

March 30, 2022



**Interim Findings: Union Officials Wrote Key Portions
of the Biden Administration's School Reopening
Guidance**

**Staff Report
Select Subcommittee on the Coronavirus Crisis | Minority**

INTERIM REPORT

TO: Republican Members, Committee on Oversight and Reform and
Select Subcommittee on the Coronavirus Crisis

FROM: Republican Staff, Select Subcommittee on the Coronavirus Crisis

DATE: March 30, 2022

RE: Interim Findings: Union Officials Wrote Key Portions of the Biden
Administration's School Reopening Guidance

I. Executive Summary

On February 12, 2021, the U.S. Centers for Disease Control and Prevention (CDC) released the Biden Administration's first school reopening guidance, entitled "Operational Strategy for K-12 Schools through Phased Prevention" (Operational Strategy).¹

Documents and testimony show, contrary to the CDC's long-standing practice of keeping draft guidance documents confidential, senior agency officials shared a draft copy of the Operational Strategy with the American Federation for Teachers (AFT), a political union with no scientific expertise but an extensive record of support for the Biden campaign. After reviewing the draft, AFT staff asked CDC Director Rochelle Walensky to install a "trigger" in the guidance that would cause schools to close automatically if COVID-19 positivity rates reached a certain threshold. The CDC obliged, and thousands of schools across the country remained closed throughout the 2020-2021 school year.

Committee staff interviewed Dr. Henry Walke, a career CDC scientist and medical doctor, on February 18, 2022. Dr. Walke testified this level of coordination between the CDC and an outside organization was "uncommon."² In fact, according to Dr. Walke, the CDC does not typically share draft guidance outside the agency for any reason, even with other federal partners. This was reaffirmed during a staff level briefing with the CDC on March 2, 2022.³

Lawyers for the Biden Administration, however, prevented Dr. Walke from answering several questions that would have helped the Committee understand why the CDC broke from past practice with respect to the AFT and the Operational Strategy.

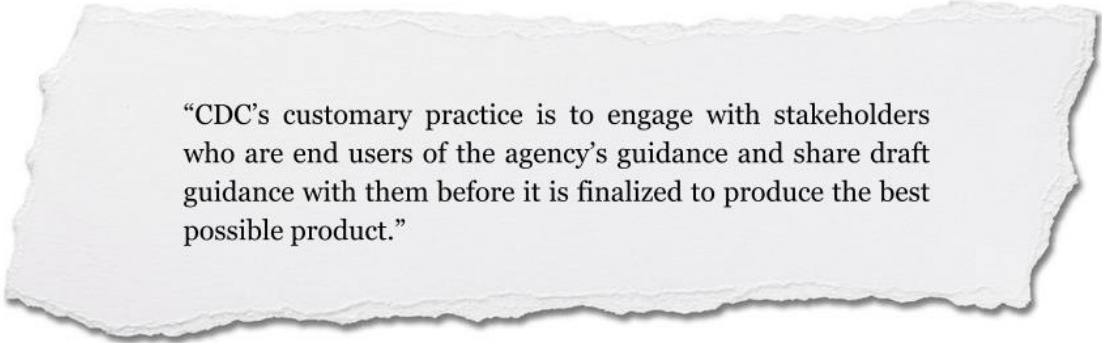
II. Summary of Findings

¹ OPERATIONAL STRATEGY FOR K-12 SCHOOLS THROUGH PHASED MITIGATION, U.S. CENTS. FOR DISEASE CONTROL & PREVENTION (originally published Feb. 12, 2021) (on file with Comm. staff).

² Transcribed Interview of Dr. Henry Walke, Director, Cent. for Preparedness & Response, U.S. Cents. For Disease Control & Prevention, by H. Comm. on Oversight & Reform Staff (Feb. 18, 2022) [hereinafter Walke TI].

³ Briefing by the Centers for Disease Control & Prevention, Drs. Greta Massetti, Chris Jones, & Brian King to Comm. on Oversight & Reform bipartisan staff, Mar. 2, 2022.

On May 11, 2021, after public reports of political interference by the AFT in the school re-opening policymaking process, Committee Republicans wrote to CDC Director Rochelle Walensky to request documents and information regarding the formulation of the Operational Strategy.⁴ On July 19, 2021, Director Walensky responded and asserted CDC's consultation with AFT was routine and consistent with the agency's customary process for issuing guidance. Director Walensky stated:⁵



"CDC's customary practice is to engage with stakeholders who are end users of the agency's guidance and share draft guidance with them before it is finalized to produce the best possible product."

