HOLDING CORPORATIONS ACCOUNTABLE FOR EXPLOITING ONLINE EDUCATION

NEW YORK CITY CAN PROTECT STUDENTS FROM EXPLOITATION BY FOR-PROFIT ONLINE PROGRAM MANAGEMENT COMPANIES

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For-profit companies that partner with New York City's nonprofit colleges to operate online programs are misleading students—including non-traditional students, student parents, and Black and Latino students—and driving tuition prices up.

Online college programs are an increasingly popular alternative to traditional in-person programs, in part because online programs provide comparatively greater scheduling flexibility and convenience. Online college programs are especially attractive to working students and parenting students, who may find that online programs can better accommodate work and/or child-care obligations. While online enrollment has grown in every demographic, Black and Latino students have shown the largest increases in online college enrollment and are overrepresented in online college programs.[1]

As colleges expand their online offerings, many public and nonprofit colleges have entered into arrangements with third-party,[2] for-profit companies called Online Program Managers (OPMs).[3] These companies provide a variety of services to colleges, including designing, marketing, and operating online courses. In some cases, OPMs create marketing materials, recruit prospective students, develop admissions requirements, design curriculum, and even provide instruction. In New York City, schools such as New York University and Fordham University offer online programs through arrangements with OPMs.[4]

While OPMs often play a key role in developing and operating programs, the OPMs' role is often inadequately disclosed to students. Instead, the online programs are presented under the branding of the institution, creating the false impression that the program and associated services are being offered directly by the institution. As a result, students may be misled to believe that the OPM-operated programs are offered directly by the institution and have the same faculty, admissions criteria, rigor, and quality as programs offered directly by the institution, when in fact the programs may be designed, marketed, and taught by the OPM, rather than by the institution's faculty.[5]

In addition, OPMs are frequently paid through "tuition-sharing" arrangements, where the OPM receives a percentage of each student's tuition.[6] In such arrangements, the OPM's compensation is tied to how many students enroll in the program. OPMs are typically paid 50 percent or more of tuition dollars pursuant to such an arrangement. When OPMs are also involved in marketing and recruiting, this type of per-student bounty payment creates a financial incentive for the OPM to enroll as many students as possible, which can lead to aggressive or even deceptive marketing practices. While federal law ordinarily prohibits colleges from paying a per-student incentive to recruiters, guidance issued by the U.S. Department of Education in 2011 created a loophole that permits colleges to pay OPMs via tuition-sharing arrangements where recruitment services are provided along with other services.[7]

Tuition-sharing arrangements create incentives for OPMs to enroll as many students as possible in order to maximize profits. Where OPMs participate in decisions about admissions standards, admissions decisions, or enrollment targets, tuition-sharing arrangements create incentives for OPMs to water down admissions requirements or admit students without concern for whether or not the student will succeed in or benefit from the online program.[8]

There have been several instances where the financial incentives to maximize enrollment has led OPMs to allegedly use deceptive and misleading marketing strategies to lure students into enrolling.[9] In some cases, OPMs have been the subject of lawsuits, including a class action alleging that students were misled to believe that the online programs they were enrolling in would be taught by faculty of the institution rather than employees of the OPM.[10] OPMs have also raised concerns for targeting marketing to low-income students and students of color.[11]

In addition, tuition-sharing arrangements between colleges and OPMs divert public dollars from public and nonprofit institutions to for-profit companies and create incentives for colleges and OPMs to drive up tuition costs, leading to increased student debt and greater strain on students' finances.[12] Indeed, students who take courses exclusively online tend to have more difficulty repaying student loans than students who attend in person courses.[13]

New York City can adopt regulations to address OPMs' most deceptive and unconscionable practices.

To help protect New York City students from deceptive conduct by OPMs, help control college tuition costs, and prevent the diversion of public investment in higher education to for-profit companies, the New York City Department of Consumer and Worker Protection (DCWP) should issue regulations under the New York City Consumer Protection Law (CPL) to place guardrails on colleges' arrangements with OPMs.[14] The CPL prohibits covered entities from engaging in deceptive or unconscionable trade practices in the sale of consumer goods or services or in the collection of consumer debts. The DCWP has established authority to issue regulations under the CPL, as well as authority to enforce the CPL and underlying regulations, with respect to colleges' sale of educational services.[15]

The CPL prohibits deceptive and unconscionable trade practices and provides that conduct is "unconscionable" where it unfairly takes advantage of a consumer's lack of knowledge.[16] Tuition-sharing arrangements and marketing and recruiting practices that obscure OPMs' role in developing, marketing, and/or instruction are unconscionable practices under the CPL. OPMs exploit consumer information asymmetry and rely on students' trust in their college and lack of knowledge about the their role. OPMs exploit this trust and lack of knowledge by using advertising that prominently features the college's name, logo, and branding. OPM staff may also use email addresses that create the impression that they are employees of the college.

