

Congress of the United States
Washington, DC 20515

November 16, 2021

The Honorable Miguel A. Cardona, EdD
Secretary
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202

Dear Secretary Cardona:

We are continuing to investigate the troubling attempts by the Biden Administration to use the heavy hand of federal law enforcement to target concerned parents at local school board meetings and chill their protected First Amendment activity. On October 1, 2021, you testified in a Senate hearing that parents should not be the “primary stakeholder” in their children’s education.¹ At the time of your statement, the Biden Administration, including the Education Department, was colluding with the National School Boards Association (NSBA) to orchestrate federal law enforcement action against concerned parents.² Accordingly, we respectfully request your assistance with our investigation.

On September 29, 2021, the NSBA sent a letter to President Joe Biden requesting federal intervention to address concerned parents voicing their opinions at school board meetings.³ The NSBA letter asserted that “malice, violence, and threats” against school officials “could be the equivalent of a form of domestic terrorism or hate crimes.”⁴ The letter cited a number of interactions at school board meetings, none of which rose to the level of domestic terrorism. In fact, the vast majority of incidents cited by the NSBA did not involve threats or violence.⁵ Most notably, as an example of domestic terrorism, the NSBA cited an incident in which a father angrily confronted members at a school board meeting in Loudoun County, Virginia, about the heinous sexual assault of his daughter.⁶

¹ *School Reopening During COVID-19: Supporting Students, Educators, and Families: Hearing Before the S. Comm. on Health, Education, Labor, & Pensions*, 117th Cong. (2021) (testimony from Hon. Dr. Miguel Cardona); see also Tyler Stone, *Biden Education Sec. Cardona: Parents shouldn't be “primary stakeholder” in their kids’ education*, POLITICO (Oct. 1, 2021).

² Letter from Viola M. Garcia, EdD, President, Nat’l School Board Assoc. & Mr. Chip Slaven, Esq., Chief Exec. Officer, Nat’l School Board Assoc., to President Joseph R. Biden, White House (Sept. 29, 2021); Email from Viola Garcia (Oct. 2, 2021, 6:59 AM), available at https://defendinged.org/wp-content/uploads/2021/10/Email-Correspondence_NSBA-Letter-to-President-Biden_Redacted.pdf.

³ Letter from Garcia & Slaven, *supra* note 2.

⁴ *Id.*

⁵ See Caroline Downey, *Vast majority of incidents cited by school-board group to justify federal intervention didn’t involve threats*, NAT’L REV. (Oct. 2, 2021).

⁶ *Id.*; see also Jessica Chasmar, *Loudoun County father arrested at school board events says school tried to cover up daughter’s bathroom assault*, FOX NEWS (Oct. 12, 2021).

On October 4, 2021, a mere five days after the NSBA sent its letter to President Biden, Attorney General Merrick Garland issued an unusual memorandum directing the Federal Bureau of Investigation (FBI) and U.S. Attorneys' Offices to address the "disturbing spike in harassment, intimidation, and threats of violence" at school board meetings.⁷ In a press release publicizing the memorandum, the Justice Department indicated its directive would "open dedicated lines of communication for threat reporting, assessment and response by law enforcement"—in other words, a snitch line for complaints about concerned parents.⁸ The press release noted that the Department's National Security Division, the Department component responsible for prosecuting terrorism cases, would be part of a task force "to determine how federal enforcement tools can be used to prosecute these crimes."⁹

Publicly available information shows that the Education Department interacted with the NSBA before the group urged President Biden to target concerned parents in local school board meetings. The NSBA's September 29 letter, signed by the group's President Viola M. Garcia and Interim Executive Director and CEO Chip Slaven, noted that the group had been in discussions with the Biden White House and the Education Department.¹⁰ In addition, in an October 2 email to NSBA board members, released pursuant to open-records laws, NSBA President Garcia wrote that the NSBA had "been engaged with the White House and Department of Education . . . for several weeks now."¹¹ On October 13, shortly after the NSBA's letter and the Attorney General's memorandum, you appointed Dr. Garcia to the National Assessment Governing Board.¹²

