

# Financial Flows to Online Program Managers: Making “Sense” of the Convoluted Arrangement

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## Introduction

Online program managers (OPMs) are third-party companies that work with colleges and universities to develop, launch, and deliver online learning. The OPM industry grew rapidly between 2010 and 2020; recent estimates suggest that 25 percent of students in fully online four-year degree programs are enrolled in programs operated at least in part by OPMs.<sup>1</sup> Despite the prevalence of these companies in higher education, many colleges and universities operate with a high level of financial opacity when it comes to working with OPMs.<sup>2</sup> Cost details are often buried or asserted with legal protections as trade secrets or business models unavailable for public review.<sup>3</sup> Further, postsecondary institution contracts with external vendors, especially OPMs, lack transparency, so the true cost of outsourcing core academic functions to these for-profit companies remains shrouded in secrecy. Yet billions of dollars are at stake, as recent estimates value the OPM industry at over \$4 billion.<sup>4</sup>

Using for-profit contractors to outsource non-essential services can be an effective and efficient approach to higher education. However, major concerns arise when institutions outsource core academic functions including curriculum design, course development, and instructional design to for-profit entities such as OPMs. Public dollars from federal and state sources are funneled to maximize shareholder profits, potentially compromising academic integrity and prioritizing market trends over student learning and development. Furthermore, the lack of transparency surrounding these contracts makes it difficult to assess their true cost-effectiveness and hold institutions accountable for potential conflicts of interest or subjecting students to diminished experiences and services.

Given the limits on financial data access associated with arrangements between OPMs and postsecondary institutions, this report highlights issues with higher education accountability, transparency, and value associated with OPM services. This paper is the third in a four-part series addressing OPM-related accountability and transparency concerns.<sup>5</sup>

In this brief, we extend the discussion by drawing attention to the financial clauses that dictate the flow of money between students and for-profit contractors, as the opaqueness surrounding university finances and the increasing reliance on for-profit companies in core academic areas demands closer scrutiny. To do so, we:

- Contextualize higher education’s relationship with OPMs,
- Present current problems with financial data reporting and availability, as well as general stewardship of higher education resources, and
- Offer policy recommendations to increase accountability, integrity, and transparency.

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<sup>1</sup> Ubell, 2024.

<sup>2</sup> This report focuses on online program managers as companies that play a significant role in supporting campuses with their online learning infrastructure and services. More recently, there has been an emergent distinction between online program managers (OPMs) and online program enablers (OPEs). The latter, which derives its name from the sales marketing field highlighting enablement platforms that companies often use to support performance improvement through outsourced, external services are the rebranded fee for services approach, and campuses typically limit services to a focus area, which serves as a gap in expertise for that campus (Coffey, 2024). Although the focus of this report is on traditional OPMs, OPEs should not be overlooked.

<sup>3</sup> Sun, Turner, Kinser, & Zipf, 2024.

<sup>4</sup> While this figure (Marcus, 2021) provides an estimate for the overall industry, there have been many shifts in the OPM industry since 2021, yet updated data are lacking and thus the true valuation of the OPM industry is unknown.

<sup>5</sup> See Sun, et al., 2024 and Kinser, et al., 2024.

### OPMs in Context

Although online learning has been part of higher education for decades, the pivot to remote instruction during the Covid-19 pandemic provided a glimpse of the flexibility online education might provide to students who otherwise would only consider in-person educational offerings. As Covid-related restrictions were lifted, many students continued to opt for online classes. Comparing data from the Integrated Postsecondary Education Data System (IPEDS) before and after the pandemic (i.e., 2019 and 2022), reveals the growth of online education. Across sectors and levels of enrollment, exclusively online enrollment increased by 8.9 percentage points, partial online enrollment increased by 8.4 percentage points; in-person-only enrollment decreased by 17 percentage points.<sup>6</sup>

Many colleges and universities have turned to OPMs to help meet the growing demand for online learning. Despite the prevalence of these companies in higher education, a widely agreed-upon definition of an OPM remains elusive. We believe the definition offered in a 2021 report by Cheslock, et al. to be the most instructive in understanding the roles OPMs play within higher education. Cheslock and colleagues defined OPMs as companies that enter into agreements with colleges and universities to provide “a suite of services that leads the external provider to participate in the management of an online program.”<sup>7</sup> Such services might include marketing, recruitment, instructional design, faculty and student technical support, and student retention, among other services.<sup>8</sup>

