

**NOMINATION OF FRANK T. BROGAN
TO BE ASSISTANT SECRETARY
FOR ELEMENTARY
AND SECONDARY EDUCATION**

HEARING
OF THE
**COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS**
UNITED STATES SENATE
ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

ON

EXAMINING THE NOMINATION OF FRANK T. BROGAN, OF PENNSYLVANIA, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION

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JANUARY 25, 2018
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**NOMINATION OF FRANK T. BROGAN
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FOR ELEMENTARY
AND SECONDARY EDUCATION**

Thursday, January 25, 2018

U.S. SENATE,
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,
Washington, DC.

The Committee met, pursuant to notice, at 2:30 p.m., in room 430, Dirksen Senate Office Building, Hon. Lamar Alexander, Chairman of the Committee, presiding.

Present: Senators Alexander [presiding], Murray, Bennet, Murphy, Warren, Kaine, Hassan, Smith, and Jones.

OPENING STATEMENT OF SENATOR ALEXANDER

The CHAIRMAN. The Senate Committee on Health, Education, Labor, and Pensions will please come to order.

Today's hearing is on Frank Brogan, the nominee to serve as the Assistant Secretary of Elementary and Secondary Education.

Senator Murray and I will each have an opening statement, then Senator Nelson will introduce Mr. Brogan, and after his testimony Senators will each have 5 minutes of questions.

Governor Brogan, you come with impressive qualifications for the role to which you have been nominated, and we are grateful for your willingness to serve.

You come to this position with nearly every possible educational perspective.

You were the first in your family to attend college, earning a Bachelor's degree in education. Then you went on to attend graduate school, earning a Master's degree in education.

You served as an elementary school teacher, principal, and superintendent, and as Florida's Commissioner of Education and Lieutenant Governor.

You also served as Chancellor of the Florida Board of Governors, and as President of Florida Atlantic University, and prior to your most recent role, served as Chancellor of the Pennsylvania State System of Higher Education.

Your official nomination was received on December 19 by the Senate.

On January 2nd, this Committee received a letter from the Office of Government Ethics, which carefully reviewed your financial information and found that you are in compliance with applicable laws and regulations governing conflicts of interest.

In accordance with our Committee rules, you've submitted your Committee paperwork on January 16.

You have offered to meet with every Senator on this Committee.

As Assistant Secretary for Elementary and Secondary Education, your job will be to implement laws as Congress wrote them, including the law we wrote fixing No Child Left Behind. This is an especially important law to the Members of this Committee. We held 27 hearings, spent countless hours, both Members and their staffs, working out our differences and reaching a consensus. We held a 3-day markup where we considered 57 amendments, and we approved it 22 to 0. It passed the Senate 85 to 12 after more debate, more amendments, and a conference committee with the House.

In the end, we produced a law that reflected our consensus at the start: Continue the law's important measurements of academic progress of students but restore to states, school districts, classroom teachers and parents the responsibility for deciding what to do about improving student achievement. This change should produce fewer tests and more appropriate ways to measure student achievement.

Under ESSA, the Every Student Succeeds Act, in order to receive \$15.5 billion in Federal Title I funding, every state must submit its Title I plans to the Department of Education that sets goals for that state's students and shows how the states will hold schools accountable for their performance.

Today, states are in the process of getting their plans approved, or have gotten their plans approved and are beginning to implement them.

Every state has submitted a state plan and the Department has approved 35, including the District of Columbia and Puerto Rico.

Mr. Brogan, you will be overseeing the approval of the remaining state plans, and you will be monitoring and evaluating whether the states are doing what they said they would do, if you are confirmed, which I hope you will be.

While the state plans are important, it is implementation of them that is crucial.

I commend the work that Secretary DeVos and her staff have already done in approving these plans. She is charting new territory, approving plans that give states dramatic new freedom to set goals and hold students accountable. And I believe she has been following the law, appropriately balancing the law's flexibility and its guardrails.

I would note that she deserves particular credit for implementing the new law without the nominee for Deputy Education Secretary, General Mitchell Zais, the nominee for General Counsel, Carlos Muniz, and the nominee for Assistant Secretary for Planning, Evaluation, and Policy Development, James Blew. We held hearings on those nominees in September and in November, yet they're not yet confirmed.

Last week Senator Murray raised concerns about state plans being approved that did not follow the law. My staff have looked at the state plans and think the plans do follow the law, so we have asked for specific details. Senator Murray has given me some information today to identify which states are a problem, what provisions she believes they might have violated. Secretary DeVos has

offered to meet with Senator Murray and me, and we're going to schedule that right away. We worked together to create this bipartisan success, so I want to take any concerns seriously.

The Secretary, the peer review panels, and the career lawyers at the Department have reviewed the state plans and they have not raised any concerns that I'm aware of. Requests for clarification from states were done in calls and feedback letters to improve the plans.

Secretary DeVos has said she would like to meet with us to discuss the specifics of any remaining concerns. As I said, we will schedule that soon.

I would also urge the Senate to confirm these nominees so that we have more people to help the Secretary implement the law the way we wrote it.

I look forward to hearing more from you today.

Senator Murray.

OPENING STATEMENT OF SENATOR MURRAY

Senator MURRAY. Thank you very much, Chairman Alexander.

Mr. Brogan, thank you for your willingness to serve as Assistant Secretary for Elementary and Secondary Education. This role is critically important and, if confirmed, you will be responsible for overseeing the implementation of our Nation's K-12 law, the Every Student Succeeds Act.

As you know, in 2015, Chairman Alexander and I agreed and, in fact, many people around the country believed that the No Child Left Behind law was badly broken and needed to be fixed. It relied on a one-size-fits-all mandate and failed to provide struggling schools with the resources they needed to improve.

We worked together to break through some partisan gridlock here and negotiated a bipartisan education law, and we agreed that states should have more flexibility, but that doesn't mean that we gave states a blank check. We also agreed on strong Federal guardrails to identify struggling students in schools so they can get the support that they need.

However, now that the law is passed and beginning to be implemented, I am very concerned that the Department of Education is approving state plans that do not comply with all of ESSA's Federal guardrails. Chairman Alexander and I agreed on many things when we were writing ESSA, and I was glad to hear him say last week that if I had concerns with the Department's implementation, then he had concerns, and I'm very glad now that Secretary DeVos is listening to us and just let us know today that she's offered to meet with us to discuss this. I'm hoping that that means she's ready to take action to correct the problems we see, because it is a very important first step.

I'm confident we can work together and with Mr. Brogan if he is confirmed to ensure the Department is providing states with the feedback and guidance required in the law. We worked in good faith to negotiate ESSA, and I know we can carry on that good faith as we advise the Department on ESSA, and then I know we can continue in this Committee to work in good faith on other education laws, including reauthorization of the Higher Education Act.

Now, I want to dig deeper into two examples of how the Department is currently not following ESSA and how it impacts students. Here is one example.

In order to ensure that our most vulnerable students are not able to fall through the cracks, ESSA actually requires schools to pay special attention to sub-groups of students who have historically struggled, including students of color, low-income students, English learners, and students with disabilities. States have to assess their schools not only by their overall performance but also by the performance of those student subgroups in the schools.

Here's what it means for students. Let's say a state ranks its schools on an A through F grading scale. When averaged, all performance of the students averaged together, the school earns an A. But let's say many students of color or many low-income students are failing. That is a clear problem for that school, and states should be able to identify and provide support when our most vulnerable students are falling behind.

Yet today, the Department is approving plans that do not include subgroup performance in state systems for measuring schools.

Here's another example. One of the Federal Government's primary responsibilities in ESSA is to provide resources and support for schools who need improvement. ESSA requires the states to identify three different types of schools that need support and improvement, and the law is very clear on that—three. But instead, the Department is approving plans that only identify two categories of schools or include the same definition for two types.

I want to, by the way, touch on a common misconception on this topic. Identifying struggling schools is not intended to punish or embarrass those schools. It is to determine which schools are struggling in what way and what resources are needed to get those schools back on track.

Chairman Alexander, we negotiated this law for over a year and we included those provisions because we believed that they would help students and schools and communities.

I believe in this law, and I'm not going to stop raising these issues until the Department resolves them. I'm glad that the Secretary is meeting with us. I've had a chance today to give Senator Alexander some of our specific examples. But I look forward to hearing from you today, Mr. Brogan, on these and other issues in the law.

Now, before I end, I do want to mention one other issue which is very important to me and to many others that affects parents and students and teachers around the country, and that is the Trump administration's desire to privatize our schools.

Before her nomination, Secretary DeVos' experience in education didn't go much further than promoting her privatization agenda across the country, and after her confirmation hearing millions of people, millions, stood up, made their voices heard, and rejected her extreme ideological agenda.

I am relieved that she has largely been unsuccessful in using her position at the Department to siphon money away from public schools, though we have seen attempts by the Department to manipulate ESSA to provide taxpayer dollars to privatization schemes.

I know, Mr. Brogan, you share her views on privatizing our public schools, but I want to advise you against any effort to use our Nation's Federal education law to promote personal beliefs. That's critical to me. If you are confirmed as the Assistant Secretary of Elementary and Secondary Education, you will be responsible for an entire generation of students and their future. I hope you are prepared today to commit to putting them ahead of any kind of ideological agenda.

With that, I look forward to hearing your testimony.

The CHAIRMAN. Thank you, Senator Murray.

I'm pleased to welcome our nominee, Mr. Brogan. I thank him for his willingness to serve our country yet again. He's done that many times in many different ways.

He is joined today by his wife, Courtney, and his son, Colby. Thank you for coming. We welcome you both.

Mr. Brogan spent much of his career in Florida, so Senator Bill Nelson will introduce him.

Senator Nelson, welcome, and we know you have a busy schedule this afternoon, so after your introduction you're free to stay or free to leave according to your own schedule.

STATEMENT OF SENATOR NELSON

Senator NELSON. Yes, sir.

Frank, it's good to see you. I hadn't seen you in a while.

Mr. Chairman, this is really an august gathering here. Senator Murray was a teacher. You, Mr. Chairman, were a university president. Mr. Brogan has been a 5th grade teacher, a dean of students, an assistant principal, a principal, a superintendent of his county education, then the state secretary of education, an elected position, then Lieutenant Governor, then university president at Florida Atlantic University, and then university president in Pennsylvania. I'm just a country lawyer. You're amidst all of these educational experts, and I'm here to tell you of my personal relationship and friendship with Frank over the years.

We served together in the state government when he was the Secretary of Education, as well as our Lieutenant Governor. It is a pleasure for me to come and give a warm Florida stamp of approval as you all consider this nomination for a very, very important position, Assistant Secretary for Elementary and Secondary Education.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Nelson, and thank you for making time to be here.

Mr. Brogan, welcome. If you could summarize your remarks in about 5 minutes, then that will leave time for Senators to have questions of you.

Welcome.

**STATEMENT OF FRANK T. BROGAN, OF HARRISBURG, PA,
NOMINATED TO BE ASSISTANT SECRETARY FOR ELEMEN-
TARY AND SECONDARY EDUCATION, DEPARTMENT OF EDU-
CATION**

Mr. BROGAN. Thank you, Mr. Chairman, and to Ranking Member Murray, Members of the Committee.

First, I would be remiss if I did not thank Senator Nelson for his very kind comments. He is right, we worked together for a good many years, and hopefully both of us together and individually attempted to do good things in that case for the State of Florida. I really take this time to say thank you for providing the time that he did. You're right, he's a very busy man, and it is great that he was able to be here.

It's an honor to be here today, and I mean that. Following the 40 years of public service at the local and state level, the possibility of serving as the Assistant Secretary for Elementary and Secondary Education in the United States Department of Education is both a humbling yet thrilling prospect for me.

First of all, as we just did, I want to acknowledge once again the two most important people in my life. The Chairman was kind enough to acknowledge them a moment ago. My wife, Courtney—we have been married for 14—15 years. That is a terrible thing for a husband to do, especially since we just celebrated our 15th anniversary. Colby John was born 13, almost 13 years ago next month.

As the youngest of six children, my twin brother John and I—yes, there are two of us—never had the chance to know our father. Growing up in a single-parent household following his very early passing, we were raised by a mother who worked tirelessly to make certain that we were fed, clothed and, most importantly, loved. Perhaps, however, the greatest gift that she provided to us was her tremendous emphasis on the importance of our education. She did whatever was required to ensure that all of us took advantage of that education and ultimately had the chance to live, not just dream, the great American Dream. So to my entire family today, especially my late mother, I say thank you for what you have done for me.

I would now like to tell you a little about my career—you've heard some of it mentioned here this afternoon already—in education and public service. I was, as stated, a first-generation university student. And working a multitude of part-time jobs, coupled with the help of financial aid, enabled me to graduate from the University of Cincinnati, as mentioned, with a degree in elementary education, a career, by the way, that I had aspired to since middle school.

With my late wife Mary also a newly minted educator, we graduated and began our careers in Florida. I will never forget the first day that I spent as that 5th grade teacher, nervously watching the boys and girls as they quietly filed into the classroom and took their seats that morning. It was an exhilarating yet very powerful moment. These were my students and they were my responsibility. They were the children of differing ethnicities, of varying native tongues, economic circumstances, and family structures. Their parents were entrusting me with their own children's safety, learning, and ultimately seeing to it that I contributed to each of their own

earned shot at that same American Dream. I set high expectations for all of them, and we worked together to make certain that they could and would rise to those expectations.

For the next 39 years, I have held myself to those same basic principles of hard work and pursuit of excellence as a teacher, assistant principal, principal, school superintendent, commissioner of education, Lieutenant Governor, university president, and chancellor of two state university systems.

Now, as I make my case to work on behalf of all of America's children and families, I would like to thank the President and Secretary DeVos for providing me the chance to continue engaging in the two priorities which I hold so dear, education and public service.

My 40 years with students has also been marked by many life-changing experiences. I will never forget standing near President George W. Bush at an elementary school in Sarasota, Florida on September the 11th, 2001, as a classroom of 1st-graders proudly read to him until he was interrupted with the news that our country was indeed under attack. I remember, as if it were yesterday, the request he made of me as we later moved to the media center, where he would read a statement to the large group of students, parents, and teachers gathered there, followed by a moment of silence for those already lost. His request was offered to someone that he knew had spent a career as a teacher and an educator. Specifically, he asked that following his departure, I remain and address the students who had just learned of these events in a way that perhaps only a teacher might.

I hope you can better understand why my 40 years in education and public service has meant so much to me, but perhaps also have a better glimpse into why your consideration of my nomination for this position is such a very humbling experience and possibility.

Even now, as I observe with the rest of the country the Department's efforts to review and approve state plans, as the Chairman mentioned, I grow more excited at the prospect of being directly involved in the new direction afforded to us by the Every Student Succeeds Act, a powerful piece of bipartisan legislation, as the Ranking Member had mentioned. This includes the next critical phase of implementation involving monitoring and support for these plans, and providing strong evidence-based technical support to those embracing the challenge to greatly improve the education, and thus the lives, of our students.

Please know that if I am fortunate to be confirmed by the Senate, I will remain committed to the same principles which bring me here before you today.

Thank you again, Ranking Member, Mr. Chairman, Members of the Committee, and I look forward to answering your questions as best I can today.

[The prepared statement of Mr. Brogan follows:]

PREPARED STATEMENT OF FRANK T. BROGAN

Thank you, Chairman Alexander, Ranking Member Murray and Members of the Committee.

First, permit me to tell you what an honor it is to be here today. Following 40 years of public service at the local and state level, the possibility of serving as the

Assistant Secretary for Elementary and Secondary Education in the U.S. Department of Education, if confirmed, is both a humbling yet thrilling prospect.

Second, I would like to introduce the two most important people in my life—my wife Courtney Brogan, an attorney by training and the mother of our son, Colby John, who was born 13 years ago next month while I served as President of Florida Atlantic University in Boca Raton. I am proud to say that Courtney and I just celebrated our 15th wedding anniversary.

As the youngest of six children, my twin brother John and I never had the chance to know our father. Growing up in a single parent household following his early passing, my brothers, sisters, and I had the great opportunity to be raised by a mother who worked tirelessly to make certain that we were fed, clothed, and most importantly, loved. Perhaps, however, the greatest gift that she provided to all of us was her tremendous emphasis on the importance of our education. She did whatever was required to ensure that all of us took advantage of that education and ultimately had the chance to live, and not just dream about, our share of the great American Dream. So to my entire family, especially my late mother, I say, “thank you for what you have done for me.”

