

---

# education policy analysis archives

A peer-reviewed, independent,  
open access, multilingual journal



Arizona State University

---

Volume 31 Number 4

January 24, 2023

ISSN 1068-2341

---

## State-Level Responses to U.S. Federal Policy on State Authorization for Higher Education

*Rebecca S. Natow*  
Hofstra University

*Vikash Reddy*  
Campaign for College Opportunity  
&

*Victoria Ioannou*  
City University of New York, Queens College  
United States

**Citation:** Natow, R. S., Reddy, V., & Ioannou, V. (2023). State-level responses to U.S. federal policy on state authorization for higher education. *Education Policy Analysis Archives*, 31(4).  
<https://doi.org/10.14507/epaa.31.7522>

**Abstract:** In the United States, higher education institutions must be authorized as postsecondary education providers – through a process known as state authorization – to be eligible to receive federal student financial aid funds. Through state authorization policies, state governments play a key role in maintaining accountability for higher education. Since 2010, the federal government has issued a series of significant reforms on postsecondary state authorization; yet little is known about how state-level officials implement these policies. The purpose of this multi-case study was to analyze the experiences of five states (California, Illinois, Massachusetts, North Carolina, and Pennsylvania) responding to federal policy on postsecondary state authorization. Through semi-structured interviews with 25 officials across the five states and analysis of policy-relevant documents, this study found much consistency in the ways policy actors responded to federal state authorization policies. This study also found that states' implementation of these policies was challenged by insufficient staff capacity, limited

Journal website: <http://epaa.asu.edu/ojs/>  
Facebook: /EPAAA  
Twitter: @epaa\_aape

Manuscript received: 3/31/2021  
Revisions received: 6/30/2022  
Accepted: 8/3/2022

communications with the federal department of education, complexity of federal policies, and high compliance costs. Intermediary organizations and policy actors' networks played important roles in many aspects of states' responses to the policies.

**Keywords:** state authorization; higher education policy; intermediary organizations; policy implementation; federalism

### **Respuestas a nivel estatal a EE.UU. política federal sobre autorización estatal para la educación superior**

**Resumen:** En los Estados Unidos, las instituciones de educación superior deben estar autorizadas como proveedores de educación postsecundaria, a través de un proceso conocido como autorización estatal, para ser elegibles para recibir fondos de ayuda financiera federal para estudiantes. A través de las políticas de autorización estatal, los gobiernos estatales desempeñan un papel clave en el mantenimiento de la responsabilidad por la educación superior. Desde 2010, el gobierno federal ha emitido una serie de reformas significativas sobre la autorización estatal postsecundaria; sin embargo, se sabe poco sobre cómo los funcionarios estatales implementan estas políticas. El propósito de este estudio de casos múltiples fue analizar las experiencias de cinco estados (California, Illinois, Massachusetts, North Carolina y Pensilvania) en respuesta a la política federal sobre la autorización estatal postsecundaria. A través de entrevistas semiestructuradas con 25 funcionarios en los cinco estados y el análisis de documentos relevantes para las políticas, este estudio encontró mucha consistencia en las formas en que los actores políticos respondieron a las políticas de autorización de los estados federales. Este estudio también encontró que la implementación de estas políticas por parte de los estados fue desafiada por la capacidad insuficiente del personal, las comunicaciones limitadas con el departamento de educación federal, la complejidad de las políticas federales y los altos costos de cumplimiento. Las organizaciones intermediarias y las redes de actores de políticas jugaron un papel importante en muchos aspectos de las respuestas de los estados a las políticas.

**Palabras-clave:** autorización estatal; política de educación superior; organizaciones intermediarias; implementación de políticas; federalismo

### **Respostas estaduais aos EUA política federal de autorização estadual para o ensino superior**

**Resumo:** Nos Estados Unidos, as instituições de ensino superior devem ser autorizadas como provedoras de ensino superior – por meio de um processo conhecido como autorização estadual – para serem elegíveis para receber fundos federais de auxílio financeiro estudantil. Por meio de políticas estaduais de autorização, os governos estaduais desempenham um papel fundamental na manutenção da responsabilidade pelo ensino superior. Desde 2010, o governo federal emitiu uma série de reformas significativas na autorização estadual pós-secundária; no entanto, pouco se sabe sobre como as autoridades estaduais implementam essas políticas. O objetivo deste estudo multicaso foi analisar as experiências de cinco estados (Califórnia, Illinois, Massachusetts, Carolina do Norte e Pensilvânia) respondendo à política federal de autorização estadual pós-secundária. Por meio de entrevistas semiestructuradas com 25 funcionários dos cinco estados e da análise de documentos relevantes para as políticas, este estudo encontrou muita consistência nas formas como os atores políticos responderam às políticas federais de autorização dos estados. Este estudo também descobriu que a implementação dessas políticas pelos estados foi desafiada pela capacidade insuficiente de pessoal, comunicações limitadas com o departamento de educação federal, complexidade das políticas federais e altos custos de conformidade. Organizações intermediárias e redes de atores políticos desempenharam papéis importantes em muitos aspectos das respostas dos estados às políticas.

**Palavras-chave:** autorização estatal; política de ensino superior; organizações intermediárias; política de implementação; federalismo

## **State-Level Responses to U.S. Federal Policy on State Authorization for Higher Education**

State authorization for higher education refers to the required approval from the state government a college or university must obtain to operate as a postsecondary institution.<sup>1</sup> The process for obtaining such approval varies by state, with some states having extensive approval and renewal processes and others requiring little more than a formality of initial approval (Bruckner, 2020; Harnisch et al., 2016; Tandberg et al., 2019).

Title IV of the Higher Education Act (HEA) makes state authorization a requirement for institutions to receive funds through federal student financial aid programs. This requirement endows states with an important role as one third of the Program Integrity Triad, through which states – together with accreditors and the U.S. Department of Education (ED) – are charged with maintaining educational quality for institutions receiving funds under Title IV. States' role in the Triad involves authorizing higher education institutions to operate in the state (Bruckner, 2020; Contreras, 2017; Harnisch et al., 2016; Hegji, 2014; Kelchen, 2018; McCann & Laitinen, 2019; Tandberg & Martin, 2019; Tandberg et al., 2019). Through this provision, the federal government envisions states as a key partner in ensuring accountability for institutions receiving federal student aid. However, the HEA has not set specific guidelines for states regarding quality, allowing for differing standards for authorization across states, with some having more stringent quality standards than others (McCann & Laitinen, 2019; Tandberg et al., 2019).

Criticism of state oversight of institutions, particularly in the for-profit sector, and the proliferation of distance learning programs led the federal government during President Obama's tenure to initiate a series of regulatory reforms on state authorization. Key provisions of these regulations required institutions enrolling students in other states (such as through fully online programs) to obtain authorization to operate in all states where they enroll students, either individually or via a reciprocity agreement between those states and the institution's home state. The regulations also required institutions to be authorized in states that have "a process to review and appropriately act on complaints concerning the institution" (State Authorization, 2019, § 600.9[a][1]).

A change in presidential administration following the 2016 election, before the Obama administration's last state authorization rule took effect, caused delays, confusion, and policy change. First, President Trump's Department of Education delayed implementation of the rule and initiated a new rulemaking to revise the regulations. A court later ruled the delay was improper, and the Obama administration's rule took effect in May 2019 (Fain, 2019; McCann & Laitinen, 2019). Then later in 2019, California students who were enrolled in out-of-state non-profit and public postsecondary programs were briefly threatened with the loss of federal financial aid following ED's determination that California's process for handling student complaints for those institutions was insufficient under the Obama-era state authorization rule.<sup>2</sup> Following this incident, California revised

---

<sup>1</sup> This research received generous financial support from the State Higher Education Executive Officers Association (SHEEO) and Arnold Ventures as part of the State Authorization Research Projects. An earlier version of this report appears at [https://sheeo.org/wp-content/uploads/2021/07/Natow-et-al.\\_SHEEO-Federal\\_Policy\\_on\\_State\\_Authorization.pdf](https://sheeo.org/wp-content/uploads/2021/07/Natow-et-al._SHEEO-Federal_Policy_on_State_Authorization.pdf)

<sup>2</sup> Because California had a sufficient complaint process in place for students enrolled in out-of-state for-profit programs, students enrolled at those institutions were not at risk for losing financial aid (Stratford, 2019).

its student complaint system for out-of-state institutions, and ED authorized early implementation of the Trump-era state authorization rule, which had less stringent complaint-system requirements. That settled the matter for California students (Lederman, 2019; McCann & Laitinen, 2019; Stratford, 2019). But this situation demonstrates the great influence the federal government has had on state-level policies and practices regarding institutional authorization, with serious implications for institutions and students.

The ability to authorize institutions provides states with an opportunity to play an important role in higher education accountability (Tandberg et al., 2019). Moreover, as the California example described above illustrates, federal regulations on postsecondary state authorization can have a large influence on institutions and students. Yet little is known about how states respond to federal policy regarding postsecondary state authorization. The purpose of this multi-case study was to analyze the experiences of five states responding to these federal policies. Specifically, this study investigated the following research questions with regard to the changes in federal policy on state authorization made during the 2010s: (1) How have state actors learned about and responded to federal policy regarding state authorization for higher education? (2) What challenges have state actors encountered when responding to federal policy regarding state authorization, and how have they addressed those challenges?

