

U.S. Department of Education

**Statement of Gwendolyn Graham
Assistant Secretary, Office of Legislation and Congressional Affairs
Before The Subcommittee on Responsiveness and Accountability to Oversight
Committee on the Judiciary
U.S. House of Representatives**

March 9, 2023

Chairman Cline, Ranking Member Swalwell, and distinguished Members of the Committee,

Thank you for the opportunity to address the Department of Education's (Department's) response to the Committee's requests. As a former Member of Congress, I understand the importance of Congressional oversight and I appreciate the opportunity to meet with you today.

As the Department does not typically appear before this Committee, I am pleased to share an overview of our critically important work. The Department's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access. Among its other responsibilities, Congress has charged the Department with complementing state and local efforts to improve the quality of education; encouraging increased involvement of the public, parents, and students in Federal education programs; and increasing accountability of Federal education programs to the President, Congress, and the public. Of particular importance, the Department and this Administration firmly believe that parents play a critical role in their children's education, and that education leaders at all levels should provide opportunities for parents to be heard. The Department's nearly 4,400 public servants work tirelessly every day to meet our mission and carry out these duties.

The Department works every day with Members and Committees—including our Committees of jurisdiction—to provide Congress with accurate, complete, and timely information, irrespective of party or position. We are also engaged and actively responding to 64 ongoing engagements from the Government Accountability Office, including 19 new engagements since the start of the year. Consistent with longstanding Executive Branch policy, we are committed to transparency,

while also respecting the constitutional and statutory obligations of the Executive Branch, and we recognize that Congressional oversight is vital to our functioning democracy.

Document Requests by the Judiciary Committee

On January 17, 2023, Chairman Jordan wrote to the Department requesting documents related to a letter sent by the NSBA—a private entity that is not part of the federal government—to President Biden on September 29, 2021, and an October 4, 2021, Department of Justice memorandum. Immediately, the Department began to voluntarily engage in the standard accommodations process with the Committee, resulting in our February 2, 2023, letter to the Committee. In that letter, the Department made clear that we are committed to responding to the Committee’s requests in a manner consistent with Executive Branch policy. The Department’s letter also emphasized what we have repeatedly made clear over the last two years: the Secretary of Education did not request, direct any action, or play any role in the development of the school board association’s letter. Furthermore, as it pertains to the Justice Department’s memo, the Department had no role in its development and or its implementation.

The Department’s letter to the Committee also noted that an independent internal investigation commissioned by the NSBA found no evidence that the Department was in any way involved in the development of the September 29, 2021 letter. That independent investigation also found no evidence that the appointment of Dr. Viola García to the National Assessment Governing Board had any connection to the letter. The independent investigation issued these findings on May 20, 2022, more than 9 months ago.^[1]

Despite the Department’s February 2, 2023, response indicating that it would seek to accommodate the Committee’s requests, the Chairman served a subpoena for documents to the Department the next day, on February 3, 2023, less than three weeks after the initial document request sent by Representative Jordan as Chairman of the Committee. Department staff met with the Committee’s staff on February 13, 2023, and made clear that a document production would be forthcoming by the March 1, 2023, date specified in the subpoena, and that the Department was committed to continuing to engage in staff-level discussions on the matter. However, on

February 16, 2023—nearly two weeks *before* the Committee’s requested production date—I received notice that I would be called to testify about the Department’s responsiveness.

Consistent with the Department’s representations to staff, on March 1, 2023, prior to the Committee’s requested production time, the Department transmitted more than 1,000 pages of responsive material to the Committee.

Conclusion

Our significant production of documents demonstrates the Department’s continued commitment to working with Congress in good faith, consistent with longstanding Executive Branch policy. Additionally, our ongoing efforts to engage in discussions with Committee staff, as a standard part of the constitutional accommodations process, further demonstrate our willingness to engage with requests for information. This dialogue allows us to meet the Committee’s legitimate oversight needs while ensuring the Department can continue to fulfill our core mission of fostering educational excellence for all students across the country. I am here to answer any questions you may have.

¹¹ Philip G. Kiko, Esq. & Michael Best & Friedrich LLP, [*Final Report on the Events Surrounding the National School Board Association’s September 29, 2021 Letter to the President*](#) (May 20, 2022)