United States Senate
WASHINGTON, DC 20510

January 23, 2020

Christopher Paucek
Co-Founder and Chief Executive Officer
2U, Inc.
7900 Harkins Road
Lanham, MD 20706

Dear Mr. Paucek:

We write to express concern about reports of business practices that Online Program Management (OPM) companies like 2U use, which appear to undermine the best interests of students, and to inquire about your company's use of federal student aid funds in the administration of OPM services to institutions of higher education that participate in federal student aid programs.

OPM companies like 2U are outside, for-profit companies that run online degree and certificate programs for colleges and universities, including many well-known public and private institutions. OPM companies originated to help brick-and-mortar universities create and administer their online offerings, but have evolved into businesses that make money by contracting with colleges and universities to provide a variety of services, including recruitment, admissions and curriculum development services. The OPM industry has experienced striking growth since 2011. More than one-third of colleges with online programs now have contracts with OPMs.[1] Five companies, including 2U, reportedly make up about half of the OPM market.[2]

Today, OPM contracts often stipulate that the college or university must share 50% or more of any resulting tuition revenue from students with the OPM.[3] Because these agreements often delegate recruitment responsibilities to the OPM, this tuition-sharing arrangement may violate federal law, which prohibits paying commissions for recruiting and enrolling new students.[4] In 2011, the Department of Education (ED) issued guidance allowing for bundled-services contracts between universities and OPMs if enrollment levels were fixed by the institution to prevent illegal financial incentives for recruiting students; however, it is unclear whether colleges,

---

[1] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/
[2] The Atlantic, "How Companies Profit Off Education at Nonprofit Schools," Derek Newton, June 7, 2016, https://www.theatlantic.com/education/archive/2016/06/for-profit-companies-nonprofit-colleges/485930/
[3] *Id.*
[4] 34 CFR § 668.14 (b)(22)(i);
Inside Higher Ed, "The Sketchy Legal Ground for Online Revenue Sharing," Robert Shireman, October 30, 2019, https://www.insidehighered.com/digital-learning/views/2019/10/30/shaky-legal-ground-revenue-sharing-agreements-student-recruitment#.XdRcP-tIMaE.twitter

universities, and OPMs are following this guidance. Nor is it clear whether this non-regulatory guidance is consistent with the text of the Higher Education Act.[5]

Available evidence suggests that tuition-sharing arrangements in OPM contracts create perverse incentives that lead to aggressive and deceptive recruiting practices, similar to those that pervade the for-profit college industry. If a for-profit, third-party company makes more money when tuition revenue increases, then the obvious incentive is to increase enrollment of students, specifically low-income and middle-class students who rely on federal student aid to pay tuition costs, by any means necessary.

In some cases, basic information about the program, including cost, schedule, or admissions policies, is not available to prospective students until they provide their contact information to the OPM.[6] That contact information can then be used for aggressive follow-up calls and text messages. One publicly available OPM contract for an online program at a public institution, for example, required the OPM to contact every prospective student at least 13 times per day, for ten days in a row.[7] Once the OPM has prospective students' contact information, it can also target the student for recruitment to programs at other universities that the OPM manages (including those with higher tuition or where the OPM receives a larger share of tuition revenue), or sell the student's information to third parties.[8] A *Forbes* profile of one OPM noted that about half of its employees worked at a call center focused on recruitment and increasing revenue.[9]

Moreover, an analysis of OPM contract terms found that tuition-sharing contracts often include provisions that prevent colleges and universities from making any changes that would lower revenue for the programs the OPM runs.[10] For example, Purdue University Global, formerly Kaplan University and now a project of Purdue University, is managed by Kaplan Higher Education under a contract that penalizes Purdue if it lowers tuition prices, raises admissions standards, or otherwise reduces revenue.[11] These provisions help explain why the promise of online degrees at a lower cost to students have not been realized.

---

[5] *Inside Higher Ed,* "The Sketchy Legal Ground for Online Revenue Sharing," Robert Shireman, October 30, 2019, https://www.insidehighered.com/digital-learning/views/2019/10/30/shaky-legal-ground-revenue-sharing-agreements-student-recruitment#.XdRcP-tIMaE.twitter. The ED Inspector General opposed the 2011 guidance, noting that that "we do not believe that the existing statutory ban on incentive compensation allows any incentive payments to entities involved in recruiting based on their success in enrolling students." U.S. Department of Education Office of Inspector General, Semiannual Report to Congress, No. 62, May 2011, https://www2.ed.gov/about/offices/list/oig/semiann/sar62.pdf, pg. 11.

[6] The Century Foundation, "Dear Colleges: Take Control of Your Online Courses," Stephanie Hall and Taela Dudley, September 12, 2019, https://tcf.org/content/report/dear-colleges-take-control-online-courses/?agreed=1

[7] *Id.*

[8] *Id.*

[9] *Forbes*, "No College Left Behind: Randy Best's Money-Making Mission to Save Higher Education," Caroline Howard, March 3, 2014, https://www.forbes.com/sites/carolinehoward/2014/02/12/no-college-left-behind-randy-bests-money-making-mission-to-save-higher-education/#18a36dea14a2

[10] The Century Foundation, "Dear Colleges: Take Control of Your Online Courses," Stephanie Hall and Taela Dudley, September 12, 2019, https://tcf.org/content/report/dear-colleges-take-control-online-courses/?agreed=1

[11] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

OPM contracts with tuition-sharing arrangements that commit significant portions of students' tuition revenue to the third-party OPM company obviously discourage colleges and universities from offering lower tuitions at online programs, even when they are cheaper to operate.[12] In fact, despite significantly lower overhead costs, online degree programs are actually more expensive on average than brick-and-mortar programs: $277 per online credit, versus $243 per credit earned in person.[13] Many graduate programs at nonprofit universities charge students the same price for the online programs as they do for brick-and-mortar programs, even though they are cheaper to operate.[14] An analysis of these contractual practices led the Century Foundation to conclude that "by and large, contracted online programs in higher education are wolves in sheep's clothing: predatory for-profit actors masquerading as some of the nation's most trustworthy public universities."[15]

