

April 19, 2021

To Secretary of Education Miguel A. Cardona:

We write to you as a broad coalition of organizations committed to ensuring that the Department of Education (“Department”) advances the interests of students. During her tenure as Secretary of Education from 2017 to 2021, Elisabeth B. (Betsy) DeVos led an all-out war against student borrowers. Rebuilding the American education system after four years of onslaught will require close cooperation between federal and state governments in conjunction with student advocacy organizations. In recognition of this, we look forward to working closely with your leadership to reverse the damage brought on by the Trump Administration in order to chart a new course for higher education in the United States.

Given the scope of the task ahead, we are concerned that the Department’s new leadership is not undertaking the steps necessary to reverse DeVos’s disastrous legacy. In particular, the Department continues to defend the Trump Administration’s position in nearly every court proceeding involving the federal student aid programs.

The decision of acting Assistant Attorney General for the Civil Division Brian M. Boynton to side with DeVos in a legal effort to hold her accountable for sabotaging the Department’s borrower defense program has been widely reported.¹ It is unconscionable that Department has approved a motion to quash a subpoena against DeVos,² and we urge department leadership to abandon this effort to protect DeVos from accountability.

We also strongly encourage the Department to stop defending the Trump Administration’s repeal of the Gainful Employment Rule.³ The Obama Administration enacted the Gainful Employment Rule in 2014 to ensure that graduates of for-profit and career college programs are not burdened with student loan debt that they are unable to repay. During her tenure at the helm of the Department of Education, DeVos repealed the Gainful Employment Rule, leaving more students at potential risk of being taken advantage of by these predatory ventures.⁴ Per the Center for American Progress, the reinstatement of the provisions of the Gainful Employment Rule would be an important step towards ending the practice of for-profit colleges “preying on and lying to students.”⁵

¹<https://lawandcrime.com/high-profile/biden-admin-teams-up-with-ex-trump-doj-official-to-defend-betsy-devos-against-ripped-off-college-students/>

² <https://static.politico.com/cc/b0/ee17f96b4b53a477e9c41efaa7bb/devos-motion-to-quash.pdf>

³ See *People of the State of California v. DeVos*, Case No. 5:20-cv-01889-EJD (N.D. Cal.); *American Federation of Teachers v. DeVos*, Case No. 5:20-cv-455-EJD (N.D. Cal.).

⁴<https://www.usatoday.com/story/money/2019/06/28/trump-department-education-devos-remove-gainful-employment-rule/1601251001/>

⁵<https://www.americanprogress.org/issues/education-postsecondary/news/2020/11/17/492997/5-policies-biden-harris-administration-must-tackle-protect-college-students/>

Additionally, we are alarmed by department leadership’s decision to file a motion to dismiss a lawsuit by the State of California challenging DeVos’s dismantling of protections against predatory for-profit colleges in 2020. In the midst of the COVID-19 pandemic, the DeVos-led Department of Education quietly instituted “Distance Education and Innovation” regulations under Title IV of the Higher Education Act (HEA), which gave colleges increased flexibility to evade regulations “intended to prevent federal Title IV funds... from going to low-quality educational programs and predatory for-profit institutions.”⁶ DeVos’s push to shield predatory higher education institutions from scrutiny while the world was occupied by a historic crisis was a low point in the department’s history. To rectify this shameful decision, we urge the Department of Education to reverse course and stop defending these DeVos regulations.

Furthermore, we are disappointed that the Department of Education continues to stall an effort by a public advocacy group to seek justice for students defrauded by the predatory for-profit college industry. For the *Bay Area Legal Aid v. U.S. Department of Education*⁷ case to result in a just outcome for these students, the department must release requested documents proving impropriety on behalf of for-profit college operator Corinthian Colleges. The now-defunct company is notorious for its history of fraudulence at the expense of low-income students,⁸ and in order for these students to seek discharge relief, the department must release documentation of the college’s attendance and program records. By refusing to release these records and only releasing redacted documents, the Department of Education is effectively siding with for-profit college operators at the expense of the students who fell victim to their predatory business model.

We are also concerned that the new administration is continuing DeVos’s legacy of siding with many of these for profit college operators when it comes to the Department’s recent decisions to allow several troubled for profit colleges continued access to federal funds. For example, the embattled for-profit college accreditor Accrediting Council for Independent Colleges and Schools (“ACICS”) ordered the Bay Area Medical Academy institution (“BAMA”) to “show cause” why its accreditation should not be revoked due to low post-graduation job placement rates in December 2020. ACICS gave BAMA until March 2021 to respond, during which time it had to notify prospective and enrolled students of the action. However, the Department went ahead and recertified the BAMA to participate in federal student aid programs for an additional two years, without even awaiting the outcome of ACICS’s decision.

Reinvigorating the Office of Federal Student Aid (“FSA”), an office which saw its critical functions sabotaged by DeVos’s leadership, must be a top priority for Department leadership. Under DeVos, the revolving door between the FSA and individuals with ties to the for-profit

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<https://oag.ca.gov/news/press-releases/attorney-general-becerra-sues-us-department-education-easing-oversight-profit>

⁷ <https://www.citizen.org/litigation/bay-area-legal-aid-v-u-s-department-of-education/>

⁸ <https://www.latimes.com/business/hiltzik/la-fi-hiltzik-corinthian-college-sec-20190306-story.html>

college industry became wide open. Though the resignation of FSA chief operating officer Mark A. Brown is welcome given his complicity in the Trump Administration's sabotage of student borrower relief efforts,⁹ the office remains in need of further changes in leadership in order to be properly reinvigorated.

It is crucial that Robin S. Minor be removed as acting FSA chief operating officer given her tenure as chief compliance officer under DeVos, in which she presided over the denial of public service loan forgiveness.¹⁰ Similarly, the harm done to the FSA's critical functions by DeVos's leadership is unlikely to be meaningfully reversed as long as Lisa Bureau continues to serve as the office's enforcement director. Bureau is intimately tied to the for-profit college industry, having previously represented the private equity firm that acquired predatory for-profit college operator Sextant Education Corp ("Sextant").¹¹ Initiatives by the Biden Administration to crack down on the for-profit college industry will be boosted with new individuals taking the helm who are committed to advancing the interests of student borrowers.

The Biden Administration has an opportunity to reverse the damage to the American education system brought on by DeVos's disastrous tenure. In order to do so, the Department of Education must stop doubling-down on defending the Trump Administration's positions in every case involving student lending issues. Additionally, the revolving door between the for-profit college industry and government as made wide open by DeVos must be firmly closed, and strong advocates of student borrowers must be chosen for relevant roles within the department.¹² Instead of working to protect DeVos from legal scrutiny, the Department of Education should collaborate with state attorneys general and progressive organizations to provide relief to student borrowers and safeguard higher education from predatory ventures.

Sincerely,

Blue Future
Center for Popular Democracy
CODEPINK
Council of University of California Faculty Associations
Courage California
Debt Collective
Demand Progress Education Fund

The Freedom BLOC

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<https://www.marketwatch.com/story/devos-appointee-who-oversaw-americas-student-loan-portfolio-resigns-education-secretary-pledges-to-ease-student-debt-burden-11614964670>

¹⁰ <https://www.reuters.com/article/us-massachusetts-studentloans-idUSKBN2A92TA>

¹¹ <http://www.aeainvestors.com/private-equity/investments/>

¹² <https://www.politico.com/news/2021/03/15/progressives-education-department-student-loan-fight-476154>

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