Third, I would like to tell you a little about my career in education and public service. I was a first generation university student. I commuted to the university and worked a multitude of part time jobs while in school. That work, along with the help of financial aid, enabled me to graduate from the University of Cincinnati with a degree in elementary education; a career I had aspired to since middle school.

With my late wife Mary also a newly minted educator, we graduated and began our careers in Florida. I will never forget the first day that I spent as that 5th grade teacher—nervously watching the boys and girls as they quietly filed into their seats that morning. It was an exhilarating yet powerful moment. These were my students and my responsibility. They were children of differing ethnicities, of varying native tongues, economic circumstances and family structures. Their parents were entrusting me with their own children’s safety, learning, and ultimately seeing to it that I contributed to each of their own earned-shot at that same American dream. I set high expectations for all of them, and we worked together to make certain that they could and would rise to those expectations during that school year.

For the next 39 years, I have held myself to those same basic principles of hard work and pursuit of excellence as a teacher, assistant principal, principal, school superintendent, commissioner of education, Lieutenant Governor, university president, and chancellor of two state university systems. And now, as I make my case to work on behalf of all of America’s children and families, I would like to thank the President and Secretary DeVos for providing me the chance to continue engaging in the two priorities which I hold so dear—education and public service.

My time as an educator has been spent helping to fulfill the promise of a nation to our students at every level and help them understand that, if they do their part, they will have the chance to grow up and be everything they are capable of being. My 40 years with students has also been marked by many life changing experiences. Not only has my own life changed, but I have been witness to so many other lives being changed along the way.

I vividly recall watching with over a thousand middle school students from our vantage point just south of Cape Canaveral, the explosion of the space shuttle Challenger and the death of the entire crew, including teacher Christa McAuliffe. As principal, it was up to me to ensure that our school’s wonderful teachers could assist those students in processing the tragedy and completing the rest of the day as best we could.

I will also never forget standing near President George W. Bush at an elementary school in Sarasota Florida on September 11, 2001, as a classroom of first-graders proudly read to him until he was interrupted with the news that our country was under attack. I remember, as if it were yesterday, the request he made of me as we later moved to the media center, where he would read a statement to the large group of students, parents and teachers gathered there, followed by a moment of silence for those already lost. His request was offered to someone he knew had spent a career as a teacher, an educator. Specifically, he asked that following his departure, I remain and address the students who had just learned of these events in a way that perhaps, only a teacher might.

Chairman Alexander, Ranking Member Murray and Members of the Committee, I hope you can better understand now why my 40 years in education and public service has meant so much to me but perhaps also have a better glimpse into why your consideration of my nomination for this position is such a humbling possibility for me.

Even now as I observe with the rest of the country the Department's efforts to review and approve state plans, I grow more excited at the prospect of being directly involved in the new direction afforded to us by the Every Student Succeeds Act, a powerful piece of bi-partisan legislation. This includes the next critical phase of implementation involving monitoring and support for these plans, and providing strong evidence based technical support to those embracing the challenge to greatly improve the education, and thus lives, of our students.

Please know that if I am fortunate to be confirmed by the Senate, I will remain committed to the same principles which bring me here before you today. Thank you again for this opportunity and I look forward to answering your questions.

The CHAIRMAN. Thank you, Mr. Brogan.

We'll now begin a 5-minute round of questions.

I'm going to defer my questions and go to Senator Murray.

Senator MURRAY. Thank you very much, Mr. Chairman.

Mr. Brogan, as I highlighted in my opening statement, there have been a series of problems with ESSA implementation under the Trump administration, including importantly a lack of transparency in the state plan approval process, and I hope to hear from you on how you will work with Congress to fix those problems.

As one of the authors of the law, I've raised my concerns both to Secretary DeVos and before this Committee. The Chairman has been very helpful in convening conversations with the Department, but there's been no resolution to the concerns I've raised, and the Department is continuing to approve state plans that violate ESSA. It concerns me that Secretary DeVos has not yet appeared before this Committee, all of us, to discuss implementation. I actually think that's unacceptable. Secretary King, by contrast, appeared twice before our Committee during the first year of ESSA implementation.

I wanted to ask you, Mr. Brogan, if you're confirmed, you will lead the office within the Department that has primary responsibility for implementing this law successfully. Will you commit to appearing before this Committee regularly to update us on the continued implementation of the law, including what the Department will do to address state and local implementation that violates ESSA's guardrails?

Mr. BROGAN. Thank you, Senator Murray. I commit to transparency. I commit to working with the Department. Of course, I have not yet been involved at the Department with the approval process of the ESSA plans as I don't work in the Office of Elementary and Secondary Education. But I do commit to you that, as the Secretary has said, the first step is making certain that plans are approved that comport and comply with the law before we move into implementation.

Senator MURRAY. Okay. Are you willing to come back before our entire Committee to address questions about it?

Mr. BROGAN. If invited, I would be happy to attend.

Senator MURRAY. Okay, within the coming months the Department is likely to approve all of the state plans, and do so without addressing the concerns that I and many others actually have raised. So as the approval process concludes, the Department's monitoring of state accountability plans, the monitoring itself, will become all the more important.

Do you commit to working with Congress to establish open and transparent monitoring processes to evaluate whether states and school districts are complying with all of ESSA's guardrails?

Mr. BROGAN. Senator, thank you. I commit to making certain that, again, we follow the laws that were laid down by Congress in the creation of that bipartisan piece of legislation in not only the approval but also the implementation of this first round of ESSA plans and look forward to working with you if I'm fortunate enough to be confirmed to make sure that's true.

Senator MURRAY. Okay. Let me ask you, if you're confirmed, can you describe some of the initial steps that you will take to develop a robust monitoring process, and what are some of the leading indicators that the Department should monitor to determine if ESSA is being well implemented?

Mr. BROGAN. Thank you, Senator. One of my first obligations, if I'm fortunate enough to be confirmed for the position, would be to actually then begin deep conversations with the people who have been involved in this process to date. Thus far, because I am the Deputy Assistant with authority authorized by the Secretary in the Office of Planning, Evaluation and Policy Development, one of the things that I have not been able to do because of the confirmation requirements that I couldn't is to make certain that I know all I can know beyond what I've already worked on, which is to review all of the plans because they are all online; the feedback letters, which are also online I've been able to read; and, of course—

Senator MURRAY. Have you thought yet about the monitoring process once these have been approved?

Mr. BROGAN. I have begun to formulate ideas, but it's impossible to really get into it too deeply until I first get a clearer understanding of how it's been approached thus far, and then how we would move not only with a continuation of approval of those plans if there are still plans to be approved by the time I were fortunate enough to be confirmed, and then also move into the monitoring phase.

Senator MURRAY. All right. Well, one of the reasons Chairman Alexander and I worked together to get an ESSA bill passed was the growing concern from states across the country that the Obama administration was administering our Nation's K-12 education law through waivers. Everybody was getting waivers. It wasn't working. And at the time, states in particular raised concerns about the lack of transparency and consistency in the interpretation of No Child Left Behind from one state to another.

In passing ESSA, it was our intention to put our Nation's K-12 law on stable footing and ensure the law was implemented consistently across all 50 states. So it's really concerning to me that the Department has already approved at least six waivers of various provisions of our bipartisan law, and done it with very little transparency to Members of Congress or to the public.

I wanted to ask you, will you commit to improving the transparency of the waiver process, and specifically by posting the content of the waivers approved by the Department, not just the approval letters but the actual content?

Mr. BROGAN. Senator, suffice it to say, I believe in transparency after all of these years, but because I haven't been deeply involved

for all the right reasons in the process itself, again what I would need to do if I'm fortunate enough to be confirmed is to go in and look at the process that's been used for waivers in that regard. In reading the law and posting it up against what I've seen, I believe I'm correct in saying that none of the plans have contained waivers that have been approved at this point. These would each, that have been approved, be freestanding waivers, as far as I know.

Senator MURRAY. Right. But because there is no public understanding of this, we are walking ourselves into everybody doesn't know why they got a waiver. It's not public; we just know they got waivers. I really believe that we need to have a better open process on this.

Mr. BROGAN. Thank you.

The CHAIRMAN. Thank you, Senator Murray.

Senator HASSAN.

Senator HASSAN. Thank you, Mr. Chair and Senator Murray.

Good afternoon, Mr. Brogan.

Mr. BROGAN. Hello, Senator.

Senator HASSAN. It is good to see you.

Mr. BROGAN. Good to see you again.

Senator HASSAN. To Mrs. Brogan and to Colby, thank you for sharing your dad. To Colby in particular, public service takes a lot out of the people who actually do it. It takes a lot out of their family, too. So we're very, very grateful.

I wanted to just start this afternoon's conversation by reinforcing what Senator Murray has said. We work on a bipartisan level here. It's very important that we know what is carried out during implementation follows congressional intent and reflects the bipartisan agreement that we make. And to that point, I want to follow-up a little bit on this idea of subgroups.

As Senator Murray has said, ESSA requires that states separate out data by demographics of students who historically have required additional supports in an education setting. Subgroups include English language learners, low-income students, and students who experience disabilities.

The data is intended so that we can determine what schools need targeted supports, even in cases where the average overall performance is not a cause for concern. Some states have chosen not to use subgroup performance in school ratings at all, which—I would echo Senator Murray—is a clear violation of the law. In addition, some states propose to create so-called super subgroups by combining two or more groups together.

When states have proposed using these super subgroups, the Department has been inconsistent in enforcing the requirement. For example, as Senator Murray has pointed out, some states don't include subgroup performance in school ratings at all.

Going back to our discussion here of the importance of clarity and transparency, the very people who need to understand how schools are doing around certain subgroups the most—the families of students who belong in these subgroups—aren't able to get the information if the data aren't being collected, or if the subgroups are being aggregated into these super subgroups. I know from my time as Governor that there were times a school district would say to us—literally they would say things along the lines of we can't

educate, for instance, children with disabilities. We have too many kids with severe disabilities, we just can't do it. And we'd be able to point to aggregated data from another school system and say, actually, this school system is doing it really well. Here's the data. Why don't you share best practices here?

If confirmed, do you commit to working with all states to disaggregate subgroup data in their state plans and to use this data as required by law?

Mr. BROGAN. First of all, Senator, thank you for the time. You were kind enough, a lot of it that you gave me yesterday, to have a chance to meet with you and talk about a great many issues. I appreciate it. You were very kind in doing so.

Senator HASSAN. You're welcome.

Mr. BROGAN. Relative to your question, I'm working under the absolute belief that the plans that have been approved were in compliance with the law in all of the required areas. By virtue of that fact, as soon as I move into that job, should I be fortunate enough to be confirmed, again, I will be able to gather significantly more in-depth information about the process and how it has all moved forward.

But I know that the Secretary makes her first obligation—I've heard her say it many times—seeing to it that all of those plans in the minds of the Department, including the Secretary, comport and comply with the law.

Senator HASSAN. Well, thank you, and we would look forward to following up, particularly around this issue.

Mr. BROGAN. Thank you, Senator.

Senator HASSAN. I also want to go to another issue. The most recent civil rights data collection reported over 100,000 cases of restraint and seclusion were used during the 2014 to 2015 school year, the vast majority of which were used on students with disabilities.

If confirmed, how will you work to reduce the incidence of the use of restraints and seclusion, and will you continue to support the Department, the guidance that the Department has provided to state and local education agencies to address the use of restraint and seclusion?

Mr. BROGAN. Thank you, Senator. Of course, it's probably not a surprise after so many years and so many different capacities that the issue of restraint and seclusion is not, of course, as you know better than most, not a new one. It is something that has been in the system as an issue for a good long time, and it should be. It's a very, very important and delicate issue.

Even though the Office of Elementary and Secondary Education does not directly weigh in on that issue from the Department right to the schoolhouse level, clearly working with other parts of the agency, such as the Office of Students with Disabilities, of course, and the Office of Civil Rights, the numbers that are out there which are available should always be looked at and reviewed and, if necessary, conversations take place about that.

Senator HASSAN. Well, I thank you, and I'm out of time. I'd like to follow-up with you on that because there are best practices that can greatly reduce the amount of seclusion and restraint used. It's a civil rights issue, and it should be on the forefront of everybody

at the Department of Education regardless of which chair they sit in. Thank you.

Mr. BROGAN. Mr. Chairman—

The CHAIRMAN. Thank you, Senator.

Mr. BROGAN —if I might, just a real quick follow-up, I promise.

I agree with you very much and have for my whole career that one of the greatest things we can do is recognize why in some cases restraint may be necessary, and yet always be on the lookout for how we can work with faculty, staff, in making certain that the number of restraints are always looked at and, if possible with differing strategies, reduced.

Senator HASSAN. Thank you. I look forward to working with you.

Mr. BROGAN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Hassan.

Senator Jones.

Senator JONES. Thank you, Mr. Chairman.

Thank you, sir, for your service. Congratulations on this nomination.

I've just got a couple of things, and I'd like to follow-up a little bit on what Senator Murray and Senator Hassan were kind of talking about. I'm going to need to go back to this transparency issue. I understand that you're not necessarily in the weeds of the Department, but you mentioned that there were some plans you saw that you felt complied with the law, and I guess my question has a couple of parts.

Number one, were those plans you did review that you thought complied with the law, were any questions at all raised about those plans in your mind about whether or not they, in fact, complied with the law?

Second, in anticipation of your testimony today, did the Department not brief you in any way about the thinking and the processes they went through to get to those applications in the approval process?

Mr. BROGAN. Thank you, Senator Jones. First of all, welcome to you.

Senator JONES. Thank you.

Mr. BROGAN. We're both new.

Thank you for the question. Let me address the last part first. Because of my role, and because of the Federal law regarding vacant positions, it was not the Department's desire not to provide me opportunities in elementary and secondary education, or even briefings in that regard, but to make certain that we were in compliance with that particular law. Because that's not the role that I currently serve in, that's the one that I am being considered for via confirmation, I really have been unable to appropriately become extremely well versed in how the specifics of the approval process took place.

The second part, I did review many of those plans. But again, without being able to hear those conversations and being on the formulation of approval, it was difficult for me to even consider whether that was the case. I apologize for that but—

Senator JONES. That's Okay.

Mr. BROGAN. But that was intentional.

Senator JONES. That's Okay. That's fair enough.

The other area I want to ask about real briefly is in the area of vouchers. I know you have been a proponent of vouchers, and I will tell you in Alabama that's a particular problem, and for me on a personal level, because I don't think we fund our schools as well as we should, particularly in a lot of the areas. There are a lot of private foundations that help more of the affluent schools. Where I live, I pay a fair amount more property tax because my community can afford it. I'm also concerned that so many of the private schools—and I'm just going to be candid about this—private schools that I've seen in Alabama and throughout the south were originally formed for one reason, and that's to get around the desegregation laws and to have separate schools. In fact, Alabama and other places, the schools seem to be more segregated than ever.

Can you kind of walk me through your thinking? Because I'm concerned about taking money from an already poor school system and putting that in a private school that may or may not have been formed in the 1960's to get around court orders and the civil rights laws, but really just taking the money out of the public education. Because I will tell you, we've got great educators here. I feel pretty good because I'm a product of the public schools of Alabama, and I'm a strong proponent.

Could you address vouchers for me a little bit, and particularly moving money from the public schools to private schools?

Mr. BROGAN. Yes, sir, I'd be happy to do that. Two parts. First of all is the word "privatization." I want to make it clear to all of the Members today that I have worked in and around and for public education for my entire adult life, and I have no intention of attempting to privatize public education.

On the second side of the coin is the issue of the word "voucher." First of all, let me be clear that I am a proponent of choice for parents, a wide variety of choices, unique oftentimes to the individual students who attend. But that includes, first and foremost, choices within the public education system today.

I've been involved in the creation of magnet schools and charter schools and different schools of choice within the public school setting. But the idea of possibly expanding that still exists, and I will tell you that if done under the right parameters and in the appropriate way, with all the right thoughts going into those decisions, it can be done and be done appropriately.

I realize the sensitivity of the issue, but I just wanted to clear the record there that I have no interest in privatizing the public education system that serves, obviously, the lion's share of America's children today and will for a long, long time.

Senator JONES. Thank you, sir. I appreciate your answer to that. I appreciate you coming with your family, and if you're confirmed I'll look forward to seeing you back in front of this Committee.

