BerkeleyLaw
UNIVERSITY OF CALIFORNIA
Berkeley Center for Law, Business and the Economy

University of California, Berkeley
School of Law
2850 Telegraph Ave, Suite 500
Berkeley, CA 94705-7220

Ph: 510.642.0532 – Fax: 510.643.7095
E-mail: BCLBE@law.berkeley.edu
http://www.law.berkeley.edu/bclbe.htm

University of Phoenix to Be Taken Private Amid Mounting Investigations and Losses

By Sean Pinckney, J.D. Candidate 2018 | February 15, 2015

Apollo Education Group, the owner of for-profit education giant University of Phoenix, agreed on February 8 to a $1.1 billion sale to a group of private investors. The for-profit education industry has been quite controversial in recent years, especially as educational institutions have historically been almost entirely non-profit, including private institutions. For-profit education exploded after Congress implemented the "90-10 rule" which, albeit barring for-profit colleges from receiving more than ninety percent of their revenues from the Department of Education, assisted for-profit institutions in receiving more federal aid. From 1990 to 2009, the number of undergraduate students enrolled at for-profit institutions grew from approximately 2 percent to 11.8 percent of the nation's total number of students.

The recent financial crisis hurt the for-profit educational industry particularly hard, with the University of Phoenix losing more than 50 percent of its peak enrollment. Additionally, nearly all students at for-profit schools take out loans, and the average default rate at these institutions is approximately three times higher when compared to non-profit colleges.

Perhaps most controversially, there are allegations that for-profit institutions engage in predatory recruiting practices against the poor, veterans, and minorities by charging large fees for degrees that often fail to deliver the promised skills or jobs. Despite the scrutiny of regulatory agencies, for-profit schools that fail industry standards continue to receive billions in government funding.

The private investors purchasing Apollo Education Group promise to change the culture, moving away from overly aggressive marketing practices and poor student outcomes and towards a "manner consistent with the highest ethical standards." Critics believe that this will be hard to implement and that the purchasing group is paying far too much for the struggling business, which reported an operating loss of $45.2 million in the most recent quarter with income from continuing operations falling nearly 37 percent from one year ago. Apollo Education's stock is trading 73 percent lower in the past twelve months.

Congressional representatives have questioned the deal. For instance, Senator Richard Durbin of Illinois is concerned that the privatization of the nation's largest for-profit education group will result in much less transparency for the highly subsidized university, which is already under intense scrutiny by regulators.

The acquisition must be approved by the Department of Education, the Higher Learning Commission, and state regulatory and accreditation bodies. The private investors buying Apollo Education have close connections with the Obama Administration. Marty Nesbitt is the founder of Vistria Group, one of the private investors, and is a close friend of the president and the chairman of the Obama Foundation; Tony Miller, the COO of Vistria, was deputy secretary of the Department of Education from 2009 to 2013. Mr. Miller is set to become the new chairman of Apollo Education following the deal's anticipated completion in August 2016.