

NOMINATIONS HEARING

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

FIRST SESSION

ON

EXAMINING THE NOMINATIONS OF PENNY SCHWINN, OF TENNESSEE,
TO BE DEPUTY SECRETARY, AND KIMBERLY RICHEY, OF TEXAS, TO
BE ASSISTANT SECRETARY FOR CIVIL RIGHTS, BOTH OF THE DE-
PARTMENT OF EDUCATION, AND DANIEL ARONOWITZ, OF VIRGINIA,
AND DAVID KEELING, OF KENTUCKY, BOTH TO BE AN ASSISTANT
SECRETARY OF LABOR

JUNE 5, 2025

Printed for the use of the Committee on Health, Education, Labor, and Pensions



Available via the World Wide Web: <http://www.govinfo.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

60-604 PDF

WASHINGTON : 2026

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

BILL CASSIDY, M.D., Louisiana, *Chairman*

RAND PAUL, M.D., Kentucky

SUSAN M. COLLINS, Maine

LISA MURKOWSKI, Alaska

MARKWAYNE MULLIN, Oklahoma

ROGER MARSHALL, M.D., Kansas

TIM SCOTT, South Carolina

JOSH HAWLEY, Missouri

TOMMY TUBERVILLE, Alabama

JIM BANKS, Indiana

JON HUSTED, Ohio

ASHLEY MOODY, Florida

BERNIE SANDERS (I), Vermont, *Ranking Member*

PATTY MURRAY, Washington

TAMMY BALDWIN, Wisconsin

CHRISTOPHER MURPHY, Connecticut

TIM Kaine, Virginia

MAGGIE HASSAN, New Hampshire

JOHN HICKENLOOPER, Colorado

ED MARKEY, Massachusetts

ANDY KIM, New Jersey

LISA BLUNT ROCHESTER, Delaware

ANGELA ALSOBROOKS, Maryland

MATTHEW GALLIVAN, *Majority Staff Director*

DANIELLE JANOWSKI, *Majority Deputy Staff Director*

WARREN GUNNELS, *Minority Staff Director*

ZAIN RIZVI, *Minority Deputy Staff Director*

C O N T E N T S

STATEMENTS

THURSDAY, JUNE 5, 2025

Page

COMMITTEE MEMBERS

Cassidy, Hon. Bill, Chairman, Committee on Health, Education, Labor, and Pensions, Opening statement	1
Baldwin, Hon. Tammy, U.S. Senator from the State of Wisconsin, Opening statement	2

WITNESSES

Schwinn, Penny, Nashville, TN	4
Prepared statement	5
Richey, Kimberly, Tallahassee, FL	7
Prepared statement	8
Aronowitz, Daniel, Vienna, VA	10
Prepared statement	11
Keeling, David, Louisville, KY	13
Prepared statement	15

QUESTIONS AND ANSWERS

Response by Daniel Aronowitz, to questions of:	
Sen. Hawley	45
Response by David Keeling, to questions of:	
Sen. Hawley	45
Response by Kimberly Richey, to questions of:	
Sen. Hawley	46
Sen. Sanders	49
Sen. Baldwin	51
Sen. Markey	56
Response by Penny Schwinn, to questions of:	
Sen. Hawley	46
Sen. Sanders	47
Sen. Baldwin	50
Sen. Hassan	51
Sen. Hickenlooper	52
Sen. Markey	52
Sen. Alsobrooks	56

NOMINATIONS HEARING

Thursday, June 5, 2025

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

The Committee met, pursuant to notice, at 10 a.m., in room 430, Dirksen Senate Office Building, Hon. Bill Cassidy, Chairman of the Committee, presiding.

Present: Senators Cassidy [presiding], Murkowski, Marshall, Hawley, Tuberville, Banks, Husted, Moody, Baldwin, Murray, Kaine, Hassan, Hickenlooper, Markey, Kim, Blunt Rochester, and Alsobrooks.

OPENING STATEMENT OF SENATOR CASSIDY

The CHAIRMAN. The Senate Committee on Health, Education, Labor, and Pensions will please come to order. Thanks to our nominees for being here. If confirmed, you will be crucial in advancing President Trump's agenda, improving the lives of all Americans, and I appreciate your willingness to serve.

If confirmed as Deputy Secretary of Education, Dr. Schwinn will play an integral role in reforming a department that has lost its purpose. Its bureaucracy and red tape have stood in the way of student success.

Dr. Schwinn has a strong record of improving education systems, including as Tennessee Commissioner of Education and Chief Deputy Commissioner of Education in Texas. She tells me that she personally met with President Trump to discuss these issues. This experience will be vital as the Trump administration looks to return power over education to states and ensure that all students have the opportunity to succeed.

The Committee will also hear from Ms. Richey, nominated for Assistant Secretary for Civil Rights at the Department of Education. Ms. Richey brings extensive experience from previous Administrations and state agencies, addressing discriminatory practices in K through 12 schools and universities nationwide.

This experience is especially important as the Administration works to address troubling Antisemitism on college campuses. Next, the Committee is considering Mr. Aronowitz, nominated to lead the Employee Benefits Security Administration at the Department of Labor.

If confirmed, Mr. Aronowitz is committed to improving health and retirement benefits for workers, including independent contractors. His decades of legal experience and knowledge of ERISA will

be an asset to this mission. Last, the Committee will hear from Mr. Keeling, nominated to head the Occupational Safety and Health Administration, better known as OSHA.

Mr. Keeling spent 30 years advocating for worker safety in the private sector and has strong support from businesses and from labor unions. If confirmed, he committed to ensuring OSHA regulations reflect what is best for workers, not biased toward one party over the other.

Thank you again to all our witnesses for appearing before the Committee. And with that, I recognize Senator Baldwin for her opening statement.

OPENING STATEMENT OF SENATOR BALDWIN

Senator BALDWIN. Thank you. Thank you, Chairman Cassidy. And thank you to our nominees for being here today. Mr. Chairman, we are holding this hearing today as the Trump administration makes daily attacks on public education, worker safety, and retirement security.

The nominees before us today will undoubtedly be tasked with carrying out the Administration's dangerous agenda to remove worker safety protections, rescind rules that protect retirees and those who are nearing retirement, dismantle the entire Department of Education, and undercut Civil Rights protections for historically marginalized groups.

The nominees themselves may have different goals, if they are confirmed, but the actions taken by the Trump administration so far and the budget requests for the Department of Education and Labor submitted to Congress make clear exactly what they will be instructed to do in their roles.

I am deeply concerned by the Administration's approach at the Department of Labor. This Administration claims to be pro-worker, but their actions demonstrate the opposite. They are paying lip service to hardworking Americans while enacting an agenda to decimate their rights, protections, and hard-earned benefits.

The Occupational Safety and Health Administration, or OSHA, is predicting it will inspect almost 10,000 fewer workplaces next year than it inspected in 2024 if the Administration's budget cuts were fully enacted. Reducing the number of inspections leads to more unsafe environments, more injuries, and more families facing the uncertainty that comes from losing hours at a job or dealing with a work injury.

Mr. Keeling is being nominated to be at the helm of OSHA as this happens. The Employee Benefit Security Administration, or EBSA, has already lost roughly 30 percent of its staff since the beginning of 2025, 30 percent, with those losses concentrated in the Enforcement Division, the office that protects consumers as they navigate health and retirement plans.

EBSA oversees private retirement plans, health plans, and other benefits, which collectively hold about \$14 trillion in assets. These plans cover 156 million workers, retirees, and their dependents. Slashing the staff who ensure these plans are following the law and are working in consumers' best interests helps no one except

the corporations who can more easily cut corners, harming workers and retirees.

Mr. Aronowitz has been nominated to lead a much diminished EBSA. The Trump administration's attacks on the Department of Education began during his first week in office. The Trump administration has laid off nearly half of the staff at the Department of Education, leading to more delays and inefficiencies that are directly harming students and schools.

The Administration has also terminated funding that Congress appropriated for programs intended to benefit students' resources that were already in use in communities in Wisconsin and elsewhere, pulling the rug out from plans to use that money for summer learning, after school tutoring, and teacher training.

Earlier this week, I pushed Secretary McMahon on her decision to discontinue grants to expand access to mental health care for students, which Congress authorized and funded on a bipartisan basis. Ms. Schwinn, the nominee to be Deputy Secretary of Education, will be tasked with overseeing the Department of Education's implementation of Federal education laws, and I expect these laws to be implemented as intended.

Ms. Richey, the nominee to be Assistant Secretary of Education for Civil Rights, is nominated to lead an office that is currently engaged in a troubling trend of halting cases of discrimination based on race, gender, and disability, while opening a slew of what appear to be politically motivated investigations into schools, districts, and universities.

Just as the Office of Civil Rights received its highest ever volume of complaints last year, the department closed 7 of its 12 regional offices and fired nearly 300 Office of Civil Rights staff this year.

Investigators have seen their caseloads skyrocket from 42 cases per investigator to 115, making it difficult for those investigators to meaningfully investigate discrimination and to protect students' rights.

Mr. Chairman, I am glad we have the opportunity to hear from these nominees, but I think we should all be concerned that the Administration's actions and budgets demonstrate how little they care—little care they have for doing right by these students, teachers, and workers, and retirees.

The CHAIRMAN. Thank you. I will introduce each nominee just prior to he or she speaking. So I will begin with Ms. Schwinn. We are joined today by Ms. Penny—Dr. Penny Schwinn, President Trump's nominee for Deputy Secretary of Education.

If confirmed, Dr. Schwinn will help to lead the department as it works to deliver results for children and families and return authority over education back to the states. She previously served as Commissioner of Education in Texas, where she served as Chief Deputy Commissioner.

She holds a Ph.D. from Claremont Graduate School. I look forward to hearing from her today and thank you for joining us, Dr. Schwinn.

STATEMENT OF PENNY SCHWINN, NASHVILLE, TN

Ms. SCHWINN. Thank you, Chairman—thank you Chairman Cassidy, Ranking Member Sanders, and Members of the Committee. It is an honor to appear before you as a nominee for Deputy Secretary of Education.

I am grateful for the support of my family, friends, and former colleagues. Want to take the opportunity to especially thank my three children, Ellie, Abby, and Jack, who couldn't be here today.

My daughter is in the National Soccer Championship in St. Louis, so they are on their way there. She is a goalie. I am a goalie mom. Toughest job.

The CHAIRMAN. You are not there. I am just saying, mom, feel guilty.

[Laughter.]

Ms. SCHWINN. Thank you for the mom guilt, yes. I am not there, but I will be flying there as soon as possible. I also want to thank my family, the Hemian Gang back in Gilroy, California, and most importantly DC and my mom who is behind me right now and has been for 42 years, a classroom teacher, and the reason that I am here today.

From the moment I got to speak with each of them for our in-person interviews, I have been continually grateful to Donald J. Trump and Secretary McMahon for the confidence they have placed in me and for the ambitious vision they are casting for the future of America's education system.

Education is foundational to our Nation's success, economically, socially, and strategically. It is also deeply personal. I come from a family of teachers, and for us, education isn't just a profession, it is a calling.

I began as a High School Teacher, and have served as a Charter School Founder, an Assistant Superintendent, elected School Board Member, and State Chief across five very different states. But I am also a mom, and it is through that lens that I feel the most urgency and responsibility to deliver better outcomes for every child in this country.

After 20 plus years in education, I have learned that the most significant difference between policies that work and policies that don't is that those that work elevate the needs of students over the needs of systems. We are in a moment of crisis.

According to the Nation's report card, just 31 percent of fourth graders and 30 percent of eighth graders are proficient in reading. In math, only 40 percent of fourth graders and 28 percent of eighth graders are proficient.

Reading scores have dropped five points since 2019, and math remains below pre-pandemic levels. These numbers are not just statistics. They represent millions of students who are falling behind and a global economy that can't afford it.

The U.S. already faces a shortage of 1.7 million workers. Education is not a side issue. It is a national imperative. And we know what works is what delivers results. When states are empowered, we see progress.

In Tennessee, we achieved real outcomes because we had the flexibility to tailor solutions. Rather than being bound by rigid funding categories, we prioritized what mattered most for our students, and it worked. Tennessee became one of only two states to rank in the top 25 on all 16 NAEP indicators.

Our statewide literacy gains, fueled by training 30,000 teachers, supporting 178,000 families, and aligning teacher prep with the science of reading, led to the highest growth in English language arts standards since the adoption of new standards. We didn't stop there. 100,000 students gained access to industry credentials, dual credit programs, and apprenticeships.

Dual enrollment in technical colleges rose by 71 percent. We tripled STEM school designations and mandated K-12 computer science, closed gaps in AP courses. We also made smart use of our ESSER funds. Georgetown University's Economics Lab found that Tennessee was—one of just six states with measurable returns on investment based on NAEP. And that didn't happen by accident.

It was the result of prioritizing students, trusting local leadership, and focusing relentlessly on results. None of that would have been possible without Tennessee's incredible parents, teachers, school leaders, elected officials, and community partners. That legacy belongs to them.

I was honored to serve, but the results came from local action, shared responsibility, and accountability. They made the work real. And that spirit of shared ownership and local excellence is the path forward. The President and Secretary have been clear. We must empower states, expand choice, and raise reading outcomes.

I am honored to support that mission, not just as a policymaker, but as a mom, as a teacher, and a lifelong believer in what is possible for our children. I will never forget the students in my mom's classroom, still learning to read in the fourth and fifth grades. That was nearly 35 years ago. Too little has changed.

We owe it to them to finally keep our promise. I pledge to tirelessly work for them and for every other one of the 50 million students in this country. Thank you for your consideration, and I look forward to your questions.

[The prepared statement of Ms. Schwinn follows.]

PREPARED STATEMENT OF PENNY SCHWINN

Thank you, Chairman Cassidy, Ranking Member Sanders, and Members of the Committee. It's an honor to appear before you as a nominee for Deputy Secretary of Education. I am grateful for the support of my family, friends and former colleagues. And I am grateful to President Donald J. Trump and Secretary McMahon for the confidence they've placed in me and for the ambitious vision they are casting for the future of America's education system.

Education is foundational to our Nation's success—economically, socially, and strategically. It is also deeply personal. I come from a family of teachers, and for us, education isn't just a profession—it's a calling. I began as a high school teacher and have served as a charter school founder, assistant superintendent, elected board member, and state chief across five very different states—and I'm also a mom. And it's through that lens that I feel the most urgency and responsibility to deliver better outcomes for every child in this country.

After 20 plus years in education, I've learned that the most significant difference between policies that work and policies that do not work is that those that work elevate the needs of students over the needs of systems.

We are in a moment of crisis. According to the Nation's Report Card, just 31 percent of fourth graders and 30 percent of eighth graders are proficient in reading. In math, only 40 percent of fourth graders and 28 percent of eighth graders are proficient. Reading scores have dropped **five points since 2019**, and math remains below pre-pandemic levels. These numbers are not just statistics—they represent millions of students who are falling behind in a global economy that can't afford it. The U.S. already faces a shortage of 1.7 million workers. Education is not a side issue—it's a national imperative.

What works is what delivers results. When states are empowered, we see progress. In Tennessee, we achieved real outcomes because we had the flexibility to tailor solutions. Rather than being bound by rigid funding categories, we prioritized what mattered most for our students.

It worked. Tennessee became one of only two states to rank in the top 25 on all 16 NAEP indicators. Our statewide literacy gains—fueled by training 30,000 educators, supporting 178,000 families, and aligning teacher prep with the science of reading—led to the highest growth in English Language Arts since the adoption of new standards. We didn't stop there: 100,000 students gained access to industry credentials, dual credit, and apprenticeships. Dual enrollment in technical colleges rose 71 percent. We tripled STEM school designations, mandated K–12 computer science, and closed key gaps in AP outcomes.

We also made smart use of ESSER funds. Georgetown University's Edunomics Lab found Tennessee was one of just four states with a measurable return on investment. That didn't happen by accident. It was the result of prioritizing students, trusting local leadership, and focusing relentlessly on results.

If we want to change these numbers, we must be willing to measure them. That starts with strong assessments and honest accountability. We must continue to raise the bar and give families clear, accurate information about how their children are doing—where they are excelling and where we, as adults, must do better. If we're serious about outcomes, we must be serious about measuring them. Assessment is not about bureaucracy—it's about truth. And families deserve the truth.

None of that would have been possible without Tennessee's incredible parents, teachers, school leaders, elected officials, and community partners. This legacy belongs to them. I was honored to serve, but the results came from local action, shared responsibility, and accountability. They made the work real. And that spirit of shared ownership and local excellence is the path forward.

The President and Secretary have made clear: we must empower states, expand choice, and raise reading outcomes. I am honored to support that mission—not just as a policymaker, but as a mom, a teacher, and a lifelong believer in what's possible for our children.

I will never forget the students I met in my mother's classroom—still learning to read in the fourth and fifth grades. That was nearly 35 years ago. Too little has changed. We owe it to them to finally keep our promise.

I pledge to work tirelessly—for them, and for every student in this country.

Thank you for your consideration. I look forward to your questions.

The CHAIRMAN. Thank you, Dr. Schwinn. We are also joined today by Kimberly Richey, President Trump's nominee for the Assistant Secretary for Civil Rights at the Department of Education.

If confirmed, Ms. Richey will lead the office that is responsible for addressing civil rights complaints from students in classrooms and on college campuses, including the backlog of Title VI complaints left unaddressed by the Biden administration.

She has experience in the Office of Civil Rights, having also served there during the George W. Bush and first Trump administrations. She earned her law degree at the University of Oklahoma. I look forward to hearing from you today, and thank you for joining us, Ms. Richey.

STATEMENT OF KIMBERLY RICHEY, TALLAHASSEE, FL

Ms. RICHEY. Chairman Cassidy, Ranking Member Sanders, and honorable Members of this Committee, I am grateful and honored to appear before you today as President Trump's nominee to lead the Office for Civil Rights.

I want to thank President Trump and Secretary McMahon for their support and the opportunity to continue OCR's critically important work. I want to thank my family. Their love, prayers, and support have strengthened and sustained me. My husband, Dr. Larry Birney, who is here with me today.

My parents, David and Arlene Richey, who are also here. My sister and brother-in-law, Dr. Jeffrey and Kelley Lind. And my greatest gifts of all, Pearce, Anna, and Ella May. While I am a teacher and an attorney, I am first and foremost the daughter of a retired 34-year public school teacher who taught me the innate obligation and the importance of speaking up for those who have no voice and seeking justice for those to whom it has been denied.

