



STATE OF INDIANA

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October 26, 2021

President Joseph R. Biden, Jr.  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Merrick B. Garland, Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Re: NSBA's Fraud on the American People

Dear President Biden and Attorney General Garland,

One week ago in a [letter dated October 18, 2021](#), my fellow Attorneys General and I laid out the facts surrounding the massive fraud that the National School Boards Association (NSBA) has perpetrated on the American people. In a letter to the Department of Justice (DOJ) dated September 29, 2021, NSBA accused parents throughout the United States of "domestic terrorism and hate crimes" warranting the invocation of "the PATRIOT Act in regards to domestic terrorism."

Our letter objected to Attorney General Garland's [Memorandum](#) of October 4, 2021, which attacked dissent by parents during local school board meetings in an effort "to intimidate parents into giving up their constitutional rights to direct the upbringing and education of their children." We surmised that the Attorney General's Memorandum was based on the NSBA's false accusations against parents. The Attorney General confirmed as much during his House Judiciary Committee Testimony on October 21, 2021, when he said that "[w]ell, the National School Board Association, which represents thousands of school boards and school board members, says that there are these kinds of threats. When we read in the newspapers reports of threats of violence—"<sup>1</sup>

But in deciding to target parents through its October 4 memorandum, the DOJ did not merely rely on factual allegations voluntarily supplied by private citizens. As Attorney General Garland observed in his testimony before the House Judiciary Committee, in an e-mail to the NSBA Board dated September 29, 2021, the NSBA Executive Director stated that he had been "in talks over the last several weeks with White House staff, they requested additional information on some of the specific threats, so the letter details many of the

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<sup>1</sup> A clip of the video of this answer and Attorney General's admission under questioning by Rep. Jim Jordan may be viewed here: <https://thefederalist.com/2021/10/21/ag-merrick-garland-admits-federal-war-on-parents-sprang-from-school-boards-letter-not-evidence>.

President Biden  
Attorney General Garland  
October 26, 2021

incidents that have been occurring.”<sup>2</sup> In addition, Attorney General Garland admitted that the DOJ officials were involved in discussions with the NSBA and the White House over the now repudiated NSBA letter that formed the factual basis for the October 4, 2021 memorandum as noted above: “I am sure that the communication from the National Association of School Boards was discussed between the White House and the Justice Department and that’s perfectly appropriate.”

Attorney General Garland’s reliance on the NSBA letter is troubling enough, but potential collusion between the White House, the DOJ, and the NSBA in the actual creation of the September 29 letter—as a pretext for threats against parents—raises serious concerns.<sup>3</sup> Officials with the awesome power to initiate criminal actions using the USA PATRIOT ACT abuse citizens when they solicit, as an excuse for mobilizing federal law enforcement, complaints against ordinary Americans who merely disagree with local school officials.

Now, in a development that confirms the unfounded and abusive nature of the DOJ’s October 4 memorandum, the NSBA Board of Directors, in a [“Message to NSBA Members” dated October 22, 2021](#), has repudiated the September 29 letter.<sup>4</sup> The Board said, “we regret and apologize for the letter,” and admitted that “there was no justification for some of the language included in that [September 29] letter.” In addition, nearly half of NSBA’s state affiliates have repudiated the September 29 letter, with many accusing the NSBA of engaging in “partisan” activities with your administration in connection with the development of that letter.<sup>5</sup> In a letter yesterday, members of congress vigorously requested the revocation of the DOJ’s October 4 memorandum.<sup>6</sup>

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<sup>2</sup> See e.g. [“White House in contact with school board group for 'weeks' before controversial 'Patriot Act' letter: emails: NSBA's CEO said they were in talks with White House for 'several weeks' before sending letter”](#) and [White House Collaborated With School Board Group On Letter Comparing Parents To ‘Domestic Terrorists’](#).

<sup>3</sup> It should be noted that there is a request pending for a DOJ OIG investigation over an allegation that DOJ officials were involved in the genesis and crafting of the NSBA letter. See e.g. <https://protect-us.mimecast.com/s/-jojCqxMARcVo8gPHZgAhj?domain=wordpress.aflegal.org>.

<sup>4</sup> It is worth noting that that the NSBA website includes the September 29 letter to the DOJ and an October 4 statement praising the DOJ for its memo, but the October 22 repudiation letter is nowhere on its website. See <https://www.nsba.org/News>.

