



# PROTECT the PUBLIC'S TRUST

VIA ELECTRONIC MAIL

June 14, 2024

TO: Christi A. Grimm  
Inspector General  
U.S. Department of Health and  
Human Services  
330 Independence Avenue, SW  
Washington, DC 20201

U.S. Centers for Disease Control and Prevention  
Office of Science  
CDC Scientific Integrity Officer (SIO)  
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ScientificIntegrity@cdc.gov

CC: Monica M. Bertagnolli  
Director  
National Institutes of Health  
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Vivek H. Murthy  
U.S. Surgeon General  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

**Re: Request for Investigation into Apparent Scientific Integrity Violations Contained in the U.S. Surgeon General’s Recommendation on “Physical Distancing” to Stop the Spread of COVID-19**

Dear Inspector General Grimm and CDC Scientific Integrity Officer,

The American public demands their government meet the highest standards of scientific integrity, particularly when it comes to handling the spread of COVID-19, which for several years was a driving force in nearly every aspect of life – the social, vocational, educational, recreational, behavioral, and travel habits – of all Americans. That is why it is so concerning that the Department of Health and Human Services (HHS), through the U.S. Surgeon General, provided guidance regarding “physical distancing” to stop the spread of COVID-19 which lacks the requisite supporting evidence, violating the fundamental principles of scientific integrity.

Although health recommendations promulgated by HHS and its constituent offices may be couched as “guidance,” elected officials and other policymakers translated these recommendations into policies that governed the lives of the American people, often imposing mandates and criminal penalties for violations. Many Americans willingly complied with these pronouncements, based on their faith that statements from what had been highly trusted federal health agencies were scientifically sound and beneficial. Perhaps no place were federal public health statements more impactful than in the administration of K-12 public education. School closures and other policies that limited student access to the educational and social opportunities that school provides resulted in severe harm to millions of children – from a crisis in child mental health to an increase in suicide ideation to a marked reduction in academic achievement – with low-income and minority children suffering the most harm.<sup>1</sup>

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<sup>1</sup> David Leonhardt, “The Long Shadow of Covid School Closures,” New York Times, Apr. 28, 2023,



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It is imperative that institutions responsible for safeguarding public health maintain their credibility with the American people and the consequences of institutions like the Office of the Surgeon General losing that trust would be devastating. Accordingly, for the reasons set forth below PPT respectfully requests that you investigate the apparent violations of scientific integrity standards by the U.S. Surgeon General discussed below.

## **HHS's Obligations to Use High Quality Science and Uphold Scientific Integrity**

HHS has a mandate to provide the public with scientific resources and policy recommendations based upon honest and forthright analysis of the best available data and scientific analysis. The American public should be able to trust HHS and its subsidiary agencies for objective, evidence-based policy recommendations and pronouncements.

Trust is the most precious commodity for public health officials. It is the reason people turn to officials when making decisions on complex health matters that they may not fully understand. Trust is not easily earned. However, trust is easily squandered, even trust gained over generations. That is why it is particularly concerning when leadership within HHS and its subsidiary agencies appears to issue pronouncements that are either not supported by science or present as incontrovertible fact matters where the science may be murky, uncertain, or contradictory, to further a pre-determined narrative for political purposes. For these reasons, HHS is governed by a strong set of scientific integrity policies and guidelines.

HHS recently began the process of updating its scientific integrity policies. On September 1, 2023, the public comment period on the draft of the new HHS Scientific Integrity Policy was completed.<sup>2</sup> This 2023 draft policy ("Draft Policy") is intended to update the agency's 2012 Policies and Principles for Assuring Scientific Integrity,<sup>3</sup> which state,

HHS uses scientific information to support and inform policy and program decision making. Accordingly, scientific and scholarly information developed by the Department or considered in Departmental decision making must be of the highest quality and the result of rigorous scientific and scholarly processes. Most importantly, it must be trustworthy.<sup>4</sup>

The 2012 Policy further declares,

Because scientific, technologic, and scholarly information are significant

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<https://www.nytimes.com/2023/04/28/briefing/pandemic-school-closures-randi-weingarten.html>.

<sup>2</sup> Department of Health and Human Services, "The Scientific Integrity Policy of the U.S. Department of Health and Human Services (Draft for Public Comment)," (comment period closed on September 1, 2023), ("Draft Policy"), <https://www.hhs.gov/sites/default/files/draft-hhs-scientific-integrity-policy.pdf>.

