



VIA EMAIL AND OVERNIGHT DELIVERY

October 27, 2021

Sandra Bruce  
Deputy Inspector General Delegated  
the Duties of the Inspector General  
U.S. Department of Education  
550 12th Street, S.W.  
Washington, D.C. 20202

**Re: Request for Investigation Regarding the Appointment of Viola Garcia  
to the National Assessment Governing Board**

Dear Deputy Inspector General Bruce:

America First Legal Foundation (AFL) is a national, nonprofit organization. Our mission includes promoting the rule of law, preventing executive overreach, ensuring due process and equal protection for all Americans, and promoting public knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States.

The Supreme Court has repeatedly recognized American parents' fundamental liberty interest in and Constitutional right to control and direct the education of their own children.<sup>1</sup> The First Amendment guarantees our parents the right to speak, to peaceably assemble, and to petition the government, including local school boards, for a redress of grievances. However, there are indications that officials within the Biden Administration engaged in coordinated action to chill the speech of American parents in an effort to deprive them of those fundamental rights. The evidence shows that Viola Garcia, President of the National School Boards Association, coordinated with Biden Administration officials, including U.S. Department of Education officials, in an effort to chill and suppress nationwide protests by parents against racial indoctrination, anti-religious and anti-family gender ideology, and/or forced online education and irrational mask mandates.<sup>2</sup>

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<sup>1</sup> *Troxel v. Granville*, 530 U.S. 57, 65 (2000); *Pierce v. Society of Sisters*, 268 U.S. 510, 534-35 (1925); *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923).

<sup>2</sup> See, e.g., Samuel Chamberlain, *WH Aided School Board Group's 'Domestic Terrorism' Letter Before Garland Sicked FBI on Parents*, THE NEW YORK POST (Oct. 21, 2021) <https://nypost.com/2021/10/21/wh-aided-school-board-groups-letter-before-garland-sicked-fbi-on-parents/>.

Immediately after doing what the Biden Administration asked, the Secretary of Education appointed her to the National Assessment Governing Board. Consequently, we write requesting an investigation to determine whether her appointment was based on improper considerations.

Our understanding of the facts is as follows.

- Dr. Garcia coordinated for “several weeks” with Biden Administration officials regarding ways to counter parents protesting racial and gender ideology indoctrination and/or irrational forced online education and mask mandates in K-12 public schools.<sup>3</sup>
- The fruit of this coordination included Dr. Garcia’s letter of September 29, 2021, to President Biden.<sup>4</sup> In this letter, she asserted, “acts of malice, violence,

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<sup>3</sup> See Jessica Chasmar, *White House In Contact With School Board Group For ‘Weeks’ Before Controversial ‘Patriot Act’ Letter: Emails*, Fox News (Oct. 21, 2021) <https://www.foxnews.com/politics/white-house-national-school-board-association-letter-emails-show>; see also Mary Margret Olohan, *A Parent-Led Rebellion Against Critical Race Theory Is Storming School Boards Across The Country*, THE DAILY CALLER (June 17, 2021) <https://dailycaller.com/2021/06/17/nbc-critical-race-theory-loudoun-county/>; Samuel Chamberlain, *Teachers’ Union Sues Rhode Island Mom Over Requests for CRT Curriculum Info*, NEW YORK POST (Aug. 5, 2021) <https://nypost.com/2021/08/05/teachers-union-sues-mom-over-requests-for-crt-curriculum-info/>; William A. Jacobson, *Union-Linked Coalition Scripts ‘Messaging’ To Counter Parental Pushback Against Critical Race Theory*, LEGAL INSURRECTION (July 5, 2021) <https://legalinsurrection.com/2021/07/union-linked-coalition-scripts-messaging-to-counter-parental-pushback-against-critical-race-theory/>; Harold Hutchinson, *‘Expose These People Publicly’: Parents Against Critical Race Curriculum Listed By Teachers Attempting To ‘Infiltrate’ Them*, Daily Caller (March 17, 2021) <https://dailycaller.com/2021/03/17/virginia-parents-targeted-for-opposing-critical-race-theory/>.

