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EXAMINING THE OPM

Form, Function, and Policy Implications

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INTRODUCTION

The phenomenon of online program management (OPM) in higher education has recently gained much attention as a newly significant and somewhat controversial way to quickly expand institutional capacity for online learning. Online program management, managers and firms, and agreements are better understood, however, as extending two significant trends. First is the trend toward the expansion of online education in general. Especially since the advent of the World Wide Web in the mid 1990s, the internet has facilitated distance education models that have proven both effective in delivering education and popular with respect to the market. Even before the recent shifts to online and remote learning because of the COVID-19 pandemic, exclusively online students represented nearly one in seven undergraduates and more than a quarter of all graduate students (Legon & Garrett, 2018). The number of students taking at least one online course highlights the prevalence of distance education as a feature of the American higher education experience. Where once online education might have been an outlier—skeptically viewed as second-class to the preferred residential experience—it is now a critically important dimension of how most colleges and universities provide access to learning for at least some proportion of their students. Moreover, online education is often seen as a potential revenue generator for universities and, thus, has proven attractive to university leaders seeking to diversify their revenue streams. The challenge is that many universities lack the institutional capacity, financial capital, and faculty buy-in to commit to the upfront costs of establishing their own online programs.

The second trend is the university's move toward outsourcing to external entities its more or less peripheral activities. The university bookstore and coffee shop have long been run by Barnes & Noble and Starbucks. More recently, enrollment of international students has been outsourced to agents who seek out and direct student enrollments to individual institutions. Pathway programs have emerged to enroll students in intensive English and introductory curricula through contracted arrangements with colleges and universities. Providers such as StraighterLine offer low-cost general education courses that institutions accept for credit toward their undergraduate programs. Akin to broader issues of privatization, outsourcing is a way for nonprofit and public institutions to partner with private entities, whereby they can access specialized expertise and capital to provide services that the college decides it does not need—or cannot afford—to provide in-house. OPM firms are an extension of these trends. Online education is expanding and represents a potential revenue stream for higher education. Outside firms step in as entities that can manage online delivery of some or all of a program of study. Just like universities gave Starbucks the responsibility to run the coffee shop, OPM firms have been given the keys to support online academic programs. In our view, then, online program management firms represent the merging of these trends toward online education and outsourcing. They are a way for institutions of higher education to solve the problem of developing online programs in a financially viable way when it would be challenging for the institutions to acquire the resources or in-house expertise to do it themselves.

Yet, the use of OPM firms raises potential concerns that are not present in other types of outsourcing. First of all, on the surface, the outsourcing relationship with the academic institution seems both more embedded in the academic program and less evident to students, policymakers, and other stakeholders. This hidden nature of OPM agreements, as well as their direct connection to the curriculum, raises questions about how core instructional activities are outsourced. The second concern allows the re-emergence of some of the same negative behaviors and outcomes that tarnished for-profit higher education in the late 2000s and early 2010s—but this time under the presumed legitimacy of the nonprofit university umbrella. Underlying both of these is a continued skepticism of online learning as a substitute for the residential model.

While prior research may have included insightful and informative information, our existing knowledge base regarding online program management is limited. Most previous work is in the form of blog posts, news articles, and market reports. The discussions in news articles and blog posts are often very general or very narrow in scope, thereby making comprehensive understanding difficult. Market reports written mostly by OPM firms or consulting companies may be able to draw a more complete picture of online program management, but much of this work is proprietary and only a few nuggets of information are distributed to whet a client's appetite for more. Furthermore, the intent of some reports is to advertise or promote a specific company or investment opportunity. Finally, few studies from academics have investigated OPM firms, agreements, or policies, and these studies typically examine OPM partnerships at a single higher education institution. Overall, there are few data-driven empirical studies that analyze the features of online program management; what services the firms offer; how the agreements between OPM firms and universities are devised; and how much online education costs, the revenue it generates, and the impact of quickly scaling programs on existing academic structures and programs.

The absence of research into the online program management phenomenon may be of particular importance now, as interest in and experience with online and remote learning during the COVID-19 pandemic may further increase the role of OPM firms. Universities may increasingly hire OPM firms to help them transition in-person classes to a remote learning format, which may draw more investors to the online program management industry. Universities may also become more likely to hire OPM firms to help them launch online programs, as pandemic-related financial challenges simultaneously push universities to develop new revenue streams and prevent them from locating start-up funding for online programs within their internal budgets.

This report features key and distinct sections about the form, function, and policy implications of online program management and firms. We begin with a working definition for online program management. Literature, news and media, and institutional definitions differ, which makes it challenging to compare similarities and differences among OPM firms, services, and behaviors. This definition section will help address the layers of outsourcing activities for a more complete understanding of this phenomenon.

Next, the College and University section explores reasons why colleges and universities decide to partner with OPM firms. The context for decision-making to outsource for online programs focuses on the start-up financial considerations, the tasks required for online education production, and the long-term outcomes of the deliberation over whether to implement tuition-share or fee-for-service agreements. We discuss the impact on institutional governance and branding when boundaries are blurred in partnerships between for-profit entities and nonprofit institutions.

We discuss OPM firms in the third section. Current OPM companies are hard to investigate, as many are private, proprietary, and change organizational structure quickly. No tracking or national database exists, making it difficult to keep and organize a comprehensive list—not to mention the contestable definition of online program management. We use

Phil Hill's categorization and list of OPM firms as a starting point, and we then provide additional details to help explain how and where this outsourcing practice developed.

Lastly, our Policy Perspectives section looks at the possibility and peril of regulating the OPM landscape. The rise of OPM firms was an unanticipated development and has led to calls for regulation. Policy gaps exist because eligibility is ambiguous, full institutional control is presumed, and the operational details of OPM agreements are largely unknown. We provide five areas where current policies might be modified to accommodate the current and future online program management trend. Unintentional consequences of over-regulation in this area could capture other forms of noncontroversial outsourcing or online management, so the Triad of state, federal, and accrediting entities will need to move forward with caution as policymakers.

DEFINING OPM

Our first challenge in understanding the OPM universe is to bring clarity to what "OPM" actually means, starting with the term itself. Past discussions have been complicated by the use of multiple definitions for this acronym. For example, OPM sometimes stands for Online Program *Management* and sometimes represents Online Program *Manager.* These two versions direct attention in very different ways. When 'M' stands for "Management," attention centers on a portion of the work that must be completed to develop and sustain an online program. When 'M' stands for "Manager," the focus shifts to the entity that is completing this work. The *Management* of online programs could be fulfilled by multiple *Managers*. An external online program manager could complete the management work on behalf of a higher education institution, or the institution could complete that work internally. When an external manager completes the work, attention could be directed to a third item: an OPM *agreement* between the higher education institution and the external manager.

This report examines all three of these items: management, managers, and OPM agreements. When crafting policies and procedures, governmental policymakers and accreditors will need to determine where to allocate their limited attention. A focus on management will lead to scrutiny of all online programs because this activity is always present. If the focus shifts to managers, then attention will largely turn to organizations that specialize in the provision of OPM services. When OPM agreements are the focus, then specific partnerships between higher education institutions and their external partners are examined.

The definitional challenge is further complicated by the vagueness of the word "management." Although the definition of this term varies across sources, definitions typically emphasize the setting of strategy and the coordination of people and tasks. Not all work associated with online programs would qualify as "management," which means that not all outsourcing agreements relating to online programs are OPM agreements. If an external organization is simply providing back-end support services for enterprise applications or technology solutions, it would not be serving as an online program manager. Many online program outsourcing agreements do not relate to management.

> **We define an OPM *agreement* as the outsourcing of a suite of services that leads the external provider to participate in the management of the online program.**

In this report, we define an OPM *agreement* as the outsourcing of a suite of services that leads the external provider to participate in the management of the online program. The provider's participation in management could be driven by its influence over decisions for important areas such as pricing or curriculum. A number of contracts obtained by the Century Foundation contain provisions that provide external OPM providers with such a role.[1] The provider could also participate in management by completing a wide array of important tasks pertaining to the online program. In practice, such widespread outsourcing to a single organization leads the external provider to engage in a coordination function, which is accompanied by the making of higher-level decisions.[2]

OPM agreements can be classified based on the characteristics of the online program associated with the agreement, the characteristics of the OPM provider entering the agreement, or the characteristics of the agreement itself. A key feature of an online program is whether it relates to for-credit instruction or noncredit instruction. Noncredit programs, such as coding bootcamps, are not under the reach of accreditors and are typically ineligible for Title IV funds. Consequently, some OPM-related activity extends beyond the reach of most higher education regulations. A key feature of the OPM provider is whether it operates as a nonprofit institution or a for-profit institution. Our definition of an OPM provider incorporates both organizational types, but most OPM providers are for-profit firms. Although federal policy does not distinguish between for-profit and nonprofit OPM providers, it does distinguish between for-profit and nonprofit higher education institutions. The rationale for this distinction stems from concerns about how financial incentives impact activities—such as student recruitment—that for-profit OPM firms often perform on behalf of nonprofit institutions.

OPM agreements can differ across a number of contractual terms. A Century Foundation report directs accreditors' attention to seven types of agreement characteristics: services included, number of programs managed, percent of the institution's total enrollment affected, payment terms, length of contract, ability of institution to separate itself from its OPM provider prior to or at the end of the contract, and the role of the OPM provider in the governance of the online program.[3] Some of the characteristic types contain multifaceted considerations. For example, the first category relates both to whether a large share of an online program's services is included and to whether services of special concern (e.g., marketing and recruitment) are included.

This section of the report illustrates the complexity associated with OPM agreements. No precise definition or classification can be offered easily because the boundary between OPM and non-OPM outsourcing agreements is blurry. We have highlighted central considerations that can be used to clarify and focus thinking on where individual agreements relate to this boundary. As highlighted by the list of seven agreement characteristics from the previous paragraph, OPM-related considerations are multi-dimensional, and no simple formula can integrate those dimensions to define a precise boundary—yet, general principles can still guide thinking in productive ways.

[1] Mattes (2017) provides and analyzes more than 100 outsourcing contracts, many of which detail OPM agreements. The contracts were obtained via public record requests that were directed to the flagship public institution in each state, a public community college from each state, and a random set of additional public institutions. Hall and Dudley (2019) provide and analyze 79 additional contracts that were obtained via public record requests directed to public institutions with a large number of students enrolled online. Each report contains links that direct interested readers to the full contracts.

[2] Phil Hill has highlighted several other distinctions that are helpful in determining when an external provider is engaged in management (Hill, 2019a). He emphasizes that an OPM provider is the primary partner. The OPM role is so large that a university cannot engage in two OPM partnerships for the same program simultaneously. He also emphasizes that an existing OPM provider cannot be easily replaced by another because the provider is playing such a central role within the operations.

[3] Dudley, Hall, Acosta, & Laitinen (2021) present a framework that accreditors could use to examine OPM contracts. For each of the seven types of agreement characteristics, they list relevant provisions that can create risk for the institution and its students. They describe the magnitude of risk associated with each provision using a five-point scale.

COLLEGES AND UNIVERSITIES: WHY THEY DO (OR DO NOT) PARTNER WITH OPM FIRMS

An OPM partnership requires two willing partners. OPM firms, discussed in the next section, would not exist if colleges and universities did not partner with them. In this section, we will discuss the reasons why some higher education institutions enter into partnerships, as well as the reasons why other higher education institutions do not and engage in more limited and targeted outsourcing. Before doing so, we discuss the larger context facing colleges and universities that shapes their decisions.

A NEW CONTEXT

Although higher education institutions have long engaged in distance education, the rise of the internet provided institutions with the opportunity to attract and educate large numbers of students at a distance. This opportunity also came with multiple challenges. Colleges and universities need to operate in new ways to identify prospective online students, produce online instruction, provide online services, and finance online programs. The means of operation that institutions use to create and operate in-person programs have limited applicability to the online context.

The identification of prospective online students represents the first challenge. When recruiting for in-person programs, higher education institutions can focus their recruitment efforts on easily identifiable populations, such as high school students nearing graduation or individuals living within driving distance of the institution. In contrast, online programs are more likely to attract older students and individuals who live far from campus; however, institutions often have no straightforward method of identifying the small share of the population that would have interest in a specific online program.

The asynchronous delivery of instruction at many online programs creates a second challenge. Courses often do not occur at scheduled times but are instead completed by students at a time that best fits their schedules. To develop and deliver asynchronous courses, institutions must obtain new types of expertise in online pedagogy and technology.

> **Colleges and universities need to operate in new ways to identify prospective online students, produce online instruction, provide online services, and finance online programs.**

The provision of online student services also requires a different approach. The existing in-person infrastructure is typically based on in-person interactions during normal business hours, which aligns poorly with online students who are often employed and have caregiving responsibilities. Institutions must develop new forms of operation that can occur at a distance and during expanded hours. In addition, the services must contend with specific challenges facing adult students relating to financial aid, payment options, transfer coursework, and other items.

The financing of a new online program presents a final challenge. The creation of new online programs is often framed as a means of improving the institution's financial situation rather than as a simple act of enacting the institution's mission. Colleges and universities are consequently hesitant to divert funds from elsewhere or to accrue debt to cover the start-up costs associated with launching new online programs. Furthermore, they are wary of potential losses that might ensue if programs are unsuccessful.