Students and consumers have few ways to know whether their online degree program is affected by these troubling practices. Universities often do not disclose whether an OPM is administering certain programs or advertising and recruiting on their behalf.[16] Although universities are required to provide net price calculators on their websites, these do not typically distinguish between online and in-person programs, masking the irony that online programs can be more expensive for students than their brick-and-mortar equivalents.[17] Furthermore, OPM services often focus on master's degree programs, which have fewer disclosure requirements than undergraduate degree programs.[18] Although millions of dollars in federal student aid are directed to online degree programs every year, policy-makers and taxpayers have no way to know how many of those dollars are directed to recruiting, advertising, and profit, rather than instruction.[19]

As the influence of this small handful of companies on the American higher education system has exploded, there is an increasing need for transparency to ensure that students and policy-makers are able to make informed decisions. It is also critical that policy-makers determine if OPM business practices—specifically OPM contracts that require tuition-sharing arrangements—are legal, an appropriate use of federal student aid dollars, and in the best interest of students. To better understand how 2U serves students and manages federal student aid, I ask that you provide the following information no later than February 21, 2020:

---

[12] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

[13] The Atlantic, "How Companies Profit Off Education at Nonprofit Schools," Derek Newton, June 7, 2016, https://www.theatlantic.com/education/archive/2016/06/for-profit-companies-nonprofit-colleges/485930/

[14] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

[15] The Century Foundation, "Dear Colleges: Take Control of Your Online Courses," Stephanie Hal and Taela Dudley, September 12, 2019, https://tcf.org/content/report/dear-colleges-take-control-online-courses/?agreed=1

[16] The Century Foundation, "Three Things Policymakers Can Do to Protect Online Students," Stephanie Hall, September 12, 2019, https://tcf.org/content/commentary/three-things-policymakers-can-protect-online-students/?agreed=1

[17] *Id.*

[18] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

[19] The Century Foundation, "Three Things Policymakers Can Do to Protect Online Students," Stephanie Hall, September 12, 2019, https://tcf.org/content/commentary/three-things-policymakers-can-protect-online-students/?agreed=1

1. Copies of contracts with any U.S. institutions of higher education that participate in Title IV of the Higher Education Act. Alternatively, in lieu of providing the contracts, provide a list of client institutions with the following information for each:
    a. Academic program(s) included, and whether they are eligible for Title IV aid.
    b. Summary of services provided under the contract, including whether the services provided include recruiting, admission and/or financial aid.
    c. Basis of payments to the company, e.g. flat fees, per-student fees, or tuition-share. If tuition-share, provide the percentage (or "up to" amount) along with any cap.
    d. Term of the contract.
2. A sample of presentation materials used in meeting with prospective university clients.
3. Expenditure figures[20] for the company's contracted services to institutions, for each institution with which the company contracts, for the two most recent fiscal years (indicate years):
    a. Advertising and other marketing.
    b. Recruiting, admissions and financial aid services.
    c. Instruction, if included.
    d. Student support post-enrollment
    e. Technology and curricular materials
    f. Administration/overhead/profit
4. Revenue figures for the same two fiscal years.
5. List of any person or entity with an ownership share of 5% or more in the company.
6. Analysis conducted to show compliance of payment structures with the incentive compensation provision of the Higher Education Act[21] and/or the ED guidance on incentive compensation issued on March 17, 2011.[22]

Sincerely,

Elizabeth Warren
United States Senator

Sherrod Brown
United States Senator

[20] Example expenditure breakdown shown in: Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

[21] 20 U.S. Code § 1094 (a) (20): "The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except that this paragraph shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance."

[22] United States Department of Education, "Implementation of Program Integrity Regulations," March 17, 2011, https://ifap.ed.gov/dpcletters/attachments/GEN1105.pdf

January 23, 2020

Randy Best
Founder and Chairman
Academic Partnerships
600 North Pearl St., Suite 900
Dallas, TX 75201

Dear Mr. Best:

We write to express concern about reports of business practices that Online Program Management (OPM) companies like Academic Partnerships use, which appear to undermine the best interests of students, and to inquire about your company's use of federal student aid funds in the administration of OPM services to institutions of higher education that participate in federal student aid programs.

OPM companies like Academic Partnerships are outside, for-profit companies that run online degree and certificate programs for colleges and universities, including many well-known public and private institutions. OPM companies originated to help brick-and-mortar universities create and administer their online offerings, but have evolved into businesses that make money by contracting with colleges and universities to provide a variety of services, including recruitment, admissions and curriculum development services. The OPM industry has experienced striking growth since 2011. More than one-third of colleges with online programs now have contracts with OPMs.[1] Five companies, including Academic Partnerships, reportedly make up about half of the OPM market.[2]

Today, OPM contracts often stipulate that the college or university must share 50% or more of any resulting tuition revenue from students with the OPM.[3] Because these agreements often delegate recruitment responsibilities to the OPM, this tuition-sharing arrangement may violate federal law, which prohibits paying commissions for recruiting and enrolling new students.[4] In 2011, the Department of Education (ED) issued guidance allowing for bundled-services contracts between universities and OPMs if enrollment levels were fixed by the institution to prevent illegal financial incentives for recruiting students; however, it is unclear whether colleges,

---

[1] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/
[2] The Atlantic, "How Companies Profit Off Education at Nonprofit Schools," Derek Newton, June 7, 2016, https://www.theatlantic.com/education/archive/2016/06/for-profit-companies-nonprofit-colleges/485930/
[3] *Id.*
[4] 34 CFR § 668.14 (b)(22)(i);
Inside Higher Ed, "The Sketchy Legal Ground for Online Revenue Sharing," Robert Shireman, October 30, 2019, https://www.insidehighered.com/digital-learning/views/2019/10/30/shaky-legal-ground-revenue-sharing-agreements-student-recruitment#.XdRcP-tIMaE.twitter

universities, and OPMs are following this guidance. Nor is it clear whether this non-regulatory guidance is consistent with the text of the Higher Education Act.[5]

Available evidence suggests that tuition-sharing arrangements in OPM contracts create perverse incentives that lead to aggressive and deceptive recruiting practices, similar to those that pervade the for-profit college industry. If a for-profit, third-party company makes more money when tuition revenue increases, then the obvious incentive is to increase enrollment of students, specifically low-income and middle-class students who rely on federal student aid to pay tuition costs, by any means necessary.

