

STATE OF TENNESSEE

Office of the Attorney General



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August 11, 2023

The Honorable Kevin McCarthy
Speaker
U.S. House of Representatives
2468 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Chuck Schumer
Majority Leader
U.S. Senate
322 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Hakeem Jeffries
Minority Leader
U.S. House of Representatives
2433 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
317 Russell Senate Office Building
Washington, D.C. 20510

Dear Speaker McCarthy, Leader Schumer, Leader Jeffries, and Leader McConnell:

The States of Tennessee, Alabama, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, New Hampshire, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Utah, Virginia, West Virginia, and Wyoming write in support of the Protecting Hunting Heritage and Education Act, H.R.5110, introduced this past week by Representative Mark Green (TN-07) and Representative Richard Hudson (NC-09). The U.S. Department of Education was wrong to instruct schools across the country that the Bipartisan Safer Communities Act (“BSCA”) prohibits the use of Elementary and Secondary Education Act (“ESEA”) funding for hunting, archery, and firearms safety courses. Rather than protecting students, the Department’s aggressive reading of a single line in the BSCA will likely cause schools to end these educational programs, making it *more* likely that children will act recklessly around firearms and thus harm themselves or others. Tennessee and the co-signing States encourage you to listen to the growing bipartisan concern about the Department’s decision to defund these programs. The States respectfully ask Congress to enact the Protecting Hunting Heritage and Education Act without delay.

The Department of Education’s interpretation of the BSCA is inconsistent with how Congress and the public understood the law’s text. Congress amended the ESEA to prohibit the

use of ESEA funds “for the provision to any person of a dangerous weapon, as defined in section 930(g)(2) of title 18, or training in the use of a dangerous weapon.” BSCA, Pub. Law No. 117-159, § 13401, 136 Stat. 1313, 1338 (2022), *codified at* 20 U.S.C. § 7906(7). The Department has apparently interpreted this language to prohibit schools from using ESEA funds to support shooting sport activities or hunting and firearm safety courses, perhaps threatening the complete loss of ESEA funds for schools that offer such educational opportunities.¹

This unwarranted threat of loss of funding is a serious concern for schools nationwide. The ESEA is the primary source of federal aid for elementary and secondary education. The National Archery in the Schools Program serves 1.3 million students in nearly 9,000 schools across 49 States, and the International Hunter Education Association reports that hunter education courses train and certify more than 500,000 students annually. *Id.* These activities teach students to act as good stewards of the environment and to approach firearms and other weapons cautiously.

Research increasingly shows that children who are more familiar with firearms are less likely to accidentally harm others with firearms.² Organized shooting sports and educational courses about hunting and firearms allow students to practice the rules that will keep them and others safe when using firearms: (1) Treat all firearms as if they were loaded. (2) Never point a firearm at something you are not willing to shoot. (3) Always keep your finger off the trigger until ready to shoot. And (4) always be sure of your target and what is behind it. Expanded education in and more frequent practice of those rules is a large reason why accidental firearm deaths declined dramatically in the decades after the enactment of the ESEA.³ The Department’s misconception that youth cannot be instructed to responsibly use firearms (or even bows and arrows) is irreconcilable with other programs Congress has approved, such as Junior ROTC and the Civilian Marksmanship Program.⁴ Teaching students to use firearms safely helps them mature into good citizens.

Senators who voted in favor of the BSCA, including members of both political parties, have disagreed with the Department’s interpretation of this provision as prohibiting schools from using ESEA funds to support hunting, archery, and firearms safety courses. According to Senator Manchin (WV), “[a]ny defunding of schools who offer critical programs like archery and hunting clubs would be a gross misinterpretation of the legislation.”⁵ Senator Tester (MT) agrees that the

¹ Thomas Catenacci, *Biden admin confirms it’s withholding key funds for schools with hunting courses*, Fox News (July 31, 2023), <https://www.foxnews.com/politics/biden-admin-confirms-withholding-key-funds-schools-hunting-courses-shameful>.

² See, e.g., Sophie L. Kjærvi & Brad J. Bushman, *Effect of a Gun Safety Video on Children’s Behavior Around Real Guns*, JAMA Pediatrics (July 17, 2023), <https://jamanetwork.com/journals/jamapediatrics/article-abstract/2807325>.

³ See, e.g. Charles P. Cozic, *Practicing Gun Safety Can Reduce Gun-Related Accidents* (1992), <https://www.ojp.gov/ncjrs/virtual-library/abstracts/practicing-gun-safety-can-reduce-gun-related-accidents-gun-control> (noting that the “number of accidental firearm fatalities decreased 52 percent between 1967 and 1988”).

⁴ See 10 U.S.C. § 2031 (authorizing Junior ROTC programs at schools with adequate facilities for the “storage of arms and other equipment which may be furnished in support of the unit”); *id.* § 2034 (authorizing the military to “issue arms, tentage, and equipment to an educational institution” that offers a course in military training); 36 U.S.C. § 40724 (instructing the Civilian Marksmanship Program to “give priority to activities that benefit firearms safety, training, and competition for youth and that reach as many youth participants as possible”).

⁵ Brady Knox, *Manchin & Tester lead Democrats blasting Biden for defunding school hunting and archery programs*, Wash. Examiner (Aug. 3, 2023), <https://www.washingtonexaminer.com/news/senate/manchin-tester-democrats-blast-biden-defunding-hunting-archery-school-programs>.

Department is “misinterpreting” the BSCA and thus “limiting learning opportunities critical to student safety.” *Id.* As Senator Brown (OH) put it, “[t]hese are exactly the types of programs the administration should be investing in—not cutting off support to.”⁶ Three of the four Senate sponsors of the amendment that became the final version of the BSCA—Senators Sinema (AZ), Cornyn (TX), and Tillis (NC)—have expressed similar concerns.⁷ Congress simply would not have enacted the relevant provision in the BSCA if it had thought the Department would use that language to threaten schools across the country with the loss of ESEA funding.

The Protecting Hunting Heritage and Education Act is a straightforward bill clarifying that the BSCA’s amendment of the ESEA “shall not apply as to prohibit the use of funds . . . for the provision or use of such a weapon for purposes of training students in archery, hunting, or other shooting sports.” The bill would stop the Department from threatening schools with the loss of ESEA funds for offering commonplace educational opportunities that they have provided for decades. Every other provision in the BSCA remains unchanged. Whatever one may think about the rest of the BSCA or gun control more generally, this bill will preserve access to training that teaches children not to misuse firearms or other weapons. Tennessee and the co-signing States encourage Congress to enact this commonsense legislation.

Sincerely,

A handwritten signature in blue ink that reads "Jonathan Skrmetti". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jonathan Skrmetti
Tennessee Attorney General and Reporter

c.c.

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

⁶ Thomas Catenacci, *Biden admin paves way to reverse hunting, archery crackdown after widespread criticism*, Fox News (Aug. 9, 2023), <https://www.foxnews.com/politics/biden-admin-paves-way-reverse-hunting-archery-crackdown-widespread-criticism>.

⁷ Thomas Catenacci, *Sinema, Manchin rebuke Biden admin’s attack on school archery, hunting programs: ‘gross misinterpretation’*, Fox News (Aug. 2, 2023), <https://www.foxnews.com/politics/sinema-manchin-rebuke-biden-admins-attack-school-archery-hunting-programs-gross-misinterpretation>.

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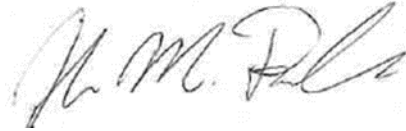
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