<sup>3</sup> Department of Health and Human Services, "Policies and Principles for Assuring Scientific Integrity," March 29, 2012 ("2012 Policy"), <https://aspe.hhs.gov/reports/policies-principles-assuring-scientific-integrity> (References will generally be to the 2012 policy as that was the policy in place at the time the statements were made and is presumably the policy in place until the new document has been officially adopted.).

<sup>4</sup> Id.



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contributors to the development of sound policies at HHS, it is important that policymakers involve science and technology experts where appropriate and that the scientific and technological information and processes relied upon in policymaking reflect the highest integrity. Successful and appropriate application of science in public policy depends on the integrity of the scientific process both to ensure the validity of the information itself and to engender public trust in Government.<sup>5</sup>

Among the principles laid out to achieve that end, the agency states,

- HHS shall sustain a culture of scientific integrity. Scientific progress depends upon honest investigation, open discussion reflecting a balance of diverse scientific views, refined understanding, and a firm commitment to evidence. **Science, and public trust in science, thrives in an environment that shields scientific data and analyses from inappropriate political influence. Political officials should not suppress or alter, nor appear to suppress or alter, scientific or technological findings.**
- HHS shall ensure that the credibility of Government research is strong. HHS agencies shall ensure that selection of candidates for scientific positions is based primarily on their scientific and technological knowledge, credentials, experience, and integrity. **HHS agencies shall ensure that the scientific information used to inform and support policy decisions represents the best science available, is performed with strict adherence to relevant safety and security procedures, and undergoes peer review by qualified experts, where feasible and appropriate, and consistent with law.** HHS agencies shall abide by existing whistleblower protections that apply to employees by law or regulation.

[...]

- **HHS shall convey scientific and technological information to the public such that the presentation is accurate, transparent, and informative.** To do so, HHS shall communicate scientific and technological findings by including a clear explication of underlying assumptions and, where appropriate, an accurate contextualization of uncertainties and a description of the probabilities associated with both optimistic and pessimistic projections.<sup>6</sup> [Emphasis added.]

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<sup>5</sup> Id.

<sup>6</sup> Id.



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In addition to HHS’s scientific integrity policies, President Biden has required all agencies, including HHS, to uphold the highest standards in their research and practices. In the first several days of his administration the President issued the Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking stating that “[s]cientific finding should never be distorted or influenced by political considerations.”

It is the policy of my Administration to make evidence-based decisions guided by **the best available science and data**. Scientific and technological information, data, and evidence are central to the development and iterative improvement of sound policies, and to the delivery of equitable programs, across every area of government. Scientific findings should never be distorted or influenced by political considerations. When scientific or technological information is considered in policy decisions, it should be subjected to well-established scientific processes, including peer review where feasible and appropriate, with appropriate protections for privacy.<sup>7</sup> [Emphasis added.]

Following the President’s direction, HHS’s 2023 draft Scientific Integrity Policy asserts,

HHS adopts the following Official Federal Definition of Scientific Integrity:

*Scientific integrity is the adherence to professional practices, ethical behavior, and the principles of honesty and objectivity when conducting, managing, using the results of, and communicating about science and scientific activities.*<sup>8</sup> [Italics in original]

The draft policy also recognizes that,

Science, and public trust in science, thrives in an environment that prevents political interference and inappropriate influence from impacting scientific data and analyses and their use in policymaking.<sup>9</sup>

HHS policy, as spelled out in the Draft Policy , also “[p]rohibit[s] political interference or other inappropriate influence in the design, proposal, conduct, management, evaluation, communicating about, and use of scientific activities,” requires its employees to “design, conduct, manage, evaluate, and communicate about scientific research and other scientific activities honestly and thoroughly,” and “[e]nsure the quality, accuracy, and transparency of scientific information used to support policy and decision making, including by... [r]eflecting scientific information appropriately and accurately.”<sup>10</sup>

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<sup>7</sup> White House, “Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking,” 86 Fed. Reg. 8845 (Jan. 27, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/memorandum-on-restoring-trust-in-government-through-scientific-integrity-and-evidence-based-policymaking/>.

<sup>8</sup> Draft Policy.

<sup>9</sup> Id.

<sup>10</sup> Id.



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The Draft Policy reaffirms that scientific disputes may occur and contains a section on “Handling Differing Scientific Opinions.”<sup>11</sup>

In short, HHS policy requires not only that its employees adhere to scientific principles in their research but that their communications accurately and completely reflect the existing science data and conclusions.

