



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

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August 16, 2022

*Via email*

Jefferson County Public Schools  
VanHoose Education Center  
3332 Newburg Road  
Louisville, KY 40218

**RE: Mask Mandate for Jefferson County Public School Children**

Dear members of the Jefferson County Board of Education:

On July 22, 2022, the Jefferson County Public Schools (JCPS) announced a mask mandate for “everyone who enters a Jefferson County Public Schools . . . building or bus.”<sup>1</sup> To our knowledge, it is the only such mandate in the Commonwealth. The Jefferson County Board of Education approved this mandate despite overwhelming opposition from parents and 52% of JCPS teachers.<sup>2</sup>

While my Office continues to review whether JCPS has the authority to impose such health policies, I write to urge the Board to terminate its mask mandate immediately. The mandate harms children, unduly burdens teachers, and is bad public policy.

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<sup>1</sup> *COVID-19 Update*, JEFFERSON.KYSCHOOLS.US (Jul. 22, 2022), available at <https://www.jefferson.kyschools.us/covid-19-update>. The mandate does not appear to include a religious exemption and may not be compliant with the Americans with Disabilities Act, Individuals with Disabilities Education Act, and other state and federal law provisions.

<sup>2</sup> Isaiah Kim-Martinez, “*We Have Significant Community Pushback*”: *JCPS Board Member Wants School District’s Masking Policy Modified* (Aug. 12, 2022), available at <https://www.whas11.com/article/news/education/jcps-mask-protocol-coronavirus-covid19-jcta-survey-louisville-kentucky/417-6fce78c2-1af0-41ca-a1c4-1d27542c0207>.

Reports indicate that masking makes it harder for children to hear and understand speech, inhibits children’s social interactions, and interferes with childhood brain development.<sup>3</sup> These are not just anecdotal stories—they are backed by science.

In December 2021, Brown University released a study that found COVID-related rules, including masking, led to a 23% drop in children’s general cognitive development.<sup>4</sup> Researchers observed around a 30% drop in verbal development and more than a 20% drop in non-verbal development.<sup>5</sup> The study concluded that “children born during the pandemic have significantly reduced verbal, motor, and overall cognitive performance compared to children born pre-pandemic” and that “masks worn in public settings and in school or daycare settings may impact a range of early developing skills.”<sup>6</sup> These findings are exactly why mandates like yours are “outlier[s].”<sup>7</sup>

Second, JCPS’s mask mandate unduly burdens teachers. The men and women who teach our children face a formidable task in helping prepare them for the modern world. The mandate makes this task even harder because our teachers will inevitably bear the burden of enforcing the mandate.<sup>8</sup> Furthermore, the timing of this imposition could not be worse, given that 72% of teachers “are at risk of leaving their jobs soon” and given that social distancing, masking, and raging inflation are not providing them a reason to stay.<sup>9</sup>

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<sup>3</sup> Anya Kamenetz, *After 2 Years, Growing Calls to Take Masks Off Children in School*, NPR.ORG (Jan. 28, 2022), available at <https://www.npr.org/2022/01/28/1075842341/growing-calls-to-take-masks-off-children-in-school>.

<sup>4</sup> Alex Hammer, *COVID Rules are Blamed for 23% Dive in Young Children’s Development: Disturbing Study Shows Scores in Three Key Cognitive Tests Slumped Between 2018 and 2021, with Face Mask Rules Among Possible Culprits*, DAILYMAIL.COM (Nov. 26, 2021), available at <https://www.dailymail.co.uk/news/article-10247315/Face-masks-harm-childrens-development-Study-blames-significantly-reduced-development.html>.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Anya Kamenetz, *After 2 Years, Growing Calls to Take Masks Off Children in School*, NPR.ORG (Jan. 28, 2022), available at <https://www.npr.org/2022/01/28/1075842341/growing-calls-to-take-masks-off-children-in-school> (noting that the World Health Organization and the European equivalent of the CDC do not recommend universal masking); *see also* Olivia Krauth, 7 of 500 Largest U.S. School Systems Are Requiring Masks. JCPS Is One of Them, LOUISVILLE COURIER JOURNAL (Aug. 5, 2022), available at <https://www.courier-journal.com/story/news/education/2022/08/05/jcps-mask-policy-2022-mandate-one-of-seven/65393614007/> (noting that “[f]ewer than 2% of the nation’s largest school districts are requiring masks”).

<sup>8</sup> *Id.* (reporting that children often do not wear masks appropriately and that enforcement often falls on teachers).

<sup>9</sup> Kelly Dean, *Ky. Educators Express Alarming Concern for Teacher Shortage*, WBKO.COM (Jul. 7, 2022), available at <https://www.wbko.com/2022/07/07/ky-educators-express-alarming-concern-teacher-shortage/>.

Third, mask mandates are bad policy because the efficacy of masking children is unproven, especially when weighed against the harms described above. Schools and governments turned to masks in 2020 and 2021 when we knew very little about COVID-19 and its transmission.

But now more than 150 studies and comparative articles question the effectiveness of masking.<sup>10</sup> These studies are supported by real-world experiences in school districts. In 2020, 40 of Florida's 67 school districts mandated masks and reported positive COVID-19 tests for 48 of every 1,000 students.<sup>11</sup> Districts without mask mandates had positive tests for 50 out of every 1,000 students.<sup>12</sup> This is hardly the kind of outcome that would justify your mandate.

For these reasons, I ask that you terminate JCPS's mask mandate immediately. The wellbeing of our children depends on it.

Sincerely,



DANIEL CAMERON  
Attorney General of Kentucky

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<sup>10</sup> Paul Ellis Alexander, *More than 150 Comparative Studies and Articles on Mask Ineffectiveness and Harms*, BROWNSTONE INSTITUTE (Dec. 20, 2021), available at <https://brownstone.org/articles/more-than-150-comparative-studies-and-articles-on-mask-ineffectiveness-and-harms/amp/>; see also Margery Smelkinson et al., *The Case Against Masks at School*, THE ATLANTIC (Jan. 26, 2022), <https://www.theatlantic.com/ideas/archive/2022/01/kids-masks-schools-weak-science/621133/> (giving examples of a number of studies that found no correlation between decreased student COVID cases and mask mandates).

<sup>11</sup> Mike Vasilinda, *Florida School Mask Mandate Power Struggle Goes Before Judge*, NEWS4JAX.COM (Aug. 23, 2021), available at <https://www.news4jax.com/news/florida/2021/08/23/judge-hears-parents-challenge-to-desantis-ban-on-mask-mandates/>.

<sup>12</sup> *Id.*