In some cases, basic information about the program, including cost, schedule, or admissions policies, is not available to prospective students until they provide their contact information to the OPM.[6] That contact information can then be used for aggressive follow-up calls and text messages. One publicly available OPM contract for an online program at a public institution, for example, required the OPM to contact every prospective student at least 13 times per day, for ten days in a row.[7] Once the OPM has prospective students' contact information, it can also target the student for recruitment to programs at other universities that the OPM manages (including those with higher tuition or where the OPM receives a larger share of tuition revenue), or sell the student's information to third parties.[8] A *Forbes* profile of one OPM noted that about half of its employees worked at a call center focused on recruitment and increasing revenue.[9]

Moreover, an analysis of OPM contract terms found that tuition-sharing contracts often include provisions that prevent colleges and universities from making any changes that would lower revenue for the programs the OPM runs.[10] For example, Purdue University Global, formerly Kaplan University and now a project of Purdue University, is managed by Kaplan Higher Education under a contract that penalizes Purdue if it lowers tuition prices, raises admissions standards, or otherwise reduces revenue.[11] These provisions help explain why the promise of online degrees at a lower cost to students have not been realized.

---

[5] *Inside Higher Ed,* "The Sketchy Legal Ground for Online Revenue Sharing," Robert Shireman, October 30, 2019, https://www.insidehighered.com/digital-learning/views/2019/10/30/shaky-legal-ground-revenue-sharing-agreements-student-recruitment#.XdRcP-tIMaE.twitter. The ED Inspector General opposed the 2011 guidance, noting that that "we do not believe that the existing statutory ban on incentive compensation allows any incentive payments to entities involved in recruiting based on their success in enrolling students." U.S. Department of Education Office of Inspector General, Semiannual Report to Congress, No. 62, May 2011, https://www2.ed.gov/about/offices/list/oig/semiann/sar62.pdf, pg. 11.

[6] The Century Foundation, "Dear Colleges: Take Control of Your Online Courses," Stephanie Hall and Taela Dudley, September 12, 2019, https://tcf.org/content/report/dear-colleges-take-control-online-courses/?agreed=1

[7] *Id.*

[8] *Id.*

[9] *Forbes*, "No College Left Behind: Randy Best's Money-Making Mission to Save Higher Education," Caroline Howard, March 3, 2014, https://www.forbes.com/sites/carolinehoward/2014/02/12/no-college-left-behind-randy-bests-money-making-mission-to-save-higher-education/#18a36dea14a2

[10] The Century Foundation, "Dear Colleges: Take Control of Your Online Courses," Stephanie Hall and Taela Dudley, September 12, 2019, https://tcf.org/content/report/dear-colleges-take-control-online-courses/?agreed=1

[11] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

OPM contracts with tuition-sharing arrangements that commit significant portions of students' tuition revenue to the third-party OPM company obviously discourage colleges and universities from offering lower tuitions at online programs, even when they are cheaper to operate.[12] In fact, despite significantly lower overhead costs, online degree programs are actually more expensive on average than brick-and-mortar programs: $277 per online credit, versus $243 per credit earned in person.[13] Many graduate programs at nonprofit universities charge students the same price for the online programs as they do for brick-and-mortar programs, even though they are cheaper to operate.[14] An analysis of these contractual practices led the Century Foundation to conclude that "by and large, contracted online programs in higher education are wolves in sheep's clothing: predatory for-profit actors masquerading as some of the nation's most trustworthy public universities."[15]

Students and consumers have few ways to know whether their online degree program is affected by these troubling practices. Universities often do not disclose whether an OPM is administering certain programs or advertising and recruiting on their behalf.[16] Although universities are required to provide net price calculators on their websites, these do not typically distinguish between online and in-person programs, masking the irony that online programs can be more expensive for students than their brick-and-mortar equivalents.[17] Furthermore, OPM services often focus on master's degree programs, which have fewer disclosure requirements than undergraduate degree programs.[18] Although millions of dollars in federal student aid are directed to online degree programs every year, policy-makers and taxpayers have no way to know how many of those dollars are directed to recruiting, advertising, and profit, rather than instruction.[19]

As the influence of this small handful of companies on the American higher education system has exploded, there is an increasing need for transparency to ensure that students and policy-makers are able to make informed decisions. It is also critical that policy-makers determine if OPM business practices—specifically OPM contracts that require tuition-sharing arrangements—are legal, an appropriate use of federal student aid dollars, and in the best interest of students. To better understand how Academic Partnerships serves students and manages federal student aid, I ask that you provide the following information no later than February 21, 2020:

---

[12] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/
[13] The Atlantic, "How Companies Profit Off Education at Nonprofit Schools," Derek Newton, June 7, 2016, https://www.theatlantic.com/education/archive/2016/06/for-profit-companies-nonprofit-colleges/485930/
[14] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/
[15] The Century Foundation, "Dear Colleges: Take Control of Your Online Courses," Stephanie Hal and Taela Dudley, September 12, 2019, https://tcf.org/content/report/dear-colleges-take-control-online-courses/?agreed=1
[16] The Century Foundation, "Three Things Policymakers Can Do to Protect Online Students," Stephanie Hall, September 12, 2019, https://tcf.org/content/commentary/three-things-policymakers-can-protect-online-students/?agreed=1
[17] *Id.*
[18] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/
[19] The Century Foundation, "Three Things Policymakers Can Do to Protect Online Students," Stephanie Hall, September 12, 2019, https://tcf.org/content/commentary/three-things-policymakers-can-protect-online-students/?agreed=1

