

Letter to be read into the Record as Public Participation at the October 6th, 2021 State Board of Education meeting:

The language provided for Superintendents to use for school mask exemption policies and procedures conflicts with Governor Lamont's Executive Order 13A Section 1a which reads (as per the relevant excerpt pasted below) that written documentation should be provided related to medical or behavioral conditions or disabilities (without any specification as to what is allowable or not) from certain provider types which is not required to name or describe the condition that qualifies the person for the exemption.

The State Department of Education's egregious language disregards medical and behavioral conditions and disabilities which qualify children for mask exemptions which places their physical, mental and developmental health at risk and also undermines the children's providers. In most cases, children have been patients of their reputable specialists for several years and perhaps most of their lives; a medical director for a school could not possibly know what is best for a child, against a child's specialists' recommendations. A school medical director (a general pediatrician) is not qualified nor the authority on medical decisions for our children.

Can you please explain the process of drafting and issuing this exemption language, how EO 13A was seemingly disregarded and comment on the legality of this practice prescribed to CT public schools? The response should not point to Executive Order 13A Section 1f (referencing EO 9), since it does NOT give the authority to the State Dept of Education to make its own mandate; rather, it gives the ability to implement operational rules (i.e. policies and procedures) to support Executive Order 13A Section 1a in a school system.

It should be noted that the State Department of Education answered a question asked at a meeting recently regarding whether a COVID-19 vaccine mandate in schools was under consideration, and The State Department of Education's response was that it does not have the authority to create mandates.

Below/attached are quoted relevant excerpts of Southington, CT policies adapted from the State Dept of Education and also Governor Lamont's EO 13A and EO 9 as reference.

Respectfully,

Kristen Ritchie

Southington, CT

Southington Public Schools Documents:

SOURCE: 2021-2022 Southington Public Schools Learning Plan for Students and Families:



Face coverings or masks required. (SPS Mask Regulations)

In accordance with Executive Order 13A and consistent with requirements put for by the Commissioner of Public Health students must wear face coverings or masks that completely cover the nose and mouth while inside the school and on the bus, with exceptions only for those students for whom it is not safe to do so due to medical conditions. **“Mask Breaks” will be provided during the day. The district can provide masks to supplement face coverings or masks provided by parents/families. Parents/families will be responsible for ensuring that students are wearing face coverings or masks when they arrive at their bus stop or are dropped off at school. Schools will have backup disposable masks available for students who forget them. [Click here for some child friendly information and a short video explaining face mask use upon return.](#)**

SOURCE: PROTOCOLS CONCERNING USE OF FACE COVERINGS IN SCHOOL (within the above document):

Important Note: The need for a medical exemption for the wearing of face coverings of the styles recommended for use in schools for source control is rare. Medical contraindications to the wearing of cloth or other similar loose-fitting masks generally are limited to individuals suffering from severe chronic obstructive pulmonary disease (COPD) such as might be seen with cystic fibrosis, severe emphysema, heart failure, or significant facial burns that would cause extreme pain or interfere with the healing of a skin graft. These severe medical conditions will be rare in students or staff capable of presenting to the school for work or instruction (in most cases these individuals would not be able to move about freely without significant assistance). In addition, for anyone suffering from any of these underlying conditions, the strong recommendation would be for that person to remain at home and engage in fully virtual learning due to their risk of developing severe complications if they did become infected with COVID-19. Mild or intermittent respiratory or other common conditions such as asthma, cardiovascular diseases, kidney disease, or other similar conditions generally are not considered contraindications to the wearing of loose-fitting face coverings.

SOURCE: FACE COVERING MEDICAL/HEALTH EXEMPTION FORM (within the above document):

I ACKNOWLEDGE THAT HEALTH/MEDICAL RECORDS, ONCE SHARED WITH THE SOUTHINGTON PUBLIC SCHOOLS, WILL BE EDUCATION RECORDS UNDER FEDERAL EDUCATION RECORD LAWS (FERPA) AND MAY NOT BE PROTECTED BY THE HIPAA PRIVACY RULE.

The student has been diagnosed with the following medical condition(s) that prevent the student from wearing a face covering at all times during the school day: _____

Documentation supporting the above diagnosis MUST be submitted to the Southington Public Schools along with this Medical Verification Form.

Connecticut Executive Orders:

SOURCE: EXECUTIVE ORDER NO. 13A PROTECTION OF PUBLIC HEALTH AND SAFETY DURING COVID-19 PANDEMIC – REVISED ORDER FOR MASKS AND FACE COVERINGS, NURSING HOME STAFF TESTING

1. *Revised Mask Requirements.* Executive Order No. 12A is repealed. A person while indoors in a public place who does not maintain a safe social distance of approximately six feet from every other person and who is not fully vaccinated for COVID-19 shall cover their mouth and nose with a mask or cloth face covering. A person shall be considered fully vaccinated 14 days after receiving the final recommended dose of a vaccine approved for use against COVID-19 by U.S. Food and Drug Administration, or as otherwise defined by the Centers for Disease Control.

