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August 18, 2021

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

Dear Secretary Cardona:

You recently wrote to the governors and state commissioners of education in Texas and Florida regarding their states' mask policies in schools. In those letters you implied that the Department of Education (Department) could impose new requirements for the use of American Rescue Plan Elementary and Secondary School Emergency Relief (ARP ESSER) funds that could interfere in state governance of their education systems.

In response, my staff asked for clarification of the intent of those letters. Your staff answered those questions quickly, and I thank you for your Department's responsiveness. However, I would like to confirm with you our shared understanding of the authority you have to intervene in these and other states' decisions so that all federal, state, and local entities have clarity on this subject.

To that end, please respond to the following questions:

1. Are states required, as a condition of state receipt of ARP ESSER funds, to allow school districts to mandate the use of masks?
2. Under both section 2001(i) of the *American Rescue Plan Act of 2021* and also under the Department's interim final requirements for the ARP ESSER funds, local educational agencies are required to make publicly available a plan for the safe return to in-person instruction. Is the Department requiring those plans to include polices mandating the universal wearing of masks in schools?

Given the brevity of these questions, the fact that the answers have already been provided verbally to my staff, and the urgent need for public clarity on these topics, I am requesting a

quick turnaround of these answers. Please provide these answers in writing by close of business **Friday, August 20, 2021**. If you have questions regarding this request, please contact Mandy Schaumburg of my staff at mandy.schaumburg@mail.house.gov. Thank you for your attention to this matter.

Sincerely,



Virginia Foxx
Ranking Member
Committee on Education and Labor