

DEPARTMENT OF EDUCATION  
OFFICE OF POSTSECONDARY EDUCATION  
VIRTUAL LISTENING SESSION  
SESSION 1, DAY 2, AFTERNOON  
March 9, 2023

On the 9th day of March, 2023, the following meeting was held virtually, from 1:00 p.m. to 4:00 p.m.

P R O C E E D I N G S

MR. MARTIN: Good afternoon, and welcome to the US Department of Education's Virtual Learning Listening Session on Bundled Services. My name is Greg Martin, Director of the Policy Development Group in the Office of Postsecondary Education. I'm joined today by Tariq Habash from the Office of Planning, Evaluation and Policy Development. We are pleased you have joined us and look forward to what I am certain will be a productive few hours. In a moment, we will proceed. I do want to point out that we may not need all of the time today that we have scheduled to hear everybody's remarks, unless others sign up while we're in the process of this call, but that's unlikely to happen, so then it's very likely that we will conclude earlier than our scheduled end time. On February 16th we published a notice in the Federal Register announcing two virtual listening sessions to receive public comments, recommendations, and suggestions to improve guidance on the incentive compensation prohibition under Title IV of the Higher Education Act of 1965 as amended, particularly with respect to bundled services. Those wishing to submit comments electronically may do so by going to [www.regulations.gov](http://www.regulations.gov). Today's listening session will conclude at 4 p.m. Eastern Standard Time, or I

should say is scheduled to conclude at that point, but, as I pointed out, may end earlier. This is the second and final listening session, we had our first session yesterday. Listeners who desire more background on the topic of today's session should refer to the February 16th, 2023 Federal Register announcement, which also provides detailed instructions on how to submit comments electronically. That document may be found on Federal Student Aid's Partner Connect website at <https://fsapartners.ed.gov>. That is formerly the IFAP (Information for Financial Aid Professionals) website. Before we begin, I would like to remind participants of the three-minute time limit measured from when you commence speaking. I will provide a 30-second warning and inform you when the three-minute time period has elapsed. Speakers whose remarks continue beyond the allotted time will have their microphones muted. With that, we will now go to our first speaker. And our first speaker scheduled for today is Rene Leo Ordonez. Dr. Ordonez, whenever you are ready.

MR. ORDONEZ: I am here in the School of Business, Southern Oregon University and I also run our MBA program, so before I make my statement, I would like to thank you for giving me the opportunity to speak at this listening session. So, our online program was

started in the spring of 2018 in partnership with Academic Partnerships, and in our partnership with them, the SOU MBA program has full control and responsibility over our curriculum, including the development, design, and offering various concentrations in the program. Further, we staff the courses we offer. AP in no way dictates or influences how we run our program. In other words, maintaining and improving the quality of the program is our responsibility. AP's main role in the partnership is to recruit, market, and promote our programs. Starting 27 students in 2018, the program has now grown to about 200 students. Each academic year we have, you know, we have five seven-week terms- one in the fall, one in the winter, one in the spring- and two in summer. The average number of new students each term is around 20. In terms of affordability, we have one of the lowest in the Pacific Northwest region, and the tuition cost to complete the degree, the total cost is about \$19,350. Our program appeals to working adults. As such, nine out of ten MBA students are part-time, meaning they take one or two courses each term. About 50 percent of our students take only one course, but closer to the same number take two courses each term. Around 70 of our online students reside in the state of Oregon. We draw students from the Pacific Northwest as well as from

states as far as Texas. Around 20 percent of our students are actually our alums, SOU graduates. In terms of ensuring that we maintain a high quality program, we staff the courses mostly with our regular faculty members who also teach in the evening MBA program, which is a face-to-face program, and they also teach in the undergraduate business programs. Our program is accredited by the ACBSP, the Crediting Council for Business Schools and Programs, which is an international accrediting party for schools of business, whose main mission is to promote excellence in teaching. As a way to ensure that our program meets our standards, all of our MBA students take the ETS, which is the major field test for an MBA program. It is a standardized test taken by thousands of students each year across the United States. We track the performance of our students on an annual basis. Our turn by turn retention rate is around 90 percent, and over the last five years the graduation rate [30 seconds] is around 70 percent. So, on average, it takes 16 months or about six- or seven-week terms for students to complete their degree requirements. Thank you.

MR. MARTIN: Thank you for sharing your remarks with us this afternoon. Our next speaker will be Andrew Safyer. Mr. Safyer, whenever you are ready.

MR. SAFYER: Yes. Thank you very much for this opportunity can everyone hear me? Just nod your head.

MR. MARTIN: Yes, we can hear you just fine.

MR. SAFYER: Okay. So my name is Dr. Andrew Safyer, I'm currently the Academic Dean at the Institute for Clinical Social Work. I am also on the advisory board of AllCampus, which is an OPM here in Chicago. My relationship with AllCampus began when I was the Dean at Adelphi School of Social Work in New York City when we decided to develop an online program that would not only boost enrollment, but increase access to adult learners from more racially diverse, older, and students- individuals who are actively working in the human service area who would not otherwise be able to attend on-site programs. We interviewed at that time a number of OPMs and choose AllCampus because we believe they are the best partner for a variety of reasons, and also the opportunity to engage in a revenue sharing process with them, which was significantly lower than competitors. So, to me, when we were meeting with OPMs, there was a difference in the revenue sharing and AllCampus was very reasonable. The return on investment allowed us to build up the infrastructure of the

program, and that a fee-for-service option was not viable for us because we did not, as a school, have the revenue to be able to obtain those services. Our interest with them, as well, instead of driving up tuition cost, AllCampus worked with us to lower our tuition rate to a point that it was a fair market value in comparison to other MSW online programs with similar brands. That arrangement with AllCampus- I haven't been the Dean there for three years- but it's ongoing and it's been highly successful, and it's a high quality program with strong student outcomes. More recently I've served as a member of their advisory board and I've been a part of conversations with other universities that are interested in starting MSW programs, particularly more recently state institutions that, like Adelphi, would not have the money to develop programs despite the need in their region if revenue sharing was not an option. They, too, like Adelphi, would not be able to have the resources available for a fee-for-service process. [30 seconds] And then I'd like to end to say that if you took away revenue sharing option, this would be unfortunate because of the increased need for mental health and substance abuse services across the country as a result of the pandemic, and the potential that there would be not enough social workers to provide

these needed services would be unfortunate. So I thank you very much for the opportunity to speak today. Thank you.

MR. MARTIN: Thank you for sharing your remarks with us this afternoon. Our next speaker is Sheila Woodward. Dr. Woodward, whenever you are ready.

MS. WOODWARD: Thank you very much. Warm greetings to everyone from myself, Sheila Woodward, and from Eastern Washington University. Collaborating with Academic Partnerships has enabled our graduate program in music education to reach extraordinary heights within only a few months of announcing the launch. Combining our rigorous scholarly standards with AP skills in framing and packaging materials, in training our faculty, conducting scientific market research has made the world of difference to us in raising the confidence of our client base that has grown exponentially. It's a partnership where we are supported every step of the way in preplanning, course development, the carousel of course scheduling, financial aspects, marketing, and so on. The course development included the guidance on mapping our philosophical goals and curricular content, providing clear, exciting thorough ways of presenting to the students. We had individual mentors from this company in doing so, and



they developed a carousel that allowed maximum flexibility for students that could actually keep their full-time jobs, they could stay in rural areas, remain with their families, and they could accelerate this program to complete in anything from nine months to spreading it out across to 18 months or more as according to the needs of the students. So diversity of student population has been vastly broadened, and through this partnership our program has developed into a superior academic model, it's having a ripple effect of improving educational equality- educational quality in K-12 schools where our graduates are now infusing these learning experiences that they have with us into the lives of their students. So, thank you for hearing me today.

MR. MARTIN: Thank you. We appreciate hearing your comments this afternoon.

MS. WOODWARD: Thank you.

MR. MARTIN: Our next speaker is Carolyn Fast. Ms. Fast, whenever you are ready.