## **Background**

There is a body of academic research advancing the theory that disruptions to regular school attendance, even disruptions due to suspensions for misconduct, can have deleterious impacts on students’ academic performance, attendance, and behavior. Quarantining students who have been exposed to the virus is the functional equivalent of a suspension. Even if accommodations using remote learning are employed, it would be difficult to distinguish the situation from remote learning during school closures. Yet, despite the evidence of harm likely to result from quarantine, it was forced upon students during the pandemic who had merely been exposed to someone who appeared to have been afflicted, even though the vast majority of the students forced to quarantine never exhibited any symptoms nor tested positive for COVID-19.<sup>12</sup>

Where policy is informed by science, it stands to reason that the more drastic the measures to be undertaken the more definitive the scientific support for those measures should be. School closures and quarantines of students were some of the most drastic measures imposed during the pandemic. The destructive effects of these policies, set back student achievement by two decades, according to some estimates.<sup>13</sup> Some children may never recover. Therefore, the scientific grounding for such policies should be or should have been based on the most rigorous and sound methods, with irrefutable conclusions. Sadly, they were not.

Records produced in response to a FOIA request to the U.S. Department of Education from PPT, revealed that on August 26, 2021, a meeting was attended by the Secretary of Education, Surgeon General, and various leaders of education-related organizations, including teachers unions, about an array of COVID-19-related issues. The records reveal that Surgeon General Vivek Murthy claimed that if students maintain 3-6 feet of social distancing and are not within 3 feet of a person who has tested positive for COVID-19 for more than 15 minutes, then they do not need to quarantine.<sup>14</sup>

Based on this record of the August 26, 2021, meeting, PPT submitted a FOIA request to HHS on June 2, 2023, seeking

From January 20, 2021, through the date this request is processed, records of

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<sup>11</sup> Id.

<sup>12</sup> Alexis Brakebill, “The Consequences of Suspension and What Schools Can Do Instead,” Edmentum, Nov. 17, 2023, <https://www.edmentum.com/articles/consequences-of-suspension/>.

<sup>13</sup> Sarah Mervosh, “The Pandemic Erased Two Decades of Progress in Math and Reading,” New York Times, Sep. 1, 2022, <https://www.nytimes.com/2022/09/01/us/national-test-scores-math-reading-pandemic.html>.

<sup>14</sup> Department of Education, Responsive Documents to ED FOIA 22-0131-F (March Production), <https://protectpublictrust.org/wp-content/uploads/2023/05/22-00131-F-OPAQUE-March-Production.pdf> (p. 8-10).



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scientific data to support the Surgeon General's claim that if students maintain 3-6 feet of social distancing and are not within 3 feet of a person who has tested positive for more than 15 minutes then they do not need to quarantine.

In a single, final response to its FOIA, PPT received only a 33-page report titled, "Operational Strategy for K-12 Schools through Phased Prevention" ("the Report").<sup>15</sup> Accordingly, the Report has been identified as the sole basis for the Surgeon General's claims about social distancing and quarantine. The 33-page Report sets forth a national "operation strategy" for addressing the spread of COVID-19, citing to just five sources of information, for the proposition, proclaimed by Surgeon General Murthy, that if students maintain the 3-6 feet social distancing and are not within 3 feet of a person who has tested positive for COVID-19 for more than 15 minutes, then they do not need to quarantine. However, none of the five sources reach that conclusion. Among other shortcomings, the sources of information cited in the Report did not focus on the effectiveness of social distancing alone to prevent the spread of COVID-19 nor did they study the proper, most effective, or optimal physical distance to avoid or minimize spread.

## **The Requirements About Physical Distancing in the Report are Not Supported by Rigorous Science.**

The majority of the directives contained in the Report about physical distancing are not footnoted or supported by citation to evidence. As noted, a few of the directives do provide citations to one or more of five reports. However, each of the five reports is fundamentally flawed to serve as the scientific basis for the social distancing and quarantining requirements as laid out by the Surgeon General.

First, the Report relies upon a "Science Brief" published by the National Center for Immunization and Respiratory Diseases (U.S.) Division of Viral Diseases. However, the Science Brief does not provide support for the directives on social distancing contained the Report.<sup>16</sup> Regarding distancing, the Science Brief acknowledges that, "The recommendation for 6 feet of physical distancing is based on historical studies of other contagious diseases such as bacterial meningitis [in an elementary school] and SARS-COV-1 in a hospital setting."<sup>17</sup> [Emphasis added.] The Science Brief is premised on a review (not original research) of just two studies of the transmission of other diseases, not COVID-19, and not in a K-12 grade educational setting.<sup>18</sup> Plainly, the Science Brief can lend little support for the Report's conclusions on social distancing policy.

