



A Union of Professionals

**In Search of Scapegoats:
The GOP's Failed Scheme to Blame the American Federation of Teachers
for School Closures During the Pandemic**

October 10, 2023

The **American Federation of Teachers** is a union of professionals that champions fairness; democracy; economic opportunity; and high-quality public education, healthcare and public services for our students, their families and our communities. We are committed to advancing these principles through community engagement, organizing, collective bargaining and political activism, and especially through the work our members do.

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Executive Summary

The American Federation of Teachers (“AFT”) has prepared this report on the investigation conducted by the House Select Subcommittee on the Coronavirus Pandemic (“Select Subcommittee”). Although the Select Subcommittee was authorized at the dawn of the 118th Congress to investigate a set of nine worthy and important issues relating to the pandemic, including the societal effects of school closures, its work has devolved and deteriorated into an extended effort by the Select Subcommittee’s Republican-led Majority to demonize and scapegoat educators and their unions – including most notably, the AFT and its president, Randi Weingarten. This report documents that effort, and summarizes the detailed facts that refute the false and incendiary claims that the AFT’s goals were, at any time, anything other than the safe reopening of schools for in-person learning.

The Select Subcommittee Majority has built its false narrative about the AFT and school closures on GOP leadership claims going back more than two years. In 2021, Rep. Steve Scalise alleged that the CDC had amended its school reopening guidance, issued in February 2021, under pressure from the AFT, to ensure that more schools would remain closed for a longer period of time. This allegation was false. Scalise’s claims were embellished and expanded by a March 2022 GOP staff report asserting that the AFT had enjoyed “uncommon access” to a draft of the CDC’s document on school opening in early 2021 because it was a “political union” that supported President Biden and Democratic candidates. This claim of “uncommon access” and inappropriate influence by the AFT over the CDC’s school opening guidance was equally false. And yet these twin claims have remained at the core of the Select Subcommittee’s investigation over the past six months, extending through multiple hearings, broad document requests, and witness interviews. Each step of the investigation has further refuted the claims of “uncommon access” and improper influence by the AFT, but the facts have carried little weight with the Select Subcommittee’s GOP members.

As demonstrated by multiple Select Subcommittee hearings, documents produced by the AFT and other entities, and transcribed interviews of AFT senior staff, the AFT’s access to the CDC’s draft school opening guidance was the opposite of “uncommon” – the guidance was widely shared in draft form with numerous organizations. And several organizations received copies of the CDC’s draft school opening guidance well before the AFT. In addition, the CDC held a forum on the guidance to which the AFT was not invited and well before anyone at the AFT received a copy of the draft guidance. Further, former CDC Director Rochelle Walensky stated on multiple occasions that the CDC consulted with approximately 50 organizations in developing the guidance, a step that was inarguably the right thing to do on an issue having so many significant stakeholders. Therefore, as this report demonstrates, the claim that the AFT had “uncommon access,” the theme that the GOP has been flogging for more than two years, has been thoroughly debunked.

The other central allegation of the Select Subcommittee’s GOP Majority – that the AFT had the ability to substantially edit and revise the draft guidance in order to “align with the AFT’s agenda [of] keeping schools closed” – has likewise been dealt a death blow by inconvenient but actual facts. The evidence in possession of the Select Subcommittee overwhelmingly demonstrates that the AFT made two common-sense suggestions for modifications to the draft guidance that were accepted by the CDC, and others that were not. The first accepted modification was to encourage schools to provide options for teachers and staff who had high-risk conditions – such as being immuno-compromised. The second modification was to include a statement that in the event a more virulent coronavirus variant emerged, the guidance might need to be revised.

The substance of these suggested modifications was embraced by the Select Subcommittee Chair, Rep. Brad Wenstrup, during the April 26, 2023, hearing at which AFT President Randi Weingarten testified. On two separate occasions during the April 26 hearing Chairman Wenstrup stated his agreement with the suggestions: “As I said to you [earlier in the hearing], the guidelines that I questioned you about as being accepted. I agreed with them. I didn’t have a problem with them.”

Yet despite the clear evidence that the AFT had as its core objective reopening schools safely for in-person learning and despite clear evidence that the AFT had neither privileged access nor improper influence over the contents of the draft guidance, the Select Subcommittee has continued its vilification campaign against the AFT and Ms. Weingarten. The Select Subcommittee has issued false and misleading press releases about its own hearings; Chairman Wenstrup has appeared on right-wing talk shows to peddle falsehoods about Ms. Weingarten and the AFT; and the Select Subcommittee has refused to make public the documents demonstrating which organizations obtained copies of the draft guidance before the AFT and which were invited to forums to discuss the draft guidance before the AFT even knew of its existence. The sordid details of this story are detailed in the report.

From the beginning, the AFT has made clear that it welcomed joining the Select Subcommittee in a good-faith effort to try to learn lessons from the bitter experience of the COVID-19 pandemic, to help address student learning loss and loneliness with accelerated instruction and academic and other support programs, to use the union’s resources to address the effects of the pandemic, and to distill lessons learned for use in any future pandemic. Unfortunately, the Select Subcommittee’s actions to date have been focused on creating false narratives and politically-useful scapegoats. Worse, unless it changes direction, the Select Subcommittee’s work will constitute a sad missed opportunity. Fighting a public health emergency and addressing its effects are an essential public service, and the country needs to take the lessons learned from the COVID-19 pandemic and do better next time. That is why the AFT files this report: to urge the Select Subcommittee to change course, and rather than scapegoat and demonize, to find solutions that will help prepare for the next pandemic.

In Search of Scapegoats:

The GOP's Failed Scheme to Blame the American Federation of Teachers for School Closures During the Pandemic

On January 5, 2023, the House of Representatives, controlled by Republicans as a result of the November 2022 elections, passed House Resolution 5. This resolution established the House Select Subcommittee on the Coronavirus Pandemic (“Select Subcommittee”) as a subcommittee of the Committee on Oversight and Accountability. The Select Subcommittee was authorized to investigate nine issues relating to the pandemic, ranging from its origins to how to prepare for future pandemics. The issues included, among other things, “the societal impact of decisions to close schools, how the decisions were made and whether there is evidence of widespread learning loss or other negative effects as a result of these decisions;” and “executive branch policies, deliberations, decisions, activities, and internal and external communications related to the coronavirus pandemic.”¹

On March 28, 2023, the Select Subcommittee posted on its website a collection of letters sent to 15 organizations, including the American Federation of Teachers (“AFT”). The letters all concerned the February 2021 publication by the Centers for Disease Control and Prevention (“CDC”) of its “Operational Strategy for K-12 through Phased Mitigation,” (the “Operational Strategy”).²

The letters were in furtherance of the portion of the Select Subcommittee’s investigative mandate relating to the societal impact of school closures and the actions by the executive branch relating to the pandemic, including its preparation and release of the Operational Strategy. The letters to the 15 organizations were particularly noteworthy because they stated the Select Subcommittee’s conclusions with respect to the AFT at the outset, rather than basing them on evidence to be collected during the investigation. In other words, the Select Subcommittee turned the normal process of an investigation—which starts with allegations, pursues a fair and impartial investigation, and arrives at findings and conclusions based on the evidence—on its head. The conclusions, based on excerpts from a single transcribed interview and a smattering of documents released by the CDC under FOIA,³ were that the AFT:

¹ H.R. Res. 5, 118th Cong. (2023).

² See *Letters*, H. Comm. on Oversight & Reform, <https://oversight.house.gov/letter/?f-post-month=03&f-post-year=2023>.