Mr. BROGAN. Welcome to you, sir.

Senator JONES. Thank you so much.

The CHAIRMAN. Thank you, Senator Jones.

Senator KAINE.

Senator KAINE. Thank you, Mr. Chair.

Mr. Brogan, congratulations to you and to your family.

Three items I want to try to cover in 5 minutes; we'll see if I can get there. One I actually wasn't going to ask, but you said some-

thing I want to get clarification on, because I've asked some other witnesses who are nominees to have DOE positions about this. You were answering some questions and you were sort of "I haven't been brought up to speed on this particular thing because of the rules regarding vacant positions." I kind of want to understand what you are being told you should be up to speed on and not be up to speed on.

In other committees that I'm on, witnesses will say or get asked the question: Have you done anything to presume confirmation of the position? And the answer to that is, obviously, no. But usually people will come and they've prepped on what the job description is, or they've prepped on items, prepped on what their own priorities would be in the job, and they don't view that as inconsistent with being a nominee rather than a confirmed appointee.

But it's been witnesses from the DOE and not other agencies, even before this Committee, who kind of come before us and say "I've not been allowed to get briefed on those issues" or "I'm not up to speed on those issues."

What instruction are you given? How do you understand the rules about what you can know about this position that you might be confirmed to, and what you're not supposed to talk about?

Mr. BROGAN. Yes, sir. And it does come from the law. Not being an attorney, my understanding, both as it has been explained to me and my understanding of the reading of it, is that the wording of the law is written with the best intent. It is to make certain that people are doing the jobs that they are hired to do and not doing their job while they're beginning to do another job that requires something like Senate confirmation to which they have not yet been confirmed.

Senator KAINE. Right.

Mr. BROGAN. The interpretation of it is clearly—and you stated this—not acting accordingly that might suggest otherwise.

Senator KAINE. Right.

Mr. BROGAN. By virtue of that fact, the requirement laid is to be very careful that you don't give off any suggestion that you are working in an area that does require Senate confirmation before you are confirmed.

Senator KAINE. I see, Okay.

Mr. BROGAN. But to that end, most of my work thus far on elementary and secondary education has been done not only through pure experience but also reading the laws, reading posted materials that are available to everyone, but just precluded from being engaged and involved in specific conversations or decisions that affect specifically elementary and secondary education.

Senator KAINE. That's helpful.

Mr. BROGAN. Until which time I would be fortunate enough to be confirmed to do that.

Senator KAINE. Yes. In your capacity when you were working in the Florida system, did you work with Federal impact aid?

Mr. BROGAN. Yes, sir.

Senator KAINE. You understand the importance of that to communities that have a high percentage of Federal non-taxable property?

Mr. BROGAN. Yes.

Senator Kaine. Is that a program that you think is valuable and that you would be committed to should you be confirmed to this position?

Mr. Brogan. It is a program that at the time, because I haven't worked with it since, going back a long time ago, it was helpful.

Senator Kaine. It's a very important thing in Virginia, as you might imagine, with a lot of military and other Federal property. The budget submission of the Administration on this earlier in the year cut it significantly, and this is something that I'll want to dialog about should you be confirmed.

The last thing I'll ask is this. The thing that I'm sort of most into in the K-12 space, having been a mayor and Governor, is the retention of good teachers. Talk to me a little bit about work that you did either in your capacity as superintendent, teacher, or working as Lieutenant Governor, working with Governor Bush, strategies to retain good teachers. I think policymakers often talk a lot about getting rid of a bad teacher, and I generally found that the bigger and more challenging effort is attracting and then retaining good teachers.

What are some strategies you think are important, and does the Federal Government have a role in helping states and localities retain good teachers?

Mr. Brogan. Thank you, Senator. The answer to the first part of the question is it is one of the most important and yet challenging parts of what we do out there in public education, is to make certain that we are always recruiting, attracting, and ultimately helping to prepare people to be teachers. We will always need teachers. No matter what anybody else suggests about technology, we will always need great teachers.

In today's market, as you look at curriculum and need becoming tighter and tighter, with more specific obligations laid upon a prospective teacher and current teachers, it's more important than ever before as we change focus in this world about what people will do when they leave their formal educational experience. It has become more important that we retrain current teachers, and that those teachers that we recruit and look to bring in already come to us with the skills necessary to be able to work with students and prepare them for the world that they are going to live in, not the one that we inherited from our mothers and fathers, and it's changed dramatically, as you know.

Using various methodologies over the years, people all over the country—and that's the good news—who have been looking for innovative practice as to how they can recruit, retain, and ultimately train the teachers of the future, whether they're already in the classroom or those who are not yet there.

Senator Kaine. I am over time, but if there's a second round I may ask the second half of that question, which is what do you think the role of the DOE, the Federal Government, might be in helping states and localities deal with the retention question.

Thank you very much.

The Chairman. Thank you, Senator Kaine.

Senator Warren.

Senator Warren. Thank you, Mr. Chairman.

Mr. Brogan, if you're confirmed, you'd be in charge of enforcing the Nation's K-12 laws at the Education Department, including the Every Student Succeeds Act. Now, I fought hard in that law to make sure that Federal election dollars go to the schools and the students who need them most, and I also fought for bipartisan data transparency provisions that would help us better understand how schools are serving all kids and understand which students need more help and more resources.

I share the Ranking Member's concerns about Secretary DeVos ignoring parts of the law, so I want to start by asking about your commitment to enforcing the law. I just want to focus on the data issue. The law requires states and districts to separate data on how students are learning by specific groups of students, like African American students or students with special needs, and for states to include these data in how they figure out which schools need more money and more support.

But a bunch of states just are not doing this. They are flat-out ignoring the law right now, and Secretary DeVos is letting them do that.

What I want to know is, if confirmed, will you commit to make sure that every state follows this provision in the law and uses these critical data to figure out which schools need more Federal dollars?

Mr. BROGAN. Thank you, Senator. Yes. In direct answer to your question, I am a huge believer in data. I am not a data geek, but I know what data is capable of doing, and in this particular case the good news here is that the department is working hard, and I've actually been involved in this part of the process since my arrival not long ago, in helping to recreate how we can generate better data going forward and make sure that it is evidence-based when we talk about changes or alterations or program opportunities through best practice. That is one of the very exciting reasons I decided to ask for this nomination—

Senator WARREN. Good. I appreciate that, and I appreciate your unambiguous confirmation that we're going to follow the law in reporting these data, we're going to get these data and make sure these data are properly used.

I want to ask you about something else, too. I want to ask you about charter schools. Boston's public charter schools are among the best-performing charter schools in the Nation, and that is particularly true for low-income children and children of color, and I am very proud of the hard work that educators in those schools are doing to deliver a great education for our kids.

But I also think there's a lot to be learned from why the Boston charter schools do so well. So can I just start by asking you, what is your view of why those schools do so well in delivering education for their children?

Mr. BROGAN. Thank you, Senator. I was actually commissioner of education in Florida when Florida passed its first charter school bill. Gosh, that's a long time ago, 1996 I think, if memory serves. And why that was an important move to make, there were many reasons, but one of them was the ability not only to see children and families have a different choice if they chose to make it, but very importantly what would be the difference in the charter school

and what could we learn from it as it was worked around the boys and girls who called that charter school home.

I think if you look nationally, that really is one of the most common answers you receive about why charter schools are not just great places for boys and girls, as you mentioned, in Boston, but also the opportunity to observe what changes are taking place, and then hopefully—and that's my excitement—is ultimately through great data and research determine what those practices have meant to the success of those boys and girls.

Senator WARREN. Let me push back just a little bit here, Mr. Brogan, because what I'm talking about here is Massachusetts charter schools, these Boston charter schools are doing better than charter schools in other parts of the country, and that's what to me makes it the interesting question. I just want to point out some things.

In Massachusetts, only the state grants new charters. They don't let anyone else do it. We capped the number of charter schools to keep them from ballooning out of control and crippling the district finances. We don't allow for-profit companies to run charter schools. We hold charter schools accountable for delivering a good education for all of our kids through very aggressive oversight. We shut down charter schools if they're failing our kids. I believe that the evidence is clear that more oversight and more accountability works for our kids.

I'm out of time, so I'm going to stop, but I'm going to ask you in the follow-up questions for a commitment that what we're going to get is we're going to encourage the states to strengthen their oversight of charter schools, not to weaken their oversight of charter schools, so we can guarantee they deliver a top-notch education for our kids.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Warren.

Senator Murphy.

Senator MURPHY. Thank you very much, Mr. Chairman.

I wanted to drill down a little bit deeper into some of the facets of approved state plans that many of us believe are in direct contradiction of the law that we all voted for in a bipartisan way and ask your opinion about maybe one or two of those problematic areas.

The first is an issue over the confusion of subgroup definitions. We identified three categories of schools that need to be targeted for intervention: the dropout factories, the bottom 5 percent of schools; schools with consistently under-performing subgroups; and schools with subgroups performing at the level of the bottom 5 percent of schools.

Here's the issue. The issue is that a lot of state plans confuse the second two categories and, in fact, create a definition by which if a school's group of black students or disabled students won't receive any intervention until they reach that level of being as bad as the bottom 5 percent of schools.

I just want to get your thoughts on this. Do you think that it's appropriate for the Department of Education to give some guidance to states to make sure that they aren't basically morphing these last two categories together? We created three distinct categories

because we expected that they would be defined differently, and that is not what's happening. There have been several state plans that have shown significant confusion over those two different groups.

Mr. BROGAN. Thank you, Senator Murphy. A few moments ago we began to have a similar conversation. So first of all, I'm going to qualify—and I hate to do this, but I have to—that I have in my current role not been a participant in any of the inside-the-Department conversations or the development of the approaches to the ESSA plans that I would be privy to should I be fortunate enough to be confirmed for this position. So that would include things like the issue of the bottom 5 percent and the assessments, et cetera.

Having said that, I have read the law and believe that, first and foremost, the responsibility of the Department is to approve those plans that have met the law. But I too believe that over time, especially since it's round one, we're probably going to find things that may require a deeper dive at a later date.

Senator MURPHY. But is that something—you don't need knowledge of what the Department is doing. Is a state plan in compliance if they create the same definition for two different categories that has been articulated by Congress, in particular the definition of consistently under-performing subgroups and the definition of schools with subgroups that are performing at the level of the bottom 5 percent of schools?

Mr. BROGAN. Thank you, Senator. I would be uncomfortable trying to answer that question without having a much deeper understanding of everything that went into that particular plan and the formulation, but unfortunately that's the position I'm in today.

Senator MURPHY. All right, let me ask you an easier one. Clearly, ESSA says in black and white that when you create your school-by-school measurement, it has to include in it, in that methodology, subgroup performance. There have been plans approved in which the methodology regarding school quality does not include subgroup performance. So would you agree that a state that does not include subgroup performance in their school rating methodology is not in compliance with the law?

Mr. BROGAN. The only way I can answer that, Senator, at this point—thank you for the question—is to say that the Secretary has made it clear over and over again to everyone that she will only approve plans that meet the law, and therefore the plans that have been approved, by all accounts, have complied with that particular fiat.

Senator MURPHY. I think this is where the disconnect is. I mean, that one seems black and white to us, that ESSA says very clearly subgroups have got to be in your methodology. There are irrefutably some plans that have been approved that do not include subgroups in their methodology. So once you get there, I really look forward to—I think it's been referenced that there's going to be a conversation between the Ranking Member and Secretary DeVos. I think that's incredibly important, because it's just a little bit of a mystery as to how the Department can say that only plans that have met the requirements have been approved, and yet this just seems black and white. It doesn't seem black and white, it is black and white to us. And maybe once you're there and once Secretary

DeVos comes and talks to the Committee, we can get a better sense as to why we're not seeing eye to eye on this.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Murphy.

Senator Kaine, you had an additional question?

Senator Kaine. Just to follow-up on this question of teacher attraction and teacher retention. What do you think the right role for the Federal Government is in helping states and localities with that, if you think there is a Federal role?

Mr. BROGAN. Thank you, Senator. I feel my answer will be for much of what we're talking about today in terms of the Department. I believe in ESSA, for example, there is a great opportunity not only to approve plans as a requirement, not only to oversee implementation, make certain funds are flowing appropriately and are accountability based as they are spent, but also very importantly to identify and organize and provide best practice to states and school districts and schools all over the country on a host of issues, and I think the ESSA plans over time are going to be a great fulcrum for identifying some of those.

I think that the Department has that role to provide technical assistance, as I said in my introduction, and identification of best practice so that people who are groping with these issues, if you will, will have the opportunity to find out what's working and where.

Senator Kaine. How about teacher loan forgiveness programs? There are two Federal programs, public service loan forgiveness that is more general but that allows loan forgiveness for folks who have public service careers like teaching, and then there's a specific teacher loan forgiveness program. This is a Federal program to try to attract good teachers and then enable them through loan forgiveness to stay in the profession. Do you support those programs?

Mr. BROGAN. I'm not exactly familiar with those specific programs, but I am supportive of programs that really will help us to identify, recruit, and retain high-quality teachers, which is one of the hallmarks of a great education.

Senator Kaine. By supporting, you also mean supporting that there is a Federal role to try to help states and localities do that?

Mr. BROGAN. Well, the Federal Government has a long track record of helping to identify things that they believe will work and through additional funding to be able to identify them and support them over time.

But I will say this about that. One of the—back to the issue of great data and great information in terms of evidence based, here is another good example. Anything that we do together over time needs to be identified through evidence-based work in terms of what we're trying to do to achieve, and over time are we achieving it. I think that will be a tremendous assistance to the people out there in school districts, to the Department, and to Congress over time.

Senator Kaine. I completely agree with you. I want to do things that are evidence based, and if we're doing things that aren't working, then we should do something else.

I sometimes run into witnesses who would say that even if it were evidence based, no, the Federal Government doesn't have that

role. I'm concerned about it now for a particular reason. We're working on the potential for rewriting the Higher Education Act. The House has passed a version of it. It's on the floor of the House, the House committee. We are talking about it. We have a hearing about it this morning in the Senate. But the House version that's on the floor eliminated—my understanding is it eliminated Title 2 of the Higher Education Act, which is teacher preparation, on the theory that that's not really the Federal Government's responsibility.

I mean, I can't think of a priority that should be more important. We can talk about what's the right thing to do, or not, or whether it's evidence-based or not. But the removal of teacher prep as a Federal priority, assisting states and localities with teacher prep and retention, I would find highly problematic. That's the reason I'm asking you the question. We'll have an opportunity to follow-up more and also to talk about this when we get to HEA work. I appreciate your answers.

Thank you, Chair. I yield back.

The CHAIRMAN. Senator Murphy, do you have other questions?

Senator MURPHY. One additional question. Thank you for allowing it, Mr. Chairman.

I have similar concerns raised by Senator Hassan regarding seclusion and restraint, and I thank you for your comments on that. The data show that it's disabled kids in particular that tend to bear the brunt of seclusion and restraint. There's a right way and a wrong way to do it.

A related topic is that of corporal punishment. There are still several states that allow for corporal punishment. The idea behind it is that in order to effectuate discipline in your school, you need to inflict physical pain on students as a means of correcting behavior.

I just wanted to ask your personal opinion on corporal punishment. I'm not asking whether you think it's appropriate for the Federal Government to be involved or not in state decisions around corporal punishment. That's a different question. But do you personally think that it's appropriate for schools to engage in corporal punishment as a means of enforcing discipline?

Mr. BROGAN. Thank you, Senator. In answer to your question, first of all I can tell you, as someone who had to, as part of the job, mete out corporal punishment a long, long time ago, I found myself regularly offering that to the same students over and over again and questioned whether or not it was having the impact that was originally intended, which was to change inappropriate behavior. Ultimately, that district eliminated corporal punishment.

But I also have a deep and abiding feeling regarding anything discipline, that has to be grounded at the local level because discipline is a local issue. Unless someone is violating someone's civil rights, just the general broad topic of discipline very much has to be focused and centered at the local level for those decisions, especially at the state level.

I was a practitioner, and I understand what it is you're saying.

Senator MURPHY. It won't surprise you to know that I disagree. There are clear intersections with civil rights, and I hope that, maybe as you previewed in your answer to Senator Hassan's ques-

tions, you'll take a look at those, because when you look at who is the victim of seclusion and restraint and corporal punishment, there are some pretty clear trend lines that develop. It's a certain subset of kids who ultimately deserve those civil rights protections that you're referencing.

