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## MEMORANDUM

TO: **Interested Parties**  
FROM: **Penn Hill Group**  
DATE: **May 25, 2017**  
SUBJECT: **House Appropriations Labor-HHS Subcommittee Hearing on Education Department FY2018 Budget**

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U.S. House of Representatives Committee on Appropriations Subcommittee on Labor, Health and Human Services (HHS), Education and Related Agencies  
[\[List of Subcommittee Members\]](#)  
“Department of Education Budget Hearing”

### Overview:

On May 24, 2017, the House Appropriations Subcommittee on Labor, HHS and Education heard testimony from Secretary Betsy DeVos on the President’s Fiscal Year (FY) 2018 proposed budget for the U.S. Department of Education (ED). [[Webcast of the hearing](#)]

### Key Issues Discussed:

1. Secretary Betsy DeVos said that ED’s priorities of refocusing spending on supporting States and school districts, simplifying higher education funding and improving college education affordability are reflected in the FY2018 budget proposal.
2. Secretary DeVos and Committee Members discussed the potential applicability of Federal civil rights requirements to private schools and their students participating in federally funded educational choice programs.
3. Secretary DeVos defended the ED’s investment in school choice programs when asked multiple times by Members if they took important funds away from formula grant programs.
4. Members asked questions regarding TRIO and GEAR UP, teacher training and development programs, the Individuals with Disabilities Education Act (IDEA), career and technical education (CTE), Pell Grants, borrower defense, student mental health, campus sexual assault, and other topics.

### Witness:

- **Secretary Betsy DeVos**, U.S. Department of Education

### Opening Statements:

**Chairman Tom Cole (R-OK)** applauded Administration’s proposed investment in high-quality charter schools. He said he looked forward to asking questions during the hearing regarding how the Administration’s school choice proposals would work and how they would mesh with the reauthorized Elementary and Secondary Education Act (ESSA). He said he also appreciated that ED’s budget aims to protect the most vulnerable populations—students with

disabilities, English learners, and students attending minority-serving institutions. He said it is unfortunate that the timing of the final consolidated appropriations bill and production of the full budget coincided such that final fiscal year (FY) 2017 budget figures were not known at the time ED's funding proposal decisions were finalized. He said he believes that, in many cases, it is "obvious" that the policy of the Administration was to maintain current funding for a program, but Congress increased funding for the program late in the process, such that ED's proposal provides for a cut, when in fact was not the Administration's intention.

He said that ED's budget would also shift the way higher education student financial assistance flows, by proposing dramatic changes to the Supplemental Educational Opportunity Grant (SEOG) and College Work Study programs. He said he looked forward to learning more about how these reforms would increase student college access and completion. He said he looked forward to discussing the over 20 programs ED's budget consolidates and proposes to eliminate. In particular, he noted that the budget proposes cuts to TRIO and GEAR UP, which he said, he believes is short-sighted. He said he also had questions about ED's proposed funding levels for the education of individuals with disabilities, particularly in light of the recent Supreme Court decision in *Endrew F. v. Douglas County*, which found that schools must provide a meaningful educational opportunity to all children with disabilities, and not just a minimum level of services. Finally, he said, the Subcommittee needs to know the specific details on how the proposed cuts would impact schools and students and how new programs would be implemented. [[Cole's Full Testimony](#)]

**Ranking Subcommittee Member Rosa DeLauro (D-CT)** said she believes ED's FY2018 budget intends to advance an agenda that transfers taxpayer dollars out of local community schools. She asserted that the budget would "starve" high-poverty areas, both urban and rural, where the achievement gaps are the worst in the country. She said that she will fight at every step against any attempt to take public money away from public schools, as, in her view, vouchers will destabilize not only our schools, but our communities. She stated that cutting funding for critical programs to increase federal investments in charter schools also raises public accountability questions. She expressed her support for charter schools, but said she does not believe they should supplant the regular public education system.

She noted that when Congress completed the bipartisan reauthorization of ESEA, it soundly rejected efforts to decimate neighborhood schools. She said Congress expects the Administration to implement the new law as written.

