



December 4, 2017

Dear Senator,

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 200 national organizations committed to promoting and protecting the civil and human rights of all persons in the United States, we are writing to urge robust vetting of President Trump's nominee to serve as Assistant Secretary for Civil Rights in the U.S. Department of Education, Ken Marcus. Given actions taken by Secretary DeVos since she was sworn in<sup>i</sup>, rumors about planned attacks on students' rights<sup>ii</sup>, and Mr. Marcus' own record<sup>iii</sup>, it is incumbent upon the Health, Education, Labor and Pensions (HELP) Committee to ensure that Mr. Marcus fully answers all questions and demonstrates his willingness and ability to enforce the law and protect students from discrimination. **The nation's children and families deserve an Assistant Secretary for Civil Rights with a demonstrated record of support for all of our civil rights laws and marginalized communities.**

The Office for Civil Rights (OCR) has a unique responsibility to enforce core nondiscrimination statutes in schools. Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Title II of the Americans with Disabilities Act of 1990 prohibit discrimination in schools on the basis of race, color, national origin, sex, disability, and age. These laws were passed by Congress in response to the widespread denial of equal protection and equal opportunity by states, districts, and schools. Although considerable progress has been made in the decades since these laws were passed, they continue to serve a vital function in the face of ongoing discrimination.

The Assistant Secretary for Civil Rights serves as the agency's chief legal advisor on civil rights matters and is responsible for leading the Department of Education's work to:

- ensure justice for students who report discrimination through the department's complaint process;
- investigate systemic discrimination;
- issue clarifying policy guidance to assist schools, districts, and states in meeting their obligations under federal law; and
- collect and report the data needed to identify where students do – and do not – have equal opportunity in education.

These enforcement, policy, and data responsibilities have considerable impact on whether or not students' constitutional and statutory rights to equal protection under the law are meaningful and whether marginalized students receive the supports and attention they deserve to achieve their dreams. And they are core to the work of the Department of Education.

The Senate HELP Committee has a unique responsibility to ensure that the Department of Education faithfully and effectively implements and enforces federal laws, protects the interests of the nation's students, and ensures individuals nominated to serve in the

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department are qualified and prepared to fulfill their duties and committed to upholding federal law and the Constitution. The person responsible for leading the Office for Civil Rights must absolutely be committed to respecting, valuing, and protecting every single student in this country – without regard to LGBTQI status, race, home language, gender, religion, disability, or immigration status. Our nation’s laws, economy, future, and children deserve no less.

Sincerely,

Vanita Gupta  
President and CEO

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<sup>i</sup> See, for example: [On February 22](#), the Civil Rights Division and the Department of Education’s Office for Civil Rights jointly rescinded Title IX guidance clarifying protections under the law for transgender students. [On June 6](#), the Department of Education’s Office for Civil Rights (OCR) issued unclear new instructions on transgender student discrimination. [On June 8](#), Acting Assistant Secretary for Civil Rights Candice Jackson authored a memo to OCR staff scaling back systemic investigations of discrimination. [On September 22](#), DeVos announced that the Department of Education was rescinding guidance related to Title IX and schools’ obligations regarding sexual violence and educational opportunity.

<sup>ii</sup> See, for example: [On October 25](#), *Politico* released a leaked draft Federal Register notice proposing a delay of the 2016 rule on significant disproportionality in special education. [On November 11](#), Department officials met with a group of teachers and parents to discuss eliminating guidance describing nondiscrimination obligations under Title VI in the context of school discipline.

<sup>iii</sup> See, for example: An overall description of Mr. Marcus’ past work is available [here](#).