

RESOLUTION OF INQUIRY DIRECTING THE PRESIDENT TO PROVIDE CERTAIN DOCUMENTS IN THE PRESIDENT'S POSSESSION TO THE HOUSE OF REPRESENTATIVES RELATING TO COMMUNICATION BETWEEN THE EXECUTIVE BRANCH AND THE AMERICAN FEDERATION OF TEACHERS REGARDING REOPENING SCHOOLS AND SUPPORTING SAFE, IN-PERSON LEARNING

SEPTEMBER 30, 2022.—Referred to the House Calendar and ordered to be printed

Mr. SCOTT of Virginia, from the Committee on Education and Labor, submitted the following

ADVERSE REPORT

together with

MINORITY VIEWS

[To accompany H. Res. 1273]

The Committee on Education and Labor, to whom was referred the resolution (H. Res. 1273) of inquiry directing the President to provide certain documents in the President's possession to the House of Representatives relating to communication between the executive branch and the American Federation of Teachers regarding reopening schools and supporting safe, in-person learning, having considered the same, reports unfavorably thereon with an amendment and recommends that the resolution as amended not be agreed to.

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The amendment is as follows:

Strike all after the resolving clause and insert the following:

That, not later than 14 days after the adoption of this resolution, the President, Joseph R. Biden, is directed to furnish to the House of Representatives copies of any document or communication in the possession of the Director of the Centers for Disease Control and Prevention that refers or relates to communication or coordination between the executive branch and the American Federation of Teachers regarding the development of the Operational Guidance for K–12 Schools and Early Care and Education Programs to Support Safe In-Person Learning issued by the Centers for Disease Control & Prevention and most recently updated on May 27, 2022.

PURPOSE AND SUMMARY

The stated purpose of H. Res. 1273 is to direct President Biden to transmit to the House certain documents in his possession relating to communications between his administration and the American Federation of Teachers (AFT) regarding reopening schools and supporting safe, in-person learning. While H. Res. 1273 is a resolution of inquiry designed to compel production from the Executive Branch in the name of congressional oversight, everything about the resolution's introduction and consideration make it clear this was not the resolution's true purpose. Instead, The Committee believes H. Res. 1273 was introduced in an attempt to upend the majority's agenda and promote inane conspiracies designed to denigrate public school teachers, the organizations these teachers elect to advocate for them, and Members of the majority generally. As such, the Committee reported H. Res. 1273 unfavorably to the House with the recommendation that it do not pass.

COMMITTEE ACTION

116TH CONGRESS

On September 11, 2019, the Early Childhood, Elementary, and Secondary Education (ECESE) Subcommittee held a hearing titled “The Importance of Trauma-Informed Practices in Education to Assist Students Impacted by Gun Violence and Other Adversities” which discussed the trauma students bring to and experience in school, and how it effects their behavioral health and school performance. The Committee heard testimony from: Dr. Nadine Burke Harris, Surgeon General for the State of California, San Francisco, CA; Dr. Ingrida Barker, Associate Superintendent, McDowell County Schools, Welch, WV; Ms. Joy Hofmeister, State Superintendent of Public Instruction, Oklahoma State Department of Education, Oklahoma City, OK; and Dr. Janice K. Jackson, Chief Executive Officer, Chicago Public Schools, Chicago, IL.

On June 22, 2020, the Committee held a hearing titled “Inequities Exposed: How COVID–19 Widened Racial Inequities in Education, Health, and the Workforce” on how existing disparities in health and education fields have been exacerbated by the COVID–19 pandemic. The Committee heard testimony from Dr. Camara P. Jones, Adjunct Professor, Rollins School of Public Health at Emory University; Senior Fellow and Adjunct Associate Professor, More-

house School of Medicine; Past President, American Public Health Association, Atlanta, GA; Dr. Valerie Rawlston Wilson, Director, Program on Race, Ethnicity, and the Economy, Economic Policy Institute, Silver Spring, MD; Mr. Avid Roy, Co-Founder and President, The Foundation for Research on Equal Opportunity, Austin, TX; and Mr. John B. King, Jr., President and CEO, The Education Trust, Washington, D.C.

117TH CONGRESS

On March 25, 2021, the Early Childhood, Elementary, and Secondary Education (ECESE) Subcommittee held a hearing titled “Lessons Learned: Charting the Path to Educational Equity Post-COVID–19” to examine how the COVID–19 pandemic has impacted communities and discuss the most effective methods of ensuring the nation’s public schools reopen and recover equitably. The Subcommittee heard testimony from Mr. Mark Morial J.D., President and Chief Executive Officer, National Urban League, New York, NY; Mrs. Jennifer Dale, Parent, Lake Oswego, OR; Selene Almazan, Esq., Legal Director, Council of Parent Attorneys and Advocates, Inc., Towson, MD; and Alberto Carvalho, Superintendent of Schools, Miami-Dade County Public Schools, Miami, FL.

On September 9, 2021, the ECESE Subcommittee held a hearing titled, “Back to School: Highlighting Best Practices for Safely Reopening Schools” which discussed the conditions under which schools were beginning to reopen nationally, and the state of students and teachers returning to school. The Subcommittee heard testimony from Dr. Jesus F. Jara, Superintendent of Schools, Clark County School District, Las Vegas, NV; Ms. Denise Forte, Interim Chief Executive Officer, The Education Trust, Washington, D.C.; Mr. David Zweig, Journalist, The Atlantic, New York Magazine, Wired Magazine, Hudson, NY; and Dr. Ashish K. Jha, Dean & Professor of Health Services, Policy & Practice, Brown University, Providence, RI.