## **U.S. Federal Policy on State Authorization**

The HEA's state authorization requirement dates to the statute's origin in 1965 (Harnisch et al., 2016; Tandberg et al., 2019). Since then, major changes to U.S. federal policy affecting state authorization have happened infrequently, typically following claims of inadequate state monitoring of institutions (Harnisch et al., 2016; McCann & Laitinen, 2019). In the 1990s, following criticism from watchdog agencies and policymakers, Congress acted to strengthen states' role in overseeing institutions that receive Title IV funds (El-Khawas, 2005; Hegji, 2014). Then beginning in 2010, the federal government again sought to strengthen states' role, this time via ED's rulemaking process. These changes followed reports of inadequate standards some states had been using to grant institutional authorization, including authorizing for-profit institutions (McCann & Laitinen, 2019; Stratford, 2019).

As explained above, a regulation issued by ED in 2010 required institutions with distance learning programs to obtain authorization from all states in which they enrolled students (Program Integrity Issues, 2010). Because of the burden involved for institutions offering a large number of online courses to obtain authorization from many different states, ED's 2016 regulation allowed authorization via reciprocity contracts, through which one state who signs onto the contract agrees to recognize institutional authorizations by other states who are also parties to the contract. One such contract, known as the State Authorization Reciprocity Agreement (SARA), is coordinated by the National Council for State Authorization Reciprocity Agreements (NC-SARA; McCann & Laitinen, 2019; Tandberg et al., 2019). NC-SARA is a nonprofit organization created in 2013 to coordinate states interested in joining SARA (Longanecker & Hill, 2014; NC-SARA, n.d.-b). States agree to become parties to SARA by applying through one of the regional interstate higher education compacts, which are voluntary collaborations that aim to improve higher education within their regions (Longanecker & Hill, 2014). Then, institutions within SARA member-states may join SARA so they can offer educational programming to students located in other member-states without needing to apply to those states for authorization (NC-SARA, n.d.-c). Forty-nine states, Puerto Rico, the Virgin Islands, and the District of Columbia are currently members of SARA; California has not yet joined (Tandberg et al., 2019).

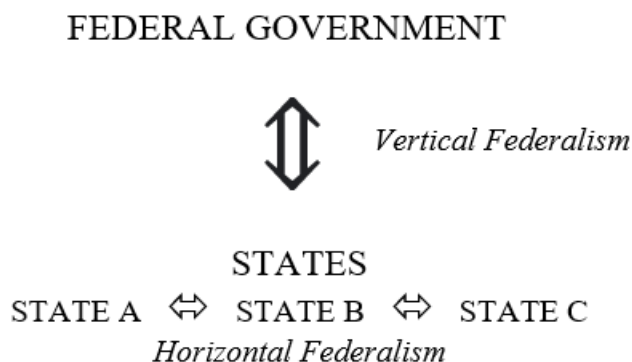
ED's regulatory influence on states and state policy is indirect (Poulin & Dowd, 2017). For example, the Obama-era regulations required institutions to be authorized by states that had a sufficient consumer complaint process to which the institution would be subject, even if the student making the complaint was located out-of-state (Brozovic, 2019). Thus, ED's state authorization rule imposes obligations and penalties on *institutions*, not states (Program Integrity & Improvement, 2016). A reason for this is because the U.S. Constitution does not specifically grant direct authority over education to the federal government, and education is therefore generally considered a matter for the states. The federal government does, however, hold some power over higher education, particularly with regard to protecting civil rights and attaching requirements – including regulations of Title IV financial aid programs – to federal funding (Natow, 2022). Because it is institutions that receive federal funds through Title IV programs, ED's regulations of those programs target institutions. Although indirect, ED's state authorization regulations have influenced state-level policy as well. This was demonstrated in the California example described above, in which ED's regulations of institutions nearly rendered California students enrolled in out-of-state programs ineligible for federal student aid, leading California to change its consumer complaint process (Lederman, 2019).

### Conceptual Perspectives

Perspectives on federalism, policy implementation, and intergovernmental relations can shed light on how state agencies are tasked with implementing or otherwise responding to federal policy. Government in the United States is prominently characterized by federalism, which is the separation of government authority across national and subnational governments (Erbsen, 2008; Grissom & Herrington, 2012; Thompson, 2013). As illustrated in Figure 1, federal-state relations have been dubbed *vertical federalism*, whereas *horizontal federalism* describes relations among states (Erbsen, 2008). The nature of federal-state relations has varied by time period, policy subsystem, and substantive policy area. Depending on the context, federal-state relations have at times resembled the following: *dual federalism*, in which state and federal governments act independently of one another; *cooperative federalism*, in which federal and state governments coordinate their functions; and *new federalism*, in which the federal government largely defers to states (Fischman, 2005; Herian, 2012).

**Figure 1**

*Vertical and Horizontal Federalism*



With regard to education policy, federal-state relations often resemble *coercive federalism*, in which the federal government issues mandates or powerful incentives to prompt states to take certain actions (Herian, 2012; Posner, 2007). Examples of coercive policy tools used by the federal government include direct mandates, tying conditions to the receipt of funding upon which states and other organizations rely, and preempting subnational laws via the Constitution's Supremacy Clause (Posner, 2007). Another form of federalism, what Gluck (2011) has called "*intrastatutory federalism*," involves "legislation-focused" federalism that is "expressed from the inside of federal statutes rather than through the separation of state and federal law" (p. 542). Intrastatutory federalism refers to the fact that states are implicated in some way within a statute, which could be either coercive or cooperative depending on what actions the statute expects states to take (Gluck, 2011). This form of federalism is evident when states are called upon to implement federal policy, such as with the Affordable Care Act and the Children's Health Insurance Program, both of which involved individual states' implementation of federal health care programs (Gluck, 2011; Stevens & Sa, 2018). The HEA's Program Integrity Triad, which includes a prominent role for states, is another example of intrastatutory federalism.

Literature on policy implementation indicates that responding to federal policy at the state level is not an easy task (Conlan & Posner, 2016). Effective state-level implementation of federal policy may be hindered by excessive administrative burdens, resource constraints, the need for negotiation across levels of government, policy or ideological disagreements, and other challenges (Conlan & Posner, 2016; Creek & Karnes, 2009; Dahill-Brown & Lavery, 2012; Huque & Watton, 2010; Stevens & Sa, 2018; Thompson, 2013). Even poor "working relationships" between officials at different levels of government can hinder state-level implementation of federal policies (Scheberle, 1997). Challenges such as these have led to implemented programs not reflecting policymakers' intent (problems at the vertical level) and disparities in how policies are implemented across states (problems at the horizontal level; Creek & Karnes, 2009; Dahill-Brown & Lavery, 2012).

Additionally, the resources needed to implement policy often exceed the capacity of government agencies, leading nongovernmental organizations to play a significant role in policy implementation (Abrams et al., 2018). Such organizations, which have been called intermediary organizations due to their presence between policymakers and policy implementers, have been instrumental in providing information, networking, and programming to help governments implement education policy (Abrams et al., 2018; Haddad, 2020; Honig, 2004; Orphan et al., 2021; Wohlstetter et al., 2015). In the higher education policy arena, intermediaries include the regional compacts, NC-SARA, the State Higher Education Executive Officers Association (SHEEO), and similar organizations. In addition to states and intermediary organizations, higher education institutions have an important role to play in implementing federal policy as well. Individuals who work in higher education institutions are often tasked with policy implementation and compliance within their own organizations, and as such, they can affect how policies are implemented on the ground and the extent to which implemented policy resembles policymakers' intentions (Brower et al., 2017).

Previous research has not examined how states respond to federal policies regarding higher education state authorization. However, states' responses are important to understand. Federal policy change combined with the nature of U.S. federalism can prompt states to take action when they otherwise might not. The federal government's actions may pose serious challenges for states, students, and institutions, as was the case in California in 2019. Analyzing the challenges faced by states when implementing federal policy on state authorization yields useful information for policymakers and state-level officials about how to respond to federal policy effectively and to anticipate and address policy implementation problems.

## Methods

### Approach and Case Selection

This research involved a multi-case study (Yin, 2014) of five purposefully sampled states: California, Illinois, Massachusetts, North Carolina, and Pennsylvania. These states were selected using a *most different systems* sampling strategy, in which cases were chosen for analysis because their structures and contexts differed in key ways, although they shared a common “variable of interest” (Seawright & Gerring, 2008, p. 306; see also Borges, 2008; Creek & Karnes, 2009; Ness et al., 2015). The variable of interest that these states shared is the experience of responding to federal policies regarding postsecondary state authorization. Although this variable is shared by all states, it is a crucial common variable for this study, as the research questions focus on this experience. Importantly, the selected states varied in terms of other characteristics, which enabled the research team to analyze the common variable – responding to federal policy on state authorization – in different policy contexts.

The five case-study states differed along several key characteristics. With regard to *most different* variables, we identified *state authorizing agency type* as the most important because these are the agencies tasked with responding to federal policy on state authorization. Different types of government agencies handle authorization of postsecondary institutions to operate within a given state. In some states, authorization is granted by governing or coordinating boards. Other states have a department of education that grants authorization. Still others have tasked consumer-protection agencies, such as the Department of Consumer Affairs in California (Lederman, 2019), with granting authorization to out-of-state and/or private institutions. Some states have a combination of agency types handling authorization. For example, states may delegate authorization responsibility to a state-level education department for public and nonprofit institutions and to a consumer-protection agency for for-profit institutions (NC-SARA, n.d.-e).

Once we identified states that had different state authorizing agency types, we separated states within each category by *geographic location*. A state’s geographic location influences state authorization in multiple ways. For example, a state’s residents may be enrolled in higher education institutions located in contiguous or other nearby states (Heyboer, 2019). A state’s political culture, which affects public policy, is often shaped by geographic region (Lieske, 2010). Geography influences the extent to which state officials are located near one of ED’s offices, whether its headquarters in Washington, DC or one of the agency’s regional offices. A state’s geographic location also affects the higher education regional compact a state may join, which is relevant to state authorization because states must apply to join SARA through a regional compact (Longanecker & Hill, 2014).