MS. FAST: I'm Carolyn Fast, a Senior Fellow with The Century Foundation. I appreciate the opportunity to share comments about the Department's bundled service guidance. The Higher Education Act prohibits incentive compensation based on success in

securing student enrollments or financial aid. The Department's 200- 2011 bundled service guidance created a gaping hole in the incentive compensation ban by permitting bounty payments for student recruitment where independent third party contractors provide recruitment services as part of a package of services. This loophole embeds financial incentives into student recruitment. It has led to the type of aggressive and deceptive recruiting practices that are also widespread in the for-profit college sector. For example, OPMs have a reportedly used tactics such as creating a false sense of urgency by promoting limited time only scholarships, pumping up their own revenue by filling seats with students who do not meet the institution's ordinary academic criteria, and in one case requiring recruiters to call prospective students 13 times within 10 days. Bounty payment agreements can also drive up the overall spending on marketing and recruiting, inflating the cost of programs and diverting federal funding dollars from supporting instruction to payment for marketing and recruiting. The guidance has led to an arms race of advertising because the incentive to grow enrollment and profit. As we have heard, the arrangement causes programs to expand beyond levels that are responsible, and colleges find themselves stuck, not in control.

We've heard from some commentators who suggest that the answer to the problems outlined above is increased transparency around OPM contract terms. While increasing transparency around OPM contracts is a worthwhile goal, transparency alone will not address the root of the problem- that the bundled services creates incentives that lead to predatory conduct and inflated costs for students. Closing the bundled services loophole would protect students from predatory tactics and help rein in the price of online programs. Importantly, rescinding the guidance would not prevent schools from outsourcing to OPMs, nor would it prevent schools from entering into tuition sharing agreements. For services other than recruitment, schools could still enter into agreements to outsource recruitment services using a fee-for-service model, the same model that the schools currently use for Brick and Mortar recruitment outsourcing. We urge the Department to close the bundled services loophole. Closing this loophole will leave both students and colleges better off. Thank you.

MR. MARTIN: Thank you for sharing your remarks with us this afternoon. Our next speaker will be Stephanie Hall. Ms. Hall, whenever you are ready.

MS. HALL: Thank you. I'm a Senior Fellow at the Center for American Progress. The

incentive compensation ban is one of the most important consumer protections in higher education law. It is meant to protect students from pressurized and misleading sales pitches that are often used when a recruiter is paid based on their success in enrolling students. Despite this, institutions have been allowed to make incentive based contract- incentive based payments to contractors like OPMs because of an exception to the law that was granted in 2011. This so-called bundled services guidance is no longer necessary to facilitate the creation or maintenance of online programs and should be rescinded. I do not dispute the value of some individuals getting- that some individuals get from their online programs, nor the potential for distance education to increase access. Rescinding the 2011 guidance will not affect access. Instead, it will protect students from pressurized recruitment. I intend to make five brief points during my remaining time. First, colleges often pay for services from providers on a per student basis, and proper enforcement of the incentive comp ban would not hinder that practice. However, the line between services that are paid per student, and anyone involved in recruiting said students must be re-established for their protection. Two, neither recruiters nor marketers should be paid on a

commission basis. Because of the precision of today's digital marketing practices, a student is in the enrollment funnel and on the receiving end of the covered activity from the moment they see a digital advertisement to the point they enroll. Any adjustment to the oversight of the incentive comp ban must consider marketing's role in recruitment. Three, there has been a full scale disregard for the 2011 guidance, as evidenced by colleges and their contractors collaborating on institutional decision making in areas including enrollment, growth goals, curriculum and course offerings, and tuition pricing. Fourth, an investigation I led while at the Century Foundation revealed that at some schools, OPMs bring in the majority of their enrollment. This scenario may be systemic, and I applaud the Department for updating guidance on third party servicers so that these metrics can be monitored. However, that new guidance does not address the incentives present in OPM arrangements, which is why the Department must rescind the 2011 bundled services guidance. Fifth, in its announcement of these sessions, the Department asked how tuition charges, revenue, and expenditures in online and on-campus programs compared. To date, the Department and the public lack access to such program level data. It is the responsibility of

institutions to provide you with this information. And finally, we heard from an institution yesterday that fee-for-service contracts were not viable because of cost. It seems divestment in higher ed has pushed institutions into a corner where OPMs appear to be the only lifeline. We would not be debating the pros and cons of protecting students from commission based recruitment if colleges had the resources they needed to meet the demand for online and hybrid programs. Public trust in higher ed, and online higher ed in particular [30 seconds] is waning. The Department is poised to address this by restoring integrity to the online programs offered by the nation's public and non-profit colleges by aligning incentives in favor of students. Thank you.

MR. MARTIN: Thank you for sharing your remarks with us this afternoon. Our next speaker is Kyra Taylor. Ms. Taylor, whenever you are ready.

MS. TAYLOR: Good afternoon. My name is Kyra Taylor and I'm a staff attorney at the National Consumer Law Center. I provide direct student loan legal services to low income borrowers in the Boston area and collaborate with legal aid organizations around the country. I'm grateful that the Department is considering ways to improve its guidance on the incentive

compensation ban and is considering revising its bundled services exception. The low income borrowers I and my legal aid colleagues work with are often people- people of color, many of whom are the first in their family to attend college. They believe that higher education is a way to improve their job prospects and brighten their futures. Our clients are inundated with targeted advertising from schools and lead generators on TikTok, YouTube, Facebook, and others, advertising that often seeks to exploit vulnerabilities like their status as a single parent or as a student who previously stopped out of a program. Our clients are targeted by the most unscrupulous actors within higher education, and because their financial situation is already tenuous, they are the most severely harmed when the Department's safeguards fail. Most Americans, be they legal aid clients or not, assume that when they're speaking with an admissions counselor that they're speaking with an employee of that institution who has the student's best interests at heart. When considering enrollment, they don't think that they need the healthy dose of skepticism they deploy with a used car salesman. When prospective students see school branded program advertisements, they quite reasonably assume that the program is run by the school, with the school's

professors and instructors designing the program and providing instruction. They have no idea and have no way of knowing that institutions are outsourcing services like recruitment, admissions, and even teaching itself. Indeed, even the Department cannot currently discern which schools maintain OPM relationships and what the scope of those relationships are. The incentive compensation ban was put in place to prevent institutions from creating boiler room environments where employees are encouraged, either explicitly or through the incentive structure, to use misleading and high pressure tactics to do whatever it takes to get as many students as possible in the door. These manipulative tactics cause students immense harm when they're induced to enroll in programs that they wouldn't otherwise choose and that are unlikely to be a good investment. They also cost the Department billions of dollars in the form of false certification and borrower defense discharges, not to mention loans that are unlikely to be successfully repaid. This bundled services guidance blows a hole in this critical protection for borrowers and should be rescinded. When the Department originally issued this guidance, it mistakenly assumed that schools would still maintain ample control [30 seconds] over their outsourced



services. But that appears not to be the case. Research done by the Century Foundation and others has revealed that schools often do not constrain the aggressive and predatory practices engaged in by OPMs. Reporting has shown that these programs often engage in aggressive online recruitment campaigns and call prospective students 10 times or more a day for multiple days in a row. As legal aides noted in the past- in past borrower defense comments, these practices contribute to borrowers we serve enrolling, even when the program is not a good fit for them, and it's unlikely to pay off. The Department should-

MR. MARTIN: Time.

MS. TAYLOR: I am here to discuss its oversight of how schools are outsourcing their recruitment in advertising and how these third parties are paid. The evolving online landscape must be included with- within the incentive compensation safeguards. We applaud the Department's action to force schools to disclose their OPM relationships, it is long overdue. Thank you for this opportunity to discuss these important protections.

MR. MARTIN: Thank you for sharing your comments with us this afternoon. Our next commentor is Jonathan Smith. Mr. Smith, whenever you are ready. Mr.

Smith. Okay, oh. Looks like we do have Aidan Prinsloo cued up, so why don't we go with Mr. Prinsloo, whenever you are ready.

