

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

BOARD OF EDUCATION OF THE RED
HILL CUSD 10, BOARD OF EDUCATION)
OF THE COWDEN-HERRICK COMMUNITY)
UNIT SCHOOL DISTRICT 3A, BOARD OF)
EDUCATION OF THE BEECHER CITY)
CUSD 20)

Plaintiffs,

v.

ILLINOIS STATE BOARD OF EDUCATION)
and DR. CARMEN I. AYALA, in Her Official)
Capacity as State Superintendent of Education)

Defendants.

Case No. 21-MR-_____

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

NOW COMES the Plaintiffs, BOARD OF EDUCATION OF THE RED HILL CUSD 10 (“Red Hill”), BOARD OF EDUCATION OF THE COWDEN-HERRICK COMMUNITY UNIT SCHOOL DISTRICT 3A (“Cowden-Herrick”), BOARD OF EDUCATION OF THE BEECHER CITY CUSD 20 (“Beecher City”), (collectively referred to as the “Districts”), by and through their attorneys Thomas G. DeVore, and the Silver Lake Group, Ltd., and for their Verified Complaint for Declaratory Judgment and Injunctive Relief against Defendants, ILLINOIS STATE BOARD OF EDUCATION (hereinafter referred to as “ISBE”), and DR. CARMEN I. AYALA (hereinafter referred to as “Ayala”) in her official capacity, and hereby alleges as follows:

PARTIES

1. Red Hill is a body politic and corporate, created to perform governmental functions related to the education of children for the RED HILL CUSD 10, and has all powers as

are expressly conferred by the Illinois legislature.

2. Cowden-Herrick is a body politic and corporate, created to perform governmental functions related to the education of children for the COWDEN-HERRICK COMMUNITY UNIT SCHOOL DISTRICT 3A, and has all powers as are expressly conferred by the Illinois legislature.

3. Beecher City is a body politic and corporate, created to perform governmental functions related to the education of children for the BEECHER CITY CUSD 20, and has all powers as are expressly conferred by the Illinois legislature.

4. ISBE is established pursuant to Article X, § 2 of the Illinois Constitution to set educational policies and guidelines for public and nonpublic preschool through twelfth grade schools in Illinois. Ill. Const. 1970. art. X, § 2.

5. Ayala is the State Superintendent of Education.

6. Ayala serves as ISBE's chief executive officer and may act on ISBE's behalf only when ISBE delegates such authority. 105 ILCS 5/1A-4.

7. The Court has jurisdiction to hear cases involving declaratory and injunctive relief.

8. This is an action for declaratory and injunctive relief arising from the unlawful exercise of Ayala placing each of the Districts on probation pursuant to her authority under 23 Illinois Administrative Code § 1.20 *et seq.*

FACTUAL BACKGROUND

9. On August 20, 2021, Ayala notified Red Hill that pursuant to 23 Illinois Administrative Code § 1.20(b)(2)(A) its status as a recognized nonpublic school was lowered to “On Probation.” (See Exhibit A)

10. Ayala alleged that given Red Hill adopted a masking policy which was not in compliance with Executive Order 2021-18 that such non-compliance was a “deficiency that presents a health hazard or a danger to students or staff.” (See Exhibit B for a true and accurate copy of Executive Order 2021-18)

11. On or about August 30, 2021, Ayala notified Red Hill that its recognition status had been fully restored given Red Hill had adopted a new masking policy which complied Executive Order 2021-18. (See Exhibit C)

12. However, Ayala put Red Hill on notice their district would be placed back on probation should the district not comply with the executive order in the future. (See Exhibit C)

13. The only reason Red Hill is complying with the masking requirement of Executive Order 2021-18 is the threat being made to their recognition status by Ayala in Exhibits B and C.

14. On August 19, 2021, Ayala notified Cowden-Herrick that pursuant to 23 Illinois Administrative Code § 1.20(b)(2)(A) its status as a recognized nonpublic school was lowered to “On Probation.” (See Exhibit D)

15. Ayala alleged that given Cowden-Herrick adopted a masking policy which was not in compliance with Executive Ordre 2021-18 that such non-compliance was a “deficiency that presents a health hazard or a danger to students or staff.”

16. Cowden-Herrick is still on probationary status.

17. As a result of being on probation, Cowden-Herrick is, *inter alia*, unable to participate in IHSA or IESA sanctioned events.

