

Parental Challenge to School District Compliance with State Mask Mandate Rejected

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Oberheim v. Bason, No. 4:21-CV-01566 (M.D.Pa.). (Federal court rejects parents' request for an injunction to stop school district's compliance with Pennsylvania Department of Health mask mandate).

Background

As in many school districts across the Commonwealth, during the summer of 2021, the Board of School Directors of the Montoursville Area School District held multiple meetings to discuss school policies for the upcoming academic year. These meetings included discussions on whether students would be required to wear masks while on school premises during the 2021–2022 school year. In July 2021, the School Board approved the School District's "Health and Safety Plan," which included a "mask optional policy" for the 2021–2022 school year." The Superintendent of the School District then sent a district-wide email to parents announcing "mask optional policy" for the upcoming school year.

But by the end of August 2021, the public health landscape had changed as cases and deaths attributed to COVID-19 surged, at least in part, to a highly transmissible more infectious strand of the virus: the Delta variant. In response to these developments, on August 31, 2021, the Acting Secretary of Pennsylvania Department of Health, Defendant Alison Beam, issued the following mandate to school entities, including public Pre-K–12 grade schools: "Each teacher, child/student, staff, or visitor working, attending, or visiting a School Entity shall wear a face covering indoors, regardless of vaccination status, except as set forth in Section 3." After receiving this directive from the Department of Health, the Superintendent informed parents, students and staff that wearing face coverings were now required to be worn in school and on buses.

In response, several school district parents filed suit in federal court asserting that the School District's enforcement of a mask requirement violated their children's constitutional rights and the First, Fifth and Fourteenth Amendments and requesting an order directing that the School District stop requiring masks in school. (Notably, the suit did not challenge the legal validity of the Secretary of Health's order, instead asserting that the School District was not required to follow that order). The court refused to preliminarily enjoin the School District's enforcement of the mask mandate, observing the parents were unlikely to succeed on the merits of their claims.

Discussion

The court wryly observed that "[n]o one except perhaps a bank robber likes to wear a mask—and even then with reluctance, but as a concession to professional attire. But the Constitution does not shield us from all things we dislike." The court then considered and rejected the various constitutional arguments made by parents opposed to the mask order.

First, the court rejected the argument that the mask order infringed upon the parents' asserted liberty interest "to raise their children as they see fit." While acknowledging that parents have such a right under the Constitution, the court noted that it is not an unlimited right. The court observed that, in certain circumstances, the parental right to control the upbringing of children must give way to a school's need to control curriculum and the school environment. Thus, the court stated, "[a]lthough parents possess the right to raise their children as they see fit, they are not entitled to undermine the Government's public health efforts during a global pandemic by refusing to have their children comply with a school

masking requirement.”

Next, the court flatly dismissed the parents’ contention that the mask mandate deprived their children of the right to attend school. Comparing the mask mandate to other requirements for attendance, such as immunization requirements, the court noted that nothing associated with the mask mandate prevented students from attending school.

Then the court rejected the parents’ due process claims, finding that because the state issued the order, the local school district was not required to provide due process through a hearing or school board meeting before enforcing it. The court dismissed the parents’ argument that the school board, not the Department of Health, had the sole authority to establish policy concerning conditions within schools, noting that the Public School Code did not allow school boards to ignore applicable disease prevention and control mandates promulgated by state agencies. Further, the court opined that the School District’s implementation of the state mask mandate was a rational exercise of its authority, since “[i]t is beyond dispute that schools have a legitimate interest in promoting the health and safety of its students, which extends to efforts to reduce the spread of COVID-19 among students and school employees.”

Finally, the court addressed the parents’ argument that the mask mandate violates the student’s First Amendment right to association. Characterizing the argument “a head scratcher,” the court found that the mask mandate does not prevent or impede students from gathering or associating with one another and thus does not violate any such right.

Practical Advice The court’s decision in Oberheim supports the decisions made by most Pennsylvania school districts to meaningfully comply with the Department of Health mask requirement. The court addressed and rejected the logic of the arguments commonly made by those opposed to the mask order and who have implored school officials to disregard the Department of Health’s order. Until the legal validity of the Department of Health mask order itself is adjudicated, the Oberheim decision provides some precedential refuge to school districts that are enforcing the mask requirement.