Harkin 2010).

Questions about academic integrity and fraudulent behavior have raised important ethical questions for policy makers and higher education leaders. Shifts in federal financial aid and related policies, as well as the parallel growth of the for-profit higher education and lobbying industries, raise important questions about the factors that result in changes in federal policies relative to the groups that benefit and are interested in such policy changes. Over the last several reauthorizations, the for-profit college sector's access to federal student financial aid has been a source of debate and discussion. On one side of the debate, policy makers and for-profit college advocates see this as a "free market" approach harkening back to Milton Friedman's (1955) policy stance on the role of government in education. On the other side of the debate is a concern over fraud and abuse in the financial aid programs, which has led to a number of provisions in law that restrict, or at the very least monitor, access to federal financial aid funding by for-profit colleges.

Research Question

It is important that we understand the ways in which for-profit colleges access and influence elected officials who in turn write and pass federal legislation that affects how federal financial aid is dispersed and the amount of federal financial aid made available to students. Given the limited research on for-profit higher education institutions and the uncertainty in the current literature about how interest-groups exactly influence the federal policy process, this project provides insights on how higher education policy is shaped.

The question driving this research: To what extent did for-profit higher education interest-groups influence policy discussions about and changes to the most recent reauthorization of the *Higher Education Act*? To answer the question, I developed a set of probing questions to ascertain the specific policy agenda items that for-profit education, as a special interest-group, was most concerned about during the development of reauthorization legislation, with the aim of understanding what methods for-profit education used to place their policy items on the reauthorization agenda, and determining the effectiveness of for-profit education in advancing its preferred policy agenda. The probing questions are: Which organizations and individuals were most involved in setting the policy agenda for the discussion, development and passage of the legislation that resulted in the 2008 reauthorization of the *Higher Education Act*? What policy issues did the for-profit education special interest-group attempt to place on the agenda of the *Higher Education Act* reauthorization? How did the for-profit education special interest-group attempt to influence policy makers during the 2008 reauthorization of the *Higher Education Act*? In what ways was the for-profit education special interest-group successful in its influence of the final legislation that resulted in the 2008 reauthorization of the *Higher Education Act*? In what ways was the for-profit education special interest-group not successful in its influence of the final legislation that resulted in the 2008 reauthorization of the *Higher Education Act*?

Methodological Overview

The “lobbying as legislative subsidy” theory serves as the framework for this investigation (Hall and Deardorff, 2006). The theory encompasses the fundamentals of

the policy process, including issue definition, agenda setting, and influence, but goes further by suggesting that lobbying subsidizes the limited resources of specific legislators – namely those legislators who already sympathize with a special interest-group’s policy agenda.

This study applies qualitative analysis to answer the above questions. Data for the study were derived from documents and interviews from a specific setting (the House Education and Workforce Committee), about a set period in time (the reauthorization of the HEA during the 109th and 110th Congresses). Utilizing Miles and Huberman’s (1994) components of qualitative analysis, the analysis includes data reduction, data display, and conclusion drawing and verification.

Overview of Chapters

Chapter 1 provides an overview of the issue, problem statement, research questions to be answered, and the method used to answer the questions. Chapter 2 reviews the literature related to interest-groups and influence, as well as the role of higher education as an interest-group. Chapter 3 presents the studies conceptual framework and explains the method and research design employed to answer the research questions. Chapter 4 presents the findings, and Chapter 5 provides a discussion and conclusion.

CHAPTER 2

REVIEW OF LITERATURE

A review of political science literature provides an appropriate framework for the understanding of and inquiry into how the higher education community, as an organized group, attempts to influence policy at the federal level, and the extent to which the higher education community is effective at accomplishing its goals to affect federal policies. The following sections specifically explore interest-groups and their influence.

It is important to mention, however, that the study of interest-groups and their influence is somewhat problematic (Baumgartner and Leech 1998). While some research has suggested that groups are at the heart of the political system (Bauer, Poole, and Dexter 1963; Milbrath 1963; Dexter 1969; Baumgartner, et al 2009), other research has suggested groups are insignificant in the political process (Schlozman and Tierney 1981; Godwin, Ainsworth, and Godwin 2012). As Arnold (1982) suggests, this area of study was theory-rich but data-poor for a period of time. The development of interest-group and lobbying theories has not been without some major differences and divergences that over time have led to conflicting and changing theories and models for testing them. As described in previous literature reviews (e.g. Baumgartner and Leech 1996), the development of interest-group, influence, and lobbying tactic theories in political science scholarship has been imprecise and incomplete. Some political science researchers contend that this imprecision, compounded by a willingness of some political scientists to overgeneralize, has led to the creation of sets of conflicting theories. Baumgartner and Leech (1996) also suggest that one explanation for this conflict may be the use of cross-

sectional rather than longitudinal models in the study of interest-group, influence, and lobbying-tactics theory. Twenty years ago, Arnold (1982) argued that data collection required to study interest-groups had been expensive and difficult, which contributed to gaps, imprecision, and conflicting theories.

A review of relevant literature shows, in general, a great deal of consensus during the 1940s and 1950s about the importance and role of group influence in the political process. During the 1950s and 1960s, some findings suggested that groups had little influence over decision-making, resulting in a lull in the study of interest-group influence in the 1960s and 1970s. Then in the 1980s and into the 1990s, the study of the influence of interest-groups experienced a resurgence. The following sections review the development of political science theory as it relates to groups and influence, exploring the concepts of groups, lobbying, and influence (including political action committees), while synthesizing the various theories, models, and the types of evidence used to test the various perspectives on interest-group influence and lobbying activities. This chapter concludes with a discussion of higher education as an interest-group.

Interest groups

At the foundation of interest-group and lobbying theories is the notion of a “group.” Arthur Bentley (1908), the founder of modern group theory in politics, suggested that groups organize to further a common interest or set of common interests. As Bentley stated, “there is no group without its interest. An interest, as the term will be used in this work, is the equivalent of a group...The group and the interest are not separate” (p. 211). The goals of the group are of common interest, and everyone in the

group benefits from the accomplishment of the goals (Olson 1965). Jack Walker (1983) suggests that “mutually reinforcing factors” cause the rise of groups, while Truman (1962) suggests that groups are created during “social upheaval.” In addition, the creation of federal government programs has created sets of supportive or oppositional groups that exist to influence those who make decisions about these programs and to protect the interests that benefit from these government programs. Leech, et al. (2005) refers to the “magnet” of government activity that pulls groups to become active. Recent studies of the federal government, have shown that there has not only been a growth of government, but also growth in the number of distinct policy areas in which the federal government has become involved (Baumgartner, Jones, & McLeod 2002). In their study of groups, Leech, et al. (2005) found that growth of government leads to incentives for groups to mobilize, whether in support or opposition of policy issues.

Over time, several similar terms have emerged that all refer to this same concept of “group” in the context of interaction with the government, including pressure group, interest-group, lobbying group, and advocacy group. While these terms refer to the same concept, researchers have also suggested various classifications of groups. For example, in his study of lobbyists in Oklahoma, Patterson (1963) developed six classifications: business interests, farm interests, labor interests, professional interests, governmental interests, and other interests (such as religious groups, civic groups, and demographic groups). Each of these interest-groups works to advance a set of common interests and goals in order to influence decision makers.

Regardless of classification, any group that makes an assertion to or attempts to influence a government institution becomes a “political interest-group” (Truman, 1962).

When the group is successful in its influence and accomplishes its goal, its interests prevail over those of other groups and individuals, which causes conflict (Crane 1960; Hacker 1962; Latham 1952). Inherent in conflict is the notion of power. A group that attempts to influence government must be able to wield power. Without power, the group would not be able to advance its interests. Ziegler (1964), like others, suggests that group power is “the ability to get what one wishes out of politics” (p. iv). Dahl (1957) explains the measure of a group’s power as the difference between a specific outcome had the group taken action or had the group not taken any action.

A number of studies have measured a group’s political power and effectiveness by looking at the number of successes compared to the number of actions taken. (Dahl 1957; Francis 1962; March 1957). Longley (1967) identified five factors of group effectiveness: potentialities (factors such as the group’s societal standing and the nature of the governmental institutions), its relation to other groups, its goals, its maximization of capacities, and its tactics. In his study on interest-group interaction, he focused on the patterns of interaction between interest-groups and found that groups with ongoing alliances with other groups develop strength in their efforts, while those groups that are often in conflict and do not have alliances are not as successful or effective in reaching their goals.

Early group theory suggested inherent power and effectiveness of interest-groups, contending that an elected official’s vote on a particular issue and his or her “ideas, principles, prejudices, programs, precepts, slogans, and preachments” (Latham, 1952, p. 390) all correspond to and are influenced by those of the dominant group among his or her constituencies. Early observations such as this assumed relatively powerful influence

of groups on legislative decision-making, and interest-groups were considered to be at “the core of the political system” (Baumgartner and Leech, 1996, p. 1). Studies investigating the phenomenon of interest-groups and their influence through collective action dominated 1950s and 1960s political science studies.

In 1965, however, Mancur Olson brought a new approach to group theory and challenged the notion that interest-groups – in particular, large interest-groups – act on behalf of a common good or interest. He argued that individuals act collectively, as part of a group, for the benefit of private interests or goods, rather than the collective or “common” good. Olson introduced a distinction between private goods and collective goods and argued that this distinction was critical to understanding the mobilization of interest-groups and the resulting influence. Olson’s work was a point of departure in political science research at the time, demonstrating that not all groups had equal access to influence. Olson showed that the group system favored those with resources and that economically disadvantaged groups that worked for a common good could not overcome the obstacles to mobilize their members, as other groups could. This assertion led the political science field down a new path to examine a more focused set of ideas pertaining to *internal* dynamics of group influence, such as mobilization and campaign contributions, rather than *external* dynamics such as the process of influence of decision makers (Baumgartner and Leech 1998).

Olson’s work, combined with studies during the same time period that showed the relative ineffectiveness of interest-groups and their attempts and success in influencing decision makers in the legislative process, led to a quiet period throughout the late 1960s and early 1970s. A resurgence in the late 1970s occurred after the *Federal Election*

Campaign Act of 1971 and subsequent amendments were signed into law. The federal law required increased disclosure of financial contributions for federal campaigns, and the 1974 amendments placed legal limits on federal campaign contributions and created the Federal Election Commission (FEC), which was charged with enforcing the law. These new public disclosure requirements and a federal agency to collect and store this information created new opportunities for political scientists to gather and study large data sets on groups, and reinvigorated the study of interest-group influence and their external activities, such as lobbying.

Interest-group Lobbying

Lobbying has been identified as an important element in the external activities of interest-groups and in the legislative process. In fact, as Eulau (1964) put it so eloquently, “American politics is inconceivable without interest-groups, and interest-groups are inconceivable without lobbying. Without lobbying, interest-groups could not perform the function of interest articulation that is required for the maintenance of the American political system as we know it...” (p. 27).

Lobbying can have several meanings, but for the purposes of this paper lobbying refers to *one type* of strategy aimed at a government entity that interest-groups employ in order to influence a policy maker’s decision-making on a particular policy issue. As Milbrath (1963) explains, there are four “boundaries” that help to define the term “lobbying.” First, lobbying applies only to governmental decision-making, and not to the decision-making of private organizations or corporations. Second, lobbying occurs when there is intent to influence. Third, in the act of lobbying, there is an intermediary actor – a

lobbyist – attempting to influence on behalf of citizens or a group of citizens. Individual citizens are not considered “lobbyists.” Finally, Milbrath, says that lobbying requires communication of information, specifically communication that intends to influence. There are many contexts in which lobbying can occur, such as in state government, local government, and the Executive Branch, among others. For purposes of this paper, lobbying will refer specifically to the attempt to influence the Congressional legislative process. Lobbying can occur at various stages in the legislative process, and interest-group lobbying activities include involvement in the formulation of bills to create or amend laws, participation in Congressional committee hearings and markups, and finally attempts to influence floor action and conference committee negotiations (Wright 1996).

Also, for the purposes of this analysis, another term that will be useful to define for this paper is “lobbyist” – which will simply refer to the person who attempts on behalf of an interest-group to influence the decision-making of a policy maker on a particular policy issue. A lobbyist may engage directly in the activities listed above and in some instances engage the interest-group’s national spokesperson, president, or a regular member to participate in these activities. An interest-group and their lobbyists can direct their efforts to gain access and to influence at three types of elected officials: those who already support the group’s position, those who do not support the group’s position, or those who do not yet have a known position (Austen-Smith and Wright 1994). Scholars have studied the various ways in which interest-groups try to access and influence these types of legislators (including sharing strategic information or making campaign contributions) and the extent to which interest-groups are successful.

Early perspectives on lobbying explored this activity in a variety of ways. Some political scientists, recognizing that group process is important to the democratic decision-making process in the United States, explored lobbying as an aspect of group process (e.g. Bentley 1908; Truman 1951), as discussed above. Scholars such as Stephen K. Bailey (1950) and Earl Latham (1952) explored lobbying as a part of the decision process for a single bill or particular issue through case studies. Other scholars, such as Philip Taft (1964), examined lobbying through the changing behavior of group process in politics due to changes in structures and behavior of groups – both specific groups and types of groups.

In addition to political scientists' interest in the lobbying process, Congress has also taken an interest in the form of investigations of lobbying activities. The first Congressional investigations of lobbying took place in 1913 (Tompkins 1956), and continue to this day, as in the now-infamous activities of lobbyist Jack Abramoff, which came to light in 2006. The first federal legislation regulating lobbying activities – the *Federal Regulation of Lobbying Act* – passed Congress in 1946 as part of the *Congressional Reorganization Act*. This legislation required for the first time that lobbyists be required to register and to report income and expenditures, and included criminal penalties for noncompliance. Since 1946, there have been several lobbying reform efforts, including in 1992 and in 2007.

Early studies exploring the impact of lobbying attempted to create models in order to analyze the lobbying elements of the group process in legislative influence. For example, Milbrath (1960) suggested that a communications model could help explain the role of lobbying in attempts by interest-groups to influence legislative decision-making.

In his interview of more than 100 lobbyists and 38 people in Congress, Milbrath attempted to construct a framework for how lobbying fits into the legislative decision-making process as a whole. Milbrath argued that legislators, like everyone else, have a set of predispositions that influence their willingness to receive certain kinds of information – a “perceptual screen” – that allows some information through and stops other information. Lobbyists and interest-groups therefore cannot rely solely on access to a decision maker, but they must also be able to present information in a way that can pass through the “perceptual screens” of the decision makers they are attempting to influence.

Milbrath found that, in order for lobbyists to break through this screen, they used three types of communication: facts, arguments, and power. He found that lobbyists and interest-groups use facts to explain how a certain action will affect the group. The facts, however, are complemented by a set of arguments in support of the group’s position that help to explain why a particular position is the right one. Finally, lobbyists and groups attempt to communicate power – both overt, such as campaign contributions and the “power of the voting polls,” and subtle, such as grassroots letter-writing campaigns that engage the elected officials’ constituents and coalition building with other like-minded groups. In his interviews, Milbrath also found three types of communication tactics present in lobbying activities: 1) direct personal communication between the lobbyist and member of Congress or staff, 2) communication through intermediaries, and 3) attempts to keep communication channels open. Direct communication includes presentations of arguments and research, as well as testimony at official Congressional committee hearings. Communication through intermediaries may involve strategies that include a decision-maker’s constituencies or personal friends through letter-writing campaigns,

public relations campaigns, and the publication of voting records. Attempts to keep communication channels open may include hosting fundraisers, contributing political campaign money, or volunteering to work on a political campaign, or collaborating with other groups to build a coalition on a particular issue.

Whereas Milbrath's work found that interest-groups, via lobbyists, prefer face-to-face communication of facts and arguments, his research also suggested that the growth of lobbying creates competition for the time and attention of members of Congress, requiring that groups find access to decision makers through intermediaries and develop ways to communicate the interests of a particular group. The model of lobbying as communication, which received some criticism for being too simplistic (e.g. Eulau 1964), was an initial attempt to build a foundation for an understanding of the significance of information in the lobbying process. The body of political science research in this area built and improved upon the notion of lobbying as communication.

For example, a study examining the communication flow in the Michigan House of Representatives found that interest-groups who want to influence the legislative process need to affect the flow of information to the elected official (Porter 1974). Porter found that due, to the need for information and the short time frame in which elected officials need relevant information and advice, those groups or individuals who can provide information can influence legislative decisions. His study supported previous work, such as Milbrath's, that found personal presentations, providing research and data, and attending committee hearings are the best ways to provide information and attempt to influence the legislative process. It can be difficult for an interest-group to reach all members of a legislative body, and Porter's work showed that intermediaries, such as

“expert” legislators who are members of the legislative body and may have already have specific knowledge or interest about the policy issue, can communicate and translate information and positions to other members of the legislative body through a process called the two-step flow of communication. In fact, the presence of an expert appears to make influencing the legislative process less complicated, because these expert legislators can serve as important access points for interest-group lobbying tactics.

While some groups and lobbying efforts may be focused on presenting facts and arguments to members of Congress, as well as using expert legislators as access points, Bauer, Pool, and Dexter (1963), in their 10-year study of foreign trade policy created new points of departure for the study of the structure and process of interest-group influence on politics on a number of fronts. First, their study showed that the relationship between economic self-interest and an issue position advocated by an interest-group is weak enough to suggest that other factors, in addition to or more than any economic self-interest, may influence a policy position of an interest-group. Their study also showed that those affected by a policy issue are more likely to take action in the political process through letter writing or other demonstration of opinion if they are expecting to lose something, rather than gain, due to any changes in policy. Their study revealed the social process of decision-making in the legislative process. For example, interest-groups are more likely to communicate with decision makers who agree with them, rather than “enemies.” One of the reasons for this phenomenon is the lack of resources. Groups concentrate on their friends and engage in public relations activities that show their support for their “friends” rather than exerting pressure on enemies. And, finally, the study showed how the Congressional process permits legislators to decide what

communication they hear from which groups. The views of elected officials, therefore, are formed by existing loyalties and previous commitments, suggesting that decision-makers are more in control of the influence of lobbying and interest-groups than subject to the attempts to influence. Studies of the U.S. Senate (Matthews, 1960) and of interest-groups (Zeigler, 1964) revealed similar findings. Matthews argued that most lobbying of U.S. Senators was directed at those “already convinced” about a position on a certain issue. In his studies of interest-groups in the 1960s, Zeigler found a lobbyist’s ability to influence “depends more upon the degree to which legislators agree with the professed ideals of the group...than upon the ability of the lobbyist to manipulate or persuade” (p. 267-268). Meanwhile, Milbrath (1963) argued in his study of lobbyist in Washington that lobbying has relatively little influence on the policy process and that lobbying mostly only affects the legislative process when the issue is specialized in nature and affects a small part of the population. Dexter (1969, p. 63) in his study of group representation by lobbyists in Washington argued that “most lobbyists, most of the time, act to reinforce, strengthen, aid, and reassure congressmen and their staff who tend to be on their side.” Much of the research in the 1960s resulted in a shared view among political scientists that interest-groups and their lobbyists were mere “service bureaus” – sources of information – for elected officials that already shared similar views with the interest-group on a certain policy issue. This “path of least resistance” was explained by Hayes (1981) as necessary for interest-groups to maintain and attract members. Hayes argued that it was more important for interest-groups to access friendly members of Congress than to “win” an issue. He explains, “groups that pressure or antagonize policymakers may forfeit access and thus lose the symbolic benefits of being consulted” (p. 86).

Though political science research in the late 1950s and 1960s suggested that the lobbying strategies of interest-groups had little substantive influence over the legislative process, beginning in the late 1970s there was a resurgence in interest among political scientists to study the relevancy of interest-groups. Despite findings that rejected the influence of pressure groups on the political process, a growing group of researchers began to suggest that there was a lack of understanding about the role of interest-groups in the Congressional process. In addition, the growth of interest-group presence in Washington, the signing of the *Federal Election Campaign Act of 1971* into law and other Congressional concerns about the influence of lobbying, and the increasingly competitive nature of campaigns that led to the growth of campaign contributions through political action committees (PAC's), revealed a need to find a better explanation for the role of the interest-group beyond the notion of the "service bureau." For example, Austen-Smith and Wright (1994) argued that while earlier studies such as Milbrath (1960) and Bauer, Pool, and Dexter (1963) suggested that interest-groups did not achieve influence through pressure, there was no attempt to provide an explanation for how groups achieve access and influence or the targets and tactics of their access and influence. Studies in the 1980s and 1990s attempted to do just that.

Access and Influence

As Wright (1996) suggests, "access is absolutely critical to any successful lobbying campaign and, along with influence, is one the principal objectives of organized interests" (p. 76). Interest-groups and lobbyists attempt to access and influence decision makers in order to expand the coalition of members of Congress who support their policy

position and to shape the content of a legislative proposal as it moves through the Congressional process (Hojnacki and Kimball 1998). Wright, in his explanation of access and influence, acknowledges the ambiguity of these two terms. In fact, different researchers have developed different definitions for access, sometimes blurring one term into the other. Some researchers have simply defined access as establishing contact with a member of Congress or a Congressional staff member, and have measured this definition of access by the number of meetings or number of minutes with a certain Congressional office (Berry 1984; Langbein 1986). Makielski (1980) defined access in four ways: 1) convincing a decision maker to listen to facts and arguments, 2) developing a “regular relationship” with a decision maker to exchange information, 3) becoming “institutionalized” into the policy process, and 4) gaining “influence”. Hansen (1991) suggests that access is “a close working relationship between members of Congress and privileged outsiders” (p. 22). Schlozman and Tierney (1986) argue that the ideas of access and influence are not “fully separable” (p. 165). In his explanation of this relationship between access and influence, Wright suggests a continuum to capture the relationship between the two concepts of access and influence. On one end of the continuum is “no access” and at the other end is “influence.” A group or lobbyist has no access to communicate with a decision maker – either by failed attempts or by choice. In this instance, a group may have no reason to be associated with a specific policy maker, or the group may be “perceived as unreliable or untrustworthy” (Wright, p. 77). In the middle of the continuum is “access,” which can be achieved at two levels – through positioning or messaging. At the positioning level, interest-groups and lobbyists establish connections in a very general sense and do not attempt to influence support or opposition

to a policy issue, but rather the intent is simply to form good relationships. Milbrath originally explained this kind of activity in his studies that showed lobbying activities as means to keep communication channels open.

The next step on Wright's continuum – access at the messaging level – suggests that an interest-group or lobbyist is able to now share facts and arguments about specific legislation issues meant to gain the support of the policy maker. This second level of lobbying is a relatively small part of the overall process (Birnbaum 1992). Birnbaum argues that most of a lobbyist's time is spent obtaining access through networking and “learning the lay of the legislative landscape” (p. 25).

The final point on Wright's access-influence continuum is influence. Influence can either maintain and reinforce a legislator's position on a policy issue or change the direction of a legislator's position. This explanation of influence explains the difference between influence and access. Access simply suggests that an interest-group or lobbyist may be “in a position to affect legislator's beliefs, not that beliefs have actually been altered, maintained, or reinforced” (Wright, p. 81). Wright argues that the difficulty in measuring and discerning beliefs has made the study of influence challenging, and that researchers have relied instead on measuring access- a relatively more tangible measurement. This difficulty seems to have contributed to the contradictions and gaps in theories of group influence in relation to the Congressional process.

The idea that interest-groups and lobbyists will attempt to influence a *change* in a policy maker's position to align with the interest-group on a particular issue runs counter to the interest-group models discussed earlier in this paper, such as Bauer, Pool, and Dexter. In fact, in 1994 Austen-Smith and Wright challenged earlier studies that had

suggested that legislators only hear from interest-groups that support their positions, and therefore have little influence over the legislative process. Referring to the dominant findings in the 1960s, Austen-Smith and Wright state: “These conclusions leave us wondering why it is that groups bother to lobby at all. If the impact of lobbying on legislation is negligible, if groups seldom attempt to persuade legislators, and if the flow information from groups to representatives is imperfect and distorted, it is surprising indeed that we observe the trends in heightened group activity that are so prevalent today” (p. 42).

In their study of a U.S. Supreme Court nomination in 1987, Austen-Smith and Wright found that interest-groups lobbied both supportive and oppositional legislators, and had considerable influence in changing the minds of legislators, not just reinforcing positions. In addition, they suggested that when groups lobby their “friends” they are being strategic and counteractive. In other words, interest-groups had to “counteract the influence that influence of opposing groups who lobbied the same Senators” (1994, p. 42). In their study of how interest-groups decide whom to lobby in Congress, Hojnacki and Kimball (1998) found that interest-groups first lobby those members on committees of jurisdiction who are friendly to their policy position on an issue. Those members of Congress then in turn lobby their colleagues. Studies have found that groups attempt to persuade decision makers not only to take a certain position, but also to participate actively and work in support of the group (Hall and Wayman 1990; Scheier and Gross 1993). Hojnacki and Kimball also found that those interest-groups with more resources, especially those that have an affiliated PAC’s, are better able and more likely to expand beyond those members friendly to their positions and reach out to undecided committee

members and even those legislators who are oppositional to their policy positions, especially when groups have existing and strong support in other Congressional districts, in the form of lobbying and grassroots engagement of an elected official's constituents (1998, 1999, and 2001).

In terms of "counteractive lobbying," as developed by Austen-Smith and Wright (1994), Hojnacki and Kimball (1999) believed their study of decisions of whom to lobby shows that counteractive lobbying is more prevalent at later stages in the legislative process and that groups strategically target their friends who serve on committees of jurisdiction towards the beginning of the legislative process in order to influence early drafts of legislative language and to counter unfriendly amendments that may occur further down the process.

In their study of the Labor-Air Carriers Committee and the Chamber of Commerce of the United States, Constain and Constain (1981) argued that studies of the 1950s and 1960s "emphasized a narrow spectrum of group activity, leading to a potentially serious understatement of group influence" (p. 270). Merely focusing on communications, interaction, and power as measures of influence led to findings that "proved" the ineffectiveness of groups. Constain and Constain argued that interest-groups, as aggregators of various policy demands, narrow the number of policy options and therefore the alternatives presented to Congress. An important activity of interest-groups is then to resolve conflict about an issue, making it more likely that Congress will take on the issue. Constain and Constain argued that scholars in the 1940s and 1950s incorporated this notion of interest-group as aggregator, only for the scholars of the 1960s to drop this measure of influence and to focus on communication as influence. For

example, Almond and Powell (1980) argued a “four-point typology” that well describes interest-group actions studied in the 1940s and 1950s: influential interest-groups aggregate by mobilizing resources, combining all of their demands into a smaller set of policy alternatives, bargaining, and forming coalitions. Other studies of that time period studied the narrowing of policy alternatives. Riggs (1950) coined the term “catalytic groups” to describe the framework in which negotiation, bargaining, and compromise on a specific policy issue took place, where the interest-groups serving as a “gate-keeper” on issue positions. A number of studies during that time noted the extent to which groups worked to reduce conflict and disagreement and work towards cooperation on a specific policy issue (e.g. Bailey, 1950; Eldersveld, 1958; Garceau, 1958; Gross, 1953), while building alliances among different interest-groups (e.g. Berry 1977; Cherington and Gillen 1962; McCune 1956; Riggs 1950).

These strategies of coalition building and issue compromise seem to be important and influential parts of the policy making process. Scholars recognized the need to further consider these ideas, and studies in the 1970s began to once again incorporate these phenomena. In fact, studies by Price (1978) and Hayes (1978) found that the higher the level of the conflict, the less likely it is that Congress will act on a particular issue. In her study of how interest-group lobbying affected policy outcomes related to consideration of a bill in a U.S. House of Representative committee, Evans (1996) found that conflict among coalition groups negatively affected their ability to influence. The interest-groups tried to resolve conflict and come to consensus on policy before speaking with committee staff. When the groups could not come to agreement before lobbying committee staff, the groups then attempted to use committee staff to resolve differences in policy positions.

The findings of this study also indicated that when there is no conflict among interest-groups, interest-groups are most likely to influence policy decisions in their direction, which seems to have important implications for differences in how organized and unorganized groups influence policy. These studies suggest the important role of interest-groups as policy aggregators and the need to understand how the interest-group process works and influences the political process.

In his study of the lobbying activities of the National Education Association during the spring and summer of 1977, Richard Smith (1984) argued that the interpretation process by a member of Congress is an important variable in policy formation – both through direct interpretation as well as indirect interpretation through “cue taking” of other legislators’ positions. In addition, he suggested that two other variables affect a member’s position on an issue: personal understanding of how a certain position will help them accomplish their own goals and their public explanation of the position and issue to their constituencies. Members of Congress, Smith argues, seek information and develop interpretations about different positions until they find a position that will yield a “good enough” outcome. Interest-groups, therefore, work to provide information to help “construct interpretations” for members of Congress. Interest-groups present various pieces of information in various ways. These “presentations” can be easily manipulated considering that it is assumed that opposing groups are advocating different interpretations. Smith argues that not all presentations are susceptible to manipulation given that there may be high levels of historical agreement between the member of Congress and a particular interest-group. The ability of an interest-group to develop the desired interpretation depends on the level of “resource advantage” – both

quality and quantity and the time available for any advocacy efforts needed. As Kingdon (1973) has argued, much more time is needed to persuade or communicate with those members of Congress that have not historically or regularly been supportive of an interest-group's position, and members of Congress are much more likely to pay attention to those interest-groups with which they have historically agreed. Hojnacki and Kimball (1998) found that a slower legislative process allows for more time to influence members through direct lobbying.

The findings from Smith's study also established that variance in an interest-group's ability to influence depends on aspects over which they have little control, including the legislative situations in which policy issues are considered, such as changes to the original policy proposal included in amendments, motions to recommit, conference reports, and presidential vetoes. Smith argued that interest-group influence, therefore, could be "both substantial and fragile," depending on the legislative situation. Smith's study demonstrates how fragile the process can be, and, therefore, the difficult nature of successfully influencing the process once it has progressed to the point of floor consideration, conference committee, or presidential veto override. Interest-group influence tends to be most evident and strongest in Congressional committees where there is less public focus on the policy process (Hall and Wayman 1990; Hojnacki and Kimball 1999; Schlozman and Tierney 1986; Wright 1990). Interest-groups attempt to influence the chairs and ranking members of the committee of jurisdiction – those members that hold the most power and influence over the committee of jurisdiction and set the policy agenda that will be considered by Congress (Austen-Smith and Wright 1994; Hojnacki and Kimball 1998; Kingdon 1989; Rothenberg 1991; Wright 1990).

Other studies have suggested that the ability of an interest-group to influence the Congressional process may also be affected by other factors that contribute to the legislative decision-making process. Similar to Smith's explanation of factors influencing the decision-making process, Fenno (1973) explained that a legislator's decisions are motivated by reelection, good public policy, and his or her own ability to influence the process within Congress. In order to get re-elected, a member of Congress has to make or help make good policy, and in order to accomplish good policy he or she must be able to influence the process. Hall (1992) developed a model by which to measure a legislator's influence using surveys administered to Congressional staff that explains the relationship between a legislator's beliefs and legislative outcomes. The instrument, however, does not measure influence of outside interest-groups.

Hansen (1991) argues that when interest-groups can provide political intelligence about constituents that could affect elections, a legislator is more willing to consider the interest-group's policy issues and arguments. One way in which groups deliver this information to members of Congress is through grassroots mobilization. Grassroots activities, such as letter writing campaigns, phone calls, and similar activities, provide electoral information to members of Congress through their constituencies (Wright 1996). This kind of mobilization also can create an opportunity for interest-groups to counter the status quo of a policy position (Evans 1996). As these new interests become involved in the process, changes in policy can occur, including changes in the policy positions of a member of Congress that are more in line with those of the interest-group. (Baumgartner and Jones 1993). Goldstein (1999) argues that an explosion of citizen communication through grassroots mobilization provides information to voters and

legislators as a way to influence elections or the outcome of specific pieces of legislation. Hojnacki and Kimball (1999) found that interest-groups are more likely to engage in a combination of grassroots campaigns and direct lobbying to influence policy than using one tactic over the other. Depending on the target of their tactics and the target's policy position, groups will utilize grassroots, direct lobbying, or a combination in order to access and influence a decision maker.

The ability of a legislator to influence the legislative process requires knowledge of the policy issues, as well as knowledge of the politics of alternative decisions and competing ideas (Truman, 1951). In addition, Wright (1996) argues that the legislator has to have knowledge about the legislative process, such as how other members of Congress will respond to a specific position on a policy issue. A legislator's ideology, in addition to the legislator's knowledge, may also affect an interest-group's ability to influence the Congressional process (Jackson and Kingdon 1992). All of these "uncertainties" as Wright refers to them, are opportunities for interest-groups to provide information, reduce "uncertainty", and therefore influence the legislative process. In his investigations of how Washington works, Hendrick Smith (1988) found that legislators acknowledge this important relationship of information exchange, and some hold the belief that some lobbyists are sometimes more informed about a specific policy issue than members of Congress and their staff. In fact, some lobbyists feel that their job can be to serve as an extension of a member's legislative staff (Smith 1988).

Lobbying as Legislative Subsidy

Hall and Deardorff (2006) build on Smith's (1988) concept and argue a model of "lobbying as legislative subsidy" rather than the traditional exchange or persuasion models discussed above. In a legislative-subsidy process interest-groups provide allies with information, political intelligence, and legislative labor in order to achieve shared goals. The sharing of information and the value of legislative labor have been discussed. The lobbyist or interest-group is, therefore, seen as an extension of the elected official's legislative staff. Hall and Deardorff developed a set of assumptions about this theory based on earlier studies by other researchers. First, a legislator, in order to have influence, has to work at being influential (e.g. Evans 1991; Hall 1996; Wawro 2000). Second, a legislator's resources are scarce (e.g. Salisbury and Shepsle 1981). Third, legislators care about influencing more than one policy at a time (e.g. Evans 1989; Fenno 1973). Fourth, legislators prioritize some policy issues over other issues (e.g. Hall 1996; Sinclair 1989). And, finally, lobbyists are specialists, who focus on a few issues, especially compared to legislators, who pay attention to many issues (e.g. Esterling 2004). Hall and Deardorff explain it best: "lobbyists freely but selectively provide labor, policy information, and political intelligence to likeminded but resource-constrained legislators" (p. 75).

Political Action Committees (PAC's)

Hall and Deardorff (2006) also acknowledge the role of moneyed interests in the influence process by hypothesizing that PAC contributions "indirectly facilitate the process of subsidizing legislators by buying access" (p. 80). They suggest the need to further understand the consequences of this kind of access. In their legislative subsidy model, they hypothesize that one of the consequences is an opportunity for a lobbyist to

offer assistance rather than to ask for something, such as a vote on a specific piece of legislation. This legislative subsidy suggests that the use of money to buy access works best, and perhaps only, when legislators and interest-groups share a position on an issue and have a common objective.

Influence over the legislative process can be at least partially understood through the investigation of moneyed interests. In this mutual exchange, members of Congress benefit from financial and political support from interest-groups, and in return these groups expect access and influence. A growing body of research including hundreds of case studies, surveys, and quantitative studies of PAC contributions grew directly out of the signing into law of the *Federal Election Campaign Act of 1971* and its subsequent amendments, which, among other provisions, required the reporting of such contributions, creating a vast amount of new data for researchers to study. The two most common frameworks by which to measure PAC influences are an electoral model and a legislative model (Wright 1996). In the electoral model, it is assumed that voters need information to make electoral voting decisions and a member of Congress spends money, raised through PAC contributions, to communicate that information to voters. In the legislative model, it is assumed that in exchange for financial contributions, members of Congress promise to support certain legislation, to vote a certain way, or to take a specific position on a policy issue.

There has been a considerable number of studies of PAC contributions in relation to “roll call voting,” also known as floor votes. These studies have found various levels of influence through PAC contributions. Wright (1985) found relatively little influence of PAC contributions on legislators’ voting behavior on specific pieces of legislation. He

found that only when other variables such as party affiliation are weak do PAC contributions seem important. Wright argues that because PAC contributions are cultivated and made at the grassroots level in the Congressperson's district by local constituencies and because attempts to influence the legislative process tend to be made in Washington by professional lobbyists, there are disconnection and paradox in the relationship between PAC contributions and legislative influence, particularly in the voting decisions of legislators. Wright claims, however, that this evidence does not mean that PAC's do not matter, especially as PAC's have grown in number and size and as members of Congress increasingly spend a larger amount of time in political fundraising activities. In fact, Hojnacki and Kimball (2001) found that those entities with PAC's are able to contact and perhaps access and influence more elected officials due to the organization's ability to organize constituencies effectively in a number of Congressional districts.

In their studies of Congressional committees, Hall and Wayman (1990) found that moneyed interest-groups are more likely to affect committee decision-making processes than floor votes, and that what is most likely to be affected is the legislative involvement of a member of Congress, not his or her vote. They also found evidence that members are more influenced by organized business interests than by unorganized voters. Their findings underscore Wright's claim that though there seems to be little connection between PAC contributions and floor votes, there may be influence in the committee process, amendment development, and access.

Higher Education as an Interest Group

A review of political science literature reveals a framework in which to consider how higher education as an interest-group attempts to influence federal policy through the lobbying process. Group theory illustrates how higher education as a group advances a set of special interests, while influence theory helps us understand how and to what extent higher education influences federal policy. The following sections of this paper will examine what the higher education lobby is, its structure, and its influence.

The Higher Education Lobby

What or who is the higher education lobby? There is not one higher education lobby but rather several higher education lobbies, that together are referred to as “the Community” (Hannah, 1996). At the core, are six presidential associations, also known as the “Big Six”: the American Council on Education (ACE), founded in 1918 in reaction to the need to protect academia from drastic reductions in enrollment during World War I; the American Association of Community Colleges (AACC), founded in 1920 (originally as the American Association of Junior Colleges) as the primary advocacy organization for the nation’s two-year colleges; the American Association of State Colleges and Universities (AASCU), founded in 1961 to represent public colleges not represented by AACC and the Association of Public and Land-grant Universities (APLU), including comprehensive state systems, former teacher’s colleges, and regional institutions; the Association of American Universities (AAU), founded in 1900 as an exclusive association for the nation’s premier research universities; the National Association of

Independent Colleges and Universities (NAICU), developed from the Association of American Colleges (AAC), which was founded in 1915 for small liberal arts colleges, now the primary advocate for private, independent higher education institutions; and, the Association of Public and Land-grant Universities (APLU), founded in 1887 as the Association of American Agricultural Colleges and Experiment Stations (AACES), later called the National Association of State Universities and Land-Grant Colleges (NASULGC) until 2009, and today representing the nation's public flagship universities and land-grant colleges. While not all of the associations originally had offices based in Washington, these six associations are all now located in the nation's capital, have full-time government relations staff, and are considered the main "higher education lobby" representing the interests of non-profit, public, private, two-year, four-year, research, and liberal arts institutions with ACE as the "umbrella organization" (Cook 1998; Murray 1976). In her study of the Big Six, Cook (1998) found that the members of these associations believe that federal relations activities needed to be a major focus of the association's activities.

In addition to the Big Six, there are so-called "satellite lobbies" (Cook 1998; King 1975; Murray 1976;), such as the Council of Graduate Schools (CGS) and the Association of American Medical Colleges (AAMC), and peripheral lobbies, representing individual institutions or systems, small associations, functional, discipline organizations, occupational groups, and special task organizations (King 1975; Murray 1976; Cook 1998). In addition, there are advisory committees, panels, and institutes that influence federal policy and programs, such as the recent Commission on the Future of

Higher Education, commissioned by Secretary of Education Margaret Spellings, the Project on Student Debt, and various think tanks.

Increasingly the for-profit higher education lobby, which has traditionally not been viewed as part of the Washington higher education community, has attempted to influence federal policy over the past few decades. The for-profit higher education sector is composed of proprietary schools that either have one owner or a board with a profit motive and no external accountability (Cook 1998). These schools number in the thousands and are on the rise. The Career College Association (CCA) is viewed as their umbrella organization with more than 1,400 members (www.career.org). Some of their members, as well as CCA, are members of ACE. Colleges, however, must be accredited to be members of ACE; therefore, many of CCA's members are not ACE members (Cook 1998). According to CCA's website (www.career.org), CCA member institutions "cover the full gamut of postsecondary education: from short-term certificate and diploma programs, to two- and four-year associate and baccalaureate degrees, to masters and doctoral programs." Most CCA member institutions participate in Title IV federal student financial aid programs, meaning that the institution is licensed by the state in which it is located, accredited by a nationally recognized accrediting body, and approved by the U.S. Department of Education.

In his book about the higher education associations in Washington, Hawkins (1992) uses the term "associationalism" to describe the nature of the higher education lobby. Hawkins suggests that the term encompasses and celebrates the diversity and traditional autonomy of U.S. higher education. The term of "associationalism" implies that the higher education lobby is able to speak with one voice when it can or needs to,

and acknowledges that individual associations remain autonomous from other organizations and government, but not isolated.

The Structure of the Higher Education Lobby

As described above, some research has been done to explain what the higher education lobby is. In addition, there have been a few attempts to explain the structural nature of the lobby. For example, Murray suggests a “cluster concept” for understanding the higher education lobby and further argues that this cluster concept “suggests the higher education lobby is characterized politically as an extremely non-coordinated, decentralized, and fragmented set of organizations” with “no single spokesperson” (p. 85-86). The higher education lobby is made up of several distinct organizations with memberships representing institutions and individuals with different, and sometimes conflicting, interests and priorities, and so Murray argues that the lobby has an anti-political ideology that is “unwilling (or unable) to form viable coalitions internally or externally with other lobbies” (p. 86). In fact, Heyns (1973) refers to the higher education lobby as a loose confederation with “vested interests and specialized concerns” (p. 95). The lobby, therefore, is often unable to coordinate together, much less coordinate with other lobbies outside of higher education.

In addition to suffering from isolation and competing interests and priorities, the higher education lobby has been known not to form “permanent stable coalitions” with other groups, such as business or labor. An analysis above of political science theory suggested that building such coalitions led to a greater number of successes in attempts to influence the policy process. The higher education lobby has even shied away from

lasting coalitions with K-12 education lobbies – the lobby with which some would assume higher education would have the most in common. For example, in 1969, higher education joined with elementary and secondary education lobbies to form the “Emergency Committee for Full Funding of Education Programs” which sought to counter cuts to education funding by tying education aid to a specific formula (Murray 1976), but the higher education lobby pulled out of the Committee in the early 1970s due to their discomfort with “overt political pressures” that were “much too aggressive” for academia (p. 89).

These structural characteristics of the higher education lobby are coupled with an ideological characteristic that has affected the structure of the lobby, which Murray refers to as “traditionalism.” Traditionalism in higher education has meant that academia has been not only apolitical, but also anti-political, viewing political involvement as undignified. The belief underlying this traditionalism is the notion that higher education is a public good with broader social value than other groups lobbying at the federal level. Higher education historically has not needed to make its case through political statements and lobbying efforts in order to grow and continue to thrive. In addition, the consultative nature of higher education, rather than a negotiative style, has created a more passive relationship between academia and government (King 1975). A consultative relationship implies that government officials ask for the views of higher education on specific issues, but that these views are not viewed as a critical or significant part of the decision-making and policy process. Murray argued in 1976 that this consultative nature, rather than negotiative, would continue to be the norm for several reasons, including an apparent belief within higher education that this passive approach is appropriate simply due to the

number and diversity of college campuses in the United States. The rhetorical question underlying this assertion is if higher education has done so well, why lobby for more? Finally, Murray argued that a consultative arrangement would continue due to the seeming agreement among the major higher education associations that “aggressive negotiation” resulting in short-term wins were not as valuable as a longer-term strategy of “patient service and quiet lobbying” (p. 91).

King (1975) argued, however, that this passive approach and hands-off attitude began to change in the 1970s with a new generation of people running the government relations offices of associations and at individual institutions. Meanwhile, in his review of the higher education lobbies of the 1970s, Murray (1976) suggested that major research universities would maintain a passive approach, while smaller community colleges and independent schools would become more active and political. He further contended that while there would be a movement to form a more centralized, political lobby for higher education in Washington, there may also be further fragmentation of higher education to lobby and advocate for their own constituencies as pressure mounted to expand federal higher education programs resulting in more competition for these resources.

Murray (1976), in his work on the structure of the higher education lobby, explained a “shifting lobby” phenomenon that compounds the lobby’s fragmentation whereby, in addition to the association lobbying activities, individual colleges and state systems may also employ full-time staff, part-time staff, or lobbying consultants who either work in Washington or commute to Washington to lobby on behalf of the institution or system. His identification of this phenomenon suggests that not only is the

main higher education lobby decentralized, but so too are the various and multiple lobbies representing hundreds of higher education institutions across the country. In one of the most comprehensive studies of the higher education lobby, Cook (1998) investigated the proliferation, organization, and growth of the higher education lobby – including and beyond the major higher education associations. Her study, which included a survey of college presidents, examined how higher education as a group organizes itself, the satisfaction level of presidents with their higher education lobby, and how the structure of the higher education lobby affects lobbying strategies. She found that while many college presidents choose to hire institution-specific “lobbyists” and government relations staff, college Presidents expect that federal relations activities be a priority of their professional higher education association, and for the most part, found the lobbying and advocacy efforts of the higher education lobby to be effective. Presidents counted on the Washington higher education lobby to follow Congressional actions impacting higher education and to advocate on broad higher education policy issues, while their individual and system lobbyists were to focus more on advocacy on behalf of individual institutional needs, such as Congressional earmarks. While more lobbyists are doing more and different kinds of lobbying on behalf of higher education institutions, Cook’s research shows that “more is not necessarily better” (p. 87), nor more effective. Rather, lobbying strategies and activities are more important than sheer numbers in affecting policy, which will be explored more in the next section of this paper.

