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August 10, 2023

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

Dear Secretary Cardona:

You and the Biden Administration must stop playing politics with school funding. The U.S. Department of Education recently confirmed that it is “withholding . . . critical funds for elementary and secondary schools” that have “hunting or archery programs in their curriculum.”¹ These funds total up to \$ 1 billion.² You are holding the money hostage simply because the Biden Administration does not like shooting sports. Our students, parents, and schools deserve better than this.

Congress passed the Bipartisan Safer Communities Act (BSCA) in the wake of the Uvalde, Texas, and Buffalo, New York, tragedies “to protect America’s children, keep our schools safe, and reduce the threat of violence across our country.”³ The law’s passage required substantial negotiations to resolve differences between competing bills. Those negotiations concerned hotly-contested topics such as federal red-flag laws, mandatory waiting periods, and universal background checks.⁴ Despite its

¹ Thomas Catenacci, *Biden Admin Confirms It’s Withholding Key Funds for Schools with Hunting Courses, GOP Call it ‘Shameful’*, FOX NEWS (July 11, 2023), <https://www.foxnews.com/politics/biden-admin-confirms-withholding-key-funds-schools-hunting-courses-shameful> [hereinafter *Biden Admin Confirms It’s Withholding Key Funds*]; Letter from Senator John Cornyn and Senator Thom Tillis to the Honorable Miguel A. Cardona, Secretary, U.S. Department of Education (July 10, 2023), <https://ukk058.a2cdn1.secureserver.net/wp-content/uploads/2023/07/Sen.-Cornyn-Tillis-letter-to-Dept.-of-Education-regarding-BSCA-Implementation-1.pdf> [hereinafter Sen. Cornyn Letter].

² *Id.*

³ Sen. Cornyn Letter, *supra* note 1

⁴ See Stephanie Lai and Emily Cochrane, *Here’s What is in the Senate’s Gun Bill – and What Was Left Out*, THE N.Y. TIMES (June 23, 2023), <https://www.nytimes.com/2022/06/23/us/politics/senate-gun-bill.html>.

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name, the law received the support of just 14 Republicans in the House and only 15 Republicans in the Senate.⁵

Accordingly, the BSCA hardly represents a broad consensus. And yet the Department is now exploiting the law, and contentious language buried in that law, to withhold critical funding for elementary and secondary schools. For the following reasons, you should restore such resources immediately:

- The Biden Administration is using our schools and children as political pawns;
- The Department’s decision rests on a flawed interpretation of the BSCA; and
- Now is not the time to withhold money from public schools.

First, the Department is manipulating schools and students for political purposes. Your actions represent the latest in a long line of Biden Administration policies that prioritize the woke agenda of the extreme left over the well-being of our children. In 2021, your Department proposed using taxpayer dollars to advance Critical Race Theory ideologies, including the notion that America is systemically racist.⁶ That same year, the Department instructed students and teachers to use an individual’s preferred pronouns, even when those preferences conflicted with biological reality.⁷ And earlier this year you broke with decades of precedent—and with the intent of Title IX, itself—to allow biological boys to compete in girls’ sports.⁸

Threats accompanied each of these policies. You would penalize institutions that reject your flawed interpretation of biology and American history. And you would expel students and fire teachers who refuse to refer to biological boys as “girls” and

Congress excluded these topics from the final version of the BSCA. *See, e.g., The Bipartisan Safer Communities Act*, CORNYN.SENATE.GOV, <https://www.cornyn.senate.gov/bipartisan-safer-communities-act/> (last visited August 8, 2023).

⁵ Mychael Schnell, *Here Are the 14 House Republicans Who Voted for the Gun Safety Bill*, THE HILL (June 24, 2022), <https://thehill.com/homenews/house/3536317-here-are-the-14-house-republicans-who-voted-for-the-gun-safety-bill/>; Aaron Shill, *The Senate Passed a Bipartisan Gun Bill. Here Are the 15 Republican Senators Who Voted for It*, DESERET NEWS (June 23, 2022), <https://www.deseret.com/2022/6/23/23181102/senate-gun-bill-2022-which-republicans-voted-for-bipartisan-safer-communities-act>.

⁶ Lauren Camera, *Education Department Shifts Stance on Civics Proposal That Drew the Ire of Conservatives*, U.S. NEWS (July 16, 2021), <https://www.usnews.com/news/education-news/articles/2021-07-16/education-department-shifts-stance-on-civics-proposal-that-drew-the-ire-of-conservatives>; Jordan Williams, *20 State AGs tell Education Dept They Oppose Teaching Critical Race Theory*, THE HILL (May 20, 2021), <https://thehill.com/homenews/state-watch/554650-20-state-ags-tell-education-department-they-oppose-teaching-critical/> [hereinafter *20 State AGs tell Education Dept They Oppose Teaching Critical Race Theory*].

