



February 27, 2017

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

Dear Secretary DeVos:

The Leadership Conference on Civil and Human Rights is a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the civil and human rights of all persons in the United States. We engage in legislative advocacy, were founded in 1950 and have coordinated national lobbying efforts on behalf of every major civil rights law since 1957. Members of The Leadership Conference represent Americans who are African American, Latino, Asian American and Pacific Islander, Native American, women, students, people with disabilities, seniors, young people, LGBTQ, immigrants, members of labor unions and are people of many different faiths.

The Leadership Conference's work is conducted primarily through our 15 task forces, which bring our members together around issues such as criminal justice, immigration, employment, health care and education. Our Education Task Force is co-chaired by the National Women's Law Center (NWLC), the NAACP Legal Defense and Educational Fund, Inc. (LDF) and the Mexican American Legal Defense and Educational Fund (MALDEF) and comprised of Leadership Conference members who work together to achieve equity and support civil rights in education. It is in the name of this coalition that we offer the following recommendations regarding the Department of Education's Office for Civil Rights (OCR) and the agency's Assistant Secretary for Civil Rights.

Every child has the right to attend a public school that is warm, welcoming, rigorous and that prepares them for success in life. Our bedrock civil rights laws, made meaningful through enforcement and oversight, stand guard to protect that right and ensure equal educational opportunity. Every day in too many schools, students experience discrimination based on who they are. Whether a transgender elementary school student in South Carolina is singled out by being forced to use a separate restroom or a restroom inconsistent with her gender; a college student in Maryland experiences a hostile response from administrators that exacerbates the pain of sexual assault; African-American students in Oklahoma are disproportionately suspended and arrested for school-related incidents for infractions as minor as disrespect or defiance of authority; noncitizen, immigrant students in Texas are unlawfully required to provide a social security card and a parent's driver's license to enroll in school; a Native American middle schooler is one of the 30 percent of American Indian students in the school referred for special education evaluation when only 10 percent of other

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students are referred; a Latino student or parent in New Mexico is harassed by staff and the district fails to investigate; or students with disabilities in California do not receive educational services required by their special education plans,ⁱ denial of educational opportunity on the basis of student characteristics is immoral and against the law. While educators and administrators across the country work hard every day to ensure that all of their students receive the education they deserve, there are still too many examples (as evidenced by the 76,000 complaints handled by the OCR from 2009 to 2016ⁱⁱ) of discrimination against individual students and groups of students on the basis of race, ethnicity, language, religion, immigration status, disability, gender or gender identity, and sexual orientation that result in vastly different educational opportunities.

The selection of an individual to lead OCR is one of the most significant decisions you and the president will make with regard to the civil rights of the nation's students. Although other offices in the Department are responsible for enforcement of key civil rights laws such as the Every Student Succeeds Act (ESSA), the Individuals with Disabilities Education Act (IDEA), and the Higher Education Act (HEA), OCR has a unique responsibility to enforce core nondiscrimination statutes in schools. Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975 and Title II of the Americans with Disabilities Act of 1990 prohibit discrimination in schools on the basis of race, color, national origin, sex, disability and age. These laws were passed by Congress in response to the widespread denial of equal protection and equal opportunity by states, districts and schools. Although considerable progress has been made in the decades since these laws were passed, they continue to serve a vital function in the face of ongoing discrimination.

The Assistant Secretary for Civil Rights serves as the agency's chief legal advisor on civil rights matters and is responsible for leading the Department of Education's work to:

- ensure justice for students who report discrimination through the department's complaint process;
- investigate systemic discrimination;
- issue clarifying policy guidance to assist schools, districts and states in meeting their obligations under federal law; and
- collect and report the data needed to identify where students do – and do not – have equal opportunity in education.

These enforcement, policy and data responsibilities have considerable impact on whether or not students' constitutional and statutory rights to equal protection under the law are meaningful and whether marginalized students receive the supports and attention they deserve to achieve their dreams. And they are core to the work of the Department of Education.