On November 17, 2021, the ECESE Subcommittee and the Subcommittee on Higher Education and Workforce Investment (HEWI Subcommittee) held a joint hearing titled, “Examining the Implementation of COVID–19 Education Funds” which discussed how the federal government was overseeing how states and localities used the Educational Stabilization Fund created in the American Rescue Plan (ARP) to weather the pandemic and keep students learning. The Subcommittees heard testimony from The Honorable Cindy Marten, Deputy Secretary, U.S. Department of Education, and The Honorable James Kvaal, Undersecretary, U.S. Department of Education.

On February 16, 2022, the ECESE Subcommittee held a hearing titled “Serving All Students: Promoting a Healthier, More Supportive School Environment” to discuss practices in use in public schools that are harmful to the mental health of students. The Subcommittee heard testimony from: Ms. Kristen Harper, Vice President for Public Policy and Engagement, Child Trends; Mr. Guy Stephens, Founder and Executive Director, Alliance Against Seclusion and Restraint; Ms. Morgan Craven, J.D., National Director of Policy, Advocacy and Community Engagement, Intercultural Development Research Association; and, Mr. Max Eden, Research Fellow, American Enterprise Institute.

On July 26th, 2022 H. Res. 1273 was introduced by Rep. John Joyce (R-PA-13). The bill was referred solely to the Committee on Education and Labor.

On September 15th, 2022, the Committee considered H. Res. 1273 in legislative session and reported it unfavorably, as amended, to the House of Representatives by a vote of 28–21. The Committee considered one amendment to H. Res. 1273, an amendment offered by Chairman Bobby Scott (D-VA-03) that made a minor technical edit. The amendment was adopted by voice vote.

COMMITTEE VIEWS

Oversight and its attempted politicization

The power of Congressional oversight authority at the Committee level is vested solely with the Chair and the majority party, per House and Committee rules. The Congressional Research Service summarizes the oversight power of the Committee thusly:

Ranking Members and individual Members are not authorized by house or committee rules to start official committee investigations or issue subpoenas. Individual Members may seek the voluntary cooperation of agency officials or private persons. However, no judicial precedent has directly recognized a right in an individual Member, other than a committee chair, to exercise a committee’s oversight authority without the permission of a majority of the committee or its chair.¹

The Committee takes its responsibility to conduct oversight very seriously and views this work as a critical constitutional function of Congress. To that end, the Committee has held 16 oversight hearings during the 117th Congress²—which included nearly 50 hours of hearings with several Biden-Harris Administration officials, such as the Secretary of Education, Miguel Cardona³; the Undersecretary of the Department of Education, James Kvaal⁴; and the Chief Operating Officer of the Office of Federal Student Aid, Rich Cordray.⁵

The minority claims that the Committee’s oversight of the Biden administration has not been sufficient and three separate resolutions of inquiry (ROIs) have been recently introduced and referred to the Committee. Resolutions of Inquiry (ROIs) are a tool of the House to obtain information from the Executive Branch. As an ROI can be introduced by any member they reflect one of the few opportunities for the Minority to exert oversight authority within the confines of the House rules.

¹Todd Garvey & Walkter J. Oleszek, Cong. Rsch. Serv., IF10015, Congressional Oversight and Investigations (2014) (emphasis added).

²See H. Comm. on Educ. & Lab., Committee Activity, (last visited Sept. 27, 2022), <https://edlabor.house.gov/hearings-and-events> (outlining all hearings in the 117th Congress. Oversight hearings are generally styled “Examining the Policies and Priorities of [Overseen Agency or Department]).

³Examining the Policies and Priorities of the U.S. Department of Education Before the H. Comm. on Educ. & Lab., 117th Cong. (May 26, 2022); Examining the Policies and Priorities of the U.S. Department of Education Before the H. Comm. on Educ. & Lab., 117th Cong. (June 24, 2021).

⁴Examining the Implementation of COVID–19 Education Funds, Before the H. Subcomm. on Early Childhood, Elem. & Secondary Educ. & the H. Subcomm. on Higher Educ. & Workforce Investment, 117th Cong. (November 17, 2021).

⁵Examining the Policies and Priorities of the Office of Federal Student Aid, Before the H. Subcomm. on Higher Educ. & Workforce Investment, 117th Cong. (Oct. 27, 2021).

Further, as ROIs retain privilege of consideration in the House if they are not reported out of Committee in a timely fashion, it has become established practice Committees to consider them fully to eliminate this privilege. Recognizing this fact, House Republicans made a concerted effort to hijack the Committee process by introducing a flood of 23 resolutions of inquiry at the end of July, timing which would necessitate the relevant Committees of jurisdiction to take up and report out these ROIs before September 30, the last scheduled legislative day before the 2022 midterm elections. This all but guaranteed that multiple Committees would have to spend precious time on agenda items chosen by the minority.

When faced with an ROI from a Democratic minority in 2005, the Committee's Republican leadership determined that the resolution was similarly designed to derail the majority's agenda,⁶ noting, "Perhaps most importantly, as a matter of procedure, H. Res. 467 challenges the Majority's prerogatives and its right to set the legislative agenda, and for that reason alone should be rejected."⁷

H. Res. 1273 asks the President to provide, "copies of any document or communication in the possession of the Director of the Centers for Disease Control and Prevention that refers or relates to communication or coordination between the executive branch and the American Federation of Teachers regarding the development of the Operational Guidance for K-12 Schools and Early Care and Education Programs to Support Safe In-Person Learning." This request is overly broad and obviously designed to bog the CDC down in an unnecessary investigation. Further, as the Republican majority noted the last time it disposed of an ROI, a request for "communications" is, in itself problematic:

A resolution of inquiry can only produce "facts." The communications encompassed by the resolution are not limited to "facts" and thus should not be subject to disclosure in response to the inquiry. At a minimum, seeking the production of these communications would chill debate between the agencies and the President on issues of national importance.⁸

While ROIs are, in theory, an oversight tool, and the Committee recognizes every Member has the right to introduce an ROI, it was disappointing to spend time considering H. Res. 1273, a resolution so obviously designed to derail serious legislative work and drive the Committee's debate into the realms of conspiracy theory, character assassination, and the assignment of motives, when the facts in this case are surprisingly clear.

