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The 2018 Annual Duane Morris Rant

It's sunny, with a good chance of eventual horribleness

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Setting the scene...

- 8 years of ideological jihad, backed with the power of the state
- Relative political weakness in Congress
- A more casual approach to compliance and outcomes created vulnerabilities

Then, a miracle happened in 2016



And we escaped certain destruction...



But, there was still a hangover effect...



The Hangover

- The executions of Corinthian, ITT Tech, and Marinello
- Persecution by Colorado AG of College America
- Terrible overall brand damage across the board and low enrollments
- Looming GE rule
- Horrible BDTR rule
- Attempted execution of ACICS, and downstream destruction and disruption
- General accreditor fear, loathing and reflexive actions

The 2017-18 reset

- Betsy DeVos takes the helm, and is not afraid
- USED political appointees out the door (good riddance)
- USED walks back GE and BDTR
- USED sets new rulemakings on accreditation, state authorization, and just about everything else
- USED jihad stops cold
- USED wipes out stupid Title IX overreach
- USED walks back ACICS death sentence.
- USED clears program reviews, approves application, and the skies look clear again

The haters use the courts as their next jihad battleground

- The AACS suit against GE succeeds and the USED response
- The CAPPs suit against BDTR results in USED delay
- The states' and 'borrowers' suit against USED
- The states' suits against GE delay

The new GE rule after negotiated rulemaking

- Eligibility and penalty consequences go away
- Disclosures only
- All T4 institutions are included
- Info to be on the College Scorecard

The new BDTR rule after negotiated rulemaking

- No more group claims. One claim at a time
- Standard of proof is on student, and is high
- Institution has due process protections
- Triggers are gone, replaced by USED discretion
- Arbitration ban is gone

The recent decision on the BDTR suits

- Court rules 'delay rule' not appropriate
- Decision in progress on what happens with the old BDTR regulation
- The old BDTR rule might be back for awhile
- Meanwhile, USED punts on both GE and BDTR

Prognosis on regulations: Who knows?



Prognosis, in more detail

- Don't know why USED punted. Maybe weak knees, maybe just not done, maybe career staff slow-rolling
- Next window for effective date of new regulation July 2020
- What will happen with existing GE rule and BDTR unclear
 - CAPPS suit will determine what happens on BDTR
 - GE suit decision pending. Now a jump ball

Clear weather with sun expected (mostly)

- Distance State authorization rule was always a mess and is going away
- Major negotiated rulemaking on accreditation scheduled
 - Probable loosening of clock/credit hour rules
 - Probable relaxation of accreditation recognition criteria to encourage experimentation by accreditors
- USED behaving normally
- BDTR and GE draft rules not likely to change much
- M/A business is off the charts active. Best in a very long time

But it's still muddy out there

- Damage from the last jihad not gone yet. (Coleman, Harrison, and others.) Starts still challenging
- Strong economy a headwind for our counter-cyclical sector
- Accreditors still timid and reactive. None likely to take risks or innovate much for awhile, except perhaps regionals (maybe)
- Prices in M/A not back at prior levels
- Regulatory conditions in deals still cautious
- VA funds potentially out of 90/10
- Mid-terms may have significant impact on HEA and later agency action

How to navigate in this weather?

- Program choices and changes
 - Dump ineffective programs. Add better ones
 - Accreditors and BPPE are moving apps fast
- Outcomes, outcomes, outcomes. And more outcomes
- Political involvement. The Bad Guys will be coming back.
- Don't be Icarus
- Insurance reviews

And more navigation aids

- Employer partnerships
- Non Title IV programs
- Evaluate 90/10 dependency
- Competency-based training
- Sales, combinations and transformations of schools.
- Vote early and often

Continuing to advocate our schools' value remains critical

- What are your talking points?
- Who are you telling?
- What is your plan for community outreach?

And these essential principles:

- Sustained oppression thrives on the sanction of the victim
- When we stay silent, we aid the bullies and wreckers
- Our obligation is individual, not collective

WE WILL **NEVER** ACCEPT AN UNEARNED
GUILT

SPEAK UP!