Guidance initially issued by the U.S. Department of Education (ED) in 2023 regarding third-party servicers in higher education demonstrated the ambiguity about what qualifies a company as an OPM.<sup>9</sup> Several key constituencies—including professional associations, college access and attainment organizations, and the American Council on Education—criticized this guidance<sup>10</sup> for being overly broad in defining these companies to include nearly ubiquitous technology service providers, such as learning management and student information systems.<sup>11</sup> These criticisms extended to such a degree that ED rescinded the guidance and has since delayed issuing a revised version. As of this writing, the prospects and timeline for updated guidance remain unclear.<sup>12</sup>

### Defining the Problem with OPMs and Finances

In some cases, OPMs provide needed funding and services that enable postsecondary institutions to expand their online offerings and reach new student populations. In others, however, OPM contracts lead to exorbitant tuition, reduced quality,<sup>13</sup> or, in extreme examples, multi-million-dollar lawsuits.<sup>14</sup> The problems associated with OPMs have been far more widely publicized than the successes, and paired with the lack of transparency and accountability surrounding the industry, those problems have led to these for-profit contractors receiving heavy scrutiny in recent years.<sup>15</sup>

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<sup>6</sup> National Center for Education Statistics, 2021, 2023c.

<sup>7</sup> Cheslock et al., 2021, p. 7.

<sup>8</sup> Sun & Turner, 2022.

<sup>9</sup> Weisman, 2023.

<sup>10</sup> See, e.g., Draeger, 2023; Gadkaree, 2023; Mitchell, 2023.

<sup>11</sup> Seltzer, 2023.

<sup>12</sup> Hill, 2024.

<sup>13</sup> Lederman, 2023.

<sup>14</sup> Hill, 2020; Hamilton & Watanabe, 2023.

<sup>15</sup> Critics of OPMs point to predatory recruitment practices targeted at marginalized students, minimal student data protections. Perceived disconnects between the missions of nonprofit universities and for-profit OPMs, and resulting concerns with quality, among others (see e.g., Carey, 2019; Cheslock et al., 2021; Hall & Dudley, 2019; Hamilton et al., 2024).

One of the primary criticisms of OPMs stems from the potential conflicts in mission and practices of for-profit companies and nonprofit colleges and universities, as this conflict raises questions about whether nonprofit institutions that partner with OPMs are behaving like for-profits. This question is particularly relevant when considering the financial arrangements of these agreements, which are typically based on either fee-for-service or, more commonly, revenue sharing. Under fee-for service contracts, colleges and universities agree to pay OPMs set fees for services such as course development or recruitment. While this type of arrangement has become more common in recent years,<sup>16</sup> it requires up-front capital that many nonprofit institutions wishing to expand their online offerings may not have on hand.

As OPMs grew rapidly in the 2010s, their most common arrangement with partner institutions involved revenue sharing. A revenue share agreement typically entails the OPM providing up-front capital for required services in exchange for a portion of the revenue that the program subsequently generates. Revenue share agreements are typically around 50 percent of tuition and distance education fees; they may range up to 80 percent or more and include a wider range of revenue (e.g., tuition and all student fees).

Long-term revenue share agreements may present unintended financial consequences. For instance, postsecondary institutions that do not fully account for the costs of running online programs, or adequately prepare contingency plans for market shifts or other intervening events that reduce OPM revenue, may encounter future financial shortfalls or require subsidies to maintain the OPM arrangement. As reports from the literature and our research have indicated, some OPMs make large promises about projected revenue they will generate, but the contracts do not always consider the range of expenses incurred through expanding online offerings, even when some of the services are provided through the OPM. As one chief online learning officer explained,<sup>17</sup> when considering an OPM agreement, “the institution also has to know your costs. We don’t always know our costs very well.”

The ambiguity around potential expenses incurred through working with an OPM to develop online offerings is compounded by the lack of oversight governing OPM contracts. Federal grant award and procurement processes dictate a range of requirements that increase transparency and accountability in contractor arrangements,<sup>18</sup> but no such regulations apply to OPM arrangements.

