

Senator Warren

1. You have a lengthy history of advocating for privatization of public education, particularly through private school voucher programs.[1] But the reality is that more than nine out of ten American children attend public schools.[2] If confirmed, how would you fight to ensure that all students in America — including students with disabilities, English learners, and students of color — have access to high-quality public schools after spending the majority of your career advocating against public education?

ANSWER: I am a strong advocate of great public education. Period.

I believe we can both challenge the status quo and support public education to help it improve. Our current approach is not working for far too many. Last year, the National Assessment of Educational Progress (NAEP) recorded declines in fourth- and eighth-grade reading and math following flat 2013 results, marking a downturn after years of steady gains. Recently, the Program for International Student Assessment (PISA) reported that U.S. performance has declined steadily since 2009 in reading, math, and science — after a decade of rising scores. In fact, the US is now 35th in math (down from 28th). In science, we're 25th and in reading, we're now in 24th place. This is indefensible.

We must be open to progress, to moving ahead, to challenging the old ways that aren't working. I believe that a choice for children in education is a powerful way to start. But we should all think of choice in the widest terms: Excellent traditional public schools, Public Charters, Non-government schools, Homeschooling, Online or Distance Learning and forms of education that we haven't yet thought of -- we need to be open to progress.

We have to keep the focus on students and not on the adult issues that too often gum up the conversation.

2. If confirmed, would you use your position as Secretary of Education to promote the expansion of private school voucher programs funded with taxpayer dollars?

a. If so, which states, regions, or types of school systems do you intend to include in this expansion?

ANSWER: Every child should be given the opportunity to succeed and parents should be empowered to make choices that best fit their child. If there is a mismatch between the school and their child, parents need to have access to multiple opportunities -- and be able to pick an educational setting that best meet the needs of their child. And they need the best information possible upon which to make those decisions.

But those specific choices should not be mandated by the federal government. It is up to states to determine what works with their unique situations. If confirmed, I do look forward to working with Congress to develop President Trump's proposal that would provide the opportunity for choices to be offered.

3. Will you commit to only pursuing education policy initiatives that have solid, reliable, and rigorous bases in actual peer-reviewed evidence of improved student outcomes?
- a. What specific evidence do you believe should be considered as part of these decisions about education policy initiatives?

ANSWER: To be responsible with taxpayer dollars and ensure that our programs are as effective as possible, we should use reliable data, strong research and rigorous evaluations. First, data is critical to education. It helps inform decisions by teachers and school leaders. It helps parents make more informed decisions about their child's education choices. And it helps taxpayers know if their tax dollars are being well spent. In addition, we must use the best research and independent, rigorous evaluations to ensure that our federal programs are effective and having the intended effects.

4. The Every Student Succeeds Act of 2015 (ESSA) explicitly prohibits the Secretary of Education from mandating, prescribing, directing, or incentivizing the allocation of state or district resources, including a prohibition on policies that would mandate private voucher programs or eliminate teacher due process protections in exchange for a waiver or state plan approval.[3]

Will you commit to adhering to ESSA by not using your position as Secretary of Education to mandate, prescribe, direct, or incentivize any private school voucher programs in any state or school district?

ANSWER: If confirmed, I will enforce the Every Student Succeeds Act as intended.

5. A September 2016 GAO study documents “how increased demand for federal funds for services in private schools has affected the quality and amount of services that public schools can provide for their students.”[4] In light of this study, will you commit to opposing any private school voucher program that results in a net funding cut (either per-pupil or total funding) for any public education system?
- a. If yes, how will you ensure that private school voucher programs do not result in public school funding cuts?

ANSWER: Federal education dollars are provided in support of students, not systems. Those dollars should follow the student. While there are certain fixed costs, if a student leaves a school, the school district no longer needs to provide services and programs for that student.

6. Will you commit to opposing any private school voucher program using federal taxpayer dollars if that program results in increased racial or socioeconomic segregation?
- a. If yes, how will you ensure that private school voucher programs do not further segregate our schools?

ANSWER: Research shows that students in school choice programs attend more integrated schools than their traditional public school counterparts. On average,

nonpublic school classrooms are more integrated than nearby traditional public school classrooms. Traditional Public schools, by contrast, are heavily segregated because attendance is determined by where people live. On the other hand, nonpublic schools can draw students from a bigger geographic area - allowing for a broader range and diversity of potential students.

7. Will you commit to opposing any private school voucher program using federal taxpayer dollars if that program does not adhere to federal accountability and anti-discrimination rules?
a. How will you ensure that private school voucher programs that receive federal dollars comply with federal education accountability and civil rights laws?

8. Will you commit to opposing any private school voucher program using federal taxpayer dollars if that program does not adhere to basic health and school safety requirements?

ANSWER to 7-8: President Trump has made a robust school choice proposal a centerpiece of his agenda, and, if confirmed, I look forward to working with you on our proposal and hope to convince you to support the legislation.

As you may know, the D.C. Opportunity Scholarship program prohibits, by law, discrimination against “program participants or applicants on the basis of race, color, national origin, religion, or sex” and participating schools must abide by city health and safety codes. I would imagine that any voucher proposal approved by Congress would maintain these common-sense requirements, and I look forward to working with you on President Trump’s proposal when it is released. I hope you’ll keep an open mind.

9. Will you commit to pursuing the President-elect’s \$20 billion voucher program only if Congress explicitly authorizes it and appropriates the funds for such a new program?
a. Will you commit to not using executive or administration action to pursuing the President-elect’s \$20 billion voucher program unless explicitly authorized to do so by Congress? [sic]

ANSWER: As stated above, President Trump has made a robust school choice proposal a centerpiece of his agenda, and, if confirmed, I look forward to working with you on our proposal and hope to convince you to support the legislation. I hope to convince you to support the legislation.

10. ESSA authorizes a charter school expansion grant program.[5] In administering this program, what are your specific plans for enforcing the oversight and accountability requirements in the law?

ANSWER: I support the federal charter school program, which was reauthorized as part of the Every Student Succeeds Act. The reforms made to the program will allow for the expansion and replication of high-quality charter schools as well as the opening of new charter schools. If confirmed, I will enforce the law as intended by Congress.

Accountability in K-12 Education

11. What are your plans for enforcing ESSA to ensure that states are in compliance and intervening in schools that are not serving their students?

a. Will you commit to rejecting state plans for implementing ESSA that fail to meet accountability and reporting requirements set forth in the law?

b. Are you willing to hold states accountable to the law in the event that they are not directing additional support and resources to schools that are failing to serve their students in accordance with the law?