After looking within state authorizer types in different geographic regions, the selection of *most different* states became clear, as there were few that differed substantially on the remaining variables. *Out-of-state students* is another important variable. Because recent regulations of state authorization have addressed issues of students enrolling in higher education institutions across state lines, the numbers of out-of-state students enrolled within a state, as well as the numbers of state residents who enroll in out-of-state institutions, are relevant to this analysis.

States in this study also varied with regard to *higher education governance*. We define this variable to mean the structure and organization of higher education systems and coordination within the state. For example, some states have coordinating boards that hold substantial governing power while others have coordinating boards with less governing power; some states have more centralized higher education systems while other systems are decentralized; and some states have one powerful board while others have multiple boards (Fulton, 2019). The governance structure within each state

is relevant to issues of authorization, coordination, and management of higher education. Finally, there were differences with respect to the *number and type of postsecondary institutions in the state*, which influence the scope and workload of state education agencies. Among the case-study states, Massachusetts had by far the largest percentage of private, nonprofits and the smallest percentage of for-profits, while California, which had a higher percentage of for-profits than any other case-study state, had less variation by institutional type than other states in the sample.

Table 1 identifies the case-study states and describes how they differed along each of these variables. By employing the “most different systems” case selection strategy (Borges, 2008; Creek & Karnes, 2009; Ness et al., 2015; Seawright & Gerring, 2008), the research team was able to identify commonalities and differences across states with different policy contexts and higher education system characteristics.

### **Data Collection**

Data collection involved interviews and policy-relevant documents from all five states. Institutional review board approval to conduct this research was granted in March 2020.

### ***Interview Data***

We conducted in-depth, semi-structured interviews with 25 individuals across the case-study states: six in California, five in Illinois, six in Massachusetts, five in North Carolina, and three in Pennsylvania. These individuals worked at state-level agencies or a public higher education system or institution. Table 2 indicates the state government roles of interviewees. We identified potential respondents by reviewing state-agency websites and asking for referrals from interviewees and other individuals who worked on higher education state authorization issues. We identified each state’s authorizing agency or agencies through NC-SARA’s *State Authorization Guide* (NC-SARA, n.d.-e), and by searching state government websites via internet search engines and state website search functions for terms such as: [state name] higher education authorizing agency and [state name] postsecondary state authorization.

These state agencies and systems were often state authorizers, but representatives from other agencies within the state, including higher education agencies that were not authorizers, were also included, as these agencies also played a role in implementing federal regulations. Interviewees represented a broad range of state-level policy actors, having worked at state-level entities that either provided or sought authorization for four-year or two-year institutions in the public and/or private sector (and, within the private sector, both for-profit and nonprofit higher education). We attempted to interview as many state-level officials working on institutional authorization issues as possible, which in some states (e.g., Pennsylvania) consisted of only a small number of people. Interviews were conducted by telephone or internet conferencing. One interview session included four participants, two sessions included two participants, and the remainder were individual interviews. Eighteen interviewees participated via phone and 7 participated via Internet conferencing software (i.e., Zoom or Skype). The interview protocol (which is included in the appendix) contained questions about processes and procedures for authorizing institutions and managing student complaints, challenges that have been encountered when responding to federal policy, and other questions regarding the state’s response to federal policy on state authorization. Interviews lasted an average of 40 minutes. With interviewees’ consent, all but one of the interviews were audio recorded, and the audio recordings were transcribed. For the one interview that was not audio recorded, detailed field notes were taken regarding the conversation. Interview data collection concluded when the data we received from participants consisted of similar responses and themes to the point that “new information produce[d] little or no change to” emergent themes (Guest et al., 2006, p. 65).



**Table 1**

*The Case Study States and “Most Different” Variables*

| State          | State Authorization Agency Type <sup>1</sup>                     | Out-of-State Students <sup>2</sup> | Geographic Region in U.S. | Higher Education Governance <sup>3</sup>   | Number of Institutions <sup>4</sup>                     |
|----------------|--|------------------------------------|---------------------------|--|---|
| California     | Consumer-Protection Agency                                       | Data not available                 | West                      | No statewide governing/ coordinating board; 2 governing boards for public 4-years and 1 governing board for public 2-years; council of system leaders and other stakeholders advise the governor on higher education matters | 420 (151 public, 148 nonprofit private, 121 for-profit) |
| Illinois       | Coordinating Board   | From IL: 26,436<br>To IL: 9,367    | Midwest                   | Statewide coordinating board; another coordinating board for public 2-years; institutions and 2 public university systems have individual governing boards   | 157 (60 public, 80 nonprofit private, 17 for-profit)    |
| Massachusetts  | Combination of Coordinating Board and Consumer-Protection Agency | From MA: 7,758<br>To MA: 4,539     | New England               | Statewide coordinating board with some governing responsibilities; institutions and the public university system have individual governing boards  | 111 (30 public, 77 nonprofit private, 4 for-profit)     |
| North Carolina | Governing Boards   | From NC: 3,160<br>To NC: 7,811     | Southeast                 | No statewide governing/ coordinating board; 1 governing board for public 4-years and 1 governing board for public 2-years; individual 2-years also have local governing boards   | 136 (75 public, 49 nonprofit private, 12 for-profit)    |
| Pennsylvania   | State Education Department                                       | From PA: 14,355<br>To PA: 6,765    | Mid-Atlantic              | No statewide governing/ coordinating board; 14 universities have a systemwide governing board and individual governing boards; 1 multicampus university, other 4-years, and 2-years have individual governing boards         | 220 (63 public, 116 nonprofit private, 41 for-profit)   |

<sup>1</sup> Sources: Education Commission of the States (n.d.); NC-SARA (n.d.-e).

<sup>2</sup> As of 2019; source: Straut and Boeke (2020). California data were not available from this source because the state does not participate in SARA. However, a 2018 report indicates that 11% of California high school graduates attend college outside California (Kurlaender et al., 2018).

<sup>3</sup> Source: Education Commission of the States (2020).

<sup>4</sup> As of 2018-2019; source: U.S. Department of Education (2019)

**Table 2***Interviewees by Role in State Government*

| State                       | Role                                  | Number of Interviewees |
|-----------------------------|---------------------------------------|------------------------|
| California                  | Consumer agency personnel             | 4                      |
|                             | State university system personnel     | 1                      |
|                             | Community college system personnel    | 1                      |
| <b>Total California</b>     |                                       | <b>6</b>               |
| Illinois                    | Higher education board personnel      | 4                      |
|                             | Community college board personnel     | 1                      |
| <b>Total Illinois</b>       |                                       | <b>5</b>               |
| Massachusetts               | Higher education department personnel | 6                      |
| <b>Total Massachusetts</b>  |                                       | <b>6</b>               |
| North Carolina              | State university system personnel     | 3                      |
|                             | Community college system personnel    | 1                      |
|                             | Other state agency personnel          | 1                      |
| <b>Total North Carolina</b> |                                       | <b>5</b>               |
| Pennsylvania                | Higher education department personnel | 2                      |
|                             | Public two-year institution personnel | 1                      |
| <b>Total Pennsylvania</b>   |                                       | <b>3</b>               |
| <b>Total Interviewees</b>   |                                       | <b>25</b>              |

***Documentary Data***

The research team analyzed policy-relevant documents, including federal and state statutes, regulations, guidance, news reports, information on agency websites regarding state authorization processes and requirements, and similar documents. Documentary data helped to provide a fuller account of state authorization processes and challenges and served as a form of triangulation to corroborate and clarify statements made by interviewees (Natow, 2020).

**Data Analysis**

Data analysis occurred in multiple cycles. For documentary data, we analyzed documents reflecting each state's authorization policies and practices prior to conducting interviews with individuals from the state. This was done to provide the research team with familiarity regarding each state's authorizing policies prior to interviews. Other documentary data were analyzed concurrently with interview data to allow corroboration and additional details with regard to information provided by interviewees. Content analysis of documentary data (Lune & Berg, 2017)

identified concepts relevant to this study's research questions, including each state's implementation of postsecondary authorization policies, evidence of challenges faced by each state in implementing federal policy on state authorization, evidence of steps taken by each state to address such challenges, and other relevant information.

For interview data, the first cycle of analysis involved open coding of interview transcripts (Gibbs, 2018). The initial coding scheme included *a priori* codes based on this study's research questions and literature review, which were supplemented with emergent codes based on themes identified in the data (Saldaña 2016). During the second cycle of interview data analysis, excerpts of data that had been given the same codes during the first cycle were analyzed concurrently to identify relationships between concepts and other emergent patterns (Miles et al., 2019). During the final cycle, we conducted a cross-case analysis among the five states to identify overarching themes as well as similarities and differences across the states (Gibbs, 2018; Merriam & Tisdell, 2016; Miles et al., 2019; Saldaña 2016).

### **Validity, Reliability, and Transferability**

We took several steps to help ensure validity and reliability in this research. First, the use of multiple data sources, common in case study designs, served to enhance the validity and reliability of findings (Kuper et al., 2008; Merriam & Tisdell, 2016; Natow, 2020). Also, during data analysis, all coding decisions were agreed upon by two members of the research team, which is another form of triangulation involving multiple researchers in data analysis and interpretation (Natow, 2020). Although not generalizable in the way a large-scale survey may be, this study's findings are likely to have transferability to other state contexts (Kuper et al., 2008). As explained above, we sampled states for this research using a *most different systems* strategy (Seawright & Gerring, 2008). The fact that emergent themes presented consistently across all (and in the case of one theme, all but one) of these different states indicates the findings are likely to be transferable to other, similar states' experiences as well.