The proposal referred to the controversial 1619 Project as a “landmark” model for teaching history and civics. 86 Fed. Reg. 20,348–20,349 (Apr. 19, 2021).

⁷ *See generally* 86 Fed. Reg. 32,637 (June 22, 2021).

⁸ *See generally* 88 Fed. Reg. 22,860 (Apr. 13, 2023).

to biological girls as “boys.” Withholding education money because of a hunting or archery program is “yet another example of this Administration trying to [press] their radical agenda” on our schools and children.⁹ The onslaught must stop.¹⁰

Second, the Department is misreading the BSCA. Section §13401 amends the Elementary and Secondary Education Act (ESEA) to say that schools cannot use ESEA funding “for the provision” of dangerous weapons or for “training in the use of” dangerous weapons.¹¹ Nothing in this amendment permits you to deny resources to schools with hunting or archery programs.¹²

You have not indicated that schools are using these ESEA monies “for the provision of”—*i.e.*, the purchase of—dangerous weapons. If that were the concern, schools could remedy it by using non-ESEA dollars to purchase this equipment and using ESEA dollars for all other needs. Additionally, hunting and archery programs are not training in the use of a dangerous weapon. They involve teaching students certain skills (*e.g.*, “focus, self-control, discipline, [and] patience”)¹³ and curricula (*e.g.*, “the history of archery” and how “new technologies” helped develop “organized civilizations”)¹⁴ that have nothing to do with the actual operation of a weapon.

The word “training” has several meanings. The Cambridge Dictionary defines it as “the process of learning the skills you need to do a particular job or activity.”¹⁵ Here,

⁹ Thomas Catenacci, *Sinema, Manchin Rebuke Biden Admin’s Attack on School Archery, Hunting Programs: ‘Gross Misinterpretation’*, FOX NEWS (Aug. 2, 2023), <https://www.foxnews.com/politics/sinema-manchin-rebuke-biden-admins-attack-school-archery-hunting-programs-gross-misinterpretation> [hereinafter *Sinema, Manchin Rebuke Biden Admin’s Attack*]; *Montana Senator Jon Tester Presses Biden Administration to Stop Blocking Funding for School Hunting and Archery Programs*, MATR.NET (Aug. 2, 2023), <https://matr.net/news/montana-senator-jon-tester-presses-biden-administration-to-stop-blocking-funding-for-school-hunting-and-archery-programs/> [hereinafter *Montana Senator Jon Tester Presses Biden Administration*].

¹⁰ I have opposed these attacks at every turn. *See, e.g., Attorney General Cameron Fights to Protect Women’s Sports, Opposes President Biden’s Attack on Title IX*, KENTUCKY.GOV (May 17, 2023), <https://www.kentucky.gov/Pages/Activity-stream.aspx?n=AttorneyGeneral&prId=1376>; Letter from Attorney General Herbert H. Slatery III to the Honorable Joseph R. Biden, President of the United States (July 7, 2021), <https://www.tn.gov/content/dam/tn/attorneygeneral/documents/pr/2021/pr21-23-letter.pdf>; *20 State AGs tell Education Dept They Oppose Teaching Critical Race Theory*, *supra* note 6.

¹¹ Pub. L. No. 117-159, § 13401, 136 Stat. 1313, 1338 (2022), codified at 20 U.S.C. § 7906(7).

¹² You have been remarkably unclear about the arguments and authorities upon which you rely to withhold school funding. *See Biden Admin Confirms It’s Withholding Key Funds*, *supra* note 1.

¹³ What is NASP, NASPSCHOOLS.ORG, <https://www.naspschools.org/what-is-nasp/#:~:text=The%20National%20Archery%20in%20the,the%20classroom%20and%20in%20life> (last visited Aug. 9, 2023).

¹⁴ National Curriculum, NASPSCHOOLS.ORG, <https://www.naspschools.org/download/curriculum-elementary/?wpdmdl=2381&refresh=64d392e1c9c7e1691587297> (last visited Aug. 9, 2023).

¹⁵ *Training*, CAMBRIDGE DICTIONARY, <https://dictionary.cambridge.org/us/dictionary/english/training> (last visited Aug. 8, 2023).

