



MARK BRNOVICH  
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

August 31, 2021

Secretary Miguel Cardona  
Lyndon Baines Johnson (LBJ)  
Department of Education Building  
400 Maryland Ave, SW  
Washington, DC 20202

Dear Secretary Cardona,

I write in response to your press release, dated August 30, 2021, announcing that the Office for Civil Rights (OCR) "*opened directed investigations in five states exploring whether statewide prohibitions on universal indoor masking discriminate against students with disabilities who are at heightened risk for severe illness from COVID-19 by preventing them from safely accessing in-person education.*"

Your statement mentioned that Arizona was not one of the five states with open investigations, but that your department is monitoring our state and is "*prepared to take action if state leaders prevent local schools or districts from implementing universal indoor masking or if the current court decisions were to be reversed.*"

As I have stated previously, my office will not tolerate any effort from the federal government to undermine or interfere with Arizona's sovereignty. We stand ready to defend against any overreach.

Your press release follows a recent lawsuit from activist groups (*ASBA et al. v. State of Arizona*) challenging Arizona laws that deal with mask mandates in schools. Our office looks forward to defending the State of Arizona in this lawsuit against a blatantly political attempt to circumvent the Arizona Constitution and the efforts of our duly elected state legislators to represent their constituents.

The past 18 months have given countless Americans a greater appreciation of our Founding Fathers' and the structure they chose to balance power within our constitutional republic. They understood the wisdom of instituting a horizontal balance of power between the three branches of government, while also guarding the vertical balance of power between the federal and state governments. Please be assured that Arizona understands that, too.

It is true that over many generations, this crucial balance has been tested as the federal government has grown beyond its original intent. It has perhaps never been more of an issue than in this first year of the Biden Administration though, where we have seen historic threats and attacks on powers reserved for the states. This could soon render the Ninth and Tenth Amendments irrelevant, and that should frighten every American.

Mr. Secretary, please retract your threat against the State of Arizona. Our legislators and courts will ensure that our state Constitution is followed, not your radical agenda. Any infringement on our constitutional rights will be addressed in federal court.

Respectfully,

A handwritten signature in blue ink that reads "Mark Brnovich". The signature is fluid and cursive, with a long horizontal flourish at the end.

Mark Brnovich