Thank you, Mr. Chairman.

Mr. BROGAN. Thank you, Senator.

The CHAIRMAN. Thank you, Senator Murphy.

Mr. Brogan, thank you for your testimony and for your service. You have a distinguished background in public education which this Committee would welcome. I think both sides of the aisle welcome that expertise and background. I would observe that it would be much easier for you to answer questions or the Department to answer questions so we could confirm the Deputy Education Secretary, the nominee for General Counsel, the nominee for Assistant Secretary for Planning, Evaluation and Policy Development, and your nomination so that Secretary DeVos has some help down at the Department. I'm sure she hopes that we move swiftly to confirm you, as I do.

I ask unanimous consent to introduce 16 letters of support into the record, including letters from the Council of Chief State School Officers, multiple college presidents, Florida's Commissioner of Education, and former Governor Jeb Bush.

[The following information can be found in the Additional Material section]

The CHAIRMAN. If Senators wish to ask additional questions of the nominee, questions for the record are due by 5 p.m. Monday, January 29th. For all other matters, the hearing record will remain open for 10 days. Members may submit additional information for the record within that time.

The next meeting of this Committee will be a hearing Tuesday, January 30th, at 10 a.m. on reauthorizing the Higher Education Act, accountability and risk to taxpayers.

Thank you for being here. Thanks to your family for being here. The Committee will stand adjourned.

ADDITIONAL MATERIAL

COUNCIL OF CHIEF STATE SCHOOL OFFICERS

January 19, 2018

Hon. Lamar Alexander, Chairman
 Hon. Patty Murray, Ranking Member
*U.S. Senate Committee on Health, Education, Labor, and Pensions,
 428 Senate Dirksen Office Building,
 Washington, DC.*

DEAR CHAIRMAN ALEXANDER, RANKING MEMBER MURRAY, AND HONORABLE MEMBERS OF THE COMMITTEE:

On behalf of state education leaders across the Nation, I am writing in support of the confirmation of Mr. Frank Brogan as Assistant Secretary of the Office of Elementary and Secondary Education at the U.S. Department of Education. The Council of Chief State School Officers (CCSSO) is the nonpartisan, nationwide, nonprofit organization of public officials who head departments of elementary and secondary education in the states, the District of Columbia, the Department of Defense Education Activity, the Bureau of Indian Education, and the five extra-state jurisdictions.

CCSSO supports the confirmation of Mr. Brogan as his years of experience at the state level would bring an important perspective to the U.S. Department of Education. As a former Commissioner of Education and Lieutenant Governor in the

State of Florida, Mr. Brogan is well-qualified to lead the Department in supporting state and local education agencies as they ensure all students graduate from high school prepared for college, careers and life. As a former state education leader himself, Mr. Brogan understands the needs of states, whether it is implementing a statewide accountability system or continuing to work with stakeholders at the state and local levels. This is particularly critical as states move forward in fully implementing the Every Student Succeeds Act. States will greatly benefit from a good partnership with a strong team at the U.S. Department of Education as they work to implement the law in a manner that advances equity for all students. CCSSO looks forward to working closely with Mr. Brogan to foster a successful Federal-state partnership that helps every state and local school district better meet the needs of every individual child.

I urge the Committee to conduct a review of Mr. Brogan's record and experience and to work to confirm him.

Sincerely,

CARISSA MOFFAT MILLER,
Interim Executive Director.

Hon. Lamar Alexander, Chairman
Hon. Patty Murray, Ranking Member
*U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Senate Dirksen Office Building,
Washington, DC.*

DEAR CHAIRMAN ALEXANDER, RANKING MEMBER MURRAY, AND HONORABLE MEMBERS OF THE COMMITTEE:

It is my sincere pleasure and distinct honor to recommend Frank Brogan for the position of Assistant Secretary of Elementary and Secondary Education for the U.S. Department of Education. I collaborated with him many times when he was Chancellor of the State University System of Florida, and it was always rewarding to join forces with someone I admire and respect and who deeply appreciates the intrinsic value of an education. Certainly his dedication to the education field surpasses all others.

One can review his resume to easily learn of Frank Brogan's achievements, successes, and exemplary contributions to the development of Florida's education system. But what you will not glean from it are his extraordinary ethical and moral values, exceptional leadership skills that are above reproach, and, most important, his relentless perseverance to ensure that America's students are well prepared to compete on a world platform as enter they enter the workforce. In addition, he is mission driven, a problem-solver, collaborator, and a trail blazer.

I firmly believe that Frank Brogan would make an excellent addition to the U.S. Department Education as its Assistant Secretary of Elementary and Secondary Education. It certainly takes a village to achieve our Nation's educational goals, and it is imperative that our country have the best of the best in positions to make a difference. Certainly Mr. Brogan not only meets, but exceeds, the criteria to fulfill the important responsibilities of this distinguished post. I recommend him without hesitation.

Sincerely,

EDUARDO J. PADRON,
Miami Dade College.

Hon. Lamar Alexander, Chairman
Hon. Patty Murray, Ranking Member
*U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Senate Dirksen Office Building,
Washington, DC.*

DEAR CHAIRMAN ALEXANDER, RANKING MEMBER MURRAY, AND HONORABLE MEMBERS OF THE COMMITTEE:

Please accept this correspondence in support of the nomination of Frank T. Brogan as the assistant secretary of elementary and secondary education at the U.S. Department of Education.

I believe that Mr. Brogan possesses the necessary experience, expertise and commitment to successfully fulfill the responsibilities for which he has been nominated.

Mr. Brogan's extensive and distinguished background in education practice, policy and management is evident from his tenure as a teacher, principal, superintendent, state commissioner of education, university president, and chancellor of two state

systems of higher education. Mr. Brogan most recently served as chancellor of the Pennsylvania State System of Higher Education. It was during his time as chancellor that he and I worked together on issues of mutual interest and concern.

Mr. Brogan served as chancellor during a time of significant change in Pennsylvania's K-12 and post-secondary education environment. He was quick to assess the state's strengths and challenges, and soon thereafter directed and collaborated on strategic initiatives to improve the delivery of education programming in the Commonwealth. His leadership was characterized by a commitment to student success through support of high academic standards, effective educators, and accountability. He was a fervent supporter of innovation and reform where research and data suggested both could improve student achievement and lead to greater efficiency in the delivery of educational programming and services.

During Mr. Brogan's tenure as chancellor, the presidents of Pennsylvania's State System universities and the presidents of Pennsylvania's community colleges collaborated in new ways to raise the educational attainment level in the state. One result of those efforts occurred in March 2016 during the historic signing of a Reverse Transfer Agreement between the State System universities and community colleges. This agreement, reached collaboratively among the state's 28 public institutions of higher education, allows students who begin their studies at a Pennsylvania community college before transferring to a State System university to receive their associate degree while continuing their education. Similar agreements are mandated in other states but Pennsylvania's agreement was accomplished without the need for statutory intervention. The vision, development and implementation of the agreement came from the recognition—shared, articulated and supported by Mr. Brogan—that the Commonwealth's post-secondary education institutions needed to work outside of their "silos" and move past organizational barriers to provide additional opportunities for students. His leadership was essential to the initiative's eventual success.

Mr. Brogan's solution-centered approach to managing challenges and his willingness to consider diverse perspectives characterized our collaborative work while he was chancellor. He was generous with his time and intellect, and his support of students was unwavering. I am certain that these same qualities would characterize his work at the U.S. Department of Education.

Thank you for your consideration of these comments. I would be pleased to respond to any questions.

Sincerely,

ELIZABETH A. BOLDEN,
President & CEO,
Pennsylvania Commission for Community Colleges.

Hon. Lamar Alexander, Chairman
Hon. Patty Murray, Ranking Member
U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Senate Dirksen Office Building,
Washington, DC.

RE: FLORIDA CHAMBER SUPPORTS FRANK BROGAN'S NOMINATION AS ASSISTANT SECRETARY OF ELEMENTARY AND SECONDARY EDUCATION, U.S. DEPARTMENT OF EDUCATION

DEAR CHAIRMAN ALEXANDER, RANKING MEMBER MURRAY, AND HONORABLE MEMBERS OF THE COMMITTEE:

It is my pleasure to support Frank Brogan's nomination as Assistant Secretary of Elementary and Secondary Education for the U.S. Department of Education.

In the new world of global competition, talent is quickly replacing the tax incentive as the most important tool in the economic toolbox. With that in mind, Frank Brogan's visionary leadership, and ability to put the long-term success of talent supply and education ahead of short-term quick fixes is the right skillset for this important role.

During his tenure as Commissioner of the Florida Department of Education, Frank's collaboration with the Florida Chamber of Commerce and Florida's job creators helped make measurable and lasting K-12 improvements, and played a leading role in creating the Bright Future scholarship program to help incentivize students to seek higher education.

As Lt. Governor, Frank joined Governor Jeb Bush and business leaders in ushering in Florida's landmark A+ education reforms. Since those reforms were first enacted, Florida has become a national example of success by demonstrating stronger student gains. Achievement gaps are closing, high-school graduation rates are at a

14-year high, and third grade reading scores are improving. In fact, statewide graduation rates among African American students increased by more than 10 percent in the last 5 years for Hispanic students—a direct result of the education reforms enacted under Bush/Brogan.

While serving as President of Florida Atlantic University, Frank fostered public/private partnerships with leading STEM research institutes to increase access to medical education, and he further expanded access to higher education when student enrollment surpassed goals outlined in the university's first-ever comprehensive strategic plan.

As Chancellor of the State University System of Florida, the university system saw significant progress in providing access to high-quality higher education and a move to align talent generation to the needs of employers and Florida's future.

Our children and our country win when we focus on a cradle to career continuum that provides education opportunities and training pathways for all learners. Frank Brogan is the right leader with the right vision and passion to help ensure our Nation's education system succeeds.

MARK WILSON,
President & CEO,
Florida Chamber of Commerce.

Hon. Lamar Alexander, Chairman
Hon. Patty Murray, Ranking Member
U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Senate Dirksen Office Building,
Washington, DC.

DEAR CHAIRMAN ALEXANDER, RANKING MEMBER MURRAY, AND HONORABLE MEMBERS OF THE COMMITTEE:

As a young educator in 1997 I had the privilege of meeting Frank Brogan. At the time he was the Florida Commissioner of Education and I was the newly named Florida Teacher of the Year. During that school year I had the opportunity to serve as the Christa McAuliffe Ambassador for Education and to say that it provided me with my greatest learning experience as an educator is an understatement. I was able to travel with Frank, learn from Frank, witness firsthand the passion that he has for education, and to see the difference one educator can make. I left that experience feeling empowered and knowing my value in the educational community. It made all the difference in the educator and administrator I went on to become.

Frank Brogan has spent a lifetime making students his priority. From classroom teacher to administrator it is evident in every conversation held with him that his primary goal is that each and every student have the opportunity to meet their educational potential. He not only set high standards for students during his time as Superintendent, Commissioner, and Lieutenant Governor; he also set high standards for educators, knowing that they are what truly make the difference in the lives of children. He worked tirelessly in turn to make educators feel valued as professionals. He is what I perceive as a perfect example of public servant.

I wholeheartedly endorse Frank Brogan being appointed as Assistant Secretary of Elementary and Secondary Education for the U.S. Department of Education. I am confident that he will bring an element to the position that is not only quantifiable but is absolutely necessary for the success of the students in America.

Thank you for your consideration,

GRACE WILLIAMS,
1997 Florida Teacher of the Year,
1998 Milken Educator,
1998 Christa McAuliffe Ambassador for Education,
Principal/Owner, Parsons Christian Academy.

Hon. Lamar Alexander, Chairman
Hon. Patty Murray, Ranking Member
U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Senate Dirksen Office Building,
Washington, DC.

DEAR CHAIRMAN ALEXANDER, RANKING MEMBER MURRAY, AND HONORABLE MEMBERS OF THE COMMITTEE:

I am writing on behalf of Frank Brogan who has been nominated to serve as of my recent nomination to the position of Assistant Secretary of Elementary and Sec-

ondary Education for the U.S. Department of Education. Frank's career has made him extraordinarily qualified for the job.

He has been a classroom teacher, a principal, a school district superintendent, the Florida Education Commissioner, Florida's Lt. Governor, President of Florida Atlantic University and the leader of two University and College systems (Florida and Pennsylvania). He showed his passion for student learning at every level of education and would do the same if confirmed as Assistant Secretary of Elementary and Secondary Education.

I recommend his confirmation.

Sincerely,

JEB BUSH.

Hon. Lamar Alexander, Chairman
 Hon. Patty Murray, Ranking Member
U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Senate Dirksen Office Building,
Washington, DC.

DEAR CHAIMIAN ALEXANDER, RANKING MEMBER MURRAY, AND HONORABLE MEMBERS OF THE COMMITTEE:

I am writing in support of Mr. Frank Brogan for the position of Assistant Secretary of Elementary and Secondary Education for the U.S. Department of Education. I had the great pleasure of working closely with Frank from 1999 to 2004 when he was Lieutenant Governor of Florida. Frank was the pivotal person implementing Governor Jeb Bush's groundbreaking K-12 reforms during his first term. Frank exhibited an incredibly high degree of policy knowledge, political skill, and integrity. As a former classroom teacher principal and State Commissioner of Education, he had more real life K-12 experience than anyone I had worked with.

I know that he will do an outstanding job for the Department of Education. The country would be lucky to have him in this position. Please contact me at any time with any questions.

Sincerely,

JOHN F. KIRTLEY,
Chairman,
Step Up For Students,
Vice Chairman,
The American Federation For Children.

Hon. Lamar Alexander, Chairman
 Hon. Patty Murray, Ranking Member
U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Senate Dirksen Office Building,
Washington, DC.

DEAR CHAIRMAN ALEXANDER, RANKING MEMBER MURRAY, AND HONORABLE MEMBERS OF THE COMMITTEE:

I am writing this letter to support the nomination of Frank Brogan as the Assistant Secretary of Education for Elementary and Secondary Education.

As a friend and as former speaker of the House and State Senator in Florida, I have known Frank for nearly 25 years. I had the privilege of working with Mr. Brogan on high-level, complex education policy issues during his tenure as Florida's Education Commissioner, Lt. Governor and Chancellor of the State University System.

As a professional and a family man, Frank is well regarded for his integrity, strong character and unmatched enthusiasm. His understanding of executive duties and unwavering commitment to improve the lives of students through quality education is unwavering.

Without reservation, I strongly endorse the confirmation of Frank Brogan as Assistant Secretary of Education.

Sincerely,

JOHN THRASHER,
President.

Hon. Lamar Alexander, Chairman
 Hon. Patty Murray, Ranking Member
U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Senate Dirksen Office Building,
Washington, DC.

DEAR CHAIRMAN ALEXANDER, RANKING MEMBER MURRAY, AND HONORABLE MEMBERS OF THE COMMITTEE:

It is my honor to offer this letter of support for Frank T. Brogan to be confirmed as Assistant Secretary of Elementary and Secondary Education for the U.S. Department of Education.

I had the opportunity to serve with Mr. Brogan when he was Chancellor and I was serving as president of Clarion University—one of the 14 universities within Pennsylvania's State System of Higher Education. I've also had the unique experience to succeed him in the role as CEO of this System. From both perspectives, I truly appreciate his courage and ability to shine a public light on challenging matters—creating vitally important public dialog that impacts the State System.

During his time as Chancellor, Mr. Brogan was the lead advocate in promoting both student affordability and state investment for the 14 universities within the System. Those efforts resulted in three consecutive years of increased appropriations—an impressive feat amid Pennsylvania's financial constraints and following 7 years of budget cuts or stagnations.

From his arrival in 2013, Mr. Brogan worked hard to eliminate outdated or burdensome regulations that held back the creativity and nimbleness of our universities—instituting new policies to encourage flexibility and greater decisionmaking at the local level. These efforts continue even today, with increased vigor.

Most important, Mr. Brogan was the first to call for an independent, top-to-bottom review of the State System. Completed in 2017, results of that review led the Board of Governors to establish three strategic priorities: (1) ensuring student success; (2) leveraging university strengths; and (3) transforming governance and leadership. These priorities are already being used to guide the System Redesign that will help our students and universities thrive into the future.

