

United States Senate

August 22, 2018

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Grassley:

I write today to request all records be made public regarding Judge Kavanaugh's role in promoting private school vouchers and in other education policy issues. Judge Kavanaugh's experience, views, and efforts on these critical topics will have ramifications for our nation's schoolchildren and families for generations if he is confirmed to the Supreme Court. I am deeply concerned that Judge Kavanaugh's nomination is moving forward without public access to Judge's Kavanaugh's full record. As a member of the Senate Health, Education, Labor, and Pensions Committee and a lifelong advocate for public schools, ensuring the public has access to Justice Kavanaugh's full record, including these documents, is critical to my ability to fulfill my constitutional obligation to consider a Supreme Court nominee.

The few documents available at this time strongly suggest that Judge Kavanaugh would be a rubber stamp for President Trump and Secretary DeVos's school privatization agenda. According to press reports, Judge Kavanaugh helped defend Florida's private school voucher program for a reduced fee on behalf of Governor Jeb Bush in *Bush v. Holmes*.¹ In addition, Judge Kavanaugh has made statements lauding Justice Rehnquist for paving the way for the Supreme Court's critical decision in *Zelman v. Simmons-Harris*, which upheld private school vouchers.²

Congress has rejected private school vouchers in many forms, most notably during the 2015 reauthorization of the Elementary and Secondary Education Act. Private school vouchers take money away from public schools, making it harder for schools to fund programs that communities want and children deserve, such as academic programming and mental health supports. Private school vouchers are also often inaccessible to students in rural areas where there are no or very few private schools, students with disabilities, and students whose parents cannot afford to pay the difference in cost between the voucher and private school tuition. Finally, private school voucher programs can discriminate against students, including students

¹ http://blogs.edweek.org/edweek/school_law/2018/07/kavanaugh_has_supported_of_pub.html

² <https://www.aei.org/wp-content/uploads/2017/12/From-the-Bench.pdf>

with disabilities or students who are LGBTQ or have parents who are LGBTQ, in admissions, disciplinary policies, and services provided.³

A Supreme Court justice with a lifetime appointment could determine the course of our public education system, which educates 90 percent of children in the United States, for years to come. In order to understand Judge Kavanaugh's role in promoting private school vouchers, I respectfully request that you make public all documents relating to public education, private schools, separation of church and state, and private school vouchers as soon as possible, before any subsequent action by the U.S. Senate.

With every good wish,



Margaret Wood Hassan
United States Senator

³ <http://www.gao.gov/products/GAO-16-712>.