Introduction

The Politics of Education and Educational Inequality

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AND GARY ORFIELD

SIXTY YEARS AGO, federal policymakers built a framework to promote and protect civil rights for racially and socioeconomiclly disadvantaged groups through Great Society reforms. Chief among these was the Civil Rights Act of 1964, outlawing segregation of public places and banning employment discrimination. The Economic Opportunity Act of 1964 launched the War on Poverty by proactively investing in low-income individuals and neighborhoods. And in 1965, the Higher Education Act (HEA) built on these reforms by reorienting federal higher education policy to include those groups who had previously been excluded from college opportunities due to racial barriers and lack of money.

These civil rights reforms created a strong and distinctive federal role in higher education policy. Colleges and universities receiving federal funding could no longer discriminate based on race, color, or national origin. And states were required to dismantle dual systems of higher
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education by desegregating public colleges and universities. As America has become more racially, politically, and economically divided since the 1960s, so too has its higher education systems. These divisions did not happen by chance but, as this book describes, were the result of political action and inaction in several specific federal policy areas: expanding student loan debt; eroding consumer protections; neglecting Minority-Serving Institutions (MSIs); supporting for-profit colleges; questioning affirmative action; and applying market-based accountability without strong federal guidance.

The political victories of the mid 1960s through the early 1970s took considerable political will, coalition building, and negotiation in an effort to promote equal opportunities for people of color and people from low-income backgrounds. But as with any political action, these reforms require constant and proactive attention and advocacy to realize their full potential. Without this ongoing effort, public policymakers can easily move on to other competing priorities and ignore or even obscure the original civil rights goals behind the HEA. There was a strong conservative blowback against the federal role in racial justice, a conservative transformation in the Supreme Court, and a loss of focus on the most disadvantaged students as higher education institutions jockeyed for shares of federal funds and the political pressure grew for more aid to the middle class. This book aims to recenter federal higher education policy debates around the HEA's original focus on promoting civil rights. The need for such a reorientation could not be greater than today, when the nation is reckoning with the long-standing realities of white supremacy and structural racism that negatively affect the lives and well-being of people of color. The Black Lives Matter movement has revitalized—and in many respects reframed—the nation’s sense of urgency around racial injustice in all its forms. The COVID-19 pandemic has exposed and worsened racial and economic inequalities that for too long have gone overlooked in policy conversations. The political coalition that emerged in the Biden campaign underlined new multiracial possibilities. And it has been through
broad coalitions of community-based organizations, civil rights groups, professional associations, and grassroots activists that a new era of civil rights for federal higher education is coming back into focus.

For example, the Higher Ed Civil Rights Coalition, which includes several organizations such as The Education Trust, Human Rights Campaign, National Urban League, and UnidosUS, recently developed a set of core principles for advancing civil rights in higher education. Their principles, which focus largely on enforcing civil rights laws, implementing strong data and accountability programs, promoting access and success for students of color and low-income students, excluding for-profits from federal aid programs, investing in Minority-Serving Institutions and Historically Black Colleges and Universities (HBCUs), and protecting defrauded students and student loan borrowers, map closely to the topics covered in this book. There is growing consensus that these topics are central to restoring and reimagining the HEA and civil rights enforcement activities to promote fairness and equity in a highly unequal society.