THE TASKS OF ONLINE EDUCATION PRODUCTION

Many higher education institutions will find it challenging to complete the work associated with the creation and operation of an online program. Figure 1 lists the key activities that must be completed. *(A more detailed list of activities is included in Appendix A.)*

Obtaining students, the first category of activities, is central because an institution cannot function without students. Furthermore, an institution must attract a substantial number of students to generate enough tuition revenue to cover, or exceed, the costs associated with building and operating an online program. These considerations mean that *market analysis,* the first step in obtaining students, is critical because it helps the institution estimate the likely student demand for the online program. If the institution decides to move forward with the program, they turn attention to the similarly important tasks of *marketing* the program, *identifying prospective students,* and *recruiting identified prospects.*

Instructing students, the second category in Figure 1, relates to the central mission of higher education institutions. The first step, *program and course planning,* is often connected with *market analysis,* because institutions want to ensure the program's requirements and offered courses align with the interests of potential

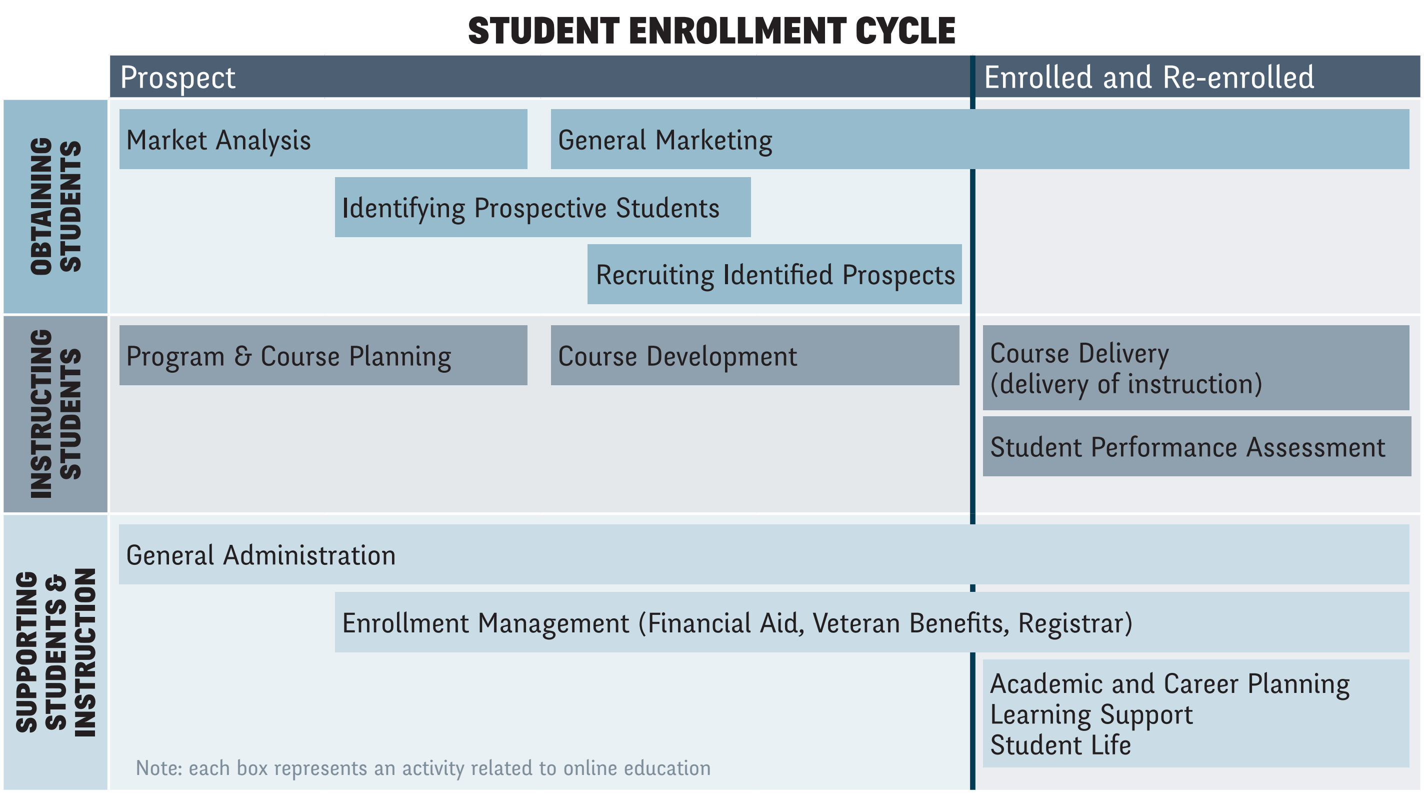

FIGURE 1: The Production of Online Education: Central Tasks

students. To enact these plans, attention turns first to *course development* to ensure that instructors and students will have access to the necessary digital materials. Once students enroll in the program, the focus turns to *course delivery* as an instructor leads students through the course material. In many instances, *student performance assessment* is simply a subcomponent of course delivery as the course instructor assesses the students' academic work. This item is listed separately, however, because assessment can be completed by someone other than the instructor.

The final category, **supporting students and instruction,** contains the wide array of additional activities associated with online education. As Appendix A documents, each of the activities listed in Figure 1 is itself a general category containing many distinct activities. These activities are sometimes closely connected to the recruitment and instruction of students. For example, conversations pertaining to financial aid and transfer credit, and items listed under enrollment management, are important parts of the student recruitment process.

THE OPM (AND TUITION SHARE) DECISION

For each activity associated with online education, a higher education institution must decide whether to complete the activity itself or outsource the activity to another organization. All higher education institutions outsource some needed activities. For example, colleges and universities commonly rely upon learning management system (LMS) software created by another organization. All institutions, however, do not engage in OPM partnerships by outsourcing a suite of management-related activities to one firm.

Previous authors have noted various reasons why administrators of higher education institutions might choose to partner with an OPM firm and various reasons why they might not. Appendix B summarizes this literature by listing six commonly noted reasons for each of these two decisions. In practice, most administrators within higher education institutions will not carefully review the literature and weigh each of the items on these lists. Instead, they are more likely to contemplate two general considerations that underlie the specific reasons noted in Appendix B.

> **Administrators will be attracted to OPM agreements that allow them to skip this work, but they will also be repelled by the diminished control that comes with such agreements.**

The first consideration is the tension between convenience and control. A partnership with an OPM firm is convenient—because, as noted earlier, most higher education institutions need to shift their operations to identify prospective online students, produce online instruction, and provide online services. To complete much of the work themselves, a higher education institution would need to engage in a time-intensive process of adding capacity. Some of the existing personnel will need to increase their knowledge base and adjust their way of working, and some new personnel with specialized expertise will need to be hired. Senior administrators will need to divert their attention from elsewhere to initiate and coordinate these changes. The changes are not likely to occur quickly due to the nature of decision-making processes within higher education institutions. The implementation of the changes will feel like a daunting task to administrators whose institutions possess little existing capacity for online program management.

Administrators will be attracted to OPM agreements that allow them to skip this work, but they will also be repelled by the diminished control that comes with such agreements. A substantial portion of the day-to-day operations will occur outside of the higher education institution, and so administrators must trust their partners to complete the work well. The contract underlying the OPM agreement may contain restrictions that limit the institution's autonomy in key areas such as curricular changes and pricing. The institution will have access to a manager's expertise but limited control over it, meaning they may be unable to leverage that expertise to advance other organizational goals.

For these reasons, administrators may choose not to enter an OPM partnership and to outsource only certain activities that are prohibitively expensive to produce in-house (i.e., at a small scale). If administrators choose instead to enter an OPM partnership, they then face the decision of which type of OPM partnership to enlist. Some partnerships, especially those where the institution pays for services via fees (a fee-for-service payment structure) rather than a share of future tuition revenue for an extended period (a tuition-share payment structure), allow an institution to maintain more control over its online program.

> **From the perspective of an OPM firm, a tuition-share agreement is akin to an equity investment: The firm covers many of the up-front costs of a new online program in return for a share of the program's future tuition revenue.**

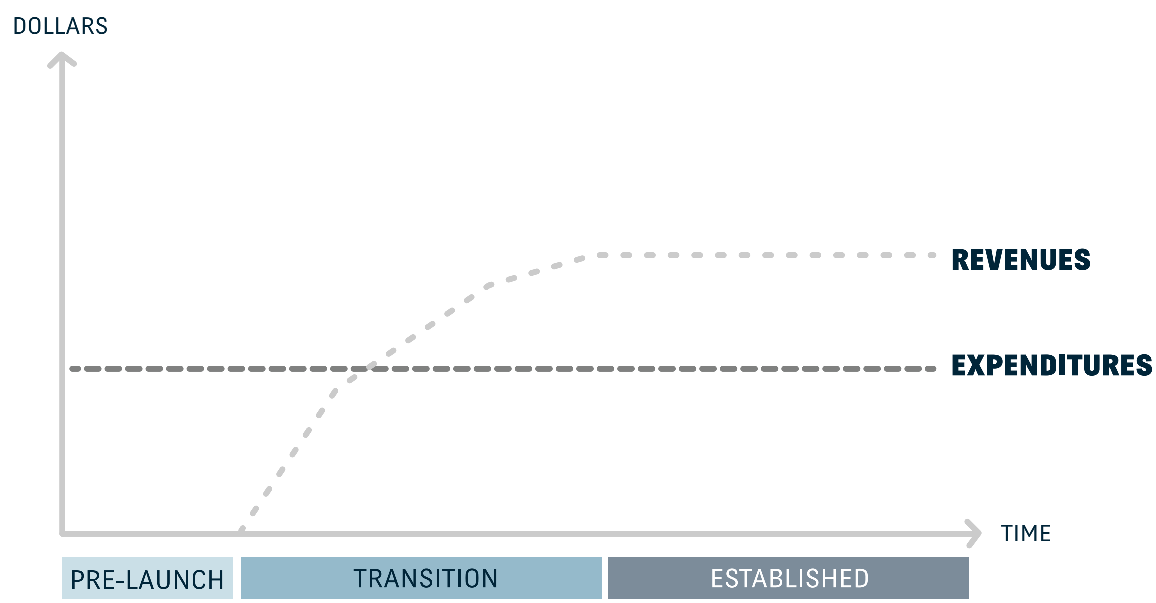

FIGURE 2: Timing of Revenues and Expenditures for a New Online Program

Tuition-share agreements relate to a second key consideration affecting the OPM decision: the need to cover up-front costs versus the desire to retain future revenues. From the perspective of an OPM firm, a tuition-share agreement is akin to an equity investment: The firm covers many of the up-front costs of a new online program in return for a share of the program's future tuition revenue. Administrators of higher education institutions may find this payment structure enticing for two reasons.

First, tuition-share agreements limit the challenges associated with the timing of revenues and expenditures within a new online program. Figure 2 illustrates how the costs associated with an online program start accruing before any revenues arrive.[4] Prior to the launch of the program—while no revenue is generated—money needs to be spent planning the program, marketing it to prospective students, and developing materials for the coursework. After the launch of the program, revenues start to grow and eventually exceed yearly expenditures, but this positive flow of net revenue occurs after years of negative cash flow. To cover these initial losses, an institution will need to take on new debt or temporarily divert spending from elsewhere. A tuition-share agreement reduces the need for such actions because the OPM firm covers much of the initial costs by providing services and not requiring payment until tuition is generated. Furthermore, the OPM firm may provide additional funding to the institution to cover the cost of initial activities that the institution conducts itself.[5]

Second, tuition-share agreements limit the amount of money an institution can lose if its online program generates little revenue. Figure 3 illustrates this point by comparing how an institution's chances of financial gain or loss from a new online program are affected by the presence of a tuition-share agreement. Unlike Figure 2, this figure describes an online program's aggregate finances over an extended period (e.g., 10 years) and allows for uncertainty. The horizontal axis in Figure 3 represents the uncertainty associated with a new online program. Low values on this axis represent scenarios where the program generates small amounts of tuition revenue and high values represent scenarios associated with large amounts of tuition revenue. The vertical axis represents the institution's net revenue from the program (i.e., the amount of money left over after the institution covers its own expenditures and pays its OPM partner). Scenarios associated with positive net revenue (i.e., positive values on the vertical axis) improve the overall financial situation of the institution while programs with negative net revenue worsen the institution's finances. Figure 3 illustrates how an institution is less likely to experience financial losses from a new online program when it relies upon a tuition-share agreement.

Figure 3 also illustrates a key reason why administrators of higher education institutions may not find a tuition-share agreement enticing. When a new online program successfully produces tuition revenue, the institution generates much less net revenue from the program within tuition-share agreements. Just as the OPM firm absorbs most of the losses associated with financially unsuccessful programs, it also absorbs many of the gains associated with successful programs.

Administrators may also consider how tuition-share agreements alter the incentives provided to OPM providers. Because tuition-share agreements explicitly tie payments to generated revenue, they provide

[4] Figure 2 is a greatly simplified version of reality designed to illustrate a specific point about the timing of revenues and expenditures. Our point continues to stand across various alternative versions that incorporate further real-world complexities. For example, we assume that expenditures are constant over time while, in practice, they likely vary across years. That variation strengthens the point being made when more spending occurs in earlier years to build awareness of the program among prospective students.

[5] For example, Washington State University's contract with Embanet, which was later purchased by Pearson, contains provisions (in page 3 of Schedule A) that ensures that Pearson covers a portion of the initial costs of a system implementation assistant employed by Washington State. Pearson also covers costs associated with payments to Washington State employees who serve as subject matter experts during course development, instructors of record during course delivery, and course facilitators during course delivery.

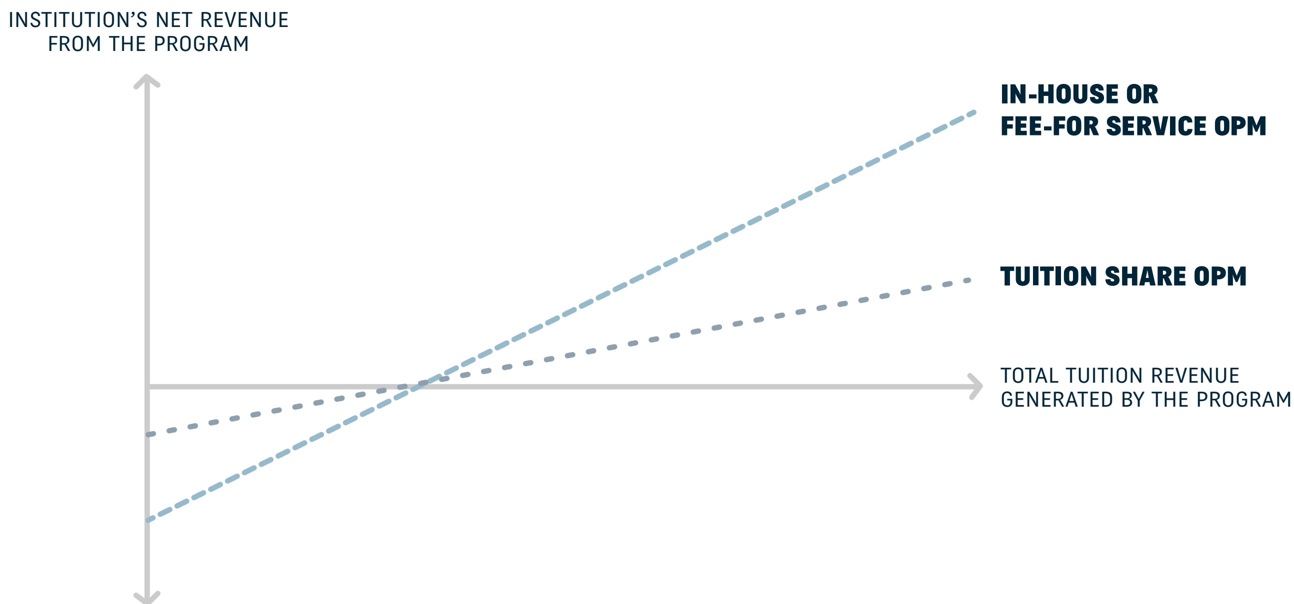

FIGURE 3: Net Revenue Differences Between Tuition and Fee-for-Service Partnerships

OPM firms with a clear incentive to recruit and retain students so that further tuition revenue can be generated. Although such incentives could push the firm to provide higher-quality services so that students find the institution a more attractive place to enroll, they could also push the firm to exploit the limited knowledge of prospective students in the recruiting process. Relative to consumers in other industries, prospective college students face larger challenges in assessing the quality of what they are purchasing. They are consequently vulnerable to recruitment efforts that overstate the future benefits associated with enrollment. Administrators may choose to partner with an OPM provider through a fee-for-service contract, so that the incentives to engage in such recruitment efforts are softened.[6]

Fee-for-service agreements will be especially attractive to institutions that are confident about the success of their online programs and who have access to internal funds or loans that can cover the up-front costs of program development. The degree to which such agreements soften the above-mentioned incentives will depend upon the way administrators select and engage OPM firms. If they focus solely on the financial impact of the OPM program in their decisions and communication, they may then create harder incentives similar to those contained within tuition-share agreements.

