

# Education Department puts hold on 5-day suspension of employee who provided The Post with budget information

*Valerie Strauss*

The Education Department has placed an indefinite hold on the five-day suspension of a budget analyst who provided information to The Washington Post about the Trump administration's 2018 budget proposal before it was released, her attorney said. The agency accused the employee of "conduct unbecoming a federal employee," but her attorney described her as a whistleblower whose efforts to expose mismanagement are protected by federal law.

Rebecca Delaney, an analyst in the Education Department's Office of Finance and Operations since 2016, received a letter dated Nov. 15 from an agency official saying the suspension would be delayed "until further notice."

Delaney and her attorney, Cathy Harris, had sought a stay of the suspension while the U.S. Office of Special Counsel, an independent federal investigative and prosecutorial agency, reviews the case at their request. A letter to that office from Harris said Delaney provided the information to The Post "because she reasonably believed that the information in the budget was inaccurate, misleading and constituted gross mismanagement."

The special counsel's office agreed to investigate the case and asked the Education Department to issue a hold on the suspension, which was granted the work day before it was to begin, Harris said.

Delaney learned in an Aug. 30 letter from the director of the Education Department's budget office that she was being punished for "conduct unbecoming a federal employee and lack of candor." The letter said Delaney knew the data was "subject to an embargo" and that it is "uncouth or unprofessional" to violate the embargo. It also said that the leak of information had "a ripple effect throughout the agency" and that the "reputation of [the budget office] and its trustworthiness was tarnished." And it said that Delaney suggested when initially asked that the information may have been leaked from her computer. Her "lack of candor was intentional ... to protect yourself from ostracization," the letter said.

Harris said the department "never should have decided to suspend" Delaney, but that she and Delaney are "gratified" the department placed a hold on the suspension. "We are thankful to the U.S. Office of Special Counsel, who sought the stay while it continues to investigate our whistleblower retaliation complaint," she said. "Government employees in all areas of the government must feel supported, not threatened, when they take heroic steps to uncover fraud and gross mismanagement within their ranks."

Harris said she "is confident the suspension will eventually be overturned in its entirety as retaliation for protected whistleblowing."

Delaney declined to comment.

The Department of Education declined to comment.

Zachary Kurz, spokesman for the Office of Special Counsel, said the agency could not comment on specific cases. Asked about when the investigation would be completed, he said: “The timeline for any investigation varies from case to case depending on numerous factors, such as the scope of the investigation, how cooperative the agency is, whether [the Office of Special Counsel] needs to obtain and review documents, etc. If [the Office of Special Counsel] is unable to negotiate with the agency and files with MSPB [Merit Systems Protection Board] seeking corrective action, that could also delay the outcome.”

In June 2018, Delaney acknowledged to the department she had provided information to The Post from the Trump administration’s 2018 budget proposal a few days before it was released in 2017.

The proposal included cutting in half funding for college work-study programs, ending public-service loan forgiveness and cutting hundreds of millions of dollars that public schools could use for mental health, advanced coursework and other services. The savings would be spent on expanding school “choice” programs, the top education priority of President Trump and Education Secretary Betsy DeVos. The first article with the information was published [May 17, 2017](#), and another article with further details was published the next day.

Harris said Delaney released the information to expose fraud and mismanagement. In its budget proposal, the administration provided the rationale for taking each step, but Delaney said some of the information was false and could harm the country’s neediest students. She said she had warned officials internally that some of the language was wrong, but it wound up in the proposal, anyway.

The budget proposal repeatedly called for eliminating or cutting funds for programs meant to support needy students even while saying they would not be harmed. For example, the budget proposal said:

The President’s Budget Request would refocus the Department’s mission on supporting States, school districts, and postsecondary institutions in their efforts to provide a high-quality education to all our students. The 2018 President’s Budget would provide robust funding for the President’s top priority of ensuring that every child has the opportunity to attend a high-quality school selected by his or her parents, maintain strong support for the Nation’s most vulnerable students, simplify funding for college, continue to build evidence around educational innovation, and streamline Department programs consistent with a limited Federal role in education.

The budget proposal says it would maintain strong support for the most vulnerable students, but many of the programs recommended for elimination, such as the 21st Century Community Learning Centers and Supplemental Educational Opportunity Grants, aimed to help those students.

Another example involves the cost of education. The budget proposal said:

The President’s commitment to improving education grew out of his conviction that for too long our education system has tolerated an unacceptable achievement gap between disadvantaged and minority students and their more privileged peers. It is clear that top-down, Washington-directed education reform has not worked, despite discretionary spending quadrupling at the Department of Education from fiscal year 1989 to fiscal year 2016, rising from \$17.1 billion to \$68.3 billion.

The numbers are misleading, taking into account inflation and population growth. What was \$17.1 billion in 1989 is equivalent to \$31.4 billion in 2017 dollars, so the \$68.2 billion spent in 2017 was a little more than double. In addition, there were 63.5 million children in the United States in 1989, compared with about 74 million today.

The budget proposal said the following about the Pell Grant proposal, which provides federally funded grants to low-income higher-education students:

Safeguarding and strengthening the Pell Grant program by level funding the discretionary appropriation and supporting year-round Pell, which will increase aid available by \$16.3 billion over 10 years. The Budget also proposes the cancellation of \$3.9 billion from unobligated carry-over funding; this cancellation will have no effect on students and will leave the Pell program on sound footing.

Actually, canceling that \$3.9 billion from carry-over funding could harm students and the Pell Grant program.

According to department employees, who spoke on the condition of anonymity because they are not permitted to discuss agency affairs, DeVos was furious when the Post articles were published. They said because DeVos believed the leak came from the budget office, she planned to split up that centralized office during a major reorganization of the Education Department and reassign some personnel. Congress learned of the plan, and appropriators included a clause in the 2018 and 2019 spending laws prohibiting the department from altering the structure or function of the budget service.

In 2018, DeVos asked her department's Office of Inspector General whether grounds existed to prosecute employees who leaked budget data to The Post and unclassified information to Politico. [An internal department report](#) said it would be difficult, because the agency has little written policy or guidance on how employees are supposed to handle information. It recommended implementing policies and training to make it easier to punish future leakers. But it also said in a footnote that any new policies should "take into consideration whistleblower rights and protections," because there "may be times when what may be viewed as a 'leak' or an unauthorized release of nonpublic information could involve a protected disclosure."

The federal [Whistleblower Protection Program](#) protects employees who suffer retaliation for engaging in protected activities, using more than applicable 20 federal laws.

Whistleblower and retaliation complaints jumped 775 percent from fiscal year 2016 to 2018, [according to the 2020 budget request](#) from the Education Department's Office of Inspector General.