

**IN THE CIRCUIT COURT  
FOR THE FOURTH JUDICIAL CIRCUIT  
EFFINGHAM COUNTY, ILLINOIS**

ERIC PALS as the parent and guardian of )  
student J.P, JACOB AND CHRISTINA )  
THOMPSON as the parents and guardians )  
of student H.T., GREG AND ROSINA )  
ESKER as the parents and guardians of )  
student A.E. )

Plaintiffs, )

VS. )

Case No. 2021-MR-140

TEUTOPOLIS UNIT #50 SCHOOLS, )  
a body politic and corporate, MATTHEW )  
STURGEON as Superintendent of )  
TEUTOPOLIS UNIT #50 SCHOOLS )

Defendants. )

**NOTICE OF HEARING**

Please be advised the above matter will be called for hearing on Plaintiff's emergency request for a Temporary Restraining Order of Wednesday, September 15, 2021 at 10:00 A.M.

You may appear and be heard if you so choose.

By: /s/ Thomas DeVore  
Thomas G. DeVore, #06305737  
Attorney for Plaintiffs  
**silver lake group ltd.**  
118 N. 2nd St.  
Greenville, IL 62246  
Tel: 618-664-9439  
Fax: 618-664-9486  
tom@silverlakelaw.com

### PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon the below persons, by electronic means in Greenville, IL on the September 13, 2021 addressed to the parties at their addresses as disclosed by the pleadings of record herein.

Mr. Matthew Sturgeon  
sturgeonm@ttown.k12.il.us

/s/ Thomas G. DeVore  
Thomas G. DeVore

Thomas DeVore  
IL Bar No. 6305737  
**Silver Lake Group, Ltd.**  
Attorney for Plaintiff  
118 North Second Street  
Greenville, Illinois 62246  
Telephone 618.664.9439  
tom@silverlakelaw.com

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TEUTOPOLIS UNIT #50 SCHOOLS, )  
a body politic and corporate, MATTHEW )  
STURGEON as Superintendent of )  
TEUTOPOLIS UNIT #50 SCHOOLS )

Defendants. )

**2021MR140**

**VERIFIED MOTION FOR PRELIMINARY INJUNCTION**

COMES NOW Plaintiff, ERIC PALS ("Pals"), on behalf of his minor child J.P., JACOB AND CHRISTINA THOMPSON ("Thompson"), on behalf of their minor child H.T., GREG AND ROSINA ESKER ("Esker"), on behalf of their minor child by A.E., (all Plaintiffs are collectively hereafter referred to as the "Parents" and the minor children are collectively hereafter referred to as "Children"), by and through their attorney, Thomas G. DeVore of the Silver Lake Group, Ltd., and moves this Court for entry of a preliminary injunction against Defendants, TEUTOPOLIS UNIT #50 SCHOOLS ("District"), a body politic and corporate, and MATTHEW STURGEON ("Sturgeon"), as Superintendent of TEUTOPOLIS UNIT #50 SCHOOLS, to the Children to move freely upon the premises of the District without using any device such as mask to purportedly limit the spread of an infectious disease until such time as an order of quarantine might issue against the Children.

In support of this Motion states as follows:

1. Plaintiff has filed a Verified Complaint for Declaratory Judgment and Writ of Injunction which Verified Complaint is incorporated herein by reference.
2. The emergency injunctive relief Plaintiff's now seeks is necessary prohibit substantial and irreparable injury to protect the Children's right of being free from having the use of a medical devices forced upon them until such time as the Permanent or Preliminary Injunction is heard.
3. Every day which passes, the Children are being unlawfully forced to utilize a mask as a device to limit the spread of an infectious disease notwithstanding the Effingham County Health Department has at no time sought a quarantine order against the Children in the manner prescribed by law.
4. The Verified Complaint for Declaratory Relief and Writ of Injunction has set forth Plaintiff's clear ascertainable rights to be protected and has demonstrated there exists a reasonably likelihood of Plaintiff's success on the merits.
5. Plaintiff has no adequate remedy at law in that the Children are being forced to utilize a mask as a device to limit the spread of an infectious disease before being allowed engage in their right to a public education in a manner not authorized by law.

WHEREFORE, Plaintiffs prays for entry of the following order:

A. A Preliminary Injunction issue, without bond, restraining Defendants, to immediately discontinue forcing the Children to utilize a mask while on school premises as a device to limit the spread of an infectious disease unless the Effingham County Health Department has provided Defendants with an order of quarantine; and

By: /s/ Thomas Devore

Thomas G. DeVore

IL Bar Reg. No. 06305737

**silver lake group ltd.**

Attorneys for Plaintiff

118 N. 2nd St.

Greenville, IL 62246

Telephone - 618-664-9439

### VERIFICATION

Under penalties of perjury as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct except as to matters therein stated to be on information and belief, if any, and as to such matters the undersigned certifies as aforesaid that the undersigned verily believes the same to be true.

Date: September 13, 2021

By: /s/ Greg Esker  
Greg Esker

### VERIFICATION

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Date: September 13, 2021

By: /s/ Eric Pals  
Eric Pals

### VERIFICATION

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Date: September 13, 2021

By: /s/ Christina Thompson  
Christina Thompson

### VERIFICATION

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Date: September 13, 2021

By: /s/ Jacob Thompson  
Jacob Thompson

Thomas G. DeVore  
IL Bar No. 06305737  
**silver lake group, ltd.**  
Attorneys for Plaintiffs  
118 North Second Street  
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Telephone 618.664.9439  
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**IN THE CIRCUIT COURT  
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TEUTOPOLIS UNIT #50 SCHOOLS, )  
a body politic and corporate, MATTHEW )  
STURGEON as Superintendent of )  
TEUTOPOLIS UNIT #50 SCHOOLS )

2021MR140

Defendants. )

**VERIFIED EMERGENCY MOTION FOR TEMPORARY  
RESTRAINING ORDER WITH NOTICE**

COMES NOW Plaintiff, ERIC PALS ("Pals"), on behalf of his minor child J.P., JACOB AND CHRISTINA THOMPSON ("Thompson"), on behalf of their minor child H.T., GREG AND ROSINA ESKER ("Esker"), on behalf of their minor child by A.E., (all Plaintiffs are collectively hereafter referred to as the "Parents" and the minor children are collectively hereafter referred to as "Children"), by and through their attorney, Thomas G. DeVore of the Silver Lake Group, Ltd., and moves this Court pursuant to 735 ILCS 5/11-102 for entry of a temporary restraining order against Defendants, TEUTOPOLIS UNIT #50 SCHOOLS ("District"), a body politic and corporate, and MATTHEW STURGEON ("Sturgeon"), as Superintendent of TEUTOPOLIS UNIT #50 SCHOOLS, to the Children to move freely upon the premises of the District without using any device such as mask to purportedly limit the spread of an infectious disease until such time as an order of quarantine might issue against the Children.

In support of this Motion states as follows:

1. Plaintiff has filed a Verified Complaint for Declaratory Judgment and Writ of Injunction which Verified Complaint is incorporated herein by reference.
2. The emergency injunctive relief Plaintiff's now seeks is necessary prohibit substantial and irreparable injury to protect the Children's right of being free from having the use of a medical devices forced upon them until such time as the Permanent or Preliminary Injunction is heard.
3. Every day which passes, the Children are being unlawfully forced to utilize a mask as a device to limit the spread of an infectious disease notwithstanding the Effingham County Health Department has at no time sought a quarantine order against the Children in the manner prescribed by law.
4. The Verified Complaint for Declaratory Relief and Writ of Injunction has set forth Plaintiff's clear ascertainable rights to be protected and has demonstrated there exists a reasonably likelihood of Plaintiff's success on the merits.
5. Plaintiff has no adequate remedy at law in that the Children are being forced to utilize a mask as a device to limit the spread of an infectious disease before being allowed engage in their right to a public education in a manner not authorized by law.

WHEREFORE, Plaintiffs prays for entry of the following order:

A. A Temporary Restraining Order, without bond, restraining Defendants, to immediately discontinue forcing the Children to utilize a mask while on school premises as a device to limit the spread of an infectious disease unless the Effingham County Health Department has provided Defendants with an order of quarantine; and

B. An order providing for a hearing date on Plaintiff's Motion for Preliminary

Injunction.

By: /s/ Thomas Devore

Thomas G. DeVore

IL Bar Reg. No. 06305737

**silver lake group ltd.**

Attorneys for Plaintiff

118 N. 2nd St.

Greenville, IL 62246

Telephone - 618-664-9439

### VERIFICATION

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Date: September 13, 2021

By: /s/ Greg Esker  
Greg Esker

### VERIFICATION

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Date: September 13, 2021

By: /s/ Eric Pals  
Eric Pals

### VERIFICATION

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Date: September 13, 2021

By: /s/ Christina Thompson  
Christina Thompson

### VERIFICATION

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Date: September 13, 2021

By: /s/ Jacob Thompson  
Jacob Thompson

Thomas G. DeVore  
IL Bar No. 06305737  
**silver lake group, ltd.**  
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TEUTOPOLIS UNIT #50 SCHOOLS, )  
a body politic and corporate, MATTHEW )  
STURGEON as Superintendent of )  
TEUTOPOLIS UNIT #50 SCHOOLS )

Defendants. )

**2021MR140**

**PETITION FOR DECLARATORY RELIEF AND  
FOR WRIT OF INJUNCTION**

COMES NOW Plaintiffs, ERIC PALS ("Pals"), on behalf of his minor child J.P., JACOB AND CHRISTINA THOMPSON ("Thompson"), on behalf of their minor child H.T., GREG AND ROSINA ESKER ("Esker"), on behalf of their minor child by A.E., (all Plaintiffs are collectively hereafter referred to as the "Parents" and the minor children are collectively hereafter referred to as "Children") by and through their attorney, Thomas G. DeVore of the Silver Lake Group, Ltd., and for their Petition for Declaratory Relief and for Writ of Injunction against Defendants, TEUTOPOLIS UNIT #50 SCHOOLS ("District"), a body politic and corporate, and MATTHEW STURGEON ("Sturgeon"), as Superintendent of TEUTOPOLIS UNIT #50 SCHOOLS, and hereby alleges as follows:

## FACTUAL BASIS

1. Plaintiffs are the parents and legal guardians of the Children.
2. All of the Children attend school withing the District.
3. The District, is a body politic and corporate, organized under the laws of the State of Illinois.
4. Defendant, Sturgeon, is the current Superintendent of The District.
5. On or about September 08, 2021, the District published a back-to-school plan. (hereinafter referred to as the "Plan") (See Exhibit A)
6. The Plan includes the use of a mask for students, staff, and visitors, when on school property and inside the facilities, as a device to allegedly limit the spread of infectious disease. (See Exhibit A)
7. The term quarantine is a defined term under Illinois law. (See 77 Ill. Adm. Code 690.10)
8. Quarantine also includes the definition of modified quarantine. (See 77 Ill. Adm. Code 690.10)
9. Illinois law defines modified quarantine to include a selective, partial limitation of freedom of movement or actions of a person or group of persons who are or may have been exposed to a contagious disease or possibly contagious disease. Modified quarantine is designed to meet particular situations and includes, but is not limited to, the exclusion of children from school, the prohibition or restriction from engaging in a particular occupation or using public or mass transportation, or requirements for the use of devices or procedures intended to limit disease transmission. (See 77 Ill. Adm. Code 690.10)

10. A mask is a device which use is intended to limit disease transmission. (Emphasis added)
11. The Children are not currently positive for COVID-19.
12. The Children are healthy and not currently exhibiting any symptoms of COVID-19.
13. The Children are not currently subject to an order of quarantine from the local health department.
14. The Department of Health has supreme authority in matters of quarantine and isolation, and may declare and enforce quarantine and isolation when none exists, and may modify or relax quarantine and isolation when it has been established. (See 20 ILCS 2305(a)).
15. Subject to the provisions of subsection (c), the Department may order a person to be quarantined or isolated to prevent the probable spread of a dangerously contagious or infectious disease. (See 20 ILCS 2305(b)).
16. No person may be ordered to be quarantined or isolated except with the consent of the person or upon the prior order of a court of competent jurisdiction. (See 20 ILCS 2305(c)).
17. To obtain a court order, the Department, by clear and convincing evidence, must prove that the public's health and welfare are significantly endangered by a person, that is suspected of having, that has been exposed to, or that is reasonably believed to have been exposed to a dangerously contagious or infectious disease.

*Id.*

18. Attached as Exhibit B is a true and accurate copy of a temporary restraining order issued against the Carlyle School District wherein the Honorable Judge Sheafor in Clinton County held a child cannot be quarantined without consent of the parent or a lawful order of quarantine having issued.
19. Attached as Exhibit C is a true and accurate copy of a temporary restraining order issued against the North Mac School District wherein the Honorable Judge Troemper in Macoupin County held a child cannot be quarantined without consent of the parent or a lawful order of quarantine having issued.
20. Attached as Exhibit D is a true and accurate copy of a temporary restraining order issued against the QPS Public School District wherein the Honorable Judge Wellborn in Adams County held a child cannot be quarantined without consent of the parent or a lawful order of quarantine having issued.
21. Attached as Exhibit E is a true and accurate copy of a temporary restraining order issued against the Hillsboro School District wherein the Honorable Judge Gruenke in Montgomery County held a child cannot be quarantined without consent of the parent or a lawful order of quarantine having issued.
22. Attached as Exhibit F is a true and accurate copy of another temporary restraining order issued against the North Mac School District wherein the Honorable Judge Troemper in Macoupin County held a child cannot be quarantined without consent of the parent or a lawful order of quarantine having issued.
23. Attached as Exhibit G is a true and accurate copy of a preliminary injunction issued against the North Mac School District wherein the Honorable Judge

Troemper in Macoupin County enjoined the school district from quarantining a child without consent of the parent or a lawful order of quarantine having issued.

24. Attached as Exhibit H is a true and accurate copy of an order of quarantine entered in Sangamon County by Honorable Judge Giganti.<sup>1</sup>

COUNT I  
DECLARATORY JUDGMENT

25. The Parents restate and incorporate by reference Paragraphs 1 through 24 as though fully set forth herein.
26. The Parents have a right to insist their Children not be subjected to any type of quarantine except as provided by law.
27. Every court which has addressed this question has ruled consent of the parent, or a lawful order of quarantine is necessary before a child can be subjected to quarantine.
28. What constitutes a quarantine is defined by law.
29. In all of the cases attached, the courts held excluding a child from school meets the definition of a quarantine under 77 Ill. Adm. Code 690.10.
30. Under the same definition of 77 Ill. Adm. Code 690.10, **in the same exact sentence defining the term**, quarantine also includes compelling the Children to use any type of device which intended purpose is to limit the transmission of an infectious disease. (Emphasis Added)
31. The proper legal mechanism for which a child can be compelled to wear a mask occurred in Sangamon County Court on September 03, 2021 when it issued an order

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<sup>1</sup> In this case, the Sangamon County Health department actually sought an order of quarantine against the children and in doing so received a court order compelling the use of a mask.

of quarantine compelling children in that cause to, *inter alia*, utilize a mask at all times, and not just when in the school building, in order to prevent the spread of an infectious disease.<sup>2</sup> (See Exhibit G)

32. In this cause, at all times relevant, the local health department has taken no action averring the Children have, or may have been exposed to a contagious disease.

33. There can be no doubt the District, and Defendant Sturgeon, are attempting to compel the Children with use of a mask as a device intended to limit the spread of the COVID-19 virus.

