

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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July 26, 2019

The Honorable Betsy DeVos  
Secretary  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202

Dear Madam Secretary:

The Committee requests the full production of all documents first requested in February regarding the Department of Education's attempt to remove Acting Inspector General Sandra Bruce earlier this year and replace her with a Department insider. The Committee also requests a transcribed interview with your Special Assistant, Eric Ventimiglia, who appears to have played a key role in trying to remove Ms. Bruce. Unfortunately, these steps have become necessary as a direct result of the Department's failure to accommodate the Committee's legitimate oversight interests through a limited *in camera* review of incomplete and unnecessarily redacted documents.

The Committee requested documents on this matter on February 19, 2019, but the Department refused to produce anything except a few pages that were heavily redacted. Instead of cooperating with the Committee's investigation, the Department questioned the Committee's legislative need and authority to conduct this investigation, despite the Committee's jurisdiction over agency Inspectors General and the Federal Vacancies Reform Act.<sup>1</sup> The Department ignored several follow-up efforts from Committee staff and even refused a request to meet with Committee Member Mark DeSaulnier to resolve these issues.

On May 30, 2019, the Committee wrote to Deputy Secretary Mitchell Zais explaining our clear oversight and legislative jurisdiction over your Department's attempt to remove the Acting Inspector General. The Committee also renewed our document request and asked for a transcribed interview with Deputy Secretary Zais.<sup>2</sup>

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<sup>1</sup> Inspector General Act of 1978 (5 U.S.C. App.); 5 U.S.C. § 3345.

<sup>2</sup> Letter from Chairman Elijah E. Cummings and Rep. Mark DeSaulnier, Committee on Oversight and Reform, to Deputy Secretary Mitchell Zais, Department of Education (May 30, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-05-30.EEC%20DeSaulnier%20to%20Zais-DoEd%20re%20OIG%20Firing.pdf>).

On June 7, 2019, the Department responded by expressing “regret” for refusing to speak with Rep. DeSaulnier and proposing an *in camera* review of responsive documents. The Department also proposed “deferring all discussion” of Deputy Secretary Zais’ transcribed interview until after that review.<sup>3</sup>

Committee staff made clear that they agreed to review documents *in camera* based on the Department’s commitment to “make all documents responsive to the Committee’s February 19, 2019, request available for *in camera* review by Committee staff” and to make these documents available “unredacted except for certain communications with the Executive Office of the President that the Department plans to redact to address certain ‘privileges.’” Committee staff also explained that the Committee’s agreement to conduct an *in camera* review was an “accommodation” and a “first step,” but that the Committee “continues to request production of all responsive documents—including those with the EOP—without redaction.”<sup>4</sup>

Committee staff completed the *in camera* document review on June 24, 2019. Unfortunately, as Committee staff explained to Department staff following the review, the documents were incomplete in several ways:

- First, the Department did not make any documents available that were responsive to the Committee’s request for “communications between any political appointee or senior executive at the Department and any member of the Office of the Inspector General of the Department that requests the Office of the Inspector General stop or change, alter, or amend the scope of any planned or ongoing investigation.” The Committee is aware of at least one such document—a letter from Mr. Zais asking the Office of Inspector General to “reconsider” its plan to investigate the Department’s reinstatement of an accreditor of for-profit colleges in 2018.<sup>5</sup>
- Second, the Department withheld several responsive documents involving the White House without providing any valid reason for doing so. The Department asserted vaguely that these documents had “White House equities,” but did not assert a privilege or any other valid reason to withhold these documents from Congress.

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<sup>3</sup> Letter from Acting General Counsel Reed D. Rubenstein, Department of Education, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (June 7, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/June%207%20letter%20ED%20OGC%20to%20EEC.pdf>).

<sup>4</sup> Email from Staff, Committee on Oversight and Reform, to Staff, Department of Education (June 13, 2019).

<sup>5</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Government Reform, et al., to Secretary Betsy DeVos, Department of Education (Feb. 19, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/ED%20OIG%20Follow%20up%20Letter%202-19.pdf>).

- Third, the Department unnecessarily redacted the names of White House officials in several emails even though the content of these emails was not privileged and not redacted.
- Fourth, the Department excluded at least eight email attachments without any explanation.<sup>6</sup>

The documents that were made available do not address key issues in the Committee's investigation. For example, the documents do not address the Department's reasons for removing Ms. Bruce, for selecting an agency insider to replace her, or for reversing these decisions after they became public. The documents show that officials in the Presidential Personnel Office and White House Counsel's Office raised issues related to compliance with the Vacancies Act, but they do not show whether or how these issues were resolved. In addition, the documents show that the Department passed over many qualified candidates for Inspector General who were recommended by the Council of the Inspectors General on Integrity and Efficiency, but they do not explain why.

For all these reasons, the Committee now renews its request for the production of all documents—without redaction—that are responsive to the Committee's request on February 19, 2019. Please produce these documents by August 5, 2019.

In addition, the Committee requests a transcribed interview during the week of August 12, 2019, with Eric Ventimiglia, the Special Assistant to the Secretary of Education, who apparently played a key role in the attempt to remove Ms. Bruce and replace her with a Department insider. Please contact Committee staff at (202) 225-5051 by August 1, 2019, to arrange this interview.

Please note that the Committee continues to seek a transcribed interview with Deputy Secretary Zais, but it will defer scheduling that interview until after the interview with Mr. Ventimiglia.

Sincerely,



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Elijah E. Cummings  
Chairman

cc: The Honorable Jim Jordan, Ranking Member

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<sup>6</sup> Bates numbers for the emails missing attachments are ED000001, ED000009, ED000021, ED000045, ED000182, ED000183-ED000184, and ED000203-ED000204 (missing two attachments).