Written Testimony on Sub-HB96 - Biennial Budget
House Finance Committee
April 8, 2025

Chairman Stewart, Vice Chair Dovilla, Ranking Member Sweeney, and members of the Finance Committee. Thank you for the opportunity to submit written testimony regarding Sub-HB96, specifically addressing the proposed sections concerning online program managers ("OPMs").

My name is Brooks Garber and I am the Associate General Counsel of 2U, LLC ("2U"). 2U is a global leader in education technology. Guided by its founding mission to increase access to higher education, 2U has spent over 15 years advancing the technology and innovation to deliver world-class learning outcomes at scale. Through its global online learning platform edX, 2U connects more than 93 million people with thousands of affordable, career-aligned learning opportunities in partnership with more than 250 of the world's leading non-profit universities, institutions, and industry experts.

2U's Contributions to Ohio's Educational Landscape

Since 2018, nearly 3,500 Ohioans have enrolled in 2U-supported degree and/or certificate programs at multiple Ohio institutions, including Case Western Reserve University, The Ohio State University, or the University of Dayton. Additionally, over 50,000 more have accessed free-to-audit open courses offered by Ohio institutions on edX.

Our Concerns with Sub-HB96

2U is invested in helping Ohioans achieve their educational goals, but HB96's proposed language regarding OPMs could not only substantially limit, but even worse, prevent that from being possible.

We understand the proposed OPM language in HB96 was drafted in response to the collapse of Eastern Gateway Community College. We strongly support improving regulatory oversight to prevent similar situations from happening in the future. However, the proposed language *does not directly address nor respond to the factors that led to Eastern Gateway's collapse*, in particular its mismanagement of federal and state financial aid[1].

Unfortunately, HB96's new OPM language creates multiple new challenges for universities to work with private businesses, including those like 2U, and includes procedures that likely will chill the market for partnerships between universities and private technology companies (discussed more below). 2U stands ready to collaborate with the legislature on developing targeted regulatory solutions that address legitimate concerns. However, we are deeply

[1] US Department of Education Letter to Easter Gateway College, July 18, 2022: https://www.documentcloud.org/documents/22111766-egcc-cd-7182022-free-college-progam/?responsive=1&title=1

concerned that rushing these sweeping changes through the budget process—without adequate time for stakeholder input and careful consideration—will severely limit educational opportunities for Ohioans.

We recommend removing the following sections from the bill to provide time to thoughtfully, efficiently, and effectively develop a legislative proposal that responds to the impetus for this language.

Specific Issues with HB96

Sections: 1713.032; 3332.22; and 3333.0415

These three sections propose broad new regulatory oversight by the state of private non-profit, career and technical schools, and public universities, respectively, regarding their private contracting. The proposed regulations are neither uniform nor consistent and are extremely broad in nature, capturing vendors from IT service companies, software providers, content developers, and OPMs, to graphic designers. Across these sections terms are defined differently, causing confusion, and the state has increased authority to prevent institutions from contracting with the private sector. Section 3333.0420 is particularly concerning, as it proposes a potentially lethal response to a contracting issue: preventing a public university from both enrolling new students and offering each current student a full refund or remediated instruction if they have a contract terminated by the state pursuant to this new provision.

These sections are overly broad, capturing a substantial number of businesses that had no bearing or relation to Eastern Gateway's collapse and will likely chill the market for institutions of higher education to work with the private sector on innovative new learning opportunities and ultimately reduce the accessibility of educational opportunities for Ohioans.

Section 3345.721- Fiscal Caution

"Fiscal Caution" is a new monitoring status proposed for public universities. While it suggests a focus on financial difficulties (similar to the Department of Education's "Heightened Cash Monitoring" status), the term paradoxically penalizes actions universities typically take to improve their financial health.

- **Growth is penalized:** A significant enrollment increase—normally a positive financial indicator—could trigger Fiscal Caution;
- **Strategic staffing is penalized:** Increasing adjunct faculty—a standard practice to bring industry expertise while managing costs—could trigger Fiscal Caution;
- **Normal fluctuations are penalized:** Any uptick in student complaints, regardless of severity or relevance to finances, could trigger Fiscal Caution; and,
- **Innovation is penalized:** Working with third-party providers like OPMs—partners specifically chosen to enhance offerings and improve financial position—could trigger Fiscal Caution.

The consequences are severe: being placed on Fiscal Caution could lead to loss of state aid. This creates a perverse incentive structure where universities will avoid the very partnerships and growth strategies needed for financial sustainability, simply because these positive actions might trigger punitive oversight. We recommend removing Sections 1713.032, 3332.22, 3333.0415, and 3345.721 from the bill to allow time for thoughtful development of targeted legislation that addresses the actual issues related to the Eastern Gateway situation.

Conclusion:

2U would welcome the opportunity to collaborate with the legislature to develop effective regulations that prevent situations like the Eastern Gateway collapse. However, the current proposals included in HB96 are not responsive to that situation and instead propose overly broad new state authority that will likely discourage innovative partnerships between Ohio's educational institutions and private sector experts, potentially depriving students access to high-quality higher education.

The OPM provisions in Sub-HB96 may end up depriving Ohioans of cutting-edge learning technologies, industry-aligned programs, and flexible educational pathways that students in other states without these provisions will continue to benefit from. By discouraging public-private partnerships that bring specialized expertise and resources to Ohio's institutions, this legislation threatens to leave Ohio behind in the race to provide education that meets the demands of today's rapidly evolving economy.