

THE U.S. DEPARTMENT OF EDUCATION AND HIGHER EDUCATION: AN ASSESSMENT AFTER 35 YEARS

I wish to do two things. First, I will review the creation of the U.S. Department of Education, noting that it was a highly controversial decision. Second, I will review the state of higher education in the generation or so before the Department's inception, and then relate that to the current state of America's colleges and universities, in the process gaining some insight on the contributions of the Department to higher education.

The Creation of the U.S. Department of Education

For more than 190 years after constitutional government began in 1789, the U.S. had no federal department devoted exclusively to education. To be sure, there was federal governmental involvement in education that began even before constitutional government began, as manifested in the Northwest Ordinance of 1787. Some education statistics were gathered as early as 1838. The Morrill Acts of 1862 and 1890 creating land grant colleges were significant, although I elsewhere have argued that we tend today to exaggerate grossly the importance of that legislation. The Servicemen's Readjustment Act of 1944, or GI Bill, and, of course, the Higher Education Act of 1965 all were important. But none of them by themselves justified the creation of a distinct federal bureaucracy run by a secretary of Cabinet rank.

That brief historical review of federal involvement needs a minor qualification. In 1867, under President Andrew Johnson, legislation was passed creating a Department of Education to gather statistics on schools, but within a year concern that such an agency might exercise too much control over local schools led to it being demoted to an office of education, housed over the next 111 years in departments as diverse as the Department of the Interior and the Department of Health Education and Welfare.

After World War II, federal spending on education rose. In higher education, besides the GI Bill, the national response to the launching of Sputnik was particularly important, as manifested in the National Defense Education Act of 1958, and agencies like the National Science Foundation or National Institutes of Health were created or expanded as federally funded research efforts grew. It is notable, however, that these research efforts are almost entirely administered even today outside the Department of Education.

The special interest group most vociferously and ultimately successfully promoting the creation of a Department of Education was the National Education Association. That group had transitioned from being a professional association interested in the promotion of education into the nation's largest single labor union as a consequence of the widespread adoption of public sector collective bargaining in the 1960s. The NEA endorsed and promoted the election of Jimmy Carter as the nation's 39th president in 1976. While several members of Congress were important in promoting the legislation, Abraham Ribicoff, a former Secretary of Health Education and Welfare, was particularly critical, as he was elected to the Senate from Connecticut and introduced a bill in this body in March 1977 to create the department, an effort that ultimately succeeded in the next Congress.

The Democrat majorities were large in both houses of Congress in the late 1970's – over 275 Democrats in the House and 58 in the Senate in the 96th Congress in 1979 and 1980. Nonetheless, the battle over the creation of a Department of Education was very intense and the legislation passed by a narrow margin in the House. While a few Republicans favored the legislation, far more Democrats were opposed, severely narrowing the Democratic majority supporting the new department. The bill in the House was approved in committee by a razor thin vote of 20 to 19, with seven of committee's 25 Democrats opposing. Actually less than half the House members voted for the conference report measure, but because of some not voting it passed 215 to 201. The Senate vote margins were much larger.

While it is true that the NEA and many other interests supported the Department's creation, there was a lot of opposition from individuals or groups that one might have expected to be allies. Arguably the leading Democratic public intellectual of the era who was also a prominent politician and a member of this body, Daniel Patrick Moynihan, generally opposed the legislation, believing that the leader of the new department would be under enormous pressure from single issue interest groups. The American Federation of Teachers and the AFL-CIO opposed the creation of the department. Interestingly, the *New York Times* editorialized against the department's creation at least twice in 1979; the *Washington Post* also was in opposition. The *Times* was concerned about the undue influence of the NEA and argued against the idea that the department would increase efficiency. They added in a July 28, 1979 editorial that "school and college authorities have a hard enough job without a full-time Cabinet agency delving deeper into their business," a sentiment I suspect many current university presidents would endorse.

To reduce controversy and allow for a smooth beginning of the new department, President Carter shrewdly appointed a federal judge with no ties to the NEA, Shirley Hufstедler. She was confirmed in this body by a vote of 81-2. The confirmation came, however, just 14 months before the end of President Carter's tenure as President, so the agency was barely organized when Ronald Reagan was elected president. The 1980 Republican platform called for the elimination of the Department, and at one point early in his tenure the President

recommended in his budget that that happen, along with some cutbacks in a large expansion in federal student loan programs approved in the late 1970s.

