Education Management Corporation

Introduction

Education Management Corporation is one of largest for-profit education companies and operates a wide variety of brands and programs. Like many others in the sector, in recent years, the company has experienced significant growth in enrollment, Federal revenues and profit. While the diversity of brands and programs makes it difficult to draw conclusions about the company, the cost of many programs, particularly those offered by the Art Institutes, is fairly substantial, and students completing these programs seem to struggle to find jobs. More critically, when the student outcomes for the company as a whole are examined, the company has some of the highest numbers of students leaving the company's programs without completing a certificate or degree of any company examined.

Company Overview

Education Management Corporation ("EDMC") is a publicly traded for-profit education company headquartered in Pittsburgh, PA. EDMC operates a total of 107 campuses in 32 States, along with an online division, and offers Associate, Bachelor's, Certificate, Master's and Doctoral programs in media arts, health sciences, design, behavioral sciences, culinary, and business.[1813] About half of the company's students are in Bachelor's level programs, and approximately 25 percent of the company's students are attending school exclusively online.[1814]

Brands
Argosy University
Brown Mackie College
South University
The Art Institutes[1815]
Western State University College of Law

EDMC operates four major brands and an ABA-accredited law school. The company has acquired much of its capacity through acquisition, meaning that its brands have multiple accreditors and many different identification numbers with the Department of Education. The largest of these brands is The Art Institute, which represents about half of the company and whose primary focus is media, arts, design, and fashion programs.[1816] The majority of students at The Art Institutes are younger than 25 and are primarily in Bachelor's programs.[1817] At Argosy, the majority of students are in graduate programs in behavioral health and education.[1818] The average student at Argosy is 36 years old.[1819] At Brown Mackie College, the majority of students are in Associate programs in health sciences, legal, and

[1813] A list of campuses can be found at: http://www.artinstitutes.edu/locations.aspx, http://www.argosy.edu/locations/default.aspx, http://www.brownmackie.edu/#, http://www.southuniversity.edu/# (accessed May 17, 2012).
[1814] Barclay's Bank High Yield Bond and Syndicated Loan Conference Transcripts (March 27, 2012).
[1815] The Art Institute Brand includes the Miami International University of Art and Design, the New England Institute of Art, and the Illinois Institute of Art.
[1816] Barclay's Bank High Yield Bond and Syndicated Loan Conference Transcripts (March 27, 2012).
[1817] Id.
[1818] Id.
[1819] Id.

business.[1820] At South University, the majority of students are in the health sciences (in nursing or pharmacy) with the largest concentration of students in Bachelor's programs.[1821]

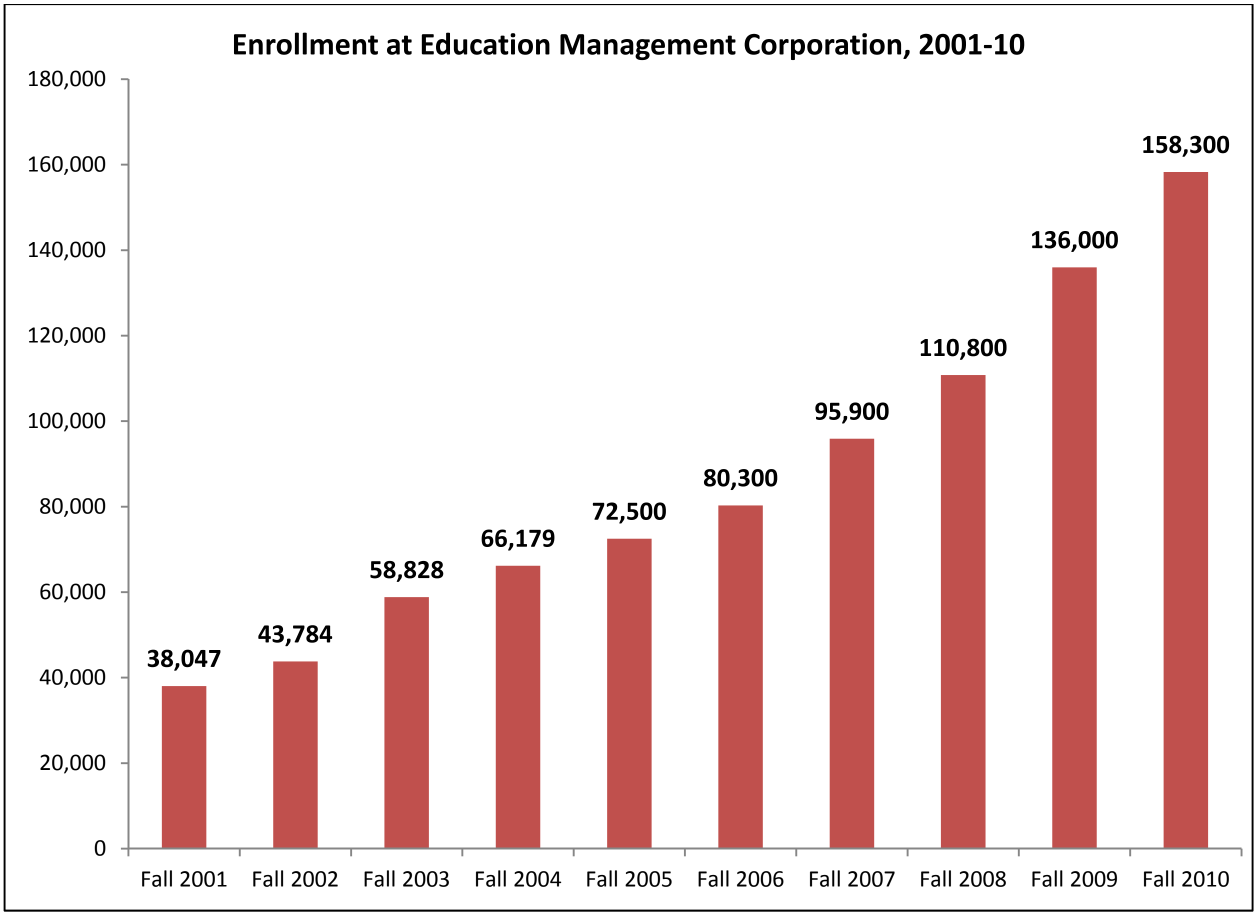
The Art Institute is both nationally and regionally accredited on a campus by campus basis. The Art Institutes' national accreditors are the Accrediting Commission of Career Schools and Colleges (ACCSC) and the Accrediting Council for Independent Colleges and Schools (ACICS) and its regional accreditors are the Commission on Colleges, Southern Association of Colleges and Schools (SACS), the Middle States Commission on Higher Education (MSC), the New England Association of Schools and Colleges (NEASC), the Northwest Commission on Colleges and Universities (NWECCU), and the Higher Learning Commission of the North Central Association of Colleges and Schools (HLC). Argosy University is regionally accredited by the Commission on Colleges of the Western Association of Schools and Colleges (WASC), South University is regionally accredited by SACS, and Brown-Mackie College campuses are either regionally or national accredited by either ACICS or HLC.

While EDMC has been in existence since 1962, and completed its initial public offering (IPO) in 1996, in 2006 the company was purchased for $3.4 billion by two private equity firms, Providence Equity Partners and Leeds Equity Partners, together with Goldman Sachs. Interviewed in August 2010, the company's former CFO, who retired shortly after the buyout, stated: "you take on that amount of private-equity debt, you need to earn high rates of return for these investors, I was worried that the quality of the experience for employees and students was going to deteriorate." [1822]

In 2009, the three investors undertook an IPO, and EDMC once again became publicly traded. Goldman Sachs continues to own 41.8 percent of the company, Providence Equity Partners 31.5 percent, and Leeds Equity Partners 7.6 percent.[1823]

The current chief executive officer of EDMC is Todd Nelson. Nelson became CEO shortly after the 2006 buyout. Before coming to EDMC, Nelson spent 21 years at the Apollo Group, including six as CEO. Executives of Goldman Sachs currently hold 3 of the 10 seats on the board while Providence Equity Partners holds two and Leeds Equity Partners one.

[1820] Id.
[1821] Id.
[1822] John Hechinger, "Stripper Finds Degree Profitable for Goldman Wasn't Worth It." *Bloomberg*, August 6, 2010, http://www.bloomberg.com/news/print/2010-08-05/stripper-s-college-degree-profitable-for-goldman-finds-70-000-was-wasted.html (accessed June 14, 2012).
[1823] EDMC 2011 10-K.



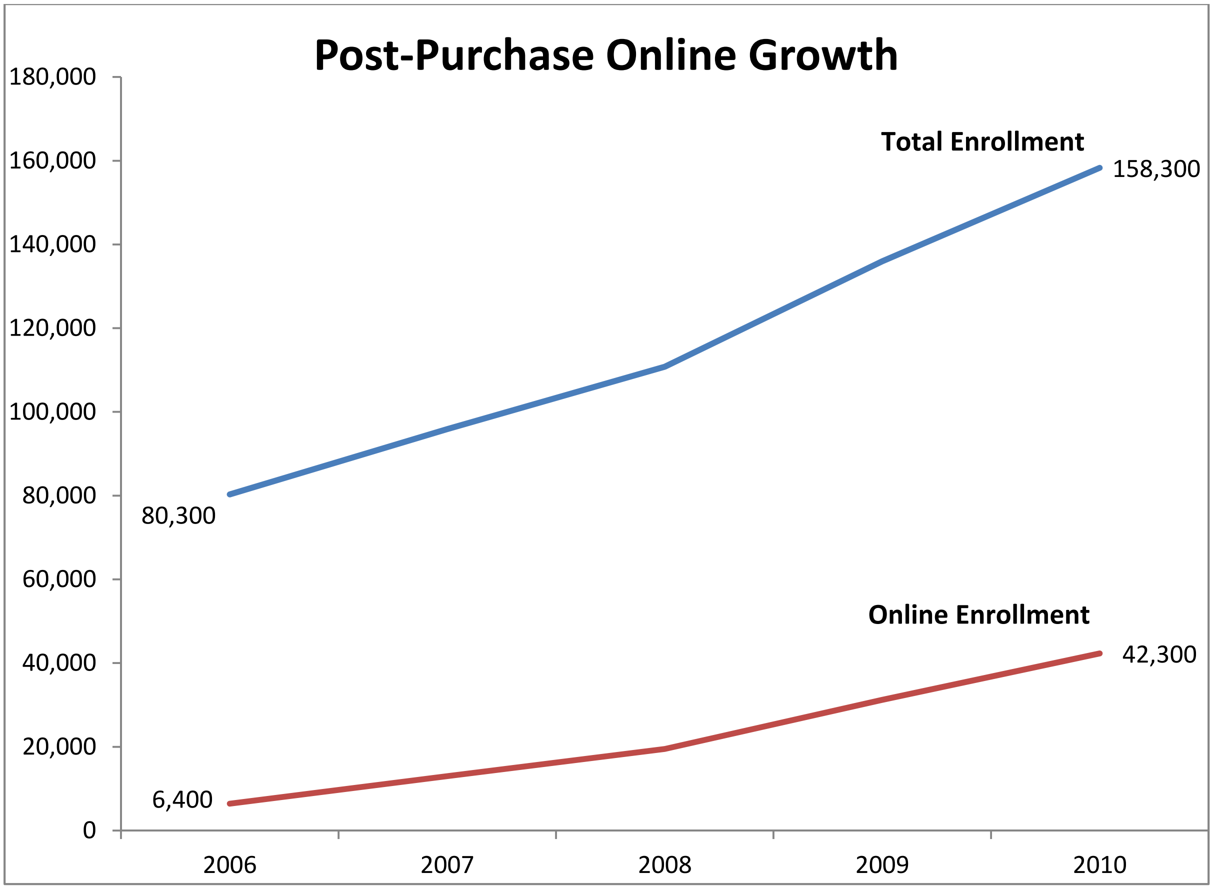
Enrollment at EDMC has grown more than four-fold since 2001, from 38,047 students that year to 158,300 students in 2010.[1824] Sixty-four percent of this growth has come since EDMC's 2006 purchase. Growth has fallen, however, in the last year.[1825] Executives attribute the drop to the incentive compensation ban that took effect in July 2011, which prohibited paying recruiters based on the number of students enrolled.[1826] The company plans to continue to expand by opening four to five new locations a year.[1827]

[1824] Enrollment is calculated using the Securities and Exchange Commission quarterly or annual filing for the August-October period each year. See Appendix 7. As of Q3 2012 the company's enrollment was 134,900 students.

