



BUTLER COUNTY BOARD OF EDUCATION

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OFFICE OF THE SUPERINTENDENT

Dear Students, Parents, Staff, and Community,

As we all are aware, on August 10, 2021 Governor Andy Beshear reinstated the mask requirement for all individuals when inside public school and on buses. The Executive Order will remain effective through September 9, 2021 and is subject to renewal. Throughout this process, there has been much discussion of options and alternatives to the mask mandate. For the sake of clarity and understanding, we are sharing with you much of what has occurred leading up to this point.

The Local Superintendent Advisory Council representing local superintendents across the state met on 8/12/21 at 8:30am to discuss the possibility of the mask mandate extension being proposed to the Kentucky Board of Education. During this hour and a half meeting and subsequent discussion, the Council was presented with three options:

1. Recommend to approve the masking emergency regulation as written.
2. Recommend to approve with certain changes.
3. Recommend no action/table the discussion.

The Chairman of the LSAC asked for a motion to recommend approving the emergency regulation as written with not a single member of the LSAC making the motion. The following discussions entailed:

- Members of the LSAC voiced their frustration that this felt like a rushed mandate while others wanted to recommend adding certain benchmarks which allowed for local control instead of mandating masks for the entire school year.
- None of these requests for modification or change were agreed to and votes were not allowed to be made as were requested.
- The resulting vote to table the discussion until a future meeting was approved. This motion to table the discussion was passed so conversations could be had at a future date along with discussion about adding in steps to keep the mandate from being in place 270 days and to allow for a return to more local control.
- Ultimately, the Local Superintendent Advisory Council did not approve the mask mandate and requested a future meeting to discuss changes which they had recommended.
- The Kentucky Board of Education did not take up this request and subsequently voted to approve the emergency regulation requiring the wearing of masks against the wishes of the Local Superintendent Advisory Council.
 - I had discussions for over an hour with a Kentucky Board of Education Member in his office Wednesday morning discussing issues regarding local control and the

- need for flexibility in regards to daily operations, virtual options, and the professional courtesy of letting us know about mandates being passed down so that districts are not blindsided such as what occurred in this case. That board member did acknowledge and bring forth the concerns and questions presented by me during the board meeting on 8/12/2021 which is appreciated.
- The Kentucky Board of Education did state that should the CDC or KDPH rescind their masking recommendations that they would immediately reconvene and would have a vote on ending the masking mandate.

In addition, it should be acknowledged that The Kentucky Attorney General has filed a brief in the case of *Beshear v. Ridgeway Properties, LLC, et al.*, pending in the Kentucky Supreme Court seeking to curtail Governor Beshear's authority. However, until a court ruling is made, school districts are legally required to comply with the Order. They are also required to comply with the emergency regulation which became immediately effective August 12, 2021.

In a statement issued by the Kentucky School Board Association, "We believe that under current law, this order carries the force of law and therefore should be followed as with any other law or regulation. Last session, the General Assembly passed several bills that made changes to the governor's emergency powers, such as allowing such orders to only apply for 30 days unless the General Assembly acts on them. However, all these bills are currently being challenged in court and won't go into effect as long as the lawsuit is pending. The Kentucky Supreme Court has heard arguments on the lawsuit, but it has not issued an opinion." At this time, the Butler County School System is bound by law to follow the Executive Order and emergency regulation as mandated. Additionally, our local insurance carrier stated that our District could likely lose its immunity from lawsuits and could jeopardize our insurance coverage, for any Covid-19 related lawsuits, including a suit resulting from a death or illness associated with Covid-19 resulting possibly in huge civil penalties and/or monetary damages for the district. Consequently, insurance coverage is paramount for our District as any lawsuit resulting from lack of implementation of the mandate would have enormous monetary impacts for our District.

The Executive Order and emergency regulations contain a medical exemption with respect to the mask mandate as detailed in these documents. This exemption applies to any person (adult or student) with a disability, or physical or mental impairment that prevents them from safely wearing a mask. This medical exemption requires that any individual requesting a medical exemption present supporting documentation from a medical professional. Individuals requesting a medical exemption must fill out the appropriate paperwork along with supporting documentation and justification from a medical professional and turn in to their home school prior to approval for the exemption. This must be completed on the "*District Exemption from Wearing a Facemask*" form which is available online on the district website. Additionally, this form will be available at the Butler County Board of Education and at schools.

As a result of the above Executive Order and emergency regulation, Butler County Schools is now implementing the following alternatives in order to allow as much parent choice and options as available to us as indicated above.

- BCS is currently seeking out and applying for an Elementary School Virtual Waiver which would allow us to implement a virtual program for eligible students in our elementary schools if parents should choose that route for their children's education.

We are currently awaiting word from KDE as well as looking at options for this program if approved by KDE. Enrollment will be opened up to eligible students once approval for this program is given and the program for delivery is selected.

- BCS will reopen enrollment within our current Middle School and High School Virtual Programs to allow for added choice for our students and parents.
- For students choosing to attend traditional in-person learning within our schools, masks will be required when in our school buildings and on our buses unless you have a medical exemption as indicated above. This will comply with the Governor's Executive Order and subsequent Kentucky Board of Education emergency regulation requiring masking in all schools. Students who refuse to mask will be sent home and counted absent (unexcused) which could result in negative impacts on grades and attendance.

While we understand that the mask mandate creates much turmoil across many facets of our community, we are focused on doing what is necessary in light of the facts in order to allow for an effective and positive school year for the students of Butler County. There have been many factors which have weighed into our decision making, many of which are beyond our control at the local level. As a District, we have fought to represent the needs and wishes of our community while taking into consideration the desire for choice and safety for both students and parents. With that said, we will continue to move forward, striving to provide the best education possible for all that come through our doors daily and for those who choose to do so virtually. We will continue to focus on Building, Collaborating, and Shaping as this is the mission of the Butler County School System. While what we have presented to us at the present moment seems daunting and polarizing, we will make it through this because we are One Team with One Vision and that makes us Butler Strong.

Respectfully,

Superintendent Robert Tuck

Building Character...
Collaborating with Families...
Shaping the next generation...