MR. PRINSLOO: Thank you, Mr. Martin, it's good to see you, and thank you for giving me the opportunity to speak to you this evening, or this afternoon, as it is in the US. As you may be aware, I'm calling from outside of the US. I'm based in Ireland and I work with the largest university in Ireland. We have nearly 1,000 American citizens who study with us, and around 400 of these American citizens use Federal Student Aid to cover the cost of study. And I should say that we treasure these students, they enrich our campus, they join 160 different nationalities at our universities. One of the reasons why I'd like to speak to you is that while we aren't a US institution, US regulations directly impact our students, especially when it comes to accessing federal student aid, and quite often they're impacted in unintended ways, even though they are very well-meaning US regulations involved. I believe that incentive compensation and the guidance around bundled services is one of these. While I understand the Department is reviewing the guidance provided around bundled services for incentive compensation, I understand this is also specifically

around concerns around online education and student debt, and I know this comes from a place of justified concern. At the same time I believe it's important for us to highlight a few things that should be considered, especially when looking at international universities based outside of the US. The first thing is to say is that non-US universities currently cannot certify student loans, federal aid, or any online education, and I understand that this may be looked at in the future, but even in future possible iterations those students will always need to come to Ireland or to whichever country they're studying in and be in attendance as full-time students. The second thing that I wanted to highlight is that third party services play a really important role for international student recruitment and admissions, and it's not just with regards to the US. And that is because all universities who are looking to broaden their student populations need to rely on third party services to be able to provide students with a level of onboarding that they are required that is specifically geared to the national context that they come from. And I have to say that we have worked very hard to make sure that what we do with the US aligns with US regulations. We are very respectful of the laws of the country that we work with, but at the same time

we don't want to be put in a position where we have to close down those relationships and remove those services for US citizens. [30 seconds] The last point I'd like to make is that because third party services play an important role in almost all international universities' recruitment policies, there is no fee distinction for students who go through third party institutions than those who come through to our universities on their own. Therefore, there isn't really- how could I say they're- they're indistinguishable on [interposing].

MR. MARTIN: Time.

MR. PRINSLOO: Thank you very much. I appreciate it.

MR. MARTIN: Thank you for spending some time with us this afternoon and sharing your comments. Our next speaker is I believe our next speaker up would be Chip Paucek? Mr. Paucek, if you're ready.

MR. PAUCEK: Good afternoon, I'm Chip Paucek, co-founder and CEO of 2U. I first want to commend the Department for inviting this discussion. The fact that we're here to discuss clarity around revenue sharing and, most importantly, how it benefits students. For context, 2U partners with non-profit universities to build and support their online programs, from free courses to full degrees, giving millions of students the

chance to pursue their education without uprooting their lives. We play a vital role in helping universities innovate and expand access to high quality online education. You've raised a number of questions, but to me the crux comes down to only one. What is the impact of the current incentive compensation exception for bundled services for institutions and students? In response, I want to highlight five key points. First, revenue sharing is the only model that aligns incentive between the parties. Unlike fee-for-service providers who get paid upfront regardless of student outcomes, 2U only gets paid if students progress through the programs, ultimately earning a degree. Our financial success is directly tied to student success. Second, developing a high quality online program is expensive and risky. 2U, not the university, invests \$5 million on average into each degree program, while the university has minimal upfront investment. Up to 25 percent of all online degrees launched by universities fail within the first year. Revenue sharing eliminates that risk for the college. Other models burden universities with higher costs and greater risk. Third, there is no evidence whatsoever that revenue sharing increases tuition or student debt. In fact, we think the exact opposite is true. OPMS operate at a scale that most universities do

not, and by placing significant expenses on the OPM, the revenue share model drives greater efficiency which, in turn, can lower prices for students at the institution's discretion. Many of our partners have done just that. Fourth, revenue share arrangements do not take funds away from institutions. To the contrary, the overall revenue simply would not exist without these arrangements. We're the reason these online programs get off the ground and we're often the reason that they successfully operate in a complicated digital marketplace. Finally, and most importantly, these public-private partnerships express through a revenue share result in tangible benefits to students. The programs we've enabled have graduated over 50,000 students with excellent student outcomes. This is what really matters. Students have access to programs with great student outcomes regardless of where they live. To close, the growth of online education has been valuable for American higher education overall, and that growth [30 seconds remaining] in part on a bipartisan understanding that the Higher Education Act permits bundled services agreements. That understanding, which has prevailed for three decades, across five presidential administrations, is memorialized in the Department's 2011 "Dear Colleague" letter. The bundled

services exception is working. Thank you very much for your time today.

MR. MARTIN: And thank you for sharing your comments with us this afternoon. Our next speaker is Matthew Jellick. Mr. Jellick, whenever you are ready.

MR. JELICK: My name is Matthew Jellick, a graduate of the online Masters of Teaching program at the University of Southern California, which was developed in partnership with 2U. I began my career as an educator in South Korea, teaching at a high school. At the time, I only had a Bachelor's degree, but it soon became evident that if I wanted to continue teaching in a higher capacity, I would need a Masters. I wasn't ready to go home to LA, and it was becoming clear to me that not only did I love teaching, but I loved teaching in a global context. That's when I found the online Masters in Teaching program at USC. During this dynamic program, I could pursue my education while not having to leave South Korea or quit my job. In addition, the hours I spent at the high school counted towards my degree for in-class teaching. Finally, and perhaps most importantly, the program had a learning track for educators who wanted to teach abroad. That was me. I wasn't training to teach in LA USC, I was training to teach in communities where students have outlying

factors which are quite different, and I was able to have practical application while living, learning, and teaching in that context. Our program was a game changer. I got to learn from and alongside like-minded people who looked at education through a global prism. Even though I was onscreen with my classmates, to the left of me was my teacher in Brazil, to the right, teacher in Spain. I simply would have not had received that same exposure in Los Angeles. Even back in 2011 I learned a lot about online learning and pedagogy. When COVID hit nearly a decade later, I was teaching in China, so when classrooms went fully remote, I was already prepared on how to engage with my students to ensure that their learning would continue seamlessly. Next week I'm off for my next adventure teaching in Djibouti through a program run by the state department, something I wouldn't have qualified for without my Masters. Online education is important. It opens access. It can be as rigorous and engaging as in-person classes and you can even build a community there, particularly a global one. It is my hope that the Department will continue to support policies that help, and not hinder, colleges and universities from working with companies, such as 2U, that are essential to expanding access to these important and ongoing opportunities. Thank you for



your time.

MR. MARTIN: Thank you for sharing your remarks with us this afternoon. Our next speaker will be Tanya Ang. Ms. Ang, whenever you are ready.

MS. ANG: Thank you. My name is Tanya and I'm Managing Director for Advocacy at Higher Learning Advocates, a non-profit advocacy organization working towards bipartisan federal policies to better serve today's students. Today's students are more diverse than any previous generation of college students in age range rates and income level, and many have worked in family responsibilities that extend beyond the classroom. HLA commends them for this interest in better understanding the partnerships in bundled services between higher education institutions and OPMs and incentive compensation. Higher education is rooted in history and tradition. However, as technology continues to evolve, institutions must be agile in how they offer their services. OPM partnerships, when done correctly, can be valuable asset for institutions to meet an ever-changing landscape as well as the needs of their students. Partnerships with OPMs allowed institutions to quickly pivot to online learning during COVID so students' educations were not interrupted. Today they enable institutions to enhance academic programming for

adult learners, especially the 39 million adults with some credits but no credentials who unfortunately, as you have heard this week, some experiences with OPMS have been harmful to students. Innovation is necessary, yet not at the expense of students. Striking a balance between quality and innovation is challenging but necessary. Above all, transparency and accountability for student outcomes should be the fore- at the forefront of each agreement. To that end, HLA recommends the following principles as ED works to adjust the activities that may raise concerns under the current incentive compensation guidance. One, require all OPM contracts be reviewed and approved by accreditors before they are finalized, including review of any substantial change to the contract. Two, ensure OPMS contracted with institutions to recruit students truly offers bundled services, ED can assist by answering the following questions. Could ED provide an industry standard expressively outlining what elements including services OPMS can or cannot provide compared to other cohort services and what penalties or liabilities should exist for those institutions and OPMS that violate that standard? ED might also consider providing stronger stances around disclosure of recruitment policies for the partnership that keeps students in mind, such as

binding OPMs by institutions' policies and codes of conduct for recruiting students, making OPM partnership transparent to prospective students in recruitment material, requiring OPM employees and material to disclose to students or prospective students that they are not employees of the institution. Lastly, ED might consider creating spaces for its institutions and OPMs to learn together where those in the industry come together to share best practices when it comes to issues such as appropriate contracts development review [30 seconds] and renegotiate fostering institutional environment necessary to enter into and manage a fruitful and student outcomes oriented agreement with an OPM, and exploring challenges and opportunities by institutional sector and campus size. We look forward to continued collaboration with the Department on this issue. Thank you.