> **Administrators may also consider how tuition-share agreements alter the incentives provided to OPM providers.**

[6] Although we presented OPM contracts as either tuition-share or fee-for-service agreements, contracts can include elements of both. The fees within a hybrid contract would lead to a reduced share of tuition sent to the OPM firm. In our text, we focus on each pure case to highlight the key conceptual ideas associated with each case. These conceptual ideas can be used to evaluate the particulars of a specific hybrid contract. In the case of incentives, the incentives would soften to the degree that fees increase in importance and tuition shares decrease in importance within the contract.

A KEY DISTINCTION: CREATING A NEW PROGRAM VS. OPERATING AN EXISTING PROGRAM

The previous section focused on the case of a new online program because the discussed features of tuition-share contracts primarily relate to that context. Once an online program is created, the institution no longer faces financing challenges regarding up-front costs. Furthermore, the institution encounters much lower levels of uncertainty because they have a better sense of the student demand for its programs. Appendix C further describes how the economics of existing programs differ from the economics of new programs by comparing start-up costs, ongoing costs, and payments to OPM firms.

Unless the institution is seeking an infusion of funds to scale its online program, the negotiation of an OPM contract for an existing program should be different from the negotiation of an OPM contract for a new program. Tuition-share agreements provide fewer benefits to the institution with existing programs, as the OPM firm is not spending well in advance of receiving payment and is more likely to recoup its spending. Consequently, a contract established for an existing program should contain more favorable terms for the institution (e.g., a smaller revenue share for the OPM firm) than a contract for a new online program.

Because the market for OPM services is new and initial contracts are often lengthy, we know little about how contracts evolve over the lifetime of an online program. If subsequent contracts do not contain more favorable terms than initial contracts, it may indicate that institutions experience high costs in switching their current OPM provider to an alternative provider or even to in-house production. When switching costs are high, the OPM firm possesses more power within negotiations for subsequent contracts. Administrators of higher education should account for potential switching costs before entering initial contracts.[7]

ANOTHER KEY DISTINCTION: MANAGEMENT VS. INSTRUCTION

Online program management is distinct from online program instruction. Management, however, could include activities that support a faculty member who is providing instruction. For example, instructional designers, multimedia specialists, and copyeditors can help faculty members build content (e.g., text, videos, planned student activities, assignments) that is used within each offering of a course. Instructional designers can provide further support to the instructors who utilize this content while engaging students taking the course. According to our definition of management, these support activities can be outsourced without resulting in the outsourcing of instruction if the following is true: Personnel employed by the higher education institution (i.e., faculty members) are providing the subject matter expertise and playing a central role in the coursework.

Some partnerships between higher education institutions and firms clearly move beyond the outsourcing of management and include the outsourcing of instruction. The clearest case of such outsourcing relates to noncredit programs, which are not typically regulated by federal Title IV policies. In recent years, colleges and universities have started offering coding boot camps in partnership with firms such as 2U (via Trilogy) and QuickStart. For many of these boot camps, the instruction is outsourced completely and

[7] Acosta, McCann, and Palmer (2020) note that institutions should be confident they can reasonably exit an OPM contract. They discuss important contractual elements pertaining to termination and renewal, which is a topic also discussed by Dudley, Hall, Acosta, and Laitinen (2021). They also mention practical considerations, which include a scrutinization of switching costs. If the OPM firm handles day-to-day control of numerous key portions of the OPM project, movement to a new OPM firm or in-house production would require administrators to develop a deep understanding of current practice, create a new plan for future practice, and develop processes to ensure information is shifted from the existing OPM provider to the new provider. This time-intensive work would not be attractive to administrators who initially chose to outsource OPM work for reasons pertaining to convenience.

the teachers employed by the firm. For example, the 2018 UCLA Extension (UNEX) contract with Trilogy Education Services (TES) states that TES selects instructors, who are then "subject to UNEX approval for any teaching" (p. 3). Additionally, TES provides "curriculum development" and "course materials required for the PROGRAM, including video-based content" (p. 3). TES also provides key student-facing interactions, such as "student counseling." University websites do not communicate the extent to which the instruction is provided by a third party and simply present the boot camps as an education program offered in collaboration with another organization.[8]

The tension between convenience and control becomes even more glaring within this more extreme form of outsourcing. Rather than allowing the institution to focus on a smaller portion of the workload associated with a program, this extreme form of outsourcing enables the institution to focus very little on the program in general. Such limited focus, however, heightens the risk that an institution may not identify concerns pertaining to the work completed by its partner. Furthermore, it can mislead prospective students into the assumption that a particular institution is providing the instruction rather than simply selecting the entity that provides the instruction.

Such explicit and complete cases of outsourced instruction would not be described within OPM contracts associated with for-credit programs because the Secretary of Education does not consider a program eligible for Title IV funding "if the institution does not provide instruction itself … but merely gives credit" (HEA, 34 CFR § 600.2(2)). The role OPM providers play within for-credit instruction is often described in vague terms. The contractual language sometimes notes that the OPM firm may engage in activities beyond what is listed. So, one cannot get a precise understanding from contracts of an OPM firm's involvement in for-credit instruction.[9]

> **Some partnerships between higher education institutions and firms clearly move beyond the outsourcing of management and include the outsourcing of instruction.**

Distinguishing between management and instruction is important because it forces closer inspection of the partnerships between higher education institutions and OPM providers. Such inspection prompts difficult questions about the line that separates instruction from management. One can argue that it is appropriate to outsource course development and student assessment so that institutions can gain access to richly interactive, high-quality course materials that are prohibitively expensive to create internally. If an institution's faculty play a central role in selecting course material and then substantially engage their students while employing the course material, one could argue that the core instructional work is not being outsourced. This description, however, reflects the best-case scenario of active faculty involvement and engagement with students. The outsourcing of course development and student assessment can also occur in tandem with a

[8] Dudley and Rindlisbacher (2021) offer a more extensive discussion of boot camp providers and their contracts with higher education institutions.

[9] For example, Lamar University's contract with Academic Partnership (AP) that AP's work includes but is not limited to activities such as assisting with course conversions into an electronic format and introducing best practices for course delivery (2014, p. 2). University of North Dakota's contract with Pearson notes of the Program Term Sheet that Pearson will provide services pertaining to course design and delivery, instructor recruitment, and instructor management (2018, p. 5).

course material selection process with minimal faculty involvement and course delivery practices where students have limited engagement with the institution's faculty. We return to this topic later when discussing considerations that pertain to institutional accreditation and governmental policy.

NONPROFIT CONVERSIONS THROUGH PARTNERSHIPS

During the 2010s, the distinction between nonprofit and for-profit higher education institutions grew in importance. For-profit institutions struggled to attract online students due to new federal regulations and to media coverage of troubling organizational behavior and poor student outcomes at some for-profit institutions.[10] Consequently, existing for-profit institutions could better attract students if they were reclassified as nonprofits; however, the owners of many for-profit institutions did not want to forego future profits as part of the reclassification.

OPM partnerships are a potential mechanism for solving the "no profit" dilemma facing for-profit owners. If an existing for-profit university is split into a nonprofit university and a for-profit OPM provider, then the university can potentially be listed as a nonprofit while profits can still be reaped by the owner through favorable terms for the OPM provider. Grand Canyon Education, Inc. (GCE) tried to split its Grand Canyon University (GCU) in this manner by moving the ownership of "the real property and improvements comprising the GCU campus as well as tangible and intangible academic related operations and assets" to the new nonprofit version of GCU (Grand Canyon Education, Inc., 2018, item 8.01). GCE retained the nonacademic portions of the for-profit version of GCU and used those portions to provide OPM services to the new nonprofit version of GCU through an OPM contract. Figure 4 describes this arrangement.

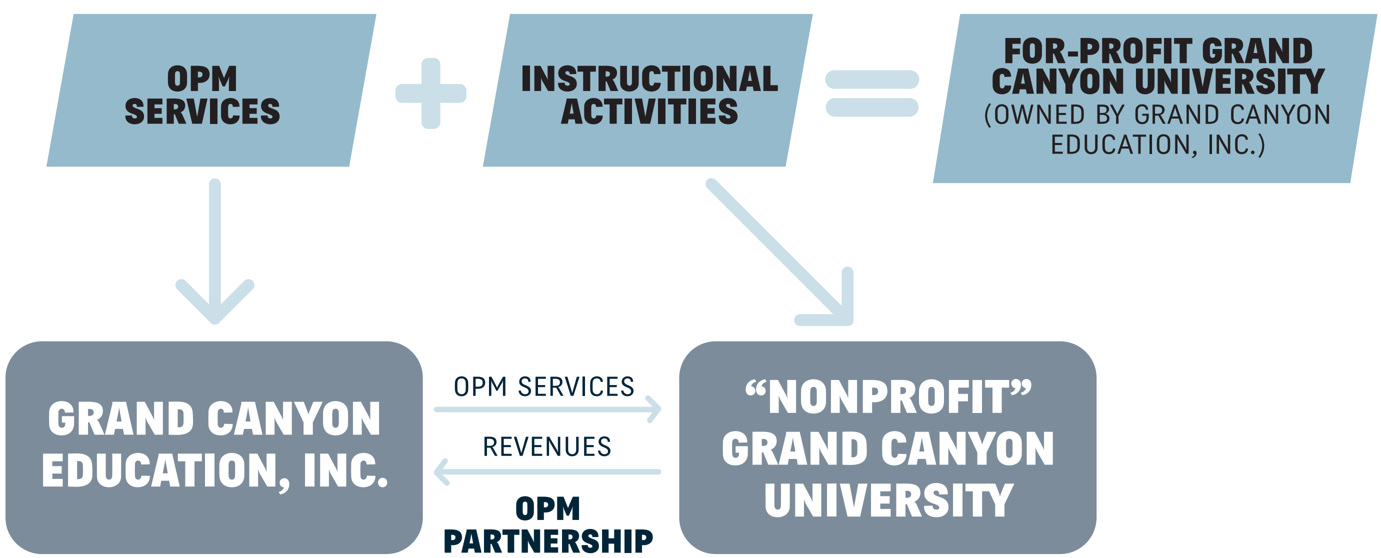

FIGURE 4: Nonprofit Conversion via an OPM Partnership

[10] Cellini and Turner (2019), Fabina (2019), Fountain (2019), and Kinser and Zipf (2019) discuss and analyze federal regulations and student outcomes associated with for-profit institutions.

> **OPM partnerships are a potential mechanism for solving the "no profit" dilemma facing for-profit owners.**

This solution to the "no profit" dilemma raised a second dilemma for GCE: If GCE and GCU are truly independent organizations and the new nonprofit version of GCU is truly mission-focused, then GCU could choose to switch OPM providers if a competing OPM firm offered to accept more favorable terms. Alternatively, GCU might choose to start building in-house online program management capabilities. One solution to the "independence" dilemma is for GCE to structure the new organizations in a manner that limits GCU's independence and ensures GCU will continue to purchase OPM services from GCE. The ties between GCU and GCE are strong, with the same individual serving as the CEO of GCE and as the president of GCU. This approach, however, violates the underlying spirit and concept of a nonprofit university, and should invite regulatory scrutiny. Such scrutiny led to the Department of Education determining that GCU remained a for-profit institution, ruling that GCU was insufficiently independent from GCE.

Another solution to the "no profit" and "independence" dilemmas is to employ long-term OPM contracts that ensure dependence for an extended period. When the owners of Kaplan University and Ashford University sought to convert these universities into nonprofits, they established long-term contracts at the moment of conversion that required the universities to purchase OPM services from their former for-profit owners (Kaplan Higher Education and Zovio). These nonprofit conversions contained a further twist by involving third organizations, Purdue University and the University of Arizona, which lent their brands and provided partial governance to the new nonprofit universities. These branding and partial governance partnerships led to name changes: Kaplan University became Purdue University Global (PUG) and Ashford University became University of Arizona Global Campus (UAGC). In return for their contributions, Purdue University and the University of Arizona have the right to receive a portion of any net revenue generated by the new nonprofit universities. Figure 5 describes this complicated set of partnerships using the case of University of Arizona Global Campus.

The branding component of the partnership meant that PUG and UAGC are associated with two prominent public research universities. For both PUG and UAGC, all or a share of the board of directors are appointed by the leadership of the associated public research universities,[11] and this provides a meaningful connection to the branding association. The governance connection is limited, however, because the board of directors is only one component of governance within higher education. Governance decisions at the level of academic programs within the online institution are not similarly shaped by the academic programs of Purdue University and the University of Arizona. The academic programs contain the academic expertise that is central to the value of the brands, so the limitations in governance are substantive.