She said the budget request includes \$1.4 billion in new funding to expand choice. At the same time, she said, the budget puts \$9.2 billion in cuts on the table, slashing or eliminating funding for many programs that benefit kids in public schools to pay for what she referred to as an ill-conceived proposal. Notwithstanding budget documents and rhetoric claiming the request maintains funding for core formula grant programs, she claimed, it cuts \$578 million from Title I and \$114 million from the Individuals with Disabilities Education Act (IDEA).

She asserted that ED's budget also eliminates \$1.2 billion for after-school enrichment programs that help keep nearly 2 million kids safe, and \$2 billion for teacher professional development and class-size reduction, which would result in more than 7,000 teachers losing their jobs. She said that, despite promises by the Administration to champion the American worker, the budget slashes funding by 15 percent for career and technical education (CTE) programs that help prepare high school and community college students for in-demand jobs.



She continued that the budget also proposes deep cuts to or eliminations of programs that help students access and succeed in higher education and that have enjoyed bipartisan support: a 15 percent cut to TRIO, which would end academic support services for more than 130,000 college students; a 50 percent cut to Work Study; and the complete elimination of both the Supplemental Educational Opportunity grants that 1.5 million students rely on and the Strengthening Institutions program that helps nearly 200 community colleges and other institutions serve working-class students. She said the budget calls for an end to Public Service Loan Forgiveness (PLSF) for police officers, teachers, and nurses and raids \$4 billion from Pell Grants. She said that while the Administration claims to support Historically Black Colleges and Universities (HBCUs), these disastrous budget proposals would harm the very programs that HBCUs and their students rely on. She referred to the “fraught and painful history of segregation” in this country and stated that HBCUs were not the product of school choice, but rather a product of our nation’s racist segregation.

She said she had additional questions she hoped to ask about how Secretary DeVos plans to protect students from low-quality, high-debt for-profit colleges. She said as she believes that the Borrower Defense and Gainful Employment regulations are critically important steps in reigning abuses in the for-profit sector, she is alarmed that one of DeVos’ first actions was to delay the Gainful Employment rule. [[DeLauro's Full Testimony](#)]

**Full Committee Chairman Rep. Frelinghuysen (R-NJ)** said the House Appropriations Committee would undertake a thorough analysis of each and every budget before making determinations on the best use of tax dollars. He said the Committee intends to put forward a complete set of appropriations bills that adequately fund important programs while working to reduce waste and duplication. He said he would work with Chairman Cole, Ranking Member Lowey and Ranking Member DeLauro to move rapidly to complete the FY2018 appropriations bills.

**Full Committee Ranking Member Rep. Nita Lowey (D-NY)** said she believed ED’s budget would do great harm to students in every facet of education from kindergarten to graduate school. She said the budget would harm hard-working Americans and set us back in preparing a 21<sup>st</sup> -century workforce. She said the budget would also eliminate 22 education investments including after-school programs, leaving 1.6 million children without a safe enrichment environment. She said the budget would make higher education more expensive. She said she is most upset that the budget would reallocate funding for disadvantaged students, including the Pell Grant surplus and Title I funding, to pay for private school vouchers.

### **Testimony:**

**Secretary DeVos** said the proposed FY2018 budget is built off of the Further Continuing Appropriation Act, 2017, and reflects the annualized levels provided by that continuing resolution. She said she is a longtime supporter of expanding educational options for students and parents, in particular for low-income families, both by providing a menu of educational options in our public school systems and by promoting greater access to private schools. She said her support for educational choice is based on a strong belief in the power of markets and competition as drivers of educational quality and accountability.

She said her commitment to educational choice has been strengthened by witnessing the impact of federally directed education reform efforts over the past quarter century. She said she does not think “any of us” are happy with the results of these “seemingly endless” Washington-led reform efforts. However, she highlighted charter schools as a bottom-up, locally-driven



education reform strategy based on empowering educators and providing choices to students and families.

She said the FY2018 request includes three proposals to build on the success of the charter school movement: (1) promoting locally developed, student-centered education funding systems that expand educational choice in public school systems; (2) funding State and local efforts to create scholarship programs that help students and families take advantage of private schools and other educational options; and (3) providing a significant increase for the Charter Schools Program.

