

DEVOS WATCH, YEAR ONE: FAILING AMERICA'S STUDENTS



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Executive Summary

Betsy DeVos was confirmed as Secretary of Education by the United States Senate on February 7, 2017. She became Education Secretary despite having absolutely no experience as a school teacher, school administrator, or public official, and despite her long record of bankrolling politicians and supporting policies that are damaging to public education. She had no record or experience related to the Education Department's job of managing the \$1 trillion federal student loan program. Her confirmation required an extremely rare tie-breaking vote by Vice President Pence, after a "cringeworthy" nomination hearing in which she was unable to demonstrate basic knowledge about education policy.¹

This report summarizes Secretary DeVos's major actions during her first year in charge of the U.S. Department of Education ("the Department"), concluding that she has failed as Education Secretary. It reveals that her tenure—marked by damaging conflicts of interest—has been a boon for for-profit colleges, student loan companies, and advocates of school privatization. And her actions have harmed public education and students of all ages. Detailed findings of this review include:

- ♦ **Questionable Ethics and Conflicts of Interest.** Secretary DeVos has taken actions that harm students and student loan borrowers while benefitting bad actors in the for-profit higher education and student loan sectors. These actions appear tainted by her own conflicts of interest (many of which likely remain undisclosed) and those of key personnel that she has hired—including her Senior Counselor and a former Special Assistant, who have personal ties to the main beneficiaries of her decisions.
- ♦ **Favoring For-Profit Colleges over Students.** During her nomination hearing, Secretary DeVos repeatedly emphasized the importance of "accountability." Since her confirmation, however, she has taken numerous steps to limit, delay, and revoke regulations aimed at holding colleges

accountable when they fail to keep their promises and protecting defrauded student loan borrowers. She has rolled back relief for students who were ripped off by shady for-profit colleges; she has exposed struggling loan borrowers to high collection fees; she has delayed rules ensuring that colleges that take federal student loan dollars are held accountable for student outcomes; and she has weakened oversight of predatory for-profit colleges while allowing bad actors to continue receiving federal student aid dollars.

- ♦ **Weakening Public Education.** The U.S. Secretary of Education should be a reliable champion of public schools. But fears of her lack of experience and disinterest in—or disdain for—public education have come to fruition. She has undermined key protections for public school students contained in the bipartisan Every Student Succeeds Act; she has proposed budgets that contain massive cuts for public education (and huge giveaways to private and religious schools); and she has spent her time in office meeting with school choice and privatization advocates, while largely ignoring the needs of public school students and teachers.
- ♦ **Turning Back the Clock on Civil Rights Protections.** A critical part of the Department's mission is to provide equitable educational opportunities for all students. But Secretary DeVos has done the opposite. She has curtailed protections for victims of sexual harassment and sexual violence; eliminated protections for transgender students; weakened protections for students of color; and weakened enforcement of civil rights protections by the Department's Office for Civil Rights.

Secretary DeVos's first year as Secretary of Education has revealed that she is either unable or unwilling to fulfill the Department's mission of "promot[ing] student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access."

Introduction

On January 17, 2017, then-Education Secretary-Designate Betsy DeVos was front and center at one of the most contentious confirmation hearings for a cabinet member in recent history. Questions from the U.S. Senate Committee on Health, Education, Labor, and Pensions (HELP) about topics that fall squarely under the Secretary of Education's jurisdiction, including the federal student loan program, K-12 school discrimination, and federal laws aimed at protecting students and borrowers, were met with hackneyed responses and clueless answers highlighting Secretary-Designate DeVos's lack of basic knowledge about the job for which she had been nominated.²

Secretary-Designate DeVos brought a narrow set of experiences to the job. Unlike previous Secretaries of Education, she had zero professional experience in K-12 or postsecondary education and a complete lack of experience dealing with the federal student financial aid program. Her background in education only included using her vast fortune to bankroll radical K-12 "school choice" policies and private voucher programs.³

During her confirmation hearing, Secretary-Designate DeVos's ignorance about the realities of public education were on full display. When asked about her plans to protect taxpayer dollars from waste, fraud, and abuse at for-profit colleges, she suggested "the individuals with whom [she'd] work with at the Department will ensure that federal monies are used properly and appropriately," highlighting plans to outsource responsibility and rely on others to compensate for her complete lack of know-how. When pressed on existing regulations aimed at protecting college students, such as the Gainful Employment Rule, she was unwilling to commit to enforcing current student protections and would only reference her plans to "review" them. Ultimately, Secretary-Designate DeVos's confirmation hearing left many questioning her basic familiarity with the nation's education policies.