PUG and UAGC currently operate as hybrid institutions. Although these universities are currently described as nonprofit institutions, their organizational practices were formed while they operated as for-profit institutions. Their current OPM contracts are also

[11] Purdue University Board of Trustees appoints the Purdue Global Campus Board of Trustees, as identified in the bylaws (Purdue Global, 2018, § 1.04). The University of Arizona appoints three members and the University of Arizona Foundation appoints one member to the nine-member Arizona Global Campus Board of Directors (University Communications, 2020).

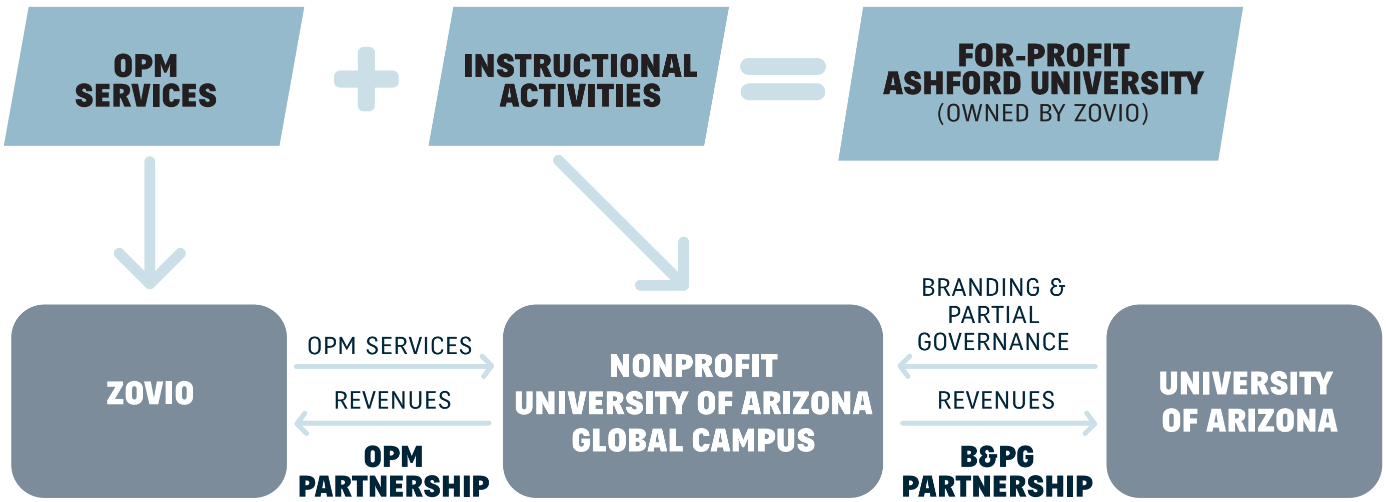

FIGURE 5: Nonprofit Conversion via OPM and B&PG Partnerships

different in nature than the OPM contracts established by other nonprofit institutions. These contracts were not negotiated via a competitive process involving multiple OPM providers. Instead, these contracts were each negotiated with a single for-profit firm possessing leverage in negotiations due to its ownership of the university. The firms could use that leverage to establish more favorable terms than what they could have obtained through a competitive process.

In time, PUG and the UAGC will become less influenced by their for-profit origins. Their organizational practices will evolve. Their initial OPM contracts will eventually come to an end, and Kaplan Higher Education and Zovio will have less leverage (i.e., the leverage associated with switching costs) during negotiations for subsequent contracts. The long-term development of PUG and UAGC will be increasingly determined by their branding and partial governance partnerships. The future will reveal whether Purdue University and the University of Arizona primarily treat their online partners as sources of net revenue or as organizations focused on enacting their own nonprofit missions.

> **We previously had no language to accurately describe these types of partnerships, which is why we introduce the concept of a branding and partial governance (B&PG) partnership.**

Specific predictions about the future of PUG and UAGC are difficult to make because detailed information about these institutions and their partnerships is hard to obtain. Their OPM contracts are heavily redacted, and the revenue flows between partnering organizations are difficult to determine.[12] The absence of details makes it challenging to even understand the present state of such relationships, given the novelty and complexity of these new deals. Journalists, for example, struggled to comprehend these deals when they were announced, often describing them as acquisitions (e.g., "Purdue buys Kaplan University"). Although Purdue University and the University of Arizona do possess claims to future profits produced by PUG and UAGC after OPM partners are paid, the public rightly does not think of nonprofit ownership in terms of claims on future profits.[13] A description of ownership instead suggests that Kaplan University would eventually become part of Purdue University as PUG, which is far from the case. Along many important dimensions, PUG operates as a separate organization from Purdue University. The same is true for the UAGC and the University of Arizona. We previously had no language to accurately describe these types of partnerships, which is why we introduce the concept of a branding and partial governance (B&PG) partnership.

B&PG partnerships are not limited to universities with long-term OPM contracts that are converted from for-profit universities into nonprofit universities. For example, Brandman University, a nonprofit institution that was a separate organization within the Chapman University System, is in the process of being rebranded as UMass Global. UMass Global will no longer be affiliated with Chapman University and will instead be an affiliate of the University of Massachusetts system (rather than a system member). It will be governed as a private nonprofit institution with its own operating policies, academic faculty, and staff. The University of Massachusetts will have representation on the UMass Global board, but its representatives will not control it. Another potential example lies with the recent partnership between the University of Arkansas and Grantham University. How either of these cases or future cases align with the B&PG partnership framework will be determined as further details are revealed.[14]

A CHALLENGING ACTIVITY: OBTAINING STUDENTS

A common theme across a range of information sources is that higher education institutions find it very challenging to obtain students for their online programs, and this challenge contributes to institutions choosing to form OPM partnerships. Experts regularly note that marketing and recruitment are the largest challenges that higher education institutions face when trying to establish an online program.[15] A survey of

[12] The revenue flows from PUG and UAGC to its OPM partners (and former for-profit owner) are structured in a very different manner than a pure revenue-share agreement, which are typically presented as a percentage of total revenue. Ariel Sokol from Kolari Consulting LLC sought to translate the UAGC-Zovio contract into familiar and simpler terms. Sokol estimated that Zovio will charge a service fee anywhere between 64-72% of UAGC tuition revenue in 2021, which exceeds the revenue shares included in most OPM contracts (Shireman, 2020). The revenue flows from PUG and UAGC to their B&PG partners (i.e., Purdue University and the University of Arizona) are difficult to determine because they depend upon the net revenues that PUG and UAGC generate, as well as upon whether any net revenues are reinvested in PUG and UAGC rather than distributed to their B&PG partners. The best source of real-time information on these revenue flows is the PhilonEdTech blog, which regularly scrutinizes contracts and financial reports from these institutions. For example, see Hill (2021a) and Hill (2021b).

[13] In his influential article on nonprofit enterprises, Hansmann (1980) describes a nonprofit organization "as an organization that is barred from distributing its net earnings, if any, to individuals who exercise control over it." (p. 838) If a public institution exercises control over a partner organization and focuses on extracting large amounts of net revenue (i.e., profits) from that organization, then the partner organization would essentially fail to meet the nonprofit criteria that Hansmann notes. The only difference is that a separate organization, rather than individuals, is extracting the profits.

[14] See Lederman (2021) for recent development pertaining to the transformation of Brandman University into UMass Global. See Whitford (2021) for similar coverage of University of Arkansas and Grantham University.

[15] For example, Joshua Kim notes that "Schools work with OPMs because online program management providers can do some things that most universities find difficult. Chief among these challenges is marketing." (Kim, 2019, section #6). Trace Urdan also notes that the biggest issue and the biggest stumbling block associated with the production of online education within traditional higher education institutions is marketing (Fain, 2020).

chief online officers found that the three functions most outsourced by institutions within OPM partnerships were marketing online programs, market research, and recruiting online students (Garrett, Legon, & Frederickson, 2020, p. 23). In its annual report, 2U notes that "Our most significant expense relates to marketing and sales activities to attract students to our offerings" (2U, 2021, p. 6).

> **Higher education institutions find it very challenging to obtain students for their online programs, and this challenge contributes to institutions choosing to form OPM partnerships.**

The challenging nature of obtaining students partially relates to the nature of online education. Students find it easier to attend a distant institution when they enroll online because they do not need to relocate and leave behind family or existing employment. Institutions can consequently draw from a large pool of nonlocal students, but they also face greater competition for their pool of local students. Student recruitment is much easier when an institution primarily enrolls local students considering local institutions.

The challenge of obtaining students also relates to the types of students that are drawn to online education. Adult students seeking to combine education with caregiving responsibilities and full-time employment especially appreciate online coursework that can be completed at home at flexible times. Colleges and universities find it difficult to identify those adult students who are interested in continuing their education.

OPM providers are seeking to address this recruitment challenge by developing lists of prospective students. As they recruit students for programs at multiple institutions, they can potentially build a pooled database of prospective students that they can draw upon in the future. Furthermore, they can gain information from other sources. 2U's recent purchase of edX was heavily motivated by a desire to gain access to edX's information about potential students. 2U touted how they could leverage edX's marketplace visitors and registered learners to improve marketing and reduce the costs of acquiring new students for 2U-affiliated programs. The acquisition costs facing 2U prior to the edX purchase was around $3,900 per enrollment, which illustrates the difficulty of obtaining students for online programs.[16]

[16] In their presentation to investors, 2U presented several illustrative examples outlining how its purchase of edX could lead acquisition costs per enrollment to fall from $3,900 to $3,500. The examples centered on 0.01% of the 120 million edX marketplace visitors or 0.03% of the 39 million edX registered learners choosing to enroll in an online program supported by 2U (2U, Inc. & edX, 2021).

OPM FIRMS: WHO ARE THEY?

If a higher education institution wants to outsource a suite of services associated with its online program, it needs to find a partner to do so. Understanding which firms provide OPM services is important. The number and market share of firms have implications for the relative power of higher education institutions and OPM firms during agreement negotiations. In some internet-related industries, firms have consolidated so that only a small number of providers exist. Consolidation in the OPM market could mean higher education institutions pay lower prices if OPM providers can produce services at lower cost when they grow larger (i.e., if economies of scale are present). These lower prices, however, will only occur if higher education institutions can choose among multiple viable OPM providers who compete with one another on price and quality. If competitive pressures are dampened, higher education institutions may find it difficult to obtain favorable contractual terms. The power of OPM firms within negotiations would be especially strong if one or a small set of firms developed information systems pertaining to prospective students that then became vital to the identification and recruitment of prospective students.

A second consideration is the origin of OPM firms, including their founder backgrounds. OPM companies are variations on a for-profit provision of education. The expansion of OPMs initially occurred in a period during which for-profit institutions of higher education were on the rise. The growth of the for-profit sector generated consequential attention from policymakers and the media. Subsequent regulations and scandal-driven legal woes drove large student enrollment declines and school closures (Kinser & Zipf, 2019). The same period also saw huge growth of online enrollments in public and nonprofit higher education. Knowing firm origins may help illuminate how for-profit higher education and online learning intersected in the development of the OPM phenomenon.

THE POPULATION OF OPM FIRMS

Although no definitive list of OPM firms exists, multiple lists have been created, which generally include 26-36 firms each. The differences in firm numbers across these lists are likely due to variation in the definition of an OPM provider, the inclusion of non-domestic firms, and the year during which the list was made. The lists also contain similarities as a core set of firms are present in most of the lists.[17]

In this report, we will focus on the list provided by Phil Hill on his blog maintained at www.philonedtech.com. Although Hill does not seek to be comprehensive and include every vendor, he does provide an effective overview of the OPM market landscape. The firms on Hill's list are present in most of the other available lists. Furthermore, his list categorizes firms into helpful categories and has been updated four times since its original creation in 2016. The evolution of the list and its categories highlight key developments in the rapidly changing OPM marketplace.

Figure 6 contains the list released by Hill in September of 2021. Hill separates firms into five groups. The more traditional OPM firms are divided

[17] We located seven distinct lists of OPM firms: Friga (2020), Lederman (2015), Holon IQ (2019), Holon IQ (2020a), Hill (2021), McKenzie (2018) and Morgan (2019). Holon IQ (2019) is an outlier in that it lists 61 firms while the other six sources list 26-36 firms. The lists contain commonalities as 26 firms are included in a majority of the lists. Some of the firms included on a minority of lists (e.g., Grand Canyon Education, Online Education Services, Zovio) are clearly OPM providers according to almost any OPM definition that could be employed; however, other firms that are rarely listed would only be considered an OPM firm if the term referred generally to online program outsourcing.

