

# Congress of the United States

Washington, DC 20515

September 14, 2022

The Honorable Betty A. Rosa  
Commissioner of Education  
New York State Department of Education  
89 Washington Avenue  
Albany, NY 12234

Dear Commissioner Rosa,

Committees on Oversight and Reform and Education and Labor Republicans are investigating the use of COVID-19 relief dollars appropriated for virus mitigation and the safe reopening of schools. New York's students attended the eighteenth fewest amount of school days in-person over the course of the pandemic.<sup>1</sup> Instead of using the COVID-19 relief dollars to reopen schools or remediate the learning loss, New York is reportedly using the funds to implement controversial curricula such as Critical Race Theory (CRT).<sup>2</sup> To better understand how New York has spent its education-related COVID-19 funds, we insist that you provide all relevant documents and information.

The American Rescue Plan (ARP)—a Democrat spending bill—provided more than \$120 billion in Elementary and Secondary School Emergency Relief (ESSER) funds to enable schools to safely reopen and address learning loss caused by the COVID-19 pandemic. With regard to the funds in ARP, Senator Warnock of Georgia said, “This is one moment in which it’s very clear that public policy is quite literally a matter of life and death ... more than \$4 billion to the state of Georgia’s K-12 schools to ensure students, teachers, and staff stay safe and healthy, and to address learning loss.”<sup>3</sup> Now, it is being reported that those “life and death” funds are being used to push left leaning ideologies in public schools rather than to fix the significant academic gaps caused by COVID school closures.<sup>4</sup>

To recap, Congress set aside \$13.2 billion in the CARES Act and \$54.3 billion in the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act of 2021 for the ESSER Fund.<sup>5</sup> Congress directed the Department of Education to award these funds to states for the purpose of “providing local educational agencies...with emergency relief funds to address the impact that COVID-19 has had, and continues to have, on elementary and secondary schools across theNation.”<sup>6</sup> Under ARP, Democrats provided yet another \$122 billion to “help safely reopen and sustain the same operation of schools and address the impact of the coronavirus pandemic on the nation’s students.”<sup>7</sup>

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<sup>1</sup> *Burbio’s K-12 School Opening Tracker*, BURBIO, (Jun. 25, 2022),

<sup>2</sup> Jessica Chasmar, *COVID-19 relief funds to push CRT in schools*, FOX NEWS, (Apr. 28, 2022).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Elementary and Secondary School Emergency Relief Fund*, U.S. DEPT. OF ED., (Jun. 3, 2022).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

The learning loss caused by the COVID-19 pandemic has been a global disaster.<sup>8</sup> During the 2020-2021 school year, passing math rates declined by 14.2 percent on average overall, but the decline was 10.1 percent smaller for districts who were doing more in-person instruction.<sup>9</sup> Low-income students faced the highest number of weeks of remote learning, which led to higher learning loss overall and expanded the education gap between wealthy and low-income students.<sup>10</sup> New York has refused to release the results of tests administered to determine the extent of learning loss across the state likely because they show evidence of significant learning loss due to prolonged school shutdowns.<sup>11</sup> Based on a study conducted by Brown University Economics Professor Emily Oster, it is likely New York students have experienced extreme learning loss since students in states such as Virginia with similarly extended school closures have seen standardized test scores drop significantly.<sup>12</sup>

As has been previously noted in letters from Congress questioning the use of funds—letters to which you have yet to provide a sufficient response—instead of using ESSER funds to address learning loss, New York spent ESSER funds to further core tenets of CRT. New York used part of the \$9 billion it received to provide staff development on “culturally responsive sustaining instruction,” “privilege,” and to recognize “equity warriors.”<sup>13</sup> Implementing CRT did not help address COVID-related school closures and learning loss; instead Democrat states have used taxpayer funds to further the liberal agenda, not help kids. Students like those in New York who missed so many days of in-person school need to be taught basic reading and math skills. Instead, Democrat states have used taxpayer funds to further the liberal agenda rather than to help children meet fundamental academic milestones.

To better understand the approval process for the ESSER grants described above, or awards for similar uses, please provide the following information by September 28, 2022:

1. All documents and communications related to the approval by the U.S. Department of Education of the State of New York’s Plan for ARP ESSER funds.
2. All documents and communications related to the use of ESSER funds.
3. All documents and communications related to the use of COVID-relief funds, including but not limited to funds made available in the CARES Act, CRRSA, or ARP.
4. All documents and communications, including but not limited to results related to standardized tests administered annually in the State of New York.
5. All documents and communications related between the New York State Education Department and the United States Department of Education from January 20, 2021, to present.

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<sup>8</sup> *Covid learning loss has been a global disaster*, The Economist, (Jul. 7 2022).

