

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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February 3, 2020

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

Dear Madam Secretary:

On December 23, 2019, I sent a letter inviting you to testify before the Committee on January 29, 2020. I explained that the hearing was part of the Committee's ongoing oversight of the Department of Education and would address "critical issues facing the Department, including oversight of federal student loans, policies on campus sexual harassment and assault, protections for students at for-profit colleges, the independence of the Department's Inspector General, compliance with collective bargaining requirements, and other matters."<sup>1</sup> As you know, the Committee has been investigating many of these issues for months and has made multiple requests for documents that remain unfulfilled to this day.<sup>2</sup>

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<sup>1</sup> Letter from Chairwoman Carolyn B. Maloney, House Committee on Oversight and Reform, to Secretary Betsy DeVos, Department of Education (Dec. 23, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-12-23.CBM%20to%20DeVos-DOEd%20re%20Witness%20Invite.pdf>).

<sup>2</sup> See, e.g., Letter from Chairman Robert C. "Bobby" Scott, House Committee on Education and Labor, Chairwoman Maxine Waters, House Committee on Financial Services, Chairman Elijah E. Cummings, House Committee on Oversight and Reform, to Secretary Betsy DeVos, Department of Education (Aug. 13, 2019) (regarding student loan servicers) (online at <https://edlabor.house.gov/imo/media/doc/2019-08-13.Waters%20Scott%20and%20EEC%20%20to%20Betsy%20DeVos-DOEd%20re.%20Loan%20Servicing.pdf>); House Committee on Oversight and Reform, Subcommittee on Economic and Consumer Policy, *Hearing on Examining For-Profit College Oversight and Student Debt* (May 22, 2019) (regarding protections for students at for-profit colleges) (online at <https://oversight.house.gov/legislation/hearings/examining-for-profit-college-oversight-and-student-debt>); Letter from Chairman Robert C. "Bobby" Scott, House Committee on Education and Labor, Ranking Member Patty Murray, Senate Committee on Health, Education, Labor, and Pensions, Chairman Elijah E. Cummings, House Committee on Oversight and Reform, Ranking Member Gary C. Peters, Senate Committee on Homeland Security and Governmental Affairs, and Chairwoman Rosa L. DeLauro, House Committee on Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, to Secretary Betsy DeVos, Department of Education (Feb. 19, 2019) (regarding the removal of the Acting Inspector General) (online at <https://edlabor.house.gov/imo/media/doc/ED%20OIG%20Follow%20up%20Letter%202-19.pdf>); Committee on Oversight and Government Reform Democrats, *Warren, Cummings, Bonamici, Colleagues Demand Answers about Collapse of For-Profit College Chain Education Corporation of America* (Dec. 27, 2018) (online at <https://oversight.house.gov/news/press-releases/warren-cummings-bonamici-colleagues-demand-answers-about-collapse-of-for-profit>); Letter from Ranking Member Robert C. "Bobby" Scott, Committee on Education and the Workforce, Ranking Member Elijah E. Cummings, Committee on Oversight and Government Reform (June 26,

Committee staff attempted multiple times to confirm your testimony for this date. They also tried repeatedly to identify any other date you could appear, including in the following weeks. Committee staff made clear that we were flexible, and they made every attempt to work with you in good faith to find a mutually agreeable date. In response, your office stonewalled and delayed, refusing for weeks to confirm your attendance or to provide any other possible dates that you would appear.

Unfortunately, it now appears that rather than agreeing to testify before Congress—which is your obligation as a public servant of the American taxpayers—you made plans to appear at multiple political events for President Trump’s re-election campaign. Instead of testifying before Congress, you are now apparently going to Iowa to campaign on behalf of President Trump today and then to Pennsylvania for another campaign event for him on Wednesday.<sup>3</sup>

Providing sworn, public testimony before committees of the House and Senate is a core responsibility of cabinet secretaries and other senior public servants, including the Secretary of Education. In the first half of 2016, your predecessor, Secretary John King, testified at nine different House and Senate hearings—including before this Committee.<sup>4</sup>

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2018) (regarding compliance with collective bargaining requirements) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Letter%20to%20Devos%20-%20AFGE%20Bargaining%2006-26-18.pdf>).

