

# United States Senate

WASHINGTON, DC 20510

COMMITTEES:  
ENVIRONMENT AND  
PUBLIC WORKS  
HEALTH, EDUCATION,  
LABOR, AND PENSIONS  
BANKING, HOUSING,  
AND URBAN AFFAIRS  
BUDGET

May 20, 2011

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

Dear Secretary Duncan:

I write urge you to update and revise the current “false certification” regulations during the upcoming negotiated rulemaking process to address some of the deeply troubling practices uncovered by the Senate HELP Committee’s investigation and oversight hearings on the career (for-profit) college industry. In particular, I urge you to address the recruitment and enrollment of students into career education programs that lack the necessary *programmatically* accreditation which is often desired or required for employment in many specialized fields. This practice can have severe consequences for both students and taxpayers.

In a situation in which programmatic accreditation is available to the institution but not obtained, students completing the program may find that they are unable to secure a job in their field of study. For example, last year the Committee heard testimony from Yasmine Issa who borrowed \$15,000 in federal student loans to attend and complete a diagnostic medical sonography certificate program at the Sanford Brown Institute. After completing the program, she learned that no employer would hire her because the program is not accredited (even though the school as a whole is accredited), leaving her ineligible to take the required certification exam for diagnostic medical sonography. Only then did she learn that the local community college offers an accredited program for a fraction of the price.

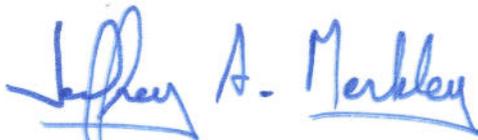
The false certification discharge provisions in the Higher Education Act (20 USC 1087(c)) are intended to ensure that students are able to benefit from the program. The provisions provide relief for harmed students and create a strong disincentive for schools to engage in deceptive practices by providing for the discharge of loans based on a false certification, and for the recovery of the relevant loan amounts from the institutions and their affiliates.

The current false certification regulations explicitly provide for a required “ability to benefit” tests to ensure, for example, that students have a high school diploma or GED, so they can benefit from a college-level course. They also prevent the enrollment of students who do not speak English in programs taught only in English, and prevent the enrollment of students with criminal records in programs that prepare them for employment in professions from which a criminal record would bar them.

Enrolling students in a program that prepares them for a career in which the program is not accredited (assuming accreditation is available) creates the same problem for students and taxpayers as the problems addressed in the current rules. The problem of unaccredited programs also fits squarely within the scope of the statutory provisions that address false certification, which do not limit the specific types of false certification to be addressed. As such, I strongly believe that the upcoming negotiated rulemaking should explicitly address programmatic accreditation for certain programs in which specialized programmatic accreditation is offered.

Thank you for your consideration. I look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink that reads "Jeffrey A. Merkley". The signature is written in a cursive style with a horizontal line underneath the name.

Jeff Merkley  
U.S. Senator