

January 9, 2017

Via email

Chairman Lamar Alexander
Committee on Health, Education,
Labor and Pensions
428 Dirksen Senate Office Building
Washington, DC 20515

Ranking Member Patty Murray
Committee on Health, Education,
Labor and Pensions
525 Dirksen Senate Office Building
Washington, DC 20515

Dear Chairman Alexander & Ranking Member Murray,

The National Women's Law Center has worked for 45 years to advance and protect equality and opportunity for women and girls and, from its founding in 1972, has had a focus on Title IX and its importance in ensuring all girls and women have equal access to a quality education. Given the centrality of educational opportunity to the lives and futures of women, the Center strongly opposes the confirmation of Betsy DeVos to be Secretary of Education.

The Secretary of Education has the responsibility of ensuring that all students have equal access to a quality education. Key to that work is the enforcement of the federal statutes that prohibit discrimination in education, including Title IX. Over the last eight years, the Department's Office for Civil Rights (OCR), has resolved 66,000 civil rights cases and proactively investigated 204 cases. OCR's work is especially important in light of the uptick in hate crimes after the election, with the majority of those incidents occurring in schools.¹ The Secretary is also responsible for enforcing and implementing the Every Student Succeeds Act. Effective implementation of this law will be critical to ensuring that all students are prepared for college and careers, including requirements that state and districts intervene in schools that repeatedly fail to close the achievement gap and important transparency requirements around student performance, resource disparities, exclusionary discipline and harassment.

Ms. DeVos' record stands in stark contrast to the Department's crucial function of ensuring equal access to high-quality education for all students. Her strong and vocal opposition to commonsense oversight of charter schools and her efforts to dramatically expand vouchers would threaten the Department's goal of providing a quality education that provides a pathway to economic stability and prosperity. Just last summer, Ms. DeVos aggressively lobbied state legislators and spent \$1.45 million to derail provisions that would have provided more oversight of Detroit charter schools, including one that would "stop failing charter operators from creating new schools."² Shielding charter schools from oversight hardly better serves students, but rather removes accountability, including with regard to civil rights principles of equality of opportunity.

Moreover, many of the provisions proposed in Michigan are common in many states and accepted by many charter school proponents, but Ms. DeVos' stance appears to go beyond that of many charter school proponents. She has reportedly "pushed back on any regulation as too much regulation"³—a stance that has contributed to Detroit's charter system being recognized as one of the greatest school reform failures in the country.⁴

Furthermore, Ms. DeVos has a history of supporting controversial organizations whose work undermines the protections of students, often those most at need. For instance, through her foundation, the Dick and Betsy DeVos Foundation, Ms. DeVos has contributed to the Foundation for Individual Rights (FIRE),⁵ which has fought efforts to enforce Title IX and protect students because they are subjected to gender violence. FIRE has lobbied to eliminate schools' obligation to address sexual assault, as required by Title IX, which is crucial for survivors' continued education in the wake of violence and to prevent others from being subjected to such harassment and assault. FIRE also supports bills that would force police to intervene in student incidents, even when the victims do not want to pursue criminal prosecution but would prefer school accommodations so they can continue their education free from harassment or continued trauma. In fact, the Department's recent work has contributed to increased awareness and understanding by educational institutions of gender-based violence and has started to correct unfair processes and responses that for too long pushed survivors out of school. Ms. DeVos' support for a group aggressively seeking to undermine that work and the protections afforded by one of the laws she would be charged with enforcing reinforces why she is not suited to fulfilling the obligations that would be entrusted to her as Secretary.

Ms. DeVos has also given millions of dollars to anti-choice causes and organizations, including "crisis pregnancy centers."⁶ Reports show that the primary goal of crisis pregnancy centers is to dissuade pregnant individuals from having an abortion, often by using misleading marketing practices and providing anti-abortion propaganda and misinformation about abortion and birth control.⁷ At least two of the centers⁸ to which Ms. DeVos donated have inaccurate information about abortion on their websites. In addition, Ms. DeVos has given \$6.5 million to "pass-through" organizations, which have in turn donated to groups that promote policies and legislation to restrict access to reproductive health in the states.⁹ This support raises concerns about Ms. DeVos' ability to be the lead enforcer of Title IX's ban on discrimination against students and teachers who have had an abortion or who use contraceptives, or even unmarried students who are pregnant.

Additionally, Ms. DeVos has poured millions into anti-LGBTQ efforts, including the campaign against marriage equality and an organization that supports "conversion therapy."¹⁰ Conversion therapy is a practice that has been widely discredited as ineffective, and those who are subject to it are almost nine times more likely than their peers to consider or attempt suicide.¹¹ One of the recipients of this support, Focus on the Family, even opposed efforts to combat bullying against

LGBTQ students. Ms. DeVos' support of anti-LGBTQ organizations further underpins why she is not suited to fulfill the Secretary's responsibility as the lead federal enforcer of the rights of girls and women who are LGBTQ students.

