

Questions for the Record
“Nominations”
Hearing Date: November 15, 2017

Brigadier General Mitchell Zais, USA (Ret.), of Columbia, SC, nominated to be Deputy Secretary,
Department of Education

Questions for the Record from Senator Elizabeth Warren

1. After your distinguished career of military service, you were the President of Newberry College, a small religious college in South Carolina, for 10 years. During your time at Newberry College, you helped double the school’s enrollment and by all accounts, you were a good leader at Newberry.

a. While you were at Newberry College, did the school spend more money on instruction – teaching and learning – or marketing and recruitment?

Speaking only for my tenure, Newberry College spent more on teaching and learning than on marketing and recruitment.

b. What was the three-year cohort default for Newberry’s graduates who borrowed federal student loans when you left the college?

The three-year cohort default for borrowers who entered repayment in 2010 is 13.3 percent.

c. What was Newberry’s federal graduation rate when you left the college?

In 2010, Newberry College’s IPEDS graduation rate was 48 percent. This reflects first-time, full-time students who enrolled in 2004 and graduated with 150 percent of normal time to completion.

d. To your knowledge, was Newberry ever under federal or state investigation for defrauding students?

No.

e. To your knowledge, did the school ever force students to give up their legal rights by making them sign shady enrollment agreements that required students to go through arbitration if the school ever broke the law?

No.

f. Is Newberry College somewhere you would have been proud to send your own kids or grandchildren, if that’s where they wanted to go?

Absolutely. My daughter-in-law, a teacher at an inner-city, public charter school, is a graduate of Newberry College's excellent education program.

2. Unfortunately, Newberry College's good record isn't replicated at all colleges. I'm very concerned about predatory and poorly performing for-profit colleges that:
 - a. spend more money on marketing and recruitment than they spend on instruction;
 - b. enroll less than 10% of students, but are responsible for nearly a third of all student loan defaults;
 - c. are regularly under investigation by state and federal authorities for defrauding students;
 - d. pay their executives millions of dollars a year while counting on federal taxpayer dollars for nearly all their income;
 - e. force their students to sign away their legal rights through forced arbitration agreements; and,
 - f. according to a new Century Foundation report¹, are responsible for 98.6% of all borrower defense fraud claims from students who allege their school defrauded them.

Given this information, do you believe that the Department of Education ("the Department") should do more or less to hold for-profit colleges accountable for delivering a good, affordable education for their students?

All institutions of higher education should be held to the highest standards of quality regardless of sector. We should ensure the availability of affordable and accessible education for all students so they may select the pathway that best fits their needs.

3. If you believe the Department should do more, then what actions do you believe the Department could take to hold for-profit colleges more accountable for delivering a good, affordable education for their students, which will help students get jobs in their field?

All institutions of higher education should be held to the highest standards of quality regardless of sector. We should ensure the availability of affordable and accessible education for all students ensuring their opportunity so they may select the pathway that best fits their needs.

4. Do you believe the Department of Education should seek to cut off Title IV dollars to schools that clearly aren't serving their students and veterans?

It would be inappropriate for me to speak to potential Departmental policy determinations at this time. If confirmed, I would want to engage in a thorough and thoughtful review of any situations that arise, consult the appropriate offices within the Department, and render an opinion at that time with all the facts before me.

¹ <https://tcf.org/content/report/college-complaints-unmasked/>

5. What are some of your specific ideas and plans for increasing higher education accountability at the Department?

If I am confirmed, I will work with the appropriate offices within the Department to ensure I have the breadth of information necessary to make such recommendations to the Secretary should she request my advice on these matters.

6. If confirmed, what would you do to strengthen accountability for colleges that break the law?

If I am confirmed, I will work with the appropriate offices within the Department to ensure I have the breadth of information necessary to make such recommendations to the Secretary should she request my advice on these matters.

7. Will you use your position to ensure that the Department investigates fraud when it arises?

Like the Secretary, I believe any fraud is unacceptable. I will work with the Secretary to ensure all of the laws and regulations governing the programs under the Department's purview are implemented with integrity and will hold those who fail to do so accountable.

8. Will you use your position to ensure that if state Attorneys General or other federal agencies find evidence of fraud, the Department will seriously consider that evidence and, when appropriate, open investigations based on such evidence?

If I am confirmed, I will work with Department officials, including officials from the Office of Inspector General (honoring their independence), working in coordination with the Department of Justice as needed, to make sure that allegations of frauds are seriously considered and investigations conducted when appropriate.

