

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

ORRIN G. HATCH, UTAH
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN SASSE, NEBRASKA
JEFF FLAKE, ARIZONA
MIKE CRAPO, IDAHO
THOM TILLIS, NORTH CAROLINA
JOHN KENNEDY, LOUISIANA

DIANNE FEINSTEIN, CALIFORNIA
PATRICK J. LEAHY, VERMONT
RICHARD J. DURBIN, ILLINOIS
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE HIRONO, HAWAII
CORY A. BOOKER, NEW JERSEY
KAMALA D. HARRIS, CALIFORNIA

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
JENNIFER DUCK, *Democratic Chief Counsel and Staff Director*

August 24, 2018

The Honorable Maggie Hassan
United States Senate
330 Hart Senate Office Building
Washington, DC 20510

Dear Senator Hassan:

I have received your August 22 letter requesting that “all records be made public regarding Judge Kavanaugh’s role in promoting private school vouchers and in other education policy issues.” I write to address that request.

The Committee has received to date more than 408,000 pages of records from Judge Kavanaugh’s service as a White House lawyer, as well as more than 22,000 pages of records from Judge Kavanaugh’s time in the Office of the Independent Counsel. You may recall that, during the nominations of Justices Kagan and Gorsuch, the Committee received on a Committee Confidential basis documents containing material restricted from public access by the Presidential Records Act (PRA) and Freedom of Information Act (FOIA). Then-Chairman Leahy explained that he agreed to receive documents on a Committee Confidential basis “to permit the committee prompt access to them.”

I am following that precedent here. In order to permit the Committee to begin reviewing Judge Kavanaugh’s record as quickly as possible, President Bush’s representatives have been producing to the Committee documents that contain PRA-restricted and FOIA-exempted material—including sensitive, confidential advice given to the President as well as personal privacy information like Social Security numbers and bank account numbers. I have agreed to receive these documents on a Committee Confidential basis in order to prevent the public exposure of this information. My doing so has given the Committee access to more than 430,000 pages of records since the Committee first requested records on July 27—an unprecedented pace of production.

But these documents do not remain Committee Confidential forever. While the Committee begins its review of the documents, President Bush’s representatives undertake a second review to identify PRA-restricted and FOIA-exempted material. If the documents do not contain such material, we quickly release the documents to the public. We thus end up in exactly the same place as we did with Justices Kagan and Gorsuch: Material restricted by the PRA or FOIA is held Committee Confidential, while non-restricted material is released to the public. To date, President Bush’s representatives have authorized the release of more than 182,000 pages of White House records, in addition to the more than 20,000 pages of records from the Office of the Independent Counsel released to the public from the National Archives and Records Administration (NARA).

That's the most pages of Executive Branch material ever made available for any Supreme Court nominee in the history of the Senate. And I expect more public releases of White House documents in the coming days.

Notwithstanding that the documents maintained as Committee Confidential may contain sensitive information that the law precludes from public disclosure, you have nevertheless requested that I make all education-related documents publicly available. Of course, you are free to search the more than 202,000 pages already available to the public. And I have repeatedly stated that, consistent with sRule 26.10a of the Standing Rules of the Senate, I am happy to provide any Member of the Senate with access to every Committee Confidential document we have received to date. You are free to search all of those documents for information on Judge Kavanaugh's views on education policy issues. Any Member who wishes to access those documents need only contact my staffer at Andrew.Ferguson@judiciary-rep.senate.gov to schedule a time to access those documents in the Committee front office. My staff is available anytime (24/7). I have computer terminals set up and the documents are searchable. My staff can help you run searches. You are welcomed to take notes.

As a Member of the Senate, you are welcomed and encouraged to search all of the documents this Committee has received from Judge Kavanaugh's time in the White House Counsel's Office for information on any topic of interest to you—including "Judge Kavanaugh's role in promoting private school vouchers and in other education policy issues." I encourage you to read the 307 judicial opinions that Judge Kavanaugh authored and the hundreds more he joined during his twelve years of service on the D.C. Circuit, considered by many to be the second highest court in the country. These amount to more than 10,000 pages of judicial writings publicly available right now. Moreover, I encourage you to read the more than 17,000 pages of speeches, articles, and other materials that Judge Kavanaugh submitted with his 120-page response to the most robust Senate Judiciary Committee Questionnaire ever issued to a Supreme Court nominee. These materials are publicly available right now on the Senate Judiciary Committee's website. So are many letters supporting Judge Kavanaugh's confirmation, including from his former law clerks, law students, classmates, and colleagues, along with parents of the Catholic Youth Association athletes he coaches, state governors, state attorneys general, state representatives, an association representing 17,000 African-American farmers, and many others who know Judge Kavanaugh. The Committee's website also includes more than 202,000 pages of emails and other records from Judge Kavanaugh's legal service in the White House Counsel's Office and the Office of the Independent Counsel. I have instructed my staff to make available to any Senator, any time (24/7), the remaining approximately 228,000 pages of currently nonpublic records produced to the Committee.

Sincerely,



Chuck Grassley
Chairman