

PEPPERDINE UNIVERSITY

OFFICE OF THE PRESIDENT

May 2, 2018

The Honorable Xavier Becerra
Attorney General of California
California Department of Justice
P.O. Box 944255
Sacramento, CA 94244-2550

Dear Attorney General Becerra:

As president of a nonprofit university, I am writing to ask you to take urgent action to protect the integrity of nonprofit higher education.

I am troubled by the scandalous abuses of students and taxpayers that have occurred in higher education perpetrated predominantly by for-profit colleges. Bottom line, it is, sadly, all about the money. As nonprofits, our colleges are subject to a prohibition on private inurement. That means that all of the revenue that the college receives is required to be recycled into its educational and charitable purposes. At Pepperdine, our trustees - the Board of Regents - is ultimately responsible for everything the college does, but its members are not allowed to take any financial gain for themselves. That is as it should be because it ensures that the oversight and guidance we provide is based on what the regents, as trustees, believe is best for students and the public. In contrast, as explained by the Inspector General of the U.S. Department of Education, for-profit colleges "produce profit for owners and stockholders, which can create an incentive to evade compliance with obligations to students and taxpayers" [<https://www2.ed.gov/about/Offices/list/oig/misc/lettertocongressonoighearecommendationsmarch2018.pdf>].

The fact that our top-level governance is untainted by financial gain is a fundamental tenet of what makes an institution nonprofit. It should not be negotiable. However, schools have begun to emerge that claim to be nonprofit, but they have adopted practices and relationships that severely undermine the integrity of the enterprise. They use contracts, loans, or real estate arrangements to funnel

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profits by another name to trustees or others with control roles in the institution.

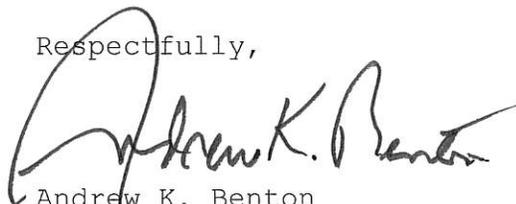
There are, to be sure, completely innocent situations in which a college might be renting a piece of property that happens to be owned directly or indirectly by a trustee. That is not the problem. The problem is that owners of for-profit colleges are taking the fact that those de minimus exceptions are allowed, and then cleverly driving trucks through the same exception, obliterating the meaning of what it means to be nonprofit.

As a nonprofit college president, I work for trustees who are not seeking, nor are they allowed to take a financial return. That is in stark contrast to companies operating for-profit colleges, which ultimately serve shareholders. The for-profit industry, now attempting to appear otherwise, will offer nuances and sophisticated structures, but the question is: whom do they serve? Please pierce through that for our students, parents, alumni and a sometimes unsuspecting public.

I am not certain whether what is needed at this time is stronger enforcement, or a stronger prohibition on private inurement, or both, but I do know that the integrity of nonprofit higher education is rapidly deteriorating. We are eager to work with you on solutions and to support your efforts to address the problem.

The prohibition on private inurement has been, arguably, the most effective consumer protection regulation in education, bar none. It is that ban that has steered higher education in the United States to be renowned worldwide for its quality and objectivity. I urge you to take action to protect quality higher education and those who rely upon it for the future.

Respectfully,

A handwritten signature in black ink, appearing to read "Andrew K. Benton". The signature is fluid and cursive, with a large initial "A" and "B".

Andrew K. Benton
President and CEO