## **Findings**

This section presents findings in response to our research questions regarding the postsecondary state authorization policies issued by the federal government in the 2010s: (1) How have state actors learned about and responded to federal policy regarding state authorization for higher education? (2) What challenges have state actors encountered when responding to federal policy regarding state authorization, and how have they addressed those challenges?

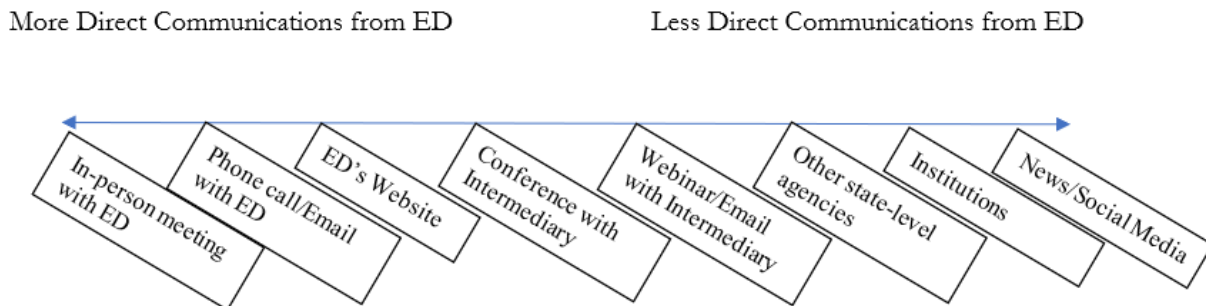
### **Learning About Federal Policies**

State officials have learned about federal policies on state authorization from various sources, running on a continuum from receiving direct, in-person communications from ED to learning about policy change in the media. Figure 2 depicts this continuum.

Respondents in all five states received direct communications from ED about federal policy. Some respondents said that state officials received this information at in-person meetings with ED, including a conference ED sponsored for members of the Program Integrity Triad, attended by representatives of ED, state authorizers, and accreditors. Additionally, interviewees described participating in quarterly calls with ED representatives at which policy updates and other matters were discussed. Some respondents said that ED sent information to state authorizers via email. For example, one respondent reported receiving multiple emails directly from ED about federal policy, and another respondent said that ED had "a reasonably good mailing list of state authorizers [and] that they do from time-to-time push information out" via listserv.

**Figure 2**

*How State Officials Have Learned About Federal Policy Change*



Proximity between state-level and ED officials sometimes served to facilitate communication about changes in federal policy regarding state authorization. For example, some state agencies had federal relations staff located in Washington, DC, who received information about federal policy and communicated that information to state authorizing agencies in their home states. Moreover, ED has several regional offices located across the United States, including in Boston, Chicago, Philadelphia, San Francisco, and other locations (U.S. Department of Education, 2010). State officials in Illinois and California reported receiving information about state authorization policy from their nearby ED regional office. Sometimes state officials received information indirectly from ED – that is, ED would publish the information in a publicly accessible forum, and state authorizers would proactively seek that information. Sources of indirect information included the *Federal Register* and ED’s website.

In all five states, respondents learned about federal policy on state authorization from associations and other nongovernmental organizations, such as the National Association of State Administrators and Supervisors of Private Schools (NASASPS), SHEEO, NC-SARA, regional higher education compacts, and others. Such organizations were instrumental in spreading the word about federal policy on state authorization and facilitating the implementation of federal policy at the state level. As a respondent from California explained, these organizations have been valuable sources of information because they “do a lot of the analysis. They see what’s coming.”

Respondents mentioned intermediary organizations such as regional compacts and sub-organizations within them as particularly useful for obtaining information about federal policy. For example, the Western Interstate Commission for Higher Education (WICHE) hosts a division called the WICHE Cooperative for Educational Technologies (WCET), which in 2011 created the State Authorization Network (SAN) to provide information and resources regarding state authorization compliance (State Authorization Network, n.d.). Respondents in all five states reported learning about federal policy change from WCET, SAN, or another regional compact. This included Pennsylvania, which is one of the few states that is not a member of a regional compact but was able to affiliate with one for purposes of joining SARA (Longanecker & Hill, 2014). Moreover, a respondent from California said that although the state is not a member of SARA, the state did join WCET. This respondent explained, “We do belong to the network because we like to track what’s going on and see what’s happening. So it’s our way of staying informed of changes and things that are going on.”

Information about federal policy was provided by intermediary organizations to state authorizers in various formats. This included in-person conferences hosted or attended by

intermediary organizations, virtual conferences or webinars with intermediaries, and email communications from intermediaries that contained information about federal policy.

Another source of information for state authorizers, mentioned by respondents in all five states, was other state policy implementers. This included state-level veterans' affairs departments, attorneys general, and others. State agencies handling veterans' affairs often serve as state approving agencies for higher education programs eligible to receive GI Bill funding (National Association of State Approving Agencies, n.d.). As such, their work was closely related to the work of state authorizing agencies. Similarly, attorneys general have often dealt with consumer-protection issues, including in the higher education sector (Dundon, 2015). This role overlaps with state authorizers' responsibilities under the Program Integrity Triad.

Although less frequently than other state agencies, higher education institutions sometimes served as a source of information for state authorizers about federal policy. For example, an interviewee in Massachusetts stated, "We also do hear sometimes from colleagues at some of our institutions or at other institutions" about changes to federal policy. An Illinois respondent similarly said that an individual who worked for a public institution on distance learning matters provided the state agency with updated information about federal policy.

Finally, state officials in all five states have learned about federal policy on state authorization from various forms of media. The most frequently reported media source was the specialized higher education news media, although other news media sources were also mentioned. As an interviewee from Massachusetts said, "I try to get as many news articles related to higher ed in my inbox in the mornings... to keep my eyes out for something else coming down the road from" ED. State officials also learned about federal policy regarding state authorization from social media. An Illinois official, for example, followed interstate compact personnel on social media and learned of some state authorization policy changes that way.

## **Responding to Federal Policy on State Authorization**

Changes to federal policies on postsecondary state authorization have led state agencies to implement the new policies and facilitate institutional compliance with the changes. Such responses included reviewing states' existing authorization practices and revising them if necessary, informing and training institutions regarding federal policy change, and in all case-study states except California, joining SARA.

### ***Reviewing and Updating State Authorization Practices***

One way state officials in all five states responded to federal policy change was to review existing state authorization practices and determine whether they complied with new federal rules. A California respondent described comparing that state's practices with those of other states to get a sense for what practices could be adopted. In some states, changing certain practices required a change in state law before the people who worked in state authorizing agencies could implement changes.

State officials adjusted their practices if they concluded after review that the practices would not comply with new federal policy. Most frequently, this involved making adjustments to student complaint processes. For example, an Illinois respondent explained, "We are now taking even complaints from Illinois residents that are not attending the Illinois schools. They can file their complaint with us." A different respondent said that Massachusetts also changed its student complaint process to comply with new federal regulations. This interviewee said that prior to the federal rule change, "we didn't really consider ... our complaint process to be open and available to Massachusetts-based students who were taking online programs at schools located in other states." However, the state altered its student complaint procedures to allow such students to make use of it,

“because otherwise, those schools wouldn’t be considered to be authorized here.” The loss of authorization would have affected only out-of-state schools, but state officials were mindful of ripple effects that would negatively impact Massachusetts stakeholders. When describing the agency’s decision-making process for this adjustment to student complaint procedures, the same interviewee said:

If we had taken the other course and said, we’re not going to do this... we’d be getting a lot of calls from legislators that they would have gotten calls from their constituents, and we’d be getting a lot of calls from the governor’s office and from ... our board members about what they were hearing from people that they knew that were impacted by that.

State officials were mindful that the federal regulation on student complaint processes targeted institutions rather than states. But again, the potential for ripple effects influenced state officials to make changes to their procedures. The same interviewee from Massachusetts explained that because the regulation did not target states, the agency was “not required to do it, but in reality, the implementation of it ... you were almost required to do it.” In this way, federal policies on state authorization that did not directly target states nonetheless influenced policies and practices at the state level.

### ***Joining SARA***

Four of the five states (California being the only exception) responded to federal policy change by joining SARA. As one interviewee said, the development of SARA “was a response to that clarification that the feds considered state authorization to mean state authorization by the state where the student was, not state authorization just by the state where the institution was.” SARA member-states have their authorization of postsecondary institutions recognized by other SARA-participating states, obviating the need for institutions to get authorized in every state in which they enroll students. Participating institutions must comply with certain standards set by NC-SARA, including requirements regarding accreditation, student complaint processes, and standards of program quality (Longanecker & Hill, 2014; Tandberg et al., 2019). Respondents observed that when a state joined SARA, it removed the burden for its institutions to obtain authorization individually from a large number of states.

Some state authorizers reported that their state joined SARA in response to pressure from institutions who wanted a more streamlined process for obtaining out-of-state authorization. As a respondent from Massachusetts – a state that was one of the last to join SARA – explained, “Our institutions were very ready for it, they were advocating very strongly for it and really... wanted us to move forward.” A respondent from a different state said, “The decision to join SARA in [this state] was precipitated explicitly in the interest of our institutions,” and that prior to the state joining SARA, “our institutions were definitely at a disadvantage because they needed to get approval from other states.” Another official likewise shared that “the institutions wanted to join, wanted [this state] to become a member of SARA.”