³ See Staff Report, Select Subcomm. on the Coronavirus Crisis (Minority), 117th Cong., Interim Findings: Union Officials Wrote Key Portions of the Biden Administration’s School Reopening Guidance (Mar. 30,

- Was granted “uncommon access” to a draft of the Operational Strategy.
- Was provided an opportunity to substantially edit and revise the document, including “making line-by-line additions.”
- Shifted the CDC’s guidance to “align with AFT’s agenda – keeping schools closed.”⁴

These conclusions, as the Select Subcommittee’s investigation has revealed, were false. Yet, they were set forth not only in the Select Subcommittee’s March 28 letter to the AFT, but also in the letters to all 14 other organizations. The stated goal of these letters was to determine whether any other organization had enjoyed the kind of “uncommon access” allegedly afforded the AFT, and whether any other organization was – supposedly like the AFT – a “political all[y]” of the Biden Administration whose views took precedence over the “health and education of America’s children.”⁵

Over the past five months, the Select Subcommittee’s investigation has included three public hearings touching on school closures – two devoted exclusively to that issue, and one involving former CDC Director Rochelle Walensky, in which school closure issues were featured prominently. The investigation has also included the collection of thousands of pages of documents, and transcribed interviews of senior AFT personnel. Although the AFT has been denied access to the evidence that undercuts the Majority’s premature conclusions, the evidence produced by the AFT and other organizations constitutes a complete and total refutation of each one of the Select Subcommittee Majority’s conclusions about the AFT.⁶ In fact, the Select Subcommittee’s investigation has been revealed to be a transparent political hit job designed to scapegoat teachers and their unions rather than fulfill its mandate in a fair and non-partisan manner.

This highly politicized effort of the Republican members of the Select

2022), available at <https://oversight.house.gov/wp-content/uploads/2022/03/AFT-CDC-Interference-Interim-Report-3-30-2022.pdf>.

⁴ See, e.g., Letter from Hon. Brad Wenstrup, Chairman, Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight and Accountability, et. al., to Ms. Randi Weingarten, President, American Federation of Teachers (March 28, 2023), at 1, available at <https://oversight.house.gov/wp-content/uploads/2023/03/2023.03.28-BRW-Letter-to-AFT-Re.-CDC-School-Guidance.pdf>.

⁵ See, e.g., Letter from Hon. Brad Wenstrup, Chairman, Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight and Accountability, et. al., to Ms. Becky Pringle, President, National Education Association (March 28, 2023), at 1-2, available at <https://oversight.house.gov/wp-content/uploads/2023/03/2023.03.28-BRW-Letter-to-NEA-Re.-CDC-School-Guidance-.pdf>.

⁶ Although the AFT is not privy to all of the materials collected by the Select Subcommittee from the organizations who received March 28 letters, it is inconceivable that any such material could affect any conclusions related to the AFT’s involvement in the Operational Strategy.

Subcommittee to rewrite the history of school closures, and to portray teachers and their unions during the pandemic as culprits, predates the work of the last six months. Indeed, for the past two years, Republican members of the Select Subcommittee – first when they were in the Minority and now as the Majority – have been trying to pin responsibility for school closures, and the undeniable costs to students, on the AFT. To do so, GOP members have ignored facts that conclusively demonstrate that the AFT has been a consistent and responsible advocate for safely opening schools and keeping them open. In studiously ignoring those facts, GOP members have continued to pursue a narrative whose factual underpinnings have now collapsed once and for all.

I. The Role Played by the AFT During the Pandemic

Regrettably, the effort to scapegoat teachers and their unions for broad societal problems has become an enduring part of our political landscape. Educators in America have always been undervalued and underpaid. Long before COVID-19, educators dealt every day with crushing workloads; insufficient support, resources, and working conditions; inadequate compensation, often compounded by student loan debt; a political climate that weaponizes education; the threat of gun violence; and a fundamental lack of professional respect. Prior to the pandemic, an average of close to 300,000 teachers were leaving the profession each year, leading to a serious shortage of teachers and school staff.⁷

COVID-19 has claimed the lives of more than 1.1 million Americans. More than 200,000 children have lost one or both parents to the virus. Although the specter of COVID-19 no longer dominates the lives of most Americans, it undeniably did so in 2020. Given the illness, death, uncertainty, and misinformation that permeated everyday life for most Americans at the time, there were very real and legitimate fears about the prospect of students returning to in-person learning without adequate safeguards. While it appears in hindsight that children carry lower viral loads than adults, this was anything but clear at the time. Indeed, the American Medical Association has subsequently stated that closing schools was likely an effective way of cutting transmission prior to the widespread availability of safe and effective vaccines, and that policymakers should carefully consider the variable of school closures when

⁷ American Federation of Teachers, *Here Today, Gone Tomorrow? What Americas Must Do to Attract and Retain the Educators and School Staff Our Students Need*, Report from the AFT Teacher and School Staff Shortage Task Force (2022), available at <https://www.aft.org/sites/default/files/media/2022/taskforcereport0722.pdf> (citing Elka Torpey, *Projections for teachers: How many are leaving the occupation?*, U.S. Bureau of Labor Statistics Career Outlook, Oct. 2018); *see also* Moriah Balingit, *Teacher shortages have gotten worse. Here's how schools are coping.*, Washington Post (Aug. 24, 2023), <https://www.washingtonpost.com/education/2023/08/24/teacher-shortages-pipeline-college-licenses/>.

another pandemic strikes.⁸

Contrary to the false narrative constructed by the Majority, the AFT was at the forefront of developing strategies to safely reopen schools during the pandemic – not keeping them closed. As the AFT previously shared with the Select Subcommittee, as early as April 2020, it released a school reopening plan developed in conjunction with health and education experts and AFT members.⁹ A few months later, in July 2020, the union joined with the National Education Association, the American Academy of Pediatrics, and the School Superintendents Association to push for the resumption of in-person schooling at the start of the 2020-2021 school year.¹⁰ Consistent with this agenda, in November 2020, the AFT published a new blueprint to reopen schools.¹¹

And these efforts by the AFT continued after the CDC released the Operational Strategy in February 2021. For example, in May 2021, the AFT invested \$5 million in a “Back to School for Everyone” national campaign to assist in reopening schools across the country.¹² More recently, in July of this year, the AFT announced an additional \$5 million campaign, entitled “Real Solutions for Kids and Communities,” with a five-part agenda that includes a sharp focus on reading, experiential learning, mental health, the expansion of community schools, and ensuring needed resources for students, teachers, and schools.¹³ Because the AFT has always recognized that children learn best in person, the safe reopening of schools was one of the AFT’s top priorities from the very beginning of the pandemic.

On the narrow question that has been the object of so much attention from the Select Subcommittee – the CDC’s consultation with the AFT and numerous other stakeholders about the Operational Strategy – it should be obvious that it would have been governmental malpractice not to consult with the AFT and other stakeholders

⁸ American Medical Association, Study sheds light on SARS-CoV-2 transmission in homes with kids (2023), available at <https://www.ama-assn.org/delivering-care/public-health/study-sheds-light-sars-cov-2-transmission-homes-kids>.

⁹ American Federation of Teachers, *A Plan to Safely Reopen America’s Schools and Communities* (2020), available at https://www.aft.org/sites/default/files/media/2020/covid19_reopen-america-schools.pdf.

¹⁰ American Federation of Teachers, *Pediatricians, Educators and Superintendents Urge a Safe Return to School This Fall* (2020), available at <https://www.aft.org/press-release/pediatricians-educators-and-superintendents-urge-safe-return-school-fall>.

¹¹ Randi Weingarten, *A blueprint to safely open schools*, The Hill (2020), <https://thehill.com/opinion/education/528004-a-blueprint-to-safely-open-schools/>.

¹² American Federation of Teachers, *Back to School for All: Return, Recover and Reimagine* (2021), available at <https://www.aft.org/column/back-school-all-return-recover-and-reimagine>.

¹³ Randi Weingarten, President, American Federation of Teachers, Remarks to the AFT TEACH Conference (July 21, 2023), available at <https://www.aft.org/press/speeches/real-solutions-kids-and-communities>.

whose understanding and general acceptance of the guidance on opening schools was critical to its acceptance. As the narrative below demonstrates, the AFT's role with respect to the Operational Strategy was both limited and entirely appropriate.