Without considering the full range of expenses associated with expanding online programming—and how to cover these expenses when the OPM relationship ends or fails to deliver projected revenue—postsecondary institutions put themselves at great financial risk. Consider, for example, the much-publicized relationship between Concordia University and OPM HotChalk. A few years into their 20-year revenue share contract, Concordia was no longer fiscally solvent and thus became unable to pay HotChalk its share of incoming revenue. The university decided to close, and the OPM later sued for over \$300 million.<sup>19</sup> Although this example represents an extreme case, the risks of unexamined costs within revenue share arrangements warrant careful consideration.

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<sup>16</sup> Schwartz, 2023.

<sup>17</sup> Two of the authors spoke to chief online learning officers as part of a larger study about OPM experiences (Sun & Turner, 2022), and we excerpt one of the interviews here.

<sup>18</sup> See generally, Uniform Administrative Requirements (2024); see also, 2 C.F.R. § 200.318(c)(1) & (2) (2024) (e.g., The Office of Management and Budget Guidance for Grants and Agreements maintains the policy that the non-federal entity receiving a federal grant or contract “must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts,” and it is required to “also maintain written standards of conduct covering organizational conflicts of interest”). Further, some federal agencies place specific prohibitions against specific arrangements and behaviors such as NIH’s policy manual 2300-310-1 outlining prohibitions of nepotism and other hiring practices (see, e.g., National Institute of Health, 2023).

<sup>19</sup> Hill, 2020.

Recent legislation passed in Minnesota brought the risks of revenue share agreements to the forefront. State Representative Nathan Coulter introduced legislation that ultimately became the first state-level law that restricts OPM operations: HF 4024. When speaking of the law's genesis, Representative Coulter explained, "The focus of the legislation is to rein in what I would say are predatory and pernicious practices and [to] bring transparency. If there's a contract that a public institution is entering into, there needs to be that public accountability."<sup>20</sup>

Among other restrictions, HF 4024 prevents OPM contracts that involve marketing and recruitment from being funded through revenue sharing. Legislators in New Jersey and California previously have considered, but have yet to pass, similar legislation. Nonetheless, the restriction of revenue share agreements in Minnesota speaks to the growing acknowledgement of issues with transparency, accountability, and conflicts of interest in the current structure of these agreements.

Regardless of contract format, in practical terms, both fee-for-service and revenue share arrangements mean that millions of dollars of federal financial aid are being collected from students to pay for educational services provided by for-profit companies every semester. Some policies protect the amount of federal money distributed to for-profit colleges, such as the 90/10 rule. This federal rule requires proprietary institutions to receive no more than 90 percent of their revenue from federal funds, including but not limited to Title IV student aid.<sup>21</sup> However, no such policy exists for for-profit contractors, even when those contractors are involved in core operations, as are OPMs.

Further exacerbating this issue, the proposed expansion of the Pell Grant to include short-term workforce training programs may increase the flow of federal dollars to for-profit contractors. OPMs are frequently involved in the operations of online so-called boot camps and certificate programs,<sup>22</sup> making Pell expansion alluring. Although it remains to be seen if Pell will expand in this way, some student advocates have criticized OPMs operating non-credit courses. Criticisms have included inflating tuition, re-using curriculum at boot camps under the branding of different universities, and misleading students to believe boot camps are the universities' own offerings.<sup>23</sup>

Given the amount of money at stake and the concerns surrounding the practices of some OPMs, there is a need for greater accountability, integrity, and transparency about the relationship between federal financial aid, postsecondary institutions' activities, and these for-profit companies. Yet while ED's interest in increasing accountability, integrity, and transparency in higher education is evident in recent changes to gainful employment (GE) and financial value transparency (FVT) regulations, these changes are not comprehensive enough to address the potential issues of OPMs. A recent statement from Congresswoman Rosa DeLauro (D-CT), who serves as the top Democrat on the powerful House Committee on Appropriations, summarizes the inconsistencies with this oversight in the recent GE/FVT regulations:<sup>24</sup>

*"For years, my colleagues and I have fought to protect students and taxpayers from the predatory practices of for-profit colleges. While the Biden administration is working to address these abuses through strong gainful employment regulations, I am disturbed by the loose regulation and nonexistent oversight over a similar, newer phenomenon — the proliferation of for-profit online*

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<sup>20</sup> Swaak, 2024, para. 11.

<sup>21</sup> U.S. Department of Education, 2022.

<sup>22</sup> Lederman, 2022.

