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Before the U.S. House Oversight and Government Reform Committee  
Hearing on “U.S. Department of Education: Investigation of the CIO”  
February 2, 2016

Chairman Chaffetz, Ranking Member Cummings, and members of the Committee, good morning and thank you for the opportunity to appear before you today. As you know, I joined the Department in January of 2015 as senior advisor delegated the functions and duties of the Deputy Secretary of Education, and I became Acting Secretary on January first of this year when Secretary Arne Duncan stepped down. Prior to joining the Department, I had most recently served in New York State as Commissioner of Education (and before that, as Senior Deputy Commissioner), but I started my career in education as a public school teacher and then worked as a charter school founder and principal and later as leader of a charter management organization. In all of these roles my singular focus has been on expanding educational opportunity for all students.

I firmly believe that providing our children with a great education is not just about subject matter knowledge, but also about instilling the values that will help them become faithful contributors to our communities and democracy. That is why throughout my career in public service I have always expected myself, then my students, and later, my colleagues and employees, to adhere to the highest standards of ethical conduct, and I will continue to expect the same of the Department under my leadership in the year to come. For the same reason, after joining the Department last year and learning about the ongoing investigation by the Office of

the Inspector General (OIG) of alleged actions that ended in 2013 or before by the Department's Chief Information Officer (CIO), Dr. Danny Harris, I was concerned and considered very seriously the allegations, the prior responses to the allegations by the Department, and Dr. Harris's previously completed steps to address the questions raised by the investigation. Ultimately, my response to those allegations confirmed and supplemented the work of two prior Deputy Secretaries at the Department, their and my staff, and our Office of the General Counsel, and closed a several-years long investigation. I appreciate the opportunity to discuss those matters with you today.

As you may be aware, Dr. Harris, the Department's CIO, first joined the Department as an intern in 1985, and then was hired as a career civil service employee in that same year. Since then, Dr. Harris has served the Department for more than thirty years and he has been steadily promoted under Administrations of both parties to roles within the agency of increasing responsibility. Dr. Harris was promoted to the Senior Executive Service (SES) in 1998 and then appointed to his current role as CIO during the prior Administration under Secretary Spellings in 2008. He has been recognized for his work in the CIO role both within the Department as well as by a number of external organizations. Dr. Harris has received industry recognition in the form of the Information Technology Senior Management Forum Leadership Award in 2012 and was selected as one of the 50 Most Important African Americans in Technology in 2011. During this time, Dr. Harris has served an important role as the agency has taken urgent steps to strengthen its cybersecurity posture – an area that I have identified as a critical priority for the Department over the next year.

After joining the Department in 2015, I came to learn of Dr. Harris's longtime service to the Department and his reputation for consistent performance over those many years in a variety

of roles with increasing amounts of responsibility. I therefore was surprised and troubled to learn that prior to my tenure the OIG had opened an investigation into certain allegations concerning actions by Dr. Harris that ended in 2013 or before. I also learned, however, that my two most recent predecessors had both reviewed the findings of the IG's investigation, consulted with the career attorney leading the Office of the General Counsel at the time and his experienced staff, including the career Designated Agency Ethics Official (DAEO), Susan Winchell, and had each taken steps to address the results of the investigation.

Specifically, I learned that then-Deputy Secretary Tony Miller received the OIG's initial Report of Investigation (Report) on this matter in April 2013, consulted with the Office of the General Counsel, and provided counseling to Dr. Harris in 2013. I also learned from staff and my immediate predecessor, Jim Shelton, that then-Deputy Secretary Shelton also consulted with the General Counsel's Office and provided further counseling on these issues to Dr. Harris. I also learned that the Designated Agency Ethics Official, Susan Winchell, who has responsibility for managing the Department's ethics program, had also provided counseling to Dr. Harris in response to the OIG Report. I was further advised that the OIG had referred the matter to the U.S. Attorney's Office for the District of Columbia and that the reason the OIG investigation still remained open when I joined the Department in January 2015 – even after the actions of the two prior Deputy Secretaries and the General Counsel's Office and after the questioned activities by Dr. Harris had ceased years earlier – was because the OIG was awaiting the results of that law enforcement referral.

A few months later, on March 23, 2015, the OIG submitted an Addendum to the Report of Investigation (Addendum) to me. The OIG's Synopsis of the Addendum (Addendum Synopsis) referred to the prior Report provided roughly two years earlier to then-Deputy

Secretary Miller. The Addendum Synopsis also stated that the U.S. Attorney's Office declined prosecution, described the limited additional information gathered by OIG since the original Report, and made clear that Dr. Harris had taken corrective action. After reviewing the Addendum, the Office of the General Counsel and Ms. Winchell advised that the additional information included in the Addendum served to confirm the conclusions reached by the Office of the General Counsel following receipt of the initial Report. Specifically, that the information did not support a conclusion that Dr. Harris violated any law, regulation, or standard of ethical conduct.

