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COMMITTEE ON
EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES
2176 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

November 21, 2019

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The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Secretary DeVos:

I would like to reiterate my appreciation for your agreement to comply with my two outstanding requests. I'd refer you to the other letter I've sent to your office today on some outstanding issues with the production request. Given the extended exchange of letters between us during the Committee's lawful pursuit of production and the Department's rhetoric during this exchange, I feel compelled to reply to assertions made in the letters I received from both you and officials at the Department over the last two weeks. In these letters, as recounted more fully below, the Department has taken to relying on unfounded views of Congress's oversight authority to justify its continued resistance to legitimate oversight.

The Constitution requires Congress, through the Committee, to conduct rigorous oversight of the Department. And the Constitution does not grant the Department authority to determine the bounds of that oversight.

Having reviewed your recent correspondence, I believe it is necessary to recount the applicable law on the Committee's powers of oversight in an effort to correct the record. It is apparent from reading these letters that the Department is proceeding under a misapprehension of the system of checks and balances established by the Constitution. Contrary to the Department's belief, Congress, via the Committee, has a duty to conduct oversight of the Department's administration of federal education laws. It is fundamental to this Constitutional framework that Congress can both legislate and oversee the Executive Branch's administration of the laws that Congress passes.

Congress's power of inquiry, along with the compulsory process to enforce it, is "an essential and appropriate auxiliary to the legislative function."¹ "The scope of [Congress's] power of inquiry...is as penetrating and far-reaching as the potential power to enact and appropriate under

the Constitution.”² And, as particularly relevant here, Congress’s investigative power is at its peak when it is “inquir[ing] into and publiciz[ing] corruption, maladministration, or inefficiency in agencies of the Government.”³

The Department, like all other Executive Branch agencies, is a creation of Congress and is subject to its plenary legislative and oversight authority. The Supreme Court has clearly approved of Congress’s authority to investigate whether and how agencies are implementing the laws for which they are responsible.⁴

The Department’s letters overlook the fundamental difference between implementing laws and overseeing an agency’s administration of laws. Accordingly, the Department’s November 7 letter, which attempts to justify the Department’s avoidance of oversight of Borrower Defense, finds no basis in the Constitution or case law. In that letter, the Department argued that “Congress may play no role in law administration” and that its involvement in implementation of these laws must be “kept to an absolute minimum.”⁵ The Department then makes the baseless assertion that Congress must play a “limited” role and “tread carefully” because Congress delegated Borrower Defense policymaking authority to the Department.⁶

Supreme Court jurisprudence flatly contradicts the Department’s position. Indeed, the legal citations included in the Acting General Counsel’s November 7 letter do not support the assertions preceding them. Congress can—and, under the Constitutional framework of checks and balances, *must*—conduct ongoing oversight of the administration of federal laws.

It is also important to note, that Committee has been working this Congress to reauthorize the *Higher Education Act of 1965*. The production I requested, aside from being part of the Committee’s legitimate oversight authority, would have also informed the Committee’s process in production of this legislation.

The Committee’s constitutional powers to conduct oversight and legislate are not limited by concurrent litigation or the Department’s preference on which witness should testify first.

The argument that a pending lawsuit provides an excuse for withholding information from Congress has been expressly considered and rejected by the Supreme Court.⁷ Federal agencies (including the Department of Justice) have consistently submitted to congressional oversight involving allegations of improper administration—including in situations where there has been ongoing or expected litigation.⁸ It is well established that a Committee’s investigation “need not grind to a halt whenever responses to its inquiries might potentially be harmful to a witness in some distinct proceedings...or when...wrongdoing is disclosed.”⁹ Put differently, pending litigation poses no obstacle to Congress’s duty to investigate facts needed to determine what, if any, legislation should be enacted to prevent further problems.¹⁰

Congress’s oversight authority would be severely undermined if Congress were to allow agencies to resist legitimate oversight requests for nearly a year and then cede the decision-making about what information to seek and when, to the agencies. It would encourage agencies

to disclose only materials that support their position and withhold those with flaws or embarrassing information. It is my hope that you will recognize that the Department's stark resistance to the Committee's legitimate oversight requests risks damaging the public's view of the Department and its Borrower Defense program more than public disclosure of the background information the Committee is still seeking.

