



JOINT LEGISLATIVE AUDIT COMMITTEE
DAVID A. ALVAREZ, CHAIR

January 31, 2023

Members
Joint Legislative Audit Committee
1020 N Street, Room 107
Sacramento, CA 95814

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Dear Members of the Committee,

I respectfully request the Joint Legislative Audit Committee approve an audit of the University of California regarding its use of online program management firms (OPMs). OPMs are for-profit firms that provide services to colleges for the development and delivery of online education programs. OPMs provide services like marketing, market research, student recruitment, enrollment management, student retention services, technology support, and curriculum development services.

Over 550 colleges nationwide have entered into arrangements with OPMs. In exchange for OPM services, colleges and universities provide a significant source of revenue to these unaccredited providers who could not otherwise access such funds. The *Wall Street Journal* reported that the University of Southern California paid approximately \$398 million to its OPM between 2013 and 2020. The *Wall Street Journal* also reported that the University of California, Berkeley's School of Information signed a 15-year contract with one OPM in 2013 to create an online master's degree program in information and data science. In exchange for its services, the OPM was entitled to \$39,000 of the roughly \$63,000 paid by each of the first 499 students each year, and slightly less for additional students. Common arrangements entitle OPMs to 50% to 70% of tuition revenue over the course of the contract, regardless of enrollment levels.

Universities also contract with OPMs to host tech bootcamps. In these instances, the OPM delivers the program from start to finish, including by providing instruction, in exchange for the use of the university's brand in marketing the programs. The university in turn receives a cut of the tuition revenue from the bootcamp provider.

OPMs have embedded themselves in an increasing number of public colleges and universities around the country. While only 20+ colleges established new arrangements with OPMs in 2010, 165+ new arrangements were established in 2020. The increase in college reliance on OPMs mirrors increased prevalence and acceptance of online education. The allure of OPMs will only

continue to increase, given that students are becoming more comfortable with and demanding the flexibility and benefits provided by virtual learning formats.

I believe it is incumbent upon the Legislature to better understand OPMs and their relationships with California's public four-year institutions. Accordingly, I am requesting this audit to help us better understand the extent of these relationships; level of transparency provided to prospective students; quality of instruction provided; level of student satisfaction with these arrangements; outcomes for students; and compliance with federal and state laws.

Higher Education Act

The Higher Education Act prohibits colleges that participate in federal student aid programs from providing incentive compensation (e.g., commissions and bonuses) to individuals or third parties engaged in student recruiting. The intent seems to have been to protect students from aggressive recruitment efforts. This prohibition on incentive compensation applies to OPMs.

In 2011, the U.S. Department of Education issued a "Dear Colleague Letter" providing guidance related to this ban on incentive compensation. This guidance clarified that payments to a third party for student recruiting based on the amount of tuition generated—known as tuition revenue sharing—is considered incentive compensation and is therefore generally prohibited. However, the guidance stated that some tuition-sharing arrangements do not violate the incentive compensation ban. Specifically, if the payment is for a bundle of services that includes recruiting and staff do not receive incentive compensation, this may not run afoul of the prohibition.

A recent report from the U.S. Government Accountability Office (GAO) found that while the U.S. Department of Education has jurisdiction to oversee the Higher Education Act's ban on incentive compensation, it does nothing to ensure that colleges' OPM arrangements fully comply with this ban. It does not provide instruction to independent auditors and colleges regarding OPM arrangements. The GAO is therefore worried that the U.S. Department of Education's inaction risks incentive compensation violations not being detected.

Six think tanks and policy organizations have called on President Biden's administration to rescind this 2011 guidance. Specifically, they would like to eliminate the bundled services exception. They worry that this exception is incentivizing these companies to use predatory tactics to enroll students, even if individual OPM employees do not receive incentive compensation.

Concerns in the Media

Media has highlighted some concerns with colleges' use of OPMs, include concerns related to transparency, outcomes, quality of instruction, and recruitment methods. The *Wall Street Journal* reported on several individuals who reasonably but incorrectly believed that their course instruction would be provided by university staff, not OPM employees.

An elementary-school teacher in Portland thought an \$11,995 program on data analytics that she signed up for would be provided by University of Oregon faculty. She thought this because she requested information about the program from the University of Oregon's webpage and communicated with OPM employees who used University of Oregon email accounts and logos, and didn't identify themselves as OPM employees. Not until a month into the course, being disappointed with the quality of instruction, did she start asking questions and learned that an OPM employee was providing the course materials, instruction, etc., not the University of Oregon. The *Wall Street Journal* provided similar examples where students were deceived regarding programs found on the University of North Carolina's and University of Central Florida's websites.