The new regulations covering colleges' arrangements with OPMs should:

1. **Limit the use of incentive compensation**. While not all tuition-sharing arrangements between colleges and OPMs would be banned, the regulations should prohibit colleges from entering tuition-sharing arrangements where the OPM provides marketing, recruiting, or admissions services. Colleges would have the option of entering into tuition-sharing arrangements with OPMs that do not provide those services. Colleges would also retain the option of contracting with OPMs to provide marketing, recruiting, and admissions services, but such contracts would be restricted to a "fee for service" model, rather than via a tuition-sharing compensation model.

2. **Require reporting**. Regulations should require colleges that partner with OPMs to submit OPM contracts to DCWP so that DCWP can track programs operated by OPMs and monitor compliance with the requirements of City law and regulations.

3. **Protect colleges' authority**. Regulations should ensure that colleges retain full decision-making control over essential functions, such as curriculum development, instructor selection, admissions standards, enrollment targets, and prioritization of existing or new online programs.

4. **Prevent misrepresentations and misleading branding**. Regulations should prohibit OPMs from engaging in deceptive marketing or recruiting practices. Regulations should also require OPMs to clearly disclose their status as third-party providers. Regulations should require OPMs to use distinct branding and prohibit OPM employees from using college logos, email addresses, or falsely presenting themselves as college staff.

5. **Protect faculty intellectual property**. Regulations could also safeguard faculty rights, ensuring that intellectual property, such as course materials developed by faculty, remains owned by the faculty members, not the OPM.

6. **Require transparency**. Regulations should require OPMs and their college partners to disclose OPMs' role in marketing, enrollment, and instruction in promotional materials.

Note that The Century Foundation and Protect Borrowers drafted model OPM legislation that incorporates each of these elements and could serve as a model for a DCWP regulation.[17]

As noted above, federal law includes a prohibition on colleges providing incentive compensation to recruiters, but in 2011 the Department of Education issued guidance that created a loophole for colleges' arrangements with OPMs that provide recruiting services as part of a "bundle" of services. However, in recognition of the concerns about OPMs, several states, such as Minnesota, Ohio, and New Jersey, have introduced or enacted legislation that would address some of the risks posed by colleges' arrangements with OPMs.

The Minnesota law, enacted in 2024, prohibits public colleges in Minnesota from entering into new tuition-sharing agreements with OPMs that provide recruitment and marketing services. The law also prohibits OPMs from having decision-making authority over admissions requirements.[18] The law also creates improved oversight and increased reporting requirements for OPMs. The law requires an institution's governing board to review OPM contracts and ensure compliance with state law before approving new contracts. The law also requires OPMs to identify themselves as third-party providers when engaging in any recruitment or marketing activities. It also provides that colleges that contract with OPMs must approve all marketing and recruitment communications from the OPM and publish on their website a list of all online programs that are supported by the OPM.

The Ohio law, which was enacted in 2025, applies to private, public, and career colleges, and contains guardrails on schools' arrangements with OPMs.[19] Notably, the Ohio law does *not* prohibit tuition-sharing arrangements between schools and OPMs. However, the law does (1) require colleges to disclose partnerships with the OPM on program websites; (2) require the OPM staff identify themselves when providing services to students; and (3) prohibit the OPM from controlling or making decisions regarding student financial aid.

Finally, in New Jersey, a bill was introduced in 2025 that would prohibit public, private nonprofit, and for-profit colleges in New Jersey from entering into tuition-sharing agreements with OPMs that provide recruiting services, prevent colleges from granting OPMs inappropriate control over college and program decisions, and require institutions to share information about their OPM contracts with the state.[20]

Students of color are at particular risk of harm from OPM arrangements with schools.

Students of color are at a particular risk of harm from OPM arrangements. Black students are more concentrated in online undergraduate education than in in-person programs, and both Black and Hispanic students are overrepresented in online education relative to their respective adult populations in the United States.[21] While data on OPM-program enrollment is limited, a 2020 report by 2U, one of the largest OPMs, noted that 19.5 percent of students in their network of programs were Black and 16 percent were Hispanic.[22] 2U thus had a clear overrepresentation of Black students, larger than the Black U.S. adult population (at 12 percent) and larger than the already large representation of Black students in undergraduate online programs (15 percent) and graduate online programs (17.4 percent).

While overrepresentation in higher education would be a positive development in some contexts, it raises concerns here because student outcomes for exclusively online programs trail outcomes for hybrid or fully in person programs. For example, Black and Hispanic graduates of online degree programs experience more difficulty with student debt than Black and Hispanic graduates of brick and mortar programs. For those that complete their undergraduate degree programs online, more than 50 percent of Black and more than 50 percent of Hispanic students have difficulty repaying their student loans, relative to only 34 percent of white students who completed online degree programs.[23] Conversely, only 32 percent of Black and 22 percent of Hispanic students who completed their degrees at brick and mortar programs experience difficulty repaying their loans one year after graduation. Stronger regulation of OPMs by DCWP would help protect Black and Hispanic students from being the target of misleading marketing by OPMs.