ANSWER: If confirmed, I will implement the requirements of Every Student Succeeds Act (ESSA). While I believe that providing maximum flexibility to states is necessary and critical in order to adhere to the plain language and intent of ESSA, I believe there is an appropriate role for the Department in providing states and local education agencies with technical assistance and guidance to aid with successful implementation of the law.

12. I wrote an important provision in ESSA with Republican Senator Cory Gardner to require states to make student performance data publicly available in a manner that can be cross-tabulated, so that researchers, parents, and the public could see the performance of certain subgroups of students, like Hispanic girls or African-American boys.[6] Will you commit to enforcing this provision of ESSA by requiring states to make these data available? What is your timeline for doing so?

ANSWER: If confirmed, I will enforce the Every Student Succeeds Act as intended. It would be premature to commit to any timelines at this time.

13. Will you commit to implementing and enforcing the new ESSA accountability regulations finalized by the Education Department in November 2016, without amendment or delay?[7]

a. What specific goals or timelines do you have for enforcing these provisions?

ANSWER: If confirmed, I will carefully review all regulations to ensure they are consistent with the relevant statute and are necessary to enable successful implementation of federal law. I will also work with stakeholders to determine if any additional guidance is needed to ensure the Every Student Succeeds Act is implemented as Congress intended and all students are well-served.

14. What are your specific plans for ensuring that states and districts hold schools – particularly for-profit charter schools – accountable if they are discriminating against or failing to educate students?

a. What specific measures will you use to identify discrimination or failure to appropriately educate students?

ANSWER: I believe that a school's tax status does not determine its effectiveness and most families judge a school based on its quality, not its management structure. Those schools that succeed in attracting families and raising student achievement should be applauded. Those that don't ought to be closed.

I also believe that states have the authority, under the legislation this Committee passed last year to determine how they will hold the public schools in their state accountable.

15. Will you commit to vigorously enforcing the fiscal accountability provisions of ESSA, including the critical ‘maintenance of effort’ and ‘supplement, not supplant’ provisions,[8] which are intended to prevent states and school districts from using the arrival of federal dollars as an excuse to cut back funding to low-income public schools?

- a. Will you penalize states that are not in compliance with these provisions?
- b. Will you ensure that low-income schools receiving Title I funding do not receive less state and local funds as a result of their Title I status?

ANSWER: If confirmed as Secretary, I will implement the requirements of the Every Student Succeeds Act as intended.

16. A recent NBER study showed that policies that send more money to low-income school districts help increase student achievement and that the effect of school resources on educational achievement is large, reinforcing the view that more money matters.[9] Given these findings, what will you do to address funding inequality among schools and districts in K-12 education? If confirmed, how will you ensure equity in the distribution of district resources?

ANSWER: State and local funding systems are complicated and vary from state to state. Decisions about those systems are best left to states and their elected officials who have a better understanding of their resources and needs. If confirmed, I will commit to discussing this issue with you, to gain a better understanding of your goals, and see what the appropriate federal role might be.

17. According to a report by the Center for American Progress, deep fiscal inequities are a stain on our nation’s education system.[10]

- a. How would you improve fiscal equity within states?
- b. How would you improve fiscal equity within districts?

ANSWER: State and local funding systems are complicated and vary from state to state. Decisions about those systems are best left to states and their elected officials who have a better understanding of their resources and needs. If confirmed, I will commit to discussing this issue with you, to gain a better understanding of your goals, and see what the appropriate federal role might be.

18. Will you commit to implementing and enforcing ESSA provisions[11] that ensure additional federal resources for struggling public schools that are in need of improvement?

- a. Will you penalize states that are not in compliance with these provisions?

ANSWER: If confirmed, I will implement the requirements of the Every Student Succeeds Act as intended.

19. From 2008 to 2015, we saw the number of high schools graduating fewer than 60 percent

of students shrink from 1,812 to 1,040 as a result of Obama administration policies that provided these schools with additional support, funding, and accountability.[12] ESSA includes an important provision[13] that I wrote to ensure that states and districts identify high schools for additional support, resources, and improvement if the school graduates fewer than 67 percent of their students.

a. If confirmed, what strategies would you employ to support states and districts in improving high schools that graduate less than two-thirds of their students?

ANSWER: If confirmed, I will implement the requirements of the Every Student Succeeds Act (ESSA) as intended. While I believe providing maximum flexibility to states is necessary and critical in order to adhere to the plain language and intent of ESSA to let states determine how to identify and improve schools, I believe there is an appropriate role for the Department in providing states and local education agencies with technical assistance and guidance to aid with successful implementation of the law.

20. Will you commit to ensuring that all educational entities that receive federal funding are subject to the same accountability requirements under federal law?

a. Will you commit to adhering to ESSA and holding charter schools to the same federal accountability standards as traditional public schools?

b. Will you commit to enforcing ESSA in a manner that ensures that statewide accountability and improvement systems required under the law include all charter schools and hold them accountable for their poor performance?

21. Will you commit to enforcing ESSA in a manner that ensures that statewide accountability and improvement systems required under the law include virtual schools and hold them accountable for their poor performance?

22. Will you call for tougher accountability, limits on enrollment, and improved oversight structures for poorly performing virtual schools?

23. The 2011 charter school law you supported repealed a requirement that the State Department of Education issue yearly reports monitoring charter school performance.[14] Given your record of supporting charter growth and expansion without accountability, will you commit to encouraging states to annually monitor charter school performance so that parents have the information they need to make an informed choice?

24. A recent analysis shows that charter performance would greatly improve if states did a better job closing down low performing charter schools.[15] Will you commit to using your authority as Secretary—programmatically and through the bully pulpit—to push for stronger accountability and increased performance in the charter sector?

a. How would you push for stronger accountability?

ANSWER to questions 20-24: I believe the primary responsibility for creating a high-quality, accountable, and autonomous charter school sector rests with states, local communities, and the broader charter school sector itself, not with the federal government or the U.S. Department of Education. At the same time, I support high-quality, accountability, autonomy, and transparency. If confirmed, my responsibility is not to make decisions for states or local school districts but to create an environment

where they have the freedom and flexibility to decide what to do to improve education in their local communities, including how to hold poor performers accountable whether they are virtual, place based, traditional or charter. I can, and will, highlight best practices and encourage them to be more widely adopted.