<sup>5</sup> The current list of states includes Alabama, Arkansas, Delaware, Florida, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Mississippi, Missouri, Montana, New Hampshire, North Carolina, Pennsylvania, Tennessee, Texas, Virginia, and Wyoming. <https://defendinged.org/press-releases/state-school-board-associations-responses-to-the-nsba-letter>.

<sup>6</sup> “Because the NSBA letter was the basis for your memorandum and given that your memorandum has been and will continue to be read as threatening parents and chilling their protected First Amendment rights, the only responsible course of action is for you to fully and unequivocally withdraw your memorandum immediately.” See <https://republicans-judiciary.house.gov/wp-content/uploads/2021/10/2021-10-25-HJC-GOP-to-Garland-re-school-memo.pdf>.

With the NSBA's repudiation of its core allegations, the White House and the DOJ must in turn disavow their own involvement in this offensive episode. Accordingly, the White House and the DOJ should immediately take the following steps:

1. Revoke the October 4, 2021, memorandum and disband the task force mentioned therein;
2. Produce all communications of any federal officials or agencies to or from the NSBA (including its employees, directors, members or affiliated individuals or organizations) relating to "the proceedings leading to the [September 29] letter" as noted in the NSBA's letter of October 22, 2021, including but not limited to the following:
  - A. Correspondence of any kind with the NSBA as defined above, whether text, written or electronic to or from any individual employed by or affiliated with the White House or White House related entities such as the Domestic Policy Council;
  - B. Correspondence of any kind with the NSBA as defined above, whether text, written or electronic to or from any individual employed by or affiliated with the United States Department of Justice, including but not limited to Attorney General Merrick Garland, Deputy Attorney General Lisa Monaco, Associate Attorney General Vanita Gupta, Assistant Attorney General Kristen Clark, or their "front office staff" including but not limited to their deputies, senior advisors, and senior counsel;
  - C. Correspondence of any kind with the NSBA as defined above, whether text, written or electronic to or from any individual employed by or affiliated with the United States Department of Education, including but not limited to Secretary Miguel Cardona, Deputy Secretary Cindy Marten, Acting General Counsel Emma Leheny, Assistant Secretary for the Office of Civil Rights Catherine Lhamon, or their "front office staff" including but not limited to their deputies, senior advisors, and senior counsel;
  - D. All documents, e-mails, memoranda or other materials prepared by any individual employed by or affiliated with the United States government relating to the situation described in Mr. Slavens' e-mail to the NSBA Board dated September 29, 2021, wherein he stated that the NSBA had been "in talks over the last several weeks with White House staff, they requested additional information on some of the specific threats, so the letter details many of the incidents that have been occurring;"
  - E. All drafts, discussion copies, memoranda or other material exchanged with the NSBA as defined above and any federal government employees of what ended up being the September 29, 2021, letter; and,

President Biden  
Attorney General Garland  
October 26, 2021

- F. Notes, memoranda, internal e-mails, or other documents and materials prepared by any individual employed by or affiliated with the United States government discussing, summarizing, or memorializing any of the above referenced communications.

Please be advised that this letter serves as a request under the Freedom of Information Act for the foregoing information. FOIA notes that “[e]xcept with respect to the records made available under paragraphs (1) and (2) of this subsection, and except as provided in subparagraph (E), each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.” 5 U.S.C.A. § 552(a)(3)(A). “FOIA mandates the disclosure of documents held by a federal agency unless the documents fall within one of nine enumerated exemptions.” *United States Fish & Wildlife Serv. v. Sierra Club, Inc.*, 141 S. Ct. 777, 785 (2021). Please produce all requested documents in complete and unredacted form, regardless whether to or from federal employees’ official government devices and e-mails or personal devices and e-mails.

The response to parental school board protests initiated by NSBA has been reprehensible and offensive. We look forward to your prompt response to these requests so that we may begin the process of accountability.

Sincerely,



Todd Rokita  
Indiana Attorney General



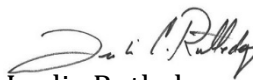
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Leslie Rutledge  
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Attorney General Garland  
October 26, 2021



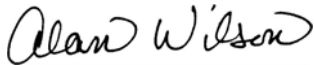
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