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**The Special Counsel**

June 9, 2026

The President  
The White House  
Washington, D.C. 20050

Re: OSC File No. DI-24-000830

Dear Mr. President:

I am forwarding to you the reports transmitted to the U.S. Office of Special Counsel (OSC) by the U.S. Department of Education (ED) in response to the Special Counsel's referral of a disclosure of wrongdoing at ED's Office for Civil Rights (OCR), in Kansas City, Missouri.<sup>1</sup> OSC has reviewed the disclosure, agency reports, and whistleblower comments, and, in accordance with 5 U.S.C. § 1213(e), I have determined that the reports contain the information required by statute and that the findings appear reasonable. As summarized below, the agency fully substantiated the allegations.

The whistleblower, [REDACTED], Chief Attorney for the Kansas City Office at OCR, who consented to the release of his name, alleged that ED failed to comply with a court injunction that prohibits the agency from addressing gender identity and/or transgender status and sexual orientation based on Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., (Title IX) in the states where the injunction applies.

Specifically, on January 20, 2021, President Joe Biden issued Executive Order 13988, "Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation."<sup>2</sup> In response, OCR issued three documents in June 2021, collectively referred to as the "Guidance Documents," in which ED interpreted the prohibition on sex discrimination in Title IX to encompass discrimination based on sexual orientation and gender identity.<sup>3</sup>

On July 15, 2022, following a full briefing and argument, the U.S. District Court for the Eastern District of Tennessee issued a preliminary injunction enjoining and restraining ED from implementing the Guidance Documents in the states that brought suit against the agency.<sup>4</sup> ED

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<sup>1</sup> OSC referred the whistleblower's allegations for investigation pursuant to 5 U.S.C. § 1213(c) and (d) to then-ED Secretary Miguel Cardona, who delegated authority to then-Deputy Secretary Cindy Marten to sign the initial report. ED's Office of the General Counsel conducted the investigation. At OSC's request, the agency submitted a supplemental report, which the Deputy General Counsel & Chief Investigative Counsel, [REDACTED], signed.

<sup>2</sup> 86 Fed. Reg. 7023 (Jan. 25, 2021).

<sup>3</sup> The Guidance Documents included: "Enforcement of Title IX of the Education Amendments of 1972 With Respect to Discrimination on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*," 86 Fed. Reg. 32,637 (June 22, 2021); "Letter to Educators on Title IX's 49th Anniversary," <https://www2.ed.gov/about/offices/list/ocr/correspondence/stakeholders/educator-202106-tix.pdf>; and "Confronting Anti-LGBTQI+ Harassment in Schools," <https://www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-tix-202106.pdf>.

<sup>4</sup> See *Tennessee v. U.S. Dep't of Educ.*, 615 F. Supp. 3d 807 (E.D. Tenn. 2022). The plaintiff states were Alabama, Alaska, Arizona, Arkansas, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana,

filed a Notice of Compliance with the court asserting its understanding of the injunction and the agency's intention to abide by the court order. The injunction remained in full effect for nearly two years until the Sixth Circuit affirmed it on June 14, 2024,<sup>5</sup> further confirming its binding nature throughout the period of the substantiated violations.

### *The Investigative Findings*

In its initial report, ED did not substantiate the whistleblower's allegations. It found that the injunction did not enjoin ED from engaging in enforcement actions consistent with the Guidance Documents, nor did it prohibit ED from carrying out its charge to investigate all complaints alleging violations of Title IX or its attendant regulations, including complaints of discrimination against LGBTQ+ students or discrimination based on sexual orientation or gender identity. In response, OSC requested a supplemental report from ED to address areas of concern identified by the whistleblower and OSC.

After further investigation, ED changed its position.<sup>6</sup> In its supplemental report, ED fully substantiated all of the whistleblower's allegations. In particular, ED's subsequent investigation revealed significant shortcomings in the initial report and response to OSC, including a failure to accurately assess readily available materials, conduct additional relevant interviews, and to forthrightly respond to the whistleblower's core allegation of whether OCR, under the leadership of Assistant Secretary Catherine Lhamon, failed to abide by the injunction. In fact, ED found that OCR's leadership actively engaged in efforts to thwart at least one OCR regional office, Region VII, from following the plain and unambiguous meaning of the court order, and may also have engaged in actions to conceal those efforts, including the use of coercion or intimidation.