25. What steps will you take to ensure that English language learners have access to qualified translators, interpreters, and modern and culturally sensitive English language materials?

ANSWER: Highlighting the best evidence-based practices will be important to help support local education agencies have the tools and pathways towards helping these students succeed.

26. What specific steps have you taken to provide quality education to English language learners in Michigan?

a. If confirmed, what is your plan for supporting the education of English language learners across the country?

ANSWER: With Great Lakes Education Project’s advocacy, Michigan has recently passed a “K-3 Reading” bill that provides early screening and a host of interventions to assist students who are reading below grade level. Specific measures in the bill protect English Language Learners from any consequences for reading difficulties, and we support efforts to highlight ELL progress in the state’s proposed Every Student Succeeds Act-compliant accountability system.

27. Will you commit to continuing the Civil Rights Data Collection by the Office of Civil Rights?

a. If yes, please explain how you will ensure that these data are provided to parents and public in a transparent way, and how you will use the findings to inform policy decisions?

b. If yes, do you intend to make any changes to this data collection?

c. If no, how do you intend to provide parents, educators and policymakers with data on key issues?

ANSWER: The Civil Rights Data Collection is an important, longstanding tool of the Department. If I am confirmed, it will continue to have my support.

28. If confirmed as Secretary of Education, will you commit to fully carrying out the funding obligations of ESSA and to preserving the intent of the law to ensure stronger educational programs for students from low-income families?

a. What are your plans for strengthening oversight over how Title I funds are used?

ANSWER: As you know, while the Administration makes funding requests through the President’s budget, decisions about funding levels for various programs are made by Congress. If confirmed, I intend to follow through on my responsibilities, including working with the administration and Congress on Title I funding and its uses.

Higher Education

The Department's Student Loan Program

29. By several measures, the U.S. Department of Education is one of the largest banks in the country. It oversees a portfolio of \$1.3 trillion in federal student loans that affects more than 42 million Americans.[16] You have never run a company or school system of any size. You have no practical banking experience.

a. What are your specific plans for ensuring the Office of Federal Student Aid (FSA) prioritizes students and borrowers over colleges, student loan companies, and the Department of Education's contractors?

b. How will you work to reduce delinquencies and defaults in the federal student loan program?

ANSWER: With all due respect, I have run a company and, to the best of my knowledge, no previous Secretary of Education has had "practical banking experience." According to the Higher Education Act, the Office of Federal Student Aid (FSA) should be a "performance-based organization" and held accountable for its outcomes. Unfortunately, the previous administration did not conduct much oversight over FSA to ensure it was meeting its statutory requirements. If confirmed, I plan to hold FSA accountable for results in such a way that ensures students and families will be well-served.

30. Do you agree with me and with President-elect Trump that it is fundamentally unfair for the federal government to be making a profit off the backs of students?[17]

a. Will you support reducing the interest rates on federal student loans?

b. Do you support my Bank on Students Emergency Loan Refinancing Act?

ANSWER: I do agree that the federal government should not be profiting off the backs of students. That is one of the reasons why we need to look very carefully at the Direct Lending Program as we move into discussions around the reauthorization of the Higher Education Act. I also believe that the refinancing of student loans is an issue we should discuss as part of that reauthorization.

31. In 2010, Congress dramatically improved the federal student loan program by ending the old bank-based student lending system and allowing the Department of Education to lend directly to all students and families who need more money to attend college. This change has been projected to save the federal government \$61 billion between 2010 and 2019 by cutting out the private banks and putting the taxpayer subsidies banks received to make loans toward increasing Pell Grants for low-income students.^{118]}

a. Will you commit to protecting the cost-saving Direct Loan program from attempts to privatize it?

b. Will you commit to take no action that undermines the operational capacity, financial health, or long-term viability of the Direct Loan program?

ANSWER: As you know, the US Department of Education is now one of the country's largest lenders. I believe we must look carefully at how the direct loan program is functioning. It's the responsible thing to do, especially with taxpayer dollars at stake. If confirmed, I look forward to discussing these issues as part of the reauthorization of the

Higher Education Act.

32. Since Congress went to total direct federal lending, guaranty agencies have overcharged defaulted borrowers unreasonable percentages of their loan balances to rehabilitate loans. One of these guaranty agencies is even suing the agency for the ability to continue to charge these overburdened borrowers.[19] What will you do as Secretary to make sure that these large companies no longer take advantage of the system and serve the public interest as their nonprofit status requires them to do?

uaranty agencies in the legacy bank-based student loan system, with new funding opportunities in the federal student loan system to subsidize their business model and increase their bottom line? If yes, how do you plan to pay for this new program? [sic]

ANSWER: As you know, the US Department of Education is now one of the country's largest lenders. I believe we must look carefully at how the direct loan program is functioning. It's the responsible thing to do, especially with taxpayer dollars at stake.

If confirmed, I look forward to discussing these issues as part of the reauthorization of the Higher Education Act.

33. Do you believe there is statutory authority to re-privatize segments of the student loan program?

a. If so, where is this authority?

b. If not, will you oppose efforts by Wall Street lobbyists to pass legislation that privatizes the student loan program?

c. Do you support calls from student loan industry lobbyists to auction off the federally-held student loan portfolio? If so, why? How, specifically, would this be a better deal for students? How, specifically, would this be a better deal for taxpayers?

d. Are you planning to reward any Department of Education contractor, many of which were lenders or gich includes evaluating how well servicers are getting student loan borrowers into the repayment and forgiveness programs that are best for them?

b. What would you do to improve performance metrics to which student loan servicers are currently held?

c. Will you commit to publicly releasing borrower repayment rates by servicers?

ANSWER: As you know, the US Department of Education is now one of the country's largest lenders. I believe we must look carefully at how the direct loan program is functioning. It's the responsible thing to do, especially with taxpayer dollars at stake. With respect to loan servicers, I believe it is important to review all aspects of the program and how well it is serving the interests of students, borrowers, and taxpayers. There is a need for greater transparency on the part of the Department with respect to loan performance generally.

If confirmed, I look forward to discussing these issues as part of the reauthorization of the Higher Education Act.

34. Will you commit to establishing specific metrics by which you will evaluate how well

student loan servicers are keeping borrowers out of delinquency and default, and to holding them accountable to such metrics?