She said it's hard to make a case that the results of "extraordinary" Federal investment in all levels of our education system – whether measured by overall gains in student achievement, reduced achievement gaps, graduation rates, or college completion rates—are what we hoped for. She said it is important to recognize the limited impact of Federal spending on the performance of our education system and that it's reasonable to include ED's programs in a broad-based effort to address the long-term financial health of our Nation by reducing the Federal deficit.

She said ED's budget refocuses spending on supporting States and school districts in their efforts to provide high-quality education to all our students. At the same time, she asserted, the budget simplifies funding for college, while continuing to improve college education affordability.

She listed the following five principles guiding ED's budget request:

- Providing significant new resources dedicated to helping achieve the President's goal of ensuring that every child has the opportunity to attend a high-quality school selected by his or her parents;
- Recognizing the importance of maintaining strong support for public schools through longstanding State formula grant programs focused on meeting the educational needs of the Nation's most vulnerable students, such as poor and minority students and students with disabilities.;
- Maintaining funding for key competitive grant programs that support innovation and build evidence on what works in education;
- Reducing the complexity of funding for college while prioritizing efforts to help make a college education affordable for low-income students.
- Eliminating or phasing out 22 programs that are duplicative, ineffective, or are better supported through State, local, or private efforts, in addition to 6 other programs that were eliminated in the reauthorization of the Elementary and Secondary Education Act.

[\[Secretary DeVos' Full Testimony\]](#)

### **Question and Answer:**

Referring to the Supreme Court's 8-0 decision on *Endrew F. v. Douglas County School District Supreme Court*, which found that school districts must provide a truly meaningful level of educational opportunity for students with disabilities, and not simply a *de minimis* level of basic services, **Rep. Cole** asked Secretary DeVos what the impact on local school districts would be and how ED might be able to assist local districts in addressing this impact.

**Secretary DeVos** said she believes the Federal government's role in supporting IDEA is important. She said the FY2018 budget anticipates fully funding IDEA. She said the implications



of the Supreme Court decision have yet to be seen and that ED is in the process of now working to provide guidelines on this issue.

**Rep. Cole** asked Secretary DeVos to discuss ED's proposed reductions to the TRIO and Gear Up programs.

**Secretary DeVos** said ED intends to eliminate the McNair grants and Educational Opportunity Centers (EOC) portions of the TRIO program as ED believes these programs did not focus on Congress' original intent in creating TRIO.

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**Rep. DeLauro** said eliminating funding designated for professional development in Title II, Part A either sends the message that teachers, school staff and principals have hit all the benchmarks and do not need to improve, or the message that they are doing so poorly that there is no need to invest in them. She asked Secretary DeVos which category she believes teachers, paraprofessionals and principals fall into.

**Secretary DeVos** said ED believes the Title II, Part A has been spread very thinly and is too prescriptive in nature. She said that as States implement ESSA, they have great latitude in how to devote other funding sources to the types of activities Title II, Part A is intended for. She noted that 20 percent of local formula grants under Title II, part A are for \$10,000 or less and claimed that the efficacy of these programs has been in question.

**Rep. DeLauro** asked Secretary DeVos if she believes teachers need resources to improve and change along with changing standards and whether every child should have access to a highly qualified teacher. She added that many schools use Title II, Part A funds to keep schools from being overcrowded and asked Secretary DeVos to explain the elimination of funds.

**Secretary DeVos** said she said believes effective teachers are invaluable and that every student should have access to a highly qualified teacher. She said she believes with the implementation of ESSA, States and LEAs will be able to make decisions on behalf of their students. She said there are resources available in Title I that are very flexible.

**Rep. DeLauro** said that with the shift of funds out of Title I and towards school choice programs, there will not be the level of funds required to accommodate these efforts.

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**Rep. Frelinghuysen** said that, with regard to IDEA, Congress initially promised to provide 40 percent of the excess cost to educate students with disabilities but has never met its full obligation. He said he thinks Congress needs to do better in meeting this obligation and asked where ED is in terms of greater participation in "this partnership."

**Secretary DeVos** said if Congress were to fully fund the 40 percent excess cost, it would amount to \$38 billion for IDEA. She said Congress has funded it at about 15 percent for the past few years. She said ED is proposing to continue the funding as it has been the last few years. She said, however, if Congress believes the commitment to this program should be at a higher level there would be an opportunity to do so.

