
The Evolution of the For-Profit College Industry New Challenges for Oversight

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Introduction

Heavily reliant on federal funding, for-profit colleges are skilled at adapting to changes in federal policy. In recent decades, federal funds have repeatedly fueled rapid expansion and, at some colleges, abuses. After federal crackdowns, colleges adjust to new rules, policymakers change, and, within a few years, the cycle repeats itself.

The early 2000s saw rapid expansion of low-quality programs at some for-profit colleges and well-documented use of predatory practices to drive enrollment growth.¹ While some students struggled at all kinds of colleges, students enrolling in for-profit colleges were less likely to have seen earnings gains, more likely to have unaffordable debt, and more likely to default on student loans.²

Since the Obama Administration began its emphasis on accountability a decade ago, and as the economy improved, enrollment in for-profit colleges has fallen sharply. Attention brought to unsavory practices has damaged the reputation of the industry and also contributed to enrollment declines. The collapse of the national college chains Corinthian Colleges, ITT Technical Institute, and campuses operated by Education Management Corporation left tens of thousands of students in the lurch.

Now we may be at another inflection point for the industry. Under the Trump Administration, the Department of Education has repealed key student protections including the gainful employment rule and made it even more difficult for students who have been cheated to have their loans cancelled.³ Colleges that engage in questionable tactics to drive growth remain, aggressive recruiting into high-cost programs continues, and as a result of those practices across the country students continue to enroll in programs that place their financial and educational future at risk. Some analysts have noted the potential for an approaching recession may raise college enrollments.⁴ At some for-profit college chains, executives are already reporting new growth in enrollments and profits.⁵

In order for policymakers to address continuing abuses and respond to emerging practices, it is important to understand how the industry itself has changed. Between 2013 and 2018, new enrollment leaders have emerged. Fewer for-profit colleges are publicly traded, reducing the transparency of the operations. There has been a significant move away from campus-based programs, with a larger share of for-profit students, particularly at large for-profit schools, attending exclusively online programs. In fact, more for-profit students attend exclusively online programs than attend exclusively on campus. Many colleges are national in scope: in 2017 80 percent of students attending an exclusively online program at a for-profit college do so from out of state.⁶

The growth in online education creates risk for students as the effectiveness of exclusively online programs remains unproven.⁷ In November 2019, the Department of Education approved a new distance education rule that fails to ensure that states can enforce higher education laws protecting students enrolled across state lines, making oversight and monitoring of this growing population of online students increasingly challenging.⁸

Second, some large for-profit colleges have sought to shed the for-profit label and accompanying regulatory regime by converting to nonprofit colleges. However, these converted colleges have failed to adopt the independence governance that is characteristic of non-profit colleges, while continuing to financially benefit under the former owners.

Third, colleges of all kinds have increasingly contracted with third party online program managers (OPMs) to create and operate their online programs. Three large for-profit colleges have sought to transform themselves into a form of OPM that provides a comprehensive set of services across programs offered at colleges they formerly owned outright. These new organizational forms create new challenges

in preventing abuse.

As for-profit colleges evolve, policymakers need to remain vigilant against the potential for increased abuses. The much greater emphasis on online education and new organizational forms are complicating oversight while practices previously seen primarily in the for-profit college context are expanding to other colleges. To protect against future abuses, policymakers should ensure that:

- States can effectively protect their residents enrolled in online programs across state lines.
- Colleges that are exempt from the consumer protections that apply to for-profit colleges operate with the independent, disinterested governance characteristic of nonprofit and public colleges.
- Contractors that operate online programs for nonprofit and public colleges do not engage in abuses across higher education sectors.

GAINFUL EMPLOYMENT

On July 1, 2019, the Department of Education formally rescinded the gainful employment (GE) rule.⁹ The rule was based on a simple idea: any career training program that leaves most graduates with earnings too low to allow them to repay their student loans must either improve or lose eligibility for federal student aid. The Department itself estimates that eliminating the rule will cost taxpayers more than \$6 billion over ten years.¹⁰

Data collected under the rule demonstrated just how serious a problem debt at career programs can be: more than 350,000 students completed programs at programs where most were left with unaffordable debts.¹¹ These students hold nearly \$7.5 billion in student debt they are unlikely to be able to repay.¹² While the majority of career programs are at public colleges, for-profit colleges offered 98 percent of the career programs that failed the GE rule.¹³

Before it was repealed in 2019, the GE rule successfully improved the quality of career programs and drove down costs, with schools eliminating some programs and offering more free trial periods, increased use of scholarships, and lower tuition.¹⁴ The Department's cancellation of the rule could contribute to growth in for-profit enrollment, cost of attendance, and students' debt loads and defaults.

For-Profit Colleges Are Most Likely to Pose Higher Risks to Students

Public, nonprofit, and for-profit colleges all struggle with inconsistent quality, disappointing graduation rates, and students defaulting on their loans. However, these challenges are greatest among for-profit colleges, whose students are more likely to have unaffordable debt, have high rates of withdrawal, are less likely to see earnings gains, and more likely to default on their student loans.

