

Prepared Statement of Ranking Member Richard Burr
Nomination of James Kvaal, Under Secretary of Education

April 15, 2021

Good morning, Chairwoman Murray. Thank you for scheduling this hearing to consider the nomination of James Kvaal for Under Secretary of Education.

Welcome, Mr. Kvaal.

I congratulate you on your nomination.

I want to thank the Chair for agreeing to hold this hearing – to consider the nomination of someone who, if confirmed, will hold arguably the third most powerful position in the Department of Education.

If confirmed, Mr. Kvaal you will be third in the line of succession after the Secretary and Deputy Secretary, and you would be the most senior political official in the Department overseeing programs and policies related to higher education, vocational and adult education, and the White House Initiative on Historically Black Colleges and Universities.

Most critically, you would be trusted to manage the approximately 1.6 trillion dollar student loan debt portfolio managed by the Office of Federal Student Aid.

Therefore, I look forward to hearing more about your vision for Federal Student Aid and the appropriate role for the federal government moving forward in higher education and the workforce.

Mr. Kvaal, you come before this Committee with significant experience in higher education, including your time in the Obama administration.

However, your work within President Obama's White House and in the Department of Education raises some concerns for me because it shows that you believe solutions should come from unelected administration appointees rather than the hard work of members of Congress elected by the people negotiating lasting solutions.

There's the College Ratings Plan, the Borrower Defense rule, and the Gainful Employment fiasco.

The first Gainful Employment rule finalized during the Obama Administration was struck down by federal courts as being arbitrary and capricious.

Undeterred you tried again, taking two words that had been in law for decades without being tied to consequences or accountability in statute and developed a 900-page regulation of extraordinary complexity aimed at certain institutions over others which was an inherently political motive to hurt for-profit colleges when non-profit programs with similarly bad measures were left free to operate.

These regulatory efforts, which by all accounts were driven in large part by you, have set off a proverbial see-saw for higher education regulations between administrations.

That's not good for our country and I hope you will agree that lasting solutions come through the legislative process.

Finally, I want to carefully point out your close proximity to potentially unethical conduct at the Department under the Obama administration. Proximity, is the key word, not central involvement otherwise this would be a different conversation.

Official emails being sent to and from private emails, close collaboration with short sellers on market moving information, and an Administration official using his old advocacy organization and their emails to try to hide from public scrutiny in furtherance of a partisan objective.

Noting that no charges were ultimately made, I am going to give you the benefit of the doubt given your background in higher education.

But as I suggested concerning the allegations raised against Cindy Marten, I know that my colleagues on the other side of the aisle would be screaming from the rooftops about the nomination of someone who had been involved, even remotely, with providing deliberative and confidential regulatory information to short-sellers on Wall Street.

So, I'm glad their hypocrisy in evaluating nominees has ended. I hope it stays that way when the next Republican President comes to office.

You have deep expertise in higher education and with a Secretary and Deputy Secretary with little-to-no higher education policy experience, you will have a key role in these areas.

Plus, my staff insist that, while you are a committed partisan, you are also very enjoyable to work with and willing to listen and work on compromises.

I do want to work with you on these issues, if confirmed.

That said, I want to be clear about some worries I have about proposals by some of my colleagues on the other side of the aisle, as well as suggestions within the Biden Administration, to cancel extraordinary amounts of outstanding federal student loan debt.

I firmly believe this is the wrong solution to what I think most of us agree are challenges faced by many current and future student loan borrowers.

The Higher Education Act – or HEA – was enacted in 1965. Are we supposed to believe that for the last 56 years that the HEA has been in place, the Secretary has been able to cancel vast amounts of debt for every single borrower in the United States this whole time and we just didn't know about it until now?

Mr. Kvaal, I must be honest with you and with everyone else on this Committee: this does not pass the laugh test.

Importantly, I believe the negative implications of unilaterally cancelling outstanding federal student loan debt would be more than enough to deem this bad policy.

For starters, this has a one-time cost of as much as one trillion dollars shifting that burden onto unsuspecting taxpayers.

It's also a regressive policy, meaning it will benefit the rich, mostly people who will already earn more because of their college education. It would be a huge gift particularly for Americans with student loan debt from graduate school who disproportionately earn higher incomes.

It is also a very poorly targeted use of federal resources that does nothing to benefit the more than 200 million Americans that do not have federal student debt and never attended college.

Finally, the promise of cancelling mass amounts of student loan debt creates a significant moral hazard.

When borrowers take out student loans from the federal government, there is an expectation that the loan will be repaid. When the government relieves or forgives that expectation for borrowers, this creates a new expectation that future borrowers will receive the same treatment.

So, in two years we would expect to see another massive pile of debt and a whole new group of students demanding loan forgiveness.

Therefore, students and institutions will change their behavior and make riskier choices, because they expect they will never have to repay their loans.

So, we know what will happen if we cancel tens of thousands of dollars of student loan debt for individual borrowers. What will stop schools from raising tuition higher and higher and digging an even deeper debt hole?

Without institutional accountability, will you be asking the American taxpayer to foot another loan forgiveness scheme every 5, 10, 15, 20 years? Where does it end?

In addition to asking colleges and universities to play their part to stem this debt spiral, I have a better idea for loan repayment. A few weeks ago, my colleague Angus King and I reintroduced the Repay Act.

Instead of making students choose between nine unique loan repayment plans, our plan would allow borrowers to choose between two simple plans.

The first is what most borrowers already pay now: a fixed, 10-year repayment option.

The second is a Simplified Income-Driven Repayment Plan. It simultaneously accounts for how much a student borrowed, and how much they currently earn.

Very low-income borrowers, or borrowers who make below 150% of the federal poverty line, would have a zero dollar payment.

Borrowers with a more modest income would still have a low monthly payment – equal to 10% of their earnings above 150% of the poverty line.

Higher income borrowers would pay 10% on the first \$25,000 of their discretionary income, and 15% on any income above that.

Finally, our plan provides loan forgiveness after 20 years of payments for undergraduate students and 25 years for graduate students.

I believe the Repay Act is a commonsense solution to our over-complicated student loan repayment system.

It is fair to students and fair to taxpayers.

Mr. Kvaal, if confirmed, I would look forward to working with you on this pragmatic bipartisan solution and others, and I hope you would do the same.

I thank the Chair.