



THE DEPUTY SECRETARY OF THE TREASURY  
WASHINGTON

October 5, 2021

The Honorable Douglas Ducey  
Governor  
State Capitol  
1700 West Washington St.  
Phoenix, AZ 85007

Dear Governor Ducey:

Since the first case of coronavirus disease 2019 (COVID-19) was discovered in the United States in January 2020, it has infected over 40 million and killed over 700,000 Americans. The disease continues to pose an imminent threat, killing over 1,500 Americans every day in recent weeks. Amid this once-in-a-century crisis and recognizing the continued needs of State, local, and Tribal governments to contain the spread and mitigate the effects of the COVID-19 pandemic in their communities, the American Rescue Plan Act established the \$350 billion Coronavirus State and Local Fiscal Recovery Funds (“SLFRF funds”).<sup>1</sup> As you know, recipients of SLFRF funds are required to comply with the terms and conditions established by the American Rescue Plan Act for use of such funds.<sup>2</sup>

We are concerned that two recently created Arizona grant programs undermine evidence-based efforts to stop the spread of COVID-19. We understand that the State of Arizona has established a grant program for school districts with SLFRF funds that is conditioned on, among other things, the recipient school districts not requiring the use of face coverings during instructional hours and on school property.<sup>3</sup> In addition, we understand that the State of Arizona has established a school voucher program with SLFRF funds to provide up to \$7,000 per student to families for tuition or other educational costs at a new school that does not require face coverings if the student’s current school is requiring the use of face coverings during instructional hours and on school property.<sup>4</sup>

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<sup>1</sup> Sections 602 or 603 of the Social Security Act, as added by section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (Mar. 11, 2021).

<sup>2</sup> On May 17, 2021, Treasury’s Interim Final Rule implementing sections 602 and 603 of the Social Security Act (“Act”), as added by the American Rescue Plan Act, became effective (86 Fed. Reg. 26786 (May 17, 2021)). On May 21, 2021, prior to receiving payment of \$2,091,413,745.80, the State of Arizona provided a certification with respect to the payment made pursuant to section 602(b)(3)(C) of the Act that provides, in part, that the State of Arizona will use funds in compliance with section 602(c) of the Act and Treasury’s regulations implementing this section.

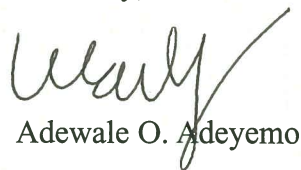
<sup>3</sup> Education Plus-Up Grant Program, available at [eCivis - Grants Network](#). Program terms exempt compliance with Centers for Disease Control and Prevention transportation guidelines.

<sup>4</sup> Arizona COVID-19 Educational Recovery Benefit, available at [eCivis - Grants Network](#). Program terms exempt compliance with Centers for Disease Control and Prevention transportation guidelines.

The purpose of the SLFRF funds is to mitigate the fiscal effects stemming from the COVID-19 public health emergency, including by supporting efforts to stop the spread of the virus.<sup>5</sup> A program or service that imposes conditions on participation or acceptance of the service that would undermine efforts to stop the spread of COVID-19 or discourage compliance with evidence-based solutions for stopping the spread of COVID-19 is not a permissible use of SLFRF funds.<sup>6</sup>

Accordingly, Treasury requests that the State of Arizona provide a response describing how the State will remediate the issues identified with the two programs described above. Please submit your response to Jacob Leibenluft, Chief Recovery Officer at the Treasury Department, within 30 business days of receipt of this letter. Failure to respond or remediate may result in administrative or other action, including as provided under Treasury's Interim Final Rule.<sup>7</sup>

Sincerely,



Adewale O. Adeyemo

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<sup>5</sup> See Sec. 602(a)(1); 603(a)(1); 602(c)(1); 603(c)(1).

<sup>6</sup> As described in the Interim Final Rule, this includes implementing mitigation strategies consistent with the Centers for Disease Control and Prevention's Operational Strategy for K–12 Schools through Phased Prevention. See 86 Fed. Reg. 26786, 26790. See also Jehn M, McCullough JM, Dale AP, et al. Association Between K–12 School Mask Policies and School-Associated COVID-19 Outbreaks — Maricopa and Pima Counties, Arizona, July–August 2021. MMWR Morb Mortal Wkly Rep 2021;70:1372–1373. DOI: <http://dx.doi.org/10.15585/mmwr.mm7039e1>.

<sup>7</sup> See e.g., 31 CFR 35.10.