Mr. Brogan has a wealth of experience—both inside and outside the classroom—that will serve the U.S. Department of Education well. As a lifelong educator who has served in both K-12 and higher education roles, he is uniquely equipped to provide both leadership and real-world perspective as the department works to shape the future of education policy.

Sincerely,

KAREN M. WHITNEY,
Ph.D.,

Interim Chancellor,
Pennsylvania's State System of Higher Education.

Hon. Lamar Alexander, Chairman
 Hon. Patty Murray, Ranking Member
U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Senate Dirksen Office Building,
Washington, DC.

DEAR CHAIRMAN ALEXANDER, RANKING MEMBER MURRAY, AND HONORABLE MEMBERS OF THE COMMITTEE:

I am writing to you in support of Frank T. Brogan, President Donald Trump's nominee for the position of Assistant Secretary of Elementary and Secondary Education for the United States Department of Education.

Over the past 30 years, I have had the pleasure of working alongside Mr. Brogan and witnessed, first hand, his many accomplishments. In 1994, while he served as Florida's Commissioner of Education, he was vital to the creation of the Florida Bright Futures program which has helped more than 725,000 students attend a post-secondary institution. Four years later, while in his role of Lieutenant Governor for the State of Florida, he oversaw education policy and was the legislative liaison for the administration. Then as president of Florida Atlantic University (FAU) in 2003, he developed the first-ever comprehensive strategic plan for the university and focused on encouraging diversity among FAU's students, faculty and staff. While at FAU, he moved the university toward becoming a strong engine of economic development for South Florida and grew the university with the largest expansion of facilities in FAU history.

In 2009, Mr. Brogan was selected as the Chancellor of the State University System of Florida. During his tenure, he was able to restore the relationship of the

State University System with the Florida legislature, he raised enrollment by 7 percent and increased degree production by 12 percent. He also received full Board approval of the 2025 Strategic Plan for the System. Prior to his departure, he laid the groundwork for the Performance Based Funding model that Florida uses today to track university progress and system goals.

There are many, many more accomplishments of Mr. Brogan throughout the years. Those accomplishments and hard work are a testament to his lifelong dedication to education and to his fellow citizens.

It is with my highest degree of confidence that I fully support Mr. Frank T. Brogan for the position of Assistant Secretary of Elementary and Secondary Education for the United States Department of Education.

Sincerely,

MARSHALL M. CRISER, III,
Chancellor.

Hon. Lamar Alexander, Chairman
Hon. Patty Murray, Ranking Member
*U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Senate Dirksen Office Building,
Washington, DC.*

DEAR CHAIRMAN ALEXANDER, RANKING MEMBER MURRAY, AND HONORABLE MEMBERS OF THE COMMITTEE:

This letter comes in recommendation for Hon. Frank Brogan for the position of Assistant Secretary of Elementary and Secondary Education for the U.S. Department of Education.

I have known Mr. Brogan for close to 25 years in several capacities here in the great State of Florida. I first met Mr. Brogan in 1993 while he was the superintendent of Martin County, Florida schools and I was a program coordinator in the Florida Department of Education. His outstanding vision as an educator lead his schools to be among the leaders in Florida in developing career pathways, and assuring high-level academic and technical performance for secondary students. He was also one of the pioneers in Florida in articulating those career pathways to college.

From 1995-1998 I had the honor of working for Mr. Brogan while he served as the elected Commissioner of Education in Florida. In my role as director of the School-to Work Opportunities initiative, we built upon the career pathway models aforementioned and brought them to scale state-wide. The goal of this effort was assure all Florida students were prepared to enter the workforce and post-secondary education. Florida was a national model in this effort under his support.

Mr. Brogan then became Florida's Lieutenant Governor in 1998 and was actively involved in the Florida School Code rewrite and reshaping of higher education governance in Florida. As you know he had great success here as Chancellor of the State University System as well as in Pennsylvania.

There are few people I have met and worked with in my career as an educator in Florida that have impressed me more than Frank Brogan. He is extremely knowledgeable about all aspects of K-16 education. He is a visionary and willing to try new methods, practices, and educational models to improve student performance. Moreover, he is an honorable person who can be trusted to work closely with educators around the country and advance teaching and learning for all. His high level experiences, both as an elected official and appointed administrator, make him uniquely prepared for the position of Assistant Secretary of Elementary and Secondary Education for the U.S. Department of Education.

It is without any reservations that I strongly support and encourage his confirmation.

Kindest Regards,

MICHAEL BRAWER,
*Chief Executive Officer and Executive Director,
Association of Florida Colleges.*

Hon. Lamar Alexander, Chairman
 Hon. Patty Murray, Ranking Member
U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Senate Dirksen Office Building,
Washington, DC.

DEAR CHAIRMAN ALEXANDER, RANKING MEMBER MURRAY, AND HONORABLE MEMBERS OF THE COMMITTEE:

It is an honor to offer my wholehearted support of President Donald Trump's nominee to the position of Assistant Secretary of Elementary and Secondary Education for the U.S. Department of Education, Frank Brogan.

There is nothing more important than ensuring our nation's students have access to a public education system that enables them to gain the knowledge and skills necessary to succeed in this global, ever-evolving economy.

Mr. Brogan began his career as a fifth grade teacher and, through hard work and dedication, rose through the ranks to serve in a myriad of positions at the K-12, college and university levels. Throughout that time, he proved to be a champion for student-centered policy and an exuberant leader whose passion for student success continually spurred positive change.

As further evidence of his remarkable impact on education in the State of Florida, I have provided a small sampling of his legendary work:

- As Florida's Commissioner of Education, Mr. Brogan played an integral role in re-focusing and streamlining the department of education's work on increasing student achievement. As the leader of the education agency for the (then) fourth largest state in the Nation set up the conditions for Florida's education reforms and skyrocketing student achievement that are the envy of the Nation.
- During his time as Lieutenant Governor, he played an integral role in establishing Florida's school grading system. School grades remain a critical component of our state's accountability system and have been the foundation of our continued increases in educational excellence for all Florida students. He also encouraged Floridians to mentor in schools and with youth organizations. He helped develop the state's Mentoring Initiative, which encourages state employees to participate in their communities by providing 1 hour per week of administrative leave for mentoring activities. This program remains today.
- As the fifth president of Florida Atlantic University, he helped secure partnerships with leading research organizations, such as Scripps Research Institute, the ToITey Pines Institute for Molecular Studies, the Max Planck Society and the H. Lee Moffitt Cancer Center & Research Institute. He also grew dual enrollment, graduate and science programs.
- Under his leadership as chancellor of the State University System, the system achieved significant progress in providing access to high-quality higher education, which led to increased enrollment, increased degree production and record-high attainment in academic standards, graduation rates, national rankings and research.

This unique combination of qualities and strong record of success demonstrate clearly that Mr. Brogan is the ideal candidate for this position, and I appreciate greatly the opportunity to speak on his behalf.

Sincerely,

PAM STEWART,
Commissioner of Education, Florida.

Hon. Lamar Alexander, Chairman
 Hon. Patty Murray, Ranking Member
U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Senate Dirksen Office Building,
Washington, DC.

DEAR CHAIRMAN ALEXANDER, RANKING MEMBER MURRAY, AND HONORABLE MEMBERS OF THE COMMITTEE:

It is my sincere honor and pleasure to support Frank T. Brogan's nomination to the position of Assistant Secretary of Elementary and Secondary Education for the United States Department of Education.

Most recently Frank served as the Chancellor of the Pennsylvania State System of Higher Education and in this role Frank's leadership was instrumental in supporting our commonwealth's vision for higher education at the state-run universities

and colleges. His guidance and knowledge exhibited in all realms of education while in that position led to increased efficiency, improved communications, and thoughtful, well-conceived high-level decisionmaking. Combined with Frank's excellent people skills, this led to a win-win situation for students in our state during the 4-years of Frank's tenure in this position.

Mr. Brogan's support for the ESSA Plan which Pennsylvania put forth for approval to the United States Department of Education, and its subsequent approval, meant a great deal to our team. Frank enthusiastically hosted discussion groups as we formulated our plan, and his input during those group meetings was an invaluable contribution to the outcome of a dynamic and successful Pennsylvania plan.

I thoroughly enjoyed collaborating with Frank as a member of the Pennsylvania State System of Higher Education Board of Directors, and valued his input to our ESSA plan. I wish him great success as he pursues this higher calling and next chapter in his illustrious career.

Sincerely,

PEDRO A. RIVERA,
Secretary of Education.

Hon. Lamar Alexander, Chairman
Hon. Patty Murray, Ranking Member
*U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Senate Dirksen Office Building,
Washington, DC.*

DEAR CHAIRMAN ALEXANDER, RANKING MEMBER MURRAY, AND HONORABLE MEMBERS OF THE COMMITTEE:

I am writing in my capacity as the president of the State Higher Education Executive Officers (SHEEO) Association to enthusiastically give my support to Frank Brogan as you consider his nomination as Assistant Secretary of Elementary and Secondary Education at the U.S. Department of Education. Mr. Brogan's service as Chancellor for both the Florida and Pennsylvania higher education systems, his tenure as a university president, and his experience as both a public-school teacher and administrator equip him with an extensive set of skills that uniquely qualify him to serve in this capacity.

Frank has proven himself to be a thoughtful and diplomatic leader who is respected by his peers. He is willing to address tough policy issues with an eye toward better equipping students with the skills needed to succeed in the workforce. In short, Mr. Brogan possesses the work experience and traits needed to further our Nation's P-20 education agenda at this critical time.

While SHEEO was saddened to lose Frank as a trusted and respected member of our organization, I am heartened by the possibility of his serving our Nation in this capacity. His experience and heart for service make him an ideal candidate.

Respectfully,

ROBERT E. ANDERSON,
President.

Hon. Lamar Alexander, Chairman
Hon. Patty Murray, Ranking Member
*U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Senate Dirksen Office Building,
Washington, DC.*

DEAR CHAIRMAN ALEXANDER, RANKING MEMBER MURRAY, AND HONORABLE MEMBERS OF THE COMMITTEE:

It is with heartfelt enthusiasm I add my personal recommendation to the nomination of Frank T.

Brogan as Assistant Secretary of Elementary and Secondary Education for the U.S. Department of Education.

Having known Frank for nearly 25 years, it has been a privilege to watch him shape Florida's system of public education, first as Superintendent of Schools for Martin County, then as Florida's Commissioner of Education and finally as Lieutenant Governor of Florida.

Frank's initiatives brought accountability and school choice to Florida Education. His experience and leadership skills will be an invaluable asset to our country's school system.

Though Frank went on to be President of Florida Atlantic University and Chancellor of Pennsylvania's public university system his first love has always been the K-12 educational years which provide the foundation for every child's learning.

Your favorable consideration of his appointment will be sincerely appreciated.

Very truly yours,

TONI JENNINGS,
Lieutenant Governor of Florida, 2003-2007,
President, The Florida Senate, 1996-2000,
Senator, The Florida Senate, 1980-2000.

Hon. Lamar Alexander, Chairman
 Hon. Patty Murray, Ranking Member
U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Senate Dirksen Office Building,
Washington, DC.

DEAR CHAIRMAN ALEXANDER, RANKING MEMBER MURRAY, AND HONORABLE MEMBERS OF THE COMMITTEE:

It is my pleasure to present a letter of support for Mr. Frank Brogan's nomination to the position of Assistant Secretary of Elementary and Secondary Education for the U.S.

Department of Education. I have known Mr. Brogan for 20-plus years and have witnessed his tremendously positive impact on education in Florida. He has excelled in the many roles in which he has served throughout his public service career.

As a former Florida school superintendent I had the opportunity to work with Mr. Brogan in his capacity as Florida Commissioner of Education and Florida Lieutenant Governor.

In both roles he was widely respected for his work ethic and his knowledge of the entire scope of education both public and private. Mr. Brogan is known for being for the right and inclusive in his dealings with people. He embraces differences of opinion and has the ability to find the common ground needed to arrive at consensus.

In my current roles as Chief Executive Officer of the Florida Association of District School Superintendents and as State Senator in Florida, I am pleased to support the President's nomination of Frank Brogan. He will be a tremendous asset to the U.S. Department of Education and will fulfill his obligations to the fullest.

Sincerely,

WILLIAM J. MONTFORD, III,
Florida State Senator, District 3.

QUESTIONS AND ANSWERS

RESPONSE BY FRANK T. BROGAN TO QUESTIONS OF SENATOR COLLINS, SENATOR MURKOWSKI, SENATOR YOUNG, SENATOR MURRAY, SENATOR CASEY, SENATOR WARREN, AND SENATOR HASSAN

SENATOR COLLINS

Question 1. The needs of public schools in Maine are very different from those in large urban areas. The majority of Maine's schools and school districts are small and rural, and the constraints on resources and realities of distance greatly influence the policies and practices for delivering high-quality education in those settings. The concern I hear in Maine from teachers, administrators, and parents is that school vouchers and other school choice policies will divert scarce resources from public schools. The U.S. Department of Education is an important partner in fulfilling the promise of high-quality public education for all students, and its primary focus should be to help our states and communities support and strengthen our public schools.

Over your career, you have supported school choice policies. Would you support a Federal mandate that would require states to adopt private school vouchers or other so-called school choice options?

Answer 1. No, I would not support a Federal mandate requiring states to adopt private school vouchers or other school choice options.

SENATOR MURKOWSKI

Question 1. All states are unique. Alaska is more unique than most. Eighty-two percent of our communities are unconnected by road—including our state capital.

The cost of living in our rural communities is extremely expensive. A gallon of milk—if you can get it—can cost \$20. Many children who grow up in the Bush think bananas are supposed to be brown. We have huge areas where the best internet connection available is by satellite, where downloading a FAFSA form can take hours. In one community in Southeast, the statewide assessment had to be scheduled on a day when no cruise ship was in town because the ship's passengers used up all the internet capacity. Our schools reflect incredible diversity in many ways, from size to culture to languages spoken. Anchorage School District is our largest with approximately 46,000 students. Over 100 languages are spoken and two of the most diverse schools in the Nation are located there. Pelican School District is our smallest school with 13 students in grades K–12. In rural Alaska, Native elders who were abused for speaking their own languages in school when they grew up are looking to their grandchildren's school to help save their dying languages. How will OESE, under your leadership, enable Alaska to take full advantage of the flexibility offered by ESSA to meet the needs of the students in such different settings across the state?

Answer 1. One of the most important aspects and purposes of ESSA is the opportunity that the law provides to states and local school districts; through increased flexibility in the allocation of Federal funds, states are free to support the unique needs of their states, local communities, and students. If confirmed as Assistant Secretary for Elementary and Secondary Education, I believe that OESE can play a helpful and important role throughout the implementation of ESSA in providing SEAs and LEAs with technical assistance, including highlighting the broad flexibilities in the law.

Question 2. Native American students across the Nation, as a subgroup of students, have the lowest or nearly lowest proficiency rates, high school graduation rates, and post-secondary enrollment rates of any subgroup of students in the Nation. In Alaska, far too many Alaska Native children share these disappointing outcomes—a situation Alaska Native tribes and Native organizations are committed to improving. Many Alaska Native leaders believe strongly that Native leadership over how Federal, state, and local funds are spent to educate their children will result in much better outcomes. They point to the positive changes that occurred in Native health outcomes when the Indian Health Service compacted with Alaska Native organizations, which now direct delivery of health care in Alaska. Some Alaska Native leaders have proposed that the U.S. Department of Education compact with Alaska Native tribes and Native organizations to receive Title VI Indian Education Formula Grant funds and provide services directly to Alaska Native students. Would you be willing to meet with Alaskan education and Alaska Native leaders to discuss their concerns and this proposal?

Answer 2. I would be pleased to meet with Alaskan education and Alaska Native leaders to discuss their concerns, should I be confirmed.

Question 3. According to multiple sources, including a 2016 report by the Center on Standards and Assessment Implementation funded in part by the Department, American Indian and Alaska Native Students achieve below their peers both in academic proficiency and high school graduation rates. This report recommends incorporating culturally responsive instruction, improving school climate, and increased family and community involvement as evidence-based strategies to reverse this long-standing trend. In many parts of the country, Native leaders are more involved in directing how these strategies are implemented. In many cases, they note that Native communities are best able to address the needs of Native children. If confirmed, you will have oversight over the Office of Indian Education, which was created to help schools, post-secondary institutions, tribes, and Native organizations' efforts to meet the needs of Native students through formula and competitive grants. Will you commit to meeting with the National Indian Education Association and with American Indian, Alaska Native, and Native Hawaiian leaders and advocates within the first month of your tenure as Assistant Secretary to learn more about what issues are important to these communities and how the Department can better serve American Indian, Alaska Native, and Native Hawaiian students?