<sup>3</sup> *Trump Officials and Backers to Flood Iowa on Caucus Day*, New York Times (Jan. 27, 2020) (online at [www.nytimes.com/aponline/2020/01/27/us/politics/ap-trump-iowa.html](http://www.nytimes.com/aponline/2020/01/27/us/politics/ap-trump-iowa.html)); *VP Pence in Pa. with Kellyanne Conway and Betsy DeVos Next Week: Tickets, Schedule Info*, York Daily Record (Jan. 27, 2020) (online at [www.ydr.com/story/news/2020/01/27/vp-mike-pence-pa-kellyanne-conway-betsy-devos-next-week-tickets-schedule-info-camp-hill/4590129002/](http://www.ydr.com/story/news/2020/01/27/vp-mike-pence-pa-kellyanne-conway-betsy-devos-next-week-tickets-schedule-info-camp-hill/4590129002/)).

<sup>4</sup> House Committee on Oversight and Government Reform, *Hearing on U.S. Department of Education: Investigation of the CIO* (Feb. 2, 2016) (online at <https://republicans-oversight.house.gov/hearing/u-s-department-of-education-investigation-of-the-cio/>); House Committee on Education and the Workforce, *Hearing on Examining the Policies and Priorities of the U.S. Department of Education* (Feb. 24, 2016) (online at <https://edlabor.house.gov/hearings/examining-the-policies-and-priorities-of-the-us-department-of-education>); House Committee on Education and the Workforce, *Hearing on Next Steps for K-12 Education: Upholding the Letter and Intent of the Every Student Succeeds Act* (Feb. 25, 2016) (online at <https://edlabor.house.gov/hearings/next-steps-for-k-12-education-upholding-the-letter-and-intent-of-the-every-student-succeeds-act>); Senate Committee on Health, Education, Labor & Pensions, *Nomination of Dr. John King to Serve as Secretary of Education* (Feb. 25, 2016) (online at [www.help.senate.gov/hearings/nomination-of-dr-john-king-to-serve-as-secretary-of-education](http://www.help.senate.gov/hearings/nomination-of-dr-john-king-to-serve-as-secretary-of-education)); Senate Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, *Hearing to Review the FY17 Budget Request for the U.S. Department of Education* (Mar. 10, 2019) (online at [www.appropriations.senate.gov/hearings/hearing-to-review-the-fy17-budget-request-for-the-us-department-of-education](http://www.appropriations.senate.gov/hearings/hearing-to-review-the-fy17-budget-request-for-the-us-department-of-education)); House Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education, *Budget Hearing—Department of Education* (Mar. 22, 2016) (online at <https://republicans-appropriations.house.gov/legislation/hearings/budget-hearing-department-education-1>); Senate Committee on Health, Education, Labor, and Pensions, *Hearing on ESSA Implementation in States and School Districts: Perspectives from the U.S. Secretary of Education* (Apr. 12, 2016) (online at [www.help.senate.gov/hearings/essa-implementation-in-states-and-school-districts-perspectives-from-the-us-secretary-of-education](http://www.help.senate.gov/hearings/essa-implementation-in-states-and-school-districts-perspectives-from-the-us-secretary-of-education)); House Committee on Education and the Workforce, *Hearing on Next Steps in K-12 Education: Examining Recent Efforts to Implement the Every Student Succeeds Act* (June 23, 2016) (online at <https://edlabor.house.gov/hearings/next-steps-in-k-12-education-examining-recent-efforts-to-implement-the-every-student-succeeds-act>); and Senate Committee on Health, Education, Labor & Pensions, *Hearing on ESSA Implementation: Update from the U.S. Secretary of*

Ignoring—or defying—requests for congressional oversight in order to spend your time campaigning for President Trump is an abuse of your position as Secretary of Education. I am not suggesting that you may never campaign for the President, but you may not do so when it interferes with your official duties, including your duty to testify before Congress. If you will not agree to testify voluntarily, the Committee will have no choice but to consider issuing a subpoena to compel your appearance.