On October 21, 2021, Attorney General Garland testified before our Committee. During his testimony, Attorney General Garland acknowledged that he relied upon the NSBA letter as the basis for issuing his memorandum.¹³ He claimed, however, not to know whether the Justice Department had communicated with the NSBA about its letter to President Biden.¹⁴

On October 22, 2021, a day after the Attorney General's testimony, the NSBA Board of Directors, apparently recognizing the consequences of its ill-conceived letter and the resulting Justice Department action, issued a new memorandum to its members apologizing for the letter, stating: "On behalf of NSBA, we regret and apologize for the letter."¹⁵ (emphasis in original). Despite this apology, the Attorney General has yet to rescind his memorandum.

⁷ Memorandum from Atty Gen. Merrick Garland, U.S. Dep't of Justice, Partnership Among Federal, State, Local, Tribal, And Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff (Oct. 4, 2021).

⁸ Press Release, U.S. Dep't of Justice, Justice Department Addresses Violent Threats Against School Officials and Teachers (Oct. 4, 2021).

⁹ *Id.*

¹⁰ Letter from Garcia & Slaven, *supra* note 2.

¹¹ Email from Viola Garcia, *supra* note 2.

¹² Press Release, U.S. Dep't of Education, Five Board Members Appointed to Board Overseeing the Nation's Report Card (Oct. 13, 2021).

¹³ *Oversight of the United States Department of Justice: Hearing Before the H. comm. on the Judiciary*, 117th Cong. at 68 (2021) (testimony from Hon. Merrick Garland, Atty Gen., U.S. Dep't of Justice).

¹⁴ *Id.* at 65.

¹⁵ Memorandum from NSBA Board of Directors, Message to NSBA Members (Oct. 22, 2021).

Concerned parents voicing their strong opposition to controversial curricula at local schools are not domestic terrorists. Parents have an undisputed right to direct the upbringing and education of their children.¹⁶ When parents cross the line to commit a violent act or issue a criminal threat,¹⁷ state and local authorities are best-equipped to handle these violations of state law. We must not tolerate the Biden Administration's collusion with a special interest group to use the federal law enforcement apparatus to intimidate and silence parents. The Education Department's role in this ill-conceived effort to target concerned parents requires immediate congressional attention.

To assist our investigation, we request that you provide the following documents and information:

1. All documents and communications for the period January 20, 2021, to the present referring or relating to the NSBA;
2. All documents and communications for the period January 20, 2021, to the present between or among Department of Education employees or staff and any NSBA officer, Board member, delegate, or staff referring or relating to the September 29, 2021 letter to President Biden or the October 4, 2021, memorandum from Attorney General Garland;
3. All documents and communications for the period January 20, 2021, to the present between or among Department of Education employees or staff and Executive Office of the President employees or staff referring or relating to the September 29, 2021 letter to President Biden or the October 4, 2021, memorandum from Attorney General Garland;
4. All documents and communications for the period January 20, 2021, to the present between or among Department of Education employees or staff and Department of Justice employees or staff referring or relating to the September 29, 2021 letter to President Biden or the October 4, 2021, memorandum from Attorney General Garland;
5. All documents and communications for the period January 20, 2021, to the present regarding Viola Garcia's appointment to the National Assessment Governing Board; and
6. All documents and communications for the period January 20, 2021, to the present between or among Department of Education employees or staff and White House employees or staff regarding Viola Garcia's appointment to the National Assessment Governing Board.

Please provide this material as soon as possible but no later than 5:00 p.m. on November 30, 2021.

¹⁶ *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (citing *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923)).

¹⁷ *Merrick Garland's federal offense*, WALL ST. J. (Oct. 6, 2021).

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If you have any questions about this request, please contact Judiciary Committee staff at (202) 225-6906, or Education and Labor Committee staff at (202) 225-6558. Thank you for your attention to this important matter.

Sincerely,



Jim Jordan
Ranking Member
Committee on the Judiciary



Virginia Foxx
Ranking Member
Committee on Education and Labor

cc: The Honorable Jerrold L. Nadler
Chairman, Committee on the Judiciary

The Honorable Bobby Scott
Chairman, Committee on Education and Labor