<sup>23</sup> Vasquez, 2023, ¶¶ 24 & 27.; Hall & Dudley, 2019.

<sup>24</sup> DeLauro, 2023.

*program management, or OPM, companies across our higher education landscape. Just like predatory for-profit colleges, these OPMs mislead students, drive up costs, and leave student borrowers with a low-value education, excessive debt, and low-paying jobs after graduation.”*

Representative DeLauro recommends specific actions for ED to take to address these issues, including enforcing contractor decision-making limits and penalizing schools when their OPM partners engage in predatory behavior. She further calls on ED to end what is frequently known as the “bundled services exception.”<sup>25</sup> Subregulatory guidance from ED in 2011 opened this loophole to the Higher Education Act’s prohibition on incentive-based compensation for student recruitment. While the 1992 reauthorization of the Higher Education Act banned universities from providing financial incentives for student recruitment, the subregulatory guidance allowed institutions to pay financial incentives to companies offering multiple, or bundled, services as part of their contracted activities. Given the frequency of recruitment being bundled with other services in OPM contracts, OPMs have been criticized for exploiting this loophole.<sup>26</sup> Recruitment is one of the most common services provided to universities through OPMs,<sup>27</sup> and thus circumventing the recruitment ban presents a real concern.

We agree with Representative DeLauro’s recommendations and believe they would make progress toward increasing OPM accountability, integrity, and transparency. These recommendations largely overlook, however, the financial relationships that exist between these companies and postsecondary institutions. To better understand these relationships, we examined the financial terms and reporting requirements of 48 contracts between OPMs and postsecondary institutions across the United States.<sup>28</sup> Through this work, we have found evidence of a need for greater standardization in the financial reporting requirements of online program managers. To that end, we discuss here the pertinent terms and conditions in the OPM contracts we reviewed and offer several policy recommendations to increase standardization in financial reporting requirements.

### Financial Terms and Reporting Requirements

The financial health of an institution, typically calculated through the Composite Financial Index,<sup>29</sup> is critical for sustaining future operations, and even prominent institutions have experienced budget shortfalls in recent years.<sup>30</sup> Yet there is no universal calculation to determine how OPM contracts will affect an institution’s financial health, as financial commitments vary widely between contracts. While discussions around OPM finances tend to focus on differences between revenue share and fee-for-service, this dichotomy belies many of the nuances of the financial terms contained in these contracts.

Even the definition of what qualifies as revenue varies between OPM contracts. Most frequently, revenue is defined as gross tuition and fees directly related to online education, although the level of specificity in these definitions varies. For example, an agreement between Academic Partnerships and a public regional university offers a broad definition of revenue as “tuition and related fees charged to students for the online programs,” while others, such as this clause from a contract between Everspring and a large public research institution clarifies that “‘Tuition’ will be defined as base online tuition rates set by the Institution, plus any course fees or

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<sup>25</sup> WCET, 2023.

<sup>26</sup> National Student Legal Defense Network, 2023.

<sup>27</sup> Sun & Turner, 2022.

<sup>28</sup> Contracts reviewed were obtained through The Century Foundation’s repository (Hall & Dudley, 2019) and through Freedom of Information Act requests.

<sup>29</sup> Composite financial indices (CFIs) are calculated based on the primary reserve ratio, the viability ratio, the return on net assets ratio, and the net operating revenues/margin ratio.

<sup>30</sup> Carlson, 2024.

online learning technology fees, but excluding other campus or University fees, late payments or administrative fees, or other ancillary fees.”

Notably, these terms further differ in how they determine whether student discounts (e.g., scholarships, grants, tuition waivers) affect the overall calculations of revenue. The same Everspring agreement explicitly states that such discounts will have no effect on the calculation: “Any scholarships, tuition waivers, hardship reductions[,] or other comparable discounts which apply against the published rates shall not impact the calculation of Tuition hereunder.” This provision means that, for online students receiving institutional tuition discounts, the university remains responsible for paying the OPM the full percentage of tuition, despite the lack of incoming revenue. In some cases, the differences between predicted and actual revenue can be extreme. Discounts used to entice enrollment have risen in recent years and may reduce 70 percent or more of the posted costs.<sup>31</sup>

These clauses may further penalize institutions by not considering revenue lost through the return of Title IV funds (R2T4) process. Such instances of phantom tuition dollars could occur when institutions do not have explicit clauses eliminating certain instances that should not qualify as part of the revenue share calculation— notably student tuition dollars never received, or returned when a student fails to meet federal financial aid enrollment requirements. In this context, the postsecondary institution could be required under R2T4 rules to pay the OPM the full amount of a student’s tuition, despite the funding received through Title IV being returned because of the student’s withdrawal. The institution may end up spending some of its own funds to pay the OPM firm for the tuition of any students requiring R2T4.