<sup>4</sup> Nat’l School Board Ass’n, *Letter to Joseph R. Biden Re: Federal Assistance to Stop Threats and Acts of Violence Against Public Schoolchildren, Public School Board Members, and Other Public School District Officials and Educators* (sic) at 5 (Sept. 29, 2021) <https://nsba.org/-/media/NSBA/File/nsba-letter-to-president-biden-concerning-threats-to-public-schools-and-school-board-members-92921.pdf> (Association Letter). The letter repeated teacher union-approved talking points, including the claim “critical race theory is not taught in public schools...” *Id.* at 1; but see William A. Jacobson, *supra* note 5; Jessica Anderson, *Reading, Writing, and Racism: the NEA’s Campaign to Gaslight Parents*, NATIONAL REVIEW ONLINE (July 10, 2021) <https://www.nationalreview.com/2021/07/reading-writing-and-racism-the-neas-campaign-to-gaslight-parents/>. It repeatedly miscited authority and mischaracterized the facts. For example, Dr. Garcia wrote: “Coupled with attacks against school board members and educators for approving policies for masks to protect the health and safety of students and school employees, many public school (sic) officials are also *facing physical threats* because of propaganda purporting the false inclusion of critical race theory within classroom instruction and curricula.” (Emphasis added.) As support for this claim, she cited an analysis by the Armed Conflict Location & Event Data Project. Association Letter at 1 n.1 *citing* The Armed Conflict Location & Event Data Project (ACLED), “Fact Sheet: Demonstrations over Critical Race Theory in the United States,” July 14, 2021, [https://acleddata.com/acleddatanew/wp-content/uploads/2021/07/ACLED\\_Fact-Sheet\\_CRT-Demos\\_2021.pdf](https://acleddata.com/acleddatanew/wp-content/uploads/2021/07/ACLED_Fact-Sheet_CRT-Demos_2021.pdf). However, the analysis concludes “all anti-CRT events involving these

and threats against public school officials have increased” and parent protests “could be the equivalent to a form of domestic terrorism and hate crimes (sic).” She cited, *inter alia*, the case of a Virginia father who was arrested at a school board meeting for trying to speak out during a school board meeting dedicated to “distinguishing current curricula from critical race theory and regarding equity issues” regarding the rape of his ninth-grade daughter in a girls’ bathroom by a boy who had access to the intimate facility solely because he “identified” as gender fluid. Alleging, “acute threats and actions that are disruptive to ... interstate commerce” she solicited “the expertise and resources of the U.S. Department of Justice, Federal Bureau of Investigation (FBI), U.S. Department of Homeland Security, U.S. Secret Service, and its National Threat Assessment Center” against parents.

- On or about October 1, 2021, Dr. Garcia was appointed by the department’s Secretary to the National Assessment Governing Board.<sup>5</sup>
- On October 4, 2021, the U.S. Department of Justice made public its memorandum targeting parents.<sup>6</sup> This was an additional fruit of political coordination around the parent protest issue during the August or September 2021, time frame. For example, the Attorney General testified Dr. Garcia’s letter was the justification for the Justice Department’s action.<sup>7</sup>
- On or about October 22, 2021, the National School Boards Association Board of Directors sent a Memorandum to all members stating, “we regret and apologize for [Garcia’s] letter.” (Emphasis in original.)<sup>8</sup> Many state

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actors have remained peaceful.” In other words, the alleged source for her threshold claim that public school officials are facing physical threats over racial indoctrination proves the exact opposite.

<sup>5</sup> Chuck Ross, *Biden Admin Taps School Board Association Honcho For Post In Wake Of Infamous Letter, Appointment is the Latest Indication of the Biden Administration’s Collaboration With the Group*, THE WASHINGTON FREE BEACON (Oct. 25, 2021) <https://freebeacon.com/biden-administration/school-board-association-president-got-federal-post-after-infamous-letter/>

<sup>6</sup> U.S. Dep’t of Justice, ATTORNEY GEN. MEM. RE PARTNERSHIP AMONG FEDERAL, STATE, LOCAL, TRIBAL, AND TERRITORIAL LAW ENFORCEMENT TO ADDRESS THREATS AGAINST SCHOOL ADMINISTRATORS, BOARD MEMBERS, TEACHERS, AND STAFF (Oct. 4, 2021) <https://www.justice.gov/ag/page/file/1438986/download>; U.S. Dep’t of Justice Office of Public Affairs, *Justice Department Addresses Violent Threats Against School Officials and Teachers* (Oct. 4, 2021) <https://www.justice.gov/opa/pr/justice-department-addresses-violent-threats-against-school-officials-and-teachers>.

<sup>7</sup> Jordan Davidson, *AG Merrick Garland Admits Federal War On Parents Sprang From School Boards Letter, Not Evidence*, THE FEDERALIST (Oct. 21, 2021) <https://thefederalist.com/2021/10/21/ag-merrick-garland-admits-federal-war-on-parents-sprang-from-school-boards-letter-not-evidence/>

<sup>8</sup> Noah Pollack, *Breaking: In the Wake of Yesterday’s @FreeBeacon Report, National School Board Association Announces “We Regret and Apologize for the Letter” to Biden Admin Characterizing Concerned Parents as Potentially Domestic Terrorists*, TWITTER (Oct. 22, 2021, 8:21 pm) <https://twitter.com/NoahPollak/status/1451705222531674112>; see also Valerie Richardson, *School boards group apologizes for letter linking protesting parents to domestic terrorism, Attorney General Merrick Garland created task force to respond to threats*, THE WASHINGTON TIMES (Oct. 23, 2021)

organizations have reportedly disavowed the substance and tone of Dr. Garcia's letter.<sup>9</sup> However, the National School Boards Association's official website links the "retracted" letter.<sup>10</sup>

In this case, the evidence suggests Dr. Garcia's appointment may have been an improper reward for using her position with the National School Boards Association to bypass its members and Board of Directors and provide the Biden Administration with an institutional stalking horse justifying its use of federal law enforcement to chill, deter, or punish parents for protesting racial and gender indoctrination of and/or irrational mask mandates on their children, and for opposing the politicians and bureaucrats supporting, funding, and responsible for such measures.