The facts regarding CDC guidance for safely re-opening schools

In response to the rapid onset of the COVID-19 pandemic, public schools worldwide began closing their doors to in-person instruction in March 2020. By April of 2020, school buildings in 48 of the 50 United States, the District of Columbia, four U.S. territories, and Department of Defense Schools were closed to in-person instruction

⁶While current Committee leadership takes notice of this position, it does not necessarily agree with the conclusion reached by the Committee in the 109th Congress, and merely notes it here for the record.

⁷H. Rpt. 109-258, 6, 109th Cong., 1st sess. (2005).

⁸*Id.*

for the remainder of the 2019–20 school year.⁹ Faced with no vaccine and limited scientific data about key factors in the virus contagion, the majority of US schools remained closed to in-person learning at the beginning of the 2020–21 school year.¹⁰

Beginning in the spring of 2020, thanks to resources provided in multiple COVID relief bills, many schools had the resources to provide distance learning modalities for many students.¹¹ These technologies and programs were a poor substitute for in-person learning for most students,¹² but when faced with questions increasing infections and deaths among students, teachers, and their families most schools erred on the side of caution and public health.¹³ While the decisions whether to close or open schools and what type of learning modalities to provide students were made on the state and local levels, it is worthwhile to note, per the theories put forth by Members of the minority during the consideration of H. Res. 1273, these decisions were made during the Trump Administration.

On February 12, 2021, The Centers for Disease Control and Prevention (CDC) issued guidance to help school districts re-open and stay open in the midst of the COVID–19 pandemic.¹⁴ The guidance provided schools with standards of how to employ the best tools to fight the pandemic that were currently at the disposal of schools: masking, physical (social) distancing, handwashing and respiratory etiquette, cleaning facilities, and a robust testing and contact tracing regime.¹⁵ The guidance was iterative, and has been updated multiple times since its introduction.¹⁶

At the time the guidance was issued, both the Committee Chair and Ranking Member had positive things to say about the guidance. To the Chair, the guidance was helpful but it was obvious that many schools would need funding to implement the guidance with fidelity.¹⁷ To the Ranking Member, the guidance was proof that schools could safely re-open and now they just needed to do so.¹⁸

As multiple COVID vaccines became generally available over the course of 2021, and schools began to receive supplemental federal

⁹Rita Zota & Boris Granovskiy, Cong. Rsch. Serv., R46883, Remote Learning for K–12 Schools During the COVID–19 Pandemic 1 (2021).

¹⁰See *id.* at 2 (“In May 2021, nearly 80% of students were still being offered a remote-only option for receiving instruction.”).

¹¹*Id.* at 6–7.

¹²See, e.g., Emma Dorn et al., *COVID–19 and education: The lingering effects of unfinished learning*, McKinsey, July 24, 2021, <https://www.mckinsey.com/industries/education/our-insights/covid-19-and-education-the-lingering-effects-of-unfinished-learning>.

¹³See, e.g., Cassandra Willyard, *COVID and schools: the evidence for reopening safely*, Nature, July 7, 2021, <https://www.nature.com/articles/d41586-021-01826-x>.

¹⁴Press Briefing Transcript, Ctrs. for Disease Control, Update on COVID–19, Feb. 12, 2021, <https://www.cdc.gov/media/releases/2021/t0212-cdc-update-covid-19.html>.

¹⁵*Id.*

¹⁶Ctrs. for Disease Control, Operational Guidance for K–12 Schools and Early Care and Education Programs to Support Safe In-Person Learning, Aug. 11, 2022, <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-childcare-guidance.html>.

¹⁷Press Release, H. Comm. on Educ. & Lab., Chairman Scott’s Statement on CDC’s School Reopening Guidance (Feb 12, 2021) (“There is no question that getting students back into the classroom is critical for their education, their access to nutrition, their mental health, and the ability of school professionals to recognize and address instances of child abuse and neglect. School reopening decisions should not be based on politics—they should be based on whether schools can comply with CDC’s science-based guidelines. Congress must make the necessary investments to help schools take the steps needed to safely reopen for in-person instruction.”) (on file with Committee).

¹⁸Press Release, H. Comm. on Educ. & Lab. Republicans, Foxx: Put Students Needs First (Feb 12, 2021) (“The White House claims to approach this issue ambitiously, but the lights are still off in schools across America and students remain at home. The science is clear. Students can return to the classroom safely with proper precautions. It is time those in leadership positions put the needs of students first and turn excuses into action.”) (on file with Committee).

funding to assist in safely reopening, we saw more and more schools make the transition back to in-person learning.¹⁹ Many districts returned to hybrid or fully in-person learning before the end of the 2020–21 school year. By October of 2021, at a point in which all public schools districts in the U.S. were open, over 13,800 school districts were open for in-person instruction, 123 districts were open for some hybrid model of in-person and remote instruction, only 26 districts in the country remained remote.²⁰ These numbers would shift based on local infection rates at given periods, and there were times where individual students, schools, or districts would have to return to remote learning for distinct quarantine periods.²¹ But for all intents and purposes, nearly all public schools districts in America were open for in-person instruction less than a year after President Biden took office.

It is important to note that since the beginning of the Biden-Harris Administration, the CDC has never issued guidance that encouraged schools to close. The CDC has remained focused on supporting safe, in-person learning. CDC spoke with parents, teachers, students, school staff, and entities representing these groups as they worked to finalize their guidance to make sure that it was operable in the real world; this was not done in secret, but in fact part of the announcement of the guidance.²² And while CDC guidance has a strong influence on state COVID–19 response efforts, it is also not inherently binding; schools may adhere to state and local COVID–19 screening requirements that differ from recommendations included in CDC guidance.