The response from you and your staff to the Committee’s request for your testimony was wholly inadequate. On December 30, 2019, your Acting General Counsel wrote to the Committee purportedly “to engage in the constitutionally mandated accommodation process.” The letter did not state whether you would agree to testify on the requested date, but instead requested a meeting to discuss “oversight requests” from the Committee.<sup>5</sup>

On January 3, 2020, Committee staff followed up by agreeing to discuss documents that the Department has failed to produce in response to the Committee’s previous requests. They added, “Please also let us know whether the Secretary is available to testify on the date requested, January 29.”<sup>6</sup>

On January 6, 2020, Committee staff called your staff to attempt to confirm your attendance at the hearing. Your staff agreed to speak later that day, but then abruptly cancelled the call and instead sent an email asking for a list of the documents you have failed to produce. Your staff wrote, “Once you’ve done that, we’ll be in touch to schedule a meeting.”<sup>7</sup>

Committee staff responded, “I’d be happy to provide you a list of overdue requests if that is helpful, but I do not want to let that delay confirming the Secretary’s participation in the January 29 hearing.”<sup>8</sup>

On January 9, 2020, Committee staff provided the list of outstanding documents. Again, Committee staff inquired about the hearing date, writing, “We would appreciate if you would let us know by tomorrow afternoon whether Secretary DeVos is available to testify on January 29.”<sup>9</sup>

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*Education on Proposed Regulations* (June 29, 2016) (online at [www.help.senate.gov/hearings/essa-implementation-update-from-the-us-secretary-of-education-on-proposed-regulations](http://www.help.senate.gov/hearings/essa-implementation-update-from-the-us-secretary-of-education-on-proposed-regulations)).

<sup>5</sup> Letter from Reed D. Rubinstein, Principal Deputy General Counsel Delegated the Authority and Duties of the General Counsel, Department of Education, to Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform (Dec. 30, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/12.30.19%20Rubinstein%20Response%20to%20Chairwoman%20Maloney.pdf>).

<sup>6</sup> Email from Staff, Committee on Oversight and Reform, to Staff, Department of Education (Jan. 3, 2020).

<sup>7</sup> Email from Staff, Department of Education, to Staff, Committee on Oversight and Reform (Jan. 6, 2020).

<sup>8</sup> Email from Staff, Committee on Oversight and Reform, to Staff, Department of Education (Jan. 6, 2020).

<sup>9</sup> Email from Staff, Committee on Oversight and Reform, to Staff, Department of Education (Jan. 9, 2020).

The following day, your staff wrote that you were “unavailable for a hearing on January 29th due to other commitments.” Your staff provided no alternative dates for your testimony.<sup>10</sup>

During a telephone call on January 15, 2020, your staff refused to provide any additional information about your schedule, stating that cabinet secretaries “have very busy schedules.”<sup>11</sup>

On January 17, 2020, Committee staff again followed up by phone. Again, your staff refused to say whether you would testify on any alternative dates.<sup>12</sup>

On January 23, 2020, Committee staff arranged yet another call with your staff. Yet again, they refused to provide any alternative dates for your testimony.<sup>13</sup>

For the reasons described above, the Committee now seeks your testimony on March 3, 2020. Please confirm by February 7, 2020, whether you will appear voluntarily on that date or if the Committee will need to consider compulsory process to obtain your testimony.

Sincerely,

  
Carolyn B. Maloney  
Chairwoman

cc: The Honorable Jim Jordan, Ranking Member

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<sup>10</sup> Email from Staff, Department of Education, to Staff, Committee on Oversight and Reform (Jan. 10, 2020).

<sup>11</sup> Call with Staff, Committee on Oversight and Reform and Staff, Department of Education (Jan. 15, 2020).

<sup>12</sup> Call with Staff, Committee on Oversight and Reform and Staff, Department of Education (Jan. 17, 2020).

<sup>13</sup> Call with Staff, Committee on Oversight and Reform and Staff, Department of Education (Jan. 23, 2020).