

Betsy DeVos's Hiring of For-Profit College Official Raises Impartiality Issues

March 17, 2017

The Ashford University campus in Clinton, Iowa, which closed last year. The university is operated by Bridgepoint Education Inc., which has faced scrutiny by federal and state watchdogs. A lawyer for Bridgepoint, Robert S. Eitel, is now an aide to the new education secretary, Betsy DeVos. Daniel Acker for The New York Times



The Ashford University campus in Clinton, Iowa, which closed last year. The university is operated by Bridgepoint Education Inc., which has faced scrutiny by federal and state watchdogs. A lawyer for Bridgepoint, Robert S. Eitel, is now an aide to the new education secretary, Betsy DeVos. Daniel Acker for The New York Times

As chief compliance officer for a corporate owner of for-profit colleges, Robert S. Eitel spent the past 18 months as a top lawyer for a company facing multiple government investigations, including one that ended with a settlement of more than \$30 million over deceptive student lending.

Today, Mr. Eitel — on an unpaid leave of absence — is working as a special assistant to the new secretary of education, Betsy DeVos, whose department is setting out to roll back regulations governing the for-profit college sector.

The Education Department says Mr. Eitel has conferred several times with its ethics officer to avoid conflicts. But it says he is not precluded from having a voice on general issues and regulations that affect the for-profit college sector.

Ethics experts said Mr. Eitel's position, which has not been announced publicly, could nonetheless bump up against federal rules involving conflicts of interest and impartiality, particularly given his position as a vice president for regulatory legal services at Bridgepoint Education Inc., an operator of for-profit colleges, during federal investigations into the company.

“It raises considerable red flags, especially due to the fact that this company was under investigation,” said Scott H. Amey, general counsel at the [Project on Government Oversight](#), a nonpartisan investigative group.

Mr. Eitel, an Education Department lawyer under President George W. Bush, has been a stalwart critic of federal regulation of both for-profit colleges and K-12 education under the Obama administration.

A department spokesman, who requested anonymity, said Mr. Eitel is part of a “beachhead” team, paid staff members who are temporarily helping to lead federal agencies as the Trump administration gets up and running but do not require Senate confirmation.

The spokesman said Mr. Eitel would recuse himself from policy decisions or discussions related to Bridgepoint and another former employer, Career Education Corporation. While on unpaid leave from Bridgepoint, the spokesman said, Mr. Eitel has also volunteered to recuse himself from weighing in on the department's "gainful employment" regulation, which is intended to hold career schools accountable for their job placement records and is particularly despised by the industry.

The spokesman would not comment on the prospects for a longer-term role for Mr. Eitel, who served as deputy general counsel from 2006 to 2009. Some jobs he could potentially be a candidate for, such as general counsel, would require Senate confirmation.

Mr. Eitel did not respond to repeated requests for an interview, and Bridgepoint declined to comment on his work and status at the company, citing privacy concerns.

[Guidelines](#) from the Office of Government Ethics bar federal employees from engaging in decisions directly affecting a company in which they have any financial interest.

Even former employees without direct financial ties are subject to impartiality rules when they join the government. They are supposed to avoid doing anything that — in the eyes of a "reasonable person with knowledge of the relevant facts" — creates "the appearance that they are violating the law or the ethical standards set forth," and are advised to bring any potential conflicts to the agency's ethics officer.

Other industry insiders have also been brought into the agency, including Taylor Hansen, a former lobbyist for the [for-profit sector's trade association](#).

"There's no question that there's a fast-moving revolving door between the

Education Department and the industries that it regulates,” said Rohit Chopra, former assistant director of the Consumer Financial Protection Bureau and a former special adviser to the secretary of education. “This is a bipartisan problem.”

For-profit higher education has repeatedly been tarnished by scandal. But since the election in November, stocks in the sector have soared — Bridgepoint’s has climbed more than 40 percent — as President Trump’s White House has made clear that it is undertaking a campaign to slash government regulations. Ms. DeVos and other administration officials have indicated that they do not plan to continue President Barack Obama’s regulatory crackdown on career-training colleges.

Last week, the Education Department extended the deadline for vocational schools to appeal the agency’s application of the gainful-employment rule. That provision has been criticized by the industry as unfairly taking aim at colleges focused on helping the most disadvantaged students.

While many graduates credit for-profits for their training and better employment prospects, other students complain that deceptive marketing persuaded them to enroll and to take on staggering debt for programs that failed to deliver promised skills and jobs.

Bridgepoint — a publicly traded company that operates Ashford University and University of the Rockies, enrolls roughly 50,000 students, and primarily offers online degrees — has come under frequent scrutiny by federal and state watchdogs.

The Justice Department, according to a [Bridgepoint filing](#) with the Securities and Exchange Commission, is investigating whether the company violated Education Department limits that bar it from receiving more than 90 percent of its revenue in federal student aid. If a college is in violation for two years in

a row, the Education Department can cut off further access to funds, the college's lifeblood.

In addition, the [S.E.C. itself](#) has been investigating Bridgepoint's accounting practices. Attorneys general in California and Massachusetts are conducting separate investigations. And last month, Ashford [received a final audit](#) from the Education Department that said the company owed the agency \$300,000 as a result of the university's miscalculation of federal student aid eligibility dating to 2006, an S.E.C. filing noted. The university has 45 days to appeal.

In September, [Bridgepoint reached a settlement](#) with the federal Consumer Financial Protection Bureau to refund students \$23.5 million and pay an \$8 million civil penalty to resolve an inquiry into whether students were deceived into taking out private student loans that cost more than advertised. Bridgepoint neither denied nor admitted the allegations.

In 2014, before Mr. Eitel joined the company, Bridgepoint and Ashford agreed to pay \$7.25 million to [settle charges](#) by the Iowa attorney general that they had given students in that state incorrect information about the university's program. Bridgepoint denied the allegations at the time.

After leaving the Education Department in 2009, Mr. Eitel worked in private practice with Kent D. Talbert, who had been the agency's general counsel. Mr. Eitel joined another for-profit education company, Career Education Corporation, in 2013, several months before it reached a [\\$10.25 million settlement](#) with the New York attorney general over charges that it had previously inflated graduates' job placement rates. He was also executive director of that company's political action committee. He moved to Bridgepoint in July 2015.

Mr. Eitel has written articles for conservative organizations like the [Pioneer Institute](#) and the [Hoover Institution](#) accusing the department of exceeding its

authority. He opposed federal testing and standards for K-12 schools as a backdoor attempt at a national curriculum.

Those views resonate on the right. In December, an [article by Joy Pullman](#), managing editor of the conservative web magazine The Federalist, recommended that Ms. DeVos hire Mr. Eitel as part of a “whip-smart legal team.”