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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

January 18, 2022

VIA ELECTRONIC TRANSMISSION

The Honorable Miguel A. Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Secretary Cardona:

We recently learned that you may have requested that the National School Boards Association (NSBA) send to President Biden its September 29, 2021 letter, which compared concerned parents speaking out at local school boards to domestic terrorists. That letter was the proximate cause of Attorney General Garland issuing a memorandum on October 4, 2021 directing the FBI and the various U.S. Attorneys to focus on harassment, intimidation, and threats of violence directed at school officials. That action by Attorney General Garland has created a dramatic chilling effect on parents throughout the country and is an inappropriate deployment of federal law enforcement. Since that time, we have written twice to Attorney General Garland about this matter, once on October 7, 2021 stating that he should make clear to the American people that it is not the role of the federal government to silence those who question local school boards, and then again on December 6, 2021 to ask why, inexplicably, the FBI's Counterterrorism Division had gotten involved in monitoring local school-board meetings.

This past Tuesday, the news broke that makes the case you played an instrumental role in starting these events. The attached email thread, which was recently released by the group Parents Defending Education, appears to show two NSBA officials discussing whether NSBA's emergency procedures for bypassing board approval of official correspondence were followed before sending its September 29 letter to President Biden. In denying that such procedures were followed, one of the officials wrote,

At the time, no, I didn't think the letter fell under an emergency situation, it wasn't characterized that way when Chip told the officers he was writing a letter to provide information to the White House, from a request by Secretary Cardona.¹

This statement indicates that you asked NSBA personnel to send a letter to President Biden, a letter that White House staff also helped put together and asks for the PATRIOT Act to be used against American parents.

This is extremely concerning to us. It appears that you, the Secretary of Education, instructed a trade association to write a letter to the President of the United States so that the Attorney General might have the requisite cover to deploy federal law enforcement in a manner so as to scare American parents out of speaking freely at school-board meetings and petitioning their local governments. We have the following questions for you regarding this development:

¹ Email from to K. Swett to M. Maraldo (Oct. 6, 2021, 8:02 AM), attached hereto as Ex. 1.

1. Did you or anybody at the Department of Education request that the NSBA write its September 29 letter to President Biden, or otherwise communicate any of the information contained in that letter? What was the nature and substance of that request or communication? What did you, or anybody at the Department of Education, specifically ask NSBA personnel to do in this regard? When was this request made?
2. How did the issues raised in the NSBA's September 29 letter come to your attention? What was the nature and substance of that communication? Who was that communication with? When did that communication take place?
3. Did any individuals within the White House have any communications with you or anybody at the Department of Education about the issues raised in the NSBA's September 29 letter? If so, what was the nature and substance of that communication? Who was that communication with? When did that communication take place?
4. Did any individuals within the Department of Justice have any communications with you or anybody at the Department of Education about the issues raised in the NSBA's September 29 letter? If so, what was the nature and substance of that communication? Who was that communication with? When did that communication take place?
5. Did any individuals within the Department of Justice have any communications with you or anybody at the Department of Education about the issues raised by Attorney General Garland's memorandum of October 4, 2021 about this matter? If so, what was the nature and substance of that communication? Who was that communication with? When did that communication take place?
6. Did any individuals at or associated with the American Federation of Teachers, the National Education Association, or any other education organization, have any communications with you or anybody at the Department of Education about the issues raised in the NSBA's September 29 letter? If so, what was the nature and substance of that communication? Who was that communication with? When did that communication take place?
7. Please provide copies of all records relating to the aforementioned questions, including but not limited to, all records and emails reflecting or relating to the NSBA's September 29 letter to President Biden.
8. Do parents have the fundamental right to direct the upbringing and education of their children?

Please respond no later than Monday, February 7, 2022. You may contact John Schoenecker on Ranking Member Grassley's staff at (202) 224-5225 with any questions you may have about this letter and its requests.

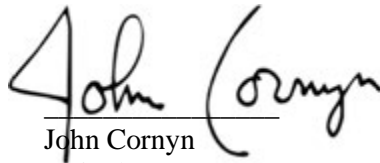
Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary



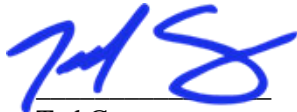
Lindsey O. Graham
United States Senator
Committee on the Judiciary



John Cornyn
United States Senator
Committee on the Judiciary




Michael S. Lee
United States Senator
Committee on the Judiciary



Ted Cruz
United States Senator
Committee on the Judiciary



Ben Sasse
United States Senator
Committee on the Judiciary



Josh Hawley
United States Senator
Committee on the Judiciary



Tom Cotton
United States Senator
Committee on the Judiciary



John Kennedy
United States Senator
Committee on the Judiciary



Thom Tillis
United States Senator
Committee on the Judiciary



Marsha Blackburn
United States Senator
Committee on the Judiciary

Statement to President Biden

2 messages

mmaraldo@gmail.com <[REDACTED].com>
To: "Swett, Kristi (UT)" <[REDACTED]>

Tue, Oct 5, 2021 at 8:06 PM

Hi Kristi,

I was wondering if the following Board policy was followed when the statement to President Biden was drafted or sent:

B-17 EXECUTIVE COMMITTEE: EMERGENCY POWERS

When it is not possible or feasible for the Board to meet, the Executive Committee shall have general authority to act for the Board on policy decisions or to make statements on public issues subject to the constraint that the decisions or statements are within the limits of and consistent with the NSBA Beliefs and Policies and Constitution and Bylaws and do not include any action reserved for the NSBA Board by the Illinois Not-for Profit Corporation Act. Such authority to act for the Board shall be taken only when the Executive Committee has declared an emergency and determined that it is not possible or feasible for the Board to meet as an assembled body, by telephone or by mail. To declare such an emergency requires the affirmative vote of all the elected officers and one of the other voting members of the Executive Committee. When the Executive Committee makes policy decisions or statements on public issues under such emergency conditions, action will be valid only when five members of the Executive Committee indicate agreement. The members of the Board shall be advised of any emergency action of the Executive Committee within 24 hours and shall confirm the Executive Committee action at the next regular meeting.

I am very concerned about the process by which the statement was made and the tone that essentially allowed the White House to direct the Attorney General to consider members of our community "domestic terrorists". I agree that we need to focus on civility, and we should be looking to our local law enforcement to protect board members and deal with threats of violence. I would have appreciated an opportunity to work with my fellow board members to give better direction on this very delicate topic.

Thanks,

Marnie

Kristi Swett <[REDACTED]>
To: "mmaraldo@gmail.com" <[REDACTED]>

Wed, Oct 6, 2021 at 8:02 AM

Hi Marnie

I would love to talk with you about the letter when we are all together this weekend.

At the time, no, I didn't think the letter fell under an emergency situation, it certainly was not characterized that way when Chip told the officers he was writing a letter to provide information to the White House, from a request by Secretary Cordona.

In hindsight, I do think our board needs to have a discussion about a screening process for communications which go out from NSBA, that is aligned with our mission, vision and purpose statement. If we (the board) can have a productive conversation to identify guardrails, it will begin to address the communication issues which plagues NSBA.

ISD_PDEPRR

EXHIBIT
1

I am glad we will be together, lets find time to strategize for the upcoming board meeting.

Thanks....

Kristi

From: [REDACTED] >

Sent: Tuesday, October 5, 2021 9:06 PM

To: Kristi Swett <[REDACTED]>

Subject: Statement to President Biden

[Quoted text hidden]

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