I think the Department survived being axed for two reasons. Most important, the elimination of the Department would have required congressional approval, and the Democrats controlled the House of Representatives with 244 seats and were not inclined to eliminate something they had so recently approved. This body had strongly approved the Department's creation with a large number of Republican votes, so passage of a bill to kill the Department in the Senate would have been very problematic, particularly given the narrow Republican majority in the 97th Congress (only 53 Senators were Republicans). Second, President Reagan had bigger issues on his mind requiring Democratic support, notably a major reduction in income taxes, not to mention increases in defense spending. In his memoirs, President Reagan mentions the Department just once. He was not going to expend political capital on something of secondary importance to him at the time. He did not want the Department, but it was not a huge issue with him and fighting to get rid of it was not practical, a point made to him by his first Education Secretary, Terrel Bell.

Higher Education, 1950 to 2015: A Very Abridged History and Assessment

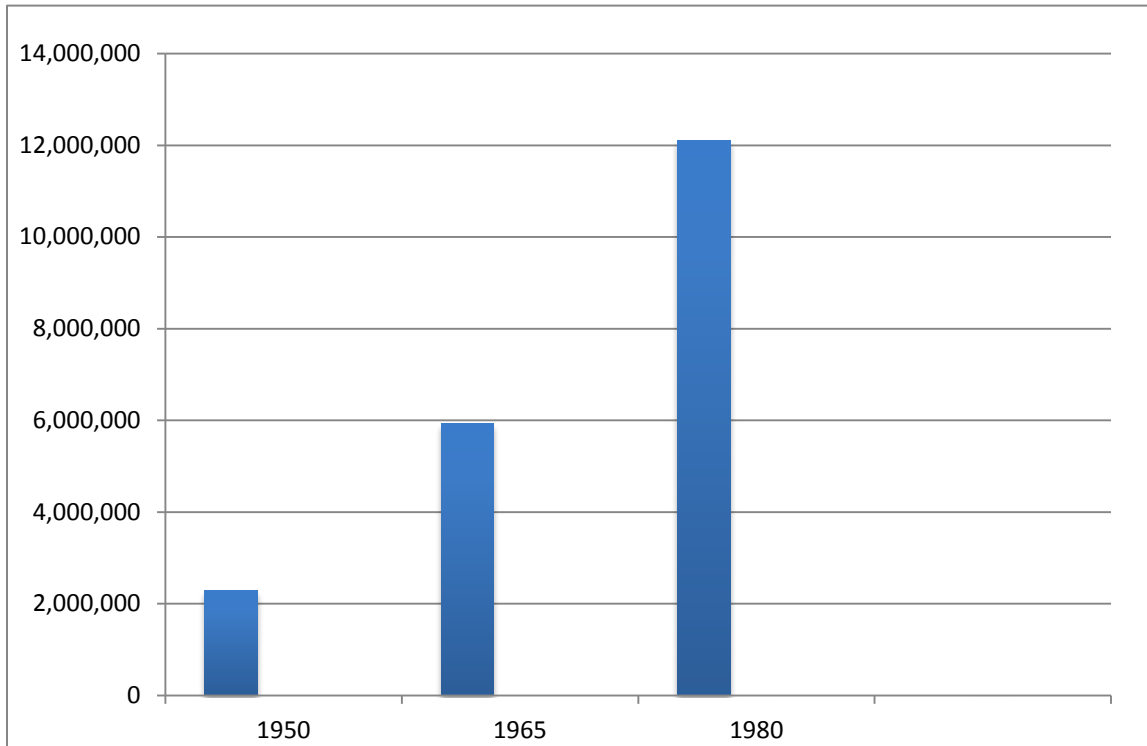
This short legislative history shows that the creation of the Department of Education was a highly controversial move. I think the historical record both before and after the Department's creation shows why many Americans were very skeptical of the need for the department. I am abundantly aware that the Department's primary mission from the beginning related to primary and secondary education, but the focus here will be on changes within higher education.

The Late Pre-Department History of American Higher Education: 1950 to 1980

The period from 1950 to 1980 was the Golden Age of higher education in America by many measures. Enrollments soared; state appropriations for colleges expanded exponentially. The primacy of American universities in cutting edge research became established without a doubt. College went from being something largely reserved for the rich or unusually bright student to being something that was an option that many rather ordinary Americans seriously considered. New universities were established and old ones dramatically expanded. Schools became more inclusive, as enrollments of minorities rose, and gender-based barriers fell: this is the era during which some of the nation's most elite universities and liberal arts colleges began admitting women. While the immediate enrollment boom after 1945 was stimulated by the Servicemen's Readjustment Act of 1944 – the GI Bill – in this period after 1950 the enrollment gains continued, not primarily stimulated by federal financing. Indeed, during the first half of this period, there was no comprehensive legislation from the federal government relating to higher education.