More students attending for-profit colleges borrow. Eighty-three percent of students earning a bachelor's degree from for-profit colleges in 2016 borrowed, a share 17 percentage points higher than those earning a bachelor's degree from a public college, and 15 percentage points higher than their peers earning a bachelor's degree from non-profit colleges.¹⁵

On average, students at for-profit colleges also borrow more. Students earning a bachelor's degree from a for-profit school in 2016 borrowed an average of \$39,900, compared with average borrowing of \$26,900 by students completing public colleges and \$31,450 for students at nonprofit institutions.¹⁶

In many cases, the economic return on investment for students of for-profit colleges is low. Students at associate programs at for-profit colleges see lower earnings gains than students in other sectors.¹⁷ Students who attend certificate programs at for-profit colleges see “small, statistically insignificant gains in annual earnings after attendance” that, coupled with the debt incurred, “suggests that for-profit certificate programs do not pay off for the average student.”¹⁸ Another study of students entering college in 2004 found that, while for-profit colleges score well in completion at short programs, “for-profit students end up with higher unemployment and ‘idleness’ rates and lower earnings from employment six years after entering programs than do comparable students from other schools.”¹⁹ The earnings outcomes of students of for-profit colleges calls into question their economic benefit to students and makes clear the need for greater accountability in the sector.

Finally, for-profit colleges account for a disproportionately large share of student loan defaults. While students attending for profit colleges accounted for just 9 percent of total college students in 2016, students who left for-profit colleges that year accounted for 33 percent of the students who had defaulted on their student loans by 2018.²⁰

For-profit colleges have a particularly large impact on students of color. While Black and Latino students together make up 36 percent of all students enrolled in undergraduate study, they represent more than half (51%) of undergraduates at for-profit colleges.²¹ Black and Latino students enrolling in a for-profit two-year program pay more than twice the cost that they would to attend a program at a public college, and they leave with \$10,000 more debt on average than their peers attending a public two-year program.²²

After Years of Enrollment Declines, For-Profit Colleges May Be Poised for a Rebound

In recent years, enrollment at for-profit colleges has fallen steeply due to sustained economic growth, the poor reputation of the industry as a result of increasing awareness of documented abuses, and stronger accountability policies that were put in place during the Obama Administration. In the five-year period between 2013 and 2018 – the most recent federal data available – total fall enrollment in for-profit colleges declined from 2.1 million to 1.2 million students.²³ Privately collected data indicate that overall enrollment has continued to decline.²⁴ Virginia College, Vatterott Career College and Argosy University, collapsed just in the past year.²⁵

It appears that at least some for-profit colleges are poised for a rebound. Industry analysts believe that the cycle of contraction is ending and for-profit enrollments are likely to increase.²⁶ As a recent advertisement for an industry conference noted, “Many PE [private equity] investors believe that a recession is on the horizon. In general, post-secondary education does well when the economy slows down and people who are unemployed go back to schools. It isn’t just investors who’re interested in this space – lenders have returned as well.”²⁷

Moreover, individual for-profit colleges are seeing some new growth according to statements made by their executives. Career Education Corporation CEO Todd Nelson told investors in May that “university new enrollment growth was the strongest it has been in over five years.”²⁸ Universal Technical Institute’s CEO Kim McWaters reported that “[d]uring our second quarter of fiscal 2019, new student starts grew 11.2 percent compared to the prior year.”²⁹ Lincoln Educational Services Corporation CEO Scott Shaw noted that they have had “six consecutive quarters of solid start growth” and Grand Canyon Education Inc. CEO Brian Mueller stated, “[d]uring the first quarter of 2019 enrollment in the programs at our

university partner universities for which we provide services increased 11.3 percent.”³⁰ He also noted that, as of September 2019, Grand Canyon University enrollment had increased 7 percent since the previous year.³¹

The University of Phoenix (UOP) remains the largest for-profit college, though its enrollment has fallen dramatically, from over 286,000 in 2013 to fewer than 106,000 students in 2018.³² Reports suggest that enrollment is currently under 100,000.³³ Grand Canyon University was one of the few for-profit colleges to experience enrollment growth in this period; it grew from 55,500 students in 2013 to over 90,000 students in 2018, making it the second-largest for-profit college in 2018.³⁴ Colleges operated by Strategic Education (the combined Strayer and Capella Universities), American Public Education (American Public University), and Laureate Education (Walden University) have largely maintained enrollments over this period and are all now among the largest for-profit colleges.³⁵