The non-profit higher education community not only struggles within a decentralized structure with a large number of individuals and associations advocating with sometimes different voices, but it also must compete at the federal level with the

propriety sector. In fact, the non-profit and for-profit higher education communities have what some have deemed an “adversarial relationship” (Cook 1998). Cook in her study of the federal higher education lobby suggests “ACE has clearly chosen to keep the proprietary schools outside its umbrella” (p. 84). Hannah (1996) referred to the for-profit sector as “a stepchild within the traditional higher education community” (p. 519). As described below, this relationship has affected the activities and influence of the higher education lobby.

The Activities of the Higher Education Lobby

Despite a fragmented structure, it is clear that the non-profit higher education lobby is active and part of the federal policy process. But, what is it that the higher education lobby *does*? In his survey of education interest-groups in the United States, Adam (1975) noted education interest-groups “each represent a consensus of attitudes and opinions about education among sizeable numbers of American citizens, and their objectives cover a wide range of education issues. They are consequently forced to study the power structure of their national education system, and to move it when power moves” (p. 166). He goes on to say that “in Washington D.C., there is a powerful lobby devoted to influencing national policies on higher education... The large contribution of the Federal Government to the maintenance of universities and colleges has caused the higher education lobby to devote most of its resources to work in the national capital (p. 168).” Adam seems to suggest that the existence of federal programs that provide resources that benefit colleges and universities has resulted in the rise of the higher education lobby.

Others have made similar arguments about higher education as an interest-group. Murray (1976) argues that higher education became a “central participant and contestant for national resources” (p. 79) starting with the G.I. Bill, which has resulted in “increased higher education involvement with government” (p. 79-80). Murray notes, however, that for higher education associations in Washington, the primary activity is not lobbying, but rather research and production of issue papers, annual meetings for their members and conferences that bring attention to current national and international higher education policy issues, and external relations activities with other associations (p. 81). In fact, lobbying cannot be the primary activity of the higher education associations because of the tax status of these non-profit entities (Cook 1998). Beyond any legal restrictions on lobbying activities, Hawkins’ (1992) argues that the higher education associations are ambivalent towards lobbying. This ambivalence may result from a contradiction between the main issues for which the higher education lobbies: 1) maximizing federal aid (in the form of student financial aid, direct institutional aid authorized through the HEA, competitive grant dollars for research, and direct aid to institutions through earmarks in federal appropriations), and 2) minimizing federal regulations. Despite increasing federal investment in higher education in the form of student financial aid and research, Hawkins contends that associations continue to grapple with their roles as “lobbyists” and how lobbying affects academia’s autonomy. If the higher education lobby seeks federal support, and, in fact, advocates for financial support, will institutional autonomy be affected? How can the higher education lobby balance the goal of avoiding federal regulations and oversight with lobbying efforts that advocate for additional federal support?

Recent studies of the activities of the Washington higher education lobby have focused on the tactics and role of the lobby throughout a specific reauthorization process of the HEA (e.g. Cook 1998; Hannah 1996; Gladieux & Wolanin 1976). The reauthorization process of the HEA is a helpful and interesting framework within which to study the Washington lobby given the various provisions that affect various sectors of higher education. It includes not only funding for student financial aid, but also provisions related to regulations and oversight of institutions. In their study of the 1972 amendments to HEA, Gladieux and Wolanin (1976) explained the context in which the federal higher education policy process takes place. In their assessment they suggest that the higher education policy process is “incremental in three senses: It occurs within the limits of a slowly evolving political culture; it is built on and related to existing policy; and, it draws from existing policy models” (p. 257). This context, therefore, affects the activities of the lobby and is not all that different from other sectors attempting to influence federal policy. Gladieux and Wolanin (1976) also suggest a framework that takes into consideration the “skills and intentions” (p. 257) of various players in the process, as well as the political environment, which contribute to the direction of the process and the specific policy outcomes. These considerations are important elements in the decisions about lobbying activity that are made by the higher education lobby, as well as the ability of the higher education lobby to influence federal policy.

In her analysis of the higher education lobby, Cook (1998) examined the variety of activities and “techniques” that the the lobby employed after the 1994 mid-term election, in which Republicans – in an historic moment – took over both the House and the Senate promising to fulfill their “Contract with America.” The higher education

lobby had to adjust their activities in order to have influence with this new majority. In her analysis she examined political advertising, protests and demonstrations on college campuses, constituent contacts by college and university presidents, grassroots lobbying, electoral involvement, coalition building, and Political Action Committees (PAC's). Her study of the lobby's activities revealed that "higher education expanded its lobbying practices not only in intensity but also in the array of techniques utilized..." (p. 170).

Influence of the Higher Education Lobby

In addition to analyzing the activities of the higher education lobby, many of the same studies have also attempted to show how the structure and activities of the Washington higher education lobby contribute to its ability, or inability, to influence federal policy, particularly in regards to amendments to the HEA (e.g. Cook 1998; Hannah 1996; Gladieux & Wolanin 1976). For example, Gladieux and Wolanin's study of the 1972 amendments revealed the ways in which the higher education lobby was criticized for their lack of good policy analysis and failure to work together in an effective way to accomplish their goals. In 1972, while the higher education lobby was lobbying to have Congress provide direct federal aid to institutions rather than directly to students, Congress planned to "let the students make their own choices in the marketplace of postsecondary education" (Gladieux and Wolanin, 1976, p. 225) by awarding Pell Grants directly to students. In addition to this big defeat suffered by the higher education lobby that still reverberates throughout federal higher education policy circles, another Washington lobbying was becoming increasingly influential: the for-profit higher education lobby. While the traditional higher education lobby was unable to influence

Congress in their direction, this newer lobby representing the for-profit sector was successful in influencing Congress to make the proprietary sector eligible for participation in the federal student aid programs. In fact, the 1972 HEA amendments changed the term “higher education” to “postsecondary” in order to make eligible every type of institution, including community colleges and for-profit institutions. These two changes during the 1972 amendment process – providing financial aid directly to students rather than institutions and making eligible for-profit colleges for participation in federal student financial-aid programs – were seen as embarrassing losses for the higher education lobby and arguably still affect the influence of the higher education lobby today. In fact, when it comes to the influence of the for-profit higher education lobby, some have described it as the “most sophisticated at lobbying” among the higher education groups, as Waldman did in his case study of the *National Service Bill* (1995, p.138). Their influence can be traced to the 1972 amendments.

In her study of the 1992 HEA amendments, Hannah’s (1996) findings supported Wolanin and Gladieux’s framework describing an incremental process that is affected by the political environment and skills and intentions of the major actors. In her analysis, Hannah suggested that the 1992 amendments did not result in “the consensus necessary to support significant reform” called for by Congressional leadership to reinstate HEA’s original purpose to provide student aid to the neediest students (p. 523). While the higher education lobby was able to build agreement around some issues affecting the 1992 amendments, they utilized a “consensus strategy” that slowed the lobby’s ability to respond to timely Congressional needs. In addition, while the lobby chose to remain silent on key issues on which they could not come to agreement, it also became

fragmented on a key policy issue concerning the federal student financial aid needs analysis formula, leaving a vast space in which other groups could attempt to influence, including the newly formed Advisory Committee on Student Financial Assistance (ACSFA). This group was seen as more responsive and helpful than the traditional higher education lobby and therefore was able to be more influential during the 1992 amendment process. Hannah suggests that “the higher education community was fragmented by self-interest and turf” (p. 523), leading to the inability of “unified action” to provide meaningful reforms. Instead, the 1992 amendments were viewed as “a disappointment” that “paved the way for much greater federal regulation of academic quality” (Hannah, 1999, p. 524). In a 2003 report in the Chronicle of Higher Education that summarized all of the reauthorizations, Burd explained how during the 1992 reauthorization, with reports of “fly-by-night” for-profit colleges, some lawmakers failed at an attempt to get rid of for-profit colleges participate in all federal student aid programs (2003a).

In Cook’s (1998) case study of the higher education lobby in the aftermath of the 1994 Republican takeover of Congress, she found that higher education adjusted its traditional lobbying activities and deemed the 104th Congress – the first Congress after the election – as a success due to its ability to handle the advocacy process in spite of the dramatic shift in the political environment for higher education. The 104th Congress considered and passed legislation on higher education issues such as student financial aid funding, direct lending, national service, affirmative action, and research funding. In each of these areas, the higher education lobby felt it could celebrate victories in either holding back unfavorable policies or advancing favorable policies.

In the years to follow, the traditional higher education lobby and the for-profit-college lobby began to further distance themselves from one another. In 2002, the Career College Association announced it would no longer belong to the American Council on Education, claiming “an inability to agree on key goals for the coming reauthorization” (Borrego 2002) and calling ACE more of a liability than an asset. The chief lobbyist at ACE, Terry Hartle, was quoted in the article as saying that CCA has very “effective lobbyists.”

For-Profit Higher Education and the Federal Government

While much of the higher education literature on the topic of policy influence has focused on the traditional higher education lobby rather than the for-profit higher education lobby, there is increasing interest about the influence of the for-profit higher education sector. The for-profit higher education sector is composed of proprietary schools that either have one owner or a board with a profit motive. Some proprietary schools are owned by parent companies that are publicly traded. Most literature related to the for-profit sector has focused on the growth of the for-profit sector in relation to the “marketplace” of higher education (Ortmann 2002; Kirp 2003), the reputation of the for-profit sector (Kelly 2001), and for-profit institutions as competitors to the more traditional non-profit higher education model (Bailey, Badway, and Gumport, Tuff 2002; Ruch 2003). There is little work on the relationship between the for-profit sector and the federal government, particularly the ways in which the for-profit sector attempts to influence federal higher education policy.

The relationship between for-profit colleges and the federal government centers on regulations and access to federal financial aid. Most proprietary colleges do not have government relations staff, as compared to their non-profit colleagues, but rather employ lobbyists who attempt to influence Congress to reduce regulatory burden and increase access to federal financial aid (Tierney 2007). For-profit colleges generally believe that they are the “object of unfair burden and regulation” (p. 158), but those regulations – provisions included in the HEA – grew out of Congress’s desire to minimize fraud and abuse in the federal financial aid programs.

Some of the existing literature related to for-profit higher education and the federal government focuses on the accreditation process for purpose of participation in Title IV, that is, federal student financial aid (Sperling 2000; Berg 2005; Tierney 2007). In order to participate in Title IV programs, higher education institutions must have accreditation from an accrediting body recognized by the U.S. Department of Education. For-profit colleges rely on federal financial aid as a revenue source, and so many for-profit colleges have sought accreditation – both regional and national accreditation. In fact, the “father” of the for-profit college movement, John Sperling, details his strategy in his autobiography *Rebel with a Cause* (2000) to legitimize the for-profit college model by lobbying elected officials on issues related to accreditation in building what would become the University of Phoenix. He characterizes any concern with the practices of for-profit colleges and their motives as a fear of change on the part of traditional higher education administrators. When for-profit colleges could not obtain regional accreditation in the 1970s and 1980s, the national accreditation process was created to allow for-profit colleges access to federal financial aid – *whether* or not they were able to

receive regional accreditation (the accreditation of traditional higher education institutions). In recent years, some for-profit colleges have been able to secure both national and regional accreditation.

While the literature may be sparse in terms of the for-profit-college sector as a special interest group and the influence of the for-profit college sector in Washington D.C., there has considerable media coverage during the recent decade in the higher education press about the relationship between the for-profit higher education sector and the federal government. Leading up to and during process of the reauthorization of the *Higher Education Act*, several reporters covered the for-profit-college sector's role in the process. As early as September of 2003, one reporter wrote an article, *For-Profit College's Want a Little Respect*, summarizing some of the ways in which the sector would begin to promote its agenda in the reauthorization process and how past negative publicity that haunted the sector during the last reauthorization had begun to fade as the next reauthorization process was gearing up (Burd 2003). During that same time, another reporter wrote a piece explaining how Congressman Buck McKeon, the House Republican in charge of the subcommittee with jurisdiction over the reauthorization, had introduced legislation, as a placeholder for use during the larger reauthorization, that would make transferring credits easier for for-profit colleges students, citing the unfairness towards the for-profit sector (Farrell 2003). This article was one of the first hints of the group's reauthorization agenda.

Throughout 2004, media coverage focused on "lawmakers gearing up to rewrite policies on federal student aid, a crucial source of revenue for the [for-profit college] industry" (Blumenstyk 2004), the efforts of for-profit-college lobbyists to remove

restrictions, such as the 90/10 Rule (Burd 2004a), for-profit college spending on campaign contributions (Burd 2004b), and how President Bush, on his 2004 campaign trail mentioned reducing regulations on for-profit colleges (Brainard, Burd, and Fischer 2004).

Fraud and abuse in the for-profit-college sector has been a regular theme in the coverage of for-profit colleges, including lawsuits for the misuse of federal funds to whistleblower cases. In 2005, the “fraud and abuse”-related coverage went beyond the higher education trades when “60 Minutes” ran an exposé on the problems at the time in the proprietary sector. Congress held hearings and the for-profit-college sector organized a “pre-emptive public-relations campaign” to mitigate any effects from the coverage, which include radio ads and Congressional visits (Blumenstyk 2005). During the Congressional hearing on the class-action lawsuits highlighted in the “60 Minutes” piece, higher education press reported that for-profit-college sector lobbyists argued that policy makers should not create policy based on anecdote, but rather on data (Burd 2005a). This media coverage and media and Congressional investigation occurred in the months leading up to Congress’s first attempt at a HEA reauthorization, which was already two years into debate. While the original draft of the bill contained several provisions that were favorable to the for-profit-college sector, by the time legislation passed out of the subcommittee and full committee, the for-profit-college sector provisions were amended out or substantially diluted, including provisions related to Single Definition, the 90/10 Rule, and transfer of credit policies (Burd 2005b; Burd 2005c; Bollag 2005). Meanwhile on the Senate side, policy makers sought more of a “middle-ground” when drafting for-profit-college sector provisions in their HEA reauthorization bill (Field 2005). As

lawsuits continued to plague the for-profit-college sector in 2006, higher education media covered the allegations and proceedings (Burd 2006). Meanwhile, while the House passed a bill, Congress did not pass a final HEA reauthorization and the 2006 mid-term election turned the U.S. House of Representatives from Republican majority to Democratic majority, jeopardizing the attempts of for-profit-colleges to move their agenda forward in the new Congress that would begin in January of 2007 (Brainard, Burd, & Field 2006).

With a new Congress in charge, the for-profit college sector also reconsidered its leadership as part of its strategic efforts when it announced the hiring of a Democrat with ties to Congress, Harris N Miller, who called himself a “coalition-builder” (Blumenstyk 2007). Also in 2007, the issues of most concern to for-profit colleges were also among the most controversial, created much debate, and were widely covered in the higher education media outlets. For example, the *Chronicle of Higher Education* ran opinion pieces on one of the issues up for debate, Transfer of Credit, authored by representatives on both sides of the issue – Barmak Nassirian (2007) and Harris N. Miller (2007). Nassirian made the argument that colleges should decide their transfer of credit policies, not Congress, while Miller argued that new legislation would end bias against proprietary schools.

One year after the 2006 elections, the House committee began to debate legislation that would ultimately pass and be signed into law in 2008 (Field 2007). Initial versions of this round of legislation were seen as favorable to the for-profit-college sector, and passed the House Education committee with changes to the 90/10 Rule, but with a surprise amendment that the for-profit colleges would be left to fight during the

bill's consideration by the full House of Representatives later in 2008 (Field 2007). The higher education media continued to cover the issues of greatest concern to the for-profit sector, the 90/10 Rule and Cohort Default Rate, into 2008 as Congress wrapped up and passed final legislation, including several articles that described the back and forth compromises, efforts to influence policy makers, and the support by the for-profit-college sector for the legislation that would ultimately pass (Field 2008a; Field 2008b; Field 2008c; Field 2008d; Field 2008e). Among them an article titled: "A Bill that Took Longer than a Bachelor's Degree" (Field 2008f). The media also covered the political campaign contribution efforts of the for-profits. In one article, the Chronicle of Higher Education reported on an email message sent by the president of a for-profit college advertising a fund-raising event for Congressman Buck McKeon. The article (Selingo 2008) included the short, but to the point email message the president sent out to "dozens of people":

"Tip O'Neill stated that campaign contributions are the mother's milk to politics. In a period of highly charge political activity...your involvement in the political process is absolutely critical. I have learned during the past 30 years that although the student is our client, the government is our customer – the one who pays the bills."

In recent years since the reauthorization was signed in to law and a new Democratic White House intent on stricter regulations for the sector was elected, higher education reporters have covered reports on fraud and abuse, high debt loads incurred by students who received high-pressure sales pitches to attend, but not necessarily to complete at for-profit college (Burd 2009), and attempts to create stricter regulations for

the sector (Lederman 2009), among other issues. Reporters began to question the ratio of enrollments to how well served for-profit colleges students were (Lederman 2009). In 2010, the National Consumer Law Center issued a report on the “booming” for-profit-college sector, recent lawsuits related to the sector, and disproportionate debt and default rates of students who attend for-profit colleges (Loonin 2010). By mid-2010, the White House’s attempts to institute a rule called “gainful employment,” which would “cut off federal student aid to for-profit programs whose graduates carry high debt-to-income loads,” were receiving strong criticism and intense lobbying from the for-profit-college sector (Blumenstyk and Field 2010). Congressional hearings covered by the higher education media and in regards to the gainful employment issue featured for-profit-college lobbyists and their concerns (Gonzalez 2010).

In 2011, the *New York Times* ran a couple of articles critical of the for-profit college sector lawsuits (Education, 2011, p. A28; Lewin 2011). A U.S. Government Accountability Office report released in 2011 was covered widely in the higher education press explaining a new investigation implicating the for-profit sector in unsavory, if not illegal behavior (Fain 2011). By 2012, Senator Tom Harkin (D-Iowa) had released a report seemingly encouraged by broader media reports about these issues, which were widely covered in the higher education media. The report summarized, through the use of numbers and statistics, the perceived problems stemming from the for-profit college sector (Lee 2012).

Conclusion

A review of literature reveals interesting areas ripe for investigation. The political science literature has shown that special interest-groups attempt to influence elected

officials on specific policy issues through lobbying activities. The literature is not conclusive about how exactly the access, influence, and persuasion takes place and translates into policy changes. Continued efforts, however, to investigate and reveal the various opportunities for access, influence, and persuasion by special interest-groups would be beneficial in the higher education policy arena for practice and theory.

The literature about the influence of higher education as a special interest-group that attempts to influence policy also reveals opportunities to better understand how higher education can more effectively access, influence, and persuade policymakers. While several models and theories are discussed above, Hall and Deardorff's (2006) "lobbying as legislative subsidy" model serves as an appropriate means to investigate how higher education special interest-group, through lobbyists, access, influence, and persuade policy makers to make policy changes. The theory is most appropriate because of the theory's ability to not only offer a means for investigation that assumes what other theories have already proven, but the theory also offers what other theories have failed to fully recognize and apply – that access, influence, and persuasion are core to the interaction between lobbyists and legislators that have a shared agenda, and that they take place when there is a transmission of legislative information, intelligence, and labor.

CHAPTER 3

RESEARCH DESIGN

For this study, I employed a qualitative research design guided by Miles and Huberman's (1994) approach that includes interviews and review and analysis of documents. I chose this design in order to examine how for-profit education influenced the 2008 reauthorization of the HEA through the analysis of data collected from a specific setting (the House Education and Workforce Committee) about a set period in time (the reauthorization of the HEA during the 109th and 110th Congresses). Hall and Deardorff's (2006) theory of lobbying as legislative subsidy serves as the framework for this study.

Theoretical Framework

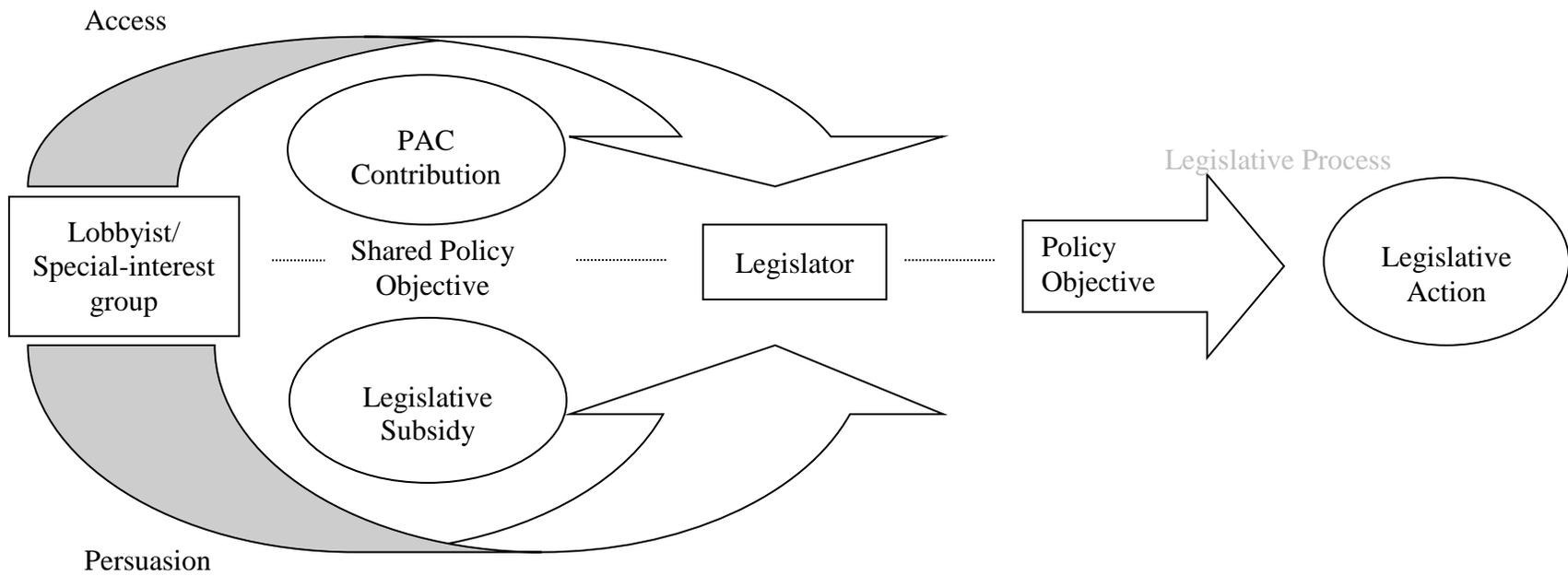
I utilized the theory of "lobbying as legislative subsidy" (Hall and Deardorff, 2006) as the theoretical framework for addressing the research question: To what extent did for-profit higher education interest-groups influence policy discussions about and changes to the most recent reauthorization of the *Higher Education Act*? Lobbying as legislative subsidy derives from the field of political science and was developed to investigate public policymaking at the federal level to help explain the phenomena of access and influence. This model provides a context for the ways in which special interest-groups may have attempted to influence the outcome of the 2008 reauthorization of the HEA through lobbying efforts, not only, by contributing to political campaigns, but also by providing information and policy ideas to the staff of the House Education and

Workforce Committee and staff of the members of the House Education and Workforce Committee. The theory encompasses the related fundamentals of the policy process that include issue definition, agenda setting, and influence, but goes further by suggesting that lobbying subsidizes the limited resources of specific legislators – specifically those legislators who already sympathize with a special interest-group’s policy agenda.

In this investigation, the processes of issue definition, agenda setting, and influence were important to answering the research question. The utilization of the theory of lobbying as legislative subsidy as the theoretical framework, however, more specifically calls attention to the role of for-profit college lobbyists in influencing a specific set of legislators in the writing of legislation to reauthorize the HEA. As Hall and Deardorff (2006) explain in their work on lobbying as legislative subsidy, the theory assumes that the legislators being influenced are involved and participating in the legislative process, the legislators have limited time and resources, the legislators care about more than one issue at a time, the legislators prioritize some issues over others, and the lobbyists are specialists. In sum, the theory proposes that an attempt to lobby a specific legislator provides a subsidy to the limited resources of legislators who already are supportive of a special interest-group’s policy agenda.

Figure 1 provides an illustration of how this theory explains the influence process. The theory assumes that the lobbyist/special-interest group and the legislator have a shared policy objective and this shared policy objective is demonstrated when the special interest-group, often through the use of a lobbyist, gains access to a legislator through PAC contributions. The same special interest-group, often through the use of a lobbyist, persuades a legislator through legislative subsidy. The combination of access and

Figure 1: Conceptual Framework for Persuasion and Legislative Subsidy



persuasion ultimately turns a shared policy objective into legislative action that occurs during the legislative process.

Lobbyist/Special Interest-Group

As Milbrath (1963) explains, the intermediary actor in lobbying is the lobbyist. A lobbyist works on behalf of a special-interest group. This part of the model explains one of the actors in the process. For purposes of this study, the lobbyist/special interest-group represents the for-profit-college sector and is assumed to have an agenda that advances a shared policy objective.

Shared Policy Objective

As Hall and Deardorff (2006) explain in their model, a shared policy objective between the lobbyist/special-interest group and the legislator is a critical piece to a policy agenda or item moving forward in the legislative process. This framework shows that the shared policy objective is reached and advanced through access to and influence of a legislator.

Access and PAC Contributions

PAC contributions are a way to gain access to legislators in order to advocate for and advance a shared policy agenda. Hall and Wyman (1990) found in their studies that lobbyists and special interest groups are able to access and influence legislators with PAC contributions mostly at committee-level votes, rather than full floor votes. This study

focuses on committee-level access and influence. In addition to access and influence, the special-interest group and lobbyists provide legislative subsidy to further persuade action and involvement in the legislative process that will move along the shared policy objective (Hall and Deardorff 2006).

Persuasion and Legislative Subsidy

Access alone is not enough to advance the shared policy objective. This model shows how persuasion and legislative subsidy by lobbyists/special-interest groups are critical to the process (Hall and Deardorff 2006). Congressional offices have limited resources and are busy (Salisbury and Shepsle 1981) and are handling a large number of issues at any given time (Hall 1996; Sinclair 1989). Meanwhile lobbyists/special-interest groups are experts in a single area and can commit larger amounts of time and energy to a given topic (Esterling 2004) – a shared policy objective, for example. It is in this situation that lobbyists are able to persuade by providing legislative subsidy through political intelligence, data, and information that supports the advancement of a shared policy objective through the legislative process.

Legislative Process and Action

Once the legislator and the lobbyist/special-interest group have come to agreement on the policy objective, it must move through the legislative process, including committee debate and passage, floor consideration and vote, and if successful, final passage and signing into law. This framework allows for the study of this part of the process.

Methodology

I chose a qualitative research method guided by Miles and Huberman's (1994) approach for this investigation for an in-depth examination of how for-profit education lobbyists attempted to access legislators and to influence the 2008 reauthorization of the *Higher Education Act*.

Setting

The focal setting for this study is the U.S. House of Representatives, specifically the committee that has jurisdiction over the reauthorization of the HEA. The HEA includes a variety of provisions affecting U.S. higher education, specifically the law overseeing federal financial aid. The committee of jurisdiction was known as the House Committee on Education and the Workforce during the first two-thirds of the time period under investigation (the 108th [2003-2004] and 109th [2005-2006] Congresses) and as the House Education and Labor Committee during the 110th Congress (2007-2008). The committee was renamed on January 4, 2007, when Congress switched from a Republican majority to a Democratic majority following the 2006 mid-term elections. To avoid confusion, this paper will refer to the committee of jurisdiction as the House Committee on Education and the Workforce.

The time period under investigation is 2003-2008, during the 108th-110th Congresses. During that set period of time, the House Committee on Education and the Workforce members and staff were actively working to reauthorize the HEA. The 1998 reauthorization of the HEA had expired in 2003. From 2003-2008 Congress passed "extensions" and various other pieces of related legislation before passing a final and

comprehensive reauthorization in 2008. During that time period, various lobbyists and lobbying organizations representing a variety of special interest-groups attempted to influence the legislation that was ultimately signed into law.

During the 108th and 110th Congresses, the House Committee on Education and the Workforce had 49 members (22 Democrats and 27 Republicans during the 108th and 27 Democrats and 22 Republicans during the 110th) and during the 109th Congress it had 47 members (21 Democrats and 26 Republicans). John A. Boehner (R-Ohio) served as the Chairman of the Committee during the 108th and part of the 109th Congresses before he was named as Majority Leader of the House of Representatives in 2006. His total tenure as Chairman spanned 2001-2006. Howard P. “Buck” McKeon (R-California) served as Chairman for the remainder of the 109th Congress. George Miller (D-California) took over as Chairman at the start of the 110th Congress – when Congress became a Democratic majority. George Miller had served as Ranking Minority Member before becoming Chairman since 2001. Howard P. “Buck” McKeon then became Ranking Minority Member for the 110th Congress. The committee is also composed of several subcommittees. The subcommittee that had jurisdiction over the HEA during the 108th-110th Congresses was the Higher Education, Lifelong Learning, and Competitiveness Subcommittee.

Both the Chairman and the Ranking Member employ separate sets of Congressional staff who work on behalf of the majority party and minority party members of the House Committee on Education and the Workforce. These staff are known as “committee staff.” Majority committee staff outnumber minority committee staff because of resources made available. In addition to committee staff, each member of

the House Committee on Education and the Workforce has staff in his or her personal offices who are assigned to work on issues that come before the committee, including staff who worked directly on the reauthorization of the HEA. In sum, approximately 60 House staff members at any one time were in some way responsible for ushering the HEA through the U.S. House of Representatives. Some of those approximately 60 staff were more involved in the process than others. This investigation will focus more specifically on committee staff and those personal office staff who were actively involved and lobbied by special interest-groups. While staff do not vote or speak “on the record” during the legislative process, they are responsible for the drafting of legislation. They also meet with lobbyists and each other on behalf of their bosses.

Institutional Research Approval Process

This study required Institutional Review Board (IRB) approval at the University of Minnesota. I submitted an application to the IRB on February 10, 2010 requesting approval of the study. The IRB granted approval on February 19, 2010. The study was exempt from full review under federal guidelines due to the nature of the research. A copy of the approval letter is contained in Appendix F.

Data Collection

I collected and analyzed lobbying materials, campaign finance reports, federal lobbying reports, and the *Congressional Record*, and I interviewed with key participants in the reauthorization of the HEA, including Congressional staff, higher education lobbyists, and media representatives. Data were collected from documentary evidence,

including lobbying materials, the *Congressional Record*, and campaign finance reports, as well as federal lobbying reports dated during the 108th-110th Congresses (January 1, 2003-December 31, 2008) and relevant to the reauthorization of the HEA.

Campaign finance reports, federal lobbying reports, and the *Congressional Record* are public records and were accessed through official federal websites. Some lobbying materials were available on publicly accessible websites. Other lobbying materials were accessed through individuals who worked on the reauthorization or who were interviewed. Data collected from these information sources were used to address the overall research question, as well as to determine what policy issues were placed on the agenda, how a given for-profit higher education special interest-group attempted to influence the process, and the extent to which the special interest-group was successful. Data collected from campaign finance reports were used to reveal which lobbyists might have had more access to which legislators. Data collected from lobbying materials, lobbying reports, and the *Congressional Record* were used to reveal the ways in which and the extent to which lobbyists provided a legislative subsidy to legislators. Data collected from the interviews were used to answer the overall research question, as well as to determine which interest-groups were most influential, what policy issues were placed on the agenda, how the for-profit higher education special interest-group attempted to influence the process, and the extent to which the special interest was successful.

Figure 2 illustrates how the theoretical framework guided the data collection in order to answer the research questions. Data from campaign finance reports, lobbying reports, and interviews were used to provide evidence about the extent to which there was

access. Data from special interest-group/lobbyists' lobbying materials and interviews were used to provide evidence about the extent to which there was persuasion. Data from the *Congressional Record* were used to provide evidence about the extent to which there was legislative action based on access and persuasion.

Data collected from interviews were based on information related to the experiences and perspectives of professionals who worked on the reauthorization during the 108th-110th Congresses (January 1, 2003-December 31, 2008). I developed four different interview protocols for the groups of participants (Congressional staff, lobbyists for for-profit colleges, lobbyists for non-profit colleges, and reporters) in order to ascertain their experiences of being influenced, attempting to influence, and observing influence. I relied on public documents, the *Congressional Record*, newspaper articles, related websites, and personal experience as a Congressional aide and as a federal lobbyist to identify possible interviewees. The sample of interviewees was criterion-based (Creswell, 2003; Yin, 1998) and interviewees were asked to participate in this research based on the role they played in the most recent reauthorization of the HEA: 1) House Education and Labor Committee staff during the 108th -110th Congresses; 2) staff of House Education and Labor Committee members during the 108th -110th Congresses; 3) national higher education association employees in federal relations during the 108th -110th Congresses; 4) federal lobbyists whose clients were higher education associations or institutions during the 108th -110th Congresses; or 5) reporters for higher education publications during the 108th -110th Congresses. I attempted to identify interviewees with a diversity of political perspectives. Nearly 50 potential interviewees were identified and were invited to participate in this project. All interviewees signed the consent form prior

to participation. Interviewees were classified by their roles in the most recent reauthorization of the HEA. Some interviewees had more than one role over the course of the reauthorization.

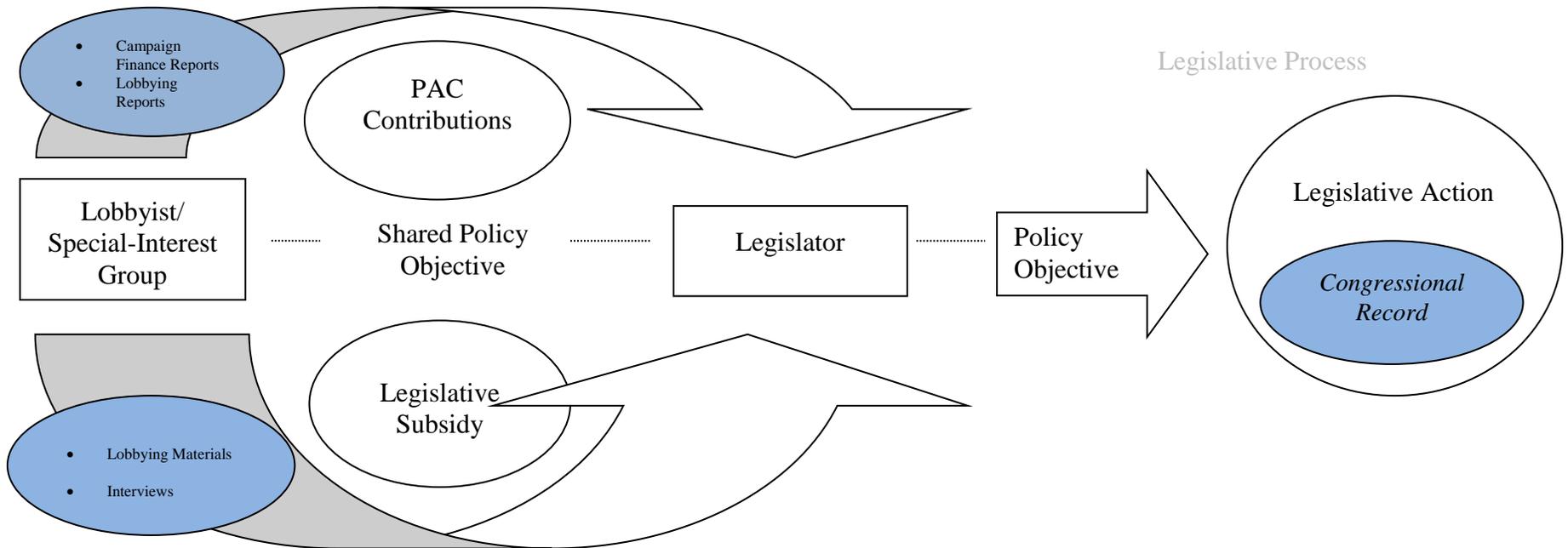
I developed data collection and interview protocols based on Frank Baumgartner's investigation of agenda-setting and influence of lobbyists (<http://lobby.la.psu.edu/Documentation/protocol.html>; http://lobby.la.psu.edu/Documentation/search_guidelines.pdf). The interview protocols were developed to collect information to identify the organizations and individuals who attempted to influence the legislation, to determine the policy issues on the agenda, and how special interest-groups attempted to influence the legislation, and to evaluate the extent to which they were or were not successful. Interview and data-collection protocols appear in Appendices A-D.

Data Analysis

The data analysis for this investigation was based in qualitative methods (Yin 1994) in order to allow themes and categories to emerge from the data through the lens of “lobbying as legislative subsidy” model. The qualitative analysis served as the method for analyzing data through a content analysis of information found in records and interviews.

Figure 2: Data Collection

Access



Persuasion

Elements of qualitative methods guided data analysis in three stages. The first stage was the recording of interviews and the reviewing and coding of data collected from lobbying materials, campaign finance reports, lobbying reports, and the *Congressional Record*. Data collected from lobbying materials were coded by the names of the special interest-group and the policy issue placed on the agenda. Data collected from campaign finance and lobbying reports were organized by special interest-group and individuals making contributions or lobbying, legislators receiving contributions or being targets of lobbying activity, and total dollars spent on campaign contributions and lobbying activities. Data collected from the *Congressional Record* were organized by type (i.e. Congressional testimony, Member statements, and bills), policy issue, and whether any changes were made to policy.

The second stage was the sorting of coded data into groups based on the research questions. For example, any dollar figure related to political campaign contributions was sorted under the research question related to how special interest-groups attempted to access specific legislators in order to influence the reauthorization. For example, any changes to legislation were sorted under the research question related to whether special interest-groups were successful or not. Interviewees' responses were then categorized by research question and grouped together by common themes and responses.

The third stage identified categories of common themes across the data collected and grouped them together to explain who attempted to influence what policies, how those special interests attempted to influence policy, and the extent of influence. When reviewing the dominance of themes in the interviews, I considered those mentioned by

one-third (n=11) of the respondents were considered primary. Themes mentioned fewer than 11 times but more than 3 times were considered secondary. A theme mentioned 3 or fewer times was considered a less-dominant theme.

No causal conclusions will be drawn. Data collected from interviews were used as evidence to infer connections between document analysis of lobbying efforts and the final legislation.

CHAPTER 4

RESULTS

This chapter presents the findings of the study. The study examines how and the extent to which the for-profit higher education industry has attempted to influence federal higher education policy, specifically provisions in the most recent reauthorization of the *Higher Education Act* (HEA) in 2008. I analyzed and synthesized data from the *Congressional Record*, advocacy materials, and federal lobbying and election contribution records. I also interviewed key players in the reauthorization process in order to understand how the for-profit higher education sector attempted to influence federal higher education legislation and the extent to which they were successful. Participants in the interviews included seven lobbyists representing the non-profit sector, six lobbyists representing the for-profit sector, nine Democratic Congressional staffers, seven Republican Congressional staffers, and four higher education reporters. I conducted a total of 33 interviews.

The findings address the overall research question: to what extent did for-profit higher education interest-groups influence policy discussions about and changes to the 2008 reauthorization of the *Higher Education Act*? To answer the research question, I developed a set of guiding questions to ascertain the specific policy agenda items that for-profit education, as a special interest-group, were most concerned about during the development of reauthorization legislation, to understand what methods for-profit education used to place their policy items on the reauthorization agenda, and to determine

the effectiveness of for-profit education in advancing its preferred policy agenda. The questions are:

1. What policy issues did the for-profit education special interest-group attempt to place on the agenda of the *Higher Education Act* reauthorization?
2. Which organizations and individuals were most involved in the for-profit college policy agenda for the discussion, development and passage of the legislation that resulted in the 2008 reauthorization of the *Higher Education Act*?
3. How did the for-profit education special interest-group attempt to influence policy makers during the 2008 reauthorization of the *Higher Education Act*?
4. In what ways was the for-profit education special interest-group successful in its influence of the final legislation that resulted in the 2008 reauthorization of the *Higher Education Act*?
5. In what ways was the for-profit education special interest-group not successful in its influence of the final legislation that resulted in the 2008 reauthorization of the *Higher Education Act*?

In order to answer the five guiding questions, I derived data from interviews and the *Congressional Record* and federal lobbying and election contribution records as evidence of connections between lobbying efforts and the final legislation. The guiding questions serve as a way to organize the reporting of the findings. Figures in this chapter summarize findings from the interviews and advocacy materials in regards to the policy

issues raised by the for-profit higher education sector, and present and summarize findings from the interviews and federal lobbying and election contribution records to show the strategies and arguments used. Information from the interviews and content from the *Congressional Record* show the extent to which for-profit higher education sector was successful in advancing their agenda. Quotes from participant interviews, which are formatted in italics, are used to demonstrate findings throughout this chapter and are stated verbatim, except in cases where information could be used to identify a study participant. In those cases, identifying information was removed. Throughout the presentation of findings, the notation, “n=” indicates the number of mentions by interview participants.

This study examines only primary themes in response to the guiding questions. Secondary themes and other responses are left for subsequent analysis.

The For-Profit Higher Education Policy Agenda

What policy issues did the for-profit education special interest-group attempt to place on the agenda of the Higher Education Act reauthorization?

The first guiding question sought to find out what policy issues the for-profit education special-interest group attempted to place on the HEA reauthorization agenda. To answer this question, I collected data from advocacy materials and other literature created by the for-profit sector and used during the 108th-110th Congresses to advance their policy agenda for the reauthorization of the HEA. I also used data from interviews with key players. When asked what policy issues were on the for-profit college sector agenda for the reauthorization of the HEA, the interview participants mentioned a total of

13 policy issues, five of which emerged as primary themes, two as secondary themes, and six as less prominent.

The first of the five primary themes is the 90/10 Rule (n=30), which is the requirement that for-profit institutions generate at least 10 percent of their revenues from non-federal funding. The second primary theme is Single Definition (n=19), which is the policy idea that all institutions of higher education should be defined in the same way regardless of whether they are non-profit or for-profit. The third primary theme is the 50-Percent Rules (n=15), which are the requirements that in order to participate in federal financial aid programs an institution must offer a certain percentage of their courses in person rather than through correspondence and a certain percentage of students must be enrolled in in-person courses rather than correspondence courses. The fourth primary theme is the Cohort Default Rate (n=12), which is the measurement of how many students have defaulted on their federal student loans within a certain time period. The fifth and final, primary theme is Transfer of Credit (n=11), which include policies regarding whether and how receiving institutions allow the transfer of course credit from sending institutions.

These five primary policy themes confirmed what one for-profit lobbyist stated when asked what the for-profit colleges' policy agenda items were: *"We had an agenda of four or five issues that we cared a lot about... A couple of the issues got resolved essentially along the way. Others were fought right down to the very end."*

The same for-profit lobbyist went on to list the policy issues that emerged as the five primary themes listed above – 90/10 Rule, Single Definition, the 50-Percent Rules, Cohort Default Rate and Transfer of Credit. Another for-profit lobbyist explained that

while there were other issues of concern, they knew they needed to prioritize and focus their agenda:

“We had a lot of other things that we cared about, but like everybody else we had to have our priorities. If you ask for everything you get nothing. So in the areas in which we were focused, which was increasing federal financial aid and getting some relief on 90/10 and making sure that the Cohort Default Rate change didn't become a huge impediment to quality schools continuing to operate, we came out fine. Did we care about other things in the bill? Sure. But at the end of the day you've got to pick your battles otherwise you're not going to get anything done.”

All of the primary themes, except for Transfer of Credit, related to the eligibility of for-profit colleges to participate in the federal financial aid programs authorized in Title IV of the HEA. As one non-profit-college lobbyist explained, *“Speaking generally, they [for-profit colleges] would like as few regulations, few limitations on the amount of funding they can get from federal programs.”*

One for-profit-college lobbyist summarized the policy issues of most importance to the sector as those that put *“restrictions on our [for-profit college] sector that could be problematic.”* All of the primary policy issues identified were in some way or another policy issues that restricted the for-profit-college sector from conducting their business in a way that the sector as a whole deemed necessary.

Other interviewees also summarized the overall agenda of the for-profit-college sector as trying to address restrictions on the ability of for-profit colleges to continue and expand their access to federal aid programs: *“There's a business model that they are trying to sustain that is hampered by some of the federal regulations, and I think that*

their goal is to simply expand their reach as far as they possibly can in federal aid programs.” One reporter noted a similar idea that the for-profit-college agenda was related to their access to federal aid: *“They are very much thriving based on access to federal funds and virtually everything flows around continued access to that money.”*

A non-profit-college-lobbyist had a slightly different perspective, emphasizing the for-profit-college desire not only to access federal funds, but also to maximize federal funds that would be directed to the for-profit sector. *“Their aim in the Higher Education Act reauthorization was to preserve everything that they had and maximize to the extent they could.”*

One non-profit-college lobbyist suggested that the for-profit-college policy agenda was inherently an agenda for the non-profit-college sector to oppose: *“They were advancing Single Definition, mandatory Transfer of Credit policy, and there was 90/10, Cohort Default Rate. They had a series of things they wanted. And everything they wanted they could count on us being diametrically opposed.”* This view seems to suggest that the policy issue of interest to the for-profit-college sector was also of interest to the non-profit-college sector, but for different reasons. The for-profit-college sector sought to ease their restrictions, while the non-profit-college sector seemed to be more supportive of keeping those restrictions in place.

The following sections analyze the five primary themes including the 90/10 Rule, Single Definition, the 50-Percent Rules, Cohort Default Rate, and Transfer of Credit.

