



July 9, 2021

The Honorable Patty Murray
Chair, Committee on Health, Education,
Labor, and Pensions
428 Senate Dirksen Office Building
Washington, DC 20510

The Honorable Richard Burr
Ranking Member, Committee on Health,
Education, Labor, and Pensions
428 Senate Dirksen Office Building
Washington, DC 20510

RE: Support for the Nomination of Catherine Lhamon to the Assistant Secretary for Civil Rights at the United States Department of Education

Dear Chair Murray and Ranking Member Burr:

On behalf of the Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee"), I strongly urge you to support the nomination of Catherine Lhamon to once again serve as Assistant Secretary for Civil Rights at the U.S. Department of Education. The Lawyers' Committee is a nonprofit civil rights organization founded in 1963 by the leaders of the American bar, at the request of President John F. Kennedy, to help defend the civil rights of Black Americans and other people of color. For nearly sixty years, the Lawyers' Committee has been at the forefront of many of the most significant cases involving race and national origin discrimination to secure equal justice for all. Our civil rights mission and our historical work of ensuring equal educational opportunity in schools and colleges for all students make us uniquely qualified to support her nomination.

The mission of the U.S. Department of Education's Office for Civil Rights ("OCR") is to ensure equal access to education and to promote educational excellence through vigorous enforcement of civil rights in our nation's schools. OCR must carry out this difficult but necessary work by addressing inequities and discrimination in schooling, including but not limited to: disparate discipline of students of color, including those with disabilities; inequitable distribution of resources and opportunities-to-learn to high-minority enrollment schools; unequal access to selective high schools and universities; and a growing chorus of anti-diversity and inclusion parents and school boards seeking to repel anti-racism and anti-sexism efforts in schools. These civil rights issues, among several others, have been magnified in light of the pandemic's effect, particularly for communities of color, on educational opportunity as well as the national reckoning on racial injustice and systemic racial discrimination.

The importance of OCR cannot be understated, and OCR requires a leader who is competent, skilled, and determined to meet the growing challenges confronting students of color and those with historically marginalized intersectional identities. As a former Assistant Secretary for Civil Rights and former Chairperson of the U.S. Commission of Civil Rights, Ms. Lhamon is exceptionally qualified to help protect and enforce the civil rights of our most underserved students and communities. Additionally, Ms. Lhamon's prior seminal work as a civil rights



attorney for several nonprofit legal organizations earlier in her career further substantiates her impressive and impeccable qualifications to lead the Office for Civil Rights and to take head on the evolving challenges confronting underserved students today.

During Ms. Lhamon's previous tenure as Assistant Secretary for Civil Rights, she spearheaded the development of critical tools and guidance for students, parents, advocates and schools. For example, in the area of school discipline, Black boys and girls were far more likely to be disciplined for similar offenses and suspended from school compared to their white peers. Then-Assistant Secretary Lhamon issued a Dear Colleague Letter, along with the Department of Justice's Civil Rights Division, providing guidance for schools on how to identify, avoid, and remedy discriminatory discipline, thereby helping schools to provide all students with equal educational opportunities.¹

Inequitable opportunities to learn (i.e., access to advanced coursework, funding, teacher quality) in schools enrolling a high number of students of color also remains a rampant civil rights concern. In response, Ms. Lhamon issued a Dear Colleague letter on resource equity and comparability highlighting civil rights obligations of schools and school districts to ensure all students have access to equitable access to educational opportunity.²

Then-Assistant Secretary Lhamon also issued critical guidance, questions and answers, and fact sheets to protect and enforce the educational civil rights of women and girls related to Title IX and sexual harassment and sexual violence;³ the rights of English learners to access high quality education;⁴ the rights of immigrant students to enroll in and attend schools;⁵ the prevention of bullying of students with disabilities;⁶ and the fair treatment of transgender students.⁷

¹ Catherine E. Lhamon, Assistant Sec'y for Civil Rights, Jocelyn Samuels, Acting Assistant Attorney General, , "Dear Colleague Letter: Student Discipline," U.S. Department of Justice, Civil Rights Division and U.S. Department of Education, Office for Civil Rights (Jan. 8, 2014).