In addition to varied clauses between OPMs, these terms also vary between the same OPM and different university partners. In our review of OPM contracts,<sup>32</sup> for example, we found that contracts with Pearson’s former OPM branch varied widely in how they included student discounts. In one contract, they explicitly state that only Pearson-granted discounts and withdrawal refunds will be factored into revenue calculations. In another, they include the same discounts but also specify that fees will not be included in calculating revenue, thus decreasing the amount included in revenue considerably from the calculation of the first contract. In a third contract, they include a wide range of discounts, such as military discounts, employee tuition waivers, and corporate partnership discounts, which, again, dramatically changes the overall amount of revenue shared.

These examples illustrate the complexities of calculating tuition, and how these calculations differ between arrangements, even with the same OPM. Further, they show how OPMs may exclude discounts in revenue calculations by default, and only revise these clauses at the request of the university. Universities that enter these contracts without awareness of the potential differences in clauses, and thus do not request the additions of these discounts, may end up losing substantial amounts of revenue.

Compounding the issue of differences in revenue calculation, the OPM contracts we reviewed further varied in reporting requirements. Several of the contracts required detailed and regular (e.g., once per term) fee and enrollment reports from the university to the OPM. A contract between The College Network (TCN) and a large public research institution expands reporting requirements to include mutual reports from both the OPM and the university: “At the time of the monthly payment, TCN and [University] shall include a report that details enrollment, total amount of sale, all payments received, and adjustment transactions in a manner appropriate to ensure proper accounting and reconciliation by TCN and [University] within their respective financial systems.”

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<sup>31</sup> Carlson, 2024.

<sup>32</sup> Sun, et al., 2023.

Although less than 30 percent of the contracts we reviewed contained specific requirements for financial reporting, clauses related to the right to audit or inspect were more common. Such clauses increase transparency of financial relationships. Typically, these clauses permit the OPM to hire a third-party certified accountant to verify the student fee totals once per year. Other contracts enable mutual auditing with reasonable notice at any time, and several contracts explicitly state records must be kept for several years after the arrangement has been terminated.

Given that these clauses necessitate detailed and sustained record keeping for both the OPM and the postsecondary institution, formal financial reporting for all OPM arrangements would likely pose only a minimal burden on the organizations' respective staff while increasing public oversight. We believe this burden is far outweighed by the potential benefits of standardized financial reporting. Moreover, preparing for standardized financial reporting now may help alleviate administrative strain in the future, as ED's recently proposed rules include increased reporting for distance education programs. While not yet finalized at the time of this paper's writing, these rules propose reporting distance education as a virtual location, thus disaggregating information from other university programs and providing heightened levels of oversight.<sup>33</sup>

### Standardized Financial Reporting

Standardized financial reporting would provide clarity about where, exactly, federal financial aid and other tuition dollars were being allocated. Although institutions already engage in financial reporting through the IPEDS Finance Survey, the format of this reporting largely obscures how institutions use these funds. Congressman Mark Takano (D-CA), a member of the House Committee on Education and the Workforce, raised concerns about this issue more than five years ago. He noted that the Finance Survey aggregates the variable "student services" to include a wide range of spending—including marketing and recruitment, much of which does not directly support student development, contribute to program quality, or promote student outcomes.<sup>34</sup>

Representative Takano detailed how the current reporting structure misrepresents the amount of money for-profits and nonprofits spend on supporting students, as the former dramatically outspends the latter in marketing and recruitment. He called on federal contractor RTI International to disaggregate the student services variable and explicitly demarcate the amount of funds being spent on marketing and recruitment. Takano focused on standalone for-profit universities, but the point extends to OPM agreements, as these also typically include large expenditures on marketing and recruitment purposes. Disaggregating the student services variable and further requiring postsecondary institutions to identify the amount of funds being distributed to OPMs would enable the public and legislators to have a fuller understanding of where tuition dollars are spent.