9. Do you believe that federal taxpayer dollars in higher education should come with strings attached?

I fully understand that all dollars come with some level of, as you say, "strings attached." If confirmed, I will work diligently to ensure the Department manages its fiduciary responsibilities.

10. What do you think the Department (not Congress) can do to help make college more affordable?

College affordability is an important issue facing students and families across the Nation. However, it would be inappropriate for me to put forward specific ideas for the Department before such time as I may be honored with confirmation. If confirmed, I look forward to working with Department on this issue.

11. What do you think the Department (not Congress) can do to help address student loan debt?

As with the previous question, this is an important issue student and families are facing across the nation. However, it would be inappropriate for me to put forward statements that will be associated with the Department of Education before such time as I am potentially honored with confirmation. I agree that student loan debt is a concern, and should I be confirmed, I look forward to working with Department officials on this issue.

12. What do you think the Department (not Congress) can do to hold college accreditors more accountable for ensuring quality in higher education?

As with the previous question, it would be inappropriate for me to put forward statements that will be associated with the Department of Education before such time as I may be honored with confirmation.

13. What do you think the Department can do to better protect student veterans?

Veterans' issues are near and dear to my heart. I have spent a career serving alongside, protecting, and leading young men and women in the military. Should I be confirmed, I would bring this valuable experience and perspective to the Department of Education. However, it would be inappropriate for me to put forward statements that will be associated with the Department of Education before such time I may be honored with confirmation. If confirmed, I look forward to working with Department officials on this issue.

14. What do you think the Department can do to protect students from colleges with abysmal graduation rates, low loan repayment rates, and incredibly high default rates?

As previously stated, it would be inappropriate for me to put forward statements that will be associated with the Department of Education before such time I may be honored with confirmation.

15. Do you believe the Department has a responsibility to ensure that Title IV institutions of higher education provide a good education for students that will not leave them drowning in debt for useless degrees?

As the Secretary has stated, students are her first priority, and should have multiple pathways to pursue postsecondary education. Should I be confirmed, I will aggressively adhere to that mission.

16. Describe your view on the Department's responsibilities when it comes to the use of taxpayer dollars, including dollars distributed under Title IV of the Higher Education Act?

It would be inappropriate for me to put forward statements that will be associated with the Department of Education before such time I may be honored with confirmation. However, if confirmed, I will work diligently to ensure the Department manages its fiduciary responsibilities.

17. Based on what you know in the public record, how would you evaluate how the previous Administration handled Corinthian and ITT Technical Institute?

It would be inappropriate for me, as a private citizen seeking the honor of confirmation for a public position, to enunciate a personal judgment on previous administrations' decisions, particularly since I do not have all of the facts.

18. What penalties do you believe are appropriate for an institution of higher education that is deliberately misleading students with inaccurate statistics, inaccurate job placement rates, or false marketing?

If confirmed, I will work with Department officials, including officials from the Office of Federal Student Aid, the Office of the General Counsel, the Office of Postsecondary Education and the Department's Office of Inspector General (honoring their independence), working in coordination with the Department of Justice when appropriate, to make sure that allegations of deliberately misleading students with inaccurate statistics, inaccurate job placement rates, or false marketing are seriously considered and that appropriate enforcement and corrective actions to address these matters are taken.

19. Do you believe that the Higher Education Act provides defrauded students the right to have their *entire* federal student loan discharged?

It is my understanding that section 455(h) of the Higher Education Act of 1965 (HEA) instructs the Secretary to "specify in regulations which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan." The regulations adopted during the 1990's provide that if a borrower's "defense against repayment is successful; the Secretary notifies the borrower that the borrower is relieved of the obligation to repay all or part of the loan." The regulations adopted by the prior Administration provided that "[a] borrower may be granted full, partial, or no relief." So the HEA does not guarantee a right to have the entire loan discharged and, to my knowledge, no prior Administration has interpreted it to do so.

20. Please discuss your views on the role of Congress in conducting oversight of the Department of Education.

I appreciate and respect the oversight responsibilities of members of Congress and this committee. If confirmed, I will in my role work with the Office of Legislation and Congressional Affairs to be as responsive as possible to all Congressional inquiries in a timely and thoughtful way.

If you have any questions, then please contact Josh Delaney in my office at (202) 224 – 4543.