"I will refer back to Senator Enzi and the school he was talking about in Wyoming. I think probably there, I would imagine that there is probably a gun in the schools to protect from potential grizzlies."

– Secretary-Designate DeVos, January 17, 2017, confirmation hearing before the Senate Committee on Health, Education, Labor & Pensions.⁴

Members of Congress raised concerns over Secretary-Designate DeVos's glaring conflicts of interest that might influence the Department's stance and decision-making.⁵ For example, Secretary-Designate DeVos and her family maintained secret trusts that might hold investments in financial interests that could be influenced by the Department.⁶ She was also a long-standing contributor to the Koch brothers' donor network and various conservative organizations, including the American Federation for Children and the Great Lakes Education Project, which had taken extreme positions on policies Secretary-Designate DeVos would ultimately be responsible for enforcing.⁷

Secretary-Designate DeVos's nomination led to national concern about her confirmation. Teachers,⁸ organizations representing children with disabilities,⁹ and civil rights groups¹⁰ all voiced strong opposition to Secretary-Designate DeVos. Republican Senators Susan Collins of Maine and Lisa Murkowski of Alaska joined Democratic colleagues announcing their plans to vote "no" on Secretary-Designate DeVos ahead of the floor vote.¹¹

Despite efforts by dozens of organizations representing students and teachers, Secretary DeVos was narrowly confirmed on February 7, 2017 following a historic tie-breaking affirmative vote by Vice President Mike Pence – the first time in American history that a cabinet nominee required such a vote.¹²

Secretary DeVos has used her power in the ways that many feared. This report highlights the ways in which Secretary DeVos's actions have raised serious ethical questions, prioritized for-profit colleges over students and borrowers, weakened traditional public education in favor of exclusive private and nontraditional schools, and reversed civil rights protections for students.

Finding I: Questionable Ethics and Conflicts of Interest

Since taking office, Secretary DeVos has operated under a cloud of conflicts-of-interest and ethical issues affecting her and her top aides, particularly through ties between for-profit colleges and the student loan program.

“My family is the biggest contributor of soft money to the national Republican Party...I have decided, however, to stop taking offense at the suggestion that we are buying influence. Now I simply concede the point... We do expect something in return...We expect a return on our investment.”

—Secretary DeVos, article in *Roll Call*, 1997.¹³

1. Secretary DeVos’s Conflicts of Interest and Undisclosed Education Investments.

Prior to her nomination to be Secretary of Education, Secretary DeVos and her family were known for their massive political donations to push state- and federal-level policy far to the right of the American public, such as to support the privatization of public education. Now, after years of spending millions to influence education policy, Secretary DeVos can, as head of the Department, shape it herself.

Secretary DeVos’s ethics agreement revealed that her investments have included — and may continue to include through her undisclosed family trusts — assets in higher education-related entities, including companies that collect student loan debt, refinance student loans, provide online learning platforms or education reference materials, and run for-profit education institutions.¹⁴

Although Secretary DeVos agreed to divest from more than 100 of these organizations, she reportedly continues to hold three different family trusts and has yet to disclose the assets in two trusts that remain in her portfolio to Congress or to the American people, despite officials in past administrations having divested from such trusts completely.¹⁵ She may very well retain financial

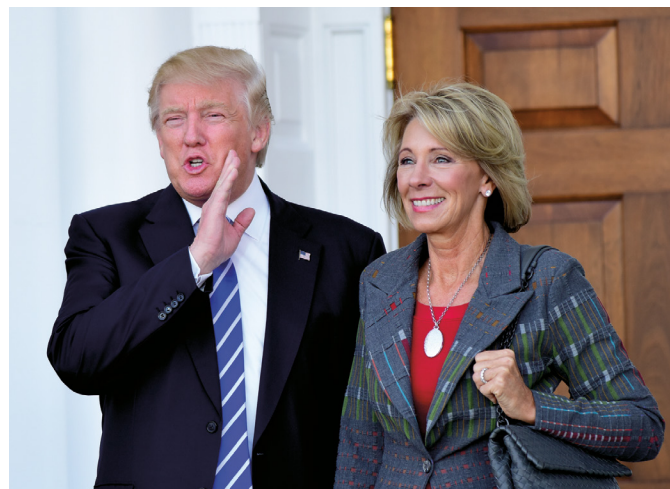
holdings that could be impacted by her decisions as the head of the Department. By ignoring long-standing ethical norms for powerful public officials, Secretary DeVos has left the possibility that she has used this power to enrich herself and her family wide open.