I know from my nearly 7 years in OCR the vital role it plays for so many students and families across our great nation. Students cannot gain the knowledge and skills they need to be successful in life if they can't access educational programs and activities.

Secretary McMahon highlighted in her confirmation hearing the significant challenges that we are facing and reiterated a commitment to addressing these challenges. She stated, we must protect all students from discrimination and harassment.

If I am confirmed, the department will not stand idly by while Jewish students are attacked and discriminated against. We will stop forcing schools to let boys and men into female sports and spaces.

My commitment to these priorities is unwavering. Should I be confirmed, I will proudly be joining an Administration that will not allow students to be intimidated, harassed, assaulted, or excluded from their institutions. I will work every day to uphold Title VI, including vigorously fighting Antisemitism, and require schools to address these great evils.

I will also fight to preserve the rights of women and girls as they try to access education programs and activities, and facilities free from discrimination. Throughout my 21 year career, I have worked to increase outcomes and advance civil right protections for students, whether it be securing services for students in day treatment programs, providing accommodations to students in state assessment systems, or setting up a charter school for students in the juvenile justice system, or creating a way for Native American students to receive world language credit for learning their native language.

During my tenure as Acting Assistant Secretary in the Office of Special Education and Rehabilitative Services, OSER issued guidance clarifying the obligations of school districts in light of the Supreme Court's groundbreaking decision in *Andrew F.* We also concluded what was at the time the largest investigation involving a state under IDEA.

Under my leadership as Acting Assistant Secretary of Civil Rights, OCR investigated and pursued enforcement action to protect and preserve the rights of women and girls in athletic cases involving biological males. We launched multiple directed investigations examining the special education services that were provided to students in the COVID-19 pandemic.

We provided technical assistance to schools implementing the 2020 Title IX regulations. We issued guidance on racial discrimination, single sex programs, and on OCR's enforcement and use of Title VI to protect Jewish students from discrimination.

As impactful as I view these and other accomplishments, it is my personal story as a student with a disability and now an individual with disabilities that most impacts my work. As a young adult, I was diagnosed with a brain tumor that changed nearly every aspect of my life.

Within a matter of months, I was a student who needed the protections of 504 to access my own programs and activities in school. I know firsthand the significance and the importance of our civil rights laws, and there is no greater work than leading an agency responsible for ensuring that students get the services they need.

I am committed to upholding the laws enforced by OCR, prioritizing the mission of OCR, and conducting thorough investigations consistent with the law and the authority that Congress has granted to OCR.

Sitting in this seat today, I feel blessed that exactly 20 years since I had my brain tumor removed, I now have the opportunity to lead the very office responsible for enforcing the laws that protected me. If I am fortunate enough to be confirmed, that appreciation and that mindset will guide me every day in this job, just as it has for the last 20 years.

Thank you for considering my nomination and for the opportunity to be here today. I look forward to your questions.

[The prepared statement of Ms. Richey follows.]

PREPARED STATEMENT OF KIMBERLY RICHEY

Chairman Cassidy, Ranking Member Sanders, and Members of this Committee.

I am grateful and honored to appear before you today as President Trump's nominee to lead the Office for Civil Rights (OCR) at the U.S. Department of Education. I want to thank President Trump and Secretary McMahon for their support and the opportunity to continue OCR's critically important work.

I want to thank my loving family, for whom I'm very grateful. Their love, prayers, and support have strengthened and sustained me: my husband, Dr. Larry Birney; my parents, David and Arlene Richey; my sister and brother-in-law, Dr. Jeffrey and Kelley Lind; and, finally, my greatest gifts, Pearce, Anna, and Ella Mae.

I'm also appreciative of the role so many others have played in my life; my extended and church-family, friends, teachers, and current and former colleagues who have emboldened and challenged me throughout the years.

While I am a teacher and an attorney, I am first and foremost the daughter of a retired thirty-four-year public school teacher who taught me the innate obligation and importance of speaking up for those who have no voice and seeking justice for those to whom it has been denied (Proverbs 31:8-9). I know from my nearly 7 years of service in OCR the vital role it plays for so many students and families across our great nation. Students cannot gain the knowledge or skills they need to be successful in life if they are unable to access educational programs and activities.

Secretary McMahon highlighted, in her confirmation hearing, the significant challenges we are facing and reiterated a commitment to addressing these challenges. She stated:

“We must protect all students from discrimination and harassment. If I am confirmed, the Department will not stand idly by while Jewish students are attacked and discriminated against. We will stop forcing schools to let boys and men into female sports and spaces.”

My commitment to these priorities is unwavering. Should I be confirmed as Assistant Secretary for Civil Rights, I will proudly be joining an administration that will not allow students to be intimidated, harassed, assaulted or excluded from their institutions. I will work every day to uphold Title VI, including vigorously fighting anti-Semitism, and require schools to address these great evils. I will also fight to preserve the rights of women and girls to access education programs and facilities free from discrimination.

I bring over twenty-one years of experience in Federal and state government, and working with local school districts, colleges, and education non-profits. Throughout my career, I’ve worked to increase student outcomes and advance civil rights protections, whether it be securing services for students enrolled in day treatment programs, providing accommodations to students in state assessments, setting up a charter school for students in the juvenile justice system, or creating a way for Native American students to receive world language credit for learning their native language.

During my tenure as Acting Assistant Secretary in the U.S. Department of Education’s Office of Special Education and Rehabilitative Services (OSERS), OSERS issued guidance clarifying the obligations of school districts in light of the Supreme Court’s ground-breaking decision in the *Endrew F.* case, which held, in short, that IEP’s must be reasonably calculated to ensure a child makes meaningful progress. We also concluded what was, at the time, the largest investigation involving a state conducted under the *Individuals with Disabilities Education Act* (IDEA).

Under my leadership as Acting Assistant Secretary for Civil Rights, OCR investigated cases and pursued enforcement action to protect and preserve the rights of women and girls in athletic cases involving transgender students. We launched multiple directed investigations examining the provision of special education and related services to students with disabilities during the COVID-19 pandemic, provided technical assistance and issued guidance to assist schools in implementing President Trump’s 2020 Title IX regulations, and issued guidance on racial discrimination, single-sex programs in post-secondary, and guidance on OCR’s enforcement of Title VI to protect Jewish students from discrimination.

As impactful as I view these and so many other accomplishments, especially in OCR, it is my personal experience as a student with a disability—and now an individual with disabilities—that most impacts my work. As a young adult, I was diagnosed with a brain tumor that changed nearly every aspect of my life. Within a matter of months, I was a student who needed the protections and guarantees of Section 504 to fully access my own educational programs and activities. I know first-hand the significance and importance of our civil rights laws and there is no greater work than leading the agency responsible for ensuring that students get the services and support they need.

I am committed to upholding the laws OCR enforces and prioritizing the important mission of OCR to enforce civil rights laws and conduct thorough investigations, consistent with the law and the authority Congress has conferred upon the agency. Sitting in this seat today, I feel blessed that exactly twenty-years since I had my brain tumor removed, I now have the opportunity to lead the *very* office responsible for enforcing the laws that protected me. If I am fortunate enough to be confirmed, that appreciation and mindset will continue to guide my work, every day, as it has for so many years.

Thank you for considering my nomination and for the opportunity to be here today. I look forward to answering any questions you may have.

The CHAIRMAN. Thank you. We are also joined today by Daniel Aronowitz, President Trump’s nominee for Assistant Secretary of the Employee Benefits Security Administration of the Department of Labor.

If confirmed, Mr. Aronowitz will lead the agency that is responsible for overseeing more than 801,000 private retirement plans, 2.6 million health plans, and 514,000 other welfare benefit plans, which collectively hold about \$14 trillion in assets.

He is an attorney with decades of private sector experience as a coverage lawyer and underwriter and deep knowledge of ERISA. He is a graduate of, I always hate to say this, but the Ohio State University and the Vanderbilt University School of Law.

I look forward to hearing from him today. Thank you for joining us, Mr. Aronowitz.

STATEMENT OF DANIEL ARONOWITZ, VIENNA, VA

Mr. ARONOWITZ. Thank you, Chairman Cassidy and the Members of the HELP Committee. Thank you for considering my nomination to lead the Employee Benefits Security Administration. I also thank President Trump, Secretary Chavez DeRemer, and Deputy Secretary Sonderling for nominating me.

My name is Daniel Aronowitz, and I am supported today by my wife Jeanine, my 17 year old daughter Amanda, and my 15-year old son Isaiah. My former Euclid business partner and mentor, John Colas, is also supporting me today. I have been a champion of employee benefit plans my entire career.

After graduating from Ohio State and Vanderbilt School of Law, I started my career as a management liability insurance lawyer. I then led a turnaround at the union-owned Ulico Casualty Company, where we helped grow the union movement by protecting multi-employer and Governmental plans and union workers and helped to launch training and apprenticeship programs with innovative group workers' compensation captives.

In 2011, I then founded Euclid Fiduciary. Now called Encore Fiduciary, my former team built a premier fiduciary insurance underwriting company that is known for unique fiduciaries thought leadership, including the FID Guru blog, which is read by thousands of planned professionals.

Encore ensures the most sophisticated and complex benefit plans in America, ranging from leading Fortune 500 companies to innovative new pooled employer plans, and association health plans.

In these roles, I witnessed the most important fiduciary events in the last three decades, including the Enron and WorldCom scandals, the capital consultants and Madoff Ponzi schemes, the city of Detroit bankruptcy, and the 2008 financial crisis. I have participated in hundreds of Department of Labor, PBGC, and Internal Revenue Service audits.

My job, my mission was to protect planned fiduciaries and planned assets to ensure and safeguard the accounts of every planned participant and worker insured by my company's fiduciary crime and cyber insurance policies.

I have participated in settlements and payouts that have restored well over \$1 billion to protect the retirement security of America's workers. From these experiences, I have learned how to improve America's voluntary employee benefit system. I was a law-

yer. I led a corporate turnaround, and then I led a successful start-up.

If I am confirmed by the Senate, I will work hard to unleash and unlock the creativity and full potential of America's employee benefit system. But none of this will happen until we improve EBSA's enforcement and provide regulatory clarity on key fiduciary issues. EBSA needs a major turnaround, and I am an experienced turnaround manager with unique fiduciaries expertise and experience.

First, we will end the practice of open-ended investigations that go on for years. We will end bias against ESOPs and other legitimate ways to expand retirement benefits and ownership to America's workers. EBSA's enforcement will be fair, even-handed, and efficient. Second, we will strive to provide regulatory clarity so that plan sponsors have the proper incentive to expand employee benefits.

Many issues, like mental health parity, private equity, cryptocurrency, and ESG considerations in plan investments require more clarity and consistency with less burden to plan sponsors. We will end the era of regulation by litigation by providing clear and effective fiduciary guidance.

We will restore discretion to plan fiduciaries as Congress intended in the ERISA statute, so that fiduciaries, not the Government or plaintiff lawyers, decide what is best for America's participants. Third and finally, I will champion the cause of encouraging plan sponsors, once we give them even-handed enforcement and regulatory clarity, to expand retirement and healthcare benefits to America's workers.

With the regulatory burden and litigation risk reduced, we will unlock the full potential of the voluntary employee benefit system. Thank you for considering my nomination. I want to get to work into what I consider the best job in the Federal Government. Thank you.

[The prepared statement of Mr. Aronowitz follows.]

PREPARED STATEMENT OF DANIEL ARONOWITZ

Thank you Chairman Cassidy, Ranking Member Sanders, and Members of the HELP Committee. Thank you for considering my nomination to lead the Employee Benefit Security Administration. I also thank President Trump, Secretary Chavez-DeRemer, and Deputy Secretary Sonderling for nominating me.

My name is Daniel Aronowitz, and I am supported today by my wife Jeanine Aronowitz; my 17-year-old daughter Amanda, who is a student at The New School in Fairfax, Virginia; and my 15-year-old son Isaiah, who attends New Focus Academy in Heber City, Utah.

I have been a champion of employee benefit plans my entire career. I have lived the American dream of starting, leading, and building great businesses in the fiduciary arena. I am now ready to give back to my country, drawing on my unique private industry experience, to protect and enhance the retirement and health security of America's workers.

After graduating from Ohio State University on a Rotary scholarship and from Vanderbilt School of Law, I spent the first part of my career representing management liability insurance companies as a lawyer, including as a partner at Shaw Pittman, one of DC's leading law firms.

I then had the privilege to lead a turn-around of the union-owned Ullico Casualty Company. At Ullico, my team built the Nation's leading fiduciary insurance market to protect multiemployer and governmental trustees and benefit plans. We developed insurance products to help grow the labor movement, with innovative workers'

compensation captives to support union apprenticeship programs and training centers, and surety bonds to grow unionized construction projects.

I next founded Euclid Fiduciary in 2011, which our team grew from a startup to become a premier fiduciary liability underwriting company. Now called Encore Fiduciary, my former company protects the most sophisticated and complex employee benefit plans in the country, including Fortune 500 companies, leading union and governmental plans, and innovative MEWAs and association health plans that are expanding employee benefit access to a new generation of the independent workforce. We built our underwriting company on superior fiduciary expertise and thought leadership, with our *Fid Guru Blog* read by thousands of benefit plan professionals. We then sold our underwriting company to the largest private equity insurance firm in the country. We lived the American dream of building a company from scratch and monetizing our efforts. And every Euclid employee participated in the financial reward of our successful exit.

I have participated in the most important fiduciary events in the last three decades, including the Enron and WorldCom scandals, the Capital Consultants and Madoff Ponzi schemes, the city of Detroit bankruptcy, and the 2008 financial crisis. I have participated in hundreds of Department of Labor, PBGC, and Internal Revenue Service audits. My job—my mission—was to protect plan fiduciaries and plan assets to ensure and safeguard the accounts of every plan participant and worker insured by my company's fiduciary, crime and cyber insurance policies. I have participated in settlements and payouts that have restored well over one billion dollars to protect the retirement security of American workers.

I have learned from all of these experiences: I was a lawyer; I led a corporate turn-around; and then I led a successful startup. It has given me unique insights into how to better protect and expand the retirement and health security of American workers. I have learned how to improve the enforcement capabilities of EBSA. Most importantly, I have learned the key issues that have stifled the potential of the employee benefit system, including limitations in the *Employee Retirement Income Security Act*.

If I am confirmed by the Senate and am given the privilege and opportunity to lead EBSA, I will work hard every day to unleash and unlock the *creativity and full potential* of America's employee benefit system. EBSA needs a major turn-around, and I am an experienced turn-around manager with unique fiduciary expertise and experience. **I have three goals if given the opportunity to lead EBSA:**

First, I will improve EBSA's enforcement of fiduciary law. We will end the practice of open-ended investigations that go on for years. We will end the bias against ESOPs and other legitimate ways to expand retirement benefits and ownership to America's workers. And we will end the regulatory abuse of common-interest agreements with plaintiff lawyers. EBSA's enforcement will be fair, even-handed, and efficient.

Second, I will strive to provide regulatory clarity so that plan sponsors have the proper incentive to expand employee benefits. There are many issues that require regulatory clarity and stability so that the system can function properly, including (1) modernizing defined contributions plans to include alternative investments, such as private equity and cryptocurrency; (2) the consideration of ESG-factors; (3) the fiduciary rule as applied to IRA rollovers; (4) mental health parity; (5) plan forfeitures; (6) pension risk transfers; (7) tobacco and vaccine surcharges and wellness programs; (8) managing pharmacy benefit managers and health-care costs; and (9) cybersecurity to protect participants assets—just to name a few key issues. We will end the era of regulation by litigation by providing clear and effective rules for America's employee benefit system. We will restore discretion to plan fiduciaries as Congress intended in the ERISA statute, so that fiduciaries, not the government or plaintiff lawyers, decide what is best for plan participants.

Third, I will champion the cause of encouraging plan sponsors—once we give them even-handed enforcement and regulatory clarity—to expand retirement and health care benefits to America's workers. I will champion expanding retirement and health plan access to America's independent contractor workforce, which includes association health plans. I will also champion the cause of better mental health benefits to America's workers. But none of this will happen until we provide regulatory clarity and eliminate the ERISA litigation abuse that is turning benefit plans into liability traps. I also look forward to working with Congress for legislative changes needed to end litigation abuse, and to meet the challenges of the modern economy and workforce, including the coming wave of artificial intelligence and its impact on American workers.

Thank you for considering my nomination and how I can use my unique management and fiduciary experience to improve the employee benefit system. I want to get to work in what I consider the best job in the Federal Government.

The CHAIRMAN. Thank you, sir. Last, we are joined today by David Keeling, President Trump's nominee for Assistant Secretary of Occupational Health and Health—Occupational Safety and Health Administration, or OSHA, of the Department of Labor.

If confirmed, Mr. Keeling will lead the agency that is responsible for ensuring safe workplaces for American workers. He started his career as a part-time package handler and worked his way up to leading workplace safety efforts for significant employers.

He is a graduate of the University of Louisville. We look forward to hearing from you today, sir, and thank you for joining us.

STATEMENT OF DAVID KEELING, LOUISVILLE, KY

Mr. KEELING. Thank you, Chairman Cassidy, Ranking Member Sanders, and esteemed Members of this Committee. I am honored to appear before you today as a nominee for Assistant Secretary of Labor, overseeing the Occupational Safety and Health Administration. I want to express my deepest gratitude to President Donald J. Trump and Secretary Lori Chavez DeRemer for entrusting me with this significant responsibility.

It is a privilege to be considered for the role that plays such a crucial part in serving our Nation, our workers, and our citizens. On a personal note, I would like to thank my family, friends, and colleagues for their support.

My amazing wife, best friend and rock, Jamie Walker Keeling, my son Charles, and daughter Bethany. Everyone has a why. Why they get up in the morning, why we try harder each day, and why we care about making the world a better place.

These three are my why. I would also like to thank my parents, James David Keeling, Charlotte Crouch Keeling, and sister Becky Meade, as well as members of the Keeling Crouch Walker and Meade families who are here with us today or are sending prayers my way. God blessed me with a remarkable family.

My outlook on life is in no small way a result of those two sets of loving parents and grandparents, James Hurdleen and Geneva Jenkins Keeling, Stanley and Evelyn Wilkerson Crouch, four angels who will ever be on my shoulder. Throughout my nearly 40 years in occupational safety and health, I have dedicated myself to ensuring that every worker goes home to the loved ones, healthy and whole at the end of each day.

