

# United States Senate

WASHINGTON, DC 20510

August 6, 2018

The Honorable Jeff Sessions  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

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

Dear Attorney General Sessions and Secretary DeVos:

We write to express our strong disagreement with the U.S. Departments of Justice and Education's action to rescind civil rights guidance addressing racial integration and diversity in our nation's schools and colleges. While the law is clear and unchanged—that diversity is a compelling government interest that permits race-conscious admission—retracting this guidance will make it more challenging for school districts and colleges to understand your Departments' enforcement of the law to ensure the institution is in compliance. Further, we are deeply concerned your actions will make it more difficult for institutions to open up doors of opportunity to students and communities that have been historically underrepresented or have been left behind.

With almost daily attacks from your Administration on the protections for immigrants, women, children, people of color, people with disabilities, survivors of sexual assault, and LGBTQ students, it is clear there is a coordinated and systematic effort to undermine the law, divide communities, and destabilize American values at every level and in every community.

For 40 years, the Supreme Court has made it clear that diversity is a compelling government interest and repeatedly upheld the use of race-conscious admissions practices in higher education.<sup>1</sup> The court has recognized that racial diversity and integration benefits all students and are critical in both our K-12 and the higher education schools. It is in our national interest that talented students from all backgrounds get a fair chance to overcome obstacles to higher education and learn in a diverse environment, two necessities in today's economy. In addition, the benefits of racial and socioeconomic integration in K-12 schools are clear: students in integrated schools achieve at higher levels, are more likely to enroll in college, and are less at risk of developing discriminatory attitudes and prejudices.<sup>2</sup>

From 2011 through 2016, the Obama Administration issued seven separate documents to provide meaningful guidance on how school districts and colleges may achieve this important goal and comply with the law. This guidance built on guidance issued by previous administrations and represented only an update in light of new Supreme Court cases. Instead of leaving in place these

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<sup>1</sup> *Regents of the University of California v. Bakke* (1978); *Grutter v. Bollinger* (2003); *Parents Involved in Community Schools vs. Seattle School District No. 1* (2007); *Fisher v. University of Texas* (2013); *Fisher v. University of Texas* (2016)

<sup>2</sup> The Century Foundation. The Benefits of Socioeconomically and Racially Integrated Schools and Classrooms. February 10, 2016. <https://tcf.org/content/facts/the-benefits-of-socioeconomically-and-racially-integrated-schools-and-classrooms/>

important explanations of current law, the Trump Administration has chosen to turn its back on students of color by abruptly withdrawing these guidance documents—thereby repudiating our values on the eve of the birthday of our nation and the day after the anniversary of the Civil Rights Act of 1964.<sup>3</sup>

With assaults by your Administration on our country's laws, values, and communities, we are deeply troubled for the ongoing health and prosperity of our nation and its economy. As our country continues to grow more diverse, we need policies that foster diversity and inclusion, not suppress them. Please provide the following information no later than August 20, 2018.

1. Who did the Departments consult with before making the decision to revoke the guidance?
2. How will the Department advise schools about how to seek diversity in their student body consistent with the Constitution?
3. Has the Department's enforcement guidance to field staff regarding race-based complaints changed? Please provide all communications to field staff since January 1, 2017 involving complaints of discrimination based on race.
4. Please provide a list of the complaints of discrimination based on race or ethnicity at elementary, secondary, and postsecondary institutions received by the Department of Education's Office for Civil Rights since January 1, 2016.
5. Please provide a list of the complaints of discrimination based on race or ethnicity at elementary, secondary, and postsecondary institutions closed by the Department of Education's Office for Civil Rights since January 1, 2016.

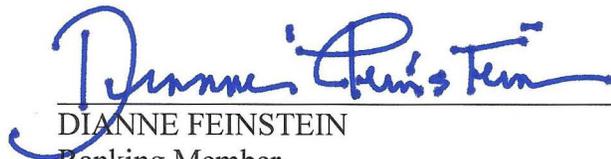
Thank you for your cooperation with this matter. If you have any questions, please contact Mary Nguyen Barry at [Mary\\_Barry@help.senate.gov](mailto:Mary_Barry@help.senate.gov) and Brent Palmer at [Brent\\_Palmer@feinstein.senate.gov](mailto:Brent_Palmer@feinstein.senate.gov).

Sincerely,



PATTY MURRAY  
Ranking Member

U.S. Senate Committee on Health, Education,  
Labor and Pensions



DIANNE FEINSTEIN  
Ranking Member

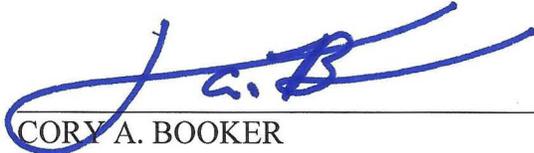
U.S. Senate Committee on the Judiciary

<sup>3</sup> U.S. Department of Justice Civil Rights Division and U.S. Department of Education Office for Civil Rights. *Dear Colleague Letter* – July 3, 2018. <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-title-vi-201807>

MICHAEL F. BENNET  
United States Senator

RICHARD BLUMENTHAL  
United States Senator



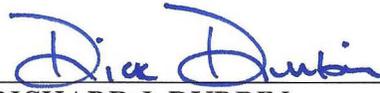
CORY A. BOOKER  
United States Senator



BENJAMIN L. CARDIN  
United States Senator



TAMMY DUCKWORTH  
United States Senator



RICHARD J. DURBIN  
United States Senator



KIRSTEN GILLIBRAND  
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KAMALA D. HARRIS  
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MAZIE HIRONO  
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EDWARD J. MARKEY  
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JEFFREY A. MERKLEY  
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United States Senator

  
SHELDON WHITEHOUSE  
United States Senator

  
RON WYDEN  
United States Senator

  
ROBERT P. CASEY, Jr.  
United States Senator

  
ROBERT MENENDEZ  
United States Senator