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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

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<http://help.senate.gov>

October 28, 2019

Mr. Steven Menashi
c/o The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. Menashi:

I write to understand your role in the U.S. Department of Education's ("Department") failure to respond appropriately to its legal obligation to protect students and borrowers from predatory for-profit colleges and student loan companies. On Friday, a federal district court held Education Secretary Betsy DeVos in contempt for violating a court order that instructed the Department to stop collecting on the loans held by students who were cheated and defrauded by Corinthian Colleges, Inc. ("Corinthian"). This extremely rare measure from a federal judge casts grave doubt on the Department's compliance with federal law. In light of your nomination to serve as a judge yourself, I write to request information on your involvement in the case (*Manriquez v. DeVos*) that has now led to a contempt order against Secretary DeVos and about your approach to compliance with court-ordered injunctions during your tenure at the Department.

In December 2017, tens of thousands of former Corinthian students sued the Department, requesting to stop collections on the debts they incurred to attend the defunct for-profit college chain while the Department considered their claims for loan discharge.¹ In May 2018, a federal district judge issued a preliminary injunction ordering the Department to cease efforts to collect debts from the Corinthian borrowers.²

Following the court order, the Department made only limited attempts to oversee the federal loan servicers charged with managing the loans. On May 29, 2018, the Department sent an email only to those servicers with named plaintiffs in the case. On July 5, 2018, the Department sent an email to all the service providers instructing them to place certain borrowers in forbearance but failing to mention the preliminary injunction. Not all of the servicers replied to the email, and the Department sent no follow-up messages.

¹ <https://www.usatoday.com/story/money/2018/05/27/corinthian-students-get-partial-student-loan-win-court-fight/647782002/>; <https://studentaid.ed.gov/sa/about/announcements/corinthian#preliminary-injunction>

² Order Granting in Part and Denying in Part Plaintiff's Motion for Preliminary Injunction, *Manriquez v. DeVos* (May 25, 2018).

In the following months, more than 16,000 former Corinthian students received communications requesting payments on their federal student loans.³ Over 3,000 Corinthian borrowers made at least one payment in response to this communication. Nearly 2,000 borrowers had their wages garnished or tax refunds seized by the government, and the Department provided adverse reports to credit reporting agencies for nearly 850 borrowers.⁴

On Friday, a federal district judge held Secretary DeVos in contempt and ordered the Department to pay \$100,000 in sanctions for violating the preliminary injunction by continuing to collect payments from the Corinthian borrowers.⁵ The judge's order states the Department made only minimal efforts to comply with the injunction, and its actions clearly resulted in harm to individual borrowers. Beginning on November 1 and for each month thereafter, the Department must now provide a status report regarding its efforts to comply with the preliminary injunction.

You served as the Acting General Counsel and Deputy General Counsel for Postsecondary Education at the Department from spring 2017 to fall 2018. Your tenure as General and Deputy General Counsel during the time the *Manriquez v. DeVos* case was brought against the Department, when the court blocked the Department's scheme to provide only "partial relief" to cheated and defrauded borrowers, when the court issued the preliminary injunction, and as the Department communicated with the loan servicers about enforcement of the injunctions in the case, raises significant questions.

I am concerned in light of your troubling record of working with Secretary DeVos to undermine protections for students who were cheated and defrauded by for-profit colleges. These students have been left with large amounts of debt and worthless credits. The Department fought to delay the Obama-era rule that would have provided defrauded borrowers with debt relief. A judge ruled this delay was unlawful. You also worked with Secretary DeVos to delay implementation of the State Authorization for Distance Education Rule, resulting in significant, negative implications for students enrolled in online programs who lack effective consumer protection. A judge ruled the delay of the State Authorization rule was also illegal.

In order to clarify your role in these troubling events, please respond to the following questions by no later than November 12th, 2019:

1. Please provide your exact dates of service at the Department, as well as your titles and a description of your responsibilities throughout that period.
2. Upon your departure from the Department, you served as Special Assistant and Associate Counsel to the President. Did you continue to work on issues involving the Department

³ <https://www.washingtonpost.com/education/2019/10/04/devos-violated-court-order-stop-collecting-debts-corinthian-college-students-now-they-want-her-held-contempt/>

⁴ <https://www.npr.org/2019/10/25/773334681/devos-held-in-contempt-of-court-ed-department-fined-100-000-in-student-loan-case>; <https://www.washingtonpost.com/education/2019/10/04/devos-violated-court-order-stop-collecting-debts-corinthian-college-students-now-they-want-her-held-contempt/>; Order Regarding Sanctions, *Manriquez v. DeVos* (Oct. 24, 2019).

⁵ Order Regarding Sanctions, *Manriquez v. DeVos* (Oct. 24, 2019).

during your tenure in the White House? If so, did that include the issues raised in the *Manriquez v. DeVos* case?

3. What was the nature of the Department's Office of General Counsel's involvement in the facts and circumstances leading up to, any actions upon filing, or the issues raised in the *Manriquez v. DeVos* case, as they relate to both the "partial relief" formula applied to Corinthian borrowers as well as the collections on those loans?
4. What was the nature of your specific involvement in the facts and circumstances leading up to, any actions upon filing, or in the issues raised in the *Manriquez v. DeVos* case, as they relate to both the "partial relief" formula applied to Corinthian borrowers as well as the collections on those loans?
5. What was the nature of Office of General Counsel's role in developing or overseeing communications with federal loan servicers or private collection agencies on implementing the preliminary injunction to cease collections on Corinthian borrowers?
6. What was the nature of your specific involvement in developing or overseeing communications with federal loan servicers or private collection agencies on implementing the preliminary injunction to cease collections on Corinthian borrowers?
7. How and when did you discover the Department had improperly billed Corinthian borrowers in violation of the preliminary injunction?

Thank you in advance for your attention to this matter. If you have any questions, or would like to further discuss compliance with this request, please contact Elizabeth Letter or Bryce McKibben with Senator Murray's HELP Committee Staff at 202-224-0767.

Sincerely,



Patty Murray
United States Senator