

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051  
MINORITY (202) 225-5074  
<http://oversight.house.gov>

February 25, 2020

Ms. Rachel Sotsky  
Executive Director  
Serving Our Children  
1615 L Street, N.W., Suite 750  
Washington, D.C. 20036

Dear Ms. Sotsky:

We are writing regarding the District of Columbia (D.C.) Opportunity Scholarship Program, the private school voucher scheme authorized under the Scholarships for Opportunity and Results (SOAR) Act.<sup>1</sup> We are concerned that critical protections afforded to D.C. public school students may not apply to students who participate in this program, and that the Department of Education exercises little oversight of this program.

On March 29, 2019, we sent a letter to Education Secretary Betsy DeVos regarding this program. We requested information on program performance, the Department's oversight efforts, and whether students participating in this program are afforded the same rights as D.C. public school students, including protections in federal civil rights laws and safety regulations.<sup>2</sup>

In response, the Department identified only one federal civil rights law that applies to students in this program—the limited nondiscrimination provision in the SOAR Act—and stated that the Department “is not aware” of any complaints filed or enforcement actions brought under that provision. The Department did not address whether other federal civil rights laws are applicable in these public school settings—such as titles IV and VI of the Civil Rights Act of 1964, title IX of the Education Amendments Act of 1972, the Equal Educational Opportunities Act of 1974, and the Rehabilitation Act of 1973.<sup>3</sup>

---

<sup>1</sup> Most recently, SOAR was reauthorized as Division I, Title IX of the Further Consolidated Appropriations Act, 2020, codified at D.C. Code 38-1853 *et seq.*

<sup>2</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, Chairman Robert C. “Bobby” Scott, Committee on Education and Labor, and Congresswoman Eleanor Holmes Norton to Secretary Betsy DeVos, Department of Education (Mar. 29, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-03-29.EEC%20Scott%20Norton%20to%20DeVos-DoEd%20re%20SOAR%20Act.pdf>).

<sup>3</sup> Letter from Assistant Secretary Frank T. Brogan, Department of Education, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (Aug. 5, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/8.5.19%20letter%20Cummings%20SOAR%20Act%20%28002%29.pdf>).

The Department also stated that it was unable to answer many of our questions about this program because the Department “does not have a direct relationship with participating schools or students” and “does not have specific, detailed records on every participating school.”<sup>4</sup> The Department further explained that Serving Our Children, as the grantee administering the program, “works directly with the schools and families” participating in the program and “collects information” from these schools.

For these reasons, we request that you provide the following documents and information by March 10, 2020:

1. A description of the federal civil rights laws that apply to student applicants, participating students, and participating schools;
2. A description of how the nondiscrimination provisions of the SOAR Act (D.C. Code § 38-1853.08(a)-(c) and (e)) are interpreted and enforced;
3. All complaints or enforcement actions brought under these provisions;
4. A description of the process by which student applicants and participating students are notified of their rights and remedies under D.C. Code § 38-1853.08(a)-(c)) and are notified of any protections under federal civil rights laws that they may forfeit by participating in this program;
5. For each school that has participated in this program for the 2016-2017, 2017-2018, or 2018-2019 school years, the following information by school year:
  - a. the name of the school;
  - b. the accreditation status;
  - c. the total enrollment by grade level;
  - d. the number of enrolled students receiving vouchers by grade level;
  - e. any official religious affiliation;
  - f. the total annual tuition and fees per pupil;
  - g. the percentage of total funding that comes from this program;
  - h. the program funding received;
  - i. whether the drinking water has been tested for lead and if so, by whom and on what date;

---

<sup>4</sup> *Id.*

- j. the dates of site visits by Serving our Children;
  - k. the number of students who received vouchers and had a known disability that would qualify for an Individualized Education Program under the Individuals with Disabilities Act or a 504 Plan under the Rehabilitation Act of 1973;
  - l. the number of students who received vouchers and were English learners as defined under the Every Student Succeeds Act<sup>5</sup>;
  - m. the number of students who received vouchers and left without graduating; and
  - n. for the students described in 4(m), the number who transferred to a public school, a charter school, or another private school; and
6. For any school that has participated in this program since its inception, the year the school began operating, the year the school began accepting vouchers and the year the school stopped participating in this program, if applicable; and
7. Documents sufficient to show whether each participating school was in compliance with each requirement in D.C. Code § 38-1853.07(a)(4) during the 2016-2017, 2017-2018, and 2018-2019 school years.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. The Committee on Education and Labor has oversight and investigation authority over all federal elementary and secondary education initiatives.

An attachment to this letter provides additional instructions for responding to our request. If you have any questions, please contact Committee on Oversight and Reform staff at (202) 225-5051 and Committee on Education and Labor Committee staff at (202) 225-3725.

Thank you for your attention to this matter.

Sincerely,



Carolyn Maloney  
Chairwoman  
Committee on Oversight and Reform



Robert C. “Bobby” Scott  
Chairman  
Committee on Education and Labor

---

<sup>5</sup> 20 U.S.C. 7801 (20) (2018).

Ms. Rachel Sotsky

Page 4



Eleanor Holmes Norton

Member of Congress

Enclosure

cc: The Honorable Jim Jordan, Ranking Member  
Committee on Oversight and Reform

The Honorable Virginia Foxx, Ranking Member  
Committee on Education and Labor

## Responding to Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
  - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - b. Document numbers in the load file should match document Bates numbers and TIF file names.
  - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,  
BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.



18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee on Oversight and Reform, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building. When documents are produced to the Committee on Financial Services, production sets shall be delivered to the Majority Staff in Room 2129 of the Rayburn House Office Building and the Minority Staff in Room 4340 of the O'Neill House Office Building. When documents are produced to the Permanent Select Committee on Intelligence, production sets shall be delivered to Majority and Minority Staff in Room HVC-304 of the Capital Visitor Center.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### **Definitions**

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a

part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.