The benefits of this reporting further extend to the institutions themselves. As we saw with the differences in discounting effects between Pearson and three of its university clients, there is substantial room for negotiating in the contract terms. These are also high-stakes negotiations, as many of these agreements will involve millions of dollars over the course of their contracts.

Standard reporting requirements would enable universities to make more informed decisions about not only which OPM they want to work with, but also how they want to approach contract negotiations based on the agreements the company has with other postsecondary institutions. Such standardization would transition OPM

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<sup>33</sup> Program Integrity and Institutional Quality: Distance Education, 2024.

<sup>34</sup> Takano, 2018.

arrangements out of their current “black box”<sup>35</sup> and these arrangements would function similarly to how federal and state funds are processed and reported. For instance, current IPEDS financial reporting has illuminated the stark difference between four-year and two-year instructional costs and academic supports, as well as the narrower differential in student service expenditures between these two sectors.<sup>36</sup> Similarly, the reporting consistency offers accurate comparisons revealing differences between postsecondary institution net prices and key data such as undergraduate student financial aid awards.<sup>37,38</sup>

Standardized reporting in a publicly available venue such as the IPEDS Finance Survey may help address public concerns about the rising costs of attending college. Addressing concerns about the costs of college comes at a critical time, as public perceptions of higher education have been diminishing and fewer people believe in the value of pursuing postsecondary education. A recent Gallup poll found that only 36 percent of respondents had a “great deal” or “quite a lot” of confidence in higher education, which is a steep decline in an already downward trend from 57 percent in 2015 and 48 percent in 2018.<sup>39</sup>

The downward trend held true across all demographics measured, including political affiliation, education level, gender, and age, with markedly steeper declines among Republicans, older individuals, and respondents without college degrees. These declines are echoed in the recent *Varying by Degrees* survey from New America, which found that only 36 percent of respondents thought higher education was fine the way it is now, down from 41 percent in 2023. Although 75 percent of respondents think higher education offers a good return on investment, this number also represents a decline from nearly 80 percent who felt this way in 2019.<sup>40</sup>

Compounding this issue, many Americans believe the financial benefits of attending college no longer outweigh the expenses. In a recent survey from the Federal Reserve, only around half of respondents 45 and under believed that the benefits of higher education exceeded the costs.<sup>41</sup> At the same time, popular media outlets have been exposing the high cost to low quality ratios associated with some OPM programs.

A recent article from the *Los Angeles Times* reported on a lawsuit stemming from the now defunct relationship between the University of Southern California (USC) and OPM provider 2U with the headline, “USC peddled inferior online social work program to use as ‘cash cow,’ lawsuit alleges.”<sup>42</sup> Forbes similarly reported on Purdue University’s relationship with Kaplan, which created Purdue University Global,<sup>43</sup> highlighting that “Purdue Global owes \$128 million to its for-profit partner. It may not be able to pay.”<sup>44</sup> Efforts to increase the transparency about rising college costs, such as the Net Price Calculator, only offer estimates, may not be available for every institution, and may provide misleading and inaccurate results.<sup>45</sup>

We orient our policy recommendations toward encouraging the federal government and institutions to work in tandem to increase OPM accountability, integrity, and financial transparency.

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<sup>35</sup> Hall, 2019.

<sup>36</sup> For instructional costs and academic supports, there is a 188 percent increase at four-year versus two-year colleges, while for student service expenditures, there is only an approximate 18.6 percent increase between four-year and two-year colleges.

<sup>37</sup> National Center for Education Statistics, 2023b.

<sup>38</sup> National Center for Education Statistics, 2024.

<sup>39</sup> Brenan, 2023.

<sup>40</sup> Nguyen, et al., 2024.

<sup>41</sup> U.S. Federal Reserve, 2023.

<sup>42</sup> Hamilton & Watanabe, 2023.

<sup>43</sup> Purdue Global was created in 2018 when Purdue University acquired for-profit Kaplan University.

<sup>44</sup> Newton, 2023.

<sup>45</sup> Perna, et al., 2019; Anthony, et al., 2016.

### Recommendations

Ensuring the proper stewardship of student tuition dollars in OPM partnerships requires collaborative efforts from policymakers, the U.S. Department of Education, and the colleges and universities that work with these companies. Our policy recommendations below speak to each of these groups and their roles in working toward ensuring all OPM contracts are developed with provisions ensuring accountability, integrity, and financial transparency.