GOP allegations and conspiracies masquerading as oversight

On March 30 of this year, Republican members of the House Committee on Oversight’s Select COVID Subcommittee issued an interim report titled, “Union Officials Wrote Key Portions of the Biden Administration’s School Reopening Guidance.”²³ This report purports to be some sort of “smoking gun” suggesting collusion during the development of the guidance between the CDC and the American Federation of Teachers (AFT) to keep schools closed.²⁴ The report’s findings are much less damning than the report’s title, or the coverage the report has received in conservative media.²⁵

The facts are clear that over the last three years, the American Federation of Teachers offered numerous proposals on the best way

¹⁹ R46883, *supra* n. 9, at 5–7.

²⁰ U.S. Dep’t of Health and Hum. Svcs. Protect Public Data Hub, School Learning Modalities, Weekly Learning Modalities Metrics, 2020 (last visited Sept. 25, 2022) <https://public-data-hub-dhhs.hub.arcgis.com/pages/school-learning-modalities>.

²¹ E.g., Nicole Asbury et al., *As covid surges, D.C.-are schools cancel activities and go virtual again*, Washington Post, Dec. 15, 2021, <https://www.washingtonpost.com/education/2021/12/15/dmv-school-omicron-outbreaks/>.

²² CDC Press Briefing, *supra* n. 14 (“We have conducted an in-depth review of the available science and evidence base to guide our recommendations, and we have also engaged with many education and public-health partners, to hear firsthand from parents and teachers, directly, about their experiences and concerns. These sessions were so informative, and direct changes to the guidance were made as a result of them.”).

²³ Select Subcomm. on the Coronavirus Crisis, Minority, H. Comm. on Oversight & Reform, Interim Findings: Union Officials Wrote Key Portions of the Biden Administration’s School Reopening Guidance, Mar. 30, 2022, <https://republicans-oversight.house.gov/wp-content/uploads/2022/03/AFT-CDC-Interference-Interim-Report-3-30-2022.pdf>.

²⁴ *Id.* at 7 (“The AFT’s edits were intended to make it more likely that schools would close to in-person learning.”).

²⁵ See, e.g., Jessica Chasmar, *Republicans expose ‘uncommon’ CDC, teacher’ union ties on COVID school reopening guidance in report*, Fox News, Mar. 30, 2022.

to re-open and keep schools open safely.²⁶ Moreover, the President of AFT even pledged \$5 million dollars in May 2021 for their back-to-school campaign to return to five-days-a-week in-person instruction.²⁷ The COR report makes no suggestion that the CDC broke the law in consulting with the AFT and provides no evidence that the AFT’s recommendations to the CDC resulted in schools remaining remote instead of moving to in-person learning any longer than they would have without their recommendations.²⁸ COR Republicans claimed the CDC does not usually share its guidance with outside entities at the point in development that they shared it with the AFT, but the strongest allegation and conclusion that the Republicans could make was that it was “uncommon.” This shows that at its heart the ROI is intended to simply disparage AFT and unions and assign “blame” for CDC’s decisions.

Minority Posture during the Markup

The Committee notes with displeasure multiple statements made by members of the minority during the markup of H. Res. 1273. These statements strained the comity this Committee has so long enjoyed and reflect less on the accused parties than the accusers.

Multiple minority members reiterated the point that the CDC, AFT, and Democrats were responsible for keeping schools closed and as such are responsible for any learning loss or mental health problems that resulted from that closure.²⁹ As this report has noted, the decision to close schools was one left to state and local authorities. In response to closures, Committee Democrats sought to provide schools with resources necessary to safely reopen, while addressing both learning loss and increased trauma and mental health needs exacerbated by the pandemic.³⁰ The Committee has supported these efforts, because it knows they are necessary.

Multiple minority members also suggested that COVID is not that serious of a disease for children, and, as such, any decision to close schools was not in the best interests of children.³¹ While the science is clear that young people are less susceptible to serious illness as a result of COVID infection, that does not change the fact that over 1,200 children in the United States (and over 16,000 worldwide) have died from COVID.³²

²⁶ See Am. Fed’n. of Teachers, *AFT’s reports on safely reopening schools for in-person teaching and learning*, (last visited Sept. 25, 2022), <https://www.aft.org/our-community/reopen-schools> (including links to four reports, the earliest from April 2020, as to how schools could safely reopen).

²⁷ See Am. Fed’n. of Teachers, *Back to School for All, Helping Students Recover by Creating Safe and Welcoming Environments*, (last visited Sept. 25, 2022), https://www.aft.org/ae/summer2022/vachon_crawley_boyle.

²⁸ The CDC often includes stakeholder input to ensure that the final version of their guidance doesn’t ignore certain challenges that could affect implementation, e.g., administrative feasibility, equity, limited infrastructure. This requires engagement with a wide variety of different stakeholders—including, but not limited to, the AFT and the National Education Association (NEA). The request included in this resolution is specific to CDC communications with only two specific organizations, which doesn’t represent all of the agency’s stakeholder engagement. The CDC may have also incorporated feedback from other stakeholders as well.

²⁹ Markup of H. Res. 1295, H. Res. 1296, & H. Res. 1273 Before the H. Comm. on Educ. & Lab., 117th Cong. (2022) (statements of Reps. Burgess Owens & Marianne Miller-Meeks).

³⁰ See *supra* section “Committee History” and text accompanying notes 9–20.

³¹ Markup of H. Res. 1295, H. Res. 1296, & H. Res. 1273 Before the H. Comm. on Educ. & Lab., 117th Cong. (2022) (statements of Reps. Bob Good & Mary Miller).

³² Ctrs. for Disease Control & Prevention, *Weekly Updates by Select Demographic and Geographic Characteristics. Provisional Death Counts for Coronavirus Disease 2019 (COVID-19)*, (last visited Sept. 25, 2022) https://www.cdc.gov/nchs/nvss/vsrr/covid_weekly/index.htm; UNICEF, *Child Mortality and COVID-19*, (last visited Sept. 25, 2022), <https://data.unicef.org/topic/child-survival/covid-19/>.