This passion was influenced by the death of my uncle, Lonnie Crouch, who died in a farming accident at the age of 17. I never had the opportunity to know my uncle, but the pain of his death caused—because of the pain his death, his name wasn't used every day. However, his loss is always there at my grandparents' house, an empty chair always present at the dinner table.

In my time as a safety professional at UPSer for 37 years and a Teamster, I came to understand that nothing is more beneficial than collaboration between employees and employers. I have had the opportunity and responsibility to walk on far more concrete

than carpet in my career. I have learned that the best source of safety improvement originates with the people who perform the job every day.

These experiences have equipped me with a deep understanding of the challenges we face and importance of collaboration, transparency, and integrity. I want to take a moment to commend the dedicated career employees at OSHA, both past and present. I want to assure them that their passion is recognized and that they are greatly respected by their industry peers.

I also want to reassure them that great opportunity lies in front of us. I believe that we have reached a crossroads in terms of OSHA's future in direction. My fear is that OSHA is at risk of losing its position as leadership in global health and safety space, not because of any failure on part of OSHA's people, but because of outdated systems and processes that have resisted past Administrations' efforts at common sense improvement. If confirmed, my goals are straightforward and simple.

First, I hope not only to continue, but greatly accelerate the pace of modernization in the area of regulatory oversight and rule-making, bringing to bear technologies and predictive analytics, which move beyond simple regulatory compliance and post-injury response to injury prevention through informed design.

We must take advantage of existing global industry consensus standards, which have gone through much more rigorous review, regular updating, and continuous improvement than have many of OSHA's existing rules. It will not come as a surprise to this Committee that many of OSHA's existing standards have become antiquated or unusable in the face of modernization or technological advancements within the workplace.

Second, expanding OSHA's leadership in the areas of cooperation and collaboration between professional groups, companies, and unions. We all want the same thing, although we differ sometimes on what the best road is to get there. We must move beyond existing silos and self-imposed barriers to achieve real improvement. Further, we must modernize and update existing voluntary protection programs.

The current VPP programs provide a basic platform, but it is only a start. Critical work needs to be done in this area to achieve successful outcomes. I truly believe that greatness in employee and health and safety is worth pursuing. My third and final goal relates to OSHA enforcement transformation.

Technology exists today which wasn't available to OSHA when it was really put into place in the 1970's. We now have the ability to use existing data to greatly enhance onsite safety efforts through predictive analytics.

We must engage at-risk employers and employees through proactive risk mitigation and reduction programs before a work site tragedy has taken place or a fatality has occurred. We should never get to the work site after it is too late. If confirmed, I am committed to working with each of you so that no family sits down at the dinner table with an empty chair.

I believe that by working with this Committee and the stakeholders across the ideological spectrum, we can achieve real and meaningful progress, and I hope to achieve these goals with your help. I welcome the opportunity to address your questions and discuss how my vision aligns with priorities of this Committee and constituent workforces we serve.

Thank you for your time, and I look forward to the discussion.
[The prepared statement of Mr. Keeling follows.]

PREPARED STATEMENT OF DAVID KEELING

Thank you, Chairman Cassidy, Ranking Member Sanders, and esteemed Members of the Committee. I am honored to appear before you today as the nominee for Assistant Secretary of Labor overseeing the Occupational Safety and Health Administration. I want to express my deepest gratitude to President Donald J. Trump and Secretary of Labor Lori Chavez DeRemer for entrusting me with this significant responsibility. It is a privilege to be considered for a role that plays such a crucial part in serving our Nation, our workers and our citizens.

On a personal note, I would like to thank my family, friends and colleagues for their support. My amazing wife, best friend and rock, Jamie Walker Keeling, my son Charles and daughter Bethany. Everyone has a “why”. Why we get up in the morning, why we try harder each day and why we care about making the world around us a better place. These three are my “Why”.

I would also like to thank my parents James David Keeling, Charlotte Crouch Keeling and sister Becky Meade as well as members of the Keeling, Crouch, Walker and Meade families who are here with us today or are sending prayers my way. God has blessed me with a remarkable family. My outlook on life was in no small way a result of two sets of loving grandparents; James Hertlein and Geneva Jenkins Keeling; Stanley and Evelyn Wilkerson Crouch. Four angels who will forever be on my shoulder.

Throughout my nearly 40 years in occupational safety and health, I have dedicated myself to ensuring that every worker goes home to their loved ones healthy and whole at the end of each day. This passion was influenced by the death of my uncle; Lonny Crouch, who died in a farming accident at the age of 17. I never had the opportunity to know my uncle. Because of the pain his death caused, his name wasn't used every day. However, his loss was always there in my grandparents' house, an empty chair always present at their dinner table.

In my time as a safety professional, UPSer for 37 years, and Teamster, I came to understand that nothing is more beneficial than collaboration between employers and employees. I have had both the opportunity and the responsibility to walk on far more concrete than carpet in my career. I have learned that the best source of safety improvements originates with the people who perform the job every day. These experiences have equipped me with a deep understanding of the challenges we face and the importance of collaboration, transparency, and integrity.

I want to take a moment to commend the dedicated career employees of OSHA both past and present. I want to assure them that their passion is recognized and that they are greatly respected by their industry peers. I also want to reassure them that great opportunity lies in front of us.

I believe that we have reached a crossroad in terms of OSHA's future and direction. My fear is that OSHA is at risk of losing its position of leadership in the global health and safety space. Not because of any failure on the part of OSHA's people, but because of outdated systems and processes that have resisted past Administrators' efforts at common sense improvement. If confirmed, my goals are straightforward and simple.

First, I hope to not only continue, but greatly accelerate, the pace of modernization in the area of *“Regulatory Oversight and Rulemaking”*, bringing to bare technology and predictive analytics, which move beyond simple regulatory compliance and post-injury response, to injury prevention through informed design. We must take advantage of existing global industry consensus standards which have gone through much more rigorous review, regular updating, and continuous improvement than have many of OSHA's existing rules. It will not come as a surprise to this Committee that many of OSHA's existing standards have become antiquated or unusable in the face of job modernization or technological advancements within the workplace.

Second, expanding OSHA's leadership in the areas of industry "*Cooperation and Collaboration*" between professional groups, companies, and unions. We all want the same thing, although we sometime differ on the best road to get there. We must move beyond existing silos and self-imposed barriers to achieve real improvement. Further, we must modernize and update existing Voluntary Protection Program's. The current VPP programs provide a basic platform, but it is only a start. Critical work needs to be done in this area to achieve successful outcomes. I truly believe that greatness in employee safety is worth pursuing.

My third and final goal relates to OSHA "*Enforcement Transformation*". Technology exists today that wasn't available to us when OSHA processes were originally put into place in the 1970's. We now have the ability to use existing data to greatly enhance onsite safety efforts through predictive analytics. We must engage at-risk employers and employees through proactive risk mitigation and reduction programs before a worksite tragedy has taken place or fatality as occurred. We should never get to a worksite after it is too late.

If confirmed, I am committed to working with each of you so that no family sits down to dinner at a table with an empty chair. I believe that by working with this Committee and stakeholders across the ideological spectrum, we can achieve real and meaningful progress, and hopefully achieve these goals.

I welcome the opportunity to address your questions and to discuss how my vision aligns with the priorities of this Committee and the constituent workforces we serve.

Thank you for your time, and I look forward to our discussion.

The CHAIRMAN. Thank you. I will begin. Dr. Schwinn, when President Trump nominated you, he said that "you have a strong record of delivering results for children and families and are committed to delivering the American dream to the next generation by returning education back to the states."

Very quickly, because I have limited time, the President trusts your leadership and judgment. Tell me why you think he selected you to be the Deputy Secretary of Education and be concise.

Ms. SCHWINN. Absolutely. Thank you, Mr. Chairman. When I met with the President, he said he wanted a strong outcomes oriented conservative education leader who shared his vision to make the United States the No. 1 country in the world related to student outcomes.

We talked about school choice, we talked about literacy, and we talked about how to make America the highest performing. And he looked at my track record on all of those issues, saw that we had done incredible work in Tennessee, and what I could do to take my management experience and make that real for 50 million children in this country.

The CHAIRMAN. Under this Administration, the department has been very clear about efforts to make sure that Federal funding does not support violations of Federal civil rights protections, including the use of divisive race-based ideology, the promotion of leftist ideology, and undermining parental rights around abortion, sex education, and transgender issues.

If confirmed, can you commit that you are aligned with President Trump's policy agenda on these issues? And please elaborate on your record at the state and local level on these issues.

Ms. SCHWINN. Thank you for the question, Mr. Chairman. These were also issues that I discussed with the President and also with Secretary McMahon. In Tennessee, to give specific examples, under

my tenure there, a number of laws and policies were passed both by the Governor and the General Assembly.

We passed laws within that state looking at divisive materials and ideologies in the classroom related to instructional materials, as well as the implementation of those laws. My responsibility was to implement the laws as passed, something that I am very, very committed to in alignment—and those laws were in alignment with President Trump’s agenda and the Executive Orders that have been put out.

My responsibility in my role as commissioner was to ensure that, one, there was strong local authority so that local communities, families, students had an opportunity to weigh in on what was appropriate for their local communities. Two, they had the opportunity to ensure that they had an appellate process so that the state was there to ensure that the law was being enforced as intended.

But three, the consequences for not following the law. In Tennessee, those consequences, if you did not follow the law, were pretty severe. If you refused to do that, it was a \$1 million fine on the first infraction, up to \$5 million and 10 percent of your state funds on the fifth infraction.

We took it very, very seriously in the state. That continues to be the policy. And that is because we believe very, very clearly that we need to teach the standards. We need to make sure students are reading on grade level, able to do math on grade-level, and empowered to do what they want to do when they graduate from high school.

The CHAIRMAN. Okay. Then I will—this next and then we go to you and doctor—and Ms. Richey, I am sorry. According to NIH sponsored research, almost 20 percent of the population is dyslexic, meaning they learn to read differently. And despite it being the most prevalent specific learning disability, students are rarely tested.

Now, studies have shown that children who suffer from undiagnosed dyslexia have lifelong harm with lower career ranges, reduced graduation rates, and increased rates of incarceration. As the Department of Education streamlines educational funding, how can we ensure that resources are there to identify and address an issue, specifically speaking of dyslexia?

Ms. SCHWINN. If you don’t mind, I will go ahead and speak specifically to that. I couldn’t agree more. Addressing dyslexia at the earliest ages, especially characteristics of dyslexia, is one of the most important things we can do to ensure that our students are reading on grade level by that critical third grade measure.

One of the things that we did in Tennessee was we included characteristics of dyslexia in our education formula so that it was funded as part of the special education disability categories. We increased funding for special education specifically to address that issue using existing state funding.

No. 2 is we increased assessment to have that early indication and warning. And I think one of the things that we can do at the Federal level is to support all of our states and territories with

guidance on how they can empower themselves from the laws and policies that work best within their local communities.

Being able to share Mississippi, Louisiana, some of the great work that has happened in Florida and Indiana, Tennessee. Sharing those best practices to see how we actually grow at a faster rate on areas like characteristics of dyslexia will be incredibly important.

The CHAIRMAN. I am out of time, but I may come back, Ms. Richey, at the end of—after. I don't want to hold other people up. Senator Baldwin.

Senator BALDWIN. Thank you. Mr. Keeling, the Nation's nurses face challenging working conditions that are too frequently exacerbated by instances of workplace violence. It is a financial issue for our healthcare system as well.

The American Hospital Association released a report just this week that states hospitals spent more than \$18 billion in 2023 on costs associated with managing workplace violence. We had a chance to talk about workplace violence when we met earlier this year, and I appreciated hearing that you take this issue very seriously.

My *Workplace Violence Prevention for Health Care and Social Services Workers Act* would address this issue through Congressional action. And the Department of Labor currently plans to issue a notice of proposed rulemaking in June, now this month of this year, for the workplace violence in healthcare rulemaking.

Do you commit to getting this proposed rule issued and finalized as soon as you are confirmed?

Mr. KEELING. Senator Baldwin, thank you for that. And I do appreciate the time we were able to spend in your office. Thank you very much for that.

As I mentioned earlier, I actually have two family members here today who are involved in home health care or health care at facilities right now. So, absolutely. I see it as being an opportunity for—massive opportunity for improvement, and I look forward to working with your office on it.

Senator BALDWIN. Thank you. Ms. Richey, in 2020, the Supreme Court ruled in the *Bostock v. Clayton County* case that the word sex in Title VII of the *Civil Rights Act* encompasses protections based on sexual orientation and gender identity. Justice Gorsuch wrote the opinion which ruled that it is illegal to discriminate against someone in the workplace for being gay or transgender.

The Department of Education released guidance in 2021 in response to this opinion while you were serving as Acting Assistant Secretary. In fact, I have a letter here that you sent regarding a student's complaint where you stated, and I quote, "Title IX does not mention discrimination on the basis of a student's sexual orientation." Both Title VII and Title IX prohibits discrimination on the basis of sex, yes?

Ms. RICHEY. That is correct, Senator. I think the language is different.

Senator BALDWIN. Do you still stand behind the Department of Education's interpretation of Title IX while you were there previously?

Ms. RICHEY. Senator, in order to answer that question, I really need to provide the full answer and the full scope of how the department implemented the Bostock opinion. It is a little more complicated than that. May I have a moment to do that?

Senator BALDWIN. Well, I think your letter speaks for itself. It says, Title IX does not mention discrimination on the basis of a student's sexual orientation. This was a complaint filed by a child based on discrimination in school based on sexual orientation.

Ms. RICHEY. Senator, there are also two letters of complaints that I did open following the Bostock opinion in response to complaints that had been filed with OCR alleging sexual orientation and gender identity.

We did take the Bostock analysis. We did identify a path forward for applying Bostock to OCR cases in certain situations and in certain circumstances. The only area where—under the first term where we said that it did not apply consistent with Bostock was in regards to athletics, to locker rooms, and to restrooms. There was a path forward to apply Bostock in all other cases.

Senator BALDWIN. Is it accurate to say that you believe that LGBTQ students do or do not have protections against discrimination in schools? What is your position?

Ms. RICHEY. Senator, my position is that students who file complaints with OCR alleging discrimination on the basis of sexual orientation and gender identity, those cases would be investigated by OCR consistent with Title IX, with the Bostock case, and with OCR's regulations.

Senator BALDWIN. Well, I want to just put for the record, especially given your written comments on this earlier, that in 2021, the National School Climate Survey found that—I am sorry, 58.9 percent of LGBTQ students experience discriminatory policies or practices at school. And we know that LGBTQ kids are four times more likely to attempt suicide than their peers. These kids are in dire need of protection against discrimination. If confirmed, I hope you will act in the best interests of all children.

The CHAIRMAN. Coach Tuberville.

Senator TUBERVILLE. Thank you, Mr. Chairman. Thanks for all of you willing to serve. It is a privilege to have you all here. Dr. Schwinn, I wonder if people can give the definition of national emergency. That is what we have in our education system. It is pitiful. I have been in it 35 years, and it is getting worse.

The last 4 years, we just brushed over the problems. Didn't try to correct any. I would hope that you would be really involved in this. Our kids can't read and write—the majority of them. It is a disaster. It is a shame. It is criminal, to be honest with you.

Would you please get that out of the classroom, because kids can learn when they are looking at a text? I am sick of hearing about we need those in the classroom. Let's take our schools back.

We have given it over to the people that actually don't want to educate our kids. So, thanks for your background in educational

agencies. And if confirmed, I hope you would assist Secretary McMahon in executing at the more local level. Can you address that?

Ms. SCHWINN. Absolutely and thank you for that. I couldn't agree more as the parent of a 13-year-old. So, absolutely, one of the things that we did in Tennessee that I think was the secret sauce and has been over a long period of time is that locals know what is best for their communities and their students.

Memphis, Tennessee, and Lake County, Tennessee are three to 4 hours apart and could not be more different. My home State of California and my adopted home State of Tennessee could not be more different. We need to make sure that locals are empowered to make the best decisions for their students.

When the money is closest to the child, when the decisions are closest to the child, we can best serve the child. And I am completely aligned with Secretary McMahon to ensure that we can help our states and our local communities to make the best decisions for their students in their communities.

Senator TUBERVILLE. School choice should be an option. I have been in many inner city schools, and for some reason, a lot of my colleagues do not want to educate kids in the inner city. School choice is a—should be mandatory in a lot of our inner cities, because they can't read and write. And if you can't read and write, you can't take advantage of the greatest country ever.

Ms. RICHEY. Title IX, Protection of Women and Girls in the *Sports Act* is what I have been trying to get passed for years. It makes no sense to me what is going on. I mean, we got a huge problem if we can't define the difference of men playing in women's sports. It is dangerous.

We all know that. I mean, it is something that we better get it straight, because little girls aren't going to get into sports, and we are not going to have women's sports 10, 15 years from now.

We have got entire high school teams that are made now of transgender boys that can't figure out that they are not supposed being that. That it is for women. What is your thoughts on that?

Ms. RICHEY. Yes, sir. Thank you, Senator, for the question. I grew up playing basketball. I played into college. I could not have competed against biological men. It just was not something that I would have been able to do.

One of the things I am really proud of under the first term is that OCR investigated and took to enforcement one of the very first cases initiated by the Federal Government, which actually determined that policies that allow students to participate based on sexual orientation or gender identity actually violated Title IX because they deprived women and girls of the opportunity to participate in athletics.

I am very proud of that. I am proud of the way that the Secretary and the President have prioritized this issue, and I am certainly committed to vigorously enforcing it and continuing to pursue these cases.

Senator TUBERVILLE. Thank you. We have got the Olympics here in a couple of years, a few years, in L.A. We are going to be a joke

if we allow that to happen. We are on the world stage, so hopefully we come to our senses by that time and show the little girls that, yes, you do have an opportunity. Freedom, *Financial Freedom Act*. I think you are, Mr. Aronowitz, are familiar with that.

The Biden administration pretty much prohibited being able to put your finances where they want to at the end of the day, and I have been trying to get that passed. Would you commit to supporting legislation that would provide Americans the freedom to invest their own money to how they see fit?

Mr. ARONOWITZ. Yes. [Technical problems]—decide what is in retirement plans, not Government bureaucrats, not plaintiff lawyers, no one. Fiduciaries know what is best, and I am committed to that.

Senator TUBERVILLE. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, coach. And coach always brings his experience as a coach to the playing field, and I appreciate that.

Senator Murray.