II. The GOP's Effort to Scapegoat the AFT

A. The Scalise Letter

The Majority's attempt to scapegoat the AFT for the tragic educational consequences of the pandemic has continued for more than two years. In May 2021, Steve Scalise, the then-ranking member of the Select Subcommittee, wrote to CDC Director Rochelle Walensky alleging that the AFT "apparently pressur[ed] the CDC to amend its school reopening guidance to exclude full reopening of classrooms," and that President Biden "bowed down to the bosses at the AFT rather than following the science and standing up for what is best for young students." Not satisfied with this baseless and incendiary allegation, Scalise went further, suggesting that perhaps the AFT, not the CDC, was responsible for drafting the Operational Strategy.¹⁴

The Scalise letter went on to state, again falsely, that the AFT does not consider in-person learning to be critical for children, and that the CDC's draft guidance would have allowed more schools to reopen before "the AFT was able to successfully bully the public health experts at the CDC into politicizing the guidance."¹⁵ There was no evidence to support such wild allegations at the time, and the allegations have – to put it mildly – aged poorly.

B. The March 2022 Staff Report

On March 30, 2022, the then-Minority of the Select Subcommittee issued an 11-page Staff Report ("Minority 2022 Staff Report") perpetuating the false narrative that the AFT had played a central role in drafting the Operational Strategy. Its title was "Interim Findings: Union Officials Wrote Key Portions of the Biden Administration's School Reopening Guidance," but it supported no such conclusion. Through selective quotations from the interview of a single CDC witness, it claimed that CDC's consultation with the AFT was "uncommon," and that the CDC staff "indicated a willingness to accept near verbatim edits to the Operational Strategy," positioning the union "to impose line-by-line edits to the Operational Strategy on at least two separate

¹⁴ See Letter from Hon. Steve Scalise, Ranking Member, Select Subcomm. on the Coronavirus Crisis, H. Comm. on Oversight & Reform, et. al., to Dr. Rochelle Walensky, Dir., Cents. for Disease Control and Prevention (May 11, 2021), at 2, available at <https://oversight.house.gov/wp-content/uploads/2021/05/Letter-to-CDC-Re.-Union-Interference-051121.pdf> ("[M]any local jurisdictions refuse to fully reopen, citing the CDC guidance as a crutch. We now know this guidance, was influenced, and possibly even written by, the AFT.").

¹⁵ See *id.* at 3.

occasions.”¹⁶

In fact, as the Majority’s own subsequent investigation has demonstrated, the CDC accepted the substance of only two changes to the Operational Strategy proposed by the AFT, and expressly rejected other suggestions.

- The first change was to encourage schools and school districts to provide accommodation options for teachers and staff who had documented high-risk conditions – such as being immuno-compromised – or who were at increased risk for severe illness or death if they contracted the virus. Those options included potential reassignment, telework, modified job responsibilities, or scheduling flexibility, among others. The AFT suggested, and the CDC agreed, that those options should be formulated in consultation with occupational medicine and human resource professionals.¹⁷
- The second change suggested by the AFT was to add common-sense language that in the event a new variant of the coronavirus substantially elevated transmission rates, the guidance might need to be revised.¹⁸

The Minority 2022 Staff Report’s complaint was less about the specifics of the two modest changes proposed by the AFT, but instead the assertion – subsequently disproven – that the AFT had been granted “uncommon access” not provided to other organizations based solely on the fact that it was a “political union” that supported President Biden and Democratic candidates.

The claim of “uncommon access” was based almost exclusively on statements made during the Select Subcommittee’s February 18, 2022, interview of CDC employee Dr. Henry Walke. The Minority 2022 Staff Report made its case by cherry-picking statements from Dr. Walke’s testimony, while ignoring his other statements and context that undermined the GOP’s theory that it was inappropriate for outside groups to have access to drafts of the Operational Strategy.

Indeed, Dr. Walke acknowledged that there are instances where line-by-line edits, despite being uncommon, would be appropriate under the circumstances because the CDC’s ultimate goal in releasing guidance is to provide clarity and to be helpful to

¹⁶ Staff Report, Select Subcomm. on the Coronavirus Crisis (Minority), 117th Cong., Interim Findings: Union Officials Wrote Key Portions of the Biden Administration’s School Reopening Guidance (Mar. 30, 2022) at 2, 3, 5, available at <https://oversight.house.gov/wp-content/uploads/2022/03/AFT-CDC-Interference-Interim-Report-3-30-2022.pdf>.

¹⁷ Operational Strategy for K-12 Schools Through Phased Mitigation, Cents. for Disease Control & Prevention (Feb. 12, 2021), at 23.

¹⁸ *Id.* at 24.

the American public.¹⁹

C. The March 28, 2023 Letter and the Documents Provided by the AFT

The Select Subcommittee's March 28, 2023 letter to the AFT requested various categories of documents. These boiled down to two major categories:

- Materials reflecting communication between the AFT and various governmental entities, including the CDC and the Executive Office of the President, including drafts of the Operational Strategy; and
- Materials reflecting internal communications about the Operational Strategy.

The AFT conducted a diligent search for these materials, which extended to all AFT personnel who might possess responsive documents. On April 24, 2023, the AFT produced to the Select Subcommittee 82 separate documents totaling 315 pages from numerous AFT personnel.²⁰ The documents thoroughly undermined the GOP narrative of the AFT's "uncommon access" and undue influence. Instead, they reflected that the AFT received the Operational Strategy shortly before it was originally scheduled to be released, and that the two recommendations described above were adopted.

Specifically, the documents produced by the AFT reflect that on January 27, 2021, Kelly Nedrow, AFT's Senior Director for Health Issues, learned that the CDC was close to releasing its updated guidance for reopening schools.²¹ These documents make clear that Ms. Nedrow had at that point not seen the draft Operational Strategy; other documents establish that no one within the AFT had seen a draft. The next day, Marla Ucelli-Kashyap, AFT's Senior Director for Education Issues, forwarded to members of her staff an article from Politico suggesting that CDC guidance on school openings could be issued as early as the following day, January 29; she asked that AFT staff members be prepared to review the guidance immediately upon its release.²²

The documents further reflect that on the afternoon of January 29, 2021, AFT President Randi Weingarten spoke with CDC Director Rochelle Walensky about the forthcoming CDC strategy. Because no one at the AFT had obtained the draft Operational Strategy itself – that happened later in the day after Ms. Weingarten's call

¹⁹ Interview by Select Subcomm. on the Coronavirus Crisis, H. Comm. on Oversight & Reform with Dr. Henry Walke, Dir., Cents. for Disease Control & Prevention Off. of Readiness and Response (Feb. 18, 2022), 83:2037-55.

²⁰ Letter from Michael R. Bromwich, Counsel to AFT, to Hon. Brad Wenstrup, Chairman, Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight and Accountability, et. al. (April 24, 2023).

²¹ AFT_EXT0000289.

²² AFT_EXT0000303.

with Director Walensky – notes prepared for Ms. Weingarten’s use during the call were at a high level of generality. The notes recommended addressing several issues, all of which were aimed at reopening schools confidently and safely and keeping them open:

- the need for robust testing,
- the importance of physical distancing,
- the need to enhance recommendations on masking,
- a closure trigger,
- the importance of constituting local stakeholder committees, and
- the need for accommodations for staff members – or members of their households – who were at high risk of serious illness if they contracted COVID-19.

Documents produced by the AFT reflect that during the call, Director Walensky specifically requested language on the accommodations issue but nothing else.²³ Unknown to Ms. Weingarten and other AFT personnel, many of the other issues highlighted in the notes prepared for Ms. Weingarten had already been addressed in the draft guidance.

Within hours after that January 29 phone call, the AFT obtained a copy of the Operational Strategy – more than a week after it had been provided to other groups, and after the CDC had held a forum on the draft guidance to which the AFT was not invited. This evidence has been in the Select Subcommittee’s possession – namely, that other outside groups reviewed the CDC draft guidance prior to the AFT – but the Subcommittee’s majority has never deigned to correct its misrepresentations.

