



Written by [James Murphy](#) on November 11, 2021

Pennsylvania School Mask Mandate Struck Down in Commonwealth Court

On Wednesday, the Commonwealth Court of Pennsylvania ruled that a statewide school mask mandate ordered by the state's acting Health Secretary Alison Beam in August was "void and unenforceable." In a 4-1 [decision](#), the court ruled that the state bureaucrat overstepped her authority by ordering students to wear masks in school in an attempt to slow the spread of the Chinese coronavirus.

The masking order stated that: "Each teacher, child/student, staff, or visitor working, attending, or visiting a School Entity shall wear a face covering indoors, regardless of vaccination status." That order extended to private and religious schools, career and technical colleges, and childcare providers.



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The state immediately appealed the decision, meaning that the mandate is still in effect for the time being. While announcing the state's appeal of the decision, a spokesperson for Governor Tom Wolf, a Democrat, claimed that Beam's authority to issue the mandate was "clearly outlined in existing law."

But the majority of judges disagreed with that statement. Writing for the majority, Judge Christine Fizzano Cannon explained that the state's Department of Health "does not have carte blanche authority to impose whatever disease control measures the Department of Health sees fit to implement without regard for the procedures for promulgating rules and regulations, expedited or otherwise."

The majority opinion was strict in pointing out that they were not ruling on the efficacy or the science related to mask-wearing, only on the procedural process in issuing the mandate, which they said that Acting Health Secretary Beam largely ignored in issuing her own "emergency declaration."

"The Acting Secretary issued the Masking Order, which is a regulation, without complying with the mandatory rulemaking requirements of the Commonwealth Documents Law and the Regulatory Review Act. In so doing, the Acting Secretary attempted to issue her own emergency declaration about the dangers of COVID-19 and mutations thereof, including the Delta variant," the court said.

In his dissent, Judge Michael Wojcik argued that the state had the authority to take "any disease control measure appropriate to protect the public from the spread of infectious disease." Wojcik also claimed that mandate was "a valid interpretive rule that tracks the statutory and regulatory authority conferred upon her."

The decision stems from a lawsuit brought by Pennsylvania Senate President Pro Tempore Republican Jake Corman and several other parents against Beam and the Department of Health. Among other things, the suit claimed that the mask mandate was a denial of their children's right to a free,



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appropriate public education; caused their children's education to be disrupted by an illegal order; and significantly altered how educational programming occurs in schools.

"Today's ruling validates what we have said all along — mask decisions should be made by parents and school boards, NOT unelected bureaucrats. A blanket mandate does not address the unique needs and circumstances of individual communities, and it takes power away from the people who are in the best position to protect our kids," Corman said in a statement with Senate Majority Leader Kim Ward.

Part of the ruling stems from the fact that there was no statewide declaration of emergency in effect when Beam issued the mandate. Wolf had originally declared an emergency in March of 2020. But in May of this year, voters approved two amendments limiting the governor's authority to declare such emergencies. Following the adoption of those two amendments in June, the state's General Assembly approved a resolution terminating the original emergency declaration.

On Monday, the governor announced that he would be returning masking authority to local school districts in January, but that he would continue to order mask-wearing in child care centers and early-learning programs.

"Now, we are in a different place than we were in September, and it is time to prepare for a transition back to a more normal setting," Wolf said. "Unfortunately, the COVID-19 virus is now a part of our daily lives."

But the COVID-19 virus is only a part of our daily lives because of government actions such as this mask mandate. Left to their own devices to make their own decisions, the people of Pennsylvania and the United States would be just fine.





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