Senator MURRAY. Thank you very much, Mr. Chairman. Welcome to all of you. For nearly 160 years, the Federal Government has published the Condition of Education Report, which is really critical to help us understand how students in schools are doing. But this year, for the first time ever, the National Center for Education Statistics missed its June 1st deadline to publish the report, which is actually required by law.

This happened after the department fired almost all of the National Center for Education's statistics staff and canceled contracts that were needed to complete that work. Now, all we have is a bare bones highlight document with no explanation to Congress or to the public, and that is really unacceptable.

Students, families, teachers all deserve to see a full report. And this is not just about one report. NCES is also responsible for administering the National Assessment of Educational Progress, NAEP, which you referred to, Dr. Schwinn, also required by law, as you know. I have written the Secretary on this issue and not yet received an adequate response, and the department has not yet provided a promised briefing to me on NAEPs.

Dr. Schwinn, I wanted to ask you, if you are confirmed, will you ensure that NCES finally and fully and promptly produces a complete Condition of Education Report and has the staff that it needs to carry out all of its statutory required duties including NAEP?

Ms. SCHWINN. Thank you for the question. If confirmed, I will absolutely ensure that we follow all of the laws that you all have passed, and certainly want to reinforce our commitment to NAEP and its full execution.

Senator MURRAY. I appreciate that. Well, clearly the decimation of NCES has compromised its ability to provide the data that we in Congress and the public rely on. So I hope that you will work to see that those cuts are reversed because we can't afford to fly blind when it comes to knowing how our students, schools and—students and our schools are doing. So, I look forward to working with you on that.

Ms. SCHWINN. Thank you, Senator.

Senator MURRAY. Dr. Schwinn, the bipartisan *Every Student Succeeds Act*, which we wrote on this Committee under Senator Alexander—I helped write that as well with him. It requires states to identify and support their most struggling schools.

But according to the GAO now, less than half of the schools that were identified for additional support have compliant improvement plans. The department has only reviewed three out of five states total so far this year, with no plans for further oversight.

It is really hard to imagine that the rate of review improves because of the massive cuts we have seen across the department. So I wanted to ask you, what is your proposal to improve the department's rate of view and therefore help our Nation's struggling schools and students?

Ms. SCHWINN. Thank you for the question. I think the most important thing in your question is to say that there must be a commitment to ensuring that our most struggling schools improve because our students deserve that.

If confirmed, one of my top priorities is going to be looking at any of the departments within the Department of Education and ensuring that we know our statutory obligations, certainly to Congress, that we have the most efficient practices in place, and that we meet our obligations. And I look forward to working with you on any of those.

Senator MURRAY. Would you commit to publicly reporting the department's monitoring findings and state responses so Congress and educators and students and families can see where the struggling schools are?

Ms. SCHWINN. I would certainly want to discuss that with Secretary McMahon, but I would absolutely want to work with your office on that project. Thank you for that suggestion.

Senator MURRAY. Okay, thank you. Ms. Richey, do you believe that the staff at OCR are important to protect students' civil rights?

Ms. RICHEY. I do, Senator.

Senator MURRAY. Do you believe that every complaint must be investigated in a timely way?

Ms. RICHEY. I do.

Senator MURRAY. Well, earlier this week, Secretary McMahon, appearing before another committee, told me that the current backlog is 2,500 cases. The department later clarified to me that it is actually a 25,000 backlog.

This Administration has fired more than half of the staff at OCR, and President Trump is now asking his budget to slash that by \$49 million next year. So explain to me how those firings and that funding cut will help reduce that backlog. I want to be—I want to understand how you are going to square that circle.

Ms. RICHEY. Yes. Thank you so much for that question, Senator, and the opportunity to weigh in. As you can imagine, as a nominee, I do not have access to information with regard to the decisions that are being made at the department. I am not in communication with OCR leadership or the Secretary.

One of the reasons why this role is so important to me is because I am always going to advocate for OCR to have the resources that it needs to do its job. So, I think that what it means is that I am going to have to be really strategic if I am confirmed stepping into this role, helping come up with a plan where we can address these challenges.

Senator MURRAY. Okay. Well I think it is pretty clear, if you have a 25,000 case backlog and you fire half the staff, cut the budget by 36 percent, it is going to be pretty hard to get those cases through. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Moody.

Senator MOODY. Thank you, Mr. Chairman. I hope you are feeling better.

The CHAIRMAN. Thank you.

Senator MOODY. Thank you to all of you for being here today. Certainly this is hard on not only you to prepare and go through, but I know your families. And thank you for your families for being here and your supporters for standing strong with you as you face some really challenging questions, but the roles will be no less challenging.

This is a good testament to how you will perform in your roles, so welcome to the Senate. You were called all of you to lead important offices and it is no surprise that you all are well qualified. I have been amazed at the talent that this Administration has attracted, and I thank you.

To answer the call of public service is not only a sacrifice for you, but also for those that are at home when you go home at night. So, thank you to your families. I am excited to see another Floridian taking on a leadership role here in DC. Ms. Richey not only served previously in the U.S. Department of Education, but also in the Florida Department of Education.

They have brought so much of the Florida leadership here to DC, I think it snowed the third week in January in Florida, historically. So, it is good to see you. Too much sunshine up here. It is never a bad thing. Unlike previous years, President Trump has come in immediately and is shining a light on Antisemitic chaos and crime on our campuses. For that, we are all grateful.

Whether it is by withholding Federal funding or by moving to revoke the accreditation of failing institutions, the message is clear that institutions must ensure the safety of their students on campus and not allow Antisemitism or violation of civil rights to go unchecked. This is something that I think all of us sat in horror as we watched on our campuses, as it played out on TV, and then as we heard the calls for help coming in.

Certainly in Florida, we took a very strong approach to make sure that not only our law enforcement understood crimes that were being committed and took appropriate action. That our prosecutors understood we couldn't let those that were committing crimes right back out, right back on campus.

That is very important. But also a follow-up to make sure that leadership is not continuing to either promote or allow for a viola-

tion of civil rights. That is so important. And I think it is probably no surprise that I want to talk to you, Ms. Richey.

This morning, I filed a proposed bill called the *Reclaim Act*, and it is a way to give the Administration another tool to go after those universities that are allowing the violation of Civil Rights by taking back taxpayer dollars to ensure Americans are not funding institutions that continue to foster Antisemitic crime or behavior—really I believe anti-American behavior. And I believe that each of you in your roles can help play a part of this.

But Ms. Richey, I would like to ask you in your capacity as Assistant Secretary for the Office of Civil Rights, you will be tasked with continuing to hold those institutions of higher education accountable for failures in light of some of these violations of civil rights. I know this is a priority for this Administration. Have you contemplated, or how do you expect on day one in your official capacity of addressing?

Ms. RICHEY. Yes. Thank you so much, Senator, for the question and for your leadership on this issue. I should say first, right, that with the recent tragedies that we have seen in Colorado and even with the shootings here in DC, that those incidents are emblematic of the horrific acts that the Jewish students are facing across the country.

I am so appreciative of the forcefulness that the Administration is using. It is merited. In this environment, it is merited, and it is necessary. This will continue, fighting Antisemitism will continue to be a priority for me. I think there is a lot of tools in OCR's toolbox that we can use to fight Antisemitism.

You are already seeing directed investigations and compliance reviews to target certain schools, certain universities. To put this issue at the forefront I think we need to look at issuing guidance in a post-October 7th world, right. The climate is very different than what it was 5 years ago, 4 years ago, 3 years ago.

I think we could look at amending the Title VI regulations to specifically address Antisemitism. One of the things that I feel like is my strength is the opportunity to partner across the department.

I have done it with restraint and seclusion. I have done it with sexual assault in K-12. This is an area where I would want to partner with the post-secondary education office to see in what ways we can use their tools and OCR's tools to really vigorously enforce Title VI.

Senator MOODY. I think that completes my time, Mr. Chairman. Under time.

The CHAIRMAN. Thank you, Senator Moody.

Next is Senator Blunt Rochester.

Senator BLUNT ROCHESTER. Thank you, Chairman Cassidy. And thank you to all of the nominees and your families. I would like to follow-up on some questions from Senator Baldwin and Senator Murray. Starting with you, Ms. Richey.

In March of this year, the Department of Education closed 7 of its 12 civil rights enforcement offices, including the Philadelphia office, which serves my State of Delaware. And at the time, it was

reported that there were more than 6,500 open cases across this region, and 811 open cases in the Philadelphia office alone.

I guess I want to start off by recognizing that if we are closing offices, if we are firing staff, and we already knew there was a backlog, first I would love to have a commitment from you that you inform Congress shortly after you are nominated, as well as those impacted individuals and families who are waiting and don't know where their cases are, what offices they are now going to?

Would first like a commitment that will be a priority for you, should you be confirmed, to make sure you alert us, but also those impacted families on where did their cases go.

Ms. RICHEY. Yes, thank you so much for the question, Senator. As I mentioned to Senator Murray, I am always going to advocate that OCR have the resources and the tools that it needs to do its job.

Part of OCR's job is to openly and directly communicate with parents and families so that they know the status of their complaints. I am certainly committed to transparency with this body, and certainly to communicating with parents across the country.

Senator BLUNT ROCHESTER. I understand that you are not in the position now, but I know you were acting in the position. You served as Acting Secretary. And I guess one of the questions I also have is, when you were there before, did you have the resources you needed before?

I mean, does it make sense now to, if there was already a backlog, to then cut people and shutter offices? Do you have in your—first of all, that is the first question. Did you have what you needed before as a department?

Ms. RICHEY. Yes, thank you. I am very proud of what we were able to accomplish under President Trump's first term. Holding Penn State accountable for Jerry Sandusky's sexual misconduct. Holding Michigan State responsible—

Senator BLUNT ROCHESTER. I was just curious about like the ratio and the staffing. Did you have what you needed before?

Ms. RICHEY. I don't recall the specific ratio to staff when it comes to complaints versus how they were dispersed across the staff. We effectively enforced civil rights laws, and that is what OCR should always do.

Senator BLUNT ROCHESTER. Well, I appreciate your commitment to transparency and would love for you to also report back to Congress any information about caseload ratios of the remaining staff so that we can get a better understanding of how things are now compared to how things were before.

We all know that the world has shifted online, meaning web accessibility is more important than ever, including for students with disabilities. And a recent survey found that only 10 percent of college faculty believe their college provides adequate tools to support students with disability, including online materials.

In 2024, the Department of Justice issued new regulations under the ADA, requiring public schools, colleges, and universities to make their Web sites and apps accessible by 2027. And last month, this Committee even voted unanimously in favor of an amendment.

I proposed to reaffirm that commitment to web accessibility for all students.

Yet OCR cut half the staff focused on resolving digital accessibility complaints earlier this year. So it is hard for me, again, to think if we didn't have the resources before, cutting staff, shuttering offices, doing away with folks that are going to help provide accessibility will make things better.

If you are confirmed, would you commit to having web accessibility be a priority, particularly in light of your own personal story that you shared? Will you devote resources and time to this issue?

Ms. RICHEY. Thank you, Senator. I am very proud that under our previous—under the previous Administration, all the way dating back to the Bush administration, that we always prioritized web accessibility. We formed a specific team—

Senator BLUNT ROCHESTER. This doesn't feel like a priority when we cut the people who make it possible.

Ms. RICHEY. I think what is important is that even without, right, even without a specific law addressing web accessibility, Web sites have to be accessible currently under 504, right. That is an existing legal requirement. So I am always going to enforce these laws.

Senator BLUNT ROCHESTER. Exactly—exactly. So the answer is yes?

Ms. RICHEY. Yes.

Senator BLUNT ROCHESTER. The answer is yes. And last, if I could, just want to make sure, for Mr. Keeling, just a quick question. Do you commit to supporting OSHA's protection of whistle blowers, particularly from retaliation? Just a yes or no.

Mr. KEELING. Absolutely.

Senator BLUNT ROCHESTER. Thank you, and I yield back.

The CHAIRMAN. Good job sneaking a question in, Senator Blunt Rochester.

[Laughter.]

The CHAIRMAN. I was asleep at the wheel.

Senator HUSTED.

Senator HUSTED. Thank you, Mr. Chairman. Mr. Aronowitz, I know that you are from a working class part of Ohio, so congratulations on your job. Very appropriate. I just—you mentioned something in your testimony about ESOPs. That is a great way to help businesses involve their employees, keep the legacy of those businesses in those communities.

I encourage you to do all you can to help support those in your role. And I just wanted to say that to you. Don't need you to answer anything. I just want you to know that. Dr. Schwinn, you are going to get the rest of my time, Okay.

Here is the thing. Everybody in education has a tough job. Because why? Because we love our kids. We want the best for our children. And I have been astonished over my time working on education my whole life, how policymakers want to stand in way of the judgment of parents over what the best path is for their children. Because all children learn differently.

All children have different interests. I have visited hundreds and hundreds of schools over my time. They are STEM schools, art schools, charter schools, religious schools, tech cred, you name it. All of these different things that help prepare children for different pathways.

I want to talk with you about the idea of freedom. We say we love freedom in this country. Educational freedom should be one that we embrace wholeheartedly. And when I was speaker of the house in Ohio, I created a program in 2005 called the Ed Choice Scholarship. It is a statewide voucher program now. It has over 160,000 children enrolled in it at some level.

The Urban Institute recently conducted a study that showed that children who have a voucher in the Ed Choice Scholarship are 32 percent more likely to enroll in college than those who remained in the same public schools. So, it works. It doesn't mean that enrolling in college is the most important measure. The most important measure is getting a child prepared to do whatever they want to do.

But it is a valuable measure, and it shows that male students, Black students, below median test score students, and families from low incomes benefit the most from those opportunities.

I want to just ask you, what do you believe that you can do? First of all, do you believe in the philosophy that I just articulated? And two, how can you help advance that if you do indeed agree with it?

Ms. SCHWINN. Thank you for that question. And most importantly, as a parent and educator, thank you for your work and advocacy on behalf of students and families. So one, yes, I believe that certainly as the parent of three very, very different children, every child needs something different, and I believe school choice is a way to do that. There are a lot of different school models.

Certainly there are traditional public schools, magnet schools, public charter schools, private schools, parochial schools, etcetera. And it is really up to local communities and states to figure out the policies that can be put into place to give parents as many options as possible so they can choose the best fit for their child.

I think that is incredibly important with an outcomes orientation in mind because we have to do the best for 50 million kids. In my capacity, if confirmed as Deputy Commissioner, I think there are two or three things that I can do specifically to make that outcome more real for more families.

No. 1, is states need to have a better sense of guidance about what is and is not possible with the use of dollars and current Federal policy. No. 2, is there are a lot of states doing an incredibly innovative and interesting work.

That is everything from Miami Dade in Florida, who is building a classical model within their traditional public schools, to the State of Arkansas who is just on a universal school choice and voucher program. We can provide different states with models that fit their particular local communities.

Then No. 3, I think one of the best things that we can do is we can provide more information, transparency, and action oriented

information for families. Families need to make those decisions, not policymakers. The Government is not the parent. We need to empower parents to make the decisions and give them those choices.

Senator HUSTED. Great. And I love that you have the Department of Labor and Department of Education here because you need to be connected, right. Because particularly with career tech.

We have set a record for the number of children enrolled in career tech. Every job is going to require some type of technical training. It doesn't mean you have to go to college, though. There are so many ways to do it. I encourage you to lean in on career tech.

But two final points I want to raise of some things that I have noticed over time is that one of the things that we have been doing in Ohio, and I know other states are doing it as well, get the smartphones out of the schools. I know we don't want to tell people how to do these things.

There are policies to do it. But when you talk to principals who say, yes, as soon as I got the smartphone out, the lunchroom got noisy again because children are actually talking to one another. Discipline problems are down. Learning is up. Bullying is down. All of the things have dramatically improved.

Then you mentioned the science of reading. It is abundantly clear. The facts are clear that it is the way to teach reading. What thoughts do you have on those two topics?

Ms. SCHWINN. No. 1, I would love to see cell phones be more restricted in schools, and frankly, I would love to have those companies provide the pouches and pockets for students to store them in.

Second is, I believe that the science of reading should be in every single state, and more importantly, we should be focused on implementation. Your state has done an incredible job on that, as so many of the others have.

We need to go further and faster and push harder on quality implementation and return on investment.

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

The CHAIRMAN. Thank you Senator Husted.

Senator Alsobrooks.

Senator ALSOBROOKS. Thanks so much, Mr. Chairman. I have two questions. First of all, to all of our nominees, thank you. Congratulations, and thank you for being here today. I have questions for two of our witnesses.

One is Mr. Keeling. I will begin with you. I just want to talk to you about the emergency response standard. Baltimore City Fire Department was left recently in mourning in recent weeks following the deaths of two of the bravest in the line of duty.

In an interview with my staff, I know that you pushed back against the immediate need for an updated emergency response standard. And the proposed rule from OSHA would update what is now a nearly 50-year-old fire grade standard and improve safety and health protections for emergency responders.

We know that the rule would require access to behavioral health resources and improve minimum standards for staffing, apparatus

readiness, and protective clothing. So I wonder whether you believe that there is a need to increase workplace protections for firefighters.

Mr. KEELING. All workers, including our emergency response service members, need to be able to return home healthy at the end of the day. So there is no disagreement at all there. I think when you look at the standard itself, there is a path through. So I didn't—if I came across as pushing back, that wasn't my intention. I think there is a path-through on that issue.

But there are some concerns, I think, from volunteer fire departments and others coming in about how they make that work from a voluntary firefighter and a limited budget perspective. So I think there is a path through.

I just don't know that, and I haven't been in contact with the career folks at OSHA yet, just being a nominee. I think that there is path forward. I just know if it is exactly as written right now.

Senator ALSOBROOKS. Okay. Well, that is good to hear. And then, would you commit then to work toward really an immediate adoption of at least a slightly revised standard that minimizes detrimental effects on volunteer fire departments?

Mr. KEELING. I will commit, Senator, that will be one of the first conversations I have with the career team, if I am confirmed.

Senator ALSOBROOKS. Okay. And then just last, the concern, we have 350,000 members of the International Association of Firefighters who endorse Secretary Chavez DeRemer, but we are really concerned about mental health for our firefighters, and I wonder whether you believe that mental health issues are an occupational hazard for certain professions.

We know that our fire department, for example, had to really take matters into its own hands, start its own center, the National Center of Excellence Treatment for PTSD. I wonder whether you believe this is an occupational hazard.