Furthermore, the Science Brief unequivocally states that "emerging international and U.S.

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<sup>15</sup> Department of Health and Human Services, Responsive Documents to HHS FOIA HQ-REF-24-00016, ("The Report"), <http://protectpublicstrust.org/wp-content/uploads/2024/06/HQ-REF-24-00016-REFERRAL-DOCS.pdf>.

<sup>16</sup> National Center for Immunization and Respiratory Diseases (U.S.) Division of Viral Diseases, "Science brief: Transmission of SARS-CoV-2 in K-12 schools," Centers for Disease Control and Prevention ("Science Brief"), <https://stacks.cdc.gov/view/cdc/104303>.

<sup>17</sup> See "Science Brief" at footnote 62.



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evidence suggests layering of other prevention strategies is effective at reducing SARS-COV-2 transmission risk **even with physical distances of less than 6 feet between students in classrooms.**<sup>19</sup> [Emphasis added.] Because the Report directs that a number of preventive measures be undertaken simultaneously, the Science Brief actually undermines use of six feet as a necessary distance.

Other examples of ways in which the Science Brief is an inadequate source of information to support the conclusion of the Report include:

- The Science Brief's claim that "When prevention strategies - especially mask use and physical distancing – are consistently and correctly used, the risk of transmission in the school environment is decreased."<sup>20</sup> However, this statement is based on a non-peer reviewed article in Journal of the American Medical Association (JAMA) known as a "Viewpoint."<sup>21</sup> JAMA describes a Viewpoint as an opinion piece of 1,200 words or less with fewer than seven references at submission.<sup>22</sup> Plainly, this is not the sort of rigorous scientific data that should form the foundation for a national school policy on social distancing.
- The Science Brief identifies information obtained from various studies in which a variety of social distances were employed with inconsistent results.<sup>23</sup> It is difficult to see how the authors of the Report could come to a conclusion about the effectiveness of any particular distance from the Science Brief, yet that did not stop them from doing so.
- The Science Brief states concludes that "In summary, the preponderance of the available evidence from U.S. schools indicates that **even when students were placed less than 6 feet apart in classrooms**, there was limited SARS-CoV-2 transmission when other layered prevention strategies were consistently maintained; notably, masking and student cohorts. . . ." [Emphasis added.]<sup>24</sup> Not only does this conclusion of the Science Brief not support 3-6 feet of social distancing required by the Report, it is impossible to tell what effect, if any, social distancing has on the transmission of COVID-19 in isolation from other prevention strategies.

Second, the Report relies upon guidance published by the American Academy of Pediatrics for the proper amount of distancing in middle and high schools.<sup>25</sup> However, the article simply makes no mention of physical or social distancing, let alone provide support for the directives about quarantining in the Report.<sup>26</sup>

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<sup>19</sup> "Science Brief" at 5.

<sup>20</sup> "Science Brief" at 5.

<sup>21</sup> Id. Footnote 50.

<sup>22</sup> Kirsten Bibbins-Domingo, Editor in Chief, "Instructions for Authors," JAMA Network (Journal of the American Medical Association), <https://jamanetwork.com/journals/jama/pages/instructions-for-authors>.

<sup>23</sup> "Science Brief" at 5-7.

<sup>24</sup> Id. Footnotes 7, 42, 52, 67, 72.

<sup>25</sup> The Report at 7.

<sup>26</sup> American Academy of Pediatrics, "COVID-19 Guidance for Safe Schools and Promotion of In-Person Learning," AAP, Sep. 8, 2022, <https://www.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/clinical-guidance/covid->



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Third, the Report cites an NCAA publication titled, “Resocialization of Collegiate Sport: Developing Standards for Practice and Competition, Updated Second Edition,” Once again, however, the NCAA publication provides no independent evidence in support of what is an appropriate range of social distancing, let alone that 3-6 feet is the correct distance, or under what circumstances quarantining is necessary.<sup>27</sup>