Table 1

ENROLLMENT AT 10 LARGEST FOR-PROFIT EDUCATION COMPANIES, FALL 2018			
Entity Name	Enrollment	Distance Enrollment	Schools Operated
Apollo Education Group, Inc.	105,587	96,444	University of Phoenix
Grand Canyon Education, Inc.	90,253	70,295	Grand Canyon University
Strategic Education, Inc.	86,824	81,201	Strayer University, Capella University
Adtalem Global Education, Inc.	68,453	46,870	Carrington College, Chamberlain University, DeVry University
Laureate Education, Inc.	50,897	50,412	Walden University, Newschool of Architecture and Design
American Public Education, Inc.	46,088	46,088	American Public University System
Career Education Corporation	37,116	35,408	American InterContinental University, Colorado Technical University
Bridgepoint Education, Inc. (now Zovio)	34,710	34,705	Ashford University
Columbia Southern Education Group, Inc.	24,254	23,619	Columbia Southern University, Waldorf University
EduK Group, Inc.	23,505	5,029	Florida Technical College, Instituto de Banca y Comercio, National University College

Note: Companies listed in this table are described as they existed when data were reported. Closures, transactions, and conversions since that time are not reflected. American Public Education, Inc. does not include enrollment figures for Hondros College of Nursing because it is listed in IPEDS under different ownership. Data for EduK Group includes institutions with enrollment for Fall 2018; it also operates Ponce Paramedical College but enrollment for that period is listed as zero. Enrollment figures include undergraduate and graduate students.

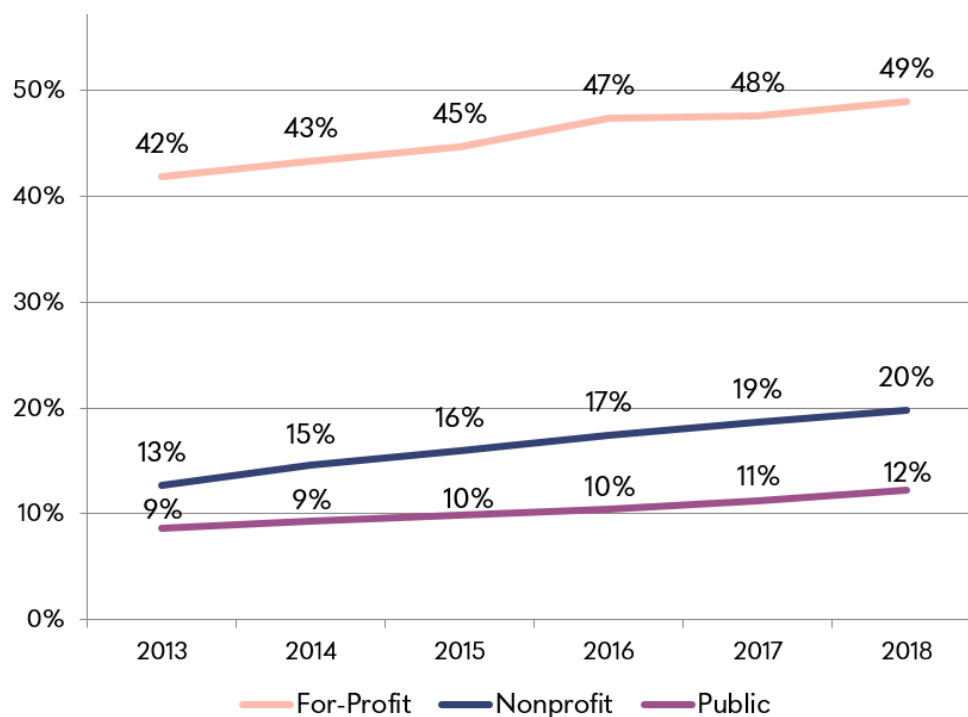
Kaplan University.³⁶

The overall decline in enrollment at for-profit colleges and the collapse of schools that were previously enrollment leaders, has also partially obscured a move to offer programs almost exclusively online. Three of the companies in the in the table above – UOP, Strayer, and the Career Education Corporation-owned schools – as well as Purdue Global University/Kaplan University – have moved towards operating almost exclusively online programs in the period between 2013 and 2018.³⁷

Most For-Profit College Students Are Now Online

Online education has become an established part of the higher education system across all sectors of higher education. The share of students enrolling exclusively online has increased across all sectors between 2013 and 2018. Across all colleges, 16 percent of students are attending exclusively online and more than a third of all students take some courses online.³⁸

SHARE OF ENROLLMENT IN EXCLUSIVELY DISTANCE BY SECTOR, FALL 2013-18



Online education can be an appealing option to working adults and others who need a flexible schedule, as well as for students who do not live close to the institution they wish to attend. But despite their increasing popularity, exclusively online programs remain an unproven model for serving large numbers of students, particularly those facing academic challenges.³⁹ Online programs can also expand rapidly, creating further challenges for sustaining quality. In the past, online for-profit colleges have been a significant source of quality problems: One study found that online programs, largely offered at for-profit colleges, account for one-third of the increase in defaults between 2006 and 2012.⁴⁰ The focus of large for-profit college on moving students to an exclusively online offerings could be placing these students at risk. As shown in Table 2, the largest online colleges include for-profit, non-profit, and public schools.