MR. MARTIN: Thank you for sharing your comments with us this afternoon. Our next speaker will be Raffaele Giarnella. Whenever you are ready.

MR. GIARNELLA: Alright, so thank you. When I returned to the Bay in 2012 after a six-month deployment, I had three months, packed up my life, and drive from San Diego to North Carolina to teach Naval ROTC at Duke University. One of the conditions for that

job was that I had to be enrolled in a graduate education program. But there is no way I could meet all the application deadlines in time to enroll, plus I wanted to spend more time with my family after four years on sea duty. I was also determined to learn at a top tier business school. Online learning was the only way I could do it. That's when I found UNC online business program MBA at UNC. You know, it's weird, the things you learn to love? In the Navy I've learned to love meals with names like Barbeque Beef Cubes. But if you ever told me that business school would get me jazzed up about aggression analysis and quarterly reports, I'd say you're crazy. But that's what happened. I always saw myself as an English major, but I became someone who looked for bottlenecks through processes and pondered over the hurdle rate for investment. MBA UNC changed how I saw the world and how I saw myself. But I wasn't doing it alone. My classmates had their own careers, their own companies, and their own families. And the professors- if you're in the MBA at UNC program you know that if you ever go to Spain, Professor Ashraf Jaffer will take the time, take you out for coffee or lunch, talk about your lives, and tell you all the best places to visit in Spain. So, four months ago I got married. Our officiant was a classmate and my bride,

Jessica, she was one of my first friends in the program. So has the program changed my life for the better? Yeah, absolutely, I'd say so. Online education is a game changer. It offers flexibility and access no other medium can match. Not everyone can pause a career to be full-time student, not everyone can take hours out of their evening to sit in a classroom. But everyone deserves the opportunity to access a great education. My story is just one of many that illustrates the role, and the necessity, and a human story behind online education. I thank you all for your time and thank you all for your service.

MR. MARTIN: Thank you for spending some time with us this afternoon and sharing your comments. Our next speaker will be Alex Lopez. Alex, whenever you are ready. If you are talking, you are on mute Alx.

MR. LOPEZ: There we go. Okay. Good morning. Can you hear me now, Gregory?

MR. MARTIN: I can, yes, I can.

MR. LOPEZ: Thank you, Mr. Martin.

Thank you for everybody who's joining here. My name is Alejandro Lopez, I live here in San Diego, California. Recently, three years ago, I decided to do a career change because I had been doing mainframe computing my

earlier careers, and one of many- my investigation [inaudible] and three years ago I investigated looking at certain schools, at the program that was offered through UCSD in La Jolla, similar to the one that's offered at SDSU, San Diego State University- at that time it was HackerU and it changed to Thrive. So based on the cost and the timeframe, it seemed a bit best to pursue virtual and this was during the pandemic. So three years ago I enrolled in an intra-program, it cost me \$15,000 to make sure it was something I could handle. Unfortunately, I did develop COVID, so I attended all classes with that. But I decided to go all in and invested my own personal stake [indudible] of \$15,000 to enroll in this program. Now, the instructors were well versed and the thing I enjoyed about that was the fact that they are professionals that actually use the product, like myself. I'm a professional musician and I have students myself, and I know that with working world experience you're going to get more of your education through that. So, let me show you, I did receive my certificate March 3rd, 2020 and I'm very proud that I got that. But in hindsight, you know, I know a lot of people weren't satisfied with the cost, and the fact that- I'm sure that if I read the fine print that there was no university credits that were going to be given to

this. Maybe I might've changed my mind and looked at an alternate way, but I figured that that was worth it. But in hindsight, you know, I did go back and I did do some research based on some conversations with my previous cohorts in the class. And just so you're aware of it, that there are alternatives that don't cost as much, you know, for instance, I went to San Diego City Community College's website, and they do offer an Associate of Science degree, which means you get credits by for- or your can also get a professional certificate. I looked at the course on page 214 of the catalog, and for \$84 per credit union, the total cost of that training would have cost me, like, \$3,000 total. And so when I go and say well I didn't get any kind of affiliation that there was going to be credits on that, and when I went back to have that asset, that was never really outstated so I'm sure if I'd have read through the disclosures-

MR. MARTIN: 30 seconds.

MR. LOPEZ: Yeah, so I want to just say that the main thing I do have a regret is that, like Ted Danson, a premium for a price, you could obtain the different- that's what I wanted. If I would have done my homework, I did get a dollar discount at [inaudible], a certificate online, but if I had gone the alternate way, I would have had an extra \$12,000 in my wallet so that

was the only thing I regret in the cost of this education. But I'd like to thank you very much for your time to hear my story on that and I hope you have got the information you need for my testimony.

MR. MARTIN: Thank you for sharing your comments with us this afternoon. Our next speaker will be Laura Hamilton. Ms. Hamilton, whenever you are ready.

MS. HAMILTON: Yes, it seems I'm unable to start my video. I am not sure why.

MR. MARTIN: We can hear you just fine.

MS. HAMILTON: Okay, I'll go ahead. My name is Laura Hamilton. I am professor and chair of sociology at the University of California Merced and cofounder of the Higher Education Race and the Economy or HERE Lab. Research produced by the HERE Lab shows that the loophole that has been created for OPMS offering bundled services is disproportionately utilized by a set of problematic third party servicers. These servicers are backed by private equity or venture capital. Private equity and venture capital are forms of financing that allow investors to directly invest in or purchase companies. A wide body of research indicates that companies financed by private equity or venture capital are particularly prone to prioritizing profit at the cost of consumers. This is troubling in the context



of nonprofit and especially public higher education which is funded by states in the federal government to provide affordable higher education to students and families from a wide array of backgrounds. We analyzed OPM contracts with public universities obtained by the Century Foundation along with data about financing structure. The HERE Lab shows that OPMs financed by private equity or Venture Capital are 30 percentage points more likely to provide recruitment services to the university. This is not surprising. The inclusion of recruitment in a contract allows OPMs to directly grow programs in ways that increase profit. These companies engage in aggressive marketing tactics targeted directly at racially and economically marginalized communities. In addition, we find that OPMs backed by private equity and Venture Capital Financing are 54 percentage points more likely to include a revenue share of payment structure in a contract with the public university. The revenue share payment structure allows OPMs to capture a percentage of overall tuition and fees ranging from 20 percent to 94 percent in our data. In a revenue share pricing scenario, OPMs have strong incentives to enroll more students and charge them a higher cost. Final contracts with OPMs often explicitly building contract provisions that allow for-profit providers to play a

role in setting costs and entail aggressive enrollment growth plans. Direct involvement with recruitment and revenues, pricing structures, allow 3rd party servicers to capture much of the profit from the students that they recruit. These are violations of the incentive compensation band, they're only allowable due to the loophole. I would like to state for the record that is not the case that online education produces positive outcomes for students. Please refer to a new paper produced by the HERE Lab entitled "Promising or Predatory" that my research team published online yesterday with Oxford University Center for Global Studies, [30 seconds] using the highest quality data and statistical methods that students who attend online programs at the nonprofits where online education is mostly by OPMs end up with worse graduation outcomes and repayment outcomes than similar peers attending in person. Our research highlights the importance of swiftly resending the incentive compensation loophole to ensure compliance with federal law intended to protect students and taxpayers. Thank you for your time.