90/10 Rule

The 90/10 Rule is a provision within Section 102 of the HEA that requires that in order to be considered an institution of higher education, proprietary schools must obtain at least 10 percent of the school's revenue from non-Title IV funds, which provide federal student financial aid to students attending colleges accredited by an agency recognized by the U.S. Department of Education (P.L. 105244). The 90/10 Rule, which was implemented by the 1998 HEA Amendments (P.L. 105244), replaced its predecessor, the 85/15 Rule, which was authorized by the 1992 HEA Amendments (P.L. 102-235: CRS, 2005) and specified the same policy but with an 85/15 distribution. The 90/10 Rule is one of the provisions in the HEA that restricts access to federal student financial aid. If an institution is in violation of the 90/10 Rule, they risk losing access to funds authorized in Title IV of the HEA, including federal Pell Grants and participation in the federal student loan program.

Thirty of the 33 interviewees mentioned the 90/10 Rule as a policy agenda item for the for-profit colleges during the reauthorization of the HEA, including seven non-profit-college lobbyists, five for-profit-college lobbyists, eight Democratic Congressional staffers, seven Republican Congressional staffers, and three reporters. In the 110th Congress advocacy materials for the Career College Association (CCA), which the organization publicized on their website, the 90/10 Rule is included as a priority for the reauthorization. These materials were used as handouts for meetings with members of Congress and Congressional staff and in talking points. The section on the 90/10 Rule states:

“The Career College Association (CCA) supports language that moves the 90-10 rule to the Program Participation Agreement section of the *Higher Education Act*, making it an issue of administrative capability rather than institutional eligibility, and making the rule applicable to all postsecondary education institutions. Also, it is critically important that the statute specify some of the types of funds that may be counted towards demonstrating compliance with the rule, including funds from non-Title IV sources that students use to pay for tuition and fees, as long as the institution can reasonably demonstrate that such funds did not come from Title IV. These would include institutional matching funds for Title IV programs such as, SEOG; funds from education saving plans; funds for non-Title IV eligible programs; institutional aid in the form of tuition discounts based upon academic achievement or financial need; and revenue from activities necessary for the education and training of the students, such as restaurants, clinics, and hair salons” (Career College Association 110th Congress HEA Priorities 2008).

During the 108th and 109th Congresses, the CCA similarly advocated for the revision of the 90/10 Rule and that it be applied to all institutions that participate in Title IV (Career College Association Annual Report 2006).

A Republican Congressional staffer, in explaining that the for-profit-college sector focused their policy agenda on the 90/10 Rule in 2006 after Democrats took control of Congress from Republicans, said: “...*historically, Democrats are not a fan of the for-profit sector, so they (the for-profit colleges) narrowed their asks; 90/10 became the big provision.*” Another Republican Congressional staffer confirmed how important the 90/10 Rule was to the for-profit-college sector:

“I can tell you this: their agenda never changes. It doesn't matter what year you're doing the reauthorization. Again, it's because we have special rules that apply to them that all relate to how student aid gets funneled into the system and most of those are things that we – in the inside circle – called the 90/10 rules that impact them greatly when you change amounts of money that's available and how 90/10 then applies to them. That was a huge issue for them again because aid amounts were going to go up and that has a significant impact on how they account for money and whether they comply or don't comply with these rules that govern basic financing rules at the institutions. I remember people coming in and carrying on about 90/10 repeatedly and being concerned about how it was going to impact their institutions, whether or not they were going to have to raise tuition as to not violate 90/10. But again, that is nothing new. That is an issue people have been debating and fighting since 90/10 was put into law.”

One Republican Congressional staffer explained that the for-profit colleges focused on the 90/10 Rule because they needed the policy to be modified in order for the sector to grow. With fewer restrictions on the revenue ratio, the sector could access more federal financial aid, which would contribute to their ability to grow: *“It was a time of massive growth in the student loan industry and in the career college industry. So there was a sense that the 90/10 Rule was restricting their ability to grow as aggressively as they wanted.”*

Lobbyists also explained how the for-profit-college interest in the 90/10 Rule is connected to access to federal financial aid. While the non-profit-college and for-profit-college perspective on this is different, the policy-change implication is the same: any

loosening of the 90/10 Rule means for-profit colleges have more access to student financial aid. As one non-profit-college lobbyist explained:

“They [for-profit colleges] were actually perpetuating the falsehood that the 90/10 Rule applies to individual students rather than institutions. They told people on the [Capitol] Hill that they couldn't enroll students who had to rely on 100 percent of aid because of the 90/10 Rule. So they clearly wanted that. They clearly want to derive 100 percent of their money from federal financial aid.”

From the perspective of a for-profit-college lobbyist:

“On 90/10 it was to get more relief from the 90/10 because the flip side of the 90/10 issue is that every time you get more federal aid, at least lower cost institutions are in danger of running afoul of the 90/10 Rule, because the students are bringing more federal aid with them and pushing past the 90 percent level.”

Several interview participants mentioned that the 90/10 Rule, and some of the other policy agenda items, created conflict among the staff who worked for members of Congress on the education committee. One Congressional Democratic staff noted:

“I find it fascinating that you're focusing on the for-profits because when I think back on the reauthorization, I don't think of them [the for-profit colleges] at all and I know – now that you've reminded me – it was a big deal and it caused a lot of confrontation talking to one of the staffers. Perhaps in part because there are not as many big for-profit schools in [Congressman's state] as other parts of the country, it was not a priority for our office and it was just more of a bother more than anything.”

Another Democratic staffer, provided insight into how these varying opinions on an issue like the 90/10 Rule get resolved:

“Opinions about those issues [the 90/10 Rule] did not necessarily fall along traditional party lines. We were tasked in looking for a compromise that worked not only across party lines but within our own committee and our own party. We had some members [of Congress] that strongly supported going as far as getting rid (of the 90/10 Rule) and others who wanted to find the middle.”

The same Congressional staffer went on to explain how various policy-change proposals are considered and various perspectives are weighed in order to develop final policy language, specifically in this example, for the 90/10 Rule:

“With 90/10 the balance was on recognizing some of the changes in business practice while upholding the base integrity of the measure. There were some proposals that were put on the table to allow for some things to be counted that just walked away from the integrity of the measure. To allow for candy bars to be sold at the vending machine on campus to count and that clearly was not the intent of the measure. But at the same time to allow cash receipts from institutional loans to be counted in a certain way seemed to uphold the private capital in a way (even though it was done through the university) that it could be counted as long as it was not double counted. So it couldn't be profits from federal student aid laundered through institutional aid. So it was finding those balances and making sure that the integrity and that the 10 percent is really non-federal aid and not just a re-circulating of funds.”

Another Democratic staffer explained that some offices did not weigh in on issues such as the 90/10 Rule because they deferred to Chairman George Miller on politically-sensitive issues. Some of the issues related to the for-profit-college sector were deemed politically sensitive because of the issue itself or because of the players involved.

“There were issues that we did not weigh in on very heavily because some of those issues [90/10] were very delicate. Those would be issues that we'd defer more to the Chairman, because the Chairman was also trying to balance the [requests of the for-profit] colleges, as well as [the effect of policy changes on] the students.”

While there were efforts to find a compromise for policy changes to the 90/10 Rule, one Republican Congressional staffer explained that some Congressional offices just wanted to get rid of the rule altogether. This view was in line with the efforts and preference of the for-profit-college sector:

“When I was at the Department of Education, we proposed just repealing it because it's a bizarre rule and just didn't make any sense at all. Shouldn't we have been looking at graduation rates and job placement rates as a way to measure how schools are serving their students rather than trying to calculate these numbers that nobody could understand? I even came to it with my own personal bias, because I thought the rules were stupid, and I just thought we should just blow them up because I saw firsthand how they do not work. And they accomplish nothing except run up costs for people in the program to figure out how to manage within the numbers. We just wanted to get rid of them, but we knew that wasn't going to fly. Too many people were wedded to keeping these rules in place.

Had the Bush Administration still been there they would have blown this up. They would have gotten rid of it and said it didn't makes sense to have this kind of rule.”

Single Definition

Single Definition refers to a proposal to amend current law to combine the two separate definitions of “institution of higher education” found in Title I of the HEA in sections 101 and 102 (20 U.S.C. 1001, 1002). Section 101 defines an institution of higher education for purposes other than Title IV of the Act (which authorizes federal financial aid) and does not include proprietary institutions. Section 102 defines an institution of higher education for purposes of participation in Title IV of the Act and does include proprietary institutions. A Single Definition would erase distinctions between not-for-profit and for-profit institutions of higher education. Erasing the distinction would also potentially provide access to other federal funding and opportunities, such as other titles of the HEA, specifically Title III and IV, which provide funding to Historically Black Colleges and Universities and Hispanic Serving Institutions; provide access to federal research dollars authorized through various federal agencies; and affect current tax code related to institutions of higher education.

Nineteen of the 33 interviews mentioned Single Definition as a policy issue on the for-profit-college agenda, including five non-profit-college lobbyists, three for-profit-college lobbyists, five Democratic Congressional staff, four Republican Congressional staff, and two reporters. CCA materials from 2006 confirm that the modification of

Single Definition was a policy agenda item for the for-profit colleges (2006, Career College Association Annual Report). As one reporter explained:

“Generally they were looking for acknowledgment of equal status. The whole push for Single Definition was part of a much longer campaign that they are still fighting every day to be seen as legitimate. There's a really remarkable, and in some ways understandable, inferiority complex in that sector if we're spending all this time debating what they should be called.”

A Republican staffer mentioned that while it was an important issue for the for-profit colleges, there was a difference in terms of the priority level within the sector, and that it was not the most important issue for the sector.

“The issue was different for different groups of the for-profit education community. You had individual institutions, more or less the University of Phoenix, advocating for equal representation under the definition of an institution of higher education. The Career College Association, which is the member-based trade association for most of the for-profit institutions (however not representative of the University of Phoenix, because they were not a member of the Career College Association at that time), was advocating for a Single Definition, but it wasn't their number-one issue.”

Several other participants also noted that Single Definition was not the most important issue for the non-profits and that over time, other issues became more important:

“There was a lot of talk about the definition of higher education and whether there should be a Single Definition for all institutions. But by the 110th Congress that issue fell to the wayside in favor of other issues. The attention was focused

more on the other issues rather than Single Definition. They focused their lobbying efforts.”

One reporter suggested that while Single Definition was symbolically important, other policy issues had more financial impact and therefore rose higher on their agenda:

“Single Definition was probably symbolically the most important thing they were looking for, but they probably knew they weren't going to get that and made a lot of noise about that. But what we heard most about were things that involved money. They could say, ‘Oh, we lost on single definition but we got this other stuff’ that they probably cared more about. I think the Single Definition was really about image and status, and [what was] much more important are the things that [have] long-term importance. But from a day-to-day operational standpoint, they really have to worry about Wall Street.”

A Republican Congressional staffer explained how a Single Definition compromise provision, rather than the full policy proposal from the for-profit-college sector, had been included in Republican versions of the reauthorization bill during the 108th and 109th Congresses:

“We had in previous Congresses included provisions in past bills, HR 609 and HR 4137, that were compromises of Single Definition because, even within our caucus, there were some concerns from Mr. Castle [R-Delaware] and a little bit from Ehlers [R-Michigan], [regarding] the impact of Single Definition. We did have compromise proposals. But it came down to these are their top issues; these are the things we thought we could negotiate and move forward.”

The same Republican staffer explained the for-profit-college sector's shift away from Single Definition as a strategic decision due to the fact that Democrats took over the majority from the Republicans in the midst of the reauthorization process:

“By the time we actually got into moving the reauthorization, Single Definition had totally fallen off the train. So by the last Congress, Single Definition had really fallen off because the proprietary schools themselves felt like they were on the defensive, because, historically, Democrats are not fans of the for-profit sector, so they narrowed their asks.”

While the for-profit college sector continued to include the Single Definition policy issue on their agenda, it became less politically feasible, and therefore, a lesser priority.

The 50-Percent Rules

The 50-Percent Rules were provisions in Section 102 of Title I of the HEA. They state that if an institution offers more than 50 percent or more of its coursework by correspondence – which was also understood to include online courses – or if 50 percent of its students were enrolled in correspondence courses, then it was not considered an institution of higher education for purposes of participating in the federal student financial aid programs authorized by Title IV of the HEA (Pub. L. No. 105-244). According to the advocacy materials of the for-profit higher education sector, the sector was advocating for the repeal of the 50-Percent Rules, allowing institutions that offered more than 50 percent of their courses online and institutions with more than 50 percent of their students enrolled in online courses to participate in federal financial aid programs (Career College Association 2006).

Fifteen of the 33 interview participants indicated that the for-profit-college sector's policy agenda included modifying the 50-Percent Rules affecting the offering of online courses. They included three non-profit lobbyists, three for-profit lobbyists, four Democratic Congressional staffers, and five Republican Congressional staffers. The 2006 Annual Report of the CCA noted that the 50-Percent Rules had been eliminated in the budget reconciliation bill passed that year, indicating that the policy issue was of importance to them. As one Democratic staffer indicated:

"... if you go way back, the biggest issue at the time for them [the for-profit colleges] was the lifting of the 50-Percent Rules. Then after they were able to get that done, it was 90/10 and a Single Definition. Which at some point, I think they just kind of gave up and said let's just work on the 90/10 Rule."

Another Democratic staffer emphasized that the 50-Percent Rules were important to the sector because so many of them offered online courses. *"It is not an insignificant chunk of them [colleges] that are online, but not all of them are for-profit."* Several interviewees indicated that the repeal of the 50-Percent Rules was not just an agenda item for the for-profit-college sector, but also important to the non-profit-college sector because of the growth of online education for all of higher education: *"Distance education is an interesting one because the non-profits wanted to repeal the 50-Percent Rules just as much as the for-profits"* [For-profit-college lobbyist]. A Republican staffer explained that community colleges, in particular, were also interested in changes to policies affecting online education:

"They [for-profit colleges] were also concerned about distance education. But that's not just a for-profit issue. Community colleges and others also cared a lot"

about making sure that those students who enrolled in distance education got a relatively fair share of student aid dollars and that they got apportioned between on-campus and online programs. Making sure that the online programs were eligible for money because we had distance education rules that caused a lot of confusion and people weren't sure what programs were eligible and what weren't. For-profits are the biggest users of online programs and wanted to make sure they were eligible for financial aid just like their campus programs.”

The growth of online education across both sectors removed some of the political resistance by the non-profit-college sector to this for-profit-college sector policy agenda item.

A Republican staffer explained that changes to the 50-Percent Rules were of particular interest to those for-profit colleges that had online programs:

“The 50-Percent Rule was a little bit different in the sense that not all for-profit colleges do online education. So I'm trying to think back to who was really pushing it. Your big online schools – Capella, Kaplan, Phoenix – all were supportive of that [modifying or repealing the 50-Percent Rules]. I cannot remember if CCA was involved. I don't know how much they weighed in.”

In explaining that the 50-Percent Rules were an important policy agenda item for the for-profit-college sector, several of the interview participants talked about why the provisions in the HEA pertaining to online education needed to be modified. One for-profit-college lobbyist talked about how the 50-Percent Rules that were being applied to online courses were outdated and not relevant to modern course delivery.

“The 50-Percent Rules that limited the number of students that you could have in correspondence programs. And, correspondence programs had come to be interpreted to include online [courses]. Now, nobody knew a thing about online in the early 1990s when these restrictions on correspondence schools were created. So we thought the 50-Percent Rules were outmoded and ill-suited to deal with online [courses] and should be either repealed or not applied to online [courses]. There was a lot of debate that we took part in about, okay, well, we don't want to just open up the floodgates. We were willing to have some quality requirements that would be applicable to truly online programs. We thought they ought to really look to the accrediting agencies to come up with that and there was a lot of back and forth about what that ought to be. But that was basically our position on online- get rid of the 50-Percent Rules as they related to online [courses]. Outmoded, stifling innovation, stifling a delivery system that could improve access. Come up with something else to ensure quality and integrity.”

Another for-profit-college lobbyist mentioned that online courses as a newer form of course delivery was a reason for why the repeal of the 50-Percent Rules issue was on the for-profit agenda: *“Distance education has come a long way. But even when we started this process eight or nine, ten years ago it was still a new concept. It was up and coming.”* Other interview participants echoed the idea that online education was a new course delivery system that should not have the restrictions as prescribed by the 50-Percent Rules:

“The Department of Education had done a number of studies to show that the 50-Percent Rules were arbitrary [and] that distance education was a good thing.

That it opened up access to students that wouldn't otherwise access, and non-traditional students. We thought of it as modernizing higher education. That was a policy change that we legitimately thought was good. We weren't putting it in [legislation] because someone asked us to put it in kind of thing.” [Republican Congressional staffer]

Others mentioned the challenges that students experienced in accessing a college degree. One Republican Congressional explained that modifications to the 50-Percent Rules would be important for enhancing student access to higher education:

“Specific to 50-Percent Rules, we talked to students from these institutions that had challenges trying to receive access to programs that were provided at a distance because of some of the limitations that were set up by the statute.”

Cohort Default Rate

Cohort Default Rate refers to the percentage of a college’s borrowers who go into default on certain loans within a certain time period after going into repayment (www.ed.gov). These rates are published by the U.S. Department of Education once per year. From 1998-2008 Section 435(l) of the HEA included a 270-day threshold for delinquent federal student loans to be considered in default (www.finaid.org). Before the 270-day threshold, the *Consolidated Omnibus Budget Reconciliation Act of 1985* changed the definition of a default on federal education loans from a delinquency of 120 days to 180 days. The 1998 reauthorization of the HEA changed the 180-day threshold to 270 days. Under the law prior to the amendments made by the 2008 reauthorization of the HEA, the cohort default rate was defined as the percentage of borrowers entering

repayment in one fiscal year who default by the end of the following fiscal year – March 31, 2011. This is commonly known as the 2-year default rate, and the U.S. Department of Education has a set of regulations regarding this statute (34 CFR 682.200(b)).

Twelve of the 33 interview participants mentioned the Cohort Default Rate issue as an agenda item of the for-profit colleges, including two non-profit-college lobbyists, two for-profit-college lobbyists, four Democratic Congressional staffers, two Republican Congressional staffers, and two reporters. One Democratic Congressional staffer explained that the for-profit-college sector likely would have preferred that it not be an issue up for discussion during the reauthorization: *“They wanted us to not touch anything related to Cohort Default Rate because they thought it [a change] would negatively affect them.”*

An interesting finding that emerged in the interviews is that, while the other identified for-profit-college policy issues were understood to be proactive policy issues for the for-profit-college sector, the Cohort Default Rate was seen as a reactive policy issue. In fact, the Cohort Default Rate did not show up in advocacy materials or CCA list of priorities for the reauthorization, indicating that this issue was something that may have been prompted by another entity’s agenda. Several interviewees noted the reactive nature of this particular policy issue: *“When an amendment was offered up in committee by Representative [D-Arizona] on the Cohort Default Rate, that became one of their issues that they were trying to fight” [Democratic Congressional staff]*. The same Democratic staffer went on to say: *“Certainly I don't think they anticipated a Cohort Default Rate fight, but they certainly got it.”* One non-profit-college lobbyist described this reactive stance the for-profit-college sector was forced to take:

“90/10, Single Definition, and Transfer of Credit were affirmative priorities of the for-profit sector, which, frankly, they put on the agenda. They wanted to brush [the Cohort Default Rate issue] under the rug until [Congressman Tim] Bishop [D-New York] pounced on them and put something out there that they then had to defuse.”

If this was a policy issue that the for-profit colleges were reacting to, the question becomes: who put the issue on the agenda? According to the interviewees, the effort to move from a 2-year to a 3-year Cohort Default Rate (with penalties as steep as becoming ineligible to participate in the Title IV student financial aid institutions for those institutions whose default rates were higher than the threshold) was a joint effort that originated outside of Congress with a group of non-profit-college lobbyists. The change in the Cohort Default Rate policy was then championed within Congress by two Democrats on the House Education Committee: Congressmen Tim Bishop (D-New York) and Raul Grijalva (D-Arizona). According to the non-profit-college lobbyist who helped to craft this issue:

“In working with my colleagues in putting forth efforts to visit offices and talk to them, we came up with a notion from reading the Department of Education Inspector General's report from 2003 on the Cohort Default Rate about how certain sectors were avoiding their borrowers who defaulted. So we worked with a couple of the [Congressional] offices to try to get the period that default information is collected extended.”

A Democratic Congressional staffer had the following recollection about how the Cohort Default Rate became a policy issue of debate during the reauthorization and noted that the for-profit-college sector was on the defense with this issue rather than the offense:

“The Cohort Default Rate changes came from a concern, I think, really largely from on the Hill, here on the House side. Mr. Bishop [D-New York] and Mr. Grijalva [D-Arizona] were greatly concerned that the default picture looked very different in a two-year versus three-year measurement. And, shouldn't we be looking at this three-year measurement? They [the for-profits] were defensive about that change.”

A non-profit-college lobbyist engaged in the Cohort Default Rate issue and its rise on the policy agenda for the reauthorization described the involvement of the non-profit-college sector as an attempt to strengthen the measure. The change towards strengthening the measure was viewed as something for the for-profit-college sector to defend against:

“We were trying to strengthen the Cohort Default Rate measure that Congress had in place to track the effectiveness of an institution that gets federal [student financial] aid. We played a little offense there and attempted to expand a window in which colleges are evaluated against their cohort default rate. They [the for-profit-college sector] were actually playing pretty substantial defense on. They had a lot of concern about the cohort default rate. I think the reason was that... I'm of the belief that...the current window allows them to fudge a lot to hold those borrowers who are going to default at bay just long enough to get the out of that 2-year window. So they [are able to] hold their default rates down. So when we

came out with the suggestion to expand the window, they were quite concerned and didn't like that very much.”

A higher education reporter explained how the Cohort Default Rate issue was brought in towards the end of the reauthorization debate. The reporter gave credit to “One Dupont,” [a reference to the address of the building where a number of higher education associations are officed] rather than any Member of Congress, for placing the issue on the agenda.

“That was sort of thrown in there near the end. One Dupont [Circle] came together and came up with this proposal to move to 3-year default rate and it got lobbied very heavily. They changed to a 3-year rate, but changed the threshold to 30 percent and you wouldn't just be terminated anymore if you exceeded the rate.”

Some interview participants talked about the rise of this policy issue as being quite a surprise. At first, some of those involved in the process were not sure what the proposed provision would actually do or mean for the for-profit-college sector, as one Republican Congressional staffer explained:

“With regard to all of those other provisions, it was all the Career College Association or others [in the for-profit-college sector] trying to get changes to those things because those things had become problems. So with the Cohort Default Rate idea, that was an idea that came up from a Democratic member that was couched prior to the mark-up as a financial literacy measure and it ended up not being a financial literacy measure really at all. And it had a really disproportionate effect on career colleges, on community colleges, and some of

the Minority Serving Institutions. It took a while for us, relatively speaking, to understand the impact of that provision. Even though it was a bipartisan process, it was not something that we had discussed prior to the mark-up. When we saw it at the mark-up, we just didn't have that kind of time to figure out what exactly it did and who it was going to affect. So that took a little while for it to sink in, as to what the true impact was going to be. Once it did sink in, it became known that it would not be helpful to people. And, we had to work through a compromise on that."

A for-profit-college lobbyist also described this issue as a last-minute policy debate and explained how the for-profit-college sector was taken by surprise, and attributed to a Member of Congress the rise of the issue on the reauthorization agenda.

"There was one more issue that popped up at the very end. It was not an issue on our agenda, but it was one we had to react to and it was courtesy of our pal Congressman Bishop [D-NY]. He had a sort of a middle of the night amendment that he offered during the mark-up in November of 2007 that changed the way Cohort Default Rates were calculated. The amendment just went through bing-bang. And, it was just accepted on a voice vote and it was like, 'Whoa, what just happened?' And, it turned out that that had some pretty large ramifications and we had to get some modifications to that amendment. And, again Chairman Miller [D-California] and his staff were willing to listen to our arguments. [He and his staff] heard our arguments and worked with us to achieve some compromises that we felt at the time were going to make it manageable. In the meantime, a severe

recession has occurred and student loans are a form of consumer debt and whether that story is done yet is unknown.”

One for-profit-college lobbyist suggested that there were many potential situations that could have required the sector to act in a defensive, rather than offensive manner, but that the Cohort Default Rate was the only one that was actually debated and passed in some form:

“If you name any nutty restriction, somebody on the consumer side was proposing [it]. A lot of people want to put us out of business. So there were a million different ones out there. I mean I don't think too many of them were taken seriously but there were all kinds of things. The only thing that passed with most concern was the change in the Cohort Default Rate calculation from a 2-year period to a 3-year period. Even though it doesn't take effect for some time, it could have a deleterious effect on some schools.”

One Republican staffer questioned whether the Cohort Default Rate measure was even a helpful mechanism to measure institutional quality. The staff member suggested that other measures would be better suited to test for quality in higher education:

“On the Cohort Default Rate issue, I personally have mixed feelings about it. You can see both sides of it. If 75 percent of the students are making it [the loan payment], that's great. If 74 percent are, well, that's close. Even with Cohort Default Rate you run into the same kind of problems. We weren't going to repeal the Cohort Default Rate rule, but wouldn't we serve students better if we were looking at graduation rates and job placement rates and how they are actually

doing? But, instead we're looking at default rates. But [we] keep perpetuating it because no one wants to change it."

Transfer of Credit

The Transfer of Credit issue refers to the for-profit-college sector's concern that traditional, regionally accredited, non-profit colleges seemed to be automatically and systematically denying credits and degrees from institutions simply because those institutions received accreditation from a national accreditor, rather than from a regional accreditor. Federal law does not mandate policies regarding the transfer of credit, and, until the most recent reauthorization of the HEA, had been silent on the issue of transfer of credit between institutions.

The CCA printed a "Legislative Priorities for the 110th Congress" advocacy document and under the heading "Transfer of Credit" included the following statement:

"CCA proposes receiving institutions be required to provide more information to potential students and the public about the credit transfer process. We do not propose to restrict academic freedom and recognize that receiving institutions must have some flexibility on credit transfer. CCA supports language requiring institutions to have and publicly disclose a detailed policy on transfer of credit and acceptance of degrees and to consider fairly proffered credits or degrees without regard to whether the institution is nationally or regionally accredited, so long as the accreditation is by an agency recognized by the Department of Education."

Another CCA document developed during the 110th Congress proposed:

“Institutions should be prohibited from rejecting credits earned without examining those specific credits on a case-by-case basis” (CCA 110th Congress Legislative Agenda, p. 7).

According to advocacy materials from the 108th and 109th Congresses and interviews for this study, the CCA had advocated for a Transfer of Credit policy that would have required institutions to accept credits from any institution accredited by an accrediting agency recognized by the US Department of Education (CCA 108th and 109th Congress Legislative Agenda). Such a change in Transfer of Credit policies at colleges in the United States would have been unprecedented involvement of the federal government in what had traditionally been seen as the sole role of individual higher education institutions.

Several interviewees noted the importance of the Transfer of Credit issue to the for-profit-college sector and to the students who attend for-profit colleges:

“Another big issue for us was Transfer of Credit. We felt that there were unfair, inequitable, and inefficient barriers to students who attended for-profit schools that were nationally accredited from transferring their credits solely based on the accreditation of the school – i.e. they were regionally accredited. So therefore many schools, we thought, unfairly had policy or practices that denied those credit transfers and we wanted to do something about that in the reauthorization.” [For-profit-college lobbyist]

Another for-profit-college lobbyist explained how the Transfer of Credit issue was high on the for-profit-college sector’s agenda list:

“Number two on our list was removing barriers to students who wanted to transfer credits in higher education and we wanted a fix to statute for that. Requiring institutions to consider transfer of credits and not automatically require that transfer credits be denied solely on the accreditation of an institution.”

A Republican Congressional staffer explained that students were being denied transfer simply because of their enrollment at a for-profit college, and that is why this issue was part of the for-profit-college agenda: *“Transfer of credit was something that they wanted and a problem that came up in the industry where students were being denied transfer of credit for no other reason than they went to a proprietary school.”*

Meanwhile, a Democratic Congressional staffer noted that Transfer of Credit was an important priority for the for-profit-college sector because the sector stood to benefit financially for such a change in policy, rather than any change in transfer of credit policy being a benefit for the students: *“They were also big on Transfer of Credit issues. So they also wanted something in regulation saying that no school could deny a student based on the accreditation agency. That would have been a boon for them.”*

A for-profit-college lobbyist mentioned the accreditation status of a school as a rationale for the Transfer of Credit issue being on the reauthorization agenda:

“On Transfer of Credit we wanted to ensure that institutions didn't arbitrarily deny students the ability to transfer in credits simply because they were coming from schools that were nationally, rather than regionally, accredited. As long as they were accredited and been through the process and had been recognized by the Department of Education as a quality metric.”

A reporter noted that while Transfer of Credit was an important issue to the for-profit-college sector, it was met with considerable resistance by the non-profit-college sector: *“Obviously non-profits didn't want to be compelled to accept credits transferred from the for-profit institutions. That's why the language got tempered over time.”*

Meanwhile, a non-profit-college lobbyist explained why non-profit colleges did not want to be compelled to accept credits from another institution:

“We believe that Transfer of Credit is a matter of absolute discretion on the part of the receiving institution. There is something really weird to say to somebody that you make a degree out of this bag of these credits that you've never seen from an institution you've never heard of. It's tantamount to showing up at a Ford dealership with a bag of auto parts from various places that you've never heard of and demand to call it a Ford.”

The same non-profit-college lobbyist opposed to this policy change proposed by the for-profit-college sector explained that this policy agenda item was originated by the for-profit-college sector and not by a policy maker:

“No member of Congress gets up and says, ‘I know! Let me federalize English 101!’ Congress doesn't operate that way. It's not sexy enough. It's not a topic anyone gets too enthused about. So these are three topics [Single Definition, 90/10 and Transfer of Credit] that in a very coordinated way they put on Congress's agenda.”

One non-profit-college lobbyist reflected on how and why the proprietary sector used Congress to advance the Transfer of Credit agenda item, in spite of the unprecedented nature of the federal government in Transfer of Credit.

“I think the proprietary schools look at it more as one might think of as single-issue advocacy. They looked at it [the reauthorization of the HEA] and said, ‘What are our special issues? What do we want? And, how can Congress help us get what we want and to make other players do what we want?’ And Transfer of Credit is an excellent example of that. They saw their institutions having problems – potentially legitimate problems – with students getting a fair shake at getting their credits reviewed by institutions. That is a problem that many of us would acknowledge exists, but we don't believe the solution is with the federal government. They don't have a philosophical construct for where a solution is, so if they can have the federal government to mandate their problems as solved they can go back to members and say, ‘Look what we got.’”

Other interviewees also mentioned that, while the issue was uniquely an issue for the for-profit colleges, the resistance to this policy change was not general resistance to the for-profit colleges, but rather the resistance to changes to Transfer of Credit had more to do with the concern about the unprecedented role the federal government would have in regards to Transfer of Credit if the policy change was to be implemented:

“Transfer of Credit was included [in the legislation] but we were having a really hard time and that was partially over on the Senate, because of the [role of the] federal government. It wasn't as much [about opposition to] proprietary schools, but whether it was the federal government's role to tell schools what they can and cannot accept” [Republican Congressional staff].

Secondary Themes

The two secondary themes include accreditation (the process by which a college is recognized as a legitimate institution of higher education, notably for purposes of participation in federal financial aid) and funding levels for federal financial aid. And the least prominent themes included incentive compensation (the act of providing bonuses to employees for recruiting and enrolling students), the certification of private educational loans (the process by which a school confirms that you are attending school and are using the loan for education purposes), year-round Pell grants (the ability of qualified students to receive a second Pell grant outside of the regular academic year to attend school in the summer), and “teach out” (the situation in which one school takes the students of another school that has shut down).

Individuals and Organizations

Which organizations and individuals were most involved in the for-profit-college policy agenda for the discussion, development and passage of the legislation that resulted in the 2008 reauthorization of the Higher Education Act?

The second guiding question sought to find out which individuals and organizations were involved in the policy issues of interest to the for-profit colleges during the HEA reauthorization process. The interview participants mentioned dozens of various individuals and organizations.

For the purposes of reporting the findings, in some cases I grouped an individual with another individual or an individual with an organization. For example, a participant may have specifically mentioned a Congressional staffer by name, while another participant referred to the same person as “Congressman X’s staff.” In the case where a

staffer was referenced by his or her own name, I identified him or her as an individual member of Congress. Likewise, a participant may have named a specific lobbyist and another participant named the organization for which the lobbyist worked. In those cases, instead of counting those mentions as two different individuals or organizations, I treated them as two mentions of the same individual. If an individual was named more than three times, emerging as a primary or secondary theme, I did not merge that individual with an organization. Of the 42 individuals and organizations, nine emerged as primary, 19 emerged as secondary, and 14 emerged as less prominent. It is also important to note that interview participants may not have associated an individual or organization, even an individual or organization for whom he or she worked, when naming individuals and organizations most involved in the for-profit-college issues, despite the fact that the individual or organization was likely very much involved. I did not impute an individual or organization knowing for whom the interview participant worked. The following sections explore the primary individuals and primary organizations.

Primary Individuals

Of the eight primary individuals and organizations named, five are references to individuals, including Congressman Howard "Buck" McKeon (n=20), Congressman Robert Andrews (n=19), Congresswoman Carolyn McCarthy (n=12), Congressman Tim Bishop (n=11) and "for-profit-college lobbyists" (n=13).

Howard “Buck” McKeon (R-California)

Howard “Buck” McKeon is a Republican member of the U.S. House of Representative, representing the 25th Congressional District in California. During the timeframe of the investigation, he was a member of the House Education and Workforce Committee, and during a portion of the 109th Congress he was Chair of the committee when Republicans were in the Majority and the Ranking Member when the Republicans were in the Minority. Twenty participants named McKeon as an individual most involved in for-profit-college policy issues, including six non-profit college lobbyists, five for-profit college lobbyists, four Democratic Congressional staffers, two Republican Congressional staffers, and three reporters.

Interviewees noted that McKeon took the lead on for-profit-college sector policy issues during the debate on the reauthorization. A Republican Congressional staffer explained:

“[McKeon has] seen the good work that has come out of the for-profit schools. So that [the for-profit college agenda] was, for Mr. McKeon, that was one of his big topics. We knew we were going into a negotiation with a majority and minority spread that was going to be difficult for us to stop things unless they were exceptionally important. So this [the for-profit college policy agenda] was one of his top issues going in.”

The same staffer went on to explain how McKeon’s support for the for-profit-college sector was commonly known among Congressional staff: *“The way the negotiations all went, they [the Democratic staff] knew it [the for-profit college agenda] was a big deal for McKeon and let me do my thing and agreed with me basically.”*

A Democratic Congressional staffer explained how Mr. McKeon was the key member in regards to the for-profit policy issues: *“Mr. McKeon was certainly involved and interested in these issues. Other than Mr. McKeon, there really weren't particular members that I recall.”* Another Democratic Congressional staffer explained that McKeon and John Boehner, who each at one point or another were chairs of the House Education and the Workforce Committee, led their Republican members in this policy area: *“The rest of the Republican members just seemed to go along with Boehner and McKeon.”*

A different Democratic Congressional staffer further explained the dynamic of McKeon taking the lead on policy issues of concern to the for-profit-college sector relative to other Republican members on the House Education and Workforce Committee:

“I remember McKeon taking more of the lead on this. There were other members. But the honest truth to how the Committee worked on the Republican side, they were very top down; very hierarchical. Members didn't step out of line. That was a no-no. And they had an insane amount of discipline with their members. Whatever one Member might be thinking, it didn't matter because you took the party line and people rarely stepped out of that. The reason why I bring it up – because it didn't matter what they individually thought and they were actually staffed by the Committee staff who belonged to the most senior Member of the Committee. On the Democratic side, it was a little more ‘free for all.’ People had their own thoughts and beliefs and there was way less the idea that you had to

repeat what the Chairman was telling you to do. And you have your own staff and you think for yourself.”

A non-profit-college lobbyist also noted this phenomenon: *“They really locked down the full committee, Chairman Boehner and Buck McKeon, and it seemed like everyone else on the committee was just doing their bidding.”*

Several interviewees mentioned McKeon’s Republican political identification as a factor in his support for the for-profit-college sector policy issues: *“On the House side, certainly the Republicans on the Education and Labor Committee always took the lead on these issues. Mr. McKeon was personally involved in all of these issues; he was always an advocate for for-profit education.”* Another for-profit-college lobbyist explained how the for-profit agenda during the reauthorization process fared better under the leadership of McKeon and a Republican majority: *“Certainly Chairman McKeon was helpful. On the whole we did better when the Republicans were in charge than once the Democrats took over.”*

And, a different for-profit-college lobbyist explained further how the role of McKeon as the Republican lead on for-profit-college policy issues helped to support the for-profit-college sector agenda: *“Buck McKeon, who was Chairman of the subcommittee, he and his staff got this [the for-profit college agenda] and were very supportive.”* Other interviews explained how Republicans under Mr. McKeon’s leadership were generally supportive of the for-profit college agenda. One for-profit-college lobbyist summarized simply: *“Most of the support came from Republicans.”*

A Republican Congressional staffer explained the strong Republican support for the for-profit-college agenda and the general wariness of the Democrats:

“Let's keep politics straight on the whole thing: I worked for the Republicans. We are very strong supporters of the for-profit sector and certainly have a reputation of supporting the for-profits, more so than our counterparts on the Democratic side. So I think a lot of times the for-profits came to the Republicans on the Education and Labor Committee looking for them to help them because they knew that they were going to have trouble with Democrats on the committee. Not all the Democrats, but certainly a lot of the Democrats were not as favorable towards for-profit education. So in a lot of ways we took their issues and tried to figure out how to make them work and still maintain what we considered the integrity of the program and still address issues for for-profit education for their students and try to get our friends on the other side of the aisle to see that there were ways we could do this that wouldn't open everything up to fraud and abuse. That was always the concern that was raised when you debated these issues in committee.”

Another Republican Congressional staffer explained how the support from Republicans for the for-profit-college agenda came from an ideological set of beliefs:

“There were certainly a lot of Republican offices [that] were receptive to their message. I think that comes from an ideological perspective from those offices who didn't draw a very smart analogy. They'd blanket say, ‘Well, it's a privatized education. Generally I'm for more privatization in government. They receive federal money so the more privatization there is, inherently, the better.’”

A non-profit-college lobbyist explained this Republican ideology as being in alignment with a business model of making money:

“I’ve found that the Republican general higher education theory [is] that anyone making money [is] necessarily good. Literally as a function of them making money. And so, the student lenders were good because they were making money. The for-profit colleges were good because they were making money. They didn’t actually appear to have a deeper analysis.”

Meanwhile, a Republican Congressional staffer suggested that non-profit-college lobbyists were more focused on opposing the set of for-profit-college policy priorities, rather than working with Republicans to find a compromise, or perhaps encouraging the “deeper analysis,” between the two set of viewpoints on a given issue: *“Their strategy (non-profit higher education) at the time (during the Republican majority) was to go to the Democrats to get them to oppose rather than coming to us (Republicans) to come to a compromise.”* A for-profit-college lobbyist explained the difference between the Republican and Democratic ideology: *“On the whole the Republicans have always been friendlier to private-sector enterprise. And Democrats have always been somewhat uncomfortable with the thought that profit and education could be said in the same sentence.”*

A Democratic Congressional staffer explained the difference in a similar way:

“The Democrats were going to be opposed to for-profit companies who were going to take education and cheapen it. And Republicans, they somehow were more for the business side of it. These companies are making a lot of money and are educating people and they should be able to do what they need to do to. I don’t really remember where it stemmed from, but, when I joined the committee with my boss, it was always Boehner and McKeon who were for the for-profits. It

was always known. When we tried the Higher Education Act reauthorization the first time it was just known that they were kind on the same side as them and I never knew their reasoning. Was it money in terms of fundraising or ideologically they were pro-business and they wanted them to do well?"

This difference in support and ideology was also something that required a balancing act. As explained by a for-profit-college lobbyist, those involved in the reauthorization process had to be careful to take into consideration both sets of ideology:

"On the Republican side, it was making sure that these issues didn't become too partisan. Because that could have been counterproductive too. You want to make sure that these issues are being dealt with on a bipartisan basis. You don't want the Democrats to oppose something just because the Republicans support it. And normally the Republicans are more supportive of our sector than the Democrats are but that can work to your disadvantage in a highly charged partisan atmosphere where the Republicans say up and the Democrats say down just as a matter of instinct. So we had to work with Republicans to make sure that while they wanted to be helpful to us that they didn't 'over partisanize,' if there is such a word, those issues and inadvertently drive Chairman Miller and other Democrats to oppose us just because it was a Republican position. So everything that we did was done in a non-partisan way and I think that was key."

Meanwhile, one Democratic Congressional staffer disagreed that the support of the for-profit-college agenda was as clear a partisan issue as many of the interviewees suggested: *"Well, this is not a partisan thing. Both parties had members who were sympathetic. And it just depended. Different members would latch onto different things."*

McKeon [a Republican] was a really big proponent of the for-profits. Rob Andrews [a Democrat] was [also] interested in helping for-profits.”

Several of the participants who mentioned McKeon as a player in these issues, noted not only his party affiliation as a reason for his involvement in advancing the for-profit-college agenda, but also the financial ties to the for-profit colleges as a reason that may have influenced his support of the for-profit-college policy agenda. A Democratic Congressional staffer described McKeon’s support as a combination of the result of ideological similarities and financial support from the for-profit colleges:

“It was funny because most of the Republican members didn't seem to care about it (for-profit college issues), in all honesty. I mean McKeon cared about it and were on the for-profit side. Mostly a mix of getting tons of money from them and it was almost ideological.”

A reporter also recalled the role of financial support in McKeon’s support of the for-profit-college policy agenda:

“McKeon and Boehner [were most involved in the for-profit college issues] because they were basically in the pockets of the for-profits. They were really carrying the water. In the midst of this I remember there was a “60 Minutes” piece on Career Education Corporation and the Democrats forced the Republicans to hold a hearing on the issue in which Boehner and McKeon were extremely defensive of the industry. They were getting hundreds of thousands of dollars from for-profit colleges. I think McKeon was found to have investments in Corinthian that he had to give up when they went public. But they were really carrying the water.”

A Democratic Congressional staffer noted a seeming correlation between McKeon's policy positions and the financial support of his political campaign: *"You look at someone like McKeon. He did get quite a bit of money from the banks and for-profit industries and I thought you could see a correlation of what he was supporting and where the dollars were coming from."* Two non-profit-college lobbyists drew similar correlations between the for-profits and the financial support Mr. McKeon received from the for-profit colleges. One stating: *"On the Republican side we had Buck McKeon. I don't even know who all got involved on the Republican side on the for-profit side because McKeon seemed seemingly bought and sold on the issues."* And the other concluding that the influence extended to Congress and the committee, led by Boehner and McKeon, as a whole: *"The Congress was extremely beholden to them because it was a committee that was beholden to them: Buck McKeon and Boehner."*

Several interviews also pointed out that McKeon was not just a proponent of for-profit-college issues, but McKeon also took the lead on addressing issues related to rising college costs and college accountability issues. One Republican Congressional staffer described how these concerns resulted in a number of hearings and meetings, as well as process for gathering comments to help shape the reauthorization agenda:

"We must have had twenty-something hearings, if not more. Umpteen meetings. It was very inclusive. We had a ton of meetings of interested folks who had a position or had a thought or had an idea. We put out a call for comments. We started the process early on [with] the FED UP [an effort to gather feedback and input from the public about higher education in preparation for the reauthorization] process. At the time it was Mr. McKeon who was chairing the

subcommittee. He was all about hearing what "real people" had to say, not just the associations and the lobbyists. This was the first time there was an attempt to go out to the masses. We created a website. We got about 3,000 comments on that thing and I read every one of them."

Another Republican Congressional staffer also recalled the push towards more accountability in higher education as an issue led by McKeon: *"There were several other important people involved at the time. Buck McKeon, the senior Republican, who pushed a lot of the accountability issues."* A non-profit-college lobbyist confirmed McKeon's role in addressing accountability in higher education, specifically in regards to the rising cost of college: *"Obviously college costs was McKeon."*

One reporter made a connection between McKeon's concern around rising college costs and the for-profit-college sector:

"I remember going in and interviewing McKeon during this period of time. Early on when he first came out with [the college cost] proposal and we were talking about college prices and I said (to him), 'You realize that some of these for-profits are very expensive.' And he said (to me), 'No they're not'. So this willful ignorance over the fact of how much they were charging. At that time I didn't know that McKeon had held stock in Corinthian. And at one point Sally Stroup had gone from working for McKeon to being the chief lobbyist for the University of Phoenix and then going to the Department of Education. So there were different ties there as well. They (the for-profit colleges) got a free ride on the whole college cost debate and let the non-profits fight that battle."

Robert Andrews (D-New Jersey)

Robert Andrews is a Democratic member of the U.S. House of Representatives representing the First Congressional District of New Jersey. At the time of the investigation he was a member of the House Education and the Workforce Committee. Seventeen participants named him as an individual most involved in for-profit-college policy issues, including two non-profit-college lobbyists, five for-profit-college lobbyists, four Democratic Congressional staffers, three Republican Congressional staffers, and three reporters.

Interviewees noted that Rob Andrews, like McKeon, was supportive of the for-profit-college policy agenda: *“I would say that on the Democratic side, that was much more of a challenge, but there were individual Democrats we felt were good allies. Certainly Congressman Rob Andrews from New Jersey was a real stalwart – was and is.”* Another for-profit-college lobbyist noted Andrews’ support: *“We also worked with folks who were supportive, such as Rob Andrews, on the Democratic side, and Congresswoman McCarthy [D-New York].”*

One reporter noted that Andrews’ position in regards to the for-profit colleges differed from his Democratic colleagues’. While Andrews remained consistently supportive of the for-profit-college agenda over time, his Democratic colleagues, in general, seemed to be opposed to the for-profit-college agenda during their time in the minority, but were less critical when Democrats became the majority. This change in the Democrats’ position could be attributed to having Democratic members who were supportive of the for-profit-college sector and needing to include that perspective in policymaking once they were in the majority and in charge of crafting policy changes.

