



3 Ways DeVos Has Put Students At Risk by Deregulating Education

By Laura Jimenez and Antoinette Flores May 30, 2019

Over the course of two short years and through quiet regulatory actions, many of which have not garnered many headlines, Secretary of Education Betsy DeVos has loosened accountability for U.S. schools and colleges, putting millions of students at risk of civil rights abuses and fraudulent financial schemes. Through aggressive use of its regulatory authority—including what two judges have found to be misuse—the U.S. Department of Education under DeVos has delayed, watered down, or outright eliminated crucial regulations and guidance in an effort to subvert federal laws that ensure students are treated fairly and receive a high-quality education.¹

This issue brief documents these incremental changes and explores their potential harm to students, highlighting the necessity of maintaining public vigilance in oversight of the DeVos agenda. Congress should also consider codifying into law regulations and regulatory guidance that it deems important in order to avoid regulatory pingpong between presidential administrations. Overall, DeVos' actions amount to a de-emphasis of the federal government's role in education. The brief organizes these actions into three main categories: attempting to de-emphasize the federal government's role in oversight of education funding; eliminating key student protections; and weakening accountability for school and college performance.

1. DeVos is de-emphasizing the federal government's role in oversight of education funding

States are responsible for providing a free public primary and secondary education to all their students. However, the federal government plays a critical role in this effort as well; it levels the playing field, primarily by providing additional funding for, as well as requiring states to fairly fund, all public K-12 schools.

Watered down the SNS provision

Title I of the Elementary and Secondary Education Act (ESEA) is intended to provide additional funding to high-poverty schools—not to compensate for fewer local or state education dollars. As a result, this title includes a “supplement, not supplant”

(SNS) provision.² Prior to the passage of the ESEA's reauthorization, now known as the Every Student Succeeds Act (ESSA), this provision required districts to prove that individual costs paid for by Title I funds did not meet any of the following three presumptions: an activity required by local, state, or federal law; an activity paid for by local or state funds the previous year; or the same services for Title I students that local or state funds support for non-Title I services.³

ESSA makes two important changes to SNS: eliminating these three presumptions, and focusing instead on how districts allocate local and state funds to schools—namely, by requiring that Title I schools receive all of the local and state funds for which they are eligible, even if they receive Title I funds. Importantly, this provision of the law is not defined. Regulations and guidance are needed to ensure that districts know what it means to allocate state and local funds without consideration of receiving Title I funds.

As a result of these two changes, the proposed rules under the Obama administration would have strengthened SNS by prohibiting districts from barring any schools from receiving local and state funding and by providing them an avenue to show that Title I schools and non-Title I schools receive the same in per-pupil funding in order to demonstrate compliance.⁴ The logic is simple: It is impossible to know whether funding is supplementary without knowing how much in base funding each school receives. However, these proposed rules were never finalized due to significant pushback from the Republican-controlled Congress.⁵

Now, DeVos has abandoned this approach. In the Education Department's SNS draft guidance released in January 2019, the compliance method only requires that districts allocate funds without regard to a school's Title I status—not that districts demonstrate their funding methodology for state and local dollars.⁶ In other words, high-poverty schools can continue to receive less in local and state funding, as they have historically.⁷

2. DeVos is eliminating key student protections

As public entities, neither K-12 schools nor state colleges can discriminate on the basis of a protected class.⁸ When students make a formal complaint that this right has been violated, the Education Department's Office for Civil Rights must determine whether an investigation is warranted and require remedy where it finds discrimination. In addition, within the context of higher education, colleges are not allowed to defraud students.

Changes enacted by Secretary DeVos have delayed, weakened, or eliminated—or propose to eliminate—the following four protections: a rule related to student groups' placement in special education services; student discipline guidance; the borrower defense to repayment rule; and the Title IX rule.