[1825] Despite the drop in enrollment, EDMC's revenue and profit both increased from 2010 to 2011.

[1826] EDMC, 2012, Q3 Investor Call.

[1827] Barclay's Bank High Yield Bond and Syndicated Loan Conference Transcripts (March 27, 2012).



Since the 2006 passage of a Federal law allowing colleges to provide exclusively online programs, online enrollment has also grown fairly quickly, increasing more than six-fold from 6,400 students that to 42,300 students in 2010.

The growth in enrollment has led to growth in revenue. Revenue has more than doubled, from $1.3 billion in 2007 to $2.5 billion in 2010.[1828]

Federal Revenue

Nearly all for-profit education companies derive the majority of revenues from Federal financial aid programs. Between 2001 and 2010, the share of title IV Federal financial aid funds flowing to for-profit colleges increased from 12.2 to 24.8 percent and from $5.4 to $32.2 billion.[1829] Together, the 30

[1828] EDMC's revenue in 2011 was $2.9 billion. Revenue figures for publicly traded companies are from Securities and Exchange Commission annual 10-K filings. Revenue figures for privately held companies are taken from the company financial statements produced to the committee. See Appendix 18.

[1829] Senate HELP Committee staff analysis of U.S. Department of Education, Federal Student Aid Data Center, *Title IV Program Volume Reports by School*, http://federalstudentaid.ed.gov/datacenter/programmatic.html, 2000-1 and 2009-10. Figures for 2000-1 calculated using data provided to the Committee by the U.S. Department of Education. "Federal financial aid funds" as used in this report means funds made available through Title IV of the Higher Education Act, including subsidized and unsubsidized Stafford loans, Pell grants, PLUS loans and multiple other small loan and grant programs. See 20 U.S.C. §1070 et seq.

companies the committee examined derived 79 percent of revenues from title IV Federal financial aid programs in 2010, up from 69 percent in 2006.[1830]

In 2010, EDMC reported 77.4 percent of revenue from title IV Federal financial aid programs.[1831] However, this amount does not include the Departments of Defense and Veterans Affairs education programs.[1832] Approximately 2.5 percent of EDMC's total revenue, or $58.5 million, was collected from Department of Defense Tuition Assistance or post 9/11 GI bill funds.[1833] With these funds included, 80 percent of EDMC's total revenue was comprised of Federal education funds.[1834] This figure does not include revenue the company was allowed to temporarily discount pursuant to the Ensuring Continued Access to Student Loans Act (ECASLA).[1835] Based on information the company provided to the committee, EDMC may have excluded as much as $450 million, or 19 percent of revenue, in 2010.

1830 Senate HELP Committee staff analysis of Proprietary School 90/10 numerator and denominator figures for each OPEID provided to the U.S. Department of Education pursuant to section 487(d)(4) of the Higher Education Act of 1965. Data for fiscal year 2006 provided to the committee by each company; data for fiscal year 2010 provided by the Department of Education on October 14, 2011. See Appendix 9.

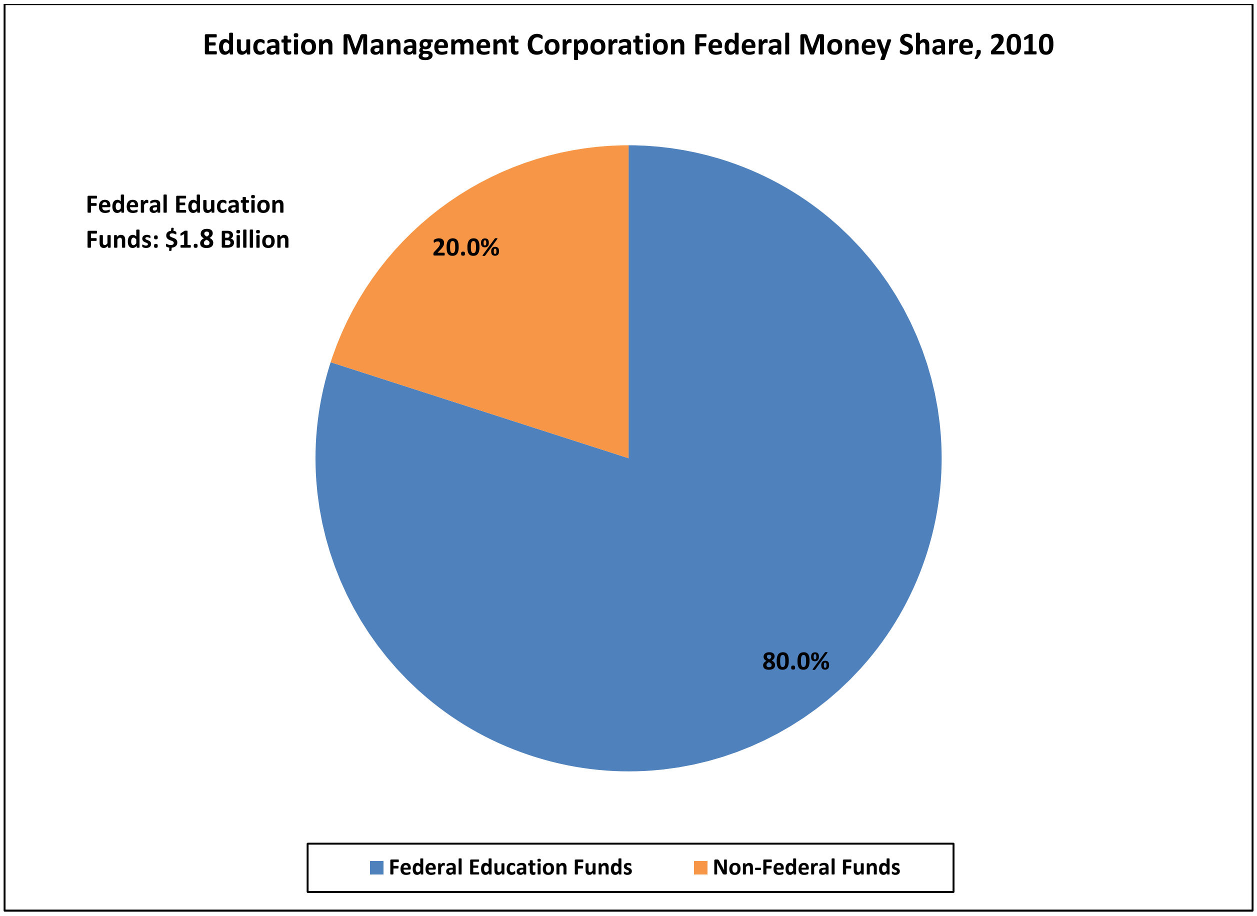
1831 Senate HELP Committee staff analysis of fiscal 2010 Proprietary School 90/10 numerator and denominator figures for each OPEID provided to the U.S. Department of Education pursuant to section 487(d)(4) of the Higher Education Act of 1965. Data provided by the Department of Education on October 14, 2011. See Appendix 9.

1832 Post-9/11 GI bill disbursements for August 1, 2009-July 31, 2010 provided to the committee from the Department of Veterans Affairs on November 5, 2010; post-9/11 GI bill disbursements for August 1, 2009-June 15, 2011 provided to the committee from the Senate Committee on Veterans' Affairs via the Department of Veterans Affairs on July 18, 2011; Department of Defense Tuition Assistance Disbursements and MyCAA disbursements for fiscal years 2009-11 provided (by branch) by the Department of Defense on December 19, 2011. Committee staff calculated the average monthly amount of benefits collected from VA and DOD for each company, and estimated the amount of benefits received during the company's 2010 fiscal year. See Appendix 11 and 12.

1833 Id.

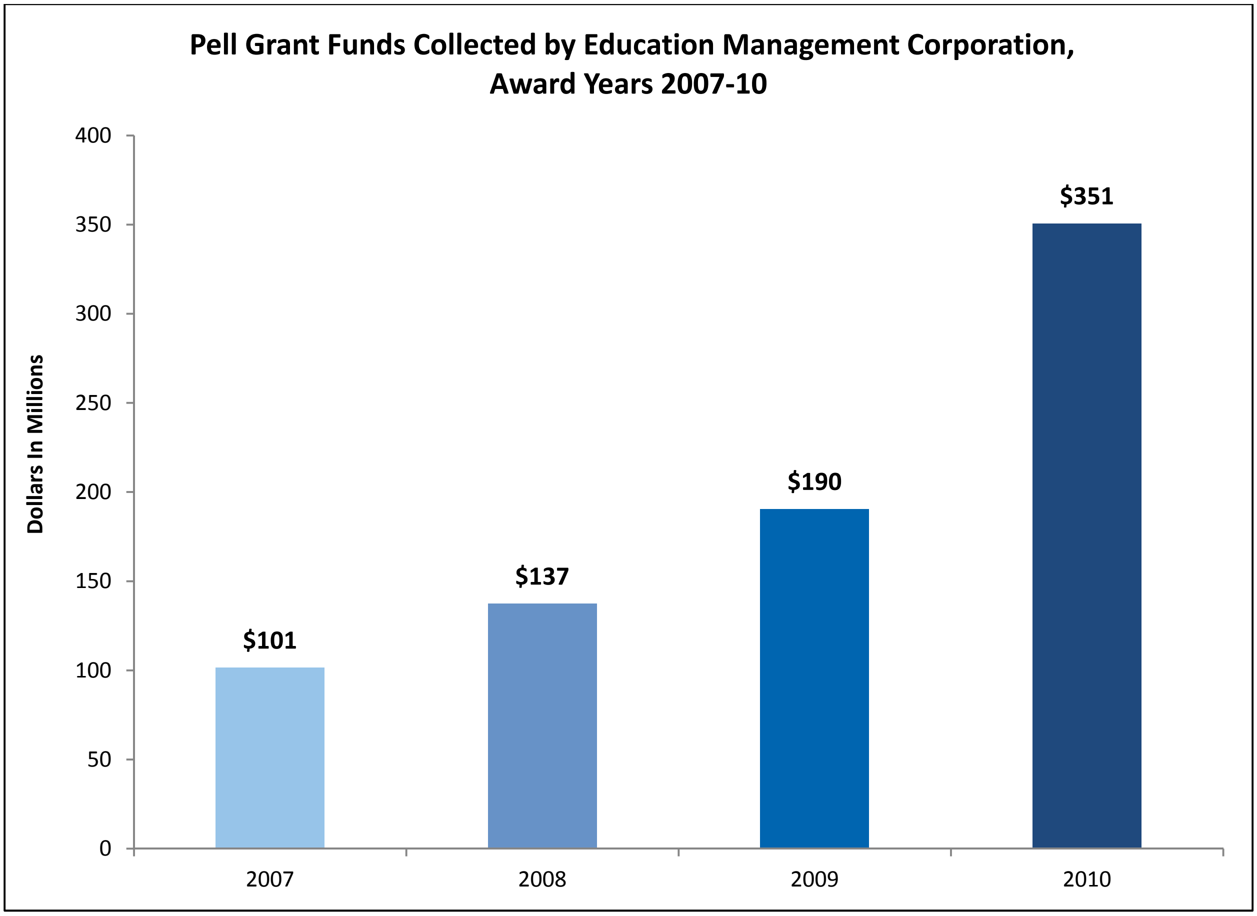
1834 "Federal education funds" as used in this report means Federal financial aid funds combined with estimated Federal funds received from Department of Defense and Department of Veterans Affairs military education benefit programs.