2. Top appointees at the Education Department have troubling ties to predatory for-profit colleges and student loan providers.¹⁶

Secretary DeVos is not the only Education Department official with ties to for-profit colleges and student loan providers. She has also hired several individuals with serious conflicts of interest as her top-level aides. These include:

- ♦ **Mr. Robert Eitel**, Senior Counselor to the Secretary. Secretary DeVos selected Eitel to serve as her special assistant in February 2017, just days after her confirmation. On April 12, 2017, Secretary DeVos hired Eitel to work full-time as her senior counselor.¹⁷ Prior to joining the Trump Administration, Eitel was an attorney and Vice President for Regulatory Legal Services at for-profit college operator Bridgepoint Education. Incredibly, for two months during which the Department made important rulemaking decisions affecting for-profit colleges, Eitel remained employed by Bridgepoint while simultaneously serving as Secretary DeVos’s special assistant.

Bridgepoint has a history of legal troubles. In September 2016, Bridgepoint settled with the Consumer Financial Protection Bureau for



\$23.5 million for allegedly deceiving students, and was fined \$300,000 by the Education Department in February 2017 for miscalculating federal financial aid refunds.¹⁸ The company is currently under investigation by the Department of Justice, the Securities and Exchange Commission, the New York Attorney General, the North Carolina Attorney General, the California Attorney General, and the Massachusetts Attorney General.¹⁹

Eitel's conflicts raised immediate ethics concerns when he became involved in Secretary DeVos's plans to roll back regulations aimed at holding for-profit colleges accountable.²⁰ For example, despite the Department of Education announcing that Eitel would recuse himself from specific matters connected to Bridgepoint, he has been permitted to work on the Department's delay and rewrite of Borrower Defense to Repayment regulations ("Borrower Defense"), which directly impacts his former employer.²¹

Borrower Defense provides the Secretary the ability to cancel and refund the federal student loan debt of borrowers who attended colleges that broke the law and misled them. Eitel clearly should have recused himself from involvement in decisions about the Borrower Defense rule, because Bridgepoint acknowledged in federal filings that the rule would have a material impact on its finances.²² But Eitel was even permitted to work on this rule at the time was simultaneously employed by both Bridgepoint and the Department, although federal law explicitly prohibited him from working on matters that would financially impact Bridgepoint, his then-employer.²³

- ♦ **Mr. Taylor Hansen**, *Former Special Assistant to the Secretary of Education*. Secretary DeVos hired Hansen in February 2017. Before accepting his position in the Trump Administration, he worked for a for-profit trade organization, the Association of Private Sector Colleges and Universities (now known as Career Education Colleges and Universities), and lobbied for years against the

Gainful Employment regulation, which ties eligibility for federal student aid to for-profit colleges and non-degree programs to the debt-to-income ratios of graduates.²⁴

Despite this recent background, Mr. Hansen worked at the Department when Secretary DeVos announced a delay to the implementation of Gainful Employment.²⁵ Moreover, Hansen's father, Bill Hansen, is the former President and CEO of United Student Aids Funds Inc. (now known as Strada Education Network), a Department guaranty agency that sued the Department for preventing it from charging sky-high collections fees to defaulted student borrowers.²⁶ Just one week after the Education Department rescinded the Obama Administration's guidance that prevented guaranty agencies from charging these fees to borrowers, Taylor Hansen abruptly resigned from his position at the Department.²⁷