34. The District, and Defendant Sturgeon have no lawful authority to compel the Children to utilize a device to allegedly prevent the spread of an infectious disease.

3

35. The Illinois legislature has delegated to the health department supreme authority on matters of quarantine.

36. The District, and Defendant Sturgeon, are not the Effingham County Health Department.

37. Should the Effingham County Health Department desire to compel the Children to utilize such a device, this can only be accomplished by following procedural and substantive due process under 20 ILCS 2305 *et seq.* as well as 77 Ill. Adm. Code

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<sup>2</sup> This order of the Sangamon County circuit court was only issued after the local health department filed an action of quarantine against these children alleging they had been exposed, or were believed to have been exposed, to an infectious disease and the local health department was trying to limit the spread. This quarantine was based upon actual facts and the parents were given their due process rights to be heard and object.

<sup>3</sup> The health department, which is the supreme authority on these matters, doesn't even have the authority to compel a perfectly healthy child to use a device which purports to limit the spread of an infectious disease under the laws of this state as they currently exist, so it goes without saying the District does not have this authority. Whether or not the legislature could grant such broad authority, which might include no due process protections, to any unit of government is not a question currently in front of the Court, but we can be certain the legislature has not yet even attempted to do so.

690 *et seq.*

38. Due process requires consent of the parent or a lawful order of quarantine compelling the use of a device by the Children to prevent the spread of an infectious disease.
39. Any order of quarantine, absent consent of the Parents, would only be lawful by proving to this Court by clear and convincing evidence that the Children have been exposed or may have been exposed to a contagious disease.
40. It would be an absurd proposition for the District, and Defendant Sturgeon, to suggest the local health department is required to obtain consent of the parent, or a court order, in order to compel the Children to utilize a mask as a device to limit the spread of an infectious disease, but they somehow can disregard procedural and substantive due process.
41. Quite simply, the District, and Defendant Sturgeon have infringed upon the lawful right of the Children and their Parents to be free to choose for themselves what health and safety measures they feel are appropriate for the Children, absent an order from this Honorable Court to the contrary.
42. An actual controversy exists between the parties in regard to the authority of The District, and Defendant Sturgeon, to compel the Children to utilize a device alleged to prevent the spread of an infectious disease absent a lawful order of quarantine issuing on behalf of the local county health department or the Illinois Department of Health.
43. An immediate and definitive determination is necessary to clarify the rights and interests of all parties affected.

ERIC PALS (“Pals”), on behalf of his minor child J.P., JACOB AND CHRISTINA THOMPSON (“Thompson”), on behalf of their minor child H.T., GREG AND ROSINA ESKER (“Esker”), on behalf of their minor child by A.E., herein request that this court enter an Order:

- A. Declaring the local health department, and not the District or Defendant Sturgeon, is vested with the authority to compel the Children to utilize a device which is purported to limit the spread of an infectious disease;
- B. Declaring the District, and Defendant Sturgeon, must have in their possession a lawful order of quarantine from the local health department before the Children can be compelled to utilize any type of device, including masks, while on school premises which use is purported to limit the spread of an infectious disease.
- C. That the Court grant such other and further relief as is just and proper.

#### **REQUEST FOR INJUNCTION**

- 44. Plaintiff restates and incorporate by reference Paragraphs 1 through 43 as though fully set forth herein.
- 45. The Parents, and the Children have a right insist the Children not be compelled to use any type of device which is purported to limit the spread of an infectious disease unless a lawful order of quarantine in in force against the Children
- 46. There can be no doubt the District, and Defendant Sturgeon, are attempting to compel the Children with the use a mask as a device intended to limit the spread of the COVID-19 virus.
- 47. The Illinois legislature has delegated to the health department supreme authority on matters of quarantine.

48. Illinois law considers such compulsory mask wearing by a citizen a form of quarantine.
49. The District, and Defendant Sturgeon, have adopted the Plan compelling the use of masks as a device which allegedly prevents the spread of an infectious disease.
50. The District, and Defendant Sturgeon have no lawful authority to compel the Children to utilize a device to allegedly prevent the spread of an infectious disease.
51. The District, and Defendant Sturgeon, are not the Effingham County Health Department.
52. Even if the Effingham County Health Department desires to compel the Children to utilize such a device, this can only be accomplished by consent of the parent or a lawful order of quarantine.
53. Absent consent, the Parents is afforded procedural and substantive due process in this Honorable Court before the Children can be compelled to utilize any device which is purported to limit the spread of an infectious disease.
54. At no time, has the Effingham County Health Department sought an order of quarantine against the Children through consent of the Parents or by order of this Honorable Court.
55. Quite simply, the District, and Defendant Sturgeon have infringed upon the lawful right of the Children and her Parents to be free to choose for themselves what health and safety measures they feel are appropriate for the Children absent an order of this Honorable Court to the contrary.
56. The Parents, and the Children have no adequate remedy at law in which to seek relief from the irreparable harm caused by the District, and Defendant Sturgeon, for

every day the Children, who is otherwise perfectly healthy, are being unlawfully forced to wear a mask as a device alleged to prevent the spread of an infectious disease.

57. If the Children refuses to wear the mask when present at the facilities of the District, they will be denied their right to attend the public school.
58. If the Children are in fact a danger to the public health such that she should be compelled to wear a mask, or otherwise utilize any device which is purported to limit the spread of an infectious disease, the local health department, or the Illinois Department of Health, is the body of government vested with the duty and authority to obtain an order of quarantine either by consent of the Parents or otherwise from this Honorable Court.
59. For all these reasons, balancing the equities in this cause bodes completely in favor of granting the Parents and the Children their requested relief.

WHEREFORE, ERIC PALS (“Pals”), on behalf of his minor child J.P., JACOB AND CHRISTINA THOMPSON (“Thompson”), on behalf of their minor child H.T., GREG AND ROSINA ESKER (“Esker”), on behalf of their minor child by A.E., prays that this Court enter judgment in her favor and find and declare that:

- A. Finding under the facts presented herein, The District and Defendant Sturgeon, cannot compel the Children to wear a mask, or otherwise force the children to use any device which is purported to limit the spread of an infectious disease, absent an order of quarantine issuing against the Children on behalf of the Clinton County Health Department or the Illinois Department of Health.
- B. Enter an injunction permanently enjoining The District and Defendant Sturgeon,

from forcing the Children to wear a mask, or otherwise force the Children to use any device which is purported to limit the spread of an infectious disease, absent an order of quarantine issuing against the Children on behalf of the Effingham County Health Department or the Illinois Department of Health.

- C. Enter an injunction permanently enjoining The District, and Defendant Sturgeon from disallowing the Children entry into the facilities of the District to receive their education due the Children not wearing a mask, or any other device which is purported to limit the spread of an infectious disease, unless an order of quarantine has issued against the Children on behalf of the Effingham County Health Department or the Illinois Department of Health.
- D. For such other relief as this Court deems just and proper.

Respectfully submitted,

By: /s/ Thomas Devore  
Thomas G. DeVore  
IL Bar Reg. No. 06305737  
**silver lake group ltd.**  
Attorneys for Plaintiff  
118 N. 2nd St.  
Greenville, IL 62246  
Telephone - 618-664-9439

### VERIFICATION

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Date: September 13, 2021

By: /s/ Rosina Esker  
Rosina Esker

### VERIFICATION

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Date: September 13, 2021

By: /s/ Greg Esker  
Greg Esker

### VERIFICATION

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Date: September 13, 2021

By: /s/ Eric Pals  
Eric Pals

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Date: September 13, 2021

By: /s/ Christina Thompson  
Christina Thompson

### VERIFICATION

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Date: September 13, 2021

By: /s/ Jacob Thompson  
Jacob Thompson

Thomas G. DeVore  
IL Bar No. 06305737  
**silver lake group, ltd.**  
Attorneys for Plaintiffs  
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Greenville, Illinois 62246  
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# Teutopolis Unit #50

## Safe Return to In-Person Instruction and Continuity of Services

Board Approved - September 8, 2021

### Executive Summary

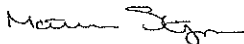
Following the Covid-19 pandemic closure of all Illinois schools in the spring of 2020, Teutopolis Unit #50 planned and implemented a safe return for the 2020-21 school year. This required strict adherence to required health and safety protocols, which created some barriers and limitations to teacher and learning. Subsequently, the U.S. Congress made emergency funds available to local schools to prevent, prepare for, and respond to Covid-19. Most recently, funds available through the American Rescue Plan require that school districts develop a *Plan for Safe Return to In-Person Instruction and Continuity of Services*. As such, this plan has been developed in accordance with the ARP Act and the Illinois State Superintendent of Education declaration of July 9, 2021; is aligned with guidance provided by the Illinois Department of Public Health (IDPH) and the Centers for Disease Control and Prevention (CDC); and addresses adjustments needed in response to evolving Covid-19 pandemic circumstances for the 2021-22 school year.

This document was developed through meaningful consultation with students, parents, school and district administrators, teachers, school staff, food service staff, transportation service staff, labor association leaders, and county health department officials. It will be publicly available on the district's website and can be provided in an alternative format accessible to parents as requested.

School strategies in this document may be modified or removed based upon local conditions, levels of community transmission (i.e., low, moderate, substantial, or high), local vaccine coverage, use of screening testing to detect cases in K-12 schools, and consultation with local public health officials to determine the prevention strategies needed. School officials will communicate any changes in plans to staff members, students, and parents through the district's regular communication platforms.

The remainder of this document is intended to provide an outline of our current plan for students and staff as we prioritize student and staff safety, social-emotional health of students, academic achievement, and the needs of our families and community for the 2021-22 school year.

Respectfully,



Matthew Sturgeon  
Superintendent

ex. A

## **Maintaining the Health and Safety of Students, Educators, and Other Staff**

In accordance with the Illinois State Superintendent of Schools September 7, 2021 declaration, all Teutopolis CUSD #50 schools will be open for full day in-person learning for all student attendance days for the 2021-22 school year. Remote instruction will only be made available for non-vaccinated or vaccine ineligible students who are under quarantine as directed by the local health department or the Illinois Department of Public Health. Absent an order from the Illinois State Board of Education and/or the Illinois Governor's Office, Teutopolis CUSD #50 schools will be in operation in accordance with the CDC's updated Guidance for Covid-19 Prevention in Kindergarten (K)-12 Schools, also adopted by the IDPH on July 9, 2021. These guidelines are summarized below, but can also be read to their entirety at [CDC.gov](https://www.cdc.gov).

### **1. Mask Use**

- As per [Executive Order #22](#), mask use is required indoors for students, staff and visitors regardless of vaccination status. Mask use is recommended outdoors during activities (e.g., participating in outdoor play, recess, physical education, sports, extra curriculars) that involve sustained close contact with other people who are not fully vaccinated, particularly in areas of substantial to high transmission.
- Unless exempt by CDC Order, passengers and drivers must wear a mask on school buses.

### **2. Physical Distancing**

- To the extent possible within school and classroom structures so that it does not exclude students from full day in-person learning, physical distancing of at least 3 feet, and at least 6 feet for those who are not fully vaccinated, is recommended.
- School staff will maximize physical distance as much as possible and may implement additional physical distancing measures (e.g., furniture arrangement, single directional traffic flow, staggered arrival and departure, alternate locations for meals, cohorting) during periods of substantial transmission.

### **3. Handwashing and Respiratory Etiquette**

- School staff will monitor and reinforce frequent handwashing and respiratory etiquette by
  - continuing to teach handwashing with soap and water for at least 20 seconds;
  - reminding everyone in the facility to wash hands frequently;
  - using hand sanitizer containing at least 60% alcohol (for teachers, staff, and older students who can safely use hand sanitizer) when hand washing is not possible; and
  - continuing to teach respiratory etiquette (e.g., covering coughs and sneezes).

### **4. Facility and Transportation Cleaning, Disinfection and Ventilation**

- School custodial staff and transportation staff will continue to clean frequently touched surfaces daily, and will clean and disinfect the space of a person who tested positive within the last 24 hours.

- Maintenance staff will continue to regularly monitor, repair and replace school ventilation system filters and may recommend system replacement to improve air quality and/or ventilation.
- When possible, staff may open doors and windows, use child-safe fans, and have activities, classes, or lunches outdoors when circumstances allow. When it does not pose a safety risk, transportation staff will keep vehicle windows open at least a few inches to improve air circulation.

#### **5. Contact Tracing in Combination with Isolation and Quarantine**

- Students and staff who have symptoms of infectious illness, such as influenza (flu) or Covid-19, should stay home and contact their healthcare provider for testing and care.
- Individuals in our school environments who show symptoms of Covid-19 are to immediately report to or be escorted to the school's health care professional's office to be either sent home or be quarantined in the school's supervised safe area while awaiting pickup/evaluation. Students and staff are required to wear masks while in the safe area. Parents should ensure that ill students are picked up from school within 30 minutes of being notified. Ill students will not be allowed to utilize the school bus to return home.
- Students and staff who are not fully vaccinated should quarantine after a recent exposure to someone with Covid-19. Fully vaccinated people who were in close contact with someone who has Covid-19 but do NOT have Covid-19 symptoms do not need to quarantine or be tested.
- Student absences related to a Covid-19 isolation or quarantine will be recorded as excused. To ensure continuity of services, school work missed during such an absence can be requested and made up in accordance with the school's policy (refer to student handbook); social, emotional, mental health, or other needs will be provided in accordance with a student's IEP or 504 Plan. Parents should contact their child's principal to discuss needs. Remote instruction will only be made available for non-vaccinated or vaccine ineligible students who are under quarantine as directed by the local health department or the Illinois Department of Public Health.
- Staff absences related to a Covid-19 isolation or quarantine will be recorded in accordance with the district's sick leave policy and related professional negotiations agreements. To ensure continuity of services, staff members should contact their principals to discuss support for social, emotional, mental health, or other needs.
- To the extent allowable by privacy laws and other applicable laws, school staff will continue to collaborate with county health department officials to confidentially provide information about people diagnosed with or exposed to Covid-19, including making notifications to staff and parents regarding those who were in close contact of someone in the school who tested positive for Covid-19.
- The district will inform the school community of outbreaks while maintaining student and staff confidentiality rights. An outbreak is defined as five or more cases from different households and not already connected from other sources, which are linked to a common location during a 14-day period.

- Students and staff suspected of having Covid-19, whether they were tested or not, are to follow the CDC guidelines to determine when they can return to school.

#### **6. Promoting Vaccination**

- Visit [vaccines.gov](https://www.vaccines.gov) to find out where teachers, staff, students and their families can get vaccinated in our community.

#### **7. Disabilities or Other Health Care Needs**

- Parents of students who need accommodations, modifications, or assistance related to Covid-19 safety protocols, disabilities, underlying medical conditions or weakened immune systems should contact their student's case manager to discuss the need(s).
- Staff members who need accommodations, modifications, or assistance related to Covid-19 safety protocols, disabilities, underlying medical conditions, weakened immune systems, or a sincerely held religious belief or practice (covered by Title VII of the Civil Rights Act of 1964) should contact their school's principal or immediate supervisor to discuss the need(s). Staff members with weakened immune systems are advised to contact their healthcare professional about the need for continued personal protective measures after vaccination.

#### **8. Visitors**

- Nonessential visitors, volunteers, and activities involving external groups or organizations with people who are not fully vaccinated are discouraged from visiting schools.
- Anyone who has symptoms of infectious illness, such as flu or Covid-19, should stay home and seek testing and care.