The assistant secretary should have a track record of experience with a range of civil rights issues, have experience with and be committed to remedying individual and systemic discrimination, be prepared to follow wherever the law and the facts lead, and believe that every student in kindergarten through 12th grade has the right to be in school every day and be treated with dignity without the burden of discrimination. In addition, OCR should continue to preserve the practice of inviting interest groups on all sides of an issue to weigh in before developing policy guidance and be fully committed to the transparent operation of the office.



You and the president have the opportunity in this decision to demonstrate a commitment to core American values of equal opportunity, nondiscrimination, and diversity as well as a respect for the rule of law. We hope that you will make a decision guided by those values. If you have any questions, please contact The Leadership Conference Education Task Force through Liz King, Leadership Conference director of education policy at king@civilrights.org; Neena Chaudhry, NWLC director of education and senior counsel at nchaudhry@nwlc.org; Monique Dixon, NAACP LDF deputy policy director and senior counsel at mdixon@naacpldf.org; or Adam Fernandez, MALDEF legislative staff attorney at afernandez@maldef.org.

Sincerely,
The Leadership Conference on Civil and Human Rights
National Women's Law Center
NAACP Legal Defense and Educational Fund, Inc.
MALDEF

American Association for Access, Equity and Diversity
American Association of People with Disabilities
American Association of University Women (AAUW)
American Civil Liberties Union
The American Federation of State, County, and Municipal Employees
American Federation of Teachers
American Jewish Committee (AJC)
American-Arab Anti-Discrimination Committee
Anti-Defamation League
The Arc of the United States
Association of University Centers on Disabilities
Augustus F. Hawkins Foundation
Coalition for Disability Health Equity
Council of Parent Attorneys and Advocates
Disability Rights Education & Defense Fund
Education Law Center-PA
Equal Rights Advocates
GLSEN
Human Rights Campaign
International Association of Official Human Rights Agencies (IAOHRA)
Japanese American Citizens League
Judge David L. Bazelon Center for Mental Health Law
LatinoJustice PRLDEF
Lawyers' Committee for Civil Rights Under Law
League of United Latin American Citizens
NAACP
National Alliance for Partnerships in Equity (NAPE)
National Association of Councils on Developmental Disabilities



National Association of Human Rights Workers
National Bar Association
National Black Justice Coalition
National Center for Learning Disabilities
National Center for Lesbian Rights
National Center for Transgender Equality
National Congress of American Indians
National Council of Asian Pacific Americans (NCAPA)
National Council of Jewish Women
National Council of La Raza
National Down Syndrome Congress
National Education Association
National Employment Law Project
National Indian Education Association
National LGBTQ Task Force
National Organization for Women
National Partnership for Women & Families
National Urban League
OCA - Asian Pacific American Advocates
People For the American Way
PolicyLink
Poverty & Race Research Action Council
SEIU
Southeast Asia Resource Action Center (SEARAC)
Southern Poverty Law Center
TASH
Woodhull Freedom Foundation
World Without Genocide at Mitchell Hamline School of Law

ⁱ NOTE: The examples provided here are drawn from the resolution agreements described in *Securing Equal Educational Opportunity: Report to the President and Secretary of Education Under Section 203(b)(1) of the Department of Education Organization Act*. U.S. Department of Education. December 2016. Available at <http://www2.ed.gov/about/reports/annual/ocr/report-to-president-and-secretary-of-education-2016.pdf> or in the December 12, 2016 Dear Colleague Letter on Preventing Racial Discrimination in Special Education available at: https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-racedisc-special-education.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=.

ⁱⁱ *Securing Equal Educational Opportunity: Report to the President and Secretary of Education Under Section 203(b)(1) of the Department of Education Organization Act*. U.S. Department of Education. December 2016. Available at <http://www2.ed.gov/about/reports/annual/ocr/report-to-president-and-secretary-of-education-2016.pdf>.