Illegally delayed the Equity in IDEA rule

The appropriate identification of students who would benefit from services and civil rights tied to special education, as well as these students' placement into programs able to accommodate their needs, is a complex topic. The over- and underrepresentation of some student groups in special education, such as low-income and African American students, may in some cases be explained by these communities' higher rates of factors such as inadequate access to health care and screenings as well as exposure to dangerous environmental factors that cause disabilities—many of which are associated with poverty.⁹ Nonetheless, states should pay attention to district rates of groups' placement into special education in order to ensure that placements are educationally warranted and not due to racial bias or income status.¹⁰ Moreover, some groups, such as autistic girls of color, are significantly underidentified; as a result, these students do not receive access to accommodations that would affect their long-term academic growth as well as to the civil rights protections that accompany these accommodations.¹¹

In 2016, the Obama administration issued a rule governing the Assistance to States for the Education of Children with Disabilities program and the Preschool Grants for Children with Disabilities program under the Individuals with Disabilities Education Act (IDEA)—referred to as the Equity in IDEA rule—which would require states to review and address any racial disparities in special education.¹² Specifically, states would have to address any “significant disproportionality” in the identification, placement, and discipline of children with disabilities. However, DeVos delayed implementing the final rules, saying that her department needed to study them more thoroughly to ensure that they did not compel the setting of quotas for special education placement. A judge vacated this decision in March 2019.¹³

Revoked the student discipline guidance

Data, including federal data from the Education Department's Civil Rights Data Collection (CRDC), consistently show that students with disabilities and certain students of color are suspended or expelled at higher rates than their peers.¹⁴ For example, CRDC data show that black or African American male students account for 8 percent of student enrollment but 25 percent of out-of-school suspensions or expulsions.

The impacts of exclusionary discipline practices vary. Suspended and expelled students lose valuable learning time, feel less connected to school, and are more likely to drop out. They also perform more poorly in school due to their suspensions, as do their nonsuspended peers.¹⁵ Many factors contribute to racial disparities in discipline. In an effort to address these issues, in 2014, the U.S. Department of Justice and the Education Department's Office for Civil Rights issued joint guidance intended to help school districts both reduce disparities and implement more positive approaches to discipline.¹⁶

In 2019, the Education Department rescinded this guidance. Secretary DeVos defended the decision, which was bolstered by a recommendation from a federal school safety commission that she headed, saying that the guidance amounted to enforcing “quotas” in school discipline rates.¹⁷

Delayed and rewrote the borrower defense to repayment rule

The Trump administration has sought to delay and rewrite the borrower defense to repayment rule, which provides a process for student loan borrowers to seek loan forgiveness if their colleges defrauded or misled them about the quality of their education.¹⁸ The borrower defense to repayment rule originated under the Obama administration after the closing of Corinthian Colleges, a chain of schools that was plagued by high defaults and questionable programs and was under investigation by the Education Department and numerous attorneys general for deceptive marketing practices and lying about graduation rates.¹⁹ Under increasing pressure, Corinthian Colleges shut down overnight, leaving thousands of students stranded.²⁰

In June 2017, the Trump administration moved to delay the implementation of the borrower defense to repayment rule while it worked to rewrite it. Following legal action from numerous consumer protection groups, a judge struck down the delay.²¹ In July 2018, the Education Department released its proposed rewrite of the rule, which, if instituted, would make it nearly impossible for borrowers to get loan relief. The department received more than 30,000 public comments on the rule and has yet to issue a final version.²² Despite the fact that the 2016 rule is in effect, the department does not appear to be enforcing it, and some 140,000 student loan borrowers who have applied for relief are currently waiting without an answer.²³

Weakened the Title IX rule

In February 2017, the Trump administration withdrew federal guidance developed under the Obama administration that spelled out protections for transgender students in schools and colleges under Title IX of the Education Amendments Act of 1972.²⁴ Title IX is a federal law that prohibits schools receiving any federal funding from discriminating based on sex. The rescinded guidance clarified that Title IX encompasses gender identity, thus prohibiting discrimination based on a student's gender identity. It also specified protections, including access to bathrooms and other facilities.²⁵ Rescinding the guidance eliminated a resource that students and parents could use for advocacy to make schools safer and more welcoming for students. However, policymakers in the U.S. House of Representatives just passed the Equality Act, which would codify the guidance into law and make it permanent.²⁶

In September 2017, the administration withdrew more guidance developed under the Obama administration that provided information on how schools and colleges should handle sexual assault, as it worked on its own rewrite of regulations.²⁷ In November 2018, the Trump administration proposed new regulations that would weaken protections for survivors of sexual assault.²⁸ Among other changes, these regulations would reduce school liability by narrowing the definition of sexual harassment, would allow schools to choose the burden of proof required for sexual assault cases, would dissuade survivors from reporting, and would bolster accused students' rights over those of survivors.²⁹