Documents and testimony show, however, that Director Walensky downplayed the degree to which CDC departed from past practice to allow AFT to affect the policymaking process. In fact, CDC allowed AFT to insert language into the Operational Guidance that made it more likely schools across the country would remain closed after February 2021.

FINDING 1: Director Walensky downplayed the degree to which the CDC gave AFT access to the policymaking process. In fact, the CDC shared a draft with the AFT at least two weeks before finalizing the document and solicited the union's feedback.

The documents show the CDC was not merely providing the Operational Strategy to AFT as a courtesy to an "end user," as Director Walensky indicated. In fact, the documents show the White House and CDC staff engaged in extensive discussions with AFT's senior leadership about the contents of the draft guidance and indicated a willingness to accept near verbatim edits to the Operational Strategy.

On February 1, 2021, Kelly Trautner, Director of Health Issues for the AFT, emailed staff at the White House and the CDC.⁶ The email shows the CDC shared a draft version of the Operational Strategy with AFT on or around January 29, 2021. Trautner wrote:

⁴ Letter from Hon. Steve Scalise, Ranking Member, Select Subcomm. on the Coronavirus Crisis, H. Comm. on Oversight & Reform, et. al., to Dr. Rochelle Walensky, Director, U.S. Cents. For Disease Control & Prevention (May 11, 2021).

⁵ Letter from Dr. Rochelle Walensky, Director, U.S. Cents. For Disease Control & Prevention, to Hon. James Comer, Ranking Member, Comm. on Oversight & Reform (July 19, 2021).

⁶ Email from Ms. Kelly Trautner, American Fed. Of Teachers, to Ms. Carole Johnson, Testing Coordinator, COVID-19 Response Team, The White House, et. al. (Feb. 1, 2021).

“Thank you again for Friday’s [January 29, 2021] rich discussion about forthcoming CDC guidance and for your openness to the suggestions made by our President, Randi Weingarten, and the AFT. . . . [the AFT was] able to review a copy of the draft guidance document over the weekend and were able to provide some initial feedback to several staff this morning about possible ways to strengthen the document.”

Dr. Henry Walke, the current Director of the Center for Preparedness and Response at the CDC and former COVID-19 Incident Manager, told the Committee the CDC does not typically share complete draft guidance documents outside the agency. According to Dr. Walke, the CDC typically shares guidance documents with partners outside the agency as a courtesy, just a few hours before the guidance is released publicly. In a transcribed interview with Committee staff, Dr. Walke testified:

Republican Counsel.	Is it common to send draft deliberative or pre-decisional guidance outside of the government to those partners? ⁷
Dr. Walke.	[The CDC] may send summaries, like, the day before we’re going to release something, or the day of . . . [a]nd if [the CDC] released our whole guidance, it would be sort of in an embargo state, meaning several hours before, we would share with our partners ⁸

In fact, according to Dr. Walke, the CDC typically shares only “excerpts” from such draft guidance documents with other federal agencies. It is therefore particularly unusual for the CDC to share a full and complete version of a draft guidance document outside the government. Dr. Walke testified:

Republican Counsel.	Are drafts of the guidance sent to the interagency process, so Department of Education, would you send a draft to get comment on?
Dr. Walke.	[The CDC has] shared language or excerpts from - - to get feedback on particular parts of guidance . . . so, yeah, we absolutely would share portions or

⁷ “Partners” means groups unaffiliated with the federal government.

⁸ Walke TI.

particular parts of our guidance internal to the federal government⁹

Even though the documents make clear the CDC shared the draft guidance document with AFT approximately two weeks before the final version was published, Biden Administration lawyers prevented Dr. Walke from testifying as to why. When Republican staff asked Dr. Walke questions to that effect, a Biden Administration lawyer instructed him not to answer:

Republican Counsel.	So, you [Dr. Walke] just testified that it is uncommon to send a draft document outside of the government. This was sent February 1st, 2021. The guidance was published February 12, 2021. You [Dr. Walke] also testified that if [the CDC] did, it would be within a day or two. That's ten days. Why was this guidance sent outside the government?
Biden Administration Counsel.	I'm going to have to instruct Dr. Walke not to answer the question. ¹⁰

FINDING 2: Director Walensky personally managed the process for receiving and implementing the AFT's edits to the Operational Strategy. Her involvement was contrary to the CDC's practice to keep draft guidance documents confidential.

Emails between the AFT, the White House, and the CDC show the AFT's cozy relationship with the Biden Administration's political leadership at the CDC positioned the union to impose line-by-line edits to the Operational Strategy on at least two separate occasions, despite the CDC's past practice to keep draft guidance confidential.

