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January 31, 2011

The Honorable Arne Duncan  
Secretary  
U.S. Department of Education  
400 Maryland Ave, S.W.  
Washington, DC 20202

Dear Secretary Duncan:

Congress passed the Data Quality Act to ensure the federal government utilizes reliable and accurate data as it develops guidelines and regulations. Under the Act, the Office of Management and Budget (OMB) requires federal agencies to publish guidelines for the purpose of “ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by the agency...”<sup>1</sup> To comply with the OMB directive, the Department of Education issued ‘Information Quality Guidelines,’ a document that outlines the Department’s basic standard of data quality and process for reviewing the quality of information before it is publicly released.<sup>2</sup> We are interested in learning more about how the Department complied with the Data Quality Act as it developed the proposed regulation defining ‘gainful employment’ and published the data supporting the proposed regulation.<sup>3</sup>

According to the Department’s ‘Information Quality Guidelines,’ information or data put forward by the Department will be judged on three factors: utility, objectivity, and integrity.<sup>4</sup> Beyond the minimum standards outlined in each of these categories, the guidelines have a higher standard for information that is deemed ‘influential,’ which is defined as information that is “reasonably likely to have a clear and substantial impact on public policies or private sector decisions if disseminated.”<sup>5</sup> The ‘Information Quality Guidelines’ further state that influential information must be presented with accompanying information that allows an outside entity to be able to reproduce the information.<sup>6</sup>

<sup>1</sup> Consolidated Appropriations Act of 2001, Pub. L. No. 106-554, §515(b)(2)(A).

<sup>2</sup> DEP’T OF EDUC., INFORMATION QUALITY GUIDELINES, *available at* <http://www2.ed.gov/policy/gen/guid/iq/infoqualguide.pdf>.

<sup>3</sup> Program Integrity: Gainful Employment, 75 Fed. Reg. 43616 (proposed July 26, 2010) (to be codified at 34 C.F.R. pg. 668).

<sup>4</sup> INFORMATION QUALITY GUIDELINES, pg. 4.

<sup>5</sup> *Id.*, pg. 9.

<sup>6</sup> *Id.*, pg. 10.

Because the information published within the proposed regulation and its supporting documentation will influence public policy and private sector decisions, the information used by the proposed gainful employment regulation meets OMB's guidelines for 'influential information' and should, therefore, be subject to the provision that requires outside entities to be able to reproduce the data. However, the affected institutions lack access to the underlying information necessary to reproduce data used to implement the regulation, particularly the repayment rate information.

We also question whether the debt-to-income formula coupled with the repayment rate formula utilized in the proposed regulation meets the objectivity or integrity standards established under the Data Quality Act. In addition, we are concerned that the Department's reliance on information from only one state may violate the objectivity standard included under the Act.

In light of these concerns, we request the following information:

1. A description of the process the Department of Education undertook to ensure compliance with the Data Quality Act when developing and promulgating its gainful employment regulation<sup>7</sup>;
2. An explanation of how the data published in conjunction with the Department's proposed rule on gainful employment<sup>8</sup> meets the requirements of the Data Quality Act;
3. An explanation of how the formulas published by the Department of Education for the proposed gainful employment rule<sup>9</sup> meet the requirements of the Data Quality Act; and
4. The number of complaints submitted to the Director of OMB under the Data Quality Act since January 1, 2009, the nature of the complaint, and how those complaints were resolved.

We would appreciate your response by February 11, 2011. If you have additional questions about this request, please contact Amy Jones or Mandy Schaumburg on the Committee staff at (202) 225-6558.

Sincerely,

  
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John Kline  
Chairman  
Committee on Education and the Workforce

  
\_\_\_\_\_  
Virginia Foxx  
Chairwoman  
Subcommittee on Higher Education and  
Workforce Training

cc: The Honorable Jacob J. Lew, Director, Office of Management and Budget  
The Honorable George Miller, Senior Democratic Member

<sup>7</sup> 75 Fed. Reg. 43616.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*