3. DeVos is weakening accountability for school and college performance

A common refrain from Betsy DeVos is that individual liberty and choice are the ultimate arbiters of accountability in K-12 education.³⁰ This view rests on the presumption that all parents have access to the same, high-quality information about school performance and ignores data that show that parents want their neighborhood schools to be effective at preparing students for life after high school, to be funded fairly, and to reflect their children's racial identity.³¹ DeVos' view also ignores evidence that, while modest, the accountability requirements—specifically, the school management changes—of the federal No Child Left Behind Act targeting poor school performance resulted in improvements in student achievement based on standardized test scores.³²

Although not a panacea and not without valid criticisms of its efficacy, federal accountability plays a role in addressing the quality of all public K-12 schools, something that parental choice alone cannot achieve. This is particularly true in higher education, where DeVos' Education Department has used its efforts to improve the information that students receive from and about colleges as they decide where to apply as justification for eliminating regulations that hold colleges accountable.³³ But data to inform college choice is not a sufficient replacement for accountability; federal requirements in higher education ensure that colleges maintain a high bar of performance, and previous deregulation attempts have resulted in an upswing in fraud and low-quality education options.³⁴

Approved low-quality state plans under ESSA

States indicate how they will comply with the federal law ESSA through plans that they must submit to the Education Department for review and approval—a process the department last conducted in 2003.³⁵ The law's previous iteration, the No Child Left Behind Act, included strict accountability provisions for the performance of each identified subgroup, including students who are from low-income families, students of color, English-language learners, and students with disabilities.

Congress revoked the regulations of ESSA in 2017, giving Secretary DeVos significant discretion in determining the criteria to approve the state plans.³⁶ Compared with its predecessor, the No Child Left Behind Act, ESSA, as the law was renamed, provides more flexibility for states to develop their own accountability systems, in order to allow for state and local innovation in providing a high-quality education. However, several independent reviews of states' ESSA plans show that schools in some states are not sufficiently being: held accountable for the performance of each student subgroup; identified when subgroups consistently underperform; or required to participate in federal annual testing requirements—all central tenets of the law.³⁷ Simply put, the Education Department under DeVos approved plans that should not have passed muster.

Proposed weakening federal oversight expectations

In April 2019, the Trump administration completed a negotiated rule-making that would deregulate quality assurance in higher education. While there are still numerous steps left before new regulations are finalized, what has been proposed would result in the unraveling of federal oversight of college quality.³⁸ Congress tasks independent nonprofit organizations called accrediting agencies with the job of ensuring that colleges meet quality standards before they can access the billions of dollars in federal financial aid that the government awards each year.³⁹ And it tasks the Education Department with overseeing accrediting agencies.

Proposed changes include: extending more time and taxpayer money to schools that do not meet quality standards; easing the requirements to become a gatekeeper of taxpayer funds; allowing colleges to create new programs with minimal oversight; and reducing public transparency into whether colleges and accreditors meet the standards surrounding quality. Combined, these changes would make it nearly impossible both to strip a college of its accreditation when it does not meet standards, as well as to remove federal recognition of an agency that falls down on the job.

Delayed and proposed eliminating gainful employment regulations

In March 2017, the administration delayed regulations that obligate colleges to disclose data on how well programs serve students under the gainful employment regulations.⁴⁰ Gainful employment regulations hold career training programs accountable for producing graduates who can obtain jobs and earn enough money to repay their loans.⁴¹ In June 2017, the Education Department began the process of rewriting the rule, and in August 2018, it released rules that would effectively eliminate the requirements entirely.⁴² It has yet to publish the final rule. Eliminating the rule would raise the risk of thousands more students taking on debt for low-quality programs that do not provide a leg up on employment.