#### **9. Collaboration with Public Health Officials**

- District officials will continue to collaborate and consult with local county health department officials throughout a pandemic on various logistics and decision-making including, but not limited to, school health and safety protocols, screening testing, contact tracing, vaccine clinics, and emergency closings.

#### **10. Plan Review**

- Through September 30, 2023, this plan will be reviewed no less frequently than every six months and revised as appropriate after seeking and considering public input. Revisions will address the most recently updated safety recommendations by the CDC and will be made publicly available on the district's website and can be provided in an alternative format accessible as requested.

*Jeanette Diekmann*  
*As the parent and guardian*  
*of B.S.*

IN THE CIRCUIT COURT  
FOURTH JUDICIAL CIRCUIT  
CLINTON COUNTY, ILLINOIS

**FILED**

AUG 30 2021

*Ad. Shady*  
CIRCUIT CLERK, CIRCUIT COURT  
FOURTH JUDICIAL CIRCUIT  
CLINTON COUNTY, ILLINOIS

RONALD PETERS as the  
parent and guardian of student Z.P.

Plaintiff,

VS.

Case No. 2021-CH- 617

CARLYLE C.U.S.D. #1, a body politic  
and corporate, ANNIE GRAY as  
Superintendent of CARLYLE  
C.U.S.D. #10,

Defendants.

**ORDER FOR TEMPORARY RESTRAINING ORDER WITH ~~SOME~~ NOTICE**

This cause coming to be heard on Plaintiff's Motion for Temporary Restraining Order, notice having been given; the Court having considered Emergency Motion for a Temporary Restraining Order finds as follows:

1. Plaintiff's has filed a Verified Complaint for Writ of Injunction, as well as a Verified Motion for Temporary Restraining Order and Preliminary Injunction.
2. Plaintiff has shown there exists a clearly ascertainable right in need of protection, namely that Z.P.'s right to an in-person education has been taken away in violation of applicable law.
3. Plaintiff has shown, have shown there is a fair question that Plaintiff's will succeed on the merits in that in-person learning is required absent, inter alia, an order of quarantine issuing against Z.P. from the local health department.

*ex. B*

4. Plaintiff has shown that they will suffer irreparable harm if an injunction does not issue, namely the minor Z.P. will be prohibited from exercising their right to an in-person education even in the absence of a quarantine order; and

5. It is clear from the pleadings that given nothing in this order in no way precludes the local health department from issuing an order of quarantine, which would authorize the Defendant to exclude Z.P. from in-person learning, balancing the equities lies in favor of the issuance of this order.

6. Plaintiff's have shown that it has no adequate remedy at law or in equity in that absent the issuance of a temporary restraining order, the Plaintiff has no way to temporarily restore Z.P.'s right to in-person learning.

WHEREFORE, IT IS HEREBY ORDERED:

- A. Defendants, are enjoined from excluding Z.P. from the facilities for being an individual public health risk unless an order of quarantine issues against Z.P. from the local health department as required by the Illinois State Board of Education.
- B. Defendants are enjoined from demanding Plaintiff provide the District a release from quarantine order in order for Z.P. to return to in-person learning, *unless an order of quarantine should issue.*
- C. Nothing in this order shall be construed to prohibit the local health department from issuing an order of quarantine against Z.P. in a manner prescribed by law.
- D. Nothing in this order shall be construed to prohibit the District from implementing a school wide, or district wide, remote learning program.
- E. This Temporary Restraining Order shall remain in full force and effect for ten days from the date hereof or until \_\_\_\_\_ [a.m.] [p.m.] on \_\_\_\_\_, 2021, unless sooner modified or dissolved by this Court.

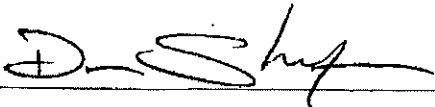
F. Bond is waived for good cause for the Court is satisfied that under no set of facts will the Defendants suffer any significant financial harm as a result of this temporary order.

G. <sup>status</sup> A hearing on a Preliminary Injunction is set at 11:00 (a.m.) [p.m.] on Sep 27th, 2021,

H. This Temporary Restraining Order is entered at 12:00 [a.m.] [p.m.] on Aug 30th, 2020  
21

Dated: Aug 30, 2021.

Enter: August 30, 2021



Judge

Thomas G. DeVore  
IL Bar No. 06305737  
silver lake group, ltd.  
Attorneys for Plaintiff  
118 North Second Street  
Greenville, Illinois 62246  
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IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT  
MACOUPIN COUNTY, ILLINOIS

DUSTIN AND KELLY BROWN, as the )  
Parents and guardians of student K.B., )  
TERRY AND REBECCA JUNE as the parents )  
And guardians of student J.J., ZACK AND GINA )  
HOGAN as the parents and guardians of student )  
N.H., CHRIS AND ALICIA HATALLA as the )  
parents and guardians of student C.H., )

Plaintiffs, )

vs. )

NORTH MAC CUSD #34, a body politic )  
and corporate, JAY GOBLE as Superintendent )  
of NORTH MAC CUSD #34, )

Defendants. )

FILED

SEP 01 2021

  
Clerk of the Circuit Court  
Macoupin County, Illinois

No. 2021 MR 88

**ORDER**

***Re: Verified Emergency Motion for Temporary Restraining Order***

This cause coming to be heard on Plaintiffs' Verified Emergency Motion for Temporary Restraining Order, due notice having been given. Plaintiffs appear in person, along with Attorney DeVore. Defendants appear in person, along with Attorney Satterly. Arguments heard. The Court having considered the verified Petition, attached exhibits, Defendants' Response to Plaintiffs' Motion for Temporary Restraining Order, the parties' oral arguments, and the applicable legal and statutory authority finds as follows:

**I.**

**PRELIMINARY FINDINGS**

1. A Temporary Restraining Order (TRO) is an equitable remedy that is used in emergency/exceptional circumstances when necessary to preserve the status quo until there is a full evidentiary hearing on the merits.
2. Controverted facts or the merits are not to be considered at a TRO hearing.

C

3. A TRO should only be decided on a summary basis, considering only the verified pleadings and non-evidentiary arguments.
4. Plaintiffs' Emergency Motion for Temporary Restraining Order is verified.
5. Defendants did not file a Verified Answer.
6. Failure to file an Answer deems all well-pled facts as true and unrefuted at the TRO hearing.
7. To qualify for the extraordinary remedy of a Temporary Restraining Order, the moving party must show, by a preponderance of the evidence, the following:
  - a) a clearly ascertainable right in need of protection,
  - b) irreparable injury in the absence of an injunction,
  - c) no adequate remedy at law, and
  - d) a likelihood of success on the merits of the case.
8. Before issuing a Temporary Restraining Order, the Court should also find that the grant of temporary relief outweighs any possible injury to the Defendant resulting from the issuance of the temporary restraining order.
9. "It is well established that the legislatures, not the courts, have the primary role in our democratic society in deciding what the interests of the public require and in selecting the measures necessary to secure those interests." *See generally, People v. Kohrig*, 113 Ill. 2d 384, 396-97 (1986) "Recognizing the legislature's broad power to provide for the public health, welfare and safety, the courts are hesitant to second-guess a legislative determination that a law is desirable or necessary. ... To do so would be to place the court in a position of acting as a super-legislature, nullifying laws it does not like. That is not our proper role in a democratic society." *Id.*

## II. APPLICABLE LAW, GUIDELINES, ORDERS

The following laws, orders, and guidelines were in effect on August 24 and August 26, 2021:

### A. Illinois State Board of Education's May 2021 Resolution:

**WHEREAS**, students and school staff now have meaningful protection from COVID-19 with three highly effective vaccines widely available ... ; and

**WHEREAS**, our schools have the capability to rapidly identify new cases to prevent COVID-19 outbreaks and reduce the risk of further transmission, thanks to the State of Illinois providing schools free access to Abbott's BinaxNOW rapid test and offering all middle and high schools use of covidSHIELD tests at a reduced or no cost; and

**WHEREAS**, multiple studies show that - although online classes are a far better option than no classes at all - students, particularly students who struggle academically, still learn better while in-person, along side their teachers; and

**WHEREAS**, reconnecting with teacher and peers in-person is essential for students' mental health and social-emotional development, especially after prolonged isolation of the pandemic; and

**WHEREAS**, Illinois schools are receiving 7.8 billion in federal pandemic relief funds for the safe return to in-person learning and to address learning gaps caused by the pandemic through strategies, such as tutoring, summer school, and community partnerships for mental health; and

**WHEREAS**, nearly all public school districts are offering partial or fully in-person learning; and

**WHEREAS**, guidance from the Illinois Department of Public Health is forthcoming regarding updated mitigations for schools in Phase 5 of the Restore Illinois Plan;

**THEREFORE, BE IT RESOLVED**, that the Illinois State Board of Education supports Illinois State Superintendent of Education Dr. Carmen I. Ayala in making the following declaration after the conclusion of the current academic school year, subject to favorable public health conditions at that time: Beginning with the 2021-2022 school year, all schools must resume fully in-person learning for all student attendance days, provided that, pursuant to 105 ILCS 5/10-30 and 105 ILCS 5/34-18.66, remote instruction be made available for students who are not eligible for a COVID 19 vaccine and are under a quarantine order by a local public health department or the Illinois Department of Public Health.

Illinois State Board of Education, *May 2021 Resolution* (emphasis added).

**B. State Superintendent of Education, Dr. Carmen I. Ayala's July 9, 2021 statement:**

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The CDC's guidance recognizes the fundamental importance of in-person learning for the wellbeing of students, families, and communities. These public health experts stress that all schools may not be able to implement all the public health strategies, like social distancing, perfectly, and that's okay. They urge you to prioritize full-time access to in-person learning for all students, while layering the public health requirements to the best of your ability.

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Now that we have the public health requirements for this coming school year, I make the following declaration:

“Beginning with the 2021-2022 school year, all schools must resume fully in-person learning for all student attendance days, provided that, pursuant to 105 ILCS 5/10-30 and 105 ILCS 5/34-18.66, remote instruction be made available for students who have not received a COVID-19 vaccine or who are not eligible for a COVID-19 vaccine, only while they are under quarantine consistent with guidance or requirements from a local public health department of the Illinois Department of Public Health.”

We have no doubt that children learn best - and educators teach best - when they're physically present together, in the same space. We want to do everything we can to ensure that happens safely.

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**C. Illinois Department of Public Health's July 9, 2021 article (attached as Defendant's Exh. B), *"IDPH adopted CDC's updated guidance for COVID-19 Prevention in Kindergarten (K)-12 Schools,"* as follows.**

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The major areas of guidance include: masks, social distancing, screening, testing, ventilation, hand washing and respiratory etiquette, staying home when sick and getting tested, contact tracing in combination with quarantine and isolation, and cleaning and disinfection, and implementation of layered prevention strategies (masking, distancing, testing) to protect people who are not fully vaccinated.

**D. Governor's Executive Order 2021-18, (COVID-19 Order #85), issued August 9, 2019:**

The relevant portions are as follows:

**WHEREAS**, the CDC has provided guidance for COVID-19 Prevention in K-12 Schools; and,

**WHEREAS**, the CDC recently updated its COVID-19 guidance for schools, and now indicates that everyone in K-12 schools should wear a mask indoors, including teachers, staff, students, and visitors, regardless of vaccination status; and,

**WHEREAS**, the American Academy of Pediatrics likewise recommends universal masking in schools of everyone over the age of two, regardless of vaccination status, because a significant portion of the student population is not yet eligible for vaccines, and masking is proven to reduce transmission of the virus and to protect those who are not vaccinated; and,

**WHEREAS**, the Illinois State Board of Education (ISBE) and the Illinois Department of Public Health (IDPH) are issuing updated joint COVID-19 guidance and recommendations designed to allow schools in Illinois serving pre-kindergarten through 12th grade students to

conduct in-person teaching and learning, while at the same time keeping students, teachers, staff, and visitors safe; and,

**Section 1: School Mitigation Measures.** All public and nonpublic schools in Illinois serving pre-kindergarten through 12th grade students must follow the joint guidance issued by ISBE and IDPH and take proactive measures to ensure the safety of students, staff, and visitors, including, but not limited to:

- a. Requiring the indoor use of face coverings by students, staff, and visitors who are over age two and able to medically tolerate a face covering, regardless of vaccination status, consistent with CDC guidance; and,
- b. Implementing other layered prevention strategies (such as physical distancing, screening testing, ventilation, hand washing and respiratory etiquette, advising individuals to stay home when sick and get tested, contact tracing in combination with appropriate quarantine and isolation, and cleaning and disinfection) to the greatest extent possible and taking into consideration factors such as community transmission, vaccination coverage, screening testing, and occurrence of outbreaks, consistent with CDC guidance.

Governor's Executive Order 21-18 (emphasis added).

***E. Revised Public Health Guidance for Schools - Part 5 - Supporting the Full Return to In-Person Learning for All Students - August 2021, issued by Illinois State Board of Education and Illinois Department of Public Health:***

The applicable, relevant portions to the limited issue before the Court are as follows:

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- In-person learning with the appropriate protective measures should be both safe and essential to students' mental health and academic growth.
- With preventative strategies in place, in-person learning was not associated with higher levels of transmission when compared to communities without in-person learning.
- The majority of students need full-time in-person access to their teachers and support network at school to stay engaged, learn effectively, and to maintain social-emotional wellness.
- A recent study from CDC suggests that remote learning can be challenging ... leading not only to learning loss, but also worsening mental health for children and parents.
- Restoring full-time-in-person learning for all students is essential to the State's commitment to educational equity.
- The greatest risk for infection and severe complications is among the non-vaccinated.

- People who are vaccinated are at low risk of symptomatic or severe infection.
- Schools can promote vaccinations among teachers, staff, families, and eligible students by providing information.
- These guidelines incorporate Dr. Ayala's July 9, 2021 declaration.
- The State of Illinois has adopted the CDC's updated guidance regarding COVID-19 prevention in K-12 schools. Based on that guidance and related updates on July 27, 2021, ISBE and IDPH have updated public health requirements for schools and associated guidance in these guidelines.
- Public Health Requirements for Schools are as follows:
  - Masks must be worn indoors – regardless of vaccine status.
  - Public and nonpublic schools must comply with contact tracing, in combination with isolation and quarantine, as directed by state and local public health departments.
  - Schools must implement these other layered prevention strategies to the greatest extent possible
    - Promote vaccines
    - Facilitate physical distancing
    - Implement testing for diagnostic testing of suspected cases, close contacts, and during outbreaks, as well as screening unvaccinated staff and students in accordance with CDC's testing recommendations
    - Improve ventilation
    - Promote and adhere to hand hygiene and respiratory etiquette
    - Encourage individuals who are sick to stay home and get tested
    - Clean and disinfect surfaces in school
- IDPH Health and Safety Requirements require contact tracing in combination with isolation of those with suspected or confirmed COVID-19 and quarantine of close contacts, in collaboration with the local health department.
- **CONTACT TRACING: schools and students must work with local health departments to facilitate contact tracing of infectious students, teachers, and staff, and consistent implementation regarding isolation of cases and quarantine of close contacts.**
  - Contact tracing is used by health departments to prevent spread of infectious diseases.
  - Contact tracing involves identifying people who have a confirmed or probable case of COVID-19 and individuals with whom they came into contact and working with such individuals to interrupt disease spread.