1835 The Ensuring Continued Access to Student Loan Act (ECASLA) increased Stafford loan amounts by up to $2,000 per student. The bill also allowed for-profit education companies to exclude the increased amounts of loan eligibility from the calculation of Federal revenues (the 90/10 calculation) during fiscal years 2009 and 2010. However, ECASLA calculations for EDMC could not be extrapolated from the data the company provided to the committee.



Over the past 10 years, the amount of Pell grant funds collected by for-profit colleges as a whole increased from $1.4 billion to $8.8 billion; the share of total Pell disbursements that for-profit colleges collected increased from 14 to 25 percent.[1836] Part of the reason for this increase is that Congress has repeatedly increased the amount of Pell grant dollars available to a student over the past 4 years, and, for the 2009-10 and 2010-11 academic years, allowed students attending year-round to receive two Pell awards in 1 year. Poor economic conditions have also played a role in increasing the number of Pell eligible students enrolling in for-profit colleges.

[1836] Senate HELP Committee staff analysis of U.S. Department of Education, Federal Student Aid Data Center, *Title IV Pell Grant Program Volume Reports by School*, 2001-2 and 2010-11, http://federalstudentaid.ed.gov/datacenter/programmatic.html.



EDMC more than tripled the amount of Pell grant funds it collected, from $101 million in 2007 to $351 million in 2010.[1837]

Spending

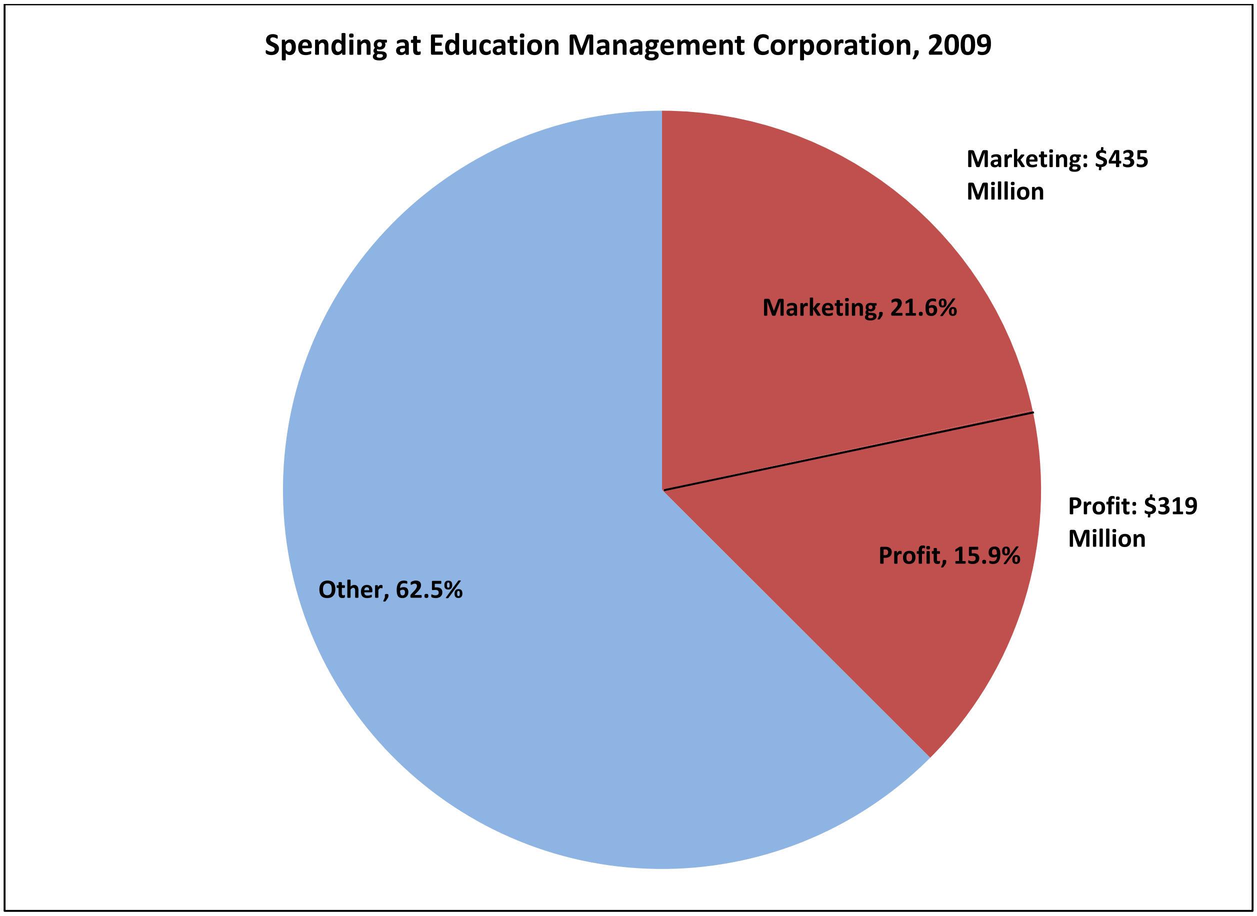
While the Federal student aid programs are intended to support educational opportunities for students, for-profit education companies direct much of the revenue derived from these programs to marketing and recruiting new students and to profit. On average, among the 15 publicly traded education companies, 86 percent of revenues came from Federal taxpayers in fiscal year 2009.[1838] During the same period, the companies spent 23 percent of revenues on marketing and recruiting ($3.7 billion), and 19.7 percent on profit ($3.2 billion).[1839] These 15 companies spent a total of $6.9 billion on marketing, recruiting and profit in fiscal year 2009.

[1837] Pell disbursements are reported according to the Department of Education's student aid "award year," which runs from July 1 through June 30 each year. Senate HELP Committee staff analysis of U.S. Department of Education, Federal Student Aid Data Center, *Title IV Pell Grant Program Volume Reports by School*, 2006-7 through 2009-10, http://federalstudentaid.ed.gov/datacenter/programmatic.html (accessed July 12, 2012). See Appendix 13.

[1838] Senate HELP Committee staff analysis of fiscal year 2009 Proprietary School 90/10 numerator and denominator figures plus all additional Federal revenues received in fiscal year 2009 provided to the committee by each company pursuant to the committee document request of August 5, 2010.

[1839] Senate HELP Committee staff analysis of fiscal year 2009 Securities and Exchange Commission annual 10-K filings and information provided to the committee by the company pursuant to the committee document request of August 5, 2010. Profit figures represent operating income before tax and other non-operating expenses including depreciation. Marketing and

In 2009, EDMC allocated 21.6 percent of its revenue, or $435 million, to marketing and recruiting, and 16 percent, or $319 million, to profit.[1840]

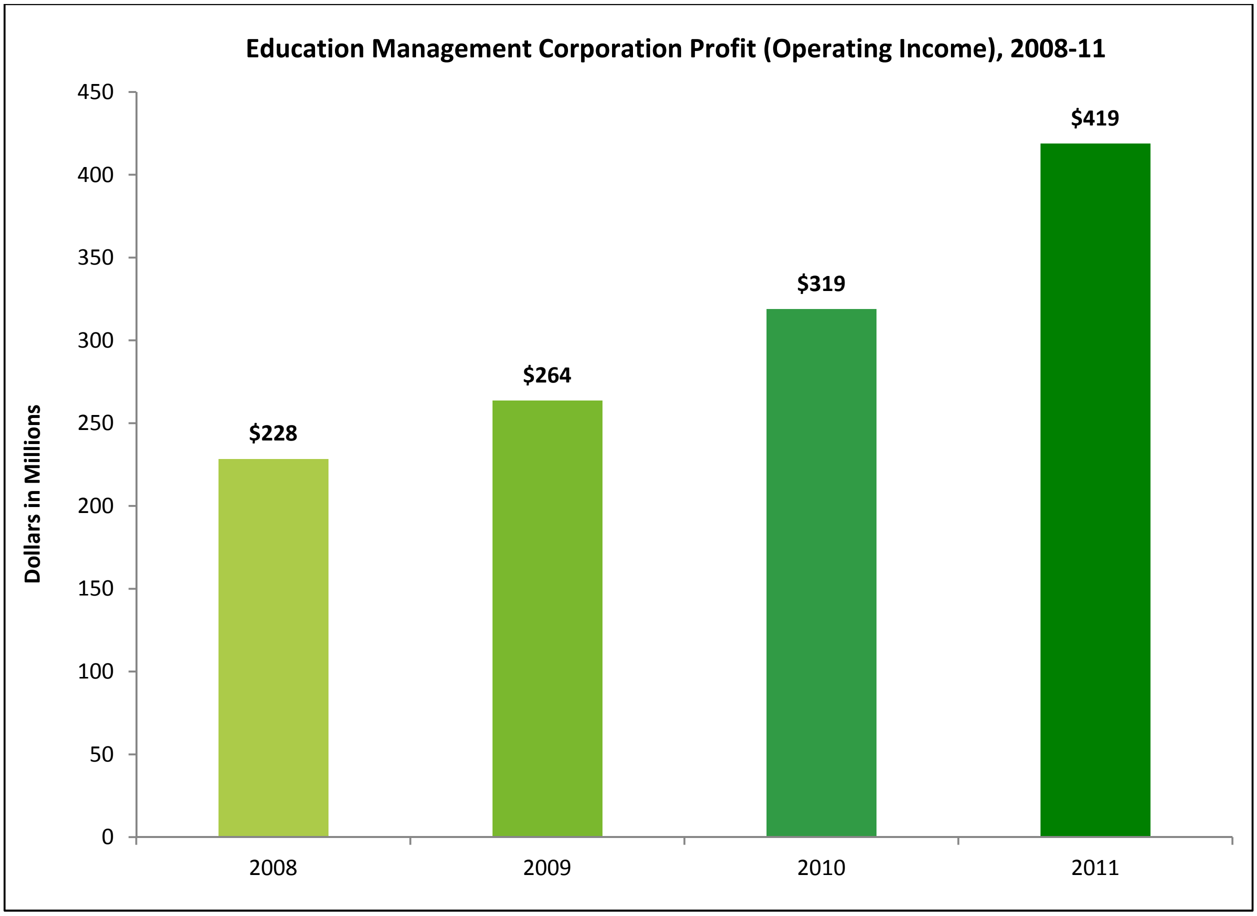


EDMC devoted a total of $754 million to marketing, recruiting and profit in fiscal year 2009. The amount of profit EDMC has generated has also risen steadily. In 2007, EDMC reported a profit of $228 million, and by 2010 that profit had grown to $419 million.[1841]

recruiting includes all spending on marketing, advertising, admissions and enrollment personnel as reported to the committee. See Appendix 19.

