

United States Senate

WASHINGTON, DC 20510

September 5, 2017

Dr. Julian Schmoke, Jr.
Chief Enforcement Officer
Office of Federal Student Aid
U.S. Department of Education
830 First St NE
Washington, DC 20002

Dear Dr. Schmoke:

We write with questions and concerns regarding your recent appointment by Secretary Betsy DeVos to lead the Department of Education's ("the Department") Office of Federal Student Aid (FSA) Enforcement Unit, which is charged with protecting students, borrowers, and taxpayers from bad actors in higher education.

Last month, several of us wrote to Secretary DeVos and the FSA Chief Operating Officer, Dr. A. Wayne Johnson, regarding the importance of the Chief Enforcement Officer position – who in effect must act as the cop on the beat to take aggressive action against actors that wish to undermine the federal financial aid programs. FSA provides more than \$130 billion annually in aid to students attending colleges and universities across the country. Strong compliance and enforcement programs are critical to ensure that our federal investments in higher education are not squandered on waste, fraud, and abuse, and that students who attend schools that receive federal loan and grant dollars receive the education and opportunity that they have been promised.

High-profile cases involving Corinthian Colleges, Inc. and ITT Educational Services, Inc. left tens of thousands of students across the country saddled with debt and worthless college credits. These problems could have been prevented with strong and aggressive oversight and enforcement by the Department and FSA. The then-existing structures of compliance and oversight were clearly insufficient to weed out misconduct and protect student borrowers.

The Department's Student Aid Enforcement Unit was established in February 2016 by then-Education Secretary John King, in response to demands that the Department take more aggressive action to rein in fraudulent colleges and other bad actors who were ripping off students in order to pull down more federal dollars, and to pursue active, thorough, aggressive,

and transparent investigations of bad actors – a role distinct from the tasks assigned to the Program Compliance Office, which includes activities like conducting program reviews and resolving financial audits.

The first FSA Chief Enforcement Officer, Robert Kaye, was a top enforcement official with extensive experience at the Federal Trade Commission. He left the position in March 2017, and the position has been vacant since. But a series of actions taken by the Department – including delays of the Gainful Employment and Borrower Defense rules, a growing backlog of unadjudicated borrower defense to repayment claims, and the May 2017 resignation of FSA Chief Operating Officer James Runcie (who raised concerns about “significant constraints being place on [FSA’s] ability to allocate and prioritize resources, make decisions, and deliver on the organization’s mission”) – make the position of Chief Enforcement Officer all the more critical.

The August 7, 2017 letter to Secretary DeVos and Dr. Johnson stated that the Chief Enforcement Officer must be “credible, well qualified, independent ... [and] freed of political constraints and conflicts,” and asked a series of questions about their plans for the position. Based on what is publicly available about your background, we have serious concerns about your seeming lack of experience in consumer protection, litigation, and the management of investigations and attorneys. These qualifications and skills are essential to executing the critical responsibilities of this role.

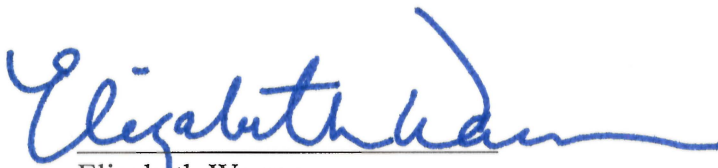
Moreover, from October 2008 through April 2012, you were an Associate Program Dean at DeVry University, a for-profit college company that last year paid a \$100 million settlement to the Federal Trade Commission and a \$2.75 million settlement with the New York Attorney General for misleading students about the professional and financial outcomes that its graduates typically attained. The company also agreed to a settlement with the Department of Education, in which the company agreed to heightened oversight by the Department to remedy past behaviors and to protect students. In fact, in announcing the creation of the Student Aid Enforcement Unit, the Department specifically cited enforcement action against DeVry. According to reports, DeVry (now known as Adtalem) may still be under active investigation by the same Department of Education office that you will lead.

You will also lead the Borrower Defense unit, which is responsible for adjudicating claims for debt relief from students who have been defrauded by their colleges. As of July 7, the Department reported that it has 1,872 pending claims for discharge from former DeVry students—some potentially from when you were employed at the company.


Given this information and our concerns around your experience and potential conflicts of interest, we request a meeting with you and Robin Minor, the Chief Compliance Officer, to discuss the direction of the Student Aid Enforcement Unit. Your cooperation in promptly scheduling this meeting is appreciated. In addition, we ask that you provide answers to the following questions on your background, experience, and plans for the position no later than Tuesday, September 26th.

1. While you have been involved as a higher education administrator for nearly a decade, you appear to have little direct experience in investigations and enforcement. Please list all of your specific investigations and enforcement experience and background.
2. Your resume indicates that you recently served as Executive Director of Campus Operations for West Georgia Technical College, a small public college in Carrollton, Georgia. What was your specific role and responsibility with regard to federal student aid in this position? How did you work with the Office of Federal Student Aid in this role?
3. Will you commit to recusing yourself from all matters involving West Georgia Technical College in your new role?
4. From October 2008 through April 2012, you were an Associate Program Dean at DeVry University, a for-profit entity that last year paid a \$100 million settlement to the Federal Trade Commission for misleading students. DeVry also settled with the Department for related conduct. What were your specific roles and responsibilities with regard to federal student aid while you were employed at DeVry?
5. Will you voluntarily recuse yourself from any and all matters involving Adatalem (formerly known as DeVry) to avoid the appearance of impropriety, including enforcement actions against the company and borrower defense claims for relief from current or former DeVry students?
6. Do you presently or have you recently (within the last five years) held any financial interest in DeVry or any other for-profit entity related to higher education?

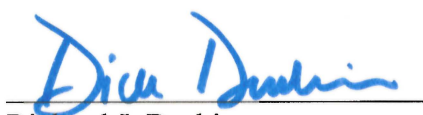
Sincerely,




Elizabeth Warren
United States Senator



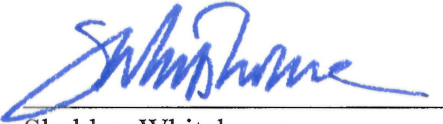
Sherrod Brown
United States Senator



Richard J. Durbin
United States Senator



Richard Blumenthal
United States Senator



Sheldon Whitehouse
United States Senator

CC:

Robin Minor, Chief Compliance Officer, Office of Federal Student Aid, U.S. Department of Education

Dr. A. Wayne Johnson, Chief Operating Officer, Office of Federal Student Aid, U.S. Department of Education