a. Nothing in this order shall require the use of a mask or cloth face covering by anyone for whom doing so would be contrary to his or her health or safety because of a medical condition, behavioral condition, or disability, or anyone under the age of 2 years. Any person who declines to wear a mask or face covering because of a medical condition, behavioral condition, or disability shall be exempt from this order and any requirement to wear masks or face coverings promulgated in or pursuant to any COVID-19 Order, but only if such person provides written documentation that the person is qualified for the exemption from a licensed or certified medical provider, psychologist, marriage and family therapist, professional counselor, social worker, or behavior analyst, the Department of Developmental Services or other state agency that provides or supports services for people with emotional, intellectual or physical disabilities, or a person authorized by any such agency. Such documentation shall not be required to name or describe the condition that qualifies the person for the exemption.

b. The Commissioner of Public Health shall issue a rule setting forth a comprehensive list of facilities, venues, and other locations where masks and cloth face coverings are required, including for people who are vaccinated, and will amend said rule as the Commissioner determines is warranted by public health conditions. i. Any person who fails to wear a mask or cloth-face covering as required by section (b) above or any order described in subsection (d) of this order, other than a person who qualifies for the exemption set forth in subsection (a) of this order, shall be guilty of a violation and fined one hundred dollars. An employer, rather than the employee, is liable for the fine for any employee's failure to wear a required mask or cloth-face covering while at work. ii. Section 51-164n(b) of the Connecticut General Statutes is amended to authorize the Commissioner of Public Health, local health directors, district health directors, and their designees; state and municipal police officers and peace officers as defined in Section 53a-3(9) of the Connecticut General Statutes; and public safety departments of institutions of higher education to issue fines for the violation of the rule established in section (b) above. All fines collected pursuant to this order shall be distributed to the General Fund. In any case in which a person is charged with a violation pursuant to this order, the procedures set forth in Section 51-164n through 51-164r of the Connecticut General Statutes shall apply. Nothing in this Section shall be construed to limit, alter, modify, or suspend any penalties or remedies that otherwise apply to violation of orders issued pursuant to the civil preparedness and public health emergencies.

c. Masks shall not be required while eating or drinking.

d. This order shall supersede and preempt any current or future municipal order whenever such order conflicts with this order, provided that a municipal order issued pursuant to Section 28-8a of the Connecticut General Statutes requiring masks or face coverings in indoor settings regardless of vaccination status shall not be deemed to conflict with this order. Additional restrictions on social, recreational, or business activity that are not related to masks or face coverings, except for workplace restrictions or employment conditions imposed by municipalities on their employees, shall be deemed to be in conflict with this order.

e. Any business, nonprofit organization, property owner, or state, regional, or municipal government or agency may, subject to the exceptions in subsection (a) of this order and in addition to or in the absence of any municipal order pursuant to Section 28-8a, as described in subsection (d) of this order, require the universal use of masks or face coverings or require staff to wear masks or face coverings in settings under their ownership or control, including, but not limited to, offices, places of public accommodation, public venues, or public meetings.

f. Nothing in this order shall limit the authority of the Commissioner of Education or the Commissioner of Early Childhood to issue operational rules, including but not limited to mask or face covering requirements, pursuant to Executive Order No. 9, Section 1.

g. Any directive, rule, guidance, or order pursuant to this order shall not be included in the definition of a regulation pursuant to Section 4-166(16) of the Connecticut General Statutes.

SOURCE: EXECUTIVE ORDER NO. 9 PROTECTION OF PUBLIC HEALTH AND SAFETY DURING COVID-19 PANDEMIC – AUTHORITY TO ISSUE GUIDANCE AND RULES RELATED TO SCHOOL AND CHILDCARE SETTINGS

*Commissioners of Early Childhood and Education May Issue **Operational Rules**. To promote and secure the safety and protection of adults and children in public schools and childcare settings, including camps, related to the risks of COVID-19, the Commissioner of Education and the Commissioner of Early Childhood, in consultation with the Commissioner of Public Health, may issue binding guidance, rules, or orders for operation of schools or childcare settings that each deems necessary to respond to the COVID-19 pandemic or its effects or to implement any previous or future executive order issued in response to the COVID-19 pandemic. Such rules or binding guidance may include rules related to the required use of masks or face-coverings in school buildings and child care settings and may **allow for medical, developmental, or disability-related exceptions**; phase-in periods in early childhood settings to promote compliance and acclimation by young children; and mask breaks, as each commissioner deems necessary. Such guidance, rules, or orders are not included in the definition set forth in Section 4-166(16) of the Connecticut General Statutes. The operative school reopening document issued by the State Department of Education on June 29, 2020, entitled *Adapt, Advance, Achieve: Connecticut's Plan to Learn and Grow Together*, and related addendums, as amended from time to time, are deemed such binding guidance, rules or orders as authorized by this order. This authority to issue rules or binding guidance related to mask use in early childhood settings supersedes the exception for children in child care settings contained in Executive Order No. 7NNN, Section 1.*