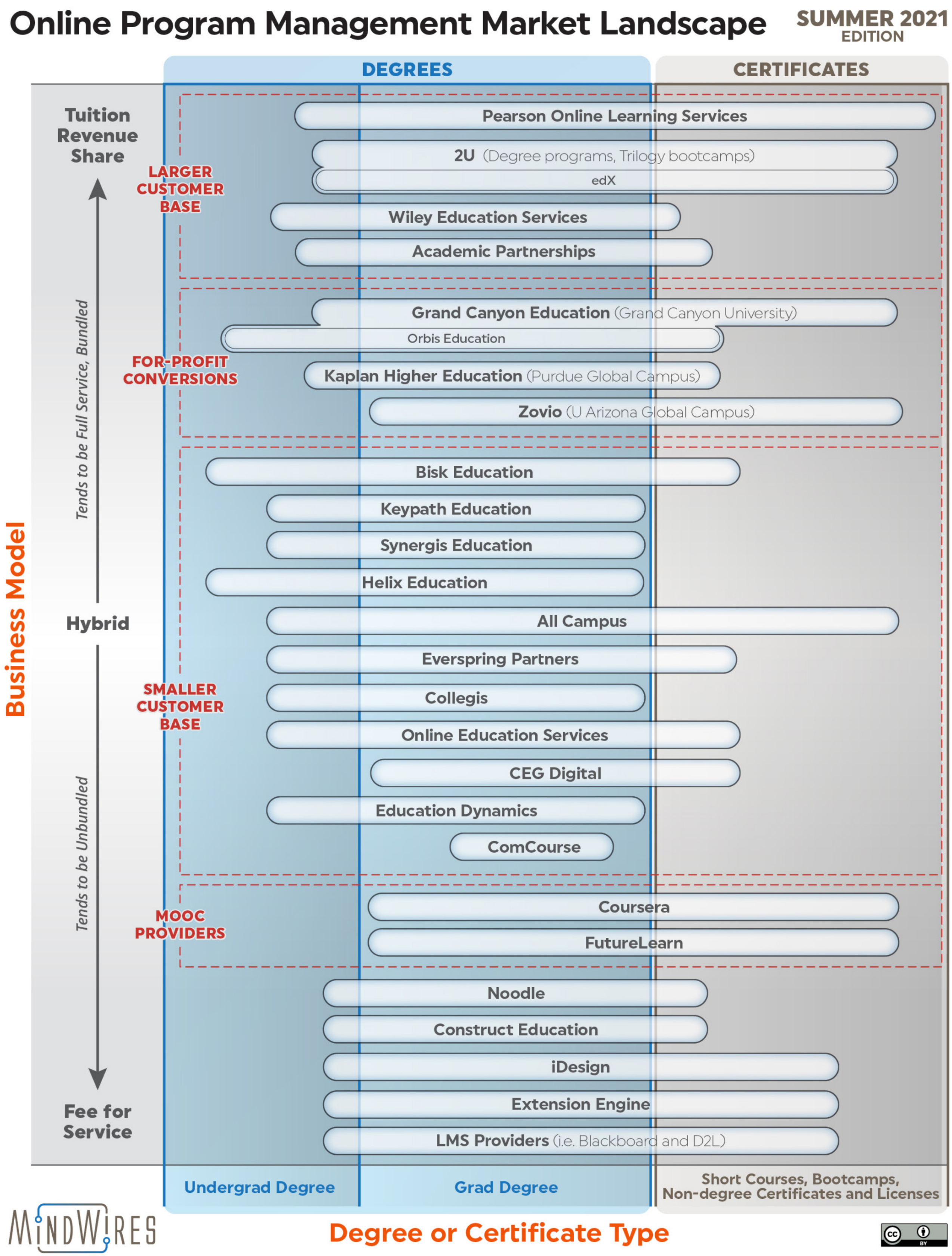

FIGURE 6: Online Program Management Market Landscape

Source: Hill, P. (2021 Sept 1). *OPM Market Landscape and Dynamics: Summer 2021 updates.* Phil On EdTech. https://philonedtech.com/opm-market-landscape-and-dynamics-summer-2021-updates by size and included in the larger customer base and smaller customer base categories. Firms that entered the OPM market in less traditional ways are included in the for-profit conversion category and the Massive Open Online Course (MOOC) providers category. The final group of firms are those that are uncategorized and located at the bottom of Figure 6. The groupings are ordered vertically based on their payment structure (tuition-share vs. fee-for-service) and the degree to which they provide bundled or unbundled services. The width of the oval associated with each firm communicates the firm's involvement in undergraduate degrees, graduate degrees, and certificates.

A comparison of Hill's Market Landscapes across its 2016, 2018, 2019, 2020, and 2021 versions is instructive.[18] The MOOC provider category was added in 2018 when these companies moved towards the OPM market after having difficulty sustaining themselves with MOOC-based revenues. Udacity first entered the market via a partnership with Georgia Tech that supported a master's degree in computer science. Coursera, FutureLearn, and edX then entered into their own partnerships. Udacity was removed from the list in 2020 after Georgia Tech transitioned to in-house production, and edX was removed after being acquired by 2U in 2021.

The for-profit conversion category was added in 2019 to reflect the OPM providers that emerged during the complicated conversion of for-profit institutions described earlier in this report. Although these providers do not currently have a large customer base in terms of institutions, they do support some large online programs with enrollments in the tens of thousands.

Hill's lists also highlight some consolidation within the OPM industry over time. His figures have noted the acquisitions made by Pearson (Embanet), 2U (GetSmarter, Trilogy, edX), Wiley (Deltak, Learning House), Grand Canyon Education (Orbis), Eversping (Colloquy), and Noodle (HotChalk). These acquisitions led to the removal of firms from Hill's lists, but such removals were offset by various additions. In the analysis accompanying the 2021 list, Hill notes that increasing linkages between OPM services and education platforms—such as those created by the purchase of edX by 2U—could lead a small number of firms to dominate the OPM market. These platforms might allow certain firms to acquire students for their partner institutions at a much lower cost than available to other firms.

ANALYSIS OF INDIVIDUAL OPM FIRMS

To further describe the OPM industry, we collected data on each firm in Hill's list. Firm-specific information is reported in Table 1. We identified the headquarter location, founding date, company founders, firm origin, firm type, and number of employees from various websites.[19]

Of the 28 firms reviewed, 22 are headquartered in the United States. Of the firms located outside the U.S., some have a longstanding presence in the country while others have only more recently expanded here. The focus on U.S.-based OPM firm activity does not necessarily mean the U.S. is as dominant globally as this list may imply, but it does show how significant the U.S. market is for online program management. In particular, it suggests an encouraging regulatory environment for

[18] Hill plans to continue to update his OPM Market Landscape so interested readers will want to visit https://philonedtech.com to obtain future versions. As this report went into production, Hill was developing an updated version of his OPM Market Landscape that will add firms (such as Guild Education and Emeritus) that generate student and employer demand for online programs and partner with universities that can meet that demand.

[19] No single source exists that tracks and catalogues companies that fall under the definition of OPMs. Information is not always clear, especially with privately-held companies and those that have gone through several transitions or mergers. When faced with contradictory information from our reviews of web sites, we used our judgement to determine the best data points.

TABLE 1: OPM FIRM CHARACTERISTICS

COMPANY	HQ	FOUNDED	FOUNDER(S)	FIRM ORIGIN	TYPE	NO. OF EMPLOYEES
2U	MD	2008	John Katzman; Chip Paucek	Online education	Public Company	1,001-5,000
Academic Partnerships	TX	2007	Randy Best	Online education	Privately Held	201-500
All Campus	IL	2012	Joe Diamond	Enrollment management	Privately Held	51-200
Bisk Education	FL	1971	Nathan M. Bisk	Distance education	Privately Held	501-1,000
Blackboard	VA	1997	Michael Chasen; Matthew Pittinsky	Learning management system	Privately Held	1,001-5,000
Cambridge Education Group (CEG Digital)	UK	1952	(a)	Student recruiting	Privately Held	501-1,000
Collegis	MN	2013	J. Michael Locke	For-profit higher education	Privately Held	201-500
ComCourse	CA	1994	James Chellis	IT Training	Privately Held	51-200
Construct Education	UK	2013	Carl Dawson; Krishan Meetoo	Instructional design	Privately Held	51-200
Coursera	CA	2012	Andrew Ng; Daphne Koller	MOOC	Public Company	501-1,000
D2L	Canada	1999	John Baker	Learning management system	Privately Held	501-1,000
Education Dynamics	NJ	2005	Steve Isaac	Enrollment management	Privately Held	201-500
edX	MA	2012	Anant Agarwal	MOOC	Nonprofit	201-500
Everspring Partners	IL	2011	Jeff Conlon; Beth Hollenberg	For-profit higher education	Privately Held	51-200
Extension Engine	MA	2003	Bob Allard	Technology support	Privately Held	51-200
FutureLearn	UK	2012	(b)	MOOC	Privately Held	51-200
Grand Canyon Education	AZ	2004	Michael K. Clifford	For-profit higher education	Public Company	1,001-5,000
Helix Education	UT	1987	Tom Dearden	Enrollment management	Privately Held	201-500
iDesign	TX	2013	Paxton Riter; Ned Stone; Whitney Kilgore	Instructional Design	Privately Held	51-200
Kaplan Higher Education	FL	1938	(a)	For-profit higher education	Privately Held	1,001-5,000
Keypath	IL	2014	Steve Fireng	For-profit higher education	Privately Held	501-1,000
Noodle Partners	NY	2013	John Katzman	Online education	Privately Held	201-500
Online Education Services	Australia	2011	(b)	Online education	Public Company	501-1,000
Orbis Education	IN	2005	Daniel Briggs	For-profit higher education	Privately Held	201-500
Pearson Education (Pearson Online Learning Services)	UK	1884	(a)	Publisher	Public Company	10,001+
Synergis Education, Inc.	AZ	2011	Norm Allgood	For-profit higher education	Privately Held	51-200
Wiley Education Services	NJ	1807	(a)	Publisher	Privately Held	501-1,000
Zovio	AZ	2019	Andrew Clark	For-profit higher education	Public Company	1,001-5,000

(a) No individual founder identified because company was established more than fifty years ago

(b) Founded by a university partnership

Sources: Data on this table were collected from a variety of websites. We used Phil Hill's list of OPM companies shown in Figure 6. Most information was pulled from companies' LinkedIn profiles, including headquarters, founded, type, and number of employees. We reviewed data from company press releases, company websites, Google, and SEC filings for the founder(s) and firm origin.

OPM firms as they continue to attract investments in the U.S. and from overseas firms.[20] Eight of the firms have been established for more than 20 years, with four that are more than 50 years old. Pearson and Wiley have corporate histories that can be traced back to the 19th century. Mostly, however, this is a new industry and almost half of the firms have been established in the last 10 years. OPM firms are largely organized as privately held corporations, with only six publicly traded as of this writing. Also, all of these companies are for-profit. The lone nonprofit exception, edX, is in the process of being acquired by publicly traded 2U. Privately held companies generally have attracted venture capital, which implies investor confidence in financial returns on investment. OPM firms vary by size, with the firms evenly split across four different categories for number of employees (51-200, 201-500, 501-1000, 1000+). Because some of the firms are parts of larger companies, these employment numbers may reflect business activity that falls outside of online program management. For example, Pearson Online Learning Services is a division of Pearson Education, and Kaplan Higher Education is a division of Kaplan, Inc. The ability to scale their operations and invest in new operations, then, may be influenced not only by their current size and access to capital markets, but also by the availability of company talent and contacts outside the OPM division.

These OPM firm characteristics suggest similarities to the for-profit higher education industry of the late 1990s and early 2000s (Kinser, 2006). Similarities include a supportive regulatory environment, many recent entrants alongside a few transformed companies, investments of venture capital, and acquisitions by publicly traded companies. In fact, there are eight firms with direct ties to for-profit institutions of higher education in their founding histories. Other categories for firm origin include online or distance education, enrollment management, learning management systems, and instructional design. Three firms originated as MOOCs. Pearson and Wiley signify the move of academic publishing into the online program management universe.[21] The founders of OPM firms represent a cross-section of for-profit higher education industry insiders, entrepreneurs, and those with educational or academic backgrounds, and most founders are still involved with the companies they founded.

The connection of these firms to for-profit institutions of higher education shows some of the same vulnerabilities that the for-profit sector faced a decade ago. Much like the situation then, the expansion of these contracts and how they profit from Title IV student aid has captured the attention of policymakers.[22] To date, partnering with public and nonprofit colleges and universities has allowed OPM firms to avoid regulatory scrutiny while still profiting from education services. Whether or not this mixed-sector model will continue to thrive is an open question and should be seen as a risk factor for an OPM firm's long-term viability. We develop this further next in the Policy Perspectives section of this report.

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[20] All international firms are based in English-speaking countries, which may be an artifact of how Hill constructed the list.

[21] This could be seen as a natural evolution of textbooks from printed copies to digital editions to online interactive content and instructor support.

[22] See Warren, E. (2020 Jan 24). Senators Warren and Brown Examine Questionable Business Practices of Largest Managers of Online Degree Programs. *Oversight, letters*. https://www.warren.senate.gov/oversight/letters/senators-warren-and-brown-examine-questionable-business-practices-of-largest-managers-of-online-degree-programs

POLICY PERSPECTIVES

Online program management is a form of outsourcing and, as such, a rather common feature in higher education. Why, then, should policies focus on this kind of outsourcing more than any of the other myriad of tasks that institutions contract out to third parties? In general, the opportunity to outsource must align with the institution's mission to meet the demands and needs of students. Outsourcing is often done for efficiency when time and resources can no longer be justified or when the necessary expertise has evolved beyond what is available in-house. Does this mean anything can be outsourced? And if the current practice of outsourcing program management is permissible, then what—if anything—about "outsourced" program management should be regulated and why?

Outsourcing is not only common in higher education; it also has had a long history. As early as 1955, American University partnered with Marriott for food services (Adams, Guarino, Roichaux, & Edwards, 2004) and, since then, colleges and universities have contracted out various aspects of their operations to vendors that then provide a reliable revenue stream. We have seen outsourcing of bookstores to national booksellers; food services to chain restaurants; residence halls and parking services to public-private partnerships, and on-demand tutoring to specialized companies. Few of these outsourced activities, however, have generated much policy interest or regulatory action. Online program management seems different. Why?

Two main issues with outsourcing online programs emerge. One is that online program management touches on what many consider to be the core activity of an institution of higher education. External firms can be contracted to build online programs and can be tapped to do everything from student recruitment to actual instruction. Typically, this is done in collaboration with faculty and staff, but some OPM companies offer prepackaged programs that institutions can simply add to their academic portfolios, placing their brands on curriculum they had little involvement in planning. If higher education institutions are fundamentally organized around instruction, then outsourcing this activity should arguably receive special scrutiny.

The second issue is that online program management is an area that is already highly regulated, and yet the Triad of state, federal, and accreditation regulatory oversight has not kept pace with the current activity represented by OPM companies and services. In some places, outsourcing online program work is exempt from oversight, while OPM firms and companies are ignored or unaddressed in others. Whether one sees this light touch of regulation as a welcome opening for academic innovation or as a loophole that opens up huge risks to the system, it is clear that current policy does not address the issues raised by online program management activities or offer regulatory pathways to assess the various agreement and partnership models currently in use.

The policy implications for online program management are complex and intersect at all levels with traditional business practices and education. The online outsourcing regulatory landscape overlaps with historical practices challenged by new forms of higher education and with the public's belief and understanding of what "higher education" means. Regulations cannot be applied in a singular fashion or confined to one area of the Triad's regulatory oversight. Instead, regulating online program management will need to be a concerted effort involving the Triad, students, institutions, and OPM firms.

Some caveats: Our work is focused on higher education policy. Issues related to online program management work in K-12 or continuing education are not part of this review. Likewise, we focused our policy efforts upon online educational programs and not on contracts to deliver in-person programs such as executive doctorates and professional development or training offered through institutions of higher education.[23] The policy implications in this report do not include specific recommendations for policy changes. Instead, we highlight the interconnected components of what regulators and policymakers might consider when regulating this area of higher education. Any changes to the regulatory landscape targeting online programs of higher education could reverberate through all forms of outsourcing. Paying attention to unintended consequences of such regulations is of particular importance. Caution and consideration for "why regulate" is at the foreground of the issue.