Fourth, the Report cites an NIH publication focusing on transmission of COVID-19 in elementary schools in Utah over a two-month period.<sup>28</sup> In fact, however, the article does not support the Surgeon General’s claims about the necessary range of social distancing or when quarantining becomes necessary. If anything, the NIH publication appears to undermine the conclusion that distancing of 3-6 feet is necessary:

Mask use among students was high (86%), and the median distance between students' seats in classrooms was 3 ft. Despite high community incidence and an inability to maintain  $\geq 6$  ft of distance between students at all times, SARS-CoV-2 transmission was low in these elementary schools. The results from this investigation add to the increasing evidence that in-person learning can be achieved with minimal SARS-CoV-2 transmission risk when multiple measures to prevent transmission are implemented.<sup>29</sup>

Finally, the Report cites an article published in CDC’s “Morbidity and Mortality Weekly Report” assessing the results of the simultaneous use of a host of mitigation strategies at a single, 9-12 grade private New Jersey boarding school over a three-month period.<sup>30</sup> The Report relies on this New Jersey study from a private boarding school for elementary students in support of its directive on social distancing for middle and high school students. Moreover, the New Jersey study engages in no specific investigation of the distance that would be required to prevent the spread of COVID-19 or when quarantining becomes appropriate. Rather, the article broadly concludes that,

Comprehensive mitigation approaches including frequent testing and universal masking can help prevent outbreaks in in-person high school settings even when there is ongoing community transmission.<sup>31</sup>

Like the other sources of information relied upon in the Report, the New Jersey study does not

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[19-planning-considerations-return-to-in-person-education-in-schools/](#).

<sup>27</sup> National Collegiate Athletic Association, “Resocialization of Collegiate Sport: Developing Standards for Practice and Competition, Second Edition,” NCAA, May 3, 2021 (most recent update),

[https://ncaaorg.s3.amazonaws.com/ssi/COVID/SSI\\_ResocializationDevelopingStandardsSecondEdition.pdf](https://ncaaorg.s3.amazonaws.com/ssi/COVID/SSI_ResocializationDevelopingStandardsSecondEdition.pdf).

<sup>28</sup> Rebecca B Hershow, et al, “Low SARS-CoV-2 Transmission in Elementary Schools - Salt Lake County, Utah, December 3, 2020-January 31, 2021,” National Library of Medicine, Mar. 26, 2021,

<https://pubmed.ncbi.nlm.nih.gov/33764967/>.

<sup>29</sup> Id.

<sup>30</sup> Kevin G. Volpp, et al, “Minimal SARS-CoV-2 Transmission After Implementation of a Comprehensive Mitigation Strategy at a School — New Jersey, August 20–November 27, 2020,” Morbidity and Mortality Weekly (CDC), Mar. 19, 2021, <https://www.cdc.gov/mmwr/volumes/70/wr/mm7011a2.htm>.

<sup>31</sup> Id.





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contain the pronouncements made by the Surgeon General.

## Conclusion

The COVID years were devastating to our nation's children. But it wasn't the disease that so severely damaged them psychologically, emotionally, socially, and academically. It was the response of policymakers to the pandemic, primarily the closures of schools, that caused so much destruction to our youth. The American public is gracious and forgiving and would understand if such drastic policies that wreaked so much havoc on their children had been grounded in strong science and research. However, from the evidence presented by HHS, this does not appear to be the case.

The Surgeon General is required to make decisions and provide guidance based on the best science and the most objective analysis of that science available. As stated earlier, the more severe the measure, the stronger the science should be on which it is founded. Policies that prevented students from attending school, whether partial or full closures or quarantining, imposed devastating, long-lasting harm on our nation's youth.

Yet, the Surgeon General made statements regarding the necessity and effectiveness of students maintaining 3-6 feet of physical distancing that appear to lack strong support in the Report, *i.e.*, the only record produced by HHS as the basis for the Surgeon General's claims. As such, it certainly seems that the Surgeon General's statements are at odds with HHS's strict scientific integrity policies and procedures. The conclusions reached regarding physical distancing in the Report are based on third-party studies that at best do not contain the conclusion articulated by the Surgeon General and at worst actually undermine his conclusions.

The scientific integrity of HHS is of vital importance to the public's trust in its public health institutions. The directives provided by its leadership can have a significant impact on that trust. We call on you to immediately open an investigation into whether the statements by Surgeon General Vivek Murthy identified above represent a violation of scientific integrity policies of HHS and the Biden administration.

Sincerely,

Michael Chamberlain  
Director  
Protect the Public's Trust