After receiving the draft late in the day Friday, January 29, the AFT staff reviewed the document and noted the areas in which the AFT believed it could help robustly open schools safely, and where it needed some clarification. Staff was both relieved that the draft guidance incorporated the layered mitigation strategies that protected students and staff from transmission, but were concerned over the absence of accommodations language and opening and closing triggers.²⁴ On Monday, February 1, AFT senior leaders shared their reaction to the draft guidance with CDC personnel. At the time, according to documents produced to the Select Subcommittee, the AFT was told that the Operational Strategy would be released two days later. AFT personnel

²³ AFT_EXT0000087; AFT_EXT0000179.

²⁴ AFT_EXT0000304; AFT_EXT0000313.

provided the accommodations language to the CDC by email on February 1. On February 3, then-Director Walensky thanked the AFT for providing the accommodations language that she had requested on her call with Ms. Weingarten.²⁵

The release of the Operational Strategy was delayed for reasons not communicated to the AFT. As a result, on February 11, Kelly (Trautner) Nedrow wrote to Director Walensky requesting two additional changes. One was a recommendation that if there were changed circumstances—*i.e.*, the development of a new variant of the virus—an update to the guidelines would be in order. The second was that, in order to provide clear guidance to school administrators and comfort to concerned parents and educators, the guidance should include closure triggers—*i.e.*, an objective standard for determining when a school should be temporarily closed based on positive test cases.²⁶ As Ms. Nedrow explained in her email to Director Walensky, such triggers are important because they “instill some degree of confidence for those who are hesitant about returning to school[,] . . .bolster[] transparency and . . . ensur[e] parents and administrators can plan for a surge” like those being observed in Europe at the time. Indeed, such a trigger was already viewed as a critically important part of reopening by others, including New York State’s Reimagine Education Advisory Council formed by former Governor Cuomo shortly after the pandemic’s inception. The following day, the Operational Strategy was publicly released. The suggestion about the potential need to revise the guidance was accepted; the suggestion for the inclusion of closure triggers was rejected.²⁷

In short, by the time the Operational Strategy was issued on February 12, 2021, the AFT had a single conversation with the CDC Director in which the AFT made recommendations, had hours later been given a limited (and belated when compared to other stakeholders) copy of the draft guidance, and had provided three suggestions on ways to improve it—only two of which were adopted in substance by the CDC and incorporated in the Operational Strategy. By contrast, the AFT has learned during the course of the Select Subcommittee’s investigation that several organizations had been provided with the draft guidance as much as a week before AFT obtained it, and that the AFT was not among the numerous organizations invited to a forum convened by CDC to discuss that draft guidance. Yet even so, when the Select Subcommittee’s letters to the AFT and 14 other organizations were posted and transmitted on March 28, 2023, it was the AFT that was falsely singled out as having had “uncommon access” to the draft, inaccurately alleged to have made “line-by-line additions” to the guidance, and

²⁵ AFT_EXT0000130.

²⁶ AFT_EXT0000227.

²⁷ Operational Strategy for K-12 Schools Through Phased Mitigation, Cents. for Disease Control & Prevention (Feb. 12, 2021).

falsely accused of having tried to implement an agenda to keep schools closed.²⁸ Indeed, the documents make clear that senior AFT officials had no inside knowledge of any kind about even the broad contours of the Operational Strategy, much less any specifics about it.

In fact, the Select Subcommittee’s investigation has conclusively established that multiple outside organizations had received drafts of the Operational Strategy close to a week before AFT was even aware that the CDC was poised to release the Operational Strategy. During the June 2023 transcribed interviews of AFT officials, they were shown documents demonstrating that organizations – including, but almost certainly not limited to, the National Association of County and City Health Officials and the Association of Public Health Laboratories – received full drafts of the Operational Strategy before the AFT was aware its release was imminent.²⁹ None of this was known to anyone at the AFT until June of this year.

On the broader issue of consulting with significant stakeholders, it would have been reckless and irresponsible – indeed, malpractice – for the CDC not to have consulted with stakeholders about a strategy for opening schools during and after an unprecedented health epidemic. Such stakeholders should have included the AFT and other organizations that represent teachers, school administrators, school nurses, public health officials, parents and others, as Director Walensky testified the CDC had done. Far from being inappropriate, such consultations were critical in order to responsibly address the complicated and fraught issue of safely and responsibly reopening schools in the midst of an unprecedented – and unpredictable – global pandemic.

III. The Select Subcommittee’s Hearings on School Closures

The next chapters in the Select Subcommittee’s investigation were three public

²⁸ The recipients of these letters included: National Association of Secondary School Principals, National Association of School Nurses, National Association of State Boards of Education, National Association of Elementary School Principals, National Education Association, National School Boards Association, National Governors Association, National Association of County and City Health Officials, National Parent Teacher Association, Council of State and Territorial Epidemiologists, Council of Chief State School Officers, The Association of State and Territorial Health Officials, Association of Public Health Laboratories, and AASA, The School Superintendents Association. In addition, Director Walensky has publicly stated that the CDC consulted with over 50 outside organizations regarding the Operational Strategy. See Joe Nocera, *CDC Still Getting Interference. This Time From Teachers*, Bloomberg (May 4, 2021), available at <https://www.bloomberg.com/opinion/articles/2021-05-04/cdc-emails-with-teachers-union-show-politics-still-trump-science>.

²⁹ Interview by Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight and Accountability with Marla Ucelli-Kashyap, Senior Director for Education Issues, American Federation of Teachers (June 20, 2023); Interview by Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight and Accountability with Kelly Nedrow, Senior Director for Health Issues, American Federation of Teachers (June 23, 2023).

hearings. The first took place on March 28, the same day the document requests were transmitted to the AFT and 14 other organizations. That hearing, entitled “The Consequences of School Closures: Intended and Unintended,” featured four witnesses – a journalist, an epidemiologist, the Director of the Education Freedom Center of the Independent Women’s Forum, and the Executive Director of the National Association of School Nurses. The witnesses testified generally about the consequences of school closures, but the epidemiologist, Tracy Beth Høeg, coyly suggested based on a *New York Post* article that the CDC’s Operational Strategy, which she viewed as overly restrictive, “may have been based on language requested by the American Federation for [sic] Teachers to the CDC instead of discussions with scientists studying COVID-19 transmission ins schools...”.³⁰

In the second hearing, which took place on April 26, 2023, AFT President Randi Weingarten was the only witness. In the third, which took place on June 13, 2023, outgoing CDC Director Rochelle Walensky was the only witness. None of these hearings advanced the Majority’s narrative that the AFT had “uncommon access” to the draft CDC guidance, made “line-by-line edits” to the draft guidance, or had tried to implement an agenda to keep schools closed. Quite the contrary.

A. The April 26 Hearing and Its Aftermath

On April 6, 2023, the Select Subcommittee invited Ms. Weingarten to testify in a hearing on April 26. She immediately accepted the invitation without reservation or conditions. In advance of the hearing, the AFT produced all documents responsive to the Select Subcommittee’s document requests. In addition, on April 19, the AFT submitted a detailed letter (“the April 19 Letter”) to the Select Subcommittee that reviewed the history of the Majority’s two-year-long media campaign to smear the AFT and Ms. Weingarten and place the blame of pandemic-related school closures and learning losses on teachers, school personnel, and their unions.³¹ The April 19 Letter attempted to correct the record by describing in detail the actual history of the AFT’s efforts to open schools and keep them open, beginning as early as April 2020, and continuing with efforts to resume in-person schooling for the 2020-2021 school year, including the \$5 million “Back to School for Everyone” campaign.³²

³⁰ *The Consequences of School Closures: Intended and Unintended*, Hearing Before the Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight and Accountability, 118th Cong. (Mar. 28, 2023) (statement of Tracy Beth Høeg, Epidemiologist, U.C. San Francisco), available at <https://oversight.house.gov/wp-content/uploads/2023/03/Testimony-3-27-2023-TracyBethHoegFINALv2.pdf>.