<sup>9</sup> Clare Halloran, Rebecca Jack, James Okun & Emily Oster, *Pandemic Schooling Mode and Student Test Scores: Evidence from US States*, NAT’L BUREAU OF ECON. RESEARCH (2021)

<sup>10</sup> David Leonhardt, ‘*Not Good for Learning*’, THE N.Y. TIMES (May 5, 2022).

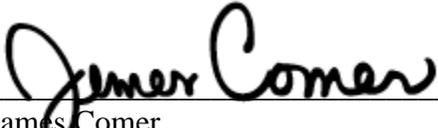
<sup>11</sup> Matt Barnum, *The state of learning loss: 7 takeaways from the latest data*, CHALKBEAT, (Jul. 19, 2022).

<sup>12</sup> Kevin Mahnken, *Oster Study Finds Learning Loss Far Greater in Districts that Went Fully Remote*, THE74, (Jan. 4, 2022).

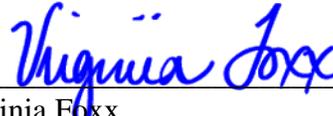
<sup>13</sup> *New York State Education Department American Rescue Plan (ARP) Elementary and Secondary School Emergency Relief (ESSER)*, NEW YORK STATE ED. DEPT., (Jul. 13, 2021).

To ask any follow-up or related questions, please contact Committee on Oversight and Reform Republican staff at (202) 225-5074. The Committee on Oversight and Reform is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X and the Committee on Education and Labor has jurisdiction over matters of education under such rule. Thank you in advance for your cooperation with this inquiry.

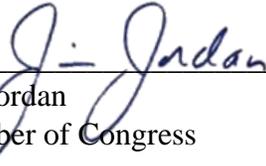
Sincerely,



James Comer  
Ranking Member  
Committee on Oversight and Reform



Virginia Foxx  
Ranking Member  
Committee on Education and Labor



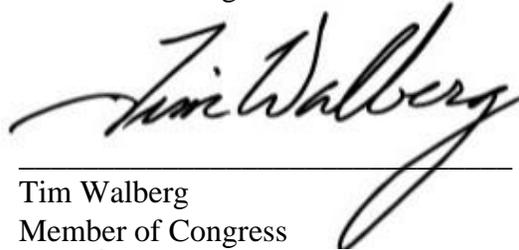
Jim Jordan  
Member of Congress



Glenn “GT” Thompson  
Member of Congress



Jody Hice  
Member of Congress



Tim Walberg  
Member of Congress



Glenn Grothman  
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Elise M. Stefanik  
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Bob Gibbs  
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Russ Fulcher  
Member of Congress



Ralph Norman  
Member of Congress



Burgess Owens  
Member of Congress



Pete Sessions  
Member of Congress



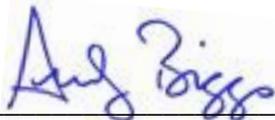
Bob Good  
Member of Congress



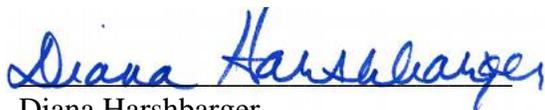
Fred Keller  
Member of Congress



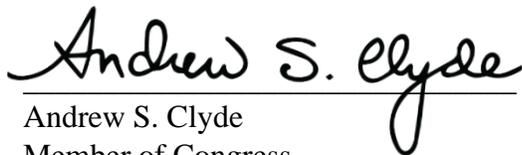
Lisa C. McClain  
Member of Congress



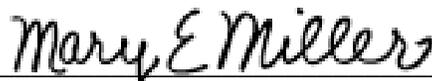
Andy Biggs  
Member of Congress



Diana Harshbarger  
Member of Congress



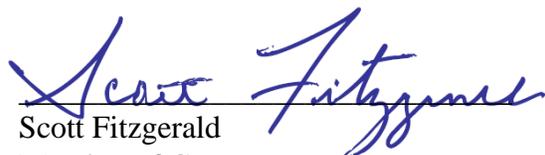
Andrew S. Clyde  
Member of Congress



Mary E. Miller  
Member of Congress



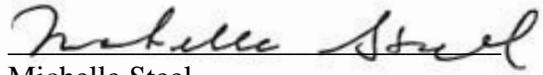
Nancy Mace  
Member of Congress



Scott Fitzgerald  
Member of Congress



C. Scott Franklin  
Member of Congress



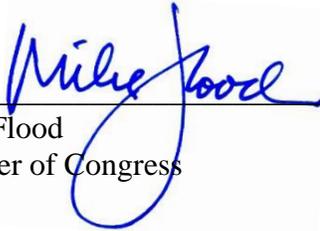
Michelle Steel  
Member of Congress



Pat Fallon  
Member of Congress



Brad Finstad  
Member of Congress



Mike Flood  
Member of Congress

cc: The Honorable Carolyn B. Maloney, Chairman  
House Committee on Oversight and Reform

The Honorable Robert C. Scott, Chairman  
Committee on Education and Labor