“When they (Democrats) were in the minority they were pretty forceful in opposing Republican efforts to do some of these things. They (Democrats) really, besides Andrews and McCarthy, they were pretty united and they forced the Republicans to have that hearing after the 60 Minutes piece. But once the Democrats got control they changed their tune a bit.”

A non-profit-college lobbyist also noted the unique nature of Andrews’ support:

“One person who sticks out, and he was always involved from a completely random perspective, Rob Andrews from New Jersey. He always seemed to fall pretty well short of that view [a stronger regulatory approach], even when mostly other Democrats were headed in that direction. So that was source of consternation [for our organization].”

A Republican Congressional staffer explained how having a Democrat in support of the for-profit-college agenda was important to shaping the provisions related to the for-profit-college policy agenda. The support of Andrews ensured the for-profit-college agenda was included in Democratic discussions:

“On the Democratic side, they [for-profit colleges] got a lot of help on their issues from Rob Andrews who also cared a lot about for-profit education and just wanted to make sure that they were getting a fair shake in the whole discussion and weren't getting left out and that their issues were getting looked at and addressed. Maybe you couldn't do everything that people wanted. Rob Andrews helped a lot when we were trying to shape these policies.”

The same Republican Congressional staffer explained the complicated nature of some of the policy issues under debate during the reauthorization and how this meant that

some members did not pay as much attention to the issues as some other members. Andrews did take time to understand the issues. For those offices that opposed the for-profit agenda, Mr. Andrews' ability to understand and his sympathy were a two-pronged challenge, as one Democratic staffer explained: *"The biggest challenge for us was probably Rob Andrews because he's a really smart guy and very sympathetic."*

Just as some interviewees pointed to the relationship between money and McKeon's interest in the for-profit-college sector positions, other interviewees, including a reporter, pointed to Andrews' financial support from the for-profit-college sector and his support of the for-profit-college agenda: *"Andrews and McCarthy have always been champions of the for-profit colleges. Especially Andrews who was particularly involved in the Cohort Default Rate issue. And, he's gotten a decent amount of money from the for-profits over the years."* Another reporter made a similar connection between funding and support for the for-profit-college policy agenda, and also made note that Andrews' support of the for-profit colleges was not necessarily in line with the majority of his Democratic colleagues and that other members' support or opposition were not always in line with their party:

"Most of the Republicans, and on the Democratic side, [such as] Rob Andrews [D-New Jersey], has been totally in their pockets for a really long time. And McCarthy [D-New York] was also. But Andrews was the leading Democrat who was for them. And then on the opposite side, Miller [D-California] was definitely against them at the time. Tierney [D-Massachusetts] and Bishop [D-New York] were strong against. And on Republican side, Castle [R-Delaware] and people

like Ehlers [R-Michigan] and Upton from Michigan. There were a handful on each side who were not with their party on the issue.”

A Democratic Congressional staffer also drew a relationship between Andrews’ support of for-profit colleges and campaign financing, and, further explained why financial support may have been important to him at that particular time in his political career: *“I think a lot of them got a lot of money. I think Rob Andrews was especially looking for donations because he was looking to run for the Senate so he wanted friends and money essentially.”*

Carolyn McCarthy (D-New York)

Carolyn McCarthy is a Democratic member of the U.S. House of Representatives representing the Fourth Congressional District of New York. Eleven participants named her as an individual most involved in for-profit college policy issues, including one non-profit-college lobbyist, four for-profit-college lobbyists, three Democratic Congressional staffers, one Republican Congressional staffer, and two reporters.

“They [for-profit colleges] have a relationship with her [Carolyn McCarthy]. She knows their schools. If they need her they call her. That’s a perfect example of college presidents using their connections to their home members to come and try to get people to listen to what they need.” [Republican Congressional Staffer]

One Democratic Congressional staffer explained the process by which the for-profit colleges would utilize McCarthy to advance their policy agenda:

“The basic process that I experienced with the Higher Education Act is that the for-profits would come to us and pitch different sets of language on 90/10, Single

Definition, Transfer of Credit, and some of the other peripheral issues, and, once we'd say no or they realized that either myself or my boss would not go with what they were looking for, they'd go to Rob Andrews and then Carolyn McCarthy and then maybe the junior members who liked getting the money from some of these for-profits. And once they realized that they had one of them in their pockets, they'd go to one of them and get it in there. And so that member's office would go to the committee staff to ask for it to be put in there”

The same Democratic staffer suggested that McCarthy’s experience as a nurse may have influenced her support of the for-profit colleges:

“Carolyn McCarthy I know was really in on it [the for-profit agenda] because they pitched it to her as a lot of the nursing schools were for-profit and she was a former nurse and so her big thing was access. And, I think her district in New York had a ton of these schools. So I think that was part of it. She also went to nursing school, but not the traditional route, so she identified with students who went for 2-year degrees.”

Tim Bishop (D-New York)

Congressman Tim Bishop is a Democratic member of the U.S. House of Representatives representing the 1st Congressional District of New York. During the reauthorization of the HEA he served on the House Education and the Workforce Committee. Eleven participants named him as an individual most involved in for-profit-college policy issues, including two non-profit-college lobbyists, four for-profit-college

lobbyists, two Democratic Congressional staffers, two Republican Congressional staffers, and one reporter.

Unlike Democrat Rob Andrews, Congressman Tim Bishop was generally opposed to the policy agenda of the for-profit-college sector. Bishop's opposition to the for-profit-college agenda was more in line with his party. As explained by a Republican Congressional staffer:

“On the Hill, first thing I'd say is the for-profit colleges have much more support in the House than in the Senate, by far. And among Republicans they have more support than they do from Democrats. In terms of particular opponent, Tim Bishop, who is pretty strongly opposed and a number of rank and file Democrats who are just uncomfortable with for-profits.”

One for-profit-college lobbyist explained in simple terms how Bishop was one of the members who more strongly opposed the for-profit-college agenda than other Democrats:

“Congressman Bishop was the big opponent.” The same for-profit college lobbyist explained how Bishop appeared to be systematically opposed to all of the policy issues advanced by the for-profit sector: *“Congressman Bishop of New York, Tim Bishop, was just, it seemed like whatever we were for, he was against. 90/10 certainly, Transfer of Credit, he was unfriendly. And active. It wasn't just that he voted the wrong way. He was active.”* A non-profit-college lobbyist also identified Bishop as a Member who was concerned with the for-profit agenda: *“Tim Bishop from New York is someone who was always concerned about it [the for-profit college agenda].”*

Congressman Tim Bishop, before being elected to Congress, had worked for a non-profit college. Some interviewees noted this experience in reference to his concerns and opposition to the for-profit-college agenda, including a Democratic Congressional staff:

“Since [Bishop] at the time had run a college and had been a financial-aid officer at a school, and he knew a lot of stuff about how budgets at universities operate. So knowing that, a lot of the proprietary schools would lobby [Bishop] specifically on those issues knowing that [Bishop] knew how colleges basically paid for themselves. Not so much on the for-profit side, but on the not for-profit side. So they thought if they could convince [Bishop] that those issues were good, legitimate arguments for access issues, that somehow he would go on their side and somehow persuade other members who weren't as educated on the higher education issues. So they came to talk to [Bishop] and lobby [his office] a lot. And then they realized that [Bishop] was probably not the person to go to try to get their for-profit issues put into the Higher Education Act. They went to other members who then agreed to do some of the stuff. So it was then [Bishop's] kind of role at that point to try to combat a lot of that stuff they were trying to get at. So then in my job, I had to, I ended up being a go-between: [Bishop], the members who wanted a lot of this for-profit stuff put in the bill, and the committee staff.”

A Democratic Congressional staffer, in addition to Mr. Bishop's experience as an administrator at a non-profit college, also referenced his intellectual ability on policy issues: *“Tim Bishop was one of the members – a former provost of an independent*

college – so he was involved in discussions at some point. He's a great member because he intellectualizes a lot of it and forgets the politics of it.”

Referring to the common situation where Congressional staff are more informed than the member of Congress about specifics of policies, one non-profit-college lobbyist mentioned how Bishop himself was important to the debate regarding the for-profit-college policy agenda: *“And Tim Bishop. And I'd put him over his staff. He knows this stuff so well...Bishop was important, very important.”* One Republican Congressional staffer also explained how Bishop's personal role in the debate required the for-profit-college lobbying effort to focus a lot of their attention on him:

“They [the for-profit college sector] did a lot of work on Bishop because he was one that was really opposed, but he's also a very thoughtful member having worked in a school and in a financial-aid office so this was something near and dear to his heart. And, Miller relied on him throughout the process so they really worked on him through site visits and meeting after meeting after meeting. I don't know what was discussed in those meetings. I don't know what questions he had. I know he tried to get a lot of data from them.”

One Democratic staffer explained how the lobbying process during these meetings with Bishop and his staff took place. The lobbying process was a catalyst for compromises on policy issues affecting the for-profit-college sector:

“So for 90/10, the for-profits came to [Congressman Bishop] with all of these proposals about changing the way that we define 90/10 or the calculation. They wanted to include a lot more in the 10 percent that they could count in their non-federal revenue for the 90/10 revenue and [Congressman Bishop] would say, ‘No,

that's not something [I'm] interested in.' So they went to Andrews and McCarthy and got them to agree. Who then pressured committee staff to try to include this stuff. So it put the committee staff in a position where they had to manage two sets of members who didn't agree on a certain issue. So [Congressman Bishop's staff] ended up having to do a lot with committee staff and Andrew and McCarthy's staff to eventually iron out this stuff so everyone was happy."

One Democratic Congressional staffer explained the role of Bishop on these for-profit-college policy issues relative to other members: *"We had members on both sides of the issues. We'd have Mr. Grijalva [D-Arizona] and Mr. Bishop [D-New York], and then we'd have Congressional Black Caucus members and freshman members on the other side trying to advocate for the for-profits."*

A for-profit-college lobbyist also explained how Bishop worked closely with Mr. Raul Grijalva, a Democrat from Arizona and his colleague on the Education and the Workforce Committee in opposition to the for-profit-college agenda:

"Well, Congressman Bishop was the one who co-authored the provision with Representative Grijalva to go to a 3-year Cohort Default Rate, but ultimately I think that after the fact we were able to convince him that it had some potential ramifications. He had some concerns, and we probably should have gotten to him a little earlier in the process."

A non-profit-college lobbyist explained the role Bishop played in advancing the Cohort Default Rate as an issue: *"The default rate issue was a non-issue that they [the for-profit college sector] wanted to brush under the rug until Bishop pounced on them and put something out there that they then had to defuse."*

A for-profit-college lobbyist explained how, over time, the for-profit-college lobby felt like they made progress in explaining their positions to Bishop. At first he was seemingly opposed to the for-profit-college agenda, but over time he seemed to be more willing to listen to their perspective:

“Representative Bishop started out to be a real impediment. And he has evolved hugely, to where he is now someone who we are able to, not to always convince, [but] at least he listens to us with an open mind and sometimes we've been able to convince him. So we've had some real progress there.”

For-profit-college lobbyists

The for-profit-college lobbyists or lobbying firms mentioned by name included Jefferson Government Relations (a Washington D.C.-based public relations and lobbying firm that has for-profit colleges as clients), Jennifer Blum (a partner at a D.C.-based law firm), Nancy Broff (a lawyer for a D.C.-based law firm), Tony Podesta (a D.C.-based lobbyist who is also the founder and Chairman of the Podesta Group, a D.C.-based public relations and government relations firms), the American Association of Cosmetology Schools (the professional association for cosmetology schools), and Scott Fleming at Chartwell Education (a New York-based education consulting services company). These specific names were only mentioned one to three times each by interview participants, but because participants generically referred to “for-profit-college lobbyists,” as well as naming specific firms or individuals who worked on behalf of for-profit-college issues, I then grouped them together. Those individual for-profit-college lobbyists who were mentioned more than three times, of which there were two – Mark Pelesh with Corinthian

College and Tom Netting with Jefferson Government Relations (a D.C.-based lobbying firm that had for-profit colleges as clients) – are discussed further in the section analyzing secondary individuals .

Thirteen participants mentioned “for-profit-college lobbyists,” including three non-profit-college lobbyists, two for-profit-college lobbyists, four Democratic Congressional staffers, one Republican Congressional staffer, and two reporters.

One reporter referred to the for-profit-college lobbying group as “*the army of for-profit lobbyists*”. As a Democratic staffer explained:

“I was getting pressure from some of the for-profit lobbyists. They came to visit us all the time, or it felt like all the time. I was put in a position of trying to push back on them a little bit and explain the Congressman's position, which was not completely against them but certainly not all the way with them.”

Secondary Individuals

Nineteen individuals or organizations emerged as secondary themes. Those eight individuals that emerged as secondary themes included Congressman George Miller (n=10), Congressman John Boehner (n=10), Congressman Mike Castle (n=8), Congresswoman Betty McCollum (n=4), for-profit-college lobbyist, Mark Pelesh (n=4), Congressman Ruben Hinojosa (n=4), and for-profit-college lobbyist, Tom Netting (n=4).

George Miller (D-California)

Congressman George Miller is a Democratic member of the U.S. House of Representatives representing the Seventh Congressional District of California. During the

reauthorization of the HEA he served as the Ranking Member of the House Education and Workforce Committee during the 108th and 109th Congresses. During the 110th Congress when Democrats took over the majority of the U.S. House of Representatives, he became the Chairman of the committee. In other words, he was the most senior Democrat on the House Education Committee during the reauthorization of the HEA. Nine participants named him as an individual most involved in for-profit-college policy issues, including three non-profit-college lobbyists, five for-profit-college lobbyists, one Republican Congressional staffer, and one reporter. I should note that several participants in other parts of their interviews referred to Congressman Miller, though they may not have mentioned him by name as a response to this particular question. In fact, three of the Democratic Congressional staffers interviewed for this research investigation worked for Congressman Miller at some point during the reauthorization and likely considered him to be a key player in the debate about the for-profit policy issues, whether they mentioned him in response to this question, or not.

“On the Hill, clearly the most influential guy is the Chairman. Chairman Miller and his staff people” [Republican Congressional staffer]. George Miller was the Chairman during the final phase of the reauthorization, as a for-profit-college lobbyist noted: *“In the final process, the most involvement came from Chairman Miller's staff.”*

One non-profit-college lobbyist mentioned the role of Miller’s staff and how they may have been more sympathetic to those who raised concerns about the for-profit sector agenda than Miller himself:

“The Miller staff obviously had a significant and important role, too especially after the Majority flipped. It's less clear to me that that was George Miller

himself. They may have, the staff may have started, in our view, in a more sympathetic view.”

A Democratic Congressional staffer explained the importance of the role of the Chairman’s position in relation to other members of the Committee. The Chairman’s position on issues can determinate how successful an organization may be:

“I think the position of the Chairman is very important to whether these institutions are successful. And the position of the members [of the Committee]. If more members, such as my boss, had raised more fuss on these topics there would have been more success [for the for-profit-sector].”

A Democratic staffer suggested that Miller was more supportive of the for-profit-college sector than many may have thought: *“I think Miller was a lot friendlier with the for- profits then they [George Miller’s staff] would have made it seem to other committee members.”* A for-profit-college lobbyist considered Miller “open-minded” on issues of concern to the for-profit-college sector, despite the historical position of Democrats on for-profit-college issues: *“We thought we had in Chairman Miller someone who was at least open-minded on these issues, but we also knew that historically on the Democratic side the sector had been pretty weak among other Democrats on the committee.”*

A for-profit-college lobbyist felt like Miller and his staff gave their agenda fair consideration:

“Chairman Miller and his staff were willing to listen to our arguments. Heard our arguments and worked with us to achieve some compromises. We were able to get through working with Chairman Miller and his staff what we thought was an acceptable outcome (on the Cohort Default Rate).”

Another for-profit-college lobbyist provided a different perspective and explained how Miller was not always a supporter of the for-profit-college policy agenda, and how his position changed over time:

“George Miller was an interesting case. Not at all supportive on 90/10. Not at all. Certainly not about repeal. He and his staff would not go for repeal. Just wouldn't do it. However, I will say to fast forward to end of the story after he became Chairman and Democrats took control when the crunch came on 90/10. Once we moved off of repeal and the financial crisis hit, he understood a couple of points that we felt were very important modifications that we needed. He heard us on the merits, agreed with us and then hung in there and fought for the modifications that we were looking for. But, we had to come off repeal in order to get there.”

A reporter also commented on Miller’s change in position on the policy issues on the for-profit-college agenda over time:

“So even like George Miller kind of caved at that point into softening, making it [Cohort Default Rate] softer. And later I found out that George Miller's son was actually lobbying for Education Management Corporation in California in the fight over the California Bureau. He also made a calculation, because they also ended up weakening 90/10 significantly. And I think he made a calculation that he really wanted Republican support and so he wanted it to be a bipartisan bill.”

John Boehner (R-Ohio)

Congressman John Boehner is a Republican member of the U.S. House of Representatives representing the Eighth Congressional District of Ohio. During the reauthorization of the HEA he served as the Chairman of the House Education and Workforce Committee during the 108th Congress and for a little more than half of the 109th Congress before he became the Republican Majority Leader. During the 110th Congress when Democrats took over the majority of the U.S. House of Representatives, he became Minority Leader of the Republican Party. Ten participants named him as an individual most involved in for-profit-college policy issues, including four non-profit-college lobbyists, three for-profit-college lobbyists, one Democratic Congressional staffer, and two reporters. I should note that, as with Congressman George Miller, several participants in other parts of their interviews referred to Congressman Boehner though they may not have mentioned him by name as a response to this particular question. In fact, three of the Republican Congressional staffers interviewed for this research investigation worked for Congressman Boehner at some point during the reauthorization and likely considered him to be a key player in the debate about the for-profit policy issues, whether they mentioned him by name in response to this question or not.

Boehner's role as Chairman during a portion of the reauthorization was seen as important to the for-profit-college sector's ability to move their agenda forward, particularly in ensuring the policies they are asking for were included in the draft bills. As one for-profit-college lobbyist explained:

“During the first four years of this saga, the Republicans were in control and they were generally pretty sympathetic. John Boehner was Chairman of the House

Education and the Workforce Committee, as it was then called. He got these issues and he was generally very supportive. His staff were supportive, the committee staff. And of course you always want to have the Chairman on your side. They're the ones who are going to produce the bills and the Chairman's mark."

A Democratic staffer commented on how all of the staff for the Republican members of the Committee were aligned with Boehner. During the Republican majority, the Republican members, in general, followed Boehner's lead on the for-profit college sector agenda:

"Boehner was the Chairman and all the staff worked for him, even the subcommittee chairs. The staff really worked for Boehner. No one stepped out of 'Boehner bounds.' That was a no-no. You maybe did behind closed doors but never in front of us [Democrats]."

Several of the interviewees, including one for-profit-college lobbyist, when mentioning Boehner, also alluded to the general support from the Republicans: *"Congressman Boehner was very supportive. Most of the support came from Republicans."*

One reporter when noting the role of Boehner also noted that there were Democrats who were supportive of the for-profit-college policy agenda. In fact, over time, the partisanship on these issues seemed to dissipate:

"There was no question that Boehner and the then-Republican leadership were certainly their main avenue in. And thinking back to pre- and post-turnover of Congress, I will say that I was surprised how many Democrats turned out to not be against [the for-profit-college policy agenda]. That struck me over time. I think

they were able to make most of the votes party-line, but it was less partisanship on that issue. I remember being surprised at various points. I think that partisanship had somewhat eased over time.”

Some of the interviewees mentioned why Boehner was supportive of the for-profit-college sector. One interviewee mentioned Boehner’s commitment to students:

“Mr. Boehner even gets a little weepy sometimes. When he talks about the opportunity that these schools are giving kids that wouldn’t otherwise have the opportunity, whether it’s rural or urban, kids just trying to pull themselves up to get out of those neighborhoods. That was really what it kind of all boiled down to. So we worked pretty closely with the sector to accomplish those goals.”

Another interviewee, a Democratic staffer attributed Boehner’s support for the role of for-profit colleges in terms of business and economic development, rather than to students: *“With Boehner as Chair, the business-oriented for-profits were very much not regulated and seen as the economic engines within their communities that should be supported and not hindered in any way by oversight or regulations.”*

Another Democratic staffer, in addition to the business orientation of the for-profit colleges, mentioned campaign contributions as a reason for Boehner’s support of the for-profit college sector:

“When I joined the committee with my boss it was always Boehner and McKeon who were for the for-profits. It was always known. When we tried the Higher Education Act reauthorization the first time it was just known that they were kind on the same side as them and I never knew their reasoning. Whether it money in

terms of fundraising or ideologically they were pro-business and they wanted them to do well.”

Mike Castle (R-Delaware)

Congressman Mike Castle was a Republican member of the U.S. House of Representatives representing the at-large Congressional District of Delaware. During the reauthorization of the HEA he served on the House Education and the Workforce Committee. Eight participants named him as an individual most involved in for-profit college policy issues, including two non-profit college lobbyists, one for-profit college lobbyist, one Democratic Congressional staffer, two Republican Congressional staffers, and two reporters.

While many Republicans were generally seen as supportive of the for-profit-college policy agenda, Castle was in some ways viewed as opposed to the for-profit-college agenda. As one reporter explained: *“I remember Castle being the Republican who was most against it (transfer of credit) on the Republican side. There were a handful on each side who were not with their party on the issue [for-profit colleges].”*

One Republican Congressional staffer described his lack of support for the for-profit-college sector as philosophical in nature: *“Mr. Castle has never been a huge fan of the [for-profit college] sector. I don't want to speak for him, but [he had] a philosophical concern about for-profits being involved in education.”* A non-profit-college lobbyist also alluded to Castle's philosophical position in regards to for-profit colleges:

“I would say that Mike Castle was a pretty important person on the Republican side. He understood the reasons why the integrity provisions were in there and

philosophically why for-profit colleges shouldn't be completely dependent on federal programs and why they needed to be policed if they were going to be in there. So he was an important player.”

The same interviewee went on to explain: *“The great irony that Castle liked to point out: this free enterprise was being fed at the government trough. That it was, in fact, a government program that was sustaining these entities [for-profit colleges].”* Not surprisingly then, a for-profit-college lobbyist described Castle as *“not very helpful.”*

Meanwhile, a Democratic Congressional staffer described him as reasonable and seemingly alone on the Republican side in terms of his concern for the for-profit-college agenda:

“There were a couple of members. Castle, a more reasonable member on the committee. He had some issues with Single Definition when we tried doing the reauthorization the first time. I think there were a couple of other members who said, ‘Hey, we should take a step back and take a look at this stuff.’ But the rest of the Republican members just seemed to go along with Boehner and McKeon.”

Betty McCollum (D-Minnesota)

Congresswoman Betty McCollum is a Democratic member of the U.S. House of Representatives representing the Fourth Congressional District of Minnesota. During the reauthorization of the HEA she served on the House Education and the Workforce Committee. Four participants named her as an individual most involved in for-profit college policy issues, including one non-profit-college lobbyist, one Democratic

Congressional staffer, one Republican Congressional staffer, and one reporter. No for-profit-college lobbyists mentioned her specifically in response to this question.

McCollum was seen as playing a role in opposing the for-profit-college agenda, along with a few of her Congressional colleagues: *“I remember some of the Democrats like Betty McCollum [and] Tierney [D-Massachusetts] being pretty critical [of the for-profit-college agenda]” [reporter]*. She was labeled by a reporter as “helpful” in opposing specific for-profit-college policy issues, most notably Single Definition: *“Betty McCollum was very helpful on Single Definition.”*

Mark Pelesh

Mark Pelesh was a for-profit-college lobbyist during the reauthorization period for Corinthian College, a publicly-traded set of for-profit colleges enrolling approximately 86,000 students. Four participants named him as an individual most involved in for-profit-college policy issues, including two non-profit-college lobbyists, one for-profit-college lobbyist, and one reporter. No Congressional staffers mentioned him specifically in response to this particular question.

Pelesh was part of a group of for-profit-college lobbyists who worked together to advance the for-profit colleges with members of Congress and their staff: *“Prior to (Harris Miller joining CCA) there was a group of us that worked very closely together in the sector. Mark Pelesh from Corinthian [and] Jennifer Blum who is in a law firm. We worked together to meet with members and staff to bring these issues before them, to use opportunities as they rose to discuss these” [For-profit-college lobbyist]*.

Ruben Hinojosa

Congressman Ruben Hinojosa is a Democratic member of the U.S. House of Representatives representing the 15th Congressional District of Texas. During the reauthorization of the HEA he served on the House Education and the Workforce Committee, and when Democrats were in the majority he served as the first Hispanic Chairman of the subcommittee with jurisdiction over the HEA. Four participants named him as an individual most involved in for-profit-college policy issues, including two non-profit-college lobbyists, one for-profit-college lobbyist, and one Republican Congressional staffer. No Democratic Congressional staffers or reporters mentioned him specifically in response to this question.

Mr. Hinojosa was not generally viewed by the for-profit college sector as a supporter of their policy agenda: “*Hinojosa has been a challenge for us.*” [*For-profit-college lobbyist*]

Tom Netting

Tom Netting was a for-profit-college lobbyist during the period of the reauthorization. During the more recent reauthorization he was employed by Jefferson Government Relations, which among other clients, provides lobbying services for for-profit colleges. During earlier reauthorizations he worked for the Career College Association and Corinthian College.

Four participants named him as an individual most involved in for-profit-college policy issues, including one non-profit-college lobbyist, one Democratic Congressional staffer, and two reporters. No for-profit-college lobbyists mentioned him specifically in

response to this question. Most of the interview participants who remembered Tom Netting as being involved in the reauthorization on behalf of for-profit colleges could not remember for whom he worked.

Primary Organizations

Of the eight primary individuals and organizations named, four are references to organizations, including the Career College Association (n=25), University of Phoenix (n=14), “for-profit colleges” (DeVry University, Education Management Corporation, Strayer University, Corinthian College, Career Education Corporation, Capella University) (n=14), and “One Dupont Circle”/traditional higher education (n=11).

Career College Association

The Career College Association (CCA), which on September 22, 2010, changed its name to the Association of Private Sector Colleges and Universities (APSCU) (<http://www.letsputstudentsfirst.com>), is “a voluntary membership organization of accredited, private, postsecondary schools, institutes, colleges and universities that provide career-specific educational programs.” APSCU has over 1,800 members (<http://www.career.org>). From this point forward in this paper, the organization will be referred to as CCA, given that the interviews took place when that was the name of the organization. Twenty-five participants named CCA as an organization most involved in for-profit-college policy issues, including five non-profit-college lobbyists, three for-profit-college lobbyists, eight Democratic Congressional staffers, six Republican Congressional staffers, and three reporters. When participants mentioned the Career

College Association (CCA), six of those participants also named the president of the organization, Harris Miller.

No other individual or organization was more clearly identified as involved in the for-profit-college agenda as the Career College Association. As one reporter summed up: *“Well, the Career College Association is a big voice for the for-profits. [CCA is] the main organization.”* A Republican Congressional staffer also considered the CCA to be the voice for the for-profit colleges: *“CCA was most involved in pushing those issues. Or to change the issues that would benefit them.”*

One of the benefits of CCA membership is representation in Washington D.C. on policy issues of concern to for-profit colleges. While the CCA had a government relations office staffed by several lobbyists, CCA had two main leaders who served as the most visible lobbyists for the CCA during the course of the reauthorization process, as one for-profit-college lobbyist explained:

“The Career College Association is the primary player on the career college side. Their lobbyist Harris Miller came actually sort of midway through the reauthorization process. This was a process that took four to five years from information gathering to HEOA bill signing. Four or five years. So Nick Glaicus was the head of the CCA when it started. He left. And then Harris Miller came in. And those two were clearly the head of the Career College Association during the process.”

The CCA, as a trade association, was viewed by many as representing the voice of the for-profit-college sector, including by one Republican Congressional staffer: *“CCA*

was the biggest trade association involved. CCA was the one that you always went back to.”

While some interviewees suggested that CCA may be viewed by many as the “umbrella organization,” not all of the relevant for-profit-college players are members, or were members, of CCA during the reauthorization. As a Republican Congressional staffer explained:

“The umbrella organization in the for-profit [college] world is the Career College Association. And they sort of fancy themselves as the voice of for-profit education. I don't buy that entirely because there are a lot of important for-profit institutions that are not members of theirs – most notably the University of Phoenix, which is far and away the biggest for-profit institution. There's no one even close, and they are not a member of CCA and they weren't during that time. But they [CCA] were nonetheless the voice of the rank and file for-profits. But there were others that worked on their own through the legislative process sometimes with the CCA, sometimes not. University of Phoenix is one of them, Strayer is one. And, EDMC and a handful of others.”

A Republican Congressional staffer also noted how the CCA was a lead organization in regards to the for-profit colleges. The staffer noted that CCA was not particularly effective at representing the entire for-profit-college sector, particularly at the onset of the reauthorization:

“CCA always took the lead. They did represent everyone and they came in and tried to do it. They weren't the best lobbyists then – maybe it's changed. What you find is that in the old days CCA tried to lobby on their own and they did a really

bad job. And then they figured out that they really needed their individual college presidents to be involved and talking to their individual members. And that made a big difference. And now you had members engage in their issues.”

A for-profit-college lobbyist concurred with this assessment of the CCA:

“Under the Career College Association they were certainly involved. And, as an umbrella organization helped to spearhead a lot of this. They weren't necessarily, particularly before the new leadership of Harris Miller prior to his arrival, CCA was not as engaged as I think they were after Harris arrived on the scene.”

One non-profit-college lobbyist, when noting the CCA’s involvement ,also made mention of the fundraising efforts for members of Congress and how that factor may have contributed to how involved they were in the reauthorization process:

“[The] Career College Association, CCA, seems to have the greatest visibility and the greatest war chest that I've ever seen. To be able to make the case with their pocketbooks rather than with their arguments and the difference between them doing that, just like lenders do, in that they behave very much like lenders who were trying to preserve special allowances for their own bottom line best interest and to be weighed against what the other actors, like the [non-profit college] presidential associations had to offer: no PAC's, no money , no war chest.”

The same lobbyist went on to describe how this “war chest” may have factored into the role of the CCA during the reauthorization:

“Others, like professional groups, may have been involved behind the scene but I don't think they were given anywhere near the visibility that CCA was. In fact, the

Republicans – when they had control of the House – invited CCA in to most of the meetings that only Republicans were invited to. And I sat through a number of meetings in Congressman McKeon's office where lenders and bankers and those who 'put money on the table' to be there were in the same room with one of us, two of us, from the not for-profit sector: NASFAA and AASCU. It was very revealing. They bought their way in. We earned our way in. That makes a big difference."

A for-profit-college lobbyist explained this relationship that CCA had with both Republicans and Democrats, and how that may have contrasted with the non-profit-college sector that seemed more focused on relating to Democrats:

"[CCA] always worked very hard to have relationships on both the Republican and the Democratic side of the aisle. The traditional institutions had typically focused on maintaining relationships with the Democrats, so when Republicans got control, they were caught a little flat-footed initially. But I think CCA has always done a good of maintaining relationships across the aisle."

Undoubtedly, the CCA was a strong presence on the Hill. A reporter used the following language to describe the CCA's presence: *"The Career College Association obviously came out swinging during that period of time to get those issues."*

A Democratic Congressional staffer echoed what some Congressional staff (as discussed later in this analysis) considered a strategy of the for-profit-college sector: aggressive lobbying. *"The Career College Association. They were incredibly aggressive to the point of being obnoxious. Actually, beyond obnoxious."*

The University of Phoenix

Fourteen participants named the University of Phoenix as an organization most involved in for-profit-college policy issues, including one non-profit-college lobbyist, one for-profit-college lobbyist, five Democratic Congressional staffers, five Republican Congressional staffers, and two reporters. The University of Phoenix is a for-profit institution of higher education and is a wholly owned subsidiary of the Apollo Group, Inc., which is publicly traded. The University of Phoenix is one of the largest universities in terms of enrollment – for-profit or non-profit – in the world, with a full-time equivalent enrollment of about 220,000 students during the time of the reauthorization.

While the CCA was viewed by many as an umbrella organization for the for-profit-college sector, the University of Phoenix emerged as a significant player in the advancement of the for-profit-college policy agenda:

“I heard a lot from individual institutions, [such as] the University of Phoenix, the Apollo Group, and larger trade associations, like the Career College Association, who were interested in making modifications to the eligibility requirements and general provisions that govern the Act in order to gain access to participation.”

The University of Phoenix was not a member of the CCA and that was understood by most of the key staffers involved in the reauthorization, and a few of the interviewees made mention of this fact:

“I don't want to say they had their own message but they always did their own thing – the University of Phoenix. As the 800-pound gorilla in the room they could afford to do that. I'm not sure that any of the other institutions could afford

to just be off on their own. And the University of Phoenix is not a member of Career College Association, so of course they have to be off doing their own thing.” [Republican Congressional staffer]

One Democratic Congressional staffer recalled the University of Phoenix’s involvement in the for-profit-college agenda more than any other organization: *“University of Phoenix I remember most prominently.”*

A Democratic Congressional staffer mentioned the fundraising ability of the founder of the University of Phoenix, inferring that the University of Phoenix’s involvement in the authorization process was related to the organization’s fundraising for members of Congress: *“The University of Phoenix, the behemoth, the single biggest. The founder of the University of Phoenix happens to be very big donor to many, many members. He’s a Democratic supporter.”*

For-profit colleges

The “for-profit colleges” mentioned by name included DeVry University (a publicly traded for-profit higher education institution with approximately 80,000 students), Education Management Corporation (EDMC) (a publicly traded for-profit higher education institution with approximately 158,000 students), Strayer University (a for-profit college with approximately 54,000 students), Corinthian Colleges (a publicly traded set of for-profit colleges enrolling approximately 86,000 students), Career Education Corporation (a set of more than eighty for-profit colleges enrolling more than 90,000 students), and Capella University (a for-profit university owned by the publicly traded Capella Education Company enrolling more than 39,000 students). These specific

names of for-profit colleges were only mentioned one to three times each by interview participants, but because participants generically referred to “for-profit colleges,” as well as naming specific colleges, I grouped them together. In this grouping, fourteen participants mentioned “for-profit college colleges,” including two non-profit-college lobbyists, two for-profit-college lobbyists, two Democratic Congressional staffers, five Republican Congressional staffers, and three reporters.

Several for-profit-college lobbyists mentioned how the for-profit-college sector, and each of the lobbyists within the sector, worked together during the reauthorization. One for-profit-college lobbyist described the evolution of this partnership:

“It was kind of the maturation of the for-profit sector. Bigger companies were starting to emerge. Publicly traded for the most part, who realized that they shouldn't just run their government relations through their trade associations. So, they started to hire people like me. So we would more or less work together. So yes, there would be CCA, but we also had a sub-group of us who were part of a coalition under the auspices of the U.S. Chamber. And then we'd also just work together and share information and do meetings and make proposals and draft stuff in a kind of ad hoc informal way together. Kaplan, Capella, EDMC, DeVry. To one degree or another we would work together to coordinate some of our activities and share information.”

Another for-profit-college lobbyist described the ad hoc nature of this group:

“I don't operate in a vacuum. There's a whole community of other institutions or trade associations and folks on the Hill who are like-minded, or not. You find or figure out who to work with. So in my case in working on some of the issues,

working with the Career College Association and working with other institutions, informally forming little ad hoc informal coalitions of institutions. The government relations folks of those institutions and working together on strategies is very important.”

Another for-profit-college lobbyist explained how the group of for-profit-college lobbyists worked together and then began to work with the CCA after Harris Miller’s arrival:

“We worked with to some extent the Career College Association after Harris Miller got there. Prior to that there was a group of us that worked very closely together in the sector. Mark Pelesh from Corinthian and Jennifer Blum who is in a law firm. She represents several online institutions as well as one of the national accreditation agencies. The one that is now AACCS. So we worked together to meet with members and staff to bring these issues before them, to use opportunities as they rose to discuss these.”

Secondary Organizations

Twelve organizations or groups of individuals emerged as a secondary theme, including the American Association of Community Colleges (AACC) (n=10), the American Association of College Registrars and Admissions Officers (AACRAO) (n=9), “committee members” (n=9), the American Association of State Colleges and Universities (AASCU) (n=8), the National Association of Independent Colleges and Universities (NAICU) (n=8), the American Council on Education (n=7), Corinthian College (n=7), Minority Serving Institutions (n=5), Congressional Black Caucus (n=4),

Kaplan University (n=4), US Chamber of Commerce/business organizations (n=4), Wall Street/Hedge Funds (n=4).

The Presidential Associations

The American Association of Community Colleges (AACCC), the American Association of State Colleges and Universities (AASCU), the National Association of Independent Colleges and Universities (NAICU), and the American Council on Education (ACE) are all professional organizations that represent the Presidents and other academic professionals of non-profit colleges and universities. With the exception of ACE, all of these organizations only have non-profit colleges among its membership. One of the groups that emerge as a primary theme and discussed earlier – “One Dupont Circle” – includes among its tenants or its former tenants at this address organizations that represent various aspects of higher education institutions, professionals who work for colleges and universities, and various related policy issues. When someone refers to “traditional higher education,” these are among the organizations that represent “traditional higher education” in Washington, D.C. The two Presidential associations that were not named as often as those listed above and were instead less prominent, include the Association of American Universities (AAU) and the Association of Public and Land-grant Universities (APLU), formerly the National Association of State Universities and Land-Grant Colleges (NASULGC).

The non-profit-college sector, represented mainly by these Presidential associations, was viewed as generally opposed to the for-profit-college policy agenda: *“All of the traditional higher education associations were opposed to most of [US*

Department of Education] Secretary Spelling's agenda and also opposed to a lot of things that we were in favor of." [For-profit-college lobbyist]

One Republican Congressional staffer suggested that it was “easy” for the non-profit-college sector to be opposed to changes that would loosen regulations specifically for the for-profit-college sector when those same rules and regulations did not apply to the non-profit-college sector:

“A lot of the One Dupont crowd up here was opposed to all of this stuff [the for-profit-college agenda]. They didn't think we should change any of this stuff. They didn't think we should change any of these things. Of course the rules don't apply to them and I used to tell them, ‘The rules don't apply to you. It's really easy to be opposed when the rules don't apply to you.’ They opposed any kind of change. They were opposed to all of this stuff. You've got to wonder why.”

One Republican Congressional staffer noted that the non-profit-college sector appeared unwilling to shift their positions on issues, particularly those related to the for-profit-college sector: *“There's this group of higher education lobbyists at One Dupont. You got the sense that they were so jaded and stuck in a position.”* A for-profit-college lobbyist described how the formal structures of the non-profit-college sector that led to the view of it as being “stuck” may have been an advantage to the for-profit-college sector:

“One Dupont Circle has 50 years of structures and coordination and modes of how they function together and they are literally in the same building for the most part. We weren't nearly that formal. It was much more ad hoc. They are slow

moving. I think we were pretty nimble. We moved. We were able to figure stuff out and act on intelligence. We were pretty nimble. That was an advantage we had.”

One non-profit-college lobbyist noted that some organizations and individuals in the non-profit-college sector did not weigh in on any of the for-profit-college policy issues. The lack of involvement may have made a difference in the debate and the outcome:

“There were some groups in the traditional higher education sector who never publicly engaged the issue whatsoever. And I think the most prominent of those groups was the financial aid administrators. I think their absence made a pretty big difference in the process. If we had had them as more active players we might have made better headway or at least not had so many roadblocks.”

One non-profit-college lobbyist suggested that One Dupont Circle was not particularly engaged or effective in opposing the for-profit-college policy issues. The ineffectiveness of the non-profit-college sector may have contributed to other organizations, such as student groups, to step in and help frame the reauthorization debate related to the for-profit-college issues:

“Most higher ed[ucation] associations – first of all they're not sufficiently political to identify trends or, heaven forbid, take sides. And more importantly by nature – because they are membership organizations that have institutions as members – they tend not to be process conservative. I would characterize their attitude throughout the years as, particularly when the Congress and the White House were controlled by the GOP, as fully understanding how tremendous their (the GOP) policies were, but you could characterize them more as conscientious

objectors who just didn't have the stomach to stand their ground. Throughout 2006 it was really very clear to me that the student groups had been fed up and were taking a stand. I credit them for this. It was that kind of final political confrontation that resulted in the Democrats getting Majority status. Naturally those folks who had been instrumental in that electoral success were equally as influential in the pay-up in the back-end in terms of the policies that the Congress would push through. So I would credit those two organizations [the United States Student Association and US Public Interest group] more than One Dupont."

The same non-profit-college lobbyist went on to describe the non-profit-college sector's lack of involvement in the process, and how the for-profit-college sectors clarity in their agenda may contribute to their success: *"All of One Dupont sat on their hands and wished them [student organizations] good luck. And that's the difference between us and them. When the other side has friends in high places, they know what it is that they want, they are unanimous in what they want."*

One for-profit-college lobbyist suggested that the non-profit-college sector was distracted by earmarks rather than focusing on "big policy issues:"

"I think one of the problems that traditional higher education has – and I think they have some very high quality people there – is that a lot of their schools are more interested in earmarks than they are in big policy issues, except at a very high-level amount of federal funding. They are much more competitive and up here trying to get their multi-million dollar grant tucked into some appropriations bill. They'll spend a whole hell a lot of time doing that, but do they really encourage their group lobbyists to really pound the halls on collective issues the

way we do? I think there's a tradeoff there. They don't do as much of that.

Whereas since we're not eligible and don't go after earmarks, the sector [for-profit-college sector] goes after collective issues. We don't get bogged down. The schools are very competitive trying to go up and get their own earmark in there and getting somebody else's out. Which is a lot of what the traditional higher education community does."

One for-profit-college lobbyist explained how she worked on some policy issues with the traditional sector, but not on other issues, and, how sometimes Congressional staff requested that the two sectors work together on issues, particularly when there was disagreement:

"Depending on the issue you can work with the One Dupont Circle crowd in terms of compromise language that you'd shop around to Hill offices. Hill staff will say, 'Okay, I'm hearing too much noise. Can you all get together and work something out. We want to do something but you all need to get in a room and work this out.' We definitely did that."

The same for-profit-college lobbyist went on to explain the relationship between the sectors and how the two sectors have worked together on some issues: *"On the other issues I would go to the traditional sector early on and say, 'Okay, I know that we don't agree but can we talk about what's realistic?' There are a lot of myths I think around oh so and so hates so and so; that sectors hate each other. The drama is not quite that. Everyone is very collegial. I haven't really had circumstances where I haven't been able to have a dialogue."*

The American Association of College Registrars and Admissions Officers (AACRAO)

The American Association of College Registrars and Admissions Officers (AACRAO) was mentioned nine times by interview participants. Only one other entity was mentioned more; the American Association of Community Colleges was mentioned 10 times. No individual who worked for the traditional higher education associations was mentioned more than Barmak Nassirian, the associate executive director and the lobbyist for AACRAO. Nassirian was seen as a strong critic of the for-profit colleges: *“There’s a guy named Barmak Nassirian at the registrars. He used to be at least at one other higher ed[ucation] organization, but he is a very strong critic of for-profit colleges”* (Republican Congressional staffer). A reporter recalled AACRAO’s specific concern with transfer of credit: *“AACRAO, Barmak, was the main group opposing that [Transfer of Credit]. All of One Dupont [was] opposed, but AACRAO was particularly aggressive.”* The same reporter went on to explain further:

“On Transfer of Credit, I remember Barmak speaking very strongly about protecting the ability of the institutions to judge quality and to make their own determinations and to keep the integrity of their programs by not taking students that they didn’t want. To be forced to accept credits that they didn’t really think were the same that they were giving out.”

One for-profit-college lobbyist described Nassirian’s criticism of the for-profit-college sector’s Transfer of Credit issue and referenced how his influence may have been unusual, given that he is not employed by one of the major six Presidential associations, which are viewed as the main higher education lobby in Washington:

“On negative side, strange to say, but the Registrars, the American Association of Collegiate Registrars and Admissions Officers, there's a gentleman over there, Barmak Nassirian, who seems to be in every reporter's rolodex and has an opinion about anything that happens in the western world. He was, he and AACRAO, were definitely on the other side of the Transfer of Credit issue.”

A Democratic Congressional staffer also mentioned Nassirian's influence and how his personality may have contributed to his influence on the Transfer of Credit issue:

“Sometimes sheer force of personality, and I'm thinking in particular someone like Barmak who I think most people spend very little time thinking about college registrars or would be surprised to know that they have their own association. But because Barmak is who he is, is as smart as he is, and understood the issues the way he did, I think he had an oversized influence in the process relative to the size and profile of his association simply because he is who he is.”

The House Education and the Workforce Committee

The “committee members” that were mentioned by name by nine individuals included Congressman Dale Kildee, Congressman Vernon Ehlers, Congressman David Wu, Congressman John Kline, Congressman John Tierney, Congressman Mark Souder, Congresswoman Susan Davis, Congressman Tom Petri, Congressman Fred Upton, and Congressman Raul Grijalva. Of those nine interview participants, some of the individuals mentioned “committee members” generically and may have then also mentioned more than one committee member by name, but if that particular individual was not mentioned

more than three times by interview participants he or she was included in this grouping of individuals.