As the statements above indicate, the purpose of states joining SARA was to help institutions more easily comply with federal law and was often done in response to pressure from institutions. But a common critique of SARA has been that it restricts a state’s ability to enforce consumer protection for in-state students attending out-of-state institutions (e.g., The Institute for College Access & Success, 2018). Some respondents echoed these concerns. For example, a respondent from a SARA member-state said, “There’s recognition that there’s limitations in terms of what the state can do where you don’t have oversight towards the out-of-state institution.” A

Massachusetts respondent indicated this concern was “the primary” reason why that state was a late joiner of SARA. A respondent from California said that the state has considered joining SARA, but has thus far opted not to do so due to concerns raised by consumer advocates. According to this respondent, advocates explained to state policymakers that under SARA, “the state could execute general laws against a bad actor, but they couldn’t necessarily impose additional laws” specifically to address consumer-protection issues against higher education institutions.

### ***Informing and Training Institutions***

Respondents in all five states indicated that when federal policy reform on state authorization occurred, state officials informed and trained institutions regarding the changes. Specifically, state officials provided information to institutions within their jurisdiction regarding changes in federal law and whether institutions were in compliance with the new policies. A Massachusetts official illustrated this practice as follows:

We’re queueing up some communications now for institutions, and for some of them it’s going to be either a reminder of what they knew long ago, or it’s going to be new information ... about what our role is ongoing, and what’s new about it.

For states participating in SARA, informing and training institutions involved helping institutions to ensure compliance with SARA requirements. A different respondent from Massachusetts explained that this included “talking to institutions about what they are intending to offer pursuant to SARA ... and review[ing] draft email notifications to students to be able to confirm that the notifications to students meet the elements of the NC-SARA policy.”

Respondents in all five states described how intermediary organizations were useful in keeping institutions informed about federal policy on state authorization. For example, a Pennsylvania respondent said:

NC-SARA has been very instrumental in helping the states and the institutions with these new regulations. They just hosted a federal licensure disclosure webinar and have invited all of the institutions to give some clarification on the questions that they had. So I think that NC-SARA, with this particular portion of the federal regulations, has kind of lightened the load by including the institutions and not just having the states trying to facilitate this information on their behalf.

A different respondent said that information from another intermediary, SAN, was useful for “giv[ing] the colleges more detailed information so that they can post that on their website.” A respondent from Illinois provided institutions with a link to WCET’s website regarding updates to federal policy, because this official believed that “WCET had done a nice job” of explaining that information.

### **States’ Challenges and Responses to Challenges**

State officials reported a number of challenges they experienced when implementing federal policy on state authorization. The most prominent were insufficient staff capacity in state agencies, limited communications with ED, difficulties presented by the complexity of federal policy, and costs associated with compliance.

#### ***Insufficient Staff Capacity***

Respondents in all five states reported insufficient staff capacity at state agencies as one challenge faced when implementing federal policy on postsecondary state authorization. State agencies have experienced budget and resource constraints in recent years, and without more

resources to dedicate to policy matters, state officials were sometimes unable to give implementing federal policy the time and attention it warranted. As a state official in Illinois observed, “There’s some key resources that are not at our disposal, and having folks that can be dedicated to looking at policy is something that’s ... not currently at our disposal... We’re stretched pretty thin on a number of fronts.” A respondent from Pennsylvania recognized that resource constraints were not specifically a result of having to implement federal policy, as this was “just the nature of working in a state government where resources are limited.” However, the same respondent agreed that insufficient staff capacity has been a challenge when responding to federal policy on state authorization.

Some respondents dealt with the challenge of insufficient staff capacity by collaborating with other state-level actors on federal policy work, sometimes across agencies. For example, one respondent said, “We work very closely with our state Department of Veteran’s Affairs and their school approving agency... Because we’re all stretched so very thin, we try to really help and cue each other.” A different official said, “A lot of it’s through either working groups or relationships of people who are tasked with certain shared activities or joint activities, or ... carrying messages back and forth” across agencies.

### ***Limited Communications with ED***

Another challenge identified by respondents in all five states was limited communications with ED. State officials tended to characterize these limitations either as unclear statements sent from ED, or in terms of quantity rather than quality. In the words of one respondent, “For state authorization, I think that when we do speak, the interaction is very good. I think there’s probably not as much communication as there could be.” Another respondent emphasized that this problem was not a complaint about ED so much as “an overall theme” that “communication could be improved” between state and federal agencies, and that all parties could be “more proactive or more responsive.”

A different state official observed that limited communications between members of the Program Integrity Triad (ED, accreditors, and state agencies) have led to delays in determining whether institutions were in danger of failing. This interviewee said:

Sometimes the state is waiting for the federal government, ED, to take action.  
 Sometimes the ED is waiting for the state to take action. Sometimes it’s the state waiting for the accrediting agency to take action. It seems that to happen in a perfect world, with better communication, then the early warnings will be tuned into, and a school that is at risk would be caught on time and to prevent any kind of catastrophic closure.

Some state officials indicated that communications with ED had been improving in recent years, and that the meeting ED sponsored for members of the Program Integrity Triad was useful. Several respondents said that taking steps to cultivate a positive relationship with ED was a way they had addressed the limited-communications challenge. As an interviewee from California said, “We’ve been intentional about trying to reach out to ED,” particularly by communicating with officials in ED’s regional office. A respondent in a different state said that when institutions or systems have DC-based federal relations staff, those individuals often had a “very good relationship” with ED officials, which served to improve communications between the agencies. Other respondents indicated that information from ED sometimes arrived indirectly via intermediaries. For example, an official from Illinois explained that a colleague who “routinely participates in our Midwest Higher Education Compact meetings” is a “primary source” of information on federal policy issues.



### ***Complexity of Federal Policies***

Respondents in all five states identified the inherent complexity of federal regulations as a challenge for their agencies. One state official, for example, said that “sometimes some of the challenge is just the interpretation of the guidelines.” Another respondent relayed that a recent federal regulation on licensure programs was “pretty complex to implement.” The complexity of federal regulations was further complicated by the fact that the state authorization regulations had changed several times within a decade, with new regulations having been issued in 2010, 2016, and 2019 (Tandberg et al., 2019). As observed by a Massachusetts official, these somewhat rapid changes in policy provided an “additional level of analysis of, okay, so the language changed, but what was the ultimate effect of the language change?” The same respondent illustrated how this challenge intersected with the challenge of insufficient communications with ED in that understanding complex regulations “tends to be the more challenging aspect without a direct ear into [ED’s] thinking.”

In California, some of the complexity has revolved around institutions having to obtain authorization from other states on an individual basis because the state is not a participant in SARA. As one California respondent observed, some states “have very cumbersome paperwork” for institutions to complete to receive authorization, and some states require institutional representatives “to physically go to the state and present” to state officials. Given this complexity, some institutions asked state-level officials if they could provide assistance. But as the same respondent noted, “We’d have to hire people, because we really do not have a department that is dedicated to this.” This statement illustrates how the challenge of insufficient staff capacity complicates the challenge of complying with complex federal regulations.

State officials attempted to address the complexity challenge by taking steps to learn as much as possible about federal policy. This sometimes involved consulting with those who had more policy knowledge, including intermediary organizations. For example, a Massachusetts official referred institutions with questions about federal regulations to the website of NC-SARA, which “makes a great effort at trying to post interpretations and guidance from both law firms and also nonprofit organizations.” Similarly, another respondent said that to better understand complex regulations, state officials would “study up on it” and contact a regional compact with questions, because “they always have the latest and greatest information.”

### ***High Costs of Compliance***

A final challenge identified by respondents in all five states was the high cost of federal policy compliance that is borne by both state and institutional actors. There is a substantial cost of time and money for institutions to seek authorization individually from a number of states. A California respondent said that because the state is not a member of SARA, institutions incur costs whenever they apply for authorization from another state. A North Carolina official said that one of the reasons institutions in that state advocated for joining SARA was because “going through multiple state authorization processes can be time-consuming and expensive for one institution.” However, there were costs associated with joining SARA as well, as some respondents said they viewed the fees associated with joining SARA as expensive. One interviewee from a SARA member-state said that some institutions in the state chose not to join SARA due to the fees. This respondent said that larger institutions “can afford the fees and it’s not a problem, but at a lot of our smaller colleges, it’s a significant hit.” Additionally, for Pennsylvania, there were costs associated with affiliating with a regional compact for the purpose of joining SARA.

One way some respondents reported addressing this challenge was to encourage institutions within the state to determine whether joining SARA would be financially practicable. A respondent

from a SARA member-state said that the state authorization agency helped “to facilitate information to provide whatever [institutions] need in order to meet the federal regulations as well as state regulation,” but that ultimately, “we allow them to make their own choice” about whether to join SARA, based on whether doing so would make financial sense for the institution.

Another way some states dealt with increased costs was to charge institutions fees for joining SARA. These fees were to be paid to the state, and they were assessed in addition to the annual fee participating institutions must pay NC-SARA (NC-SARA, n.d.-a). Such fees ranged from a few hundred to tens of thousands of dollars (NC-SARA, n.d.-d).

## Discussion

This study has made several contributions to the knowledge base on state authorization policies. First, several themes were present across all five case-study states (and in the case of joining SARA, across four of the five states), indicating a strong level of consistency regarding states’ implementation of federal policy on postsecondary state authorization. The consistency of these findings across the case-study states is noteworthy because these states differ along variables that are related to how states may respond to federal policy on state authorization. For example, as explained in the Methods section above, geographic location is related to a state’s political culture (Lieske, 2010) and physical distance from U.S. Department of Education headquarters or field offices, both of which may influence how states respond and who they ask for assistance when responding to federal higher education policy. Also, the number of out-of-state students enrolled in in-state institutions and vice versa affects the number of stakeholders who would be affected if a state’s institutions failed to comply with federal state authorization policies. Yet despite holding different characteristics on these variables, the case-study states demonstrated a remarkable consistency with regard to responses to and challenges with federal policy on state authorization. Table 3 indicates those common responses and challenges.

