

Congress of the United States
Washington, DC 20515

December 12, 2019

The Honorable Betsy DeVos
Secretary of Education
United States Department of Education
400 Maryland Avenue, SW, Room 7W301
Washington DC, 20202

Dear Secretary DeVos:

Last year, Members of Congress urged the Department of Education (the Department) to return to the bargaining table to negotiate in good faith with AFGE Council 252 (AFGE) for a fair and equitable contract. The Members outlined concerns about your priorities within the Department and the unilateral imposition of a non-bargained “Collective Bargaining Agreement” (Management Edict) as implemented more than a year ago in March 2018. Since then, we have learned of new and disturbing hiring practices and policies that were adopted without AFGE input and which require an immediate and thorough response from your office. Specifically, we are concerned with hiring practices and program administration within Federal Student Aid (FSA) and the Office for Civil Rights (OCR).

It is our understanding that the Department is hiring new FSA employees outside of typical Department hiring structures. Instead, the Department has deemed certain positions to be “administratively determined,” and therefore not posted to USAJobs or open for application by Department employees. The Department did not discuss or bargain for these changes and decisions with AFGE, and we are concerned that the hiring process is now insulated from appropriate accountability and transparency. Additionally, this appears to signal an intention to privatize the oversight and administration of federal student loan programs, potentially costing student loan borrowers greater sums of money, threatening their credit ratings, and making the rules governing for-profit institutions and lenders less transparent.

Despite high caseloads and staff attrition that has increased during this Administration, few positions have been allocated and even fewer have been filled in OCR. Congress recognized the importance of hiring more OCR staff and explicitly directed the Department to do so in the 2018 appropriation explanatory statement.¹ Reports indicate that hiring to date has been extremely slow and inefficient, and as a result, has not even kept pace with attrition. The Department’s refusal to adequately staff OCR is inexcusable, especially when compared with its rapid, unrestrained hiring at FSA.

The hiring practices in OCR and the apparent diversion of appropriated funds intended to address the case backlog raise questions about how the Department is addressing cases involving serious and often widespread violations of civil rights in incidents of sexual harassment and racial discrimination. Specifically, we are concerned that OCR senior management has interfered with

¹ <https://www.congress.gov/crec/2018/03/22/CREC-2018-03-22-bk3.pdf>

the regional offices' normal processing of its cases and also asserted political authority to narrow decisions and limit remedies.

We raise these concerns because your imposition of the Management Edict, including the elimination of the Department's requirement to consult with AFGE before making agency-wide decisions and subsequent hiring and policy changes, significantly affects the rights of Department employees. More importantly, these actions negatively affect the quality of services the Department provides to students, school districts, vocational programs, and colleges and universities.

With this letter, we demand that you revoke your unilateral Management Edict and return to the bargaining table with AFGE Local 252 to negotiate in good faith a collectively bargained contract. Additionally, please provide a response by January 9, 2020 to the following requests:

- Please provide us with a report of all positions (with descriptions) hired for FSA in the past year; whether these positions were administratively determined, posted to USAJobs, or open to Department employees; and whether these positions are full-time, part-time, or contract.
- Please provide us a report explaining all OCR attorney and Equal Opportunity Specialist (EOS) attrition since the Management Edict was issued, and identify which positions remain unfilled and the timeline for filling these positions.
- Please provide an accounting of the use of all funds designated for staff hiring for OCR since March 2018, and the extent to which those funds have been used for other purposes, including overtime, training, travel, and supplies or other materials.
- Please provide us all information circulated to OCR staff regarding which cases are subject to review by OCR headquarters and the criteria for such review.

We appreciate your prompt attention to this matter.

Sincerely,



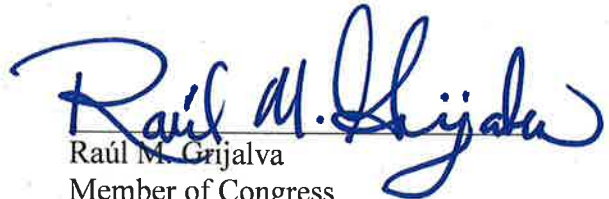
Suzanne Bonamici
Chair, Subcommittee on Civil Rights
and Human Services



