

Michael R. Bromwich  
202 429 8167  
mbromwich@steptoe.com

Steptoe

1330 Connecticut Avenue, NW  
Washington, DC 20036-1795  
202 429 3000 main  
www.steptoe.com

April 19, 2023

The Honorable Brad R. Wenstrup  
Chairman  
Select Subcommittee on the Coronavirus Pandemic  
2335 Rayburn House Office Building  
Washington, DC, 20515-3502  
(202) 225-3164

The Honorable Raul Ruiz  
Ranking Member  
Select Subcommittee on the Coronavirus Pandemic  
2342 Rayburn House Office Building  
Washington, DC, 20515-0525  
(202) 225-5330

Dear Chairman Wenstrup and Ranking Member Ruiz:

On behalf of the American Federation of Teachers (“AFT”), and in advance of the hearing of the Select Subcommittee on the Coronavirus Pandemic (the “Subcommittee”) scheduled for April 26, we submit this letter to address the false and misleading claims contained in the Subcommittee’s March 28, 2023, letter to the AFT (the “March 28 Letter”). Those claims regard the AFT’s involvement in the development of the “Operational Strategy for K-12 Through Phased Mitigation,” dated February 12, 2021 (the “Operational Strategy”) issued by the Centers for Disease Control and Prevention (“CDC”).

For the past two years, Republican members of this Subcommittee – first when they were in the Minority and now when they are in the Majority – have been targeting the AFT for its participation in the development of the Operational Strategy. The AFT’s role has been exaggerated and falsified to support pre-conceived conclusions that the Operational Strategy was subject to undue and inappropriate outside influence.

Though the facts have not supported those pre-conceived conclusions, that has not deterred the Majority from continuing to make the same false and misleading allegations. In fact, the AFT's role in the development of the Operational Strategy was limited and wholly appropriate given its representation of 1.7 million members working in the very schools the Operational Strategy was intended to open and keep open. This letter sets forth the various allegations made by the Majority, in various forms, since May 2021 and demonstrates that they are gross distortions of the facts.

I. The Role Played by the AFT During the Pandemic

Although education is critical to our nation's success and future, educators in this country have always been undervalued and underpaid. Long before COVID-19 brought the world to a grinding halt, educators faced challenging work environments: among other things, a daunting workload; inadequate support, resources, and working conditions; subpar compensation often coupled with untenable student loan debt; a political climate that weaponizes education; the threat of gun violence; and a fundamental lack of professional respect. Indeed, even prior to the pandemic, nearly 300,000 teachers were leaving the profession each year – two-thirds before the retirement age – leading to a grave shortage of teachers and school staff.<sup>1</sup>

COVID-19 changed life for everyone, and led to unimaginable death and destruction, including crippling disruption of our education system. Although the pandemic did not create many of the problems experienced by educators, for many, it exacerbated them to a point that was unsustainable. Between 2020 and 2022, the rate of job dissatisfaction among preK-12 teachers rose 34 points, and one poll found that 75% of teachers would no longer recommend the teaching profession to young people today.<sup>2</sup>

From the earliest days of the pandemic, the AFT was at the forefront of developing strategies to safely reopen schools and not, as so often has been falsely alleged, keep them closed. In April 2020, it released a school reopening plan developed

---

<sup>1</sup> 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>.

<sup>2</sup> American Federation of Teachers & Hart Research Associates, *Under Siege: The Outlook of AFT Members* (2002), available at [https://www.aft.org/sites/default/files/media/2022/de-14326\\_aft\\_member\\_survey.pdf](https://www.aft.org/sites/default/files/media/2022/de-14326_aft_member_survey.pdf).

in conjunction with health and education experts and AFT members.<sup>3</sup> 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 2021-2022 school year.<sup>4</sup> Consistent with this, the AFT launched a new blueprint to reopen schools in November 2020.<sup>5</sup> And these efforts 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.<sup>6</sup>

To be clear, the AFT has always recognized that children learn best in person, and the safe reopening of schools was one of the AFT’s top priorities from the pandemic’s inception. It is against this backdrop that beginning in late January 2021, the AFT proposed a handful of modest changes to the Operational Strategy with the goal, among other things, of allowing educators to continue to do their jobs safely in order to reopen schools – not keep them closed. Moreover, the allegations that the Operational Strategy served to keep schools closed ignores the fundamental fact that the CDC has no legal authority of any kind to open or close schools. The CDC does not govern or regulate schools; its role is limited to providing public health-related guidance. The responsibility for opening and closing schools lies, depending on the jurisdiction, with states, school superintendents and/or school boards.

