

TOM HARKIN, IOWA, CHAIRMAN

BARBARA A. MIKULSKI, MARYLAND
JEFF BINGAMAN, NEW MEXICO
PATTY MURRAY, WASHINGTON
BERNARD SANDERS (I), VERMONT
ROBERT P. CASEY, JR., PENNSYLVANIA
KAY R. HAGAN, NORTH CAROLINA
JEFF MERKLEY, OREGON
AL FRANKEN, MINNESOTA
MICHAEL F. BENNET, COLORADO
SHELDON WHITEHOUSE, RHODE ISLAND
RICHARD BLUMENTHAL, CONNECTICUT

MICHAEL B. ENZI, WYOMING
LAMAR ALEXANDER, TENNESSEE
RICHARD BURR, NORTH CAROLINA
JOHNNY ISAKSON, GEORGIA
RAND PAUL, KENTUCKY
ORRIN HATCH, UTAH
JOHN McCAIN, ARIZONA
PAT ROBERTS, KANSAS
LISA MURKOWSKI, ALASKA
MARK KIRK, ILLINOIS

United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

DANIEL E. SMITH, STAFF DIRECTOR
FRANK J. MACCHIAROLA, REPUBLICAN STAFF DIRECTOR

<http://help.senate.gov>

April 28, 2011

The Honorable Arne Duncan
Secretary of Education
400 Maryland Ave., SW
Washington, D.C. 20202

Dear Secretary Duncan:

Since issuing the proposed gainful employment regulation, allegations have been made that Department of Education officials may have engaged in inappropriate communications with some investors with a financial interest in the outcome of the rulemaking process. These allegations have been bolstered by a limited number of documents released in response to several Freedom of Information Act requests. In particular, the documents indicate that several investors contacted the Department and met with officials involved in the development of the proposed rule while the rulemaking process was ongoing. Additionally, these documents suggest that non-profit groups advocating in support of the Department's proposed rule were in regular contact with Department officials, as well as investors interested in the outcome of the rulemaking.

While the released documents represent e-mails received or sent by officials directly involved in the development of the proposed rule, very few of the documents include communications received or sent by individuals with the Office of the Secretary. Consequently, questions about the propriety and extent of the Department's interactions with these individuals will persist until we are able to review all of the relevant documents maintained by the Department. Therefore, I request that you make public all Department of Education written correspondence, e-mail or otherwise regarding the development of the proposed gainful employment regulation, and waive any deliberative process exemptions to ensure complete transparency. In compiling these documents, your search should include, but not be limited to, all individuals in the Office of the Secretary.

Thank you for your prompt attention to this request. If you have any questions, please feel free to have your staff contact Frank Macchiarola, HELP Committee Republican Staff Director at: 202-224-6770.

Sincerely,



Michael B. Enzi
United States Senator