This resistance is evidenced by the fact that over the last year, I have sent you seven letters¹¹ requesting documents, data, and briefings so that I might better understand the Department's efforts to implement Borrower Defense. And my staff has followed up to these seven letters approximately 50 times.¹² Until November 15, the Department refused to produce *any* responsive documents, information, or briefings. Because of the Department's delays, I requested that you testify, and in response the Department claimed that "lawful oversight must begin with General Brown."¹³ As noted above, even though the Department cannot dictate the order in which the Committee's witnesses will provide information to the Committee or the venue of their testimony, I sought to accommodate the Department by acceding to the core of the Department's request: for the Committee to first hear from General Brown.

Accordingly, on November 1, I accepted your offer for a briefing with General Brown in anticipation of your testimony. On November 4, my staff emailed Department staff to schedule the briefing. The Department did not respond to either of those communications until its November 8 letter, which falsely stated that I rejected that offer and again insisted that the Committee hold a hearing with General Brown as a witness.¹⁴

In that letter, the Department claimed that "the Committee has consistently and without reason refused to compromise, rejecting the Secretary's offer to substantively discuss this matter on the phone with you, our proposal for General Brown to brief the Committee's principals, and our offer for General Brown [to] testify on November 19."¹⁵ When I responded to your offer of a phone call with "I am happy to discuss this issue with you over the phone or in person to finalize the details regarding your November 19 appearance before the Committee,"¹⁶ I was accepting your offer to speak on the phone. When I wrote to you that "I accept the Department's offer for a briefing to better inform the Committee's ongoing inquiry,"¹⁷ I was accepting the Department's offer to brief the Committee. When the Department did not respond to my acceptance of a briefing and my staff followed up with Department staff stating that "we would like to set up a time for General Brown to brief Committee staff on Borrower Defense," that was another display of the Committee's acceptance of that offer.¹⁸

Fortunately, the Department finally followed through on its commitment for General Brown to provide a briefing. In his briefing, General Brown was adamant that the Office of Federal Student Aid does not set policy but merely implements policy as determined by the Department. While my letters requested data that were provided in the production and by General Brown, I also had questions regarding the policy decisions at the Department, questions that will require a policymaker who has been in place since the Department first took steps to delay implementation of the 2016 borrower defense rule. Now that the Department's final impediment to your testimony has been removed, I anticipate your acceptance of my offer to testify on December 12.

The Department's letters ignore the fact that General Brown was not employed with the Department during the relevant time period and provide no explanation for how he might answer the Committee's questions regarding these decisions.

The Department's response generally describes the "technical and legal complexity of Borrower Defense" and the failures of the Office of Federal Student Aid (FSA).¹⁹ Even if true, neither fact excuses your refusal to testify. As the government official charged with implementing this program, I assume that you are able to explain the complexities of the Borrower Defense program to the Committee. And while the Committee is interested in many of FSA's policies and practices—indeed, the Committee has numerous longstanding requests for information from FSA—it ultimately is concerned with policy decisions you made before General Brown's tenure.

This rationale should not be unfamiliar to the Department. In fact, it was the rationale the Department relied upon to resist the Committee's requests that General Brown testify at a hearing on a different subject, "Broken Promises: Examining the Failed Implementation of the Public Service Loan Forgiveness Program" on September 19, 2019.²⁰ In defending the Department's rationale for proposing Jeff Appel and rejecting the Committee's request for General Brown as a witness, Department officials explained that "he [Jeff Appel] was in place at the beginning of TEPSLF implementation; General Brown was not."²¹ In that instance, the Committee ultimately accommodated the Department's request to produce the longer-tenured Jeff Appel.²²

Notably, throughout the Department's response it cites Borrower Defense policy changes that you made long before General Brown's March 2019 appointment.²³ For instance, the Department states that in May 2017 you requested that the Department of Education's Inspector General review the Department's Borrower Defense practices.²⁴ The Department's letter then references your December 2017 decision to deprive defrauded students of full relief using its partial relief formula.²⁵ When you testify, the Committee expects you to answer questions regarding your decisions. As you know, General Brown cannot answer these questions.

Your letter describes an openness to Committee inquiry that is contradicted by the record.

