

# United States Senate

WASHINGTON, DC 20510

May 1, 2024

## **VIA ELECTRONIC TRANSMISSION**

The Honorable Miguel Cardona  
Secretary  
U.S. Department of Education  
400 Maryland Ave SW  
Washington, D.C. 20202

Dear Secretary Cardona,

As you know, the U.S. Department of Health and Human Services ended the COVID-19 Public Health Emergency on May 11, 2023. However, according to recent reports, U.S. Department of Education (DeptEd) employees are still being allowed to work extensively from home, much as they did during the pandemic. We write to confirm these reports and ascertain the status of the current telework policies, as well as your plan for returning DeptEd employees to work.

If accurate, the reports are extremely concerning. According to a recent report from the Federal News Network, you announced in an e-mail to DeptEd staff on March 12, 2024, that beginning on April 22, 2024, non-bargaining unit DeptEd employees will be required to “work on-site at least five days per pay period.”<sup>1</sup> Further, according to the same article, this represents an increase from DeptEd’s current policy, which requires four days of in-person work per pay period. According to FSA Feds, pay periods at DeptEd are fourteen days each, meaning that your updated policy, which you reportedly stated “reflect[s] a need for ‘increased collaboration and innovation,’” appears to require that employees be at work only half the time.<sup>2</sup>

It is unclear whether DeptEd employees are going into the office more frequently than required. However, according to a December 2023 U.S. Office of Personnel Management (OPM) report on the status of telework in the federal government, as of September 2022, 92 percent of all eligible DeptEd employees were teleworking, and 90 percent were doing so three or more days per week.<sup>3</sup>

DeptEd’s policies and plans for bargaining unit employees remain unclear. On July 7, 2023, you reportedly informed DeptEd employees that they would be expected to work in person four times

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<sup>1</sup> Federal News Network Staff, *Updated 3/13 with Education Dept: A running list of agencies’ return-to-office plans*, FEDERAL NEWS NETWORK (Dec. 19, 2023), <https://federalnewsnetwork.com/workforce/2023/12/heres-what-we-know-so-far-about-agencies-return-to-office-plans/>

<sup>2</sup> *Payroll Schedules*, FSA FEDS, <https://fsafeds.com/enroll/schedules> (last visited April 2, 2024)

<sup>3</sup> OFF. OF PERSONNEL MGMT., STATUS OF TELEWORK IN THE FEDERAL GOVERNMENT REPORT TO CONGRESS FISCAL YEAR 2022 (2023), <https://www.opm.gov/telework/documents-for-telework/2023-report-to-congress.pdf>.

per biweekly pay period beginning in the fall.<sup>4</sup> However, the American Federation of Government Employees (AFGE), which represents 2,400 DeptEd workers, publicly pushed back against your stated policy, arguing that it violated an agreement reached between ED and AFGE in October 2022.<sup>5</sup> The Federal News Network reports that “[s]o far, there have not been any changes for bargaining unit employees at Education” and that a DeptEd spokesperson told reporters that “updates for unionized employees will be determined after the agency has met all of its bargaining obligations.”<sup>6</sup>

DeptEd’s lax telework policies are especially concerning given its apparent inability to fulfill its statutory responsibilities. The 2024/2025 Free Application for Federal Student Aid (FAFSA) has been fraught with issues.<sup>7</sup> FAFSA is the nation’s primary means for providing federal, state, and campus-based financial assistance to low-income college students. Delays to its rollout have real-world consequences for the coming school year and financial well-being of students.<sup>8</sup> They have been harmful to institutions, parents, and students, with applications down significantly from prior years.<sup>9</sup> Rather than take responsibility for not adequately communicating with colleges, DeptEd has attempted to shift blame to schools, which is wholly unacceptable.<sup>10</sup>

DeptEd also exhibited a delayed response to the rise in antisemitism on primary, secondary, and post-secondary school campuses in the wake of the October 7<sup>th</sup> terrorist attacks in Israel.<sup>11</sup> In a

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<sup>4</sup> Molly Weisner, *US Department of Education to scale back telework for employees*, FEDERAL TIMES (July 11, 2023), <https://www.federaltimes.com/management/career/2023/07/11/us-department-of-education-to-scale-back-telework-for-employees/>.

<sup>5</sup> Molly Weisner, *US Department of Education to scale back telework for employees*, FEDERAL TIMES (July 11, 2023), <https://www.federaltimes.com/management/career/2023/07/11/us-department-of-education-to-scale-back-telework-for-employees/>.