Mr. KEELING. Absolutely, I do. I feel that it is something that, depending on the work that is done, the potential trauma or the situations that workers are put in, whether it is a fireman or a policeman—there is a number of health care workers we mentioned earlier. There is a number of workplaces out there where the stress needs to be considered.

Senator ALSOBROOKS. Thank you. And finally and I know you weren't a part of this decision, but this Administration paused the firefighter cancer registry at the National Institute for Occupational Safety and Health. And we know that 70 percent of our line of duty deaths are due to occupational cancer.

Just concerned about that. I want to just put that on your radar as well. I think it was the wrong decision. Ms. Richey, I just want to quickly also ask you a question. The Administration, as you have heard this morning, has slashed the Office for Civil Rights staff, but they have also signaled that there will be a reprioritization of case adjudication at the Office of Civil Rights, placing some forms of discrimination over others.

First of all, do you agree that it is important for OCR to treat all forms of discriminations equally to ensure that we are sending

the message that all forms of discrimination, all violations of the *Civil Rights Act* are unacceptable?

Ms. RICHEY. Thank you, Senator, for the question. I do believe that all forms of discrimination, all complaints that are filed with OCR, that it is important to vigorously enforce all of the Federal laws that OCR is responsible for enforcing.

Senator ALSOBROOKS. Okay. And so in that same vein, in your opinion then, is discrimination based on religion any worse than discrimination, for example, based on race?

Ms. RICHEY. It is somewhat of a difficult question to answer, Senator, since the Office for Civil Rights does not have specific jurisdiction over religion. It is—for purposes of this office, it is almost like comparing apples and oranges.

I think I would have to go back to my original statement, which is that any claim of discrimination is wrong. One student that is harmed for being discriminated against, that is enough, right. It is all wrong, and it should all be addressed.

Senator ALSOBROOKS. Exactly. So then you would agree that discrimination based on race, religion, disability, ancestry, they are all equally important. There is no distinction in terms of their importance. All forms of discrimination are wrong.

Ms. RICHEY. I don't disagree with that Senator, and I think that the Office for Civil Rights, is focusing on all complaints.

Senator ALSOBROOKS. Thank you.

The CHAIRMAN. Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman. And welcome, ladies and gentlemen. Thank you for your willingness to serve. I want to start with you, Dr. Schwinn. As you know, Alaska has the greatest number of Indian tribes in any state. And a lot of focus now on what more we can be doing on the education front.

Alaska Native leaders and parents are really interested in doing more when it comes to self-determination over their children's education. In the last reauthorization of ESSA, I included language to require states and school districts to engage in meaningful consultation with tribal representatives.

Unfortunately, we haven't seen a lot of engagement as we had hoped since 2017. We just—and it has been across multiple Administrations here. And so, I would just like to put this to your attention, recognizing that it is important to meet the requirements of meaningful consultation, whether it is in the Department of Education or whether it is in Interior. It is across our Government.

I put that in front of you here today. And another issue that I would like to bring to your attention. The State of Alaska is moving forward with a pilot program to create what we call STEC, State Tribal Education Compact Schools. Secretary McMahon has met with some of the STEC schools' representatives.

This would effectively, with this compact, education compact with the tribes, would be public schools that are open to all students to offer culturally relevant educational models.

I don't know if you have been brought up to speed, if you had any conversations on these, but we are hoping that you would be

able to effectively advocate for additional support as we move forward with these initiatives in Alaska.

Ms. SCHWINN. Thank you. I will go ahead and say that your staff gave me a little bit of information and gave me some information to follow-up on, if I am so confirmed. But really look forward to working with your office on that. And want to just congratulate you on what I think is a really innovative program and look forward to seeing more about it.

Senator MURKOWSKI. Well, we feel like we need to be innovative because the status quo has not helped our native students. And when our native students do not do well, Alaskan students writ large do not do.

We want to be doing more in this area. Let me turn to you, Mr. Aronowitz. You are probably very familiar with the angst that has been expressed by some about the need. For a single, clear regulatory definition of good faith effort for valuing ESOP stock.

The concern is that instead of having a clear definition that is spelled out in regulation, ESOPs have been operating under this kind of a patchwork of litigation and investigation. There is also some concern that the department has taken excessive enforcement actions against ESOP's. Can you speak very briefly to your views on these?

Mr. ARONOWITZ. I believe that Congress wants ESOPs. And everybody is for ESOP except the Department of Labor the last 20 years. And I will end the war on ESOPs. I think it is the best way for employees to get an additional benefit and ownership in an American company. The valuation companies have all been sued by the Department Labor.

It can't be right that every single one of them are doing it wrong. What the department is doing is nitpicking the professional judgment of the valuation professionals. I am going to put an end to that because I think unless there is a clear conflict of interest, then the valuation is appropriate when done by an independent valuation firm.

Senator MURKOWSKI. Well, there are so many in my state where the ESOP is really looked at and valued as that commitment to not only that business, but employer security as well—employee security as well. So, thank you for that. Mr. Keeling, OSHA has traditionally relied on NIOSH data and recommendations for any of the workplace safety standards.

I come from a state where we unfortunately have a high incidence of accidents on the workforce. The commercial fishing industry has been tagged as one of the most dangerous occupations in the country. We have significant and severe wildfires every year, so we worry about health and safety risks to our firefighters.

We have seen the Administration moving forward with some pretty significant cuts to NIOSH, and I am concerned that this is going to hamper some of the vital research that is out there. So I don't know if you can speak to whether we have a plan on how we fill the data and information gap if NIOSH is unable to produce what we need in terms of timely data and recommendations as you work to inform rulemaking.

Mr. KEELING. Yes, Senator, thank you for the question. There is a gap, if you will, if NIOSH doesn't exist. But there are ways through that I think. Use of private entities to fill some of those gaps. I have not been—obviously I am not in place. I have not spoken to anyone in the career side from OSHA on that point, and NIOSH does not directly report to the Department of Labor.

There is a little bit of a difference there, a separation there as well. I have got—I will have questions as well when—if I am lucky enough to be confirmed, about how we do that. But I think there are paths through. I think through using the professional groups that are out there and by using some private resources there are ways to fill the gap. Not necessarily easily, but there are ways.

Senator MURKOWSKI. Right. We don't want to see those gaps. Thank you, Mr. Chairman.

The CHAIRMAN. [Technical problems]—the time to Senator Kim.

Senator KIM. Thank you, Chairman. Ms. Richey, I want to just start with you. A lot of conversation about the scourge of Antisemitism that we are facing right now. I guess I just want to ask you, is Antisemitism getting better or worse in America?

Ms. RICHEY. I think—thank you, Senator, for the question. I think one of the benefits of having sat in the various roles in which I have served is that I started working on these issues back in 2004. And so, I do have the full scope of seeing the picture for 20 years.

Senator KIM. What does it look like to you from your view—

Ms. RICHEY. I do think it is getting worse. I think when we were dealing with these issues 20 years ago, we were looking at classic harassment, classic intimidation. I think what it has evolved into is threats, violence, exclusion, a much more severe and a much more persistent—

Senator KIM. If it is getting worse, doesn't it make sense then that we would invest more in countering Antisemitism and invest more into the Office of Civil Rights?

Ms. RICHEY. Well, I certainly think that the Administration is prioritizing investigations involving Antisemitism. I think they are aggressively and forcefully identifying—

Senator KIM. How does that mesh with just the facts that we are seeing reductions in the staff at the Office of Civil Rights?

Ms. RICHEY. Yes, I appreciate the question, Senator. As I mentioned before, I can't explain or provide information on decisions that I wasn't involved in or decisions that I didn't make. I am not in a position right now to be in communication with department leadership.

Senator KIM. Well, just to get a sense of your thinking here on this front, though. I supported, and I have called for a doubling of the Office Civil Rights' budget. Is that something you would be open to?

Ms. RICHEY. Yes, I think that this body will determine in coordination with the President and the Secretary what an appropriate

budget is. And my job is to focus on the needs of OCR, how to take its resources, its staff.

Senator KIM. I hope that you are—I just guess I would ask you will you commit to this Committee that if you go through—if you get confirmed and you see your resources, and if there are needs, that you will come back to us and have an honest conversation with us about those needs.

Ms. RICHEY. Senator, I am always—as I mentioned before, I am always going to advocate that OCR have the staff and the resources it needs to do its job.

Senator KIM. Now, when it comes to—I had a conversation with members of the disability community, the disability advocates, so I appreciate some of what you said there earlier. I will be honest with you.

They are concerned about some of the discussion out there about moving the OCR over to the Department of Justice. They are worried about the fact that Health and Human Services Secretary told me that she thinks IDEA should be over at HHS.

I would like your reaction to that, because I promised them I would ask you this. So do you support keeping OCR at the Department of Ed?

Ms. RICHEY. Yes. Senator, one of the things that I appreciate the most about the President's directive to the Secretary about examining where education lies and the Federal role in education is that he is the first President to turn the focus on students. To stop and say what is best for students? What is best for families?

Senator KIM. But if it's about best for students, why is it moving it out of the Department Ed an idea to be considered?

Ms. RICHEY. The current structure is not serving students. The current is not meeting the needs of students. We would have higher NAEP scores. We would see better outcomes if what we were doing right now was working. So what I appreciate and what I agree with is the conversation for us to stop and look at how can we better meet the needs of students, how can we better serve families. I think that is an important discussion and I appreciate—

Senator KIM. I don't disagree with you that there are things we can improve when it comes to education, but what we have seen is a dramatic increase in support and—to students with disabilities.

We are not perfect on that, but I think there is a lot of concern that the rug is going to be pulled out from under them and that a system that they have been trying to work on to improve—and again, we should be investing more in.

I just wanted to raise that with you, because I know you raised this as an importance for you, and I think it is something that we owe the disability community, we owe students with disabilities and their families a clear answer on what is to come. Ms. Schwinn, I just wanted to ask you, do you see value in having foreign students study at U.S. colleges and universities?

Ms. SCHWINN. I appreciate the question. I would say that I think there is value for students to receive an excellent higher education. And so, that would be my answer.

Senator KIM. Yes, I guess I would just say, it is not just for them. This is something that I read, a very interesting Op-ed from you when you talked about the importance of R&D. And you talked mRNA, you talked about AI.

Those are advancements that immigrants and foreign students helped our Country push forward. So it is not just about the benefit to foreign students. It is a benefit to the United States, to our global competitiveness. Is that something you would agree to?

Ms. SCHWINN. Yes.

Senator KIM. Okay. Thank you. And with that, I will yield back.

The CHAIRMAN. Thank you.

Senator Hawley.

Senator HAWLEY. Thank you, Mr. Chairman.

Congratulations to the nominees. Thank you for being here. Ms. Richey, if I can just start with you. I just want to clarify something that you said to Senator Baldwin a moment or two ago. She asked you about OCR investigations into alleged cases of discrimination on the basis of gender identity under Title IX. And you said, I think—I am looking at our quick transcript of your remarks. I was sitting here. I want to make sure I heard it correctly. You said that the OCR, the Department of that OCR would investigate alleged cases of gender identity discrimination. Why is that?

Ms. RICHEY. Thank you for the question, Senator, and for the opportunity to have a detailed discussion about it. So in 2017, OCR clarified that transgender students, that students who bring allegations forth based on sexual orientation and gender identity, were protected from harassment under Title IX.

Sex stereotyping, a very narrow set of cases applied to protect students on the basis of sexual orientation and gender identity. That was back in 2017. Following the Bostock case, OCR had to step back and determine how Bostock applied to Title IX cases. There are a lot of reasons it didn't apply, and I can walk through those because they are significant.

But what OCR finally determined is that because of the holding in Bostock, that Bostock could inform OCR's evaluation of complaints that allege discrimination on the basis of sexual orientation identity to determine if they involve biological sex, which is consistent with the Bostock opinion.

What we held is that Bostock could inform some, a limited set of OCR cases pertaining to different treatment, pertaining to harassment, pertaining to bullying, but we drew a hard line at universally accepting Bostock to apply to all Title IX cases.

What we said is that because the Supreme Court said that biological sex was not relevant in the termination of those employees in Bostock, that we would also look at the relevance of sex in our cases.

What we determined is that sex is relevant in certain instances. Sex is relevant with regard to restrooms. Sex is relative with regard to locker rooms. And sex is relative to athletic teams. So it was a very nuanced approach.

Senator HAWLEY. But sex is not gender identity, and the Bostock decision is Title VII. The Supreme Court specifically reserved the question of whether or not it applied to Title IX. Justice Gorsuch is very clear on this. Now, the Biden administration didn't heed that warning at all, as you know.

They subsequently issued guidance that attempted to rewrite Title IX completely. That guidance has been enjoined nationally by courts because it is utterly inconsistent with the text of Title IX. Indeed it complete—as you know, it completely upends. It reads Title IX to say that women sports cease to exist.

That a biological man, if he wants to be in a women's sport, go for it. In a women's locker room, fine. It is so outrageous that I think almost every court that has considered it has enjoined it.

Ms. RICHEY. I agree.

Senator HAWLEY. Okay. I just want to be sure that you are not going to follow the Biden administration's interpretation of Title IX, surely?

Ms. RICHEY. No, sir. The Biden administration universally accepted Bostock and arguably exceeded, right. Went even further, I think, than the Bostock opinion.

Senator HAWLEY. Not arguably—

Ms. RICHEY. That is not what we did under President Trump's first term, and that is not what we will do under President's Trump's second term.

Senator HAWLEY. Good. Okay. I want to be crystal clear on this. I think it is a very dangerous thing to start allowing this into Title IX, which as you know, is a landmark statute, it is vitally important, and it has been under attack for four very long years, where we have seen women sports, women's leadership opportunities, women safety eliminated in many cases.

Now of course, one of the challenges you are going to face is you have got a host of colleges and universities who are openly defying not just this Administration, they are defying court orders. I hear a lot of talk from my friends over here on this side of the dais about the need to follow court orders.

We have got a whole bunch of colleges and Administrations that are defying court orders and saying, well we don't care. We are going to have biological men and women sports no matter. We are going to have biological man in women's locker rooms no matter what. Surely you are going to go after that, are you not, and protect the women on campus?

Ms. RICHEY. Yes, sir. The current leadership within OCR and Secretary McMahon, as you know, is prioritizing these cases, and that will not stop under my leadership if I am fortunate enough to assume this role.

Senator HAWLEY. Good. And I want to be on the record. So, back to your regulations both in 2017 and 2020, I think you might want to rethink those. I mean, in light of subsequent jurisprudence and in light, frankly, of subsequent experience, I think, you want to take a really hard look at how you are interpreting gender identity and the interface.

There is some water under the bridge now and the interphase with biological sex and just how that is being used to undermine the rights of—it is never the rights men. It is always the rights of women 100 percent of the time, and I think we have got to be very careful about that.

My time has expired. And the Chairman, I am such a good citizen. I never go over, so I will just submit some questions for the record for you, Dr. Schwinn and others. Congratulations to all of you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Hawley.

Senator KAINE.

Senator KAINE. Thank you, Mr. Chairman, and thank you to our witnesses. I think I am going to focus questions to Dr. Schwinn and Ms. Richey about higher education. And Ms. Richey, I decided to do this.

My staff hates it when they give me questions, and I end up going in a different direction. But you had a wonderful statement in your prepared testimony that I read, “students cannot gain the knowledge or skills they need to be successful in life if they are unable to access educational programs and activities.”

I completely agree with that. I would ask each of you on that point, helping students gain access to education and educational activities, do you agree that the Pell Grant program has been a pretty important program?

Ms. RICHEY. Yes, Senator. I will start. I don’t know if I am, I certainly, in my current capacity at the Florida Department of Education, I certainly see the benefits. You know, OCR’s involvement in those programs is fairly limited.

Senator KAINE. Right.

Ms. RICHEY. But I certainly am committed to working with the Secretary.

Senator KAINE. Thank you. Dr. Schwinn, how about Pell Grant—important?

Ms. SCHWINN. As a former high school teacher, and certainly at every level of education, I think it is important that students, especially low income students, have access to educational opportunities. At the same time, it is also important that we start to put some restrictions on the skyrocketing cost of higher education.

Senator KAINE. How about Federal work study? That is a way that low-income kids can afford colleges. Federal work study’s long-standing program, is that generally a good thing?

Ms. SCHWINN. I will go ahead and go first on this one. So I believe that it is important that students have opportunities to earn money as they are enrolled in universities, colleges, trade schools, etcetera.

I also think that I agree with an earlier statement that I heard Secretary McMahon make, which is that it is important for universities and education institutions to also have a piece of that pie and to have a strong stake in that.

I think the most important thing is that students has access to resources so that they can make their way through.

Senator KAINE. Including Federal work study. They can work on campus and make some money and help afford college better that way.

Ms. SCHWINN. I think it is a great model for students to be able to work on campus.

Senator KAINE. Ms. Richey, Federal work study, a good way to help students gain access to higher-ed?

Ms. RICHEY. Sorry, Senator. Again, in my current role, I have certainly seen it be a value add. I am not sure that it directly relates to my role within OCR.

Senator KAINE. Right. How about student loan programs like the Undergrad PLUS or the—I am sorry, Subsidized Undergrad and Grad PLUS loans. Are those one way that we can help students gain access to education programs?

Ms. RICHEY. I feel like my answer is the same on this, Senator. Sorry, I will pass it to Dr. Schwinn.

Senator KAINE. Great. I won't make you repeat it. Yes, Dr. Schwinn.

Ms. SCHWINN. I am going to have to say the same thing. I would certainly look to the Under Secretary for advice on that.

Senator KAINE. Yes. And then how about in public service loan forgiveness? That is not at the front end, but people who have loans in these loan programs that you have generally said are generally positive. If they have the ability to have loans forgiven for public service pursuant to Congressional laws, is that generally a good thing in terms of helping people have access?

Ms. RICHEY. I think again, sir, it falls outside of my scope within OCR. It is something that I would have to work directly with the Secretary on.

Senator KAINE. Are you aware of public service loan forgiveness as a concept?

Ms. RICHEY. I am.

Senator KAINE. Not opposed to it?

Ms. RICHEY. It just falls outside of my scope—outside of knowledge.

Senator KAINE. Dr. Schwinn.

Ms. SCHWINN. Thank you for the question. I am also aware of the programs. There are a variety of them. I think it is—I appreciate the intent around those going into public service. I am having support. I also think that I would want to review each and every one individually.