Conclusion

New York City can protect online college students from deceptive practices, help control the cost of online programs, and prevent public investment in higher education from being diverted to for-profit companies by regulating colleges' arrangements with OPMs. Strengthening regulation of OPMs will be especially beneficial to non-traditional students, working students, parenting students, and Black and Hispanic students.

Endnotes

1 Amber Villalobos, *Online College Programs Increasingly Put Black and Hispanic Students at Risk*, The Century Foundation (Nov. 17, 2023), https://tcf.org/content/commentary/online-college-programs-increasingly-put-black-and-hispanic-students-at-risk/.

2 Amber Villalobos, *Colleges Should Still Tread Carefully When Outsourcing Their Online Programs*, The Century Foundation (Mar. 5, 2025), https://tcf.org/content/report/colleges-should-still-tread-carefully-when-outsourcing-their-online-programs/.

3 Amber Villalobos, *A Quick Guide to Online Program Managers (OPMs)*, The Century Foundation (Oct. 24, 2023), https://tcf.org/content/commentary/a-quick-guide-to-online-program-managers-opms/.

4 *NYU Steinhardt MA in Mental Health Counseling | Online*, NYU Steinhardt School of Culture, Education, and Human Development, https://counseling.steinhardt.nyu.edu/online-masters-mental-health-counseling/ (accessed May 7, 2026); *Fordham University Online Degree Program Partnership*, 2U, https://2u.com/partners/fordham-university/ (accessed May 7, 2026).

5 *See*, *e.g.*, Alan Blinder, *Students Paid Thousands for a Caltech Boot Camp. Caltech Didn't Teach It*, New York Times (Sept. 29, 2024), https://www.nytimes.com/2024/09/29/us/caltech-simplilearn-class-students.html.

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7 U.S. Department of Education, Federal Student Aid, *Implementation of Program Integrity Regulations*, Dear Colleague Letter GEN-11-05 (Mar. 17, 2011), https://fsapartners.ed.gov/sites/default/files/attachments/dpcletters/GEN1105.pdf.

8 Melissa Korn, *USC Pushed a $115,000 Online Degree. Graduates Got Low Salaries, Huge Debts*, Wall Street Journal (Nov. 9, 2021), https://www.wsj.com/us-news/education/usc-online-social-work-masters-11636435900.

9 Blinder, *Students Paid Thousands for a Caltech Boot Camp*; Press Release, *Students File Lawsuit Against USC and 2U for Deceptive Enrollment Scheme*, Student Defense (Dec. 20, 2022), https://defendstudents.org/news/students-file-lawsuit-against-usc-and-2u-for-deceptive-enrollment-scheme.

10 Blinder, *Students Paid Thousands for a Caltech Boot Camp*.

11 Amber Villalobos, *Online College Programs Increasingly Put Black and Hispanic Students at Risk*.

12 Stephanie Hall and Taela Dudley, *Dear Colleges: Take Control of Your Online Courses*, The Century Foundation, (Sept. 12, 2019), https://tcf.org/content/report/dear-colleges-take-control-online-courses/.

13 Christian Michael Smith, Amber D. Villalobos, Laura T. Hamilton, and Charlie Eaton, *Promising or Predatory? Online Education in Non-Profit and For-Profit Universities*, Social Forces 102, No. 3 952-77 (Mar. 2024), https://doi.org/10.1093/sf/soad074.

14 New York City Consumer Protection Law, N.Y. Admin. Code § 20-7– et seq.

15 *City of New York v. Berkeley Educational Services of New York, Inc.*, 179 A.D.3d 538 (1st Dep't 2020).

16 The CPL also provides that for conduct to be "unconscionable", the conduct must be declared unconscionable and described in a rule or regulation. Accordingly, DCWP should explicitly state in the OPM regulation that the prohibited conduct is unconscionable.

17 The model legislation developed by The Century Foundation and Protect Borrowers is available at https://protectborrowers.org/wp-content/uploads/2025/05/Model-OPM-State-Legislation.pdf.

18 H.F. 4024, 93rd Leg., Reg. Sess. (Minn. 2024), https://www.revisor.mn.gov/bills/93/2024/0/HF/4024/versions/bill/3/.

19 H.B. 96, 136th Gen. Assemb. (Ohio 2025), https://www.legislature.ohio.gov/legislation/136/hb96.

20 S. 4818, 2024-2025 Leg., Reg. Sess. (N.J. 2025), https://www.njleg.state.nj.us/bill-search/2024/S4818.

21 Amber Villalobos, *Online College Programs Increasingly Put Black and Hispanic Students at Risk*.

22 Letter to U.S. Senators Brown, Smith, and Warren, *Follow-up to Online Program Managers (OPM)*, 2U (Jan. 28, 2022), https://protectborrowers.org/wp-content/uploads/2026/05/FINAL_2U_Reponse_to_Senators_Brown_Smith_Warren_2022_luDAKtT.pdf.

23 Amber Villalobos, *Online College Programs Increasingly Put Black and Hispanic Students at Risk*.