I weighed this counsel significantly, along with the fact that my two previous predecessors had carefully and thoroughly reviewed and had already taken steps to address the issues raised by the initial OIG Report that was submitted in 2013. As I stated earlier, I was advised when I joined the Department that the reason the OIG file remained open was due to the law enforcement referral. In considering the appropriate response to the Addendum, therefore, I carefully considered whether any new information included in the Addendum should now lead me to undertake any new or different actions with respect to this matter than the ones my predecessors had undertaken. The new information confirmed not only OGC's conclusion that the information did not support a conclusion that Dr. Harris violated any law, regulation, or standard of ethical conduct, but also that the counseling undertaken by my predecessors and Ms. Winchell appeared to have been effective and appropriate. And, as I noted, the OIG's Addendum made clear that since the first counseling by then-Deputy Secretary Miller, Dr. Harris had taken corrective action. Moreover, as reflected in the contents of the Addendum Synopsis (which did not describe any new activities by Dr. Harris beyond his corrective action), there appeared to have been no new activities or incidents since the OIG investigation and counseling

took place in 2013. I considered all of these factors also in light of the information in the Addendum that the U.S. Attorney's Office in the District of Columbia declined prosecution in this matter.

While no information in the Addendum led me to conclude that different administrative actions were appropriate for the activities that had been documented and addressed years earlier, I nonetheless viewed some of the actions by Dr. Harris that were detailed through the investigation to reflect a serious lack of judgment. That is why although the actions in question had occurred several years earlier (and since ceased), and had been previously addressed in counseling by my two predecessors and the career Designated Agency Ethics Official, I chose to supplement those actions with counseling of my own for Dr. Harris on these serious matters. In counseling Dr. Harris, I stated my expectation that Dr. Harris ensure that absolutely no questions or issues of appearance arise again in the future. Dr. Harris expressed profound remorse for his actions and stated that he had already taken actions to address any questions since the OIG investigation and receiving counseling from then-Deputy Secretaries Miller and Shelton. I also asked Ms. Winchell to confirm her prior oral counseling to Dr. Harris in writing.

As I stated at the outset, ensuring that the public's business, and our work of expanding educational opportunity for all students, are carried out according to the highest standards of ethical conduct is vitally and personally important to me. Here, I have carefully considered the assessment by our General Counsel's Office and career Designated Agency Ethics Official that the information did not support a conclusion that Dr. Harris violated any law, regulation, or standard of ethical conduct, and the decision to decline prosecution by the U.S. Attorney's Office, Dr. Harris's longtime service to the Department and his consistent level of fine performance over many years, along with Dr. Harris's remorse, receptiveness to counselling, and

prompt actions following the investigation and counseling to ensure that any questions about his conduct and impartiality were eliminated and to resolve these issues in a forthright and positive manner. I believe the Department took appropriate actions to address the issues raised by the investigation and ensure that they are not repeated as we continue to take urgent steps to rapidly strengthen our cybersecurity posture – an area of critical need and a top management priority for me over the coming year.

Given that focus over the coming year, I would like to close by sharing an update on our most recent progress in this area where we also face continuing challenges and must continue to do better:

- I was not satisfied with the Department’s results on the cybersecurity sprint this summer, but we have made significant progress since then in implementation of two factor authentication for privileged users – one of the most important steps we can take to strengthen our cybersecurity. We have moved from a rate of 11% compliance for two-factor authentication of all privileged users at the conclusion of the cybersecurity sprint to an overall compliance rate of 95% as of January 31, 2016. While we have achieved 100% compliance with two-factor authentication for privileged users in both the EDUCATE and VDC environments, we continue to work aggressively with a single external vendor to accelerate implementation of two-factor authentication for the remaining privileged users at that vendor, and project to achieve 100% overall compliance during March 2016.
- I have directed the team to undertake a focused and disciplined approach to systemically resolving – and addressing the root causes behind – any cybersecurity related findings from both our 2015 FISMA Audit and the 2015 Financial Statement Audit. Our goal is to reduce our overall number of findings for the FY 2016 audit cycle and have a significant impact on repeat findings.
- I have directed our team to work closely with third party partners of Federal Student Aid (FSA) such as guaranty agencies (GAs) and institutions of higher education (IHEs) to strengthen their cyber security postures. For GAs, FSA has required GAs to complete a self-assessment regarding compliance with applicable National Institute of Standards and Technology (NIST) standards, required corrective action and management plans as appropriate to address identified deficiencies, and is now tracking progress on those plans to completion. For IHEs, the Department has issued further guidance around the need to comply with applicable standards and developed a robust technical assistance program to help institutions accelerate progress.

- I have also directed the team to take additional steps to increase end user cybersecurity awareness, to strengthen our incident response capabilities, and continue to build the capacity of our internal team through hiring of additional highly qualified professionals with cybersecurity expertise who can assist us in continuing to implement best practices and improving the Department's cybersecurity program.

While significant challenges remain and we have much work to do in this area, I have set the expectation for my team that through these activities and ongoing engagement from me and my leadership team, the agency must see continued progress in this area during 2016.

Thank you for the opportunity to testify and I look forward to answering any questions you may have.