- a. Will you establish a transparent process for evaluating the quality of customer service that student loan servicers provide borrowers, which includes evaluating how well servicers are getting student loan borrowers into the repayment and forgiveness programs that are best for them?
- b. What would you do to improve performance metrics to which student loan servicers are currently held?
- c. Will you commit to publicly releasing borrower repayment rates by servicers?

ANSWER: According to the Higher Education Act, the Office of Federal Student Aid (FSA) should be a “performance-based organization” and held accountable for outcomes. Unfortunately, the previous administration did not conduct much oversight over FSA to ensure it was meeting its statutory requirements. If confirmed, I plan to hold FSA accountable for results in such a way that ensures students and families will be well-served.

35. Will you commit to holding accountable Department of Education student loan servicers, debt collectors, and other contractors that break the law, abuse students, or otherwise provide poor service to borrowers, including through sanctions, fines, contract terminations and other penalties?

ANSWER: We should do everything possible to ensure that our students are getting excellent servicing of their student loans. If confirmed, I will strive to do a better job than the previous administration at managing all of the Department’s contractors and will ensure they follow all applicable laws.

36. Will you commit to increasing data transparency in the student loan portfolio as outlined in the Education Department’s July 2016 Policy Direction on Federal Student Loan Servicing?[20]

- a. Do you believe it is appropriate for the Office of Federal Student Aid to hide federal student loan and grant data from the public and policy-makers?

ANSWER: I am a big believer in transparency. If confirmed, I will review the information currently made available and, after consultation with policymakers, determine what additional information can and should be made public. This review and decision will be done in a way that follows all applicable authorization and privacy laws.

37. Will you commit to ensuring that students have a meaningful complaint system that is public and searchable?

ANSWER: It is premature for me to commit to a particular course of action here. However, ensuring that students have a clear and transparent way to make complaints is important.

38. Will you commit to prohibiting the Department of Education from opposing borrowers in

bankruptcy seeking a discharge on their student loans due to an undue hardship?

ANSWER: If confirmed, I look forward to working with Congress on ways to improve all provisions of the student loan program as part of HEA reauthorization.

39. The Obama administration has recently announced a Memorandum of Understanding between the Education Department and the Treasury Department, establishing a framework for electronically sharing tax data over multiple years for borrowers with Income-Driven Repayment plans, allowing them to provide consent for the IRS to share certain information with FSA and their loan servicer for several years, so that they do not have to annually recertify their income.[21] Will you commit to continuing this practice if confirmed as Secretary?

ANSWER: If confirmed, I will review all MOUs with an eye towards ensuring the Higher Education Act is being faithfully implemented and that students are not forced to untangle unnecessary red tape to avail themselves of their benefits.

40. President-Elect Trump has released an income-driven repayment reform plan because he says that student loan debt should not be “an albatross around [the necks of students] for the rest of their lives.”[22]

a. Will you commit to protecting the availability of our current Income-Driven Repayment programs, including program expansions by the Obama Administration?

b. Will you commit to holding student loan servicers accountable to notifying borrowers of their options to lower their monthly payments through Income-Driven Repayment plans?

ANSWER: If confirmed, I look forward to discussing President Trump’s income-driven repayment plan - and all of the repayment plans - with you and your colleagues during the reauthorization of the Higher Education Act.

41. The Obama administration has announced a process to proactively identify and assist federal student loan borrowers with disabilities who may be eligible for Total and Permanent Disability (TPD) loan discharge through a partnership with the Social Security Administration.[23] Will you commit to continuing this practice if confirmed as Secretary?

ANSWER: If confirmed, I will review current policies and procedures to ensure that they align with the legal authority granted to the Secretary in the Higher Education Act.

42. The Obama administration has recently allowed the use of prior-year tax data to make it easier for students and families to fill out the FAFSA. Will you commit to continuing this practice if confirmed as Secretary?

ANSWER: Yes.

43. The Department has recently taken steps to improve transparency in the federal student aid program for researchers and policymakers to identify better ways to improve student outcomes.[24]

a. Will you commit to at least maintaining the current availability of data from FSA for

researchers and policymakers, including the data that's currently available through the FSA Data Center[25], on the College Scorecard[26], and the through the Financial Aid Shopping Sheet[27]?

b. Will you commit to maintaining the Department's recent transparency commitments, including expanding researcher access to student aid data and clarifying permissible uses of financial aid data for program evaluation and research?[28]

c. Will you commit to releasing raw data sets on the FSA Data Center website that are stripped of personally identifiable information to allow researchers and policymakers to independently evaluate the performance of the student aid programs?

ANSWER: While it is premature to commit to a particular course of action, I value the research and policymaking communities' need for student loan data while recognizing that the National Student Loan Data System (NSLDS) was designed to serve Federal Student Aid operational purposes rather than the dissemination of data for public consumption. If confirmed, I will review the Department's existing policy related to data transparency and explore opportunities that can advance public policy interests while protecting students' information.

44. In December 2015, Senators Lee, Markey, Hatch and I sent the Department a letter to express our concerns about using "robocalls" to collect student loan debt.[29] While a caller must generally have a person's consent before using autodialers and pre-recorded messages to "robocall" the person's cell phone or residential line, Title III of the Bipartisan Budget Act of 2015 created an exemption allowing anyone to robocall a person's phone – without consent – for the purpose of collecting a debt owed to or guaranteed by the federal government. Our letter asked the Department not to use this new authority until the Department can demonstrate with data that robocalling is in the best interest of student loan borrowers and taxpayers and will not result in abusive debt collection practices.

In August 2016, the Federal Communications Commission (FCC) adopted consumer protections in its implementing regulations. Specifically, the FCC limited the number of these robocalls to three per month, required that these robocalls occur between the hours of 8am and 9pm, and allowed the recipients of these robocalls to opt out at any time.[30] The FCC rules also prohibit robocalls to relatives and references who may be secondarily responsible for student loans.[31] The student loan industry has already started lobbying President-elect Trump to roll back the FCC's consumer protection rules.[32]

a. Do you support the consumer protection rules the FCC adopted to protect student loan borrowers from abusive debt collection practices?

b. Will you commit to directing student loan servicing organizations and third-party debt collectors to continue to follow the consumer protections in the FCC rules?

c. Will you commit to providing the data that Senators Lee, Markey, Hatch and I requested?

ANSWER: If confirmed, I will ensure the Department's debt collectors follow the law.