³¹ Letter from Michael R. Bromwich, Counsel to AFT, to Hon. Brad Wenstrup, Chairman, Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight and Accountability, et. al. (April 19, 2023).

³² *Id.* at 2-3.

Prior to the April 26 hearing, Ms. Weingarten submitted a detailed written statement.³³ The statement described the specific challenges posed by the pandemic to teachers and school personnel, and the AFT's creative and resourceful efforts to deal with them, including the heroic acts of many AFT members. Ms. Weingarten's statement included a detailed chronology describing the numerous steps that the AFT, its leadership, and its members took to prioritize the reopening of schools for in-person learning in a safe and sustainable manner.³⁴ The statement also thoroughly rebutted the assertion that there was anything inappropriate about the CDC consulting the AFT and other stakeholder groups in order to advance its goal of opening schools safely and keeping them open. Finally, Ms. Weingarten's statement explained the logic and reasonableness of the two discrete suggestions the AFT had proposed and that the CDC had incorporated in the Operational Strategy.³⁵

Ms. Weingarten was the sole witness at the April 26 hearing, eponymously entitled, "The Consequences of School Closures, Part 2: The President of the American Federation of Teachers, Ms. Randi Weingarten."³⁶ In his opening statement at the hearing, Chairman Wenstrup asserted that "Americans are curious to know if [the AFT's] access was in line with CDC past practice and if their influence had a positive or detrimental impact on America's children."³⁷ He then went on to misconstrue and selectively quote from documents produced by the AFT to support the argument that the union was advocating practices that would keep schools closed. Chairman Wenstrup's remarks also conveniently ignored the mountain of evidence demonstrating that the AFT had been working from April 2020, the outset of the pandemic, to open schools safely and keep them open. Chairman Wenstrup ended his opening statement by expressing the hope that:

[W]e can produce a product bipartisan [sic] that will guide future generations so that we may have the ability to predict the next pandemic, prepare for it, protect us from it and maybe even prevent it. . . . I pray that

³³ *The Consequences of School Closures, Part 2: The President of the American Federation of Teachers, Ms. Randi Weingarten*, Hearing Before the Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight and Accountability, 118th Cong. (Apr. 26, 2023) (statement of Ms. Randi Weingarten, President, American Federation of Teachers), available at <https://oversight.house.gov/wp-content/uploads/2023/04/Prepared-Statement-of-AFT-President-Randi-Weingarten.pdf>.

³⁴ *Id.* at 5-8.

³⁵ *Id.* at 13-14.

³⁶ This hearing followed "The Consequences of School Closures: Intended and Unintended," which was held on March 28, 2023 and included four witnesses. Unlike Ms. Weingarten's hearing, the March 28 hearing was not named for any of the four witnesses.

³⁷ *The Consequences of School Closures, Part 2: The President of the American Federation of Teachers, Ms. Randi Weingarten*, Hearing Before the Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight and Accountability, 118th Cong. (Apr. 26, 2023), Tr. at 2 (hereinafter "April 26 Hearing Tr.").

today's hearing will produce some of the necessary facts and evidence that this subcommittee may utilize going forward in order to achieve our altruistic goals.³⁸

In his initial questioning, Chairman Wenstrup made clear that he was more interested in the process issue – “This is a process problem” – than the appropriateness of the AFT's suggestions. Indeed, he acknowledged two different times during the hearing that he agreed with the AFT's suggestions that had been incorporated in the Operational Strategy: “I didn't disagree with the guidelines that you recommended as [Ranking Member Ruiz] inferred [sic]. That was not the case. **I didn't disagree with them.** I just asked about the process” (emphasis added).³⁹

As to that process issue, James Comer, the Chair of the full Committee on Oversight and Accountability, specifically asked Ms. Weingarten whether she knew if “any other groups the CDC consulted with received a copy of this guidance at the time [January 29]?”⁴⁰ Although Ms. Weingarten said she had “no idea,” members of the Majority either knew then or shortly thereafter that numerous other organizations had received the draft well before the AFT.⁴¹

The hearing contained other unfounded efforts to repeat and extend the baseless narrative of the AFT's “uncommon access”:

Rep. Malliotakis: We now know that in February 2021, the CDC would allow for the American Federation of Teachers unprecedented access to help draft guidance and would adopt, in some cases, almost line by line AFT edits, including direct language to install a trigger, which was mentioned earlier, ensuring that schools would remain closed and making it more difficult as possible to resume in-person learning.⁴²

In fact, as should have been clear by the time of the hearing, the CDC had rejected the AFT's suggestion for a trigger.

Rep. Miller-Meeke, a physician, spent her time arguing that children were at low risk of transmission, a claim subsequently called into question by a scientific study

³⁸ April 26 Hearing Tr. at 6.

³⁹ April 26 Hearing Tr. at 26, 31 (emphasis added).

⁴⁰ April 26 Hearing Tr. at 34.

⁴¹ The evidence undermining the Majority's claim that the AFT had enjoyed “uncommon access” was not learned by the AFT until June 20, 2023, during a transcribed interview of an AFT official. This issue will be discussed at length below.

⁴² April 26 Hearing Tr. at 42.

specifically addressed to that question.⁴³ She impugned the expertise of the numerous experts consulted by the AFT, recited her own scientific and public health credentials, and refused to credit any science-based views that differed from hers. She closed with this statement, remarkable for its combination of ignorance and lack of humility:

But I would say that that the AFT was out of its league in this regard. The effect on the children has been vast, and to have no remorse on closing schools and keeping them closed for the length of time is unconscionable.⁴⁴

What was truly unconscionable was Miller-Meeks's attempt to place blame on the AFT and Ms. Weingarten for the unpredictable and frightening trajectory of the disease and its consequences, and the decisions of local officials throughout the country responsible for deciding when to open and close schools. As Miller-Meeks well knows, the CDC's guidelines were advisory, not compulsory. Therefore, to blame the CDC guidelines for the length and extent of school closures and their tragic consequences was both wrong and disingenuous. Even more wrong and disingenuous was the attempt to blame the AFT – particularly in light of its limited role in making suggestions for the guidelines – instead of the true decisionmakers from March 2020 to January 2021, namely President Trump and Secretary DeVos.⁴⁵

Attempts by other members of the Majority during the April 26 hearing to show that there was something nefarious or inappropriate about the AFT's involvement in making limited suggestions to improve the draft Operational Strategy were similarly refuted by the evidence. Some members chose to focus on the tragic consequences of school closures, which no one disputes have been – and continue to be – a national tragedy with lasting consequences. Rather than focusing on ways to remedy and overcome these deficits through sustained, collaborative efforts, they stubbornly clung to the false narrative that the AFT was culpable for these consequences. The GOP members also pressed the point that because the AFT does not have a battery of scientific and medical experts on its payroll, and instead reached out to – and relied on – numerous highly-qualified consultants, its views on how an unprecedented pandemic affected schools, the educators who teach there, and the children who learn there, they should be ignored.

⁴³ See Yi-Ju Tseng et al., Smart Thermometer-Based Participatory Surveillance to Discern the Role of Children in Household Viral Transmission During the COVID-19 Pandemic, JAMA Network Open, June 2023.

⁴⁴ April 26 Hearing Tr. at 54.

⁴⁵ In fact, as Ranking-member Rep. Raul Ruiz noted during the hearing, the rapid increase in schools opening for full time instruction occurred only after the American Rescue Plan was passed by Congress and signed by President Biden. April 26 Hearing Tr. at 7-8.