Challenged affirmative action

The Trump administration has taken on numerous efforts to challenge affirmative action practices. Under Secretary DeVos, the Office for Civil Rights has investigated numerous colleges' race-based admissions practices.⁴³ In July 2018, for example, the administration eliminated guidance encouraging race-based admission in colleges, including guidance encouraging schools to strive for diversity in admissions, stating that it was legal for colleges to consider race in admissions, and clarifying how the federal government should consider complaints about admissions policies.⁴⁴ In August 2018, the Trump administration sided in court with a conservative anti-affirmative action group suing Harvard University, challenging its admissions practices.⁴⁵ The case could very likely end up in a right-leaning U.S. Supreme Court, which puts affirmative action itself at risk.⁴⁶ And just last month, in response to the Trump administration's assault on affirmative action, one college agreed to end its practice of considering race in admission, even though it acknowledged that this practice followed the law.⁴⁷

Conclusion

Debating the appropriate role of the federal government in education is valid. However, years of practice show that the federal government plays an important role in improving the quality of public education, as well as in protecting students from being discriminated against or defrauded.

Secretary of Education Betsy DeVos' deregulatory agenda flies in the face of this important role. And her actions' cumulative effects on students must be part of the public discourse.

While it is natural for regulations to reflect some aspects of the values of the presidential administration that enacts them, they should also be based faithfully on the law and be passed according to established procedures. DeVos' deregulatory agenda has skirted the rules and has become her decree on the appropriate role of the federal government in education, rather than a tool to improve the quality of education. In order to ensure that regulations are not subject to political whim, Congress should consider what regulations it deems necessary to codify into law.

The deregulatory actions of Betsy DeVos will take years to undo. Until that time comes, the public and Congress must remain vigilant about what decisions and changes are not making headlines and bring the Education Department's nefarious practices into the light of day.