## II. The Effort to Scapegoat the AFT for the CDC’s Operational Strategy

### A. The Scalise Letter

In May 2021, Steve Scalise, the then-ranking member of the Subcommittee, sent a letter to Dr. Rochelle Walensky of the CDC making a number of allegations about the CDC. Then-Ranking Member Scalise alleged 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 standing up

---

<sup>3</sup> 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](https://www.aft.org/sites/default/files/media/2020/covid19_reopen-america-schools.pdf).

<sup>4</sup> 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>.

<sup>5</sup> Randi Weingarten, *A blueprint to safely open schools*, *The Hill* (2020), <https://thehill.com/opinion/education/528004-a-blueprint-to-safely-open-schools/>.

<sup>6</sup> 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>.

for what is best for young students.” Not satisfied with these false assertions, Mr. Scalise suggested in his letter that perhaps the Operational Strategy was not the CDC’s at all, and indeed may have been written by the AFT.<sup>7</sup>

The Scalise letter went on to state, contrary to fact, 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.”<sup>8</sup>

The false and misleading allegations and summary conclusions presented in the Scalise letter were based primarily on news accounts, although several were supposedly based on tweets posted by Secretary of Education Miguel Cardona.<sup>9</sup> In fact, the tweets of Secretary Cardona support nothing of the kind.

#### B. The March 2022 Staff Report

On March 30, 2022, the then-Minority of the Subcommittee issued an 11-page Staff Report further advancing the false narrative that the AFT had played a central role in drafting the Operational Strategy. While Ranking Member Scalise had only suggested the possibility that the AFT might have written the entire Operational Strategy, the Staff Report went a major step further in its very title: “Interim Findings: Union Officials Wrote Key Portions of the Biden Administration’s School Reopening Guidance.” The 11-page Staff Report supported no such conclusion.

The Staff Report made similar false and misleading allegations to those in Mr. Scalise’s letter. It alleged, inaccurately, that the AFT has no scientific expertise. Through selective quotations of a CDC witness, it claimed that CDC’s consultation with the AFT in finalizing its Operational Strategy was “uncommon,” and that the CDC staff

---

<sup>7</sup> 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>, at 2 (“[M]any local jurisdictions refuse to fully re-open, citing the CDC guidance as a crutch. We now know this guidance, was influenced, and possibly even written by, the AFT.”).

<sup>8</sup> See *id.* at 3.

<sup>9</sup> See *id.* at 2-3 nn. 14-17. Although the Scalise letter cites Dr. Cardona’s tweets as the source for the crux of its allegations against the AFT, the actual source for these statements appears to be a New York Post article. See, Jon Levine, *Powerful teachers union influenced CDC on school reopenings, emails show*, N.Y. Post (May 1, 2021), <https://nypost.com/2021/05/01/teachers-union-collaborated-with-cdc-on-school-reopening-emails/>.

“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 occasions.**”<sup>10</sup>

The last phrase gives away the game: it undermined both the title of the Staff Report and its thrust. In fact, in a 38-page document, the CDC appears to have accepted only two changes to the Operational Strategy proposed by the AFT. The first change was to encourage schools and school districts to provide 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. And the AFT suggested, and the CDC agreed, that those options should be formulated in consultation with occupational medicine and human resource professionals. It is truly difficult to understand the substantive objections to this change.

The second change suggested by the AFT should, if anything, have been even less controversial than the first. It was to add common-sense language that in the event a new variant of the coronavirus had substantially elevated transmission rates, the guidance might need to be revised. It is difficult to imagine a credible argument against noting the potential need to update guidance based on changed circumstances.

It turns out that the Staff Report’s complaint was not the specifics of the two modest changes proposed by the AFT, but that it had, according to the Staff Report, nefariously conspired with the CDC to commit an egregious process foul. Despite not being education experts, the CDC was apparently supposed to develop guidance about how best to reopen schools and keep them open without consulting with groups, including the AFT, which had the very expertise in education and schools that the CDC lacked.