MR. MARTIN: And thank you for sharing your remarks with us this afternoon. Our next speaker will be Ted Mitchell. Mr. Mitchell, whenever you are ready.

MR. MITCHELL: Thank you. Great to see you both and happy to be here. Ted Mitchell, president of the American Council on Education. I want to thank you on behalf of the American Council on Education for holding this session to receive input from stakeholders as the Department considers possible changes to the existing incentive compensation guidance and the bundled services exception. I appreciate the opportunity to comment today. When considering changes in this area, three pillars, transparency, innovation, and good student outcomes should guide the department's process and I'm confident with the proper guardrails in place, using those three pillars, we can achieve the right balance. As the 2022 GAO report made clear, there is still much to learn about the current landscape of colleges arrangements with online program managers have grown considerably in recent years, and even more to learn about the outcomes for students engaged in OPM managed instruction. In considering what changes, if any, would be appropriate to the guidance in this area, we believe the Department and the higher education community would benefit from a greater clarity regarding the variety of these programs including their intent, scope, economics, and importantly impact. We support the Department's goals of finding a way to improve its

sightlines into these relationships and to encourage greater transparency. As the Department considers changes to the specific 2011 guidance funded bundle, the services exception, I encourage you to keep two principles in mind. First, it's critical that we strive to help institutions of all kinds serve the needs of an everchanging population of students. As we saw during the pandemic, online programs are crucial to ensuring our ability to deliver quality post-secondary education programs. Ultimately, many ed tech services and companies hold great promise as part of our continuing efforts to provide access to high quality education. Let's be careful not to do more harm than good and certainly not to act before we have a good grasp of the entire picture. It's clear that we do not know enough yet to understand what revisions to the guidance will truly serve students, any proposed changes to the existing guidance must carefully weigh students' interests against the interests of taxpayers and institutions. And second, we know that the ban on incentive compensation provides important protections for the most vulnerable learners.

MR. MARTIN: 30 seconds.

MR. MITCHELL: If the services' exception is to remain in place, the Department should

make sure that the boundaries of this exception are clear and that there are appropriate guardrails in place to protect students and taxpayer dollars. This will require a scalpel, not a chainsaw, and data driven conversations about the economic realities of providing online program design, delivery and promotion. I want to thank you for your attention today and for the opportunity to address this important issue.

MR. MARTIN: Thank you for sharing your comments with us this afternoon. Our next speaker will be Kevin Kucera. Mr. Kucera, whenever you are ready. Mr. Kucera?

MR. KUCERA: Good afternoon. My name is Kevin Kucera and I'm vice president and chief enrollment officer at Eastern Michigan University. I appreciate the opportunity to have a conversation with you today. I look forward to submitting some additional written commentary as well. Today, I will share some context as to why the bundled service guidance has been and remains a crucial tool for Eastern Michigan University to be able to meet the needs of our students and navigate the challenges that we face as an institution. Eastern Michigan University is a regional public four-year university that was founded in 1849. We are located in Ypsilanti, Michigan, which is approximately 40 miles

west of Detroit. Eastern is an anchor for our region and economy dedicated to addressing workforce needs and thereby creating an opportunity for many students. One of those workforce needs which is currently as acute as ever is in the area of nursing and specifically the need for bachelor prepared nurses. Eastern Michigan University's nursing faculty and on-campus nursing programs have long held outstanding reputations for providing exceptional education. However, we came to recognize there were a large number of prospective students who, due to their circumstances, were not able to access our exceptional education. These students were nurses who were employed full-time and in many cases had significant family obligations. They had the desire to advance their careers and their earning potential with a bachelor's degree. Eastern had the faculty and the programs to help them accomplish those goals, but Eastern lacked the resources and expertise necessary to make the programs available to them online. The 2011 bundled service guidance allowed Eastern Michigan to afford and procure the outside resources, expertise, and support that we needed. I'm pleased to report that today Eastern Michigan University serves hundreds of nurses in our online registered nurse to bachelor, a science degree completion program, not only do the students

enjoy the flexibility that the program provides, but they're able to earn their degree in a very affordable fashion. Full tuition for the entire program is \$9,840. Eastern Michigan has frozen that tuition for each of the last five years. The program's success has had substantial positive impacts on Eastern as well. That means the number of enrollment in financial challenges, the success of the online program has strengthened the university's finances and enabled us to reinvest in student services. In conclusion, I respectfully urge the department to maintain the bundled service guidance because it remains an essential tool for Eastern Michigan to be able to serve our students with high quality affordable online programs. We simply could not be as successful without the-

MR. MARTIN: 30 seconds.

MR. KUCERA: -outside support that we've received- that we could not be successful without the outside support we received, which depends upon the guidance. Thank you very much.

MR. MARTIN: Thank you for sharing your comments with us this afternoon. Our next speaker will be Jillian Balow. Ms. Balow, whenever you are ready. Ms. Balow, you're on mute if you're speaking.

MS. BALOW: Thank you. Good afternoon.

My name is Jillian Balow. I served as the state superintendent of public instruction in two states, Virginia and Wyoming. I understand what it takes to build the strongest possible education experience for our students. I've spent my career increasing access to high quality education for students from preschool to post-graduate. In Wyoming, I was a trustee at the state's only land grant university. I was also an ex-officio member of the community college commission. During my tenure, I worked on course articulation, expansion of dual enrollment and efforts to enhance the college experience for a changing and diverse population of college goers. Today, that's more achievable than it was in the past because of the necessary and innovative partnerships between institutions of higher education and online program managers. Students need access to the right curriculum at the right time and in the right place in order to reach their full potential. Contractual agreements between IHEs and OPMs induce innovation that can cease as a result of hasty and confusing guidance released by the U.S. Department of Education. Online education has been a part of the college experience for a long time. Even casual observers have taken note of how the quality of online education has improved and that's thanks to OPMs and



schools ongoing work and collaboration to make the system the best that it can be. Online education is now a central pillar of the broader system. It has evolved from assigning work virtually to delivering high quality coursework that aligns with students' goals in a cost-effective flexible manner. Through bundled services and flexibilities afforded to colleges and universities, to build partnerships, OPMs and IHEs have customized online education to meet the demands of students with diverse needs. These partnerships are the reason that online education has improved exponentially and students are responding well. Continued innovation to best serve the diverse needs of students can only happen with the bundled services exception in place. Bundled services allows for collaboration and innovation so new challenges can be addressed to improve education delivery for all students. This is at risk. The Department of Education has introduced new and severe uncertainty into this equation, threatening the future progress and calling into question the future viability of partnerships that have done so much to improve education. The proposed changes were done so without adequate input from stakeholders. They vaguely and broadly identify who is impacted and this will have a chilling effect-

MR. MARTIN: 30 seconds.

MS. BALOW: -on OPMS and IHEs and it may stifle innovation and improvement in the online education space. I urge the U.S. Department of Education to ignore uninformed and dangerous calls to revoke the bundled services exception that make these partnerships possible and focus instead on policy that makes education more accessible. I intend to submit written comment and I thank you for your time.

MR. MARTIN: Thank you for sharing your remarks with us this afternoon. Our next speaker will be Lynne Bongiovanni. Ms. Bongiovanni, whenever you are ready. Ms. Bongiovanni, you're on mute.

MS. BONGIOVANNI: That happens all the time, so sorry.

MR. MARTIN: To me, too.

