

Congress of the United States
Washington, DC 20515

December 9, 2019

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary DeVos:

On November 1, 2019, we wrote you to request information about the Department of Education's (the Department) investigation into the Duke-UNC Consortium for Middle East Studies' (Duke-UNC Consortium) 2018 National Resource Center (NRC) proposal and annual project reports (APRs) (Attachment A). While we agreed that the Department must ensure that all federal funds are spent according to law, the circumstances surrounding the Department's investigation into the Duke-UNC Consortium's use of Title VI funds raise questions about the Department's intent. This investigation has sent a message to universities across the country that the Department can single them out for burdensome investigations and revoke federal funding if they permit campus activities, curricula, or speech of which the Department disapproves.

Already, the Committee has begun to hear from institutions concerned about this chilling effect. In its recent letter to our Committee, Columbia University wrote that the Department's "actions may have the effect, even if unintended, of restricting the range and character of inquiry and expression on campus, precisely the opposite of long-cherished norms of academic freedom and the pluralism of ideas."¹

Despite a deadline of November 15, 2019, the Department of Education, as of the date of this letter, has failed to respond to or even acknowledge our letter, not to mention its document requests. The Department's failure to respond is interfering with the Committee's constitutional authority and duty to conduct oversight and leaves us increasingly concerned as to whether and why the Department is hiding its conduct from Congress.

Because of the Department's interference with academic curricula, its silence in response to our first letter, and now its noticed intention to develop new rules to govern free speech and academic inquiry on college campuses,² we reiterate the following requests from our November 1, 2019 letter:

1. Grant Documents:

- a. Please provide a copy of any contracts, documents, or paperwork surrounding the awarding of the Duke-UNC Consortium grant and its disbursements during the 2014 and 2018 grant cycles.
 - b. Please provide Duke-UNC Consortium Annual Project Reports relating to the 2014 and 2018 grant cycles.
- 2. NRC Review Procedures:** Please provide any documents, communications, or internal guidance detailing the Department's standard review procedures for NRC grants.
- a. Provide documents sufficient to show whether the Department conducted a peer review of the Duke-UNC Consortium based on the country, thematic focus, international studies, or world region such as Africa, Asia, or the Middle East, as specified in the 2018 NRC Guidelines.³ If so, provide a copy of this review and its findings.
 - i. Provide copies of all other peer reviews the Department conducted for this cohort of grants.
 - b. Provide documents sufficient to show whether the Department conducted reviews of other NRCs subsequent to the awarding of the 2018 grants. If so, please provide documents sufficient to show all findings from those reviews.

Additionally:

 - i. Since 2018 NRC grants were awarded:
 - 1. How many NRCs, APRs and application grants has the Department reviewed?
 - 2. How many APRs were reviewed from each global area?
 - ii. For FY 2017 and 2018:
 - 1. How many NRCs, APRs and application grants did the Department review?
 - 2. How many APRs were reviewed from each global area?
 - c. Provide documents sufficient to show the criteria the Department uses to determine whether an academic program advances national security and economic stability.
 - i. Is it now the Department's interpretation of Title VI that national security and economic stability are the only permissible uses of Title VI funding?
 - ii. If not, what other aims does the Department consider allowable?
 - d. Provide documents sufficient to show how the Department evaluates whether NRCs have presented the requisite "diverse perspectives" and/or "balance".
 - e. What are the Department's plans for making the standards and criteria used to evaluate NRC APRs public?
- 3. The Duke-UNC Consortium Review:**
- a. Please provide all internal documents and communications that relate to the Department's inquiry into the Duke-UNC Consortium.
 - b. Please provide all correspondence between the Duke-UNC Consortium (and if relevant, Duke University and the University of North Carolina) and the Department leading up to the September 17 notice, including the Duke-UNC Consortium's June 20, 2019 letter to the Department, and the Department's initial letter prompting the Duke-UNC Consortium's June 20 response.
 - c. Please provide a list of all appointed Department officials, schedule C or higher, involved in this matter.

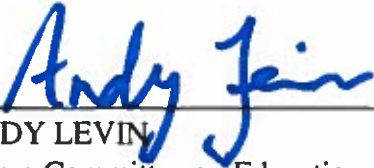
- d. Secretary DeVos wrote in a June 18, 2019 letter that she would direct the Office of Postsecondary Education to “examine the use of funds under this program to determine if the Consortium violated the terms and conditions of the grant,”⁴ in response to Rep. George Holding’s April 14, 2019 letter.⁵ Does the Notice represent the conclusions of this investigation?
- e. It appears that around September 24, 2019 the Department disbursed Title VI funding to the Duke-UNC Consortium for 2019-2020,⁶ despite its threat in the Notice to withhold funding.⁷ Why did the Department decide to make this disbursement? Will the Duke-UNC Consortium’s funding for upcoming fiscal years be in jeopardy if it fails to follow the Department’s directive to “expand its offerings to include, in addition to Islamic studies, the study of other religions that are practiced by significant numbers of people in the region”?⁸ How will the Department evaluate compliance?
- f. What are the Department’s benchmarks for acceptable job placement rates that would not indicate bias in Title VI programs?