The Staff Report’s claim, repeated in the March 28 Letter, was that the AFT was given “uncommon” access to the CDC, despite the CDC Director’s own insistence to the contrary. The claim appears to be based on statements made during the Subcommittee’s February 18, 2022, interview with CDC employee Dr. Henry Walke. Dr. Walke's testimony is quoted extensively in the Staff Report and is the cornerstone of the assertion that the AFT’s access was “uncommon.” But the cherry-picked statements

---

<sup>10</sup> 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> (emphasis added).

from Dr. Walke's interview contained in the Staff Report ignore other important statements he made during the interview. In particular, in response to a question about whether it is common for the CDC to work with outside groups on their guidance, Dr. Walke stated:

It's common to have—to try to get input from our stakeholders around what their concerns are. So, you know, whether it's the worker safety, or occupational health, or hospital infections. So it's common to reach out to our partners in these particular areas, and try to understand what their concerns are.<sup>11</sup>

As important, Dr. Walke also 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 the American public.<sup>12</sup> That purpose was well-served by sharing a draft of the Operational Strategy with the AFT and evaluating its suggestions.

### C. The March 28, 2023 Letter and the April 26 Hearing

The premise for the upcoming April 26 hearing, as articulated in the March 28 Letter, is the following:

The Select Subcommittee's previous investigation into this matter uncovered that CDC deviated from standard practice. You and the AFT were granted "uncommon" access to revise and edit an internal draft of the Operational Strategy at least two weeks prior to its release, even making line-by-line additions. The AFT's input and access coincidentally shifted CDC's guidance to align with AFT's agenda—keeping schools closed.

As should be apparent, this unproven premise was based largely on the Staff Report discussed above. The facts are as follows.

First, from the beginning of the pandemic, one of the AFT's top priorities was the safe reopening of schools. The claim that the AFT's agenda was "keeping schools

---

<sup>11</sup> 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), 53:1283-89.

<sup>12</sup> *Id.* at 83:2037-55.

closed,” and that it shifted CDC’s guidance to match that agenda, is utterly false. Indeed, the public record from virtually the beginning of the pandemic is replete with examples showing the efforts of Ms. Weingarten and the AFT to reopen schools safely.

Second, the suggestion that the AFT played a major role in revising and editing the Operational Strategy is wildly exaggerated. In fact, the AFT’s role was extremely limited. It proposed changes that amounted to a few sentences in a 38-page document. The need to clarify these points was obvious and should have been uncontroversial.

Third, although we do not know the range of practices the CDC employs for consulting outside entities when developing a strategy, the Subcommittee has apparently learned that the CDC sought the input of at least the 14 other health and education organizations who have been sent letters as part of this Subcommittee’s investigation.<sup>13</sup> In the context of developing a strategy that was explicitly aimed at schools, it would have been reckless and irresponsible – indeed, malpractice – for the CDC not to have consulted with stakeholders, including but not limited to the AFT, representing teachers, school administrators, and students and parents throughout the country, and taken their concerns and suggestions seriously. And even if the CDC would in fact have “deviated from standard practice” in making such consultations 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, in fact such consultations are part of the CDC’s standard practice. The Subcommittee has only been able to reach the opposite conclusion by mischaracterizing evidence it previously obtained when it was in the House Minority.

### III. The AFT’s Actual Role in the CDC’s Development of the Operational Strategy

The story of the AFT’s involvement in the Operational Strategy is simple and straightforward. On Friday January 29, 2021, Ms. Weingarten and senior AFT staff participated in a conference call with members of the CDC, including Dr. Walensky,

---

<sup>13</sup> 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?leadSource=uverify%20wall>.

and the Executive Office of the President (“EOP”). The purpose of the call was for the AFT to share its views on the draft Operational Strategy based on concerns of its members – the people who were teaching and supporting children in schools all over the country. In advance of the call, a senior AFT staff member prepared a list of member concerns to address, including robust testing, physical distancing, masking, accommodations for high-risk educators and staff, an objective science-based closure/reopen metric, and the formation of a stakeholder committee to oversee reopening. None of these items were particularly controversial, and many – with the exception of the accommodation language for high-risk staff – were already included in the CDC’s draft guidance. During the call, the AFT promised to send the CDC proposed language to consider related to accommodations for high-risk educators and staff, which a senior AFT staff member sent to the CDC on February 1, 2021.