[1840] Id. "Other" category includes administration, instruction, executive compensation, student services, physical plant, maintenance and other expenditures. On average, the 30 for-profit schools examined spent 23 percent of revenue on marketing and 19.4 percent on profit.

[1841] Senate HELP Committee staff analysis. See Appendix 18. EDMC's profit in 2011 was $501 million.



Executive Compensation

Executives at EDMC, like most for-profit executives, are more generously compensated than leaders of public and non-profit colleges and universities. Executive compensation across the for-profit sector drastically outpaces both compensation at public and non-profit colleges and universities, despite poor student outcomes at many for-profit institutions.[1842] In 2009, EDMC CEO Todd Nelson received $1.8 million in compensation.[1843] This is over twice as much as the president of the Pennsylvania State University System who received $800,592 in total compensation for 2009-10.

[1842] Senate HELP Committee staff analysis of fiscal year 2009 Securities and Exchange Commission annual proxy filings and chief executive salary surveys published by the Chronicle of Higher Education for the 2008-9 school year. See Appendix 17a.
[1843] Nelson's compensation in 2011 was $13 million.

Executive	Title	2009 Compensation	2010 Compensation
Todd S. Nelson	CEO	$1,812,996	$3,804,121
Edward H. West	President and CFO	$1,551,802	$5,486,905
John M. Mazzoni	President, The Art Institutes	$806,152	$1,010,542
John T. South III	Senior VP and Chancellor of South University	$754,339	$972,267
Danny D. Finuf	President, Brown Mackie Colleges	$714,957	$1,003,319
Total		$5,640,246	$12,277,154[1844]

The chief executive officers of the large publicly traded for-profit education companies took home, on average, $7.3 million in fiscal year 2009.[1845] While Nelson's $1.8 million compensation package for 2009 is one-fourth the average publicly traded higher education companies, it is still noteworthy given that more than half of the company's students who enrolled that year left by 2010.

Tuition and Other Academic Charges

Compared to public colleges offering the same programs, the price of tuition is higher at EDMC. Tuition for a Bachelor's Degree in Fashion and Retail Management at EDMC's Art Institute of Pittsburgh costs $94,765.[1846] A Bachelor's of Science in Business at EDMC's Argosy University $67,545.[1847] The same degree at Penn State University costs $64,892.[1848] An Associate's Degree in Web Design and Interactive Media at the Art Institute of Pittsburgh costs $47,410.[1849] The Community College of Allegheny County offers the same degree for $6,800.[1850]

[1844] Senate HELP Committee staff analysis of fiscal year 2009 and 2010 Securities Exchange Commission annual proxy filings. Information analyzed includes figures for named executive officers. See Appendix 17b.

[1845] Includes compensation information for 13 of 15 publicly traded for-profit education companies. Kaplan, owned by the Washington Post Company, does not disclose executive compensation for its executives. And National American University was not listed on a major stock exchange in 2009.

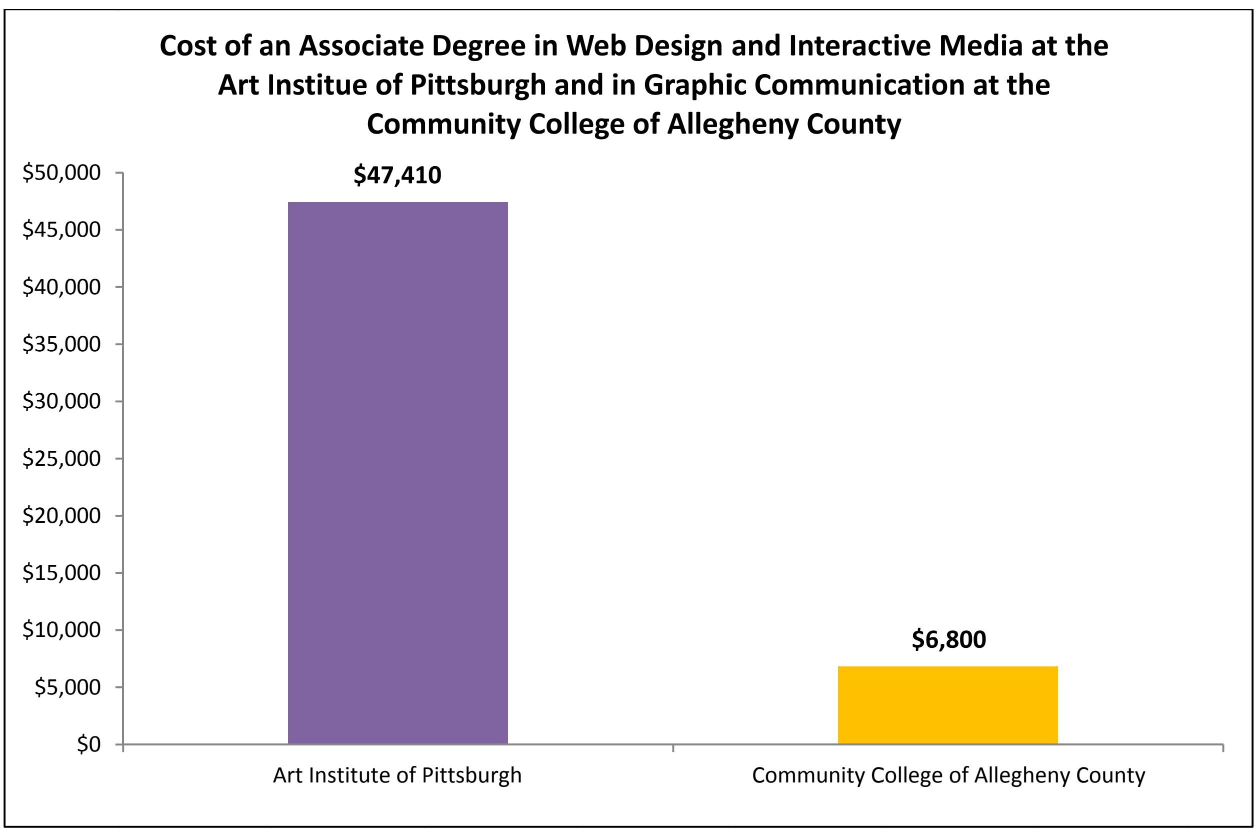
[1846] See Appendix 14; See also, The Art Institute of Pittsburgh, *Fashion – Programs & Curriculum*, http://www.artinstitutes.edu/pittsburgh/fashion/fashion-and-retail-management-bs-4012.aspx (accessed July 12, 2012).

[1847] See Appendix 14; See also, Argosy University, *Bachelor of Science in Business Administration*, http://online.argosy.edu/college/undergraduate_studies/bsa/index.aspx (accessed July 12, 2012).

[1848] See Appendix 14; see also, Penn State University, *Penn State*, http://www.psu.edu/ (accessed July 12, 2012).

[1849] See Appendix 14; See also, The Art Institute of Pittsburgh, *Graphic Design*, http://www.artinstitutes.edu/pittsburgh/design/graphic-design-as-4312.aspx (accessed July 12, 2012).

[1850] See Appendix 14; see also, Community College of Allegheny County, *Community College of Allegheny County*, http://www.ccac.edu/ (accessed July 13, 2012).



The higher tuition that EDMC charges is reflected in the amount of money that EDMC collects for each veteran that it enrolls. From 2009 to 2011, EDMC trained 11,197 veterans and received $173 million in post-9/11 GI bill benefits, averaging $15,479 per veteran. In contrast, public colleges collected an average of $4,642 per veteran trained in the same period.[1851]

Internal documents produced to the committee indicate that when potential students inquire about the cost of tuition at EDMC, recruiters are trained to respond that:

> Most students who are investing in their education are concerned about the money, because it's just that, an investment that pays off in the future. Most students ultimately decide that this is the best possible investment on can make. However, I think many people are concerned about out of pocket expense. Is that your concern?[1852]

In some cases, tuition increases have caused concern at the campus level. In a 2005 email, the director of admissions of the Art Institute of Charlotte stated, "I would prefer it not go up that much, but I think this is out of our control" and that ultimately, "You name it, we'll sell it." [1853] The group vice president for The Art Institutes-West recommended in a 2006 email, "I would recommend we have two enrollments agreements for H.S. student so that it is not a piss off factor having to tell them tuition is increasing just after they started [sic]." [1854]

At least one campus president has gone as far as to question the prudence of a particular tuition increase. In 2007, the president of the Art Institutes International of Minnesota wrote, "While I do not agree with an October increase for the above stated reasons, at least if we'd been informed our admissions team would have used that to push up July and August starts. What do we gain compared to what we may lose by doing this? More importantly is this the right thing to do?" [1855] This followed an earlier email in which he wrote, "a decision to subsequently increase their rate might be viewed very negatively. [Redacted] is concerned they will see it as bait and switch." [1856] After a later tuition increase, the same executive wrote that he preferred, "not to have any comment about why this increased [sic] is warranted as indicated in the original BPC-approved letter because no matter what justification given it will be challenged and we think it is better to not attempt to explain it." [1857]

In 2007, the president of the Illinois Institute of Art wrote in response to a price increase, "I am really concerned that we will lose many of those students since many of the parents are telling SFS [Student Financial Services] that they feel that they have been deceived. I am also facing a moral[e] [sic] problem in SFS department. They have been very excited to have moved so many students and now they feel that their work has actually been a negative [sic]." [1858] There has been at least some recognition of the burden that these tuition increases represent. The director of Administrative and Financial Services at the Art Institute of Tampa wrote in a 2007 email, "As we move forward in the