45. A decade ago, Sallie Mae (now known as Navient) was implicated in a student loan kickback scandal. According to public reports and a settlement by the Attorney General of New York, the student loan industry gave gifts to school officials in order to steer borrowers to

individual lenders.[33] Navient retains a very large portfolio of government-guaranteed loans, and the government has never revoked guarantees on loans involved in the kickback.

a. Will you do what is right for taxpayers and ensure that all guarantees of loans held by Navient where the law was broken are revoked?

ANSWER: If confirmed, I will review existing policies and procedures in evaluating all contractors involved with the student loan program, including servicers to ensure borrowers are being treated fairly and equitably.

46. Last year, the Department's Office of Federal Student Aid announced that Navient was a finalist for its blockbuster contract to develop a new servicing system. Do you think it is appropriate for the Education Department to award contracts to Navient, with its long record of skirting the law?

ANSWER: If confirmed, I look forward to enforcing the provisions of the Higher Education Act related to the performance nature of the Office of Federal Student Aid, including all of the contractors to ensure compliance with all applicable laws and positive outcomes for students, borrowers, and taxpayers.

47. In 2014, the FDIC and the Justice Department fined Sallie Mae/Navient nearly \$100 million for illegal behavior on its Direct, Federal Family Education Loan, and private loan portfolio. Most egregiously, the companies were found to be overcharging members of the military. In its complaint, the Justice Department described their conduct as "intentional, willful and taken in disregard for the rights of servicemembers." The FDIC also noted that the companies improperly advised servicemembers that they must be deployed to obtain benefits under the Servicemembers Civil Relief Act, which is not required.[34] The Education Department subsequently conducted a sham review, sharply criticized by the Inspector General.[35]

a. If confirmed, will you rely on the findings of law enforcement to terminate contracts and all appropriate government guarantees when there is significant evidence of student loan servicers breaking the law?

ANSWER: If confirmed, I will ensure the critical review of all contractors to ensure their compliance with the Higher Education Act and other laws pertinent to federal student loans, as well as any guidance issued related to those laws. I will also work closely with my counterpart at the Departments of Veterans Affairs and Defense on loan issues related to service members and veterans.

48. In 2009, the Department's Inspector General found that a Sallie Mae subsidiary was overcharging taxpayers as part of the so-called "9.5%" scam. The Inspector General determined that Sallie Mae/Navient were overpaid \$22.3 million.[36] More than seven years later, the Department has still not collected these funds. Will you commit to issuing a final order to resolve the appeals that have dragged on for years? Please provide a timeline for doing so.

ANSWER: If confirmed, I will review any outstanding Inspector General findings in

order to determine the relevant and proper action moving forward.

49. In 2008, the Department of the Treasury and the Department of Education bailed out the student loan industry under the Ensuring Continued Access to Student Loans Act program. While the bailout was primarily intended to provide liquidity to the market, some student loan companies made off like bandits. According to SEC filings, Sallie Mae booked profits of \$284 million in 2009 off of loan sales to the Education Department.[37]

- a. Do you think it's appropriate for the government to design programs that lead to windfall profits for politically-connected contractors?
- b. If confirmed, will you audit loan sales under the student loan bailout program to ensure that taxpayer interests are protected?

ANSWER: By passing the Ensuring Continued Access to Student Loans Act, the Congress authorized the Department to establish a loan purchasing program. These programs have since expired.

50. Just this week, Sallie Mae and Navient were sued by the Consumer Financial Protection Bureau and state Attorneys General.[38]

- a. Will you commit that the Department will collaborate with the CFPB on the investigation?
- b. What specific steps will you take to work with the Consumer Financial Protection Bureau to ensure that the consumer agency has all of the information it needs for its enforcement action?

ANSWER: If confirmed, I will review the findings of the Consumer Finance Protection Bureau (CFPB) in order to determine what steps, if any, the Department of Education should take.

Oversight of Colleges and Universities

51. For years, some colleges have survived off of federal taxpayer dollars while committing outright fraud. In fact, during the Reagan Administration, Republican Secretary of Education William Bennett said that there were "profit institutions out there that are interested only in that profit and not interested in students." He pledged to "put some of them out of business right now... to get institutions that are exploiting kids and exploiting taxpayers out of the business."³⁹ In 2012, the Senate HELP Committee released an investigation and report on for-profit college abuses, showing that these abuses still persisted decades later. For-profit colleges represent only about 10 percent of students but nearly half of federal student loan defaulters.[40] Students at for-profit colleges pay more in tuition, have more debt, are less likely to graduate, are more likely to owe more money on their loans years after entering repayment, and are more likely to default. What are your specific plans for protecting students and taxpayers from waste, fraud, and abuse in the federal student aid programs by all colleges, but especially for-profit colleges?

52. Will you commit to rooting out the fraud, fighting it preventively, and taking steps to help students who have been defrauded?

a. Will you commit to maintaining the Department of Education's Enforcement Unit to protect students and taxpayers from illegal actions by colleges and universities?

b. Will you commit to taking all necessary steps to protect students - especially veterans and service members - from any form of consumer fraud or misrepresentations by deceptive colleges?

ANSWER to 51 and 52: Fraud should never be tolerated. Period. Bad actors clearly exist – in both public and nonpublic institutions – and when we find them, we should act decisively to protect students and enforce existing laws. If confirmed, I will review the current regulations issued by the Department and determine their necessity for implementing the Higher Education Act.

53. Will you commit to adhering to your responsibility under the Higher Education Act to investigate or take other enforcement actions when the Department becomes aware of a state Attorney General or other federal agency investigating or suing an institution of higher education participating in the Title IV program?

a. When faced with evidence of fraud from other federal or state law enforcement agencies, what will you do to hold colleges accountable?

ANSWER: I will follow the law and obligations required under the Higher Education Act.