MS. BONGIOVANNI: It happens to all of us. That makes me feel better. Thank you for giving me this time today. I'm Lynne Bongiovanni. I'm the chief academic officer and provost at the College of Mount Saint Vincent. We're a small regional college in the Catholic tradition located in the Bronx, New York, and we have 175 years of history of working. We're founded by the Sisters of Charity, of serving the underserved. Most of our students are Pell eligible and they commute

and live on campus, mostly from the Bronx and the New York City area. So, for a school like ours that's regional, that is low cost, we rely absolutely on- part of our business is working with some third-party providers, it helps us be competitive with larger flagship national universities that are in this online space. We would not be able to compete without the support of some of the trusted partners we have in this area and these partnerships as I said are absolutely essential for us for our survival, our serving students effectively. They help us launch the sustained programs that would be able to pay for- we don't have the resources to pay for up front, but at the same time all of the academic quality and integrity is ours. These are our programs. I work with my academic team to develop them to adapt them for online. I take care of all regulatory. I'm the chief academic officer. There are programs, our faculty, and like all of our students, we really work on keeping serving our students well and we do this in the online space as well with small size classes. As I keep saying, low tuition, low student debt, and without these programs, we would have students who maybe stop out. We're seeing students who stopped out 10 years ago and now they can come back. We can serve them well through these flexible online programs

where we still offer some synchronous components. We want to keep that high quality contact with students but for us, this is about being able to serve students, advancing equity access to college so really changing this guidance would absolutely in my opinion really negatively affect certain student populations in the United States. This is really for us about first of all helping us middle size schools and small schools survive in this market and serve students well, and I'm going to say I think a school our size can serve students a lot better and we do serve students a lot better than these mega schools that are really moving into this online space by themselves, but really this is about, like I said, access to college, especially for working parents who are taking care of their families and these services give us the opportunity to work with companies that can help us serve students better and at my college that's what we're all about and I thank you so much for your time today and for letting us speak about this really important issue.

MR. MARTIN: We thank you for sharing your comments with us this afternoon.

MS. BONGIOVANNI: Thank you.

MR. MARTIN: Our next speaker will be Andrew Langer, Mr. Langer whenever you are ready.

MR. LANGER: I apologize for the background. Good afternoon. My name is Andrew Langer. I'm chairman and founder of the Institute for Regulatory Analysis and Engagement. I thank you for the opportunity to participate in this hearing. I am appearing today to voice concern of opposed guidance changes. My background, IRAE is a nonprofit, nonpartisan research education and advocacy organization. Our mission is to inject a common-sense perspective into the regulatory process to ensure that the risks and cost of regulation are fully considered based on the sound scientific and economic evidence and to ensure that the voices, interests and freedoms of Americans are wholly representative of regulatory process and debates. Finally, we work to ensure the regulatory proposals address real problems and that the proposals served to ameliorate those problems, perhaps most important that these proposals in fact do not make public policy problems worse. Our regulations are founded on facts and data. They're implemented in a way that encourages efficiency and transparency. We'll also foster in broken investments; their agnostic winners and losers and they are not punitive. Across all these measures, proposed provisions to the bundled services exception are the Department of Education falls far short of what any

objective observer would call a sound regulation. Our basic concerns are as follows: The Department of Education's current assault on online program managers is extremely concerning. Our organization opposes all instances of government overreach. The prospect of such overreach infringing on the ability of our nation's students to access education that aligns with their goals is particularly upsetting. Educational choice should be left in the hands of the students. Their goals, their reasons for pursuing higher education, their reasons for selecting particular education establishments, this proposal shortchanges those goals and takes that freedom of right from students.

Department of Education appears more interested in creating politically popular scapegoats than truly strengthening the higher education system in the U.S. While this seems to be the current milieu in the intersection of politics and public policy generally, this similarly shortchanges students in the long-term. You would disagree with the notion that online education is benefitting students. There's no question that online education has made it dramatically easier for a huge population of American students to obtain a college degree, and even as cost has steadily risen across higher education, online education has made it possible

for universities to expand the scope of their coursework without passing the cost of doing so onto students. OPMS have played a key role in this expansion of educational access, making it possible for schools to reach more students and better tailor programs to suit their needs.

MR. MARTIN: 30 seconds.

MR. LANGER: Despite the clear benefits, that innovative educational offerings created, the Department of Education has flirted with monumental changes that would endanger the progress that's been made through OPMS and put American education at a disadvantage to form competitors. There is no data to justify this action. Good regulations aren't built on such shaky empirical grounds. In fact, the essence of the administrative procedure affect is just the opposite. Regulatory proposals should not be arbitrary, capricious, and abuse of discretion and otherwise not in accordance with the law. In sum, the Department of Education should not be in the business of unilaterally limiting universities' ability to provide flexible education options rather than pressing harmful out regulatory overreach.

MR. MARTIN: Thank you.

MR. LANGER: Thank you very much.

MR. MARTIN: And thank you for spending

some time with us this afternoon and sharing your comments. At this time, I just want to announce that Wesley Whistle will be replacing Tariq Habash. Wesley's from the Office of the Under Secretary and he has just joined us and so we will continue with our next commenter who is Deanna Raineri. Ms. Raineri, whenever you are ready.

MS. RAINERI: Good afternoon. My name is Deanna Raineri, and I am the senior vice president for university strategy and market innovation for Wiley's University Services segment. First of all, thank you for holding these listening sessions and for your review of the 2011 Dear Colleague guidance. We agree that updating this guidance presents an opportunity to better reflect what we all understand is a robust dynamic and innovative higher education marketplace. Our goal, like yours, is to provide both greater transparency and accountability for students. Wiley will be filing more detailed written comments in response to the Department's questions but today I'd like to highlight three core thoughts for your policy considerations. First, Wiley has long offered both revenue share and fee for service options so we have insights into both models. We believe that it is very important for institutions to have the optionality and



flexibility to determine what contractual and economic structures work best for them. In our experience the institutions that choose revenue share agreements often smaller or regional public nonprofit universities are the ones that don't have the capital resources to incubate and explore innovative new and accessible models of teaching and learning on their own. In these situations, Wiley makes the initial and significant investment to stand up a new program including for marketing, recruiting, program design and faculty development and also importantly for student retention related services. The requirement for a bundle of services beyond just recruitment has the benefit of having providers engaged and accountable to the institution for their students' longer-term success, not just their enrollment. Second, Wiley has no role in key institutional decision making. The institutions, not us, set tuition and fees for their programs and work with their students directly on financial aid. Institutions choose which academic programs to offer. They set the admissions criteria and they make all admissions decisions. An institutional faculty teach all of the courses. Third and finally, Wiley is strongly supporting the revenue share model. Wiley supports policies that more clearly define the bundle including the addition of

services such as faculty development program design-

MR. MARTIN: 30 seconds.

MS. RAINERI: -of student related services, student retention related services as these are essential to students' success, which is our goal. To conclude, I thank the Department for its time today. Wiley looks forward to a continued dialogue as you consider potential updates to your guidance in this area. Thank you.

MR. MARTIN: And thank you for sharing your comments with us this afternoon. Our next speaker will be Robert Wagner. Mr. Wagner, whenever you are ready.

MR. WAGNER: Good afternoon, members of the Department of Education. I want to say thank you again for the opportunity to speak on today, and I want to briefly share about the transform of the power of affordable online education and how it can positively impact the lives of millions of people, especially those with disadvantaged backgrounds. Now to illustrate this point, I want to share a story of a young woman who is very dear to me. She grew up in a very difficult environment with parents who struggled with drug addictions. She spent much of her childhood in foster care, moving from home to home, and never really knowing

what stability felt like and despite these challenges she had a dream of becoming a nurse, a career that will allow her to help others and give back to her community. Now, in spite of limited financial resources, her dream seemed out of reach, but then she discovered the power of affordable online education through a regional university supported by Academic Partnerships. In a partnership based on the bundled services exemption, she has been able to work towards her nursing degree while working part-time to support herself. She was able to complete her coursework on her own schedule from the comfort of her own home and at a fraction of a cost to traditional in-person programs. Now today, she's a nurse and during my time as a manager at Academic Partnerships for this program, she saw me on a video and reached out to tell me of all the wonderful things that she had begun. Now her story is a testament to the power of affordable online education to change lives and breakdown barriers to opportunity, but her story is not a unique one. There are millions of people like her who face significant obstacles to accessing quality education. Whether it due to financial constraints or geographic limitations or other factors, these individuals are often left behind by a traditional educational system and that's where online education

comes in, providing affordable, flexible, accessible learning options like Academic Partnerships, online education can help level the playing field and give everyone a chance to succeed, whether it's a single parent juggling work and family duties or a rural student with limited access to in-person classes or a low income family struggling to afford tuition. Online education can make all the difference. To the Department of Education, I want to first thank you for allowing me to comment today and share my story as both a family member and someone who actually currently works at Academic Partnerships, I urge you to consider the importance of affordable online education. By investing in these programs and expanding access to them, we can help millions of people achieve their dream and contribute to their communities like my family member. We can help break the cycle of poverty and inequality and create a brighter future for all. Thank you again.

