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May 17, 2016

The Honorable John Kline  
Chairman  
Committee on Education and the Workforce  
U.S. House of Representatives  
2176 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Kline:

Sixty two years ago today, the landmark United States Supreme Court ruling in *Oliver Brown, et al v. Board of Education of Topeka, Kansas* affirmed that racial segregation in education violates the U.S. Constitution, and critically, that “separate educational facilities are inherently unequal,” compelling states to provide for educational opportunity that is “available to all on equal terms.” On this anniversary of the *Brown* decision and in reaction to recent findings from the Government Accountability Office (GAO) discussed within this letter, I remain concerned that States and school districts have made insufficient progress in the provision of equal educational opportunity. I write to request formal Committee action to thoughtfully examine this pressing and persistent racial injustice in public elementary and secondary education.

As a result of the *Brown v. Board of Education* decision, the federal government intervened to integrate public education in communities throughout the country. In some communities, state and local governments embarked on voluntary actions to integrate their schools. The decades following *Brown* saw a national focus and a collective public sector effort to improve equity of educational opportunity by replacing state-sanctioned, racially segregated schools with integrated schools and classrooms. Millions of students of all racial backgrounds and income levels benefitted from federal, state, and local government actions to integrate public elementary and secondary school learning environments.<sup>[1]</sup> As the decades passed, government action and meaningful federal oversight receded in many communities, resulting in persistent and pervasive racial and socioeconomic segregation in the public educational system. Indeed, inequitable access to educational opportunity has demonstrably robbed our nation's most vulnerable students

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<sup>[1]</sup> Cordova-Cobo, D., Fox, L. & and Stuart Wells, A. (2016). *How Racially Diverse Schools and Classrooms Can Benefit All Students*. Retrieved from The Century Foundation website: <https://tcf.org/content/report/how-racially-diverse-schools-and-classrooms-can-benefit-all-students/>

of learning gains and later life success.<sup>[2]</sup> It is a stark reminder that the civil rights legacy of *Brown v. Board of Education* has yet to be fulfilled.

In May of 2014, I, along with Judiciary Committee Ranking Member Conyers and former Education and the Workforce Committee Ranking Member Miller, requested that the GAO examine racial and socioeconomic integration in K-12 public schools. We asked GAO to evaluate three questions: (1) how the percentage of schools with high percentages of poor and Black or Hispanic students has changed over time and the characteristics of these schools; (2) why and how selected school districts have implemented actions to increase student diversity; and (3) the extent to which the Departments of Education and Justice have taken actions to identify and address issues related to racial discrimination in schools.

The GAO report found that our nation's schools are not only largely segregated by race and class, but also are *resegregating* at an alarming rate. For example, the percentage of schools in which 75 percent of students were both low-income and Hispanic or African American (H/PBH) increased steadily from 9 percent of all K-12 public schools in 2001 (7,009 schools) to 16 percent of all such schools in 2014 (15,089 schools). As of 2014, 20 million African American and Hispanic students attended H/PBH schools, up from under 14 million students in 2001. Further, the rapid percentage increase of H/PBH schools that are public charter schools over the same time period, from 3 percent to 13 percent, raises significant concerns relating to the recent proliferation of school choice and open enrollment policies that fail to prioritize student diversity.

GAO examined, measures highly correlated with student success, including the availability of and participation in advanced coursework<sup>[3]</sup> and a school's use of exclusionary discipline practices.<sup>[4]</sup> According to GAO analysis, H/PBH schools were far less likely to offer advanced coursework and far more likely to use exclusionary discipline, both findings that correlate negatively with student success and later life outcomes. For instance, less than half of H/PBH schools offered AP math courses, compared to the availability of such courses in almost two-thirds of non-H/PBH schools. Among all schools, low-income and minority students were far

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<sup>[2]</sup> Harris, D.N. (2006). *Lost Learning, Forgotten Promises: A National Analysis of School Racial Segregation, Student Achievement, and "Controlled Choice" Plans*. Retrieved from the Center for American Progress website:

<https://www.americanprogress.org/wp-content/uploads/issues/2006/11/pdf/lostlearning.pdf>

<sup>[3]</sup> Education Trust (2013). *Missing Students: Finding America's Missing AP and IB Students* (Shattering Expectation Series). Retrieved from [https://edtrust.org/wp-content/uploads/2013/10/Missing\\_Students.pdf](https://edtrust.org/wp-content/uploads/2013/10/Missing_Students.pdf)

<sup>[4]</sup> Marchbanks, M.P., Blake, J., Booth, E. A., Carmichael, D., Seibert, A. L. & Fabelo, T. (2013) *The Economic Effects of Exclusionary Discipline on Grade Retention and High School Dropout*. Retrieved from the Civil Rights Project at the University of California Los Angeles website: <https://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/state-reports/the-economic-effects-of-exclusionary-discipline-on-grade-retention-and-high-school-dropout>

The Honorable John Kline  
May 17, 2016  
Page 3

less likely to enroll in these more rigorous courses. GAO also found that, despite H/PBH school students comprising only 12 percent of all K-12 public school students, they accounted for 22 percent of all students with more than one out-of- school suspension.

GAO also examined the degree to which the Departments of Education and Justice are acting on this information. While GAO profiled three local school districts acting deliberately to better integrate their schools with varying results, systematically, our public sector support for, oversight of, and reaction to desegregation is broken.

December marked enactment of the Every Student Succeeds Act (ESSA). I remain proud of our bipartisan collaboration to update the nation's K-12 education law, and value your partnership in working to afford more flexibility to states and school districts while upholding the civil rights legacy of the Elementary and Secondary Education Act (ESEA) through strong federal protections for disadvantaged students. But with increased flexibility *must* come increased responsibility for the provision of educational opportunity to "all on equal terms." As states and districts work implement the new law, the Federal government must act to bolster, through technical assistance and support actions to reverse the alarming trend of increased racial and socioeconomic segregation of our nation's K-12 public schools. The federal government must use data available to ensure vigilant oversight and robust enforcement to address disparities and improve equitable access to educational opportunity.

In the spirit of bipartisanship that embodied enactment of ESSA, I enlist your leadership to convene a series of hearings on GAO's findings and the role of the Federal government in eliminating vestiges of the pre-*Brown* era of public education that remain in States and school districts across this country.

Thank you and I look forward to hearing from you.

Sincerely,



**ROBERT C. "BOBBY" SCOTT**  
Ranking Member

Enclosure: *GAO-16-345: Better Use of Information Could Help Agencies Identify Disparities and Address Racial Discrimination*