Further, the best interests of children are not merely limited to their individual health. One of the major factors when making the decision to close schools was the fear that children would contract COVID in schools and spread it to their teachers and bring it home to their parents. Over 400 child care workers and 800 teachers died of COVID in 2020 alone.³³ In 2020, child care workers died at rates over twice that of teachers, and while there has not been definitive proof as to why, we do know that while most schools closed in March 2020, many day care and child care centers remained open.³⁴ Additionally, over 150,000 children have lost a parent or caregiver to COVID-19.³⁵

Finally, at least one Committee member made allegations that masks do not work to stop the spread of COVID, going so far as to reference (and arguably mock) Committee staff wearing masks in the Committee room, and also claiming that COVID vaccines are unnecessary for children.³⁶ These statements are demonstrably false,³⁷ and did nothing but further assure the Committee that H. Res. 1273 was politically motivated and wholly unnecessary. As such, the Committee voted to report it to the House unfavorably, recommending it do not pass.

SECTION-BY-SECTION ANALYSIS

The text of H. Res. 1273 is one declarative Plain English sentence directing the President to furnish to the House of Representatives documents or communications in possession of the Director for the Centers for Disease Control and Prevention relating to or in communication with the American Federation of Teachers in regards to CDC guidance to safely reopen schools.

EXPLANATION OF AMENDMENTS

The amendment in the nature of a substitute is explained in the descriptive portion of this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Pursuant to section 102(b)(3) of the *Congressional Accountability Act of 1995*, Pub. L. No. 104-1, H. Res. 1273 does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

³³ Matt Barnum, *The pandemic's toll: study documents fatality rates of teachers, child care workers in 2020*, Chalkbeat, June 6, 2022, <https://www.chalkbeat.org/2022/6/6/23157103/child-care-workers-teachers-covid-fatality-death-rates>.

³⁴ *Id.*

³⁵ See, Dan Treglia, et al, *Hidden Pain: Children Who Lost a Parent or Caregiver to COVID-19 and What the Nation Can Do to Help Them*, COVID Collaborative, (Dec. 2021), <https://www.covidcollaborative.us/assets/uploads/img/HIDDEN-PAIN-FINAL.pdf>; Press Release, Ctrs. for Disease Control & Prevention, *The Hidden U.S. COVID-19 Pandemic: Orphaned Children—More than 140,000 U.S. Children Lost a Primary or Secondary Caregiver Due to the COVID-19 Pandemic* (October 2021), <https://www.cdc.gov/media/releases/2021/p1007-covid-19-orphaned-children.html>.

³⁶ Markup of H. Res. 1295, H. Res. 1296, & H. Res. 1273 Before the H. Comm. on Educ. & Lab., 117th Cong. (2022) (statements of Rep. Bob Good).

³⁷ *E.g.*, Kristin L. Andrejko et al., *Effectiveness of Face mask or Respirator Use in Indoor Public Settings for Prevention of SARS-CoV-2 Infection—California, February–December 2021*, 71 *Mortality & Morbidity Wkly. Rpt.*, Feb. 11, 2022, at 4–5, <https://www.cdc.gov/mmwr/volumes/71/wr/pdfs/mm7106e1-H.pdf>; Ctrs. for Disease Control & Prevention, *Why Children and Teens Should Get Vaccinated Against COVID-19*, (last visited Sept. 25, 2022), <https://www.cdc.gov/mmwr/volumes/71/wr/pdfs/mm7106e1-H.pdf>.

UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act of 1974*, Pub. L. No. 93-344 (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act of 1995*, Pub. L. No. 104-4), H. Res. 1273 contains no unfunded mandates.

EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H. Res. 1273 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call vote occurred during the Committee's consideration of H.R. 1273:

Date: 9-15-2022

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:1

Bill: H.Res 1295,1296, Amendment Number: Mtn

Disposition: Agreed to by Full Committee Roll Call Vote

Sponsor/Amendment: Levin Motion to report H.Res 1295, H.Res.1296, and H.Res 1273, unfavorably,
to the House. Agreed to by Roll Call Vote 28-21.

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)	X			Mrs. FOXX (NC) (Ranking)		X	
Mr. GRIJALVA (AZ)	X			Mr. WILSON (SC)		X	
Mr. COURNTEY (CT)	X			Mr. THOMPSON (PA)		X	
Mr. SABLAN (MP)	X			Mr. WALBERG (MI)		X	
Ms. WILSON (FL)	X			Mr. GROTHMAN (WI)		X	
Ms. BONAMICI (OR)	X			Ms. STEFANIK (NY)		X	
Mr. TAKANO (CA)	X			Mr. ALLEN (GA)		X	
Ms. ADAMS (NC)	X			Mr. BANKS (IN)		X	
Mr. DESAULNIER (CA)	X			Mr. COMER (KY)			X
Mr. NORCROSS (NJ)	X			Mr. FULCHER (ID)		X	
Ms. JAYAPAL (WA)	X			Mr. KELLER (PA)		X	
Ms. WILD (PA)	X			Ms. MILLER-MEEKS (IA)		X	
Mrs. MCBATH (GA)	X			Mr. OWENS (UT)		X	
Mrs. HAYES (CT)	X			Mr. GOOD (VA)		X	
Mr. LEVIN (MI)	X			Mrs. MCCLAIN (MI)		X	
Ms. OMAR (MN)	X			Mrs. HARSHBARGER (TN)		X	
Ms. STEVENS (MI)	X			Mrs. MILLER (IL)		X	
Ms. LEGER FERNÁNDEZ (NM)	X			Mrs. SPARTZ (IN)			X
Mr. JONES (NY)	X			Mr. FITZGERALD (WI)		X	
Ms. MANNING (NC)	X			Mr. CAWTHORN (NC)			X
Mr. MRVAN (IN)	X			Mrs. STEEL (CA)		X	
Mr. BOWMAN (NY)	X			Mr. JACOBS (NY)		X	
Mrs. CHERFILUS-MCCORMICK (FL)	X			Mr. FINSTAD (MN)		X	
Mr. POCAN (WI)	X			Mr. SEMPOLINSKI (NY)		X	
Mr. CASTRO (TX)	X						
Ms. SHERRILL (NJ)	X						
Mr. ESPAILLAT (NY)	X						
Mr. KWEISI MFUME (MD)	X						
Vacancy							

