

# State, opponents urge court ruling on school mandate despite JCAR vote

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 SPRINGFIELD – The question of whether K-12 schools in Illinois can continue to enforce mask mandates and other COVID-19 mitigations remained unclear Wednesday as all three branches of state government tried to grapple with it.

Gov. JB Pritzker said Wednesday that his executive order requiring those measures remains in place, at least in districts not named in a pending lawsuit even though a legislative panel voted Tuesday not to renew a set of emergency rules that were meant to implement that executive order.

Meanwhile, the 4th District Court of Appeals in Springfield asked attorneys in the lawsuit to explain how the vote by the Joint Committee on Administrative Rules affects that lawsuit and whether the court still needs to review a temporary restraining order pertaining to

the mandates. That order was issued by a Sangamon County judge earlier in the month, blocking enforcement of the mandates in the roughly 170 school districts involved in the case.

“As I’ve said, the ruling by the Sangamon County judge created an enormous amount of confusion, which is why we’ve asked the appellate court to move quickly to respond,” Pritzker said at a news conference Wednesday. “The executive order requiring masks is still in place. School districts that aren’t part of the lawsuit should follow the executive order.”

At the center of the confusion are a set of lawsuits filed by parents and students in about 170 school districts across the state challenging the mitigation mandates.

Beginning last fall, Pritzker issued a series of executive orders requiring face masks to be worn in school buildings, that school staff be fully vaccinated or submit to regular testing,

and that schools exclude from their buildings any student or employee who had a confirmed or probable case of COVID-19 or who had been in close contact with someone else with a confirmed or probable case.

In addition, the Illinois Department of Public Health issued a set of emergency rules to implement that executive order.

The cases were eventually consolidated and assigned to the Sangamon County Circuit Court where, on Feb. 4, Judge Raylene Grischow granted the plaintiffs’ request for a temporary restraining order blocking enforcement of the mandates until the case is decided on its merits. That decision is now on appeal before the 4th District Court of Appeals.

Currently, the restraining order applies only to the districts named in the lawsuits.

The emergency rules that IDPH issued last fall expired on Sunday, Feb. 13. As a result, the agency reissued those rules on

Monday. But the General Assembly’s Joint Committee on Administrative Rules voted Tuesday to object and suspend those rules, citing the temporary restraining order and the confusion over which school systems the rules would apply to.

A legislative panel on Tuesday voted to suspend the latest version of COVID-19 mitigations for public schools, saying in part that those rules are still being litigated in a state appellate court.

The Joint Committee on Administrative Rules voted 9-0, with two members voting “present,” to object to the rules and suspend them from going into effect.

The Illinois Department of Public Health filed the emergency rules late Monday, renewing the emergency rules it had filed in September. The September rules officially expired on Sunday, Feb. 13, because emergency rules cannot stay in place more than 150 days.

Later Tuesday, the 4th District Court of Appeals issued an order directing attorneys in the cases to explain how the JCAR vote affected the appeal.

On Wednesday, attorneys on both sides indicated that the appeal should go forward.

“Because JCAR’s action related only to the IDPH renewed Emergency Rule, it does not affect the (executive orders),” Attorney General Kwame Raoul’s office wrote in its brief. “The validity, legality, and enforceability of the EOs continues to present a live case or controversy.”

William Gerber, an attorney for the plaintiffs, made a similar argument, that JCAR’s decision only affected the emergency rules, not the underlying executive orders, which schools continue to rely on to enforce the mitigation mandates.

“The JCAR ruling was only directed at the IDPH and did not appear to be directed specifically at local schools,” he wrote. “As such, under an

abuse of discretion analysis, the appellate court may still answer the question of whether plaintiffs had shown a likelihood of success that local school districts lacked authority to mandate masking, testing, and vaccinations because the (Illinois Department of Public Health Act), rather than the Illinois School Code, applied to the issues at hand.”

## Rose statement

State Senator Chapin Rose (R-Mahomet) released the following statement after JCAR voted down Pritzker’s new mask mandate for K-12 schools:

“After today’s defeat at the hands of his own Democratic party, I hope Governor Pritzker finally gets the message that he needs to lay off kids and families.”

*Capitol News Illinois is a nonprofit, nonpartisan news service covering state government and distributed to more than 400 newspapers statewide. It is funded primarily by the Illinois Press Foundation and the Robert R. McCormick Foundation.*

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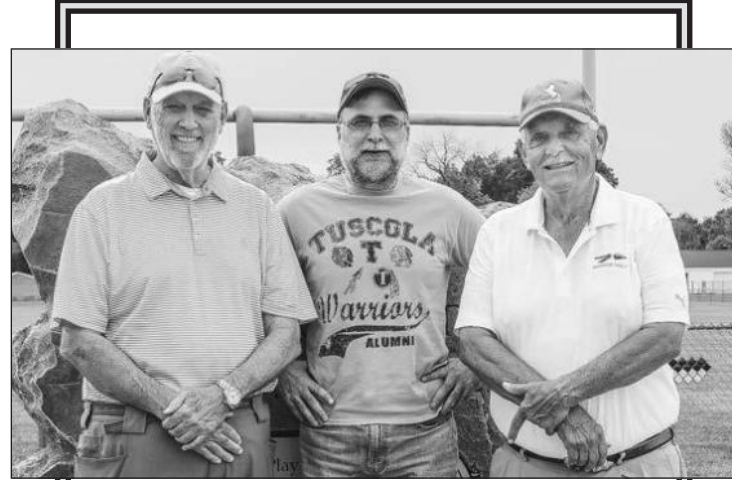
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Jeffrey Young, Secretary  
 Douglas County Farm Bureau

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