The statistical evidence supports the assertions above. See Figure 1. Enrollments increased more than five-fold from 1950 to 1980, a compounded annual rate of 5.72 percent.

Figure 1
Enrollments in American Higher Education, 1949-50 to 1979-80

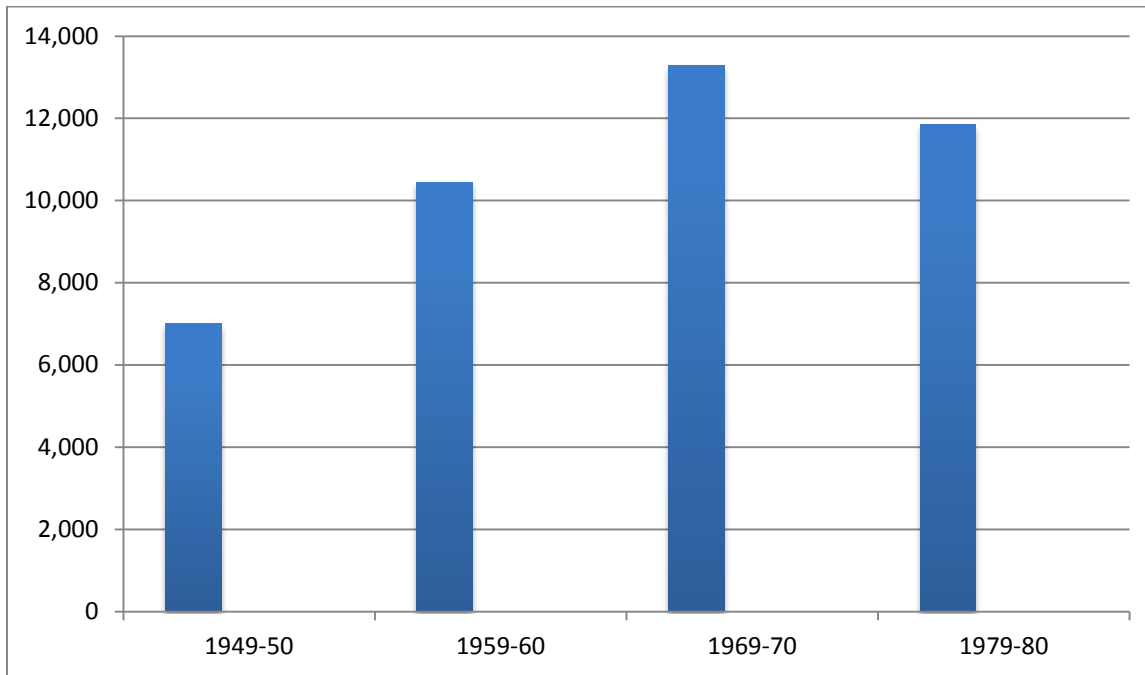


Source: National Center for Education Statistics

Despite soaring enrollments, inflation-adjusted spending per student increased over the period, declining only some in the late 1970s because of an extraordinary and nearly unprecedented peacetime surge in the inflation rate, as Figure 2 demonstrates.

Figure 2

**Spending Per Student, American Higher Education, 1949-50 to 1979-80
(Numbers are in August, 2015 dollars)**



Sources: National Center for Education Statistics, U.S. Bureau of Labor Statistics

The large postwar investment in university research, with a lag, led to high dividends in terms of advances in knowledge. The nation’s production of PhDs soared in the period. For example, there were 417 engineering doctorates awarded in the 1949-50 academic year, compared with over 2,500 30 years later – a six-fold increase. In the 1960s, the number of doctorates awarded in the physical sciences rose by an extraordinary 8.9 percent a year. From 1972 through 1979, the last eight years before the Department of Education began operations, about 40 percent of the Nobel Prizes awarded were to professors at American universities or foreigners who had studied there. The U.S. had become easily the premier nation in the world in terms of cutting edge research and intellectual accomplishments.