18. As a result of being on probation, Cowden-Herrick is, *inter alia*, at risk of losing state funding to operate its district.

19. On or about September 14, 2021, Cowden-Herrick requested an administrative appeal of having had their status lowered from “fully recognized” to “on probation.” (See Exhibit E)

20. On or about September 17, 2021, ISBE representative Mr. Mohip Krish contacted Cowden-Herrick superintendent Mr. Seth Schuler via phone and advised no administrative appeal would be allowed until the districts status was changed to “non-recognized”

21. On August 16, 2021, Ayala notified Beecher City that pursuant to 23 Illinois Administrative Code § 1.20(b)(2)(A) its status as a recognized nonpublic school was lowered to “On Probation.” See Exhibit F.

22. Ayala alleged that given Beecher City adopted a masking policy which was not in compliance with Executive Ordre 2021-18 that such non-compliance was a “deficiency that presents a health hazard or a danger to students or staff.”

23. Beecher City is still on probationary status.

24. On or about September 14, 2021, Beecher City requested an administrative appeal of having had their status lowered from “fully recognized” to “on probation.” (See Exhibit G)

25. On or about September 17, 2021, ISBE representative Mr. Mohip Krish sent an e-mail response and advised no administrative appeal would be allowed until the districts status was changed to “non-recognized” (See Exhibit H)

26. As a result of being on probation, Beecher City is, *inter alia*, unable to participate in IHSA or IESA sanctioned event.

27. As a result of being on probation, Beecher City is, *inter alia*, at risk of losing state funding to operate its district.

28. In all matters being addressed herein, ISBE, as the governing body over the Districts, has taken no action against any of Districts in any public meeting conducted by ISBE.

LEGAL STANDARD

29. Section 2-3.25(a) of the *School Code* establishes ISBE's authority to determine for all types of schools conducted under this Act efficient and adequate standards for the physical plant, heating, lighting, ventilation, sanitation, safety, equipment and supplies, instruction and teaching, curriculum, library, operation, maintenance, administration and supervision. (*See* 105 ILCS 5/2-3.25(a))

30. The *School Code* further authorizes ISBE to issue, refuse to issue or revoke certificates of recognition for schools or school districts pursuant to standards established hereunder. *Id.*

31. ISBE shall, consistent with adopted recognition standards, provide for levels of recognition or nonrecognition. (*See* 105 ILCS 5/2-3.25(b))

32. As authorized by statute, ISBE has promulgated four separate recognition levels being "Fully Recognized", "On Probation", "Recognized Pending Further Review", and "Non-recognized". (23 Ill. Admin. Code § 1.20(b))

33. Recognition status is achieved through compliance with administrative guidelines and review procedures as prescribed by ISBE in 23 Illinois Administrative Code Part 1.20. (23 Ill. Admin. Code § 1.20 *et seq.*)

34. A Districts and schools recognition status is based upon compliance with the requirements imposed by law, including but not limited to the recognition standards established

by the State Board of Education pursuant to Section 2-3.25 of the School Code. (*See* 23 Ill. Admin. Code § 1.20(a))

35. No later than September 30 of each year, each school district shall apply for recognition of each school operated by the district by submitting their application to the regional superintendent of schools. (*See* 23 Ill. Admin. Code § 1.20(a)(1))

36. No later than October 15 of each year, each regional superintendent of schools shall summarize, through an electronic process established by the State Superintendent of Education, the degree to which the schools in the districts for which the regional superintendent is responsible adhere to operational compliance requirements. The regional superintendent shall recommend the assignment of recognition status as applicable considering the compliance-related information supplied. (*See* 23 Ill. Admin. Code § 1.20(a)(2))

37. Based upon the information provided by the district and the regional superintendent, the State Superintendent shall assign a recognition status for each school and for each district as a whole, which will be posted on the State Board's website at <https://www.isbe.net/Pages/Public-School-Recognition.aspx>. *See* 23 Ill. Admin. Code § 1.20(b)

38. In each case, the recognition status assigned shall be either "Fully Recognized", "On Probation", "Recognized Pending Further Review", or "Non-recognized". *Id.*

39. Each school or district that meets the requirements imposed by law, including the requirements established by the State Board pursuant to Section 2-3.25 of the Code and this Part, **shall** be fully recognized. (*See* 23 Ill. Admin. Code § 1.20(b)(1))