Minority-Serving Institutions

Five interview participants, including one for-profit college lobbyist, two Democratic Congressional Staffers, and two reporters mentioned specific organizations and individuals that I have grouped together as “Minority Serving Institutions” (MSIs), including the Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), the National Association for Equal Opportunity in Higher Education (NAFEO), and Buddy Blakey, who was a lobbyist for Minority Serving Institutions, as well as a for-profit college.

In fact, several interviewees mentioned Buddy Blakey by name, who during the reauthorization of the HEA, was a registered lobbyist for DeVry University, among other clients. One Democratic Congressional staffer specifically referred to his role in the Cohort Default Rate issue: *“Buddy Blakey. Although he didn't always do for-profit issues, he was interested in Cohort Default Rate, which ended up affecting for-profit colleges.”* One reporter also mentioned how Buddy Blakey was a lobbyist for both for-profit and non-profit-college sector interests:

“Buddy Blakey, he was lobbying, he used to be the lobbyist for the UNCF [United Negro College Fund]. By that point he wasn't. He was working for some other black college association, but he was also a lobbyist for DeVry. So he was the perfect figure for showing just how these different interests – how he could kind of hide behind one interest to make it seem like he was representing the rest of

higher education and not just the for-profits. But in reality he was also a lobbyist for the for-profits. He gave them a lot of credibility on that issue [Cohort Default Rate].”

A Democratic Congressional staffer noted how Buddy Blakey’s lobbying efforts of the for-profit-college sector included attempts to partner with the non-profit-college sector through association with the Historically Black Colleges and Universities (HBCU’s):

“The only thing I remember is that some of the for-profits would partner with the Historically Black Colleges and Universities, like Buddy Blakey and lobby against Cohort Default Rate. And, it ended up being one of the biggest things they lobbied against. And at that point Buddy and UNCF kind of aligned with the for - profits. We had a meeting with those offices that supported the Cohort Default Rate and then with the Career College Association and Buddy Blakey and the UNCF [United Negro College Fund].

Another Democratic staffer explained the political role played by Buddy Blakely in helping the for-profit-college sector align with the non-profit HBCU sector on the Cohort Default Rate, in particular:

“Another uncomfortable conversation was having Buddy Blakey come in, who was part of the Historically Black Colleges and Universities community [during] Cohort Default Rate. Another indicator of how the for-profit sector was infiltrating other parts of the higher ed[ucation] community. There was definitely a political and policy dynamic. As it is with any legislation when you get towards the end, it's rarely about the policy and it's mostly about the politics.”

Congressional Black Caucus

Four interview participants, including one for-profit college lobbyist, one Democratic Congressional Staffer, and two reporters mentioned the Congressional Black Caucus. The specific individuals mentioned as members of the Congressional Black Caucus (CBC) involved in the for-profit-college interests were also members of the House Education and the Workforce Committee, including Congressman Bobby Scott and Congressman Donald Payne, both of whom are Democrats.

One Democratic Congressional staffer suggested that members of the Congressional Black Caucus were engaged in for-profit-college policy issues because of the numbers of minority students attending for-profit colleges:

“The for-profit colleges tend to target the minority caucuses heavily, given that so many of their students are minority. So my boss was approached not only in his capacity as a Representative on the committee, but [also] because of his membership in the Congressional Black Caucus. And, that is something that is consistent over the years with this group [the for-profit sector].”

The same Democratic Congressional staffer explained that CBC members on the Education Committee worked together on certain issues, including policy issues on the for-profit-college agenda:

“Many of these issues we’d work very closely with the Congressional Black Caucus members. The Congressional Black Caucus members who were on Committee together could work together. If there were overlapping interests then we’d work as a group supporting each to move them forward.”

While some of the CBC members worked together, another Democratic Congressional staffer explained how when not all of the Democrats were in agreement on a policy issue, sometimes it was CBC members organized against other members of the Committee. Because the CBC members were also all Democrats, this situation led to a focus on finding a compromise on some of the policy issues related to the for-profit-college sector agenda, particularly on the Cohort Default Rate:

“We’d have Mr. Grijalva and Mr. Bishop [one one side] and then we’d have CBC members and freshmen members on the other side trying to advocate for the for-profits. The Chairman said, ‘Let’s find a compromise. Let’s not play one side or the other.’”

The same staffer went on to explain how the CBC’s sympathy for the for-profit-college agenda affected whether the HEA legislation could move forward through the legislative process. Without support from key members of the CBC, the legislation could not be passed: *“It’s pretty well known that if you can’t get some of the key caucuses on a piece of legislation then your legislation is dead. So that was one of our biggest challenges at the time.”*

A non-profit-college lobbyist explained that the involvement of the CBC stemmed from a strategy of the for-profit colleges to align their policy issues with policy issues of concern to minority students and populations:

“They [the for-profit colleges] really went to the Congressional Black Caucus and even to the Hispanic Caucus on all of the integrity issues. So on all of those issues, since reauthorization was primarily fought in the 90/10 area, Cohort Default Rate area, and the definition of higher education institutions, they [for-

profit colleges] really tried to align with the institutions and groups that represented minority students or populations.”

Specifically in regards to the Cohort Default Rate policy issue, a reporter explained the role of the CBC in the discussion: *“On the Cohort Default Rate issue they managed to form an alliance with the Congressional Black Caucus and the Historically Black Colleges and Universities on Cohort Default Rate to bolster their case and to make it look like it wasn't just a for-profit fight.”*

One reporter explained that the for-profit colleges may have worked so closely with the CBC because in the previous reauthorization a member of the CBC, Congresswoman Maxine Waters, had been one of the for-profit college’s staunchest opponents. This led the for-profit-college sector to focus some of their lobbying efforts on other CBC members:

“The groups that they also were particularly targeting were the Congressional Black Caucus, which I think they had been working. My personal theory was that, once Maxine Waters went against them, they worked really hard to have the Congressional Black Caucus on their side. A number of those lawmakers are on their side, or at least don't take a position on them.”

The same reporter went on to explain the relationship between the CBC and for-profit colleges:

“I know they hired this guy Paul Bradley who had been Executive Director of the Congressional Black Caucus. Originally he was lobbying for Career Education Corporation and then in 2008 he started lobbying for the Career College Association and in 2009 he started lobbying for Sallie Mae. I noticed that in

campaign contributions that Bradley had given to every Congressional Black Caucus member, except Maxine Waters.”

For-profit College Strategies and Arguments

3. How did the for-profit education special interest-group attempt to influence policy makers during the 2008 reauthorization of the Higher Education Act?

The third guiding question sought to find out what strategies and arguments the for-profit colleges used to advance their policy agenda. To answer this question, I collected data from interviews from key players and then based on some of those findings examined other data sources, including data on campaign contributions and data in lobbying materials. The interview participants mentioned dozens of strategies and arguments that I organized into themes for a total of 23 strategies and a total of 17 arguments. Of the 23 strategies, three emerged as primary, seven emerged as secondary, and 13 emerged as outliers. Of the 17 arguments, two emerged as primary, three emerged as secondary, and 12 emerged as less prominent.

As one for-profit-college lobbyist explained, there were many strategies utilized in order to help make the arguments in support of the for-profit college sector’s reauthorization policy agenda: *“I have a whole filing cabinet full of materials that were developed around these issues, [including] talking points, briefing papers, data collection, [and] testimony that I helped prepare.”* The for-profit-college sector engaged in a variety of strategies and as one Republican staffer explained, their strategies were not different from those of other special interest-groups:

“Whether it's the for-profit higher education sector, you could say the same thing about NAICU [National Association of Independent Colleges and Universities] or the other presidential associations. They do the exact same thing. They feel strongly about issues. They write proposals. They gather data. They have meetings. They have Hill days. They invite members to speak at their conferences. It's all the same thing. It's building up a relationship of trust.”

Strategies

The three primary strategies mentioned by interview participants as strategies used to advance the for-profit college agenda include campaign contributions/fundraisers (n=14), lobbying/Hill meetings (n=11), and grassroots efforts (n=11). Those strategies are further explored below. The secondary strategies mentioned by interview participants include consistent talking points (n=8), high level lobbying (n=8), Hill Days (n=7), outreach to Freshman members of Congress (n=7), use of data and statistics (n=6), becoming a resource to Congressional staff (n=6), and the targeting of certain members of the House Education and the Workforce Committee (n=5). Among the less prominent strategies five emerged that are worthy of further discussion, including the use of confusing information (n=3), the targeting of Congressional Black Caucus members (n=3), the hiring of Harris Miller to be president of the Career College Association (CCA) (n=3), the forcing of a compromise (n=2), and Congressional testimony (n=2). The following sections explore these strategies.

Primary Strategy: Campaign Contributions

Fourteen interviewees, six non-profit lobbyists, two for-profit lobbyists, two Democratic Congressional staffers, one Republican Congressional staffer, and three reporters mentioned campaign contributions to members of Congress as a strategy of the for-profit-college sector during the reauthorization.

According to the Center for Responsive Politics, a nonpartisan, nonprofit research organization that tracks spending in U.S. politics using federal reporting data, higher education-related Political Action Committees (PAC's) contributed a total of \$848,654 to political campaigns during the reauthorization process. A total of 13 education Political Action Committees (PAC's) gave \$274,927 to political campaigns during the 2004 election cycle (108th Congress), 11 education PAC's contributed \$255,307 to political campaigns during the 2006 election cycle (109th Congress), and 12 education PAC's contributed \$318,420 to political campaigns during the 2008 election cycle (110th Congress) (Center for Responsive Politics, retrieved from www.OpenSecrets.org). During each of those election cycles, the top three higher education PAC contributors were consistently the Apollo Group, the Career College Association, and Corinthian College, all organizations that were identified by interview subjects as most involved in the reauthorization of the HEA. Political Action Committee data do not include individual campaign contributions that may be made to a political candidate by employees or others affiliated with a for-profit college.

Apollo Group PAC. Throughout the timeframe of the reauthorization of the HEA, the Apollo Group contributed to the political campaigns of members of Congress, the

majority of whom were members of the Education and the Workforce Committee. See Table 1. In 2004, the Apollo Group PAC contributed \$41,850 (\$11,750 to Democrats and \$30,100 to Republicans) to a total of 26 members of Congress. The top six recipients were Buck McKeon (R-California) (\$6,000), George Miller (D- California) (\$5,000), Dennis Hastert (R-Illinois) (\$3,500), Tom Cole (R-OK) (\$2,500), Rob Andrews (D-New Jersey), and Ed Pastor (D-Arizona) (\$2,000). Of the top six recipients, McKeon, Miller, and Andrews were all identified by interview participants as key players in the reauthorization. The other 20 recipients of Apollo Group PAC monies in 2004 received no more than \$1,600.

In 2006, the Apollo Group PAC contributed \$64,500 (\$28,500 Democrats and \$36,000 to Republicans) to a total of 22 members of Congress. The top five recipients were Rob Andrews (D-New Jersey), (\$15,000), Raul Grijalva (D- Arizona) (\$10,000), Buck McKeon (R- California) (\$7,500), John Boehner (R-Ohio) (\$6,000), and Ric Keller (R-Florida) (\$5,000). Of the top five recipients, all but Ric Keller had been identified as key players during the reauthorization. Keller did, however, serve for a time during the reauthorization process as the Chairman and the Ranking Member of the Subcommittee on Higher Education, Lifelong Learning, and Competitiveness, which has jurisdiction over the reauthorization. All other recipients of Apollo Group PAC monies in 2006 received no more than \$2,500.

Table 1: Apollo Individual Contributions

2004		2006		2008	
Total to Democrats	\$11,750	Total to Democrats	\$28,500	Total to Democrats	\$70,500
Total to Republicans	\$30,100	Total to Republicans	\$36,000	Total to Republicans	\$32,500
Total Contributions	\$41,850	Total Contributions	\$64,500	Total Contributions	\$103,000
<i>Recipients</i>		<i>Recipients</i>		<i>Recipients</i>	
McKeon, Howard P (Buck) (R-CA)	\$6,000	Andrews, Robert E (D-NJ)	\$15,000	Boehner, John (R-OH)	\$7,000
Miller, George (D-CA)	\$5,000	Grijalva, Raul M (D-AZ)	\$10,000	McKeon, Howard P (Buck) (R-CA)	\$7,000
Hastert, Dennis (R-IL)	\$3,500	McKeon, Howard P (Buck) (R-CA)	\$7,500	Keller, Ric (R-FL)	\$6,500
Cole, Tom (R-OK)	\$2,500	Boehner, John (R-OH)	\$6,000	Hinojosa, Ruben (D-TX)	\$5,000
Andrews, Robert E (D-NJ)	\$2,000	Keller, Ric (R-FL)	\$5,000	Miller, George (D-CA)	\$5,000
Pastor, Ed (D-AZ)	\$2,000	Wilson, Joe (R-SC)	\$2,500	Pastor, Ed (D-AZ)	\$5,000
		Castle, Michael N (R-DE)	\$2,000	Mitchell, Harry E (D-AZ)	\$3,500
		Hayworth, J D (R-AZ)	\$2,000	Hoyer, Steny H (D-MD)	\$3,000
		Kline, John (R-MN)	\$2,000		

Source: Center for Responsive Politics

In 2008, the Apollo Group PAC contributed \$103,000 (\$70,500 to Democrats and \$32,500 to Republicans) to a total of 46 members of Congress. The top six recipients were John Boehner (R-Ohio) (\$7,000), Buck McKeon (R- California) (\$7,000), Ric Keller (R- Florida) (\$6,500), Ruben Hinojosa (D-Texas) (\$5,000), George Miller (D-California) (\$5,000), and Ed Pastor (D-Arizona) (\$5,000). Of the top five recipients, all but Ed Pastor had been identified as key players during the reauthorization. Ed Pastor represented a district in Arizona, the home state to the University of Phoenix, a subsidiary of the Apollo Group, during the reauthorization. All other recipients of Apollo Group PAC monies in 2008 received no more than \$3,500.

In addition to PAC contributions to individual members of Congress, the Apollo Group also contributed to *other* PAC's that are *affiliated* with members of Congress. See Table 2. For example, Congressman John Boehner (R-Ohio) is the affiliate for the Freedom Project PAC.

In 2004, the Apollo Group contributed \$45,800 to a total 13 other PAC's (\$12,800 to PAC's in support of Democrats and \$33,000 to PAC's in support of Republicans). The top recipient, the National Republican Congressional Committee (\$15,000), a political committee dedicated to maintaining and increasing the Republican majority in the U.S. House of Representatives (www.nrcc.org/about). The other top recipients included the Freedom Project (\$6,500), whose affiliate is John Boehner (R- Ohio) and the 21st Century PAC (\$6,000), whose affiliate is Buck McKeon (R-California). The remaining ten PAC recipients received between \$500 and \$5,000 each from the Apollo Group PAC in 2004.

Table 2: Apollo Political Action Committee Contributions

2004		2006		2008	
Total to Democrats	\$12,800	Total to Democrats	\$21,100	Total to Democrats	\$10,000
Total to Republicans	\$33,000	Total to Republicans	\$47,000	Total to Republicans	\$0.00
Total PAC Contributions	\$45,800	Total PAC Contributions	\$68,100	Total PAC Contributions	\$10,000
<i>Recipients</i>		<i>Recipients</i>		<i>Recipients</i>	
National Republican Congressional Committee	\$15,000	National Republican Congressional Committee	\$20,000	Solidarity PAC	\$5,000
Freedom Project	\$6,500	Solidarity PAC	\$15,000	<i>Affiliate: George Miller (D-CA)</i>	
<i>Affiliate: John A. Boehner (R-OH)</i>		<i>Affiliate: George Miller (D-CA)</i>		Democratic Senatorial Campaign Committee	\$3,500
21st Century PAC	\$6,000	21st Century PAC	\$10,000	BRIDGE PAC	\$1,500
<i>Affiliate: Howard P. "Buck" McKeon (R-CA)</i>		<i>Affiliate: Howard P. "Buck" McKeon (R-CA)</i>		<i>Affiliate: James E. Clyburn (D-SC)</i>	
HILLPAC	\$5,000	Straight Talk America	\$10,000		
<i>Affiliate: Hillary Clinton (D-NY)</i>		<i>Affiliate: John McCain (R-AZ)</i>			
AmeriPAC: The Fund for a Greater America	\$2,500	Freedom Project	\$5,000		
<i>Affiliate: Steny H. Hoyer (D-MD)</i>		<i>Affiliate: John A. Boehner (R-OH)</i>			
America's Majority Trust	\$2,500	Democratic Senatorial Campaign Committee	\$3,000		
<i>Affiliate: Rob Portman (R-OH)</i>		Democratic Congressional Campaign Committee	\$2,500		
PAC to the Future	\$2,000	CARE PAC	\$1,000		
<i>Affiliate: Nancy Pelosi (D-CA)</i>		<i>Affiliate: Ralph Regula (R-OH)</i>			
Keep Our Majority PAC	\$1,500	National Republican Senatorial Committee	\$1,000		
<i>Affiliate: Dennis Hastert (R-IL)</i>		Democratic Party of Arizona	\$600	Source: Center for Responsive Politics	
New Millennium PAC	\$1,250				
<i>Affiliate: Robert Menendez (D-NJ)</i>					

In 2006, the Apollo Group PAC contributed \$68,100 to a total of 10 other PAC's (\$21,100 to PAC's in support of Democrats and \$47,000 to PAC's in support of Republicans). The top four recipients (three and four were both at \$10,000) were the National Republican Congressional Committee (\$20,000); the Solidarity PAC (\$15,000), whose affiliate is George Miller (D- California); and, the 21st Century PAC, whose affiliate is Buck McKeon (R-California) and the Straight Talk America PAC, whose affiliate is Senator John McCain (R-Arizona) (\$10,000). The remaining six PAC recipients received between \$600 and \$5,000 each from the Apollo Group PAC in 2006.

In 2008, the Apollo Group contributed \$10,000 to a total of three other PAC's (\$10,000 to PAC's in support of Democrats and \$0 to PAC's in support of Republicans). The top three recipients were the Solidarity PAC (\$5,000), whose affiliate is George Miller (D-California); the Democratic Senatorial Campaign Committee (\$3,500); and, the BRIDGE PAC (\$1,500), whose affiliate is James Clyburn. The Democratic Senatorial Campaign Committee is "the only organization solely dedicated to electing a Democratic Senate" (www.dscc.org/about).

Career College Association PAC. Throughout the timeframe of the reauthorization of the HEA, the Career College Association contributed to the political campaigns of members of Congress, the majority of whom were members of the Education and the Workforce Committee. See Table 3.

In 2004, Career College Association PAC contributed \$69,455 (\$32,955 to Democrats and \$36,500 to Republicans) to a total of 50 members of Congress. The top six recipients were David Wu (D-Oregon) (\$5,149), Rob Andrews (D-New Jersey)

(\$5,056), Buck McKeon (\$4,000) (R-California), Carolyn McCarthy (D-New York) (\$3,750), Ron Kind (D-Wisconsin) (\$3,000), and George Miller (D-California) (\$3,000). Andrews, McKeon, McCarthy, and Miller, were all identified by interview participants as key players in the reauthorization. The other two, Wu and Kind were members of the Education and the Workforce Committee during the reauthorization process. The remaining PAC recipients received between \$500 and \$2,500 each from the Career College Association PAC in 2004.

In 2006, the Career College Association PAC contributed \$57,918 (\$29,625 to Democrats and \$28,293 to Republicans) to a total of 30 members of Congress. The top five recipients were Ric Keller (R-Florida) (\$6,999), Rob Andrews (D-New York) (\$6,498), Jon Porter (R-Nevada) (\$4,544), Carolyn McCarthy (D-New York) (\$4,500), and Buck McKeon (R-California) (\$4,000). All but Ric Keller and Jon Porter had been identified as key players during the reauthorization. The remaining PAC recipients received between \$250 and \$3,967 each from the Career College Association PAC in 2006.

In 2008, the Career College Association PAC contributed \$64,779 (\$46,799 to Democrats and \$18,000 to Republicans) to a total of 41 members of Congress. The top seven recipients were George Miller (D-California) (\$6,000), Rob Andrews (D-New York) (\$5,210), Ric Keller (R-Florida) (\$4,000), Jason Altmire (D-Pennsylvania) (\$3,319), Virginia Foxx (R-North Carolina) (\$3,000), Carolyn McCarthy (D-New York) (\$3,000), and Joe Sestak (D-Pennsylvania) (\$3,000). Miller, Andrews and McCarthy had been identified as key players during the reauthorization. Keller, Altmire, and Foxx were all members of the Education and the Workforce Committee during the reauthorization,

Table 3: Career College Association Individual Contributions

2004		2006		2008	
Total to Democrats	\$32,955	Total to Democrats	\$29,625	Total to Democrats	\$46,779
Total to Republicans	\$36,500	Total to Republicans	\$28,293	Total to Republicans	\$18,000
Total Contributions	\$69,455	Total Contributions	\$57,918	Total Contributions	\$64,779
<i>Recipients</i>		<i>Recipients</i>		<i>Recipients</i>	
Wu, David (D-OR)	\$5,149	Keller, Ric (R-FL)	\$6,999	Miller, George (D-CA)	\$6,000
Andrews, Robert E (D-NJ)	\$5,056	Andrews, Robert E (D-NJ)	\$6,498	Andrews, Robert E (D-NJ)	\$5,210
McKeon, Howard P (Buck) (R-CA)	\$4,000	Porter, Jon (R-NV)	\$4,544	Keller, Ric (R-FL)	\$4,000
McCarthy, Carolyn (D-NY)	\$3,750	McCarthy, Carolyn (D-NY)	\$4,500	Altmire, Jason (D-PA)	\$3,319
Kind, Ron (D-WI)	\$3,000	McKeon, Howard P (Buck) (R-CA)	\$4,000	Foxx, Virginia (R-NC)	\$3,000
Miller, George (D-CA)	\$3,000	Kind, Ron (D-WI)	\$3,967	McCarthy, Carolyn (D-NY)	\$3,000
Kildee, Dale E (D-MI)	\$2,500	Davis, Danny K (D-IL)	\$3,310	Sestak, Joseph A Jr (D-PA)	\$3,000
Porter, Jon (R-NV)	\$2,500	Peterson, John E (R-PA)	\$2,500	Lewis, John (D-GA)	\$2,000
Musgrave, Marilyn (R-CO)	\$2,250	Kline, John (R-MN)	\$1,750	Yarmuth, John A (D-KY)	\$2,000
Keller, Ric (R-FL)	\$2,000	Holt, Rush (D-NJ)	\$1,500	Mahoney, Tim (D-FL)	\$2,000
Cole, Tom (R-OK)	\$2,000	Udall, Mark (D-CO)	\$1,500	Payne, Donald M (D-NJ)	\$1,500
Boehner, John (R-OH)	\$2,000	Foxx, Virginia (R-NC)	\$1,500	Kline, John (R-MN)	\$1,500
Petri, Tom (R-WI)	\$2,000	Kildee, Dale E (D-MI)	\$1,500	Courtney, Joe (D-CT)	\$1,250
Peterson, John E (R-PA)	\$2,000	O'Donnell, Rick (R-CO)	\$1,000	Kanjorski, Paul E (D-PA)	\$1,000

Source: Center for Responsive Politics

and Altmire was a freshman, “frontline” Democrat member during the second half of the process. Targeting freshmen members of Congress through campaign contributions and lobbying efforts was identified by interviewees as a for-profit-college strategy and is explained more below in a later section. The remaining PAC recipients received between \$500 and \$2,000 each from the Career College Association PAC in 2008.

In addition to PAC contributions to individual members of Congress, the Career College Association PAC also contributed to other PAC’s that are affiliated with members of Congress. See Table 4.

In 2004, the Career College Association PAC contributed \$34,500 to a total 13 other PAC’s (\$8,000 to PAC’s in support of Democrats and \$26,500 to PAC’s in support of Republicans). The top three recipients were the Freedom Project (\$10,000), whose affiliate is John Boehner; the 21st Century PAC (\$10,000), whose affiliate is Buck McKeon; and, the Democratic Senatorial Campaign Committee (\$5,000). The remaining PAC’s received between \$250 and \$2,500 from the Career College Association PAC in 2004.

In 2006, the Career College Association PAC contributed \$25,500 to a total six other PAC’s (\$1,000 to PAC’s in support of Democrats and \$24,500 to PAC’s in support of Republicans). The top three recipients were the Freedom Project (\$10,000), whose affiliate is John Boehner; the 21st Century PAC (\$10,000), whose affiliate is Buck McKeon; and, the Making Business Excel PAC (\$2,500), whose affiliate is Senator Mike Enzi (R-WY). The remaining three PAC’s received \$1,000 each from the Career College Association PAC in 2006.

Table 4: Career College Association Political Action Committee Contributions

	2004		2006		2008
Total to Democrats	\$8,000	Total to Democrats	\$1,000	Total to Democrats	\$12,500
Total to Republicans	\$26,500	Total to Republicans	\$24,500	Total to Republicans	\$23,000
Total PAC Contributions	\$34,500	Total PAC Contributions	\$25,500	Total PAC Contributions	\$35,500
<i>Recipients</i>		<i>Recipients</i>		<i>Recipients</i>	
Freedom Project	\$10,000	Freedom Project	\$10,000	21st Century PAC	\$10,000
<i>Affiliate: John A. Boehner (R-OH)</i>		<i>Affiliate: John A. Boehner (R-OH)</i>		<i>Affiliate: Howard P. "Buck" McKeon (R-CA)</i>	
21st Century PAC	\$10,000	21st Century PAC	\$10,000	Republican Main Street Partnership	\$6,500
<i>Affiliate: Howard P. "Buck" McKeon (R-CA)</i>		<i>Affiliate: Howard P. "Buck" McKeon (R-CA)</i>		Making Business Excel PAC	\$4,500
Democratic Senatorial Campaign Committee	\$5,000	Making Business Excel PAC	\$2,500	<i>Affiliate: Mike Enzi (R-WY)</i>	
National Republican Senatorial Committee	\$2,500	<i>Affiliate: Mike Enzi (R-WY)</i>		BRIDGE PAC	\$4,000
America's Foundation	\$1,000	Searchlight Leadership Fund	\$1,000	<i>Affiliate: James E. Clyburn (D-SC)</i>	
<i>Affiliate: Rick Santorum (R-PA)</i>		<i>Affiliate: Harry Reid (D-NV)</i>		Freedom Project	\$3,500
Hispanic Victory Fund	\$1,000	IRL PAC	\$1,000	<i>Affiliate: John A. Boehner (R-OH)</i>	
Badger PAC	\$1,000	<i>Affiliate: Ileana Ros-Lehtinen (R-FL)</i>		Searchlight Leadership Fund	\$2,500
<i>Affiliate: Ron Kind (D-WI)</i>		National Republican Senatorial Committee	\$1,000	<i>Affiliate: Harry Reid (D-NV)</i>	
American Association for Homecare	\$1,000			HILLPAC	\$2,500
Committee for a Democratic Majority	\$1,000			<i>Affiliate: Hillary Clinton (D-NY)</i>	
<i>Affiliate: Edward M. Kennedy (D-MA)</i>				National Republican Congressional Committee	\$2,500
CARE PAC	\$1,000			National Republican Senatorial Committee	\$2,500
<i>Affiliate: Ralph Regula (R-OH)</i>				Connecticut for Change	\$1,500
Making Business Excel PAC	\$1,000			Committee for a Democratic Majority	\$1,000
<i>Affiliate: Mike Enzi (R-WY)</i>				<i>Affiliate: Edward M. Kennedy (D-MA)</i>	
Carolina Majority PAC	\$1,000			Solidarity PAC	\$1,000
<i>Affiliate: Joe Wilson (R-SC)</i>				<i>Affiliate: George Miller (D-CA)</i>	
Winning Margins	\$250				

Source: Center for Responsive Politics

In 2008, the Career College Association PAC contributed \$35,500 to a total of 12 other PAC's (\$12,500 to PAC's in support of Democrats and \$23,000 to PAC's in support of Republicans). The top three recipients were the 21st Century PAC (\$10,000), whose affiliate is Buck McKeon; the Republican Main Street Partnership (\$6,500); and, the Making Business Excel PAC (\$4,500). The remaining eight PAC's received between \$1,000 and \$4,000 each from the Career College Association PAC in 2008.

Corinthian College PAC. Throughout the timeframe of the reauthorization of the HEA, the Corinthian College PAC contributed to the political campaigns of members of Congress, the majority of whom were members of the Education and the Workforce Committee. See Table 5.

In 2004, the Corinthian College PAC contributed \$19,000 (\$8,500 to Democrats and \$10,500 to Republicans) to a total of 10 members of Congress. The top six recipients were Bev Kilmer (R-Florida) (\$4,200), David Wu (D-Oregon) (\$3,000), Rob Andrews (D-New Jersey) (\$3,000), Dale Kildee (D-Michigan) (\$2,000), Max Burns (R-Georgia) (\$2,000), and Buck McKeon (D-California) (\$1,800). Only two of these members of Congress were identified as key players in the reauthorization. It is likely that the other members of Congress who were not identified as key players in the reauthorization by interview participants represented districts in which a Corinthian College was located. The remaining four recipients received between \$500 and \$1,000 in contributions from the Corinthian College PAC in 2004.

Table 5: Corinthian Individual Contributions

2004		2006		2008	
Total to Democrats	\$8,500	Total to Democrats	\$15,000	Total to Democrats	\$21,500
Total to Republicans	\$10,500	Total to Republicans	\$7,000	Total to Republicans	\$5,000
Total Contributions	\$19,000	Total Contributions	\$22,000	Total Contributions	\$26,500
<i>Recipients</i>		<i>Recipients</i>		<i>Recipients</i>	
Kilmer, Bev (R-FL)	\$4,200	Klein, Ron (D-FL)	\$5,000	Miller, George (D-CA)	\$7,000
Wu, David (D-OR)	\$3,000	Wu, David (D-OR)	\$4,000	McCarthy, Carolyn (D-NY)	\$5,000
Andrews, Robert E (D-NJ)	\$3,000	Andrews, Robert E (D-NJ)	\$3,500	Andrews, Robert E (D-NJ)	\$5,000
Kildee, Dale E (D-MI)	\$2,000	Kind, Ron (D-WI)	\$1,500	Kildee, Dale E (D-MI)	\$2,500
Burns, Max (R-GA)	\$2,000	Price, Tom (R-GA)	\$1,000	McKeon, Howard P (Buck) (R-CA)	\$2,000
McKeon, Howard P (Buck) (R-CA)	\$1,800	Drake, Ron (R-AZ)	\$1,000	Keller, Ric (R-FL)	\$2,000
		Miller, George (D-CA)	\$1,000	Wynn, Albert R (D-MD)	\$1,000
		Campbell, John (R-CA)	\$1,000	Wu, David (D-OR)	\$1,000
		Tiberi, Patrick J (R-OH)	\$1,000	Price, Tom (R-GA)	\$1,000
		Keller, Ric (R-FL)	\$1,000		
		McKeon, Howard P (Buck) (R-CA)	\$1,000		
		O'Donnell, Rick (R-CO)	\$1,000		

Source: Center for Responsive Politics

In 2006, the Corinthian College PAC contributed \$22,000 (\$15,000 to Democrats and \$7,000 to Republicans) to a total of 12 members of Congress. The top four recipients were Ron Klein (D-Florida) (\$5,000), David Wu (D-Oregon) (\$4,000), Rob Andrews (D-New Jersey) (\$3,500), and Ron Kind (D-Wisconsin) (\$1,500). Only Rob Andrews had been identified as a key player during the reauthorization. The others, excluding Ron Klein, were members of the Education and the Workforce Committee. It is likely that the district Klein represented had a Corinthian College connection. The remaining eight recipients received \$1,000 in contributions from the Corinthian College PAC in 2006.

In 2008, the Corinthian College PAC contributed \$26,500 (\$21,500 to Democrats and \$5,000 to Republicans) to a total of nine members of Congress. The top six recipients were George Miller (D-California) (\$7,000), Carolyn McCarthy (D-New York) (\$5,000), Rob Andrews (D-New Jersey) (\$5,000), Dale Kildee (D-Michigan) (\$2,500), Buck McKeon (R-California) (\$2,000), and Ric Keller (R-Florida) (\$2,000). All of these recipients were identified by interview participants as key players in the reauthorization, except for Ric Keller and Dale Kildee, who were members of the Education and the Workforce Committee. The remaining three recipients received \$1,000 in contributions from the Corinthian College PAC in 2008.

In addition to PAC contributions to individual members of Congress, Corinthian College PAC also contributed to other PAC's that are affiliated with members of Congress. See Table 6. In 2004, the Corinthian College PAC contributed \$15,000 to a total of 5 other PAC's (\$1,000 to PAC's in support of Democrats and \$14,000 to PAC's in support of Republicans). The top three recipients were the 21st Century PAC (\$7,000), whose affiliate is Buck McKeon (R-California); the Freedom Project PAC, whose

affiliate is John Boehner (R-Ohio) (\$5,000), and the Republican Party of California (\$2,000), which works to elect Republicans to all levels of elected office in California. The remaining two PAC recipients received \$1,000 each from the Corinthian College PAC in 2004.

In 2006, the Corinthian College PAC contributed \$16,750 to a total of four other PAC's (\$0 to PAC's in support of Democrats and \$16,750 to PAC's in support of Republicans). The top three recipients were the 21st Century PAC (\$5,750), whose affiliate is Buck McKeon; the Making Business Excel PAC, whose affiliate is Senator Mike Enzi (R-Wyoming) (\$5,000); and, the Freedom Project PAC, whose affiliate is John Boehner (\$5,000). The remaining PAC recipient received \$1,000 from the Corinthian College PAC in 2006.

In 2008, the Corinthian College PAC contributed \$19,500 to a total of seven other PAC's (\$4,500 to PAC's in support of Democrats and \$15,000 to PAC's in support of Republicans). The top three recipients were the Freedom Project PAC (\$7,000), whose affiliate is John Boehner (R-Ohio); the 21st Century PAC (\$5,000), whose affiliate is Buck McKeon (R-California); and, the HILLPAC, who affiliate is Senator Hilary Clinton (D-New York) (\$2,500). The remaining four PAC'S received no more than \$1,500 each from the Corinthian College PAC in 2006.

Table 6: Corinthian Political Action Committee Contributions

2004		2006		2008	
Total to Democrats	\$1,000	Total to Democrats	\$0.00	Total to Democrats	\$4,500
Total to Republicans	\$14,000	Total to Republicans	\$16,750	Total to Republicans	\$15,000
Total PAC Contributions	\$15,000	Total PAC Contributions	\$16,750	Total PAC Contributions	\$19,500
<i>Recipients</i>		<i>Recipients</i>		<i>Recipients</i>	
21st Century PAC	\$7,000	21st Century PAC	\$5,750	Freedom Project	\$7,000
<i>Affiliate: Howard P. "Buck" McKeon (R-CA)</i>		<i>Affiliate: Howard P. "Buck" McKeon (R-CA)</i>		<i>Affiliate: John A. Boehner (R-OH)</i>	
Freedom Project	\$5,000	Making Business Excel PAC	\$5,000	21st Century PAC	\$5,000
<i>Affiliate: John A. Boehner (R-OH)</i>		<i>Affiliate: Mike Enzi (R-WY)</i>		<i>Affiliate: Howard P. "Buck" McKeon (R-CA)</i>	
Republican Party of California	\$2,000	Freedom Project	\$5,000	HILLPAC	\$2,500
Coastal Conservation Association	\$1,000	<i>Affiliate: John A. Boehner (R-OH)</i>		<i>Affiliate: Hillary Clinton (D-NY)</i>	
21st Century PAC of Texas	\$1,000	Buckeye Liberty PAC	\$1,000	BRIDGE PAC	\$1,500
		<i>Affiliate: Patrick J. Tiberi (R-OH)</i>		<i>Affiliate: James E. Clyburn (D-SC)</i>	
				National Republican Congressional Committee	\$1,500
				National Republican Senatorial Committee	\$1,500
				Moving America Forward	\$500
				<i>Affiliate: Bill Nelson (D-FL)</i>	

Source: Center for Responsive Politics

One non-profit-college lobbyist saw political contributions as the biggest strategy for the for-profit sector, and how part of the strategy was to target those monies to specific members of Congress:

“They clearly used the single most winning strategy of all: money. If you go back and look at FEC [Federal Election Commission] data, the amount of giving was impressive. The single greatest strategy that they used was very generous and targeted campaign contributions to key allies who then carried their water.”

A Republican Congressional staffer mentioned the role of PAC’s – Political Action Committees. A PAC is formed to elect certain political candidates who will advance certain legislation. *“Because they were well financed, they had PAC’s, they were in a position to be supportive of campaigns.”*

A non-profit-college lobbyist explained how the for-profit-college sector’s visibility was due to the financial contributions made to political campaigns: *“They were given name recognition and visibility mainly due to campaign contributions. They were players. And unapologetic about it.”* Another non-profit-college lobbyist agreed:

“They [for-profit colleges] have campaign contributions, which our non-profit groups do not have. They definitely lubricated the Hill on both sides of the aisle with campaign contributions. And that’s an argument in and of itself.”

This fundraising strategy provided visibility and other interviewees also identified this strategy as different from non-profit colleges, which traditionally do not host fundraisers for members of Congress or make contributions to political campaigns. As one Republican staffer explained: *“CCA members tend to be more involved in fundraising and things like that than the traditional sector.”* One non-profit-college lobbyist

explained how the non-profit, traditional higher-education sector is actually barred from fundraising activities:

“We can't contribute; we're barred from contributing campaign contributions. We can't use any political means. So our primary approach was to educate staff on what we were seeing in the environment and very succinctly articulate to them what was important for them to do or not to do, as the case may be.”

Another non-profit-college lobbyist also mentioned that the for-profit-college sector provided political contributions on a scale that the non-profit-college sector cannot. While individuals who work on behalf of non-profit colleges can donate to political campaigns, non-profit colleges cannot form PAC's in the same way that for-profit colleges do. Therefore, the “scale” of providing funds to political contributions is very different among the non-profit and for-profit college sector, as one non-profit-college sector explained: *“They gave political campaign contributions certainly at a scale that we can't.”*

As the Republican Congressional Staffer mentioned above, a reporter also mentioned PAC's and how the strategy of political fundraising as a special interest-group, rather than as fundraising as individuals, distinguishes the for-profit-college sector from the non-profit-college sector: *“A huge thing that differentiates them from how the rest of higher ed[ucation] operates on the Hill is their willingness to pay with PAC's and make campaign contributions as an organization instead of just individually.”*

One non-profit-college lobbyist also spoke to this difference between for-profit colleges and non-profit colleges in the context of political fundraising, and explained how political fundraising was a strategy to access decision-makers. The non-profit-college

sector could not use political fundraising and instead utilized “good policy” arguments that sometimes had to compete with “good politics”:

“Well, as far as the for-profit sector, Career College Association, CCA, seems to have the greatest visibility and the greatest war chest that I’ve ever seen to be able to make the case with their pocketbooks rather than with their arguments and the difference between them doing that just like lenders do in that they behave very much like lenders who were trying to preserve special allowances for their own bottom line best interest and to be weighed against what the other actors, like the Presidential associations had to offer: no PAC’s, no money, no war chest. [The Presidential associations had] the power of a good argument and a good policy. And sometimes it takes a longer time to influence more people to get them to understand good policy, which isn’t always good politics, and that’s probably the steepest hill we had to climb. Good policy does not always outweigh good politics, particularly when good politics is influenced by pretty substantial funds of campaign finance contributions.”

A Republican Congressional staffer noted during the interview a similar comment that the for-profit-college sector, much like the banks and lenders, were advocating for their own policy agenda:

“You never heard from outside groups weighing in on behalf of the career colleges from a general policy standpoint, ‘this is good for the country.’ It was really from their own self-interest that you received the lobbying. It struck me at the time. In my dealings with the lenders you saw the same thing. So it kind of raised a red flag as we went into these discussions and considered these issues.

They seemed to jive too tightly with where the lenders were coming from and their narrow self-interests.”

A Democratic Congressional staffer explained how political fundraisers provide access to members of Congress and that the intersection of a political strategy and policy is important to understand:

“I think the most important thing is the politics and how the politics play into this. Any group can throw around money at fundraisers and get to particular members that way. I think that's always an interesting case study in how that happens: the intersection of policy and politics.”

Another Democratic Congressional staffer how political fundraisers provided the for-profit college sector with access to the staffer’s boss: *“They definitely did a lot of fundraisers for people. If anything they would do these fundraisers. They did a couple for my boss actually. And, if anything, it would just get them in the door.”*

Congressional staffers were aware of how political contributions and policy could intersect. While the staffer above was aware of the for-profit-college sector fundraisers for the staffer’s boss, the Democratic Congressional staffer below recounted how in that particular Congressional office it was believed that it would not have been appropriate for the member of Congress to receive contributions from for-profit colleges:

“My boss was not receiving political contributions from the for-profits. I contacted my chief of staff and the campaign to make sure it stayed that way. If perhaps they did give contribution I don't know how that played out. If there was contributions offered and refused. But if we started receiving contributions I made clear. I made a recommendation that we shouldn't accept those contributions. So I

don't know how it played out on the campaign end because I was not involved in that. There may have been an offer and a refusal and that may have been why they didn't contact us any further.”

One for-profit-college lobbyist explained how his organization’s contributions were targeted to those members of Congress who were already sympathetic to the for-profit policy agenda: *“And then of course on top of everything else we have the system that we have and so political fundraising was a component of it. You try to identify people who you think are sympathetic to our point of view and our positions and you support them.”*

Interviewees, including a Democratic staffer, made note that political contributions to Congress were what all special interest-groups do: *“Money. Contributions. Everyone does it up there,”* adding, *“That was one thing [strategy].”* A for-profit-college lobbyist also explained how, because the political contribution system is a system that already exists, they utilize it in a strategic way to support those members of Congress who already aligned with the for-profit-college sector:

“That's the system we have so we did some of that. We tried to be fairly strategic about it but I don't think we ever thought that that was going to carry the day for us by any means but it was part of the system so therefore we did it. We have a PAC at our company and we did some contributions through the PAC and we did some special fundraisers for some individual members from time to time. But again these were all people that we thought were supportive of our point of view, so then were deserving of our support.”

Another for-profit-college lobbyist supported the premise that for-profit colleges were giving contributions to those who were supportive of their policy positions:

“The reality is I don't think you're going to find a lot of for-profit institutions giving to members of Congress who they know are standing in the way of issues of concern. They certainly are not giving to opponents. Are they giving to their supporters? Of course.”

A non-profit-college lobbyist also alluded to how the political contributions are for “friends,” rather than for those decision-makers who may not be supportive of the for-profit-college sector: *“They certainly take care of their targeted friends with big checks and big, big financial incentives.”*

Several interviewees, including a non-profit-college lobbyist mentioned that while campaign contributions are an important part of the strategy, they are not, and cannot be, the only strategy to influence policy in Washington: *“I think the campaign contributions make a difference, but I don't think they make all the difference.”* Another lobbyist for the non-profit-college sector also explained how campaign contributions are part of a broad set of strategies:

“I think they used a mixture of traditional lobbyist power broker access, campaign contribution, and then sort-of compelling arguments on their issues in the most compelling way possible.”

A for-profit-college lobbyist agreed with non-profit-college lobbyist colleagues and explained how political contributions are part of an overall strategy to advance a set of policy ideas:

“We weren't under any illusion. Some people are kind of naive about this that you can somehow secure support by just cutting checks, but I don't think that's how it works. Maybe others have a different point of view, but I don't think you win friends just by making political contributions. I don't think that's how it works, and I think you're going to be sorely disappointed if that's the approach you take. It was an element of the strategy but only that. It was an element and it started with the other things. And it started with ideas.”

The same for-profit-college lobbyist explained what happens when a political contribution is given to someone who ended up not being supportive of the for-profit college agenda:

“So, look, it's politics. So, it's not a perfect science and sometimes there were people who we thought were sympathetic and when the chips were down they weren't. And it causes you to then reevaluate your approach to them. There wasn't a lot of that. But there was the occasional situation where we thought, ‘Hmm, I really thought based on what we were hearing that he was more sympathetic than it turned out he was when it was time to cast a vote.’ So, you reevaluate at that point.”

Some interviewees mentioned the strategy of targeting political contributions towards freshman members of the committee who may have been elected to Congress in 2006 with a slim margin of the vote and who would have difficult elections in the future:

“They [for-profit college sector] have PAC's, so they were funneling a lot of money to these freshmen members who were very vulnerable.”

A for-profit college lobbyist confirmed the strategy of targeting freshman members of Congress (i.e. sometimes referred to “front-line” Democrats during the Democratic rule of Congress), and also made note that not only did the PAC of their organization support particular members of Congress, but they encouraged the members of their organization, individual for-profit colleges, to make political contributions to certain members of Congress:

“When appropriate we also realize that, many of these, again these front-line Democrats, were in problematic seats. And often people in problematic seats want financial assistance. We did what we could to, when appropriate, to support them financially in terms of their fundraising efforts through our PAC and encouraging our members, if appropriate, to support them also.”

A reporter also observed this strategy of individuals who worked on behalf of for-profit colleges, and not just the PAC, providing financial support to members of Congress:

They definitely were pouring money in. It's not just PAC money. The important thing is to realize that it's not just how much the Career College Association gives in PAC money but the schools, Corinthian, DeVry, and Apollo. What they do is mobilize their schools around the country to have fundraisers for their local representatives and to invite them to their schools.”