It is clear that in this period before the creation of the U.S. Department of Education, that higher education seemed to reinforce both American economic prosperity and the realization of the American Dream. Annual GDP in real terms from 1949 to 1979 rose by a highly robust 3.97

percent. Measured income inequality over the period fell slightly for families and sharply for unrelated individuals.

It is noteworthy that while there was a growing concern in this period about the quality of our K-12 educational system, most strikingly pointed out in the 1983 *A Nation at Risk* report, there were not corresponding complaints about American higher education. It was during this era that we increasingly proclaimed that we had the best system of higher education in the world; by the early 1980s, at the beginning of the U.S. Department of Education, we were not bragging about having the best elementary or secondary schools. To be sure, academic quality and performance are extremely hard to measure, but there was widespread acceptance of the view that American universities were good and playing an increasingly important role in enhancing the welfare of the American people.

American Higher Education since the Department's Inception in 1980

Did the creation of a Department of Education enhance and reinforce the very positive trends in higher education observed during the last generation before its creation, the period 1950 to 1980? I think there is a good deal of evidence that higher education began to enter a less successful, more troubled period. This is reflected in the report that the last Secretary of Education, Margaret Spellings, released in 2006 based on the conclusions of the Spellings Commission, the most comprehensive look at American higher education by an outside body in modern times (full disclosure: the author of this statement was a member of that commission). A few quotations are revealing:

“this commission believes U.S. higher education needs to improve in dramatic ways.....Our yearlong examination of the challenges facing higher education has brought us to the uneasy conclusion that the sector’s past attainments have led our nation to unwarranted complacency about its future....there are disturbing signs that many students who do earn degrees have not...mastered the reading, writing and thinking skills we expect of college graduates.....Over the past decade literacy among college graduates has actually declined...Unacceptable numbers of college graduates enter the workforce without the skills employers say they need...”

Those words were written nine years ago. The problems outlined by the Spellings Commission have not gone away, and in some cases they have become much greater, such as with regards to the costs of higher education. Some of the things that the Spellings Commission lamented, such as the complications of FAFSA (Free Application for Federal Student Aid) form remain, and moreover they are under the direct control of the Department of Education. Let me highlight just six major problems of higher education today, problems that have all grown substantially in the years since the Department of Education exercised oversight over colleges and universities.

The Explosion in Higher Education Costs and Prices

Let us conduct a little thought experiment. Let us observe what the rate of inflation in tuition fees was in the era before the U.S. Department of Education began, that is to say before 1980. Then, let us suppose that rate of tuition fee inflation had persisted in the era of the Department, that is to say the last 35 years. What would tuition fees be like today? In the four decades before the Department's creation in 1979, inflation-adjusted tuition fees rose roughly one percent a year. Since higher education is highly labor intensive and arguably not very amenable to capital-labor substitution, it is not surprising that fees rose somewhat more than overall inflation, although not faster than people's income. In this pre-Department era, the tuition fee to income ratio was generally constant or falling modestly. In the post-Department era, fees have risen well over three percent a year adjusting for inflation, and tuition fees absorb a larger portion of incomes than decades ago. The financial burden of college has clearly risen.

If fees had risen at the same rate prevailing in the pre-Department era in the period since, they would be about one-half the level they actually are today – a typical state university in-state fee today of about \$10,000 would be less than \$5,000; the elite private school tuition of \$45,000 would be more like \$22,000. If fees were at those levels, I would opine the problems associated with student loans would be either non-existent or dramatically smaller than they are – politicians would not be talking about free college tuition or forgiving student loan debt.

You might say this is unfair – the Department of Education happened to come about, but is certainly not responsible for the tuition explosion. That is at best only partially true. I agree with researchers at the Federal Reserve Bank of New York and former Education Secretary William Bennett that the federal student loan explosion has contributed mightily to the explosion in student fees. Colleges have exploited the fact that students can often borrow funds up to the bureaucratically determined “cost of attendance,” and that provides an open invitation for colleges to raise fees, a considerable portion of which have gone to expand bureaucracies and compensation payments. The Department has not taken a leadership role in changing the way we finance higher education. While the loan programs predate the Department, they are largely department administered and have exploded on the Department's watch.

Declining Proportion of College Graduates from Low Income Backgrounds

A primary rationale for public support of education at both the K-12 and postsecondary level is that it can facilitate more intergenerational income mobility. Higher education is a ticket

you need, or so it is argued, to achieve the American Dream, and public subsidization increases college affordability and access. This is the rationale behind, for example, Pell Grants.