Though the Operational Strategy did not contain accommodation language for educators and staff prior to the AFT’s suggestion, several points about the language are noteworthy. First, the Operational Strategy already contained language recognizing the need to accommodate high-risk students (or those who live with high-risk individuals) by giving them the option of virtual instruction. Suggesting that AFT’s members be given the same consideration was a logical and reasonable corollary of that point. Second, although the March 28 Letter falsely asserts that the AFT’s proposed revisions were designed to keep schools closed, in reality, the accommodation language was intended to do just the opposite: to permit schools to reopen by allowing high-risk educators to safely do their jobs in a manner that reduced their risk of severe illness or death.

Beyond the accommodation language and a handful of other concerns discussed orally with the CDC, the AFT also proposed, as noted above, a single sentence making the obvious and unexceptionable point that the strategy might need to be revised in the event of new variants. Specifically, on February 11, 2021, an AFT employee sent an email to CDC and EOP personnel suggesting that the CDC consider adding the following sentence: “In the event high-community transmission results from a new variant of SARS-CoV-2, a new update of these guidelines may be necessary.” Ultimately, the CDC included broader language than the AFT proposed, which stated that the guidance may need to be updated in “the event of increased levels of community transmission.” This complemented language already in the Operational Strategy which stated that mitigation strategies and school guidance might need to be adjusted as more information became available. This proposal was simply about following the science and the virus. Variants were already in existence, and the AFT’s members wanted strategies to be updated based on the science, and appropriate mitigation strategies to ensure that schools remained open and safe.

The more telling refutation to the implication that the CDC was the AFT's pawn in this process is that this February 11, 2021 email contained AFT suggestions that were rejected by the CDC. Specifically, the AFT proposed that a closure threshold – a “trigger” – be added to provide an objective standard for determining when a school should be closed based on positive test cases. This threshold was not adopted by the CDC. Thus, although the AFT was given a chance to convey its members concerns to the CDC in the unprecedented situation caused by the pandemic, any insinuation that the AFT had undue influence over the CDC or that the CDC blindly accepted the AFT's suggestions for the Operational Strategy is entirely false.

#### IV. The CDC's Consultation with Outside Entities

While we are unfamiliar with the CDC's standard practice for consulting with third parties on its public guidance, we believe that the narrowly tailored consultation here was wholly appropriate under the circumstances. The AFT is comprised of 1.7 million teachers, nurses, bus drivers, cafeteria workers, other school staff and education professionals. Simply put, the trust and confidence of these and other educators like them was essential to reopening schools. Releasing guidance on how to safely reopen schools without attempting to address the concerns of these educators would not only be irresponsible but also futile. It would be analogous to the Federal Aviation Administration not consulting with industry representatives on air safety regulations and guidelines, or energy regulators not consulting with representatives of the oil and gas industry in formulating new drilling regulations. In short, the failure to consult would have been foolish and self-defeating.

\* \* \*

Teachers and staff work in our schools day in and day out. If they lacked confidence that public health guidance was workable and would keep them, their students, and their families safe, they would not have trusted the guidance, and efforts to open schools without adequate safeguards would have failed. Reasonable guidance, accepted as appropriately valuing – and providing for – the safety of teachers, staff, and students was the path to opening schools and keeping them open. The AFT was proud to assist the CDC, in a small way, to achieve that goal.

It is undeniable that the pandemic resulted in tragic and continuing consequences for children. Those consequences include learning loss, an increase in serious mental health issues among children, and an increase in certain physical health issues. They demand our sustained energy and attention. We make no progress towards addressing those very real problems by engaging in the type of scapegoating

built on false allegations that appear to be the basis for this Subcommittee's "investigation."

Ms. Weingarten looks forward to providing this Subcommittee with further evidence and facts when she appears before you on April 26.

Sincerely,



Michael R. Bromwich

Counsel for the American Federation of Teachers

cc: The Honorable James Comer  
Chair  
House Committee on Oversight and Accountability  
2410 Rayburn House Office Building  
Washington, DC, 20515-1701  
(202) 225-3115

The Honorable Jamie Raskin  
Ranking Member  
House Committee on Oversight and Accountability  
2242 Rayburn House Office Building  
Washington, DC, 20515-2008  
(202) 225-5341