**1. Policymakers should require contracting parties to adhere to policies and negotiation practices similar to those that govern federal grant awards and procurement procedures.** These practices increase transparency and accountability because they craft ethical and contractual standards that mitigate risks of fraud, waste, and abuse, and thus will provide further oversight of OPM contracts.<sup>46</sup> Specifically, policymakers should require contracting parties to:

- Adhere to federal guidelines for services/vendor agreements, including bidding requirements under source selection and reasonable price justifications, subrecipient expectations and spending, and financial reporting to ensure proper stewardship of federal funds and protect the university's financial health;
- Evaluate potential conflicts of interest for all parties involved in the contracting process, such as conditions or qualifications of postsecondary institution and OPM personnel;
- Review costs ensuring standards are reasonable, allowable, and allocable, akin to the requirements of the Federal Acquisition Regulation, such as whether the cost is ordinary and necessary for postsecondary education, aligns with market prices, represents an amount proportional to the benefits received, and serves a direct relationship to the contractual relationship.

**2. The U.S. Department of Education should revise the IPEDS Finance Survey to include reporting on the financial arrangements between postsecondary institutions and OPMs.** This recommendation builds upon previous policy discussions<sup>47</sup> of how the finance survey might be revised to strengthen accountability and increase transparency of university finances. Such changes should require postsecondary institutions to:

- Conduct audits for OPM contracts similar to the Federal Funding Accountability and Transparency Act (which requires full public disclosure of federal awards) by setting a threshold or percentage limit for the number of financial aid recipients, such as 90/10, or 30 percent loan default for borrow populations associated with the program offered through OPM agreements.
- Require disclosure under the *Management Discussion and Analysis* section of annual reporting to ED to contextualize the contract with the OPM (e.g., enrollment generated, revenue distributed).
- Disaggregate the student services variable so the financial reporting differentiates the portion of funds spent specifically on marketing and recruiting from those used to support enrolled students.

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<sup>46</sup> We recognize that OPM agreements carry dual purposes, as service contracts and educational processes similar to written agreements. For this brief, we only focus on the service contract, as the educational components and responsibilities are better aligned to that of accrediting agencies and state authorization.

<sup>47</sup> Takano, 2018

### 3. The U.S. Department of Education should issue additional guidance to postsecondary institutions engaging with OPMs to better ensure proper stewardship of federal financial aid. Guidance should advise postsecondary institutions to:

- Consult with association members (e.g., Educause) and professional networks (e.g., UPCEA roundtable for chief online learning officers and state-based online learning convenings) prior to entering a contractual relationship with an OPM. These consultations should aid in identifying effective terms and conditions that may apply to the respective college seeking advice, avoidance, or mitigation of contractual and relational pitfalls. Additionally, they may enable consideration of other appropriate contractual provisions, such as performance and payment measures along with other terms related to finances.
- Institute evaluation procedures for OPM contracts that follow standards akin to academic program reviews and use academic term performances (e.g., reporting that follows the cadence of academic offerings, such as semesters, and not business-style quarterly reports) to help guide the development of the OPM relationship as it evolves over the course of the contract.
- Include contract language to protect the institution from occasions when a student receives federal financial aid that must be returned with the return of Title IV (R2T4) process against incurring double debt or losing additional revenue; and
- Adopt standard operating procedures that follow, to the extent possible, federal procurement procedures, as outlined in the first recommendation presented here.

## Conclusion

When postsecondary institutions outsource elements of the academic core, greater oversight is needed to ensure accountability and transparency. Nonprofit postsecondary institutions and for-profit online program managers have fundamentally different financial goals and organizational models. Recent changes in federal policy have included efforts to protect students' financial interests when they attend proprietary institutions or pursue non-degree programs, but current regulations do not go far enough in addressing the proliferation of OPM agreements at campuses across the United States. These OPM firms indirectly collect millions of dollars in federal aid every year with minimal oversight and few protections for students and the financial aid program upon which many rely.

Our recommendations offer a path toward ethical and efficient delivery of services through a competitive and transparent environment, financial stewardship principles, risk reduction goals, and performance standards that focus on improvement. The focus of these policies is to further accountability, integrity, and transparency regarding institutions' outsourcing of many core academic functions to OPMs.

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