Media has also raised concerns regarding the outcomes and marketing of OPM-connected courses. The *Wall Street Journal* reported that a former OPM teaching assistant for boot camps at Johns Hopkins University, George Washington University, and the University of Central Florida stated that he thought he "was taking advantage of people who had fallen prey to flashy marketing and false promises." He said marketing materials inappropriately suggested boot camp graduates would be able to break into the computer industry. George Washington University's coding boot camp stated that one can "become a web developer in 24 weeks." He believed the program fell short of its promises. The *Wall Street Journal* also recently highlighted the University of Southern California's online Master of Social Work degree program that is managed by an OPM. It found that this program routinely leaves graduates with hundreds of thousands of dollars in debt, while offering them a median post-graduation salary of only \$52,000.

Media has also raised concerns regarding sales tactics employed by OPMs. The *Wall Street Journal* reported that, according to dozens of former OPM employees, students, academic researchers and faculty, OPMs use "sales tactics normally not associated with academia." One reporter who entered contact information into a University of Southern California program webpage received eight calls and 34 emails. A publicly available OPM contract with a public institution required the OPM to contact every prospective student at least 13 times per day, for 10 days. A Forbes profile of another OPM stated that about half of its employees worked at a call center focused on recruitment and increasing revenue. Former employees stated that an OPM expected them to make 70-100 recruitment calls on most days.

Scope

As previously stated, I believe we need to better understand the relationship between our public universities and OPMs. To that end, I am asking for this audit of the University of California to ensure that transparency and quality instruction are provided and that federal and state laws are followed. Specifically, the audit will do the following:

Contracting

- Determine the extent to which state universities have contracts and relationships with OPMs to provide instruction, recruitment or other services.

- Review university processes for entering into contracts and deciding what services OPMs will provide. Identify all factors considered when entering into contracts.
- Review the terms of the contracts to determine whether they are appropriate and in the best interest of the universities and students. Identify whether contract terms ensure transparency for prospective students, place any limitations on recruiting practices, appropriately divides funds, and ensures quality instruction is provided to students.
- For any contracts under which instruction was provided by non-university faculty or faculty selected or paid by the OPMs:
 - Identify the roles played by the university, instructors, and OPM under these contracts.
 - Determine how funds were divided between the university and OPM.
 - Determine the extent to which universities benefit from these contracts.
 - Perform a cost-benefit analysis on these contracts.
- Identify and publicly produce all recent contracts between the universities and OPMs.
- Quantify the amount of money received by universities and OPMs as a result of these contracts. Determine how much was connected to degree and non-degree programs.

Transparency

- Determine whether universities and OPMs provide sufficient transparency to students and whether advertisements and recruiting efforts, including the use of university email accounts and local area codes, are potentially deceptive.
 - For courses/instruction not provided by university faculty, identify the level of transparency provided to prospective students.
- Determine the extent to which OPMs use university logos, branding and email accounts, and determine whether that is appropriate.
- Conduct a survey of students who received instruction from OPM-paid instructors to determine whether they felt marketing and recruiting efforts were transparent and appropriate; how they paid for the relevant tuition; whether they were satisfied with the instruction provided; their demographic information; whether the course was worthwhile and assisted them in their careers; and whether they believed their instruction can from the university.
- To the extent information is available, provide demographic information on relevant students as well as information about what programs they were pursuing, their individual costs, debt, outcomes, etc.

Quality Instruction

- For courses/instruction provided under OPM contacts, identify who provided instruction. Determine the extent to which university faculty provided instruction. If not provided by appropriate university faculty, determine who provided instruction and what qualifications they possessed.
- Identify how much students are charged for courses and programs.
- Assess the oversight provided by universities to ensure that qualified faculty and adequate instruction were provided to students.
- Review the completion/dropout rate for relevant courses taught by OPM-hired instructors.

Legal Requirements

- Review universities' compliance with relevant state and federal laws, including the Higher Education Act's ban on incentive compensation.
- To the extent possible, determine how the the University of California can better demonstrate its compliance with the prohibition on incentive compensation to the Department of Education.
- Determine the extent to which students use any state or federal funds to pay for any courses provided by OPM-paid instructors.

Thank you for your consideration of this audit request. If you have any questions, please do not hesitate to contact me.

Sincerely,



David A. Alvarez, Chair
Joint Legislative Audit Committee
Assemblymember, 80th District



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Assemblymember, 77th District



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