- ♦ **Dr. Julian Schmoke, Jr.**, *Head of the Department of Education's Student Aid Enforcement Unit*. Secretary DeVos hired Dr. Julian Schmoke in August 2017, putting him in charge of the office tasked with "[responding] more quickly and efficiently to allegation of illegal actions by higher education institutions."²⁸ Schmoke is not an attorney. He became Chief Enforcement Officer despite his total lack of experience in litigation, consumer protection, enforcement, and the management of investigations and attorneys.²⁹ Prior to his appointment, Schmoke served as an administrator of a college in Georgia and for-profit giant DeVry.³⁰ The DeVry Education Group recently reached a \$100 million settlement with the Federal Trade Commission and a separate settlement with the New York Attorney General for misrepresenting job-placement rates and misleading their students.³¹ Although these settlements occurred after Schmoke's employment with DeVry, the allegations in these lawsuits overlap with Schmoke's tenure at DeVry.

Finding II: Favoring For-Profit Colleges over Students

Secretary DeVos has made numerous policy decisions that overwhelmingly benefit for-profit colleges and student loan companies at the expense of students and taxpayers. Despite reiterating “*I believe in accountability*” throughout her confirmation hearing,³² Secretary DeVos has refused to hold colleges and student loan rip-off artists accountable for their lies and predatory actions.

1. Secretary DeVos has upended federal student loan borrower protections by postponing or eliminating regulations governing loan collection fees, borrower defense, and gainful employment.

- ◆ **Collection fees on defaulted borrowers:** In March 2017, Secretary DeVos revoked an Obama administration policy forbidding loan guaranty agencies from charging a collection fee on defaulted borrowers who enter a repayment agreement.³³ The Obama-era guidelines provided recently defaulted borrowers an incentive to immediately enroll in repayment programs and get back on track with their loans by allowing them to avoid the 16% collection fees for defaulting.³⁴ Approximately one-quarter of borrowers in the old bank-based federal student loan program were in default on roughly \$65 billion at the time of the Department’s 2017 decision.³⁵ Secretary DeVos withdrew these guidelines, offering only a vague rationale for her decision. The Department has declined to state whether it plans to present the rule for public comment.³⁶ The Department’s decision to withdraw this guidance notably coincided with the employment of Taylor Hansen as a Special Assistant to Secretary DeVos. Hansen is the son of the former President/CEO of USA Funds (now known as Strada Education Network), the former guarantor and affiliate of Sallie Mae that sued the Department over the same Obama-era guidelines.
- ◆ **Borrower Defense to Repayment:** The Education Department’s Borrower Defense to Repayment regulation was established in 1994 to protect student borrowers and provide relief

from loan burdens in cases where colleges broke the law to get students to take out student loans and enroll.³⁷ After the collapse of for-profit giants Corinthian Colleges and ITT Technical Institute, the Department was inundated with an avalanche of thousands of claims from defrauded student loan borrowers. According to a report by the Department of Education’s Office of Inspector General, between July 1, 2016 and July 2017, the Department received 72,265 new claims (25,991 after President Trump took office).

The Department processed almost 28,000 of these claims before January 20, 2017, but, in the six months following Secretary DeVos’s confirmation, the Department did not grant relief to a single applicant, causing significant stress and hardship for borrowers.³⁸ Multiple pending lawsuits from attorneys general and consumer advocates forced³⁹ Secretary DeVos to begin addressing these claims, but the Department denied an additional 8,600 applications from former Corinthian College students.

In addition to delaying or denying relief under the Borrower Defense provision, Secretary DeVos also announced a plan to further limit relief to defrauded Corinthian borrowers.⁴⁰ The unprecedented plan would use Social Security earnings data to limit relief to Corinthian borrowers by comparing an individual’s earnings to the average earnings of students who graduated from similar programs. Only borrowers who earn less than 50 percent of students who graduated from similar programs would receive full loan forgiveness. Under this plan, only defrauded students earning \$12,000 or less would receive full loan relief for some programs.⁴¹

In addition to changing Borrower Defense rules for applications that defrauded students had already submitted, Secretary DeVos took steps to upend the future of the regulation as well, falsely claiming that “Under the previous rules, all one had to do was raise his or her hands to be entitled to so-called free money.”⁴² During the final months of the Obama Administration, the regulation was revised to establish a more streamlined discharge process, to create a federal standard for

relief, and to put fraudulent colleges on the hook for the cost of their own fraud—none of which entitled anyone to “free money.” Ironically, it was Secretary DeVos opening the spigot of taxpayer money to shady schools doing nothing to educate their students.