1. Copies of contracts with any U.S. institutions of higher education that participate in Title IV of the Higher Education Act. Alternatively, in lieu of providing the contracts, provide a list of client institutions with the following information for each:
    a. Academic program(s) included, and whether they are eligible for Title IV aid.
    b. Summary of services provided under the contract, including whether the services provided include recruiting, admission and/or financial aid.
    c. Basis of payments to the company, e.g. flat fees, per-student fees, or tuition-share. If tuition-share, provide the percentage (or "up to" amount) along with any cap.
    d. Term of the contract.
2. A sample of presentation materials used in meeting with prospective university clients.
3. Expenditure figures[20] for the company's contracted services to institutions, for each institution with which the company contracts, for the two most recent fiscal years (indicate years):
    a. Advertising and other marketing.
    b. Recruiting, admissions and financial aid services.
    c. Instruction, if included.
    d. Student support post-enrollment
    e. Technology and curricular materials
    f. Administration/overhead/profit
4. Revenue figures for the same two fiscal years.
5. List of any person or entity with an ownership share of 5% or more in the company.
6. Analysis conducted to show compliance of payment structures with the incentive compensation provision of the Higher Education Act[21] and/or the ED guidance on incentive compensation issued on March 17, 2011.[22]

Sincerely,

Elizabeth Warren
United States Senator

Sherrod Brown
United States Senator

---

[20] Example expenditure breakdown shown in: Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

[21] 20 U.S. Code § 1094 (a) (20): "The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except that this paragraph shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance."

[22] United States Department of Education, "Implementation of Program Integrity Regulations," March 17, 2011, https://ifap.ed.gov/dpcletters/attachments/GEN1105.pdf

January 23, 2020

Mike Bisk
Chief Executive Officer
Bisk Education
9417 Princess Palm Avenue
Tampa, FL 33619

Dear Mr. Bisk:

We write to express concern about reports of business practices that Online Program Management (OPM) companies like Bisk Education use, which appear to undermine the best interests of students, and to inquire about your company's use of federal student aid funds in the administration of OPM services to institutions of higher education that participate in federal student aid programs.

OPM companies like Bisk are outside, for-profit companies that run online degree and certificate programs for colleges and universities, including many well-known public and private institutions. OPM companies originated to help brick-and-mortar universities create and administer their online offerings, but have evolved into businesses that make money by contracting with colleges and universities to provide a variety of services, including recruitment, admissions and curriculum development services. The OPM industry has experienced striking growth since 2011. More than one-third of colleges with online programs now have contracts with OPMs.[1] Five companies, including Bisk, reportedly make up about half of the OPM market.[2]

Today, OPM contracts often stipulate that the college or university must share 50% or more of any resulting tuition revenue from students with the OPM.[3] Because these agreements often delegate recruitment responsibilities to the OPM, this tuition-sharing arrangement may violate federal law, which prohibits paying commissions for recruiting and enrolling new students.[4] In 2011, the Department of Education (ED) issued guidance allowing for bundled-services contracts between universities and OPMs if enrollment levels were fixed by the institution to prevent illegal financial incentives for recruiting students; however, it is unclear whether colleges,

---

[1] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/
[2] The Atlantic, "How Companies Profit Off Education at Nonprofit Schools," Derek Newton, June 7, 2016, https://www.theatlantic.com/education/archive/2016/06/for-profit-companies-nonprofit-colleges/485930/
[3] *Id.*
[4] 34 CFR § 668.14 (b)(22)(i);
Inside Higher Ed, "The Sketchy Legal Ground for Online Revenue Sharing," Robert Shireman, October 30, 2019, https://www.insidehighered.com/digital-learning/views/2019/10/30/shaky-legal-ground-revenue-sharing-agreements-student-recruitment#.XdRcP-tIMaE.twitter

universities, and OPMs are following this guidance. Nor is it clear whether this non-regulatory guidance is consistent with the text of the Higher Education Act.[5]

Available evidence suggests that tuition-sharing arrangements in OPM contracts create perverse incentives that lead to aggressive and deceptive recruiting practices, similar to those that pervade the for-profit college industry. If a for-profit, third-party company makes more money when tuition revenue increases, then the obvious incentive is to increase enrollment of students, specifically low-income and middle-class students who rely on federal student aid to pay tuition costs, by any means necessary.

In some cases, basic information about the program, including cost, schedule, or admissions policies, is not available to prospective students until they provide their contact information to the OPM.[6] That contact information can then be used for aggressive follow-up calls and text messages. One publicly available OPM contract for an online program at a public institution, for example, required the OPM to contact every prospective student at least 13 times per day, for ten days in a row.[7] Once the OPM has prospective students' contact information, it can also target the student for recruitment to programs at other universities that the OPM manages (including those with higher tuition or where the OPM receives a larger share of tuition revenue), or sell the student's information to third parties.[8] A *Forbes* profile of one OPM noted that about half of its employees worked at a call center focused on recruitment and increasing revenue.[9]

Moreover, an analysis of OPM contract terms found that tuition-sharing contracts often include provisions that prevent colleges and universities from making any changes that would lower revenue for the programs the OPM runs.[10] For example, Purdue University Global, formerly Kaplan University and now a project of Purdue University, is managed by Kaplan Higher Education under a contract that penalizes Purdue if it lowers tuition prices, raises admissions standards, or otherwise reduces revenue.[11] These provisions help explain why the promise of online degrees at a lower cost to students have not been realized.

---

[5] *Inside Higher Ed,* "The Sketchy Legal Ground for Online Revenue Sharing," Robert Shireman, October 30, 2019, https://www.insidehighered.com/digital-learning/views/2019/10/30/shaky-legal-ground-revenue-sharing-agreements-student-recruitment#.XdRcP-tIMaE.twitter. The ED Inspector General opposed the 2011 guidance, noting that that "we do not believe that the existing statutory ban on incentive compensation allows any incentive payments to entities involved in recruiting based on their success in enrolling students." U.S. Department of Education Office of Inspector General, Semiannual Report to Congress, No. 62, May 2011, https://www2.ed.gov/about/offices/list/oig/semiann/sar62.pdf, pg. 11.