54. The Congressional Budget Office found in 2016 that repealing the Gainful Employment Rule would increase spending by \$1.3 billion over 10 years and contribute to the waste of taxpayer dollars on overpriced, ineffective career education programs that fail to prepare students for employment.[41] In October 1991, then-Secretary of Education Lamar Alexander urged Congress to increase the federal government's role on outcome measures for vocational postsecondary schools, arguing "But with particular emphasis on vocational programs and schools, which would benefit most from closer oversight. . . . The Federal Government should set the parameters for certain standards, such as outcome measures, for use by States in carrying out their increased responsibilities. . . . The scope of a State's review should explicitly include institutional performance in student outcome areas such as program completion and job placement rates." [42]

a. What are your specific plans for enforcing the Gainful Employment rules as finalized in July 2015 without amendment or delay to hold career and vocational programs accountable for helping students graduate with skills that can get them jobs?

b. Will you enforce the rule as written by cutting off aid to schools that are leaving their students with unaffordable debts and without meaningful prospects in the job market?

c. Will you commit to ensuring that taxpayers do not subsidize career education programs that consistently leave students with debts they cannot repay?

d. Will you commit to ensuring that students have access to clear information on the cost and typical outcomes of career education programs, including completion rates, median debt at graduation, graduate earnings, and job placement rates?

ANSWER: I believe all institutions of higher education participating in the Title IV programs should provide value to students and taxpayers alike. There are many tools to provide information to students, parents, and the public, and, if confirmed, I look forward to working with Congress to reform the Higher Education Act in a way that will allow all institutions to appropriately demonstrate their value to students and the public.

With regard to the gainful employment regulations, as President Trump has directed, we will review and assess all regulations and make determinations once that review is complete. The Department has had significant implementation issues with this regulation, including questions as to the accuracy of the data originally reported, the design of a system that would allow schools to challenge incorrect data, and the ability to provide the necessary technical assistance required. The last thing any of us want is to unnecessarily close down important programs - putting students on the street with limited or no other options.

55. Will you expand resources for enforcement and oversight of predatory colleges that defraud students or leave them with expensive and useless degrees?

a. What other specific actions will you take as Secretary to hold these schools accountable?

ANSWER: If confirmed, I will examine the management and operation of the Department to ensure that resources are allocated wisely to meet the responsibilities of the Department.

56. What are your specific plans for improving performance of accreditors and for holding accreditors accountable for failures?

a. Secretary King eliminated the charter of the Accrediting Council for Independent Colleges and Schools due to a series of failures by the company. From 2010 to 2015, this accreditor 90 times held up a college as an "honor roll" institution around the same time it was under investigation by a state or federal entity. All told, these schools received more than \$5.7 billion in federal funds over three years, or 52 percent of all federal aid dollars handed out to schools approved by this accreditor.[43] Do you believe this action was justified?

b. Now, ACICS is suing the federal government over this action. Will you stand by Secretary King's decision to keep that accreditor out of the federal student aid programs?

c. Will you commit to defending this action in court challenges and proceedings?

d. Will you commit to upholding the program participation requirements instituted by the Department of Education for ACICS-accredited school in order to protect students and taxpayers in the event of sudden collapse?

ANSWER: The accreditation system is not working – both in terms of protecting students and encouraging innovation in higher education. It's a complicated issue that the field has been grappling with for some time. If confirmed, I look forward to engaging with you, the Senate Committee on Health, Education, Labor and Pensions and the entire Congress on this topic. However, as this matter is currently being litigated it is inappropriate for me to comment on this particular matter.

57. What are your specific plans for holding college accrediting agencies accountable for only

accrediting colleges if they meet the standards set forth in the Higher Education Act?

a. How will you make the college accreditation system more focused on student outcomes?

ANSWER: The accreditation system is not working – both in terms of protecting students and encouraging innovation in higher education. It’s a complicated issue that the field has been grappling with for some time. If confirmed, I look forward to working with the Senate Committee on Health, Education, Labor and Pension to find a solution that does not in effect make the federal government a national accreditor.

58. Will you seek any changes to the new Borrower Defense to Repayment or arbitration rules as issued in November 2016?

a. Will you commit to aggressively enforcing these new rules without amendment or delay to protect students and taxpayers from fraudulent schools?

b. Will you enforce the provisions of the rule that would hold schools accountable for abuses through early warning and triggers?

c. If not, how do you intend to discourage colleges from engaging in fraud?

ANSWER: As it relates to the Borrower Defense regulations issued in November, If confirmed as Secretary, I will carefully review all regulations to ensure they are consistent with the relevant statute as Congress wrote them and are necessary to enable successful implementation of federal law. I will also work with stakeholders to determine what additional guidance is needed to ensure statutes are implemented as Congress intended and all students are well-served.

59. Will you grant full, automatic group discharges of student loan debts in instances of widespread fraud uncovered by other federal or state law enforcement agencies, including fraud uncovered by state attorneys general?

a. What will your specific criteria be for allowing such relief?

b. Will you support full, automatic discharge of individual loans at schools where students were systematically defrauded?

60. Can you guarantee that every student who is defrauded by a school during your tenure will see every penny of debt relief they are entitled to under the law?

a. Will you commit to granting full debt relief to students who were defrauded by Corinthian Colleges?

ANSWER to 59 and 60: Fraud should never be tolerated. Period. Bad actors clearly exist – in both public and nonpublic institutions. When we find them, we should act decisively to protect students and enforce existing laws. However, I’m agnostic about the type of provider of educational options to our students. Let’s find the best and not discriminate simply because of their tax status.

If confirmed, my role as Secretary, in part, would be to ensure that the Higher Education Act is faithfully implemented. I will work to ensure faithful implementation across the board--whether the school is a public, private non-profit, or a for-profit school.

Accountability is for ALL schools, and I intend to use the various tools at my disposal to enforce the law. Helping those harmed by Corinthian Colleges or by any fraudulent institution is an important issue. We will be reviewing the Borrower Defense regulations to ensure we are applying a consistent standard and are taking into account the effect on students and taxpayers.

61. Many for-profit colleges used arbitration “ripoff” clauses to keep their fraud in the shadows and prevent students from speaking out about waste, fraud, and abuse. The new borrower defense rules ban colleges from forcing their students to sign mandatory pre-dispute arbitration clauses in their enrollment agreements.

- a. Will you enforce this provision without amendment or delay?
- b. Will you commit to ensuring that students who have concern or complaints about their institutions have the right to raise those concerns publicly?
- c. Will you commit to ensuring that students have a choice in deciding how they will file and pursue a complaint?

ANSWER: As it relates to the Borrower Defense regulations issued in November, I confirmed as Secretary, I will carefully review all regulations to ensure they are consistent with the relevant statute as Congress wrote them and are necessary to enable successful implementation of federal law. I will also work with stakeholders to determine what additional guidance is needed to ensure statutes are implemented as Congress intended and all students are well-served.

