

United States Senate

WASHINGTON, DC 20510

March 7, 2019

The Honorable Gene Dodaro
Comptroller General
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Dodaro:

We write to ask the GAO for a review of the effects of non-competition (or non-compete) agreements on workers and on the economy as a whole. Non-competes are provisions in employment contracts that seek to restrict an employee's ability to work for competing firms, often by prohibiting employees from working in the same industry or geographic area as an employer long after they actually worked for that employer. Employers use non-competes to protect trade secrets, reduce turnover, impose costs on competitors, and protect investments in employee training. However, we are concerned that the use of non-compete agreements on a large scale could slow economic and wage growth, reduce productivity and competition in labor markets, and create significant barriers to entrepreneurship and innovation.

In recent years, the wide use of non-competes has spread from highly technical fields into less technical and lower wage work, where they might reduce wage and benefit competition among employers and restrict employees' upward mobility -- for no good reason. One recent study found that 12% of workers earning less than \$20,000, and 15% of workers earning between \$20,000 and \$40,000, are subject to non-compete agreements.¹ While these agreements are unenforceable in a few states, they may nonetheless deter employees from seeking new opportunities. Other evidence suggests that few workers engage in genuine negotiation over these agreements, and most working under a non-compete were not even asked to sign one until after receiving a job offer.²

Academic experts and commentators from across the political spectrum have raised serious concerns about the use and abuse of these clauses,³ and members of Congress in both parties have introduced legislation to reform them.⁴ At the same time, this discussion would benefit from more information regarding the prevalence of such contracts, in both low-wage and high-wage occupations, and their actual effects on employees, firms, and the economy.

¹ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2625714

² <https://journals.sagepub.com/doi/abs/10.1177/0003122411414822>

³ <https://www.nationalreview.com/2017/09/workplace-non-compete-clause-reforms-increase-labor-market-competition-help-workers/>; <https://www.nytimes.com/2017/05/22/opinion/american-workers-noncompete-agreements.html>; <https://www.economist.com/leaders/2018/05/19/the-case-against-non-compete-clauses>

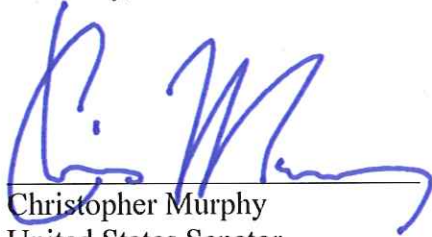
⁴ <https://www.murphy.senate.gov/newsroom/press-releases/murphy-warren-wyden-introduce-bill-to-ban-unnecessary-and-harmful-non-compete-agreements>; <https://www.rubio.senate.gov/public/index.cfm/2019/1/rubio-introduces-bill-to-protect-low-wage-workers-from-non-compete-agreements>

Accordingly, we are requesting that GAO review the available research on the use of these agreements and the impact of non-compete contracts on the nation's workforce. Specifically, we would like GAO to assess:

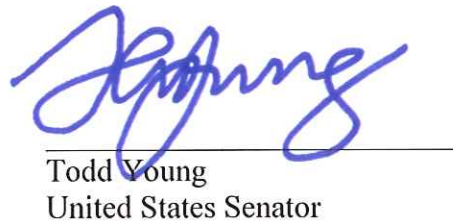
- 1) What is known about the prevalence of non-compete agreements in particular fields, including low-wage occupations?
- 2) What is known about the effects of non-compete agreements on the workforce and the economy, including employment, wages and benefits, innovation, and entrepreneurship?
- 3) What steps have selected states taken to limit the use of these agreements, and what is known about the effect these actions have had on employees and employers?

Should you have any questions about this request, please do not hesitate to contact our staff.

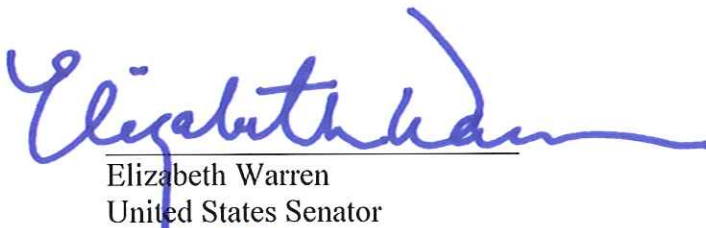
Sincerely,



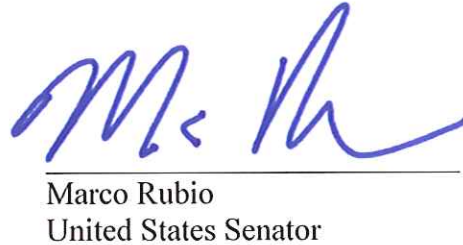
Christopher Murphy
United States Senator



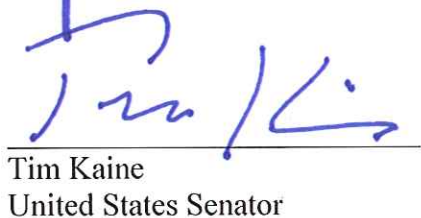
Todd Young
United States Senator



Elizabeth Warren
United States Senator



Marco Rubio
United States Senator



Tim Kaine
United States Senator



Ron Wyden
United States Senator