Although Borrower Defense rules were scheduled to take effect in July 2017, Secretary DeVos suspended them until July 2019 and convened a new and redundant rulemaking committee to rewrite them entirely.⁴³ While selecting representatives for the committee, Secretary DeVos stacked the deck, doubling the number of individuals representing for-profit colleges and replacing representatives of constituency groups, such as “general counsel/attorneys and compliance officers,” with representatives of the for-profit education sector.⁴⁴

With the rulemaking committee firmly tilted towards for-profit colleges, Secretary DeVos announced a proposal to increase the burden of proof necessary for students to have their loans discharged in January 2018. Specifically, student borrowers would have to act as lawyers and prove that their college intended to mislead them or misrepresent job placement rates, enrollment requirements, or other facts involving the college and its graduates.⁴⁵ With this latest proposal, Secretary DeVos made clear that her priority is protecting predatory colleges rather than the defrauded students saddled with debt and a useless education.

- ♦ **Gainful Employment:** The Gainful Employment regulation is an Obama-era rule that tied eligibility for federal funding to student outcomes.⁴⁶ In June 2017, Secretary DeVos announced that the rule, which the Department finalized in 2015, would be upended through a new and unnecessary negotiated rulemaking process. Two weeks later, Secretary DeVos delayed key provisions of the existing rule, giving institutions until July 2018 to disclose information on graduation rates and debt levels and leaving prospective students that could have used that data to make more informed decisions out to dry.⁴⁷

Secretary DeVos watered down the rule twice more in January 2018. First, the Department of Education weakened information requirements for the impacted colleges and programs by no longer requiring the disclosure of median earnings data of graduates or room and board charges.⁴⁸ One week later, the Department of Education proposed removing all penalties for low-performing programs.⁴⁹

2. Eroding Oversight by Terminating the Department’s Partnership with the Consumer Financial Protection Bureau (CFPB).

In August 2017, Secretary DeVos dramatically weakened federal oversight and enforcement of student loan companies and for-profit colleges by terminating its Memoranda of Understanding (MOUs) with the CFPB regarding the sharing of information and oversight of federal student loans.⁵⁰ Congress created the CFPB in 2011 to enforce consumer finance law, and one of CFPB’s key responsibilities is to respond to consumer complaints about financial products, to identify systemic issues, and ensure that companies are not violating any laws.⁵¹

CFPB has received thousands of complaints from student loan borrowers about the harmful actions of predatory colleges and the Department’s student loan servicers and debt collectors. The CFPB has, through its enforcement actions, put more than \$750 million back into the pockets of students who have been cheated.⁵² For example, the CFPB secured \$480 million in private loan relief for former Corinthian College students in 2015.⁵³ The CFPB also settled with for-profit college operator Bridgepoint Education (former employer of Secretary DeVos’s Senior Counsel, Robert Eitel) for \$23.5 million in September 2016 for deceiving students.⁵⁴ The CFPB currently has a pending lawsuit against Navient, the Department’s largest federal student loan servicing contractor, alleging that the company broke the law by creating obstacles for borrowers to repay loans, which harmed students and boosted the company’s profits.⁵⁵ These cases highlight CFPB’s role in providing current

and potential student borrowers with much-needed information about various actors involved in servicing and collecting on their loans.

But on August 31, 2017, the Department terminated its MOUs with the CFPB, which allowed the two agencies to share information, improving the efficiency of key enforcement efforts.⁵⁶ The Department suggested CFPB was overreaching its power by taking action against bad actors, despite the Bureau's explicit statutory authority to prevent financial service providers from engaging in unfair, deceptive, or abusive practices.⁵⁷ The CFPB responded to the Department's letter and underscored the importance of their partnership for the benefit of students, noting that "[CFPB] stand ready to meet with [Secretary DeVos and the Department of Education], hear your concerns, and explore constructive solutions to help us all better serve students and borrowers."⁵⁸

The Department's decision to terminate the MOUs with CFPB, while exposing students to fraud, was a boon for the student loan company Navient Corporation, whose stock price shot up after the Department's announcement. This series of events, already appalling in the Department's disservice to students, became even more suspicious when reports emerged that 872,394 shares of Navient stock were purchased the day before the Department's decision to terminate the MOUs became public, accounting for 24% of Navient trading volume that day.⁵⁹ This incident raised serious questions about the potential of insider trading by investors or Department employees with nonpublic knowledge of the termination of the MOUs.