² Catherine E. Lhamon, Assistant Sec'y for Civil Rights, "Dear Colleague Letter: Guidance to Ensure All Students Have Equal Access to Educational Resources," U.S. Department of Education, Office for Civil Rights (Oct. 1, 2014).

³ *See, e.g.*, Catherine E. Lhamon, Assistant Sec'y for Civil Rights, Questions and Answers on Title IX and Single-Sex Elementary and Secondary Classes and Extracurricular Activities, U.S. Department of Education, Office for Civil Rights (Dec. 1, 2014); Catherine E. Lhamon, Assistant Sec'y for Civil Rights, Questions and Answers on Title IX and Sexual Violence, U.S. Department of Education, Office for Civil Rights (Apr. 29, 2014).

⁴ U.S. Department of Justice, Civil Rights Division and U.S. Department of Education, Office for Civil Rights, "Dear Colleague Letter: Guidance to Ensure English Learner Students Have Equal Access to a High-Quality Education" (Jan. 7, 2015).

⁵ Catherine E. Lhamon, Phillip H. Rosenfelt, Jocelyn Samuels, "Dear Colleague Letter, School Enrollment Procedures," U.S. Department of Justice, Civil Rights Division & Office of General Counsel, and U.S. Department of Justice, Civil Rights Division (2014).

⁶ Catherine E. Lhamon, Assistant Sec'y for Civil Rights, "Dear Colleague Letter: Guidance on Bullying of Students with Disabilities," U.S. Department of Education, Office for Civil Rights (Oct. 21, 2014).



Ms. Lhamon's critical work to support the civil rights of underserved communities did not end there. As Chairperson of the U.S. Commission on Civil Rights, the Commission issued a report in 2018, *Public Education Funding Inequity in an Era of Increasing Concentration of Poverty and Resegregation*. Under Chair Lhamon's leadership, the Commission also issued a briefing report in 2019, examining federal civil rights enforcement efforts from Fiscal Year 2016 to Fiscal Year 2018 for thirteen federal agencies, including the U.S. Department of Education.⁸

The Senate plays a pivotal constitutionally-mandated role of ensuring that its members properly and critically vet executive appointees to ensure they are well-qualified and well-suited to carry out their duties. Ms. Lhamon's professional life experiences, including her litigation and advocacy on social and racial justice issues, as well as her prior roles as Assistant Secretary for Civil Rights and Chair of the U.S. Commission on Civil Rights, demonstrate that she is an ideal candidate to lead the U.S. Department of Education's civil rights enforcement office. The Senate has acknowledged her outstanding qualifications for this role before as it unanimously confirmed her as Assistant Secretary in 2013. The case for confirmation has only grown stronger since then.

Thank you for your consideration of our support of the nomination of Ms. Lhamon to serve as the next Assistant Secretary for Civil Rights at the U.S. Department of Education. We welcome the opportunity to discuss her nomination with your office further. If you have any questions or concerns, please contact my colleagues David Hinojosa, Director of the Educational Opportunities, at dhinojosa@lawyerscommittee.org, Demelza Baer, Director of Public Policy, at dbaer@lawyerscommittee.org, or Erinn D. Martin, Policy Counsel, at emartin@lawyerscommittee.org.

Sincerely,

Damon T. Hewitt
President & Executive Director
Lawyers' Committee for Civil Rights Under Law
Washington, D.C.

⁷ U.S. Department of Justice, Civil Rights Division and U.S. Department of Education, Office for Civil Rights, Joint Dear Colleague Letter on Transgender Students (May 13, 2016).

⁸ Are Rights a Reality? Evaluating Federal Civil Rights Enforcement, 2019 Statutory Enforcement Report.