A Democratic Congressional staffer explained how for-profit-college lobbyists would utilize the strategy of an individual’s donation to political campaigns to access a meeting with a member of Congress: *“They'd find some random (political campaign) donor who lived in the member's district. Some friend from some other life. They'd reference people like that to get meetings.”*

A Democratic Congressional staffer made an interesting observation that while the for-profit colleges were giving money to political campaigns, the banks, which were interested in how the student loan provisions would be modified during the reauthorization of the HEA, were providing much more in terms of financial support to Congress: *“I think money certainly doesn't hurt but, when you really look at who is giving money, the banks were giving way more money than for-profit colleges. They were crushing them when it came to campaign contributions.”*

Primary Strategy: Lobbying: Hill Meetings

Eleven interviewees, including two non-profit lobbyists, one for-profit lobbyist, four Democratic Congressional staffers, three Republican Congressional staffers, and one reporter mentioned the intensity of lobbying and number of meetings on Capitol Hill with members of Congress and their staff as a strategy of the for-profit college sector during the reauthorization.

A non-profit college lobbyist explained the extent of the for-profit-college lobbyist presence on Capitol Hill:

“They certainly had enormous presence on the Hill. You've got to respect that. They are out there in huge numbers. You could see the force of their strength from the two sides. And you also have to respect that there isn't a member of Congress who hasn't been touched by them. It's not like us: talk to committee staff and hopefully we're done. And on rare occasion give some money. But rather they leave no stone unturned.”

A Republican Congressional staffer described this strategy as “constant:” *“Constant email updates and phone calls and meetings and so forth.”* As another Republican staffer explained, the constant contact by the for-profit-college sector was part of the job of the for-profit-college lobbyists: *“They, like everybody else, had meetings with members. That's what they are here to do. That's their job. They came in very often with data and reports and students.”*

A Democratic Congressional staffer explained how the for-profit-college sector requests felt like “pressure” from the for-profit-college lobbyists:

“I was getting pressure from some of the for-profit lobbyists. They came to visit us all the time, or it felt like all the time. And, I was put in a position of trying to push back on them a little bit and explain the Congressman's position, which was not completely against them, but certainly not all the way with them.”

Another Democratic Congressional staffer, like her colleague, experienced the number of for-profit-college sector meetings as assertive: *“They were pretty assertive. They did a lot of meetings. A lot of educational meetings, which was smart, whether you agree with them or not.”* The same staffer went on to explain how this intense lobbying may have raised questions among those members of Congress who were already wary of the for-profit-college sector:

“I think there was a whole school of members who thought, and particularly anyone who remembered the 1980s and 1990s, who were incredulous and really pissed off that these guys were lobbying so hard. There was a sense from a lot of people that the people who were lobbying the hardest were perhaps the people who you wanted to keep your eye on the closest.”

A for-profit-college lobbyist explained how these meetings were meant to be educational in nature and how meetings are intended to be a “continuing ” process:

“Well, I mean it involved a lot of one-on-one meetings, a lot of leg work, foot work over a number of years. As you know there were several attempts at reauthorization, some of which just didn't quite take. It was a continuing and evolving process at educating members and staff and in some cases having our senior executives meet with leadership and selected members. So it was a continuous education and complex process.”

According to a Democratic staffer, the meetings of the for-profit-college sector with members and staff on Capitol Hill were not limited to one-on-one meetings with members of staff. The for-profit college sector also hosted lunch briefings for groups of Congressional staff:

“They also used to do briefings for people and pitch it was a [college] access lunch and have people come in and talk about the ways that universities are working to help lo- income students to gain access and job training to basically be a pitch session for the for-profits. They'd have lunch for congressional staffers.”

One for-profit-college lobbyist explained that these meetings were an important part of the process to build relationships with members and staff who are in a position to influence policy issues:

“So education was really important. We'd take an institutional client, an entirely on-line distance education university, for example, and pretty strategically introduce the institution to Hill staff or Hill staff to institutions. And, if the

institution is based in Minnesota, we'd go to the Minnesota delegation. We'd also go to other members of the education committee and subcommittee that had jurisdiction over higher education. Really in those first few meetings, we'd start with 'Here's the institutions. Here's the type of student the institution is serving and in the type of public service programs. For example, a lot of those institutions are doing a lot of K-12 teacher education training.' By example introducing to the Hill staff and members of Congress the important access that distance-education provides to a student who might not otherwise attend college."

The same for-profit-college lobbyist went on to explain this relationship-building process that happens as part of the strategy of Hill meetings:

"Folks in town who are lobbyists for a good chunk of the time they worked on the Hill themselves. They have relationships that are pre-established regardless of who the lobbyist is. I've been doing this a long time; over 20 years. But, I've never worked on the Hill, which demonstrates that you can actually get Hill meetings without pre-established relationships."

The process is not as complicated or mysterious as some people may think, as explained by the same lobbyist:

"People think it's rocket science. It's not really rocket science to develop the relationships to have meetings with staff and members. You start with staff and you work up to the member relationships in any given office. Obviously the client is from a particular state or district. Starting with the member's office is helpful and usually that member's office is interested in meeting with [his or her] own constituents. So it's not really me the lobbyist who is getting the meeting. I may be

arranging the meeting, I may be going into the meeting but it's the fact that I'm going in with an institution that's from the member district that's driving the importance of the meeting and the ability to get the meeting. And then over time... my first point is if you have a good issue [and] if the issue is something that the member of Congress is interested in or should be interested in the Hill staffers – I've always found them quite receptive to meeting and they might not continue to be supportive of your issue. I've never found it particularly difficult to get that first meeting and once you get the first meeting and depending on how you conduct yourself and what the relationship is like it goes from there and then you can meet with that staffer for other clients and on other issues and it just develops over time because it's a mutual relationship of education with Hill staffers. It does start with picking up the phone or zapping an email and saying, 'Hi, I represent so and so in your district' (or even not in the district, but with 'x' number of students from your district) and we really think that you might be interested in learning about this issue and would you have time to meet?' And then relationships develop from there or it doesn't. But usually the relationship develops from there. There's sort of this mystery about lobbying, but that's not really how I have ever viewed it."

As part of the effort to influence the process, another for-profit-college lobbyist also explained the importance of the process of relationship-building:

"I used to do a ton of public speaking all around the country about federal policy and how you can influence the process. And there is a lot of misperception that you have to be an Abramoff to make a difference. And the reality is, are there

people like that, yea. But most of them are small folks like little agencies or membership associations or individual people who are just trying to get their voice heard. I'd try to explain to people, it's relationship building. If you like each other, you have a drink. If you really like each other, you have dinner. You don't just meet someone and get married. It's the same in the world of lobbying. Does the member trust you? Are you somebody who's going to stick with it? Because it's not a quick fix. It may take years before a piece of legislation is able to get done. I was a lobbyist for a little while. And, I was ready. And, I had my stats and data and the member [of Congress] had a manila folder and he looked at me and he looked at the folder. He opened it, and it was empty, and turned it upside down and he said, 'This is how many people I've heard from back home.' And I had zero credibility at that point because no one cared but me. The other thing too, we're asking individual members of Congress to one day talk about stop signs on the street and the next day talk about world peace. The gamut is pretty big. So people say, 'I got stuck with staff and not them.' Well, who do you think brings the issues to their attention? That's what they [the staff] are there for. To makes sure that their boss is fully aware of what is going on and they play a crucial role."

Lobbying Disclosure. Organizations, such as for-profit colleges that retain lobbying firms, hire their own in-house lobbyist, or in some cases both, are required by federal law to disclose their lobbying activities and spending. Those individuals and firms are also required to report their lobbying activities on behalf of their clients, in this case for-profit colleges. The registration of lobbyists and the associated reporting requirements

are overseen by the Secretary of the Senate and Clerk of the House of Representatives. As Section 6 of the *Lobbying Disclosure Act* (LDA), 2 U.S.C. § 1605, states: “The Secretary of the Senate and the Clerk of the House of Representatives shall (1) provide guidance and assistance on the registration and reporting requirements of this Act and develop common standards, rules and procedures for compliance with this Act; [and] (2) review, and, where necessary, verify and inquire to ensure the accuracy, completeness and timeliness of registrations and reports” (retrieved November 25, 2011 from http://lobbyingdisclosure.house.gov/amended_lda_guide.html).

The Lobbying Disclosure Act requires lobbyists to register, and defines a lobbyist as: “Any individual (1) who is either employed or retained by a client for financial or other compensation (2) whose services include more than one lobbying contact; and (3) whose lobbying activities constitute 20 percent or more of his or her services’ time on behalf of that client during any three-month period” (Retrieved November 25, 2011 from http://lobbyingdisclosure.house.gov/amended_lda_guide.html).

Activities that a registered lobbyist must report include: “Lobbying contacts and any efforts in support of such contacts, including preparation or planning activities, research and other background work that is intended, at the time of its preparation, for use in contacts and coordination with the lobbying activities of others.” Retrieved November 25, 2011 from http://lobbyingdisclosure.house.gov/amended_lda_guide.html).

Lobbying contacts include “contacts with a member of Congress, an elected Officer of either the House or the Senate, or an employee, or any other individual functioning in the capacity of an employee, who works for a Member, committee, leadership staff of either the Senate or House, a joint committee of Congress, a working

group or caucus organized to provide services to members, and any other Legislative Branch employee serving in a position described under section 109(13) of the Ethics in Government Act of 1978” (Retrieved November 25, 2011 from http://lobbyingdisclosure.house.gov/amended_lda_guide.html).

Not all lobbying activities are reportable. For example, if a lobbying firm’s total income from a client for lobbying activities does not exceed and is not expected to exceed \$3,000 during a quarterly period, the firm does not need to report those activities. And, “organizations with in-house lobbyists are exempt from registration if its total expenses for lobbying activities do not exceed and are not expected to exceed \$11,500 during a quarterly period.” (2011, November 25 http://lobbyingdisclosure.house.gov/amended_lda_guide.html).

According to the Center for Responsive Politics, based on federal reporting, the three biggest overall spenders on lobbying consistently throughout the reauthorization from 2003-2008 were the Apollo Group, the Career College Association, and Corinthian College. Capella was one of the top annual spenders towards the beginning of the reauthorization from 2003-2005. The Career Education Corporation became one of the top annual spenders on lobbying towards the end of the reauthorization process from 2005-2008. DeVry University was a consistent spender throughout the reauthorization. Though one of the top spenders across the reauthorization timeframe, DeVry University spent the least on lobbying per year.

Lobbying disclosure: Apollo Group and its subsidiary, the University of Phoenix.

The Apollo Group, and its subsidiary, the University of Phoenix, or a lobbying firm on

their behalf, reported lobbying expenditures each year during the reauthorization of the HEA. Tables 7 and 8 show the lobbying expenditures for the Apollo Group, and the subsidiary of the Apollo Group, the University of Phoenix. The figures under each year for the Apollo Group show that the Apollo Group did not report “in-house” lobbying activities using their own staff. Instead the Apollo Group hired lobbying firms (see Table 7) to work on behalf of their company and their subsidiary, the University of Phoenix (see Table 8). The figures under each lobbying firm (i.e. Van Scoyoc and Associates) show what the lobbying firm reported as income from a client (i.e. the Apollo Group). A figure of \$0 could mean that “zero dollars” were spent or that that total expenditure was under the limits explained above and did not require any reporting. Over the course of the reauthorization period, the Apollo Group spent a total of \$2,910,000 on lobbying activities, not including lobbying activities on behalf of the University of Phoenix. Including the University of Phoenix, the Apollo Group spent a total of \$3,495,000 on lobbying activities over the course of the reauthorization.

While not a prominent organization in this study, Chartwell Education and one of its registered lobbyists, Scott Fleming, was mentioned by interviewees as part of the reauthorization process.

Lobbying disclosure: Career College Association. The Career College Association (CCA) reported lobbying expenditures each year during the reauthorization of the HEA. Table 9 shows the lobbying expenditures for the CCA over the course of the reauthorization. CCA spent a total of \$1,639,456. In 2007, the year that Harris Miller came on board for CCA, the organization began to report in-house lobbying expenses.

Table 7: Lobbying Expenditure for the Apollo Group during the HEA Reauthorization

	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>TOTAL</i>
<i>Apollo Group</i>	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<i>Bond & CO</i>	\$150,000	\$0	\$0	\$0	\$60,000	\$0	\$210,000
<i>Van Scoyoc & Associates</i>	\$180,000	\$420,000	\$360,000	\$280,000	\$0	\$140,000	\$1,380,000
<i>Wheat Government Relations</i>	\$120,000	\$120,000	\$120,000	\$20,000	\$140,000	\$170,000	\$690,000
<i>Chartwell Education</i>	\$0	\$0	\$0	\$45,000	\$120,000	\$120,000	\$285,000
<i>Palumbo & Cerrell</i>	\$0	\$0	\$0	\$25,000	\$160,000	\$160,000	\$345,000
<i>TOTAL</i>	\$450,000	\$540,000	\$480,000	\$370,000	\$480,000	\$590,000	\$2,910,000

Source: Center for Responsive Politics

Table 8: Lobbying Expenditure for the University of Phoenix during the HEA Reauthorization

	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>TOTAL</i>
<i>University of Phoenix</i>	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<i>Keane Government Affairs</i>	\$0	\$110,000	\$135,000	\$120,000	\$0	\$0	\$365,00
<i>Wheat Gov Relations</i>	\$0	\$60,000	\$0	\$0	\$0	\$0	\$60,000
<i>Bond</i>	\$0	\$0	\$0	\$0	\$0	\$160,000	\$160,000
<i>TOTAL</i>	\$0	\$170,000	\$135,000	\$120,000	\$0	\$160,000	\$585,000

Source: Center for Responsive Politics

Table 9: Lobbying Expenditure for the Career College Association during the HEA Reauthorization

	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>TOTAL</i>
<i>Career College Association</i>	\$0	\$0	\$0	\$0	\$37,156	\$222,300	\$259,456
<i>Podesta Group</i>	\$0	\$80,000	\$0	\$320,000	\$180,000	\$200,000	\$780,000
<i>Podesta Mattoon</i>	\$0	\$0	\$600,000	\$0	\$0	\$0	\$600,000
<i>TOTAL</i>	\$0	\$80,000	\$600,000	\$320,000	\$217,156	\$422,300	\$1,639,456

Source: Center for Responsive Politics

Before that time, CCA only reported expenditures related to the use of lobbying firms. It is interesting to note that Harris Miller is a registered Democrat and that the Podesta Group was founded by Tony Podesta, one of the most influential Democrats in Washington D.C. lobbying circles and “one of Washington’s biggest players” by the New York Times (<http://www.podesta.com/talent/tony-podesta>). One the strategies mentioned by interviewees was the for-profit-college sector’s use of influential Democrats, which included the hiring of lobbying firms with access to key Democratic policy makers.

Lobbying disclosure: Corinthian Colleges. Corinthian Colleges reported lobbying expenditures each year during the reauthorization of the HEA. Table 10 shows the lobbying expenditures for Corinthian Colleges over the course of the reauthorization. According to the Center for Responsive Politics, Corinthian Colleges spent a total of \$3,138,000 on lobbying expenses. There was quite a jump in reporting from year 2006 to 2007 and 2008. There may have been an error in the reporting or there could have been an increase in lobbying as a strategy towards the end of the reauthorization to lobby the new Democratic Congress and as the reauthorization process was wrapping up and key policy issues of interest to the for-profit-college sector were being debated and decided.

It is interesting to note that Jefferson Government Relations, one of the lobbying firms retained by Corinthian Colleges, also had the American Association of Cosmetology Schools (AACCS) as a client. AACCS is reportedly a member of the CCA, and spent a total of \$1,000,000 retaining Jefferson Government Relations during the reauthorization period from 2003-2008. The lobbyists registered with Corinthian Colleges and Jefferson Government Relations, Mark Pelesh and Tom Netting

respectively, were cited by interviewees as among those individuals involved in the reauthorization. It is also interesting to note that Mark Pelesh, before moving in-house to Corinthian Colleges, also worked on behalf of Capella University (discussed below).

Lobbying disclosure: Capella University. Capella University, an online institution of higher education, reported lobbying expenditures each year during the reauthorization of the HEA. Table 11 shows the lobbying expenditures for Capella University, which totaled \$700,000 over the course of the reauthorization. It is likely that Capella University opted to reduce spending on lobbying when their major policy agenda, the elimination of the 50-Percent Rules, was accomplished in 2005 in the *Deficit Reduction Act of 2005*.

Drinker, Briddle and Reath, one of the firms retained by Capella University was also retained by one of the accrediting bodies for career colleges, the Accrediting Commission of Career Schools and Colleges (ACCSC). ACCSC spent \$820,000 to retain Drinker, Briddle, and Reath over the course of the reauthorization. Jennifer Blum, one of the individuals cited by interviewees as an individual involved in the reauthorization, worked for that firm during that time.

Lobbying disclosure: Career Education Corporation. Career Education Corporation reported lobbying expenditures during the reauthorization of the HEA. Table 12 shows the lobbying expenditures for the Career Education Corporation over the course of the reauthorization, which totaled \$1,120,000. The Career Education Corporation retained the same lobbying firm as the Career College Association, the Podesta Group.

While the Career Education Corporation did not emerge during the interviews as a prominent organization, the owner of the firms that lobbied on its behalf, specifically Podesta and PodestaMattoon, was mentioned as a for-profit-college lobbyist, and as a primary strategy: the hiring of high-profile lobbyists.

Lobbying disclosure: DeVry, Inc. DeVry, Inc. (also known as DeVry University) reported lobbying expenditures each year during the reauthorization of the HEA. Table 13 shows the lobbying expenditures for DeVry, Inc., which spent \$342,000 on lobbying expenses during the course of the reauthorization of the HEA.

The Center for Responsive Politics also lists that Blakey and Associates, listed with DeVry, was also retained by a number of non-profit colleges and universities, mostly Historically Black Colleges and Universities (HBCUs), though the numbers for each of educational institutions reported were \$0, indicating that the total spent each year was less than the reportable limit. Similar to Career Education Corporation, DeVry, Inc. did not emerge during the interviews as a prominent organization; however a lobbyist for the firms Dean Blakely and William A Blakely & Assoc, William “Buddy” Blakely, was mentioned by interviewees as a lobbyist for Minority Serving Institutions and Historically Black Colleges and Universities, which emerged as secondary organizations during the interviews.

This confirms statements made by the interview participants that Blakey was retained by both the for-profit-college sector and the non-profit-college sector, which came into play during the debate of changes to the Cohort Default Rate when the for-

profit-college sector aligned itself with HBCUs and heavily lobbied members of the Congressional Black Caucus.

Table 10: Lobbying Expenditure for the Corinthian Colleges during the HEA Reauthorization

	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>TOTAL</i>
<i>Corinthian Colleges (Mark Pelesh)</i>	\$60,000	\$138,000	\$140,000	\$140,000	\$1,020,000	\$1,170,000	\$2,668,000
<i>Jefferson Gov Relations (Tom Netting)</i>	\$80,000	\$60,000	\$60,000	\$60,000	\$80,000	\$70,000	\$410,000
<i>Sonnenschein, Nath & Rosenthal</i>	\$0	\$0	\$0	\$0	\$0	\$60,000	\$60,000
<i>TOTAL</i>	\$140,000	\$198,000	\$200,000	\$200,000	\$1,100,000	\$1,300,000	\$3,138,000

Source: Center for Responsive Politics

Table 11: Lobbying Expenditure for Capella University during the HEA Reauthorization

	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>TOTAL</i>
<i>Capella University</i>	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<i>Drinker, Biddle & Reath</i>	\$110,000 (Jennifer Blum, Mark Pelesh)	\$100,000 (Jennifer Blum, Mark Pelesh)	\$120,000 (Jennifer Blum)	\$0 (Jennifer Blum)	\$40,000 (Jennifer Blum)	\$70,000 (Jennifer Blum)	\$440,000
<i>Foley Hoag LLP</i>	\$40,000	\$0	\$20,000	\$0	\$0	\$0	\$20,000
<i>Trimble & Assoc</i>	\$20,000	\$20,000	\$0	\$0	\$0	\$0	\$40,000
<i>Clark & Weinstock</i>	\$100,000	\$100,000	\$0	\$0	\$0	\$0	\$200,000
<i>TOTAL</i>	\$270,000	\$220,000	\$140,000	\$0	\$40,000	\$70,000	\$700,000

Table 12: Lobbying Expenditure for the Career Education Corporation during the HEA Reauthorization

	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>TOTAL</i>
<i>Career Ed Corp</i>	\$0	\$0	\$0	\$0	\$0	\$40,000	\$40,000
<i>PodestaMattoon</i>	\$0	\$0	\$100,000	\$380,000	\$0	\$0	\$480,000
<i>Podesta Group</i>	\$0	\$0	\$0	\$0	\$340,000	\$260,000	\$600,000
<i>TOTAL</i>	\$0	\$0	\$100,000	\$380,000	\$340,000	\$300,000	\$1,120,000

Source: Center for Responsive Politics

Table 13: Lobbying Expenditure for DeVry, Inc. during the HEA Reauthorization

	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>TOTAL</i>
<i>DeVry, Inc.</i>	\$0	\$0	\$8,000	\$34,000	\$60,000	\$0	\$102,000
<i>Dean Blakely</i>	\$40,000	\$40,000	\$20,000	\$0	\$0	\$0	\$100,000
<i>William A Blakely & Associates</i>	\$0	\$0	\$20,000	\$20,000	\$0	\$40,000	\$80,000
<i>K & L Gates</i>	\$0	\$0	\$0	\$0	\$0	\$60,000	\$60,000
<i>TOTAL</i>	\$40,000	\$40,000	\$48,000	\$54,000	\$60,000	\$100,000	\$342,000

Source: Center for Responsive Politics

Primary Strategy: Grassroots Activities

Eleven interviewees, including one non-profit-college lobbyist, two for-profit-college lobbyists, two Democratic Congressional staffers, four Republican Congressional staffers, and two reporters mentioned the grassroots efforts, such as the use of students who attended for-profit colleges and local for-profit higher education institutions located in the legislative districts of the members of Congress to visit with members of Congress either in their Washington, D.C. offices or District offices.

One Republican Congressional staffer described how the for-profit colleges utilized students: *“They had a very effective grassroots campaign. I should add that CCA actually also used grassroots and had a lot of students bombard Senator Clinton's office and other Senate offices.”* In addition to the use of students for grassroots activities, several interviewees mentioned that a large component of the grassroots strategy was to invite members of Congress and their staffs to visit for-profit colleges in their home districts: *“They invite their members of Congress and staff to come out to visit their schools and do tours to see what they are doing and meet their students.”* One for-profit-college lobbyist described how these site visits, as well as local for-profit colleges visit to Washington D.C., are part of a strategy that recognizes that “all politics are local” and that visits such as these were part of a larger lobbying effort that helped to personalize the issues:

“Obviously we focus on their local people, the schools in their districts to make sure that there's outreach there because all politics is local, as Tip O'Neil famously said. And so we work very hard to make sure that they got to know the school, visited the schools, had the school leaders visit Washington and visit with

them so they understood that it wasn't just my pretty face lobbying them and that there was a true constituent interest here being expressed. And something they could feel and see in terms of local interest.”

Another for-profit-college lobbyist explained how this was a strategy that had been utilized by non-profit colleges, and how this was an important strategy to educate members of Congress and their staff about what for-profit colleges are and meant for a region:

“I think that we began to develop something that One Dupont Circle has also got going for it. We began to, in a very rudimentary way, develop what I'll call grassroots activity. I don't mean petitions and students marching on Washington with signs. I mean getting people and members and staff into our campus to see what is going on. Making them understand that they were part of your districts too. We're not just some fly-by-night thing at the back of a garage. We're a campus with 400-500 students, a thousand students, in your district, and faculty and staff. And, they all vote. We're an important economic part of your community. We are producing people who are getting jobs from employers who you know or respect in your state or district. So building that kind of recognition and connectivity was another important part of what we did.”

Another for-profit-college lobbyist described why this strategy was important because of how unfamiliar most members of Congress and their staffs are with the for-profit-college model:

“We tried doing some things like getting members to actually come and visit for-profit schools because one of the hurdles that you find is that members and staff

have all come out of the traditional higher education sector so many of them had never seen a for-profit institution, had never been to one, never talked to our students, never talked to our faculty. So, they tended to not really have a good idea of what we are, what we're about, who we serve, and what a good job we do. One of the things that we found was the most helpful in getting people to support us in our policy agenda was getting them to come to our schools and talk to our students.

One Republican Congressional staffer described participation in one of these site visits and how the elements of this strategy, including messages that were communicated during the site visit. This particular staffer mentioned the need to ask deeper questions during the visit in order to really get a sense of the issues affecting the for-profit sector, rather than just simply listening to the information presented:

“The site visit. And certainly it's most helpful if staff can go see something in operation. And when one does that asking critical questions is of critical importance. So I did go down to Florida and I saw a culinary school and a fashion-design school and then talked to representatives from those colleges and students as well. They did present a picture where they were meeting a distinct need in that community for those kind of programs and they also talked about the outcomes of their students who were gaining employment after graduation and how they were keeping costs down. But then they talk about the burden to comply with 90/10 where there have been some instances where people are hundredths of a percentage away and they may lose their eligibility for Title IV, which is huge for a college if they lose that. They may go bankrupt or have to dis-enroll all of

their students. But I think you do just get a one-sided view if you are simply visiting and not being critical and not asking questions. I found it helpful to talk firsthand with the leaders of the school and the organizations [and] to hear from their mouths what they thought of some of my boss's concerns and how things were playing out in their world."

Secondary Strategy: Consistent Talking Points

The secondary strategies mentioned by interview participants include consistent talking points (n=8), high level lobbying (n=8), Hill Days (n=7), outreach to Freshman members of Congress (n=7), use of data and statistics (n=6), becoming a resource to Congressional staff (n=6), and the targeting of certain members of the House Education and the Workforce Committee (n=5). Among the less prominent strategies five emerged that are worthy of mentioning, including the use of confusing information (n=3), the targeting of Congressional Black Caucus members (n=3), the hiring of Harris Miller to be president of the Career College Association (CCA) (n=3), the forcing of a compromise (n=2), and Congressional testimony (n=2).

Eight interviewees, including four non-profit-college lobbyists, one for-profit-college lobbyist, one Democratic Congressional staffer, and two Republican Congressional staffers mentioned consistent talking points as a strategy of the for-profit colleges. No reporter mentioned this as a strategy.

One Republican Congressional staffer mentioned how the talking points of the for-profit colleges were consistent over the several years of the reauthorization process: *"They are very consistent in their arguments. They used those kinds of arguments*

consistently over the years.” A non-profit-college lobbyist also explained the consistency of the for-profit-college sector’s talking points: *“The amount of consistency. We probably did 20 visits just on these issues on both sides of the aisle and the verbiage that you'd hear coming back to you was just so similar. It was like talking to for-profit talking points in office after office.”* Another non-profit-college lobbyist also described how not only were the talking points consistent, but also how the strategy included ensuring that the members of Congress and their staff could repeat the messages as a way to advance the for-profit-college agenda during the reauthorization process:

“They certainly created a fair amount of boilerplate to advance their positions. They were very good at messaging. You could see the kind of messaging success. As a practitioner you've got to respect people for what they do well, even if it's for the wrong cause. I thought the ease with which they managed to place so many of their priorities in the mouth of a fellow who generally doesn't know what he's going to say until he hears it out of his own mouth (Charles Miller, on the Secretary's commission) is really a testament to their ability to control the agenda, no matter which venue. They did a good job on messaging. They did a good job on superficially creating a rational, seemingly rational, explanation for why Transfer of Credit should have been on the agenda, created a pseudo-rational explanation of why Single Definition was only fair. They did a decent job. The minute you take a second look at how stupid this all is, but they did a decent job for the kind of attention deficit disorder nature of Congressional focus on things. They did a decent job to get their three sentences that a member [of Congress] may take home to give them what they needed on Transfer of Credit.

They use money and create uniform, consistent, and seemingly logical set of messages. They stuck to them, they sold them, they marketed them, and they advanced their agenda.”

Secondary Strategy: High-level Lobbying

Ten interviewees, including three non-profit lobbyists, one for-profit lobbyist, one Democratic Congressional staffer, one Republican Congressional staffer, and four reporters specifically mentioned high-level lobbying as a strategy. While similar to the strategy of lobbying during Hill meetings mentioned by interviewees (as explained above), this strategy is more nuanced in that interviewees noted that the lobbying was more strategic in that the lobbyist doing the lobbying was highly connected to and had direct access to specific members of Congress.

One non-profit-college lobbyist described how this strategy was different from the lobbying capacity of the non-profit-college sector: *“They have a lobbying capacity that's greater than ours on a day-to-day basis.”* Another non-profit-college lobbyist explained the for-profit-college sector's lobbying capacity was greater because the sector had the ability to contract out lobbying services:

“We didn't contract out. I don't think we contracted out any of our lobbying on this and they contracted out lots of it. And so they would have the resources to try to do the kind of the lobbying, the single issue lobbying, where you hire someone to make a phone call. You hire somebody who is a friend or has a relationship with a member of Congress, to make the phone call to make the appointment.”

Several interviewees described how these high-level lobbying strategies included lobbying contact by influential lobbyists, such as Tony Podesta: *“They hired some very influential people, [including] Tony Podesta, who obviously has very good contacts with Mr. Miller.”*

A Democratic Congressional staffer also mentioned the example of Tony Podesta:

“A good example is that they hired Tony Podesta to come in and talk to George Miller. They moved to understanding that Democrats were now in charge and they hired a bunch of Democratic lobbyists and lobbying firms that had high level connections and that could at least get meetings.”

Another Democratic Congressional staffer explained the influential political connections of Tony Podesta:

“One of the lobbyists who did lobby for them was Tony Podesta, brother of John Podesta [and] former Chief of Staff to President Clinton. And they were like any big guys. They hire big guns to be their lobbyists and it's an access issue and an issue of like, ‘Oh, that person is my best friend. I don't want to disappoint them.’”

The same Congressional staffer explained a nuance to this strategy. Since Tony Podesta's political connections were with Democrats, he likely did not lobby Republicans and likely only, or mostly, lobbied Democratic offices: *“I'm sure he didn't lobby any of the Republicans. He lobbied the Democrats. If he called me, I always returned his calls. It didn't change our policy stances, but it was a really smart thing to do.”*

In addition to hiring Tony Podesta to do “high-level” lobbying, two reporters noted the strategy of the Career College Association hiring Harris Miller. One reporter said: *“I think they did a very smart thing in hiring Harris Miller. Strategically he, it, was*

a brilliant move.” Similar to the notion that hiring Tony Podesta was a strategic move in accessing Democrats, another reporter mentioned the hiring of Harris Miller:

“I think that they made a good strategic choice in choosing Harris Miller as president (of the Career College Association) because he had real Democratic credential, for lack of a better word. He gave a lot of money to Democrats, so he had been a longtime Democratic donor and he had been a one-time candidate for the Senate. So his Democratic credentials probably helped open some doors for the for-profit colleges once Democrats gained control of Congress.”

Secondary Strategy: Hill Days

Seven interviewees, including two non-profit lobbyists, two for-profit lobbyists, two Republican Congressional staffers, and one reporter specifically mentioned Hill Days as a strategy. No Democratic Congressional staffer specifically mentioned Hill Days as a strategy.

“Hill Days” are specific dates on which members of special interest-groups fly in to Washington, D.C. to meet with their members of Congress to advocate or lobby on policy issues. As one Republican Congressional staffer explained: *“They [the for-profit colleges] have special days and special times that they bring their college presidents in to talk to their respective members of Congress.”* One reporter described this strategy as an effort of a special grassroots committee of the for-profit colleges:

“It was the outreach committee or the grassroots committee and they were talking about how different members of the Career College Association should try to get members of Congress to come see their members in action. All the members of the

Career College Association would come to Washington. It was their strategy meeting.”

Secondary Strategy: Outreach to Freshman Members of Congress

Seven interviewees, including one non-profit lobbyist, one for-profit lobbyist, three Democratic staffers, one Republican Congressional staffer, and one reporter specifically mentioned outreach to freshman members of Congress as a strategy.

It is important to know that the reauthorization occurred over several Congressional sessions. During the beginning of the process, Republicans were in the majority and Democrats were in the minority, and during the final phases of the process, Democrats were in the majority and Republicans were in the minority. This balance of power matters because the political party in the majority is responsible for drafting the legislation that is considered and eventually passed into law. The mention of the outreach to freshman members of Congress confirms this political situation mid-way through the authorization. As one non-profit-college lobbyist explained:

“The for-profit education sector was more effective at cultivating champions early on in the transition to the Democratic leadership that happened in the fall of 2006. In particular, I have memories of them doing significant outreach to Democratic freshmen who were on the Education committee who were sort of ‘majority makers’ for [Speaker of the House] Nancy Pelosi and were treated with a lot of respect in the new Administration and so given more weight than you might typically think of a freshmen receiving.”

A reporter also explained how freshman members were a target for the for-profit college strategies, and additionally explaining that newer members of Congress may not have been as familiar with the history of for-profit-college issues:

“In the last Congress the for-profits really made a concentrated effort to win over some freshman Democrats to get some new allies among Democrats because historically Democrats had been more skeptical of the sector because of its history of problems. The thinking was, ‘Well these new freshmen were not around in the 1980s or 1990s when all those for-profit colleges went out of business, so they may not have what the for-profits saw as a bias against them.’ So that included people on the House Education Committee, Altmire [D-Pennsylvania], Sestak [D-Pennsylvania] and Yarmouth [D-Kentucky], and they were giving money to them. Not huge sums, but they did seem to be making some headway in convincing them that they had cleaned up their act and that they were reaching an underserved population that other colleges weren't.”

A Democratic Congressional staffer mentioned the combined strategy of targeting newer members of Congress who were not as familiar with the history of for-profit colleges and political fundraising for them:

“They [for-profit colleges] donated a lot of money, I think, to the younger members who weren't really up on all of this for-profit stuff. I think the year that we did a lot of Higher Education Act stuff there were a lot of newer members. So they donated a lot of money.”

Another Democratic Congressional Staffer commented on how this strategy made it more difficult to counter the for-profit-college efforts to advance their policy agenda: *“They were able to get to the Freshmen members of the committee so that made it very tough.”*

Secondary Strategy: Use of data and statistics

Six interviewees, including two for-profit lobbyists, one Democratic staffer, two Republican Congressional staffers, and one reporter specifically mentioned the use of data and statistics as a strategy. No non-profit-college lobbyists mentioned this as a strategy.

A Republican Staffer explained how providing data was a strategy to advance the for-profit policy agenda:

“Oftentimes the way they [for-profit colleges] try to do that [advance their policy agenda] is to bring data that explains the types of students who go to for-profit universities. The type of results that are gains for graduates, the jobs they get and the career paths they head down.”

As one for-profit lobbyist explained data was used to support the arguments (discussed below) they presented during meetings with members of Congress and their staffs:

“So my view of lobbying it starts with substance. You've got to have good arguments and good data to support your arguments and the facts on your side and well-thought-out policy positions first and then you go about trying to figure out who to appeal to and how. What relationship can we develop and tap into. Those come next after you've got ideas.”

Another for-profit-college lobbyist explained how the use of data allowed for more “research-based” presentations, rather than “emotional” appeals:

“We did put together the facts and figures to support our case. Primarily me and my staff presented that material, as a Washington lobbyist does, to the staff and members and presented the facts and try to make it as much of a research-based presentation as opposed to an emotional presentation and try to show the impact on the future education system of our country.”

A Republican Congressional Staffer recalled receiving specific data for use during consideration of policy issues: *“On various occasion we'd get pretty specific data and reports and they would do surveys and that kind of stuff. If they had legitimate data and studies to back up what they were saying it got considered like any issue would.”* Specific data became important when for-profit colleges were attempting to shape very specific policy changes to the 90/10 Rule. As one for-profit-college lobbyist explained: *“Well we tried a few things. Taking data analysis on things such as 90/10, showing that 90/10 isn't really a good metric for showing whether a school is a good school or not.”*

A for-profit-college lobbyist explained in detail the kind of data the organization presented in support of various policy issues advanced by the for-profit colleges, including rationale for increasing student loan limits due to the collapse of the financial markets, implications of raising financial aid levels for the 90/10 rule, and how changes to the default rate formula would affect for-profit colleges. Data were used to show rationale for increasing student loans limits:

“The issues on the lending were pretty obvious. We could show that the private lending market had collapsed for students and people who didn't have

outstanding credit ratings, and there were plenty of data out there to support that and lenders were announcing day in and day out that they were pulling out of that marketplace, so it wasn't like we had to do a lot of independent research to bolster that case, but we did do some."

Data were also used to show how increasing financial aid compounded the effect of the 90/10 Rule on the for-profit colleges. As one for-profit-college lobbyist explained:

"On the 90/10 issue, similarly we presented some fairly sophisticated mathematical analysis of the implications for increasing federal aid, not just the \$2000 loan increase in March. There were also two Pell increases in 2007, and another in 2008 and how that impacts schools. And, we did member surveys to be able to present to interested members of Congress to show what percentage of schools were having problems now and may have problems under the new mathematics with Pell increases and loan increases."

The same lobbyist went on to explain how data from other sectors were gathered to help bolster the for-profit-college sector argument in relation to the Cohort Default Rate:

"On the default issue it was more an issue of pointing out that defaults are not unique to our sector. When the GAO [Government Accountability Office] subsequently testified in a hearing last fall we showed with a lot of data in 2007-2008 that default rates are not a factor of institutional ownership or institutional quality. They are a factor of socio-demographics of your student population. If you look at our schools, and minority serving institutions and community colleges that serve lower-income populations and that do permit [students] to take out

federal student loans and most of them don't, but those that do allow their students to take out federal student loans, those default rates were virtually identical. And we had a study commissioned by an outside research, not independent research, but doing a survey of existing research came to the same conclusion. That high default rates were not a function of our schools being for-profit versus other schools being not-for-profit. But more if you are going to be highly selective and only admitting students with high socio-demographic student. Obviously those schools are never going to have those default rate problems. Whereas our schools and community colleges and Minority Serving Institutions, which admitted students on a much broader array of eligibility criteria and didn't discriminate against them because of their low socio-economic status were going to have higher default rates."

This kind of data were clearly useful to the staff working on the reauthorization and determining whether to adopt the policy changes being requested by the for-profit-college sector. One Democratic Congressional staffer recalls members of Congress and their staff requesting data from the for-profit colleges:

"There was very much a discussion in conference about data and trying to get the for-profits to disclose data because they would make a statement that they couldn't do 'this' because it would hurt their students but then they wouldn't show us data to justify it. But I remember that was very much a discussion of trying to figure out when it came up with for-profits."

One Republican Congressional staffer described that Congressional offices would ask for-profit colleges to provide data in order to provide rationale for policy changes:

“We literally called people and say, ‘So, we're hearing that 90/10 is going to cause you to raise tuition. Show it to us. How does that work? Show us the programs that are impacted. Give us data that we can use to show us why that would be the case.’ There was a handful of colleges out there that could come up with excellent data and we relied on those guys to get us the numbers that we needed to show us what it would mean if something passed or didn't pass.”

The same Congressional staffer explained that not only is the content of the data important, but also how the data are presented:

“Data and all that stuff, but who has time to read it. You have no time to read all that stuff. You need people to sit there and give you a five-minute summation: what they need, why they need it, who it affects, how it affects, and get people on board. There were a handful of schools who actually provide really good data in a really good fashion that you could understand the issue and you knew why they were so concerned and why they were looking for things to get changed and knew enough to not to send you fifty pages that nobody was going to read.”

A Republican Congressional Staffer recalled the for-profits having quite a bit of data, but mentioned the validity of the data and whether the data were actually helping to make the case the for-profits were trying to make:

“They [the for-profit colleges] always have lots of statistics of the poverty level of their students. They argue all the time that their students are not the 18-year old kids sitting in class for eight hours a day. They are working parents. They need to take classes at night on random schedules. They had that kind of information at their fingertips. They had fairly decent information on job placement rates and

graduation rates, actually sometimes better than the rest of the higher ed[ucation] colleagues. And they could show some of those numbers. Again, this is historical. This wasn't just this time around. This is every reauthorization I've been through. They also say they are serving the poorest of the poor at most of their schools. User dropout rates and default rates are going to be higher. They've always used that kind of data to justify their case. And sometimes it's valid and sometimes you need to look at it and say well that doesn't necessarily mean you're doing a good job."

And while no non-profit college lobbyists mentioned this strategy specifically in response to this research question, in another part of the interview a non-profit-college lobbyist suggested that the data presented by the for-profit colleges may not have been as reliable as they were presented to be and that the data could not be verified by third-party entities:

"The data [are] full of holes and of the issues that they used to substantiate these claims. Like default rates and job placement. Either are only reportable through their limited and subset means like Cohort Default Rate or generally not measurable like employment. No independent entity measures that right now on any meaningful scale so any employment numbers they are coming up with are coming out of their own back pocket."

In addition to questions of verification of data, one Democratic Congressional staffer mentioned that some data may have been used to confuse Congressional staff and members of Congress:

“They (CCA) had a few other staff people. The actual data people who would when we asked about 90/10 data, or when they wanted to come in and try to confuse people, they would bring these statisticians who were from either another higher education organization or a non-profit college and say ‘This person is an access person and they know the technical side.’”

Secondary Strategy: Becoming a Resource to Congressional Staff

Six interviewees, including four for-profit lobbyists and two Republican Congressional staffers mentioned for-profit colleges becoming a resource to Congressional staff as a strategy. This strategy is also an important piece of the theoretical framework used for this study. A lobbyist becomes an extension of a Congressional office by providing information and intelligence. One for-profit-college lobbyist explained that because Congressional staff are responsible for a variety of issues, lobbyists can serve an important role in distilling the issues for staff who are short on time:

“Hill staff and certainly members are overwhelmed. If you're the member, you have to know about everything. If you're a staffer, you have to know about four or five different issue areas in pretty significant depth. And what a lot of people say to the shortage of time and shortage in resources.”

At the end of the interview, one Democratic Congressional staffer noted the desire of any lobbyist to be seen as a resource to Congressional staff: *“Any lobbyist, and this is true across for-profit and non-profit want to establish good working relationships with*

staff, want to be a source of information for staff, want phone calls to be returned sooner rather than later.”

One for-profit-college lobbyist explained how there were specific opportunities to submit policy proposals during the reauthorization process and the organization utilized those opportunities to be a resource to staff and position themselves as experts on given policy issues they were working to advance. The lobbyist noted that then going forward the organization was seen as an entity for staff to utilize as questions arose throughout the process:

“Every time we had that opportunity we submitted our proposal and followed up and talked to staff about them. We also tried really hard to become a resource to the staff. We were really experts in accreditation and experts in quality assurance. We had developed and refined an accountability model that the staff seemed very interested in. So a lot of times while we were fairly aggressive making sure our proposals were being discussed among various staff, we also encouraged them to reach out to us if they had questions or if they were trying to resolve a certain issue. And they did that. We got our points across in many different ways, but the most effective way was helping staff on both the Senate and House sides see us as authorities on what we were talking about and getting them to reach out to us and ask questions as they were actually drafting language.”

Another for-profit-college lobbyist also explained how being a resource to staff was a function of the lack of time staff have to deeply focus on one issue, and also explained in detail how this strategy is a process that happens over time through relationship-building with staff:

“Well I think, and this is true for any lobbying or advocacy effort, you start with a premise of the legislative staff, the Hill staff, is not going to know everything about every subject. That goes to the conversation of being spread too thin. There are only certain number of staffers to cover literally a ton of issues, whether it's education or something else. And there's only so much bandwidth of resources within government itself to get educated. And so the reliance on people like me to educate staffers on the various different topics and issues that are under consideration is something that I view as a very important first step. So introducing myself and my clients to Hill staff and educating them on the issues of concern to the client and then overtime as the issue gets debated and discussed being part of the continued conversations about how the language that's being crafted might look.”

The same for-profit-college lobbyist explained the investment it takes to become a resource to a Congressional office:

“It's a long process and it might include having, suggesting that, clients testify at hearings. It's a very long, lengthy dialogue that I would say that part, what I really view as most important process, is the educational process for the Hill staff. And I don't necessarily anticipate that after every meeting the Hill staff will walk away and say, ‘Oh, I really agree.’ It might be that we just educated them on one point of an issue. The staff will go off and hear the other side or multiple sides of the issue and then the staff is going to help the member decide what the next steps are. My role is to really stay engaged as that really develops.”

When speaking on this issue of being a resource to Congressional staff, one for-profit-college lobbyist explained, as noted earlier, how Congressional staff would request that lobbyists who were advancing different agendas, work together to bring different, compromise proposals to staff to work with: *“Hill staff will say, ‘Okay, I’m hearing too much noise. Can you all get together and work something out. We want to do something, but you all need to get in a room and work this out.’ We definitely did that.”*

The involvement of lobbyists as a resource was helpful to staff on particular issues, and at some points this strategy also involved lobbyists helping to identify compromise positions on certain policy issues. On the flip side, once Congressional staff realized different lobbyists were being resources to various members of Congress to advance different policy positions, a compromise would need to be worked out. One Democratic Congressional staffer explained from the Hill perspective how that process played out:

“We’d have Mr. Grijalva and Mr. Bishop and then we’d have CBC [Congressional Black Caucus] members and freshman members on the other side trying to advocate for the for-profits. The next thing was that the Chairman said, ‘Let’s find a compromise. Let’s not play one side or the other.’ So that was a strategy [playing one side against another] that they were using.”

Secondary Strategy: Targeting Certain Members of the Committee

Similar to the strategy of targeting freshman members of the Education Committee, the targeting of certain members of the Education Committee was mentioned as a strategy by five interviewees, including one non-profit lobbyist, one for-profit

lobbyist, two Democratic Congressional staffers, and one Republican Congressional staffer.