> **Regulations cannot be applied in a singular fashion or confined to one area of the Triad's regulatory oversight. Instead, regulating online program management will need to be a concerted effort involving the Triad, students, institutions, and OPM firms.**

UNANTICIPATED DEVELOPMENT

The growth of outsourcing online programs has occurred in a policy vacuum unanticipated by regulators and policymakers. As online program managers have shown their staying power, this has created a situation that requires a policy response—whether by affirming a laissez-faire approach or by explicitly placing online program management under a regulatory umbrella. Much like ride-share companies, who established themselves outside of existing taxicab regulations and then had the market share to demand recognition of their new model, online program managers are now firmly entrenched in the higher education marketplace and can expect policies that will accept the legitimacy of their activities.

Even though this unanticipated development of online program management has created an on-the-ground situation that limits regulatory options, there is still much that can be done. High profile arrangements such as those with University of Arizona and Zovio, or Purdue Global and Kaplan, are hidden behind complex and confusing contracts that are not accessible to most stakeholders.[24] They push the boundaries of current regulatory standards and blur distinctions between public, nonprofit, and for-profit designations. OPM firms of all sizes skirt definitions of instruction and are positioned as technical service providers, which often allows them to slip through current policies and regulations. For better or for worse, either the rules don't seem to apply or they require a level of technical expertise and detailed information that regulators lack—and yet this is the reality of higher education today. We should be working to understand that reality for what it is and for what it is becoming instead of allowing outdated assumptions about unitary institutional control of instruction and deference to internal oversight to rule the day.

[23] An example of an in-person program not covered in this report would be the agreement between the Wharton School of Business and CredForce (see Shazar, 2021; Thomas, 2019). We note, though, that outsourcing agreements do exist within in-residence programs and share similarities with online outsourcing agreements.

[24] See the Nonprofit Conversions Through Partnerships section of this report for a more detailed explanation.

As the traditional revenue sources for colleges and universities decline, institutions have to look elsewhere to generate revenue. Contracts with OPM firms are expected to provide institutions with new revenue streams that allow a cross-subsidy of mission-significant yet non–revenue-generating programs. Policies framed too broadly may draw in other outsourcing that is designed to generate excess revenue beyond necessary online educational programs. Polices wishing to curtail contracts with for-profit partners will need to consider how regulating this activity will touch nearly all other areas on campus, student services, and activities in order to mitigate unintended consequences. Previous regulations separated aspects of the financial aid process from on-campus and online students. Returning to bifurcated policies based on modalities will likely impact student choice, expand the already divisive hierarchy in educational modalities, and create confusion with hybrid pedagogies or alternative options that blend traditional classrooms with new technologies.

Policy formation will have to consider carefully the existing landscape of online education and the institutional need for diverse income and expense streams without restricting innovative educational practices or removing institutional authority.

> **OPM firms of all sizes skirt definitions of instruction and are positioned as technical service providers, which often allows them to slip through current policies and regulations.**

REASONS TO REGULATE

Numerous reports and news outlets have called for increased regulation of the online program management landscape. Why the urge for such scrutiny? Perception that regulation is necessary comes from a mix of five overlapping areas.

First, online educational activities challenge the campus-based models of traditional higher education and often elicit general skepticism around their necessity. Inherent in the discussion about online program management is whether online programs should be seen as a legitimate form of education. From the history of distance education as "scammy" correspondence schools to more recent connections with discredited for-profit colleges and universities, online education struggles against the perception that it is the poor cousin of campus-based education—that it is of lower quality and has predatory tendencies. Online education is no longer an experimental modality, but has become rather a sizeable piece of higher education enrollment with more than one-third of all students taking some form of distance education (National Center for Education Statistics, 2021).

Second, the role of profit-generation in partnering with OPM firms blurs the regulatory distinction between nonprofit and for-profit higher education and is often considered problematic to critics for this reason. Specific federal regulations that require reporting from for-profit institutions do not apply when the for-profit company is external to the university. Other outsourced on-campus activities (e.g., residence hall management or food service) draw limited attention from regulators, even though Title IV funding can used by students to cover room and board. Ensuring that a reasonable justification can be made to regulate one form of outsourcing and not another is important to guard against legal challenges. For example, Gainful Employment regulations—largely directed at for-profit higher education—were initially thrown out by a judge because a specific metric was not connected to the purpose of the rule (see Kinser & Zipf, 2019).

Third, OPM partnerships involve the outsourcing of teaching and instruction—activities many consider to be "core" activities of the university. Regulations, however, already allow instruction to be outsourced. The restrictions in place now are concerned with how much is outsourced, not whether or not it can be outsourced. This does raise the question: What should a university fundamentally include to be considered an institution of higher education? For an analogy, we can look to restaurants. Is a restaurant fundamentally the chef, the kitchen, the wait staff, or the overall ambiance at the branded location? Recent trends in the food service industry make this a difficult question to answer. For example, Grubhub and DoorDash deliver meals ordered from area restaurants—but the meals can be prepared in "Ghost Kitchens" that serve several distinct menus, often sharing inventory and prep work among all kitchen participants. Should we continue to think of restaurants only as spaces that have traditionally had stand-alone menu creation, food preparation, and meal service all in the same physical space? Or can one or more of these be outsourced—only linked by the name on the app or carry-out container—and still have the experience be a "restaurant" meal? And, if so, should we make sure customers are aware of the entire supply chain so they know where their food is really coming from and who is presenting it? Whether it is a restaurant or a university, however, it is unclear if knowing the supply chain is relevant to customers or students.

Fourth, universities are presumed to be in control of their entire academic portfolios. The "uni" prefix emphasizes the singular nature of a university, and most regulations and reporting requirements look to enforce an idea of governance and control solely held by the institution of higher education. For example, accreditation policies firmly square the responsibility of academic program oversight on principles of shared governance within the institution. The outsourcing of certain activities and services creates questions about who actually has control of the academic portfolio.[25] The idea of shared governance with entities outside of the institution remains verboten, even as it seems clear that is what occurs in practice.

Finally, the Triad of state, federal, and accreditation oversight serves as regulator and quality control in higher education, but this is based on an increasingly uneasy arrangement created in the post-World War II policy environment. Higher education is changing quickly—new providers, new delivery mechanisms, and new funding arrangements require the Triad to determine policies for activities that have not been contemplated previously. In the case of online program managers, the changes brought by these partnerships are often hidden in proprietary agreements where the roles played by third-party providers are unclear. Unease comes from the unknown as much as it does from the changing demands of contemporary students and technology advancements.

> **Policy formation will have to consider carefully the existing landscape of online education and the institutional need for diverse income and expense streams without restricting innovative educational practices or removing institutional authority.**

[25] Involvement in curriculum by outside vendors is not new or unique in education. School districts across the nation regularly purchase curriculum from outside vendors with faculty approval for the purpose of ensuring national and state benchmarks for learning outcomes. An argument could be made that any time an instructor uses a published textbook written by someone else, curriculum is outsourced.

FIVE OVERLAPPING AREAS
WITHIN REASONS TO REGULATE

1. Online educational activities challenge the campus-based models of traditional higher education and often elicit general skepticism around.
2. The role of profit-generation in partnering with OPMs blurs the regulatory distinction between nonprofit and for-profit higher education.
3. OPM partnerships involve outsourcing the teaching and learning, which many consider to be "core" activities of the university.
4. Universities are presumed to be in control of their entire academic portfolio.
5. Unease with OPMs comes from the unknown as much as it does from the changing demands of contemporary students and technology advancements.

POLICY GAPS

While the use of online program management is expanding, there is virtually no external oversight over what they do and the services they provide. One reason is that they occupy a space that has remained just outside of regulatory control. Despite serving in an educational function by providing instructional services, they do not qualify as an eligible institution according to current policy. Interestingly, they are also not ineligible institutions. This odd liminal state means that federal regulations are not directly applicable in most cases.[26]

A second reason that online program management is not covered under current regulations is they are considered to be part of the institutional governance of colleges and universities. Because the institution is presumed to be in control, the activities of third parties are guided by appropriate institutional policies.

Accreditation agencies focus their attention on the learning outcomes achieved by their programs. They look to see whether learning is being supported—and not necessarily who or what is supporting it. Also, by framing their work as technological support, online program managers position themselves along the lines of being a course management system: merely facilitating interactions between students and the institutionally approved curriculum. States, as well, are mostly on the sidelines with little to no involvement in OPM agreements. Except for the larger OPM firms to institution mergers, states have few leverage points to require disclosures of contract details or to directly examine the services provided by OPMs.

Finally, the scope of online program management activity is not readily apparent. No database tracks which programs, institutions, or companies are engaged in this work. There isn't a standard definition that captures the phenomenon. Even when an OPM agreement is in place, it is often shielded from oversight by contractual requirements to protect confidential and proprietary information. Most companies are also privately held and so are not required to disclose basic operating details. Those that are public companies tend to describe their operations in language important for investors but not for educators.[27]

These three areas—eligibility ambiguity, presumption of full institutional control, and unknown operational details—combine to create a gap in oversight. Addressing this may require reframing of current regulations to include some aspect of outsourcing online program activity or to create new mechanisms

[26] OPM firms cannot be considered eligible institutions or ineligible institutions. The awarding of an accredited credential and the process of admission are key criteria for the Secretary in determining the eligibility status of an institution (HEA, 34 C.F.R. § 668.8). OPM firms are not qualified or operationally able to do either activity. Likewise, the definition of for-profits does not encompass OPM firm behavior or structure (HEA, 34 C.F.R. § 600.5). Policy seemingly defines an ineligible institution as an eligible institution that has since lost its eligibility status (HEA, 34 C.F.R. § 668.5(c)(1)).

[27] This was also a feature of publicly-traded for-profit educational institutions as they were expanding the 2000s (Kinser, 2007).

that specifically target the use of online program managers in higher education. Even if a decision is made to maintain a hands-off approach, carving out a particular safe harbor within the educational regulatory environment for online program management requires a better understanding of its current and anticipated roles. The complexities surrounding online program management require much more complex solutions than simply adding a few sentences to a statute.

POSSIBLE REGULATORY MODIFICATIONS

There are at least five existing regulations that could be modified to include oversight of OPM work: incentive compensation, program outsourcing, substantive change, written arrangements, and consumer protection. We considered the current issues with applying these regulations and what modifications to them could be considered.

Incentive compensation

Likely the most discussed area of concern for online program management is that of incentive compensation. Federal aid policy states an "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" (HEA, 34 C.F.R. § 668.14 (22)(i)). Tuition-share agreements with OPM firms seem to run counter to this provision; however, they have been excluded from this policy by an exemption for bundled services. So long as a range of services are provided by the OPM firm (such as marketing, enrollment advising, support for online delivery, and technological support) and that the payment to the firm covers all services collectively, tuition-share is permissible. This is effectively a safe harbor carved out of the regulation to allow activities that may otherwise be prohibited.

Incentive compensation has been banned since the 1992 reauthorization of the Higher Education Act. Twelve safe harbors were established in 2002 to facilitate common business practices at the time, largely as a way to support the enrollment-driven business model of for-profit higher education. In 2011, those safe harbors were mostly eliminated in an effort to control what were seen as predatory recruitment practices by for-profit colleges and universities (see Deming, Goldin, & Katz, 2013). Since the underlying language in the law hasn't changed, the current bundled services' safe harbor has the potential to be rolled back by new regulatory language from the Department of Education. Congress could also update the law to specify whether such services should be included or excluded from incentive compensation enforcement (see Appendix D). Such action may force OPM partnerships to be financed through fee-for-service contracts rather than through attempts to navigate the incentive compensation rule.

Program outsourcing

Current rules limit the ability of institutions of higher education to outsource more than 25 percent of an academic program, a limit which increases to 50 percent with accreditation agency approval (HEA, 34 C.F.R., § 668.56). OPM partnerships rarely run afoul of this rule. This is typically because the online program manager is not providing direct instruction to students but is instead offering instructional design or technology enhancements for the program. Since the Department of Education (ED) considers this rule to apply only to the proportion of faculty-student interactions, the academic institution may not be outsourcing anything that is considered part of the program. In fact, under the current policy, it may be possible for an institution to outsource all aspects of online education so long as the faculty member interacting with students is an employee of the institution.

Rules from ED related to "regular and substantive interactions" for online education contain some defining elements: instructor-led interactions, active engagement with class content, and otherwise the "monitor[ing of] the student's engagement and performance" (Federal Register, 2020, p. 95). These elements, however, can be conducted or facilitated by the online program manager even as the direct instruction of students remains with the institution's faculty. Moreover, online education often uses a disaggregated model for instruction where decisions about what is to be taught and how are made by separate entities from those who will interact with students. For example, if the definition of instruction is clarified to include all instructional design activities, many more OPM contracts would likely be considered to be above the 25-50% thresholds. This would require a more active review by accreditation agencies or a rethinking of the viability of the outsourcing limits to avoid the disruption of hundreds of existing contracts.

Written arrangements

Written arrangements are a specific type of agreement to provide educational programming to students enrolled at a Title IV-eligible institution. ED requires them to ensure that a student is informed about who actually provides the educational program outside of the home institution. In one of the few specific acknowledgements of online program management in higher education, ED has determined that OPM agreements are not considered written arrangements. The rationale for exclusions specifically rejects the idea that online program management is "part of the educational program, which means actual delivery of instruction using outside instructors and facilities" (Federal Register, 2020, p. 177); however, many OPM agreements by function, intention, and operation are involved in educational program delivery. Online program managers are also part of the design and administration of a course itself. By the plain words of the regulation, it would seem that many OPM contracts should fall under the written arrangement rules—but ED believes treating them as such could "grind the basic functions of an institution to a halt" (Federal Register, 2020, p. 175-76). Instead, ED considers OPM contracts to be the same as other noneducational contracts, such as food services, that do not need written arrangements and therefore do not need to provide disclosures to prospective or enrolled students (HEA, 34 § 668.43(a)(12)).