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[1851] See Appendix 11. Post-9/11 GI bill disbursements for August 1, 2009-June 15, 2011 provided to the committee from the Senate Committee on Veterans' Affairs via the Department of Veterans Affairs on July 18, 2011.
[1852] EDMC, *Common Objections and Answers* (EDMC-916-000052623). See Also EDMC, 2008, *Financial Aid Training: Overcoming Objections Negotiating Payment Plans*, (EDMC-916-000078645), EDMC, *Estimator Negotiation*, (EDMC-916-000077530), EDMC Internal Email, November 18, 2006, re: Tuition increase Roll-out Plan (EDMC-916-000210820).
[1853] EDMC Internal Email, September 8, 2005, re: *Tuition Increase* (EDMC-916-000227277, at EDMC-916-000227278). The company notes that, at this time, EDMC had a tuition "lock-in" program in place, meaning that as long as a student met the criteria for the lock-in, the student's per-credit tuition rate remained flat through the student's matriculation, and such students would not be impacted by tuition increases.
[1854] EDMC Internal Email, November 2, 2006, re: *Recommendation* (EDMC-916-000221049).
[1855] EDMC Internal Email, May 21, 2007, re: *October Tuition* (EDMC-916-000220745, at EDMC-916-000220746); See Also EDMC Internal Email, June 7, 2010, re: *AUO Pricing* (EDMC-916-000229388).
[1856] EDMC Internal Email, May 21, 2007, re: *October Tuition* (EDMC-916-000220745, at EDMC-916-00022047-48).
[1857] EDMC Internal Email, June 11, 2007, re: *FW: Tuition Increase for October 1, 2007* (EDMC-916-000220815).
[1858] EDMC Internal Email, May 9, 2007, re: *New Tuition Increase* (EDMC-916-000212577).

year, and tuition is increasing, it is getting harder and harder to package students without increasing the amount of institutional aid we give…"[1859]

In 2008, EDMC executives discussed deleting from the enrollment agreement the provision that required 90 days' notice before the company could raise tuition. In response, the president of Brown Mackie College wrote, "the problem is when we change the tuition on existing students if we do not provide them with this time it creates a back lash on the school and our potential for student drops is larger. They need to absorb the information and get over the initial emotional impact [sic]."[1860] The company ultimately decided not to eliminate the notice period.

A 2008 email from the president of South University's Montgomery, AL, campus further illustrated the attitude of some EDMC executives towards tuition increases. He stated that, "Although we all know intellectually why we are doing this, the fact remains that the sticker shock of a tuition increase of this magnitude, coupled with the financing issues we will face with the resulting gaps, could easily cause a blip in our enrollment and new start plans for fall."[1861]

The changes EDMC executives considered in response to the gainful employment regulation indicate the company's awareness of the burden its high cost represents.[1862] In a November 2010 call with investors, EDMC President and CFO Edward West discussed possible changes the company might have to undertake in order to comply, including:

> -restructuring of programs, thereby altering the length of the program and lowering potential debt levels.
>
> -reducing student cost burden, across all programs and are evaluating the reduction of costs associated with supply kits and miscellaneous student fees.
>
> -Increased institutional scholarships or tuition reductions.[1863]

On June 26, 2012, the first set of data indicated that 5 percent of programs (193 programs at 93 institutions) all operated by for-profit colleges failed to meet all three gainful employment criteria.[1864] EDMC was among the companies with more than five programs failing all three criteria.[1865]

Finally, an email from the vice president of Argosy University Online highlights the company's mindfulness of the limitations of raising tuition to help comply with 90/10. "While I recognize a higher tuition price point has the potential to positively impact 90/10," he wrote, "I don't think it can be the

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[1859] EDMC Internal Email, August 27, 2007, re: *FBAR 08242007.xls* (EDMC-916-000229657).
[1860] EDMC Internal Email, May 24, 2008, re: *Tuition Increase* (EDMC-916-000212943).
[1861] EDMC Internal Email, June 24, 2008, (EDMC-916-000211780); See also, EDMC Internal Email, December 15, 2006, re: *Enrollment Agreement for Schaumburg* (EDMC-916-00022752).
[1862] On June 30, 2012, the District Court for the District of Columbia struck down the gainful employment rule stating that the Department had failed to provide sufficient justification for the requirement that 35 percent of students are repaying loans. *Association of Private Colleges and Universities v. Duncan*, 2012 DC D 1:11-CV-01314-RC U, p. 29-31, available at http://big.assets.huffingtonpost.com/judgeordergainful.pdf (accessed July 6, 2012).
[1863] EDMC 2011, Q1 Investor Call.
[1864] U.S. Department of Education, "Five Percent of Career Training Programs Risk Losing Access to Federal Funds; 35 Percent Meet All Three Standards Under Gainful Employment Regulation," Press Release, June 26, 2012, http://www.ed.gov/news/press-releases/five-percent-career-training-programs-risk-losing-access-federal-funds-35-percen (accessed July 6, 2012).
[1865] U.S. Department of Education, Federal Student Aid Data Center, *2011 Gainful Employment Informational Metrics*, http://federalstudentaid.ed.gov/datacenter/gainful1.html (accessed July 6, 2012). See also Libby A. Nelson, Missing the Mark on 'Gainful,' *Inside Higher Ed*, June 26, 2012, http://www.insidehighered.com/news/2012/06/26/education-department-releases-data-gainful-employment-rule (accessed July 6, 2012).

solution as it will constrain our ability to get enrollments. We are already priced higher than any of our competitors so if this were a driving factor in 90/10 we would be in a much better position as it relates to 90/10." [1866]

Institutional Loans

Due to the high price of tuition at some for-profit colleges, some students must rely on alternative financing in addition to Federal financial aid to pay tuition fees. For the 3-year period from 2008 to 2011, institutional loan programs could help a company meet a regulatory requirement that no more than 90 percent of revenues come from Federal student aid dollars ("90/10"). Specifically, 50 percent of the value of these loans could be counted towards the ten side of the calculation. EDMC created a new "Education Finance Loan" program in 2008, carrying interest rates up to 11 percent. The company made $19 million in loans in 2009, and more than tripled the size of the program the next year to $65.9 million.[1867] However, with the temporary exception expiring in 2011, EDMC announced that it would shut down its institutional loan program and look to sell off the loans that it holds on its books.[1868]

Recruiting

Enrollment growth is critical to the business success of for-profit education companies, particularly for publicly traded companies that are closely tracked by Wall Street analysts. In order to meet revenue and profit expectations, for-profit colleges must recruit as many students as possible to sign up for their programs.

During the period examined, and prior to the current ban on paying recruiters based on the number of students enrolled that took effect in July 2011, documents clearly reflect the pressure on recruiters to meet enrollment targets. An EDMC manager's email illustrates this point: "The goal is 100 March starts and we only have 47 on the books. So we must take no less than 15 March apps each week for the next 6 weeks." [1869] Another email adds, "WE ARE FAR BEHIND WHERE WE NEED TO BE!!!" [emphasis in original].[1870] An email further notes, "I want you to take a look at your personal conversion rates and see if you can find an opportunity this week to get over the 60% mark. As a department we are struggling and this is an area I feel we can really impact to get to October. We are only averaging 48% and we need to be in the mid 60's to impact October…Remember, we have them on campus already let's close them here and not have to do double time on the phones later." [1871]

EDMC managers use carrots such as "GET OUT OF WORK AT 3p.m." cards to push recruiters to enroll more students [emphasis in original].[1872] Other times much larger prizes are offered, like company-paid trips. "Looks like [recruiter's name] might be going to Hawaii!!!" a recruitment manager emails her recruiting staff after looking at the daily enrollment report.[1873] The company asserts,

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1866 EDMC Internal Email, June 7, 2010, re: *AUO Pricing* (EDMC-916-000229388).
1867 EDMC Investor Call, March 2010.
1868 Daniel Malloy, "EDMC Ends Loans During Tough Times for Industry: Credit Still Tight for Students at For-Profits," *Pittsburgh Post Gazette,* March 20, 2011, http://old.post-gazette.com/pg/11079/1133033-28.stm (accessed June 14, 2012).
1869 EDMC Internal Email, February 13, 2008, re: *No NSR Tomorrow!!!* (EDMC-916-000232415).
1870 EDMC Internal Email, June 29, 2008, re: *FW: Conversion* (EDMC-916-000234003).
1871 EDMC Internal Email, August 10, 2007, re: *Conversion* (EDMC-916-000234083).
1872 EDMC Internal Email, May 16, 2008, re: *FW: Conversion* (EDMC-916-000234047).
1873 EDMC Internal Email, December 23, 2008, re: *FW: CARS Report Attached: DB=aich TYPE=pdf File* (EDMC-916-000232456).

however, that EDMC never sponsored any trip to Hawaii for any of its admissions personnel or other employees.

According to a news report quoting a former admissions employee who worked for 3 years at Argosy University Online, "You'd probe to find a weakness, you basically take all that failure and all those bad decisions, and you spin it around and put it right back in their face as guilt, to go to this shitty university and run up all of this debt." [1874]

Students have little opportunity for recourse; EDMC like many other for-profit education companies includes a binding arbitration clause in its standard enrollment agreement.[1875] This clause severely limits the ability of students to have their complaints heard in court, especially in cases in which students with similar complaints seek redress as a group.

Military Money and MyCAA

Documents also demonstrate a focus on recruiting students eligible for military benefits. Internal documents suggest that EDMC was particularly interested in recruiting military spouses. In 2009, an EDMC 90/10 compliance document stated as a goal “Capitalize on $6k lifetime spouse benefit and the ability of the spouse to use funds from new GI Bill.” [1876]

A July 30, 2010, email from the vice president for EDMC’s Art Institute Online demonstrates a similarly determined attitude towards maximizing military families’ benefits. In her email she states that she wanted to ensure “we are leveraging the military spouse benefits to the fullest extent possible” for 90/10.[1877] And in February 2012, the Art Institutes, in partnership with Military Families United, announced a scholarship program specifically for military spouses to augment their earned benefits.[1878]

Internal documents also reflect a focus on recruiting veterans as a 90/10 compliance strategy. The same 2009 document discussing 90/10 compliance also suggests “grow military students” as a 90/10 strategy and suggests that South University “start location next to a military base.” [1879] In a 2009 email, discussing 90/10 compliance, the president of Brown Mackie College further stated, “Never give up especially when dealing with important issues such as 90/10. The VA is a terrific opportunity. With the new additional funding that takes place in August this could really have a nice impact for your campus and for future VA students.” [1880]

[1874] Kris Kirkham, “With Goldman’s Foray Into Higher Education, A Predatory Pursuit of Students and Revenues,” *Huffington Post Business*, December 14, 2011, http://www.huffingtonpost.com/2011/10/14/goldman-sachs-for-profit-college_n_997409.html?view=print&comm_ref=false (accessed June 14, 2012).
[1875] EDMC, *Brown Mackie College Enrollment Agreement* (EDMC-916-000000085, at EDMC-916-000000086). The company does stipulate however, that they will not elect to arbitrate any individual claim of less than $5000 brought in small claims court.
[1876] EDMC, November 6, 2009, *90-10 Project Tracker-Student Mix* (EDMC-916-000000483, at EDMC-916-000000488). The company asserts that this project was not implemented.
[1877] EDMC Internal Email, July 30, 2012, re: *FW: Possible Opportunities for EDMC “90:10”* (EDMC-916-000228222).
[1878] Robert Jackson, “Military families Deserve Access to Career Colleges,” *Stars and Stripes*, March 16, 2012, http://www.stripes.com/military-families-deserve-access-to-career-colleges-1.171843 (accessed May 20, 2012). See also Education Management Corporation, “Military Families United Partners with The Art Institutes to Provide Scholarships to Spouses of All Armed Forces Members,” Press Release, February 3, 2012, http://phx.corporate-ir.net/phoenix.zhtml?c=87813&p=irol-newsArticle&ID=1656526&highlight= (accessed May 20, 2012).
[1879] EDMC, November 6, 2009, *90-10 Project Tracker-Student Mix* (EDMC-916-000000483, at EDMC-916-000000488). The company asserts that this project was not implemented. See also EDMC Online Higher Education, August 5, 2009, *Military Initiative-Serving Those Who Serve,”* (EDMC-916-000228187).
[1880] EDMC Internal Email, May 4, 2009, re: *90/10* (EDMC-916-000200233).