40. Ayala must place a school or district on probation if it, *inter alia*, exhibits deficiencies that present a health hazard or a danger to students or staff. (*See* 23 Ill. Admin. Code § 1.20(b)(2)(A))

41. Independent of Ayala's authority, the recognition status of a district or a school may be changed by the State Board of Education at any time to reflect information confirmed during compliance monitoring or by any other means. (*See* 23 Ill. Admin. Code § 1.20(c))

42. As required by statute, ISBE has promulgated rules whereby school districts may appeal a recognition level. (*See* 23 Ill. Admin. Code § 1.95)

43. A district shall request such an appeal by sending a written request to the State Board of Education for consideration by the Appeals Advisory Committee. (*See* 23 Ill. Admin. Code § 1.95(a))

44. In the appeal proceedings, the district is provided procedural and substantive due process to assert the change in recognition level was not authorized. (*See* 23 Ill. Admin. Code § 1.95 *et seq.*)

45. As for the health, life and safety of the students, personnel and other persons who use public school buildings, ISBE has adopted minimum standards for public school facilities. (*See* 23 Ill. Admin. Code § 180.10)

46. Each local school board shall maintain and operate every facility under its jurisdiction in full and continuous compliance with the requirements of the health, life and safety code. (*See* 23 Ill. Admin. Code § 180.40)

47. Any unsafe conditions within a facility which might create a health, life or safety concern is addressed by regional superintendent issuing a notice of violation. (*See* 23 Ill. Admin. Code § 180.400)

48. The types of matters which might rise to the level of health, life or safety issues are enumerated in the rules. (*See* 23 Ill. Admin. Code § 180.410)

49. Should the regional superintendent of schools raise an alleged violation of health, life or safety, the district is afforded procedural and substantive due process under the rules. (See 23 Ill. Admin. Code § 180.400)

COUNT I
DECLARATORY JUDGMENT
STATE SUPERINTENDENT VIOLATED PROCEDURAL
DUE PROCESS IN LOWERING RECOGNITION STATUS
(COUNT I AS TO ALL PLAINTIFFS)

50. The Districts repeat and reallege Paragraphs 1-50 as if fully restated herein.

51. The Districts have a tangible interest in determining whether the actions of Ayala in lowering their recognition level to “on probation” was in violation of procedural due process as outlined in the Illinois School Code and Title 23 of the Illinois Administrative Code because that determination impacts the Districts ability to access the benefits of recognition status such as access to funding as well as athletic opportunities for their students.

52. 23 Ill. Admin. Code § 1.20(b) of the rules is clear that Ayala only has the authority to alter the recognition status of the Districts based upon information provided to her by the regional superintendent of schools as a part of the annual compliance renewal outlined in 23 Ill. Admin. Code § 1.20(a) *et seq.*

53. The notices issued by Ayala to each of the Districts in this cause were not a part of the annual renewal compliance procedures.

54. While ISBE might be authorized to alter the recognition status of a district at any time, Ayala has no such authority as hers is limited to the provisions within the annual renewal process.

55. At no time has ISBE as the governing body taken any action against the Districts recognition status in one of their public sessions.

56. The State Superintendent and ISBE have an opposing interest to determine whether the State Superintendent has the authority to place the Districts on probation at any time during the year.

57. An actual controversy exists between the parties as to whether Ayala has exceeded her procedural authority under the relevant referenced provisions of Title 23 of the Illinois Administrative Code.

WHEREFORE, the Districts pray that this Court enter a declaratory judgment (a) declaring each of the notices issued to the Districts by Ayala was in excess of her procedural authority under the Illinois School Code and Title 23 of the Illinois Administrative Code; and (b) Declare each of the notices issued to the Districts void; and (c) for such other and further relief as this Court deems just and proper.

COUNT II
DECLARATORY JUDGMENT
STATE SUPERINTENDENT VIOLATED SUBSTANTIVE
DUE PROCESS IN LOWERING RECOGNITION STATUS
(COUNT II AS TO ALL PLAINTIFFS)

58. The Districts repeat and reallege Paragraphs 1-57 as if fully restated herein.

59. The Districts have a tangible interest in determining whether the actions of Ayala in lowering their recognition level to “on probation” was in violation of substantive due process as outlined in the Illinois School Code and Title 23 of the Illinois Administrative Code because that determination impacts the Districts ability to access the benefits of recognition status such as access to funding as well as athletic opportunities for their students.

60. A Districts and schools recognition status is based upon compliance with the requirements imposed by law, including but not limited to the recognition standards established by the State Board of Education.