Your letter states that the American people expect that their public servants speak to each other constructively and with civility.²⁶ While over the last year I have consistently requested civil and constructive conversation from the Department, your collaborative rhetoric is not reflected in the Department's actions.²⁷ For instance, as thoroughly documented in the attached communications log, the Department refused Committee requests to participate in negotiations over production of these documents.

I have been requesting data and documents on your implementation of Borrower Defense for nearly a year, but the Department did not provide responses or even a production timeline until I threatened compulsory action.²⁸ You state that if I have questions you are "always available for a conversation."²⁹ But I have been repeatedly requesting a briefing since March and the Department refused to arrange one for more than six months. Despite the Department's rhetoric,

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it has now begun cooperating with the Committee's investigation. It is my hope that this cooperation continues.

Thank you in advance for your time and interest in this matter. Please direct all correspondence to the Committee Clerk, Tylease Alli, at Tylease.Alli@mail.house.gov.

Very truly yours,



ROBERT C. "BOBBY" SCOTT

Chairman

Cc: The Honorable Virginia Foxx, Ranking Member

¹ See *McGrain v. Daugherty*, 273 U.S. 135 (1927).

² *Eastland v. U.S. Servicemen's Fund*, 421 U.S. 491, 504 n.15 (1975) (quoting *Barenblatt v. United States*, 360 U.S. 109, 111 (1959)).

³ See *Watkins v. United States*, 354 U.S. 178, 200 n.33 (1957).

⁴ See *McGrain*, 273 U.S. at 177-78.

⁵ Acting General Counsel Reed D. Rubinstein, responding on behalf of Secretary Betsy DeVos, Letter to Chairman Robert C. "Bobby" Scott, re: Hearing Invitation at 2 n.2 (Nov. 7, 2019) ("Nov. 7 Rubinstein letter").

⁶ *Id.*

⁷ See *Sinclair v. United States*, 279 U.S. 263, 295 (1929).

⁸ In 2001 and 2002, the House Committee on Government Reform prepared and presented at hearings a compilation of over 33 congressional investigations spanning 85 years in which the Department of Justice cooperated in congressional investigations. See Hearings, Investigation Into Allegations of Justice Department Misconduct In New England—Volume I, House Comm. on Government Reform, 107th Cong., 1st and 2d Sess. 520-556, 562-604 (May 3, 2001, Dec. 16, 2001, Feb. 6, 2002).

⁹ See *Hutcheson v. United States*, 369 U.S. 599, 617 (1962).

¹⁰ See *Sinclair*, 279 U.S. at 294.

¹¹ See Chairman Robert C. "Bobby" Scott, Letter to Secretary Betsy DeVos, re: Borrower Defense (March 25, 2019); Chairman Robert C. "Bobby" Scott, Letter to Secretary Betsy DeVos, re: Outstanding Inquiries (June 21, 2019); Chairman Robert C. "Bobby" Scott, Letter to Secretary Betsy DeVos, re: Borrower Defense – Financial Responsibility (June 24, 2019); Chairman Robert C. "Bobby" Scott, Letter to Secretary Betsy DeVos, Hearing Invitation (Oct. 28, 2019); Chairman Robert C. "Bobby" Scott, Letter to Secretary Betsy DeVos, Follow up 1 (Nov. 1, 2019); Chairman Robert C. "Bobby" Scott, Letter to Secretary Betsy DeVos, Follow up 3 (Nov. 5, 2019); Chairman Robert C. "Bobby" Scott, Letter to Secretary Betsy DeVos, Follow up 3 (Nov. 15, 2019).

¹² See Exhibit 1 Staff Communications Log.

¹³ Acting General Counsel Reed D. Rubinstein, responding on behalf of Secretary Betsy DeVos, Letter to Chairman Robert C. "Bobby" Scott, re: November 5, 2019 Letter from Chairman Scott at 2 (Nov. 7, 2019).

¹⁴ Acting General Counsel Reed D. Rubinstein, responding on behalf of Secretary Betsy DeVos, Letter to Chairman Robert C. "Bobby" Scott, re: November 8, 2019 Letter from Chairman Scott at 1 (Nov. 12, 2019).

¹⁵ Acting General Counsel Reed D. Rubinstein, responding on behalf of Secretary Betsy DeVos, Letter to Chairman Robert C. "Bobby" Scott, re: November 8, 2019 Letter from Chairman Scott at 1 (Nov. 12, 2019).