Senator KAINE. Let me do this, if the audience will indulge me on this. If you or members of your family have been benefited by Pell Grant, work study, student loan programs, or public service loan forgiveness, just raise your hand if you have been benefited by programs like that. Okay, got a good number of hands raised in the audience.

President Trump's latest budget slashes the Pell Grant award by \$1,685. It also says that you don't get the full-time Pell Grant award if you are 12 hours a semester. You have to go up to 15

hours, which impacts a whole lot of people who work and go to school.

The House Republican proposal that is in front of us eliminates Pell Grant eligibility for students who are less than halftime, impacting working people who are going to school. Work study, it is \$1.2 billion. President Trump has almost zeroed it out. He has eliminated \$990 million.

That is gutting Federal work study programs. President Trump's budget is eliminating the Grad PLUS and subsidized student loan programs. And in the first Trump administration, there was an essential gutting of public service loan forgiveness, not by changing the statute, but just refusing to grant public service loan forgiveness.

Ms. Richey, you testified that this is an Administration that is the first to focus on the needs of the students. I think that is a hubristic statement. I think other Administrations have focused on the need of the student.

But as I conclude, I hardly see how slashing Pell Grant, Federal work study, loan programs, public service loan forgiveness is focusing upon the needs of students and giving them the access to educational programs that I think we all want to achieve. I yield back, Mr. Chairman.

The CHAIRMAN. Senator Hassan.

Senator HASSAN. Thank you, Mr. Chairman. And welcome to the nominees. Congratulations on your nominations. And congratulations to your families too, because I know this is a team effort. To all of you, before turning to education issues, I want to ask you all a simple question related to recent events.

We will just go down the line here. If directed by the President to take an action that would break the law, would you follow the law or follow the President's directive? Dr. Schwinn will start with you.

Ms. SCHWINN. The President would not ask me to do that, and I will always follow the law.

Senator HASSAN. Thank you.

Ms. RICHEY. The same. The President would not ask me to do that, but I will follow the law, Senator.

Mr. ARONOWITZ. The President wouldn't ask me to do anything illegal, but I would always follow the law.

Senator HASSAN. Sir?

Mr. KEELING. Same.

Senator HASSAN. Well, I thank you for your commitment to following the law. I am disappointed in your—I don't know, it seems to me you are pretty out of touch with recent events about the President's behavior.

Dr. Schwinn, you are nominated to be the second in charge at the Department of Education. Unfortunately, the Administration is abdicating its responsibility to ensure that all American children can receive a high quality public education that prepares them for citizenship, work, and life.

We should be focused on how to improve public education, how to build a system that is the envy of the world, but instead the President has moved to close the Department of Education. Do you support the President's goal of shuttering the Department Of Education?

Ms. SCHWINN. I support I think the shared goal that we all have to your—the first part of your question, that we want an education system that is the envy of the world. 90 percent of our students attend public schools. We need to make decisions that are in the best interest of them.

Senator HASSAN. That is not my question. Do you support shuttering the Department of Education?

Ms. SCHWINN. I support the President's EO, which is to explore all the opportunities and options around what is in the best interest of students, including shuttering the Department of Education.

Senator HASSAN. Well, I will just given some of your testimony, some of Ms. Richey's testimony, I will remind you all that the reason the Department of Education was established was because the needs of students weren't being met through the Department of Health Education and Welfare, particularly the need to make sure that we were focusing on all students in the wake of the passage of IDEA that we wanted a department that prioritized kids.

In fact, when adults stop being pushed to prioritize children and students, they generally lose because other agencies will put adult needs first. So I have real concerns about this. I will also note that the Department of Education does not make decisions about teacher recruitment, teacher pay, class size, curriculum. Those are all state and local decisions.

The department is there to provide technical assistance and support, which it does, and it has very effectively done so in New Hampshire, where some of our public schools. Are really doing remarkable and good work.

Now, I am particularly concerned that this Administration abruptly and irresponsibly cutoff critical funding for school districts and states that Congress directed through the bipartisan *Safer Communities Act* to train and place mental health professionals in schools.

As someone who has worked at the state and district levels, Dr. Schwinn, do you think that what the department did helps or hurts the communities that were counting on the funding that they were promised? If confirmed, do you commit to reining in the chaos and operational failures that we are seeing at the department?

Ms. SCHWINN. I believe that mental health is incredibly important for students in this country. Three quick points. One, the grants were discontinued and will be rebid. Two, if I am confirmed as Deputy Commissioner, I will ensure that I am working to have an efficient, effective, and outcomes oriented department. And No. 3, I commit to work closely, certainly with the Secretary and with Congress, to ensure that what you have passed is what is actually implemented.

Senator HASSAN. Let me just tell you that in New Hampshire, we had a 5-year program through grants that has been training up

mental health workers for schools in concert with the University of New Hampshire. So, that we are training specifically. That just got pulled.

After 2 years of investment in this program, students in our Manchester public schools do really important work for our kids, helping them get to a place where they can begin to improve their achievement, and this Administration has just recklessly pulled the rug out from under without any indication that there is any difficulty with the actual operation of this program.

It has disrupted schools. It is disrupting critical services that support mental health in our biggest school district. And it is really unfortunate. As I have said before, unlike a good carpenter who measures twice before cutting, this Administration just cuts, and it is doing real, real harm. I will submit for the record a question that follows up on Senator Murray's really about assessment and accountability.

I will note that since this Administration took office, the department no longer posts the backlog of cases in the Office of Civil Rights. New Hampshire has a backlog of about 51 cases. That was as of January 14th. This Administration has gone dark. We don't know how many there are right now.

But most of those cases are cases of discrimination against students with disabilities, or alleged cases, and I hope very much that we can get back to posting information and adequately staffing OCR. Thank you.

The CHAIRMAN. I thought I saw Senator Banks come in, but I don't see him now. What is that? Jim, do you want to ask?

Senator Banks.

Senator BANKS. Thank you, Mr. Chairman. Dr. Schwinn, you have been nominated to help eliminate the very department that you are going to work for, or at least to help dismantle a huge bureaucracy. And I want to ask you, I mean, technically, how do we do it?

How do we dismantle a huge bureaucracy and send important decisions about education back to the states? Do you have an expertise, a background on the role of the states versus the onerous, bureaucratic role of the Federal Government? Give us a technical take on how do we get there.

Ms. SCHWINN. Thank you, Senator. I appreciate that and certainly appreciate the work that Indiana has done in this space. So first and foremost, I think it is important—and I would certainly work, if confirmed, with the Secretary and with Congress on any actions related to the role of the department.

No. 1, we have to start with students and not focus on systems. When you read the laws and policies, it is all about systems. When we think about what is best for the student in every single state, and states are completely different, we need to build a plan around that first.

No. 2 is we have 54 states and territories that are doing really good work for their students. Being able to create an infrastructure that determines where that should be housed within the Federal

Government, knowing that one, the department is a building with people in it.

What people actually care about is the laws that you all pass and the funding you all appropriate. We need to make sure that those two things are rock solid, that our states understand exactly how much money they are getting, and what the laws say their responsibilities are. And then allow states to figure out the best way to implement that to achieve outcomes for their kids.

Senator BANKS. You certainly agree that the states can do this a lot better than the Federal Government.

Ms. SCHWINN. I believe that my experience, yes——

Senator BANKS. Effectively put kids, students first, and the states can—all 50 states can accomplish this better than what the Federal Government does.

Ms. SCHWINN. The best outcomes that we got in Tennessee were with dollars that were completely flexible and allowed us to make the best decisions for our students without any kind of categorical restrictions because we could figure out what our students need and make decisions aligned to those needs.

Senator BANKS. The statistics, the metrics all point to the decades of having a Federal Department of Education as a total failure, right. I mean, it has failed at its objective, which is to educate our kids and support our kids, and teachers, and schools, and administrators, and families in the states. And there is no doubt about it that the State of Indiana can run these programs better than the Federal Government.

Ms. SCHWINN. Well, as a personal privilege, I will say you also have a pretty exceptional commissioner in the State of Indiana in Dr. Katie Jenner. But I would say most importantly is that a department or an agency in the Federal Government is not going to change the outcomes of students.

The teacher in the classroom is going to teach the standards that are approved by that state. The parent is the parent of that child. What we need to do is ensure that we have created a system that is going to drive outcomes. That is not going to happen from the Federal Government, whether there is a Department of Education or not.

We need to build structures and systems for students that support local communities to do just that. Where the Federal role of that is housed is a much broader question, but it is missing the point that we are not doing what is necessary for students, and the education of students happens at the local level.

We need to do a much better job of implementing the laws, policies, and spending the dollars that you all appropriate to us.

Senator BANKS. It drives me—it drives me crazy. I mean, it makes me sick when I see that the average—on average, a bureaucrat at the Federal Department of Education makes twice as much money than a teacher in Indiana on average. Who does the Department of Education work for, the employees or the students and teachers and schools back in the states? What can we do to unwind that?

Ms. SCHWINN. I appreciate that. I certainly can't comment on the Federal salary schedule, but I can—but what I will say is the daughter of a single mom who is a teacher and starting my role as commissioner in Tennessee where the starting teacher salary was \$37,000 per year, and that was in 2019, teachers are not compensated at a competitive level for what we are expecting of them and the outcomes we want for our students, period.

I do believe that when we have looked at compensation at the Federal level, there is some opportunity costs. We spend a lot of money, and we have to figure out how we use those resources. If we just look at, for example, every \$10 million that we spend on, whether that is compensation, operations, etcetera. What that translates to in Tennessee is \$5 million gave AP access for all.

That is 14 AP classes free for every single one of the high school students in our state. The other \$5 millions is 20 percent of my third graders get high dose of tutoring. And so, it is a little bit of a tradeoff. For every \$10 million we spend and wasted bureaucracy, that is what my kids could get. Those are taxpayer dollars off kitchen tables.

Senator BANKS. Teachers should be paid a lot more, bureaucrats in Washington should be paid a little less. I just want to draw your attention. Senator Rounds from South Dakota has a bill, *Returning Education To Our State's Act*. And if you are not familiar with it, I hope that you will be before you head over to the department, and we can work together to pass it. Thank you. I yield back.

Ms. SCHWINN. Thank you, sir.

The CHAIRMAN. Thank you, Senator Banks.

Now, Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman. Mr. Keeling, I am working with Senator Padilla to protect workers from excessive heat. And I hope you are going to commit to working with us to ensure that OSHA issues a final workplace heat stress prevention rule that includes the well-researched, effective requirements of the proposed heat rule.

I hope you are going to work with us, Mr. Keeling, to make sure that gets done for the workers of our Country. Ms. Richey, last night, President Trump issued a proclamation barring Harvard international students from entering the United States. The proclamation, not even an Executive Order, is toothless. Any attempt to implement it would be illegal and unconstitutional.

This is yet another page from Trump's authoritarian playbook. Over the last 5 months, Trump has demanded Harvard to bow to ideological demands and retaliated when Harvard refused to comply. The Administration has terminated over \$3.7 billion in grants and contracts to Harvard and its research partners.

The Administration disqualified Harvard from future Federal grants, threatened the school's tax-exempt status, and revoked its ability to issue student visas. The *Civil Rights Act* requires a clear process before ripping funding away from students, faculty, and staff.

In fact, the office that you have been nominated to lead, the Department of Education's Office of Civil Rights actually has a 32-

page manual detailing the process that must be exhausted before any actions are taken. And this process is meant to protect people and institutions from abuses of power by the Federal Government.

It is meant to protect people from losing the education they have dreamed of just because they are an international student and from having funding for their life's work ripped from them all because of a President's vendetta against an individual school.

Ms. Richey, if confirmed, do you commit to reversing any funding cuts or other sanctions imposed upon universities that were not afforded due process that they are entitled to under the Constitution and under Title VI of the *Civil Rights Act*?

Ms. RICHEY. Senator, thank you for the question. As I have mentioned previously in this hearing, I cannot speak to current actions that have been taken by the department, specifically by OCR leadership.

In my role as a nominee, I simply just don't have information to be the basis for the decisions or the reasoning behind the decisions, the case files, the investigatory record. I don't have access to information.

Senator MARKEY. I am not asking you—I am asking you the larger question. Will you object to anything that does not afford due process entitled under the Constitution or Title VI of the *Civil Rights Act*?

Ms. RICHEY. Yes, I reference that only, Senator, to say that I don't have enough information to commit to that at this time.

Senator MARKEY. I appreciate that. I am looking for your broader commitment to just upholding the Constitution of the United States. That answer should be a clear and unequivocal yes, that you will uphold the Constitution. That you will uphold Title VI of the *Civil Rights Act*. That is all we want to hear from you. That is your job.

Ms. RICHEY. Senator, thank you. What I can commit to is compliance with the Case Processing Manual, which I have written several times, and compliance with OCR's regulations under Title VI.

Senator MARKEY. Let me continue then. Ms. Richey, yes or no, do you endorse ripping funding from researchers and students stealing educational opportunity from international students, abducting students from campuses for asserting their First Amendment rights, and continuing to threaten colleges and universities that refuse to comply with lawless demands?

Ms. RICHEY. Senator, I will commit to following OCR's regulations and OCR's case processing manual.

Senator MARKEY. Yes, I am still not getting the answer that I want, because again, this Administration is treating American freedom and dissent as the enemy, and students and faculty and staff are collateral damage to be unwilling and unable to stand against this means that you are silent in the face of authoritarianism.

It unfortunately makes you unqualified for this position of high responsibility. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Hickenlooper.

Senator HICKENLOOPER. Yes. And I know we are going to miss our votes, so I am going to ask one question.

The CHAIRMAN. We are not going to miss our vote if we get there by 12.01 p.m.

Senator HICKENLOOPER. Okay. Well then I am going to just do one—or two questions then. On Sunday, 12 Coloradans were badly injured after a suspect threw incendiary devices and Molotov cocktails into a crowd in a targeted Antisemitic attack. It was not random. A deliberate hate crime.

Attacks like this are clearly unacceptable anywhere, whether in Boulder, or outside a Jewish museum in Washington, or a college campus, anywhere in this country. The Department of Education's Office for Civil Rights is tasked with investigating civil rights complaints, like those that so many Jewish students across the country are experiencing.

Despite the intense surge in Antisemitic attacks, the Administration has terminated nearly half of the staff in this office. So Ms. Richey, I just wanted to ask you, you have said that you are committed to thoroughly reviewing all complaints submitted to OCR in a timely matter. With this great rise in cases, how on earth do you plan to achieve this?

Ms. RICHEY. Thank you for the question, Senator. I think what is going to require of me, if I am fortunate enough to be confirmed and serve in this role, is to be very strategic when I enter OCR, evaluate the current caseload, evaluate where we are in the life of the complaints, look at the staff distribution, look at organizational structure, and help the Secretary come up with a very strategic plan for how we ensure that OCR is able to meet its mission and its statutory purpose to prioritize all complaints.

Senator HICKENLOOPER. I spent a lot of time when I was in the private sector as an entrepreneur and a businessperson. Usually when you lay out a plan and you see that you have half the resources that you used to have and you had a hard time keeping up in the old days, it is not good.

Let me just go to *Retirement Savings for Americans Act* and Mr. Aronowitz. More than 50 million workers, including gig economy, small business workers, don't have access to employer-sponsored retirement plans, and I think no worker should be left behind in this.

That is why we have introduced a bipartisan *Retirement Savings for Americans Act* with Senator Tillis to allow all workers to contribute savings to a Federal retirement account. The bill also allows the Federal Government to make matching contributions for lower-income workers.

Mr. Aronowitz, if confirmed, would you commit to working with us to pass the *Retirement Savings for Americans Act*?

Mr. ARONOWITZ. I commit.

Senator HICKENLOOPER. Great. You even know it. I love that. Appreciate that. And if confirmed, how do you plan to use your time at EBSA to help retirement become more accessible for more workers, for all workers?

Mr. ARONOWITZ. I want to unlock the potential of the employee benefit system, including innovative type of plans like association health plans, ICRAAs, and pooled employer plans. I want to work with Congress on anything that will allow independent contractors to have the dignity of retirement savings and health security.

Senator HICKENLOOPER. Great. I appreciate that. And I won't ask this question, but Chairman Cassidy and I both—I am dyslexic. He knows more about dyslexia than I do, but I do think that early literacy is something that we can all agree that is something we can make huge progress on.

The Administration is trying to cut funding and have terminated I think 60, almost two-thirds of the people at the Institute of Educational Sciences, which administers this assessment.

I just want to urge you, not to answer a question, but make sure that we get those resources where they can do good, because this is something we know how to fix. We know how to—we have made so many advances. So, anyway, thank you. Yield back.

The CHAIRMAN. Thank you, Senator Hickenlooper. Thank you all. Thank you for being here today. For any Senator wishing to ask additional questions, questions for the record will be due at 5.00 p.m. tomorrow, June 6. The Committee stands adjourned.

QUESTIONS AND ANSWERS

RESPONSE BY DANIEL ARONOWITZ TO QUESTIONS OF SEN. HAWLEY

Question 1. The Biden administration attempted to weaken protections for workers through its rule authorizing plan fiduciaries to consider environmental, social, and governance (ESG) factors. Thankfully, the Department of Labor announced it would not defend this policy.

Question 1(a). If confirmed, what steps would you take at EBSA to ensure workers are protected from woke and inefficient ESG investing?

Answer 1(a). I am committed to EBSA's mission in ensuring the retirement security of American workers and their families. EBSA will uphold the highest standards of fiduciary responsibility to ensure that all plan fiduciaries meet ERISA's stringent fiduciary duty of loyalty and act solely in the best interests of plan participants and their beneficiaries. To meet the fiduciary duty of loyalty, plan fiduciaries must operate with no ulterior motive, including without any non-financial ESG motive, in choosing any plan investment.

RESPONSE BY DAVID KEELING TO QUESTIONS OF SEN. HAWLEY

Question 1. How did your time at Amazon and UPS inform your understanding of safety standards for warehouse workers?

Answer 1. I retired from UPS as the Vice President of Global EHS, after a 37-year career. After retiring from UPS, I was asked to assist at Amazon with some vehicle and on-road safety improvements. This included building out a team to evaluate and improve vehicle technology and crash prevention programs. In my approximately 22 months at Amazon, I had very limited exposure to Amazon's warehousing operations. I was not asked to engage in these areas of the business and did not oversee these business units. However, during my time at UPS, I was responsible for all safety operations including all on-road and warehousing operations. I am very familiar with the opportunities surrounding risk and injury reduction in these operations including recent advancements in processes and technologies that reduce ergonomic and repetitive motion exposures.