The investigation also found that ED failed to provide or reference in its original response to OSC the ████████ Memo, a 25-page memorandum submitted to ED's Office of General Counsel (OGC) by Kansas City Regional Director ████████, which corroborated a number of the whistleblower's concerns. ED found Director ████████ and the whistleblower to be highly credible. Specifically, it concluded that the whistleblower's actions revealed careful, respectful adherence to the court's order and multiple attempts to appease superiors who were pursuing an agenda at variance with the court's order.

In response to the agency's findings, ED reaffirmed its commitment to fully comply with all applicable laws and judicial directives. In particular, OGC has taken steps to enhance its transmittal of judicial orders and directives to all affected department offices and officials in a timely and complete manner through written communications with employees. Further, ED has implemented a formalized practice whereby all judicial orders, including, but not limited to,

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Nebraska, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, and West Virginia. Arizona later withdrew from the litigation.

<sup>5</sup> See *Tennessee v. Dep't of Educ.*, 104 F.4th 577 (6th Cir. 2024).

<sup>6</sup> OSC received the agency's supplemental report on February 19, 2026.

court judgments, injunctions, subpoenas, and discovery directives, are centrally routed through and managed by OGC.

With respect to the retaliatory behavior and hostile work environment concerns identified during the investigation, OGC is partnering with ED's Office of Human Resources (OHR), which is conducting an internal investigation into the matter. At the conclusion of the investigation, ED intends to take any necessary corrective action, including but not limited to, pursuing disciplinary action against any current or former employees, and providing appropriate relief or other remedies to aggrieved employees.

OGC is also collaborating with OCR to ensure full compliance with all judicial directives. Similarly, OCR is in the process of assessing the matter and is prepared to take any necessary corrective actions at the culmination of its review.

### *Whistleblower Comments*

The whistleblower disagreed with the agency's findings in the initial report, noting various oversights and discrepancies, which in part prompted OSC to request the supplemental report. In the whistleblower's response to the supplemental report, he strongly agreed with the agency's findings and provided additional examples and information in support of his claims, in particular, evidence that ED deliberately violated the court's injunction. The whistleblower asserted that the agency accurately recounted the troubling actions of the former Assistant Secretary and many OCR staff, who chose to either actively participate in violating the court's order, assist others who did so, capitulate to requests against their better judgment, or ignore the wrongdoing. He further stated that the actions documented here constitute an agency-wide failure that occurred over multiple years, involved many regional offices, and required the knowledge and participation of several layers of management.

The whistleblower remains concerned as to whether independent oversight authorities in Congress and the Executive Branch will ensure that ED takes decisive steps to hold accountable those who actively participated in violating the court's injunction.

### *Conclusion*

I concur with the agency's supplemental findings and commend the whistleblower, [REDACTED], and Regional Director [REDACTED] for their careful, respectful adherence to the court's order and their willingness to raise these concerns despite significant internal resistance. The substantiated allegations—that senior leadership directed or facilitated the circumvention of a binding federal injunction over multiple years and across multiple offices—raise serious concerns that demand accountability.

While ED has outlined some corrective steps, I believe that more robust action is required to ensure accountability and prevent recurrence. I therefore recommend that the Department:

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- Expediently complete its internal investigation and impose appropriate disciplinary action, up to and including removal, against any current or former employees (including senior officials) found to have participated in, directed, assisted, or concealed efforts to defy the court's injunction;
- Conduct a comprehensive, independent audit of all OCR enforcement actions taken in enjoined states during the relevant period to identify and remedy any additional instances of non-compliance;
- Provide full transparency to OSC, Congress, and the public regarding the outcomes of these reviews and any disciplinary or remedial actions taken; and
- Consider issuing a monetary reward to [REDACTED] given the significance of the disclosure, his perseverance and the risks he took in coming forward, and the strength of ED's substantiation.<sup>7</sup>

I thank the whistleblower for bringing these allegations to OSC. As required by 5 U.S.C. § 1213(e)(3), I have sent a copy of this letter, the agency reports, and whistleblower comments to the Chairs and Ranking Members of the Senate Committee on Health, Education, Labor and Pensions and the House Committee on Education and Workforce. OSC has also filed redacted copies of these documents and a redacted copy of the letter referring this matter in our public file, which is available online at [www.osc.gov](http://www.osc.gov). This matter is now closed.

Respectfully,



Charles N. Baldis

*Chief Counsel*

Enclosures

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<sup>7</sup> See, [Office of Special Counsel Policy on Recommending Monetary Awards for Whistleblowers](#).