Congress intended training to mean the “learning of skills . . . to do a particular job”—*i.e.*, the kind of training one receives from or for the workplace.¹⁶ Senators John Cornyn and Thom Tillis—sponsors of the BSCA—recently confirmed this interpretation, stating that the BSCA’s language “was only meant to withhold funding from training School Resources Officers[.]”¹⁷ Multiple Senate Democrats agreed, noting “[a]ny defunding of schools who offer critical programs like archery and hunting clubs would be a gross misinterpretation of the legislation[.]”¹⁸

Third, now is the worst time to cut elementary and secondary school resources. U.S. reading and math scores are at their “lowest levels in decades.”¹⁹ According to one study, the U.S. ranks 11th out of 79 developed countries in science and 30th in math.²⁰ Likewise, a 2022 report places Kentucky 29th nationally in fourth-grade reading and 41st in eight-grade math.²¹ The Commonwealth’s reading scores are the “lowest since Kentucky began participating in the 50-state National Assessment of Educational Progress[.]”²² And the math scores mark a significant decline “in recent years when compared to other states.”²³

Kentucky’s declines are partly attributable to the Governor’s decision to close schools during the COVID pandemic.²⁴ But our children should not pay the price for poor

¹⁶ Sen. Cornyn Letter, *supra* note 1; *see also Sinema, Machin Rebuke Biden Admin’s Attack, supra* note 9; *Montana Senator Jon Tester Presses Biden Administration, supra* note 9.

Importantly, hunting and archery programs are shooting sports, not career coaching or employment instruction. Winning a hunting or arching competition may result in a trophy or college scholarship, not a promotion or a performance bonus.

¹⁷ Sen. Cornyn Letter, *supra* note 1; *see* Abby Livingston, “This Was Fundamentally Important”: John Cornyn Says Gun Deal Shows U.S. Senate Can Still Function, THE TEXAS TRIBUNE (June 27, 2022), <https://www.texastribune.org/2022/06/27/john-cornyn-texas-gun-bill/>; *Signed into Law: Sinema’s Bipartisan Safer Communities Act*, SINEMA.SENATE.GOV (June 25, 2022), [https://www.sinema.senate.gov/signed-law-sinemas-bipartisan-safer-communities-act#:~:text=Sinema%20wrote%20and%20sponsored%20the,C.\)](https://www.sinema.senate.gov/signed-law-sinemas-bipartisan-safer-communities-act#:~:text=Sinema%20wrote%20and%20sponsored%20the,C.)).

¹⁸ *Sinema, Machin Rebuke Biden Admin’s Attack, supra* note 9; *Montana Senator Jon Tester Presses Biden Administration, supra* note 9.

¹⁹ Sequoia Carrillo, *U.S. Reading and Math Scores Drop to Lowest Levels in Decades*, NPR (June 21, 2023), <https://www.npr.org/2023/06/21/1183445544/u-s-reading-and-math-scores-drop-to-lowest-level-in-decades>.

²⁰ Kimberly Amadeo, *U.S. Education Rankings Are Falling Behind the Rest of the World*, THE BALANCE March 26, 2023), <https://www.thebalancemoney.com/the-u-s-is-losing-its-competitive-advantage-3306225>.

²¹ *Report Sounds Alarm as Kentucky Drops in Some Key Education Rankings*, THE 74 (Dec. 27, 2022), <https://www.the74million.org/article/report-sounds-alarm-as-kentucky-drops-in-some-key-education-rankings/>.

²² *Id.*

²³ *Id.*

²⁴ *Id.*; *see also* Kevin Wheatley, *Gov. Beshear Orders Public, Private Schools to Close Classrooms Starting Monday* (Nov. 18, 2020), https://www.wdrb.com/in-depth/gov-beshear-orders-public-private-schools-to-close-classrooms-starting-monday/article_fe471d18-29d7-11eb-84bb-63a255e9cc90.html.

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leadership. Shooting sports “support safe and healthy” students.²⁵ Hunting and archery programs give students a chance to “to be part of a team, to compete, to learn, and to make friends,” all of which significantly improves a student’s mental health.²⁶ This is why the National Archery in Schools Program (NASP) has exploded in popularity. Every year 1.3 million students across nearly 9,000 schools and 49 states participate in NASP.²⁷ In Kentucky, the NASP “Active School List” includes nearly 20 pages of participants.²⁸ That means your decision to withhold funding because of a school’s hunting or archery programming is harming thousands of Kentucky children and 1.3 million American kids.

Each of these 1.3 million students is beginning the 2023-2024 school year. And so are the parents who raise them, the teachers who educate them, and the administrators who lead them. Now is not the time to play politics with their education funding. You must therefore stop withholding money from elementary and secondary schools simply because they teach hunting or archery-related curricula. We look forward to your response.

Sincerely,



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Attorney General of Kentucky

²⁵ Sen. Cornyn Letter, *supra* note 1.

²⁶ *Id.*

²⁷ Sen. Cornyn Letter, *supra* note 1.

²⁸ *KyNASP Active School List*, NASPSCHOOLS.ORG, https://fw.ky.gov/Education/Documents/2023_NASP_Active_Schools.pdf (last visited Aug. 8, 2023).