MR. MARTIN: Thank you for sharing your comments with us this afternoon. Our next speaker will be Katie Stanton, Ms. Stanton, whenever you are ready.

MS. STANTON: Good afternoon. I just want to start out by saying thank you for providing the opportunity to share on this important matter in education. My name is Katie Stanton. I work as a student

services coordinator for the Eau Claire Area School District. The student services coordinator is responsible for the overall management of data systems and practices and equitable multilevel systems of support and frameworks within the district. It supports behavioral, social and emotional needs of our students. So, my experience, I am a 2021 graduate of the UW Superior's Online Masters of Science and Educational Administration Program. I worked as a school counselor for the past six years and found myself wanting to do more of a leadership role, which led me to my current position. My goal for this program was to get my administration degree and throughout this program I was able to really learn more about what leadership was and it made me look more into systems and frameworks. I was referred to Kelly Abar, who represents UW Superior through their partnerships with Academic Partnerships and because of Kelly my experience with UW Superior was amazing. Without her, I wouldn't have even investigated UW Superior's online program. She and Academic Partnerships, like their team provided me with such great information and support, which made the planning and the decision very easy. Also, I am employed full-time so being able to do a program that is 100 percent online was a huge benefit. The affordability, the

convenience, accessibility to resources and professors who truly cared made it a top-notch program. Throughout the entire program, I was able to ask my university professors and the Academic Partnerships team other programming questions and career outcomes which ultimately led me to pursue an additional licensure above my administration license, so I made that decision because of the convenience and how much I had enjoyed my current program and it helped me to get to my current role and then to move forward with the online program-

MR. MARTIN: 30 seconds.

MS. STANTON: -which will allow me to have even more opportunity for leadership roles, so my online experience has been fantastic and I applaud the work of both Academic Partnerships and the University of Wisconsin Superior.

MR. MARTIN: Thank you for sharing your comments with us this afternoon. Our next speaker will be Nathanael Scherer. Mr. Scherer, whenever you are ready.

MR. SCHERER: Thank you. Good afternoon. My name is Nate Scherer of the American Consumer Institute and I'd like to thank the Department of Education for the opportunity to speak today. The American Consumer Institute's mission is to promote

consumer welfare by improving the understanding and impact that public policies and regulations have on consumers in the free market. What we often see is that government overreach, even when it is well intentioned, is a barrier to progress and innovation. Generally speaking, the imposition of vague and extensive new regulatory requirements can be an impediment to economic growth, investment in broader innovation. Whether a new regulatory structure takes the form of new permitting requirements, broader reporting, stricter oversight or otherwise, then that impact is typically reduced activity and efficiency. In the end, consumers suffer. The education and technology sector is no exception. The American Consumer Institute has written extensively about regulatory policy and innovation in higher education over the years including the extensive examination of online models for reaching non-traditional students. We are concerned that the so-called bundled services exception, which empowers institutions of higher education to freely enter partnerships with online program managers must be preserved. If the department were to release updated guidance that eliminates this exception, there would be serious implications, not just for the education sector itself but also for the students it serves. The benefits

of online education are clear through rapid advances in education technology. Students across the U.S. are more readily accessing education that can prepare them for a bright future and strengthen our national outlook in the process. Data shows that students who utilize online education are extremely satisfied with the experience and there is growing support for the availability of online offerings in technology and higher education. Competition among OPMS is leading to better and more diverse online offerings which benefit students. Because of this, online education so often developed and powered by universities in close collaboration with OPMS in facilitating first rate experience for students who might otherwise have been unable to access a classroom for a host of different reasons. Ongoing collaboration between schools and OPMS is poised to drive the continued innovation in this critical field, benefitting students in the higher education system. The Department of Education's apparent dissatisfaction with the OPMS and revenue sharing model for which they work with universities would seriously endanger this innovation.

MR. MARTIN: 30 seconds.

MR. SCHERER: Education has become more inclusive thanks to online tools. The department must understand that revoking bundled services exception



would threaten the inclusion by eliminating programs and power traditionally marginalized Americans. This is an unacceptable outcome. Ensuring that the broadest access possible to quality education across economic and social spectrums should be the Department of Education's top priority. Thank you.

MR. MARTIN: Thank you for sharing your remarks with us this afternoon. Our next speaker is Jim Burkee. Dr. Burkee, whenever you are ready.

DR. BURKEE: Good afternoon. My name is Jim Burkee. I'm the president of Avila University in Kansas City. Over the last 10 years across multiple institutions, I've worked with many online program management partners in many sectors of American higher ed. All have been private universities and colleges focused on access to education for underserved, low income, first generation and immigrant communities. The guidance in the 2011 Dear Colleague letter has done its job and is working well in the partnerships I have experienced. OPM companies bring capital and expertise in areas where many colleges and universities are lacking. But clear guidance in the Dear College letter defines and clarifies roles and ownership. OPM companies have expertise in enrollment support, in structural design and student support. Universities control

admission decision, curriculum, advising and all things academic and this is clearly stated in the Dear Colleague letter and has provided solid guidance for our partnerships. OPM university relationships have benefited and continue to benefit the students we serve. With their attentiveness to the market dynamics, OPM partners have consistently helped us glide down online and hybrid costs for students. For example, prices for Avila University's online programs today are near the bottom of the private university market, primarily because of the guidance of these partnerships. The efficiencies they bring also help us drive down costs and drive-up access. We, with our OPM partners, are focused rigorously on academic quality, serving students where they are, supporting academic quality with strong and structural guide assistance, and providing data driven student support services that ensure retention in completion. This level of quality and student success would not be as significant were it not for the collaboration with our OPM partners. Partners I work with are deeply committed as is Avila University to following the guidance of the Dear Colleague letter. Indeed, the partners that I work with care as much about the needs of our students as we do. What exists is working and messing with it by significantly changing

the guidance or adding significant additional regulatory burdens will only cost students. For those of us that are interested in serving low income and the first-generation student, this would be a significant hardship and I believe it would be a disservice to the students, the proponents of this more radical change purports to care for. I support continued rigorous oversight using the existing model, since it is largely working as intended. If it ain't broke, don't fix it, and from where I sit, it ain't broke.

MR. MARTIN: 30 seconds.

MR. BURKEE: Just the opposite, working, it's working well, so thank you for your consideration.

DR. MARTIN: Thank you for spending some time with us today and sharing your comments. Our next speaker will be Edward Longe. Dr. Longe, whenever you are ready.

DR. LONGE: Thank you so much for the opportunity to discuss today the recent proposals from the Department of Education to reclassify online program managers with third party providers, opening them up to further regulation and government intervention. Such proposals will acknowledge, or well intentioned, would only hurt the very people the department is trying to

protect, students. When COVID-19 arrived in the United States back in January 2020, almost every school in the country was forced to pivot online learning, a pivot that forced teachers and school administrators to fundamentally alter how they deliver education to students who are facing an unfamiliar reality. Without these online program managers who are able to development and roll out online courses quickly, the shift from classroom to the dining room would have been more disruptive to children's learning, creating educational outcomes in the long run, and made the shift back to in-person instruction harder. Put simply, without OPMS, the impact of COVID-19 on education would have been far more devastating than it already was. Since the pandemic, the importance of these online program managers has only grown as students experiment with new and innovative methods of receiving education. In 2021, for example, it was reported that 550 institutions across the country used online program managers, delivering instruction to thousands of students who would otherwise have been forced into a modality that does not suit them. This market simply would not exist if it was not demanded by both students and institutions that derive considerable value from the services provided. Reclassifying OPMS as third-party

providers would disrupt this relationship and ultimately make it harder for them to operate and deliver popular services. In the long run, it will also deprive students of educational options and force them into a modality that may not suit their needs. Currently, revenue sharing agreements between an OPM and institutions allow them to scale up their online offerings at a much lower up-front cost to the university, and of course with much greater speed. Because of these arrangements, many schools that do not have large budgets available to them are able to expand offerings to students without the massive upfront costs. Restricting the ability of OPMs to engage in these agreements with institutions will ultimately drastically increase the cost for students and limit the pace and scale of innovation. Particularly, this would especially hurt low-income students and also first generation students. Thank you for allowing me to speak to you this morning.