ED would need to revisit its understanding of what OPM contracts do with respect to program delivery in order to change this determination, specifically without capturing other noneducational third-party contracts. For example, the ubiquitous use of learning management systems as a shell for the delivery of all courses, both in-person or online, likely should not be swept up in a new approach for written arrangements.

Substantive change

All accreditation agencies have procedures for reviewing substantive changes in accredited institutions' academic programs. The Southern Association of Colleges and Schools, for example, requires approval for "a significant modification or expansion of the nature and scope of an accredited institution" (SACSC, 2021). OPM contracts, however, often do not get reviewed as substantive changes. In part, this is because the 25 percent trip line in federal policy is rarely triggered; however, there is also some hesitancy to get under the proverbial hood of these OPM arrangements because of the accreditation community's focus on direct measures of learning. They are mostly concerned with whether students are learning, and not necessarily with the precise mechanisms that guide program development and delivery.

Even with the focus on learning, however, there is still a significant question of control. Given the structure of their contracts, universities turn over a large part of the responsibility for creating programs to OPM partners. If an institution later decides to end the arrangement, they may not have the in-house expertise to operate the program without the online program manager. Switching from one company to another may not be straightforward as many services are proprietary, involve standardization, and could require the institution to make changes they normally would not do.[28] Other forms of control are formalized when constraints or sanctions are written into the contract, and these can exert punitive damages that effectively cede control to the OPM firm.[29] The intention, level, and type of what "control" means has likely shifted with contemporary OPM agreements.[30] Regardless of how the outsourcing threshold is calculated, the risk of program or even institutional closure due to an inability to disentangle from contractual obligations could itself generate a substantive change review. Accreditation agencies could also specifically include online program management-style contracts as a type of cooperative academic arrangement with a non-Title IV entity that requires notification or review.

Consumer protection

Higher education has mandated levels of protection for student information and data through consumer protection standards and the Federal Right to Privacy Act (FERPA). Disclosure is required in other areas of higher education to ensure consumer protection and the interest of the public is maintained. The consumer protection clauses, which include misrepresentation and mandatory disclosure, indicate that governmental authority is interested in ensuring students have the right information in order to make informed decisions. Misrepresentation—both purposeful and unintentional omission—may arguably occur when universities don't reveal the involvement of an OPM partner or when the OPM firm's employees use university-affiliated email and website addresses to communicate with students.[31]

There is, however, no authority that requires disclosure of OPM firm's contracts to students, and outsourcing of program participation is rarely made explicit in advertising or communication to students. The opacity of OPM agreements and services is a further concern because of a lack of transparency around how students' personal data are used and shared. The lack of clarity concerning whether or not the individual interacting with a student is an employee of the institution also invites questions about reporting wrongdoing and Title IX standards. OPM firm's employees act and serve as if they were internal members of the institution without necessarily having the defined safeguards and training required of actual employees.[32]

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[28] See Baines and Chiarelott (2010) and Springer (2018) for case studies about the loss of academic decisions and control through day-to-day operations.

[29] For example, the 20-year contract between Concordia Portland University and Hotchalk contained a termination clause that required reimbursement and future revenue that, when combined, could surpass $100 million (Manning, 2020; Manning & Young, 2020).

[30] Although ownership like this may not be the only concern, the AAUP's report in 2013 strongly urges that faculty retain the IP rights to the courses they author. Control is mediated by the contract that directs faculty to write or develop courses according to contractual requirements (AAUP, 2013).

[31] Contracts often include language indicating that employees of the OPM should be considered independent contractors with no official affiliation; however, the OPM employees are given college- or university-branded email accounts, phone numbers, and the website's IP address is redirected to ensure anonymity of OPM firm employees. It would not be unreasonable for a person to believe the OPM employee was a representative of the institution. Students would have no idea they are speaking with an intermediary and, thus, would have no control over the share of their educational data. FERPA, while included in many of these contracts, does not cover prospective student data and largely has not kept pace with technical advancements of data sharing.

[32] It is unclear how and if private personal matters related to the safety, well-being, and health of the student and others are relayed to the institution. OPM agreements typically include sections about data protection, but how OPM employees are trained on issues related to sexual assault, abuse, or other reportable offenses is unknown. Additionally, OPM employees serve a dual and conflicting role when navigating what's in the best interest of the student on behalf of the institution while also seeking to secure the required number of enrollees. The tension here is problematic as it relates to tuition-share and indirect-incentive compensation, and it shares similarities with predatory practices in the for-profit sector.

Potential new policy

In addition to considering the modification of existing regulations, there are new policies that could be considered. Some activity regarding online program management regulation is already underway at the state level. Directly related to OPM partnerships, New Jersey introduced three bills in 2021, with each bill focusing on different aspects related to disclosure of the OPM contract. Two bills target public transparency: One would require a public naming of the OPM contractor and a listing of other information related to enrollment decisions on the institution's websites (S. 3708), and the other would require employees of OPM firms to self-identify as third-party contractors when interacting with students (S. 3709), thus forcing disclosure of employee status. The third bill would create an annual financial report of expenditures for the Secretary of Higher Education to show total payments made to the OPM firm, students awarded state financial aid, and state appropriations (S. 3710). These reports would provide a breakdown of expenses for obtaining students, instruction, and other services that would be published on the Secretary's website.

Indirectly related to online program management, the California Consumer Privacy Act (CCPA) gives California residents rights over the type and use of personal information collected by businesses (State of California Department of Justice, 2021). Nonprofit organizations are exempt from the CCPA, though (in some instances) we saw disclaimers added to school websites (e.g., Maryville University, University of Arizona Global Campus). The boundaries between the nonprofit institution and for-profit OPM firm are blurry. When online program managers act on behalf of a nonprofit, they seemingly follow the rules of nonprofit status; however, it is unclear how the CCPA should be interpreted when the personal information is retained by the for-profit, is collected through nonprofit means, and is done so without disclosure to prospective students.

In addition to increased disclosure of information, two other policies could be considered. One would be oversight of OPM companies as educational entities. For example, accreditation agencies could require a "site visit" for any OPM firm engaged in a curriculum partnership in order to verify that the company meets certain standards. This could be part of the program's integrity requirements for federal aid or framed as an extension of branch campus reviews that already occur. The contract and any operating agreements between the OPM firm and the institution could also be reviewed, ensuring that the partnership does not restrict institutional options or control over the program when the contract ends. Finally, the oversight could extend to required elements in any contract and stipulations for information that must be reported to the accreditation agency.

A second policy option would be to reframe the unitary designations of for-profit and nonprofit as they apply to institutions under the Higher Education Act or other regulations. Higher education engages in contracts with multiple entities—not just online program management—that blur the distinction between nonprofit and for-profit.[33] A sector category that allows institutions to be both non-profit and for-profit could allow for more targeted regulation and clarify how significant the generation of excess revenue is for particular programs. This may or may not affect federal or state tax policy, but it would provide a more realistic picture of how colleges and universities operate.

Regulating with Caution

One final issue emerges in considering the policy implications of online program management. Does the Triad actually have the capacity to conduct meaningful

[33] We have seen this happen with AUGC and Purdue Global, where the university holds the brand and accreditation, the OPM holds the proprietary services, and the resulting entity is a nonprofit organization. See Figures 4 and 5 for a graphical representation of this type of boundary blurring.

oversight in this area? Most observers would probably say no—not without changing current practice and upgrading staff support.[34] The online program management world is exceedingly complicated, and the ability to understand the structures and financial models is unlikely to be found in the current staffing of accreditation agencies or state higher education offices. In some ways, this is similar to the position in which higher education regulation found itself with respect to for-profit institutions in the early 2000s. For-profits had changed quickly from the proprietary campuses of previous decades and had become entrenched public corporations with expansionist tendencies. Some of the regulations put in place to address the issues of the 1980s and 1990s were inadequate to provide oversight of the new for-profit models (Kinser & Zipf, 2019). In other cases, rules didn't distinguish between the motivations for generating profit and those for institutional improvement and student success. Regional accreditation, in particular—with its heavy reliance on institutional self-studies—expected that internal quality control operated the same way in a for-profit as it did in a nonprofit. There was growing concern about the impact of for-profit higher education on students, as well as with how their fast growth outpaced the ability of required annual surveys and disclosures to keep up. Two simple words in the Higher Education Act, "Gainful Employment," were eventually weaponized to focus on for-profits—an effort that was trapped in the courts for years.

It is important for the Triad to understand online program management and the potential for regulations, and it is also important for online program managers that this occurs. Much like the turmoil that was caused by the Obama administration's attempts to define Gainful Employment, there are other landmines sitting in existing regulations that could be deployed against online program management with a simple change in definition. The combination of online models and for-profit provision caught the attention of those regulating for-profit institutions. These same issues are beginning to come into focus with OPMs. Policymakers should understand the complexity of today's higher education landscape. If regulation for outsourcing online program management moves too quickly and without caution, the outcome could decimate many colleges and universities by drying up their ability to outsource with for-profit companies—or, worse still, create large-scale issues for students when online programs cannot function internally within the institution offering the program.

> **The online program management world is exceedingly complicated, and the ability to understand the structures and financial models is unlikely to be found in the current staffing of accreditation agencies or state higher education offices.**

[34] A recent report by Hall-Martin (2021) showed that state authorization offices are understaffed and underfunded, calling into question their capacity for additional work.

CONCLUSION

In a relatively short period of time, online program managers have established a distinctive role in support of online learning across a range of institutions. In particular, they have enabled some colleges and universities to quickly establish and greatly expand their online programs. With the success of their business model—and the continued demand from institutions of higher education for revenue connected to online programs—comes more than a little controversy. We have outlined the main objections made against online program management in this report, including what is often talked about as outsourcing the "core" activities of teaching and learning. A few conclusions can be drawn from our findings.

First, it is important to have a consistent and well-accepted definition of what "OPM" means. All online programs seeking to scale activities will involve online program management, but it may be done through two primary strategies. Some institutions have developed their own capacities internally to manage online programs. Our own home, the Pennsylvania State University, takes this approach through Penn State World Campus. The second approach is to acquire the management capacity through contracts with an external provider. We tend to think of "OPMs" as exclusively represented by the second category, but it is important to note that the internal production of online program management can be transformed into external provision through acquisition or expansion of mission. This is essentially what transpired with Purdue's purchase of Kaplan and when University of Arizona linked up with Zovio. A focus on online program management as a form of outsourcing creates a clear understanding of what "OPMs" are and how they function in relation to existing institutions of higher education.

Second, the reasons why institutions are engaging with online program managers involve both resource availability and revenue possibility. Human and financial resources are needed to establish and expand online programs. The relevant expertise is different from what may be in place for developing residential programs, and the rather large up-front investments can be quite difficult to finance; however, the promise of substantial enrollment growth and consequent revenue is alluring, and it opens institutional leadership to entertaining creative solutions. OPM companies provide a solution to both issues by offering ready-made expertise and financing models that look to guarantee a return to the university. We also note the distinction between creating a new program and operating or expanding an existing one, but institutions are looking for revenue at a fundamental level and contracting with online program management firms is an expedient way to ensure it.

Third, there needs to be more attention given to whether online program managers are providing management and technical support or if they are also engaged in instruction-related tasks. OPM firms have avoided most regulatory scrutiny because they and their university partners blur this distinction. Existing policies provide vague guidelines regarding the outsourcing of instruction—partially because the boundaries of instruction become difficult to delineate when development, delivery, and assessment can be unbundled. The absence of oversight for noncredit programs, such as with boot camps, creates additional challenges. Finer nuance is needed to understand the operationalized practices of online program managers.

Fourth, OPM contracts are—to be blunt—one strategy for extracting profit from a mostly nonprofit educational model. And, also bluntly, they are a way of doing so without attracting the level of regulatory scrutiny that is connected to the actual provision of for-profit higher education. We see some direct evidence of this perspective in the nonprofit conversions of for-profit institutions of higher education, where the online management spins off to continue in the for-profit mode. Several firms we analyzed have legacy connections to for-profit higher education, and most are attracting venture capital investments (and a few initiating initial public offerings), which suggests confidence in the profitability and returns on investment that these vehicles provide. Mergers are also occurring in the online program management industry, further highlighting the profitability of scale. Irrespective of the current regulatory landscape, profit-making in higher education has typically attracted scrutiny when it expands quickly and where arguably deceptive practices are revealed. Expansion is clearly a feature of the online program management phenomenon, and the hidden nature of most contracts and practices invite distrust that everything is on the up and up.

Finally, we note the possibility that relatively minor changes in existing policies could have enormous impact on the viability of the current online program management model and could have continued effects that reverberate across the landscape of outsourcing arrangements in higher education. Current policymakers are still trying to wrap their heads around what online program managers are actually doing, but an interest in establishing ground rules is beginning to take shape. Ground rules, however, require on-the-ground knowledge. Without a better understanding of how online program management actually operates and more transparency around the specific tasks OPM firms are contracted to do, the risk is that polarizing assumptions and obfuscations will continue to drive the conversation.

> **We note the possibility that relatively minor changes in existing policies could have enormous impact on the viability of the current online program management model and could have continued effects that reverberate across the landscape of outsourcing arrangements in higher education.**

Much remains unsettled about the form, function, and policy implications of outsourcing online program management. In this report, however, we have made progress in defining the phenomenon and understanding its implications for institutions of higher education. We have also highlighted some ambiguities in policy and regulation that allow online program managers to operate with limited oversight. As the future of online program management continues to evolve, we hope our work provides information that clarifies and advances the underlying thinking necessary to resolve the emerging issues with this specific form of outsourcing.

APPENDIX A
MORE DETAILED LIST OF THE TASKS OF ONLINE EDUCATION PRODUCTION

To better understand how OPM-related outsourcing might raise concerns relating to existing policy and accreditation principles, we need a list of the activities that must be completed for an institution to offer online education. A well-formulated list can concentrate attention on those activities that relate to potential concerns. Previous studies have not produced a list for this purpose, but they have produced lists for somewhat related purposes. These existing lists help an institution assess its capabilities to produce online education programs (Holon IQ, 2020b), describe how responsibilities can be divided between universities and OPM firms (Metros & Geman, 2012), categorize costs relating to the production of online education (Meyer, 2006; Rumble, 2001), and compare the traits of alternative OPM vendors (Hoffman, 2012).

We borrow relevant items from these various lists, especially the Higher Education Digital Capability (HEDC) framework from Holon IQ (2020b), to build categories that align with the purposes of our project. As Figure 1 outlined, our framework contains three general categories: 1) obtaining students, 2) instructing students, and 3) supporting instruction and students. We provide further details regarding each of these three categories here.