For instance, on February 1, 2021—approximately three days after the CDC shared a draft version of the guidance with AFT—Trautner provided proposed language to the White House and the CDC that included several accommodations “to limit the risk of workplace exposure.”¹¹ [hereinafter, AFT Edit 1] The language was provided on behalf of AFT President Randi Weingarten.¹²

⁹ *Id.*

¹⁰ *Id.*

¹¹ Email from Ms. Kelly Trautner, *supra* note 6.

¹² *Id.*

AFT Edit 1

Employers should provide reassignment, remote work, or other options for staff who have documented high-risk conditions or who are at increased risk for severe illness from COVID-19 to limit the risk of workplace exposure. Options for reassignment include telework, virtual teaching opportunities, modified job responsibilities, environmental modifications, scheduling flexibility, or temporary reassignment to different job responsibilities. These options should likewise be extended to staff who have a household member with documentation of a high-risk condition or who are at increased risk for severe illness from COVID-19. Policies and procedures addressing issues related to teachers and other staff at higher risk of serious illness should be made in consultation with occupational medicine and human resource professionals, keeping in mind Equal Employment Opportunity (EEO) concerns.

Director Walensky replied to Trautner's message: "I just wanted to circle back and extend my gratitude for the language you have provided us below . . . I wanted to be certain you knew it is being worked into . . . the school reopening guidance."¹³ Walensky also stated, "[p]lease know we are listening and working hard to ensure your confidence and partnership in this endeavor."¹⁴

Eight days later, on February 11, 2021, Trautner e-mailed Walensky and provided another edit to the Operational Strategy. The language would permit the CDC to update the Operational Strategy in the event of a new SARS-CoV-2 variant.¹⁵ [hereinafter, AFT Edit 2]

AFT Edit 2

In the event high-community transmission results from a new variant of SARS-CoV-2, a new update of these guidelines may be necessary.

Director Walensky forwarded this addition to Dr. Walke. He replied: "Yes, will work with the team."¹⁶

Dr. Walke stated that, while the CDC often receives comments and suggestions from outside partners, it is "uncommon" for outside partners to send line-by-line edits. He further stated that it is "uncommon" for the CDC to "incorporate" such edits. He testified:

¹³ Email from Dr. Rochelle Walensky, Dir., U.S. Cents. for Disease Control & Prevention, to Carole Johnson, Testing Coordinator, COVID-19 Response Team, The White House, et. al. (Feb. 3, 2021).

¹⁴ *Id.*

¹⁵ Email from Ms. Kelly Trautner, American Fed. Of Teachers, to Dr. Rochelle Walensky, Dir., U.S. Cents. for Disease Control & Prevention, et. al. (Feb. 11, 2021).

¹⁶ Email from Walke, COVID-19 Incident Manager, U.S. Cents. for Disease Control & Prevention, to Dr. Rochelle Walensky, Dir. U.S. Cents. for Disease Control & Prevention (Feb. 12, 2021).

Republican Counsel.	So, knowing that it's uncommon to send draft guidances outside the government, is it uncommon for outside groups to send draft language to . . . the CDC?
Dr. Walke.	It's uncommon.
* * *	
Republican Counsel.	Uncommon for, like, line-by-line edits or additions?
Dr. Walke.	That's correct. ¹⁷
* * *	
Republican Counsel.	In general, if an outside group sent [the CDC] a line-by-line edit, do you think it is appropriate to accept it?
Dr. Walke.	As I have said before, . . . it would be uncommon for us to incorporate line-by-line edits into our guidance. ¹⁸

FINDING 3: The AFT's edits were intended to make it more likely that schools would close to in-person learning. The CDC included the AFT's language in the final Operational Strategy, almost word for word.

By early 2021, public health experts were advocating to reopen schools as various metrics showed relatively low risks associated with in-person instruction.¹⁹ The AFT and other teachers' unions, however, were resisting school re-opening plans in various jurisdictions. For instance, in New York City, the teachers negotiated a deal with Mayor Bill de Blasio to close schools if the COVID-19 positivity rate exceeded three percent—an extremely conservative threshold.

The AFT sought to implement a similar threshold to trigger school closures across the country. The Biden Administration obliged. Documents show the ATF's draft language was meant to address the union's concerns about the absence of "triggers" that would automatically

¹⁷ Walke TI.