The main state-specific response was California’s decision not to join SARA. Our findings indicated this was due to the efforts of consumer protection advocates in the state. Although Massachusetts similarly resisted joining SARA for similar reasons, that state ultimately signed onto SARA following pressure from institutions. Even though California has resisted joining SARA so far, it may do so in the future, should pressure from institutions or other factors pull the state in that direction.

Findings from this research highlight the importance of networks and intermediary organizations in implementing federal higher education policy at the state level. Indeed, intermediaries have played an indispensable role in helping states understand and respond to federal policy on state authorization. These included interstate compacts, NC-SARA, SHEEO, and NASASPS. Intermediaries provided information to state officials about changes in federal policy and helped states to implement federal policy by, for example, developing and coordinating SARA and providing resources states found useful in keeping their institutions informed about federal policy. Intermediary organizations helped states respond to challenges by facilitating communications with ED and helping states to navigate complicated and rapidly changing federal regulations. State officials repeatedly described intermediaries as useful resources for states in implementing federal policy. These findings regarding the ubiquity of intermediaries in the implementation of ED’s state authorization policy demonstrate how, when government resources at both the state and federal levels have fallen short, intermediary organizations have stepped in to fill the void. The assistance provided by intermediaries was valuable to states, but also brought some new challenges. For example, intermediaries joined forces with states to create SARA, which simplified the state

authorization process for participating institutions. But some respondents perceived shortcomings of joining SARA to be increased costs and states' inability to apply greater consumer protection for their residents who attend out-of-state institutions.

**Table 3***Summary of Findings*

| How state-level actors have learned about federal policy on postsecondary state authorization | How state-level actors have responded to federal policy on postsecondary state authorization | Challenges state-level actors have faced when responding to federal policy on postsecondary state authorization / How state-level actors addressed those challenges |
|---|--|---|
| From ED   | Reviewing and updating state authorization practices   | Insufficient staff capacity<br><br>Addressed by working collaboratively with other state-level actors   |
| From intermediaries   | Joining SARA   | Limited communications with ED<br><br>Addressed by cultivating a positive relationship with ED and receiving supplemental information from intermediaries           |
| From other state-level officials  | Informing and training institutions  | Complexity of federal policies<br><br>Addressed by learning more about federal policies   |
| From institutions   |  | High costs of compliance  |
| From news/social media  |  | Addressed by encouraging institutions to decide whether joining SARA makes financial sense; some states charge additional SARA fees                                 |

Previous research has documented the function of intermediaries in education policy implementation (Haddad, 2020; Honig, 2004; Wohlstetter et al., 2015). This study expands on that literature by demonstrating how intermediaries function as partners of states in the implementation

of federal policy on postsecondary state authorization. Specifically, new (e.g., NC-SARA) and existing (e.g., regional higher education compacts) nongovernmental organizations have emerged to address the limitations of both the state and federal governments with respect to communicating about, implementing, and addressing challenges associated with federal policy on higher education state authorization. Intermediaries acted to fill crucial gaps experienced by states in terms of information, coordination, and regulatory compliance. Building on Orphan et al.'s (2021, p. 342) findings that intermediaries often seek "to be viewed as honest information brokers for policy stakeholders," this study found that state-level implementers have in fact relied upon certain intermediaries for information and assistance with policy implementation regarding federal rules on state authorization. These findings also illustrate the need – or at least the willingness – of state officials to outsource aspects of higher education policy implementation to private (i.e., nongovernmental) entities. Additionally, this research found that intermediaries, state agencies, colleges, and ED formed crucial networks that helped state-level officials to understand and implement federal policy regarding state authorization, reiterating the importance of such networks in intergovernmental policy implementation (Abrams et al., 2018).

This study's findings also expand upon conceptualizations of federalism in the higher education policy arena, particularly with regard to the Program Integrity Triad and similar mechanisms for states to implement federal policy. The Program Integrity Triad, established by Title IV of the HEA, consists of the U.S. Department of Education, recognized accreditors, and states, with each component ideally taking steps to ensure only high-quality higher education programs receive federal student aid funds (e.g., Bruckner, 2020; Hegji, 2014). Recent efforts to improve communications between the components of the Program Integrity Triad, such as ED's conference to provide information on state authorization policy developments, indicate an attempt to move toward a relationship of cooperative federalism in implementing Title IV of the HEA. However, challenges experienced by state officials – such as limited communications with ED, resource constraints, and having to inform and train institutions regarding complex and frequently changing regulations – are less reflective of cooperation and more indicative of difficulties that have hampered states' implementation of federal policies in other contexts as well (Creek & Karnes, 2009; Dahill-Brown & Lavery, 2012). Importantly, this study found that states took certain actions in the implementation process – such as joining SARA and altering student complaint procedures – under pressure from institutions within their state. This indicates that ED's state authorization regulations are coercive on states, but mainly indirectly, by imposing obligations on institutions who then ask states to adapt their policies and practices to help institutions meet federal requirements (Poulin & Dowd, 2017; U.S. Department of Education, 2015). This scenario represents a unique form of coercive federalism, in which the relationship between state and federal governments is mediated by private parties such as higher education institutions. The federal rules on state authorization prompted states to act in a manner desired by the federal government, in a context in which the federal government would not have direct authority to require states to act, by regulating colleges and universities. Thus, this study has demonstrated how coercive federalism can operate in a "roundabout" way – by imposing obligations not on states but on other stakeholders (i.e., higher education institutions), who in turn pressure state officials to take actions that help achieve federal policy objectives. These findings highlight the important roles that institutions play in implementing federal policy. Previous studies have observed how individuals working in colleges and universities use discretion to implement or resist public policy (Brower et al., 2017). This study has shown that institutions further impact policy implementation by providing information to state officials and pressuring state governments to take certain acts, such as joining SARA, to make policy compliance easier at the institutional level.

Limitations of this study include that in most of the case-study states, we were not able to interview all state-level officials who worked on institutional authorization issues. Also, due to the small number of state-level officials who worked on authorization matters in Pennsylvania, only three participants were included from that state. However, these limitations are minor and mitigated by the fact that our data collection produced consistent recurring themes to the point of *data saturation* (Guest et al., 2006), and our triangulation of interviews with documentary data helped to enhance the trustworthiness of the study (Natow, 2020). Finally, this study examined state responses to particular federal policies on state authorization that occurred during the 2010s. The generalizability of these findings is limited in that states may respond differently to different types of federal policy on postsecondary state authorization.

## Recommendations & Conclusion

Findings from this study have implications for state and federal policy and practice regarding postsecondary institutional authorization. First, ED should take steps to build stronger relationships with state authorizers. By cultivating relationships and holding more frequent meetings and other interactive communications with state authorizers, ED can help reduce uncertainty about the requirements of federal policies and how states can help institutions understand and comply with such policies. Regional ED offices may also be useful in developing communication and positive working relationships (Scheberle, 1997) with state authorizers in the region. Similarly, authorizers across different states should communicate with each other to share information and resources regarding federal policy. Moreover, ED and intermediary organizations should include institutions as well as states in conferences, training, and other communications regarding federal policy on state authorization. Providing information directly to institutions as well as states relieves states of the burden of passing along this information to institutions, which can help address the challenges of limited agency capacity and increased costs for states associated with implementing federal policy.

Additionally, in recognition of the costs states and institutions incur due to complying with and implementing federal policy, state and federal policymakers should provide additional resources for states to comply with regulations across all federal programs and investments within the state. Also, because intermediary organizations have been so useful to states with responding to federal policy change, states and intermediaries should consider mutually beneficial partnerships that would enable states to obtain additional assistance with federal policy implementation, perhaps for an enhanced fee. Finally, because state officials indicated that the complexity of federal regulations posed a challenge for state-level implementation of those rules, an additional capacity-building exercise could include providing professional development to state-level actors regarding the purpose and content of federal regulations and resources regarding how to implement the rules.

The state's role in safeguarding the quality of higher education is essential. Although the Program Integrity Triad has been subject to criticism over the years (McCann & Laitinen, 2019; Tandberg et al., 2019), this study found evidence that communication between members of the Triad is improving. This study also found that state authorizers' efforts to maintain educational quality and oversight are sometimes hampered by insufficient resources and limited communications with ED. By fostering stronger relationships between state and federal actors and providing more resources for state authorizers to fulfill their roles, the challenges associated with implementing federal policy at the state level can be reduced, and states would be better positioned to maintain the quality of higher education programs.