Robert C. "Booby" Scott
Chairman, Education and Labor
Committee



Susan A. Davis
Member of Congress



Raúl M. Grijalva
Member of Congress



Joe Courtney
Member of Congress



Gregorio Kilili Camacho Sablan
Member of Congress



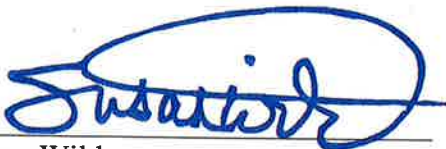
Mark Takano
Member of Congress



Mark DeSaulnier
Member of Congress




Pramila Jayapal
Member of Congress



Susan Wild
Member of Congress



Lucy McBath
Member of Congress



Donna Shalala
Member of Congress



Marcia L. Fudge
Member of Congress



Frederica S. Wilson
Member of Congress



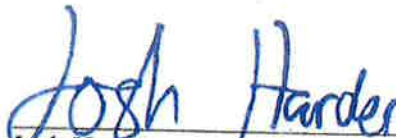
Alma S. Adams, Ph.D.
Member of Congress



Donald Norcross
Member of Congress



Joseph D. Morelle
Member of Congress



Josh Harder
Member of Congress



Jahana Hayes
Member of Congress



Andy Levin
Member of Congress



Ilhan Omar
Member of Congress



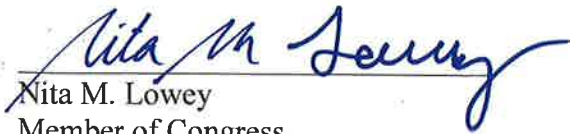
David Trone
Member of Congress



Lori Trahan
Member of Congress



Joaquin Castro
Member of Congress



Nita M. Lowey
Member of Congress



Adam Smith
Member of Congress




John Yarmuth
Member of Congress



Frank Pallone, Jr.
Member of Congress



Ted Deutch
Member of Congress



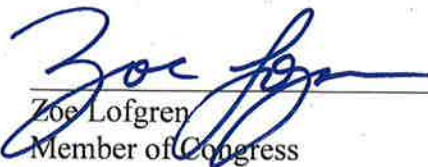
Maxine Waters
Member of Congress



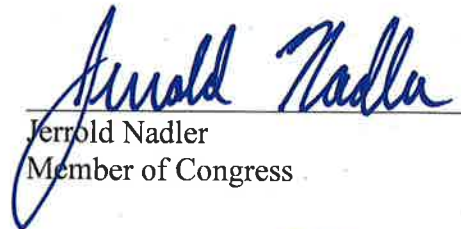
Eliot L. Engel
Member of Congress



Bennie G. Thompson
Member of Congress



Zoe Lofgren
Member of Congress



Jerrold Nadler
Member of Congress

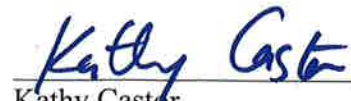


James P. McGovern
Member of Congress



Nydia Velázquez
Member of Congress



Peter A. DeFazio
Member of Congress


Kathy Castor
Member of Congress


Derek Kilmer
Member of Congress


Ben Ray Lujan
Member of Congress



Jackie Speier
Member of Congress

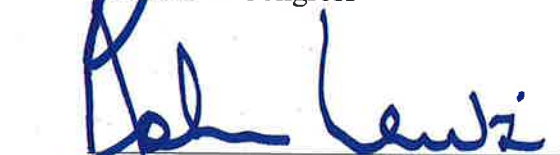

Barbara Lee
Member of Congress


Rosa DeLauro
Member of Congress


Mark Pocan
Member of Congress



Jan Schakowsky
Member of Congress


Katherine M. Clark
Member of Congress


John Lewis
Member of Congress


Earl Blumenauer
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Donald M. Payne, Jr.
Member of Congress


Alan Lowenthal
Member of Congress


Vicente Gonzalez
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Debbie Dingell
Member of Congress

Madeleine Dean

Madeleine Dean
Member of Congress

Anna G. Eshoo

Anna G. Eshoo
Member of Congress

Jimmy Panetta
Member of Congress

Val B. Demings

Val B. Demings
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Ann Kirkpatrick
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Ann McLane Kuster

Ann McLane Kuster
Member of Congress

Jeff Van Drew
Member of Congress

Jamie Raskin

Jamie Raskin
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Gilbert R. Cisneros, Jr.
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Jesús "Chuy" García

Jesús "Chuy" García
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Thomas R. Suozzi
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Pete Aguilar