- This means schools are to ask people with COVID to isolate and their contacts to quarantine voluntarily at home.
  - Students/staff who are fully vaccinated with no symptoms do not need to quarantine or be restricted from school/school activities. Fully vaccinated people should get tested 3-5 days after close contact exposure.
  - Schools can provide information of unvaccinated individuals in shared rooms, class schedules, shared meals, or extracurricular activities to the local health department to expedite contact tracing and control the spread of COVID-19.
  - Schools should have a tracking process in place of those excluded from school because they have been exposed to someone with COVID-19 and are in quarantine. This tracking ensures CDC and local health department criteria for discontinuing home isolation or quarantine are met before student/staff return to school.
  - Schools should communicate this process to all members of the school community prior to the resumption of in-person learning.
  - Districts and Schools must be prepared to offer assistance to local health department when contact tracing is needed after a confirmed case, which may include identifying the individual's assigned areas and movement throughout the building.
  - Individuals who show symptoms should be evaluated by medical provider about when they can return.
- **DEFINITION OF A CLOSE CONTACT:** for not fully vaccinated persons, close contact is defined as being within 6 feet of the infected person for total of 15 minutes or more over a 24-hour period. For students in the classroom setting, contacts who were within 3-6 feet of an infected student do not require quarantine as long as both were masked the entire time. If they are not consistently masked, then close contacts are classroom students who were within 6 feet of the infected student for a cumulative total of 15 minutes or more over a 24-hour period. Also – individuals who are solely exposed to a confirmed case while outdoors should not be considered close contacts.
    - Local health departments are the final authority on identifying close contacts.
    - **QUARANTINE PROCEDURES:** local health departments will make final determination on who is to quarantine and for how long.

- The CDC describes three options for quarantine by the local health department.
- **TEST TO STAY PROTOCOL:** if schools test close contacts on days 1,3,5 and 7 from date of exposure by a PCR or rapid Emergency Use Authorization approved test - close contacts are permitted to remain in the classroom as long as the results are negative. Test to Stay is only applicable when the covid confirmed case and close contact person engaged in consistent and corrected use of well-fitting masks. Students and staff may participate in extracurricular activities.
- Local health departments will make final determination on who is to be quarantined and for how long under this modified quarantine.
- Schools are to encourage students and staff who are ill to stay home.
  - Individuals who have a temperature greater than 100.4 or who currently have known symptoms of COVID-19 may not enter school buildings.

*See Revised Public Health Guidance for Schools - Part 5 - Supporting the Full Return to In-Person Learning for All Students - August 2021 (emphasis added).*

**F. Other relevant/cited legal authority considered by the Court include the following:**

- 20 ILCS 2305/2(a)(b)(c)
- 105 ILCS 5/10-19.1
- 105 ILCS 5/10-20
- 105 ILCS 5/10-20.5
- 105 ILCS 5/10-30
- 77 Ill. Adm. Code 690.30(c)
- Executive Order 2021-19 (COVID-19 No. 86)
- Executive Order 2021-15, Sections 5,6,7,8, and 9 (as referenced in 21 EO 19)

### **III. ELEMENTS OF A TEMPORARY RESTRAINING ORDER**

To qualify for the extraordinary remedy of a Temporary Restraining Order, the moving party must show, by a preponderance of the evidence, the following:

- a) a clearly ascertainable right in need of protection,
- b) irreparable injury in the absence of an injunction,
- c) no adequate remedy at law, and
- d) a likelihood of success on the merits of the case

As noted previously, Defendants' failure to file an answer deems all the well-pled allegations in the Emergency Motion for a Temporary Restraining Order (TRO) as being true and uncontested for purposes of this summary proceeding. The following unrefuted facts have been considered by the Court:

1. Plaintiffs' children were informed by a staff member that they were considered a close contact by the school and that the school was quarantining their children.
2. The school did not inform the parents when their children could return to school.
3. The children were never contacted by the local health department as part of any contact tracing, nor were they asked to voluntarily consent to being quarantined.
4. The children are not currently positive for COVID-19.
5. The children are not exhibiting symptoms consistent with a potential COVID-19 infection.
6. One of the children's parents was informed that if the child returned to school, that child would be suspended and the parent would be escorted off the premises by law enforcement and arrested.
7. At no time has the local or state health department sought an order of quarantine against these students nor have the parents been contacted to voluntarily consent on behalf of their children.
8. The Defendants did not implement the compulsory remote learning program which is required for students who have been property quarantined from the school.

A. **Clearly Ascertainable Right(s) in Need of Protection**

To satisfy this element, Plaintiffs are "not required to make out a case which would entitle him to relief on the merits; rather, he need only show that he raises a 'fair question' about the existence of his right and that the court should preserve the status quo until the case can be decided on the merits." See *Buzz Barton & Associates, Inc. v. Giannone*, 108 Ill. 2d 373, 386 (1985)

Here, Plaintiffs argue they have a constitutional and statutory right to an in-person education until such time as the preliminary or permanent injunction is heard and that every day which passes, the children are being denied their education.

It is clear from the Illinois State Board of Education's May 2021 Resolution, State Superintendent Dr. Ayala's July 9, 2021 Declaration, ISBE and IDPH's *Revised Public Health Guidance for Schools - Part 5 - Supporting the Full Return to In-Person Learning for All Students*, August 2021, and the Governor's Executive Order 2021-18 (Covid-19 Order #85), that all schools are required to offer in-person learning given the adverse consequences remote learning had on students during the 2020-2021 school year, including learning loss and worsening mental health. In-person learning also promotes educational equity, helps maintain social-emotional wellness, and provides access to students' teachers and support network. If a student has not received the COVID-19 vaccination and is subject to quarantine or isolation, then the school district must make remote learning available to the student.

Plaintiffs argue remote learning can only be offered if the student is not eligible for the COVID-19 vaccination and is under a quarantine order by a local public health department of the Illinois Department of Public Health. (See ISBE May 2021 *Resolution*) Defendants argue remote learning is to be made available for students who have not received or who are not eligible for a COVID-19 vaccine, only while they are under quarantine consistent with guidance or requirements from a local public health department or the Illinois Department of Public Health, implying a formal quarantine order through the courts is not required. Defendants place a great deal of emphasis on the phrase quarantine "guidance" as found in Dr. Ayala's declaration, but that emphasis is taken out of context when one matches the language of the State Superintendent's

declaration to the CDC language and the *Revised Public Health Guidance for Schools*, issued by IDPH and ISBE. (see pp. 4-5 of the *Joint Guidance*).

Defendants state “[t]he State Superintendent’s declaration pursuant to 10-30 is binding on the question of whether remote learning is mandatory for plaintiffs who meet the guidance for exclusion from school and/or quarantine issued by IDPH/ISBE and the CDC.” Defendants did not attach any Affidavits to support their argument that their “guidance” falls outside of what is specifically stated by CDC, IDPH, and ISBE in the *Joint Guidance*. Defendants further argue the students are not entitled to in-person learning, so long as they are receiving an education.

The Court disagrees. The Court finds that, based on the law that existed on August 24, 26 2021, anyone who has not been diagnosed as COVID-19 positive, and/or who does not meet the definition of a close contact (as defined by CDC and adopted by IDPH and ISBE), subject to isolation or voluntary or mandatory quarantine, is entitled to an in-person education. According to ISBE and IDPH’s *Joint Guidance*, the local health department is the final authority on identifying close contacts, and the local health department makes the final determination on who is to quarantine and for how long. While the *Joint Guidance* requires the schools to assist with contact tracing and to ask people with COVID-19 to isolate and their contacts to quarantine voluntarily at home, this does not give the school district the absolute right to require someone to quarantine at home. When a person is asked to quarantine by the public health department, that agency believes the person has or is suspected of having a dangerously contagious or infectious disease which must be controlled in order to protect others from being infected. If that person disagrees with the public health department’s determination, then the public health may issue an emergency quarantine order for 48 hours but must then file a petition with the Courts seeking a formal quarantine order. See 20 ILCS 2305 (a)(b)(c).

To obtain a court order, the Department, by clear and convincing evidence, must prove that the public's health and welfare are significantly endangered by a person or group of persons that has, that is suspected of having, that has been exposed to, or that is reasonably believed to have been exposed to a dangerously contagious or infectious disease including non-compliant tuberculosis patients or by a place where there is a significant amount of activity likely to spread a dangerously contagious or infectious disease. The Department must also prove that all other reasonable means of correcting the problem have been exhausted and no less restrictive alternative exists. For purposes of this subsection, in determining whether no less restrictive alternative exists, the court shall consider evidence showing that, under the circumstances presented by the case in which an order is sought, quarantine or isolation is the measure provided for in a rule of the Department or in guidelines issued by the Centers for Disease Control and Prevention or the World Health Organization. Persons who are or are about to be ordered to be isolated or quarantined and owners of places that are or are about to be closed and made off limits to the public shall have the right to counsel. If a person or owner is indigent, the court shall appoint counsel for that person or owner. Persons who are ordered to be isolated or quarantined or who are owners of places that are ordered to be closed and made off limits to the public, shall be given a written notice of such order. The written notice shall additionally include the following: (1) notice of the right to counsel; (2) notice that if the person or owner is indigent, the court will appoint counsel for that person or owner; (3) notice of the reason for the order for isolation, quarantine, or closure; (4) notice of whether the order is an immediate order, and if so, the time frame for the Department to seek consent or to file a petition requesting a court order as set out in this subsection; and (5) notice of the anticipated duration of the isolation, quarantine, or closure.

20 ILCS 2305/2(c)(emphasis added). While the majority of people agree to voluntarily quarantine or isolate absent an official finding that the person has or is suspected of having a dangerously contagious or infectious disease, the legislature acknowledged a person's right to due process and implemented a procedure that requires the local public health department to establish when the person must be quarantined or isolated. Thus, the law contemplates people may object to being required to quarantine. In this case, the students were not provided any other recourse to object to the School's determination, other than to file the instant cause of action.

In addition, even if the students were subject to a proper quarantine, Plaintiffs have alleged the District failed to implement the compulsory remote learning program which is required by ISBE under the May 2021 Resolution for students, thus denying them of their right to an education. The allegation was unrefuted at the TRO hearing. Had the Governor, the CDC, the

IDPH, and the ISBE not placed so much emphasis on the importance of in-person learning for 2021-2022 school year, given the adverse effects remote learning had on the children's learning, their mental and emotional well-being, and the education system as a whole, then Defendants' arguments might have been more persuasive. Also, had these students met the definition of "close contact" as defined in the *Revised Public Health Guidance for Schools* and had they been properly quarantined and had remote learning been available, then Defendants' argument would have merit because the law acknowledges remote learning is the appropriate form of learning on a temporary basis for those qualifying students, but those are not the uncontested facts before the Court at this time.

B. *Irreparable Injury in the Absence of an Injunction*

For a party to succeed under this element, the party must show that the injured party cannot be adequately compensated in damages or where damages cannot be measured by any certain pecuniary standard. "Plaintiffs need not show injury that is beyond repair or beyond compensation in damages, but rather, need only show transgressions which are of a continuing nature." *Bollweg v. Richard v. Marker Assocs., Inc.* 353 Ill. App. 3d 560, 577 (2d Dist. 2004)

As noted above, the students were told by the District that they had to quarantine. They were not given an opportunity to refute the allegations that the district deemed them a "close contact," subject to a mandatory quarantine for an unspecified period of time. While it is true that properly quarantined/isolated students are to participate in remote learning for a temporary time-period, those who are not identified by the State or local health department as a danger or risk of spreading a contagious disease should not be denied their right to in-person learning. At a minimum, even if the students were inappropriately ordered to quarantine by the school, these students allege they were not offered remote learning, as required. The Defendants have also not

cited to any school code that these students have violated that would require them to be excluded from in-person education. As such, this element has been satisfied.

C. No Adequate Remedy at Law

For Plaintiffs to satisfy this element, they must show their injury cannot be compensated through a monetary award. In other words, “[i]t is only when money is insufficient to compensate the injury, or when the injury cannot be properly quantified in terms of money, that injunctive relief is necessary.” Plaintiffs have satisfied this element.

D. Likelihood of Success on the Merits

To succeed on this element, Plaintiffs need only show there is a genuine question regarding the existence of a claimed right and a fair question that they will be entitled to the relief prayed for if the proof sustains the allegations.

Defendants argue they are required by Executive Order to follow contact tracing and *exclusion* and quarantine procedures recommended by state and local health departments. Defendants cite Executive Order 21-18 and the *Joint Guidance* issued by IDPH and ISBE to support this argument. The Court agrees that the School must assist with contact tracing and is required to *ask* people with COVID-19 to isolate and their contacts to quarantine voluntarily at home. Defendants did not cite to any legal authority regarding “exclusion procedures” in the context of the Governor’s emergency declaration or the IDPH/ISBE *Joint Guidance*.

Regarding Defendants’ reference to the requirement Defendants take “proactive measures to ensure the safety of students, staff, and visitors, which include but are not limited to, contact tracing in combination with appropriate quarantine and isolation...,” (emphasis added) this provision does not grant school districts absolute authority to decide who should or should not be mandated to quarantine. That is the function of the state and local health departments. The law

states so. For Districts to comply with this mandate, they are required to assist the public health department with contact tracing and ask people to voluntarily isolate if they have COVID-19 or to quarantine if they came into contact with the COVID-19 positive individual. Defendant alleges that “following the diagnosis of nine (9) positive COVID cases at the high school, the District conducted contact tracing in conjunction with recommendations from the local health department[, and since ...] the cases were considered an outbreak, ... the District excluded the entire class at the recommendation of the local health department.” (See Def. Exh. K)

While this may be a valid argument and one worth considering, the Court cannot consider it at this stage, given Defendants did not attach any Affidavits from the department of public health or the Superintendent supporting this unverified allegation that the public health department told the school to deny an entire class, including Plaintiffs, of their right to in-person learning.

Defendants also correctly argue that school districts are to follow the recommendations of local health authority with respect to close contacts, but Defendants fail to acknowledge that the applicable law requires the public health department to identify close contacts. (See *Joint Guidance* for definition of “close contact”). The law also requires the public health department to make the final determination on who is to be quarantined and for how long. Again, Defendants did not include any affidavits at this stage supporting their inference that the public health department identified the four named students as “close contacts” and that the health department asked the school to ask the students to voluntarily quarantine - as would be required pursuant to the *Joint Guidance*. Those facts are not before this Court and therefore Defendants arguments cannot be considered at this stage.

Defendants further argue that quarantine powers notwithstanding, Defendants have the right to exclude students based on policies implemented by the school board. The Court agrees

that the school board may implement policies to protect the health and safety of their students. In support of this argument, Defendants cite to Exhibit H, titled "Operational Services" and argue "[p]ursuant to this Policy, and in light of the ease in which COVID-19 may be transmitted to others in close contact, Defendants determined that they would exclude (or 'quarantine' as the term has generally become to be known) from in-person learning all students (and staff) who are exposed to an individuals who tests positive for COVID-19 in accordance with CDC, ISBE, and IDPH guidance." (see p. 11 of Defendants' Response). First, the Court notes that this Policy (4:170) was adopted in February 2019 - at a time when COVID-19 was not even in existence. A careful review of that Policy does not support Defendants' broad interpretation at this stage, in the absence of an Affidavit or verified pleading. (This policy makes reference to 4:180 - Pandemic Preparedness, but Defendants did not include that as an Exhibit.)