¹⁸ *Id.*

¹⁹ *see, e.g.,* Catherine Gewetz, 'Schools Need to Be Bolder' About Reopening, Public Health Expert Says, EDUCATION WEEK, Nov. 2, 2020.

cause schools to close.²⁰ Specifically, the ATF advised Director Walensky that its draft language should be incorporated to remediate “the absence of a closure threshold” and AFT’s continued efforts to “urge the inclusion of clear closure triggers in the imminent guidance.”²¹

E-mails between AFT staff, the White House, and the CDC, including Director Walensky, show the CDC worked to incorporate both AFT edits, almost word for word. In fact, AFT Edit 1 made it into the final Operational Strategy largely unchanged. The Operational Strategy Final Language (on the left, below) indicates text identical to AFT Edit 1 (on the right):

OPERATIONAL STRATEGY FINAL VERSION	AFT PROPOSED LANGUAGE “AFT EDIT 1”
At all levels of community transmission, employers should provide reassignment, remote work, or other options for staff who have documented high-risk conditions or who are at increased risk for severe illness from COVID-19 to limit the risk of workplace exposure. When these conditions are disabilities under the Americans with Disabilities Act, employers must provide reasonable accommodation subject to undue hardship. Options for reassignment may include but are not limited to telework, virtual teaching opportunities, modified job responsibilities, environmental modifications, scheduling flexibility, or temporary reassignment to different job responsibilities. These options should likewise be extended to staff who have a household member with a high-risk condition or who are at increased risk for severe illness from COVID-19. Policies and procedures addressing issues related to teachers and other staff at higher risk of serious illness and the application of reassignment, remote work or other options for mitigation should be made in consultation with occupational medicine and human resource professionals with knowledge of the specific situation, keeping in mind Equal Employment Opportunity (EEO) and other potential legal concerns.²²	Employers should provide reassignment, remote work, or other options for staff who have documented high-risk conditions or who are at increased risk for severe illness from COVID-19 to limit the risk of workplace exposure. Options for reassignment include telework, virtual teaching opportunities, modified job responsibilities, environmental modifications, scheduling flexibility, or temporary reassignment to different job responsibilities. These options should likewise be extended to staff who have a household member with documentation of a high-risk condition or who are at increased risk for severe illness from COVID-19. Policies and procedures addressing issues related to teachers and other staff at higher risk of serious illness should be made in consultation with occupational medicine and human resource professionals, keeping in mind Equal Employment Opportunity (EEO) concerns.

²⁰ Email from Ms. Kelly Trautner, American Fed. Of Teachers, to Dr. Rochelle Walensky, Dir., U.S. Cents. for Disease Control & Prevention, et. al. (Feb. 11, 2021).

²¹ *Id.*

²² OPERATIONAL STRATEGY FOR K-12 SCHOOLS THROUGH PHASED MITIGATION, *supra* note 1.

For AFT Edit 2, Director Walensky instructed Dr. Walke to incorporate the language even though the Operational Strategy had already been previewed for the media.²³ AFT Edit 2 also made it into the final Operational Strategy largely unchanged:

OPERATIONAL STRATEGY FINAL VERSION	AFT PROPOSED LANGUAGE “AFT EDIT 2”
In the event of increased levels of community transmission resulting from a variant of SARS-CoV-2, updates to this guidance may be necessary.	In the event high-community transmission results from a new variant of SARS-CoV-2, a new update of these guidelines may be necessary.

FINDING 4: A Biden Administration lawyer repeatedly prevented a career CDC doctor from answering questions about whether and why the CDC allowed AFT to write portions of the Operational Strategy.

Even though the Operational Strategy was released to the public in February 2021, and despite clear evidence that the ATF’s edits were incorporated, the Biden Administration would not allow Dr. Walke to answer questions on this topic citing concerns with the scope of the interview—a scope negotiated solely with the Democrat Staff of the Select Subcommittee on the Coronavirus Crisis (SSOCC). The Biden Administration’s attorney colluded with SSOCC Democrat staff to ensure the Biden Administration was shielded from legitimate oversight. A Biden Administration lawyer instructed him not to answer whether AFT Edit 1 was incorporated:

Republican Counsel.	Do you recall adding [AFT Edit 1] to the school reopening guidance?
Biden Administration Counsel.	I’m going to instruct Dr. Walke not to answer the question. ²⁴

The Biden Administration lawyer again instructed Dr. Walke not to answer a similar question about AFT Edit 2:

Republican Counsel.	Did you edit that guidance to include [AFT Edit 2]?
Biden Administration Counsel.	Once again, that question is outside the scope of the interview. ²⁵

Dr. Walke was, however, allowed to testify generally about how the CDC cites contributions from outside groups after guidance documents are issued. Dr. Walke said the CDC

²³ Reuters, *U.S. CDC Recommends Schools Reopen With Masks and Rigid Health Protocols*, Feb. 12, 2021. (Reuters published the story at 7:10 a.m. on Feb. 12. The final addition of AFT Edit 2 was approved by Director Walensky at 5:13 p.m. on Feb. 12.).