¹⁶ Chairman Robert C. "Bobby" Scott, Letter to Secretary Betsy DeVos, re: Hearing Invitation at 2 (Nov. 8, 2019).

¹⁷ Follow up 1 at 1.

¹⁸ Exhibit 1 Staff Communications Log.

¹⁹ Acting General Counsel Reed. D. Rubinstein, responding on behalf of Secretary Betsy DeVos, Letter to Chairman Robert C. “Bobby” Scott, re: November 5, 2019 Letter from Chairman Scott at 2 (Nov. 7, 2019).

²⁰ *Broken Promises: Examining the Failed Implementation of the Public Service Loan Forgiveness Program: Hearing Before the Subcomm. on Higher Education and Workforce Investment of the H. Comm. On Education and Labor*, 116th Cong. (2019).

²¹ Email correspondence on file with the Committee.

²² *Broken Promises: Examining the Failed Implementation of the Public Service Loan Forgiveness Program: Hearing Before the Subcomm. on Higher Education and Workforce Investment of the H. Comm. On Education and Labor*, 116th Cong. (2019).

²³ Acting General Counsel Reed. D. Rubinstein, responding on behalf of Secretary Betsy DeVos, Letter to Chairman Robert C. “Bobby” Scott, re: November 5, 2019 Letter from Chairman Scott (Nov. 7, 2019).

²⁴ *Id.*

²⁵ *Id.*

²⁶ Secretary Betsy DeVos, Letter to Chairman Robert C. “Bobby” Scott, re: Hearing Invitation (Nov. 7, 2019).

²⁷ Exhibit 1 Staff Communications Log.

²⁸ Acting General Counsel Reed. D. Rubinstein, responding on behalf of Secretary Betsy DeVos, Letter to Chairman Robert C. “Bobby” Scott, Rubinstein Production Agreement (Nov. 14, 2019).

²⁹ Secretary Betsy DeVos, Letter to Chairman Robert C. “Bobby” Scott, re: Hearing Invitation (Nov. 7, 2019).

Exhibit 1

Staff Communications Log

Timeline of Communication between Committee on Education and Labor and Department of Education Regarding the Refusal to Provide Defrauded Students Debt Relief

1. October 24, 2018 at 5:37 PM – Committee staff requests* a bipartisan, bicameral staff-level briefing on implementation of Borrower Defense (BD) from the U.S. Department of Education (Department).
2. November 5, 2018 at 5:38 PM – Committee staff again requests* a bipartisan, bicameral staff-level BD briefing from the Department.
3. November 20, 2018 at 12:15 PM – Department staff briefs bipartisan bicameral committee staff in 2175 Rayburn House Office Building.
4. November 29, 2018 at 5:31 PM – Committee staff transmits* briefing follow-up questions to Department staff and requests complete responses by December 19, 2019.
5. November 29, 2018 at 5:56 PM – Department staff responds* to confirm receipt and promises to keep Committee staff updated on the status of the request.
6. December 18, 2018 at 3:58 PM – Committee staff reminds* Department of the December 19 expectation for responses to follow-up questions transmitted November 29, 2018 and offers to accept such responses on rolling basis.
7. December 18, 2018 at 4:59 PM – Department indicates* that complete responses to November 29, 2018 transmittal will be provided by December 21.
8. December 20, 2018 at 10:35 AM – Department transmits* Borrower Defense to Repayment Report in accordance with Senate Report 115-150 and the Consolidated Appropriations Act of 2018 (contents of report not responsive to outstanding Committee requests).
9. December 20, 2018 at 3:10 PM – Department transmits* corrected cover letter to accompany Borrower Defense to Repayment Report in accordance with Senate Report 115-150 and the Consolidated Appropriations Act of 2018.
10. December 21, 2018 at 2:30 PM – Department transmits* responses to BD briefing follow-up questions transmitted November 29, 2018.
11. January 8, 2019 at 4:59 PM – Committee staff transmits* follow-up and additional questions (BD production) and requests complete responses by January 25, 2019. *No Department response received.*
12. January 24, 2019 at 2:19 PM – Department states* in an unrelated email exchange, its intent to transmit BD production by February 8, 2019.
13. February 8, 2019 – Department fails to transmit BD production to Committee staff.
14. January 25, 2019 at 10:39 – Committee staff requests* Department responses to BD Production and offers to accept such responses on rolling basis. *No Department response received.*
15. February 21, 2019 – Committee and Department staff discuss via phone the possibility of a Department staff briefing. During the call Committee staff maintains the request for materials responsive to the BD production, agreeing to a Department briefing in addition to, but not in lieu of, BD production.