Table 2

INSTITUTIONS WITH LARGEST GROWTH IN EXCLUSIVELY ONLINE EDUCATION, FALL 2013 TO FALL 2018				
Institution Name	Control	Fall 2013 Exclusively Distance Enrollment	Fall 2018 Exclusively Distance Enrollment	Change in Exclusively Distance Enrollment
Southern New Hampshire University	Nonprofit	20,701	96,912	76,211
Western Governors University	Nonprofit	46,733	121,437	74,704
Arizona State University-Skysong	Public	9,011	38,540	29,529
Grand Canyon University	For-Profit	45,496	70,295	24,799
Strayer University	For-Profit	23,324	44,030	20,706

Note: Institutions in this table are defined at the OPEID six level. Arizona State University includes the following campuses: Downtown Phoenix, Polytechnic, Skysong, Tempe, and West; the Skysong campus enrolls nearly all (99%) of the exclusively distance students at Arizona State University.

While growth in online programs has occurred across sectors, online education has become the default mode of instruction at the larger for-profit colleges. In the fall of 2016, for the first time, students at for-profit colleges learning in an exclusively distance setting outnumbered students learning exclusively in-person.⁴¹ In 2018, almost half (49 percent) of the students enrolled in for-profit colleges were enrolled in exclusively online programs, while another 9 percent attended programs with online components.⁴² In comparison, just 20 percent of non-profit college students and 12 percent of public college students were learning exclusively online.⁴³

The trend of for-profit colleges enrolling students in exclusively online programs is particularly concentrated in large for-profit colleges. As shown in Table 3, five of the top ten colleges with the largest online enrollment in 2018 operated on a for-profit basis.⁴⁴ These five colleges enroll half of all students attending for-profit colleges exclusively online.

Table 3

COLLEGES WITH LARGEST NUMBER OF STUDENTS ATTENDING EXCLUSIVELY DISTANCE PROGRAMS, FALL 2018			
Institution Name	Control	Total Fall Enrollment	Exclusively Distance Enrollment
Western Governors University	Nonprofit	121,437	121,437
Southern New Hampshire University	Nonprofit	104,068	96,912
University of Phoenix	For-profit	105,587	96,444
Grand Canyon University	For-profit	90,253	70,295
Liberty University	Nonprofit	79,152	64,006
Walden University	For-profit	50,360	50,360
University of Maryland-University College	Public	60,603	48,432
American Public University System	For-profit	46,088	46,088
Strayer University	For-profit	49,653	44,030
Capella University	For-profit	37,171	37,171

National Online Programs Pose Challenges for Protecting Students

A larger share of students attending for-profit colleges are also enrolling in exclusively online programs at schools that are not based in their state. Overall 40 percent of all exclusively distance students (just under 1.3 million students) are enrolled in a distance education program offered by a college located in another state.⁴⁵ Eighty percent of exclusively distance students at for-profit colleges are enrolled in an out-of-state college, compared to just 15 percent of exclusively distance students at public colleges. Non-profit colleges now also have a significant share of exclusively distance students, attending a school not based in their state.⁴⁶ The large numbers of students enrolled online across state lines raises concerns about the ability of state authorizers and consumer protection regulators to effectively serve their own residents.

In order to offer federal student aid to their students, colleges must be authorized by their states. As clarified by U.S. Department of Education rules, online colleges need to meet the authorization requirements of each state in which they enroll students.⁴⁷

To make it easier for colleges to register in every state in which they enroll students, every state except California has entered into the State Authorization Reciprocity Agreement (SARA), which allows colleges authorized to offer online educational programs in one state to serve students in any other member

state.⁴⁸ Member states are required to grant full institutional oversight and regulatory reciprocity.⁴⁹ However, the terms of SARA raise troubling questions about states' ability to define and enforce their own laws to protect their students and respond to problematic institutions.⁵⁰

In October 2019, the Department of Education issued a new rule repealing requirements—adopted in 2016—that reciprocity agreements like SARA not require states to forgo enforcement of state higher education laws as a condition of joining the agreements.⁵¹ The new rule also eliminated requirements that states maintain a system to track complaints by students attending national online programs.⁵² Thus, as the share of students attending exclusively distance programs across state lines is increasing, states are facing new challenges in ensuring that state regulators can effectively oversee and enforce consumer protection on behalf of their students.

Policy Recommendations

Online education is now the primary mode of instruction of for-profit colleges, even though its quality remains an open question. To protect the students enrolling across state lines, policymakers should ensure that:

1. States can adopt and enforce consumer protection laws for their own students, even if they join any reciprocity agreement.
2. Any reciprocity agreements set higher standards for quality distance education and provide and extend consumer protections to students attending college online.

Increasing Reliance on Online Enrollment at Three Colleges

Three of the largest for-profit colleges – each of which has moved away from operating physical campuses – illustrate the trend of for-profit colleges moving toward exclusively online programs.