Question 2. If confirmed, what policies will you implement at OSHA to ensure that workers at warehouses across the country are protected?

Answer 2. I am very familiar with the opportunities surrounding risk and injury reduction in these operations including recent advancements in processes and technologies that reduce ergonomic and repetitive motion exposures. As discussed with

your staff, if confirmed, I very much look forward to working with you to advance the safety of warehouse workers and toward the President's and Secretary of Labor's goal of ensuring the safety of all American workers.

Question 3. If confirmed, do you commit to working with this Committee to advance common-sense reforms that ensure warehouse workers have reasonable protections in the workplace?

Answer 3. If confirmed, I look forward and commit to working with you and your team to realize the best path forward in warehouse worker safety.

Question 4. If confirmed, what policies will you implement at OSHA to ensure small businesses are treated fairly and do not face undue burdens?

Answer 4. As mentioned during my Committee testimony, cooperation and collaboration with industry partners, companies with advanced safety cultures, and key union programs are essential to ensuring that OSHA meets its obligation and mission.

Using AI and predictive analytics to better understand risk reduction opportunities and enable proactive enforcement action may be an option for OSHA to better meet its stated purpose.

Through partnerships with industry organizations, we can better reach those companies that have been reticent to engage with OSHA in the past. If confirmed, I intend to bring all stakeholders to the table to reach employers of all sizes and engage their workers in fostering real and lasting improvement.

RESPONSE BY KIMBERLY RICHEY TO QUESTIONS OF SEN. HAWLEY

Question 1. The Biden administration actively worked to undermine religious freedom protections in K–12 schools and at institutions of higher education. If confirmed, will you issue regulations and guidance to protect the religious liberty of students at public institutions?

Answer 1. I am proud that in 2020, the Department finalized the Religious Liberty and Free Inquiry regulation to help ensure that institutions uphold fundamental rights guaranteed by the First Amendment, including protections for freedom of speech, association, press, religion, assembly, petition, and academic freedom. Should I be confirmed, I commit to engaging with Department leadership, including OCR leadership and staff, to identify ways OCR can strengthen and promote religious liberty and hold institutions accountable for violating the religious liberty of students and staff, consistent with OCR's statutory authority; I will examine the feasibility of rule promulgation, consistent with OCR's authority. I also commit to partnering with the Department of Justice to support enforcement actions focused exclusively on protecting the rights of individuals to fully and freely engage in religious activity in schools and institutions.

Question 2. As you may remember, the Biden DOJ targeted parents protesting critical race theory at school board meetings. If confirmed, do you commit to supporting the free speech rights and other fundamental rights of parents when it comes to their children's education?

Answer 2. I am fully committed to safeguarding and protecting the fundamental rights of parents, guaranteed by the U.S. Constitution, to direct their children's upbringing, including the right to make decisions regarding their child's education without government interference or obstruction. I am proud of my previous work, specifically in response to the DOJ's efforts, to educate, support, and empower parents with tools they need to access information, engage with school districts, and exercise their constitutionally protected rights.

RESPONSE BY PENNY SCHWINN TO QUESTIONS OF SEN. HAWLEY

Question 1. The Education Recovery Scorecard recently released a report demonstrating significant learning losses, particularly in reading and math scores, and indicating a slow recovery in nearly every state.

As we expected, draconian school closures during COVID contributed to these immense learning losses, and many districts have yet to rebound. If confirmed, what will your strategy be to help these students?

Answer 1. The learning loss our Country is facing is both real and urgent—and it was worsened by prolonged school closures that ignored both the data and the needs of children. In Tennessee, we made the decision to reopen schools early, with our first in-person program beginning in July 2020, a commitment to putting students first. By reopening schools early and investing in targeted interventions, Ten-

nessee was one of six states to see a positive return on investment on COVID funding related student outcomes.

If confirmed, my priorities will center on using my experience and expertise to effectively design and implement the vision of the President and the Secretary—focused on empowering families, improving outcomes, and restoring local leadership in education. Specifically, raising literacy and academic achievement, especially in early grades where gaps form quickly and persist; expanding real school choice so every family can access high-quality options that fit their needs; and streamlining Federal programs to reduce bureaucracy, eliminate inefficiencies, prioritize strong data and accountability, and ensure dollars reach students—not systems. Each of these priorities is about putting students first and delivering results that matter.

Question 2. You served in a statewide role during the height of the COVID pandemic. What did that experience teach you about the importance of leading with moral clarity during a time of crisis, and how will that affect your service at the Department of Education?

Answer 2. Leading during COVID taught me that effective crisis leadership requires more than decisiveness—it demands alignment, humility, and constant communication. You can't assume everyone is on the same page, even with the best of intentions. Strong systems are essential to ensure alignment with leadership priorities, reinforce mission clarity for the team, and surface both operational risks and non-negotiable principles. If confirmed, I'll bring those lessons with me—leading with clarity, integrity, and a steady focus on what's best for students and families.

RESPONSE BY PENNY SCHWINN TO QUESTIONS OF SEN. SANDERS

Question 1. On March 28th, the Department illegally terminated previously approved late liquidation agreements for nearly \$4 billion of K–12 funding under the Elementary and Secondary School Emergency Relief Fund, forcing states to re-apply. The Vermont Agency of Education has submitted 80 applications from 19 school districts. Would you commit to reviewing these applications and approving them if they are consistent with all Federal statutory requirements?

Answer 1. I do not believe it appropriate for me to commit to a specific course of action without first having an opportunity to consult with staff at the Department. Should I be confirmed, I will seek that consultation.

Question 2. One month after President Trump nominated you to be Deputy Secretary of Education, you registered an educational consulting business, called New Horizon BluePrint Group (“New Horizon”), in the state of Florida. However, you did not include New Horizon in your initial disclosures to the Office of Government Ethics or the HELP Committee. Please answer the questions below.

Why did you register New Horizon after your nomination?

Answer 2. New Horizon was registered in Florida by Mr. Fennoy as part of a project that had been under discussion for several months prior to my nomination. Once nominated, I began stepping away from the effort. Although my name initially appeared on the registration, I was removed within days. The entity had no income, clients, contracts, or business activity, and it remained inactive. Based on that, I believed it did not meet the threshold for disclosure. As soon as the issue was identified, I worked with the Office of Government Ethics to ensure my filings were accurate and complete.

Question 2(a). Did you intend to run New Horizon while holding government office?

Answer 2(a). No. I had no intention of being involved in New Horizon after my nomination.

Question 2(b). When did you inform the Trump administration about New Horizon? What was the Administration's response?

Answer 2(b). As soon as the issue was brought to my attention, I worked with the Office of Government Ethics to update my disclosure. The Administration was supportive of ensuring all filings were accurate and transparent.

Question 2(c). Why did you fail to include New Horizon in your initial disclosures to the Office of Government Ethics and the and HELP Committee?

Answer 2(c). The omission was unintentional. I believed the entity did not meet the disclosure threshold because it had no income, clients, contracts, or operations, and I was removed from its paperwork shortly after it was filed. Once I became aware that it should be included, I took immediate steps to disclose it and worked

closely with the Office of Government Ethics to ensure my filings were complete and compliant.

Question 3. In your testimony, you mentioned your concerns about the average teacher salary in comparison to bureaucrats in Washington. Would you commit to working with me to increase teacher pay and provide other necessary supports to attract and retain teachers in the profession?

Answer 3. President Trump and Secretary McMahon have emphasized the importance of supporting our Nation's teachers, and I share that commitment. This is personal to me. I come from a family of educators—my mother, siblings and cousins are teachers—and I began my own career as a high school teacher. I understand firsthand the dedication it takes: staying late to grade papers, spending weekends preparing for lessons, and often covering classroom expenses out of pocket. As I have often said, the most important factor inside school walls for student success is the teacher in front of the classroom. If confirmed, I look forward to conversations with you on these important issues.

Question 4. In 2024, you wrote an op-ed with Carrie Wright advocating for increasing Federal education research. What are the consequences to educators if the Federal Government stops funding education research and statistical work, as observed by the Department's cancellation of Federal education statistics contracts and cancellation of all education research peer review processes?

Answer 4. Teachers and school leaders rely on clear, reliable data to understand what's working and where improvement is needed. For instance, the Department has and will continue to support the Nation's Report Card. However, the research commissioned at the Department did not always put students, families, and educators at the center.

I believe we can empower educators by making research more relevant, accessible, and actionable. When I co-authored the op-ed with Dr. Wright, we emphasized the importance of faster, more practical, state-driven research that directly supports educators. The goal is not to eliminate research—but to reform it. That means streamlining processes, reducing bureaucracy, and prioritizing projects that generate timely, actionable insights to drive student outcomes.

Question 5. By what date will States receive fiscal year 2025 preliminary allocations under Title I-C, Title II-A, Title III, and Title IV-B?

Answer 5. As a former State Commissioner of Education, I understand it is important for States to receive preliminary allocations in a timely manner. However, I believe it would be premature for me to offer a date without having had the benefit of consultation with the Secretary and staff at the Department. If confirmed, I look forward to working with you and Department officials on this issue.

Question 6. Are all States and public schools legally responsible for serving students of any immigration status?

Answer 6. Yes.

Question 7. Under your leadership in Tennessee, how would you administer 21st Century Learning programs to improve academic achievement for students during summer and afterschool periods? What are the consequences of not funding this program in fiscal year 2025 in Tennessee?

Answer 7. During my time in Tennessee, we focused on ensuring every dollar spent—especially on extended learning—delivered measurable results for students. When used strategically, 21st Century programs supported literacy gains and academic acceleration beyond the school day. That said, all programs must demonstrate outcomes. If funding is reduced, states should prioritize what works: high-dosage tutoring, targeted enrichment, and partnerships with proven community providers. The goal isn't simply to add more time, but to make better use of time. If confirmed, I'm committed to helping states design outcome-based models that maximize impact, even under tighter budgets.

Question 8. Do migrant students and families face specific challenges in accessing a quality education? What responsibilities do the Federal Government, State agencies, and local school districts have to serve these students?

Answer 8. The Federal Government has a clear responsibility to set expectations through programs like Title I, Part C, and to ensure transparency and accountability in outcomes. State and local agencies are best positioned to respond to the specific needs of their communities. The role of the Federal Government should be to support them—with flexibility, streamlined funding, and the tools to deliver real results for migrant students.

Question 9. Do you commit to upholding the integrity of programs as authorized under ESEA, including administering such programs as intended by Congress?

Question 9(a). Do you commit to consulting Congress before approving any major ESEA waivers?

Question 9(b). Do you commit to not issuing guidance documents that do not align with a plain reading of ESEA, as you advocated in your letter to the Trump administration?

Question 9(c). Do you commit to sharing with Congress a list of any OESE-related grants that have been canceled or pulled at the same time those cancellations are sent to grantees?

Answer 9(a)—9(c). If confirmed, I look forward to working with leadership and staff at the Department to continuing to ensure that the statutory obligations of ESEA as authorized by Congress are met in accordance with the law. I further commit to following all requirements for congressional engagement, consultation, and notification.

Question 10. Do you commit to making yourself and your staff available to provide briefings to my staff on a reasonable basis regarding any major announcements or changes out of OESE?

Answer 10. If confirmed, I commit to being responsive to the requests of Members of Congress.

RESPONSE BY KIMBERLY RICHEY TO QUESTIONS OF SEN. SANDERS

Question 1. What was the average caseload per Office for Civil Rights (OCR) investigator during each fiscal year you served as Acting Assistant Secretary?

Answer 1. I do not have access to OCR records and, as such, am unable to provide historical data or information relating to average caseloads during a specific time period. However, if confirmed, I commit to keeping your office informed on Departmental efforts to prioritize case resolution. As I stated at my confirmation hearing, I am committed to ensuring that OCR has the resources it needs to vigorously enforce Federal civil rights laws.

Question 2. The Department shared with the Committee recently that investigators' caseloads have increased from 40 cases to over 120 cases. You said in your hearing you would "strategically prioritize" cases. What standards would you propose to prioritize which cases are worth prioritizing?

Answer 2. I stated at my confirmation hearing that I would be strategic in developing a plan to address the challenges facing OCR; I also stated that I would equally prioritize complaints filed with OCR. If confirmed, I will work closely with OCR leadership and staff to fully understand how the office is currently managing resources and find ways to optimize OCR's resources to ensure that all cases are thoroughly investigated. Developing a strategic plan to address complaint resolution may include evaluating OCR's current organizational structure, how cases are currently distributed, and the age of pending complaints, including case processing timeframes.

Question 3. How will you find and prioritize time-sensitive complaints—such as a student with a disability who cannot access a school facility—as compared to directed investigations that your office initiates?

Answer 3. If confirmed, I will equally prioritize complaints filed with OCR. While it is true that some complaints can be resolved more expeditiously, OCR's goal must be to achieve compliance as quickly as possible in all cases. OCR can utilize its various enforcement tools, such as forms of early complaint resolution for example, to promptly remedy noncompliance. I will work closely with OCR leadership and staff to ensure that all complaints are resolved in a timely manner.

Question 4. Do you commit to following the processes outlined in the OCR Case Processing Manual and all Federal and regulatory requirements in carrying out Federal civil rights enforcement?

Answer 4. If confirmed, I commit to following the law in carrying out my responsibilities as Assistant Secretary for Civil Rights. This includes following the Constitution, the laws under OCR's authority, and applicable regulations.

Question 5. How will you proceed with investigations that began prior to your return to OCR that did not follow processes outlined in the OCR Case Processing Manual? Do you commit to restarting investigations that did not follow the appropriate processes?

Answer 5. It is not appropriate for me to commit to any specific course of action without first reviewing ongoing cases and consulting with Department leadership, including OCR leadership and staff. As a nominee, I do not have the benefit of knowing the full scope of any ongoing investigation or evaluation of evidence that led to specific course of action in a particular case.

Question 6. Will you commit to treating all cases with the same level of importance, regardless of directives to reprioritize case processing by allegation type?

Answer 6. As I stated in my confirmation hearing, all cases are important, and I am committed to vigorously enforcing all Federal civil rights laws that OCR enforces and prioritizing all of OCR's complaints with this goal in mind. I take my responsibilities to students and families seriously and if confirmed, I commit to working tirelessly to ensure all students have access to an education free from discrimination and harassment.

Question 7. Do you commit to increasing transparency about the number of open cases investigated by OCR by regularly posting and updating a list of pending cases?

Answer 7. If confirmed, I commit to being responsive to the requests of Members of Congress; I believe transparency is important. As such, I commit to consulting with OCR leadership and staff regarding this issue. I also commit to objectively weighing the benefits and risk of posting this information, considering both the value of transparency and the need to ensure OCR can access information and conduct thorough investigations.

Question 8. Do you believe investigators should have local and regional relationships with the educational institutions they investigate or may investigate?

Answer 8. I believe it is most important for investigators to be highly skilled attorneys who are capable of conducting thorough investigations, resolving complex legal issues, and who understand the role of OCR as a neutral and objective fact-finding law enforcement agency. Possessing these skills, including the ability to objectively apply the law, is far more important than geographic knowledge of a particular region or having established relationships with recipients.

Question 9. Have you ever encouraged employees at the Department to attend DEI trainings? Do you believe it was appropriate to put employees on administrative leave for taking a DEI training that you, or other senior Department staff in the first Trump administration, suggested they take?

Answer 9. I have never encouraged anyone to participate in illegal DEI activities. While I cannot comment on personnel actions for which I have had no involvement or administrative actions taken by the Department, I remain committed to prohibiting discrimination on the basis of race, color, and national origin—including within OCR.

RESPONSE BY PENNY SCHWINN TO QUESTIONS OF SEN. BALDWIN

Question 1. Last year, the Wisconsin Department of Public Instruction issued a report which stated that over 80 percent of Wisconsin elementary schools surveyed had at least one vacancy between 2022–2023, with a quarter of responding schools saying they were unable to meet their hiring needs. If confirmed, what steps would you take to address the nationwide teacher shortage?

Answer 1. Research has shown that the teacher shortages across the country are hyper-local and content-area specific. A solution to such a problem requires empowering local leaders to address the unique barriers they have to teacher recruitment and retention. As commissioner in Tennessee, I oversaw the first Federal teacher apprenticeship in the U.S., and the largest set of Grow Your Own programs in the country. These solutions work because they are based on local contexts and are adaptable to each community's characteristics. If confirmed, I will empower states to spend less time reporting up to the Department of Education and more time working with districts to support them in identifying solutions for their schools.

Question 2. What benefits did you see in Tennessee from implementing a Grow Your Own teacher program?

Answer 2. At the state level, Grow Your Own programs were an effective tool in Tennessee to address teacher shortages and build a locally rooted educator workforce. They helped districts recruit from within their own communities—paraprofessionals, career changers, and high school graduates. This built stability, reduced turnover, and ensured new teachers were better prepared and more invested. It's also one of the few strategies with strong return on investment: states saw cost sav-

ings, stronger retention, and improved outcomes for students. That is why states may choose to invest in these programs.

Question 3. If confirmed, do you commit to following appropriations laws and the Impoundment Control Act?

Answer 3. If confirmed, I will follow the law.

RESPONSE BY KIMBERLY RICHEY TO QUESTIONS OF SEN. BALDWIN

Question 1. During your hearing, I raised concerns regarding the Department of Education's interpretation for the Bostock decision while you were serving as Acting Assistant Secretary. In your response, you indicated that you believe Bostock should be applied to certain aspects of a student's school experience but not others. Why do you feel the word "sex" should have a different interpretation in Title IX of the Civil Rights Act than it does in Title VII?

Answer 1. There are several reasons why the referenced opinion does not control OCR's enforcement of Title IX. Aside from the fact that Title IX and VII are different statutes with different anti-discrimination language, the work and school environments are very different. But, most significantly, the Court specifically rejected the universal application of the decision. The Court stated that the opinion did not apply to other Federal civil rights laws or legal issues not before the Court. If confirmed, I am committed to vigorously enforcing Title IX to protect all students, consistent with the statutory language, OCR's regulations, and applicable Supreme Court precedent.

Question 2. Since January 20, the Trump administration has terminated at least 243 employees in the Department's Office of Civil Rights and closed more than half of OCR regional offices. Caseloads per investigator are estimated to have increased from 42 cases at a time to approximately 86 cases per investigative staff. In the President's budget request, the Office for Civil Rights budget will be cut by \$49 million. What factors will you use to determine if additional staff will be needed to ensure cases are given adequate attention and resolved in a timely manner?