Outcomes

While aggressive recruiting and high cost programs might be less problematic if students were receiving promised educational outcomes, committee staff analysis showed that tremendous numbers of students are leaving for-profit colleges without a degree. Because 98 percent of students who enroll in a 2-year degree program at a for-profit college, and 96 percent who enroll in a 4-year degree program, take out loans, hundreds of thousands of students are leaving for-profit colleges with debt but no diploma or degree each year.[1881]

Two metrics are key to assessing student outcomes: (1) retention rates based on information provided to the committee and (2) student loan "cohort default rates." These metrics indicate that many students who enroll at EDMC are not achieving their educational and career goals.

Retention Rates

Information EDMC provided to the committee indicates that of the 78,661 students who enrolled at EDMC-owned colleges in 2008-9, 62.1 percent, or 48,840 students, withdrew as of mid-10.[1882] This is the fourth highest withdrawal rate of any company examined by the committee. These students were enrolled a median of 4 months.[1883] Further, a considerably higher percentage of students withdrew from EDMC compared to the overall withdrawal rate of 54 percent.[1884]

EDMC's Certificate program has the highest withdrawal rate of all Certificate programs examined and is substantially higher than the sector-wide rate of 38.5 percent. EDMC's Associate and Bachelor's programs also rank amongst the ten highest withdrawal rates for both categories. Additionally, EDMC's Bachelor degree withdrawal rate is significantly higher than the sector-wide rate of 54.3 percent.

Status of Students Enrolled at Education Management Corporation in 2008-9, as of 2010						
Degree Level	**Enrollment**	**Percent Completed**	**Percent Still Enrolled**	**Percent Withdrawn**	**Number Withdrawn**	**Median Days**
Associate Degree	32,107	2.9%	33.5%	63.7%	20,444	162
Bachelor's	38,133	0.6%	37.5%	61.9%	23,609	175

[1881] Patricia Steele and Sandy Baum, "How Much Are College Students Borrowing?," *College Board Policy Brief*, August 2009, http://advocacy.collegeboard.org/sites/default/files/09b_552_PolicyBrief_WEB_090730.pdf (accessed June 14, 2012).
[1882] Enrollment is calculated using the Securities and Exchange Commission quarterly or annual filing for the August-October period each year. See Appendix 7.
[1883] Senate HELP Committee staff analysis. See Appendix 15. Rates track students who enrolled between July 1, 2008 and June 30, 2009. For-profit education companies use different internal definitions of whether students are "active" or "withdrawn." The date a student is considered "withdrawn" varies from 10 to 90 days from date of last attendance. Two companies provided amended data to properly account for students that had transferred within programs. Committee staff note that the data request instructed companies to provide a unique student identifier for each student, thus allowing accurate accounting of students who re-entered or transferred programs within the school. The dataset is current as of mid-2010, students who withdrew within the cohort period and re-entered afterward are not counted. Some students counted as withdrawals may have transferred to other institutions.
[1884] It is not possible to compare student retention or withdrawal rates at public or non-profit institutions because this data was provided to the committee directly by the companies. While the Department of Education tracks student retention and outcomes for all colleges, because students who have previously attended college are excluded from the data set, it fails to provide an accurate picture of student outcomes or an accurate means of comparing for-profit and non-profit and public colleges.

Degree						
Certificate	8,421	30.2%	13.0%	56.8%	4,787	141
All	78,661	4.7%	33.2%	62.1%	48,840	166

The dataset does not capture some students who withdraw and subsequently return, which is one of the advantages of the for-profit education model. The analysis also does not account for students who withdraw after mid-2010 when the data were produced.

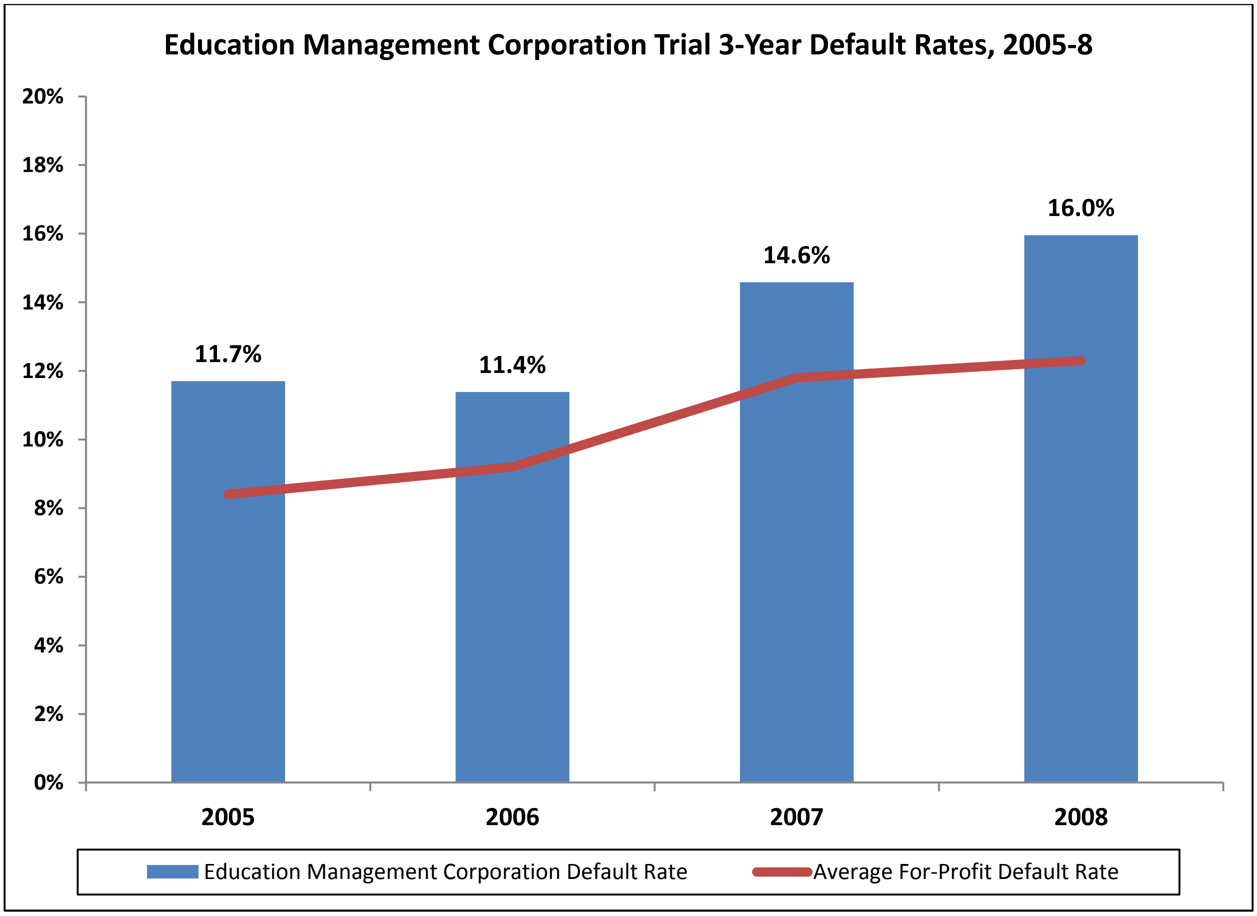
Student Loan Defaults

The number of students leaving EDMC shortly after enrolling correlates with the high rates of student loan defaults by students who attended EDMC. The Department of Education tracks and reports the number of students who default on student loans (meaning that the student does not make payments for at least 360 days) within 3-years of entering repayment, which usually begins 6 months after leaving college.[1885]

Slightly more than 1 in 5 students who attended a for-profit college, (22 percent) defaulted on a student loan, according to the most recent data.[1886] In contrast, 1 student in 11 at public and non-profit schools defaulted within the same period.[1887] On the whole, students who attended for-profit schools default at nearly three times the rate of students who attended other types of institutions.[1888] The consequence of this higher rate is that almost half of all student loans defaults nationwide are held by students who attended for-profit colleges.[1889]

The default rate across all 30 companies examined increased each fiscal year between 2005 and 2008, from 17.1 percent to 23 percent. This change represents a 32.6 percent increase over 4 years.[1890] EDMC's default rate has similarly increased, growing from 11.7 percent for students entering repayment in 2005 to 16 percent for students entering repayment in 2008.

[1885] Direct Loan Default Rates, 34 CFR 668.183(c).
[1886] Senate HELP Committee staff analysis of U.S. Department of Education Trial Cohort Default Rates fiscal year 2005-8, http://federalstudentaid.ed.gov/datacenter/cohort.html. Default rates calculated by cumulating number of students entered into repayment and default by sector.
[1887] Id.
[1888] Id.
[1889] Id.
[1890] Senate HELP Committee staff analysis of U.S. Department of Education Trial Cohort Default Rates fiscal year 2005-8, http://federalstudentaid.ed.gov/datacenter/cohort.html. Default rates calculated by cumulating number of students entered into repayment and default for all OPEID numbers controlled by the company in each fiscal year. See Appendix 16.



The default picture at some individual campuses is particularly dire. At EDMC's Brown Mackie College Arizona campuses 33.3 percent of its students entering repayment in 2008 defaulted within 3 years. Additional poor performing campuses include Brown Mackie Colleges in Cincinnati, OH (24.9 percent default rate) and Findlay, OH (23.1 percent default rate).

However, EDMC's overall default rate is much lower than some of the similarly sized companies examined, and the company remains well within compliance with the regulation that no more than 30 percent of students may default after 3 years.

Default management

It is likely that the reported default rates significantly undercount the number of students who ultimately face default, because of companies' efforts to place students in deferments and forbearances. Helping get delinquent students into repayment, deferment, or forbearance prior to default is encouraged by the Department of Education. However, for many students forbearance and deferment serve only to delay default beyond the 3-year measurement period the Department of Education uses to track defaults.

Default management is primarily accomplished by putting students who have not made payments on their student loans into temporary deferments or forbearances. While the use of deferment and forbearance is fairly widespread throughout the sector, documents produced indicate that a number of companies also pursue default management strategies that include loan counseling, education, and alternative repayment options. Default management contractors are paid to counsel students into repayment options that ensure that students default outside the 2-year, soon to be 3-year, statutory window, in which the Department of Education monitors defaults.