16. February 22, 2019 at 8:07 PM – Committee staff memorializes* the content of February 21, 2019 call to accept a Department staff briefing in addition to (and not in lieu of) Department materials responsive to BD production. *No Department response received.*
17. March 15, 2019 at 5:06 PM – Committee staff requests* status update on BD production and requests transmittal of all materials responsive to such production prepared to that point. *No Department response received.*
18. March 19, 2019 at 10:37 AM – Committee staff requests* status update on BD production. *No Department response received.*
19. March 19, 2019 in the afternoon – Committee staff calls Department staff to discuss all outstanding information requests, including BD production. During this call, Department staff asserts that the Department staff's communication made on January 24, 2019 at 2:19 PM claiming that BD production "responses were close to being finished" and asserting intent to transmit such responses by February 8, 2019 was inaccurate. During the call, Department staff stated that, in fact, no work had been done on the BD production to-date. Department shared with Committee staff its intent to obtain and transmit to Committee staff a timeline for BD production.
20. March 19, 2019 at 6:29 PM – Committee staff memorializes* contents of March 19, 2019 call. Committee staff requests clarification from Department staff, if email misstates the Department's position or is not reflective of the substance of the call. *No Department response received.*
21. March 25, 2019 at 6:15 PM – Committee staff requests* a status update on BD production. Committee staff again seeks confirmation of the Department's statements during March 19, 2019 call that no work has been done on the BD production request and the Department cannot provide any timeline on the BD production. Committee staff requests clarification, if email misstates the Department's position. *No Department response received.*
22. **March 25, 2019 – The Chairman sends a letter to the Secretary requesting a briefing on BD, the Department's response to the BD production and additional documents and data (now comprising full BD Production).**
23. March 26, 2019 at 9:40 AM – Department of Education offers* to provide more information on BD but fails to specify what that means.
24. March 26, 2019 at 4:44 PM – Committee staff responds* and reiterates the scope of the Chairman's request, per the March 25, 2019 letter. *No Department response received.*
25. April 2, 2019 at 2:30 PM – Chairman Scott and Secretary DeVos meet in 1201 Longworth House Office Building in advance of Secretary's April 10, 2019 appearance before the full Committee in defense of the Administration's Fiscal Year (FY) 2020 Budget. During this meeting, both the Secretary and Department staff state the goal of prompt response to Committee's outstanding requests in response to Committee staff's assertion that Committee has received no timelines for productions.
26. April 10, 2019 at 10:15 AM – Secretary DeVos appears before the full Committee for a hearing entitled "*Examining the Policies and Priorities of the U.S. Department of Education.*" Secretary DeVos provides testimony and answers Member questions in defense of the Administration's proposed FY 2020 Budget. During the hearing, the Chairman references outstanding BD requests in his opening statement. Multiple members ask the Secretary about the Department's handling of BD claims (see hearing transcript or archived web link).

