

Congress of the United States
Washington, DC 20515

September 1, 2021

The Honorable Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Ave. SW
Washington, DC 20202

Dear Secretary Cardona:

Your decision to weaponize the Department of Education's Office of Civil Rights to target states that have chosen to ban school mask mandates is misguided and an improper use of federal resources. The Department of Education's Office of Civil Rights must not be used as a political weapon to single out states that have enacted policies with which the Biden administration disagrees. The Department's Office of Civil Rights is tasked with the mission of ensuring equal access to education for all students and should not be used to target masking policies that have been enacted at the state and local level.

On Sunday, August 22nd, you appeared on NBC's *Meet the Press* with Chuck Todd to discuss the issue of mask mandates in schools as students prepare to return to the classroom and in-person learning this fall. During your appearance on *Meet the Press*, you stated that the Office of Civil Rights at the Department of Education was "prepared to launch investigations...to ensure that all students have access to the fundamental right of education" and would target state and local governments that have prohibited school districts from enforcing mask mandates.¹ A week after you issued your threat on *Meet the Press*, the Office of Civil Rights opened investigations into Iowa, South Carolina, Utah, Oklahoma, and Tennessee's policies barring local school districts from mandating masks.² Your effort to interfere with state and local policy determinations on how to return students to in-person instruction this fall is inappropriate and will not be tolerated.

In an interview with *The New York Times*, you also offered an absurd interpretation of civil rights law to support your decision to use the Office of Civil Rights to investigate states that have prohibited mask mandates in schools. In the interview, you stated that "I've heard those parents saying, 'Miguel, because of these policies, my child cannot access their school, I would be putting them in harm's way,'...And to me, that goes against the fundamental beliefs of educators across the country to protect their students and provide a well-rounded education."³ To argue that permitting unmasked children in the classroom is a deprivation of access for others, and that specific deprivation of access is a civil rights violation, makes a mockery of legitimate civil rights violations that rightly deserve to be investigated and prosecuted. It cannot be that providing parents with the freedom to choose whether their child wears a mask in school

¹ Full Ed. Sec. Interview: 'We know what works best' for students to return to the classroom, NBC Meet the Press, (Aug. 22, 2021), <https://www.nbcnews.com/meet-the-press/video/full-ed-sec-interview-we-know-what-works-best-for-students-to-return-to-the-classroom-119220805809>.

² Laura Meckler, *Biden administration opens civil rights investigations over bans on school mask mandates*, Wash. Post, Aug. 30, 2021, <https://www.washingtonpost.com/education/2021/08/30/biden-school-masks-investigation-state/>.

³ Sheryl Gay Stolberg and Erica L. Green, *The Biden administration will use a federal civil rights office to deter states from banning universal masking in classrooms*, N.Y. Times, Aug. 18, 2021, <https://www.nytimes.com/2021/08/18/us/politics/biden-masks-schools-civil-rights.html>.

represents a civil rights violation for other students. If this logic was accepted, a universal mask mandate for schools in all 50 states would be necessary. The argument you have advanced is without merit and cannot be used to justify an intrusion by the federal government into state and local decision-making in determining how to return students safely to in-person instruction.

State and local governments across the country have worked tirelessly to implement safety measures to return students to in-person instruction this fall. Any attempt by the Department of Education or President Biden's administration to interfere in this process is inappropriate and will not be tolerated.

Sincerely,



Andy Biggs
Member of Congress



Scott Perry
Member of Congress



Diana Harshbarger
Member of Congress



Jeff Duncan
Member of Congress



Andy Harris, M.D.
Member of Congress



Debbie Lesko
Member of Congress



Ralph Norman
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Dan Bishop
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