

## United States Senate

March 17, 2017

Betsy DeVos  
Secretary  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202

Dear Secretary DeVos:

I write today regarding reports that the Department of Education ("the Department") recently hired two high-ranking officials to work on higher education policy. Both of these individuals were formerly connected to for-profit colleges, one as a lobbyist and the other as a high-ranking regulatory official.<sup>1</sup> I am seeking additional information on why these officials were hired, as well as information on how the Department will ensure their compliance with federal conflict of interest statutes and rules.

Federal law prohibits executive branch employees from "participating personally and substantially, in an official capacity, in any 'particular matter' that would have a direct and predictable effect on the employee's own financial interests" or the financial interests of a spouse, child, or business partner. In addition, rules established by the Office of Government Ethics require employees to "consider whether their impartiality would be questioned whenever their involvement in a 'particular matter involving specific parties' might affect certain personal or business relationships," including relationships with "any person for whom the employee has within the last year served as an...employee." Employees are expected to recuse themselves from matters that "would cause a reasonable person to question [their] impartiality."<sup>2</sup>

Given these clear conflict of interest requirements, I was surprised to learn that the Department has hired two former for-profit college officials, including a former for-profit college lobbyist, to work on higher education policy.<sup>3</sup> According to a recent *ProPublica* report, Taylor Hansen, a former for-profit college lobbyist, has joined the Department's staff less than one year after working as a registered lobbyist for the Association of Private Sector Colleges and

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<sup>1</sup> Stratford, Michael, "Morning Education: Trump expected to sign HBCU executive order," *Politico* (February 27, 2017) (online at <http://www.politico.com/tipsheets/morning-education/2017/02/trump-expected-to-sign-hbcu-executive-order-218940>)

<sup>2</sup> U.S. Office of Government Ethics, "Employees Entering Government" (January 4, 2016) (online at <https://www.oge.gov/web/oge.nsf/Financial%20Conflicts%20of%20Interest/E07A0C541EF92CF385257E96006364E1?opendocument>).

<sup>3</sup> Waldman, Annie "For-Profit Colleges Gain Beachhead in Trump Administration," *ProPublica* (March 14, 2017)(online at <https://www.propublica.org/article/for-profit-colleges-gain-beachhead-in-trump-administration>)

Universities (now called the Career Education Colleges and Universities), the major for-profit college trade association. According to a February *Politico* report, he accompanied you to a February 24<sup>th</sup> meeting with the Association of Public and Land-grant Universities and was listed as a member of “U.S. Department of Education Staff” in an Education Department write up of the meeting.<sup>4</sup>

Shortly after the Department publically listed Mr. Hansen as an employee, the Department announced a delay of critical deadlines related to the implementation of the Gainful Employment rules.<sup>5</sup> According to the U.S. Senate Office of Public Records Lobbying Disclosure databases, Mr. Hansen personally lobbied against the implementation of these rules. In fact, according Senate filings, Mr. Hansen recently lobbied on several issues related to higher education, including: “provisions related to regulatory relief, gainful employment, credit hour, state authorization and college ratings system; provisions related to guidance for students whose parents do not have social security numbers; provisions related to allowing more than one Pell Grant per award year under certain circumstances; seeking a provision to address regulatory relief on gainful employment; letters of credit in the notice of proposed rulemaking related to borrower defense.”<sup>6</sup> Mr. Hansen’s recent employment history clearly calls into question his impartiality in dealing with higher education issues at the Department of Education, and raises alarming conflicts of interest concerns.

Mr. Hansen may also have conflicts of interest related to the student loan program. His father, Bill Hansen, is president and chief executive officer of USA Funds (recently renamed the Strada Education Network), a former Department of Education guaranty agency that recently sued the Department to block policy that prohibited guaranty agencies from charging additional fees to defaulted student loan borrowers who promptly enter repayment. On March 16<sup>th</sup>, the Department announced that it would rescind this policy.<sup>7</sup>

In addition to Mr. Hansen, the Department has reportedly hired Robert Eitel, the Vice President of Regulatory Legal Services at Bridgepoint Education, Inc., to serve as a Senior Advisor in the Office of the Secretary. Bridgepoint Education, a for-profit college company, was—less than six months ago—fined \$23.5 million after the Consumer Financial Protection Bureau learned that the school “deceived its students,” causing students to “tak[e] out loans

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<sup>4</sup> Stratford, Michael, “Morning Education: Trump expected to sign HBCU executive order,” *Politico* (February 27, 2017) (online at <http://www.politico.com/tipsheets/morning-education/2017/02/trump-expected-to-sign-hbcu-executive-order-218940>). U.S. Department of Education, “Secretary DeVos met with the Association of Public and Land-grant Universities” (February 24, 2017) (online at <https://www.ed.gov/news/press-releases/secretary-devos-met-association-public-land-grant-universities>).

<sup>5</sup> Mahaffie, L. “Gainful Employment Electronic Announcement #105 - Additional Time for Submission of an Alternate Earnings Appeal and to Comply with Gainful Employment (GE) Disclosure Requirements.” Federal Student Aid. *U.S. Department of Education* (March 6, 2017). Online at: <https://ifap.ed.gov/eannouncements/030617GEAnnounce105AddtlSubTimeAEAandGEDisReq.html>.