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**Rep. Lowey** asked if, under ED's budget proposal, a student with disabilities receiving a voucher for private school, would have due process rights under IDEA.





**Secretary DeVos** said she first wanted to address an earlier question. She said ED is not proposing shifting funding from public to private schools. She said the budget continues to “fully fund” public schools. She said the voucher program is an additional \$250 million investment in school choice pilot programs.

**Rep. Lowey** said she is curious in knowing whether private schools funded with private taxpayer dollars would be held to the same standards as public schools. She asked if DeVos believes private schools should have to be accredited and have to provide evidence of the quality of their programs.

**Secretary DeVos** said each State deals with this issue in its own manner. She cited the McKay scholarship program in Florida as an example of a State addressing an issue in a way that works for the parents and students in the own State. She said that if a parent chooses to send his or her child to a non-public school, then that is a contract with a private or other provider.

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**Rep. Jaime Herrera-Butler (R-WA)** asked Secretary DeVos how ED plans to partner with local school districts, as well as other agencies, to address “the mental health crisis.” She also said that school resource officers (SROs) can play a critical role in identifying depression and suicidal behavior among school-age children. She asked DeVos if school-based policing through SRO programs is something she will support.

**Secretary DeVos** said she believes the mental health crisis is an issue best addressed at the local level. She said that, at ED, the Office of Safe and Healthy Students helps to meet some of these needs but to the extent that local communities have these issues she hopes States implementing their ESSA plans will account for that and address these needs specifically.

**Rep. Herrera-Butler** asked Secretary DeVos if she thinks the Department of Justice (DOJ) should continue to promote the hiring of SROs within the Community-Oriented Policing (COPS) program.

**Secretary DeVos** said she believes SROs are an important and viable solution in some places and that it is best decided at the local level.

**Rep. Herrera-Butler** said she recently introduced the Chronic-Absenteeism Reduction Act ([H.R. 1864](#)) with Rep. Tim Ryan to give school districts the flexibility to implement strategies to combat this issue. She asked how ED plans to empower local school districts to address this issue effectively.

**Secretary DeVos** said this is a real issue in many areas and often it is a matter of the student and the school not being a good fit for one another, yet the student doesn’t have a choice or another alternative.

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**Rep. Lucille Roybal-Allard (D-CA)** said she was disappointed to see ED’s budget request includes Title I “FOCUS” grants as Title I portability was soundly rejected by Congress during negotiations on ESSA. She asked if high-poverty schools should receive more funding resources than schools that have lower levels of poverty.



**Secretary DeVos** said the reality is that they do receive higher levels of funding. She said that the Title I, E school choice program she mentioned would be voluntary and not mandatory. She said ED's budget is based on funding levels that are from before the omnibus in April. She said the proposal is to "fully fund" Title I.

**Rep. Roybal-Allard** asked if Secretary DeVos accepts the premise that high-poverty schools face disproportionate challenges when compared to moderate-income and wealthy schools. If so, she said that she finds it curious that Secretary DeVos endorses a proposal that shifts funding away from higher-need schools.

**Secretary DeVos** said that, yes, they do. She said ED proposes to protect all the Title I dollars to public schools and the additional \$1 billion program would go to a voluntary program that allows student to choose between public schools. She said the choice program is intended to help low-income kids by giving them and their parents more choices.

**Rep. Roybal-Allard** asked if ED has considered the financial implications that portability would have on districts and how ED would mitigate the disruption a portability structure would impose on districts if enacted.

**Secretary DeVos** said this is proposed to be a voluntary, opt-in program. She said that instead of focusing on schools and buildings and systems, we should focus on doing what's right for individual students. She said that if a school is not doing what is right for individual students and their parents do not have the means, we should help find them ways to make choices on behalf of their students.

**Rep. Roybal-Allard** said perhaps a better approach would be to invest more and bring all schools up to a higher level rather than taking away from schools that need these funds and putting them into wealthier schools.

**Secretary DeVos** said the last Administration tried to do so by investing in school improvement grants (SIG) with "zero results and zero improvement." She said she thinks it is time to try something different.