Finally, Defendants argue they have separate authority to exclude students for safety reasons. In support of this argument, Defendants cite to the 2021-2022 Student and Family handbook, wherein the School District informs students and families:

All decisions regarding changes to the school environment and schedule, including a possible interruption of in-person learning, will be made by the superintendent in consultation with and, if necessary, at the direction of the Governor, Illinois Department of Public Health, local health department, emergency management agencies, and/or Regional Office of Educations.

Again, while this argument appears to have merit on its face, Defendants did not incorporate any Affidavits or verified pleadings establishing the Superintendent consulted with the state or local health departments in order to justify its broadened authority under this provision. As such, the Court cannot consider it at this stage.

Lastly, the Court acknowledges Defendants' Exhibit K, whereby the Superintendent identifies nine (9) positive COVID-19 cases from 8/17-8/23, resulting in 73 students and 4 staff

members being required to quarantine. It is unclear from that letter whether the public health department identified those 77 individuals as “close contacts” or whether the District made that determination on its own out of an abundance of caution, and if so - what criteria it used in determining who was deemed a close contact and “required to quarantine.” As such, this Exhibit simply establishes the District informed the parents and students of the current situation. Beyond that, the Court cannot make any additional inferences absent an affidavit explaining its context.

*E. Balance of Hardships*

The Court is to also consider any hardships a TRO may impose on Defendants. Defendants argued that to force or require the District to comply with the *Joint Guidance* by having the local health department conclude who is a close contact and who should be subject to quarantine would cause an enormous burden to the local health department. This argument is a conclusory statement, not supported by Affidavit or a verified pleading, and as such the Court is required to disregard conclusory statements. As noted previously,

[i]t is well established that the legislatures, not the courts, have the primary role in our democratic society in deciding what the interests of the public require and in selecting the measures necessary to secure those interests. ... Recognizing the legislature's broad power to provide for the public health, welfare and safety, the courts are hesitant to second-guess a legislative determination that a law is desirable or necessary. ... To do so would be to place the court in a position of acting as a super-legislature, nullifying laws it does not like. That is not our proper role in a democratic society.

*See generally, People v. Kohrig*, 113 Ill. 2d 384, 396-97 (1986).

Since the students have raised a genuine issue, Defendants will not suffer any hardship by requesting the local health department determine these students are considered a close contact as defined in the *Joint Guidance* and that they should be subject to quarantine, in accordance with IDPH and the local health department standards.

That is the law before the Court as of today, and that is the law this Court will follow. Certainly if Defendants produce evidence at a later hearing to establish the District's actions were justified and in accordance with the law, then the Court will factor that into its additional analysis.

#### IV. CONCLUSION

At this stage of a Temporary Restraining Order, Courts are prohibited from considering controverted facts or the merits and must base its decision solely on the verified pleading and non-evidentiary arguments. As outlined previously herein, the Court has accepted the following as true (given the absence of Affidavits or verified pleadings by Defendants):

1. Plaintiffs' children were informed by a staff member that they were considered a close contact by the school and that the school was quarantining their children.
2. The school did not inform the parents when their children could return to school.
3. The children were never contacted by the local health department as part of any contact tracing, nor were they asked to voluntarily consent to being quarantined.
4. The children are not currently positive for COVID-19.
5. The children are not exhibiting symptoms consistent with a potential COVID-19 infection.
6. One of the children's parents were informed that if the child returned to school, that child would be suspended and the parent would be escorted off the premises by law enforcement and arrested.
7. At no time has the local or state health department sought an order of quarantine against these students nor have the parents been contacted to voluntarily consent on behalf of their children.
8. The Defendants did not implement the compulsory remote learning program which is required for students who have been properly quarantined from the school.

#### WHEREFORE, IT IS HEREBY ORDERED:

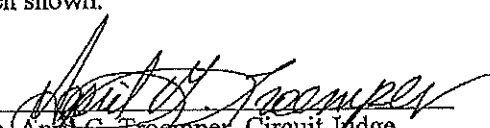
- A. Absent a finding by the local health department that these four students are deemed close contacts and are subject to mandatory quarantine because the

public's health and welfare are significantly endangered and that quarantine is the only least restrictive option, the Defendants are to allow these students to return to in-person learning unless the students voluntarily consent to quarantine or a quarantine order is issued.

- B. This TRO was issued on September 1, 2021 at 3:45 p.m.
- C. It shall remain in effect through September 10, 2021.
- D. A hearing on Plaintiffs' Motion for Preliminary Injunction is set for September 9, 2021 at 1:30 p.m. – 3:30 p.m.
- E. Bond is waived as good cause has been shown.

Dated: September 1, 2021

By: \_\_\_\_\_

  
Hon. April G. Freemper, Circuit Judge

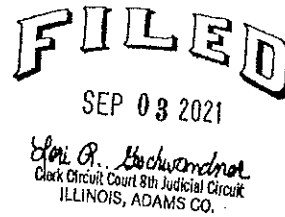
IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT

ADAMS COUNTY, ILLINOIS

Scott and Jamie Hamby,  
As parents and guardians of student C.H.;  
Christina Terwelp, as parent and guardian of student L.T.,  
And Travis and Ashley Oshner, as parents and guardians of K.O.,  
Petitioners,

Vs.

2021 MR 186



School District 172, Adams County, Illinois and  
Superintendent of QPS, Roy Webb,  
(corrected from initial filing as QPS Public School  
District #172, a body politic and corporate, and  
Roy Webb, Superintendent of QPS),  
Defendants.

ORDER FOR TEMPORARY RESTRAINING ORDER WITH NOTICE

The cause comes on for hearing on Plaintiff's Motion for Temporary Restraining Order with notice having been given. Plaintiffs appear in person and with counsel, Thomas, DeVore. Defendants appear in person by Roy Webb with counsel, David Penn, and School District 172, Adams County, Illinois by counsel, David Penn. Arguments are heard. The Court has considered the verified Petition with attached exhibits and Defendant's Response to the Motion for Temporary Restraining Order as well as the parties' legal arguments and the applicable legal authority. The Court finds as follows:

1. The Plaintiffs have filed a verified Emergency Motion for Temporary Restraining Order.
2. Defendants have filed a Responsive Memorandum of Law.
3. Plaintiffs have shown there is a fair question that the Plaintiffs will succeed on the merits in that in-person learning is required absent, inter alia, an active order of quarantine issuing against C.H., L.T. or K.O. from the Health Department.
4. Plaintiffs have shown they will suffer irreparable harm if an injunction does not issue, in that they may not stay engaged, to learn effectively and may not maintain social-emotional wellness. See, Revised Public Health Guidance for Schools, August 2021, Executive Summary. The minors will be prohibited from exercising their right to an in-person education even in the

Ex. D

absence of a quarantine order.

5. Nothing in this order precludes the Adams County Health Department from issuing an order of quarantine, which would authorize the Defendants to exclude C.H., L.T. or K.O. from in-person learning.

6. Plaintiffs have shown that the only adequate remedy is to issue the Temporary Restraining Orders for each Plaintiff. Without such order they have no way to temporarily restore their rights to in-person learning.

**Wherefore, It Is Ordered:**

A. Defendants are enjoined from excluding C.H., L.T. or K.O. from the facilities of School District 172, Adams County, Illinois for being an individual public health risk unless an active Order of Quarantine issues against C.H., L.T. or K.O. from the local Health Department as required by the Illinois State Board of Education.

B. This Temporary Restraining Order shall remain in full force and effect for ten days from the date hereof, unless sooner modified or dissolved by this Court.

C. Bond is waived for good cause shown. The Court finds no circumstance in which this order will cause Defendants to suffer financial harm.

D. This Temporary Restraining Order is entered at 7:15 p.m. September 2, 2021.

E. A hearing on the Preliminary Injunction is set for Friday, September 10, 2021 at 9:00 a.m. at the Adams County Courthouse, unless for good cause shown or on Defendants' request the date is extended.

Entered: September 2, 2021  
7:15 pm



Debra L. Wellborn, Judge

CC: Atty. DeVore  
Atty. David Penn

I hereby certify that a copy hereof was:  
Mailed, postage prepaid ☐ Faxed ☐  
Personally delivered ☐ Emailed ☒  
SAO ☐ PO ☐ Counsel ☒  
Plaintiff ☐ Defendant ☐  
9-3-21 [Signature]  
Date Deputy Clerk

EX.D

IN THE CIRCUIT COURT  
FOR THE FOURTH JUDICIAL CIRCUIT  
MONTGOMERY COUNTY, ILLINOIS

JAY AND HEATHER GREENWOOD as )  
the parents and guardians of student E.G. )

Plaintiffs, )

VS. )

HILLSBORO COMMUNITY SCHOOL )  
DISTRICT #3, a body politic and corporate, )  
DAVID POWELL as Superintendent of )  
HILLSBORO COMMUNITY SCHOOL )  
#3 )

Defendants. )

2021MR104

Case No. 2021-MR-\_\_\_\_\_

**ORDER FOR TEMPORARY RESTRAINING ORDER WITH NOTICE**

This cause coming to be heard on Plaintiff's Motion for Temporary Restraining Order, notice having been given; the Court having considered Emergency Motion for a Temporary Restraining Order finds as follows:

1. Plaintiff's has filed a Verified Complaint for Writ of Injunction, as well as a Verified Motion for Temporary Restraining Order and Preliminary Injunction.
2. Plaintiff has shown there exists a clearly ascertainable right in need of protection, namely that E.G.'s right to an in-person education has been taken away in violation of applicable law.
3. Plaintiff has shown, have shown there is a fair question that Plaintiff's will succeed on the merits in that in-person learning is required absent, *inter alia*, an order of quarantine issuing against E.G. from the local health department.

EX. E

4. Plaintiff has shown that they will suffer irreparable harm if an injunction does not issue, namely the minor E.G. will be prohibited from exercising his right to an in-person education even in the absence of a quarantine order; and

5. It is clear from the pleadings that given nothing in this order in any way precludes the local health department from issuing an order of quarantine, which would authorize the Defendant to then exclude E.G. from in-person learning, balancing the equities lies in favor of the issuance of this order.

6. Plaintiff's have shown that it has no adequate remedy at law or in equity in that absent the issuance of a temporary restraining order, the Plaintiff has no way to temporarily restore E.G.'s right to in-person learning.

7. Findings stated on the record are adopted and incorporated herein.

WHEREFORE, IT IS HEREBY ORDERED:

A. Defendants, are enjoined from excluding E.G. from the facilities for being an individual public health risk ~~unless an order of quarantine issues against E.G. from the local health department.~~ ~~from the local health department.~~ except during the term of any lawful order of quarantine issued against E.G. from the local health department.

B. Nothing in this order shall be construed to prohibit the local health department from issuing an order of quarantine against E.G. in a manner prescribed by law.

By agreement,


C. This Temporary Restraining Order shall remain in full force and effect for ten ~~days from the date hereof or until \_\_\_\_\_ [a.m.] [p.m.] on \_\_\_\_\_, 2021, unless~~ until \_\_\_\_\_, 2021, unless sooner modified or dissolved by this Court.

D. Bond is waived for good cause for the Court is satisfied that under no set of facts will the Defendants suffer any significant financial harm as a result of this temporary order.

- status hearing
- E. A ~~hearing on a Preliminary Injunction~~ is set at 9:00 a.m. [a.m.] [p.m.] on  
October 5, 2021,
- F. This Temporary Restraining Order is entered at 10:30 a.m. [a.m.]  
[p.m.] on September 3, 2021.

Dated: 9/3, 2021.

Enter:

  
\_\_\_\_\_  
Judge

Thomas G. DeVore  
IL Bar No. 06305737  
silver lake group, ltd.  
Attorneys for Plaintiff  
118 North Second Street  
Greenville, Illinois 62246  
Telephone 618.664.9439  
Facsimile 618.664.9486

# Teutopolis Unit #50

## Safe Return to In-Person Instruction and Continuity of Services

Board Approved - September 8, 2021

### Executive Summary

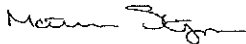
Following the Covid-19 pandemic closure of all Illinois schools in the spring of 2020, Teutopolis Unit #50 planned and implemented a safe return for the 2020-21 school year. This required strict adherence to required health and safety protocols, which created some barriers and limitations to teacher and learning. Subsequently, the U.S. Congress made emergency funds available to local schools to prevent, prepare for, and respond to Covid-19. Most recently, funds available through the American Rescue Plan require that school districts develop a *Plan for Safe Return to In-Person Instruction and Continuity of Services*. As such, this plan has been developed in accordance with the ARP Act and the Illinois State Superintendent of Education declaration of July 9, 2021; is aligned with guidance provided by the Illinois Department of Public Health (IDPH) and the Centers for Disease Control and Prevention (CDC); and addresses adjustments needed in response to evolving Covid-19 pandemic circumstances for the 2021-22 school year.

This document was developed through meaningful consultation with students, parents, school and district administrators, teachers, school staff, food service staff, transportation service staff, labor association leaders, and county health department officials. It will be publicly available on the district's website and can be provided in an alternative format accessible to parents as requested.

School strategies in this document may be modified or removed based upon local conditions, levels of community transmission (i.e., low, moderate, substantial, or high), local vaccine coverage, use of screening testing to detect cases in K-12 schools, and consultation with local public health officials to determine the prevention strategies needed. School officials will communicate any changes in plans to staff members, students, and parents through the district's regular communication platforms.

The remainder of this document is intended to provide an outline of our current plan for students and staff as we prioritize student and staff safety, social-emotional health of students, academic achievement, and the needs of our families and community for the 2021-22 school year.

Respectfully,



Matthew Sturgeon  
Superintendent

## **Maintaining the Health and Safety of Students, Educators, and Other Staff**

In accordance with the Illinois State Superintendent of Schools September 7, 2021 declaration, all Teutopolis CUSD #50 schools will be open for full day in-person learning for all student attendance days for the 2021-22 school year. Remote instruction will only be made available for non-vaccinated or vaccine ineligible students who are under quarantine as directed by the local health department or the Illinois Department of Public Health. Absent an order from the Illinois State Board of Education and/or the Illinois Governor's Office, Teutopolis CUSD #50 schools will be in operation in accordance with the CDC's updated Guidance for Covid-19 Prevention in Kindergarten (K)-12 Schools, also adopted by the IDPH on July 9, 2021. These guidelines are summarized below, but can also be read to their entirety at [CDC.gov](https://www.cdc.gov).

### **1. Mask Use**

- As per Executive Order #22, mask use is required indoors for students, staff and visitors regardless of vaccination status. Mask use is recommended outdoors during activities (e.g., participating in outdoor play, recess, physical education, sports, extra curriculars) that involve sustained close contact with other people who are not fully vaccinated, particularly in areas of substantial to high transmission.
- Unless exempt by CDC Order, passengers and drivers must wear a mask on school buses.

### **2. Physical Distancing**

- To the extent possible within school and classroom structures so that it does not exclude students from full day in-person learning, physical distancing of at least 3 feet, and at least 6 feet for those who are not fully vaccinated, is recommended.
- School staff will maximize physical distance as much as possible and may implement additional physical distancing measures (e.g., furniture arrangement, single directional traffic flow, staggered arrival and departure, alternate locations for meals, cohorting) during periods of substantial transmission.

### **3. Handwashing and Respiratory Etiquette**

- School staff will monitor and reinforce frequent handwashing and respiratory etiquette by
  - continuing to teach handwashing with soap and water for at least 20 seconds;
  - reminding everyone in the facility to wash hands frequently;
  - using hand sanitizer containing at least 60% alcohol (for teachers, staff, and older students who can safely use hand sanitizer) when hand washing is not possible; and
  - continuing to teach respiratory etiquette (e.g., covering coughs and sneezes).