Answer 3. I would welcome the opportunity to meet with the National Indian Education Association, American Indian, Alaska Native, and Native Hawaiian leaders and advocates, to learn more about these communities, should I be confirmed.

Question 4. For American Indian and Alaska Native students, just as for all Americans, respect for family and culture is critical. Such respect for Native people is expressed through consultation with the elected leadership of tribes. Consultation is consistent with the Constitution's provision that the Federal Government is the entity that engages with those tribal nations. Consultation is also well-established as critical when a policy or decision regarding Native communities is proposed. Native communities view meaningful consultation as a dialog where both parties are

truly heard and considered and either consensus is reached or a respectful resolution occurs. Consistent with the importance of genuine engagement with local and state leaders, will you commit to pursuing meaningful consultation with tribes when a policy or decision that would impact Native education is under consideration by the Department?

Answer 4. I believe strongly in the requirements for consultation with tribes and will adhere to them, should I be confirmed as Assistant Secretary for the Office of Elementary and Secondary Education.

SENATOR YOUNG

Question 1. The Every Student Succeeds Act presents an opportunity for states and local school districts to develop policies best suited to their needs. If confirmed as the next Assistant Secretary for Elementary and Secondary Education, you will have a unique role in assisting states in meeting the requirements of the law as well as designing innovative strategies that complement the diversity of our country. I believe a vital component of innovation is adopting evidence-based approaches in order to ensure student success.

- In your opinion, what is the role of evidence-based models in education?
- Additionally, what is the role of the Federal Government in helping states and school districts across the country have access to evidence-based approaches to improving K–12 education?

Answer 1. Consideration of the available evidence should always be central to making decisions about education programs. When evidence is not available, taking opportunities to build the evidence base so that we learn from our practices is also very important. ESSA reflects the importance of the use and development of evidence in education. In implementing the law, the Department partners with states, school districts, researchers, and others to highlight evidence-based approaches and support their implementation. I look forward to being a part of this effort, should I be confirmed.

SENATOR MURRAY

Question 1. States will soon move toward fully implementing the Every Student Succeeds Act (ESSA), including identifying schools for comprehensive, additional targeted, and targeted support. School districts will also have to start to implement evidence-based interventions in those identified schools. What do you think the Department should do to provide assistance and support to school districts and states as they seek to implement these evidence-based provisions with fidelity?

Answer 1. ESSA provides an opportunity for the Department to support state and local efforts to address the needs of the lowest performing schools (i.e., those identified as comprehensive support and improvement schools) and schools with low or consistently underperforming subgroups (i.e., those identified as additional targeted and targeted support and improvement schools). The Department has a variety of mechanisms through which it supports states and school districts in addressing needs unique to their contexts and students. For example, the Department released non-regulatory guidance entitled Using Evidence to Strengthen Education Investments available at <https://www.ed.gov/policy/elsec/leg/essa/guidanceuseinvest.pdf> to support state and local use of data-driven decision-making. The Department's Institute of Education Sciences (IES) also releases user-friendly reports and guides that summarize and provide information on evidence-based interventions to address different groups of students (e.g., those in the lowest performing schools and schools with gaps between all students and students with disabilities or English learners) in different contexts (e.g., rural or urban settings) and in different content areas (e.g., mathematics or reading/language arts or science). Further, the Department published technical updates to the Education Department General Administrative Regulations (EDGAR) to align the definition of evidence-based in ESSA with the evidence requirements in EDGAR. This alignment can support state and local efforts to coordinate the work across formula and discretionary grant programs.

Question 2. What procedures should the Department put in place to ensure it can effectively monitor and determine whether states and districts are complying with all of ESSA's requirements? If confirmed, what steps will you take if states or districts are not complying with ESSA's requirements?

Answer 2. If confirmed, I am committed to ensuring that states and local school districts comply with the requirements of ESSA, not only in the plans that states submit to the Secretary for approval, but also in monitoring the implementation of these plans moving forward. While it would not be appropriate for me to commit

to putting any specific procedures into place, if confirmed, I intend to engage in robust discussions with the Secretary and staff in the Office of Elementary and Secondary Education to evaluate and determine how the Department can best ensure that states and districts are in compliance. If it is determined any states or districts are not in compliance with the law, then there are multiple tools that the Secretary may use, such as withholding certain administrative funds. However, I would need to consider each case on an individual basis, review all the relevant facts, and consult with career staff experts before making any recommendations to the Secretary.

Question 3. It is not clear districts are fully focused on ESSA implementation, given the bulk of the attention so far has been on approving state plans. What do you think the Department can do to ensure school districts are fully aware of their obligations under ESSA and ready to implement those obligations?

Answer 3. Local Education Agencies (LEAs) are critical to the success of ESSA and State Plan implementation. Should I be confirmed as Assistant Secretary for Elementary and Secondary Education, I look forward to working with states and LEAs, through the provision of technical assistance, as they move to the next phase of implementation of the approved plans and the additional requirements under ESSA. It is my understanding that the Department has a robust technical assistance program in place and is able to assist both states and LEAs with any questions they have relative to ESSA. Additionally, as issues arise through monitoring, the Department will work to ensure the requirements of the law are adhered to by both states and LEAs.

Question 4. Do you support eliminating Title II of ESSA as the Trump administration proposed in its fiscal year 2018 budget? If “yes,” please provide your justification, given this is the main Federal program dedicated to training and supporting our Nation’s teacher and leader workforce? If “no,” please discuss the changes ESSA made to Title II and what the Department can do to encourage states and districts to implement those changes?

Answer 4. Since I was not at the Department during the development of the Fiscal Year 2018 Budget Proposal, it would not be appropriate for me to speculate on those decisions. However, I understand that difficult decisions had to be made and, if confirmed, I look forward to working with the Department in developing future budget proposals.

Question 5. The Department of Education already delayed by one school year, the effective date for state and districts to report per pupil expenditures. Do you commit, if confirmed, to ensuring there are no additional delays and to implement all other state and local reporting requirements in ESSA for the 2017–18 school year as specified in the June 2017 Dear Colleague letter from the Department? Do you commit there will be no further delays of the PPE reporting requirement (in other words that all states and districts will be reporting on that requirement by the 2018–19 school year)?

Answer 5. If confirmed, I would commit to implementing the laws as authorized by Congress. In addition, I believe strongly in the necessity of giving parents useful and accessible information regarding the performance of their child’s school, which the report cards provide. My understanding is that the delay of the effective date for reporting per pupil expenditures which was made in June 2017 was to help facilitate an orderly transition to the new law. So with regards to this specific issue, it would not be appropriate for me to commit to any decision, out of deference to the Secretary and without all of the facts necessary.

Question 6. The Department has already issued a series of waivers from requirements in ESSA, despite the fact the law has not been fully implemented. It has been hard for Congress, advocates, and members of the public to find information on the content of the waivers requested by states. How do you think the Department can improve public transparency around the waivers sought by states and then the decision to approve or deny those requests by the Department, as well as the content of the waivers? Will you commit, if confirmed, to ensuring states release the content of their approved waivers so that Members of Congress and advocates can understand how policies in the approved waivers interact with the policies states have laid out in their approved ESSA state plans?

Answer 6. I firmly believe in transparency. However, since I have not been involved in the deliberations or decisions concerning various waivers that states have requested, as well as how those decisions have been communicated to the public and Congress, it would not be appropriate for me to speculate on those issues. If confirmed, I will commit to reviewing the waiver review process to ensure that it aligns with what the law requires, as well as how the Department is providing information to the public concerning waiver decisions to ensure that there is an appropriate level of public transparency.

Question 7. ESSA requires states and districts to report on several new reporting requirements, including per-pupil expenditures, data from the Civil Rights Data Collection, post-secondary enrollment where available, and several reporting requirements related to state accountability systems. Please discuss how the Department will ensure states and districts fully comply with these reporting requirements, including ensuring that identified schools are clearly listed on report cards, student outcomes on accountability indicators are clearly reported for all students and each subgroup of students, and how the Department will ensure the report cards meet all of the transparency requirements in section 1111(h)(1)(B) related to language and accessibility.

Answer 7. If confirmed, I would commit to implementing the laws as authorized by Congress, which includes states and districts reporting the data elements described in your question. Given the law's requirements, my expectation is that the Department would use its standard methods of ensuring compliance, including monitoring and the provision of technical assistance, as well as its enforcement powers, if necessary.

Question 8. In the fiscal year 2018 budget request, President Trump proposed to allocate \$1 billion in Title I funding through the Weighted Student Funding (WSF) pilot authorized under Section 1501 of ESSA. In addition, President Trump proposed to manipulate the WSF authority and require school districts receiving this funding to adopt open enrollment policies, which was not a condition Congress included in the WSF pilot program when it passed ESSA. Both the House and Senate rejected this proposal, with the Senate Labor, Health and Human Services, Education and Related Agencies Subcommittee report accompanying the fiscal year 2018 appropriations bill stating, "the Committee believes significant changes such as this to this recently reauthorized law should be made as needed through legislation considered by the authorizing Committees of Congress." Do you commit to implementing the WSF pilot as Congress intended and not conditioning use of this pilot authority on the adoption of school choice policies, including open enrollment?

Answer 8. I am pleased that the Department released the Weighted Student Funding (WSF) pilot application on February 7, 2018. Should I be confirmed, I look forward to working with the Local Educational Agency awardees as they implement the pilot.

Question 9. How should the Department conduct oversight of state plans that choose to implement locally selected nationally recognized assessments at the high school level as permitted in section 1111(b)(2)(H)?

Answer 9. It is my understanding that ESSA allows for a state to choose to make a nationally recognized high school assessment available for selection by an LEA in lieu of the statewide high school assessment only if certain specific requirements in the law are met. Therefore, my expectation is that the Department would monitor and enforce states' compliance with those specific provisions of the law in order to ensure a state is fully compliant, for those states that choose to make a nationally recognized high school assessment available as an option for use by an LEA.

Question 10. ESSA contained new important tribal consultation provisions, both in Title I as it relates to states plans and in Title VIII, Section 8538, which requires certain school districts to engage in tribal consultation. We have heard many concerns that states and school districts are not meaningfully following through on these tribal consultation requirements. Please discuss how you plan to monitor whether or not states and school districts are meeting these requirements, including whether the Department plans to distribute technical assistance to states and districts in order to ensure they fully implement these important tribal consultation provisions.

Answer 10. Consultation with stakeholders is an important aspect of ESSA and, I believe, is a necessary component to fulfilling the clear intent of Congress to return decisions back to states and local communities under the law. This certainly extends to tribal consultations on the development and implementation of state plans under Title I and programs under Title VIII. While it would not be appropriate for me to commit to any specific procedures to ensure these consultations take place and are ongoing, I intend to engage in robust discussions with the Secretary and staff in the Office of Elementary and Secondary Education, if confirmed, to evaluate and determine how the Department can best ensure that states and districts are in compliance with the law.

Question 11. In part, Congress enacted ESSA to end the administration of our Nation's education law through waivers. In enacting ESSA, Congress made clear the vast majority of students with disabilities should be held to the same academic achievement standards as their peers and participate in their state's general assessment processes. To enforce this, Congress capped at 1-percent the number of students who can be administered the alternate assessment for students with the most

significant cognitive disabilities. However, we've seen this Administration issue several waivers of key requirements in the law, including the 1-percent cap on alternate assessments. In doing so, I've been disappointed by the lack of public transparency in this process. For example, the Department has not posted in one, central location on its website the request from states, the supporting documents, or proof the state has made the request public and solicited comments from the public—as is required by ESEA.

Question 11 (a). When the Department receives a waiver request, will you commit to posting the requests, supporting documents, and links to each states' public input process?

Answer 11, 11 (a). I am aware there is significant interest in waivers and believe in transparency. However, with regards to this specific issue, it would not be appropriate for me to commit to any decision or action, until I have an opportunity to discuss with the appropriate staff at the Department including the Office of Elementary and Secondary Education, and the Office of General Counsel, should I be confirmed.

Question 11 (b). Will you commit to holding states accountable that the waiver requests to exceed the 1-percent cap on the alternate assessment provide transparent state-level information on the number and percentage of students, including by subgroup, who are taking the alternative assessment?

Answer 11 (b). The Every Student Succeeds Act (ESSA), as passed by Congress, allows states to submit a waiver on the 1 percent assessment requirement. If confirmed, I look forward to working with the Secretary to ensure that the law is implemented as written and in a way that focuses on providing flexibility, and supporting states and local efforts to improve outcomes for children with disabilities.

Question 11 (c). How will you ensure that general and special education teachers, paraprofessionals, teachers of English learners, and other appropriate staff know how to make use of appropriate accommodations when administering assessments to students with the most significant cognitive disabilities?

Answer 11 (c). Should I be confirmed, I will work with the Office of Special Education and Rehabilitative Services on the provision of any technical assistance requested and the availability and dissemination of information related to these issues.

Question 12. Under your watch as Lieutenant Governor, Florida started multiple voucher programs, including John M. McKay Scholarships for Students with Disabilities program and the Florida Tax Credit Voucher program. The Orlando Sentinel completed a months-long investigation of Florida's voucher programs that found widespread waste, fraud, and abuse and little oversight. As one Orlando Sentinel reporter said "This increasing, reckless waste of taxpayer dollars must stop."¹ Is this waste, fraud, and abuse concerning to you? If so, how can you reconcile these results with the current administration's goal to create a \$20 billion voucher program?

Answer 12. Waste, fraud, and abuse are concerns of mine; however, I am not familiar with, and thus cannot comment on, the details of the investigation by the press that you are referring to.

Appropriate stewardship of taxpayer dollars is of critical importance to me and the Administration. I take the obligation seriously. Should a voucher program be proposed, it would be the responsibility of Congress to create and determine the specifics of such a program. If I am confirmed, and Congress chooses to create such a voucher program, I would implement the program in accordance with the law.

Question 13. Children and youth in foster care are some of the most vulnerable students in our country. ESSA includes new protections to promote educational stability for children and youth in foster care, including requiring local educational agencies and child welfare agencies to collaborate to ensure that children in foster care are able to stay in their school of origin when they move foster placements. A recent report from the Chronicle of Social Change found that only 33 states confirmed that they in compliance with these new requirements.² How do you plan to work with HHS to ensure that these requirements are implemented with fidelity?

¹ See <http://www.orlandosentinel.com/news/lake/os-lauren-ritchie-millions-mckay-scholarship-20170420-story.html>

² See <https://chronicleofsocialchange.org/analysis/analysis-11-states-struggle-meet-Federal-education-requirements-foster-youth/29482>

Answer 13. Should I be confirmed, I would work closely with colleagues at the Department of Health and Human Services (HHS), Administration for Children and Families, to ensure that states are complying with this important provision in the law. I share your concern for this vulnerable population and assure you I will make it a priority to see that the law is followed.

Question 14. ESSA makes a number of changes designed to support English learners, including moving accountability for English language proficiency from a separate system under Title III to the larger statewide accountability system under Title I. What supports do you think states need to implement changes related to English learners and how will you ensure that states receive these supports?

Answer 14. I agree that ESSA, importantly, focuses additional attention on English learners and closing the achievement gap for these students, which represent a growing population of students across all states. States should be focused on training content teachers and focusing on interventions needed for math and reading. States also benefit from support in developing instructional programs that focus on language development. We can ensure that states receive this support through technical assistance and monitoring.

Question 15. If confirmed, do you plan to make any changes to OESE's organizational structure? If so, what changes will you make and why?

Answer 15. The Department is currently in the process of developing a plan for reorganization as per the requirements of Executive Order 13781. The draft plan, recently presented at an all-hands meeting of the Department, would consolidate the Office of Innovation and Improvement into OESE. However, I did not take part in the development of the Department's draft plan, and am not involved in discussions regarding the proposed changes to OESE.

Question 16. New national research by Chapin Hall at the University of Chicago finds that, of many attributes associated with youth homelessness, lack of a high school diploma or GED was the most strongly correlated with higher risk for youth homelessness. Young adults without a high school degree or GED had a 4.5 times higher likelihood of experiencing homelessness than peers who completed high school.³ This research highlights education as a critical intervention to prevent and end homelessness for America's youth. At the same time, ESSA places new emphasis on improving academic outcomes for homeless youth—both the stronger protections of the McKinney-Vento Act, and the required disaggregation of graduation rates for homeless students in Title I Part A. What actions will you take to help state and local educational agencies comply with these mandates, and ensure that children and youth experiencing homelessness cross the finish line to their high school graduation?

