

Press Release

FOIA Documents Contradict Public Statements by U.S. Department of Education Officials; Department Sought and Took Advice From Wall Street Short Sellers

WASHINGTON DC (February 23, 2011) - The Coalition for Educational Success today released the two sets of documents it received as part of its Freedom of Information Act (FOIA) request to the Department of Education regarding the development of the Department's gainful employment regulation. The documents reveal more frequent meetings, in depth communications and close coordination between senior Department officials and known Wall Street short sellers than previously disclosed.

These documents wholly contradict statements made on February 10, 2011 by Deputy Assistant Secretary of Education David Bergeron, who said that the agency wasn't aware of the dubious financial interests of short seller Antal Desai. The documents also reveal a predisposed rulemaking process that was in part orchestrated and driven by short sellers.

The Coalition posted a summary of materials received via the FOIA request, as well the documents in full, at: www.ed-success.org/FOIA (<http://www.ed-success.org/FOIA>) .

"A closer look at communications between Department officials, Desai and other short sellers reveals that the Department's policy-making process was heavily influenced by those who 'bet short' on career college stocks, who brought little to the table in the way of higher education expertise, but stood to gain billions of dollars financially from greater regulation of career colleges," said Penny Lee, Managing Director of the Coalition for Educational Success.

Bergeron was quoted in National Journal, as saying "because of our lens at that point, he (Desai) wasn't on my radar." Bergeron continued "Until we got fairly far along in the process, I didn't know what a short seller was. I have been at the department for 32 years. We deal with financial aid, registrars, deans, and presidents. No one from Wall Street was following what we were doing."

The same National Journal article reports that "according to a department official, at least one short-seller probably should have been banned from the meetings because of his ties to Wall Street and community college officials who were involved in the rulemaking."

However, these documents made public by through the Coalition's FOIA request show that ongoing coordination took place between the Department and short sellers, and raise serious questions about the credibility of Bergeron's statement. These include:

- Meetings between short sellers, Bergeron, and other Department officials as early as 2009, in which they discussed greater regulation of the career college sector. An email sent from Desai to Bergeron and other Department officials in October 2009 thanks them for their time and "commitment to reform."
- Presentation to Department officials by Desai, which suggested that the Department spearhead an attack on career colleges along multiple fronts, including Congressional hearings and a Government Accountability Office (GAO) investigation. We now know that the Department executed every element of the Desai game plan.
- Requests from Department officials for data collected by Desai that included anecdotes and examples of career college recruiting practices. Not coincidentally, between April 30 and May 5 several articles appeared in newspapers, which highlighted the issue of career colleges recruiting students at homeless shelters. In several cases the names cited in the article came from Desai's research. ProPublica subsequently revealed that several signers of a letter from administrators of homeless shelters to the Department felt they were misled by the person who coordinated the signing of the letter, that they failed to disclose who they were working for, and that several did not have actual knowledge of recruiting occurring at homeless shelters. ProPublica reported that the coordinator of the letter was paid by Desai.
- Disclosure by Desai's attorneys in September 2010 that he "maintains a short position in the securities of some of the publically traded for-profit education companies." This disclosure, which was included in comments filed to the Department as part of the gainful employment rulemaking, was also forwarded to Bergeron and other Department officials.

The Coalition received the documents following a series of requests to the Department. On November 12, 2010, the Coalition filed its initial FOIA request in an effort to determine the level of influence that short sellers exerted on Department officials. After repeated delay, the Department has only now turned over this initial collection of materials. Additional information related to this FOIA request is expected to be forthcoming from the Department.

The Coalition also filed a separate FOIA request with the Department that seeks information related to the development of the gainful employment regulation, as well as records related to the U.S. Government Accountability Office (GAO) report on fraud and abuse at career colleges. The GAO report was used repeatedly by opponents of career colleges to generate headlines and reduce the value of these companies. The report was discredited after the GAO issued an amended version that removed many of the most egregious claims.

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The Coalition for Educational Success includes many of the nation's leading career colleges, serving more than 350,000 students at 478 campuses in 41 states. Career colleges provide training for students in 17 of the 20 fastest growing fields. The Coalition advocates for policies that support wider access to higher education, particularly for non-traditional students including full-time workers, workforce returners, working parents, minorities and veterans.