### **4. Facility and Transportation Cleaning, Disinfection and Ventilation**

- School custodial staff and transportation staff will continue to clean frequently touched surfaces daily, and will clean and disinfect the space of a person who tested positive within the last 24 hours.

- Maintenance staff will continue to regularly monitor, repair and replace school ventilation system filters and may recommend system replacement to improve air quality and/or ventilation.
- When possible, staff may open doors and windows, use child-safe fans, and have activities, classes, or lunches outdoors when circumstances allow. When it does not pose a safety risk, transportation staff will keep vehicle windows open at least a few inches to improve air circulation.

#### **5. Contact Tracing in Combination with Isolation and Quarantine**

- Students and staff who have symptoms of infectious illness, such as influenza (flu) or Covid-19, should stay home and contact their healthcare provider for testing and care.
- Individuals in our school environments who show symptoms of Covid-19 are to immediately report to or be escorted to the school's health care professional's office to be either sent home or be quarantined in the school's supervised safe area while awaiting pickup/evaluation. Students and staff are required to wear masks while in the safe area. Parents should ensure that ill students are picked up from school within 30 minutes of being notified. Ill students will not be allowed to utilize the school bus to return home.
- Students and staff who are not fully vaccinated should quarantine after a recent exposure to someone with Covid-19. Fully vaccinated people who were in close contact with someone who has Covid-19 but do NOT have Covid-19 symptoms do not need to quarantine or be tested.
- Student absences related to a Covid-19 isolation or quarantine will be recorded as excused. To ensure continuity of services, school work missed during such an absence can be requested and made up in accordance with the school's policy (refer to student handbook); social, emotional, mental health, or other needs will be provided in accordance with a student's IEP or 504 Plan. Parents should contact their child's principal to discuss needs. Remote instruction will only be made available for non-vaccinated or vaccine ineligible students who are under quarantine as directed by the local health department or the Illinois Department of Public Health.
- Staff absences related to a Covid-19 isolation or quarantine will be recorded in accordance with the district's sick leave policy and related professional negotiations agreements. To ensure continuity of services, staff members should contact their principals to discuss support for social, emotional, mental health, or other needs.
- To the extent allowable by privacy laws and other applicable laws, school staff will continue to collaborate with county health department officials to confidentially provide information about people diagnosed with or exposed to Covid-19, including making notifications to staff and parents regarding those who were in close contact of someone in the school who tested positive for Covid-19.
- The district will inform the school community of outbreaks while maintaining student and staff confidentiality rights. An outbreak is defined as five or more cases from different households and not already connected from other sources, which are linked to a common location during a 14-day period.

- Students and staff suspected of having Covid-19, whether they were tested or not, are to follow the CDC guidelines to determine when they can return to school.

#### **6. Promoting Vaccination**

- Visit [vaccines.gov](https://www.vaccines.gov) to find out where teachers, staff, students and their families can get vaccinated in our community.

#### **7. Disabilities or Other Health Care Needs**

- Parents of students who need accommodations, modifications, or assistance related to Covid-19 safety protocols, disabilities, underlying medical conditions or weakened immune systems should contact their student's case manager to discuss the need(s).
- Staff members who need accommodations, modifications, or assistance related to Covid-19 safety protocols, disabilities, underlying medical conditions, weakened immune systems, or a sincerely held religious belief or practice (covered by Title VII of the Civil Rights Act of 1964) should contact their school's principal or immediate supervisor to discuss the need(s). Staff members with weakened immune systems are advised to contact their healthcare professional about the need for continued personal protective measures after vaccination.

#### **8. Visitors**

- Nonessential visitors, volunteers, and activities involving external groups or organizations with people who are not fully vaccinated are discouraged from visiting schools.
- Anyone who has symptoms of infectious illness, such as flu or Covid-19, should stay home and seek testing and care.

#### **9. Collaboration with Public Health Officials**

- District officials will continue to collaborate and consult with local county health department officials throughout a pandemic on various logistics and decision-making including, but not limited to, school health and safety protocols, screening testing, contact tracing, vaccine clinics, and emergency closings.

#### **10. Plan Review**

- Through September 30, 2023, this plan will be reviewed no less frequently than every six months and revised as appropriate after seeking and considering public input. Revisions will address the most recently updated safety recommendations by the CDC and will be made publicly available on the district's website and can be provided in an alternative format accessible as requested.

*Jeanette Diekmann*  
*As the parent and guardian*  
*of B.S.*

IN THE CIRCUIT COURT  
FOURTH JUDICIAL CIRCUIT  
CLINTON COUNTY, ILLINOIS

**FILED**

AUG 30 2021

*APD [unclear]*  
CIRCUIT CLERK, CLINTON COUNTY  
CLINTON COUNTY, ILLINOIS

RONALD PETERS as the  
parent and guardian of student Z.P.

Plaintiff,

VS.

Case No. 2021-CH- 647

CARLYLE C.U.S.D. #1, a body politic  
and corporate, ANNIE GRAY as  
Superintendent of CARLYLE  
C.U.S.D. #10,

Defendants.

**ORDER FOR TEMPORARY RESTRAINING ORDER WITH ~~OUT~~ NOTICE**

This cause coming to be heard on Plaintiff's Motion for Temporary Restraining Order,  
notice having been given; the Court having considered Emergency Motion for a Temporary  
Restraining Order finds as follows:

1. Plaintiff's has filed a Verified Complaint for Writ of Injunction, as well as a  
Verified Motion for Temporary Restraining Order and Preliminary Injunction.
2. Plaintiff has shown there exists a clearly ascertainable right in need of protection,  
namely that Z.P.'s right to an in-person education has been taken away in violation of applicable  
law.
3. Plaintiff has shown, have shown there is a fair question that Plaintiff's will  
succeed on the merits in that in-person learning is required absent, inter alia, an order of  
quarantine issuing against Z.P. from the local health department.

*ex. B*

4. Plaintiff has shown that they will suffer irreparable harm if an injunction does not issue, namely the minor Z.P. will be prohibited from exercising their right to an in-person education even in the absence of a quarantine order; and

5. It is clear from the pleadings that given nothing in this order in no way precludes the local health department from issuing an order of quarantine, which would authorize the Defendant to exclude Z.P. from in-person learning, balancing the equities lies in favor of the issuance of this order.

6. Plaintiff's have shown that it has no adequate remedy at law or in equity in that absent the issuance of a temporary restraining order, the Plaintiff has no way to temporarily restore Z.P.'s right to in-person learning.

WHEREFORE, IT IS HEREBY ORDERED:

- A. Defendants, are enjoined from excluding Z.P. from the facilities for being an individual public health risk unless an order of quarantine issues against Z.P. from the local health department as required by the Illinois State Board of Education.
- B. Defendants are enjoined from demanding Plaintiff provide the District a release from quarantine order in order for Z.P. to return to in-person learning, *unless an order of quarantine should issue.*
- C. Nothing in this order shall be construed to prohibit the local health department from issuing an order of quarantine against Z.P. in a manner prescribed by law.
- D. Nothing in this order shall be construed to prohibit the District from implementing a school wide, or district wide, remote learning program.
- E. This Temporary Restraining Order shall remain in full force and effect for ten days from the date hereof or until \_\_\_\_\_ [a.m.] [p.m.] on \_\_\_\_\_, 2021, unless sooner modified or dissolved by this Court.

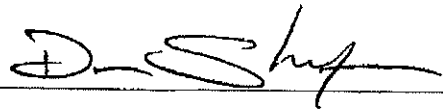
F. Bond is waived for good cause for the Court is satisfied that under no set of facts will the Defendants suffer any significant financial harm as a result of this temporary order.

G. <sup>status</sup> A hearing on a Preliminary Injunction is set at 11:00 ~~(a.m.)~~ [p.m.] on Sep 27th, 2021,

H. This Temporary Restraining Order is entered at 12:00 [a.m.] [p.m.] on Aug 30th, 2020  
21

Dated: Aug 30, 2021.

Enter: August 30, 2021



Judge

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IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT  
MACOUPIN COUNTY, ILLINOIS

DUSTIN AND KELLY BROWN, as the  
Parents and guardians of student K.B.,  
TERRY AND REBECCA JUNE as the parents  
And guardians of student J.J., ZACK AND GINA  
HOGAN as the parents and guardians of student  
N.H., CHRIS AND ALICIA HATALLA as the  
parents and guardians of student C.H.,

Plaintiffs,

vs.

NORTH MAC CUSD #34, a body politic  
and corporate, JAY GOBLE as Superintendent  
of NORTH MAC CUSD #34,

Defendants.

FILED

SEP 01 2021

  
Clerk of the Circuit Court  
Macoupin County, Illinois

No. 2021 MR 88

**ORDER**

***Re: Verified Emergency Motion for Temporary Restraining Order***

This cause coming to be heard on Plaintiffs' Verified Emergency Motion for Temporary Restraining Order, due notice having been given. Plaintiffs appear in person, along with Attorney DeVore. Defendants appear in person, along with Attorney Satterly. Arguments heard. The Court having considered the verified Petition, attached exhibits, Defendants' Response to Plaintiffs' Motion for Temporary Restraining Order, the parties' oral arguments, and the applicable legal and statutory authority finds as follows:

**I.**

**PRELIMINARY FINDINGS**

1. A Temporary Restraining Order (TRO) is an equitable remedy that is used in emergency/exceptional circumstances when necessary to preserve the status quo until there is a full evidentiary hearing on the merits.
2. Controverted facts or the merits are not to be considered at a TRO hearing.

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3. A TRO should only be decided on a summary basis, considering only the verified pleadings and non-evidentiary arguments.
4. Plaintiffs' Emergency Motion for Temporary Restraining Order is verified.
5. Defendants did not file a Verified Answer.
6. Failure to file an Answer deems all well-pled facts as true and unrefuted at the TRO hearing.
7. To qualify for the extraordinary remedy of a Temporary Restraining Order, the moving party must show, by a preponderance of the evidence, the following:
  - a) a clearly ascertainable right in need of protection,
  - b) irreparable injury in the absence of an injunction,
  - c) no adequate remedy at law, and
  - d) a likelihood of success on the merits of the case.
8. Before issuing a Temporary Restraining Order, the Court should also find that the grant of temporary relief outweighs any possible injury to the Defendant resulting from the issuance of the temporary restraining order.
9. "It is well established that the legislatures, not the courts, have the primary role in our democratic society in deciding what the interests of the public require and in selecting the measures necessary to secure those interests." *See generally, People v. Kohrig*, 113 Ill. 2d 384, 396-97 (1986) "Recognizing the legislature's broad power to provide for the public health, welfare and safety, the courts are hesitant to second-guess a legislative determination that a law is desirable or necessary. ... To do so would be to place the court in a position of acting as a super-legislature, nullifying laws it does not like. That is not our proper role in a democratic society." *Id.*

## II. APPLICABLE LAW, GUIDELINES, ORDERS

The following laws, orders, and guidelines were in effect on August 24 and August 26, 2021:

### A. Illinois State Board of Education's May 2021 Resolution:

**WHEREAS**, students and school staff now have meaningful protection from COVID-19 with three highly effective vaccines widely available ... ; and

**WHEREAS**, our schools have the capability to rapidly identify new cases to prevent COVID-19 outbreaks and reduce the risk of further transmission, thanks to the State of Illinois providing schools free access to Abbott's BinaxNOW rapid test and offering all middle and high schools use of covidSHIELD tests at a reduced or no cost; and

WHEREAS, multiple studies show that - although online classes are a far better option than no classes at all - students, particularly students who struggle academically, still learn better while in-person, along side their teachers; and

WHEREAS, reconnecting with teacher and peers in-person is essential for students' mental health and social-emotional development, especially after prolonged isolation of the pandemic; and

WHEREAS, Illinois schools are receiving 7.8 billion in federal pandemic relief funds for the safe return to in-person learning and to address learning gaps caused by the pandemic through strategies, such as tutoring, summer school, and community partnerships for mental health; and

WHEREAS, nearly all public school districts are offering partial or fully in-person learning; and

WHEREAS, guidance from the Illinois Department of Public Health is forthcoming regarding updated mitigations for schools in Phase 5 of the Restore Illinois Plan;

**THEREFORE, BE IT RESOLVED,** that the Illinois State Board of Education supports Illinois State Superintendent of Education Dr. Carmen I. Ayala in making the following declaration after the conclusion of the current academic school year, subject to favorable public health conditions at that time: Beginning with the 2021-2022 school year, all schools must resume fully in-person learning for all student attendance days, provided that, pursuant to 105 ILCS 5/10-30 and 105 ILCS 5/34-18.66, remote instruction be made available for students who are not eligible for a COVID 19 vaccine and are under a quarantine order by a local public health department or the Illinois Department of Public Health.

Illinois State Board of Education, *May 2021 Resolution* (emphasis added).

**B. State Superintendent of Education, Dr. Carmen I. Ayala's July 9, 2021 statement:**

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The CDC's guidance recognizes the fundamental importance of in-person learning for the wellbeing of students, families, and communities. These public health experts stress that all schools may not be able to implement all the public health strategies, like social distancing, perfectly, and that's okay. They urge you to prioritize full-time access to in-person learning for all students, while layering the public health requirements to the best of your ability.

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Now that we have the public health requirements for this coming school year, I make the following declaration:

“Beginning with the 2021-2022 school year, all schools must resume fully in-person learning for all student attendance days, provided that, pursuant to 105 ILCS 5/10-30 and 105 ILCS 5/34-18.66, remote instruction be made available for students who have not received a COVID-19 vaccine or who are not eligible for a COVID-19 vaccine, only while they are under quarantine consistent with guidance or requirements from a local public health department of the Illinois Department of Public Health.”

We have no doubt that children learn best - and educators teach best - when they're physically present together, in the same space. We want to do everything we can to ensure that happens safely.

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**C. Illinois Department of Public Health's July 9, 2021 article (attached as Defendant's Exh. B), *"IDPH adopted CDC's updated guidance for COVID-19 Prevention in Kindergarten (K)-12 Schools,"* as follows.**

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The major areas of guidance include: masks, social distancing, screening, testing, ventilation, hand washing and respiratory etiquette, staying home when sick and getting tested, contact tracing in combination with quarantine and isolation, and cleaning and disinfection, and implementation of layered prevention strategies (masking, distancing, testing) to protect people who are not fully vaccinated.

**D. Governor's Executive Order 2021-18, (COVID-19 Order #85), issued August 9, 2019:**

The relevant portions are as follows:

**WHEREAS**, the CDC has provided guidance for COVID-19 Prevention in K-12 Schools; and,

**WHEREAS**, the CDC recently updated its COVID-19 guidance for schools, and now indicates that everyone in K-12 schools should wear a mask indoors, including teachers, staff, students, and visitors, regardless of vaccination status; and,

**WHEREAS**, the American Academy of Pediatrics likewise recommends universal masking in schools of everyone over the age of two, regardless of vaccination status, because a significant portion of the student population is not yet eligible for vaccines, and masking is proven to reduce transmission of the virus and to protect those who are not vaccinated; and,

**WHEREAS**, the Illinois State Board of Education (ISBE) and the Illinois Department of Public Health (IDPH) are issuing updated joint COVID-19 guidance and recommendations designed to allow schools in Illinois serving pre-kindergarten through 12th grade students to

conduct in-person teaching and learning, while at the same time keeping students, teachers, staff, and visitors safe; and,

**Section 1: School Mitigation Measures.** All public and nonpublic schools in Illinois serving pre-kindergarten through 12th grade students must follow the joint guidance issued by ISBE and IDPH and take proactive measures to ensure the safety of students, staff, and visitors, including, but not limited to:

- a. Requiring the indoor use of face coverings by students, staff, and visitors who are over age two and able to medically tolerate a face covering, regardless of vaccination status, consistent with CDC guidance; and,
- b. Implementing other layered prevention strategies (such as physical distancing, screening testing, ventilation, hand washing and respiratory etiquette, advising individuals to stay home when sick and get tested, contact tracing in combination with appropriate quarantine and isolation, and cleaning and disinfection) to the greatest extent possible and taking into consideration factors such as community transmission, vaccination coverage, screening testing, and occurrence of outbreaks, consistent with CDC guidance.