3. Granting a Second Chance for Troubled Agency.

The Accrediting Council for Independent Colleges and Schools (ACIS) was once one of the largest national accreditation agencies, gatekeepers responsible for certifying colleges' eligibility to take part in the massive federal student loan program. But following the closure of two ACICS-certified institutions, for-profit giants Corinthian Colleges and ITT Technical Institute, for fraudulent behavior and abysmal graduation rates, the Department

announced on December 12, 2016, its decision to cease recognition of ACICS as an approved accrediting organization. In former Secretary John King's decision, he highlighted ACICS's lax oversight and "pervasive noncompliance" with regulators' criteria and concluded that ACICS "is not capable of coming into compliance within 12 months or less, even if I renewed its recognition for an additional 12 months," thus warranting its termination.⁶⁰ But on January 24, 2018, the Department accepted ACICS's petition to be reconsidered as a national accreditor, and included their application for recognition in the National Advisory Committee on Institutional Quality and Integrity's Spring 2018 meeting, paving the way for ACICS to once again hold the power of allowing shady schools' access to billions in taxpayer-funded student loans.⁶¹ The Department refuses to make public ACIS's petition.

4. Allowing For-Profit Colleges to Escape Accountability.

In recent years, several for-profit colleges have sought nonprofit status in order to skirt regulations, such as gainful employment requirements and rules meant to prevent for-profit colleges from receiving all of their revenue from the federal government. By law, the Department is supposed to oversee changes in institutional ownership, including changes to nonprofit status, to protect students from fraudulent colleges. But under Secretary DeVos, the Department has pre-approved the sale of the troubled Education Management Corporation's (EDMC) for-profit college portfolio (including the Argosy University, South University, and much of the Art Institute systems) to the Dream Center Foundation (Dream Center), despite the latter's complete lack of higher education management experience, and has allowed Kaplan University's acquisition by Purdue University.⁶² Moreover, although the Obama administration blocked several of these deals due to concerns that for-profit colleges would not actually operate as nonprofit, Secretary DeVos has taken steps to overturn these decisions, including for the predatory CollegeAmerica and Stevens-Henager chains of colleges and the Center for Excellence in Higher Education.⁶³

5. Impeding State Oversight of Student Loan Servicers.

Massachusetts Attorney General Maura Healey filed a lawsuit against the Pennsylvania Higher Education Assistance Agency (PHEAA), one of the federal government's largest student loan servicers, for allegedly undermining the Public Service Loan Forgiveness and the Teacher Education Assistance for College and Higher Education Grant programs by causing teachers and other public servants to lose access to federal benefits and loan forgiveness created by Congress.⁶⁴ Attorney General Healey's lawsuit alleges that PHEAA prevented borrowers from making qualified monthly payments and overcharged students.⁶⁵ In January 2018, Secretary DeVos, the Department of Education, and the Department of Justice sided with PHEAA and suggested the federal government rules preempt state laws overseeing student loan servicing.⁶⁶ This aggressive position would prevent state Attorneys General from enforcing their own consumer protections laws when federal student loan servicers flout them.

Finding III: Weakening Public Education

Secretary DeVos believes that public education is a "dead end." Her actions have damaged public schools and put millions of K-12 students at risk. Secretary DeVos has focused on an agenda aimed at weakening public elementary, middle, and high schools.

"[Public education is] a monopoly, a dead end."

