



October 21, 2009

The Honorable Charles Grassley
United States Senate
Washington, DC 20510

Dear Senator Grassley:

Thank you for your letter regarding a link on the Department's website which allows citizens to state their views on the President's health care reform efforts.

In response to your concerns, we have carefully reviewed the website and the pertinent legal authorities and confirmed that the link is entirely legal and proper. The legal requirements on publicity and propaganda to which you refer in your letter prohibit government officials from covertly producing materials for public dissemination that hide any evidence of government involvement. *See* Department of Education—No Child Left Behind Act Video News Release and Media Analysis, Comp. Gen., B-304228 (Sept. 30, 2005). By contrast, the "State Your Support" link appears prominently on a government website. There is nothing secretive, and therefore nothing improper about it.

The other legal restriction on publicity and propaganda to which you refer prohibits the use of appropriated funds to urge the public to lobby Congress. To violate this provision, the Government Accountability Office (GAO) has repeatedly required "evidence of a clear appeal by the agency to the public to contact congressional members to urge them to support the agency's position." *Social Security Administration—Grassroots Lobbying Allegation*, Comp. Gen., B-304715 (April 27, 2005). The "State Your Support" link encourages no one to contact Congress. Instead, it offers citizens the opportunity to tell the President whether they agree with his position. Thus, the "State Your Support" link does not violate this aspect of the law either.

The GAO has specifically stated that it "see[s] the free and open exchange of ideas and views as central to our political system and, accordingly, remain[s] reluctant to construe these laws in such a way that would unnecessarily or excessively constrain agency communications with the public or Congress." *Id.*

We share your view that the Department must be careful to comply with all legal requirements when communicating with the public; the Department also believes it is important to offer an opportunity for members of the public to communicate with the

Page 2 - Honorable Charles Grassley

Administration. Accordingly, as the Department engages with the public and solicits the views of all Americans it will steadfastly comply with all relevant laws.

Thank you again for allowing us to respond to your concerns.

Sincerely,



David S. Cade
Acting General Counsel