At colleges operated by Career Education Corporation (CEC), the share of students enrolled exclusively in online programs grew from 54 percent in 2013 to 95 percent in 2018.⁵³ The closure of Sanford Brown Institute and Le Cordon Bleu College of Culinary Arts and other schools – which enrolled a high proportion of in-person students in programs that failed gainful employment standards – fueled this increasing share of online enrollment.⁵⁴

Today CEC operates two colleges, Colorado Technical University and American Intercontinental University, where almost all students are enrolled online.⁵⁵ The majority of its programs offered are four-year degree and graduate programs: of the 169 programs offered, just six are associates degrees and two are certificate programs.⁵⁶ It appears the company currently operates just four campuses at the two schools.⁵⁷

DISTRIBUTION OF ENROLLMENT BY MODALITY AT CAREER EDUCATION CORPORATION

Year	Fall Enrollment	Exclusively Distance		In-Person		Mixed Enrollment	
		Enrollment	Share	Enrollment	Share	Enrollment	Share
Fall 2013	68,228	36,661	54%	28,752	42%	2,815	4%
Fall 2018	37,116	35,408	95%	553	1%	1,155	3%

The University of Phoenix (UOP) has similarly shed the majority of its campus locations.⁵⁸ Between 2013 and 2018, its exclusively campus-based enrollments fell from 25 percent to just 7 percent of students.⁵⁹ The company currently lists 41 campuses and learning centers, but 24 of those locations are not accepting new student enrollments, leaving just 9 campus and 7 learning center locations open.⁶⁰ At closed locations, prospective students are directed instead to online programs, suggesting the move toward online programs is continuing.⁶¹

DISTRIBUTION OF ENROLLMENT BY MODALITY AT UNIVERSITY OF PHOENIX

Year	Fall Enrollment	Exclusively Distance		In-Person		Mixed Enrollment	
		Enrollment	Share	Enrollment	Share	Enrollment	Share
Fall 2013	286,113	207,060	72%	70,682	25%	8,371	3%
Fall 2018	105,587	96,444	91%	7,896	7%	1,247	1%

In the past, UOP struggled with student outcomes in its online programs. An analysis of documents provided by UOP to the United States Senate HELP Committee showed that 66 percent of students who enrolled in the UOP online associate programs in 2008-2009 withdrew within a year of enrolling.⁶² Forty-nine percent of students enrolling in an online bachelors program withdrew in the same period.⁶³ Internal documents provided to the HELP Committee showed UOP executives estimated that as many as 75 percent of former UOP students who ended up in default attended an online program.⁶⁴

Finally, Strayer University has also seen a dramatic reduction in students attending classes exclusively at campus locations, from 25 percent in 2013 to just 3 percent in 2018.⁶⁵ While 9 percent of Strayer students attended mixed online and campus based programs in 2018, that number also has decreased significantly since 2013.⁶⁶ Unlike UOP and the schools owned by CEC, which experienced significant declines in overall enrollment during the 2013-18 period, Strayer has moved towards a nearly exclusively online model while increasing its enrollment.⁶⁷ Moreover, after merging with Capella University (a school that offers no in-person programs), the company’s emphasis on exclusively online instruction is likely to be even more pronounced.⁶⁸

DISTRIBUTION OF ENROLLMENT BY MODALITY AT STRAYER UNIVERSITY

Year	Fall Enrollment	Exclusively Distance		In-Person		Mixed Enrollment	
		Enrollment	Share	Enrollment	Share	Enrollment	Share
Fall 2013	39,643	23,324	59%	10,025	25%	6,294	16%
Fall 2018	49,653	44,030	89%	1,347	3%	4,276	9%

Overall in 2018 at CEC-owned schools, just 1 percent of students attended exclusively campus-based programs, while just 7 percent of students attended on campus at the University of Phoenix, and just 3 percent did so at Strayer University.⁶⁹

For-Profit Colleges Are Seeking to Convert to Operate as Nonprofit Colleges

A second notable trend is the effort undertaken by for-profit colleges to convert to non-profit status. In recent years, at least 15 for-profit college chains have taken steps to operate as non-profit colleges.⁷⁰ Perhaps helping to explain the efforts, one longtime industry analyst explained “[t]he for-profit brand has been tarnished.”⁷¹ One publication states the analyst told them that “government scrutiny, negative media coverage and self-inflicted scandals have created the impression that for-profits can’t be trusted.”⁷² One large for-profit college referenced the negative reputation of the sector in its application for non-profit status stating, “[t]he effects of market forces driving change across higher education combined with lower public perceptions of for-profit institutions represent challenges.”⁷³

Successful approval for conversion by the Department of Education also results in a college no longer being required to comply with key regulatory requirements including the federal 90/10 rule (which requires that no more than 90 percent of revenues come from federal student aid funds).⁷⁴ Some may also have been motivated by a desire to avoid the disclosure and quality requirements of the now rescinded gainful employment rule. Successful approval as a non-profit also allows a college to market itself to prospective students as a traditional non-profit.