[6] The Century Foundation, "Dear Colleges: Take Control of Your Online Courses," Stephanie Hall and Taela Dudley, September 12, 2019, https://tcf.org/content/report/dear-colleges-take-control-online-courses/?agreed=1

[7] *Id.*

[8] *Id.*

[9] *Forbes*, "No College Left Behind: Randy Best's Money-Making Mission to Save Higher Education," Caroline Howard, March 3, 2014, https://www.forbes.com/sites/carolinehoward/2014/02/12/no-college-left-behind-randy-bests-money-making-mission-to-save-higher-education/#18a36dea14a2

[10] The Century Foundation, "Dear Colleges: Take Control of Your Online Courses," Stephanie Hall and Taela Dudley, September 12, 2019, https://tcf.org/content/report/dear-colleges-take-control-online-courses/?agreed=1

[11] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

OPM contracts with tuition-sharing arrangements that commit significant portions of students' tuition revenue to the third-party OPM company obviously discourage colleges and universities from offering lower tuitions at online programs, even when they are cheaper to operate.[12] In fact, despite significantly lower overhead costs, online degree programs are actually more expensive on average than brick-and-mortar programs: $277 per online credit, versus $243 per credit earned in person.[13] Many graduate programs at nonprofit universities charge students the same price for the online programs as they do for brick-and-mortar programs, even though they are cheaper to operate.[14] An analysis of these contractual practices led the Century Foundation to conclude that "by and large, contracted online programs in higher education are wolves in sheep's clothing: predatory for-profit actors masquerading as some of the nation's most trustworthy public universities."[15]

Students and consumers have few ways to know whether their online degree program is affected by these troubling practices. Universities often do not disclose whether an OPM is administering certain programs or advertising and recruiting on their behalf.[16] Although universities are required to provide net price calculators on their websites, these do not typically distinguish between online and in-person programs, masking the irony that online programs can be more expensive for students than their brick-and-mortar equivalents.[17] Furthermore, OPM services often focus on master's degree programs, which have fewer disclosure requirements than undergraduate degree programs.[18] Although millions of dollars in federal student aid are directed to online degree programs every year, policy-makers and taxpayers have no way to know how many of those dollars are directed to recruiting, advertising, and profit, rather than instruction.[19]

As the influence of this small handful of companies on the American higher education system has exploded, there is an increasing need for transparency to ensure that students and policy-makers are able to make informed decisions. It is also critical that policy-makers determine if OPM business practices—specifically OPM contracts that require tuition-sharing arrangements—are legal, an appropriate use of federal student aid dollars, and in the best interest of students. To better understand how Bisk serves students and manages federal student aid, I ask that you provide the following information no later than February 21, 2020:

---

[12] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

[13] The Atlantic, "How Companies Profit Off Education at Nonprofit Schools," Derek Newton, June 7, 2016, https://www.theatlantic.com/education/archive/2016/06/for-profit-companies-nonprofit-colleges/485930/

[14] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

[15] The Century Foundation, "Dear Colleges: Take Control of Your Online Courses," Stephanie Hal and Taela Dudley, September 12, 2019, https://tcf.org/content/report/dear-colleges-take-control-online-courses/?agreed=1

[16] The Century Foundation, "Three Things Policymakers Can Do to Protect Online Students," Stephanie Hall, September 12, 2019, https://tcf.org/content/commentary/three-things-policymakers-can-protect-online-students/?agreed=1

[17] *Id.*

[18] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

[19] The Century Foundation, "Three Things Policymakers Can Do to Protect Online Students," Stephanie Hall, September 12, 2019, https://tcf.org/content/commentary/three-things-policymakers-can-protect-online-students/?agreed=1

1. Copies of contracts with any U.S. institutions of higher education that participate in Title IV of the Higher Education Act. Alternatively, in lieu of providing the contracts, provide a list of client institutions with the following information for each:
    a. Academic program(s) included, and whether they are eligible for Title IV aid.
    b. Summary of services provided under the contract, including whether the services provided include recruiting, admission and/or financial aid.
    c. Basis of payments to the company, e.g. flat fees, per-student fees, or tuition-share. If tuition-share, provide the percentage (or "up to" amount) along with any cap.
    d. Term of the contract.
2. A sample of presentation materials used in meeting with prospective university clients.
3. Expenditure figures[20] for the company's contracted services to institutions, for each institution with which the company contracts, for the two most recent fiscal years (indicate years):
    a. Advertising and other marketing.
    b. Recruiting, admissions and financial aid services.
    c. Instruction, if included.
    d. Student support post-enrollment
    e. Technology and curricular materials
    f. Administration/overhead/profit
4. Revenue figures for the same two fiscal years.
5. List of any person or entity with an ownership share of 5% or more in the company.
6. Analysis conducted to show compliance of payment structures with the incentive compensation provision of the Higher Education Act[21] and/or the ED guidance on incentive compensation issued on March 17, 2011.[22]

Sincerely,

Elizabeth Warren
United States Senator

Sherrod Brown
United States Senator

[20] Example expenditure breakdown shown in: Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

[21] 20 U.S. Code § 1094 (a) (20): "The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except that this paragraph shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance."

[22] United States Department of Education, "Implementation of Program Integrity Regulations," March 17, 2011, https://ifap.ed.gov/dpcletters/attachments/GEN1105.pdf

January 23, 2020

John Fallon
Chief Executive Officer
Pearson Learning
80 Strand
London, England WC2R 0RL

Dear Mr. Fallon:

We write to express concern about reports of business practices that Online Program Management (OPM) companies like Pearson Learning use, which appear to undermine the best interests of students, and to inquire about your company's use of federal student aid funds in the administration of OPM services to institutions of higher education that participate in federal student aid programs.

OPM companies like Pearson Learning are outside, for-profit companies that run online degree and certificate programs for colleges and universities, including many well-known public and private institutions. OPM companies originated to help brick-and-mortar universities create and administer their online offerings, but have evolved into businesses that make money by contracting with colleges and universities to provide a variety of services, including recruitment, admissions and curriculum development services. The OPM industry has experienced striking growth since 2011. More than one-third of colleges with online programs now have contracts with OPMs.[1] Five companies, including Pearson, reportedly make up about half of the OPM market.[2]

Today, OPM contracts often stipulate that the college or university must share 50% or more of any resulting tuition revenue from students with the OPM.[3] Because these agreements often delegate recruitment responsibilities to the OPM, this tuition-sharing arrangement may violate federal law, which prohibits paying commissions for recruiting and enrolling new students.[4] In 2011, the Department of Education (ED) issued guidance allowing for bundled-services contracts between universities and OPMs if enrollment levels were fixed by the institution to prevent illegal financial incentives for recruiting students; however, it is unclear whether colleges,