Governor's Executive Order 21-18 (emphasis added).

***E. Revised Public Health Guidance for Schools - Part 5 - Supporting the Full Return to In-Person Learning for All Students - August 2021, issued by Illinois State Board of Education and Illinois Department of Public Health:***

The applicable, relevant portions to the limited issue before the Court are as follows:

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- In-person learning with the appropriate protective measures should be both safe and essential to students' mental health and academic growth.
- With preventative strategies in place, in-person learning was not associated with higher levels of transmission when compared to communities without in-person learning.
- The majority of students need full-time in-person access to their teachers and support network at school to stay engaged, learn effectively, and to maintain social-emotional wellness.
- A recent study from CDC suggests that remote learning can be challenging ... leading not only to learning loss, but also worsening mental health for children and parents.
- Restoring full-time-in-person learning for all students is essential to the State's commitment to educational equity.
- The greatest risk for infection and severe complications is among the non-vaccinated.

- People who are vaccinated are at low risk of symptomatic or severe infection.
- Schools can promote vaccinations among teachers, staff, families, and eligible students by providing information.
- These guidelines incorporate Dr. Ayala's July 9, 2021 declaration.
- The State of Illinois has adopted the CDC's updated guidance regarding COVID-19 prevention in K-12 schools. Based on that guidance and related updates on July 27, 2021, ISBE and IDPH have updated public health requirements for schools and associated guidance in these guidelines.
- Public Health Requirements for Schools are as follows:
  - Masks must be worn indoors – regardless of vaccine status.
  - Public and nonpublic schools must comply with contact tracing, in combination with isolation and quarantine, as directed by state and local public health departments.
  - Schools must implement these other layered prevention strategies to the greatest extent possible
    - Promote vaccines
    - Facilitate physical distancing
    - Implement testing for diagnostic testing of suspected cases, close contacts, and during outbreaks, as well as screening unvaccinated staff and students in accordance with CDC's testing recommendations
    - Improve ventilation
    - Promote and adhere to hand hygiene and respiratory etiquette
    - Encourage individuals who are sick to stay home and get tested
    - Clean and disinfect surfaces in school
- IDPH Health and Safety Requirements require contact tracing in combination with isolation of those with suspected or confirmed COVID-19 and quarantine of close contacts, in collaboration with the local health department.
- **CONTACT TRACING: schools and students must work with local health departments to facilitate contact tracing of infectious students, teachers, and staff, and consistent implementation regarding isolation of cases and quarantine of close contacts.**
  - Contact tracing is used by health departments to prevent spread of infectious diseases.
  - Contact tracing involves identifying people who have a confirmed or probable case of COVID-19 and individuals with whom they came into contact and working with such individuals to interrupt disease spread.

- This means schools are to ask people with COVID to isolate and their contacts to quarantine voluntarily at home.
  - Students/staff who are fully vaccinated with no symptoms do not need to quarantine or be restricted from school/school activities. Fully vaccinated people should get tested 3-5 days after close contact exposure.
  - Schools can provide information of unvaccinated individuals in shared rooms, class schedules, shared meals, or extracurricular activities to the local health department to expedite contact tracing and control the spread of COVID-19.
  - Schools should have a tracking process in place of those excluded from school because they have been exposed to someone with COVID-19 and are in quarantine. This tracking ensures CDC and local health department criteria for discontinuing home isolation or quarantine are met before student/staff return to school.
  - Schools should communicate this process to all members of the school community prior to the resumption of in-person learning.
  - Districts and Schools must be prepared to offer assistance to local health department when contact tracing is needed after a confirmed case, which may include identifying the individual's assigned areas and movement throughout the building.
  - Individuals who show symptoms should be evaluated by medical provider about when they can return.
- **DEFINITION OF A CLOSE CONTACT:** for not fully vaccinated persons, close contact is defined as being within 6 feet of the infected person for total of 15 minutes or more over a 24-hour period. For students in the classroom setting, contacts who were within 3-6 feet of an infected student do not require quarantine as long as both were masked the entire time. If they are not consistently masked, then close contacts are classroom students who were within 6 feet of the infected student for a cumulative total of 15 minutes or more over a 24-hour period. Also -- individuals who are solely exposed to a confirmed case while outdoors should not be considered close contacts.
  - Local health departments are the final authority on identifying close contacts.
  - **QUARANTINE PROCEDURES:** local health departments will make final determination on who is to quarantine and for how long.

- The CDC describes three options for quarantine by the local health department.
  - **TEST TO STAY PROTOCOL:** if schools test close contacts on days 1,3,5 and 7 from date of exposure by a PCR or rapid Emergency Use Authorization approved test - close contacts are permitted to remain in the classroom as long as the results are negative. Test to Stay is only applicable when the covid confirmed case and close contact person engaged in consistent and corrected use of well-fitting masks. Students and staff may participate in extracurricular activities.
  - Local health departments will make final determination on who is to be quarantined and for how long under this modified quarantine.
- Schools are to encourage students and staff who are ill to stay home.
    - Individuals who have a temperature greater than 100.4 or who currently have known symptoms of COVID-19 may not enter school buildings.

*See Revised Public Health Guidance for Schools - Part 5 - Supporting the Full Return to In-Person Learning for All Students - August 2021 (emphasis added).*

**F. Other relevant/cited legal authority considered by the Court include the following:**

- 20 ILCS 2305/2(a)(b)(c)
- 105 ILCS 5/10-19.1
- 105 ILCS 5/10-20
- 105 ILCS 5/10-20.5
- 105 ILCS 5/10-30
- 77 Ill. Adm. Code 690.30(c)
- Executive Order 2021-19 (COVID-19 No. 86)
- Executive Order 2021-15, Sections 5,6,7,8, and 9 (as referenced in 21 EO 19)

### III. ELEMENTS OF A TEMPORARY RESTRAINING ORDER

To qualify for the extraordinary remedy of a Temporary Restraining Order, the moving party must show, by a preponderance of the evidence, the following:

- a) a clearly ascertainable right in need of protection,
- b) irreparable injury in the absence of an injunction,
- c) no adequate remedy at law, and
- d) a likelihood of success on the merits of the case

As noted previously, Defendants' failure to file an answer deems all the well-pled allegations in the Emergency Motion for a Temporary Restraining Order (TRO) as being true and uncontested for purposes of this summary proceeding. The following unrefuted facts have been considered by the Court:

1. Plaintiffs' children were informed by a staff member that they were considered a close contact by the school and that the school was quarantining their children.
2. The school did not inform the parents when their children could return to school.
3. The children were never contacted by the local health department as part of any contact tracing, nor were they asked to voluntarily consent to being quarantined.
4. The children are not currently positive for COVID-19.
5. The children are not exhibiting symptoms consistent with a potential COVID-19 infection.
6. One of the children's parents was informed that if the child returned to school, that child would be suspended and the parent would be escorted off the premises by law enforcement and arrested.
7. At no time has the local or state health department sought an order of quarantine against these students nor have the parents been contacted to voluntarily consent on behalf of their children.
8. The Defendants did not implement the compulsory remote learning program which is required for students who have been properly quarantined from the school.

A. **Clearly Ascertainable Right(s) in Need of Protection**

To satisfy this element, Plaintiffs are "not required to make out a case which would entitle him to relief on the merits; rather, he need only show that he raises a 'fair question' about the existence of his right and that the court should preserve the status quo until the case can be decided on the merits." See *Buzz Barton & Associates, Inc. v. Giannone*, 108 Ill. 2d 373, 386 (1985)

Here, Plaintiffs argue they have a constitutional and statutory right to an in-person education until such time as the preliminary or permanent injunction is heard and that every day which passes, the children are being denied their education.

It is clear from the Illinois State Board of Education's May 2021 Resolution, State Superintendent Dr. Ayala's July 9, 2021 Declaration, ISBE and IDPH's *Revised Public Health Guidance for Schools - Part 5 - Supporting the Full Return to In-Person Learning for All Students*, August 2021, and the Governor's Executive Order 2021-18 (Covid-19 Order #85), that all schools are required to offer in-person learning given the adverse consequences remote learning had on students during the 2020-2021 school year, including learning loss and worsening mental health. In-person learning also promotes educational equity, helps maintain social-emotional wellness, and provides access to students' teachers and support network. If a student has not received the COVID-19 vaccination and is subject to quarantine or isolation, then the school district must make remote learning available to the student.

Plaintiffs argue remote learning can only be offered if the student is not eligible for the COVID-19 vaccination and is under a quarantine order by a local public health department of the Illinois Department of Public Health. (See ISBE May 2021 *Resolution*) Defendants argue remote learning is to be made available for students who have not received or who are not eligible for a COVID-19 vaccine, only while they are under quarantine consistent with guidance or requirements from a local public health department or the Illinois Department of Public Health, implying a formal quarantine order through the courts is not required. Defendants place a great deal of emphasis on the phrase quarantine "guidance" as found in Dr. Ayala's declaration, but that emphasis is taken out of context when one matches the language of the State Superintendent's

declaration to the CDC language and the *Revised Public Health Guidance for Schools*, issued by IDPH and ISBE. (see pp. 4-5 of the *Joint Guidance*).

Defendants state “[t]he State Superintendent’s declaration pursuant to 10-30 is binding on the question of whether remote learning is mandatory for plaintiffs who meet the guidance for exclusion from school and/or quarantine issued by IDPH/ISBE and the CDC.” Defendants did not attach any Affidavits to support their argument that their “guidance” falls outside of what is specifically stated by CDC, IDPH, and ISBE in the *Joint Guidance*. Defendants further argue the students are not entitled to in-person learning, so long as they are receiving an education.

The Court disagrees. The Court finds that, based on the law that existed on August 24, 26 2021, anyone who has not been diagnosed as COVID-19 positive, and/or who does not meet the definition of a close contact (as defined by CDC and adopted by IDPH and ISBE), subject to isolation or voluntary or mandatory quarantine, is entitled to an in-person education. According to ISBE and IDPH’s *Joint Guidance*, the local health department is the final authority on identifying close contacts, and the local health department makes the final determination on who is to quarantine and for how long. While the *Joint Guidance* requires the schools to assist with contact tracing and to ask people with COVID-19 to isolate and their contacts to quarantine voluntarily at home, this does not give the school district the absolute right to require someone to quarantine at home. When a person is asked to quarantine by the public health department, that agency believes the person has or is suspected of having a dangerously contagious or infectious disease which must be controlled in order to protect others from being infected. If that person disagrees with the public health department’s determination, then the public health may issue an emergency quarantine order for 48 hours but must then file a petition with the Courts seeking a formal quarantine order. See 20 ILCS 2305 (a)(b)(c).

To obtain a court order, the Department, by clear and convincing evidence, must prove that the public's health and welfare are significantly endangered by a person or group of persons that has, that is suspected of having, that has been exposed to, or that is reasonably believed to have been exposed to a dangerously contagious or infectious disease including non-compliant tuberculosis patients or by a place where there is a significant amount of activity likely to spread a dangerously contagious or infectious disease. The Department must also prove that all other reasonable means of correcting the problem have been exhausted and no less restrictive alternative exists. For purposes of this subsection, in determining whether no less restrictive alternative exists, the court shall consider evidence showing that, under the circumstances presented by the case in which an order is sought, quarantine or isolation is the measure provided for in a rule of the Department or in guidelines issued by the Centers for Disease Control and Prevention or the World Health Organization. Persons who are or are about to be ordered to be isolated or quarantined and owners of places that are or are about to be closed and made off limits to the public shall have the right to counsel. If a person or owner is indigent, the court shall appoint counsel for that person or owner. Persons who are ordered to be isolated or quarantined or who are owners of places that are ordered to be closed and made off limits to the public, shall be given a written notice of such order. The written notice shall additionally include the following: (1) notice of the right to counsel; (2) notice that if the person or owner is indigent, the court will appoint counsel for that person or owner; (3) notice of the reason for the order for isolation, quarantine, or closure; (4) notice of whether the order is an immediate order, and if so, the time frame for the Department to seek consent or to file a petition requesting a court order as set out in this subsection; and (5) notice of the anticipated duration of the isolation, quarantine, or closure.

20 ILCS 2305/2(c)(emphasis added). While the majority of people agree to voluntarily quarantine or isolate absent an official finding that the person has or is suspected of having a dangerously contagious or infectious disease, the legislature acknowledged a person's right to due process and implemented a procedure that requires the local public health department to establish when the person must be quarantined or isolated. Thus, the law contemplates people may object to being required to quarantine. In this case, the students were not provided any other recourse to object to the School's determination, other than to file the instant cause of action.

In addition, even if the students were subject to a proper quarantine, Plaintiffs have alleged the District failed to implement the compulsory remote learning program which is required by ISBE under the May 2021 Resolution for students, thus denying them of their right to an education. The allegation was unrefuted at the TRO hearing. Had the Governor, the CDC, the

IDPH, and the ISBE not placed so much emphasis on the importance of in-person learning for 2021-2022 school year, given the adverse effects remote learning had on the children's learning, their mental and emotional well-being, and the education system as a whole, then Defendants' arguments might have been more persuasive. Also, had these students met the definition of "close contact" as defined in the *Revised Public Health Guidance for Schools* and had they been properly quarantined and had remote learning been available, then Defendants' argument would have merit because the law acknowledges remote learning is the appropriate form of learning on a temporary basis for those qualifying students, but those are not the uncontested facts before the Court at this time.

B. *Irreparable Injury in the Absence of an Injunction*

For a party to succeed under this element, the party must show that the injured party cannot be adequately compensated in damages or where damages cannot be measured by any certain pecuniary standard. "Plaintiffs need not show injury that is beyond repair or beyond compensation in damages, but rather, need only show transgressions which are of a continuing nature." *Bollweg v. Richard v. Marker Assocs., Inc.* 353 Ill. App. 3d 560, 577 (2d Dist. 2004)

As noted above, the students were told by the District that they had to quarantine. They were not given an opportunity to refute the allegations that the district deemed them a "close contact," subject to a mandatory quarantine for an unspecified period of time. While it is true that properly quarantined/isolated students are to participate in remote learning for a temporary time-period, those who are not identified by the State or local health department as a danger or risk of spreading a contagious disease should not be denied their right to in-person learning. At a minimum, even if the students were inappropriately ordered to quarantine by the school, these students allege they were not offered remote learning, as required. The Defendants have also not

cited to any school code that these students have violated that would require them to be excluded from in-person education. As such, this element has been satisfied.

C. No Adequate Remedy at Law

For Plaintiffs to satisfy this element, they must show their injury cannot be compensated through a monetary award. In other words, “[i]t is only when money is insufficient to compensate the injury, or when the injury cannot be properly quantified in terms of money, that injunctive relief is necessary.” Plaintiffs have satisfied this element.

