



August 18, 2021

MEMORANDUM FOR THE SECRETARY OF EDUCATION

SUBJECT: Ensuring a Safe Return to In-Person School for the Nation's Children

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. As the school year starts across the country, a top priority of my Administration is to do everything in our power to ensure a safe return to full-time, in-person school for our Nation's children. With increased access to vaccinations for school staff and students age 12 and older, proven virus prevention strategies, and unprecedented resources from the American Rescue Plan Act of 2021 (Public Law 117-2) (American Rescue Plan) and other Federal pandemic relief funds, opening all schools this fall for full-time, in-person learning is essential. At the same time, the Centers for Disease Control and Prevention (CDC) has made clear that, with the B.1.617.2 (Delta) variant driving an increase in COVID-19 cases nationally, it is critical for schools to protect students against exposure, especially given the number of children who are ineligible to obtain the vaccine at this time. The CDC has provided clear guidance to schools on how to adopt science-based strategies to prevent the spread of COVID-19, and the Department of Education has provided guidance to schools on how to reopen safely while addressing the academic, social, emotional, and mental health needs of our Nation's students.

Many Governors and other State and local officials have risen to the challenge of beginning the new school year safely and responsibly by implementing prevention and mitigation strategies to maximize the health and safety of students, educators, and staff. The Federal Government is supporting these efforts in critical ways. The American Rescue Plan provides significant support to schools to develop and implement science-based health protocols to prevent the spread of COVID-19. Additionally, the Federal Emergency Management Agency is reimbursing States, including their school districts, at 100 percent Federal cost share to support the safe reopening and operation of school facilities and to effectively maintain the health and safety of students, educators, and staff.

At the same time, however, some State governments have adopted policies and laws that interfere with the ability of schools and districts to keep our children safe during in-person learning. Some of these policies and laws have gone so far as to try to block school officials from adopting safety protocols aligned with recommendations from the CDC to protect students, educators, and staff. And some State officials have even threatened to impose personal financial consequences on school officials who are working tirelessly to put student health and safety first and to comply with their legal obligations to their communities to further the essential goal of a safe, in-person education for all students.

Our priority must be the safety of students, families, educators, and staff in our school communities. Nothing should interfere with this goal.

Sec. 2. Department of Education Role in Ensuring a Safe Return to In-Person School. (a) In furtherance of the policy set out in section 1 of this memorandum, I direct the Secretary of Education to assess all available tools in taking action, as appropriate and consistent with applicable law, to ensure that:

(i) Governors and other officials are taking all appropriate steps to prepare for a safe return to school for our Nation's children, including not standing in the way of local leaders making such preparations; and

(ii) Governors and other officials are giving students the opportunity to participate and remain in safe full-time, in-person learning without compromising their health or the health of their families or communities.

(b) The Secretary of Education's assessment in subsection (a) of this section shall include consideration of whether to take steps toward the initiation of possible enforcement actions under applicable laws.

Sec. 3. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) You are authorized and directed to publish this memorandum in the *Federal Register*.

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