

INSIDE HIGHER ED

States Seek Tighter Regulation of For-Profits

State lawmakers, advised by Robert Shireman, want to fill what they call a void in federal leadership by enforcing regulations on for-profit institutions and recently converted nonprofit colleges.

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California lawmakers are going after for-profit institutions with a slate of bills meant to tighten regulations, some of which also are aimed at nonprofit universities with big online programs.

Lawmakers in the state say the bills are a response to the rollback of for-profit oversight led by Betsy DeVos, U.S. secretary of education. And policy makers in California aren't alone in pushing back at the state level: bills introduced recently in Maine, Maryland, New York, Oregon and Washington also seek to regulate for-profit colleges.

Some of the proposals, which Robert Shireman and the Century Foundation helped craft, appear to go after specific institutions. Shireman, a former deputy undersecretary of education in the Obama administration and a senior fellow at the foundation, said states watched as DeVos dropped Obama-era student aid regulations that largely targeted the for-profit sector. And he said some state lawmakers subsequently approached him and other groups for guidance.

“It has become much clearer that the federal government is not interested in actually policing the federal loan program and has actually reversed a lot of the guardrails that were set up by the Obama administration,” said Shireman. “Much of the legislation we’re seeing is a combination of addressing some of the problems we’re seeing right now, but also preventing future Corinthians, future Ashfords, future Argosys.”

DeVos last year moved to **drop the gainful-employment rule** and **restored federal recognition** of the for-profit college accreditor that oversaw the collapse of **Corinthian Colleges** and **ITT Technical Institutes**.

The Education Department also has been questioned over its handling of Argosy University and some Art Institutes campuses. Tens of thousands of students learned last week that Argosy and the Art Institutes would close after **failing to distribute** millions of dollars in aid to students. The department had **cut the colleges off** from federal student aid last month, which helped spur

their closure. Ashford University, which is **seeking to convert** from a for-profit to a nonprofit institution, is being **sued** by California's attorney general for allegedly defrauding and deceiving students. The online institution also has had a **series of conflicts** with California's state approving agency over aid eligibility for veteran and military students.

One **bill** would address the concerns some for-profit critics like Shireman have about a lack of transparency by organizations like Purdue University Global and at for-profits that, like Ashford, have sought to convert to nonprofits. The proposed legislation, for example, would require Purdue Global to follow public records laws in the state as would any other public or nonprofit institution. But Purdue Global received an **exemption** from the Indiana Legislature to some open-records laws that apply to other Indiana public universities.

"If they are claiming to be public for the purposes of California's oversight, they must not be exempt from their own state's public records and financial oversight laws," said Shireman, who criticized the cycle of "student loan-fueled expansions of colleges that then collapse on the students and fall onto the laps of taxpayers."

In a statement, Tim Doty, a Purdue spokesman, said the institution is a public nonprofit.

"Purdue Global has a strong compliance culture and will follow the regulatory requirements that apply to it, no matter the state," he said via email.

For-profit college advocates are mobilizing in states and contacting lawmakers to stop the legislation aimed at their sector from becoming reality.

“These are draconian bills intended to eliminate the very existence of the proprietary sector in these states,” said Steve Gunderson, president and chief executive officer of Career Education Colleges and Universities, which is the for-profit sector’s primary trade association and has been working with state associations on this issue. “The proponents say they want to go after bad actors. No, they aren’t. They are going after the whole sector.”

Gunderson said critics misunderstand what the Trump administration's Education Department has been doing for the for-profit industry. Neither the sector nor the administration wants lax rules and regulations, he said.

“We should move toward one common set of regulations and laws for all of higher education, and common outcome metrics,” Gunderson said. “Borrower defense and gainful employment is not good. It’s a narrow ideological war against one sector.”

Beyond California, several other states with Democratic governors and majorities in their legislatures are moving forward in an attempt to increase regulations on the sector.

For example, Andrew Cuomo, New York's governor, **proposed** increasing regulations on for-profit institutions as part of his 2019-20 budget plan. His proposal included requirements for-profit colleges to regularly report their funding sources to the state. It also would not allow for-profits to receive more than 80 percent of their funding from taxpayers.

Lawmakers in California, **Maryland** and **Oregon** have introduced similar bills. The federal government caps taxpayer funding of for-profit colleges at 90 percent. The proposed legislation in those states, like in New York, would lower the cap to 80 percent. Legislatures in **Washington** and California also are mulling bills that would create state-level gainful-employment

requirements. And **Maine** and **Oregon** legislators would join New York in regulating how for-profit colleges spend funds by requiring that at least 50 percent of spending goes toward direct instruction. A bill in Maine also would require a maximum 15 percent of spending on advertising, while an Oregon bill would prohibit any government funds from being used for advertising or student recruiting.

“It doesn’t surprise me that in the face of what the administration has been doing, policy makers at the state level are increasingly focused on things they can do to protect residents,” said Barmak Nassirian, director of federal relations and policy analysis at the American Association of State Colleges and Universities.

If these bills had been enacted earlier, he said they would have caught problems at ITT Tech, Corinthian and Argosy.

“The point is that would be a feature and not a flaw,” Nassirian said. “Those chains would have collapsed anyway. But with this approach, it ensures we pull the plug much sooner and far fewer people would get caught up and the damage would be smaller.”

Gunderson said he doesn’t buy the argument that these bills will help students or stop an institution from shuttering its doors unexpectedly. For example, Argosy mishandled millions in student aid, which he said the bills wouldn’t have stopped from occurring.

“I don’t know if any of these legislative proposals would prevent any school -- proprietary, nonprofit or public” from engaging in that kind of misconduct, Gunderson said.

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