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ICYMI: THE COURTS ARE CLEAR: SCHOOL DISTRICTS MUST COMPLY WITH THE LAW AND HONOR PARENTS' RIGHTS



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Tallahassee, Fla.— Today, in yet another victory for parents' rights, the Florida Division of Administrative Hearings dismissed a case filed by six school districts who have disregarded the will of parents to make decisions for their children. In a landmark case, the Administrative Law Judge ruled that the Florida Department of Health had the legal authority to issue [Emergency Rule 64DER21-15](#), which empowers parents to decide if their children should wear masks at school and ensures healthy students can remain in school.

"There is no strong evidence of health benefits for children as a result of mask mandates in schools. The rights of parents continue to be protected in Florida, as we can see by this tremendous decision," said **State Surgeon General Dr. Joseph Ladapo**. "Florida will not make decisions out of fear, but rather out of close analysis of the data."

"When you break the law there are consequences," said **Commissioner Richard Corcoran**. "If these districts continue to break the law, we plan to fully hold them accountable."

This ruling follows [an opinion issued by the First District Court of Appeals on October 29](#), which stated in part "(School Districts) cannot stand between parents and their lawful right to make decisions on behalf of their children." At this point, the courts have been entirely clear: All school districts must come into compliance with the law and honor parental rights to make decisions for their children. Today's ruling also follows eight school districts already acknowledging their missteps in breaking Florida law and since implementing full parental opt-outs to come into compliance with the law (Brevard, FSU Lab, Hillsborough, Indian River, Lee, Leon, Sarasota, and Volusia), and an advisory opinion issued by Florida Attorney General Ashley Moody, which stated "it is my opinion that the District must comply with Rule 64DER21-12 and any other applicable authorities unless and until the judiciary declares them invalid."

Administrative Law Judge Bryan Newman found, based on the evidence presented, that "forcing asymptomatic children to wear masks in schools provides no significant barrier to the spread of COVID-19." He criticized the counties' expert witnesses who could not cite any data in Florida to support their universal mask opinions in school settings, while the Department of Health relied on "relevant data" from a case study of Florida schools

during the 2020-2021 school year which showed no statistically significant difference between counties with mask mandates and other counties. In addition, the Department's expert, Dr. Jay Bhattacharya, presented "credible" testimony that "a child infected with COVID survives 99.997% of the time." Judge Newman therefore concluded that the Department's parental opt-out protocols are "safe" for children and "strike the right balance."

Judge Newman also made clear that the Department of Health has lawful authority to govern the control of COVID-19 in school settings throughout the State. In other words, the counties cannot defy state law based on their own preferences for unnecessarily masking children and keeping healthy children at home. The counties are appealing the decision, but such an appeal will be difficult given the judge's factual finding that the parental opt-out protocols "strike the right balance by ensuring that the protocols that govern the control of COVID-19 in schools go no further than what is required to keep children safe and in school."

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