Answer 2. If confirmed, I will work with OCR leadership to understand the current state of OCR's caseload, including evaluating the types of pending cases, OCR's current organizational structure, how cases are currently distributed, the age of pending complaints, and case processing timeframes. I will work to develop a strategic plan and consult with the Secretary and OCR leadership to ensure that OCR is meeting its statutory mission and purpose. I remain committed to ensuring that OCR has the resources it needs to do its job.

Question 3. During her confirmation hearing Secretary McMahon and I had an exchange regarding her opinions on Title IX's protection against sexual harassment and assault. Ms. McMahon stated she believes sexual harassment that is severe or pervasive should be prohibited under Title IX. Do you agree that sexual harassment that is severe or pervasive should be prohibited under Title IX?

Answer 3. Based on Supreme Court precedent, school liability for sexual harassment under Title IX uses, in relevant part, a "severe and pervasive" standard.

Question 4. If confirmed, do you commit to following appropriations laws and the Impoundment Control Act?

Answer 3. If confirmed, I will follow the law.

RESPONSE BY PENNY SCHWINN TO QUESTIONS OF SEN. HASSAN

Question 1. President Trump seems to be afraid of research, transparency, and accountability as he directs agencies to slash research budgets, reduce funding for data collection, and gut agency expertise.

For example, the Administration has decimated the division at the Education Department devoted to the National Assessment of Educational Progress, which is mandated by Congress and is a valuable tool for tracking academic outcomes.

Without the National Assessment of Educational Progress and Department of Education research, parents and policymakers will have less information about how our Nation's children are performing and how best to direct resources.

Dr. Schwinn, if confirmed, do you commit to reversing the significant cuts at the Department that have undermined its mission?

Answer 1. I am aware there is significant interest in the Institute of Education Sciences and the National Assessment of Educational Progress (NAEP). I believe assessment and accountability are critical components of improving outcomes. The

NAEP for 2026 is already underway. The Secretary has been clear about her commitment to ensuring the NAEP assessment continues to provide invaluable data on learning across the U.S. noting it is the “benchmark by which we evaluate the state of the American education system.” If confirmed, I look forward to working with the Secretary to support the NAEP and improving outcomes for all students.

RESPONSES BY PENNY SCHWINN TO QUESTIONS OF SEN. HICKENLOOPER

Question 1. As you know, the achievement levels in reading for 4th graders have been trending downward since 2019. One of the only ways we actually know about that achievement gap is from the National Assessment of Educational Progress. The Administration is trying to cut funding and have terminated 64 percent of staff at the Institute of Educational Sciences which administers this assessment. With so much of this team fired, how will we know if kids are struggling to read? And how will we be able to fix what we are not able to measure? If confirmed, will you commit to making early literacy a priority, including continuing to track and measure student achievement?

Answer 1. I believe assessment and accountability are critical components of improving outcomes. The NAEP for 2026 is already underway. The Secretary has been clear about her commitment to ensuring the NAEP assessment continues to provide invaluable data on learning across the U.S. noting it is the “benchmark by which we evaluate the state of the American education system.” If confirmed, I look forward to working with the Secretary to support the NAEP and improving outcomes for all students.

Question 2. Academic advisors at high schools often make the difference in providing students with the help they need to choose the right career path. One of the major barriers we hear about when it comes to advancing apprenticeship, is that academic advisors are often so trained to focus on the 4-year college track, they may not even realize what other apprenticeship or workforce training options are available to students. If confirmed, what will you do to ensure best practices are shared with high schools across the country so that academic advisors are able to counsel students on all of the opportunities available to them?

Answer 2. Advisors play a critical role, and too often they’re equipped with a narrow playbook that defaults to a 4-year college path. We must elevate career pathways—including registered apprenticeships, industry-recognized credentials, and dual-enrollment programs—as high-quality options, not second-tier alternatives. Every student should graduate with a clear plan and access to real opportunities. That means equipping advisors with the tools, data, and flexibility they need to guide students toward success—whether that’s through college, career training, or both. That starts with giving advisors the tools, data, and flexibility to guide students toward success on their own terms.

Question 3. The Native American and Alaska Native Children in School (NAM) grant program provides support for teaching English language and the teaching and learning of Native American languages in schools. Projects that receive these grants include teacher training, curriculum development, evaluation to support student instruction, and parent-community participation. If confirmed, will you commit to supporting this program and ensuring that grantees continue to receive the funding that they deserve?

Answer 3. I deeply respect the unique cultures, languages, and histories of Native American and Alaska Native communities. If confirmed, I’ll work to ensure programs demonstrate strong outcomes and that funding is used effectively to support students. When local communities lead, and when we measure results, we see real impact. I’m committed to honoring tribal sovereignty, supporting high-quality instruction, and ensuring programs like this deliver value for students and families.

RESPONSES BY PENNY SCHWINN TO QUESTIONS OF SEN. MARKEY

Question 1. Do you support President Trump’s position that the Department of Education be dismantled?

Answer 1. Yes, I support the President’s vision of returning more authority over education to states and local communities, ensuring that decisions are made as close to students as possible.

Question 1(a). Do you believe there should be a Deputy Secretary of Education?

Answer 1(a). Yes. Unless Congress deems otherwise, there should be a Deputy Secretary of Education.

Question 2. Do you believe that the Federal Government adequately funds public schools in this country?

Answer 2. The United States spends more on education per pupil, at both the K–12 and post-secondary levels, than almost any country in the world. I believe education is fundamentally a state and local responsibility, but the Federal Government plays an essential role in supporting students, particularly through its enforcement of Federal civil rights laws. While total Federal education funding is limited—about 8–10 percent of overall K–12 spending—it is vital that those dollars are used strategically and reach students directly. Rather than expanding bureaucracy, we should simplify funding streams, reduce administrative burdens, and expand parents’ ability to direct how those dollars are spent. States and local districts are best positioned to determine how to allocate resources effectively, and the Federal Government should focus on empowering them to do so and transparently reporting those outcomes.

Question 3. During Secretary McMahon’s confirmation hearing, the Secretary stated, “The President is not saying that we should cut funding to public education.” Yet since then, Secretary McMahon and President Trump clawed back \$106 million of Federal funds from Massachusetts public schools and \$2 billion nationwide. They then submitted a Presidential Budget Request that would slash K–12 funding by \$4.5 billion in fiscal year 2026.

Question 3(a). Do you support cutting funding by \$4.5 billion for public schools?

Question 3(b). How do you suggest local school districts make up for the loss of \$4.5 billion in Federal funding?

Question 3(c). How do you suggest local school districts in Massachusetts accommodate for disruption caused by the claw back of \$106 million?

Question 3(d). How would you respond to a student who asked why their local school district lost funding?

Question 3(e). How would you respond to an educator or member of school staff who asked why their school district lost funding?

Question 3(f). How would you respond to a parent who asked why their school district lost funding?

Answer 3(a)—3(f). I support the President’s vision to reduce bureaucracy, increase transparency, and give states and local school districts more flexibility to use funds in ways that best serve their communities. The goal is not simply to spend more—it’s to spend smarter by situating dollars and decision-making closest to the students these programs affect, with a clear return on investment and better outcomes for kids. I have not been a part of actions taken with respect to Fiscal Year (FY) 2025 funding, so I cannot comment on those decisions. I have also not been involved in the development of the fiscal year 26 budget. Ultimately, it is up to Congress to appropriate funds and decide on funding levels. If confirmed, I look forward to being a part of the conversations related to the best use of Federal dollars.

Question 4. In the President’s Fiscal Year 2026 Budget Request, the President has requested eliminating the following sources of funding to K–12 schools: money for states and local communities to teach migrant children, for full-service community schools, and for teacher and school leader incentive grants.

Question 4(a). Do you support eliminating funding for each of these programs?

Question 4(b). How do you suggest school districts make up for the loss in this funding?

Answer 4(a)—4(b). As I was not involved in the development of the fiscal year 26 budget, it would be inappropriate for me to comment on decisions that were made. Ultimately, it is up to Congress to appropriate funds and decide on funding levels. If confirmed, I look forward to being a part of the conversations related to the best use of Federal dollars.

Question 5. In the President’s Fiscal Year 2026 Budget Request, sometimes referred to as the “skinny budget,” the President has requested eliminating funding for Ready to Learn educational media programming. Do you support eliminating funding for this program?

Answer 5. As I was not involved in the development of the fiscal year 26 budget, it would be inappropriate for me to comment on decisions that were made. Ultimately, it is up to Congress to appropriate funds and decide on funding levels. If confirmed, I look forward to being a part of the conversations related to the best use of Federal dollars.

Question 6. In the President’s Fiscal Year 2026 Budget Request, sometimes referred to as the “skinny budget,” the President has requested eliminating funding

for adult basic education and literacy programs. Do you support eliminating funding for this program?

Answer 6. As I was not involved in the development of the fiscal year 26 budget, it would be inappropriate for me to comment on decisions that were made. Ultimately, it is up to Congress to appropriate funds and decide on funding levels. If confirmed, I look forward to being a part of the conversations related to the best use of Federal dollars.

Question 7. The *Inflation Reduction Act* established tax incentives and grant programs that can lower energy costs through installation of clean energy technologies, providing energy efficiency improvements, and purchasing clean school buses. Do you support these tax credits and programs, or do you think schools should be forced to pay for these necessary upgrades on their own?

Answer 7. I do not have enough information to provide an opinion on this issue with respect to the role of the Department of Education. Should I be confirmed, I look forward to discussing this issue with staff at the Department.

Question 8. According to a report from the Private Equity Stakeholder Project, since 2007, the education sector has seen increases each year in deals made by private equity firms and investors.

Question 8(a). What is your position on the role of private equity firms and investors in education?

Question 8(b). What types of guardrails should be placed on private equity investment in education?

Question 8(c). What is your response to the possibility that reduced public funding in public education will translate to an increase in private equity investment in public education?

Question 8(d). In your confirmation hearing, you stated that education should be directed by those closest to students including parents, school districts, and states. Do you believe that private equity firms should be developing curriculum, hiring teachers, or otherwise investing in K–12 education?

Answer 8(a)—8(d). Innovation and efficiency can come from the private sector—but strong guardrails are essential. Any entity operating in public education, including private equity firms, must be held to the highest standards of transparency, accountability, and student outcomes.

Curriculum, staffing, and student support decisions should rest with those closest to students: states, districts, and families. The Federal Government has a responsibility to set clear expectations, protect student data, and ensure that all partners deliver real educational value.

Question 9. The Supreme Court has ruled that the Fourteenth Amendment of the U.S. Constitution forbids states from denying undocumented children the right to attend a public school due to their immigration status. Do you commit to ensuring that Federal law is followed as it pertains to school enrollment?

Answer 9. I commit to following the law.

Question 10. On his first day in office, the Trump administration issued a directive rescinding the Department of Homeland Security's guidelines titled "Guidelines for Enforcement Actions in or Near Protected Areas."

Question 10(a). Do you support President Trump's directive to grant the U.S. Immigration and Customs Enforcement ("ICE") the authority to take immigration enforcement actions at or near schools, including pre-schools, primary and secondary schools, and vocational or trade schools?

Answer 10(a). The Department of Education does not have jurisdictional responsibility over U.S. Immigration and Customs Enforcement. As an education leader, my focus is ensuring that every student receives access to a high-quality education.

Question 10(b). Do you support President Trump's directive to grant the U.S. Immigration and Customs Enforcement ("ICE") the authority to take immigration enforcement actions at places where children gather, such as before-and after-school care centers, school bus stops, and recreation centers?

Answer 10(b). The Department of Education does not have jurisdictional responsibility over U.S. Immigration and Customs Enforcement. As an education leader, my focus is ensuring that every student receives access to a high-quality education.

Question 11. The Borrower Defense program provides student debt relief to borrowers who were defrauded by predatory institutions.

Question 11(a). If confirmed, do you commit to allocating adequate resources to effectively carry out reviews and processing for borrower defense claims?

Answer 11(a). As I have not had the benefit of consultation with the Secretary or experts at the Department, I am unable to commit to any specific course of action. I will however commit to following the law and looking into this matter, should I be confirmed.

Question 11(b). Do you commit to discharging any outstanding debt already approved for discharge under the borrower defense program?

Answer 11(b). As I have not had the benefit of consultation with the Secretary or experts at the Department, I am unable to commit to any specific course of action. I will however commit to following the law and looking into this matter, should I be confirmed.

Question 11(c). The budget reconciliation bill that recently passed the House of Representatives removes protections for student borrowers that attended for-profit colleges. Do you believe the Department of Education should maintain the authority to investigate for-profit schools and cancel the loans of students at these colleges who are saddled with unaffordable debt?

Answer 11(c). If confirmed, I can commit to following the law and continuing to carry out the statutory responsibilities of the Department of Education. What those responsibilities are is the responsibility of Congress to decide.

Question 12. Three million educational support professionals including paraeducators, classroom assistants, bus drivers, custodial workers, and others provide crucial services to students and schools. One third of education support professionals who work full-time earn less than \$25,000 per year.

Question 12(a). If confirmed, do you commit to supporting efforts to raise the wages of educational support professionals?

Question 12(b). If confirmed, do you commit to supporting increased Federal funding for school districts to support professional development and credentialing programs for education support professionals?

Question 12(c). If confirmed, do you commit to supporting efforts to improve benefits for education support professionals, including access to affordable and high-quality health care?

Answer 12(a)—12(c). I believe that school personnel matters, including pay, benefits, training, and development are best left to each state and locality to decide. Further, I support the President's vision of returning more authority over education to states and local communities, ensuring that decisions are made as close to students as possible. Important personnel decisions, including those pertaining to salary and benefits, rest with the states, not Washington.

Question 13. Do you believe that workers in public schools should have the right to unionize and collectively bargain?

Answer 13. I believe that school personnel matters are best left to states to decide.

Question 14. Your ethics paperwork and recent reporting raises concerns about your spending of public dollars as Vice President for PK–12 and Pre-Bachelors Programs at University of Florida. Please comment on whether you believe your spending on travel and other expenses reflected good stewardship of public dollars.

Answer 14. I take the stewardship of public dollars seriously and have always worked to ensure that spending aligns with policy, purpose, and public trust. All expenses at the University of Florida were approved through standard processes, and I followed institutional guidelines at every step. My travel was limited to essential in-person needs to reduce costs, and my role operated without a dedicated budget or team, which kept overall expenses low. I cannot speak to the practices of other departments, but I am confident in the integrity of my own actions and remain committed to transparency and accountability.

Question 15. In your written testimony, you mentioned your support for “honest accountability.” If confirmed, do you commit to responding to inquiries and document requests from Members of Congress in an accurate and timely manner?

Answer 15. 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.

Question 16. If confirmed, do you commit to cooperating with any investigations conducted by the Department of Education Office of the Inspector General?

Answer 16. If confirmed, I commit to following all laws, regulations, and Department policies and procedures regarding engagement with the Department's Office of the Inspector General in my capacity as Deputy Secretary.

RESPONSES OF KIMBERLY RICHEY TO QUESTIONS OF SEN. MARKEY

Question 1. If confirmed, do you commit to reversing any funding cuts or other sanctions imposed upon universities that were not afforded due process they are entitled to under the constitution and Title VI of the *Civil Rights Act*?

Answer 1. It would not be appropriate for me to commit to any specific course of action without first reviewing ongoing cases and consulting with Department leadership, including OCR leadership and staff. As a nominee, I do not have the benefit of knowing the full scope of any ongoing investigation or evaluation of evidence that led to specific course of action in a particular case. Should I be confirmed, I commit to following the law.

Question 2. If confirmed, do you commit to ensuring all actions taken by the Office of Civil Rights under your leadership comply with Title VI of the *Civil Rights Act*?

Answer 2. If confirmed, I commit to following the law.

Question 3. If confirmed, do you commit to ensuring all actions taken by the Office of Civil Rights under your leadership comply with the Constitution of the United States?

Answer 3. If confirmed, I commit to following the law.

RESPONSES OF PENNY SCHWINN TO QUESTIONS OF SEN. ALSOBROOKS

Cutting Education Research at IES

Question 1. You've advocated for a DARPA-style investment in education research, calling for a National Center for Advanced Development at the Institute of Education Sciences (IES) to pursue "outside-the-box R and D" for students. Yet, one of the first actions taken by this Administration was to cut \$900 million in IES contracts and lay off nearly 90 percent of its staff. Do you still believe, as you wrote, that "investments in education research can't wait"?

Question 1(a). If confirmed, will you push for the resumption of canceled IES contracts?

Answer 1—1(a). I am aware there is significant interest in the Institute of Education Sciences. However, I cannot comment on any actions taken by the Department as I do not have the knowledge or benefit of all the information and discussions that went into them. I believe accountability is a critical component of improving outcomes. If confirmed, I look forward to being a part of the conversation with the Secretary and Department leadership around the best use of Federal dollars and how to most effectively support students.

State and Federal Collaboration

Question 2. Maryland has invested significantly in closing achievement gaps through the Blueprint for Maryland's Future. How would you support state-led efforts like ours to promote educational equity, and what role should the Federal Government play in complementing these initiatives?

Answer 2. Maryland's efforts to improve student outcomes through state-led initiatives like the Blueprint highlight the important state role in advancing education outcomes. The Federal Government should aim to support these efforts by reducing administrative barriers, promoting the exchange of effective practices, and ensuring transparency—while respecting state decision-making. If confirmed, I'd work to make sure Federal programs complement, not complicate, bold state reforms.

Question 3. The Maryland delegation sent a letter requesting the reinstatement of \$98 million in Elementary and Secondary School Emergency Relief (ESSER) funds that were clawed back by the Department of Education. To date, we have not received a formal response or update from the Department. Will you commit to providing the Maryland delegation with a written update on the status of this request within 30 days of your confirmation?

Question 3(a). Will you commit to expediting this request within 30 days of your confirmation so that Maryland's state education agencies and local education authorities can proceed with clarity for planning the Fiscal Year 26 budget?

Answer 3—3(a). I understand these issues are currently the subject of litigation. I do not believe it appropriate for me to commit to a specific course of action, especially on matters subject to litigation, without first having an opportunity to consult with staff at the Department and, as appropriate, at the Department of Justice. Should I be confirmed, I will seek that consultation.

[Whereupon, at 11:56 a.m., the hearing was adjourned.]