But rhetoric and reality are far different. The proportion of recent college graduates who came from the bottom quartile of the income distribution was about 12 percent in 1980 – when the Department was created. The number in recent years is slightly *lower*. For all the talk about providing access to the poor, the reality is that college is less egalitarian than it was in the pre-Department days. I think the rise in stated tuition fees by colleges has been fueled by the financial aid programs administered by the Department, and that those fees scare off a lot of low income students who might consider college. Additionally, the FAFSA form is extremely complex, a surmountable obstacle for children from fairly affluent homes with educated parents who sometimes have financial advisers to assist them, but a serious impediment for those from poor families where the household head is poorly educated.

Little Learning While in College

The Spellings Commission rightly expressed concerns about educational outcomes of today's college students. Additional evidence since 2006 have heightened the legitimacy of those concerns. The most important study, done for the Social Science Research Council by Richard Arum and Josipa Roksa, *Academically Adrift*, used the Critical Learning Assessment (CLA), a test of critical thinking and writing skills. They administered the test at the beginning and at the end of collegiate undergraduate careers to a large number of students at over 20 schools. The results showed that senior CLA performance typically was only marginally better than that of freshmen. Other results suggested that students today often write few long papers, and that they spend relatively little time on academic pursuits (under 30 hours a week), a finding confirmed by others, including the Time Use Survey of the U.S. Bureau of Labor Statistics.

Good data on learning gains is embarrassingly meager in higher education. A Civic Literacy Test administered by the Intercollegiate Studies Institute to freshman and senior students showed embarrassingly low level of basic knowledge about our heritage and civic institutions, and little or no gains through the college years, even at prestigious universities. The general literacy tests administered in the past by the Department of Education have showed a decline in literacy amongst college graduates, although the data is now more than a decade old. Why hasn't the Department repeated the test, and why does it not show concerns about the previous mediocre results?

Accreditation Is Not Working Appropriately

Accreditation of schools is done by private organizations, including several regional accreditors along with subject/area accreditation by specialized assessment organizations.

However, the accreditors are, in fact, “accredited” themselves by the U.S. Department of Education. The current “rules and regulations” to accreditation agencies by the Department, published in 2009, took 23 pages in the *Federal Register*, suggesting the Department’s role is more than tangential.

Accreditation plays multiple functions, but the major ones historically are to provide the public with information about program quality and, related to that, to weed out educational operators who are fraudulent or who operate programs of highly questionable quality. Accreditation is critical because federal student financial aid can only go to institutions accredited by an agency recognized by the Department of Education.

In this brief assessment of higher education, a detailed analysis of accreditation is inappropriate. Some critics note, correctly, however, that few if any major institutions of higher education ever have gone out of business over accreditation – accreditors do very little real quality assessment that is meaningful. Other critics note that accreditation’s binary nature (you either have accreditation, or you do not) does not really provide good information to consumers about very significant quality variations between accredited institutions. Others note that historically accreditation has been based more on inputs (things like the number of faculty or the number of library books) than outcomes, or that politically correct but qualitatively largely irrelevant criteria are sometimes applied (e.g., the racial composition of the faculty). Another concern is that there are inherent conflicts of interest; the accreditation agencies are run by people who are paid by the accredited organizations. Some potential educational providers are thwarted by the high costs associated with obtaining accreditation, and others have even likened accrediting agencies to cartels who wish to restrict competition.

The Underemployment of College Graduates

An important goal of the Department of Education for at least the last two administrations has been to increase the proportion of Americans going to college and complete college degrees. The Department on its College Scorecard web site talks about the extra million dollars college graduates earn over a lifetime compared with high school graduates. The Department has contributed mightily to the view that going to college is a necessary, if not sufficient, condition for material and vocational success.

That message is highly incomplete and thus somewhat misleading, and I think the Department, along with the student financial assistance programs that it administers, shares a fair amount of responsibility for a very serious labor market mismatch problem that is a consequence of the misleading information. A variety of observers, including my own Center for College Affordability and Productivity and, again, the Federal Reserve Bank of New York, have shown that a very large proportion of recent college graduates, probably over 40 percent, are essentially

underemployed – doing jobs where a majority of the job holders are high school graduates. Huge numbers of janitors, baristas, taxi cab drivers, retail store clerks, and other relatively low skilled jobs are held today by persons with degrees.