In addition, as you are aware, on November 14, 2019, the Department of Education and the University of North Carolina at Chapel Hill agreed to resolve⁹ a civil rights complaint that appears to have prompted the Department’s investigation into the Duke-UNC Consortium’s use of Title VI funds.¹⁰ Despite questions about this very inquiry in our letter, the Department failed to update us on this development. As a result, we additionally ask:

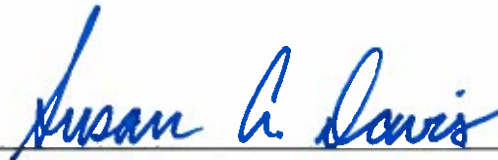
1. With the conclusion of Office for Civil Rights’ (OCR) investigation into the University of North Carolina,¹¹ does the Department consider the Title VI investigation closed as well?
 - a. Please provide documents sufficient to show the OCR complaint that triggered this investigation.
 - b. Please provide all correspondence and memoranda, both internal and external, related to this investigation.
2. There appears to have been a corresponding OCR investigation into Duke University that according to the Department’s website,¹² remains open.
 - a. Is the Department in similar negotiations with Duke University to settle the complaint?
 - b. What are the Department’s next steps in that investigation?
 - c. Please provide documents sufficient to show the OCR complaint that triggered this investigation.
 - d. Please provide all correspondence and memoranda, both internal and external, related to this investigation.

We request that you provide all the requested information and documents as soon as possible, but in no case later than December 23, 2019. Please contact Abbas Alawieh at abbas.alawieh@mail.house.gov with any questions. Please send all official correspondence relating to this request to tylease.fitzgerald@mail.house.gov.

Sincerely,



ANDY LEVIN
House Committee on Education and Labor
Vice Chair



SUSAN A. DAVIS
House Committee on Education and Labor
Chair, Subcommittee on Higher Education
and Workforce Investment

¹ Letter from Ira Katznelson, Interim Provost of Columbia University, to the Honorable Bobby Scott, Virginia Foxx, Lamar Alexander, and Patty Murray (October 30, 2019) (on file with author).

² Equal Participation of Faith-Based Organizations in Department of Education Programs and Activities: Implementation of Executive Order 13831, RIN 1840-AD45 (proposed November 2019).

³ Applications for New Awards; National Resource Centers Program for Foreign Language and Area Studies or Foreign Language and International Studies and Foreign Language and Area Studies Fellowships Program [hereinafter "2018 NRC Guidelines"], 83 Fed. Reg. 24,297 (May 25, 2018).

<https://www.federalregister.gov/documents/2018/05/25/2018-11261/applications-for-new-awards-national-resource-centers-program-for-foreign-language-and-area-studies>.

⁴ Letter from Betsy DeVos, Sec'y of Educ., to Rep. George Holding (June 18, 2019), available at <https://holding.house.gov/uploadedfiles/letter.pdf>.

⁵ Letter from George Holding, Member of Congress, to Betsy DeVos, Sec'y of Educ. (April 15, 2019), available at <https://holding.house.gov/uploadedfiles/conferenceletter.pdf>.

⁶ Stefanie Pousoulides, *Duke-UNC Consortium received '19-20 funding from the Education Department amid controversy*, The Chron. (Duke University) (Sept. 30, 2019, 2:19 AM)

<https://www.dukechronicle.com/article/2019/09/duke-unc-consortium-middle-east-funding-education-department-controversy>.

⁷ Notice of a Letter Regarding the Duke-UNC Consortium for Middle East Studies, 84 Fed. Reg. 48,919 at 48,921 (Sept. 17, 2019).

⁸ Letter from Robert L. King, Assistant Sec'y of Educ., to Middle Eastern Studies Association (October 9, 2019) (on file with author).

⁹ Letter from Ralph A. Suris, Chief Regional Attorney, District of Columbia Office, Office for Civil Rights (November 6, 2019), available at <https://eoc.unc.edu/files/2019/11/Resolution-Letter-OCR-Complaint.pdf>.

¹⁰ Letter from Betsy DeVos, Sec'y of Educ., to Rep. George Holding (June 18, 2019), available at <https://holding.house.gov/uploadedfiles/letter.pdf>.

¹¹ *Resolution Agreement*, The University of North Carolina at Chapel Hill OCR Complaint No. 11-19-2215 (October 14, 2019), available at <https://eoc.unc.edu/files/2019/11/Resolution-Agreement-OCR-Complaint.pdf>.

¹² *Pending Cases Currently Under Investigation at Elementary-Secondary and Post-Secondary Search*, Dept. of Educ. (last updated Sept. 27, 2019 at 7:30 AM) <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/open-investigations/tvi.html?queries%5Bstate%5D=NC&queries%5Btod%5D=Title+VI+-+National+Origin+Discrimination+Involving+Religion>.