EMDC, like many other for-profit colleges, contracted with the General Revenue Corporation (GRC), a subsidiary of Sallie Mae, to "cure" students who are approaching default.[1891] In practice, documents indicate that at many companies, nearly all "cures" are accomplished by deferment or forbearance, not by students actually repaying their loans.

Internal documents suggest that EDMC is taking aggressive action to manage their default rate. "Get comfortable with doing a verbal forbearance!!!," instructs EDMC's Spring 2010 Default Prevention presentation.[1892] The same presentation adds, "DON'T B AFRAID-KEEP CALLING and KEEP CALLING LET THEM KNOW THIS IS NOT GOING TO GO AWAY" and that "It's time to be aggressive since we are now in a 3 year CDR window-defaults are likely to double/triple!! Take action now!!" [1893]

This practice is troubling for taxpayers. The cohort default rate is designed not just as a sanction but also as a key indicator of a school's ability to serve its students and help them secure jobs. If schools actively work to place students in forbearance and deferment, that means taxpayers and policymakers fail to get an accurate assessment of repayment and default rates. A school that has large numbers of its students defaulting on their loans indicates problems with program quality, retention, student services, career services, and reputation in the employer community. Aggressive default management undermines the validity of the default rate indicator by masking the true number of students who end up defaulting on their loans. Critically, schools that would otherwise face penalties—including loss of access to further taxpayer funds—continue to operate because they are able to manipulate their default statistics.

Moreover, forbearances may not always be in the best interest of the student. This is because during forbearance of Federal loans, as well as during deferment of unsubsidized loans, interest still accrues. The additional interest accrued during the period of forbearance is added to the principal loan balance at the end of the forbearance, with the result that interest then accrues on an even larger balance. Thus, some students will end up paying much more over the life of their loan after a forbearance or deferment.

Instruction and Academics

The quality of any college's academics is generally difficult to quantify. However the amount that a school spends on instruction per student compared to other spending, and what students say about their experience, are two useful measures.

EDMC spent $3,460 per student on instruction in 2009, compared to $4,158 per student on marketing and $3,460 per student on profit.[1894] The amount that publicly traded for-profit companies spend on instruction ranges from $892 to $3,969 per student per year. EDMC has one of the highest

[1891] EDMC, *Cohort Default Management Services Agreement* (EDMC-916-000083105).
[1892] EDMC, Spring 2010, *EDMC Default Prevention* (EDMC-916-000082490, at EDMC-916-000082537).
[1893] Id. at EDMC-916-000082539.
[1894] Senate HELP Committee staff analysis. See Appendix 20, Appendix 21, and Appendix 22. Marketing and profit figures provided by company or Securities and Exchange filings, instruction figure from IPEDS. IPEDs data for instruction spending based on instructional cost provided by the company to the Department of Education. According to IPEDS, instruction cost is composed of "general academic instruction, occupational and vocational instruction, special session instruction, community education, preparatory and adult basic education, and remedial and tutorial instruction conducted by the teaching faculty for the institution's students." Denominator is IPEDS "full-time equivalent" enrollment.

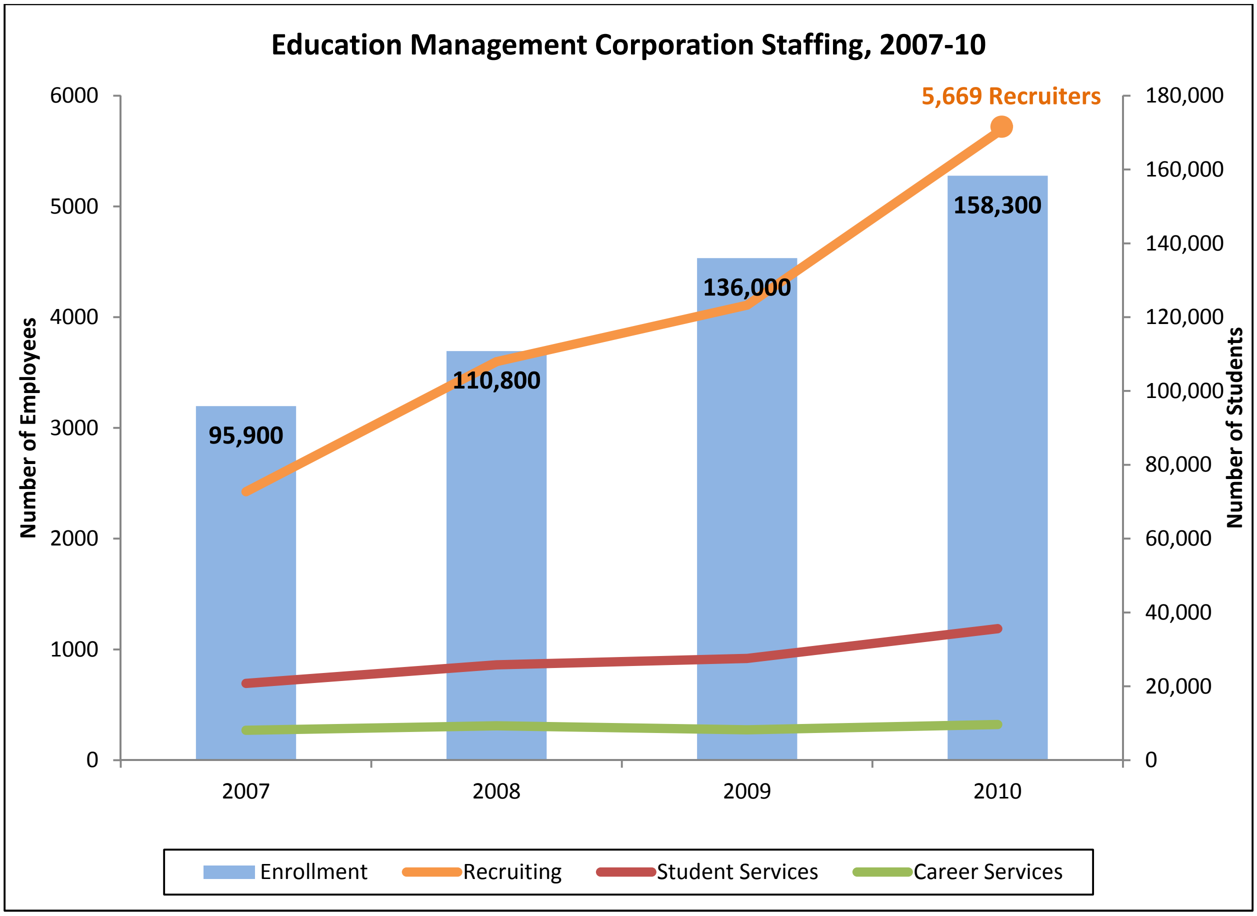
instructional expenditures amongst large publicly traded for-profit education companies, and unlike many of their competitors, EDMC spends more per student on instruction than they do on profit.

In contrast, public and non-profit 4-year colleges and universities, generally spend a higher amount per student on instruction, while community colleges spend a comparable amount but charge far lower tuition than for-profit colleges. On a per student basis, Penn State University spent $16,507 on instruction, the University of Pennsylvania spent $38,974, and Community College of Allegheny County spent $4,173.[1895]

A large portion of the faculty at many for-profit colleges is composed of part-time and adjunct faculty. While a large number of part-time and adjunct faculty is an important factor in a low-cost education delivery model, it also raises questions regarding the academic independence they are able to exercise to balance the colleges' business interests. Among the 30 schools the committee examined, 80 percent of the faculty is part-time, higher in some companies.[1896] In 2010, EDMC employed 3,726 full-time and 9,055 part-time faculty, meaning that it had far more full-time faculty than similarly sized for-profit education companies and likely more vibrant faculty involvement in academics.[1897]

[1895] Senate HELP Committee staff analysis. See Appendix 23.
Many for-profit colleges enroll a significant number of students in online programs. In some cases, the lower delivery costs of online classes – which do not include construction, leasing and maintenance of physical buildings – are not passed on to students, who pay the same or higher tuition for online courses.
[1896] Senate HELP Committee staff analysis of information provided to the committee by the company pursuant to the committee document request of August 5, 2010. See Appendix 24.
[1897] Id.

Staffing



While for-profit education companies employed large numbers of recruiters to enroll new students, the same companies frequently employ far less staff available to provide services including tutoring, remedial services or career counseling and job placement. In 2010, with 158,300 students, EDMC employed 5,669 recruiters, 321 career services employees, and 1,187 student services employees.[1898] That means each career counselor was responsible for 493 students and each student services staffer was responsible for 133 students, but the company employed one recruiter for every 28 students.

Career Services

Many EDMC brands are regionally accredited, and regional accreditors generally do not require that placement services be tracked and reported. Some of EDMC's national accreditors do require the company demonstrate that a certain amount of students are placed in jobs as a condition of accreditation. At the HELP Committee's September 30, 2010, hearing Kathleen Bittle, who was employed as both a recruiter and career counselor for EDMC, testified regarding the disparity between job placement staff and recruitment staff. She testified:

> I see a systemic problem here when there are only nine employees servicing the students that are being recruited by an admissions workforce of almost 1600. Career Services employees are being paid nearly a third of what the top performers in the admissions

[1898] Id. See Appendix 7 and Appendix 24.

department receive. I believe these facts speak volumes as to where the real priorities lie within these companies.[1899]

Ms. Bittel was responsible for assisting as many as 180 departing students at a time. "I would have loved to have been able to do so much more for my grads, but there was no time," she told the committee.

Bittel explained that placement counselors work under a quota system. Each job placement staffer was required to document that a certain percentage of graduates were employed in a job in their field of study. If she met her quota of 85.9 percent of her students placed in their fields, Ms. Bittel's testified, she could earn a 33 percent bonus (up to $12,000 per year over her salary of $36,000).[1900] Conversely, she testified that she was repeatedly told that she would be fired if she failed to meet her placement quotas.[1901]

The first step in meeting the quota, she said, was eliminating certain graduates from the calculation altogether. For instance, graduates would typically be excluded from placement calculations if the counselor reports that they are military spouses or stay-at-home parents, even if they are unemployed or working in a low wage retail job. "Established professionals" working in an unrelated field can also be excluded. This is true even though these individuals presumably pursued a degree to further a career in their field of study.[1902]

If a student cannot be excluded, placement counselors must then see if a graduate is working in their field of study. As Ms. Bittel explained, her colleagues at EDMC "were expected to convince graduates that skills they used in jobs such as working as waiters, payroll clerks, retail sales, and gas station attendants were actually related to their course of study in areas like graphic design and residential planning" so that the students would consent to sign documentation that they were employed in their field.[1903]

Ms. Bittel testified that, particularly with graphic design students, one of the most successful strategies was to encourage them to take freelance work and pursue self-employment. While she felt this was one of the few options available for some of the students she counseled, it is unclear whether many of those students were genuinely self-employed and supporting themselves.