TOTALS: Ayes: 28

Nos:21

Not Voting: 3

Total: 53 / Quorum: / Report:

(29 D - 24 R)

*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goal of H. Res. 1273 is to direct the President to produce records in his possession relating to communications between his administration and the American Federation of Teachers (AFT) regarding reopening schools and supporting safe, in-person learning.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H. Res. 1273 is known to be duplicative of another federal program, including any program that was included in a report to Congress pursuant to section 21 of Pub. L. No. 111-139 or the most recent Catalog of Federal Domestic Assistance.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

The Committee has not received a cost estimate for the bill from the Director of the Congressional Budget Office.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H. Res. 1273 does not change existing law for purposes of clause 3(e) of rule XIII of the Rules of the House of Representatives.

MINORITY VIEWS

INTRODUCTION

In May 2021, press reports revealed that the Centers for Disease Control and Prevention (CDC) allowed the American Federation of Teachers (AFT) to rewrite key portions of school reopening guidance the agency released on February 12 of that year.¹ Emails received under a *Freedom of Information Act* (FOIA) request showed detailed communications between AFT leadership, White House staff, CDC personnel, and CDC Director Dr. Rochelle Walensky.² Those communications reportedly also included a phone call between Director Walensky and AFT President Randi Weingarten prior to the release of the guidance.³ Those interactions paid off for the AFT, as emails showed that in at least two instances the AFT's suggested edits to the guidance were adopted by the CDC nearly verbatim.⁴

Had the guidance issued by the CDC been scientifically sound and prioritized the needs of students, this collusion could have been explained as the natural process of government agencies listening to concerned stakeholders. Unfortunately, this was not the case. Immediately after the guidance was released, public health experts criticized the guidance for being too restrictive. Experts Joseph G. Allen and Helen Jenkins were quoted in the Washington Post saying the guidance added “new and unnecessary demands that will ultimately keep millions of kids out of school.”⁵ A key point of contention was that the guidance tied school reopening recommendations to metrics for COVID spread in a community. Allen and Jenkins were further quoted saying, “We changed our position on this in light of overwhelming scientific evidence that transmission within schools can be kept low regardless of community spread, so long as good mitigation measures are in place.”⁶

As a result of this evidence of collusion between the CDC and the AFT, which produced school reopening guidance that had the effect of keeping millions of students out of school, Rep. John Joyce (R-PA) introduced H. Res. 1273. The legislation directs the President of the United States to provide documents to the House of Representatives relating to communications between the CDC and AFT related to school reopening guidance. While FOIA requests and resulting press reports have provided Congress and the public with substantial information about the Biden administration's collusion with its political allies, there has not yet been a full accounting of

¹ <https://nypost.com/2021/05/01/teachers-union-collaborated-with-cdc-on-school-reopening-emails/>.

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ https://www.washingtonpost.com/education/cdc-school-reopen-guidelines/2021/02/14/628f604e-6f08-11eb-b8a9-b9467510f0fe_story.html.

⁶ Ibid.

the extent of this collusion, and nobody has been held accountable. H. Res. 1273 would give Republicans and Democrats the opportunity to speak with one voice to hold the Biden administration accountable for the harm done to students.

THE CONGRESSIONAL DUTY TO CONDUCT OVERSIGHT

During committee consideration of H. Res. 1273, the Committee chairman stated repeatedly that the committee’s oversight authority is vested exclusively in the Committee’s chair. But the truth is, all of Congress has a constitutional duty to ensure that the Executive Branch exercises its Congressionally provided authority faithfully and with the public’s best interest as its motivation. So far, this Committee has failed to investigate this matter and it is imperative that we uncover the truth behind the Biden administration’s politicization of the CDC and the resulting harm caused to millions of students.

Politicized CDC

On February 3, 2021, nine days before the CDC’s guidance was released, Director Walensky stood at the podium in the White House briefing room and said, “But I also want to be clear that there is increasing data to suggest that schools can safely reopen and that that safe reopening does not suggest that teachers need to be vaccinated in order to reopen safely.”⁷ One day later, the White House walked back those comments, with White House Press Secretary Jen Psaki implausibly arguing that Director Walensky was speaking from the White House podium “in her personal capacity.”⁸ Press Secretary Psaki further said, “Obviously, she’s the head of the CDC, but we’re going to wait for the final guidance to come out so we can use that as a guide for schools around the country.” As stated above, around the time of Director Walensky’s comments at the White House and Press Secretary Psaki’s walk back, the CDC and AFT were actively communicating. Among other things, records indicate a phone call occurred between Director Walensky and AFT President Weingarten in the days between Director Walensky’s White House appearance and the release of the CDC guidance.

This is an unconscionable politicization of the CDC. Dr. Monica Gandhi, a professor of medicine at the University of California, San Francisco, characterized the communication between the AFT and CDC as “very, very troubling.” She went on to say:

What seems strange to me here is there would be this very intimate back and forth including phone calls where this political group gets to help formulate scientific guidance for our major public health organization in the United States. This is not how science-based guidelines should work or be put together.⁹

⁷ <https://www.whitehouse.gov/briefing-room/press-briefings/2021/02/03/press-briefing-white-house-covid-19-response-team-and-public-health-officials/>.

