

United States Senate

WASHINGTON, DC 20510

October 18, 2018

Ms. Nancy Berryhill
Acting Commissioner
Social Security Administration
1300 D Street, SW
Washington, DC 20024

Dear Acting Commissioner Berryhill:

We write today to urge the Social Security Administration (SSA) to enter into a new data sharing agreement with the Department of Education (“Department”) for the sole purpose of calculating and providing to the Department aggregate mean and median earnings data for graduates of career training programs, as required by the gainful employment rule. We appreciate SSA’s critical efforts to enable the effective enforcement of this important federal regulation to protect students and taxpayers.

The Higher Education Act requires career education programs to prepare students for “gainful employment in a recognized occupation.” Under the gainful employment rule, a critical consumer protection regulation in effect since July 1, 2015, the Department submit lists of career training program completers to the SSA for the calculation of mean and median earnings data (34 CFR §668.405). Because SSA earnings data is the best and most reliable data for this important regulation, the rule requires the Department to use this data to calculate debt-to-earnings rates to determine which programs of study are leaving graduates with student debt they cannot repay. The rule’s reliance on SSA earnings data is a matter of fairness to both institutions of higher education and students.

Agreement No. 10012 between the Department and SSA allowed for this necessary cooperation. The agreement, however, expired on May 24, 2018, before the Department met its legal obligation to produce the latest round of D/E rates for the information of consumers and use in determining which career programs can remain eligible for federal Title IV funds.

A new data sharing agreement between SSA and the Department is critical to fulfilling the federal government’s legal responsibility under the gainful employment rule to protect students and taxpayers. If the federal government fails to uphold this responsibility, student loan borrowers and their families may fall deeper into debt without the economic mobility that comes with gainful employment. Billions in taxpayer-funded federal financial aid could be wasted. Inaction is also likely to result in increased long-term pressure on federal resources, including those administered by SSA.

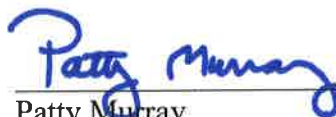
We appreciate SSA's priority in ensuring that any new data sharing agreement is not misused by the Department and protects the underlying data. At the same time, we know from the Department's calculation and publication of the first round of D/E rates released on January 9, 2017, that SSA earnings data can be used effectively, efficiently, securely, and responsibly. We urge SSA to negotiate and enter into a new agreement with the Department as soon as possible that includes appropriate restrictions on the use of the data for the sole purpose of enforcing the gainful employment rule. We also encourage SSA to maintain and enhance, where appropriate, security procedures to protect related federal information systems and personally identifiable data.

We look forward to continuing to working with you to protect students and taxpayers and would greatly appreciate your response by November 1. Thank you for your consideration of this request.

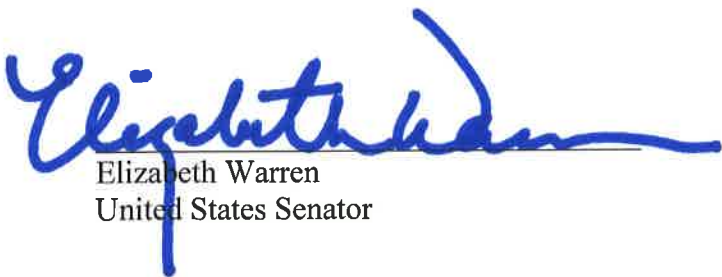
Sincerely,



Richard J. Durbin
United States Senator



Patty Murray
United States Senator



Elizabeth Warren
United States Senator



Sherrod Brown
United States Senator



Richard Blumenthal
United States Senator