- Rep. Michael Cloud, a doctor, pressed the point that because the AFT contributes to primarily Democratic political candidates, that it was somehow disqualified from making substantive suggestions on the Operational Strategy. In his view, consulting a union representing 1.7 million members, many of whom work in the schools the guidance is intended for apparently invalidates its advice no matter how well-founded.⁴⁶
- Rep. John Joyce, also a doctor, criticized the AFT for not having epidemiologists, immunologists, infectious disease specialists, pediatric infectious disease specialists on its payroll. But when Ms. Weingarten offered on the spot to name the medical and scientific experts with whom the AFT had consulted, Dr. Joyce interrupted Ms. Weingarten and claimed he didn't have time to hear the answer.⁴⁷ The AFT subsequently provided the names of those experts to the Select Subcommittee.⁴⁸
- Rep. Ronny Jackson, a doctor, stated that any suggestions "from your politically motivated and corrupt organization" should have been completely disregarded by the CDC and blamed the AFT for the "destruction of our children over the last few years." After delivering his fact-free tirade, Rep. Jackson declined to ask any questions.⁴⁹
- Rep. Marjorie Taylor Greene attacked Ms. Weingarten on a personal basis in such a deplorable manner that it evoked an immediate rebuke from Rep. Jamie Raskin, the Ranking Member of the full Committee, and a Point of Order from Rep. Garcia. Rep. Greene blamed the AFT and Ms. Weingarten for consequences of the pandemic that included not only learning loss and suicide, but also, gender dysphoria.⁵⁰
- Rep. Jim Jordan, a member of the full Committee, spent his time engaging in a dialogue about the culture wars and the proper role of parents in the education of their children. His questions had little or nothing to do with the subject of the hearing.⁵¹

⁴⁶ April 26 Hearing Tr. at 65-66.

⁴⁷ April 26 Hearing Tr. at 75-77.

⁴⁸ Although the transcript could not be clearer that Rep. Joyce interrupted Ms. Weingarten before she could provide the names, on May 1 the Chairman falsely claimed on a right-wing radio program that Ms. Weingarten had been *unable* to name those consultants.

⁴⁹ April 26 Hearing Tr. at 84-85.

⁵⁰ April 26 Hearing Tr. at 97-99.

⁵¹ April 26 Hearing Tr. at 100-107.

As the hearing ended, Chairman Wenstrup repeated that he agreed with the substance of the two AFT suggestions that the CDC had accepted: “As I said to you, the guidelines that I questioned you about as being accepted, I agreed with them. I didn’t have a problem with them. That wasn’t the issue.”⁵²

By the close of the April 26 hearing, several important facts in the Select Subcommittee’s investigation had been established. First, the Trump Administration had failed to provide useful school opening-related guidance during the early stages of the pandemic, sowing confusion and uncertainty. Second, the AFT had prioritized the urgent need to open schools for in-person learning and keep them open as early as April 2020. Third, the CDC had consulted with approximately 50 organizations on its strategy for opening schools and keeping them open. Finally, Chairman Wenstrup agreed with the substance of the AFT’s two suggested changes that the CDC had implemented. The hearing made clear that GOP members of the Select Subcommittee were far more interested in making lengthy, off-topic speeches – some of them quite offensive – than fulfilling the Select Subcommittee’s mandate or exploring ways to remedy the harms to children that resulted from the pandemic.

The five-page press release issued by the Majority the day after the hearing – complete with video highlights – bore almost no resemblance to the hearing itself.⁵³ In describing the AFT’s two recommendations incorporated by the CDC in the Operational Strategy, the press release ignored the Chairman’s agreement with the substance of those recommendations. Indeed, contradicting the Chairman’s own views, the release stated, the “AFT’s recommendations to the CDC were unwarranted and detrimental to America’s youth.” In focusing on the AFT’s advocacy of a closure “trigger,” the press release failed to mention that the CDC had rejected that recommendation. In repeating the canard about “uncommon access,” the release failed to note that the CDC had consulted with approximately 50 organizations. In every respect, the press release ignored the Select Subcommittee’s own hearing held the day before and was completely divorced from reality.⁵⁴

More troubling than the alternate universe press release was Chairman Wenstrup’s statements on a right-wing radio show four days later. As counsel for the AFT detailed in a May 11 letter to Chairman Wenstrup, during an appearance on “The

⁵² April 26 Hearing Tr. at 114.

⁵³ Committee on Oversight and Accountability, 118th Cong., *American Federation of Teachers President Randi Weingarten Testifies to Uncommon Influence Over CDC School Reopening Guidance* (Apr. 27, 2023), available at <https://oversight.house.gov/release/american-federation-of-teachers-president-randi-weingarten-testifies-to-uncommon-influence-over-cdc-school-reopening-guidance/>.

⁵⁴ Letter from Michael R. Bromwich, Counsel to AFT, to Hon. Brad Wenstrup, Chairman, Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight and Accountability, et. al. (May 11, 2023).

Bill Cunningham Show,” hosted by a “prolific purveyor of hate speech,”⁵⁵ Mr. Wenstrup made the following false and/or baseless statements:

- *The AFT pushed for the closure of schools and made no efforts to reopen them.*
 - This was refuted by the evidence submitted in the AFT’s April 19 letter and by Ms. Weingarten’s testimony.
- *The AFT is not “for the service of educating America’s children.”*
 - This is both demonstrably false and deeply offensive.
- *Ms. Weingarten could not identify the medical professionals with whom the AFT had consulted with regard to school reopening issues.*
 - Despite offering to provide the names during the hearing, she was specifically prevented from doing so by a GOP member.
- *The CDC accepted the AFT’s recommendations “word for word.”*
 - The CDC rejected one of the AFT’s suggestions outright and asked for the language on medical accommodations, which it then modified as well (and with which Chairman Wenstrup agreed was a recommendation that should be incorporated in the guidance).
- *The AFT had “no business” giving recommendations to the CDC because they had no medical backing.*
 - This statement could only be made by ignoring the fact that this guidance was about schools in which tens of thousands of educators represented by the AFT worked, and that the AFT consulted with numerous medical and scientific advisors.⁵⁶

Three weeks later – and following the Majority’s withdrawal of overly broad document requests and gratuitous threats to issue subpoenas – it reached agreement with the AFT on a narrowed set of supplemental document requests. The AFT also agreed to transcribed interviews of four of its senior personnel involved in educational and health policy issues.

⁵⁵ 700 WLW’s Bill Cunningham Called ‘Purveyor Of Hate Speech’, WLWT.com (Nov. 17, 2008), <https://www.wlwt.com/article/700-wlw-s-bill-cunningham-called-purveyor-of-hate-speech/3498713#>.

⁵⁶ Bill Cunningham Show: 5-1-23 Bill Cunningham Show (iHeartMedia radio broadcast on 700 WLW, May 1, 2023), available at <https://www.iheart.com/podcast/bill-cunningham-20785499/episode/5-1-23-bill-cunningham-show-114224639>.

Two weeks later, the AFT produced 66 pages of documents responsive to requests for (i) information about communications between AFT personnel and the Biden Transition Team, and (ii) records of communications between Ms. Weingarten and Director Walensky. The documents produced by the AFT reflected limited contacts during the specified time period between Ms. Weingarten and Director Walensky, and no evidence of extensive or inappropriate contacts with the Biden Transition Team.

