

# United States Senate

WASHINGTON, DC 20510

March 22, 2018

Ms. Marcella Goodridge-Keiller  
Designated Agency Ethics Official  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202

Dear Ms. Goodridge-Keiller:

Mr. James Manning, a political appointee to the senior executive service at the Department of Education (“Department”), has taken on an increasing number of responsibilities during his time at the agency and is currently serving as both the Acting Under Secretary of Education and the Acting Chief Operating Officer of Federal Student Aid. Because Mr. Manning is a member of the senior executive service, it is also our understanding that he is not subject to, and has not signed, the Trump ethics pledge, Executive Order 13770, Ethics Commitments by Executive Branch Employees. Therefore, we are writing to better understand how Mr. Manning and the Department have addressed potentially significant conflicts of interest that appear to exist in his current roles.

Prior to rejoining the Department last year, Mr. Manning served as a consultant for United Student Aid Funds (“USA Funds”). USA Funds was the holder of billions of dollars of federal student loan guarantee obligations under the bank-based student loan program. USA Funds also collected the debts from struggling student loan borrowers who had defaulted on loans. The President and CEO of USA Funds was and is William Hansen.

Mr. Manning has an extensive professional relationship with Mr. Hansen. In addition to recently serving as Mr. Hansen’s consultant, he also previously served as his chief of staff during Mr. Hansen’s tenure as Deputy Secretary at the Department from 2001 to 2003. This was a period when the Department came under significant scrutiny for lax oversight of the bank-based lenders in the Federal Family Education Loan (FFEL) program. An investigation by the Senate Health, Education, Labor and Pensions (HELP) Committee documented aggressive steering practices, including lenders providing lavish gifts and travel to financial aid officials in an attempt to influence student borrowing decisions.

In December 2016, under Mr. Hansen’s direction, USA Funds announced that it was transferring ownership of its federal student loan business to Great Lakes Higher Education Corporation (“Great Lakes”), one of the Department’s largest student loan servicing contractors.<sup>1</sup> As a servicer, Great Lakes is overseen by Federal Student Aid, which is currently led by Mr. Manning. Under the terms of the sale, Great Lakes provides annual payments to USA Funds

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<sup>1</sup> Great Lakes Higher Education Corporation & Affiliates. “Release: USA Funds and Northwest Education Loan Association Transfer Ownership of Nation’s Largest Guarantor to Great Lakes.” December 7, 2016.  
<https://home.mygreatlakes.org/web/about/gl/161207>

which, following the sale of USA Funds' student loan portfolio, was renamed Strada Education Network ("Strada").

Strada is still led by Mr. Hansen and partners with large private equity firms to make investments in higher education companies.<sup>2</sup> Strada appears to invest in at least one company that helps colleges lower their cohort default rates, Student Connections, and other education entities.<sup>3</sup> The Under Secretary of Education is generally involved in policy matters impacting higher education and, as Acting Under Secretary, it is likely that Mr. Manning has been involved in policy efforts that could have impacts on companies that Strada and one of its private equity partners—Sterling Partners—are invested in or may invest in. Sterling Partners has numerous policy interests before the Department; for example, the firm recently had an 88 percent ownership stake in the InfiLaw Corporation, which ran the defunct for-profit Charlotte School of Law, which sought additional federal funds before its collapse.<sup>4</sup> It is unclear if Mr. Manning has taken steps to limit his role in matters where Strada and its private equity partners have investments.

In March 2017, Secretary DeVos issued a directive that allowed federal student loan guarantors, including Great Lakes, to drastically increase collection fees on student loan borrowers. The directive would allow companies to charge a collection fee up to 16 percent of the principal balance, even if a borrower immediately repaid or made arrangements for a new repayment plan. It is unclear if Mr. Manning participated in discussions leading up to this directive, although he presumably has a written agreement with you that precluded his participation in particular matters impacting USA Funds, given his previous role as a recent consultant for the company.

Finally, in January 2018, the Department awarded a large new debt collection contract to the debt collection company Performant Financial Corporation ("Performant"). News that Performant had been awarded the contract caused the company's stock value to increase significantly. The award of the debt collection contracts and oversight of the Performant contract is also handled by Federal Student Aid, which is currently headed by Mr. Manning.

Mr. Hansen sits on the board of Performant. It is unclear whether Mr. Manning participated in the decision to award the bulk of debt collection contract dollars to a company where his close business contact, Mr. Hansen, also plays a significant role. The Secretary also invested in Performant prior to her confirmation, and it is unclear if the Secretary's family (not including her spouse) remain invested in the company.

Given the significant potential for conflicts of interest the aforementioned areas, please provide responses to the following questions relating to Mr. Manning's work for the Department:

- (1) Does Mr. Manning's dual appointment as both Acting FSA COO and Acting Under Secretary of Education violate the intent that FSA, a performance-based organization, be a discrete management unit with federal law stating that FSA "shall exercise

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<sup>2</sup> Sterling Partners. Education Opportunity Fund. <https://educationfund.sterlingpartners.com>

<sup>3</sup> Student Connections. About Us. Accessed March 2018. <https://www.studentconnections.org/about/>

<sup>4</sup> Olson, Elizabeth. *New York Times*. Federal Inquiry of Charlotte Law School Is Disclosed by Suit. <https://www.nytimes.com/2017/09/13/business/dealbook/charlotte-law-school-federal-inquiry.html>



independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions.”<sup>5</sup>

- (2) Has Mr. Manning consulted with you with regards to limitations on his participation in matters pertaining to his work for USA Funds, now Strada Education Network, and their private equity partners?
- (3) Do or did you have a formal or informal written agreement with Mr. Manning regarding his recusals as a result of his prior work on behalf of USA Funds and William Hansen?
- (4) Please provide a copy of any such formal or informal memorialization of limitation on Mr. Manning’s participation in specific matters, recusals, or other informal ethics agreement that he has agreed to in consultation with you.
- (5) Did Mr. Manning participate in discussions leading to the March 2017 directive to allow student loan guarantors to increase collection fees given his work on behalf of USA Funds? If so, was his participation ethically appropriate?

We ask that you provide a response to this inquiry by April 13, 2018. If you have any questions please contact Bridget Kelleher with the Office of Senator Catherine Cortez Masto at [Bridget\\_Kelleher@cortezmasto.senate.gov](mailto:Bridget_Kelleher@cortezmasto.senate.gov) or (202) 224-3542. Thank you for your attention to our request.

Sincerely,




CATHERINE CORTEZ MASTO  
United States Senator



ELIZABETH WARREN  
United States Senator



RICHARD J. DURBIN  
United States Senator



KAMALA D. HARRIS  
United States Senator

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<sup>5</sup> 20 U.S.C § 1018 (a)(4).