62. Currently, many students and families aren’t able to access basic consumer information on their college or university, including how much they will pay, borrow, earn if they complete their degree, or their chances of succeeding, which makes it hard for students to shop for the right college option. Do you believe students have a right to know this information?

- a. Do you support reexamining current restrictions that prevent the public from accessing this critical consumer choice data?
- b. Will you commit to informing students about significant events regarding colleges, such as major lawsuits alleging fraud or heightened oversight by federal or state governments or accreditors?
- c. Will you commit to taking steps to improve and expand the information available to students, families, and the Department of Education: veterans' graduation rate, Pell grantees' graduation rate, and more accurate college transfer rates?

ANSWER: I believe that for consumers to make good choices they need access to reliable information. If confirmed, I will review the Education Department’s current effort to provide students and families with information about postsecondary education institutions’ performance. If confirmed, I also look forward to working with Congress during the Higher Education Act reauthorization this year to address these issues.

63. There's been a lot of focus in this committee on the idea that higher education regulations raise costs. This stems from a Vanderbilt University study that claimed that regulations cost the school around \$11,000 per student.[44] But, a closer investigation of that report shows that the vast majority of those costs are due to research dollars, and that the costs of complying

with Department of Education regulations are so small they did not even merit their own category.[45]

- a. Given this information, before any attempt to deregulate colleges and universities, will you commit to submit to congress independent evidence that it will ultimately help students and taxpayers?
- b. Will you commit to not cut or rollback regulations unless the Department of Education can demonstrate the benefit to students and taxpayers?

ANSWER: As is customary at the beginning of any administration I will carefully review all existing regulations to ensure that they adhere to the laws as Congress intended.

64. For years, many for-profit colleges took advantage of low-income students and students of color using high-pressure sales tactics and commissioned boiler-room style sales for recruitment—often breaking the law.

- a. Is that the model you believe higher education should use to recruit students?
- b. What will you do to protect students and taxpayers from this kind of practice?
- c. Do you believe recruiters at private for-profit colleges should be allowed to receive bounties or bonus payments for recruiting students?
- d. Will you commit to enforcing the ban on incentive compensation[46] without amendment?

ANSWER: If confirmed, I look forward to reviewing existing regulations and policies to ensure that they align with the provisions of the Higher Education Act and will work with you, the Committee and the Congress in addressing these issues during debate of the upcoming Higher Education Act reauthorization.

65. In 2010, the Obama Administration issued new rules regarding program integrity and defining illegal misrepresentations. If confirmed, will you commit to fully enforcing this rule without amendment?[47]

ANSWER: If confirmed, I look forward to reviewing existing rules and regulations and their alignment with the Higher Education Act and faithfully implementing the law.

66. The Higher Education Act requires colleges to be authorized by a state to in order to receive federal dollars. The Obama administration recently announced new rules to clarify states' responsibility in holding colleges accountable.[48] If confirmed, will you commit to enforcing this rule without amendment or delay?

ANSWER: If confirmed, I look forward to reviewing existing rules and regulations and their alignment with the Higher Education Act and faithfully implementing the law.

67. Over the years some institutions have been responsible for aggressive and harassing recruiting tactics, misleading servicemembers and veterans about their quality of education or employment prospects, and even taking advantage of veterans with severe traumatic brain injury to get their GI Bill money even when the veteran was so injured they did not remember

or understand they were enrolling.[49]

- a. The 90-10 rule exists in law as a market-value accountability mechanism to prevent for-profit colleges from pricing their programs at an artificially high level. Will you commit to working with Congress to close the 90-10 loophole, which allows for-profit colleges to exclude federal funds from the Departments of Defense and Veterans Affairs in their total federal aid calculations in order to remain in compliance with the 90-10 rule?
- b. How will you prevent fraudulent colleges from preying on veterans and servicemembers for their GI Bill and Tuition Assistance funds?
- c. How will you work across other agencies to protect veterans from being cheated by colleges?
- d. What specifically will you do to advocate for policies that protect veterans and servicemembers?

ANSWER: The Higher Education Act outlines what is included in the 90/10 rule calculation. If confirmed as Secretary, I will faithfully implement the HEA. Should Congress decide to change this rule in the HEA reauthorization process, I look forward to engaging in that discussion. I will also work closely with my colleague at the Departments of Veterans Affairs and Defense to ensure veterans and servicemembers have the same information about postsecondary outcomes, or the results of program reviews or other audits as appropriate, as the non-veteran/non-servicemember students. The GI bill and Tuition Assistance programs have different requirements that colleges and universities must meet in order to participate and the Secretary of Education does not have jurisdiction over those programs.

68. A recent Century Foundation report has revealed that some schools currently recognized by the Department of Education as nonprofit are making a profit for their board members and others involved in the school's administration.[50] These activities run contrary to the legally-mandated mission of a nonprofit to serve public, rather than private, interests, while allowing these institutions to skirt regulation designed to monitor the for-profit education sector. The Secretary is responsible for approving all attempts by for-profit colleges to convert to nonprofit colleges. If confirmed, what specific steps would you take to ensure that the Department of Education only recognizes schools as nonprofit if their governance structure ensures that no one with a personal financial stake in the school also has administrative authority?

ANSWER: If confirmed, I look forward to working with the IRS Commissioner should the need arise as I faithfully implement the Higher Education Act.

69. The incoming President's campaign remarks and literature state that he is interested in prioritizing federal funding for higher education programs that result in good jobs with decent wages.[51]

- a. In confirmed, how would you accomplish this goal?
- b. What are your specific plans for holding higher education programs accountable to their student outcomes, including labor market outcomes?

ANSWER: I am interested in making sure students have good information about the costs of college and the labor market outcomes of particular fields so they can make good

decisions at the beginning of their educational pursuits about what program may work best for them and their situation. If confirmed, I look forward to working on these issues with members of the Senate Committee on Health, Education, Labor and Pensions and other interested members of Congress during Higher Education Act reauthorization.

70. The evidence is clear that declines in state funding for public colleges have directly led to increases in tuition and student debt. At the same time, the amount of money that these schools actually spend to educate students is not growing.

d. In confirmed, how would you address the problem of state disinvestment in higher education?

e. What are your specific plans for addressing this growing problem and encouraging states to reinvest in their higher education systems and lessen the financial burden on students and families paying for college?

f. If confirmed, what steps would you take to alleviate the financial burden on our students, and how would you ensure that our students are able to afford their college education, even if financial crisis hits?