<sup>6</sup> LD-2 Disclosure Form of Ass’n of Private Sector Colleges and Universities.” Lobbying Disclosure Electronic Filing System. July 20, 2016. Accessed March 08, 2017. <https://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=130D62EB-00BB-436B-95B8-D7C22E0E994B&filingTypeID=60>.

<sup>7</sup> Mahaffie, L. “Dear Colleague Letter ID: GEN-17-02 Subject: Withdrawal of Dear Colleague Letter (DCL) 15-14” *U.S. Department of Education* (March 16, 2017). (online at: <https://ifap.ed.gov/dpcletters/GEN1702.html>)

without knowing the true cost” and “make payments greater than what they were promised.”<sup>8</sup> 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.<sup>9</sup>

According to recent SEC filings, the for-profit college company received a final compliance audit determination in January from the Department’s Inspector General, which concluded that the company owes the Department a fine “as a result of incorrect refund calculations and refunds that were not made or made late.” The company recently acknowledged that it is currently evaluating the audit determination and has 45 days to submit an appeal to you. Filings also indicate that the Department is currently engaged in an on-site program review of campuses owned by the company.<sup>10</sup>

Given both Mr. Hansen’s and Mr. Eitel’s extensive—and recent—activity as lobbyists with or compliance officers for for-profit colleges, I have concerns about whether they would be able to advise you in an objective fashion on higher education matters. I am particularly concerned because during your confirmation hearings, you acknowledged your own lack of expertise in higher education issues and indicated that you would look to others for guidance. With regard to managing the student loan program, you stated that “individuals with whom I work in the department will ensure that federal monies are used properly and appropriately.”

Moreover, President Trump’s Executive Order 13770 signed on January 28th, 2017, titled “Ethics Commitments by Executive Branch Appointees” explicitly requires political appointees to not “participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts” for two years after appointment.<sup>11</sup> The Executive Order also requires that appointees who have been registered lobbyist within the last two years, to “not for a period of 2 years after the date of...appointment participate in any particular matter on which [they] lobbied .... or participate in the specific issue area in which that particular matter falls.”<sup>12</sup> Mr. Hansen’s and Mr. Eitel’s appointments, and recent announcements from the Department, call into question whether the Department of Education is adequately complying with President Trump’s Executive Order 13770.

To help me better understand Mr. Hansen’s and Mr. Eitel’s roles at the Department, as well as the Department’s plans to monitor their compliance with conflict of interest rules, please provide me with answers to the following questions no later than March 31<sup>st</sup>, 2017:

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<sup>8</sup> Consumer Financial Protection Bureau, “Consumer Financial Protection Bureau Takes Action Against Bridgeport Education, Inc. for Illegal Student Lending Practices” (September 21, 2016) (online at <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-takes-action-against-bridgepoint-education-inc-illegal-student-lending-practices/>).

<sup>9</sup> BRIDGEPOINT EDUCATION, INC. (2017) Form 10-K 2017. (Retrieved from SEC EDGAR website <https://www.sec.gov/Archives/edgar/data/1305323/000130532317000016/bpi201610k.htm>)

<sup>10</sup> Id.

<sup>11</sup> Executive Order 13770 of Jan 28, 2017, 82 FR 9333. Pages 9333-9338 (Online at <https://www.whitehouse.gov/the-press-office/2017/01/28/executive-order-ethics-commitments-executive-branch-appointees>)

<sup>12</sup> Id.

1. When was Mr. Hansen hired by the Department, and what is his official job title and description? Please provide a list of the policy areas included in his portfolio.
2. When was Mr. Eitel hired by the Department, and what is his official job title and description? Please provide a list of the policy areas included in his portfolio.
3. Based on Mr. Hansen's financial holdings and previous employment, from what issues will the Department advise Mr. Hansen to recuse himself while serving at the Department of Education?
4. Based on Mr. Hansen's family relations, from what issues will the Department advise Mr. Hansen to recuse himself while serving at the Department of Education?
5. Based on Mr. Eitel's financial holdings and previous employment, from what issues will the Department advise Mr. Eitel to recuse himself while serving at Department of Education?
6. To date, have either Mr. Hansen or Mr. Eitel recused themselves from any of their job duties while working at the Department? If so, from what issues did they recuse themselves?
7. How have either Mr. Hansen or Mr. Eitel complied with President Trump's Executive Order 13770 and the ethics pledge therein?
8. To date, have either Mr. Hansen or Mr. Eitel received waivers to avoid having to recuse themselves from any of their job duties while working at the Department? If so, please provide a list of these waivers.
9. The Education Department Office of the General Counsel (OGC) is responsible for ensuring employee compliance with executive branch ethics requirements. How does the OGC plan to monitor Mr. Hansen and Mr. Eitel's compliance with conflict of interest rules?

Thank you for your prompt response. Please do not hesitate to contact Brian Cohen (202-224-4543) of my staff with any questions or concerns.

Sincerely,



Elizabeth Warren  
United States Senator

CC: Marcella Goodridge, Assistant General Counsel for Ethics