27. April 29, 2019 at 11:34 AM – Committee transmits to the Department Questions for the Record (QFR) in follow-up to the April 10 full Committee hearing entitled “*Examining the Policies and Priorities of the U.S. Department of Education.*” Multiple members submit QFRs pertaining to the Department’s handling of BD claims. *As of November 15, 2019, Committee has not received responses to the April 10, 2019 QFR requests.*
28. May 3, 2019 at 5:31 PM – Committee staff requests* BD briefing and status update on full BD production.
29. May 6, 2019 at 3:33 PM – Department offers* a staff call on BD to take place May 7.
30. May 6, 2019 at 3:39 PM – Committee staff responds* and accepts the Department’s offer for a call on May 7. Committee staff offers to accommodate the Department by merging BD and an outstanding request for a Gainful Employment briefing, given the related nature of the two issues.
31. May 7, 2019 – Committee staff and Department discuss outstanding requests (call).
32. May 10, 2019 at 5:16 PM – Committee staff requests* status update on briefing and full BD production. *No Department response received.*
33. May 14, 2019 at 9:25 AM – Committee staff requests* status update on full BD production.
34. May 14, 2019 at 10:00 AM – Department apologizes* for delay and states intent to have information to share with Committee staff soon.
35. May 24, 2019 at 9:34 AM – Committee staff requests* update on briefing and full BD production. *No Department response received.*
36. June 3, 2019 at 9:15 AM – Committee staff requests* update on status of briefing and full BD production and also requests confirmation that the Department is working on such response and production.
37. June 3, 2019 – Committee staff and Department speak on the phone regarding timeline for production. During the call, Department states that full BD production is forthcoming and confirms Department will get back to Committee staff with dates for BD briefing.
38. June 4, 2019 at 8:43 AM – Committee staff memorializes* content of June 3, 2019 call with the Department and requests clarification, if email misstates the Department’s position or is not reflective of the substance of the call. *No Department response received.*
39. **June 21, 2019 – The Chairman sends a [follow-up letter](#) reiterating March 25 request for briefing and full BD production.**
40. **June 24, 2019 – The Chairman sends a [letter](#) requesting briefing, documents and data related to the Department’s implementation of BD financial responsibility standards (BDFR production).**
41. August 8, 2019 – Committee staff calls Department for a status update on all outstanding BD requests, including a briefing, the full BD production, and BDFR production. During call Department indicates that it will provide a production timeline for outstanding BD requests.
42. August 8, 2019 at 3:08 PM – Committee staff memorializes* substance of call and requests clarification, if email misstates the Department’s position or is not reflective of the substance of the call. *No Department response received.*

43. August 26, 2019 at 10:09 AM – Committee staff requests* status update on outstanding BD requests from Department. *No Department response received.*
44. August 27, 2019 at 5:25 PM – Committee staff requests* status update on outstanding BD requests from Department.
45. August 27, 2019 at 6:04 PM – Department responds* indicating that it is working on a production timeline and will produce such timeline as quickly as possible.
46. September 3, 2019 at 12:16 PM – Committee staff requests* update on outstanding BD requests from the Department. *No Department response received.*
47. September 6, 2019 – Committee staff and Department discuss outstanding requests (call).
48. September 6, 2019 at 5:54 PM – Committee staff memorializes* content of September 6, 2019 call with the Department and requests clarification, if email misstates the Department’s position or is not reflective of the substance of the call.
49. September 9, 2019 at 2:35 PM – Department confirms* that a timeline for the full BD production and the BDFR production is forthcoming, and the Department’s responses are in process.
50. September 9, 2019 at 6:57 PM – Committee requests* that the Department’s timelines for both productions be transmitted to Committee staff as soon as possible.
51. September 11, 2019 – Department and Committee staff phone call during which Department indicates intent to produce BDFR production by September 20, 2019.
52. September 12, 2019 at 2:05 PM – Committee staff memorializes* content of September 11 call. *No Department response received.*
53. September 30, 2019 at 12:04 PM – Committee staff requests* update on BDFR production, given that the Department missed the September 20 deadline.
54. September 30, 2019 at 5:06 PM – Department apologizes* for delay but confirms that BDFR production will arrive by October 11.
55. October 11, 2019 – Department fails to transmit BDFR production to Committee staff.
56. October 15, 2019 at 4:47 PM – Committee staff communicates Chairman’s intent to invite Sec. DeVos to appear before the Committee on November 19, 2019 for a full Committee hearing on Borrower Defense.
57. October 15, 2019 at 5:47 PM – Department requests* call to discuss forthcoming invitation to Secretary DeVos.
58. October 16, 2019 – Committee and Department staff speak via phone regarding forthcoming invitation. During the call Committee staff reiterates the importance of the Secretary’s testimony before the Committee, as she is the only appropriate witness.
59. October 16, 2019 at 1:30 PM – Committee staff memorializes* the content of the October 16, 2019 call. *No Department response received.*