Answer 16. ESSA requires states to report on graduation rates of homeless and foster students for School Year (SY) 17/18 though I understand there will be data coming out earlier for SY 16/17. These data will focus attention on where gaps exist and help states and districts better plan how to reduce and eliminate barriers to the educational success of these students. The accuracy of the data is critical thus the Department will work with states to verify.

Related to graduation rates is the rate of chronic absenteeism. Attendance and retention are key indicators for the McKinney-Vento program. The Department will work to provide technical assistance to states and review these indicators and strategies during monitoring. If confirmed, I look forward to working on these critical issues.

Question 17. The Chapin Hall study also found that 700,000 adolescents between the ages of 13–17 experienced unaccompanied homelessness—that is, homelessness without a parent or guardian—in a year.⁴ The study found that youth homelessness was just as prevalent in rural areas as in urban and suburban areas. In contrast, public schools identified 111,708 unaccompanied homeless youth in 2015–2016, suggesting significant under-identification of this vulnerable group of students.⁵ What actions will you take to help schools better identify all children and youth experiencing homelessness, including unaccompanied youth, per the requirements of McKinney-Vento Act, in rural, suburban, and urban communities?

Answer 17. The Department will continue to collaborate with other agencies that administer programs that serve homeless children and youth, including HHS and the Department of Housing and Urban Development, to better identify homeless students including unaccompanied youth. We need to facilitate collaboration among

³ See <http://voicesofyouthcount.org/wp-content/uploads/2017/11/ChapinHall-VoYC-NationalReport-Final.pdf>

⁴ See <http://voicesofyouthcount.org/wp-content/uploads/2017/11/ChapinHall-VoYC-NationalReport-Final.pdf>

⁵ See <https://nche.ed.gov/downloads/webinar/why-essa.pptx>

school districts, institutions of higher education and our grantees to address the educational needs of unaccompanied homeless youth and provide them with pathways to post-secondary education or training and careers. Providing data and data analysis to identify patterns of underreporting and sharing this information with our state coordinators will help focus attention on where the needs are greatest and target efforts appropriately.

Question 18. An estimated 1.2 million children under age six experience homelessness, representing one of every 18 children under age six.⁶ These children face barriers to participation in quality preschool programs, including high mobility, lack of documentation and transportation, and lack of awareness of homelessness among preschool personnel. Fortunately, ESSA amended the McKinney-Vento Act in several important ways to increase access to preschool programs. What will you do to ensure that the Department's early learning initiatives are coordinated with the McKinney-Vento Act's Education for Homeless Children and Youth program?

Answer 18. Experiences of homelessness in early childhood can have a long-term impact on a child's educational and emotional development. There are too many American children experiencing homelessness who need access to educational services to help minimize these negative impacts. The McKinney-Vento program should work closely with the Office of Early Learning at the Department as well as with HHS to make sure we are providing outreach to parents on the rights of homeless students to ensure their children have access to the services they need to be successful. Sharing data between agencies and making sure it aligns can help inform our technical assistance and monitoring and is essential to good program management. Greater collaboration among agencies will help facilitate greater engagement and response to address homelessness at all ages.

Question 19. Do you commit to inform the Members of this Committee if you intend to undertake any review or revision of any existing guidance?

Answer 19. The Department is thoroughly reviewing all guidance pursuant to Executive Order 13777. I am not involved in that work as a part of my current role at the Department. If confirmed, I will work as appropriate with Department officials including the Department's Office of Legislation and congressional Affairs, on these matters.

Question 20. What is your opinion about whether Minority Members of the HELP Committee have the authority to conduct oversight of the U.S. Department of Education?

Answer 20. I appreciate and respect the oversight responsibilities of Members of Congress and this Committee. If confirmed, I will work with the Office of Legislation and congressional Affairs to be as responsive as possible to all congressional inquiries in a timely and thoughtful way, regardless of party.

Question 21. If confirmed, do you agree to provide briefings to Members of the HELP Committee, including Minority Members, if requested?

Answer 21. If confirmed, I will work with my colleagues in the Office of Legislation and congressional Affairs to ensure any briefing requests from Members of the HELP Committee, regardless of party or position, are responded to in a timely and appropriate manner, whenever participation by the Office of Elementary and Secondary Education is requested or appropriate.

Question 22. If confirmed, do you commit to answer promptly and completely any letters or requests for information from individual Members of the HELP Committee including request for Department of Education documents, communications, or other forms of data?

Answer 22. If confirmed, I will work with the Office of Legislation and congressional Affairs, as appropriate, to be as responsive as possible to all congressional inquiries and requests for information in a timely and thoughtful way.

SENATOR CASEY

Question 1. Bullying and harassment affects nearly one in every three American students between the ages of 12 through 18, and research shows that it has adverse long-term consequences, including decreased concentration at school, increased school absenteeism, damage to the victim's self-esteem, and increased social anxiety. What do you think the Department's role should be in reducing bullying to ensure a safer learning environment for all students?

Answer 1. Bullying or harassment of any student is unacceptable. If confirmed, I look forward to working with the Secretary and offices within the Department, including the Office of Special Education and Rehabilitative Services, and the Office

⁶ See <http://www.naehcy.org/sites/default/files/dl/legis/ECE—Fact—Sheet—2016—September19.pdf>

for Civil Rights, to help ensure that students have safe learning environments and that applicable Federal laws prohibiting these forms of discrimination are enforced.

Question 2. We know teachers are one of the most important factors that affect a child's learning, and we know that great teachers need great professional development to help them improve their craft. Working together we added language to Title II(A) of ESSA, much of it was in my bill the Better Educator Support and Training Act (the BEST Act), to make sure states and school districts implement evidence-based activities to strengthen the teaching profession and keep great teachers in the classroom. How should states ensure school districts are providing effective professional development for educators? As a former educator, were there any professional development opportunities you found particularly effective?

Answer 2. Teachers are front and center in America's quest to provide a world class education to all of our students. Thus, more than ever before, professional development crafted for the state, district, and school level is critical. It is essential to use an evidence-based approach tailored to how each school will adapt to the changes brought about as a result of implementation of the individual ESSA plans for each state. At the same time evidence-based best practice can be coordinated, and more quickly replicated at the local level. Best practice identification and awareness clearly has an important place in the Department's future, as we move from the approval process to monitoring and the provision of technical assistance.

At one point in my career as a School Superintendent we embarked on an ambitious program of professional development regarding the infusion of STEM education in our district's schools. Teachers and administrators of the district created a well-organized, coordinated, and engaging program. Thus, the end result was transformative by most accounts and successful particularly because it was tailored directly to our specific needs.

Question 3. Do you think that private schools receiving Federal funding should be required to adhere to the same academic standards and accountability measures as public schools? Do you think there should be any distinction in these standards for private schools receiving Federal funds through vouchers, tax-credit scholarships, or education savings accounts?

Answer 3. Since private schools do not currently receive Federal funding under Title I of ESEA, the law's requirements concerning state academic standards, assessments, and accountability systems do not apply to private schools. I believe the law is very clear on this point. Therefore, it is up to each state to determine whether or not private schools must adhere to the same academic standards and accountability measures as public schools in their state. Furthermore, if Congress were to authorize a program in which private schools received Federal funds through vouchers, tax-credit scholarships, or education savings accounts, then it would be up to Congress to decide whether or not Federal requirements concerning standards and accountability measures should apply.

Question 4. One benefit of the increased flexibility in ESSA provided to states was the opportunity for stakeholder engagement. What role should teachers, parents, and other stakeholders play in developing state plans, district plans, and school improvement efforts?

Answer 4. Once the ESSA plans are approved by the Department, the on-going education as to the contents of those plans needs to take place in every state across the country. Awareness meetings at the state, district, and school site level will be critical in assuring key stakeholders understand the vision in their plan. Their responsibilities for participation will also become clearer. Web based programs as well as appropriate social media, can assist in expediting the vital expansion of this new information. These same stakeholders will be essential, not only in initial changes, but evolutionary changes to the plans over time.

Question 5. The educational achievement of youth with disabilities, as measured by high school graduate rates, has improved significantly since 2001, when they began to be included in accountability measures. Their graduation rate has improved by over 20 percentage points since that time. However, that rate is still 20 percentage points lower than the general population. When they leave their K-12 schooling their employment rate is less than half that of those without disabilities. Their post-secondary education participation is half that of their non-disabled peers. The Every Student Succeeds Act specifically states that students with disabilities must have access to the general curriculum and the opportunity to graduate high school prepared for post-secondary education and employment. If you are confirmed as the Assistant Secretary for Elementary and Secondary Education, how will you work to improve the educational outcomes for students with disabilities who are attending our public schools?

Answer 5. I am committed to upholding the provisions of the Every Student Succeeds Act to ensure that all children are provided an opportunity to receive a fair,

equitable, and high-quality education, including children with disabilities and children with the most significant cognitive disabilities. The Office of Special Education and Rehabilitative Services (OSERS) has long partnered with OESE to ensure that ESEA implementation is conducted in a way that aligns with the Individuals with Disabilities Education Act (IDEA) and supports our offices' collective efforts to improve outcomes and results for every child with a disability. If confirmed, I will prioritize OESE's partnership with OSERS by ensuring that OSERS is involved in ESSA-related matters pertaining to the education of children with disabilities. I am committed to continuing existing investments that are jointly sponsored and operated by OESE and OSERS—each of which is aimed at ensuring children with disabilities have the resources, supports, and opportunity to succeed in school and in the post-secondary environment.

Question 6. There have been a spate of on-line K-12 businesses providing educational instruction over the past five to 10 years; businesses such as K-12, Inc., Connections Academy, and Archipelago Learning. The NCES reported there were over 315,000 students enrolled in full-time, on-line schools during the 2013–2014 school year. That year, over 2.7 million K-12 students took at least one course on-line. States and individual school districts have also begun to offer on-line instruction. While there are great cautions that need to be taken with on-line instruction, particularly around the issue of accountability, if such instruction is going to be offered, we need to ensure there is equal access to such instruction. Given the lack of high-speed internet in rural areas and a significant number of complaints filed with the Department of Justice regarding accessibility of on-line instruction for those with disabilities, how will your office monitor equal access to high quality on-line education while ensuring high quality?

Answer 6. Thank you for your question, which I believe raises many important issues states and local school districts should be considering when evaluating innovative approaches to providing education, such as on-line instruction. As a general matter, the Federal Government is prohibited from interfering with state and local decisions concerning any particular program of instruction that is offered in their schools. At the same time, no student should be discriminated against or denied access to education. With regards to students with disabilities, Federal law prohibits discrimination, including inequitable access to educational programs. If confirmed, I would defer to the Department's Office for Civil Rights, to handle any complaints presented to me that alleged any such form of discrimination.

Question 7. Reports as recent as the Brookings Institution 2017 study continue to indicate that students of color continue to receive the harshest disciplinary punishments compared to white students. Students of color receive disciplinary punishments such as expulsion and suspensions at a rate up to three times that of their white counterparts. Loss of instructional time due to such disciplinary practices puts students at a significant disadvantage. How will you address the issue of disproportionate use of discipline that makes their academic success more difficult? Will you work to retain the existing guidance designed to reduce the disproportionate use of discipline for students of color?

Answer 7. The Department is currently undergoing a review of all existing regulatory documents per Executive Order 13777. As such it would not be appropriate for me to comment while that review is underway. However as a general matter, if confirmed, I would work with the Office for Civil Rights (OCR) on issues such as this one.

Question 8. The Assistant Secretary for Elementary and Secondary Education has responsibility for implementation of ESSA. ESSA, and its predecessor, NCLB, explicitly state that SEAs and LEAs are responsible for the academic achievement of students with disabilities. How will you work with the Office of Special Education and Rehabilitation Services to ensure students with disabilities have access to the general curriculum; are included in challenging instruction; have the opportunity to enroll in robust programs such as Perkins CTE courses, International Baccalaureate programs, AP course work, and ; and dual high school/college enrollment? How will you work to ensure SEAs and LEAs have the highest possible expectations and provide teachers and school leaders with the resources necessary to challenge and promote the academic advancement of all students, especially those with disabilities?

Answer 8. As a former State Commissioner of Education, I have a strong record of working to ensure that all children, including children with disabilities, have access to quality curriculum, and have the opportunity to enroll in quality CTE programs, IB programs, AP courses and dual enrollment coursework. I am committed to ensuring that every child with a disability has access to these programs. Certainly, this includes a strong partnership with OSERS, but it also involves partnering with my colleagues in OCR to ensure that children with disabilities have access to and an opportunity to benefit from these programs. Secretary DeVos ear-

lier this year published an op-ed that specifically discussed low-expectations for children with disabilities. I know that this issue is a priority for Secretary DeVos and for Assistant Secretary of OSERS Johnny Collett, and I look forward to working with them both to support states, school districts, educators, and school administrators to raise expectations for children with disabilities. The work the Department is doing through the Center on Great Teachers and Leaders is a great example of how OESE, OSERS, and other offices within the Department are working to raise expectations for all children, ensure that each child has an opportunity to succeed, and has access to high quality teachers.

SENATOR WARREN

Question 1. If confirmed, you will be in a position to influence the U.S. Department of Education's ("the Department") annual budget request. The Department's Fiscal Year 2018 budget proposed cutting more than \$9 billion in Federal education dollars, completely eliminating critical programs that help Massachusetts. This budget proposal was roundly rejected by Republicans and Democrats in both chambers of Congress. Do you believe the Federal Government should be investing more or less in education?

Answer 1. I was not a part of the Fiscal Year 2018 budget, nor the development of the Fiscal Year 2019 budget, thus I cannot comment on the decisions that were made. If confirmed, I look forward to being a part of the conversations related to the best use of Federal dollars, including the use of evidence-based decisionmaking to inform choices that are being made.

Question 2. If confirmed, will you do everything in your power to prevent harmful cuts to Federal education programs?

Answer 2. If confirmed, I look forward to being a part of the conversations on how to use Federal resources to best support states, LEAs, schools, and teachers, to ensure all students have access to a high quality education and the opportunity to succeed.

Question 3. The Department's Fiscal Year 2018 budget also proposed sending hundreds of millions more dollars to implement school privatization policies, such as private school vouchers.

Question 3 (a). Do you believe Federal taxpayer dollars should generally stay in public education?

Question 3 (b). Should Federal taxpayer dollars fund private school vouchers?

Answer 3, (a), (b). I believe all students have the right to a high-quality education and that families should have a range of options to best meet the educational needs of their children irrespective of their zip code. I further believe that taxpayers, whether local, state, or Federal, expect their tax dollars to be both administered in accordance with the law, and used to support high-quality educational options for children.

If a Federal private school voucher program were to be developed, it would be up to Congress to design the program and establish its parameters, as well as allocate resources for such a program. Should Congress choose to create and fund a Federal private school voucher program, I would, if confirmed, faithfully implement the law as written by Congress.

Question 4. You and I both started our careers in public elementary school classrooms. As a former teacher, I believe strongly in the importance of teacher voices in local, state, and Federal decisionmaking.

Question 4 (a). Do you agree?

Answer 4. Yes.

Question 4 (b). What role do you think teachers should play in the creation of state plans, district plans, and school improvement efforts?

I believe that all stakeholders should play a role in informing all levels of the system, including teachers, who will be on the front lines of implementing plans and improvement efforts.

Question 5. The Every Student Succeeds Act (ESSA) rightly placed a strong emphasis on the importance of stakeholder engagement throughout the creation, adoption, and implementation of state plans and school improvement efforts. The law requires teachers, paraprofessionals, parents, and community and civil rights organizations, among others, to be consulted as states are drafting their plans. Under Secretary DeVos, however, the ESSA state plan template was amended to remove the requirement that states detail their stakeholder engagement efforts.

Question 5 (a). Do you agree that meaningful stakeholder engagement, as outlined in the law, is essential?

Question 5 (b). Do you believe that states should detail their stakeholder engagement efforts in state plans? If not, why not?

Question 5 (c). How specifically do you intend to hold states accountable for ensuring meaningful stakeholder engagement?