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Endnotes

- 1 *Council of Parent Attorneys and Advocates Inc. v. Elizabeth (Betsy) DeVos, Secretary of Education; Johnny W. Collet, Assistant Secretary for Special Education and Rehabilitative Services; U.S. Department of Education*, Civil Action No. 18-cv-1636 (TSC), U.S. District Court for the District of Columbia (March 8 2019), available at https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2018cv1636-31; Project on Predatory Student Lending, “Judge Rules for Project’s Clients; Strikes Down Department of Education Illegal Delay of 2016 Borrower Defense Rule,” Harvard Law School WilmerHale Legal Services Center, September 14, 2018, available at <http://www.legalservicescenter.org/update-judge-rules-for-projects-clients-strikes-down-department-of-education-illegal-delay-of-2016-borrower-defense-rule/>.
- 2 Every Student Succeeds Act, Public Law 114-95, 114th Cong., 1st sess. (December 10, 2015), available at <https://www.congress.gov/bill/114th-congress/senate-bill/1177/text>.
- 3 No Child Left Behind Act, Public Law 107-110, 107th Cong., 2nd sess. (January 8, 2002), available at <https://files.eric.ed.gov/fulltext/ED556108.pdf>.
- 4 U.S. Department of Education, “Proposed Rules: Title I—Improving the Academic Achievement of the Disadvantaged—Supplement Not Supplant,” *Federal Register* 81 (172) (2016): 61148–61159, available at <https://www.govinfo.gov/content/pkg/FR-2016-09-06/pdf/2016-20989.pdf>.
- 5 House Committee on Education and Labor Republicans, “Witnesses: Department’s Actions Will Harm Students, Schools, and Local Flexibility,” Press release, September 21, 2016, available at <https://republicans-edlabor.house.gov/news/documentsingle.aspx?DocumentID=401058>.
- 6 U.S. Department of Education, “Supplement Not Supplant Under Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act” (Washington: 2019), available at <https://www2.ed.gov/policy/elsec/leg/essa/snstitleguidance.pdf>.
- 7 Ruth Heuer and Stephanie Stullich, “Comparability of State and Local Expenditures Among Schools Within Districts: A Report From the Study of School-Level Expenditures” (Washington: U.S. Department of Education, 2011), available at <https://www2.ed.gov/rschstat/eval/title-i/school-level-expenditures/school-level-expenditures.pdf>.
- 8 Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241, 88th Cong., 2nd sess. (July 2, 1964), available at <https://legcounsel.house.gov/Comps/Civil%20Rights%20Act%20Of%201964.pdf>.
- 9 Nora Gordon, “Race, poverty, and interpreting overrepresentation in special education” (Washington: Brookings Institution, 2017), available at <https://www.brookings.edu/research/race-poverty-and-interpreting-overrepresentation-in-special-education/>.
- 10 Ibid.
- 11 Centers for Disease Control and Prevention, “Spotlight On: Racial and Ethnic Differences in Children Identified with Autism Spectrum Disorder (ASD),” available at <https://www.cdc.gov/ncbddd/autism/addm-community-report/differences-in-children.html> (last accessed May 2019).
- 12 U.S. Department of Education, “Assistance to States for the Education of Children With Disabilities: Preschool Grants for Children With Disabilities,” *Federal Register* 81 (41) (2016): 10968–10998, available at <https://www.govinfo.gov/content/pkg/FR-2016-03-02/pdf/2016-03938.pdf>.
- 13 Amelia Harper, “Federal judge: Ed Dept illegally delayed Obama-era special education rule,” Education Dive, March 10, 2019, available at <https://www.educationdive.com/news/federal-judge-ed-dept-illegally-delayed-obama-era-special-education-rule/550186/>.
- 14 Office for Civil Rights, “2015–16 Civil Rights Data Collection: School Climate and Safety” (Washington: U.S. Department of Education, 2018), available at <https://www2.ed.gov/about/offices/list/ocr/docs/school-climate-and-safety.pdf>.