[1] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/
[2] The Atlantic, "How Companies Profit Off Education at Nonprofit Schools," Derek Newton, June 7, 2016, https://www.theatlantic.com/education/archive/2016/06/for-profit-companies-nonprofit-colleges/485930/
[3] *Id.*
[4] 34 CFR § 668.14 (b)(22)(i);
Inside Higher Ed, "The Sketchy Legal Ground for Online Revenue Sharing," Robert Shireman, October 30, 2019, https://www.insidehighered.com/digital-learning/views/2019/10/30/shaky-legal-ground-revenue-sharing-agreements-student-recruitment#.XdRcP-tIMaE.twitter

universities, and OPMs are following this guidance. Nor is it clear whether this non-regulatory guidance is consistent with the text of the Higher Education Act.[5]

Available evidence suggests that tuition-sharing arrangements in OPM contracts create perverse incentives that lead to aggressive and deceptive recruiting practices, similar to those that pervade the for-profit college industry. If a for-profit, third-party company makes more money when tuition revenue increases, then the obvious incentive is to increase enrollment of students, specifically low-income and middle-class students who rely on federal student aid to pay tuition costs, by any means necessary.

In some cases, basic information about the program, including cost, schedule, or admissions policies, is not available to prospective students until they provide their contact information to the OPM.[6] That contact information can then be used for aggressive follow-up calls and text messages. One publicly available OPM contract for an online program at a public institution, for example, required the OPM to contact every prospective student at least 13 times per day, for ten days in a row.[7] Once the OPM has prospective students' contact information, it can also target the student for recruitment to programs at other universities that the OPM manages (including those with higher tuition or where the OPM receives a larger share of tuition revenue), or sell the student's information to third parties.[8] A *Forbes* profile of one OPM noted that about half of its employees worked at a call center focused on recruitment and increasing revenue.[9]

Moreover, an analysis of OPM contract terms found that tuition-sharing contracts often include provisions that prevent colleges and universities from making any changes that would lower revenue for the programs the OPM runs.[10] For example, Purdue University Global, formerly Kaplan University and now a project of Purdue University, is managed by Kaplan Higher Education under a contract that penalizes Purdue if it lowers tuition prices, raises admissions standards, or otherwise reduces revenue.[11] These provisions help explain why the promise of online degrees at a lower cost to students have not been realized.

---

[5] *Inside Higher Ed,* "The Sketchy Legal Ground for Online Revenue Sharing," Robert Shireman, October 30, 2019, https://www.insidehighered.com/digital-learning/views/2019/10/30/shaky-legal-ground-revenue-sharing-agreements-student-recruitment#.XdRcP-tIMaE.twitter. The ED Inspector General opposed the 2011 guidance, noting that that "we do not believe that the existing statutory ban on incentive compensation allows any incentive payments to entities involved in recruiting based on their success in enrolling students." U.S. Department of Education Office of Inspector General, Semiannual Report to Congress, No. 62, May 2011, https://www2.ed.gov/about/offices/list/oig/semiann/sar62.pdf, pg. 11.

[6] The Century Foundation, "Dear Colleges: Take Control of Your Online Courses," Stephanie Hall and Taela Dudley, September 12, 2019, https://tcf.org/content/report/dear-colleges-take-control-online-courses/?agreed=1

[7] *Id.*

[8] *Id.*

[9] *Forbes*, "No College Left Behind: Randy Best's Money-Making Mission to Save Higher Education," Caroline Howard, March 3, 2014, https://www.forbes.com/sites/carolinehoward/2014/02/12/no-college-left-behind-randy-bests-money-making-mission-to-save-higher-education/#18a36dea14a2

[10] The Century Foundation, "Dear Colleges: Take Control of Your Online Courses," Stephanie Hall and Taela Dudley, September 12, 2019, https://tcf.org/content/report/dear-colleges-take-control-online-courses/?agreed=1

[11] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

OPM contracts with tuition-sharing arrangements that commit significant portions of students' tuition revenue to the third-party OPM company obviously discourage colleges and universities from offering lower tuitions at online programs, even when they are cheaper to operate.[12] In fact, despite significantly lower overhead costs, online degree programs are actually more expensive on average than brick-and-mortar programs: $277 per online credit, versus $243 per credit earned in person.[13] Many graduate programs at nonprofit universities charge students the same price for the online programs as they do for brick-and-mortar programs, even though they are cheaper to operate.[14] An analysis of these contractual practices led the Century Foundation to conclude that "by and large, contracted online programs in higher education are wolves in sheep's clothing: predatory for-profit actors masquerading as some of the nation's most trustworthy public universities."[15]

Students and consumers have few ways to know whether their online degree program is affected by these troubling practices. Universities often do not disclose whether an OPM is administering certain programs or advertising and recruiting on their behalf.[16] Although universities are required to provide net price calculators on their websites, these do not typically distinguish between online and in-person programs, masking the irony that online programs can be more expensive for students than their brick-and-mortar equivalents.[17] Furthermore, OPM services often focus on master's degree programs, which have fewer disclosure requirements than undergraduate degree programs.[18] Although millions of dollars in federal student aid are directed to online degree programs every year, policy-makers and taxpayers have no way to know how many of those dollars are directed to recruiting, advertising, and profit, rather than instruction.[19]

As the influence of this small handful of companies on the American higher education system has exploded, there is an increasing need for transparency to ensure that students and policy-makers are able to make informed decisions. It is also critical that policy-makers determine if OPM business practices—specifically OPM contracts that require tuition-sharing arrangements—are legal, an appropriate use of federal student aid dollars, and in the best interest of students. To better understand how Pearson Learning serves students and manages federal student aid, I ask that you provide the following information no later than February 21, 2020:

---

[12] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

[13] The Atlantic, "How Companies Profit Off Education at Nonprofit Schools," Derek Newton, June 7, 2016, https://www.theatlantic.com/education/archive/2016/06/for-profit-companies-nonprofit-colleges/485930/

