

Congress of the United States
Washington, DC 20515

September 7, 2018

The Honorable Mitch McConnell
Majority Leader
S-230, The Capitol
U.S. Senate
Washington, DC 20510

The Honorable Paul D. Ryan
Speaker
H-232, The Capitol
U.S. House of Representatives
Washington, DC 20515

The Honorable Charles E. Schumer
Democratic Leader
S-221, The Capitol
U.S. Senate
Washington, DC 20510

The Honorable Nancy Pelosi
Minority Leader
H-204, The Capitol
U.S. House of Representatives
Washington, DC 20515

Dear Leader McConnell, Leader Schumer, Speaker Ryan, and Leader Pelosi:

We write to urge adoption of language in the final Fiscal Year 2019 (FY19) Labor, Health and Human Services, Education, and Related Agencies (Labor-HHS) funding measure to prohibit funds authorized under Title IV-A of the Elementary and Secondary Education Act (ESEA), as amended by Every Student Succeeds Act (ESSA), for the purchase of firearms or firearms training for school staff.

Following reports in the New York Times and other outlets indicating that Secretary DeVos is considering allowing State and school district leaders to use funds authorized by the ESEA for these purposes,¹ 173 Members of Congress called on the Department of Education to issue formal program guidance that prohibits the purchase of firearms or firearms training using federal education funding.² In response, Secretary DeVos confirmed her intention to issue no such guidance and, instead, to allow the use of ESEA Title IV-A program funds for such purchases.³ Secretary DeVos's decision to allow gun purchases with federal education funds is in direct

¹ Emma, C. & Stratford, M. (2018, Aug 23). Texas, Oklahoma push DeVos to fund guns in schools. *Politico*. Retrieved from <https://subscriber.politicopro.com/education/article/2018/08/texas-oklahoma-push-devos-to-fund-guns-in-schools-750219>

Ganim, S. & Hansler, J. (2018, Aug 23). Trump admin disputes NYT report on Education Department plan to arm teachers. *CNN*. Retrieved from <https://www.cnn.com/2018/08/23/politics/nyt-betsy-devos-funding-plan-arm-teachers/index.html>

Green, E.L. (2018, Aug 22). Betsy DeVos is said to weigh letting school districts use federal funds to buy guns. *The New York Times*. Retrieved from <https://www.nytimes.com/2018/08/22/us/politics/betsy-devos-guns.html>

² Meckler, L. (2018, Aug 28). House Democrats push Betsy DeVos to reject funding for guns in schools. *The Washington Post*. Retrieved from https://www.washingtonpost.com/news/education/wp/2018/08/28/house-democrats-push-betsy-devos-to-reject-funding-for-guns-in-schools/?utm_term=.d7flc288d02c

³ Meckler, L. & Balingit, M. (2018, Aug 31). DeVos leaving it to states whether to use federal money to buy guns for schools. *The Washington Post*. Retrieved from https://www.washingtonpost.com/local/education/devos-leaving-it-to-states-whether-to-use-federal-money-to-buy-guns-for-schools/2018/08/31/947ec06c-ad46-11e8-8a0c-70b618c98d3c_story.html?utm_term=.7d1be9fe7c02

contravention to the program's authorizing statute, recent Congressional action, and longstanding policy governing the distribution of federal funds. Congress must uphold federal law and decisively prohibit such action through the FY19 Labor-HHS funding bill.

In December of 2015, Congress passed ESSA with strong bipartisan support to help ensure educational opportunity for all students. Central to achieving that goal is implementation of the law's newly-authorized formula grant program, the Student Support and Academic Enrichment Grant Program (Title IV-A). Title IV-A is intended to provide school districts with supplemental federal resources to ensure low-income students have access to improved educational opportunities through programming and services to improve school climate, increase access a well-rounded education beyond tested subjects, and bolster the availability of cutting edge technology to support student learning. Title IV-A affords local leaders the flexibility to tailor investments to meet local needs; however, in writing and enacting ESSA, Congress never contemplated, and thus never intended, that such flexibility would allow for the procurement of firearms. Congress denounced the presence of firearms in schools in ESEA section 4102(5)(B), which defines the term "drug and violence prevention" as a program that fosters "the creation and maintenance of a school environment free of weapons."⁴ Thus, any use of funds to purchase weapons clearly contradicts the plain reading of the statute.

Further, in authorizing the bipartisan STOP School Violence Act in the aftermath of the Parkland, FL school shooting, Congress acted to prohibit program funds from being used for the purchase of firearms or firearms training. Subsection (a) of section 2706 of Division S of the Fiscal Year 2018 Consolidated Appropriations Act states:

*"(a) NO FUNDS TO PROVIDE FIREARMS OR TRAINING. – No amounts provided as a grant under this part may be used for the provision to any person of a firearm or training in the use of a firearm."*⁵

Additionally, it is the longstanding position of the federal government that the purchase of firearms and ammunition as related to school safety using federal funds is not allowed. For example, while the Homeland Security Grant Program authorizing statute allows funds to be used broadly for not only "enhancing school preparedness" but also "any other appropriate activity" as determined by the Federal Emergency Management Agency,⁶ program guidance issued by the Trump Administration maintains longstanding policy that prohibits the purchase of firearms and ammunition as allowable program expenses.⁷

ESEA Title programs, including Title IV-A, are intended to improve equity of educational opportunity. Despite modest increases in recent years, appropriations levels for ESEA Title

⁴ *Elementary and Secondary Education Act of 1965* § 4102(5)(B), as amended by *Every Student Succeeds Act*, P.L. 114-95 (2015).

⁵ *Consolidated Appropriations Act, 2018* § 2706, P.L. 115-141 (2018).

⁶ *Homeland Security Act of 2002* § 2008, P.L. 107-296 (2002).

⁷ DiNanno, T. (2017, Nov 1). Guidance to Recipients and Subrecipients of FEMA Preparedness Grants Regarding Implementation of Executive Order 13809 Restoring State, Tribal, and Local Law Enforcement's Access to Life-Saving Equipment and Resources. *U.S. Department of Homeland Security FEMA*. Retrieved from https://www.fema.gov/media-library-data/1509981634187-ff65775f330fb464d5711c3278f80194/ControlledEquipmentRecission_IB_Final_11-1-17.pdf

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programs remain inadequate to meet all of the educational and enrichment needs of disadvantaged students. It is therefore imperative that funds appropriated for ESEA programs be implemented to align with statutory program goals and purposes. Every school environment should be safe, welcoming, and conducive to quality instruction and student learning. Diverting federal funds to arm teachers would not only jeopardize student and staff health and safety, but also run counter to Congressional intent, precedent, and common sense. In closing, we again urge you to uphold federal law and prohibit the arming of teachers using ESEA funds in the FY19 Labor-HHS appropriations bill.

Sincerely,



ROBERT C. "BOBBY" SCOTT
Ranking Member



SUZANNE BONAMICI
Vice Ranking Member

cc: Rodney Frelinghuysen, Chairman
House Committee on Appropriations

Nita Lowey, Ranking Member
House Committee on Appropriations

Tom Cole, Chairman
Subcommittee on Labor, Health and Human Services, Education, and Related Agencies

Rosa DeLauro, Ranking Member
Subcommittee on Labor, Health and Human Services, Education, and Related Agencies

Richard Shelby, Chairman
Senate Committee on Appropriations

Patrick Leahy, Vice Chairman
Senate Committee on Appropriations

Roy Blunt, Chairman
Subcommittee on Labor, Health and Human Services, Education, and Related Agencies

Patty Murray, Vice Chairman
Subcommittee on Labor, Health and Human Services, Education, and Related Agencies