Regulatory Strategies

For-profit education companies are subject to two key regulatory provisions: that no more than 90 percent of revenues come from title IV Federal financial aid programs, and that no more than 25 percent of students default within 2 years of entering loan repayment. In addition to using tuition pricing and focusing on military recruiting as a means of complying with the 90/10 rule, documents make clear that EDMC also uses a variety of other tactics that while not violating any law or regulation, are of questionable benefit to students and taxpayers. These include: making it difficult for students to

[1899] Kathleen A. Bittel (Acme, PA), Testimony before the Senate Committee on Health, Education, Labor, and Pensions, *The Federal Investment in For-Profit Education: Are Students Succeeding?*, 111th Congress (2010).
[1900] In contrast, Bittel was paid $55,000 as an assistant director of admissions.
[1901] Id.
[1902] Id.
[1903] Kathleen A. Bittel (Acme, Pennsylvania), Testimony before the Senate Committee on Health, Education, Labor, and Pensions, *The Federal Investment in For-Profit Education: Are Students Succeeding?,* 111th Congress (2010).

get stipends, manipulation of campus identifiers (OPEIDs), considering delaying the drawdown of title IV funds, and the use of scholarship programs. [1904]

EDMC appears to have erected a number of hurdles that have the effect of slowing disbursement of funds students borrow to pay living expenses while attending school. An internal document titled "90/10 plan FY2010" states that EDMC "put in place a tougher stipend check process which has cut our stipends down dramatically. Students are required to fill out budgets and get letters from their child care provider to support their stipend request. They are also counseled on the effect of taking out more loans." [1905]

For-profit colleges must report their 90/10 ratio by assigned Office of Postsecondary Education ID numbers (OPEID), rather than by campus or corporate owner. For-profit education companies that have grown in part by acquiring other schools, including EDMC have numerous OPEIDS. One OPEID may consist of a main campus and multiple branch campuses. Schools with multiple OPEID numbers can shift campuses to different OPEID numbers and classify them as branches even when they are many States apart.[1906] An internal email from the president of Brown Mackie College in 2007 helps to illustrate this technique: "remember that Atlanta is a branch of Ai Charlotte because of 90/10. They need to do more to support Ai and there number is ridiculously high" [sic].[1907] EDMC discussed internally a consolidation and reorganization of its campuses in late 2009, at least in part, because of 90/10.[1908] Specifically the school planned on Argosy University transferring its accreditation from HLC to WASC and merging with the Western State University College of Law, three Art Institutes of California, and five branch locations. A 2008 presentation also suggested that Brown Mackie College, "restructure … main campuses from 8 to 5 to improve and protect consolidated 90/10 results." [1909]

EDMC also puts a strong emphasis on requiring regular payments from students. While asking students to make up-front payments on their education can be a good idea, because it is interest-free and also helps them to understand what it will be to make payments on their loans later, EDMC's executives appear to take a rather strong handed approach to collection. A company executive wrote regarding collecting cash payments, "I am not telling you to kick students out of school if they do not make their payments (that is for you to decide when all options have been exhausted and the student balance is getting ridiculously high) but I am saying that you need to look at your current system and see how fluid the process is. Do students really believe you will track them down when they miss a payment?" [1910]

Since the 90/10 regulation requires schools to use cash basis accounting, schools may delay drawing down title IV funds from the Department of Education for certain campuses and thus push that aid into the next fiscal year.[1911] While this practice is legal, stopping the flow of aid hurts students

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[1904] See EDMC, November 6, 2009, *90-10 Project Tracker-Student Mix* (EDMC-916-000000483, Richard Them, EDMC, July 17, 2009, *90/10 Update* (EDMC-916-000000494), EDMC, December 17, 2009, *Potential Sources of Cash from Non-Title IV Eligible Education Services* (EDMC-916-000185685).

[1905] EDMC, *90/10 Plan FY2010* (EDMC-916-000227880). The company states that EDMC has never held back stipend amounts or any other funding from students; See also EDMC Internal Email, December 10, 2009, re: *Quad Cities 90/10* (EDMC-916-000179548). The company states that this practice was not approved by the EDMC, and did not in fact happen.

[1906] These shifts require the approval of the Department of Education and the accreditor. The moves are rarely contested.

[1907] EDMC Internal Email, September 7, 2007, re: *FW: BMC August 2007 90-10s* (EDMC-916-000217079).

[1908] EDMC, December 15, 2009, *WASC Announcement: Communication Plan* (EDMC-916-000200071, at EDMC-916-000200074) (on file with the committee); See also EDMC Internal Email, April 16, 2009, re: *BMC-Tuscon as Main Campus for Additional Campuses: State Aid in New Mexico* (EDMC-916-000207311).

[1909] EDMC, July 21, 2009, *Brown Mackie College: EDMC Executive Management Team Meeting* (EDMC-916-000228434, at EDMC-916-000228438).

[1910] EDMC Internal Email, May 4, 2009, re: *90/10* (EDMC-916-000200233, at EDMC-916-000200234).

[1911] While this practice does not violate the 90/10 rule, it may be proscribed in certain instances in which a college violates its cash management obligations to provide students with timely stipend checks.

because campuses that do not receive student aid funds may not disburse in a timely manner living-expense checks to students who depend on those funds to pay for housing, food, transportation, and childcare. As noted by the senior vice president of Strategic Operations for EDMC, "pulling the lever [withholding disbursements] would ensure we stay under 90% in FY'10. . . . The trade-off is student and school disruption and potentially lost revenue to bad debt on drops." [1912] The company ultimately opted not to cease drawing down title IV funds at the end of Fiscal Year 2010. In a separate exchange, the senior vice president in charge of student finance told the chief administrative officer that EDMC has used delayed aid disbursal in the past at a few campus locations.[1913]

Scholarships are becoming an increasingly important tool to manage 90/10 and student debt. If a scholarship is awarded by an organization independent of the school, it may be counted toward the 10 side of the equation. Some for-profit education companies appear to be creating scholarship programs that appear to be awarded by outside non-profit organizations, but in reality some control of the design and control and funding of the program comes from within the campus.

In 2009, EDMC proposed using a non-profit entity called the "Education Foundation" to bestow scholarships that would help the company's 90/10 ratio.[1914] The foundation awards scholarships only to students at EDMC schools.[1915] The money is gathered from EDMC employee donations and corporate foundations that represent companies doing business with EDMC, including Bank of America, Journey Education Marketing, Wiley and McGraw-Hill publishers, and Vending Management Services, Inc.[1916] In 2009, the Education Foundation awarded more than 400 scholarships ranging up to $5,000 each. Documents show that in 2009, the company was hoping to "quadruple the amount of employee contributions and school fund raising activity" explicitly for the purpose of 90/10 compliance.[1917] EDMC asserts that EDMC Foundation funds are not included in the 90/10 calculation. Additionally, as part of their 90/10 plan EDMC's Brown Mackie Akron Campus, "started numerous fund raising campaigns on campus for the EDMC Scholarship Fund which is has increased in dollars. These include silent auction items, pie in the face campaign, raffle of student parking spaces, book buy back funds and other planned events [sic]." [1918]

Enforcement Actions

In August 2011, the Justice Department intervened in a lawsuit filed under the Federal False Claims Act regarding whether the EDMC's practices in the early 2000s violated restrictions on paying recruiters exclusively based on how many students they enrolled. The case, in which five State attorneies general have intervened (along with the District of Columbia), is similar to those brought

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[1912] EDMC Internal Email, March 18, 2010, re: *90-10 Forecast Summary-March 17 2010 updated* (EDMC-916-000228111); See also EDMC Internal Email, August 21, 2009, re: *FW: 90/10 assistance requested* (EDMC-916-000183672).

[1913] EDMC Internal Email, August 29, 2008, re: *90/10 definition?* (EDMC-916-000208935). The company asserts that this activity occurred prior to Brown Mackie College's acquisition by EDMC; See also EDMC Internal Email, November 6, 2009, re: *Argosy* (EDMC-916-000184580).

[1914]EDMC, November 6, 2009, *90-10 Project Tracker-Student Mix* (EDMC-916-000000483, at EDMC-916-000000484).

[1915] The Education Foundation, "What is The Education Foundation," http://www.educationfdn.org/about.php (accessed June 14, 2012).

[1916] See: The Education Foundation Spring 2009 Newsletter, http://www.educationfdn.org/docs/newsletter%20archives/newsletter_spring_2009.pdf (accessed June 14, 2012); The Education Foundation Program Brochure: "Building Futures Through the Education Foundation," http://www.educationfdn.org/docs/Tri-fold-2010-brochurefinal.pdf (accessed June 14, 2012).

[1917] EDMC, November 6, 2009, *90-10 Project Tracker-Student Mix* (EDMC-916-000000483, at EDMC-916-00000084).

[1918] EDMC, *90/10 Plan FY 2010 Akron* (EDMC-916-000227880).

against the Apollo Group, Grand Canyon Education, and DeVry.[1919] In May 2012, a judge dismissed part of the case against EDMC finding that the written recruitment compensation polices then in place did not violate the law, but allowed the suit to go forward regarding whether the company followed the stated recruitment policies in practice.

EDMC is also separately under investigation by a number of State attorney generals. The Florida attorney general is currently investigating Argosy University for "alleged misrepresentations regarding financial aid; alleged unfair/deceptive practices regarding recruitment, enrollment, accreditation, placement, graduation rates, etc." [1920] The New York attorney general is investigating the company as to whether the schools and their recruiters misrepresent their ability to find students jobs, the quality of instruction, the cost of attending, and their programs accreditation.[1921] The attorney general of Kentucky is also investigating the business practices at Brown Mackie College.[1922] Additionally, the City Attorney of San Francisco is investigating recruiting practices, job placement reporting, and other issues at the Art Institute of San Francisco and the seven other Art Institutes located in California.[1923]

The Department of Education Inspector General is also looking at the Art Institute of Pittsburgh and South University regarding issues related to academic progress standards and State licensing of online programs.[1924]

Conclusion

EDMC is one of the largest for-profit education companies in the United States and receives a tremendous amount of taxpayer support. Yet the company had extremely high student withdrawal rates even when compared to similarly large for-profit education providers. The high withdrawal rate has serious repercussions for students given the debt that rapidly accrues, especially for those attending expensive Art Institute programs. The company is also clearly struggling to remain in compliance with the requirement that no more than 90 percent of revenues come from Federal financial aid dollars, and internal documents demonstrate the use of multiple and sometimes questionable practices to ensure that the requirement is satisfied. While the company spends slightly less on marketing and recruiting than the industry average, the high withdrawal rate during the period examined suggests that the company may have been more focused on demonstrating enrollment growth (and the corresponding growth in profit) than on ensuring that the company was enrolling students who could benefit from its programs. Largely based on the high numbers of students leaving the programs without completing a Certificate or degree, it is not clear that the $1.8 billion taxpayers made in the company in 2010 is a worthwhile investment.

[1919] California, Florida, Illinois, Indiana, and Minnesota are the State attorney generals who have intervened in the case. Kentucky, which does not have a False Claims Act, filed a motion to intervene in the case under its consumer protection laws, but was denied by the court.
[1920] Florida Office of the Attorney General, "Active Public Consumer-Related Investigation," http://myfloridalegal.com/__85256309005085AB.nsf/0/31BC85F3813C963C852577C00072D4CE (accessed June 14, 2012).
[1921] EDMC Form 10-Q, March 31, 2012
[1922] Id.
[1923] Id.
[1924] Id.