- 15 Jason Langberg and Angela Ciolfi, “Suspended Progress” (Charlottesville, VA: Legal Aid Justice Center JustChildren Program, 2016), available <https://www.justice4all.org/wp-content/uploads/2016/05/Suspended-Progress-Report.pdf>; Matt Barnum, “Suspensions really do hurt students academically, new studies confirm, but maybe less than previously thought,” Chalkbeat, August 23, 2018, available at <https://chalkbeat.org/posts/us/2018/08/23/suspensions-really-do-hurt-students-academically-new-studies-confirm-but-maybe-less-than-previously-thought/>; Matt Barnum, “When Chicago cut down on suspensions, students saw test scores and attendance rise, study finds,” Chalkbeat, March 13, 2018, available at <https://www.chalkbeat.org/posts/us/2018/03/13/when-chicago-cut-down-on-suspensions-students-saw-test-scores-and-attendance-rise-study-finds/>.
- 16 U.S. Department Of Education, “School Climate and Discipline,” available at <https://www2.ed.gov/policy/gen/guid/school-discipline/index.html> (last accessed May 2019).
- 17 Sarah Darville, “Defending her discipline decision, Betsy DeVos says Obama-era guidance amounted to ‘quotes,’” Chalkbeat, March 26, 2019, available at <https://www.chalkbeat.org/posts/us/2019/03/26/defending-her-discipline-decision-betsy-devos-says-obama-era-guidance-amounted-to-quotas/>; Francisco Vara-Orta, “It’s official: DeVos has axed Obama discipline guidelines meant to reduce suspensions of students of color,” Chalkbeat, December 21, 2018, available at <https://chalkbeat.org/posts/us/2018/12/21/its-official-devos-scrap-Obama-discipline-rules-meant-to-reduce-suspensions-of-students-of-color/>; U.S. Department of Education, “Federal Commission on School Safety,” available at <https://www.ed.gov/school-safety> (last accessed May 2019).
- 18 Katie Lobosco, “Betsy DeVos freezes Obama-era rules meant to protect student borrowers,” CNN Money, June 14, 2017, available at <https://money.cnn.com/2017/06/14/pf/college/betsy-devos-student-borrower-protections/index.html?iid=EL>.
- 19 Danielle Douglas-Gabriel, “Feds found widespread fraud at Corinthian Colleges. Why are students still paying the price?,” *The Washington Post*, September 29, 2016, available at https://www.washingtonpost.com/news/grade-point/wp/2016/09/29/feds-found-widespread-fraud-at-corinthian-colleges-why-are-students-still-paying-the-price/?utm_term=.5e14e1f94d6a.
- 20 Alex Johnson, “Corinthian Colleges Shuts Down, Ending Classes for 16,000 Overnight,” NBC News, April 26, 2015, available at <https://www.nbcnews.com/news/education/corinthian-colleges-shuts-down-ending-classes-16-000-overnight-n348741>.
- 21 Sara Garcia, “The Lawsuits Challenging DeVos’ Anti-Student Higher Education Agenda,” Center for American Progress, October 2, 2018, available at <https://www.americanprogress.org/issues/education-postsecondary/news/2018/10/02/458814/lawsuits-challenging-devos-anti-student-higher-education-agenda/>.
- 22 Ben Miller and Antoinette Flores, “The Department of Education’s Terrible, Horrible, No Good, Very Bad Borrower Defense Proposal,” Center for American Progress, September 7, 2018, available at <https://www.americanprogress.org/issues/education-postsecondary/news/2018/09/07/457631/departments-educations-terrible-horrible-no-good-bad-borrower-defense-proposal/>; U.S. Department of Education, “Proposed Rules: Student Assistance General Provisions, Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program,” *Federal Register* 83 (147) (2018): 37242–37330, available at <https://www.federalregister.gov/documents/2018/07/31/2018-15823/student-assistance-general-provisions-federal-perkins-loan-program-federal-family-education-loan>.
- 23 Danielle Douglas-Gabriel, *The Washington Post*, “Senate Democrats press Betsy DeVos on backlog of 140,000 student debt-relief claims,” *Chicago Tribune*, March 28, 2019, available at <http://www.chicagotribune.com/news/nationworld/politics/ct-devos-student-debt-relief-20190328-story.html>.