However, it is not clear that all converting entities are actually operating as non-profit colleges. The traditional governance structure of non-profit colleges requires that, by law, any revenues that remain after operating expenses are paid must be reinvested in the organization.⁷⁵ A non-profit college is also typically governed by trustees who are generally financially independent of the college and free of conflicts of interest.⁷⁶

But at converted for-profit colleges, for-profit owners have sometimes retained control of the colleges and continued to benefit from the revenues generated by the college. Former for-profit owners have been paid millions of dollars as landlords of the schools, sold the schools to non-profit entities at prices that do not appear based on fair market value, and in some cases continued to exert control over operations.⁷⁷

As one example, in 2011 the Keiser family, owners of the Florida based for-profit college Keiser University, made a loan to a nonprofit entity they had created. The non-profit used this loan to purchase the assets of the for-profit college for \$300 million.⁷⁸ The Keisers also claimed an additional \$200 million as a charitable donation.⁷⁹ Following the purchase, the Keiser family also continued to receive payments from the non-profit for rental of the school properties, chartered aircraft, and stays at hotel where the Keisers or other non-profit trustees had business interests.⁸⁰

In another example, in 2015 Herzing University sold the assets of the for-profit college to a non-profit the family created.⁸¹ The for-profit college had faced increasing challenges in complying with the 90/10 rule: in 2010, Herzing received 86 percent of revenues from federal student aid, although the percentage decreased in the following years.⁸² While the Herzing family initially received lease payments from the non-profit the school, as of 2017 the schools stated that there are no longer any loans or leases between the school and the family members.⁸³

Finally, the Center for Excellence in Higher Education (CEHE) is a non-profit created by Carl Barney the owner of a group of for-profit colleges.⁸⁴ In 2016, the Department of Education denied this conversion.⁸⁵ The Department determined that, in addition to revenue paid to the former owner in the form of leases, the transaction was structured in such a way that all revenues in excess of operating expenses flowed to the trust controlled by the former owner.⁸⁶ CEHE sued the Department of Education but subsequently withdrew the suit without disclosing the terms of any arrangement. It remains unclear if the Department

of Education has now approved the conversion.⁸⁷ However, CEHE continues to face scrutiny by its accreditor ACCSC, and all of the schools are currently on probation.⁸⁸ These examples suggest that not enough scrutiny is being brought to bear to ensure that colleges that are seeking to convert are not continuing to benefit financially from the non-profit entities.

Policy Recommendations

For-profit colleges should not be permitted to convert to non-profit status to escape accountability while continuing to effectively be operated for profit and the benefit of insiders. Policymakers should:

1. Clearly define non-profit and public institutions and establish tough oversight of conversions to ensure that the mission of the institution is undergoing fundamental change and that the non-profit college retains control over the core functions of the institution.
2. Require schools undergoing conversions continue to comply with any existing regulations for at least five years.

The Online Program Manager Model and For-Profit College Conversions

Many public and non-profit colleges use for-profit contractors to run their online programs, raising concerns among some observers about potential abuses similar to those at for-profit colleges. More recently, three large publicly traded for-profit college companies have taken advantage of this trend and sought to become contractors to a public or non-profit college that they own.

OPMs Pose a Challenge for All Kinds of Colleges

About one-third of colleges and universities with online programs in all sectors of higher education hire outside companies, known as online program managers (OPMs), to design and operate their online programs, and this share is expected to grow over time.⁸⁹ There are an estimated 40 OPMs, with 2U, Pearson, Academic Partnerships and Wiley among the largest.⁹⁰ While the services provided by a specific OPM can vary widely, they typically provide recruitment, admissions and curriculum development services.⁹¹

OPMs generally use two models: a tuition-sharing model and a fee-for-service model. In the tuition sharing model, the OPM makes upfront investments in creating online programs for a college, and in return, colleges pay the company a percentage (often approximately 60 percent) of the tuition revenue over a period of years.⁹²

Most of the larger OPM providers have typically structured contracts to use the tuition-sharing model.⁹³ Federal regulations prohibit paying admissions officers based on the number of students who enroll, a protection against deceptive and high-pressure recruiting tactics.⁹⁴ However, the OPM model of tuition sharing based on enrollment and in exchange for the provision of a set of bundled services is currently allowed pursuant to guidance by the Department of Education.⁹⁵

A separate set of OPMs provide services to colleges on a fee-for-service basis including Noodle and iDesignEDU.⁹⁶ After recent financial challenges, 2U has also announced that it intends to offer some fee-for-service contracts going forward.⁹⁷

Tuition sharing contracts have raised concerns because they reportedly bind colleges for long periods of time and contain provisions that require large payments should the college wish to terminate the agreement early, provisions OPMs say are needed due to the large upfront investment they make.⁹⁸ 2U's CEO has described its contracts as "non-cancelable."⁹⁹ The terms of some of the contracts can limit the ability of faculty to make changes to curriculum and the ability of the college to determine the right size of programs and set tuition.¹⁰⁰

Some industry observers have expressed concerns that the tuition-sharing model could create an incentive to recruit, some of the same hallmarks that have proven problematic at for-profit colleges.¹⁰¹ Because OPMs are for-profit entities, they are focused on growth – both in terms of the number of colleges and programs they serve and in enrollment growth within those programs. If compensation is based on tuition revenue, the enrollment must increase in order for the revenue stream to grow.

