

January 30, 2017

Dear Senator:

On behalf of the undersigned organizations representing the interests of millions of people with disabilities, we write to ask you to oppose the nomination of Elizabeth “Betsy” DeVos to be Secretary of Education. The mission of the Department of Education must be to advance a national system of quality public education and protect the rights of all children, including children with disabilities, within that system. Ms. DeVos’s testimony during her confirmation hearing and her written submissions, together with her lengthy record of supporting the diversion of public tax dollars to private schools that limit the rights of students with disabilities, indicate that as Secretary she would undermine that critical mission. As such, we ask that you vote against her confirmation.

DeVos Would Weaken the IDEA’s Protections for Students with Disabilities.

The federal Individuals with Disabilities Education Act (IDEA) requires schools to provide students with disabilities a free appropriate public education (FAPE), in the least restrictive environment appropriate, and also provides important procedural protections to students with disabilities and their families. Since it was enacted in 1975, the IDEA has made it possible for millions of students with disabilities to attend public schools with their non-disabled peers, and to receive the supports and services they need for success.

During her hearing, Ms. DeVos demonstrated a troubling lack of commitment to enforcing the IDEA. Initially, Ms. DeVos disagreed with the premise that all schools that receive federal special education funding should be subject to the requirements of the IDEA, instead arguing that this issue is “best left to the states.” Later, when asked if she was aware that the IDEA was a federal civil rights law, Ms. DeVos admitted that she “may have confused it.” Ms. DeVos either opposes federal enforcement of the federal educational rights of students with disabilities, or is unfamiliar with a critical federal law protecting these rights. Either circumstance makes her unqualified for confirmation as Secretary of Education.

Of great concern, Ms. DeVos reiterated her past support for making federal special education funding portable – presumably, turned into a national federal voucher program – stating that federal IDEA funds “should follow the individual students rather than going directly to the states.” She appeared to be untroubled that students with disabilities and their parents are often forced to waive their IDEA rights to receive school vouchers through “choice” programs. Private voucher schools are also free to reject or disenroll a student based on his or her disability; are not required to implement the Individualized Education Program that provides a student with a

disability with a FAPE; and are often unavailable to students with disabilities and their families because many voucher programs do not fully cover the costs of tuition and transportation. Ms. DeVos's goal of diverting more money and students into private schools through expanded voucher programs would strip more students with disabilities of their civil rights and would further burden the public schools that educate the vast majority of students.

All Schools Must Be Held Accountable for the Success of All Students.

Ms. DeVos's lack of commitment to enforcing the IDEA is a symptom of her general antipathy to public education and to holding schools accountable for all students, including students with disabilities. Under the new Every Student Succeeds Act (ESSA) and the implementing regulations issued by the Department of Education, each state will develop an accountability system for its schools that makes available information about academic outcomes, student progress, and school quality. Schools must also report outcomes and demonstrate progress for groups of historically underserved students, including students with disabilities, to allow parents, teachers, and other community members to evaluate the effectiveness of each school's educational practices.

Although she describes herself as an advocate for choice, Ms. DeVos will not commit to continuing the Department's implementation of the ESSA accountability provisions. In her hearing, Ms. DeVos also would not commit to holding all schools that receive federal funding equally accountable. When specifically asked whether all schools that receive federal funding should be held to the same accountability standards and should be required to report instances of discipline, harassment, and bullying on an equal basis, Ms. DeVos demurred. Students with disabilities, and particularly students of color with disabilities, regularly face incidents of bullying, inappropriate use of seclusion and restraint as punishment for behavior, and discriminatory school discipline practices. Without transparency and accountability, the "choice" facing all students and families, including students with disabilities, is a hollow one.

Students with Disabilities Need Strong Civil Rights Enforcement.

Through its Office for Civil Rights (OCR), the Department of Education plays an important role in ensuring that all students, including students with disabilities, have equal access to educational opportunities in schools. OCR enforces Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act to help elementary, secondary, and postsecondary students with disabilities receive the accommodations and supports they need to succeed. Through its Civil Rights Data Collection, OCR makes transparent how students with disabilities and others fare in our schools. Disturbingly, Ms. DeVos has failed to support maintaining a strong OCR within the Department of Education. During her hearing, when given the opportunity she did not disavow efforts to rein in or downsize OCR. All students, including students with disabilities, need the Department to fulfill its historic and critical role as a protector of civil rights. We need more support from the Secretary for OCR and its civil and disability rights enforcement efforts, not less. If she will not commit to this responsibility, Ms. DeVos should not be confirmed as Secretary.

In 2015, Ms. DeVos stated in a speech on education that “government really sucks” and that the public school system is a “dead end.” More than 90% of students across our nation, including millions of students with disabilities, attend a public school, and the continuing vitality of public schools is particularly meaningful to the overwhelming number of students with disabilities who depend upon them. Because Ms. DeVos has not expressed a strong commitment to public schools or to ensuring that all students, including students with disabilities, receive equal educational opportunities, we urge you to vote against her confirmation. Our children deserve better.

Sincerely,

American Association of People with Disabilities

Autistic Self Advocacy Network

Center for Public Representation

Children’s Mental Health Network

Disability Rights Education and Defense Fund

Education Law Center-PA

Judge David L. Bazelon Center for Mental Health Law

Juvenile Law Center

National Council on Independent Living

Pennsylvania APSE

Philadelphia HUNE, Inc.

Public Interest Law Center

Southern Poverty Law Center

The Arc of Philadelphia

Transition Consults