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**Rep. Andy Harris (R-MD)** said he hoped DeVos is a fan of the DC Opportunity Scholarship Program and would fully fund it. He criticized the trend of institutions of higher learning that rely on the Federal government for funding declaring themselves "sanctuary campuses." He said he hoped ED would follow the lead of the Department of Homeland Security and request that things be written into law that require institutions that rely on Federal funding to comply with Federal immigration law.

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**Rep. Mark Pocan (D-WI)** described Wisconsin's experience with taxpayer-funded school vouchers as a "failed experiment" and asked if Secretary DeVos would send her kids to a Milwaukee school called Right Step, Inc. where 7 percent of students were proficient in English and 0 percent were proficient in Math.

**Secretary DeVos** said the late Polly Williams, a Democratic Congresswoman, was the first to introduce the Milwaukee voucher program.



**Rep. Pocan** added that Williams, before she died, said the program had not lived up to its promise. He said the last expansion of the Milwaukee choice program resulted in three-fourths of the public money going to parents whose kids were already enrolled in the private schools they were getting vouchers for, and two-thirds went to families making over \$100,000 a year. He asked if the Federal choice program proposed by ED will support these practices, and whether the program would have accountability standards.

**Secretary DeVos** said Milwaukee has 28,000 students in voucher programs and that she applauds Milwaukee for empowering parents to make the decisions that they think are right for their students and children. She said that, as part of ESSA, States are required to have accountability standards and Wisconsin is working on its ESSA plan right now.

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**Rep. John Moolenaar (R-MI)** asked what the role of the Federal government is in combating the rise of campus sexual assault.

**Secretary DeVos** said the Department's Office for Civil Rights (OCR) is very committed to investigating complaints and that ED is fully invested in fully funding OCR. She said ED is looking at the rules very carefully; however, the Department is not yet at a point now where it can convey new information.

**Rep. Moolenaar** said there is a huge need for skilled labor and asked DeVos what partnerships or things can be done at the Federal level to encourage CTE.

**Secretary DeVos** said this is an issue of focus for this Administration. She said she had visited several community colleges that have partnered with local businesses that have a need for high-skilled workers. She said the best way to support CTE at the Federal level is by focusing dollars to help target community colleges and other institutions of higher learning. She said there should be a broader conversation about multiple pathways in higher education, including through layered credentials.

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**Rep. Katherine Clark (D-MA)** asked a question on behalf of students from Massachusetts who attended the now-defunct American Career Institute. She said that, on January 18, ED told those students that their loans would be forgiven within 90 to 120 days. She asked Secretary DeVos to reaffirm that ED is moving forward with loan forgiveness.

**Secretary DeVos** said that ED has will make good on its commitments to students. She said ED is currently carefully reviewing borrower defense regulation and should have more to say on this matter within the next few weeks.

**Rep. Clark** cited the example of a Christian school in Indiana that receives State dollars through a voucher program but explicitly states that if students are from an LGBT family or if they themselves are LGBT, they may be denied admission. She asked Secretary DeVos whether she would stand up and say to Indiana that this school cannot discriminate against LGBT students and students of LGBT families if receives Federal funding, or if she would say that the State has the flexibility in this situation.

**Secretary DeVos** said that States that have programs that allow for parents to make choices set up the rules around that. She said the Office for Civil Rights would vigorously investigate any





discrimination claims and that that OCR and Title IX protections are broadly applicable across the board.

**Rep. Clark** asked whether there is no situation in which, if a State approved a school that practices discrimination or exclusion for its voucher program, Secretary DeVos would step in and say that is not how we want to use our Federal dollars.

**Secretary DeVos** said “the bottom line” is that ED believes parents are best equipped to make decisions for their student’s schooling.

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**Rep. Mike Simpson (R-IN)** said that he is a supporter of TRIO programs such as the McNair grants, which DeVos stated ED is eliminating as they do not reflect congressional intent. He asked whether, if the Committee funded those programs, they would then be within congressional intent. He said the TRIO programs mentioned are fairly well supported within Congress and there will likely be funding for them.

**Secretary DeVos** reiterated that ED believes the McNair grants program and the EOC program are TRIO programs that fall outside the program’s scope.

