

# Congress of the United States

Washington, DC 20510

November 13, 2017

The Honorable Betsy DeVos  
Secretary  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

Dear Secretary DeVos,

Upon review of the proposed priorities for use in discretionary grant programs (Docket ID: ED-2017-OS-0078), we write to express our serious concerns with priorities one, two, three, and ten. We disagree with the use of the Notice of Proposed Priorities (NPP) to promote privatization of public education and other troubling ideologies.

In the NPP released on October 12<sup>th</sup>, 2017, the Department proposes to use competitive grant programs under the Every Student Succeeds Act (ESSA) to promote voucher schemes and school privatization. We urge you to abandon this privatization proposal and instead implement competitive grant programs the way Congress intended to improve student outcomes in public schools. Under the NPP, you propose to prioritize projects that “increase the proportion of students with access to educational choice.” Under your proposed definition, “educational choice” includes “private or home-based educational programs or courses including those offered by private schools, private online providers, private tutoring providers, community or faith-based organizations, or other private education providers,” that do not need an evidence-base of effectiveness for use in the priority. When we wrote ESSA with Congressional Republicans, we did not authorize federal funds to be used for private school vouchers or voucher schemes.

Further, in the President’s FY2018 budget request,<sup>1</sup> the Administration proposed to use \$250 million for a new private school voucher program by modifying the Education Innovation and Research program created under ESSA. Congress overwhelmingly rejected this proposal in a bipartisan fashion<sup>2</sup> by not providing funding or including bill language as requested by the Administration in the Republican House of Representatives-passed and bipartisan Senate Appropriations Committee-approved FY2018 Labor, Health and Human Services, Education, and Related Agencies bills.<sup>3</sup> In addition, the bills’ accompanying committee reports further underscore that Congress has not authorized this use of funds, making it clear that the proposal would violate ESSA. Instead of recognizing this as a rejection of your agenda, your NPP tries to circumvent Congress in pursuit of your privatization goals. This is concerning and demonstrates your willingness to ignore Congressional intent to promote your ideological agenda.

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<sup>1</sup> [President’s FY 2018 Budget](#)

<sup>2</sup> Washington Post, “Senate Panel Rejects Trump’s Proposed Federal Education Cuts,” [09/07/17](#); Education Week, “House OKs Bill to Slash Education Budget as School Choice Push Loses Out,” [09/14/17](#)

<sup>3</sup> [S. 1771](#); [H.R. 3354](#)

In addition to the deeply problematic priority one, we have concerns about the second priority to streamline education programs in the name of promoting innovation and efficiency. Your proposed priority states that the goal is to improve student outcomes, but it does not define student outcomes or how you would measure whether outcomes have been produced or improved. Meanwhile, in the introduction to your priorities, you write, “the Department believes that more Federal programs are not a sufficient proxy for progress and that increased Federal funding cannot be a stand-in for increased learning.” We are concerned that this statement reflects your true intent behind your second priority: to shrink the federal investment in education programs at the expense of student learning.

We also have concerns that proposed priority three, “fostering flexible and affordable paths to obtain knowledge and skills,” would allow the Department to prioritize low-cost but also low-quality programs. While we support greater efforts to personalize learning, we urge you to put in place strong guardrails in this priority to ensure for-profit organizations, especially those with track records of poor performance, do not capitalize off of this priority. The guardrails must also ensure educational providers commit to assessing and ensuring a minimum level of student outcomes, including learning, graduation, and employment, as a condition of federal funds.

Our final concern rests with priority ten, “encouraging improved school climate and safer and more respectful interactions in a positive and safe educational environment.” The priority claims to focus on improving school climate and creating a safe environment, but the explanation provided seems to equate classroom disagreements with bullying. While it is critical every child has a safe environment in which to learn, the emphasis must truly be on supporting every child; not merely those who may share the same belief system as the teacher or present behaviors deemed appropriate. This is also true in institutions of higher education. Respectful disagreements are a naturally occurring component of thoughtful discussions in education and should not be equated to bullying, as alluded to in the proposed priority. We are concerned the language in this priority conflates individual expression and exchange of ideas with bullying and harassment, preferences use of exclusionary discipline, and runs counter to the stated goal to improve school climate ensure safe learning environments.

We also urge the Department to clarify that this priority should not be interpreted to encourage removing students who are disruptive from the classroom, but rather to support teachers to reduce disruptive behavior through classroom-based behavioral supports. Otherwise, the priority would appear to conflict with the bipartisan agreement of ESSA in Sec. 1114(b)(7)(A)(iii)(III) in which LEAs are explicitly authorized to use funds to implement multi-tiered systems of support and Sec. 1111(g)(C) in which States must support LEAs in, among other activities, reducing the overuse of discipline practices that remove students from the classroom. The language in ESSA encourages states and school districts to better equip educators and school staff to treat behavioral challenges with non-exclusionary practices, as research persistently points to not only



the harmful impact such practices have on student achievement,<sup>4</sup> but also to racial and ability bias in their use.<sup>5</sup>

We support the proposed priorities to promote literacy, effective instruction, and STEM, and believe those priorities are positive contributions. We urge you to strike entirely priorities one and two; add language in priority three to protect against for-profit abuses and require educational providers to commit to producing minimum student outcomes; and re-word priority ten to rely on evidence-based strategies to improve school climate, removing the language that equates bullying and disagreements and encourages removal from the classroom. These changes will ensure that the supplemental priorities are focused on better serving our students in public schools and that our nation’s postsecondary students have a legitimate opportunity for a flexible and affordable pathway to a recognized postsecondary credential. If you have questions about this comment please contact Kara Marchione ([Kara\\_Marchione@help.senate.gov](mailto:Kara_Marchione@help.senate.gov)) with Ranking Member Murray, Jacque Chevalier Mosely ([Jacque.Chevalier@mail.house.gov](mailto:Jacque.Chevalier@mail.house.gov)) with Ranking Member Scott, or Robin Juliano ([Robin.Juliano@mail.house.gov](mailto:Robin.Juliano@mail.house.gov)) with Ranking Member DeLauro.

Sincerely,



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<sup>4</sup> Losen & Skiba, “Suspended Education: Urban Middle Schools in Crisis,” [09/13/10](#); Aricia, “Achievement and Enrollment Status of Suspended Students: Outcomes in a Large, Multicultural School District,” [2006](#); Skiba, “Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice,” [2000](#)

<sup>5</sup> Losen, Hodson, Ee, & Martinez, “Disturbing Inequities: Exploring the Relationship Between Racial Disparities in Special Education Identification and Discipline,” [2014](#); Skiba, Michael, Nardo, & Peterson, “The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment,” [12/2002](#)