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March 15, 2018

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

Dear Secretary DeVos:

I am writing to reiterate my request from our meeting on January 11, 2018, urging you to maintain the 2014 ED-DOJ School Discipline Guidance Package.¹ As you know, the guidance, developed jointly with the Department of Education (ED) and Department of Justice (DOJ), was released on January 8, 2014 to explain the non-discrimination requirements under Titles IV and VI of the Civil Rights Act of 1964 and remind schools of their legal obligations to administer student discipline without discriminating on the base of race, color, or national origin. This guidance package is important to ensure states and school districts have the tools and resources to comply with federal education and civil rights laws, and to continue taking steps to dismantle the school-to-prison pipeline, as required by the recently reauthorized Elementary and Secondary Education Act.

In the past month, the Department of Education had an opportunity to respond to an investigation conducted by the Government Accountability Office (GAO) regarding disparities in discipline policies and practices applied to students of color, boys, and students with disabilities. This investigation follows GAO's investigation, released in May of 2016, which confirmed that students in racially and socioeconomically isolated schools experience exclusionary discipline at disproportionately higher rates than do their peers in non-isolated schools. Both reports were requested by me and the Ranking Member of the House Judiciary Committee, given our oversight jurisdiction regarding the enforcement of education and civil rights laws.

Per GAO's protocol, the Departments of Education and Justice were afforded the opportunity to review this report and provide agency responses to the GAO's findings. As you know, the GAO's research and findings will very likely substantiate claims that the severity of disparate treatment for students of color and students with disabilities persists; affirm the importance of the 2014 discipline guidance and the larger Rethink School Discipline guidance package; and, make clear the urgent need to address these gross disparities in our educational system. Given the impending release of GAO's report and its important findings, it is in the interest of everyone to

¹ <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.pdf>

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assess the findings so that the Department of Education can make an informed decision regarding the guidance package.

Ensuring public access to the GAO's findings prior to any agency action on the guidance is especially necessary given the recent factually-inaccurate assertions made by the Administration and Congressional Republicans that wrongly place blame for the recent school shooting in Parkland, Florida on the 2014 guidance package. In reality, there is no evidence to support the claim that the current guidance package contributed to the tragedy in Parkland, Florida or school shootings generally. Furthermore, it strains credibility to suggest that schools cannot be made safer unless states and districts can employ racially discriminatory discipline policies and practices.

Any efforts to rescind or alter the agency's existing discipline guidance must be informed not only by robust public dialogue with parents, teachers, students, and civil rights advocates, but also evidence. Naturally, the body of evidence to inform any such efforts must include public awareness of the GAO's imminent investigation, which will also include ED and DOJ responses to GAO's findings. Rescinding or altering the 2014 discipline package prior to GAO's findings are made public would not only turn a blind eye to evidence-based research, but also rob our nation's students of full civil rights protections and informed decision-making.

Thank you for considering this request.

Sincerely,



ROBERT C. "BOBBY" SCOTT

Ranking Member