<sup>6</sup> Federal News Network Staff, *Updated 3/13 with Education Dept: A running list of agencies’ return-to-office plans*, FEDERAL NEWS NETWORK (Dec. 19, 2023), <https://federalnewsnetwork.com/workforce/2023/12/heres-what-we-know-so-far-about-agencies-return-to-office-plans/>.

<sup>7</sup> Letter from Hon. Bill Cassidy, MD (R-LA), Ranking Member, U.S. Senate Committee on Health Education Labor and Pensions, to Hon. Miguel Cardona, Secretary, U.S. Department of Education (Jan. 12, 2024), [https://www.help.senate.gov/imo/media/doc/cardona\\_letter\\_re\\_fafsa.pdf](https://www.help.senate.gov/imo/media/doc/cardona_letter_re_fafsa.pdf)

<sup>8</sup> Press Release, U.S. Senate Committee on Health, Education, Labor, and Pensions, Ranking Member Cassidy Sounds Alarm over Biden Admin Delaying FAFSA Information, Harming Students’ Access to Financial Aid (Jan. 30, 2024) <https://www.help.senate.gov/ranking/newsroom/press/ranking-member-cassidy-sounds-alarm-over-biden-admin-delaying-fafsa-information-harming-students-access-to-financial-aid>

<sup>9</sup> Oyin Adedoyin, *College Financial-Aid Applications Fall 57%*, THE WALL STREET JOURNAL (Feb. 6, 2024), <https://www.wsj.com/personal-finance/fafsa-financial-aid-applications-college-down-23bc2933>

<sup>10</sup> Bianca Quilantan, *Education Department sparks new GOP anger as Cardona pivots on financial aid blunder*, POLITICO (Mar. 22, 2024), <https://www.politico.com/news/2024/03/22/cardona-federal-student-aid-blame-00148547>

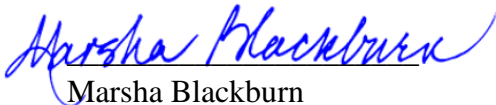
<sup>11</sup> Press Release, U.S. Senate Committee on Health Education Labor and Pensions, Ranking Member Cassidy, Ernst, Colleagues Urge Biden Administration to Address Rising Rates of Antisemitism in K-12 Schools (Nov. 30, 2023), <https://www.help.senate.gov/ranking/newsroom/press/ranking-member-cassidy-ernst-colleagues-urge-biden-administration-to-address-rising-rates-of-antisemitism-in-k-12-schools>; Press Release, U.S. Senate Committee on Health Education Labor and Pensions, Ranking Member Cassidy, Ernst, Colleagues Urge Biden Administration to Protect Jewish Students Amid Rising Antisemitism on College Campuses (Oct. 26, 2023), <https://www.help.senate.gov/ranking/newsroom/press/ranking-member-cassidy-ernst-colleagues-urge-biden-administration-to-protect-jewish-students-amid-rising-antisemitism-on-college-campuses>

November 2023 HELP Committee roundtable, students stated that DeptEd failed to provide support when they faced harassment on college campuses.<sup>12</sup>

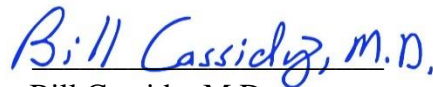
We argue, with good reason, that your agency would be mired in fewer issues if your workforce were fully present in person. As Congress begins the process of working through Fiscal Year 2025 appropriations, we believe it is critical to determine your agency's current telework policies in order to make informed decisions about DeptEd's budget. Accordingly, we request that you respond to the following, on a question-by-question basis, no later than May 22, 2024:

1. Please produce a copy of your reported March 2024 e-mail to staff announcing planned changes to DeptEd's telework policies.
2. Please describe DeptEd's current telework policies as they pertain to all employees, as well as any planned policy changes that are slated to go into effect within the coming year.
3. Has DeptEd conducted any internal studies that have shown how telework has impacted workplace productivity?
4. How does DeptEd ensure that sensitive data are protected while employees are working from home?

Sincerely,



Marsha Blackburn  
United States Senator



Bill Cassidy, M.D.  
United States Senator

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<sup>12</sup> Press Release, U.S. Senate Committee on Health, Education, Labor and Pensions, Ranking Member Cassidy Leads Bipartisan Roundtable on Rising Antisemitism on College Campuses (Nov. 9, 2023), <https://www.help.senate.gov/ranking/newsroom/press/ranking-member-cassidy-leads-bipartisan-roundtable-on-rising-anti-semitism-on-college-campuses>