B. The June 13 Hearing

On May 22, 2023, the Select Subcommittee invited CDC Director Rochelle Walensky to testify at a public hearing, which took place on June 13. The hearing was entitled, “Oversight of CDC Policies and Decisions During the Covid-19 Pandemic,” a substantially broader scope than the two previous hearings that were more narrowly focused on school closures. Prior to the hearing, Director Walensky submitted a detailed written statement that covered a wide range of issues matching the title of the hearing. In the portion of her prepared statement that addressed school closures, Director Walensky made the following points, among others:

- On becoming CDC Director in January 2021, one of her major challenges was “getting kids back in school to prevent learning loss and support their well-being.”
- In January 2021, only 46% of school districts in the country were providing full-time in-person instruction. Director Walensky recognized that schools could be reopened “with strict adherence to layered mitigation strategies” – the same approach championed by the AFT and many other education-focused organizations.
- Releasing the Operational Strategy was “intended to provide broad guidance and serve as a foundation for local decision-making.”
- After the release of the Operational Strategy, the CDC revised the guidance to match emerging science, including the finding that universal masking by schoolchildren could allow them to sit in closer proximity to each other in the classroom.⁵⁷

In her short oral statement at the beginning of the June 13 hearing, Director Walensky repeated her assertion that the Operational Strategy had been the product of the hard work of professionals at the CDC, “along with feedback from over 50

⁵⁷ *Oversight of CDC Policies and Decisions During the COVID-19 Pandemic*, Hearing Before the Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight and Accountability, 118th Cong. (June 13, 2023) (statement of Rochelle Walensky, Dir., Cents. for Disease Control & Prevention), available at <https://oversight.house.gov/wp-content/uploads/2023/06/CDC-Testimony-SSCP-6.13.23-Hearing.pdf>.

organizations and implementing partners, organizations, and individuals whose engagement we needed, whose participation was essential if school opening was actually going to happen.”⁵⁸

In a remarkable opening statement, immediately after Director Walensky had described how the CDC had responded to real-time scientific information to change its guidance, Chairman Wenstrup alleged that the CDC and Director Walensky had done the opposite – and had “accepted guidance from political organizations” instead of relying on real time scientific data. Referring to the April 26 hearing, Wenstrup stated the following:

Ms. Weingarten testified to having your direct phone number and provided the CDC with line by line edits and received an advance copy of the full internal draft guidance. And some of her edits were even accepted. This level of access is uncommon. The AFT even suggested adding a closure trigger to automatically shut schools down. Even though this specific edit was not accepted, the others that were have had some severe consequences.⁵⁹

This statement was extraordinary in many respects. First, it treated the fact that the head of the CDC and an important stakeholder on the schools opening issue had each other’s phone numbers as something titillating and scandalous as opposed to something routine and appropriate. Moreover, by that time, the AFT had produced all documents and information reflecting limited contacts between Director Walensky and Ms. Weingarten prior to the February 12 release of the Operational Strategy.

Second, the statement continued to push a narrative of “uncommon access” that the Chairman knew – or should have known – by that time to be false. As described above, numerous organizations had received drafts of the Operational Strategy more than a week before the AFT. The 14 other organizations that received document requests on March 28 were directed to produce responsive documents no later than April 11 – a full two months before Director Walensky’s June 13 hearing. Therefore, there is every reason to believe that the Select Subcommittee had the evidence that completely debunked the “uncommon access” assertion long before the Chairman repeated it once again at the June 13 hearing.

Finally, the Chairman certainly knew that the AFT had made two substantive suggestions that the CDC had accepted, and another – relating to closure triggers – that it had rejected. What Chairman Wenstrup chose to ignore at this hearing – as he did

⁵⁸ *Oversight of CDC Policies and Decisions During the COVID-19 Pandemic*, Hearing Before the Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight and Accountability, 118th Cong. (June 13, 2023), Tr. at 10 (hereinafter “June 13 Hearing Tr.”).

⁵⁹ June 13 Hearing Tr. at 4.

during his appearance on “The Bill Cunningham Show” – was that he had acknowledged repeatedly during Ms. Weingarten’s April 26 testimony that he agreed with those suggestions. As if this were not troubling enough, he drew a direct connection between the two suggestions he agreed with and the damage to children that occurred during the pandemic – “the [recommendations] that were [accepted] have had some severe consequences.”⁶⁰ Neither he nor any member of the Majority has ever produced any evidence to support this wild claim.

When it came time for the Chairman to ask questions, he continued to attack the AFT, focusing on its advocacy of closure triggers, which had been adopted by other organizations releasing guidance on school reopenings and which the CDC had rejected inserting into the Operational Guidance. In fact, his entire line of questioning on the Operational Strategy established that the AFT was one of the more than 50 organizations that the CDC had consulted, and that far from the AFT having “uncommon access” or political influence, the CDC evaluated the AFT’s suggestions on their merits.

Other than Chairman Wenstrup, only two GOP Select Subcommittee members chose to revisit the already thoroughly debunked issue of the AFT’s “uncommon access” to the CDC: Rep. Miller-Meeks and Rep. Lesko.

Rep. Miller-Meeks mischaracterized Ms. Weingarten’s April 26 testimony, made unfounded claims about what the AFT’s consultants had or had not considered in providing advice to the AFT, and cited a letter sent to her by the AFT’s counsel that called into question her claims that in-school transmission of COVID-19 among children had been proven not to be a serious problem. In response, Director Walensky reaffirmed that the purpose of the Operational Strategy was not to close schools – many of them were already closed – but to open them and keep them open.⁶¹

Rep. Lesko found the fact that Director Walensky and Ms. Weingarten had each other’s phone numbers to be endlessly fascinating, and to attach great significance to the fact that – according to records produced to the Select Subcommittee – they had exchanged approximately five text messages before the February 12 release of the Operational Strategy.⁶²

The Majority’s press release issued the day after Director Walensky’s hearing once again bore no relation to the substance of the hearing. Even though discussion of

⁶⁰ June 13 Hearing Tr. at 4.

⁶¹ June 13 Hearing Tr. at 36-38.

⁶² Like Rep. Lesko, Rep. McCormick was scandalized by the fact that Ms. Weingarten had Director Walensky’s cellphone number, stating, “I think that’s egregious, because it became political,” without any evidence that the text messages were substantive or had any effect on the substance of the school opening guidance. June 13 Hearing Tr. at 58.

the AFT's interactions with the CDC and its recommendations occupied only a small portion of the hearing, those interactions were featured prominently in the press release, with two of the three "Key Takeaways" listed as:

- "CDC Director Walensky confirmed that the American Federation of Teachers (AFT) promoted prolonged school closures that harmed America's children."
- "AFT President Randi Weingarten had a direct line to CDC Director Rochelle Walensky's personal and professional cellphones – raising further questions about potential political influence at the CDC."⁶³

The first claim was a blatant falsehood – Director Walensky said no such thing and forcefully argued that her goal was to engage with a wide range of stakeholders with the goal of opening schools and keeping them open. As for the allegedly scandalous phone number issue, the Majority by this time knew full well, through records obtained from both the AFT and CDC, that the number of contacts between Director Walensky and Ms. Weingarten during the relevant period was limited and appropriate, and that there was no evidence that the AFT had a role more privileged or influential than the other 50 organizations with which the CDC consulted. Again, the goal of the misleading press release was to keep alive a narrative of improper influence and "uncommon access" that the facts had long since refuted.

IV. The June Transcribed Interviews of AFT Personnel

On May 4, approximately a week after Ms. Weingarten's testimony, the Select Subcommittee Majority wrote to the AFT. In addition to the supplemental document requests described above, the Majority asked for the AFT to make several of its senior staff members available for transcribed interviews. Transcribed interviews were scheduled on June 20 for Marla Ucelli-Kashyap, AFT's Senior Director for Education Issues, and on June 23 for Kelly Nedrow, AFT's Senior Director for Health Issues.⁶⁴

During her interview, Ms. Ucelli-Kashyap described the AFT's efforts to address the consequences of the pandemic from its earliest days in February 2020. She recalled

⁶³ Committee on Oversight and Accountability, 118th Cong., *Hearing Wrap Up: Director Rochelle Walensky's "Professional" Take – CDC Public Policy Decisions Lacked Scientific Support* (June 14, 2023), available at <https://oversight.house.gov/release/hearing-wrap-up-director-rochelle-walenskys-professional-take-cdc-public-policy-decisions-lacked-scientific-support%ef%bf%bc/>.

⁶⁴ The Majority's May 4 letter identified five potential witnesses, including AFT President Weingarten, from whom the Select Subcommittee had heard a week earlier in a public hearing. When AFT counsel pointed out that it was irregular and inappropriate for a witness to sit for a transcribed interview after testifying in a public hearing, that request was dropped. See Letter from Michael R. Bromwich, Counsel to AFT, to Hon. Brad Wenstrup, Chairman, Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight and Accountability, et. al. (May 5, 2023).

working on the AFT’s initial school reopening plan in April 2020, as well as developing methods, starting in the earliest stages of the pandemic, to provide education to children. With respect to the Operational Strategy, Ms. Ucelli-Kashyap described the process of preparing Ms. Weingarten for the call with CDC personnel on January 29, 2021 – before the AFT had obtained a copy of the draft Operational Strategy. Ms. Ucelli-Kashyap also summarized the process by which the draft was reviewed once it was obtained, including determining whether the issues most important to the AFT had been addressed.