Answer 5. The State Plan template, which states had the option to use, aligns to the requirements in the law. The Secretary has said she will only approve plans that comply with ESSA. To date, approximately 35 plans have been approved. The remaining plans have been submitted. Those plans will be approved if they are in compliance with the requirements of ESSA.

Question 6. Secretary DeVos has said that “high-quality virtual charter schools provide valuable options to families, particularly those who live in rural areas where brick-and mortar schools might not have the capacity to provide the range of courses or other educational experiences...”⁷ But according to a 2015 study, academic outcomes in math among students in virtual schools, who receive no in-person instruction, were equal to scores a student who had skipped 180 days of school would receive. Virtual school students’ reading scores exhibited the effect of missing 72 days of school.⁸ Last year, a national study found that two-thirds of full-time virtual schools that have academic ratings received “unacceptable” results. The same report found that the average graduate rate for those schools is less than half of the average rate for public schools in general.⁹

Question 6 (a). Given this evidence, if confirmed, will you commit to using your position to encourage states to strengthen, rather than weaken, charter school accountability, particularly among virtual and for-profit charter schools?

Question 6 (b). If confirmed, what, if anything, do you plan to do to reign in the excesses of the for-profit, virtual charter sector and prevent more students from being harmed?

Answer 6 (b). I appreciate the results of the study you cited. However, we should be mindful that the study examined results from 2008 to 2013, and I believe that the study and other information made available to school officials and parents are resulting in continual improvements. I agree with the Secretary that high quality virtual charter schools that use high quality teachers can take advantage of the advances of technology and can be used to provide valuable options to families.

If confirmed, I will encourage state and local officials to help strengthen the ability of these schools to provide a high quality education, and if there are excesses that are inconsistent with the law, I will work with the Inspector General and other offices and agencies that may have jurisdiction to enforce the laws in question.

Question 7. 76 percent of private schools in the United States are affiliated with a religious group, and more than 80 percent of private school students attend a school with a religious affiliation.¹⁰ Many of these schools include religious instruction in their curricula and require students to attend religious services. And hundreds of these schools receiving taxpayer dollars have reportedly discriminated against vulnerable students, such as LGBTQ students.¹¹

Question 7 (a). If confirmed, what specifically will you do to prevent schools that receive Federal education dollars, including publicly funded vouchers, from discriminating against LGBTQ students?

Answer 7 (a). Schools that receive Federal dollars must comply with Federal law. The Office for Civil Rights (OCR) enforces Title IX which prohibits discrimination of all students, including LGBTQ students, on the basis sex. If confirmed, I will work closely with OCR on these issues and support the vigorous enforcement of civil rights laws.

Question 7 (b). What will you do to prevent private schools that receive Federal education dollars from discriminating against students on the bases of race, sex, or disability?

⁷ See <https://www.npr.org/sections/ed/2017/02/04/513220220/betsy-devos-graduation-rate-mistake>

⁸ See https://www.washingtonpost.com/news/answer-sheet/wp/2016/12/14/virtual-school-operator-k12-faces-challenge-from-stockholders-demanding-transparency/?hpid=hp_hp-top-table-main-virtual-schools%3Ahomepage%2Fstory&hpid=hp_hp-top-table-main-virtual-schools%3Ahomepage%2Fstory&hpid=hp_hp-top-table-main-virtual-schools%3Ahomepage%2Fstory&utm_term=.ee2cbda5b171

⁹ See <https://www.npr.org/sections/ed/2015/02/02/382167062/virtual-schools-bring-real-concerns-about-quality>

¹⁰ See <http://www.capenet.org/facts.html>

¹¹ See <https://www.huffingtonpost.com/entry/discrimination-lgbt-private-religious-schools-us-5a32a45de4b00dbbc5ba0be>

Answer 7 (b). Schools that receive Federal financial assistance must comply with Federal civil rights laws, including prohibitions under Title IX (sex), and Title VI (race), and discrimination based on disability. These protections are enforced by OCR. If confirmed, I look forward to working closely with OCR to ensure that institutions that receive Federal funds comply with these important statutory protections.

Question 8. Many ESSA plans submitted this year did not clearly describe plans for school improvement, including how states will help and support schools identified for improvement. If confirmed, how will you help states and districts implement evidence-based improvement strategies with proven track records of success?

Answer 8. As you note above, evidence-based interventions must be implemented in the schools that states identify consistent with the statutory requirements for this identification. States and school districts have flexibility to identify evidence-based interventions, as defined in ESSA, to meet the specific needs and contexts of schools and students. States and school districts will be best positioned to craft plans for school improvement that meet the needs of identified schools once those schools are identified. As noted above, the Department has made available a variety of resources to support selection and implementation of evidence-based improvement strategies with proven track records of success and will leverage these resources in supporting states and school districts. To the extent feasible, offices within the Department, such as the Institute of Education Sciences, that develop and publish reports and guides to summarize and provide information on evidence-based interventions will continue to do so and collaborate with program offices that administer formula and discretionary grant programs to take into consideration the needs of states and school districts. Further, offices in the Department that administer programs will continue to communicate with states and school districts to identify needs and provide support.

Question 9. Per the Supreme Court decision *Plyer v. Doe*, schools are expected to serve all children regardless of immigration or citizenship status.¹²

Question 9 (a). If confirmed, what specifically will you do to ensure the right of all students, including undocumented students, to a public education is protected?

Answer 9 (a) As a result of the Supreme Court's ruling on *Plyer v. Doe* (1982), states and school districts are obligated to enroll students regardless of immigration status and without discrimination on the basis of race, color or national origin. 457 U.S. 202 (1982). *Plyer* makes clear that the undocumented or non-citizen status of a student (or his or her parent or guardian) is irrelevant to that student's entitlement to an elementary and secondary public education. If confirmed, I will work closely with OCR, which enforces Title VI of the Civil Rights Act of 1964 to protect every student's right to access his or her education free from discrimination based on race, ethnicity, or national origin, consistent with *Plyer V. Doe*.

Question 10. According to a 2015 study, a 10 percent increase in per-student K-12 spending increased adult wages by 7 percent, an effect that was even larger for low-income students.¹³ Similarly, a 2016 study found that greater state spending on low-income students dramatically improved student learning in reading and math.¹⁴ Unfortunately, Title I schools generally receive less state and local funding than non-Title I schools. That is why Title I includes a "supplement, not supplant" requirement—a critical civil rights component of the law. Despite the long history of the "supplement not supplant" requirement, however, serious funding inequities remain, not only between districts but also within them. ESSA for the first time contains a statutory directive around how districts must demonstrate compliance with the "supplement, not supplant" provision. ESSA states that districts must use a methodology to allocate state and local funds to each Title I school that ensures each such school receives all the state and local funds it would otherwise receive if it were not a Title I school.

Question 10 (a). If confirmed, how specifically will you enforce the language in ESSA requiring Title I Part A funds to supplement state and local funds rather than supplant them?

Question 10 (b). What test will you use to ensure states and districts are complying with this provision in the law and adequately demonstrating compliance?

¹² See <https://www.ed.gov/about/offices/list/ocr/letters/colleague-201405.pdf>

¹³ See <https://academic.oup.com/qje/article-abstract/131/1/157/2461148?redirectedFrom=fulltext>

¹⁴ See <http://www.nber.org/papers/w22011>

Question 10 (c). How will you ensure that Title I funds are truly providing the supplemental supports necessary in high-poverty schools, and not just filling in shortfalls in state and local funding?

Answer 10. I am keenly aware of the longstanding and important fiscal compliance requirements of ESEA through my experiences as a Superintendent of Schools in Martin County and as the Florida State Commissioner of Education, including supplement, not supplant. I particularly appreciate the flexibility that Congress provided in ESSA by moving away from requiring districts to identify each individual cost and service funded with Title I as supplemental, toward a more holistic approach that looks at the overall methodologies by which districts distribute funding. Ultimately, I believe this will ensure Federal Title I dollars are truly supplemental, while not discouraging districts from investing in innovative approaches to supporting students in high-poverty schools. However, it would not be appropriate for me to speculate on how I would implement or enforce these requirements until I am confirmed and have an opportunity to consult with the Secretary and staff in the Office of Elementary and Secondary Education.

Question 11. During your confirmation hearing, in response to one of my questions, you unambiguously committed to making sure every state follows the ESSA provision requiring that the performance of all groups of students be included in a state's accountability system. I appreciate your firm and clear commitment, particularly since the Department has approved state plans—like Florida's, Maryland's, and New Mexico's—that flout this requirement.

Question 11 (a). If confirmed, will you stop the Department from approving plans that do not meet this essential element of ESSA?

Answer 11. The Secretary has said she will only approve plans that comply with ESSA. To date, approximately 35 plans have been approved having met this requirement. The remaining plans have been submitted. Those plans will be approved if they are in compliance with the requirements of ESSA. Should I be confirmed, I look forward to working with the Secretary on any remaining plans. I commit to you that I would recommend approval of only plans that comply with the law.

Question 12. I fought with Senator Cory Gardner (R-CO) for ESSA's bipartisan data transparency provisions to help us better understand how schools are serving all kids. Because of our amendment, states must provide to the public information required under ESEA section 1111(h)(1)(c) in an easily accessible and user-friendly manner that can be cross-tabulated by student subgroup.¹⁵

Question 12 (a). If confirmed, will you ensure that all states comply with this provision in ESSA?

Question 12 (b). Will you commit to providing my office with a state-by-state update of how exactly states are complying with this provision?

Answer 12. If confirmed, I would commit to implementing the laws as authorized by Congress. In addition, I believe strongly in the necessity of giving parents useful, accessible information regarding the performance of their child's school, which the report cards provide. So yes, I commit to helping ensure that all states comply with this provision in ESSA.

However, I believe it would be premature to commit now to a schedule for providing state-by-state updates to your office as I am not yet aware if or when the Department will have this information available. Should I be confirmed, I would be happy to revisit this question.

Question 13. There is an educational achievement gap in this country between white students and students of color. There is also unequal access to educational resources.¹⁶ I believe these gaps in achievement and resources are largely due a history of racial discrimination and unequal access to opportunity in this country.

Question 13 (a). Why do you believe that these gaps persist?

Question 13 (b). In your view, what is the Federal Government's role in closing these gaps?

Question 13 (c). Please describe your view of the Federal Government's civil rights imperative when it comes to the educational opportunities of students of color.

Question 13 (d). If confirmed, how will you use your position to address these gaps and inequalities?

Answer 13 (a). It is most important for us to discuss how we as a country can help every single child to have equal access to the quality education they deserve. The gaps that may exist and may otherwise persist may have been the product of

¹⁵ ESEA section 1111(g)(2)(N)

¹⁶ See <https://nces.ed.gov/nationsreportcard/pubs/studies/2015018.aspx>; <https://www.brookings.edu/articles/unequal-opportunity-race-and-education/>; <http://www.usccr.gov/pubs/2018-01-10-Education-Inequity.pdf>.

the narrow thinking in the past—that reform to address gaps well had to be filled with many requirements and prescriptions. In the past efforts, there was not enough flexibility provided to help state and local educators drive innovation and true reform so that every student’s learning needs are addressed. The role of the Federal Government is to help state and local governments facilitate innovation and improvement, and not stand in its way.

Answer 13 (b). Our imperative is to ensure equal access to a quality education for every student, and parents should have the right to have a strong voice in how their child is educated.

Answer 13 (c). Government exists to protect those rights, and make sure that no one is discriminated against in pursuing those rights.

Answer 13 (d). If confirmed I will address these issues by working with parents, students, and state and local leaders to help ensure that everyone has an appropriate opportunity for quality education.

Question 14. In March 2017, Secretary DeVos eliminated a \$12 million voluntary competitive grant program designed to assist school districts attempting to increase socioeconomic diversity in their schools, because, according to the Department, the program was not a good use of taxpayer money.

Question 14 (a). Do you agree with Secretary DeVos that this program was a waste of Federal tax dollars?

Question 14 (b). Do you believe the Federal Government has a role to play in fostering and promoting school diversity in our increasingly diverse nation and world?

Question 14 (c). If so, how will you use your position to improve school diversity across the country if you are confirmed?

Answer 14 (a). I cannot comment on decisions the Department made to which I was not a party as I do not have all the relevant facts. What I do know is when the Department makes choices among potential programs for the limited amount of Federal funds available, there are often tough choices that have to be made to help ensure that taxpayer funds are spent efficiently and effectively.

Answer 14 (b). Providing all students with meaningful choices to receive high quality education no matter what their economic situation ensures the most appropriate means for diversity that helps all students achieve to their full potential. It is most important for us to discuss how we as a country can help every single child have equal access to the quality education they deserve.

Answer 14 (c). If confirmed, I look forward to improving diversity in a manner that takes into account the interests of all students.

Question 15. Secretary DeVos has been noticeably absent from Congress since her confirmation. Several scheduled hearings and appearances have been postponed or canceled, and the Secretary has not appeared before the Senate HELP Committee since her confirmation hearing.

Question 15 (a). How do you plan to communicate with Congress in your role as Assistant Secretary?

Answer 15 (a). If confirmed, I will work with my colleagues in the Office of Legislation and congressional Affairs in responding to any congressional requests related to the Office of Elementary and Secondary Education.

Question 15 (b). Will you commit to substantively responding to inquiries and requests from all Committee Members, including those in the minority?

Answer 15 (b). If confirmed, I will work with my colleagues in the Office of Legislation and congressional Affairs to ensure any requests related to the Office of Elementary and Secondary Education from Members of the HELP Committee regardless of party or position are responded to in a timely and appropriate manner.

Question 15 (c). Please discuss your views on the role of Congress in conducting oversight of the Department of Education.

Answer 15 (c). I appreciate and respect the oversight responsibilities of Members of Congress and this Committee. If confirmed, I will in my role work with the Office of Legislation and congressional Affairs to be as responsive as possible to all congressional inquiries in a timely and thoughtful way.

If you have any questions, please contact Josh Delaney in my office at (202) 224-4543.

SENATOR HASSAN

Question 1. Throughout your career you have been generally supportive of school voucher programs. We know these programs lack the same accountability as public schools, including charter schools and that they move public dollars away from the public school system. Which can in turn leave already struggling schools further behind. As we discussed in our conversation in my office, we agree that every family should be able to rely on their neighborhood school to provide a quality public education.

Question 1 (a). How do you reconcile your support for all neighborhood schools with the fact that an expansion of voucher systems would inherently take away funding from these schools?

Answer 1 (a). I do not agree with your premise that expansion of vouchers inherently takes funding away from neighborhood schools. I support a range of educational options for children and families to best meet their needs including traditional public schools, charter schools, magnets, as well as private schools, all of which are types of neighborhood schools, and none of which inherently take funding away from one another.

Question 1 (b). Secretary DeVos supports expanding voucher programs, included a recent provision in the tax bill that expanded the tax benefits afforded by 529 savings plans for college to private K-12 school tuition. If confirmed, would you support the expansion of Voucher programs?

Answer 1 (b). I support providing greater choice to parents in making the best decisions regarding the education of their children. However, as I stated in my nomination hearing, choice is not limited to vouchers. Choice can mean any number of schools; traditional public, private, charter, magnet, virtual, etc. Any new Federal voucher program would be created, designed, and funded by Congress.

Question 2. During our conversation in my office, you said you had read the recent Government Accountability Office (GAO) report, "Private School Choice: Federal Actions Needed to Ensure Parents are Notified About Changes in Rights for Students with Disabilities" and that you believe that parents should know what they are giving up before opting into a voucher program, something the report says that schools frequently fail to do. The Secretary of Education has two broad Secretarial authorities under law, 20 USC 1221e-3 ("to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of, and governing the applicable programs administered by, the Department"); and 20 USC 3474 ("to prescribe such rules and regulations as the Secretary determines necessary or appropriate to administer and manage the functions of the Secretary or the Department.").

Question 2 (a). If confirmed, would you work with the Secretary to require that states disclose to students and their families when they give up their rights under the Individuals with Disabilities Education Act (IDEA) when using a voucher to attend a private school?

Answer 2 (a). I am concerned about any parent not having the information they need to make well informed decisions about their child's education. If confirmed, I look forward to working with the Secretary and the Office of Special Education and Rehabilitative Services to determine how the Department can best support state-developed and operated voucher programs, empower parents, and respond to the recommendations from the GAO report.

[Whereupon, at 3:30 p.m., the hearing was adjourned.]

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