– Secretary DeVos, American Federation for Children's National Policy Summit, May 22, 2017.⁶⁷

1. Secretary DeVos's Schedule Highlights Disdain for Public Education.

Secretary DeVos schedule underscores a disinterest in and disdain for traditional public education. Last year, the Department released Secretary DeVos's schedule from February 8, 2017 to July 19, 2017 in response to a Freedom of Information Act request.⁶⁸ An analysis of the schedule revealed that many of Secretary DeVos's meetings were connected to the

alternative education options (charter schools, religious schools, private schools) that she promoted prior to taking office.⁶⁹

For example, between February 8, 2017 and July 19, 2017, Secretary DeVos visited 23 education institutions. Among the K-12 schools visited, 5 were charter schools, 4 were religious schools, and 8 were traditional public schools.⁷⁰ This trend has continued throughout her first year: of the 36 schools she visited through November 2017, only half were to traditional public schools,⁷¹ despite traditional public schools educating nearly 90 percent of children in America.⁷²

Since Secretary DeVos took office, her weekly public schedule is often pre-filled with the following statement — "*There are no public events scheduled at this time*" — despite the fact that she often meets with various advocacy groups representing charter schools, private schools, and conservative think tanks during those times.⁷³

2. Undermining the Bipartisan Every Student Succeeds Act (ESSA).

Congress passed ESSA in 2015 with bipartisan votes in the House and Senate. ESSA contained new provisions to make public K-12 education more accountable and equitable for all students. Secretary DeVos has undermined the law by failing to enforce key requirements.

For example, ESSA requires states to establish academic goals for schools and students, and mechanisms to improve low-performing schools. The Education Department is responsible for reviewing and approving state plans that meet these requirements. Independent and nonpartisan peer reviews of all 51 state plans (including the District of Columbia) have found that many state plans were incomplete and failed to detail how states would comply with all of ESSA's requirements.⁷⁴

For example, some states did not include detailed plans for how they would improve low-performing schools and failed to meet requirements for data reporting on various subgroup populations. Despite these omissions, more than 30 state

plans received the Secretary's approval, indicating a failure by Secretary DeVos to enforce the law and a failure by the Department to meet its responsibility to faithfully implement ESSA.

3. The Trump/DeVos Department of Education Budget Proposal Defunds Public Education.

In their first Department of Education budget proposal, President Trump and Secretary DeVos called for a \$9.2 billion cut in federal education funding (a 13.5% reduction) and proposed school choice and voucher policies that would further drain funds from public education and programs serving low-income and working Americans.⁷⁵ Fortunately for students across the country, Congress has so far largely rejected these draconian proposals, but they do not bode well for DeVos's views of effectively serving all students. And the Department's FY19 budget doubles down on these harmful cuts. The most damaging proposals included:

- ♦ ***Almost \$1 Billion in New Spending Directed Towards Charter, Private, and Religious Schools.*** Secretary DeVos's budget proposed almost \$1 billion more in funding that specifically favored charter and religious schools, including \$250 million to give students taxpayer-funded vouchers to attend private schools, and a \$250 million research program – "Education Innovation and Research Grants" – to study the impacts of vouchers for private and religious schools.⁷⁶
- ♦ ***Cuts to Programs Helping Teachers and K-12 Students from Low Socioeconomic Backgrounds.*** Secretary DeVos's proposed budget would have eliminated at least 22 education programs and initiatives, many of which target underserved students throughout the K-12 education system. Secretary DeVos proposed eliminating after-school programs serving 1.6 million children (\$1.16 billion), teacher training (\$2.25 billion), child care for low-income parents in college (\$15 million), arts education (\$27 million), programs targeting Alaska Native and Native Hawaiian students (\$65.8 million), international education and

foreign language programs (\$72 million), gifted students programs (\$12 million), and Special Olympics education programs (\$10.1 million).⁷⁷ She also proposed cutting programs targeting adult literacy, career and technical education, and support services for children in low socio-economic areas by more than 15%.

- ♦ ***Cuts to Programs Helping College Students.*** In addition to slashing programs impacting K-12 education, DeVos's budget also drastically cut aid for the neediest college students.⁷⁸ The proposal would slice work-study in half, cutting nearly half a billion dollars from a program helping students trying to work their way through college; eliminate nearly \$4 billion from the Pell grant program for low-income college students and reduce other sources of federal grant aid; cut almost \$200 million for college access programs; and cut \$166 million from career and vocational education. The Trump/DeVos budget would also eliminate the Public Service Loan Forgiveness program in its entirety and roll back student loan subsidies for low-income college students.

Finding IV: Turning Back the Clock on Civil Rights

Secretary DeVos has reversed, rescinded, overturned, and delayed guidance, regulations, and Education Department oversight of students' civil rights protections.

