

U.S. Said to Probe Alleged Leak of For-Profit College Rules

By John Lauerman - Apr 28, 2011

The U.S. Education Department will investigate whether Wall Street investors had advance knowledge of proposed for-profit college rules that the agency released last year, according to a person briefed on the matter.

The probe by the department's [Office of the Inspector General](#) will focus on whether short-sellers, who look to profit when stock prices fall, found out about the draft regulations before they were publicly announced, said the person, who declined to be identified. The rulemaking process itself won't be investigated, the person said.

Senators Richard Burr of [North Carolina](#) and [Tom Coburn](#) of [Oklahoma](#), both Republicans, sent a letter to Inspector General [Kathleen Tighe](#) in November requesting an inquiry of the proposed rules, called "gainful employment." The regulations would tie for-profit colleges' access to federal grants and loans to their former students' incomes and loan-repayment rates.

The Inspector General's office doesn't confirm or deny the existence of investigations, said Sara Gast, an Education Department spokeswoman.

Coburn and Hall asked Tighe to look into e-mails between department officials and outside nonprofit educational organizations that gave a preview of proposed rules. Members of those organizations may have shared such information with short-sellers, the letter said. Short-sellers seek to profit by selling borrowed shares with the expectation of replacing them later at a cheaper price.

Enzi's Letter

For-profit colleges have criticized Education Department officials for meeting with short-sellers such as Steve Eisman, managing director of FrontPoint Partners LLC in [New York](#), as the regulations were developed. The rulemaking process was "heavily influenced" by the investors, according to the website of the Coalition for Educational Success, a Chicago-based for-profit college industry group.

Senator Mike Enzi of [Wyoming](#), the senior Republican on the Senate education committee, wrote Education Secretary Arne Duncan today to request all rulemaking documents on the gainful employment regulations. For-profit colleges have fought the rules package, saying it will hurt

education companies and their students.

Iowa Senator [Tom Harkin](#), chairman of the Senate education committee, has been investigating for-profit colleges' use of government funds and federal loan default rates, which are twice those at nonprofit public universities. Harkin has said he is planning to file legislation to further regulate for-profit colleges.

'Bottom Line'

Senator Richard Durbin and Representative [Danny Davis](#), both Illinois Democrats, co-chaired a hearing in [Chicago](#) today on how for-profit colleges can reduce student debt and defaults. If the industry doesn't begin policing itself, then regulatory action will be taken, Davis said.

"If you don't self-regulate, then we're going to find a way to regulate you," Davis told reporters after the hearing. "That's kind of the bottom line."

[Apollo Group Inc. \(APOL\)](#), operator of the University of Phoenix and the biggest U.S. for-profit college, fell 31 cents, or less than 1 percent, to \$40.28 at 4 p.m. New York time in Nasdaq Stock Market trading. The Bloomberg U.S. For-Profit College Index of 13 education companies dropped 1.2 percent.

"The U.S. Department of Education needs to pay close attention to the bright red stoplight now facing its proposed gainful employment regulation," Penny Lee, managing director of the Coalition for Educational Success, said in a [statement](#) today. "The inspector general must complete her investigation into the role of short-sellers in the regulatory process before any more action is taken."

Lobbying Efforts

The Education Department has already delayed the publication of the final rules package, originally scheduled for last year. Duncan said in September that the regulations would come out in early 2011. Earlier this month, he said they would be published in the next month or two, the [Chronicle of Higher Education](#) reported April 5.

For-profit colleges more than doubled their spending last year on [Washington](#) lobbying to \$6.6 million to defeat the rules. Republican Representative [John Kline](#) of [Minnesota](#) and Democratic Representative Alcee Hastings of [Florida](#) led an effort to block the regulations with a measure that was left out of a final budget bill after it passed in the House. Hastings got more than 100 lawmakers to sign a letter yesterday calling for President [Barack Obama](#) to "jettison" the package.

"The untested gainful employment proposal will close good programs and allow not-so-good programs to prosper," said [Harris Miller](#), president of the Association of Private Sector Colleges & Universities, a Washington-based for-profit college industry group, in an e-mailed statement today.

Dow Jones Newswires reported on the probe earlier today.

To contact the reporter on this story: John Lauerma in Boston at jlauerma@bloomberg.net

To contact the editor responsible for this story: Jonathan Kaufman at jkaufman17@bloomberg.net