The U.S. Department of Education Office of the Inspector General's mission is to ensure the department's programmatic and operational integrity, and to prevent the abuse of power. Accordingly, we ask that your Office investigate whether Dr. Garcia's appointment was based on improper considerations and/or otherwise inconsistent with the department's operational integrity and standard order.<sup>11</sup>

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<https://www.washingtontimes.com/news/2021/oct/23/nsba-apologizes-letter-linking-rowdy-school-board-/>; Chuck Ross, *'No Justification': School Board Association Retracts Letter Likening Parents to Domestic Terrorists, Admission Comes in Wake of Free Beacon Report Exposing Coordination With White House*, THE WASHINGTON FREE BEACON (Oct. 23, 2021) <https://freebeacon.com/biden-administration/school-board-group-apologizes-for-comparing-parents-to-domestic-terrorists/>.

<sup>9</sup> See Parents Defending Education, *State School Board Associations' Responses to the NSBA Letter* <https://defendinged.org/press-releases/state-school-board-associations-responses-to-the-nsba-letter/> (last accessed Oct. 26, 2021, 4:35 pm). The Delaware School Boards Association's reported reply to queries from Parents Defending Education is instructive.

The DSBA has seen school board meeting protests, some of which have become quite impassioned, however we have received NO reports of violence or threats of violence toward school staff or school board members .... The NSBA letter to President Biden was unnecessary and quite frankly not helpful.

The DSBA has communicated our concerns with the letter to the NSBA numerous times and in strong language. We have made it clear to the NSBA that .... It was inappropriate for the NSBA to issue the September 29, 2021 letter to President Biden without first consulting with the DSBA, as well as other state school board associations .... The DSBA disagrees, in the strongest possible terms, with parents and citizens protesting school board meetings being characterized as "domestic terrorists" and their protests being likened to "hate crimes" .... We also made it clear that any attempt to silence citizens' voices is a clear violation of their rights to free speech .... The September 29, 2021 NSBA letter to President Biden was a clear overreach on the part of the NSBA ....

<sup>10</sup> NSBA.org, <https://www.nsba.org/News> (last accessed Oct. 26, 2021, 11:53 am).

<sup>11</sup> We note Dr. Garcia's conduct may be inconsistent with the National School Boards Association's tax-exempt status, if a primary purpose of her collaboration with Biden Administration political officials included electioneering, *viz*, protecting partisan local or state candidates who support race and gender indoctrination initiatives. See, e.g., Tyler O'Neil, *Virginia Parents Slam Obama's 'Tone-Deaf' Dismissal of Education Issues Amid Alleged Sexual Assault, Obama Suggested That an Alleged Sexual Assault Cover-up in School is 'Fake Outrage' and a 'Trumped-Up' Issue*, FOX NEWS (Oct. 25, 2021) <https://www.foxnews.com/politics/virginia-parents-slam-obamas-tone-deaf-dismissal-of-education-issues-in-governor-race>; Michael Lee, *McAuliffe says he doesn't believe parents should tell schools what*

Thank you in advance for your attention to this important matter. Please contact me at [FOIA@aflegal.org](mailto:FOIA@aflegal.org) or (202) 964-3721 if you have any questions or if I may be of further assistance.

Sincerely yours,

/s Gene P. Hamilton  
Gene P. Hamilton  
Vice-President and General Counsel  
America First Legal Foundation

Cc: Senator Patty Murray, Chairman, Senate HELP Committee  
Senator Richard Burr, Ranking Member, Senate HELP Committee  
Representative Robert “Bobby” Scott, Chairman, House Education and Labor Committee  
Representative Virginia Foxx, Ranking Member, House Education and Labor Committee  
Senator Gary Peters, Chairman, Senate Committee on Homeland Security and Governmental Affairs  
Senator Rob Portman, Ranking Member, Senate Committee on Homeland Security and Governmental Affairs  
Representative Carolyn Maloney, Chairwoman, House Committee on Oversight and Reform  
Representative James Comer, Ranking Member, House Committee on Oversight and Reform

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*to teach*, FOX NEWS (Sept. 28, 2021) <https://www.foxnews.com/politics/mcauliffe-says-he-doesnt-believe-parents-should-control-what-schools-teach>.