A recent report by The Century Foundation points to one OPM contract that requires all prospective students be contacted by recruiters at least 13 times for ten days in a row.¹⁰² A first person account in *The Atlantic* also details how a search for an online education degrees at prestigious non-profit universities led to a series of "eerily identical" web sites and a flood of phone calls from people who were uninformed about these programs.¹⁰³

Moreover, the tuition-sharing model, by committing the majority of the revenue to the OPM, discourages lower tuitions at online programs, even if they have lower costs.¹⁰⁴ Many graduate programs at nonprofit universities continue to charge the same price for the online and on-campus programs.¹⁰⁵

One example of the challenges the tuition-sharing OPM model can pose is the University of Southern California's online master's degree program in social work. The school entered into a tuition-sharing contract with 2U in 2009 to create an online version of the well-regarded program. Enrollment in the online program grew from approximately 900 in 2009 to 3,500 in 2016.¹⁰⁶ However, according to the *Los Angeles Times*, pressure to maintain enrollment and revenue forced the school to lower admissions standards.¹⁰⁷ The program's reputation suffered and financial difficulties followed.¹⁰⁸ Under the terms of the contract, 60 percent of tuition revenue reportedly continues to be owed to 2U.¹⁰⁹ Because the school's contract with 2U reportedly includes "a so-called poison tail that requires the university to continue handing over its revenue share for two years after canceling," the contract appears to remain in place while USC separately undertakes efforts to reduce faculty to address financial concerns.¹¹⁰

Meanwhile, students attending USC's online program paid the same tuition as those attending the on-the-ground program.¹¹¹ The average debt for those who complete the program is over \$115,000 despite median earnings among recent graduates of only \$49,900.¹¹²

While some large OPMs are moving to a fee-for-service model, and there is some evidence that colleges are starting to negotiate more aggressively with OPM providers, serious challenges remain in outsourcing large segments of academic decisions to a for-profit company. However, OPMs are likely to remain important players as colleges and universities continue to test how best to build distance education into curriculum.

The Interaction of Conversions and OPMs

Since 2016, three publicly traded companies that owned large for-profit colleges have sought to transform the for-profit company into a contractor – similar to an OPM – that works with a non-profit entity or public entity. Kaplan Higher Education, Grand Canyon Education and Zovio (formerly Bridgepoint Education) have each created non-profit entities, sold, or announced plans to sell, many

of the assets of the colleges (Kaplan University, Grand Canyon University and Ashford University, respectively) to the new non-profit entity, and sought to simultaneously enter into a contract to provide the bulk of the services to the school.¹¹³ These efforts to convert have significant consequences for students and, in fall 2018, the three colleges combined enrolled over 161,000 students. Most of these students attend online, many from states where the schools have no physical campus or presence.¹¹⁴

These contracts differ dramatically from traditional OPMs in the breadth of services provided. While OPM providers typically offer services for a program or several programs, often at the graduate level, the OPM contracts offered by Grand Canyon, Zovio and Kaplan are for services for all programs across the colleges.¹¹⁵

As the Department of Education recently stated with regard to the Grand Canyon sale and OPM contract, it is “skeptical that any non-profit could outsource the number and type of institutional functions that [GCU] has and still be deemed to operate the institution.”¹¹⁶ The Department recently informed Grand Canyon that it will continue to consider the college a for-profit entity for purposes of participation in the federal student aid program.¹¹⁷ The Department has also stated that GCU may not be marketed to potential students as a non-profit.¹¹⁸

The Department took these actions in part because of concerns that the shareholders of the for-profit entity would continue to benefit financially as a result of the OPM contract. In reviewing the Grand Canyon transaction, the Department estimated between the principle payments owed by the school to the for-profit company and the payments owed as a result of revenue sharing contract, fully 95 percent of the college’s revenues would flow to GCE as the for-profit OPM.¹¹⁹ Thus, the Department reasoned that the revenues were continuing to flow to the GCE shareholders as opposed to being retained by the non-profit entity for exempt purposes.¹²⁰

The Department also specifically pointed to the dual role of CEO of the for-profit OPM also serving as the President of the non-profit college as a reason it would not recognize the school as a non-profit.¹²¹ In his role as CEO of the publicly traded company, he reports to stock analysts and others each quarter on the profitability of the non-profit university he also heads.¹²²

The Department has also expressed skepticism about the Zovio transactions affecting its Ashford University.¹²³ According to Zovio’s reports to the Securities Exchange Commission, the Department has required that Ashford post a letter of credit of \$103 million (roughly equivalent to 25 percent of the federal loans and grants received by the school in the previous year) as a condition of proceeding with the conversion.¹²⁴ Zovio has stated that they are exploring a sale as an alternative to posting the required line of credit, but has also stated that their goal is to close the transaction in 2019.¹²⁵

