



## STATE OF FLORIDA

**ASHLEY MOODY  
ATTORNEY GENERAL**

March 10, 2022

The Honorable Joseph R. Biden, Jr.  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

The Honorable Xavier Becerra  
Secretary  
The Honorable JooYeun Chang  
Principal Deputy Assistant Secretary for Children and Families  
Bernadine Futrell  
Director of the Office of Head Start  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Dear President Biden, Secretary Becerra, Deputy Assistant Secretary Chang, and Director Futrell:

We, the undersigned Attorneys General of 23 States, write to demand the immediate rescission of the Head Start Mask Mandate.

On November 30, 2021, your Administration announced a regulation requiring, among other things, the forced masking of children and toddlers (as young as two)—even outdoors—in participating daycares and schools.<sup>1</sup> Your mask mandate was wrong from the beginning. The World Health Organization and the United Nations Children’s Fund agree: “Children aged 5 years and under should not be required to wear masks. This is based on the safety and overall interest of the child and the capacity to appropriately use a mask with minimal assistance.”<sup>2</sup> Even for children under 12, mask use should be limited because of the “potential impact of wearing a mask on learning and psychosocial development.”<sup>3</sup>

If it was misguided then, it is reprehensible now. Even States with some of the most restrictive COVID-19 policies—including California, New Jersey, and Oregon—are lifting indoor mask mandates for

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<sup>1</sup> Vaccine and Mask Requirements to Mitigate the Spread of COVID-19 in Head Start Programs, 86 Fed. Reg. 68,052 (Nov. 30, 2021).

<sup>2</sup> <https://www.who.int/news-room/questions-and-answers/item/q-a-children-and-masks-related-to-covid-19> (last visited Mar. 2, 2022).

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

schools.<sup>4</sup> And the Centers for Disease Control and Prevention has walked back its masking guidance.<sup>5</sup> If the mandate stays in place, it is likely that staff, children, and toddlers at Head Start programs will soon be among the only people in this country who are forced to wear masks.

Still, you persist in refusing to rescind the mask mandate. You do so after two judges entered preliminary injunctions against its enforcement in certain States.<sup>6</sup> Tellingly, your Administration has not appealed those decisions, but instead has continued to apply the mandate in States where it has not been sued. We can only infer that you know your mandate to be unlawful but are hoping to enforce it anyway.

Making matters worse, your Administration has issued inconsistent “guidance” that leaves participating programs in regulatory limbo. Your guidance affirms that the mask mandate “remains the applicable regulation for Head Start programs.”<sup>7</sup> At the same time, it says that you are suspending “monitoring for compliance.”<sup>8</sup> These contradictions leave those who rely on the program guessing about whether and when their daycares and schools will lose funding or be shut down. And they subject children and toddlers to arbitrary and inconsistent discipline for not wearing a mask.

If all that were not enough, we want to remind you of the Head Start Program’s purpose: “to promote school readiness of low-income children by enhancing their cognitive, social, and emotional development.”<sup>9</sup> You are not just guilty of mistreating children, but of singling out low-income children with little or no alternatives for daycare and school. On top of that, the mask mandate disproportionately affects minority children. In 2019, “37% of Head Start children were Hispanic or Latino,” “30% were Black or African American, 10% were biracial or multiracial, 4% were American Indian or Alaska Native, and 2% were Asian.”<sup>10</sup>

Parents across the country have fought tirelessly against oppressive mask mandates for their children. As the tide finally begins to turn, it is long past time for you to abandon this unconscionable policy. Instead of giving our children a head start for school readiness, your Administration is setting them up for failure. Rescind this unlawful mandate and let our kids be kids.<sup>11</sup>

Sincerely,



Ashley Moody  
Florida Attorney General

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<sup>4</sup> <https://www.reuters.com/world/us/new-jersey-delaware-end-school-mask-mandates-move-normalcy-2022-02-07/> (last visited Mar. 2, 2022).

<sup>5</sup> <https://www.nbcnews.com/health/health-news/cdc-indoor-masking-no-longer-necessary-us-rcna17686> (last visited Mar. 2, 2022).

<sup>6</sup> *Louisiana v. Becerra*, No. 3:21-cv-4370, 2022 WL 16571 (W.D. La. Jan. 1, 2022); *Texas v. Becerra*, No. 5:21-cv-300, 2021 WL 6198109 (N.D. Tex. Dec. 31, 2021).

<sup>7</sup> <https://tmsc.createsend.com/campaigns/reports/viewCampaign.aspx?d=j&c=3A108D6223F50AA6&ID=AB3F63F79F75CFE62540EF23F30FEDED&temp=False&tx=0&source=SnapshotHtml> (last visited Mar. 2, 2022).

<sup>8</sup> *Id.*

<sup>9</sup> 42 U.S.C. § 9831.

<sup>10</sup> 86 Fed. Reg. at 68,098.

<sup>11</sup> As many of us have explained in separate correspondence and legal challenges, the vaccine-mandate aspect of the Head Start rule is equally flawed and should be rescinded.



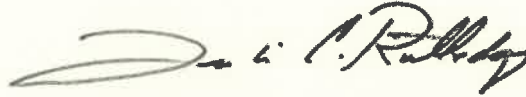
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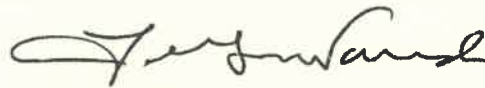
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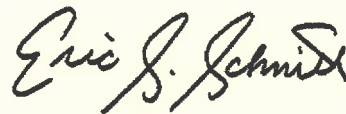
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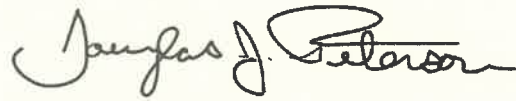
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cc: Senate Majority Leader Charles Schumer  
Senate Minority Leader Mitch McConnell  
Speaker Nancy Pelosi  
House Minority Leader Kevin McCarthy  
Senator Patty Murray, Chair, Committee on Health, Education, Labor, and Pensions  
Senator Richard Burr, Ranking Member, Committee on Health, Education, Labor, and Pensions  
Senator Rand Paul  
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