Various interviewees explained the rationale for the strategic targeting of different members for different reasons. As one Democratic Congressional staffer explained, targeting members needed to happen because of the number of new members during the 110th Congress:

“Certainly a targeting of committee members was a strategy. Particularly in the 110th Congress, we had a lot of new members that were more moderate than had traditionally been on the Committee. So working with them and befriending those offices [was one of the strategies].”

One for-profit-college lobbyist explained how the strategy is not to cultivate relationships with everyone on the Education Committee, but to develop a targeted list of members and staff with whom to work. In other words, to target certain members or groups of members:

“Working with those offices [opponents to the for-profit college agenda] is just as important as working with the offices that you agree with. It's committee members who you are working, and really targeting [them]. That's another myth – that you have to have a relationship with everyone on the committee. In my view, you need a handful for success. You really need to work an issue with a core group of members. I don't, at least in my experience, I don't think it's necessary to have a great relationship or lobby a group of 40 members to get something done. I think it's much more isolated and targeted than that.”

Another Democratic Congressional staffer described how the for-profit colleges targeted committee members because of their affiliations with other Congressional Caucuses, such as the Congressional Black Caucus:

“The for-profit colleges tend to target the minority caucuses heavily given that so many of their students are minority. So my boss was approached not only in his capacity as a Representative on the committee, but because of his membership in the Congressional Black Caucus and that is something that is consistent over the years with this group.”

One Democratic Congressional staffer expressed an observation that one strategy was to target certain offices and that some were targeted more than others: *“We weren't even the most targeted office. I can't imagine how some of the other members felt.”*

A for-profit-college lobbyist explained how the strategy to target certain members of the committee was related to a strategic effort to gain support from the Chairman on policy issues of concern to the for-profit colleges:

“We worked very hard over the 2-year period running up to the final passage to expand our support among the Democrats. Going to some of the more senior Democrats who we thought were somewhat open minded. Plus working on the so-called front-line Democrats – freshman Democrats – who hadn't had years of having the bad guys telling them how awful we were and were somewhat more open-minded. Then some of the Democrats who had been in Congress for a long time and probably had our opponents chew on their ears about how awful we were.”

The same for-profit-college lobbyist went on to explain how this strategy to influence certain members of the Committee was also part of an overall strategy to influence the Chairman:

“We found that we were able to change a few minds, and more importantly, we were able to go to Chairman Miller [D-California] on some of the key issues and say now not only do we have the support of our long-standing backers on the Democratic side like McCarthy [D-New York] and Andrews [D-New Jersey], [but] we also have these eight or 10 other Democrats who were very, very supportive. So that gave him a chance to look at these issues with a more open mind rather than just saying, ‘Well, you have Republican support, but the only Democrats I see supporting you are McCarthy and Andrews.’ So that was key to showing Chairman Miller that we worked hard, we established a whole base of people on his side of the aisle who were supportive, and while there continued to still be some skeptics there was at least on his side of the aisle a substantial number of people he could look to and who wanted to help us on these issues.”

This support from the Chairman was important. The for-profit colleges knew they would need to garner support from a variety of members on the Education Committee, on both sides of the aisle, throughout the process. As a Republican Congressional staffer explained:

“What was interesting about that time, the HEA bill was interesting, because we went through one round of it before the Democrats took back the Congress and then again once they took it back. So we had already been through the jostling and the positioning in the 2006 reauthorization round. So by the time that they

come back, there was a sense that they'd [for-profit colleges] already won a big part of the battle and it was preserving those victories from Chairman Miller and his staff. So it was a little bit of a different tone coming back that time [when Democrats were in the Majority]. [The for-profit colleges] already agreed that what [they] wanted is actually acceptable to Republicans and Democratic members and [for-profit colleges] just want to continue to have certain members with [them] as they were last time around. There was a solid, Boehner-produced draft, if not House passed. Preserving those gains in that version. Their tone and strategy was coming at it from that angle. 'Let's preserve the progress we've made. It's already been approved. We have Democrats on board. We have Republicans on board. But obviously Chairman Miller is against us and we need to pull a coalition together.'"

One Democratic Congressional staffer also mentioned Chairman Miller and his lack of strong support for the for-profit-college agenda as a reason for the for-profit-college strategy to target certain members and groups of members on the Education Committee. The staffer also mentioned that in the targeting of certain members, and going around Chairman Miller, the for-profit colleges were strategically aware of the lack of knowledge of these staff who were less engaged in the day-to-day work of the reauthorization:

"They (the for-profit college sector) went around to individual members [of Congress] because they didn't think that George [Miller] would be with them. And they worked to pick people of one by one. Not shocking and they also definitely, true for most lobbyists, they really preyed upon staff's lack of

knowledge. Up on the Hill, unless you are a Committee staff member, where you have a luxury of focusing on one or two issues, you don't have to think about health care and the environment. All the other members are staffed by regular legislative associates. These guys have to cover anywhere from five to 20 issues at a time. So they preyed upon the fact that these staff didn't have time to dig into a lot of this tough financial stuff and spend a lot of time learning it. Prey on the fears. There's a fair amount of fear mongering and also just kind of misinformation. It wasn't outright lying. It was just badly put. They just weren't telling the whole story."

Arguments

Two primary arguments were used to advance the for-profit-college agenda emerged. Twenty-six interview participants mentioned the theme that for-profit colleges were requesting changes to certain policies in order to ensure access for low-income, non-traditional colleges and 11 mentioned that for-profit colleges and their students were being unfairly discriminated against as long as the policies that they were attempting to change stayed in place. Those arguments are further explored below.

Three secondary arguments were used to advance the for-profit-college agenda emerged: there would be negative implications for not changing current policies, including the need of for-profit colleges to increase tuition that students already are having a difficult time affording or the potential for for-profit colleges to close their doors or declare bankruptcy (n=9); for-profit colleges have better student outcomes and serve students better than non-profit colleges (n=4) ; and, for-profit colleges are efficient (n=4).

Among the less prominent arguments two emerged that are worthy of noting, including the argument that for-profit colleges are innovators (n= 3) and non-profit colleges fear competition from for-profit colleges (n=3). The following sections explore the primary arguments.

Primary Argument: Access

The most common argument advanced by the for-profit colleges, by far, according to interviewees, was that for-profit colleges provide educational access for low-income, non-traditional students. A total of 26 interviewees, including five non-profit college lobbyists, two for-profit college lobbyists, nine Democratic Congressional staffers, seven Republican Congressional staffers, and three reporters mentioned this argument.

As one for-profit-college lobbyist explained, in order for the for-profit-college agenda to move forward, Congress would need to be educated on the profile of the for-profit college student:

“Serving the non-traditional student. We consistently argued that Congress had to realize that they had to get the old model of college out of their head. A number that we keep repeating over and over again, because it appeared in Government Accountability Office reports and Department of Education data, was that three-quarters of students now were non-traditional in post-secondary education. In the sense that they didn't graduate from a suburban high school and immediately go off to a four-year college with parental support. That's the old model. That's about 25 percent of post-secondary population now.”

A Republican Congressional staffer explained how consistent the for-profit-college sector was in advancing this argument and how their lobbyists used data to demonstrate the argument and provide rationale for the policy changes they sought:

“They are very consistent in their arguments. They mainly serve the lower-income population that is not going to a four-year college. So they always have lots of statistics of the poverty level of their students. They argue all the time that their students are not the 18-year-old kids sitting in class for eight hours a day. They are working parents. They need to take classes at night on random schedules. It [the argument] always focused on those kind of issues, about who the students are [and] who they are enrolling. They look at those populations and use that for the criteria for why they need this and why they needed that.”

For-profit colleges also described to Congressional staffers the profile of the “non-traditional” student who enrolled. As another Republican Congressional staffer explained:

“They [for-profit colleges] would obviously talk about the population they were serving. Often times talking of their student profile of single mother with kids working three jobs and trying to do this part time. And, despite their best intentions they can't have graduation rates like traditional colleges.”

This argument also served to justify continued participation of for-profit colleges in federal student financial aid programs, according to a Democratic Congressional staffer:

“They were trying to make the case that they were educating high poverty students, a large number of students and generally making the case that they

reach a population in need and that they should be included [in federal programs] as such.”

One Democratic Congressional staffer explained how this argument was also made as a way to argue that those members of Congress and staff who did not support the for-profit colleges and their agenda were therefore not supporting, and in fact, discriminating against, non-traditional students: *“They also used the argument that they served low-income, minority students and people who didn't support them were basically discriminating against those kinds of students.”*

Not only are for-profit colleges serving low-income, non-traditional students, they argued, but also they are serving students that traditional universities are not serving or cannot serve in the same ways as for-profit colleges. In addition, for-profit colleges made the argument that they were serving students in geographic locations that non-profit colleges were not, according to a non-profit-college lobbyist: *“First and foremost they said they were serving people that traditional institutions weren't serving. That is to say, lower-income students. And serving students in places where there wasn't any one else.”*

Another non-profit-college lobbyist stated that the for-profit colleges were also suggesting that not only were non-profit colleges not serving non-traditional students, but also that these were students who non-profit colleges were rejecting or who did not even consider applying to non-profit colleges: *“They [for-profit colleges] would take students we considered and rejected or who never considered applying. I'd say the access argument is the one that prevailed most.”*

And, it was not just the non-profit-college lobbyists who mentioned this contrast made by the for-profit-college sector in their arguments. One reporter noted the

effectiveness and accuracy of the argument, and how this particular argument was strategic in garnering support from Democrats who may have not have been swayed by the more business-oriented messages and arguments:

“They have fairly successfully argued that they are serving populations that traditional higher ed[education] has shortchanged, if not ignored. And I think that continues to be effective and in some ways accurate. When you look at their enrollment numbers they make a reasonably strong case that they are serving the financially-needy and minority students in greater proportions than traditional institutions. They are not stupid. They adopted arguments that, especially in a Democratic Congress, especially resonate. They can't just say, ‘Crap, we need this money to keep our businesses alive.’”

A non-profit-college lobbyist added that the for-profit-college sector, in the use of this argument, contrasted the access they provided to non-traditional students against the access provided by the non-profit-college sector: *“Their overwhelming argument was that they were the ones serving low-income students. And that they were serving students, non-traditional students, in a way that the traditional sector was sluggish.”*

One non-profit-college lobbyist did not disagree that the for-profit-college sector may be providing more access than some selective non-profit colleges, but questioned how well those students are being served by the for-profit-college sector:

“The first, most insidious and most frustrating, claim was that they serve a population of students that traditional colleges don't serve and won't serve. That was the first tactic that they took. The concern with that approach was that we had no disagreement that they enroll a lot of low-income students. More than a

lot of selective colleges do. But the question is, 'Are they being served well?' Clearly they are being enrolled, but they are leaving with a ton of debt, a dubious educational offering and credentials. So that was their big push: 'We serve students that traditional colleges won't touch because they are low-income, adult learners, non-traditional.' They threw a lot of things at Congress that sounded like pretty good arguments."

Interviewees also mentioned that for-profit colleges claimed that because they served this particular population, special consideration should be given to any policies guiding institutional access to financial aid, such as accountability measures like the Cohort Default Rate and the 90/10 Rule. One Republican Congressional staffer noted that this argument was used for rationale on a number of issues: *"I think a standard message was that they were educating someone who may not otherwise be educated. That they are dealing with a population of students that others don't want. Who they serve was an argument for a lot of stuff."* Another Republican Congressional staffer explained how this argument was used by the non-profit sector in relation to the accountability efforts coming out of Congress:

"There were folks that argued that since there were so many federal dollars that we needed to treat [for-profit colleges] differently and regulate [for-profit colleges] more. But the for-profit [sector] would say that when you're holding [the for-profit sector] accountable understand that the types of students that we serve our non-traditional students, are poorer, skew more towards women and minorities than regular traditional schools. When you measure [for-profit colleges] keep that in mind. It's an argument that also happens in the K-12 world,

where schools in underserved districts and high-poverty districts complain that they are being held to the same standards as the rich guys. It's the same thing here. The for-profits for the most part actually serve a higher need population than non-profits without the benefit of other state and local dollars that the [non-profit sector] gets.”

In making their case about the Cohort Default Rate, the for-profit-college sector alluded to the similar argument of serving a largely underserved-student population. As one reporter recalled:

“The first one, their biggest argument that they've had for awhile is that they are serving a population that would otherwise go unserved. That even Community Colleges aren't serving. That's the defense they used in defending their higher-than-average cohort default rate. We're serving these high-risk students and they are more likely to default because they are high-risk. That had some traction with lawmakers that they were reaching this underserved population.”

Several interviewees mentioned how this argument was also useful for the for-profit-college sector during debates about the 90/10 Rule. As one Democratic Congressional staffer explained: *“I remember them focusing on especially talking about the 90/10 Rule. Focusing on the importance of getting aid to students and how they served a non-traditional population and focusing on the students.”*

Another Democratic Congressional staffer noted that making changes to the 90/10 Rule about access to college for low-income students was a more successful argument than making the argument that those changes to the 90/10 Rule would financially benefit the for-profit-college sector:

“It's always about the students. 90/10 wasn't about their bottom line revenue. It was about access for students. [Their argument] would always go back to how it would impact the students rather than going back to them as corporations, which is what they were essentially, which got irritating after a while. If they really cared about these issues, they'd be fighting for more Pell. You never saw them lobbying for more Pell money. All they really wanted was these small, minute details that only affected them and no one else in higher education.”

The for-profit-college sector also would argue that the combination of their student demographics and federal regulations would force a rise in tuition and would prevent for-profit colleges from serving even larger numbers of low-income students who wanted to access a college education. As a Democratic Congressional staffer explained:

“The strategies and arguments that were presented on their end were really talking about the population of students they serve. You'd hear the argument on 90/10 of, ‘We can't go into poor communities because 100 percent of those students need to be on 100 percent of federal aid.’ Or, ‘We have to raise our tuition in order to be able to address those students.’ All of those issues, it was really targeting of ‘we serve low-income, non-traditional students who really need access to higher education and these (rules) are hindering our ability to do so.’”

Another Democratic Congressional Staffer also explained how the for-profit colleges argued that the 90/10 Rule prevents them serving more low-income students:

“90/10 prevents us from helping poor minority kids and we'd open up more schools in these poor neighborhoods but it prevents us from doing that”. A Republican staffer

commented on how for-profit colleges further nuanced the argument for the 90/10 Rule debate to explain that lower-income students needed to be able to attend college on 100 percent financial aid:

“And for 90/10, if you're enrolling the poorest kids they don't have money to put towards their education so of course they are going to violate 90/10 because they are all coming to your school using federal aid money. They used those kinds of arguments consistently over the years.”

One Democratic Congressional staffer during the interview read out loud comments explaining how the 90/10 Rule would deny access to low-income students, which were emailed to the Congressional Office by an individual employed by a career college in the member of Congress's district:

“The students can't afford to pay 10 percent of the tuition. I own two career colleges in the district. They train predominately inner-city residents in [name of city]. At our allied health campus most of the students are single females who have children. On 90/10 the rate on our campus is 95 percent. The students can't afford to pay 10 percent of tuition. Institutional scholarships and loans let them attend school and get employed in their field in training.”

Several interviewees pointed out that the 90/10 Rule debate was often discussed in the context of what percentage of the tuition a low-income student may be able to afford, however, the 90/10 Rule is not about what percentage of the tuition a student can pay; the 90/10 Rule regulates the percentage of federal aid dollars a for-profit higher education institution can have as part of their total revenue. As Democratic Congressional Staffer went on to explain:

“So that was the rationale for why institutional aid should count in the 10 percent, that their students are so poor that they can't pay the 10 percent. So the next piece of the argument is then so if we have to shut down my schools. Then that leaves schools out of training and those students are mostly low-income and minority so you are disenfranchising these students and that's actually what the next email says, ‘If [changes to] 90/10 go[es] forward I'll have to shut down my second school leaving many students out of training.’”

One for-profit-college lobbyist explained the connections among low-income, non-traditional students, their ability to pay tuition, and the debate regarding the 90/10 Rule:

“Our view was that [the 90/10 Rule] had not lived up to its intended purpose, which was to be a proxy for educational quality and integrity. Rather, we thought it had turned out to be a rule that really just reflected the socio-economic circumstances of the students you serve which in turn dictated how much federal student aid they would qualify for, which in turn would drive your 90/10 ratio. And so at a certain point if you served too many of those kinds of students who were consuming that much aid, you would be in peril of violating the rule. And so our view was that that either had the effect of forcing, you're creating incentive, an inappropriate incentive, for institutions to stop serving students with the highest need, which in turn cuts against the access aim of student aid programs. Or, it created incentive to raise your tuition so that you'd always have that 10 percent that the rule said you had to get, which of course was another thing that loomed throughout this whole reauthorization process was the concern about

college cost. So here we have a rule that was creating an incentive to increase college costs. And so on those basis we thought the rule ought to be revoked.”

Primary Argument: Discrimination

A total of 11 interviewees, including one for-profit-college lobbyist, one non-profit-college lobbyist, three Democratic Congressional staffers, four Republican Congressional staffers, and two reporters said that for-profit colleges used that argument that they or their students were being discriminated against or treated unfairly when it came to federal policies in the HEA. As a Republican Congressional explained: *“It was a matter of fundamental fairness, they would say, and that they shouldn't be treated differently than other institutions. They always said that they were being treated lesser than the traditional state and private colleges.”*

When it came to federal regulations, for-profit colleges wanted to be treated the same as non-profit colleges. According to a Democratic staffer, the for-profit sector would mention, *“The unfairness. ‘If you're gonna treat us like that then treat the non-profit sector the same.’”*

As one reporter explained, for-profit colleges made the arguments about how federal policies affected their students, rather than focusing on institutional affects:

“ [Federal policy] was discriminatory.’ Their colleges were ‘treated differently’ than other colleges. In fact, they didn't say colleges, they said it was discriminating to their students that they weren't eligible for all of the same money as the non-profits. That was [in regards to] Single Definition. On 90/10 they were arguing that this was discriminatory and also that it was hurting their

efforts to serve low-income students to work in urban environments. On Transfer of Credit, they thought it was extremely unfair that colleges could just decide that they wouldn't take credits from a school just because they were nationally accredited."

A Democratic Congressional staffer also mentioned how the for-profit college sector made the fairness argument in regards to *students* who attend for-profit colleges, rather than it being a fairness issue for the for-profit colleges as *institutions*. In fact, several interviewees mentioned the use of the phrase "second-class" by for-profit-college sector lobbyists to describe the experience of their students under current federal law:

"They [for-profit colleges] never framed the debate about themselves. They would never say, 'We're an institution of higher education just like everyone else so based on only our institutions there should be a single definition and not two standards of how it is.' They'd always say, 'Our students are just as qualified and educated as students from this university except they are considered second class students because they don't graduate from the university that's of another definition.'"

A reporter mentioned how this argument was likely troubling to those in opposition to the for-profit-college sector, namely the non-profit college sector:

"They [for-profit colleges] very much focused on, certainly focused on, fairness issues. 'Students are choosing us in increasing numbers. It's not fair to them, to our students, to be treated as second class citizens.' I saw them very much as 'good government fairness.' 'Don't discriminate against us and our students.'"

There's definitely a self-consciousness to that, but also a social equity set of arguments that probably drive the opponents mad."

A Democratic Congressional staffer also used the phrase "second-class" to explain the use of this argument and suggested that this particular use of the fairness argument was successful: *"The other thing that for-profits always brought up was fairness. They wanted an equal, level, playing field. They didn't understand why they were treated like second-class citizens. Which is an interesting argument that clearly worked with a lot of people."*

The policy issue of Transfer of Credit, in particular, brought to bear the argument of fairness and discrimination. As one for-profit-college lobbyist explained:

"Basically our argument was for equity and economy. Restricting Transfer of Credit solely on accreditation status where the two schools in question were accredited and accredited by agencies equally recognized by the US Department of Education was just patently wrong and unfair."

Others interviewees went on to suggest that the for-profit-college sector was advancing an argument of fairness and discrimination, particularly in regards to Transfer of Credit, because the non-profit sector did not want any competition. According to a non-profit-college lobbyist:

"On Transfer of Credit, that was universal on all of those issues of innovation, assistance to the poor, and on Transfer of Credit they used another interesting one, which was that they were being discriminated [against]. The concept of almost a closed shop that they were being discriminated against by the closed shop of the higher-education community that just didn't want any competition."

As a Democratic Congressional staffer explained: “*Transfer of Credit related to the Career College Association point of view. They felt that they were being discriminated against like the new kid on the block, or they felt it was almost like anti-competitive behavior.*”

Successes and Failures

4. and 5. *In what ways was the for-profit education special interest-group successful and not successful in its influence of the final legislation that resulted in the 2008 reauthorization of the Higher Education Act?*

The fourth and fifth guiding questions sought to find out how successful the for-profit colleges were in advancing their policy agenda during the HEA reauthorization process. To answer these questions, I collected data from interviews from key players and then based on those findings analyzed other data sources, including the *Congressional Record*, to further identify the specific ways in which the for-profit college sector was successful in advancing its policy agenda. The interview participants mentioned successes and failures that I organized into themes for a total of 19 successes and a total of 14 failures. Of the 19 successes, one emerged as a primary theme, five emerged as a secondary theme, and 13 emerged as less prominent. Of the 14 failures, one emerged as primary, three emerged as secondary, and 10 emerged as less prominent. The successes and failures mentioned included specific policy agenda items, as well as general successes and failures.

The findings indicate that the for-profit-college sector was successful in advancing some of their policy agenda and not as successful in advancing other elements of their agenda. In summing up the level of success for the for-profit colleges, one non-

profit college lobbyist stated: *“I would say they were more successful than not. I'd say they got legislation that protected them against further oversight. They were able to continue the relaxing of some of the policies that they were under before we went into reauthorization.”*

A Republican Congressional staffer noted that the for-profit colleges were equally successful and not successful in advancing their policy agenda and explained that some of their success was in having a strategy that promoted incremental change to policies, even when their preference was to see the policy completely eliminated:

“They are running fifty-fifty. They've gotten really good at recognizing that you don't try to get the whole loaf, as I call it. You don't come in and say repeal 90/10, because it's not going to happen. They've figured out how to work around the edges and make improvements that helps them manage their business and I think they got very good at that. I give them an A+ in figuring out that, if you ask for everything, you're not going to get anything. So you might as well figure out incrementally what you can do. I think that helped them and they had some success with that kind of strategy. In a perfect world for them all of these rules would be gone and they wouldn't have special rules or separate rules from the rest of the non-profits. And obviously that hasn't happened. So, on that one they're not battling too well. But in trying to incrementally change some of these provisions to make their lives run a little better, I think they've been fairly successful.”

The following sections explore the specific policy issues that the for-profit college sector was able to successfully change, including the 90/10 Rule and the 50-Percent

Rules, and those issues that the for-profit colleges were not seen as successful in, including Single Definition, Transfer of Credit, and Cohort Default Rate. General successes and failures are not included in this discussion given that the scope of this study was to investigate the specific policy agenda items of the for-profit colleges.

Successes

The one primary success mentioned is the policy change to the 90/10 Rule (n=16). That success is explored further below.

The five secondary successes mentioned by interview participants include the policy change to the 50-percent rules (n=9), the ability of the for-profit colleges to be on the offensive rather than on the defensive (n=5), the for-profit colleges were more influential and strategic than the non-profit colleges (n=5), the for-profits were able to make the argument that they serve low-income students (n=4), and that they were able to mitigate policy changes to the cohort default rate measure (n=4). Among the less prominent successes three emerged that are worthy of noting because they relate to strategies discussed earlier in this paper, including the ability of the for-profit colleges to gain visibility (n=3), the ability to provide data to Congressional staff (n= 3), and the ability to adjust and change their lobbying asks (n=2).

Primary Success: 90/10 Rule

The 90/10 Rule is a provision within Title I of the HEA. Title I, among other sections, includes Section 101 and Section 102, which provide for the definitions of “institution of higher education” (IHE). Section 101 of Title I of the HEA defines IHEs

generally. Section 102, primarily for expanding the definition to include for-profit institutions, creates a separate definition of IHE for purposes of participating in Title IV – student financial aid programs. And within Section 102, prior to the enactment of this most recent reauthorization, there was a provision that required that in order to be considered an institution of higher education for purposes of participating in Title IV federal financial aid programs, proprietary schools must have obtained at least 10 percent of the school’s revenue from non-Title IV funds, which provide federal student financial aid to students attending colleges accredited by an agency recognized by the US Department of Education. The 90/10 Rule, which was implemented by the 1998 HEA Amendments (P.L. 105244), replaced its predecessor, the 85/15 Rule, which was authorized by the 1992 HEA Amendments (P.L. 102-235: CRS, 2005). The 90/10 Rule was one of the provisions in the HEA that could have that effect of restricting institutional access to the federal student financial aid program. If an institution was found to be in violation of the 90/10 Rule they would lose access to Title IV funds. The rule was put in to place to ensure that for-profit colleges did not receive all of their income from the federal financial aid programs.

A review of the *Congressional Record* revealed that the 90/10 provision was eliminated as a condition of institutional eligibility by removing it from Title I and thereby as part of the definition of IHE, but the reauthorization retains the effect of the provision by including it in the Title IV, Part G of the act – the Program Participation Agreement. Part G of the reauthorization included a variety of institutional requirements for Title IV participation, including the addition of the 90/10 Rule for proprietary institutions of higher education and the specification of revenue sources that may be

counted towards the provision of the 90/10 Rule that 10 percent of revenues must be from non-Title IV sources (Pub. L. 110-315).

By moving the 90/10 Rule to the Program Participation Agreement and out of Title I, the 90/10 Rule is no longer a condition of institutional eligibility to participate in Title IV financial aid programs. If a proprietary institutional violates the rule, they do not lose their Title IV eligibility; instead, they will be placed on “provisional eligibility status” for two years. Those institutions that stay in this status for two consecutive years will lose their Title IV eligibility for at least two years, depending on their ability to regain eligibility (Pub. L. 110-315).

The Program Participation Agreement further stipulates what revenue sources may be counted as the 10 percent of non-Title IV sources. While many of these sources were allowed prior to the enactment of the reauthorization, for-profit colleges may now count certain other revenues towards the 10 percent revenue that were not previously permitted. For-profit colleges may now count revenue earned from non-Title IV eligible programs of study, as long as the program of study is approved by the state, accredited, or provides an industry-recognized credential or certificate. This means that a for-profit college could have its Title IV eligible programs of study fully funded by Title IV revenue if the other 10 percent of its total revenue is derived from non-Title IV programs of study.

In addition, as a way to address the for-profit-college sector’s concern that a 2008 increase in student loan limits would put many of their institutions in violation of the 90/10 Rule, the reauthorization allowed for-profit colleges to count only proceeds of the Unsubsidized Stafford Loans based on loan limits prior to the 2008 increase to loan

limits. These increased loan limits were created by a difference piece of federal legislation, *The Ensuring Continued Access to Student Loans Act of 2008* (a piece of legislation passed in response to the 2008 meltdown of the US financial market). This was a temporary provision in the reauthorization that expired July 1, 2011, in order to give for-profit colleges time to modify their revenue plans. In effect, for-profit colleges, for a time, were not required to count certain revenues from federal loans in their 90/10 calculations.

A total of 16 interviewees, including six non-profit-college lobbyists, four for-profit-college lobbyists, two Democratic Congressional staffers, two Republican Congressional staffers, and two reporters said that these changes to the 90/10 Rule were a success for the for-profit colleges.

While the changes to the 90/10 Rule were generally viewed as a success, some interviewees noted that, while there were changes made to the provision, the for-profit colleges had been advocating for more of a change to the rule than what was ultimately enacted into law. As one for-profit-college lobbyist explained: *“Well we had some moderate success. We got some change in a positive direction in the 90/10 area.”* A Republican staffer concurred with the for-profit-college lobbyist: *“The 90/10 Rule wasn't a complete win, but there was some progress on that issue.”*

While the changes were seen as progress and a move in the positive direction by some interviewees, other interviewees, mostly non-profit-college lobbyists, thought that the changes to the 90/10 Rule were an unfortunate success. As one non-profit-college lobbyist stated:

“Well, on the 90/10 Rule they were able to convince a lot of people on the Hill that the rule in fact prohibited them from serving low-income students, which is a complete catastrophe, as far as I'm concerned. It's a sham that they were able to do that. But they did. Not entirely, but they did get some pretty significant loopholes carved into the 90/10 Rule.”

One non-profit-college lobbyist considered the changes more than the creation of loopholes that benefit for-profit colleges: *“They were successful in completely eviscerating 90/10.”* Another non-profit-college lobbyist also used the word “eviscerate” to describe the changes to the 90/10 Rule, but because the changes did not include a complete repeal, the lobbyist noted it as a “50-percent victory”:

“On 90/10, I'd give them a 50-percent victory. I do think they managed to eviscerate it. And I give them a 50 percent because they themselves couldn't demonstrate a reason for repeal. They would have gotten it. They had infiltrated the Democrats deep enough that they could have gotten it. But the thing would have become a joke. It would be very difficult going around saying they themselves needed a more complicated message: count this dollar as a federal dollar. They managed to eviscerate it, but it's still on the books, preserving the principle.”

The 90/10 Rule was viewed by many as a safeguard against fraud and abuses in the for-profit sector, and one reporter noted that changes made to the provision no longer made it a safeguard:

“I think they were very successful. They would have liked to have seen the elimination of 90/10, but they got it so substantially weakened that it's barely a

safeguard anymore. They really stripped it of most of its – they took the teeth out of it mostly.”

A Democratic Congressional staffer also described one of the successes as a watering down of the 90/10 Rule, but that the for-profit college sector was not completely successful in advancing their agenda:

“Well, I would say they made an inroad. I wouldn't say that they won 100 percent. I think there could be a perception like in rewriting history. They could think that because 90/10 was amended and watered down to some extent that they won. I wouldn't say that they completely won because some of the things that they wanted to be able to count such as institutional aid and certain programs still observed those things. They can't do tuition discounting. Some programs still have to remain and have some sort of secondary review. So I'd say it would be a mixed bag for them.”

A non-profit-college lobbyist put the success of the changes to the 90/10 Rule a little more simply: *“They got 90/10 completely watered down.”*

While repealing the 90/10 Rule was the goal of the for-profit colleges, several interviewees noted that the changes made to the rule, while not ending up in a complete repeal, was still a success for the for-profit colleges: *“I think that the changes to 90/10 were a big success for the for-profit institutions. The ultimate changes did not go as far as they wanted to, but they certainly changed the measure in their favor from what it was previously.”* A for-profit-college lobbyist described how policy success can be measured in stages, even if the policy did not change exactly as desired, which in this case would have been a complete repeal of the 90/10 Rule:

“Clearly the changes to the 90/10 Rule were of extreme importance to the proprietary sector. Obviously they'd prefer to have the rule repealed. But obviously you measure success in sort of stages and what you compromise. I would view the 90/10 provisions and how they turned out as successful accomplishments by the sector.”

A Democratic Congressional Staffer explained that while the for-profit colleges may have ultimately wanted a full repeal, their strategy to adjust and make modifications to the rule might have effectively gotten them what they wanted: *“Sometimes you don't have to repeal something, you just have to change how stuff is calculated. And oftentimes the most effective lobbyists do that because the net result is the same and more subterraneous.”*

A for-profit-college lobbyist explained the strategy of adjusting the ask in order to get some of what you may want:

“We had to move off repeal. But, what we did get were a number of modifications to how the Department of Education has been interpreting and applying the rule in ways that we thought were really unduly and restrictive and narrow. And so that was certainly a very positive outcome and then with the loan crisis we needed a couple of more things and this was where Chairman Miller had an open mind, heard our arguments, was persuaded and supported us. And once he did, he's a bull dog. He hung in there right through conference. The things we needed, because private loans evaporated for lower-income students, we needed the ability to make our own loans to students. We were willing to step to the plate, put our own money at risk, make our own loans, but we need to be able to count those

loans towards the 10 of the 90/10. That required a legislative change and we got that.”

Another for-profit-college lobbyist described the importance of incremental changes and that a long-term solution can still be pursued:

“On 90/10, I think we ended up with some improvements and not a long-term solution. One improvement is a 2-year window if the school does violate the 90/10 threshold to get back into compliance rather than, as the law previously was, automatically falling in to ineligibility plus some temporary fixes until 2011 will at least make it less likely that schools will violate the 90/10 provisions. It doesn't give a long-term solution, but it gives us 2 or 3 years to work on a longer-term solution.”

Moving the 90/10 Rule provision from one section of the law to another section of the law, according to a Republican Congressional staffer, was part of the success on the 90/10 Rule for the for-profit colleges: *“I would also say that making any changes to 90/10 is a huge change in federal law and they did manage to make changes by moving it over to program participation agreement.”*

One Democratic Congressional staffer explained how the 90/10 Rule as a success was due to a legislative and lobbying process that included compromises on both sides of the issue:

“Particularly with 90/10 the balance was on recognizing some of the changes in business practice while upholding the base integrity of the measure. 90/10, for example, that compromise really came together in conference. So piecing together, ‘I'm comfortable if we go here. I'm comfortable if we go there.’ And, we

ended up on a middle line. They [the for-profit colleges] were looking for ways to calculate the measure so it was easier to meet the 90/10 thresholds. There were a couple of particular things they were concerned with. For example, we raised loan limits, the amount of money that students can borrow. And that made it more difficult for them to meet the 90/10 Rule because more students could borrow federal aid. So one particular thing, they fought hard for an exemption for those additional funds from the 90/10 Rule. Where the compromise ended up, those funds were exempted for a three-year period of time in order to allow them to adjust for that. Institutional aid prior to the reauthorization was not able to be counted and can now be counted under certain circumstances. So there were just ways that they do business now, more, that we now allowed for them to count for them to more easily reach the 90/10 threshold.”

Secondary Success: 50-Percent Rules

The 50-Percent Rules were also provisions in Section 102 of Title I of the HEA and stated that if an institution offered 50 percent or more of its coursework by correspondence, which was also understood to include online courses, or if 50 percent of its students were enrolled in correspondence courses, then it was not considered an institution of higher education for purposes of participating in the student financial aid programs authorized by Title IV. These provisions were completely eliminated, not in the 2008 reauthorization of the HEA, but during the timeframe under investigation as part of a budget reconciliation bill that moved through Congress in 2005 – the *Higher Education Reconciliation Act (HERA)*, passed as part of the *Deficit Reduction Act of*

2005 (P.L. 109-171). In addition to eliminating the 50-Percent Rules, the legislation extended several authorization provisions within the Title IV of the act.

A total of nine interviewees, including three non-profit-college lobbyists, three for-profit-college lobbyists, one Democratic Congressional staffer, and two Republican Congressional staffers indicated that these changes to the 50-Percent Rules were a success for the for-profit colleges. One for-profit-college lobbyist explained how the changes to the 50-Percent Rules were not part of the 2008 overall reauthorization:

“It happened really suddenly that 50-Percent Rules were repealed and it was [done] under budget reconciliation. There were all sorts of issues attached to funding and cost analysis. None of the safeguard provisions were put in. So, it was just a repeal of the 50-Percent Rules and it was actually unintended by us, which is kind of funny. There was some criticism around that and we worked for the next two years between that and the reauthorization to continue to work on the quality control provisions that did end up in the Higher Education Act reauthorization. Once that was done we could claim that things worked out well.”

Failures

The one primary failure mentioned by twelve interview participants is the policy change to a Single Definition. That failure is explored further below. The three secondary failures mentioned by interview participants include the policy change to Transfer of Credit (n=9), the policy change to the Cohort Default Rate measure (n=7), and that the for-profit colleges were not able influence Congress to address all of their policy asks (n=4). Among the less prominent failures, three emerged that are worthy of mention,

because they were related to themes that were mentioned as successes that emerged as primary or secondary themes, including the inability of the for-profit colleges to make the argument to and build general support with everyone (n=2), the inability of the for-profits to overcome bad publicity (n=2), and the 90/10 Rule (n=2).

The following sections explore the specific issues that the for-profit-college sector was not able to successfully advance, including a change to Single Definition, changes to Transfer of Credit, and preventing changes to the Cohort Default Rate. There was general consensus on what the for-profit-college sector was not successful at achieving. As a non-profit-college lobbyist explained: *“On the particulars they were much less successful. Although they got 50-Percent Rules [eliminated] and they got 90/10 completely watered down. They were not successful on Transfer of Credit.”*

One Democratic Congressional staffer wondered if the for-profit-college sector strategically put forward a number of policy requests that they knew would not be successful in order to use as leverage to have success on policy issues that mattered most to the for-profit-college sector:

“I think some of their bigger ticket items like Single Definition and Transfer of Credit and some other things that they were really going for we said, ‘No, there's no way,’ and I'm not sure if that was more bait-and-switch then if that was them actually genuinely caring about these issues. I don't know if they were putting these little things forward saying, ‘Oh, we want Transfer of Credit. We want Single Definition.’ Knowing that they'd be told no. So that they'd say, ‘Fine, well if you're not going to do that then just give us 90/10.’ I think a large portion of their legislative agenda for HEA didn't get included.”

As discussed and mentioned by other interview participants below, there may have been some reality to the view that some of the for-profit-college agenda, such as Single Definition, may have been used as negotiating fodder in exchange for accomplishing larger agenda priorities, such as the 90/10 Rule.

Primary Failure: Single Definition

Single Definition refers to a proposal to amend current law to combine the two separate definitions of “institution of higher education” in Title I of the HEA in sections 101 and 102 (20 U.S.C. 1001, 1002). Section 101 defines an institution of higher education for purposes other than Title IV of the Act (which authorizes federal financial aid) and does not include proprietary institutions. Section 102 defines institution of higher education for purposes of participation in title IV of the Act and does include proprietary institutions. A single definition would have erased distinctions between not-for-profit and for-profit institutions of higher education. Erasing the distinction would not have only created one definition, but it would also have provided access to other federal funding and opportunities, such as other titles of the HEA, specifically Title III and IV, which provide funding to Historically Black Colleges and Universities and Hispanic Serving Institutions; provide access to federal research dollars authorized through various federal agencies; and, affect current tax code related to institutions of higher education.

Current law retains two definitions of institution of higher education, one for general purposes of the act and one for participation in Title IV of the act. These definitions are referenced in other federal laws involving Institutions of Higher Education, such as the tax code.

A total of 12 interviewees, including four non-profit-college lobbyists, two for-profit-college lobbyists, two Democratic Congressional staffers, two Republican Congressional staffers, and two reporters mentioned the inability of the for-profit colleges to successfully change federal law to a Single Definition of institution of higher education.

One Democratic Congressional staffer explained how Single Definition had been a priority for the for-profit-college sector early on in the process, but by the end of the process, it was not included as a policy change: *“There ended up being very, very limited changes to the definition of institution of higher education and certainly not a Single Definition. So that was something that had been identified as a priority early on and was not included by the end.”*

Several for-profit-college lobbyists explained that they strategically eliminated Single Definition from their policy asks once it was clear that it would not be possible to move forward it in the legislative and political process: *“We were even signaling to Republican friends, for example, when they were in control, ‘Look, if Single Definition is a stumbling block, let's just remove it.’ It wasn't that big of deal to us at this time.”*

Another for-profit-college lobbyist explained that removing Single Definition from their policy asks was a strategy to ensure the likelihood that other policy changes would move along in the process, such as modifications to the 90/10 Rule and the elimination of the 50-Percent Rules:

“We could spend our time battling them and probably not be successful in order to get a Single Definition or we could focus our energies on something that could

be potentially politically doable and that was gaining some additional flexibility on 90/10 and of course the elimination of the 50-Percent Rules.”

Another for-profit-college lobbyist explained in detail how policy issues become prioritized and how other policy agenda items may trump a policy issue, such as Single Definition:

“When you start the reauthorization process you start with a list. ‘Here are things we might want to accomplish.’ Some issues fall off the list very quickly because it becomes clear that you're not going to get it. I am very focused on provisions that were addressed and measuring whether they were successful. There are some things on the cutting room floor. For example a very early on example is Single Definition. I want to emphasize that nobody, aside from a couple of institutions, really pushed it. My clients gave it up very early on, on that discussion. That's an issue that I'm going to be optimistic, that some day there will probably be an adjustment there. But it was neither the time nor the place. So it's a good example of you have a list, here's the Pollyanna, and here's what I really want. Before I even go to the Hill, you say to a client, ‘Okay, what do you want? What does your list look like even before you go to the Hill?’ You can advise a client. This one is a reach. This one is within reality. This one we can do that. You prioritize. You may start off trying to get all of the missions accomplished and then you quickly figure out okay that's not happening. Single Definition is not happening. Let's focus on 90/10 and 50-Percent Rules. So clearly we still have two definitions. So very clearly not success there, but I don't even look at that as failure because I took that off of the client's agenda pretty early on. So from my own personal how I

did on behalf of the client, I feel like I advised the client very well. Part of the work is telling the client, 'You're not getting this. Move on.' Hill staff do the exact same thing. A member of Congress will have x, y, and z list of issues and they have to pick and choose. My job is to keep my issues on that member's list."

Secondary Failure: Transfer of Credit

The Transfer of Credit issue refers to the for-profit-college sector's concern that traditional, regionally accredited, non-profit colleges seemed to be automatically and systematically denying credits and degrees from institutions simply because those institutions, that for the most part are for-profit, are nationally accredited, rather than regionally accredited. Federal law does not mandate policies regarding the Transfer of Credit, and until the most recent reauthorization of the HEA had been silent on the issue of Transfer of Credit between institutions. While the enacted legislation did not mandate policy regarding the actual transfer of credit, the act did include an addition to Part G of Title IV that requires institutions that participate in Title IV to disclose or report certain information. Under the Transfer of Credit disclosure provisions, such institutions are required to "publicly disclose" their transfer of credit policies, including criteria for determining whether to accept credits at other institutions and listing those institutions with which there are articulation agreements (*Higher Education Opportunity Act of 2008*).

Early drafts of the reauthorization included language that would have prohibited colleges from denying Transfer of Credit based solely on what accrediting body recognized the sending institution. But, like Single Definition, Transfer of Credit was

superseded by other policy issues as the reauthorization process became prolonged, political control switched parties, and other policy issues emerged as priorities, such as modifications to the 90/10 Rule.

A total of nine interviewees, including three non-profit-college lobbyists, two for-profit-college lobbyists, one Democratic Congressional staffer, one Republican Congressional staffer, and two reporters indicated the inability to modify Transfer of Credit policies. Like Single Definition, the policy change to Transfer of Credit was seen as a policy agenda where the for-profit-college sector was not successful. As one for-profit-college lobbyist explained, the sector was pleased that it was debated at all:

“Transfer of Credit: that was a bit of a disappointment too, but we still got something. At least we got recognition that it was an issue worthy of Congressional attention and to be addressed in the Higher Education Act. What we got was more disclosure. We didn’t get the prohibition that we wanted, which was you can’t just turn down credits just based on accreditation. That was a disappointment.”

The same lobbyist explained how this issue ignited great debate on both sides of the issue:

“The passions that that issue excited were rather astonishing. I’ve made a lot of jokes about it over the years but, listening to some our opponents talk about it, we were by simply raising the Transfer of Credit issue, we were threatening western civilization, as we know it. Quite something. The rhetoric was quite astonishing and silly.”

A non-profit-college lobbyist explained that the Transfer of Credit issue was so critical to traditional higher education because of the importance of academic autonomy in this area of institutional governance, and the extent to which some in the traditional higher education sector may have been willing to compromise early on in the reauthorization:

“They were soundly defeated on their desire to federalize Transfer of Credit, for which I take a disproportionate amount of the credit and which to this day blame my colleagues in the presidential associations who engaged in what I call ‘stratagery.’ Which is to say that they always have bigger fish to fry then take a stand on something that is fundamental to their members. I thought that ACE [American Council on Education] sold us down the river when it agreed to accommodate McKeon's insistence of Transfer of Credit in exchange for dropping of price controls. I see that as a fool's trade, because price controls were so untenable that we should have called the fucker's bluff. We should have challenged Buck McKeon right there because his position was so untenable. There was no need to trade anything. He had taken out the thermal nuclear weapon and he was threatening to hold up the bank with it. And it wasn't even going to happen. There was no necessity and more importantly, it has done wonders for my career needless to say. Not everything is a point of principle by the way. I'm very practical. There are things to trade on. But if there are fundamental positions that are central to your members' autonomy, then those should be non-negotiable even if that results in people taking an unkind view of you personally. And, the reason is that we are not here to be loved. We are here to

get the job done. But there so much mutual self among the staff, a permanent revolving door of lobbyists, that nobody was willing to take a position within the mainstream organizations. So Transfer of Credit went our way no thanks to ACE or anybody else. To some extent, NAICU [National Association of Independent Colleges and Universities] was helpful.”

Secondary Failure: Cohort Default Rate

Since 1998 Section 435(l) of the HEA had included a 270-day threshold for delinquent federal student loans to be considered in default. Before the 270-day threshold, the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272) changed the definition of a default on federal education loans from a delinquency of 120 days to 180 days. The 1998 reauthorization of the HEA changed the 180-day threshold to 270 days. Under the law prior to the amendments made by the 2008 reauthorization of the HEA, the Cohort Default Rate was defined as the percentage of borrowers entering repayment in one fiscal year who default by the end of the following fiscal year (March 31, 2011). This is commonly known as the 2-year default rate, and the U.S. Department of Education has a set of regulations regarding this statute (34 CFR 682.200(b)).

The final reauthorization included provisions that changed how the Cohort Default Rate was measured, as well as penalties when those measurements reach a certain percentage. The measurement was changed from the 2-year measure as described above to a 3-year measure. In addition the establishment of a “life of cohort default” that measure on a year-by-year basis, the cumulative percentage of those who default on their loans was included in the final reauthorization. This new measurement is just for

informational purposes and not for use to determining eligibility for participation in the Title IV programs.