⁸ <https://www.washingtonpost.com/politics/2021/02/05/biden-administrations-muddled-confusing-message-reopening-schools/>.

⁹ <https://nypost.com/2021/05/01/teachers-union-collaborated-with-cdc-on-school-reopening-emails/>.

Shockingly, our Democrat colleagues are completely disinterested in learning more about the extent to which the Biden administration put millions of children at risk to placate political allies.

School Closures Caused Harm

Democrats have consistently argued that keeping schools closed was a reasonable decision given the risk posed to educators in reopening schools. Reopening schools was not risk-free for educators, and those that showed up for the good of our children anyway deserve our gratitude. However, there are two flaws to this argument. First, it significantly overstates the actual risk that school reopenings posed. An overwhelming body of evidence shows that schools have not been major points of transmission for COVID. For example, a study carried out in North Carolina in the fall of 2020 examined 11 school districts with more than 90,000 students and staff attending school in person.¹⁰ Among those students and staff, there were 773 community-acquired COVID cases between August 15 and October 23. Contact tracing determined only 32 additional infections were acquired within schools, and there were no instances of child-to-adult transmission in schools.

Second, the Democrats' argument shows a stunning unwillingness to consider the needs of children. The choice faced by teachers unions and education leaders was not between a risky decision to reopen schools and a risk-free decision to keep schools closed. As a report sponsored by several groups that was published in March 2021 put it, "Any public health benefit gained from school closures must be weighed against the significant—and potentially lasting—costs imposed on individual students and society as a whole."¹¹ We now know just how significant that harm to students has been.

Sadly, though, our committee has known about the harm for more than a year. In May 2021, the Early Childhood, Elementary, and Secondary Education Subcommittee heard testimony from parents of children with disabilities harmed by their states' and school districts' refusal to provide adequate in-person instruction. One parent testified about his experiences in Virginia and said:

Our son is diagnosed with Autism Spectrum Disorder and ADHD. Before school closed due to the pandemic, he was a very happy boy who loved school, especially being around his friends. But things changed quickly after schools closed. The lack of social contact and the routine of a normal school day, which are incredibly important to children with Autism, caused him to create an imaginary world . . . with '52 friends,' as he told us . . . [H]is imaginary world had become so real to him that he struggled to differentiate real from the pretend, causing him to have visual, auditory, and tactile hallucinations which became

¹⁰ <https://publications.aap.org/pediatrics/article/147/4/e2020048090/180871/Incidence-and-Secondary-Transmission-of-SARS-CoV-2?autologincheck=redirected?nfToken=00000000-0000-0000-0000-000000000000>.

¹¹ https://crpe.org/wp-content/uploads/3-12_is_it_safe_to_reopen_schools_an_extensive_review_of_the_research_1.pdf.

so bothersome that on his 9th birthday, he asked me, ‘Daddy, can I die for my birthday?’¹²

That parent went on to talk about the additional harm done to his son by schools in northern Virginia not opening for in-person instruction through most of the 2020–2021 school year. It is clear that keeping schools closed was not risk-free, and suggestions that it was insults the children who suffered from those decisions and the parents forced to witness that suffering. Beyond the individual experiences of families like the one who testified to the Early Childhood, Elementary, and Secondary Education subcommittee, the data on learning loss and mental health challenges further clarifies the harm done.

Learning Loss

Study after study on the effects of school closures confirms the sad but unsurprising reality: school closures crippled K–12 students’ learning and emotional well-being. On September 1, the Department of Education released National Assessment of Educational Progress (NAEP) data¹³ showing that reading and math scores for nine-year-olds declined sharply over the course of the pandemic. Average scores in 2022 declined five points in reading and seven points in math compared to 2020. This is the largest average decline in reading since 1990 and the first ever decline in math.

Students forced into more remote learning during the 2020–2021 school year have suffered a disproportionate amount of learning loss. Harvard University’s Center for Education Policy Research (CEPR) released a report in May showing that, on average, students who were mostly in-person lost about 20 percent of a typical school year’s math learning compared to remote students who lost a staggering 50 percent of a typical school year’s math learning.¹⁴ Teachers saw this firsthand: a May 2022 GAO survey of K–12 public school teachers nationwide found that 60 percent of remote teachers said their students had more difficulty understanding lessons virtually than in a typical school year, while 85 percent of in-person teachers said live instruction helped students.¹⁵

While all students were harmed by pandemic learning, low-income and minority students were the most affected by school closures. A June 2021 CDC study found that students of color had significantly less access to in-person learning than their peers.¹⁶ The aforementioned Harvard CEPR study determined that districts with remote learning saw widened reading and math achievement gaps between high and low-poverty schools while, in contrast, in-person districts had no substantive widening of income achievement gaps in math and less widening in reading.¹⁷ These disparate effects have bled into a lagging recovery, as a NWEA report this summer revealed that Black, Hispanic, and American Indian/Alas-

¹² https://republicans-edlabor.house.gov/uploadedfiles/congressional_testimony__reade.pdf.

¹³ <https://www.nationsreportcard.gov/highlights/1t/2022/>.

¹⁴ <https://www.nytimes.com/2022/05/05/briefing/school-closures-covid-learning-loss.html?smid=em-share>.

¹⁵ <https://www.gao.gov/products/gao-22-104487>.

¹⁶ <https://www.cdc.gov/mmwr/volumes/70/wr/mm7026e2.htm>.