## References

- Abrams, J., Wollstein, K., & Davis, E. J. (2018). State lines, fire lines, and lines of authority: Rangeland fire management and bottom-up cooperative federalism. *Land Use Policy*, 75, 252-259. <https://doi.org/10.1016/j.landusepol.2018.03.038>
- Borges, A. (2008). State government, political competition and education reform: Comparative lessons from Brazil. *Bulletin of Latin American Research*, 27(2), 235-254. <https://doi.org/10.1111/j.1470-9856.2008.00265.x>
- Brower, R., Bertrand Jones, T., Tandberg, D., Hu, S., & Park, T. (2017). Comprehensive developmental education reform in Florida: A policy implementation typology. *The Journal of Higher Education*, 88(6), 809-834. <https://doi.org/10.1080/00221546.2016.1272091>
- Brozovic, D. (2019, November 14). *Early implementation of state authorization rule changes*. Retrieved from <https://www.powerslaw.com/early-implementation-of-state-authorization-rule-changes/>
- Bruckner, M. A. (2020). The forgotten stewards of higher education quality. *University of California Irvine Law Review*, 11. Available at SSRN: <https://ssrn.com/abstract=3713136>
- Conlan, T. J., & Posner, P. L. (2016). American federalism in an era of partisan polarization: The intergovernmental paradox of Obama's "new nationalism." *Publius: The Journal of Federalism*, 46(3), 281-307. <https://doi.org/10.1093/publius/pjw011>
- Contreras, A. L. (2017). What is a degree? In A. L. Contreras (Ed.), *State authorization of colleges and universities* (Chapter 1). Oregon Review.
- Creek, H. M., & Karnes, K. A. (2009). Federalism and election law: Implementation issues in rural America. *Publius: The Journal of Federalism*, 40(2), 275-295. <https://doi.org/10.1093/publius/pjp035>
- Dahill-Brown, S. E., & Lavery, L. (2012). Implementing federal policy: Confronting state capacity and will. *Politics & Policy*, 40(4), 557-592. <https://doi.org/10.1111/j.1747-1346.2012.00368.x>
- Dundon, M. (2015). Students or consumers: For-profit colleges and the practical and theoretical role of consumer protection. *Harvard Law & Policy Review*, 9, 375-401.
- Education Commission of the States. (n.d.). *50-state analysis: State-level coordinating and/or governing agency*. <http://ecs.force.com/mbdata/mbquestU?Rep=PSG01&SID=a0i700000009vZI&Q=Q0667>
- Education Commission of the States. (2020, November). *50-state comparison: Postsecondary governance structures*. <https://c0arw235.caspio.com/dp/b7f93000c453351603784abf9d6c>
- El-Khawas, E. (2005). A changed policy environment for US universities. In *International handbook of educational policy* (pp. 101-114). Springer. [https://doi.org/10.1007/1-4020-3201-3\\_5](https://doi.org/10.1007/1-4020-3201-3_5)
- Erbsen, A. (2008). Horizontal federalism. *Minnesota Law Review*, 93, 493-584.
- Fain, P. (2019, November 1). New rules on accreditation and state authorization. *Inside Higher Education*. <https://www.insidehighered.com/news/2019/11/01/education-department-issues-new-regulations-accreditation-and-state-authorization>
- Fischman, R. L. (2005). Cooperative federalism and natural resources law. *New York University Environmental Law Journal*, 14, 179-231.
- Fulton, M. (2019, October). *An analysis of state postsecondary governance structures*. Policy Guide. Education Commission of the States. <https://www.ecs.org/wp-content/uploads/An-Analysis-of-State-Postsecondary-Governance-Structures.pdf>
- Gibbs, G. R. (2018). *Analyzing qualitative data* (2nd ed.). Sage. <https://doi.org/10.4135/9781526441867>
- Gluck, A. R. (2011). Intrastatutory federalism and statutory interpretation: State implementation of federal law in health reform and beyond. *Yale Law Journal*, 121, 534-622.

- Grissom, J. A., & Herrington, C. D. (2012). Struggling for coherence and control: The new politics of intergovernmental relations in education. *Educational Policy*, 26(1), 3-14.  
<https://doi.org/10.1177/0895904811428976>
- Guest, G., Bunce, A., & Johnson, L. (2006). How many interviews are enough? An experiment with data saturation and variability. *Field Methods*, 18(1), 59-82.  
<https://doi.org/10.1177/1525822X05279903>
- Haddad, N. (2020). Foundation-sponsored networks: Brokerage roles of higher education intermediary organizations. *Education Policy Analysis Archives*, 28(122).  
<https://doi.org/10.14507/epaa.28.4501>
- Harnisch, T., Nassirian, B., Saddler, A., & Coleman, A. (2016, December). *Enhancing state authorization: The need for action by states as stewards of higher education performance*. Education Commission of the States.
- Hegji, A. (2014, January). *The higher education act (HEA): A primer*. Library of Congress, Congressional Research Service.
- Herian, M. N. (2012). The intergovernmental politics of internet sales taxation in the United States. *Policy & Internet*, 4(1), 1-20. <https://doi.org/10.1515/1944-2866.1154>
- Heyboer, K. (2019, May 16). These 25 out-of-state colleges are most popular with N.J. students. *NJ.com*. [https://www.nj.com/education/2017/01/these\\_25\\_out-of-state\\_colleges\\_are\\_most\\_popular\\_wi.html](https://www.nj.com/education/2017/01/these_25_out-of-state_colleges_are_most_popular_wi.html)
- Honig, M. I. (2004). The new middle management: Intermediary organizations in education policy implementation. *Educational Evaluation and Policy Analysis*, 26(1), 65-87.  
<https://doi.org/10.3102/01623737026001065>
- Huque, A. S., & Watton, N. (2010). Federalism and the implementation of environmental policy: Changing trends in Canada and the United States. *Public Organization Review*, 10(1), 71-88.  
<https://doi.org/10.1007/s11115-009-0089-4>
- Kelchen, R. (2018). *Higher education accountability*. Johns Hopkins University Press.
- Kuper, A., Lingard, L., & Levinson, W. (2008). Critically appraising qualitative research. *BMJ*, 337, 687-692. <https://doi.org/10.1136/bmj.a1035>
- Kurlaender, M., Reed, S., Cohen, K., Naven, M., Martorell, P., & Carrell, S. (2018, December). *Where California high school students attend college*. Policy Analysis for California Education.
- Lederman, D. (2019, August 5). U.S. says California is in compliance with state authorization. *Inside Higher Education*. <https://www.insidehighered.com/quicktakes/2019/08/05/us-says-california-compliance-state-authorization-rules>
- Lieske, J. (2010). The changing regional subcultures of the American states and the utility of a new cultural measure. *Political Research Quarterly*, 63(3), 538-552.  
<https://doi.org/10.1177/1065912909331425>
- Longanecker, D., & Hill, M. A. (2014). The State Authorization Reciprocity Agreement (SARA): A good idea whose time has come. *Change: The Magazine of Higher Learning*, 46(3), 45-52.  
<https://doi.org/10.1080/00091383.2014.910059>
- Lune, H., & Berg, B. L. (2017). *Qualitative research methods for the social sciences* (9th ed.). Pearson.
- McCann, C., & Laitinen, A. (2019, November). *The Bermuda Triad: Where accountability goes to die*. New America. <https://www.newamerica.org/education-policy/reports/bermuda-triad/>
- Merriam, S. B., & Tisdell, E. J. (2016). *Qualitative research: A guide to design and implementation*. Jossey-Bass.
- Miles, M. B., Huberman, A. M., & Saldaña, J. (2019). *Qualitative data analysis: A methods sourcebook* (4th ed.). Sage.

- National Association of State Approving Agencies. (n.d.). *About NASAA*. <http://www.nasaa-vetseducation.com/About.aspx>
- National Council for State Authorization Reciprocity Agreements. (n.d.-a). *Institution participation fees*. <https://nc-sara.org/participation-fees>
- National Council for State Authorization Reciprocity Agreements. (n.d.-b). *Mission & history*. <https://nc-sara.org/mission-history>
- National Council for State Authorization Reciprocity Agreements. (n.d.-c). *SARA for institutions*. <https://nc-sara.org/sara-institutions>
- National Council for State Authorization Reciprocity Agreements. (n.d.-d). *State fees for in-state institutions*. <https://nc-sara.org/state-fees-state-institutions>
- National Council for State Authorization Reciprocity Agreements. (n.d.-e). *The State Authorization Guide*. <https://www.nc-sara.org/guide/state-authorization-guide>
- Natow, R. S. (2020). The use of triangulation in qualitative studies employing elite interviews. *Qualitative Research*, 20(2), 160-173. <https://doi.org/10.1177/1468794119830077>
- Natow, R. S. (2022). *Reexamining the federal role in higher education: Politics and policymaking in the postsecondary sector*. Teachers College Press.
- Ness, E. C., Tandberg, D. A., & McLendon, M. K. (2015). Interest groups and state policy for higher education: New conceptual understandings and future research directions. In *Higher education: Handbook of theory and research* (pp. 151-186). Springer. [https://doi.org/10.1007/978-3-319-12835-1\\_4](https://doi.org/10.1007/978-3-319-12835-1_4)
- Orphan, C. M., Laderman, S., & Gildersleeve, R.E. (2021). Advocates or honest information brokers? Examining the higher education public policy agenda-setting processes of intermediary organizations. *The Review of Higher Education*, 44(3), 325-355. <https://doi.org/10.1353/rhe.2021.0002>
- Posner, P. (2007). The politics of coercive federalism in the Bush era. *Publius: The Journal of Federalism*, 37(3), 390-412. <https://doi.org/10.1093/publius/pjm014>
- Poulin, R., & Dowd, C. (2017). Federal action since 2010. In A. L. Contreras (Ed.), *State authorization of colleges and universities* (Chapter 6). Oregon Review.
- Program Integrity & Improvement: Final regulations, 81 Fed. Reg. 92232 (2016).
- Program Integrity Issues: Final regulations, 75 Fed. Reg. 66832 (2010).
- Saldaña, J. (2016). *The coding manual for qualitative researchers* (3rd ed.). Sage.
- Scheberle, D. (1997). *Trust and the politics of implementation: Federalism and environmental policy*. Georgetown University Press.
- Seawright, J., & Gerring, J. (2008). Case selection techniques in case study research: A menu of qualitative and quantitative options. *Political Research Quarterly*, 61(2), 294-308. <https://doi.org/10.1177/1065912907313077>
- State Authorization*, 34 C.F.R. § 600.9 (2019).
- State Authorization Network. (n.d.). *About SAN*. <https://wcetsan.wiche.edu/about-san>
- Stevens, M., & Sa, Y. (2018). Cooperative federalism and policy implementation: The Children's Health Insurance Program for the Latino population. *Advances in Social Sciences Research Journal*, 5(8), 438-447. <https://doi.org/10.14738/assrj.58.5062>
- Stratford, M. (2019, July 22). DeVos implements Obama-era rules for online colleges, warns California students. *Politico*. <https://www.politico.com/states/california/story/2019/07/22/devos-implements-obama-era-rules-for-online-colleges-warns-california-students-1115880>