While what we do know about Ms. DeVos is deeply troubling, we also emphasize the need for a thorough and comprehensive hearing and process to inform Americans of Ms. DeVos' other qualifications—or lack thereof—for Education Secretary. She does not have a record of general engagement in the educational system at every level. Little is known about her stance on a host of many educational issues in general, and with respect to students most in need of the Department of Education's programs. Further exploration is essential of her positions on the rights and interests of students of color, English learners, immigrant students, students with disabilities and religious minorities.

Time for a thorough public inquiry into issues affecting civil rights, early childhood education, K-12 schools, higher education, and career and technical education programs is necessary. Additionally, the lack of transparency and adequacy in the nominee's responses to the Committee's questionnaire makes going forward now unacceptable. Failure to provide copies of published op-eds she has written or to indicate potential conflicts of interests—despite media reports indicating a potential conflict in student lending¹²—are prime examples. To ensure members have a complete record from which to draw questions, we urge you to delay the hearing until the nominee discloses potential conflicts and makes her previous writings publicly accessible.

Given Ms. DeVos' record, the Center urges you to reject Betsy DeVos' nomination to be Secretary of the Department of Education, and to delay hearings on her nomination until a complete record on her conflicts and public statements are produced.

Sincerely,



Marcia Greenberger
Co-President



Nancy Duff Campbell
Co-President

Cc: Committee Members

¹ Southern Poverty Law Center, *Update: 1,094 Bias-Related Incidents In the Month Following the Election*, HATEWATCH, Dec. 16, 2016, <https://www.splcenter.org/hatewatch/2016/12/16/update-1094-bias-related-incidents-month-following-election>.

² Kate Zernike, *How Trump's Education Nominee Bent Detroit to Her Will on Charter Schools*, N.Y. TIMES, Dec. 12, 2016, <http://www.nytimes.com/2016/12/12/us/politics/betsy-devos-how-trumps-education-nominee-bent-detroit-to-her-will-on-charter-schools.html>.

³ *Id.*

⁴ Douglas N. Harris, *Betsy DeVos and the Wrong Way to Fix Schools*, N.Y. TIMES, Nov. 25, 2016, http://www.nytimes.com/2016/11/25/opinion/betsy-devos-and-the-wrong-way-to-fix-schools.html?_r=0; see also Erin Einhorn, *Why Detroit Is an Education-Funding Vacuum*, THE ATLANTIC, July 31, 2016, <http://www.theatlantic.com/education/archive/2016/07/why-detroit-is-an-education-funding-vacuum/493589/> (noting how Detroit's charter system has resulted in a lack of infrastructure, decreased school quality, which is one of many reasons philanthropies have slowed investment in the city's school reform efforts).

⁵ Financial Record Search on FIRE & the DeVos Family Foundation, <http://conservativetransparency.org> (follow "By Donor" hyperlink; then select "Dick and Betsy DeVos Family Foundation" from dropdown menu; then search "Enter Search Query" by "Foundation for Individual Rights in Education"; then follow "Submit" hyperlink; see also Dan Berret et al., *What Does Betsy DeVos Have in Mind for Higher Ed?*, THE CHRONICLE OF HIGHER EDUC., Nov. 23, 2016, <http://www.chronicle.com/article/What-Does-Betsy-DeVos-Have-in/238514>.

⁶ Ally Boguhn, *The DeVos Family: Promoting Conservative Religious Values Through Political Donations*, REWIRE, Mar. 21, 2016, <https://rewire.news/article/2016/03/21/devos-family-promoting-christian-orthodoxy-political-donations/>

⁷ See, e.g., U.S. HOUSE OF REPRESENTATIVES COMM. ON GOV'T REFORM, FALSE AND MISLEADING HEALTH INFORMATION PROVIDED BY FEDERALLY FUNDED PREGNANCY RESOURCE CENTERS (2006), at <http://www.chsourcebook.com/articles/waxman2.pdf>

⁸ See PREGNANCY RESOURCE CENTER OF MID-MICHIGAN | RISKS OF ABORTION, <http://www.prcmidland.org/Pregnancy/What-Are-My-Options/Abortion/Risks-of-Abortion> (last visited Jan. 9, 2017); see also ABORTION PILL REVERSAL | PREGNANCY RESOURCE CENTER, <http://www.prcgr.org/abortion-pill-reversal/> (last visited Jan. 9, 2017).

⁹ See Boguhn, *supra* note 6.

¹⁰ Benjamin Wemund, *Trump's education secretary pick supported anti-gay causes*, POLITICO, Nov. 25, 2016, <http://www.politico.com/story/2016/11/betsy-devos-education-secretary-civil-rights-gay-transgender-students-231837>.

¹¹ Zach Stafford, *Gay conversion therapy ruins lives. We cannot afford to keep it legal*, THE GUARDIAN, May 28, 2015, <https://www.theguardian.com/commentisfree/2015/may/28/gay-conversion-therapy-ruins-lives-lgbt-rights>.

¹² Anupreeta Das & Peter Rudegeair, *Trump Education Secretary Pick Has Indirect Stake in Student Lender*, WALL ST. J., Dec. 5, 2016, <http://www.wsj.com/articles/trump-education-secretary-pick-has-indirect-stake-in-student-lender-1480977577>.