Pete Aguilar
Member of Congress

Sean Casten
Member of Congress

Filemon Vela

Filemon Vela
Member of Congress

A. Donald McEachin
Member of Congress

Ted W. Lieu

Ted Lieu
Member of Congress



Ro Khanna
Member of Congress



Daniel T. Kildee
Member of Congress



Nanette Diaz Barragán
Member of Congress



Matthew Cartwright
Member of Congress



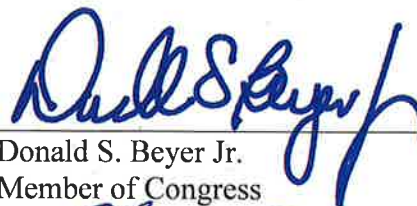
J. Luis Correa
Member of Congress



Ayanna Pressley
Member of Congress



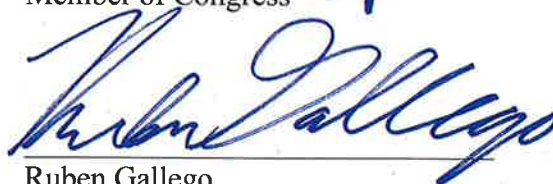
Mike Levin
Member of Congress



Donald S. Beyer Jr.
Member of Congress



Tim Ryan
Member of Congress



Ruben Gallego
Member of Congress



Brendan F. Boyle
Member of Congress



Jennifer Wexton
Member of Congress



Conor Lamb
Member of Congress



Cheri Bustos
Member of Congress




Deb Haaland
Member of Congress




Anthony G. Brown
Member of Congress



Joe Neguse
Member of Congress


Salud Carbajal
Member of Congress



Ron Kind
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Angie Craig
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Mary Gay Scanlon
Member of Congress


Sharice L. Davids
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Sylvia Garcia
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TJ Cox
Member of Congress


Alexandria Ocasio-Cortez
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John B. Larson
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Andy Kim
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Max Rose
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Jim Cooper
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Grace F. Napolitano
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Adriano Espaillat
Member of Congress


Jared Huffman
Member of Congress



Darren Soto
Member of Congress



Katie Porter
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Dwight Evans
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Rashida Tlaib
Member of Congress