**Rep. Simpson** said the FY2017 omnibus appropriations act includes a directive for ED to review and score more than 77 applications for the Upward Bound program that were rejected for minor formatting issues. He asked for an update and about what steps ED would take to provide opportunity for the rejected grant applications to be considered for funding.

**Secretary DeVos** said the grant application process was open and closed prior to her coming into her position. She said ED found out about the issue with regard to formatting errors after the competition was closed, looked at all viable legal remedies to try and address it, and could not find any. She said ED will now reconsider those applications as Congress included an additional \$50 million in funding for them in the FY2017 omnibus. She said ED will use those funds to reconsider the applications originally considered not viable. She said she had issued a Department-wide policy to not reject applications for any competitive bid process based on formatting.

**Rep. Simpson** asked Secretary DeVos for her justification regarding cuts to the Impact Aid program.

**Secretary DeVos** said the portion of the Impact Aid program ED is proposing to eliminate is “one that is not tied to any students at all.” She said that there are no students being supported in that particular “Federal land area.” She said that as those locales have had forty years to consider the issue of how to fund their schools, she thought they might have figured it out by now.

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**Rep. Barbara Lee (D-CA)** said that, with regards to Secretary DeVos’ response to Rep. Clark’s earlier question, she believed that to take the Federal government’s responsibility out of protecting students from discrimination is appalling and sad. She said Secretary DeVos’ prior statement regarding HBCUs completely disregarded the fact that, for many black students, HBCUs were their only choice. She said ED’s budget does not reflect a priority for HBCUs and asked Secretary DeVos to provide justification for the numerous programs eliminated in the budget proposal.



**Secretary DeVos** said that she was not in any way suggesting that students should not be protected or be in a safe, secure and nurturing learning environment. She said that as States pursue more flexibility around program implementation, ED is going to continue to investigate any complaints or issues surrounding allegations of discrimination. She said ED continues its commitment to HBCUs by continuing previous funding levels.

**Rep. Lee** said she does not believe the budget is what HBCUs have requested and that, in fact they would like to see a small increase.

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**Rep. Steve Womack (R-AZ)** said Secretary DeVos if CTE and training is something we can do during the high school years and within our high school curricula.

**Secretary DeVos** said there a lot more discussion needed about the wide range of CTE options, especially as many funding efforts are bi-furcated between the U.S. Department of Labor and ED. She said there are some dual-enrollment programs already doing this work, but there are opportunities for young people to become exposed to CTE much earlier through apprenticeships and internships.

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**Rep. Chuck Fleischmann (R-TN)** said he was concerned by ED's proposed cuts to Title IV, Part A grants as, during last year's appropriations bill, Congress worked hard to ensure some of this money could be used towards computer science education, for example. He asked if Secretary DeVos agreed that we need partnerships with the private sector, which seeks to hire Americans for computer science jobs, and K-12 schools to ensure all students are prepared for these jobs.

**Secretary DeVos** said she is interested in seeing that students are exposed to STEM subjects and have the opportunity to pursue robust programs in that area. She said ED has a \$20 million dollar experimental STEM grant competition. She emphasized the importance of focusing on STEM at the State level.

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**Rep. Martha Roby (R-AL)** asked Secretary DeVos if she acknowledges that the law expressly forbids the coercion of States to adopt certain education standards, including common core. She asked if ED would follow the letter and spirit of the law.

**Secretary DeVos** said she absolutely acknowledges that prohibition and responded yes. She said offered her commitment that ED would implement and follow what States set up through ESSA. She said she would like to see a competition among the States to shoot for higher standards; however, in no way, she stated, should it be a top-down, one-size-fits-all solution from the Federal government. She said she hoped that the States do indeed use their flexibility to shoot high.

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**Rep. DeLauro** said, in closing, that while it is wonderful to talk about CTE, this budget cuts the CTE program by 15 percent. She said that, with regard to vouchers and children with disabilities, the McKay scholarship program referenced by Secretary DeVos removes due process rights under IDEA. She said there is no accountability for the participating schools as they do not have to be accredited or provide evidence of the quality of their programs. She said



there is no evidence of student success as private schools participating in McKay do not have to take standardized tests. She said she believes that this is a budget that is cruel, inhumane and heartless and that she would fight this budget with every fiber of her body because it is wrong to do this to our kids.