¹⁷ <https://cepr.harvard.edu/files/cepr/files/5-4.pdf?m=1651690491>.

ka Native students continue to have a disproportionately slower learning improvement compared to their peers.¹⁸

This learning loss has tangible generational impacts. Using data from a 2021 NWEA report¹⁹ on student achievement, Harvard’s CEPR estimated²⁰ that such losses would represent a \$43,800 loss in expected lifetime earnings for each individual student affected. When multiplied by the roughly 50 million students enrolled in public schools, that represents about \$2 trillion in total earnings losses. A July 2021 analysis conducted by McKinsey and Company found that the impact of school closures on K–12 student learning could cause students to earn \$49,000 to \$61,000 less over their lifetime as a result of the pandemic. This impact on the US economy could amount to \$128 billion to \$188 billion every year as this cohort enters the workforce.²¹

Mental Health Impact on Students

School closures and the pandemic experience plunged students into feelings of isolation, depression, and anxiety.²² The CDC’s 2021 Adolescent Behaviors and Experiences Survey noted that 37 percent of high school students experienced poor mental health during the pandemic, with 44 percent of all students reporting feeling persistently sad or hopeless.²³ The medical community has recognized the severe impacts on children’s mental health: the American Academy of Pediatrics declared a national emergency in child and adolescent mental health last fall,²⁴ and U.S. Surgeon General Dr. Vivek Murthy issued an advisory statement a month later.²⁵

Remote learning and social isolation were devastating for mental health. A study conducted by the American Civil Liberties Union asked students to grade their mental wellness before and after schools closed on a scale of one to 10, with 10 indicating top mental health.²⁶ Before the pandemic, 65 percent of students gave themselves a seven or higher. After the onset of the pandemic, that percentage dropped to less than 40 percent. Moreover, the number of students who rated their mental health a three or lower more than tripled after the pandemic began, from 7.2 percent to 23 percent.²⁷ In January, JAMA Pediatrics did a systemic review of school closures in 11 countries, including the United States, and described the negative consequences as “harbingers of long-term outcomes, including decreased life expectancy for U.S. schoolchildren.”²⁸

¹⁸ https://www.nwea.org/content/uploads/2022/07/Student-Achievement-in-2021-22-Cause-for-hope-and-concern_researchbrief-1.pdf.

¹⁹ <https://www.nwea.org/content/uploads/2021/12/Learning-during-COVID19-An-update-on-student-achievement-and-growth-at-the-start-of-the-2021-2022-school-year-Research-Brief.pdf>.

²⁰ <https://www.the74million.org/article/analysis-pandemic-learning-loss-could-cost-u-s-students-2-trillion-in-lifetime-earnings-what-states-schools-can-do-to-avert-this-crisis/>.

²¹ <https://www.mckinsey.com/industries/public-and-social-sector/our-insights/covid-19-and-education-the-lingering-effects-of-unfinished-learning>.

²² <https://www.hsph.harvard.edu/news/hsph-in-the-news/covid-youth-mental-health-crisis/>.

²³ <https://www.cdc.gov/healthyyouth/data/abes.htm>, <https://www.cdc.gov/media/releases/2022/p0331-youth-mental-health-covid-19.html>.

²⁴ <https://www.aap.org/en/advocacy/child-and-adolescent-healthy-mental-development/aap-aacap-cha-declaration-of-a-national-emergency-in-child-and-adolescent-mental-health/>.

²⁵ <https://www.hhs.gov/sites/default/files/surgeon-general-youth-mental-health-advisory.pdf>.

²⁶ *Student anxiety, depression increasing during school closures, survey finds* | EdSource.

²⁷ Ibid.

²⁸ <https://jamanetwork.com/journals/jamapediatrics/fullarticle/2788069>, <https://jamanetwork.com/journals/jamapediatrics/fullarticle/2788076>.

Students continue to wrestle through the mental health effects of school closures even as they return to schools. A May 2022 NCES survey reported that 70 percent of public schools saw an increase in students seeking mental health services, with 76 percent of schools hearing increased concerns from staff about students' depression, anxiety, and trauma.²⁹

These trends are sadly reflected in hospital visits and deaths across the nation. The CDC reported that, between April and October 2020, the proportion of emergency room visits for mental health reasons increased by 24 percent for children aged five to 11 and 31 percent for children aged 12 to 17 over the same period in 2019.³⁰ Even more shockingly, suspected suicide attempt emergency room visits during February and March 2021 were 50.6 percent higher among girls aged 12–17 years than during the same period in 2019.³¹ Aggregate suicide data across 14 states revealed an overall increase in the adolescent proportion of all suicides during the pandemic.³²

CONCLUSION

Sadly, Committee Democrats chose to bury their heads in the sand in the face of overwhelming evidence that the Biden administration conspired with its political allies and ignored the science that said schools could be safely reopened. These actions left millions of students stuck at home far longer than they needed to be, and they suffered catastrophic learning loss and mental health challenges as a result. When an administration fails to execute its responsibilities faithfully, Congress has an obligation to conduct vigorous oversight. This imperative is made even more urgent when an administration's failures result in such significant harm to the American people. Democrats have an opportunity to change course and do the right thing, which begins with joining Republicans to demand the documents Congress needs to determine the role the AFT played in reshaping the CDC's guidance. The House of Representatives should take up and pass H. Res. 1273. It is time the American people learn the full extent of the CDC's collusion with the AFT, and it is time for those involved to be held accountable.

VIRGINIA FOXX,
Ranking Member.
JOE WILSON.
GLENN "GT" THOMPSON.
TIM WALBERG.
GLENN GROTHMAN.
ELISE M. STEFANIK.
RICK W. ALLEN.
JAMES COMER.
RUSS FULCHER.
FRED KELLER.
MARIANNETTE MILLER MEEKS,
M.D.

²⁹ https://nces.ed.gov/whatsnew/press_releases/05_31_2022_2.asp.

³⁰ <https://www.cdc.gov/mmwr/volumes/70/wr/mm7024e1.htm>.

³¹ <https://www.cdc.gov/mmwr/volumes/70/wr/mm7024e1.htm>.

³² <https://jamanetwork.com/journals/jamapediatrics/fullarticle/2791544>.

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