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December 11, 2009

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

Dear Secretary Duncan:

Three days ago, the Office of Management and Budget published the Open Government Initiative, which OMB Director Peter Orzag pledged "will help to make government more open, transparent, and accountable to bridge the gap between the American people and their government." In fact, the Obama Administration has made openness and transparency a marquee promise to the American people. Accordingly, I am surprised by the opacity of the Department of Education's efforts to promote transition to the Direct Loan program.

My letter dated November 3, 2009 requested detailed documentation of the Department's efforts to encourage colleges and universities to comply with the proposed implementation of 100 percent Direct Lending. Then, and now, there are serious questions about whether taxpayer dollars have been used to advocate for legislation currently pending in Congress. Congress is constitutionally mandated to exercise oversight of the executive branch. The production of a mere nine documents, all of them widely available, in response to my inquiry is completely insufficient.

Since my original request, troubling media reports continue to imply federal funds are being used by your agency to promote the Administration's political and legislative agenda. On December 5, 2009, the *Wall Street Journal* published an editorial confirming that financial aid administrators are afraid to speak up for fear of retribution from the federal government. Because my concerns over the Department's improper and potentially illegal activities persist, I would like you to provide the originally requested information, as detailed below:

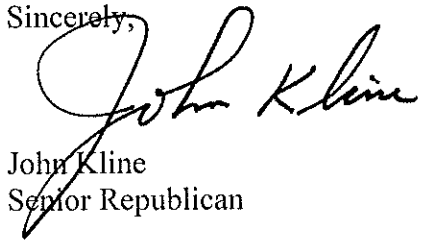
1. Any and all documents relating to any communications between the Department of Education and any one or more persons that are not employees of the executive branch of the U.S. Government from January 21, 2009, to the present date concerning any of the following initiatives:
    a. the elimination of the Federal Family Education Loan program;
    b. the conversion to the Direct Loan program;
    c. the American Graduation Initiative; or
    d. other proposals included in the *Student Aid and Fiscal Responsibility Act of 2009*.

2. A log of any and all phone calls made by Department of Education officials to officials at institutions of higher education relating to the issue areas outlined in question 1 from January 21, 2009 to the present date, a description of the purpose of these phone calls, and the name and position of the party being called at the institution.

3. Any correspondence, e-mails, meeting minutes, notes, or presentations from January 21, 2009 through the date of this request that have been created by the Department, used by the Department, or provided to institutions of higher education about conversion to the Direct Loan program.

As Congress moves forward with reforms related to our education system, I will continue to demand openness and transparency. The American people deserve no less. Thank you for your prompt attention to this request. If you have any questions, please contact Amy Jones or Kirk Boyle on my staff at (202) 225-6558.

Sincerely,



John Kline
Senior Republican

cc: The Honorable George Miller, Chairman

Enclosures: Information Request Supplemental Instructions and Definitions

Information Request Supplemental Instructions and Definitions

Instructions

1. In complying with the request, you should produce all response documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain or copy or to which you have access, as well as documents you have placed in the temporary possession, custody, or control of any third party.

2. In the event that any entity, organization, or individual denoted in this request has been, or is currently, known by any other name than that herein denoted, the request should be read also to include them under that alternative identification.

3. Each document produced should be produced in a form that renders the document capable of being copied.

4. When you produce documents, you should identify to which paragraph in the request the documents respond.

5. Documents produced in response to this request should be produced together with copies of file labels, divides, or identifying markers with which they were associated when this request was issued. To the extent documents were not stored with file label, dividers, or identifying markers, they should be organized into separate folders by any matter prior to production.

6. Each folder and box should be numbered, and a description of the contents of each folder and box, including the request number to which the documents are responsible, should be provided in any accompanying index.

7. It is not proper to refuse to produce a document on the basis that any other person or entity also possesses a non-identical copy of the same document.

8. If any of the requested information is stored in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer backup tape), you should consult with the staff contact indicated in the request to determine the appropriate format in which to produce the information.

9. If compliance with the request cannot be made in full, compliance should be made to the extent possible and should include an explanation of why full compliance is not possible.

10. In the event that a responsive document is withheld on any basis, you should provide the following information concerning the document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author, and addressee; and (e) the relationship of the author and addressee to each other.

11. If any document responsive to this request was, but no longer is, in your possession, custody, or control, you should identify the document (stating its date, author, subject, and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.

12. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive if the date or otherwise descriptive detail were correct.

13. This request is continuing in nature and applied to any newly discovered information. Any record, document, compilation of date, or information not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

14. All documents should be bates-stamped sequentially and produced sequentially.

15. Two sets of documents should be delivered to the Rayburn House Office Building, Room 2101, to the attention of the General Counsel.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and works sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotape, recordings and motion pictures), and electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, memory sticks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind of nature, however or otherwise recorded. A document bearing any notation not a part of the original text is to be considered a separate document. A draft of a non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information , regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The term "person" or "persons" means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business, or government entities and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

5. The terms "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.