[14] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

[15] The Century Foundation, "Dear Colleges: Take Control of Your Online Courses," Stephanie Hal and Taela Dudley, September 12, 2019, https://tcf.org/content/report/dear-colleges-take-control-online-courses/?agreed=1

[16] The Century Foundation, "Three Things Policymakers Can Do to Protect Online Students," Stephanie Hall, September 12, 2019, https://tcf.org/content/commentary/three-things-policymakers-can-protect-online-students/?agreed=1

[17] *Id.*

[18] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

[19] The Century Foundation, "Three Things Policymakers Can Do to Protect Online Students," Stephanie Hall, September 12, 2019, https://tcf.org/content/commentary/three-things-policymakers-can-protect-online-students/?agreed=1

1. Copies of contracts with any U.S. institutions of higher education that participate in Title IV of the Higher Education Act. Alternatively, in lieu of providing the contracts, provide a list of client institutions with the following information for each:
    a. Academic program(s) included, and whether they are eligible for Title IV aid.
    b. Summary of services provided under the contract, including whether the services provided include recruiting, admission and/or financial aid.
    c. Basis of payments to the company, e.g. flat fees, per-student fees, or tuition-share. If tuition-share, provide the percentage (or "up to" amount) along with any cap.
    d. Term of the contract.
2. A sample of presentation materials used in meeting with prospective university clients.
3. Expenditure figures[20] for the company's contracted services to institutions, for each institution with which the company contracts, for the two most recent fiscal years (indicate years):
    a. Advertising and other marketing.
    b. Recruiting, admissions and financial aid services.
    c. Instruction, if included.
    d. Student support post-enrollment
    e. Technology and curricular materials
    f. Administration/overhead/profit
4. Revenue figures for the same two fiscal years.
5. List of any person or entity with an ownership share of 5% or more in the company.
6. Analysis conducted to show compliance of payment structures with the incentive compensation provision of the Higher Education Act[21] and/or the ED guidance on incentive compensation issued on March 17, 2011.[22]

Sincerely,

Elizabeth Warren
United States Senator

Sherrod Brown
United States Senator

[20] Example expenditure breakdown shown in: Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/
[21] 20 U.S. Code § 1094 (a) (20): "The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except that this paragraph shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance."
[22] United States Department of Education, "Implementation of Program Integrity Regulations," March 17, 2011, https://ifap.ed.gov/dpcletters/attachments/GEN1105.pdf

United States Senate
WASHINGTON, DC 20510

January 23, 2020

Todd Zipper
President
Wiley Education Services
1415 West 22nd Street, Suite 800
Oak Brook, IL 60523

Dear Mr. Zipper:

We write to express concern about reports of business practices that Online Program Management (OPM) companies like Wiley Education Services use, which appear to undermine the best interests of students, and to inquire about your company's use of federal student aid funds in the administration of OPM services to institutions of higher education that participate in federal student aid programs.

OPM companies like Wiley are outside, for-profit companies that run online degree and certificate programs for colleges and universities, including many well-known public and private institutions. OPM companies originated to help brick-and-mortar universities create and administer their online offerings, but have evolved into businesses that make money by contracting with colleges and universities to provide a variety of services, including recruitment, admissions and curriculum development services. The OPM industry has experienced striking growth since 2011. More than one-third of colleges with online programs now have contracts with OPMs.[1] Five companies, including Wiley, reportedly make up about half of the OPM market.[2]

Today, OPM contracts often stipulate that the college or university must share 50% or more of any resulting tuition revenue from students with the OPM.[3] Because these agreements often delegate recruitment responsibilities to the OPM, this tuition-sharing arrangement may violate federal law, which prohibits paying commissions for recruiting and enrolling new students.[4] In 2011, the Department of Education (ED) issued guidance allowing for bundled-services contracts between universities and OPMs if enrollment levels were fixed by the institution to prevent illegal financial incentives for recruiting students; however, it is unclear whether colleges,

---

[1] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/
[2] The Atlantic, "How Companies Profit Off Education at Nonprofit Schools," Derek Newton, June 7, 2016, https://www.theatlantic.com/education/archive/2016/06/for-profit-companies-nonprofit-colleges/485930/
[3] *Id.*
[4] 34 CFR § 668.14 (b)(22)(i);
Inside Higher Ed, "The Sketchy Legal Ground for Online Revenue Sharing," Robert Shireman, October 30, 2019, https://www.insidehighered.com/digital-learning/views/2019/10/30/shaky-legal-ground-revenue-sharing-agreements-student-recruitment#.XdRcP-tIMaE.twitter

universities, and OPMs are following this guidance. Nor is it clear whether this non-regulatory guidance is consistent with the text of the Higher Education Act.[5]

Available evidence suggests that tuition-sharing arrangements in OPM contracts create perverse incentives that lead to aggressive and deceptive recruiting practices, similar to those that pervade the for-profit college industry. If a for-profit, third-party company makes more money when tuition revenue increases, then the obvious incentive is to increase enrollment of students, specifically low-income and middle-class students who rely on federal student aid to pay tuition costs, by any means necessary.

In some cases, basic information about the program, including cost, schedule, or admissions policies, is not available to prospective students until they provide their contact information to the OPM.[6] That contact information can then be used for aggressive follow-up calls and text messages. One publicly available OPM contract for an online program at a public institution, for example, required the OPM to contact every prospective student at least 13 times per day, for ten days in a row.[7] Once the OPM has prospective students' contact information, it can also target the student for recruitment to programs at other universities that the OPM manages (including those with higher tuition or where the OPM receives a larger share of tuition revenue), or sell the student's information to third parties.[8] A *Forbes* profile of one OPM noted that about half of its employees worked at a call center focused on recruitment and increasing revenue.[9]

Moreover, an analysis of OPM contract terms found that tuition-sharing contracts often include provisions that prevent colleges and universities from making any changes that would lower revenue for the programs the OPM runs.[10] For example, Purdue University Global, formerly Kaplan University and now a project of Purdue University, is managed by Kaplan Higher Education under a contract that penalizes Purdue if it lowers tuition prices, raises admissions standards, or otherwise reduces revenue.[11] These provisions help explain why the promise of online degrees at a lower cost to students have not been realized.