In response to the suggestion that the AFT had performed a “line-by-line edit,” Ms. Ucelli-Kashyap observed that she and other AFT personnel had conducted a review – “there is a difference between reviewing and line-by-line edits.”⁶⁵ In describing the suggestions made by the AFT, she explained that the accommodations language was crucial to enabling teachers and school personnel to fulfill their responsibilities without endangering themselves or members of their families. She observed that the absence of accommodations language was particularly glaring in guidance that was otherwise more comprehensive than anything the CDC had previously issued.⁶⁶

Ms. Ucelli-Kashyap further explained the reasoning behind the AFT’s suggestion of the potential need for future revised guidance, noting that the history of the pandemic was marked by the sudden appearance of new variants, and that features of a new variant might well require guidance tailored to those features.

Finally, Ms. Ucelli-Kashyap confirmed that the AFT urged the CDC to include a closure trigger, which the CDC rejected for the reasons that Director Walensky explained during her June 13 testimony.⁶⁷

In response to being shown the list of 50 organizations consulted by the CDC, Ms. Ucelli-Kashyap stated that the size of the list appeared to reflect a desire by the CDC to consult with a broad range of groups vitally interested in a document that would help guide the reopening of schools. Although the size of the list was unsurprising because Director Walensky had previously mentioned publicly the number of organizations the CDC had consulted, other documents shown to Ms. Ucelli-

⁶⁵ Interview by Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight and Accountability with Marla Ucelli-Kashyap, Senior Director for Education Issues, American Federation of Teachers (June 20, 2023). Because the AFT does not have copies of the interview transcripts, the quotations are based on detailed notes taken by AFT counsel during the interview.

⁶⁶ *Id.*

⁶⁷ *Oversight of CDC Policies and Decisions During the COVID-19 Pandemic*, Hearing Before the Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight and Accountability, 118th Cong. (June 13, 2023).

Kashyap established that other organizations had received the draft Operational Strategy well before the AFT. A document produced by the Association of Public Health Laboratories reflected that it had received the draft Operational Strategy prior to a “Listening Session” held by the CDC on January 22. The AFT was not even aware of the existence of the draft Operational Strategy as of that date, much less in receipt of it.⁶⁸ In addition, Ms. Ucelli-Kashyap was shown another document establishing that a second organization – the National Association of County and City Officials – had received a copy of the draft and an invitation to a CDC-sponsored listening session. In short, the documents demonstrated that other organizations (i) had access to the draft Operational Strategy well before the AFT, and therefore had earlier opportunities to affect its contents, and (ii) arguably greater access to the CDC than the AFT as a result of being invited to the CDC-sponsored listening session.

In sum, Ms. Ucelli-Kashyap’s transcribed interview provided no support for the Majority’s claim that the AFT enjoyed “uncommon access.” Indeed, it showed that the AFT’s interest was, starting in early 2020, the safe reopening of schools and that it was one of scores of organizations consulted by the CDC.

Ms. Nedrow’s interview three days later reinforced these points. As AFT’s Senior Director for Health Issues, she was intimately involved in advancing the AFT’s principal goal of reopening schools safely and responsibly during the pandemic. During her testimony, she confirmed that the AFT consulted with a large number of experts to inform its own views of what steps were best calculated to ensure that schools could reopen safely and remain open.⁶⁹ Ms. Nedrow also described the absence of helpful guidance released during the Trump Administration. Specifically, Ms. Nedrow recalled that the CDC website was impossible to navigate and contained self-contradictory information – which was consistent with the federal government’s generally disjointed and disorganized federal response to the pandemic in 2020.⁷⁰ In contrast, given the Biden Administration’s willingness to engage with relevant stakeholders during the transition period, she and her colleagues had the opportunity

⁶⁸ Interview by Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight and Accountability with Marla Ucelli-Kashyap, Senior Director for Education Issues, American Federation of Teachers (June 20, 2023).

⁶⁹ In its questioning, Majority staff appeared to discern a meaningful difference between consulting with experts and having them on staff, even if the substantive advice was the same. And that because the AFT is a labor union, the scientific information it obtains and which informs its recommendations is invalid because the AFT is not itself a scientific or medical organization. This was an apparent attempt to piggyback on the assertions of Rep. Miller-Meeke, who castigated the AFT for consulting with experts whose views she disagreed with. *See* April 26 Hearing Tr. at 49-54.

⁷⁰ Interview by Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight and Accountability with Kelly Nedrow, Senior Director for Health Issues, American Federation of Teachers (June 23, 2023).

to share the most pressing concerns for the AFT and its members.

Ms. Nedrow's testimony further established that the contacts between CDC personnel and the AFT while the Operational Strategy was being developed were limited, and took place only after the CDC had provided draft copies of the Operational Strategy to other organizations. During her testimony, Ms. Nedrow was shown the same documents that had been shown to Ms. Ucelli-Kashyap three days earlier, establishing that other organizations had received the draft of the Operational Strategy as much as a week before the AFT obtained it on January 29, 2021.

Like Ms. Ucelli-Kashyap's testimony, Ms. Nedrow's transcribed interview did nothing to support the Majority's increasingly threadbare narrative that the AFT enjoyed "uncommon access" to the CDC and its draft Operational Strategy. Indeed, it confirmed the fact that multiple organizations had access well before the AFT. Implicitly recognizing that its claims about the AFT's role in the Operational Strategy had been exposed as false and that additional testimony would simply further demonstrate their falsity, the Majority agreed to cancel the previously scheduled transcribed interviews of two additional AFT witnesses.

The fact that multiple non-governmental organizations had access to the Operational Strategy well before the AFT begged the question of *which* organizations had received access prior to the AFT, *when* they had received access, and *what changes* were made in response to their comments and suggestions. To obtain answers to those questions, counsel for the AFT made two informal requests to the Majority staff – the first on August 3 and the second on August 7. These included requests for information on the names of organizations who received copies of the draft before the AFT and the dates they received the drafts. The AFT also requested the dates and attendees of a CDC forum to discuss the draft – which occurred days before the AFT received a copy, and to which the AFT was not invited.⁷¹

These requests were promptly and summarily rejected on the grounds that this would require providing the AFT with documents produced by other organizations. This ignored the fact that the AFT said it would be satisfied with the names of the recipients and the dates they received the draft, and the names of the organizations invited to the CDC forum – and also that the Majority had invoked the AFT's name in its own information requests to other groups. The requests were formalized in an August 8 letter to Chairman Wenstrup. As of the end of September, AFT counsel has

⁷¹ The existence of this forum was disclosed in a Minority Staff memo, obtained by *Politico*, and described in a July 31 article. See Bianca Quilantan, *GOP probe fails to prove teachers union influence on CDC guidance, Democrats say*, *Politico* (July 31, 2023), <https://www.politico.com/newsletters/weekly-education/2023/07/31/gop-probe-fails-to-prove-teachers-union-influence-on-cdc-guidance-democrats-say-00108922>.

received no response to these requests.

V. Conclusion

The AFT has tried to cooperate fully and comprehensively with the Select Subcommittee's investigation. The AFT was hopeful at the outset that the Select Subcommittee would actually address its core mission – what steps must be taken to improve preparedness for the next pandemic. Yet instead, the Select Subcommittee's politically motivated obsession with the AFT and its now fully debunked claims that the AFT had “uncommon access” to the CDC's Operational Strategy and inappropriate influence over its contents, has wasted valuable time, energy, and resources that should have been spent on issues at the core of the Select Subcommittee's mandate. The time has come for the Select Subcommittee to do its job: to search for solutions to the extremely pressing problems created by the pandemic and prepare for future pandemics, rather than continuing to politicize and weaponize these important issues.