MR. MARTIN: Thank you for sharing your comments with us this afternoon. Our next speaker will be Todd Shields, Mr. Shields whenever you are ready.

MR. SHIELDS: Good afternoon. My name is Todd Shields and I am chancellor of Arkansas State University. I appreciate this opportunity to share about our institution, our programs and how essential the

bundled service guidance has been for both. For over a century, A State has dedicated itself to offering career oriented undergraduate and graduate programs to meet the needs of the workforce in Arkansas. At our founding, that meant a focus largely on on-campus agricultural programs. Today, it means offering a wide range of programs and recognizing that we have an obligation to harness modern technology to serve many students who, for a variety of reasons, cannot take part in our on-campus offerings. Accordingly, Arkansas State University has created online programs that are affordable, convenient, and high quality. Of the 18 programs we offer, eight of them are priced below \$10,000 and no program is priced above \$16,000. In Arkansas, we are ranked 7 out of 10 in cost and that's largely because of our online programs. We are now the state's largest provider of graduate degrees in education and are proud of equipping thousands of teachers, principals, superintendents and other educational professionals each year to better serve students and to generate more opportunities for themselves and their families. A core truth I wish to convey to the department is that our institution does not have nor could we build the in-house resources and expertise necessary to achieve these results. Similarly, we could not afford the necessary

outside assistance without the models made available to us by the bundled service guidance. Finally, thanks to the bundled service guidance, our institution is able to be a successful part of the online ecosystem alongside the for profits and the mega universities. Given an institution of our size, the populations we serve, particularly compared to characteristics and resources of for profits and mega universities, this is no small feat. Because of the immense benefits that the bundled service guidance makes possible for our institutions, for our students and for our communities, on behalf of Arkansas State University, I respectfully urge the Department to please maintain this critical tool. Thank you very much.

MR. MARTIN: Thank you for sharing your comments with us this afternoon. Our next speak will be Palmer Schoening. Mr. Schoening, whenever you are ready.

MR. SCHOENING: Thank you for the opportunity to offer comments today. We work with over 100 other small business associations on tasks and regulatory issues, important family-owned businesses. Many of our member associations are in manufacturing, contracting, and distribution. Those are all industries that were hit particularly hard during the pandemic. The labor shortage has been a consistent problem for small

businesses. Online learning has been increasingly important in terms of providing trained workers in the trades and making sure that qualified candidates are graduating from college. Third party platform providers, many of them small businesses themselves, have served an important role in helping colleges and trade schools connect to students. This technology has made it possible for potential small business employees to learn a trade remotely. Making sure that these online learning platforms continue to be available to as many students as possible should remain a priority. The intent of the education department's efforts on this front is good. We all believe in rooting out bad actors that take advantage of students. But when we see what looks like a drastic expansion of the regulatory framework that universities must navigate in order to continue to deliver for students, it becomes worrisome. Again, we support the intent of this effort but have particular concerns with any modifications to the bundled services exception. This exception has been essential to the partnerships between universities and online learning platforms. Cooperation between schools and OPMs has sparked innovation and technology enhancements that have made education more accessible, more inclusive, more affordable, and more flexible. We respectfully request



that the education department take these concerns into consideration. Thank you for your time.

MR. MARTIN: Thank you for sharing your remarks with us this afternoon. And our next speaker will be Bob Carey. Mr. Carey, whenever you are ready.

MR. CAREY: Thank you very much and I appreciate the opportunity to discuss these issues with you today. The National Defense Committee is a veteran serving organization that was established in 2003 and its primary purpose is to protect the civil rights of military personnel. A large part of that has been in the past thing such as military voting rights and re-employment rights for reserve military personnel, but another one of the big issues is the freedom to contract. These benefits, especially educational benefits that military personnel receive are earned benefits. It is no different than the paycheck they receive. It's just delivered in a different format. And so the problem becomes when the Department of Education and the Department of Veterans Affairs puts in place what appear to be condescendingly paternalistic approaches towards regulating how those military veterans can utilize their educational benefits and it appears that with the OPM issue, that is being expanded to the entire population, because the students should

have the rights to determine their own educational benefits and their own educational way of pursuing that, and these restrictions drive students towards larger traditional nonprofit institutions that don't provide the innovative methodologies of pursuing that education, especially necessary for military and veterans. These military and veterans need more innovative educational provisions and things like OPM and other types of innovations are necessary to meet the unique educational needs of military and veterans. This appears to me to be fundamentally a state's issue and makes me even wonder why the federal government is seeking to impose the one size fits all solution nationally, which would seem to be by its very definition arbitrary and therefore in violation of the Administrative Procedures act. I am a former undergraduate and graduate school educational instruction and I am now a student myself pursuing an online doctorate and that would not have been possible but for the innovations that my university provides in providing that online doctorate.

MR. MARTIN: 30 seconds.

MR. CAREY: So, given that, the National Defense Committee especially encourages you to take a look at what has happened with the veteran and the military education population and not take on the

same errors that have been imposed on those students.  
Thank you.

MR. MARTIN: Thank you for sharing your comments with us this afternoon. Our next and final speaker will be Laura Hunt. Ms. Hunt, whenever you are ready. Ms. Hunt, you appear to be on mute.

MS. HUNT: Now can you hear me?

MR. MARTIN: Yes.

MS. HUNT: Okay. I'm Laura Hunt and I'm going to be speaking from a student's perspective. I work in the Lake Hamilton School District in Percy, Arkansas, where I'm an administrator. I'm the AP coordinator and the district testing coordinator. I've also served as an assistant principal and principal roles. This is my 27th year in education. I did receive my bachelor's and master's degree in a brick-and-mortar school, but because of the academic partnership program, I was introduced to the online program, and I received my educational specialist and educational leadership from Arkansas State University. The way I learned about that program was through one of their recruiters who 10 years later I still have a relationship with. She informs me and our teachers about programs online that they have. She also encourages us to let our students know what kind of programs are available online. We are

a rural area and the closest four-year university to us is almost an hour away. For myself and receiving an upper-level degree, the closest place for me to have gone that would have been at least an hour and a half away one way. I was able to, through the online programs, raise two toddlers, which is difficult in itself but I was also able to save money through doing these online programs. I did not have to drive, so lots of gas money, wear and tear on my car. I was able to work at my own time and the days that I was able to work, a lot of people think that online education you're not receiving as good of an education but through their program, we were encouraged to work with students in our class and they may have been from Arkansas. I worked with people from Florida and Oklahoma and Texas and so you're honestly getting a lot more resources and just some different ideas from people in different states. Had I not gone through that program, I think that I wouldn't be doing as good of a job. I was also able to learn more to do better to serve our students here and the other thing that I've seen through the academic partnerships is that they are constantly encouraging our teachers to seek higher education. We're seeing a lot of teachers get some specialization such as in reading or dyslexia, special education, all things that are going

to be needed for our students in the future. So, to think that these entities are not going to be funded or allowed to continue to work-

MR. MARTIN: 30 seconds.

MS. HUNT: -makes me realize that they are very, very much needed. We need more teachers. There's a shortage and if we start taking away programs like this, then I think it will hurt us. So, I appreciate your time and I hope that they are allowed to continue. Thank you.

MR. MARTIN: Thank you for sharing your comments with us this afternoon. This concludes today's listening session. I would like to thank all of our speakers for taking the time to prepare their remarks and share them with us. I would also like to express my appreciation for all the people at the Department who helped bring this to you. Many of them are behind the scenes working in production and in the administrative aspects of this. As a reminder, comments may be submitted electronically at [www.regulations.gov](http://www.regulations.gov). Thank you and good day.