In addition to these new measurements, beginning in FY2012, colleges could lose eligibility if their rates equal or exceed 30% for 3 consecutive fiscal years (versus the previous measure of 25% for 3 consecutive years). The enacted law also includes appeals processes that take into account exceptional circumstances that may have led to high default rates. The law also requires those institutions with high default rates to develop plans for reducing high default rates.

A total of seven interviewees, including three non-profit-college lobbyists, three Democratic Congressional staffers, and one reporter mentioned the Cohort Default Rate as an unsuccessful outcome for the for-profit-college sector. Unlike the other issues that appeared on the for-profit-college sector's agenda, the Cohort Default Rate was not a proactive issue that the for-profit-college sector was seeking to change, but rather it was an issue that was placed on the agenda by others and the for-profit-college sector was put on the defensive. While many saw this policy change as a loss for the for-profit-college sector, one for-profit-college lobbyist thought the sector was able to mitigate the change's effect, despite it being an issue that seemingly came out of the blue for the sector:

“There was one more issue that popped up at the very end. It was not an issue on our agenda but it was one we had to react to and it was courtesy of our pal Congressman Bishop. He had a sort of a middle-of-the-night amendment that he offered during the mark-up in November of 2007 that changed the way Cohort Default Rates were calculated. The amendment just went through bing-bang and it was just accepted on a voice vote and it was like, ‘Whoa, what just happened?’

And it turned out that that had some pretty large ramifications and we had to get some modifications to that amendment and again Chairman Miller and his staff were willing to listen to our arguments. He heard our arguments and worked with us to achieve some compromises that we felt at the time were going to make it manageable. It came on suddenly and we reacted to it swiftly and we were able to get through working with Chairman Miller and his staff what we thought was an acceptable outcome. I mention it because it certainly occupied everyone's time and attention very strongly there for about a three month burst towards the very end. So yea we were, and I think certainly the amendment stands on it own, had it gone through as is it would have definitely been in the lose column. We were able to move it into a neutral column.”

A non-profit-college lobbyist explained how while the Cohort Default Rate issue may have come out of the blue for the for-profit sector, it was intentionally placed on the agenda by the non-profit-college sector for the for-profit-college sector to have to respond and react to. The reaction of the for-profit-college sector to the potential change in the Cohort Default Rate confirmed that it would be a contentious issue. One non-profit-college lobbyist explained:

“The Cohort Default Rate came back as a way to counter [the for-profit colleges]. It was like they [the for-profit colleges] were so polished. They were going to be varying degrees of success on their short list because they could out-lobby you, but it led those of us who had concerns about them to say, ‘Look they've made these arguments that we think are kind of twisted policy issues on these four issues but we've got to try to find an issue that makes the point about

these issues.’ So that was the response to, ‘Look let’s put them on the defensive. They put on us on the defensive on these issues.’ Let’s put them on the defensive on something we’re hearing. And only when it came up, they were really contentious. Only with the reaction in the mark-up did we know that we were on to something.”

Several interviewees, including Democratic Congressional staffer explained how the for-profit sector was able to work to mitigate some of the effects of the changes to the Cohort Default Rate calculation:

“And then with Cohort Default Rate, I think it came out in a wash. They would have certainly have preferred the two-year measurement and so in that way they were not successful in that we did go to a three-year measurement. But with the back-end safeguards and the implementing the new measure over time, they were pretty good at making sure there were other options.”

A non-profit-college lobbyist also explained how the for-profit-college sector was able to include modifications to the policy proposal that mitigated the impact of the policy change on their institutions: *“Congress eventually got lobbied heavily by the for-profit sector and blended a compromise that allowed the three-year look back, but it raised the threshold level [for penalties]. So it’s one of these win -lose situations.”*

A Democratic Congressional Staffer explained how one of the ways to mitigate the effect of the change in calculation on the for-profit college sector was to offer more support to institutions that may be negatively impacted by the change:

“We tried to actively shape the cohort default rate in a way that would not overly penalize the institutions and would try and get at the goal of accurately looking at

Cohort Default Rate, but also providing support to institutions in addressing it because the Department of Education's capacity to help institutions lower their Cohort Default Rate or keep it low was minimal.”

CHAPTER 5

DISCUSSION AND CONCLUSION

The purpose of this study is to examine how the for-profit higher education industry attempted to influence changes to federal higher education policy during the most recent reauthorization of the *Higher Education Act* (HEA). Access and influence theories, including “lobbying as a legislative subsidy,” provide the framework for this study (Hall and Deardorff 2006). While the theory of lobbying as legislative subsidy encompasses the related fundamentals of the policy process that includes issue definition, agenda setting, and influence, it also suggests that lobbying subsidizes the limited resources of specific legislators, namely those legislators who already sympathize with a special interest-group’s policy agenda. Interest-groups are able to provide this legislative subsidy through access and influence.

In addition to reviewing relevant Congressional records and other data sources, such as advocacy materials, I conducted interviews with Congressional staff, lobbyists for for-profit and non-profit colleges, and higher education news reporters, all of whom had a role in the policy process of reauthorizing the HEA. The interviews and data sources provided empirical data on how, and to what extent, the for-profit colleges influenced the reauthorization of the HEA.

The first part of this chapter summarizes the study’s results. Implications for policy, practice, and theory; limitations; and, suggestions for further research are also discussed.

Summary of Results

The research question at the core of this study (how and the extent to which the for-profit higher education industry attempted to influence federal higher education policy, specifically provisions in the most recent reauthorization of the HEA) is supplemented by a set of five guiding questions in order to ascertain the specific policy agenda items that for-profit education, as a special interest-group, were most concerned about during the development of reauthorization legislation, to understand what methods for-profit education used to place their policy items on the reauthorization agenda, and to determine the effectiveness of for-profit education in advancing its preferred policy agenda.

For-Profit Policy Issues

What policy issues did the for-profit education special interest-group attempt to place on the agenda of the *Higher Education Act* reauthorization?

Results from this study indicate that the for-profit-college sector attempted to influence five major policy issues during the reauthorization process: a) changes to rules governing the ratios of revenue required for for-profit colleges to participate in the federal financial aid programs (90/10 Rule); b) changes to how the federal government defines an institution of higher education in the HEA (Single Definition); c. rules governing online education (50-Percent Rules); d) rules pertaining to transfer of academic credits from one institution to another (Transfer of Credit); and, e) measurements related to the percent of students who default on their student loans post

graduation and penalties levied on colleges based on those measurements (Cohort Default Rate). Each of these issues affected whether, and how, a for-profit college, and the students who attend them, can access federal financial aid. A student's ability to access federal financial aid affects a for-profit college's profit margins.

Individuals and Organizations

Which organizations and individuals were most involved in the for-profit college policy agenda for the discussion, development and passage of the legislation that resulted in the 2008 reauthorization of the *Higher Education Act*?

Results from this study demonstrate that there were eight primary individuals, sets of individuals, or organizations that were most involved in discussing and influencing the policy issues of most import to the for-profit sector. The individuals included Congressman Howard "Buck" McKeon (R-California), Congressman Robert Andrews (D-New Jersey), Congresswoman Carolyn McCarthy (D-New York), Congressman Tim Bishop (D-New York), and the cadre of for-profit-college lobbyists. The primary organizations cited were the Career College Association, the University of Phoenix, for-profit colleges generally, and the non-profit, traditional higher education sector.

Strategies and Arguments

How did the for-profit education special interest-group attempt to influence policy makers during the 2008 reauthorization of the *Higher Education Act*?

The for-profit colleges utilized three main strategies and two main arguments to advance their policy agendas with decision makers. Those three strategies consisted of political contributions, meetings with Congressional offices, and grassroots efforts. The

two main arguments included making the case that for-profit colleges provide access to a higher education for low-income students that otherwise would not have access to a college education and that current federal policies discriminated against for-profit colleges, and the students who attend them.

Successes

In what ways was the for-profit education special interest-group successful in its influence of the final legislation that resulted in the 2008 reauthorization of the *Higher Education Act*?

The for-profit college sector had one primary success cited by most of the interview participants: changes to the 90/10 Rule. This policy success grants for-profit colleges more flexibility in the ratio of revenue they are required to have for purposes of participating in federal financial aid programs. This policy success helps to ensure for-profit colleges can enroll students who qualify for federal financial aid and ensure that colleges can utilize federal financial aid programs to subsidize their profit margins.

Less prominent successes cited by some of the interview participants included two of the policy issues on their agenda – the elimination of the 50-Percent Rules and mitigating changes to the Cohort Default Rate that would have potentially disproportionately penalized for-profit colleges.

Failures

In what ways was the for-profit education special interest-group not successful in its influence of the final legislation that resulted in the 2008 reauthorization of the *Higher Education Act*?

The for-profit college sector had one primary failure cited by interview participants – the inability to convince Congress to adopt a Single Definition of institution of higher education. A success in this policy area would have erased any distinction between for-profit and non-profit status in various federal laws, including, but not limited to the HEA. Interview participants also noted the inability of the for-profit colleges to convince Congress to add policies related to Transfer of Credit. Changes to the Cohort Default Rate measure were also cited as a policy failure for the for-profit-college sector.

Discussion

This study found that the for-profit-college sector was able to access and influence Congressional offices through a variety of strategies, such as political contributions and lobbying, in order to advance their policy agenda and ultimately make some changes that were favorable to and included some of the for-profit-college sector's policy agenda for the reauthorization *Higher Education Act*. Using Hall and Deardorff's (2006) model of "lobbying as legislative subsidy," this study shows how a special interest-group was able to use their access to specific members of Congress to influence specific policy changes to the 2008 reauthorization of the HEA.

Interest Groups and Allies

In the legislative subsidy process interest-groups provide allies with information, political intelligence, and legislative labor in order to achieve shared goals (Hall and Deardorff, 2006). This study revealed the key players, including those players who were

part of the for-profit-college sector interest-group and the Congressional allies, primarily those members on the House Education and the Workforce Committee, who supported the sector's agenda. The study also revealed those key players who were not allies, and who tried to counter the for-profit college sector agenda.

In addition, the interviews and data sources revealed the information, political intelligence, and effort (i.e. legislative labor) that the special interest-groups provided to their allies, as well as those who were not their allies. The study further revealed that the interest-group was able to access their allies, and foes, through lobbying and political contributions. Ultimately this process led to changes in federal law.

In this particular study, the interest-group was the for-profit college sector, and the interviews specifically revealed that the major players within that interest-group were the Career College Association and the Apollo Group, which owns the University of Phoenix. Additional data from lobbying reports and political contributions also pointed to Corinthian College as a major player. Allies, for this particular study, are defined as those who advanced the agenda of the interest-group. This study, through the interviews, revealed that the key allies included Congressman Howard "Buck" McKeon (R-California), Congressman Robert Andrews (D-New Jersey), and Congresswoman Carolyn McCarthy (D-New York). Another main player was Congressman Tim Bishop (D-New York), though he was not seen as an ally for the for-profit sector. Rather, he was an ally for the non-profit sector, which could be viewed as the counter-lobby to the for-profit sector. In interviews, participants made it clear that though not an ally of the for-profit sector, Congressman Bishop was very much involved in the policy discussions related to the for-profit-college sector. The literature supports this phenomenon of

interest groups also working with those who are not supportive of their positions or policy agendas. Austen-Smith and Wright (1987) found that interest groups lobbied both legislators that were supportive and oppositional, and had considerable influence in changing the minds of legislators, not just reinforcing positions. In addition, they suggested that when groups lobby their “friends” they are being strategic and counteractive. In other words, interest-groups had to “counteract the influence of opposing groups who lobbied the same” members of Congress (1994, p. 42).

In the case of this study, the for-profit-college sector did focus their lobbying efforts on allies, as well as those who were in opposition to their agenda, to counteract some of the efforts by the non-profit sector. The clearest example in this particular study is in relation to the proposed changes to the Cohort Default Rate, which was an agenda led by the non-profit-college sector to target the for-profit-college sector. The for-profit-college sector had made sure to reach out to their allies, whom they had reached out to early on in the process, to ensure they understood the implications for this policy change in an effort to “counteract” the influence of their opponents. According to Hojnacki and Kimball (1999) decisions about whom to lobby show that counteractive lobbying is more prevalent at later stages in the legislative process and that groups strategically target their friends who serve on committees of jurisdiction towards the beginning of the legislative process in order to influence early drafts of legislative language and to counter unfriendly amendments that may occur further down the process. This study revealed similar efforts and processes. While the Cohort Default Rate issue arose later in the legislative process, the for-profit-college sector was able to draw on the relationship-building they did towards the earlier part of the process to counter the unfriendly amendment.

In another study of how interest-groups decide whom to lobby in Congress, Hojnacki and Kimball (1998) found that interest groups first lobby those members on committees of jurisdiction who are friendly to their policy position on an issue. This study affirms that tendency; the for-profit-college sector clearly approached their allies on the Education and the Workforce Committee first, through political contributions and lobbying strategies. This use of access and influence was particularly important when the Democrats were in control towards the end of the reauthorization process, given that, historically, Democrats were not seen as generally supportive of the for-profit-college sector and given that they were in charge of Congress. Those “friendly” members of Congress, such as Congressman Andrews, then in turn lobbied their colleagues, such as Congressmen George Miller and Tim Bishop. Previous studies have found that groups not only attempt to persuade decision makers to take a certain position, but groups also attempt to actively participate and work in support of the group with their colleagues (Hall and Wayman, 1990; Scheier and Gross, 1993). Furthermore, Hojnacki and Kimball (1998, 1999, and 2001) found that those interest-groups with more resources, especially those that have an affiliated Political Action Committee, are better able to and more likely to expand beyond those members friendly to their positions and reach out to undecided committee members and even those legislators who are oppositional to their policy positions, especially when groups have existing and strong support in other Congressional districts, in the form of lobbying and grassroots engagement of an elected official’s constituents. In other words, interest-groups that are resourced enough to provide PAC contributions are able to access not only the members of Congress who receive those contributions, but also other members of Congress. This study

demonstrated that the for-profit-college sector interest-group was not only able to access their allies, such as Buck McKeon and Rob Andrews, but the sector was also able to access those who were not as friendly, such as Tim Bishop, who was forced to compromise his position due to Rob Andrews and other members of his political party who were sympathetic to the for-profit-college agenda. Campaign contributions, therefore, supported the for-profit-college sector's ability to access and influence allies in such a way as to be supportive of the for-profit-college sector agenda by either helping to advance the for-profit-college policy agenda items or encouraging their colleagues to be more supportive of a particular policy issue, such as in the example of the changes to the 90/10 Rule. The sector was also able to utilize access and influence to counter the influence of their opposition, such as in the example of the Cohort Default Rate issue where the sector was able to make the original version of the amendment less damaging to the sector. Campaign contributions as a strategy to access allies are further discussed below.

Access and Influence: Campaign Contributions

The study further revealed that the key players of the interest-group were also the largest contributors to the political campaigns of those cited as the key allies in advancing the for-profit college agenda. Allies, such as Congressmen McKeon and Andrews appeared at or near the top of the recipient list of the largest contributors, the Career College Association, the Apollo Group, and Corinthian College. Campaign contributions were a key strategy of the for-profit-college sector's attempts to advance their policy agenda. Hall and Deardorff (2006) acknowledge the role of moneyed interests in the

influence process by hypothesizing that Political Action Committee contributions “indirectly facilitate the process of subsidizing legislators by buying access” (p. 80). They suggest in their own studies the need to further understand the consequences of this kind of access, which this study attempted to do. The consequences of access allowed consideration of certain policy issues that arguably may not have otherwise been considered during the reauthorization. This concept is further explained below. In addition, this access appeared to influence not only the policy issues under consideration, but also how the policy issues were framed and ultimately included in the final law. This concept is also further explored below.

Past research indicates that influence over the legislative process can be at least partially understood through the investigation of moneyed interests and the financial relationship between an interest-group and their allies. This study adds to the understanding of the role of political contributions in the influence of the legislative process by showing how the key allies who advanced the policy agenda of the for-profit college-sector were the same members of Congress receiving political contributions.

Another interesting note about the campaign contributions made to their allies during the reauthorization is the value of their “investment.” For example, over the course of the entire reauthorization process, the Apollo Group, one of the largest contributors, gave just over \$200,000 to individuals and approximately \$115,000 to Political Action Committees. This is a relatively small number given the billions of dollars in student financial aid at stake and the tens of millions of dollars in federal subsidies that flow through students who are enrolled at the University of Phoenix.

In their legislative subsidy model, Hall and Deardorff (2006) hypothesize that one of the consequences for making financial contributions is an opportunity for a lobbyist to offer assistance rather than to ask for something such as a vote on a specific piece of legislation. This legislative subsidy suggests that the use of money to buy access works best and perhaps only when legislators and interest-groups share a position on an issue and have a common objective. In this study, the common objective was to include policy changes in the reauthorization of the HEA that furthered the ability of the for-profit-college sector to grow, expand and be seen as a legitimate part of the U.S. higher education system. This common objective was mutually beneficial to the sector that would benefit from the policy change and to the policy makers who could take credit for advancing a policy they believed in or that benefited their home district.

As stated earlier, the allies, in this particular study, were members of Congress on the Education and the Workforce Committee. In their studies of Congressional committees, Hall and Wayman (1990) found that moneyed interest-groups are more likely to affect committee decision-making processes than floor votes. This study supports those earlier findings; most of the decisions about what to include in the reauthorization in relation to the for-profit-college sector agenda were made during the committee process. What is most likely to be affected by moneyed interests is the legislative involvement of a member of Congress, not his or her vote. Hall and Wayman (1990) also found evidence that members are more influenced by organized business interests than by unorganized voters. Their findings underscore Wright's (1990) claim that though there seems to be little connection between PAC contributions and floor votes (part of the legislative process that comes later in the process after committee action),

there may be influence in the committee process, amendment development, and access. This study confirms earlier studies that moneyed interests have influence at the beginning of the legislative process when bills are being first drafted by committee staff. The following section explores the kind of influence the for-profit-college sector had during committee consideration of the reauthorization, including influence during the drafting and the discussion of various policies, as well as what changes were ultimately included in the final passage.

Access and Influence: Providing Information

In the legislative subsidy model, it is also assumed that in exchange for financial contributions, special interest-groups gain access to members of Congress to ask for support of certain legislation, to vote a certain way, or to take a specific position on a policy issue. This exchange can be seen in the relationship between the list of members of Congress who received contributions and those members who were cited by interview participants as most involved in the for-profit-college sector agenda. The influence of the process can be understood when one realizes that policy issues that may not have otherwise been considered during the reauthorization, given the obscurity of such policies and the very specific nature of the issues to the for-profit sector, are part of the debate and discussion and ultimately end of up the final legislation. Further, this access influences not only the policy issues under consideration, but also how the policy issues were framed and ultimately included in the final law.

The for-profit-college sector provided information to their allies and others first in the form of advocacy materials, which listed the policy agenda they worked to advance

during the reauthorization. The sector used these materials during lobbying visits with members of Congress and Congressional staff and in responses to inquiries from Congressional offices regarding the sector's priorities or positions for various provisions in the reauthorization. As the interviews noted, the reauthorization process was kicked off with Congress asking the higher education community what their priorities were for the bill. Around this same time, as political contributions were coming in (access), the for-profit college sector used that opportunity to influence the reauthorization by sharing information with specific, friendly members of Congress. As some interviewees noted, these were issues about which a typical member of Congress would not have known much nor would they necessarily know or understand how current law may have been affecting the for-profit-college sector. The for-profit-college sector would have to provide that information to the members of Congress in order for Congress to do anything in regards to such issues as a Single Definition, Transfer of Credit, the 50-Percent Rules, or the 90/10 Rule. The lobbying as legislative subsidy model helps to reveal how a lobbyist sharing this information becomes an extension of the elected official's legislative staff by the very act of bringing awareness to the issue and then providing information about those issues as the legislative process moves along.

Once the sector provided the information, the member of Congress who was the ally on an issue became the champion and "expert" on the issue within Congress and during the debate and discussion of the legislation. For example, as the interviews revealed, Congressman McKeon was seen as a main champion on the 90/10 Rule from the beginning, and his staff relied on the sector to provide additional information as the discussion developed over the entire process. As the process moved along, other

members also became allies, and their staff relied on, and in fact requested, the for-profit-college sector to provide data and information so that they could continue to be an ally, or not, during the process. Through this process and exchange, the lobbyist became an extension of the Congressional offices.

Once the policy agenda items had been established as a priority for both the for-profit-college sector and for members of Congress, the interest-group continued to provide data and additional information and particulars during lobbying visits to Congressional offices. These visits would provide the information to be used to justify the inclusion of the policy issue in drafts of legislation and in any debate and discussion that resulted in the development of compromises on issues where there was disagreement, of which there was a lot during the debate of the policy issues on the for-profit-college agenda. In this way, lobbyists, on both sides of the issues, are extensions of a Congressional office. Sometimes, Congress would even tell lobbyists that they needed to work out compromises and then bring those ideas back to Congressional offices. For example, on the 90/10 Rule, Congressional offices requested that those lobbyists representing interest-groups most involved in support and in opposition to changes to the 90/10 Rule work together to come up with a compromise solution. The literature reflects this phenomenon in the process. Constain and Constain (1981) argued that interest-groups, as aggregators of various policy demands, narrow the number of policy options and therefore the alternatives presented to Congress. An important activity of interest-groups is to then resolve conflict about an issue making it more likely that Congress will add the issue to its agenda. In other words, the interest-groups, as extensions of a legislative office, provide actual labor and do some of the work of Congress. In some

instances this study showed that this work was provided because of lack of time and resources on the side of Congress, as explained by the Hall and Deardorff (2006) model, but also this labor was provided sometimes out of sheer frustration when the various sides could not come to agreement on an issue, such as on the 90/10 Rule.

In addition, Hall and Deardorff (2006) have found that lobbyists are extensions of a Congressional office in that they provide political intelligence and information about constituent views and perspectives. Some of the interviewees shared how the for-profit-college sector would provide various offices with information about the policy positions of other Congressional offices, of other special interest-groups, such as the non-profit-college sector, and of constituent groups, such as for-profit colleges in their district. This intelligence would assist Congressional offices in knowing the extent to which their willingness to be an ally to the for-profit-college sector on certain policy issues would benefit them or not. All members of Congress want to be able to advance policy issues that gain them favor among their colleagues and their constituencies. Taking positions on issues related to the for-profit-college agenda had the potential to position them as policy makers concerned with student access and workforce development in their home states and districts.

The findings demonstrate how access and influence matter when attempting to make policy changes to federal law, and that the for-profit-college sector was able to utilize a set of strategies and arguments to access and influence a set of decision makers. Further, this study shows how lobbying can be understood as a legislative subsidy. In the lobbying as legislative subsidy model those legislators who already sympathized with the for-profit-college sector policy agenda were more apt to be seen as supporters of the for-

profit-college sector and therefore more apt to utilize the for-profit-college sector's policy positions and related data as a resource to take policy positions and to take subsequent actions to move that position forward in the form of committee votes and other legislative activities, such as the formation of bill language. Further the issues identified by Congressional staffers and lobbyists as most important to the for-profit-college sector were also those issues found in the for-profit-college sector's advocacy materials, and those issues that were either identified as successes or failures, depending on their fate in the legislative process. This relationship among the issues presented by the sector, discussed during the legislative process, and found in the final legislation, underscores the element of the lobbying as legislative subsidy model that suggests the importance of shared policy objectives among the interest-group and allies.

In this study, data revealed that policy actors, policy positions, and policy actions were connected through access and influence. For example, those identified as most involved in shaping policy issues of concern to the for-profit-college sector were either giving (i.e. University of Phoenix) or receiving political contributions (i.e. Congressman Buck McKeon). The legislative subsidy model suggests that the policy issues and positions between for-profit colleges and certain decision makers are shared. Those same for-profit colleges were accessing and influencing the same decision makers through political contributions and lobbying through Hill meetings. This study shows that when a special interest-group identifies allies, figures out how to access them, and then influences them by providing information and legislative subsidy, they are more likely to achieve at least some version of their policy agenda.

Implications

The findings reveal a number of implications for theory, policy and practice. In regards to theory the possibility of a revised framework is discussed in more detail below. In addition, the findings suggest a number of policy and practice implications for higher education as a sector and how higher education as an interest group can access and influence Congress in regards to federal higher education laws.

Implications for Theory

This study was guided by the lobbying as legislative subsidy framework developed by Hall and Deardorff (2006), which describes how an interest-group identifies allies, gains access through such strategies as political contributions, and attempts to influence policy by providing information to the allied Congressional office. This process results in the special interest-group becoming an extension of the legislative office, which becomes a “legislative subsidy” to the resource-constrained Congressional office.

One of the gaps and contradictions in this area of political science research that Hall and Deardorff’s (2006) framework has attempted to fill is the difficulty that the political science field had had in understanding, much less proving, how access and influence occur in relation to the Congressional process. This framework applied to this study helps explain and provide a better understanding of how access and influence occur alongside and serve as catalysts for policy change at the federal level. The research questions applied to this framework helped to demonstrate not only how, but that when a special interest-group identifies allies, figures out how to access them, and then

influences them by providing information and legislative subsidy, they are more likely to achieve some of their policy agenda. This study helps to show examples of access and influence and the results of the application of those strategies and arguments on the formation and outcomes of policy. Findings of the study suggest there would be a benefit to slightly revising the framework for future studies in this area.

Original Framework

The framework used for this study, as shown in Figure 1, assumes that the special interest-group/lobbyist and the legislator have a shared policy. This shared policy objective is demonstrated when the special interest-group, through the use of a lobbyist, gains access to a legislator through financial contributions. The same special interest-group, through the use of a lobbyist, persuades a legislator through legislative subsidy. The combination of access and influence ultimately turns a shared policy objective into legislation action.

Revised Framework

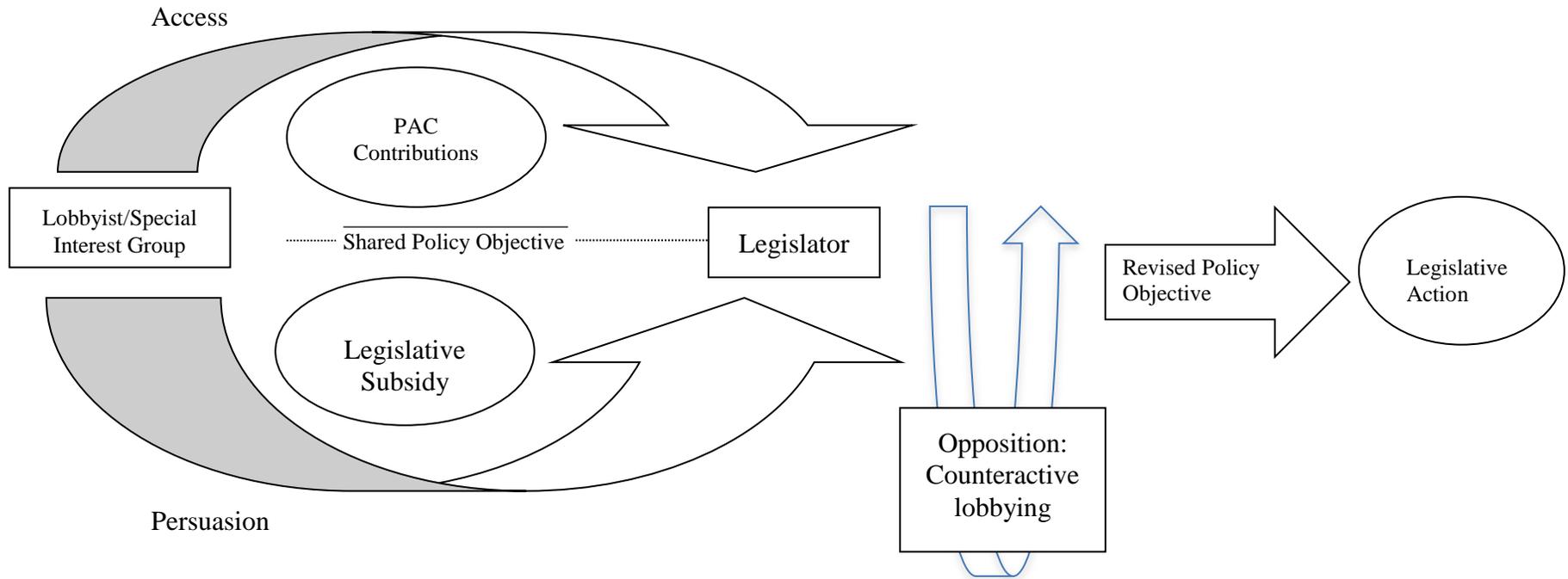
Results of the study suggest that there is value in looking at a revised framework for future studies in access, influence, and legislative subsidy. Findings related to the key players involved in the reauthorization showed that those in opposition to the for-profit-college sector, both members of Congress and other special interest-groups, had an effect on the ability of allies and interest-groups to move a policy agenda forward. A framework that takes those actors into consideration could provide a more robust picture of how an interest-group influences the process through legislative subsidy.

One of the areas that would be helpful to explore further in the application of this framework to future studies in access, influence, and lobbying as legislative subsidy is the extent to which the allies' Congressional colleagues and other interest-groups work in opposition to a special interest-group's policy agenda and how those actions affect policy debate and formation. See Figure 3 for a revised framework that includes this modification. Such a framework may prompt questions that help demonstrate how the special interest-group and allies adjust their strategies and arguments to continue to advance a policy agenda despite opposition, and whether and how allies on certain policy issues utilize Congressional colleagues.

Implications for Policy and Practice

The findings of this study demonstrate several implications for policy and practice for for-profit and non-profit higher education lobbying activities, particularly as the next reauthorization of the HEA approaches. First, for the non-profit higher education sector: take a cue from the for-profit-college sector and develop a clear advocacy agenda as an entire sector (instead of sub-sectors, such as just community colleges or just private, non-profit colleges) with specific asks aligned with specific allies. While the for-profit-college sector may not be able to incorporate financial contributions into their access strategy, there is some indication that their traditional role and influence may not require the same financial contributions. For example, it is possible that what the for-profit colleges provide in financial contributions to gain access, the non-profit colleges may provide in reputation to gain access and influence. With this kind of access, the non-profit sector

Figure 3: Revised Conceptual Framework for Persuasion and Legislative Subsidy



should develop a clear advocacy agenda with specific asks on which the entire sector is able to lobby Congressional allies. A clear, focused agenda that is in alignment with a set of allies would enhance the effectiveness of the non-profit-college lobby. In addition, the non-profit-college sector would also benefit from taking a cue from the for-profit-college sector's key messages and adopt similar ones that from a policy perspective of student access and success and efficiency of taxpayer dollars, make the non-profit-college sector appear responsive and relevant to the changing higher educational needs of the country while being the "better deal" for taxpayers, students, and society.

An implication to consider for the for-profit-college sector is to continue to identify the key policy issues that need to be addressed in the next reauthorization and determine the individuals and organizations that will attempt to counter those policy changes.

And, finally, an implication in regards to Congress is to consider the process of ensuring that all sides of a policy issue are considered so that the data and information informing policy is from a variety of sources. If the for-profit-college sector and the non-profit-college sector both have concerns regarding a policy solution related to the HEA, it very well may be the best compromise to accomplish the stated policy goal.

Limitations

This research project had several limitations. First, this study was an analysis only of data related to the U.S. House of Representatives and does not include analysis of data related to the U.S. Senate or the U.S. Department of Education, both entities that were involved in the reauthorization. Second, interviewees were asked to remember

discussions and debates of policy issues that had taken place more than one year before the interviews and in some instances from as long as five years before. Given that interview participants were those most involved in a reauthorization process that took place over an extended period of time, this limitation was not expected to negatively influence the quality of data. Third, this study was focused on one reauthorization. A study that compares more than one reauthorization may reveal more about the influence of the for-profit-college sector over time. Finally, while not necessarily a limitation, it should be revealed that I had personal experience as a Congressional staffer and lobbyist during the time period under investigation.

Directions for Further Research

This study provides a number of insights into how the for-profit-college sector advanced their policy agenda during the most recent reauthorization of the HEA. Several ideas for future research are suggested.

First, this study only examined the lobbying efforts in regards to one law, but there are several federal laws that affect and benefit for-profit higher education, including the G.I. Bill, which provides funding for student veterans and their dependents to receive a subsidized college education. Recent news reports have described concerns related to the amount of federal funds made available to for-profit colleges to enroll student veterans. A study to examine how federal funds that are distributed through the G.I. Bill for student veterans to attend for-profit colleges affect, if at all, other policy issues, such as enrollment, graduation rates, career placement, and debt levels, among other policy issues, would be valuable.

Second, one of the rationales for this study was the news reports related to various fraud and abuse scandals related to for-profit colleges' participation in the federal student financial aid programs. A study to look at the amount of fraud and abuse in the federal financial programs would be helpful in order to see how these lobbying activities and access and influence have affected policy changes that may have led to the decline of the integrity of the financial aid programs.

Third, a similar study to this one to look at the lobbying efforts of for-profit colleges and non-profit colleges during the next reauthorization would be an interesting follow-up study, particularly if the study incorporates the role of the U.S. Senate and the U.S. Department of Education. A similar framework could help compare and contrast the efforts of the for-profit and non-profit higher education sectors.

Fourth, a study to look at how these moneyed interests have contributed to the growth the for-profit college sector's participation in the federal financial aid programs and whether any shift has affected for-profit-college enrollment and graduation rates, as well as the for-profit-college contributions to workforce development, would be valuable. Fifth, a study to examine the role of the States in the oversight and funding of for-profit colleges would be helpful in providing a bigger picture of the efficiencies and effectiveness of public resources allocated to the for-profit-college sector and the benefits related to those investments in for-profit colleges. Finally, a study to determine whether financial contributions are necessary for access and influence or just merely more helpful would be an interesting follow-up to this one.

Conclusion

The purpose of this study was to determine the role and influence of the for-profit college sector on the 2008 reauthorization of the *Higher Education Act* (HEA) given the growing scrutiny and simultaneous growth of the for-profit-college sector during a time of increased competition for resources for higher education institutions and financial aid for the students who attend them. Using the “lobbying as legislative subsidy” model, interviews with key participants were conducted, and special interest-group data and the *Congressional Record* were analyzed. Results suggest that special interest-groups, through a combination of access to and influence of members of Congress who sit on relevant committees of jurisdiction, can – and did – successfully advance their policy agendas particularly when they set forth a clear set of priorities with specific messages and strategies early in the legislative process aimed at decision makers who are already sympathetic to their view point and to whom they likely provide political contributions. This process allows special interest-groups to become an extension of a Congressional office, earning access and influence to the legislative process by providing information and political intelligence. In turn, these “allies” not only become proponents of the policy agenda, but also are willing to influence their colleagues who either agree with the policy agenda or who have concerns with the policy agenda.

While special interest-groups may encounter individuals and organizations that oppose their policy agenda, early access and influence in the legislative process, as well as consistent contacts with those members of Congress who support, as well those who do not support the particular policy agenda, can provide a bit of an inoculation against “counter lobbying.”

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APPENDIX A

Interview Protocol: Congressional Staff

- 1a. Before we dive in, please tell me a little about yourself and how you came to work in the position you were in during the most recent reauthorization of the *Higher Education Act*?
- 1b. Are you still in the same position?
2. What policy issues did you consider the most important policy issues debated during the reauthorization of the *Higher Education Act*?
3. What individuals and groups were involved in the shaping of those policy issues – both on the Hill and off the Hill?
- 4a. What policy issues did the for-profit colleges care most about?
- 4b. Did you work on any of those policy issues?
- 4c. Did you or your boss want to accomplish anything related to those policy issues?
5. Of those policy issues related to the for-profit colleges, what individuals and/or groups were involved in those policy issues both on and off the Hill?
6. Are you aware of attempts to influence you and/or your boss and/or other Congressional Offices on those policy issues? If so, please describe the strategies and the arguments they used to advance their policy goals.
7. In your experience, in what ways were the for-profit colleges successful in their attempt to advance their policy goals?
8. In your experience, in what ways were the for-profit colleges not successful in their attempt to advance their policy goals?
9. What organizations did the for-profit colleges align with?
10. What organizations impeded or attempted to impede for-profit college efforts?
11. Looking back, in what ways do you feel like you or your boss supported or impeded policy changes related to the for-profit college's policy agenda?
12. Are there any other questions on this issue that I should be asking?

APPENDIX B

Interview Protocol: Higher Education Special Interest-groups/Lobbyists- Non-profit

- 1a. Before we dive in, please tell me a little about yourself and how you came to work in the position you were in during the reauthorization?
- 1b. Are you still in the same position?
2. What policy issues did you consider the most important policy issues debated during the reauthorization of the *Higher Education Act*?
3. What individuals and groups were involved in the shaping of those policy issues – both on the Hill and off the Hill?
- 4a. What policy issues did your organization care most about?
- 4b. And, what did you want to accomplish?
- 4c. How did you go about accomplishing those goals?
- 5a. Are you aware of the policy issues that the for-profit colleges cared most about?
- 5b. How did these issues compare to your organization's goals?
6. Of those policy issues related to the for-profit colleges, what individuals and/or groups were involved in those policy issues both on and off the Hill?
7. Are you aware of attempts to influence Congressional Offices on those policy issues? If so, please describe the strategies and the arguments they used to advance their policy goals.
8. In your experience, in what ways were the for-profit colleges successful in their attempt to advance their policy goals?
9. In your experience, in what ways were the for-profit colleges not successful in their attempt to advance their policy goals?
10. What organizations did the for-profit colleges align with?
11. What organizations impeded or attempted to impede for-profit college efforts?
12. Looking back, in what ways do you feel like your organization supported or impeded policy changes related to the for-profit college's policy agenda?
13. Are there any other questions on this issue that I should be asking?

APPENDIX C

Interview Protocol: Higher Education Special Interest-groups/Lobbyists- For-profit

- 1a. Before we dive in, please tell me a little about yourself and how you came to work in the position you were in during the reauthorization?
- 1b. Are you still in the same position?
2. What policy issues did you consider the most important policy issues debated during the reauthorization of the *Higher Education Act*?
3. What individuals and groups were involved in the shaping of those policy issues – both on the Hill and off the Hill?
- 4a. What policy issues did your organization care most about?
- 4b. And, what did you want to accomplish?
- 4c. How did you go about accomplishing those goals?
5. What other individuals and/or groups were involved in those specific policy issues both on and off the Hill?
7. In what ways did your organization attempt to influence Congressional Offices on those policy issues? Please describe the strategies and the arguments you used to advance your policy goals.
8. In your experience, in what ways was your organization successful in your attempt to advance your policy goals?
9. In your experience, in what ways was your organization not successful in your attempt to advance your policy goals?
10. What organizations did your organization align with?
11. What organizations impeded or attempted to impede your organization's efforts?
12. Are there any other questions on this issue that I should be asking?

APPENDIX D

Interview Protocol: Higher Education Reporter

- 1a. Before we dive in, please tell me a little about yourself and how you came to work in the position you were in during the reauthorization?
- 1b. Are you still in the same position?
2. What policy issues did you consider the most important policy issues debated during the reauthorization of the *Higher Education Act*?
3. What individuals and groups were involved in the shaping of those policy issues – both on the Hill and off the Hill?
- 4a. Are you aware of the policy issues that the for-profit colleges cared most about?
- 4b. How did these issues compare to other special interest-groups following the reauthorization?
5. Of those policy issues related to the for-profit colleges, what individuals and/or groups were involved in those policy issues both on and off the Hill?
6. Are you aware of attempts to influence Congressional Offices on those policy issues? If so, please describe the strategies and the arguments they used to advance their policy goals.
7. In your experience, in what ways were the for-profit colleges successful in their attempt to advance their policy goals?
8. In your experience, in what ways were the for-profit colleges not successful in their attempt to advance their policy goals?
9. What organizations did the for-profit colleges align with?
10. What organizations impeded or attempted to impede for-profit college efforts?
11. Looking back, in what ways do you feel like your organization supported or impeded policy changes related to the for-profit-college's policy agenda?
12. Are there any other questions on this issue that I should be asking?

APPENDIX E

Data-Collection Protocol

General Guidelines for Document Searches

1. Documents reviewed will be dated January 1, 2003-December 31, 2008
2. An excel spreadsheet will be created to record all collected data:
 - a. Date that search was conducted
 - b. Data source (i.e. Campaign Finance Reports, *Congressional Record*, etc)
 - c. Search Strings- keywords or URL
 - d. Findings- YES or NO. If yes, information will be saved as explained for each data source below.

Searching Campaign Finance Reports

This search involves the collection of information pertaining to political contributions of for-profit college special interest-groups to members of Congress on the House Education and Workforce Committee. This information will be gathered from www.opensecrets.org – a non-partisan, independent research website run by the Center for Responsive Politics that tracks money and its influence on elections and public policy.

Search Steps

1. Go to www.opensecrets.org . Choose “PAC’s” under “influence and lobbying” tab.
2. Use keywords in the search function to find which special interest-groups gave what amount to which members of Congress.
3. Record information in excel spreadsheet:
 - a. Year of contribution (2003-2008)
 - b. Name of special interest-group
 - c. Amount of contribution
 - d. Name of Member of Congress who received contribution

Searching Federal Lobbying Reports

This search involves the collection of information pertaining to amount of money spent by for-profit college special interest-groups on lobbying activities. This information will be gathered from www.opensecrets.org – a non-partisan, independent research website run by the Center for Responsive Politics that tracks money and its influence on elections and public policy.

1. Go to www.opensecrets.org . Choose “lobbying” under the “influence and lobbying” tab.
2. Use keywords in the search function to find which lobbying firms and special interest-groups lobbied for for-profit colleges.
3. Record information in excel spreadsheet:
 - a. Year of lobbying activities (2003-2008)
 - b. Name of special interest-group or lobbying firm
 - c. Name of lobbyist
 - d. Name of for-profit college
 - e. Amount of lobbying activities

Searching Special Interest-group Websites

This search involves collecting information from interest-group websites of those groups named in interviews, interviewed, named in *Congressional Record*, or found through search of PAC contributions and lobbying reports.

Information gathered from these websites will include documents posted that include group’s position on or statements about the reauthorization of the *Higher Education Act*. Documents may include: talking points, newsletters, policy positions, news releases, advocacy positions statements, etc.

Search steps:

1. Some of the websites will have search features to locate documents and others may have advocacy/government relations pages with relevant documents.
2. When relevant documents or information is found, the data will be saved in an excel document:
 - a. Name of organization
 - b. URL
 - c. Type of document
 - d. Policy position

Searching the *Congressional Record* and the House Education and Workforce Committee Website

This search involves collecting information from Thomas and the House of Representatives websites. Information gathered from these websites will include data on bills and amendments to bills, statements made by members in committee, committee hearings and mark-ups, Dear Colleague letters, and press releases relevant to the reauthorization of the *Higher Education Act*. Key word searches will facilitate the gathering of information.

Search steps:

1. Go to <http://thomas.loc.gov/>
 - On Thomas homepage and click on *Congressional Record* and select Congress (108th, 109th, 110th).
 - Two searches will be conducted.
 - First: any legislation related to the reauthorization.
 - Second: statements made by members of the House Education and Workforce Committee about the reauthorization of the *Higher Education Act*.
 - Relevant data on the reauthorization of the *Higher Education Act* will be saved as its own file and recorded in the excel spreadsheet.
2. Go to <http://edlabor.house.gov/>
 - On committee website search for documents relevant to the reauthorization of the *Higher Education Act*, including hearings, hearing statements, member statements and extension of remarks, and press releases.
 - Relevant data on the reauthorization of the *Higher Education Act* will be saved in its own file by source and recorded in the excel spreadsheet.

APPENDIX F

IRB Approval

1002E77635 - PI McCarthy - IRB - Exempt Study Notification

1 message

irb@umn.edu <irb@umn.edu>

Fri, Feb 19, 2010 at 8:20 AM

To: brittney.mccarthy@gmail.com

The IRB: Human Subjects Committee determined that the referenced study is exempt from review under federal guidelines 45 CFR Part 46.101(b) category #2
SURVEYS/INTERVIEWS; STANDARDIZED EDUCATIONAL TESTS;
OBSERVATION OF PUBLIC BEHAVIOR.

Study Number: 1002E77635

Principal Investigator: Brittney McCarthy

Title(s):

Reauthorizing the *Higher Education Act*: An Analysis of the Role of the For-Profit Higher Education Sector

This e-mail confirmation is your official University of Minnesota RSPP notification of exemption from full committee review. You will not receive a hard copy or letter. This secure electronic notification between password protected authentications has been deemed by the University of Minnesota to constitute a legal signature.

The study number above is assigned to your research. That number and the title of your study must be used in all communication with the IRB office.

Research that involves observation can be approved under this category without obtaining consent.

SURVEY OR INTERVIEW RESEARCH APPROVED AS EXEMPT UNDER THIS CATEGORY IS LIMITED TO ADULT SUBJECTS.

This exemption is valid for five years from the date of this correspondence and will be filed inactive at that time. You will receive a notification prior to inactivation. If this research will extend beyond five years, you must submit a new application to the IRB before the study's expiration date.

Upon receipt of this email, you may begin your research. If you have questions, please call the IRB office at (612) 626-5654.

You may go to the View Completed section of eResearch Central at <http://eresearch.umn.edu/> to view further details on your study.

The IRB wishes you success with this research.

We have created a short survey that will only take a couple of minutes to complete. The questions are basic, but will give us guidance on what areas are showing improvement and what areas we need to focus on:

<https://umsurvey.umn.edu/index.php?sid=36122&lang=um>