D. Likelihood of Success on the Merits

To succeed on this element, Plaintiffs need only show there is a genuine question regarding the existence of a claimed right and a fair question that they will be entitled to the relief prayed for if the proof sustains the allegations.

Defendants argue they are required by Executive Order to follow contact tracing and *exclusion* and quarantine procedures recommended by state and local health departments. Defendants cite Executive Order 21-18 and the *Joint Guidance* issued by IDPH and ISBE to support this argument. The Court agrees that the School must assist with contact tracing and is required to *ask* people with COVID-19 to isolate and their contacts to quarantine voluntarily at home. Defendants did not cite to any legal authority regarding “exclusion procedures” in the context of the Governor’s emergency declaration or the IDPH/ISBE *Joint Guidance*.

Regarding Defendants’ reference to the requirement Defendants take “proactive measures to ensure the safety of students, staff, and visitors, which include but are not limited to, contact tracing in combination with appropriate quarantine and isolation...,” (emphasis added) this provision does not grant school districts absolute authority to decide who should or should not be mandated to quarantine. That is the function of the state and local health departments. The law

states so. For Districts to comply with this mandate, they are required to assist the public health department with contact tracing and ask people to voluntarily isolate if they have COVID-19 or to quarantine if they came into contact with the COVID-19 positive individual. Defendant alleges that “following the diagnosis of nine (9) positive COVID cases at the high school, the District conducted contact tracing in conjunction with recommendations from the local health department[, and since ...] the cases were considered an outbreak, ... the District excluded the entire class at the recommendation of the local health department.” (See Def. Exh. K)

While this may be a valid argument and one worth considering, the Court cannot consider it at this stage, given Defendants did not attach any Affidavits from the department of public health or the Superintendent supporting this unverified allegation that the public health department told the school to deny an entire class, including Plaintiffs, of their right to in-person learning.

Defendants also correctly argue that school districts are to follow the recommendations of local health authority with respect to close contacts, but Defendants fail to acknowledge that the applicable law requires the public health department to identify close contacts. (See *Joint Guidance* for definition of “close contact”). The law also requires the public health department to make the final determination on who is to be quarantined and for how long. Again, Defendants did not include any affidavits at this stage supporting their inference that the public health department identified the four named students as “close contacts” and that the health department asked the school to ask the students to voluntarily quarantine - as would be required pursuant to the *Joint Guidance*. Those facts are not before this Court and therefore Defendants arguments cannot be considered at this stage.

Defendants further argue that quarantine powers notwithstanding, Defendants have the right to exclude students based on policies implemented by the school board. The Court agrees

that the school board may implement policies to protect the health and safety of their students. In support of this argument, Defendants cite to Exhibit H, titled "Operational Services" and argue "[p]ursuant to this Policy, and in light of the ease in which COVID-19 may be transmitted to others in close contact, Defendants determined that they would exclude (or 'quarantine' as the term has generally become to be known) from in-person learning all students (and staff) who are exposed to an individuals who tests positive for COVID-19 in accordance with CDC, ISBE, and IDPH guidance." (see p. 11 of Defendants' Response). First, the Court notes that this Policy (4:170) was adopted in February 2019 - at a time when COVID-19 was not even in existence. A careful review of that Policy does not support Defendants' broad interpretation at this stage, in the absence of an Affidavit or verified pleading. (This policy makes reference to 4:180 - Pandemic Preparedness, but Defendants did not include that as an Exhibit.)

Finally, Defendants argue they have separate authority to exclude students for safety reasons. In support of this argument, Defendants cite to the 2021-2022 Student and Family handbook, wherein the School District informs students and families:

All decisions regarding changes to the school environment and schedule, including a possible interruption of in-person learning, will be made by the superintendent in consultation with and, if necessary, at the direction of the Governor, Illinois Department of Public Health, local health department, emergency management agencies, and/or Regional Office of Educations.

Again, while this argument appears to have merit on its face, Defendants did not incorporate any Affidavits or verified pleadings establishing the Superintendent consulted with the state or local health departments in order to justify its broadened authority under this provision. As such, the Court cannot consider it at this stage.

Lastly, the Court acknowledges Defendants' Exhibit K, whereby the Superintendent identifies nine (9) positive COVID-19 cases from 8/17-8/23, resulting in 73 students and 4 staff

members being required to quarantine. It is unclear from that letter whether the public health department identified those 77 individuals as “close contacts” or whether the District made that determination on its own out of an abundance of caution, and if so - what criteria it used in determining who was deemed a close contact and “required to quarantine.” As such, this Exhibit simply establishes the District informed the parents and students of the current situation. Beyond that, the Court cannot make any additional inferences absent an affidavit explaining its context.

*E. Balance of Hardships*

The Court is to also consider any hardships a TRO may impose on Defendants. Defendants argued that to force or require the District to comply with the *Joint Guidance* by having the local health department conclude who is a close contact and who should be subject to quarantine would cause an enormous burden to the local health department. This argument is a conclusory statement, not supported by Affidavit or a verified pleading, and as such the Court is required to disregard conclusory statements. As noted previously,

[i]t is well established that the legislatures, not the courts, have the primary role in our democratic society in deciding what the interests of the public require and in selecting the measures necessary to secure those interests. ... Recognizing the legislature's broad power to provide for the public health, welfare and safety, the courts are hesitant to second-guess a legislative determination that a law is desirable or necessary. ... To do so would be to place the court in a position of acting as a super-legislature, nullifying laws it does not like. That is not our proper role in a democratic society.

*See generally, People v. Kohrig*, 113 Ill. 2d 384, 396-97 (1986).

Since the students have raised a genuine issue, Defendants will not suffer any hardship by requesting the local health department determine these students are considered a close contact as defined in the *Joint Guidance* and that they should be subject to quarantine, in accordance with IDPH and the local health department standards.

That is the law before the Court as of today, and that is the law this Court will follow. Certainly if Defendants produce evidence at a later hearing to establish the District's actions were justified and in accordance with the law, then the Court will factor that into its additional analysis.

#### IV. CONCLUSION

At this stage of a Temporary Restraining Order, Courts are prohibited from considering controverted facts or the merits and must base its decision solely on the verified pleading and non-evidentiary arguments. As outlined previously herein, the Court has accepted the following as true (given the absence of Affidavits or verified pleadings by Defendants):

1. Plaintiffs' children were informed by a staff member that they were considered a close contact by the school and that the school was quarantining their children.
2. The school did not inform the parents when their children could return to school.
3. The children were never contacted by the local health department as part of any contact tracing, nor were they asked to voluntarily consent to being quarantined.
4. The children are not currently positive for COVID-19.
5. The children are not exhibiting symptoms consistent with a potential COVID-19 infection.
6. One of the children's parents were informed that if the child returned to school, that child would be suspended and the parent would be escorted off the premises by law enforcement and arrested.
7. At no time has the local or state health department sought an order of quarantine against these students nor have the parents been contacted to voluntarily consent on behalf of their children.
8. The Defendants did not implement the compulsory remote learning program which is required for students who have been property quarantined from the school.

**WHEREFORE, IT IS HEREBY ORDERED:**

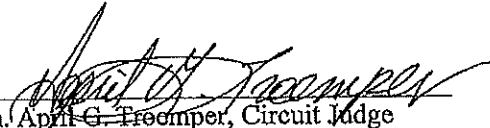
- A. Absent a finding by the local health department that these four students are deemed close contacts and are subject to mandatory quarantine because the

public's health and welfare are significantly endangered and that quarantine is the only least restrictive option, the Defendants are to allow these students to return to in-person learning unless the students voluntarily consent to quarantine or a quarantine order is issued.

- B. This TRO was issued on September 1, 2021 at 3:45 p.m.
- C. It shall remain in effect through September 10, 2021.
- D. A hearing on Plaintiffs' Motion for Preliminary Injunction is set for September 9, 2021 at 1:30 p.m. – 3:30 p.m.
- E. Bond is waived as good cause has been shown.

Dated: September 1, 2021

By: \_\_\_\_\_

  
Hon. April G. Freeman, Circuit Judge

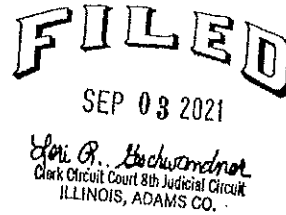
IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT

ADAMS COUNTY, ILLINOIS

Scott and Jamie Hamby,  
As parents and guardians of student C.H.;  
Christina Terwelp, as parent and guardian of student L.T.,  
And Travis and Ashley Oshner, as parents and guardians of K.O.,  
Petitioners,

Vs.

2021 MR 186



School District 172, Adams County, Illinois and  
Superintendent of QPS, Roy Webb,  
(corrected from initial filing as QPS Public School  
District #172, a body politic and corporate, and  
Roy Webb, Superintendent of QPS),  
Defendants.

ORDER FOR TEMPORARY RESTRAINING ORDER WITH NOTICE

The cause comes on for hearing on Plaintiff's Motion for Temporary Restraining Order with notice having been given. Plaintiffs appear in person and with counsel, Thomas, DeVore. Defendants appear in person by Roy Webb with counsel, David Penn, and School District 172, Adams County, Illinois by counsel, David Penn. Arguments are heard. The Court has considered the verified Petition with attached exhibits and Defendant's Response to the Motion for Temporary Restraining Order as well as the parties' legal arguments and the applicable legal authority. The Court finds as follows:

1. The Plaintiffs have filed a verified Emergency Motion for Temporary Restraining Order.
2. Defendants have filed a Responsive Memorandum of Law.
3. Plaintiffs have shown there is a fair question that the Plaintiffs will succeed on the merits in that in-person learning is required absent, inter alia, an active order of quarantine issuing against C.H., L.T. or K.O. from the Health Department.
4. Plaintiffs have shown they will suffer irreparable harm if an injunction does not issue, in that they may not stay engaged, to learn effectively and may not maintain social-emotional wellness. See, Revised Public Health Guidance for Schools, August 2021, Executive Summary. The minors will be prohibited from exercising their right to an in-person education even in the

EX. D

absence of a quarantine order.

5. Nothing in this order precludes the Adams County Health Department from issuing an order of quarantine, which would authorize the Defendants to exclude C.H., L.T. or K.O. from in-person learning.

6. Plaintiffs have shown that the only adequate remedy is to issue the Temporary Restraining Orders for each Plaintiff. Without such order they have no way to temporarily restore their rights to in-person learning.

**Wherefore, It Is Ordered:**

A. Defendants are enjoined from excluding C.H., L.T. or K.O. from the facilities of School District 172, Adams County, Illinois for being an individual public health risk unless an active Order of Quarantine issues against C.H., L.T. or K.O. from the local Health Department as required by the Illinois State Board of Education.

B. This Temporary Restraining Order shall remain in full force and effect for ten days from the date hereof, unless sooner modified or dissolved by this Court.

C. Bond is waived for good cause shown. The Court finds no circumstance in which this order will cause Defendants to suffer financial harm.

D. This Temporary Restraining Order is entered at 7:15 p.m. September 2, 2021.

E. A hearing on the Preliminary Injunction is set for Friday, September 10, 2021 at 9:00 a.m. at the Adams County Courthouse, unless for good cause shown or on Defendants' request the date is extended.

Entered: September 2, 2021  
7:15pm



Debra L. Wellborn, Judge

CC: Atty. DeVore  
Atty. David Penn

I hereby certify that a copy hereof was:  
Mailed, postage prepaid ☐ Faxed ☐  
Personally delivered ☐ Emailed ☒  
SAO ☐ PO ☐ Counsel ☒  
Plaintiff ☐ Defendant ☐  
9-3-21 [Signature]  
Date Deputy Clerk

EX.D

IN THE CIRCUIT COURT  
FOR THE FOURTH JUDICIAL CIRCUIT  
MONTGOMERY COUNTY, ILLINOIS

JAY AND HEATHER GREENWOOD as )  
the parents and guardians of student E.G. )

Plaintiffs, )

VS. )

HILLSBORO COMMUNITY SCHOOL )  
DISTRICT #3, a body politic and corporate, )  
DAVID POWELL as Superintendent of )  
HILLSBORO COMMUNITY SCHOOL )  
#3 )

Defendants. )

2021MR104

Case No. 2021-MR-\_\_\_\_\_

**ORDER FOR TEMPORARY RESTRAINING ORDER WITH NOTICE**

This cause coming to be heard on Plaintiff's Motion for Temporary Restraining Order, notice having been given; the Court having considered Emergency Motion for a Temporary Restraining Order finds as follows:

1. Plaintiff's has filed a Verified Complaint for Writ of Injunction, as well as a Verified Motion for Temporary Restraining Order and Preliminary Injunction.
2. Plaintiff has shown there exists a clearly ascertainable right in need of protection, namely that E.G.'s right to an in-person education has been taken away in violation of applicable law.
3. Plaintiff has shown, have shown there is a fair question that Plaintiff's will succeed on the merits in that in-person learning is required absent, *inter alia*, an order of quarantine issuing against E.G. from the local health department.

EX. E

4. Plaintiff has shown that they will suffer irreparable harm if an injunction does not issue, namely the minor E.G. will be prohibited from exercising his right to an in-person education even in the absence of a quarantine order; and

5. It is clear from the pleadings that given nothing in this order in any way precludes the local health department from issuing an order of quarantine, which would authorize the Defendant to then exclude E.G. from in-person learning, balancing the equities lies in favor of the issuance of this order.

6. Plaintiff's have shown that it has no adequate remedy at law or in equity in that absent the issuance of a temporary restraining order, the Plaintiff has no way to temporarily restore E.G.'s right to in-person learning.

7. Findings stated on the record are adopted and incorporated herein.

WHEREFORE, IT IS HEREBY ORDERED:

A. Defendants, are enjoined from excluding E.G. from the facilities for being an individual public health risk ~~except during the term of any lawful order of~~ ~~unless an order of quarantine issues against E.G.~~ ~~quarantine issued against E.G. from the local health department.~~ ~~from the local health department.~~

B. Nothing in this order shall be construed to prohibit the local health department from issuing an order of quarantine against E.G. in a manner prescribed by law.  
By agreement,

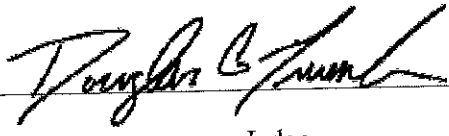
C. This Temporary Restraining Order shall remain in full force and effect ~~for ten~~ ~~days from the date hereof or until~~ ~~\_\_\_\_\_ [a.m.] [p.m.] on~~ ~~\_\_\_\_\_~~ ~~until~~ ~~\_\_\_\_\_~~, 2021, unless sooner modified or dissolved by this Court.

D. Bond is waived for good cause for the Court is satisfied that under no set of facts will the Defendants suffer any significant financial harm as a result of this temporary order.

- status hearing
- E. A ~~hearing on a Preliminary Injunction~~ is set at 9:00 a.m. [a.m.] [p.m.] on  
October 5, 2021,
- F. This Temporary Restraining Order is entered at 10:30 a.m. [a.m.]  
[p.m.] on September 3, 2021.

Dated: 9/3, 2021.

Enter:

  
Judge

Thomas G. DeVore  
IL Bar No. 06305737  
silver lake group, ltd.  
Attorneys for Plaintiff  
118 North Second Street  
Greenville, Illinois 62246  
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