OBTAINING STUDENTS

The four subcategories presented in Figure 1 (for obtaining students) relate to fundamentally different tasks. Market analysis is based on understanding prospective student demand and needs, ascertaining competitors for those students, and developing a product or brand strategy. General marketing does not include direct communication with individual students but entails general communication shared widely. Communication with specific students occurs during the recruitment of identified prospects. These prospects are identified during an earlier and separate stage. An OPM partner may be involved in the work associated with just one of these four subcategories or multiple subcategories.

INSTRUCTING STUDENTS

In the main body of this report, Figure 1 described four subcategories associated with instructing students: program and course planning, course development, course delivery, and student performance assessment. Each of these four activities requires expertise in four different areas. For any specific activity, an institution may only outsource the work associated with particular types of expertise. Subject matter expertise provides the content for the course, instructional design expertise determines the best way to deliver that content, technological expertise links the delivery method to the available tools, and administrative expertise ensures that instructional decisions consider market demand, costs, logistics, and other nonacademic considerations. These two sets of categories, which are both listed in Table A1, can aid discussions regarding what elements of instruction cannot be outsourced for the institution still to be considered as having provided the instruction itself.

SUPPORTING INSTRUCTION AND STUDENTS

This final category was the most difficult to further categorize clearly with distinctions and concepts. To organize the wide range of tasks associated with this category, we grouped items similar in nature and often housed within the same organizational unit. We started with a long list of items, distilling them into the five subcategories noted in Figure 1. Table A2 provides the original (longer) list of items and their groupings. Not all online programs will require the full completion of each listed task as certain items—especially those listed in student life—may not be included within some online programs. Furthermore, some online programs may provide services and activities that go beyond the items listed in Table A2.

TABLE A1: THE ACTIVITIES AND EXPERTISE ASSOCIATED WITH INSTRUCTING STUDENTS

TASKS	EXPERTISE
Program and Course Planning	Subject Matter
Course Development	Instructional Design
Course Delivery	Technological
Student Performance Assessment	Administrative

TABLE A2: SUPPORTING INSTRUCTION AND STUDENTS: INCLUDED TASKS

GENERAL ADMINISTRATION	• Management (e.g., Leadership, Budgeting) • Activity-Specific Administration (e.g., Accreditation, Regulatory Compliance)	• Personnel Management and Development • Industry and Business Engagement
ENROLLMENT MANAGEMENT	• Admissions • Financial Aid and Veterans Benefits	• Prior Learning Assessment and Transfer Credits • Registrar
ACADEMIC AND CAREER PLANNING	• Advising • Career Planning	• Internships and Placements • Entrepreneurship and StartUps
LEARNING SUPPORT	• Specific Learning Support (e.g., Tutoring, Learning Disabilities) • Library	• Technology Support for Faculty and Students
STUDENT LIFE	• Orientation • Well-Being and Mental Health • Student Communities, Clubs, and Societies • Volunteering and Student Leadership	• Student Voice and Surveys • Exchange Programs • Graduation Ceremony • Alumni and Continuing Education

APPENDIX B
REASONS WHY HIGHER EDUCATION INSTITUTIONS PARTNER (OR DO NOT PARTNER) WITH OPM FIRMS

We created our initial list of reasons why institutions partner (or do not partner) with OPM firms by reviewing previous writing on OPM-related outsourcing and outsourcing in higher education in general. We found helpful guidance from Adams et al. (2004), Berman (2019), Czerniewicz and Walji (2019), Dudley (2020), Friga (2020), Garrett, Legon, and Frederickson (2020), Gupta and Herath (2005), Hall and Dudley (2019), Hill (2018), Hoffman (2012), Kim (2019), Maloney and Kim (2019; 2021), Mattes (2017), Metros and Getman (2012), Moore (2017), Pastides and Best (2019), Quigley and Pereira (2011), Sjogren and Fay (2002), Springer (2018), Sterphone (2019), Urdan and Cooper (2019), and Zipper (2016). Using this guidance, we developed a list of six reasons why some higher education institutions choose to partner with OPMs and a list of six reasons why some do not.

Table A3 contains these two lists. The lists are paired—each reason for partnering is associated with a reason for not partnering. The items in the first half of the list apply to outsourcing decisions generally. These items might be especially relevant to OPM partnerships simply because such partnerships typically contain a substantial amount of outsourcing. The items in the second half of the list relate more specifically to OPM-related outsourcing.

Outsourcing potentially allows for an institution to spend less attention on an activity and to focus more attention on other activities that need to be completed. These benefits, however, are accompanied by risks pertaining to mission and reputation—especially when the outsourced work is difficult to monitor, and poorly completed work could harm the institution and its students.

TABLE A3: MOTIVATIONS FOR AND AGAINST OPM OUTSOURCING

MOTIVATIONS FOR OUTSOURCING	CONCERNS WITH OUTSOURCING
Lower costs of production	Less control over quality
Focus internal attention on some items	Risk of paying little attention to other items
Access to personnel and knowledge	Less development of in-house expertise
Facilitate rapid change	Less development of internal buy-in
Procure up-front capital	Forego share of future tuition revenue
Reduce risk of financial losses	Reduced autonomy

Because online education differs from in-person education in meaningful ways, higher education institutions will need to attract new personnel and increase their organizational knowledge when first launching an online program. Outsourcing work to firms, which can pool personnel and information across higher education institutions, can allow an institution to gain access to these items quickly. Furthermore, the institution will not need to engage in the time-intensive work of building widespread internal support for the new program and developing new processes for operating many aspects of the program. These gains in speed could come at a long-term cost because the institution will have fewer of its own employees with expertise and concern for the program. Institutions that can instead successfully employ the slower process of building in-house capabilities could benefit from the opportunities that such expertise and support provide.

The final two pairs of items listed in Table A3 only relate to a specific type of OPM partnership, those that rely upon tuition-share agreements. These motivations are further discussed in Appendix C of the report.

When we shared these lists with individuals possessing expertise pertaining to OPM agreements, we received feedback that indicated these lists likely do not align closely with the thought processes of administrators making OPM-related outsourcing decisions. Administrators may have a limited understanding of the advantages and disadvantages of such outsourcing, and may also consider their own workloads and positions when making an outsourcing decision. Consequently, we focused the discussion in the main part of this report upon a smaller set of considerations more likely to align with the thought processes of administrators. These considerations still relate to many of the items listed in Table A3.

APPENDIX C
ECONOMICS OF NEW AND EXISTING ONLINE PROGRAMS

In the main body of this report, we described how a tuition-share agreement provides an institution with the up-front capital needed to start a new online program and reduces the financial risk associated with that program. Table A4 contains key economic details underlying these two considerations. Although the framework we present is new, it builds upon previous work completed by Cheslock and Jaquette (in press), Cheslock et al. (2016), Cowen and Tabarrok (2014), Hill (2018), Jones (2004), Maloney and Kim (2021), Meyer (2006), Moore (2017), Pastides and Best (2019), Rumble (1997), and Urdan and Cooper (2019).

Table A4 presents expenditures and revenues for three alternative approaches to the production of online programs: in-house production, fee-for-service OPM partnerships, and tuition-share OPM partnerships. To simplify the presentation, we did not include categories that represented limited forms of outsourcing or hybrid types of OPM partnerships, but the details for such categories could easily be generated by combining elements from the three categories contained in Table A4.

Information is presented for both the start-up period and the post–start-up period. The start-up period contains figures representing the total revenue and expenditures associated with the first 5-10 years of an online program. The post–start-up period contains the same figures for a time period of similar length that starts well after the online program was established (e.g., after the conclusion of an initial long-term OPM contract).

For each category, the institution collects tuition revenue, covers start-up costs (i.e., expenditures associated with the creation and launch of the program), and covers ongoing costs (i.e., yearly costs that occur after the program is launched). Individual letters represent specific types of revenues and expenditures. Certain items are present in all three approaches to online education: total tuition revenue ($A), internal startup costs ($B), and internal ongoing costs ($J) for the start-up period, and total tuition revenue ($M) and internal ongoing costs ($P) for the post–start-up period. Other items are specific to each of the three approaches. For the start-up period, the in-house production approach contains additional internal costs ($C +$K); the fee-for-service approach contains fee payments to an OPM provider ($E + $L); and the tuition-share approach contains tuition-share payments to an OPM provider ($yA). The post–start-up period does not contain start-up costs but has ongoing costs for in-house production ($Q), OPM fees ($R), and OPM tuition-share payments ($zM).

Table A4 can be used to highlight six points, some of which were already noted in the main body of this report. First, tuition-share OPM partnerships reduce the challenges associated with financing start-up costs. Financing costs, which are experienced as loan interest or the opportunity cost of diverted spending, are lower for tuition-share OPM partnerships ($H) than for in-house production ($F) or fee-for-service OPM partnerships ($G), as the institution does not need to finance certain in-house costs ($C) or OPM fees ($E). The financing costs will be especially low if the OPM

TABLE A4: THE ECONOMICS OF ONLINE PROGRAMS

	START-UP PERIOD			POST-START-UP PERIODS		
	In-House	Fee-For-Service	Tuition Share	In-House	Fee-For-Service	Tuition Share
REVENUE						
Total Tuition Revenue	$A	$A	$A	$M	$M	$M
EXPENDITURES						
Start-Up Costs (Internal)	$B+$C	$B	$B-$D	$0	$0	$0
Start-Up Costs (OPM Fee)	$0	$E	$0	$0	$0	$0
Cost of Financing Start-Up Costs	$F	$G	$H	$0	$0	$0
Ongoing Costs (Internal)	$J+$K	$J	$J	$P+$Q	$P	$P
Ongoing Costs (OPM Fee)	$0	$L	$0	$0	$R	$0
OPM Tuition Share Payment	$0	$0	$yA	$0	$0	$zM
NET REVENUE	$A-$B-$C-$F-$J-$K	$A-$B-$E-$G-$J-$L	$A+$D-$B-$H-$J-$yA	$M-$P-$Q	$M-$P-$R	$M-$P-$zM
PAYMENT TO OPM FIRM	$0	$D+$K	$yA	$0	$R	$zM

provider provides the institution with funds ($D) to cover some of the internal start-up costs ($B).

Second, the institution's net revenue associated with a new program will vary less within a tuition-share OPM partnership across the range of scenarios that could occur for a new online program. For example, an extremely unsuccessful program that attracts few students and closes soon after launch would result in relatively small losses for an institution with a tuition-share agreement—the institution's payment to the OPM firm ($yA) would be small due to the small amount of tuition revenue ($A). In contrast, the institution's financial gains from a highly enrolled online program would be relatively small because the payments to the OPM firm ($yA) would be large due to the higher amounts of tuition revenue ($A).

Third, institutions starting new online programs would likely need to pay higher amounts to OPM firms, on average, within tuition-share partnerships. In response to providing capital and absorbing financial risk, the OPM firms will likely demand a tuition share (y) that will produce average payments that exceed the typical charges associated with a fee-for-service agreement ($E+$L).

Fourth, we should, for similar reasons, expect the tuition shares associated with post–start-up periods (z) to be less than the tuition shares associated with start-up periods (y). Unless the institution is seeking to scale its online program dramatically by way of substantial new investment, the OPM firm is no longer providing up-front capital and is absorbing much less financial risk when entering a tuition-share agreement for an existing online program. So, z should be less than y unless other considerations, such as switching costs, provide the OPM firm with large amounts of leverage during the contract renewal negotiations for an existing OPM partnership.

Fifth, the payment to OPM firms for a tuition-share contract provides different incentives to OPM firms than a fee-for-service contract provides. The tuition-share tuition-share payment (\$yA) is directly affected by the total amount of tuition revenue (\$A), while a fee-for-service payment (\$E+\$L) is not. Because these incentives could encourage a contractor to unduly prioritize revenue generation over student well-being, the federal government typically bans incentive compensation within higher education; however, the bundled services exception currently allows OPM firms and institutions to enter into tuition-share partnerships even though the compensation is determined by total tuition revenue (\$A).

Sixth, a removal of the bundled services exception would affect the formation of start-up partnerships more than the formation of post–start-up partnerships. For established programs, the OPM partnership could be moved from tuition-share payments (\$zM) to a fixed fee (\$R) with little effort because up-front capital and financial uncertainty are less of a concern. These two items remain a substantial concern during the start-up period, so a change in payment structure for new programs would require institutions to identify other means of financing start-up costs.

APPENDIX D
EXAMPLE OF BUNDLED SERVICES

Incentive compensation, as written, is focused on the recruitment and admission of new students. Efforts to help students stay enrolled are not considered. This means that practices focused on persistence and retention efforts can be included under "bundled service" even when the service ultimately results in providing incentives to increase student enrollment. The term "recruitment" is in scope of ED's guidance as a covered activity, although many other activities focused on obtaining students—such as retention efforts—are considered exempt (US ED, 2011). The contract between the University of Rhode Island and Academic Partnerships (2014, p. 4-5) shows retention efforts similar to that of admission recruitment (see Table A5). In this contract, the "tuition for each Online Educational Course in which a Student is enrolled" (p. 1) is shared without regard to the student's year of enrollment.

It is currently possible to have compensation tied to the overall number of students enrolled, but the possibility is not based on the number of new students enrolled. This could be a target for regulation in revising the safe harbor for bundled service.

TABLE A5: COMPARISON OF LANGUAGE USED IN SECTIONS II.F.-G. OF THE 2014 AGREEMENT BETWEEN UNIVERSITY OF RHODE ISLAND AND ACADEMIC PARTNERSHIPS (P. 4-5)

RECRUITMENT (II.F. APPLICATION SUPPORT)	RETENTION (II.G. STUDENT SUPPORT SERVICES)
(i) inform applicant of all University application requirements	(i) following up with Students periodically to ensure satisfaction continuing through graduation
(ii) contact applicants regarding upcoming Program deadlines	(iii) welcoming new Students and providing upcoming registration dates and/or deadlines
(iii) remind Students of the registration deadlines and payment deadlines once admitted to the University; and	(v) reminding Students of upcoming start dates, registration deadlines and payment deadlines
(v) refer Students to appropriate University resources if there are further questions about the Program(s)	(ii) referring Students to University resources if academic questions persist

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