ANSWER: While research increasingly shows a strong relationship between rising tuition at public colleges and lower state investment, some one-third of all postsecondary institutions are not public, yet students have witnessed higher tuition at these institutions as well. It takes a partnership between the federal government, states, institutions of higher learning, and families to ensure postsecondary education remains affordability. If confirmed, I look forward to discussing this issue with Congress as part of the reauthorization of the Higher Education Act.

71. The “credit hour” is the measure the federal government uses to determine whether a course load’s expectations of students should qualify for a “full time” amount of financial aid. In 2011, a new federal definition made clear that financial aid is meant to finance actual academic engagement.[52] Will you enforce the credit hour guidance as written?

ANSWER: If confirmed, I look forward to working with Congress to evaluate new and novel approaches to awarding credit and corresponding rules for financial aid that permit greater innovation in delivering postsecondary instruction, including measures of competency.

72. How do you plan to increase support for students in higher education in order to help them complete their education?

a. How will you support the expansion of student support services designed to help students stay in school and graduate on time, such as Federal Work Study, on-campus childcare, and TRIO programs?

ANSWER: I think high quality college access programs provide a vital service to helping students achieve their dream of a postsecondary education. If confirmed, I look forward to reviewing the results of these programs and putting forward a budget request that supports high quality, effective programs.

73. Will you commit to promptly reviewing all borrower defense claims by former ITT

Technical Institute (ITT) students and other evidence of wrongdoing by ITT and provide discharges to all students entitled to them based on the Department's regulations and current law?

ANSWER: As it relates to the Borrower Defense regulations issued in November, If confirmed, I will carefully review all regulations to ensure they are consistent with the relevant statute as Congress wrote them and are necessary to enable successful implementation of federal law. I will also work with stakeholders to determine what additional guidance is needed to ensure statutes are implemented as Congress intended and all students are well-served.

74. Will you commit to supporting legislation to restoring Pell Grant and GI Bill eligibility for former ITT and other students who receive borrower defense loan discharges or would be eligible to receive one if they had taken out a federal loan?

ANSWER: This is an important issue. If confirmed, I will be reviewing the Borrower Defense regulations to ensure we are applying a consistent standard and are taking into account students and taxpayers. I look forward to working with you, the entire Senate Committee on Health, Education, Labor and Pensions and Congress to address these issues where needed.

Public Service to Students and Taxpayers

75. Will you commit to closing the revolving door and preventing Education Department employees from personally profiting from their activities at the Department?

a. Will you prevent Education Department employees from working on issues that directly impact a previous employer?

b. Will you demand that, prior to appointment, political appointees pledge that they will not work in industries related to or significantly subject to Education Department regulation for three or more years upon leaving federal service?

c. Will you commit to disclosing to Congress all department employees who previously worked for a Department of Education contractor?

ANSWER: If confirmed, I will enforce all applicable ethics laws that relate to Department of Education employees.

76. Many of the Department of Education's contractors and other companies in the student loan program spend significantly on lobbying members of Congress and the Department.[53] How will you ensure that this lobbying activity does not influence your decision making?

ANSWER: If confirmed, I will implement and enforce all relevant laws.

77. During Mr. Trump's campaign, there were reports that even volunteers were required to sign non-disclosure agreements. And following his election, there were also reports that transition officials were requesting information about career employees who worked on issues such as climate change at the Energy Department or women's issues at the State Department.[54] Any implication that people who worked on advancing policies that the new

President disagrees with may be targeted or retaliated against could create a chilling effect on non-political federal employees simply trying to do their jobs.

a. If you are confirmed, will you commit to protect the rights of all civil servants in the Department of Education?

ANSWER: Yes. If confirmed, I intend to uphold all laws applicable to Department of Education employees.

b. Those rights include the right for civil servants to communicate with Congress, and in fact it is against the law to deny or interfere with their right to do so.[55] If you are confirmed, do you commit to protect these workers right to communicate with Congress?

ANSWER: Yes. If confirmed, I intend to uphold all laws applicable to Department of Education employees.

78. Your family has a large financial stake in Performant Financial Corporation – a company that collects student loan debt.[56] Performant’s most recent quarterly report states, “We derive the majority of our revenues from the recovery of student loans.”[57] I have deep concerns about some of the deceptive – and sometimes illegal – practices that private debt collection companies have aggressively used to go after student loan borrowers. In 2015, Performant had the distinction of becoming one of five companies that received the most complaints at the Consumer Financial Protection Bureau from student loan borrowers.[58] In April 2015, Performant’s debt collection contract with the Department expired, and the Department elected not to extend Performant’s contract – a tremendously consequential decision, given that the company derived 23.8% of its revenues in 2015 from its contract with the Department.[59] Performant is currently protesting the Department’s decision not to renew its contract.

If you are confirmed as Secretary of Education, you would have direct influence over the Department’s decisions and how the Department responds to Performant’s protest. In addition, you would have direct influence over policies that could enrich Performant at the expense of student loan borrowers. Performant’s own SEC filings indicate that the Department’s past decisions to promote policies that benefit student loan borrowers, such as income-based repayment, have reduced the company’s profits.[60]

a. Will you commit to divesting yourself and your family from Performant Financial Corporation?

ANSWER: Yes. I will resolve any issues related to Performant in accordance with my ethics agreement with the U.S. Department of Education’s Designated Agency Ethics Official.

b. What steps will you take to ensure that neither you nor any member of your family has a financial stake in a company that would benefit from the decisions you make at the Department of Education?

ANSWER: Like you, I am committed to a system of conflict-free governance.

The family offices that manage my and my husband’s investment activities and I will, in

consultation with the U.S. Office of Government Ethics and U. S. Department of Education's Designated Agency Ethics Official, create a robust system of controls designed to keep me informed of the investments in my portfolio, so that I can avoid any conflicts of interest with respect to the decisions I make at the Department of Education.

c. If given the choice, will you commit to promoting policies that benefit student loan borrowers rather than the companies that make money off of them?

ANSWER: My goal is to ensure that affordable postsecondary educational and vocational opportunities are available to anyone who seeks to pursue them. I would promote policies that further this goal.

d. Will you recuse yourself from any specific actions or decisions regarding Performant?

ANSWER: I will resolve any issues related to Performant in accordance with my ethics agreement with the U.S. Department of Education's Designated Agency Ethics Official. I believe this practice and standard is similar to those to which Members of Congress adhere.