

June 16, 2021

The Honorable Richard J. Durbin  
Chairman, Committee on the Judiciary  
United States Senate  
711 Hart Senate Office Building  
Washington, DC 20510

The Honorable Charles E. Grassley  
Ranking Member, Committee on the Judiciary  
United States Senate  
135 Hart Senate Office Building  
Washington, DC 20510

Dear Senators Durbin and Grassley:

We write to attest that Christopher H. Schroeder is extremely well-qualified to be Assistant Attorney General for the Office of Legal Counsel, and we urge his speedy confirmation. We are a diverse group that includes academics and practitioners who know Chris from a variety of settings, including academic and professional collaborations, time together working at the Department of Justice and experience together in the United State Senate. We recognize and value the important role that the Office of Legal Counsel plays in upholding the rule of law within the executive branch.

Chris Schroeder, the Charles S. Murphy Professor Emeritus at Duke University School of Law, is an accomplished and leading legal scholar. He is an academic in the best sense. He is not a rigid, dogmatic ideologue. Rather, he has always engaged with and learned from a wide range of views. Over the years, he has run academic programs, such as Duke's Program in Public Law, and convened innumerable conferences, which consistently were inclusive of a diversity of academic and ideological perspectives. Moreover, these programs have sought to engage the academy with practical, real-world issues of law and government.

He is also a dedicated public servant. If confirmed, he would be returning to lead an office in which he worked from 1993-97, as counselor, deputy assistant attorney general and acting assistant attorney general. Subsequently he served as Assistant Attorney General for the Office of Legal Policy in the Department of Justice, and prior to that as chief counsel for the Senate Committee on the Judiciary.

As set forth in the Office's 2010 Memorandum, "Best Practices for OLC Legal Advice and Written Opinions," the function of the Office of Legal Counsel is to provide "candid, independent, and principled advice" to the Attorney General and the President, "even when that advice is inconsistent with the aims of policymakers." There can be no doubt that Chris Schroeder is eminently qualified to do the often complex and difficult legal analysis that the job requires.

A recurring concern regarding OLC is whether it can live up to its commitment to providing principled advice or whether it will end up crafting fig-leaf rationalizations for the President's political objectives. We believe that Professor Schroeder's academic career, which is committed to inquiry over ideology, offers a solid foundation for concluding that he would uphold the best traditions of the office. But there is no need for speculation. Many of us worked with him during his earlier period of service in the Office of Legal Counsel and we can attest that he never

lost sight of, or commitment to, the rule of law. At every turn, he was guided by the law and not by the political or policy preferences of the Administration. None of us is aware of any OLC opinion or other work product that would undermine our view of how Chris Schroeder would lead the Office.

We urge the Senate to confirm Christopher H. Schroeder as expeditiously as possible.

Sincerely,\*

Matthew Adler

Richard A. Horvitz Professor of Law and Professor of Economics, Philosophy and Public Policy  
Duke University School of Law

Stuart M. Benjamin

Douglas B. Maggs Professor of Law  
Duke University School of Law  
Attorney Advisor, Office of Legal Counsel, 1992-1995

Joseph Blocher

Lanty L. Smith '67 Professor, Duke University School of Law

Curtis A. Bradley

William Van Alstyne Professor of Law and Professor of Public Policy Studies  
Duke University School of Law

Guy-Uriel Charles

Edward and Ellen Schwarzman Professor of Law  
Duke University School of Law

Walter E. Dellinger III

Douglas B. Maggs Professor Emeritus, Duke University School of Law  
Acting Solicitor General, 1996-1997  
Assistant Attorney General, Office of Legal Counsel, 1993-1996

Michael R. Dreeben

Assistant to the Solicitor General, 1988-1995  
Deputy Solicitor General, 1995-2019

Daniel A. Farber

Sho Sato Professor of Law, University of California, Berkeley School of Law

---

\* Please note that institutional affiliations are listed for identification purposes only and nothing in this letter is meant to express the views of any institution or person other than the individual signatories.

Paul J. Fishman  
Associate Deputy Attorney General, 1995-1997  
United States Attorney for the District of New Jersey, 2009-2017

Michael J. Gerhardt  
Burton Craige Distinguished Professor of Jurisprudence  
University of North Carolina School of Law

Jamie Gorelick  
Deputy Attorney General, 1994-1997

Neil Kinkopf  
Professor, Georgia State University College of Law  
Special Assistant, Office of Legal Counsel, 1993-1997  
Senior Counselor, Office of Legal Policy, 2009-2010

Margaret H. Lemos  
Robert G. Seaks LL.B. '34 Professor of Law  
Senior Associate Dean for Faculty & Research  
Duke University School of Law

Marin K. Levy  
Professor, Duke University School of Law

William P. Marshall  
William Rand Kenan Distinguished Professor of Law  
University of North Carolina School of Law

Thomas O. McGarity  
William Powers, Jr. and Kim L. Heilbrun Chair in Tort Law  
University of Texas School of Law

Barbara L. McQuade  
Professor, University of Michigan Law School  
United States Attorney for the Eastern District of Michigan, 2010-2017

Darrell A.H. Miller  
Melvin G. Shimm Professor, Duke University School of Law

Martha Minow  
300<sup>th</sup> Anniversary University Professor, Harvard Law School

H. Jefferson Powell  
Professor, Duke University School of Law  
Deputy Assistant Attorney General, Office of Legal Counsel, 1993-2000; 2011-2012  
Principal Deputy Solicitor General 1996

Richard L. Revesz  
AnBryce Professor of Law  
New York University Law School

Teresa Wynn Roseborough  
Deputy Assistant Attorney General, Office of Legal Counsel, 1994-1996

Virginia A. Seitz  
Assistant Attorney General, Office of Legal Counsel, 2011-2013

Peter M. Shane  
Jacob E. Davis and Jacob E. Davis II Chair in Law,  
Ohio State University, Moritz College of Law

Neil Siegel  
David W. Ichel Professor of Law and Professor of Political Science  
Duke University School of Law

David A. Strauss  
Gerald Ratner Distinguished Service Professor  
University of Chicago Law School

Laurence H. Tribe  
Carl M. Loeb University Professor Emeritus, Harvard Law School

Donald B. Verrilli, Jr.  
Solicitor General, 2011-2016

Seth P. Waxman  
Solicitor General, 1997-2001

Keith E. Whittington  
William Nelson Cromwell Professor of Politics  
Princeton University

Sally Q. Yates  
Acting Attorney general 2017  
Deputy Attorney General, 2015-2017

Ernest A. Young  
Alston & Bird Professor, Duke University School of Law