"HBCUs are real pioneers when it comes to school choice. They are living proof that when more options are provided to students, they are afforded greater access and greater quality."

– Secretary DeVos, statement after meeting HBCU leaders, February 27, 2017.⁷⁹

1. **Sexual harassment and sexual violence** has plagued college campuses for decades, but substantial policy responses have appeared only in recent years. On April 4, 2011, Vice President Joe Biden released an Education Department "Dear Colleague Letter," (DCL) providing guidance to colleges and



universities regarding their Title IX responsibilities.⁸⁰ The 2011 letter was followed by a 2014 question-and-answer document detailing additional guidance on institutional responsibilities to address sexual violence and sexual harassment under Title IX.⁸¹

But on September 22, 2017, Secretary DeVos withdrew the Obama-era guidelines. Secretary DeVos stated that the guidelines “lacked basic elements of due process and failed to ensure fundamental fairness”⁸² and were an “egregious use of government force.”⁸³ She replaced the 2011 guidance with new, interim guidance that weakened standards for addressing sexual violence, requiring a higher burden of proof and a 60-day reporting limit.⁸⁴ Secretary DeVos has failed to provide a firm timeline for the development of permanent sexual harassment guidance, noting as recently as January 17, 2018 that a new rule would be announced “soon.”⁸⁵ The lack of firm guidance has left schools confused as to the standards they must meet and actions they must take to prevent and address sexual violence.

A January 2018 lawsuit alleges that, since Secretary DeVos changed the Department’s stance on sexual harassment and sexual violence, fewer sexual violence survivors have sought help, educational institutions have been less likely to respond

promptly to reports of sexual violence, and students have questioned the value of reporting sexual violence given the uncertainty of their legal protections.⁸⁶

2. LGBTQ+ student rights.

Secretary DeVos, the Department, and the Trump Administration have put LGBTQ+ student rights in jeopardy. In February 2017, the Education Department and Justice Department revoked the Obama Administration’s guidance that clarified the rights of transgender students in schools.⁸⁷ Secretary DeVos defended eliminating these protections by arguing that transgender civil rights is an issue “best dealt with and solved at a personal level, at a local level,”⁸⁸

and that a “one-size fits all federal government approach”⁸⁹ is inappropriate for protecting the rights of LGBTQ+ students.

3. **Rights of students of color.** Secretary DeVos discontinued a \$12 million Obama-era grant program in March 2017 known as “Opening Doors, Expanding Opportunities,” which helped local school districts boost socioeconomic diversity within their schools.⁹⁰ Despite research showing that children from low socioeconomic families fare better academically in mixed-income schools than in high-poverty schools, Secretary DeVos terminated this program, because she said that it focused too much on planning and not implementation.

In December 2017, Secretary DeVos also threatened to roll back civil rights protections for students of color, laying the groundwork to delay an Obama-era rule that ensured students of color are not overrepresented in special education programs or placed in these programs due to racial bias.⁹¹ The Obama Administration announced the regulation following an analysis of state-submitted data pointing to large racial and ethnic disparities in special education programs across the country, but Secretary DeVos argued that the federal government was attempting to micromanage local school districts.⁹²

4. Backsliding from the Department of Education’s Civil Rights Responsibilities. The Department’s Office for Civil Rights’ (OCR) mission is to “ensure equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights.”⁹³ Under the Obama Administration, OCR began working directly with schools and colleges to address civil rights concerns and ensure every case received the care and attention it deserved.⁹⁴ But Secretary DeVos acted quickly to reverse these improvements.

In a June 2017 memo, then-Acting Assistant Secretary for Civil Rights Candice Jackson announced that OCR investigations would “only apply a ‘systemic’ or ‘class-action’ approach where the individual complaint allegations themselves raise

systemic or class-wide issues or the investigative team determines a systemic approach is warranted through conversations with the complainant.” This meant Jackson was significantly raising the threshold for OCR’s investigations and actions, as individual cases that did not suggest a systemic issue were no longer under the purview of the office. The memo also indicated that regional offices would gain autonomy and no longer be required to alert key department officials of civil rights complaints.⁹⁵ These changes had an immediate negative impact: by August 2017, OCR had dismissed more than 900 civil rights complaints without investigation, a huge jump from the number of cases closed during the same time period the previous year.⁹⁶

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