---

[5] *Inside Higher Ed,* "The Sketchy Legal Ground for Online Revenue Sharing," Robert Shireman, October 30, 2019, https://www.insidehighered.com/digital-learning/views/2019/10/30/shaky-legal-ground-revenue-sharing-agreements-student-recruitment#.XdRcP-tIMaE.twitter. The ED Inspector General opposed the 2011 guidance, noting that that "we do not believe that the existing statutory ban on incentive compensation allows any incentive payments to entities involved in recruiting based on their success in enrolling students." U.S. Department of Education Office of Inspector General, Semiannual Report to Congress, No. 62, May 2011, https://www2.ed.gov/about/offices/list/oig/semiann/sar62.pdf, pg. 11.

[6] The Century Foundation, "Dear Colleges: Take Control of Your Online Courses," Stephanie Hall and Taela Dudley, September 12, 2019, https://tcf.org/content/report/dear-colleges-take-control-online-courses/?agreed=1

[7] *Id.*

[8] *Id.*

[9] *Forbes*, "No College Left Behind: Randy Best's Money-Making Mission to Save Higher Education," Caroline Howard, March 3, 2014, https://www.forbes.com/sites/carolinehoward/2014/02/12/no-college-left-behind-randy-bests-money-making-mission-to-save-higher-education/#18a36dea14a2

[10] The Century Foundation, "Dear Colleges: Take Control of Your Online Courses," Stephanie Hall and Taela Dudley, September 12, 2019, https://tcf.org/content/report/dear-colleges-take-control-online-courses/?agreed=1

[11] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

OPM contracts with tuition-sharing arrangements that commit significant portions of students' tuition revenue to the third-party OPM company obviously discourage colleges and universities from offering lower tuitions at online programs, even when they are cheaper to operate.[12] In fact, despite significantly lower overhead costs, online degree programs are actually more expensive on average than brick-and-mortar programs: $277 per online credit, versus $243 per credit earned in person.[13] Many graduate programs at nonprofit universities charge students the same price for the online programs as they do for brick-and-mortar programs, even though they are cheaper to operate.[14] An analysis of these contractual practices led the Century Foundation to conclude that "by and large, contracted online programs in higher education are wolves in sheep's clothing: predatory for-profit actors masquerading as some of the nation's most trustworthy public universities."[15]

Students and consumers have few ways to know whether their online degree program is affected by these troubling practices. Universities often do not disclose whether an OPM is administering certain programs or advertising and recruiting on their behalf.[16] Although universities are required to provide net price calculators on their websites, these do not typically distinguish between online and in-person programs, masking the irony that online programs can be more expensive for students than their brick-and-mortar equivalents.[17] Furthermore, OPM services often focus on master's degree programs, which have fewer disclosure requirements than undergraduate degree programs.[18] Although millions of dollars in federal student aid are directed to online degree programs every year, policy-makers and taxpayers have no way to know how many of those dollars are directed to recruiting, advertising, and profit, rather than instruction.[19]

As the influence of this small handful of companies on the American higher education system has exploded, there is an increasing need for transparency to ensure that students and policy-makers are able to make informed decisions. It is also critical that policy-makers determine if OPM business practices—specifically OPM contracts that require tuition-sharing arrangements—are legal, an appropriate use of federal student aid dollars, and in the best interest of students. To better understand how Wiley serves students and manages federal student aid, I ask that you provide the following information no later than February 21, 2020:

---

[12] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

[13] The Atlantic, "How Companies Profit Off Education at Nonprofit Schools," Derek Newton, June 7, 2016, https://www.theatlantic.com/education/archive/2016/06/for-profit-companies-nonprofit-colleges/485930/

[14] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

[15] The Century Foundation, "Dear Colleges: Take Control of Your Online Courses," Stephanie Hal and Taela Dudley, September 12, 2019, https://tcf.org/content/report/dear-colleges-take-control-online-courses/?agreed=1

[16] The Century Foundation, "Three Things Policymakers Can Do to Protect Online Students," Stephanie Hall, September 12, 2019, https://tcf.org/content/commentary/three-things-policymakers-can-protect-online-students/?agreed=1

[17] *Id.*

[18] Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/

[19] The Century Foundation, "Three Things Policymakers Can Do to Protect Online Students," Stephanie Hall, September 12, 2019, https://tcf.org/content/commentary/three-things-policymakers-can-protect-online-students/?agreed=1

1. Copies of contracts with any U.S. institutions of higher education that participate in Title IV of the Higher Education Act. Alternatively, in lieu of providing the contracts, provide a list of client institutions with the following information for each:
    a. Academic program(s) included, and whether they are eligible for Title IV aid.
    b. Summary of services provided under the contract, including whether the services provided include recruiting, admission and/or financial aid.
    c. Basis of payments to the company, e.g. flat fees, per-student fees, or tuition-share. If tuition-share, provide the percentage (or "up to" amount) along with any cap.
    d. Term of the contract.
2. A sample of presentation materials used in meeting with prospective university clients.
3. Expenditure figures[20] for the company's contracted services to institutions, for each institution with which the company contracts, for the two most recent fiscal years (indicate years):
    a. Advertising and other marketing.
    b. Recruiting, admissions and financial aid services.
    c. Instruction, if included.
    d. Student support post-enrollment
    e. Technology and curricular materials
    f. Administration/overhead/profit
4. Revenue figures for the same two fiscal years.
5. List of any person or entity with an ownership share of 5% or more in the company.
6. Analysis conducted to show compliance of payment structures with the incentive compensation provision of the Higher Education Act[21] and/or the ED guidance on incentive compensation issued on March 17, 2011.[22]

Sincerely,

Elizabeth Warren
United States Senator

Sherrod Brown
United States Senator

---

[20] Example expenditure breakdown shown in: Huffington Post, "The Creeping Capitalist Takeover of Higher Education," Kevin Carey, April 1, 2019, https://www.huffpost.com/highline/article/capitalist-takeover-college/
[21] 20 U.S. Code § 1094 (a) (20): "The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except that this paragraph shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance."
[22] United States Department of Education, "Implementation of Program Integrity Regulations," March 17, 2011, https://ifap.ed.gov/dpcletters/attachments/GEN1105.pdf