- Straut, T. T., & Boeke, M. (2020, February). *NC-SARA 2019 data report: Enrollment & out-of-state learning placements*. NC-SARA. [https://nc-sara.org/sites/default/files/files/2020-02/2019\\_NC-SARA\\_Data\\_Report.pdf](https://nc-sara.org/sites/default/files/files/2020-02/2019_NC-SARA_Data_Report.pdf)
- Tandberg, D. A., Bruecker, E. M., & Weeden, D. D. (2019, July). *Improving state authorization: The state role in ensuring quality and consumer protection in higher education*. Boulder, CO: State Higher Education Executive Officers Association. [https://sheeo.org/wp-content/uploads/2019/07/SHEEO\\_StateAuth.pdf](https://sheeo.org/wp-content/uploads/2019/07/SHEEO_StateAuth.pdf)
- Tandberg, D. A., & Martin, R. R. (2019, May). *Quality assurance and improvement in higher education: The role of the states*. State Higher Education Executive Officers Association. Retrieved from: <http://nashonline.org/wp-content/uploads/2019/05/QUALITY-ASSURANCE-AND-IMPROVEMENT-IN-HE.pdf>
- The Institute for College Access & Success. (2018). *Going the distance: Consumer protection for students who attend college online*. The Institute for College Access & Success. [https://ticas.org/files/pub\\_files/going\\_the\\_distance.pdf](https://ticas.org/files/pub_files/going_the_distance.pdf)
- Thompson, F. J. (2013). The rise of executive federalism: Implications for the picket fence and IGM. *The American Review of Public Administration*, 43(1), 3-25. <https://doi.org/10.1177/0275074012461561>
- U.S. Department of Education. (2010, September). *An overview of the U.S. Department of Education*. [https://www2.ed.gov/about/overview/focus/what\\_pg6.html](https://www2.ed.gov/about/overview/focus/what_pg6.html)
- U.S. Department of Education. (2015, June 19). *Dear Colleague Letter: State Authorization Regulations Effective Date July 1, 2015*, GEN-15-10.
- U.S. Department of Education, National Center for Education Statistics. (2019, September). Table 317.20: Degree-granting postsecondary institutions, by control and classification of institution and state or jurisdiction: 2018-19. *Integrated Postsecondary Education Data System (IPEDS), Fall 2018, Institutional Characteristics component*. U.S. Department of Education.
- Wohlstetter, P., Houston, D. M., & Buck, B. (2015). Networks in New York City: Implementing the Common Core. *Educational Policy*, 29(1), 85-110. <https://doi.org/10.1177/0895904814556753>
- Yin, R. K. (2014). *Case study research: Design and methods*. Sage.

## Appendix: Research Protocols

### Interview Protocol

#### Background

1. Interviewee's Background (current and previous professional positions)
2. Please describe the process for higher education institutions to obtain authorization to operate in your state.
3. How does your agency communicate with institutions regarding state authorization requirements?
4. Regarding participation in the State Authorization Reciprocity Agreement (SARA):
  - a. All states except California: Has participation in SARA been beneficial for your state? Why or why not?
  - b. California: Has not participating in SARA been beneficial for your state? Why or why not? Has there been any consideration of participating in SARA? Please explain.

#### Role of State Authorizers in Implementing Federal Policy

5. Please describe the following:
  - a. Your agency's role in the Program Integrity Triad under Title IV of the Higher Education Act, through which states – together with accreditors and the U.S. Department of Education – are charged with maintaining educational quality for institutions receiving federal student aid funds.
  - b. Your state's process for collecting and addressing student complaints about higher education institutions.
  - c. Your state's process for responding to federal reporting requirements for state authorizers.
  - d. How your state provides verification of institutional authorization to the federal government.
  - e. Your state's process for determining whether an institution is religious for purposes of exemption from Title IV requirements.
  - f. [For each aspect of Title IV implementation listed above, ask the following probes/follow-up questions:
    - i. Has your state or agency experienced any difficulties in fulfilling this role? If yes:
      1. What were those difficulties?
      2. What do you believe caused them?
      3. How did your agency address those difficulties?
    - ii. How does your agency communicate with the U.S. Department of Education regarding this role?
    - iii. How does your agency communicate with institutions regarding this role?]

### **State Authorizers' Responses to Federal Policy Change**

6. How did your agency learn about the following changes in federal policy (for each policy listed in this section, the interviewer will provide a summary of the policy's main points if the interviewee asks for clarification of the policy):
  - a. The 2010 Department of Education state authorization regulations?
    - i. What was your state's response to this policy change?
    - ii. Did your state encounter any difficulties in responding to this policy change? If yes, please describe what those challenges were and how your agency addressed them.
  - b. The 2016 Department of Education state authorization regulations?
    - i. What was your state's response to this policy change?
    - ii. Did your state encounter any difficulties in responding to this policy change? If yes, please describe what those challenges were and how your agency addressed them.
  - c. The 2019 Department of Education state authorization regulations?
    - i. What was your state's response to this policy change?
    - ii. Did your state encounter any difficulties in responding to this policy change? If yes, please describe what those challenges were and how your agency addressed them.
7. From time to time, the U.S. Department of Education issues guidance in the form of "Dear Colleague" letters, providing instructions or clarifications about regulations. Since 2010, the Department of Education has issued several "Dear Colleague" letters regarding state authorization regulations. Are you familiar with any of the state authorization "Dear Colleague" letters? If yes:
  - a. Which ones?
  - b. How did you become aware of them?
  - c. How did your agency respond to the letters?
  - d. Did your agency communicate with higher education institutions about the letters? Please explain.

### **Working Relationships and Other Challenges**

8. What is your overall assessment of your state's working relationship with the federal government regarding federal policy on the Program Integrity Triad and state authorization regulations? How might that working relationship be improved?
9. Other than what we have already discussed, what challenges has your state faced in fulfilling its obligations under Title IV of the Higher Education Act?

### **Conclusion**

10. Are there any important issues regarding your state's responses to federal policy on postsecondary state authorization that we have not yet discussed?
11. How can we obtain access to documents that reflect your state's response to federal policy on state authorization?
12. [For earlier interviews] Who are some other individuals in your state that we may contact for an interview on this topic?

## Document Collection Protocol

| Document Type              | Federal/National  | All Five Case-Study States  |
|----------------------------|---|---|
| Laws, Policy, and Guidance | HEA, Title IV<br>ED's state authorization regulations and guidance  | State-level statutes, regulations, and sub-regulatory guidance regarding higher education authorization relating to federal policy on state authorization or the Program Integrity Triad  |
| Forms and Procedures       | Instructions and forms relating to state authorization issues and the Program Integrity Triad   | State authorization instructions and forms<br><br>Student complaint process instructions and forms<br><br>Other instructions and forms relating to federal policy on state authorization or the Program Integrity Triad   |
| Reports/News Articles      | Reports and articles obtained through Internet and news database searches regarding obligations for states and state-level implementation of federal state authorization policy and the Program Integrity Triad   | Reports and articles obtained through Internet and news database searches regarding the case-study states' implementation of federal state authorization policy and the Program Integrity Triad   |
| Websites                   | Website searches of ED, NC-SARA, associations representing higher education leaders and administrators, associations representing state authorizers, higher education compacts, accreditors, and similar organizations for information about state-level implementation of federal state authorization policy and the Program Integrity Triad | Website searches for state authorizers and other relevant state higher education agencies, state-level associations representing higher education leaders and administrators, and similar organizations for information about the case-study states' implementation of federal state authorization policy and the Program Integrity Triad |

## About the Authors

### Rebecca S. Natow

Hofstra University

[Rebecca.S.Natow@hofstra.edu](mailto:Rebecca.S.Natow@hofstra.edu)

<https://orcid.org/0000-0003-2948-1904>

Rebecca S. Natow is an assistant professor of educational leadership and policy and Director of the Higher Education Leadership and Policy Studies Program at Hofstra University.

### Vikash Reddy

Campaign for College Opportunity

[vikash@collegecampaign.org](mailto:vikash@collegecampaign.org)

Vikash Reddy is Vice President of Research in the Los Angeles Office of the Campaign for College Opportunity.

### Victoria Ioannou

City University of New York, Queens College

[victoria.ioannou@qc.cuny.edu](mailto:victoria.ioannou@qc.cuny.edu)

Victoria Ioannou is Alumni Engagement Manager at Queens College of the City University of New York.

---

# education policy analysis archives

Volume 31 Number 4

January 24, 2023

ISSN 1068-2341



Readers are free to copy, display, distribute, and adapt this article, as long as the work is attributed to the author(s) and **Education Policy Analysis Archives**, the changes are identified, and the same license applies to the derivative work. More details of this Creative Commons license are available at <https://creativecommons.org/licenses/by-sa/4.0/>. **EPAA** is published by the Mary Lou Fulton Teachers College at Arizona State University. Articles are indexed in CIRC (Clasificación Integrada de Revistas Científicas, Spain), DIALNET (Spain), [Directory of Open Access Journals](#), EBSCO Education Research Complete, ERIC, Education Full Text (H.W. Wilson), QUALIS A1 (Brazil), SCImago Journal Rank, SCOPUS, SOCOLAR (China).

About the Editorial Team: <https://epaa.asu.edu/ojs/index.php/epaa/about/editorialTeam>

Please send errata notes to Audrey Amrein-Beardsley at [audrey.beardsley@asu.edu](mailto:audrey.beardsley@asu.edu)

Join **EPAA's Facebook community** at <https://www.facebook.com/EPAAAPE> and **Twitter feed** @epaa\_aape.