This consensus is growing at a time when federal policymaking in higher education is gridlocked, which presents a serious problem for enacting any meaningful reforms via legislation. The 2020 presidential campaign brought many promises of massive aid on college costs and debt, but the US Congress has become increasingly polarized and, as a result, has largely failed to respond to the coalitions and consensus that are growing around civil rights priorities. This was certainly true during the Trump administration, where the higher education policy agenda centered around deregulation and reversing Obama administration efforts to introduce—in many cases for the first time—needed consumer protections like Gainful Employment and Borrower Defense rules. With Democrats controlling both the House and Senate in the early Biden administration, federal policymakers are poised to make some serious and lasting changes to higher education policy. Of course, those changes will not come in one fell swoop; rather, they will likely occur over time and, possibly, as a result of growing consensus and coalition building.
A central theme of this book is that the politics of education and educational inequality cannot be separated from the other. However, much of the higher education policy literature does just this by focusing on politics or inequality, but not how politics shape (and is shaped by) inequality. This central theme is carried through each chapter as authors not only focus on the racial and socioeconomic consequences of federal policies but also focus on the politics behind those inequalities. By focusing in this way, this book offers a new way of viewing the civil rights dimensions of the HEA where many of the problems HEA (and Great Society reforms in general) sought to address are still unresolved today. By centering contemporary debates around those origins, the book offers a renewed way of viewing federal higher education policymaking from a civil rights perspective. Doing so will help researchers and policymakers pinpoint specific federal policy debates that have significant racial and socioeconomic implications (e.g., deregulating for-profit colleges, weakening consumer protections, expanding student loan debt, etc.) to identify promising and evidence-based solutions to these deeply rooted and complex problems.

ORGANIZATION OF THE BOOK

The book begins with two chapters synthesizing key moments and trends in federal higher education policymaking. Gary Orfield (chapter 1) outlines the origins of federal involvement in higher education, where a common theme across several different political eras is that race-blind policies perpetuate racial inequality. The 1890 Morrill Land-Grant Act explicitly addressed race and helped establish several Black colleges, but just six years later Plessy v. Ferguson ushered in the “separate but equal” era that would reinforce inequality for the next sixty years. Similarly, the G.I. Bill of 1944 expanded opportunity for veterans regardless of skin color, but the policy did not require colleges to desegregate, so white veterans disproportionately benefited from the program. These stories are repeated throughout federal higher education history, where Orfield
Introduction argues race-neutral policies benefit white constituents more—and to larger degrees—than people of color. For federal higher education policies to promote civil rights, they must be race conscious.

In chapter 2, Deondra Rose and Suzanne Mettler explain how quickly the civil rights goals of the HEA eroded due to political “decay, drift, and derailment.” What began as a landmark law to promote opportunity has become one that policymakers now neglect due in large part to polarization. Rose and Mettler make a clear and compelling case that this policy neglect has taken place at the same time that students of color and low-income students need greater resources to pay for college.

In chapter 3, OiYan Poon and Liliana Garces provide a comprehensive background on affirmative action highlighting not just the outcomes of court cases but the racialized politics behind the lawsuits. This chapter focuses on the racist motivations driving recent anti-affirmative action campaigns that target Asian Americans and aim to create divisions among this key constituency. In an era of widening inequality and political polarization, debates about affirmative action will continue, and this chapter provides the necessary insight and background to understand how those legal and political contests will affect civil rights—particularly for Asian Americans.

Chapter 4 offers a similar synthesis and framing of an urgent political topic, student loan debt, where Jalil B. Mustaffa outlines how failing to maintain HEA while operating race-neutral policies created the Black student debt crisis. In this case, many student debt policy debates are framed around theories of human capital, where investing in a college education “pays off” in the long run. But Mustaffa explains the payoff is not equal for everybody, particularly for Black men and women who often face serious labor market discrimination and intergenerational inequality. To compound this problem, not all students are equally likely to borrow—Black students are far more likely to borrow and to borrow more than white students—and this creates a debt trap for Black borrowers. Mustaffa calls for a new discourse on student debt and outlines strategies for a fairer higher education financing system that addresses rather than ignores racial injustice.
In chapter 5, Erin S. Corbett, Julie Ajinkya, Cody Meixner, and Haruna Suzuki outline just how far away federal policies have drifted from focusing on civil rights. The 1994 Violent Crime Control and Law Enforcement Act prohibited incarcerated individuals from accessing the federal Pell Grant. The precursor to the Pell Grant was created in the 1965 HEA as a way to promote opportunity, yet within just thirty years Congress found a way to close opportunities for people serving sentences—people who disproportionately come from minoritized racial groups and low-income backgrounds. At the time this book was submitted for publication, Congress had passed the Consolidated Appropriations Act of 2021 that effectively will end the ban, though the issues of civil rights and fairness for incarcerated individuals is far from resolved. Another unresolved policy problem deals with federal efforts to hold colleges more accountable for their outcomes, as outlined by Nicholas Hillman in chapter 6. This chapter provides a summary of recent “skin in the game” efforts to penalize “poor performing” colleges for not meeting certain accountability goals. These policy proposals are, like many federal policies both today and in years past, race neutral. By ignoring basic facts about racial inequality, accountability efforts will likely reinforce the very inequality they purport to address. This chapter outlines several promising strategies that would leverage accountability as a way to promote civil rights in an effort to reverse inequalities.

