

Opening Statement of Kenneth L. Marcus
Nominee for Assistant Secretary for Civil Rights, U.S. Department of Education
Senate Committee on Health, Education, Labor and Pensions
December 5, 2017

Chairman Alexander, Ranking Member Murray, and Members of this Committee:

It is an honor to appear before you today as the nominee for the position of Assistant Secretary for Civil Rights, U.S. Department of Education. I would like to thank President Trump for nominating me and Secretary DeVos for her support.

I am also grateful for the hardworking professionals with whom I had an opportunity to work during my prior tenure with the U.S. Department of Education's Office for Civil Rights (OCR). They have dedicated themselves to the principle of equal access to education and to promoting educational excellence through vigorous enforcement of civil rights.

Finally, I would like to acknowledge my gratitude to the teachers, mentors, colleagues, family, and friends who have helped me along the way, especially my wife Stephanie and daughter Shoshana, who are both here with me today, together with my sister Bonita Moore and her husband Garrett Moore.

At her confirmation hearing, Secretary DeVos described her view that, "Every child in America deserves to be in a safe environment that is free from discrimination." She has subsequently emphasized that "educational institutions have a responsibility to protect every student's right to learn in a safe environment and to prevent unjust deprivations of that right." I share those objectives, and it would be a great honor to join Secretary DeVos at the Department of Education and work to carry them out.

Should I be granted the honor of confirmation to the position of Assistant Secretary for Civil Rights, I would bring to the position legal, management, and civil rights experience developed over a 25+ year career as a civil rights lawyer, university professor, think tank executive, former Education Department employee, and most recently as founder and president of The Louis D. Brandeis Center for Human Rights Under Law.

While I was delegated the authority of Assistant Secretary for Civil Rights, OCR issued policy guidance reminding universities and colleges, as well as public elementary and secondary school leaders, of their obligation to establish Title IX grievance procedures and coordinators. This was important because we had found, in the course of our compliance reviews, that several recipients were failing to secure the rights of their students under Title IX.

OCR also issued policy guidance, during my tenure, clarifying the rights of Jewish, Sikh, Muslim, and other religious minority students from discrimination on the basis of their ethnicity or national origin. No student at a federally assisted school or college should face this form of discrimination or harassment. This is a subject on which I have continued to dedicate a significant portion of my time since leaving the government.

In addition, working with OCR's career professionals, I expanded OCR's program of proactive compliance reviews. For example, I devoted considerable effort to a nationwide enforcement initiative to ensure that racial and ethnic minority students and English language learner students were not inappropriately placed in special education programs that were unsuitable to their needs. We were particularly concerned that some of these children simply lacked access to research-based reading programs, and their inability to read led to erroneous placements for them.

I also oversaw a nationwide enforcement initiative to eliminate barriers to access for postsecondary students with disabilities. Areas of focus for these compliance reviews included accessibility to residence halls, classrooms and academic buildings.

I am honored by the prospect of returning to public service, because I can think of no higher calling than to enforce the principles of equal justice and provide greater opportunities for students across this great country.

If my nomination is confirmed, I will approach this position with abiding respect for OCR; with deep respect for the agency's role, responsibilities, and limitations within the constitutional structure; and with profound appreciation of the weighty responsibilities that come with serving our nation's families, children, and learners in this way. And I will work to strengthen OCR; to preserve civil rights; to seek equal justice for all; to respect the rule of law; and to promote public confidence. The members of this committee are critically important partners in pursuing those goals.

Again, I thank you for considering my nomination and for giving me the opportunity to appear before you. I look forward to answering any questions that you might have.