- 24 National Center for Transgender Equality, "FAQ on the Withdrawal of Federal Guidance on Transgender Students," February 21, 2017, available at <https://transequality.org/issues/resources/faq-on-the-withdrawal-of-federal-guidance-on-transgender-students>.
- 25 Andrew Kreighbaum, "Transgender Protections Withdrawn," *Inside Higher Ed*, February 23, 2017, available at <https://www.insidehighered.com/news/2017/02/23/trump-administration-reverses-title-ix-guidance-transgender-protections>.
- 26 Evie Blad, "Transgender Students, Athletics, Bullying: What the Equality Act Would Mean for Schools," *Education Week*, May 17, 2019, available at <https://blogs.edweek.org/edweek/campaign-k-12/2019/05/transgender-students-bullying-equality-act-schools.html>.
- 27 Evie Blad, "DeVos Kills Obama-Era Guidance on Title IX and Sexual Assault," *Education Week*, September 22, 2017, available at http://blogs.edweek.org/edweek/rulesforengagement/2017/09/devos_kills_obama-era_guidance_on_title_ix_and_sexual_assault.html.
- 28 Victoria Yuen and Osuh Ahmed, "4 Ways Secretary DeVos' Proposed Title IX Rule Will Fail Survivors of Campus Sexual Assault," Center for American Progress, November 16, 2018, available at <https://www.americanprogress.org/issues/education-postsecondary/news/2018/11/16/461181/4-ways-secretary-devos-proposed-title-ix-rule-will-fail-survivors-campus-sexual-assault/>.
- 29 Ibid.
- 30 Betsy DeVos, "Prepared Remarks by Secretary DeVos at the Manhattan Institute's 19th annual Alexander Hamilton Award Dinner," U.S. Department of Education, May 1, 2019, available at <https://www.ed.gov/news/speeches/prepared-remarks-secretary-devos-manhattan-institutes-19th-annual-alexander-hamilton-award-dinner>.
- 31 Jenny Abamu, "How transparent is school data when parents can't find it or understand it?," *The Hechinger Report*, June 26, 2018, available at <https://hechingerreport.org/how-transparent-is-school-data-when-parents-cant-find-it-or-understand-it/>; Anne O'Brien, "What Do Parents Want From Schools?," *Edutopia*, October 13, 2017, available at <https://www.edutopia.org/article/what-do-parents-want-schools>. Steven Glazer and Dallas Dotter, "What do parents want? A good school, not too far, and some other kids that look like them," *Greater Greater Washington*, August 31, 2016, available at <https://ggwash.org/view/42658/what-do-parents-want-a-good-school-not-too-far-and-some-other-kids-that-look-like-them>.
- 32 Linda Gorman, "The Impact on School Performance of No Child Left Behind Program Sanctions," National Bureau of Economic Research, available at <https://www.nber.org/digest/feb15/w20511.html> (last accessed May 2019).
- 33 Erica L. Green, "DeVos Proposes to Curtail Debt Relief for Defrauded Students," *The New York Times*, July 25, 2018, available at <https://www.nytimes.com/2018/07/25/us/politics/betsy-devos-debt-relief-for-profit-colleges.html>.
- 34 Antoinette Flores, "Hooked on Accreditation: A Historical Perspective," (Washington: Center for American Progress, 2015), available at <https://www.americanprogress.org/issues/education-postsecondary/reports/2015/12/14/127200/hooked-on-accreditation-a-historical-perspective/>.
- 35 U.S. Department of Education, "Decision Letters - State Accountability Plans," available at <https://www2.ed.gov/admins/lead/account/letters/index.html> (last accessed May 2019).
- 36 Council for Exceptional Children, "Congress Overturns ESSA Regulations," March 15, 2017, available at <https://www.policyinsider.org/2017/03/congress-overtorns-essa-regulations.html>.
- 37 All4Ed, "Too Many States Minimize Student Subgroup Performance in ESSA Accountability Systems," Alliance for Excellent Education, December 14, 2018, available at <https://all4ed.org/reports-factsheets/too-many-states-minimize-student-subgroup-performance-in-essa-accountability-systems/>; Alyson Klein, "Analysis Raises Fresh Questions on How Some ESSA Plans Handle Vulnerable Students," *Education Week*, March 26, 2019, available at <https://blogs.edweek.org/edweek/campaign-k-12/2019/03/ESSA-states-subgroups-targeted-support.html>; Alliance for Excellent Education, "New Analyses Identify Shortcomings and Strengths in State ESSA Plans," Press release, June 22, 2017, available at <https://all4ed.org/press/new-analyses-identify-shortcomings-and-strengths-in-state-essa-plans/>.
- 38 Antoinette Flores, "How the Trump Administration is Undoing College Accreditation" (Washington: Center for American Progress, 2019), available at <https://www.americanprogress.org/issues/education-postsecondary/reports/2019/04/18/468840/trump-administration-undoing-college-accreditation/>.
- 39 Flores, "Hooked on Accreditation."
- 40 Brookings Institution, "Tracking deregulation in the Trump era," available at <https://www.brookings.edu/interactives/tracking-deregulation-in-the-trump-era/> (last accessed May 2019).
- 41 Ben Miller and Mark Hatton, "Why Gutting Gainful Employment Is a Bad Idea for Betsy DeVos," Center for American Progress, August 2, 2017, available at <https://www.americanprogress.org/issues/education-postsecondary/news/2017/08/02/436945/gutting-gainful-employment-bad-idea-betsy-devos/>.
- 42 Michael Stratford, DeVos rolls back rules aimed at low-performing for-profit and career colleges, *Politico*, August 10, 2018, available at <https://www.politico.com/story/2018/08/10/devos-low-performing-for-profit-colleges-772302>.
- 43 Lauren Meckler, "Texas Tech Health Sciences Center agrees to stop using race in medical school admissions," *The Washington Post*, April 9, 2019, available at https://www.washingtonpost.com/local/education/texas-tech-agrees-to-stop-using-race-in-medical-school-admissions/2019/04/09/81da7324-5aee-11e9-842d-7d3ed7eb3957_story.html?utm_term=.1cf3f4b9cdd8.
- 44 Scott Jaschik, "Trump Administration Rescinds Guidance on Affirmative Action," *Inside Higher Ed*, July 5, 2018, available at <https://www.insidehighered.com/news/2018/07/05/trump-administration-rescinds-obama-guidance-race-and-admissions>.
- 45 Kevin Johnson, "Trump administration wants allegations of Asian discrimination by Harvard tested in court," *USA Today*, August 30, 2018, available at <https://www.usatoday.com/story/news/politics/2018/08/30/doj-sides-group-alleging-asian-discrimination-harvard/1143138002/>.
- 46 P.R. Lockhart, "The lawsuit against Harvard that could change affirmative action in college admissions, explained," *Vox*, October 18, 2018, available at <https://www.vox.com/2018/10/18/17984108/harvard-asian-americans-affirmative-action-racial-discrimination>.
- 47 Meckler, "Texas Tech Health Sciences Center agrees to stop using race in medical school admissions."