Two consequences of this are worth noting. The first is we have a credential inflation going on that is highly inefficient. As the number of college graduates vastly exceeds the number of highly skilled jobs in managerial, professional and technical fields, employers, in order to narrow the list of job applicants often are insisting on college graduates, even though the job does not require the skills associated with higher education. Thus a bartender a decade or two ago would have gotten a job with a high school diploma. Today, sometimes bars require applicants have college degrees. We have people studying an extra four years and spending an extra \$100,000 to get a job where that expenditure was not necessary were it not for the credential inflation imposed by public policies pushing college attendance. Second, as the above implies, existing high school diploma holders are sometimes today being pushed into unemployment by the excessive numbers of college graduates. I think a good case can be made that we are overinvested in higher education in America, and the Department is one reason this is the case.

Regulatory Excesses and Bureaucratic Bungling

Some of the regulatory efforts of the Department are extremely intrusive and even worse. Take, for example, the Department's Office for Civil Rights regulation in sexual abuse offenses that is extremely questionable. There is first the traditional objection that sexual violence crimes are local matters, best adjudicated by the universities themselves and local governments, like most other crimes of violence (for example, murder). Second, the perceived necessity for federal regulatory oversight presumes that colleges and local authorities are morally and ethically inferior to their federal brethren, being neglectful of abuse and therefore requiring federal action. That strikes me (and many others) as a dubious proposition. But even more questionable, the department insists that sexual violence cases be resolved using the "preponderance of evidence" evidentiary standard, meaning guilt and punishment is to be assigned even if there is only a 51 percent chance the charge is valid – well below the standard in court proceedings. This very low standard can and almost certainly has led to a good number of unjust punishments being meted out, and has been condemned by persons from all over the political spectrum (most publicly, a large number of Harvard Law School faculty).

Other bureaucratic moves of the Department have undergone considerable criticism. The Spellings Commission condemned the complexity of the FAFSA form required for receipt of federal student aid some nine years ago. Nothing of consequence has been done in the subsequent time period.

The Department as a Provider of Consumer and Taxpayer Information

The original function of the federal government regarding higher education was mainly providing information. Data are available, for example, from 1870 on enrollments, staffing, and other dimensions of American universities. That information is useful in assessing trends, measuring effectiveness, and so forth.

Yet even with this relatively non-controversial and long-lived function, actually predating the creation of the modern Department of Education by well over a century, there are major gaps in knowledge. We do not know, for example, the average teaching load of faculty, probably because the statistic is likely to be embarrassing and controversial. We have spent one-quarter of a trillion dollars on Pell Grants over the past decade, yet the Department does not publish national data on the percent of Pell Grant recipients graduating in four, five, or six years. Why? I suspect because the number probably is below 50 percent even for six year graduation rates, intimating that the return on our Pell Grant investment may be rather low. But that is information that should be provided, and Congress, in fact, should insist upon it.

Even more critically, the Department has not used moral suasion, much less coercion, to obtain critical information of interest to potential students, their parents, policymakers and the concerned public. Most importantly, how much do students learn while in college? It is amazing how private magazine rankers, at no direct cost to the public, have historically provided more information of value to customers, than the Department of Education with its vast resources (full disclosure: I am in charge of the college rankings done by *Forbes* magazine). To be sure, the recent College Scorecard that the Department now has provided includes a good deal of useful information, and potentially could be the springboard for a significant contribution to improving consumer awareness and college choice selection. But it has taken years to be constructed since first discussed years ago.

The Bottom Line: What Grade Do We Give the Department of Education?

In fairness to the Department of Education, a lot of what ails higher education is not directly a result of departmental incompetence or neglect. In the absence of the department or the governmental programs which it oversees (notably financial aid initiatives), some of the problems, such as mediocre learning outcomes, may have happened anyway. Yet the department's job is to improve education in the U.S. The evidence is that it has not done that. There are other pathologies not discussed here – stagnant collegiate labor productivity, inadequate pursuit of technological advances in teaching, the excesses of big-time intercollegiate athletics, et cetera. The assessment here is far from comprehensive.

All that said, it is hard to give the Department of Education a good grade on its lifetime performance. I ask myself, would the American people in general been better off, and would American higher education be improved, if the very strong opposition to the Department's creation had prevailed in 1979? I suspect the answer is "yes." Although it is unfashionable to do so in this era of grade inflation, I think I have to give the Department a failing grade.