The company appears to have gone to some lengths to secure a set of trustees for the newly non-profit Ashford, not all of whom have previous connections to Zovio.¹²⁶ However, the school’s accreditor has required additional assurance regarding “divestiture of financial and ownership interest in the company by all Ashford officers and their related parties” as a condition of approving the conversion.¹²⁷

Purdue Global University (formerly Kaplan University) is governed by a set of trustees selected by Purdue University (including five members from the Purdue University Board of Trustees and one member of the current Kaplan University Board).¹²⁸ However, a separate advisory committee composed equally of representatives of Kaplan and Purdue have joint decision-making authority over key decisions including enrollment targets, marketing budgets, and tuition costs.¹²⁹

While these transactions remain somewhat in flux, the ongoing transformation of three of the largest for-profit colleges into entities claiming to be public or non-profit highlights the need for better definitions and better oversight regarding these conversions. Each of the transactions raises some questions regarding the independence and governance of the non-profit, whether the captive nature of the tuition revenue sharing OPM contracts lead to private benefit of the OPM's shareholders, and whether the outsourcing of services is so significant as to call into question if the non-profit is actually operating the schools.

Table 4

FEATURES OF THREE CONVERSIONS OF FOR-PROFIT COLLEGE OWNERS TO ONLINE PROGRAM MANAGERS						
For-Profit College Owner/ Online Program Manager (OPM)	Non-Profit Private Benefit Corporation (PBC)	Independence of Trustees	Money Owed by PBC to OPM for asset purchase	Percent of Revenue Owed to OPM	Length of Contract	Penalty for Early Termination
Grand Canyon Education	Grand Canyon University	President of PBC also serves as CEO of OPM	\$853 million	60 percent	15 years with automatic 5-year renewals. Exclusive Provider.	50 percent of service fees paid for one year.
Kaplan Higher Education	Purdue University Global (PUG)	Advisory Committee with equal membership of PBC and OPM makes key decisions.	\$60 million payable over 6 years (assuming available revenue)	12.5 percent in addition to expenses	30 years with automatic 5-year renewals	125 percent of tuition revenue for one year.
Zovio (Formerly Bridgepoint Education)	Ashford University	Accreditor is seeking commitment that trustees have no financial relationship to the OPM.	Subject to negotiation.	Estimated 60-65 percent	10 years with automatic 5-year renewals. Exclusive Provider.	Subject to negotiation not to exceed OPM service fees multiplied by remaining months.

Each of the service contracts imposes lengthy contract terms on the colleges and imposes penalties for breaking the agreements that may make termination cost-prohibitive.¹³⁰ Additionally, at least in the case of Ashford and Grand Canyon, the OPM contract requires that the for-profit owner is to be an exclusive service provider.¹³¹ The combination of the length, exclusivity and penalty terms make these contracts virtually impossible to cancel.

Policy Recommendations

The following policy recommendations could address emerging practices with regard to colleges contracting with Online Program Managers:

1. The existing Department of Education guidance that permits unaffiliated entities including OPMs to offer “bundled services” based on tuition revenue generated from student enrollments should be withdrawn.
2. Transparent reporting of revenue sharing OPM contracts should be required in order to ensure that institutions retain sufficient control over academic standards, marketing budgets and enrollment, that contracts are not one-sided, and that contracts do not impose requirements on an institution at odds with the non-profit mission of the institution and that are not in the best interest of students.

Conclusion

In many ways, our country continues to struggle with the legacy of the last boom-and-bust cycle at for-profit colleges. Over 200,000 students continue to wait for the Department of Education to hear their claims that they were deceived and misled about programs at for-profit colleges.¹³²

But the for-profit education industry is looking forward. A period of growth by large for-profit colleges may be on the horizon, and much of the Trump Administration deregulation of for-profit colleges has been accomplished. Meanwhile, students attending large for-profit colleges are disproportionately attending online and enrolled in schools with no physical presence in their state.

These changes present new challenges for policymakers who are seeking to protect students and taxpayers from abuses similar to those in the past. This is particularly true in the absence of a gainful employment rule that ensures that low-quality high cost programs are not enrolling large numbers of students. To address the increasingly online nature of for-profit programs, states must be able to enforce their own higher education laws to ensure that institutions operating online are held to appropriate standards, and that student consumers are protected.

The effort to ensure adequate oversight is further complicated by the blurring of institutional lines. At least 15 for-profit colleges have sought to convert to non-profit status. Non-profit and public colleges are increasingly hiring for-profit OPMs to manage their online programs. Three large for-profit colleges have sought to become exclusive contractors for non-profit or public schools. Meanwhile the focus on growth and aggressive recruiting remains a hallmark of the schools.

While the Department of Education has recently taken a more skeptical view of these transactions, further action by policymakers is warranted to ensure that distinctions between for-profit and non-profit institutions remain clear and that sufficient information is available to allow regulators to and policymakers to identify and address practices that are harmful to students.

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1212 Broadway, Suite 1100
Oakland, CA 94612
510.318.7900

110 Maryland Ave, NE, Suite 201
Washington, DC 20002
202.223.6060