²⁴ Walke TI.

²⁵ *Id.*

does not cite outside partners who may have been consulted because “it is CDC guidance.” With respect to the Operational Strategy, however, CDC’s policy to keep secret that a teachers union wrote key portions may have created the false impression that the guidance document was CDC work product. Dr. Walke testified:

Republican Counsel.	Are the partners consulted with on specific guidance acknowledged after the guidance drafting process for the public?
Dr. Walke.	No, not usually. Not that I can think of. I mean, the idea is that this is CDC guidance. ²⁶

But when Committee staff asked why the CDC abandoned its practice of keeping draft guidance confidential and incorporated edits proposed by AFT into the final Operational Strategy, a Biden Administration lawyer again instructed Dr. Walke not to answer:

Republican Counsel.	So, if [incorporating line-by-line edits] is so uncommon, why did it happen with the American Federation of Teachers?
Biden Administration Counsel.	I’m going to instruct Dr. Walke not to answer that question. ²⁷

The Biden Administration also prevented the Committee from obtaining testimony as to whether the CDC has incorporated language from outside stakeholders in other cases. A Biden Administration lawyer instructed Dr. Walke not to answer when Committee staff asked Dr. Walke if, in his more than 20-year career, he had ever been instructed to incorporate line-by-line edits from an outside group besides AFT:

Republican Counsel.	And in your employment with CDC since 2001, have you ever personally incorporated edits or additions that came from an outside group?
Biden Administration Counsel.	. . . [T]hat’s outside the scope of the interview. ²⁸

With respect to guidance related to the COVID-19 pandemic during the Trump Administration, Dr. Walke was allowed to answer as to whether any group outside the federal government ever provided line-by-line edits to the CDC. According to Dr. Walke, no one outside the agency or the White House provided edits. He testified:

Republican Counsel.	Have you ever personally incorporated edits or additions that came from an outside group?
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²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

Dr. Walke.

I do not remember any instance . . . within the scope if this interview, of . . . a partner outside the federal government or the White House providing line-by-line edits.²⁹

III. Conclusion

Teachers' unions, including AFT, donated more than \$43 million to liberal groups and candidates during the 2020 election cycle.³⁰ The two largest unions—which both endorsed then-candidate Biden for President—have approximately 4.7 million members. Dr. Walke's testimony to the Select Subcommittee shows the Biden Administration rewarded their support with unprecedented access to the policymaking process for guidance on re-opening schools.

The Operational Strategy that was developed jointly by the CDC and AFT reflects the fact that the Biden Administration prioritized its political allies over the health and welfare of school-aged children. According to UNESCO, "School closures carry high social and economic costs for people across communities. Their impact however is particularly severe for the most vulnerable and marginalized boys and girls and their families."³¹

The effects of the Biden Administration's politicization of the CDC have been felt most acutely by students from historically disadvantaged backgrounds, including those attending majority-Black or low-income schools, according to a July 2021 report by McKinsey and Co..³² At the end of the 2020-21 school year, most students were about four to five months behind in math and reading levels.³³

Research also shows that school closures affected students in other ways. According to McKinsey, parents whose children have fallen significantly behind academically are one-third more likely to say they are "very or extremely concerned" about their children's mental health. Black and Hispanic parents are seven to nine percentage points more likely than white parents to report higher levels of concern.³⁴

Because lawyers for the Biden Administration prevented a key witness from explaining why the CDC allowed AFT to write key portions of its guidance for re-opening schools, there are still several unanswered questions. This matter should be investigated further. America's children are suffering, academically and mentally, because of the choices of liberal local and state officials. Republicans will not rest until we have rectified the harms perpetrated against children in America.

²⁹ *Id.*

³⁰ Cent. for Responsive Politics, *Teachers Unions* (last accessed Mar. 4, 2022) (based on Fed. Election Comm'n data released on Mar. 22, 2021).

³¹ UNESCO, *Adverse consequences of school closures* (last accessed Mar. 4, 2022).

³² Emma Dorn, et. al., *COVID-19 and education: The lingering effects of unfinished learning*, MCKINSEY & CO. (July 27, 2021).

³³ *Id.*

³⁴ *Id.*