60. October 18, 2019 at 12:48 PM – Committee staff requests* update from Department. *No Department response received.*
61. October 18, 2019 at 1:22 PM – Committee staff requests* update on Status of all outstanding BD requests and offers to “drop everything and be flexible” to make any hour work any time in the next week at any location to accommodate the outstanding request for a briefing. *No Department response received.*
62. October 21, 2019 at 12:25 PM and 12:27 PM – Committee staff requests* update on full BD production, BDFR production, BD briefing, and confirmation of Secretary’s intent to appear before the Committee on November 19, 2019. *No Department response received.*
63. **October 28, 2019: Chairman Scott sends a [letter](#) to formally invite Secretary DeVos to appear before the Committee on November 19, 2019 for a full Committee hearing on Borrower Defense.**
64. October 28, 2019 at 6:24 PM – Committee staff requests* update on status of all outstanding requests, including the BD briefing, full BD production, BDFR production, and invitation to testify.
65. October 29, 2019: Department responds via letter signed by Reed D. Rubinstein asserting an inaccurate legal justification to prevent Secretary DeVos from testifying on November 19, 2019 and offering a bipartisan briefing with General Mark Brown, Chief Operating Officer of Federal Student Aid.
66. **November 1, 2019: Chairman Scott responds via [letter](#) to Secretary DeVos to accept the Department’s offer of a briefing with General Brown, dispel the Department’s inaccurate legal justification to prevent Secretary DeVos from testifying, and reiterate his request for the Secretary’s appearance and testimony on November 19, 2019.**
67. November 4, 2019 at 8:44 PM – Committee staff accepts* the Department’s offer for a briefing with General Brown and requests dates and times for such briefing. *No Department response received.*
68. November 5, 2019 at 9:58 AM – Committee requests* status updates on the full BD production and the BDFR production. *No Department response received.*
69. November 5, 2019 – Department responds via letter signed by Reed D. Rubinstein offering General Brown to testify before the Committee the week of December 9, 2019.
70. **November 6, 2019: Chairman Scott responds via [letter](#) to Secretary DeVos reiterating his invitation for the Secretary to appear before the Committee on November 19, 2019.**
71. November 7, 2019: Department responds via a letter signed by Secretary DeVos to offer a private conversation between the Chairman and the Secretary and a briefing with General Mark Brown.
72. November 7, 2019: Department responds via a letter signed by Reed D. Rubinstein that makes numerous inaccurate assertions concerning process and Congressional oversight authority.
73. **November 8, 2019: Chairman Scott sends a [letter](#) to Secretary DeVos reiterating his request for Secretary DeVos’ testimony on November 19, 2019 and accepting the Department’s offer for General Brown brief Committee staff via transcribed interview to take place on November 13, 2019. The Chairman’s letter notes that a substantive response to the inaccurate assertions contained in Mr. Rubinstein’s November 7, 2019 letter is forthcoming.**
74. November 12, 2019: The Department responds via letter signed by Reed D. Rubinstein to rescind the Department’s offer that General Brown provide a briefing and instead offer General Brown as the Department

witness for the November 19, 2019 hearing. Mr. Rubinstein's letter also attempts to set the terms of future testimony on the issue of Borrower Defense provided by the Secretary on December 12, 2019.

75. November 14, 2019 at 12:20 PM: The Department issues a press release claiming that the Department has gone to "great lengths...in an attempt to provide the legitimate information Congress has requested, and the five times we have offered to share that information." The press release is accompanied by a Department-generated log of correspondence dating October 29, 2019 to November 12, 2019 and copies of Department letters to the Chairman transmitted during that timeframe.
76. November 14, 2019 at 12:47 PM: Committee contacts* Department to confirm correct staff contact to receive service on behalf of Secretary DeVos.
77. November 14, 2019 at 1:43 PM: Committee staff follows-up* to confirm correct staff contact to receive service on behalf of Secretary DeVos.
78. November 14, 2019 at 2:34 PM: Department confirms* the correct staff contact to receive service on behalf of Secretary DeVos.
79. November 14, 2019 at 6:28 PM: Department transmits letter signed by Reed D. Rubinstein to communicate intent to provide Committee with materials in response to both the full BD production and the BDFR production on November 15, 2019. The letter suggests the Department's "good faith" and asserts the Chair's failure to reciprocate with good faith.
80. November 14, 2019 at 8:15 PM – Chairman Scott releases a press statement announcing receipt of Mr. Rubinstein's November 14, 2019 letter and intent to review the Department's production to inform forthcoming testimony from Secretary DeVos.
81. **November 15, 2019: Chairman Scott sends a letter to Secretary Devos accepting full cooperation with the BD production requests and advising the Secretary to hold time on her calendar for December 12, 2019 for testimony before the full Committee.**

* = email on file with Committee