Bradley S. Schneider
Member of Congress



Karen Bass
Member of Congress



Sheila Jackson Lee
Member of Congress



Lucille Roybal-Allard
Member of Congress



Chrissy Houlahan
Member of Congress



Antonio Delgado
Member of Congress



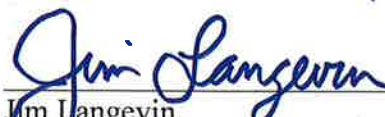
Jason Crow
Member of Congress



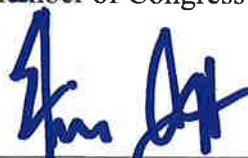
Dean Phillips
Member of Congress



Yvette D. Clarke
Member of Congress



Jim Langevin
Member of Congress



Jim Costa
Member of Congress



Stephen F. Lynch
Member of Congress




Diana DeGette
Member of Congress



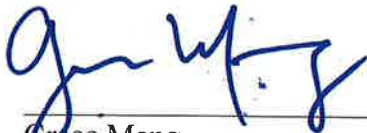
André Carson
Member of Congress



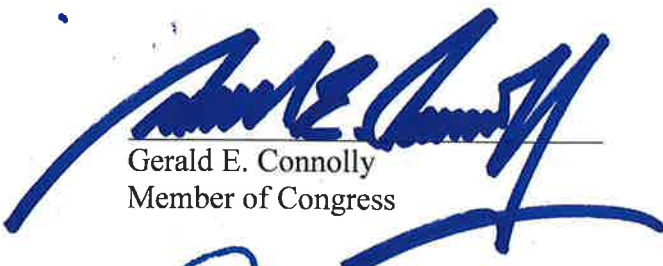
Danny K. Davis
Member of Congress



Peter Welch
Member of Congress



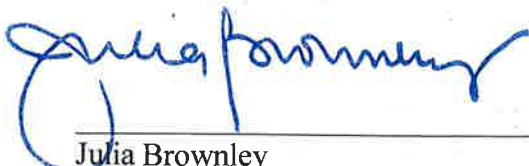
Grace Meng
Member of Congress



Gerald E. Connolly
Member of Congress



Juan Vargas
Member of Congress



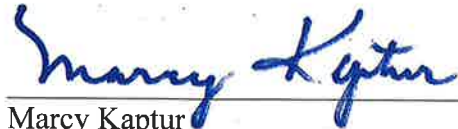
Julia Brownley
Member of Congress



Rick Larsen
Member of Congress



Eleanor Holmes Norton
Member of Congress



Marcy Kaptur
Member of Congress



Bobby L. Rush
Member of Congress



David N. Cicilline
Member of Congress



Henry C. "Hank" Johnson, Jr.
Member of Congress




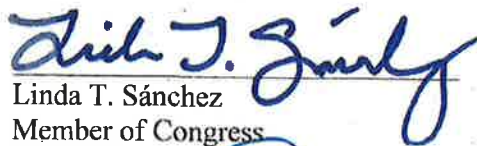
Betty McCollum
Member of Congress



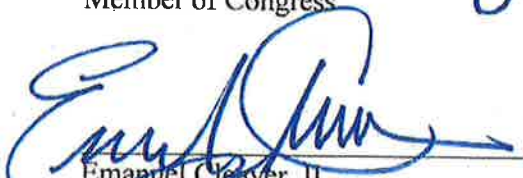
Albio Sires
Member of Congress


Lloyd Doggett
Member of Congress

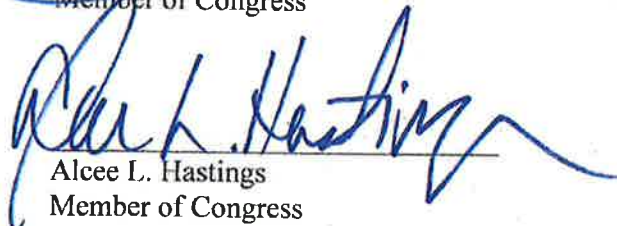

Gregory W. Meeks
Member of Congress

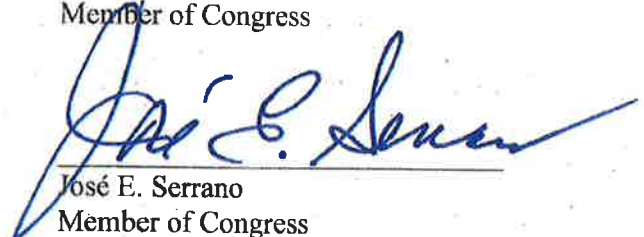

Linda T. Sánchez
Member of Congress


Suzan K. DelBene
Member of Congress



Emanuel Cleaver, II
Member of Congress


Scott H. Peters
Member of Congress



Alcee L. Hastings
Member of Congress



José E. Serrano
Member of Congress


Bill Foster
Member of Congress



Charlie Crist
Member of Congress


Paul D. Tonko
Member of Congress


John P. Sarbanes
Member of Congress


Henry Cuellar
Member of Congress


Judy Chu
Member of Congress


Brian Higgins
Member of Congress

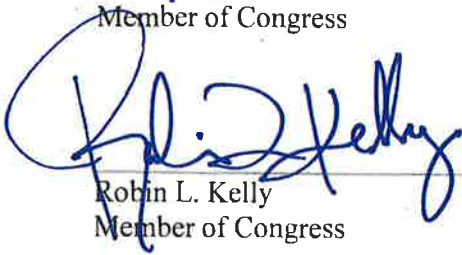

Brenda L. Lawrence
Member of Congress



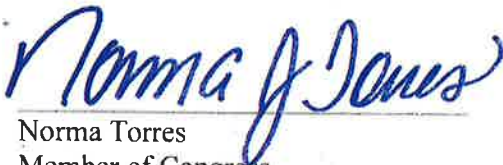
Dina Titus
Member of Congress



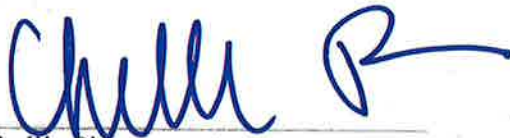
Steve Cohen
Member of Congress



Robin L. Kelly
Member of Congress



Norma Torres
Member of Congress



Chellie Pingree
Member of Congress



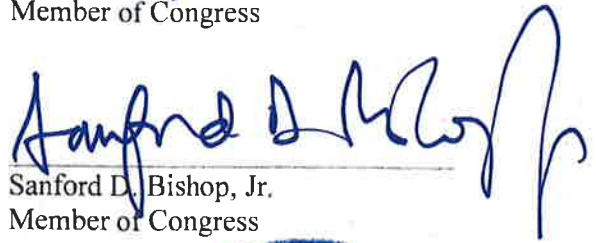
Daniel W. Lipinski
Member of Congress



Gwen Moore
Member of Congress



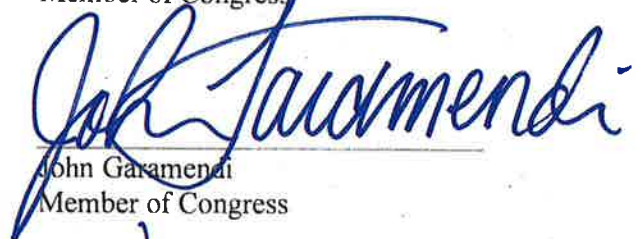
Tony Cárdenas
Member of Congress



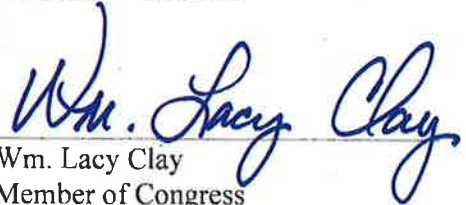
Sanford D. Bishop, Jr.
Member of Congress



Sean Patrick Maloney
Member of Congress



John Garamendi
Member of Congress



Wm. Lacy Clay
Member of Congress



Cindy Axne
Member of Congress



Terri A. Sewell
Member of Congress


Harley Rouda
Member of Congress


William R. Keating
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G. K. Butterfield
Member of Congress