The next three chapters follow a similar line of inquiry, where the authors examine how policies interact with colleges and universities. Andrés Castro Samayoa explores in chapter 7 how Minority-Serving Institutions not only serve the lion’s share of students of color in the United States but also how they do so with limited financial resources. MSIs play a key role in promoting educational opportunity and promoting civil rights, and this chapter explains key legislative actions and policy levers to promote greater investment in the colleges poised to make the greatest contributions to promoting opportunity and equity. Chapter 8 examines the opposite end of the opportunity spectrum, where Brian Pusser and
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Matt Ericson show how for-profit colleges also serve disproportionate shares of students of color and low-income students, but too often leave them worse off than if they had never attended college in the first place. Both chapters tie directly to the need for ongoing policy maintenance, as Rose and Mettler outlined in chapter 2, where federal policymakers can promote civil rights via investing in under-resourced MSIs while protecting students from predatory for-profit colleges—in both cases, these are where many underrepresented students enroll and policies must treat the different sectors differently in order to address inequalities. Finally, in chapter 9, Gary Orfield revisits a long-standing debate about the role community colleges play in promoting—or foreclosing—opportunities for students of color and low-income students. That many students of color and low-income students are tracked into under-resourced community colleges with poor educational outcomes is a civil rights issue that will not be fixed by “free” community college. Without fundamental changes in degree programs and significant investments and improvements to ensure the colleges have adequate resources (i.e., faculty, staffing, aid, and support services) to promote better outcomes for underrepresented students, these schools will only perpetuate long-standing inequalities.

SUMMARY

In 1965 when the HEA was first authorized, the political and demographic profile of America was far different than today. The nation’s population was primarily white, racial inequalities were starting to be addressed through civil rights legislation, and income inequality was not nearly as severe as it is today. As colleges and universities have become more accessible to students of color and low-income students, public policymakers have steadily shifted policy attention away from civil rights and toward the interest of middle-class white voters. This pattern of neglect is a symptom of many of the worst features of political polarization and inequality, where the interests of powerful and already-advantaged stakeholders are
preserved at the expense of the less powerful and the most disadvantaged. This is precisely how higher education policymaking has unfolded over several generations and in multiple policy areas outlined in this book.

Many of today’s federal higher education policies and programs began during the civil rights era; however, as the nation has become more politically polarized, racially segregated, and economically unequal, policymakers have not maintained or strengthened these policies to ensure and promote civil rights. This book shows how public policymakers have lost the political will to engage in comprehensive and ongoing policy maintenance, resulting in sporadic HEA reauthorizations, piecemeal legislation, or budget reconciliation bills to usher new eras of race-neutral policies. The consequences of this underperformance and neglect fall squarely on students of color, low-income students, and the institutions where they enroll. If these issues are left unaddressed, federal higher education policies will continue to drift in this direction and reinforce the very inequalities many policies were designed to address.

Policymakers committed to promoting opportunity and strengthening civil rights must recognize that the current path will perpetuate inequality. This book explains why and it provides a deep examination into how civil rights has become an afterthought—if even thought of at all—in far too many federal higher education policy conversations. As the country becomes more diverse, the costs of this neglect steadily rise. But this book is not simply a critique of what is broken; in fact, each chapter highlights specific ways to improve policies, address inequalities, and promote civil rights through specific action. Our goal is to help inform policy deliberations by providing background context on the civil rights dimensions of specific policies, reporting new data analysis to understand the impacts of policy proposals, and offering new frameworks for understanding the impact of policy changes on students of color and low-income students—both today and long into the future. Higher education can and must become an important part of the solution.