61. Each school or district that meets the requirements imposed by law, including the requirements established by the State Board pursuant to Section 2-3.25 of the Code and this Part, shall be fully recognized.

62. As for the health, life and safety of the students, personnel and other persons who use public school buildings, ISBE has adopted minimum standards for public school facilities.

63. Ayala alleges the Districts are not in compliance with the Governors Executive Order 2021-18 which asserts a mask mandate on the Districts.

64. In her notices to the Districts, Ayala proclaims this constitutes deficiencies that present a health hazard or a danger to students or staff.

65. Nowhere does Ayala identify any adopted standards in Title 23 which the Districts are allegedly deficient.

66. Nowhere does Ayala identify any provision of the Illinois School Code which the Districts are allegedly deficient.

67. Ayala fails in all aspects to identify anywhere in the Illinois School Code, or anywhere in Title 23, where she is authorized to alter recognition status for the Districts failure to adhere to the Governor's mandate regarding mask usage on school premises to allegedly prevent the spread of an infectious disease.

68. The District is in compliance with all provision imposed upon them by law, as well as all adopted standards regarding the health safety and welfare of the students, personnel and visitors, as required of them in 23 Ill. Admin. Code § 180 *et seq.*

69. The State Superintendent and ISBE have an opposing interest in determining whether the State Superintendent has the authority to alter recognition status of the Districts for their failure to adopt and enforce policies as provided in Executive Order 2021-18.

70. An actual controversy exists between the parties as to whether the Districts substantive due process rights have been violated.

WHEREFORE, the Districts pray that this Court enter a declaratory judgment (a) declaring each of the notices issued to the Districts by Ayala which placed them on probation were in violation of substantive due process as provided the Districts under the Illinois School Code and Title 23 of the Illinois Administrative Code; and (b) declaring nothing in the Illinois School Code or Title 23 of the Illinois Administrative Code authorizes Ayala or ISBE to alter recognition status of the Districts for failure to comply with executive order 2021-18; (c) Declare each of the notices issued to the Districts void; and (d) for such other and further relief as this Court deems just and proper.

COUNT III
DECLARATORY JUDGMENT
ISBE VIOLATED PROCEDURAL DUE PROCESS BY DENYING
ADMINISTRATIVE APPEAL
(COUNT III AS TO COWDEN-HERRICK AND BEECHER CITY)

71. The Districts repeat and reallege Paragraphs 1-70 as if fully restated herein.

72. Cowden-Herrick and Beecher City have a tangible interest in determining whether the actions of ISBE in refusing to follow procedural due process as outlined in Title 23 of the Illinois Administrative Code because it will impact the Districts ability to access the benefits of recognition status such as access to funding as well as athletic opportunities for their students.

73. Within the time provided by rule, Cowden-Herrick and Beecher City provided notice to ISBE of their request for administrative appeal as afforded them under 23 Ill. Admin. Code § 1.95.¹

¹ While Plaintiffs believe an administrative appeal would be fruitless as it questions ISBE and Ayala's due process authority, and as such is legally not a condition precedent to this action, ISBE is engaging in such arbitrary and capricious action in that they are disallowing the clear right to raise an administrative appeal. This is a heavy-handed attack on these Plaintiffs wherein funding for their schools is at substantial risk under these tactics.

74. Their requests were premised upon their status level being lowered from “fully recognized” to “on probation” by Ayala.

75. ISBE has expressly refused to afford Cowden-Herrick and Beecher City their right to appeal suggesting they must wait until such time as their status is lowered all the way to “non-recognized.”

76. Nowhere in the rules can any language be found to support this arbitrary determination by ISBE.

77. The State Superintendent and ISBE have an opposing interest to determine whether the language of Title 23 allows for them to refuse Cowden-Herrick and Beecher City their right to appeal only after their status has been lowered to “non-recognized.”

78. An actual controversy exists between the parties as to whether the language of § 1.95 does not allow for Cowden-Herrick and Beecher City to appeal until after their recognition status has been lowered to “non-recognized.”

WHEREFORE, the Districts pray that this Court enter a declaratory judgment (a) declaring Cowden-Herrick and Beecher City have a right to an administrative appeal under § 1.95 of Title 23 of the Illinois Administrative Code when their recognition status was lowered from “fully recognized” to “on probation”; and (b) for such other and further relief as this Court deems just and proper.

COUNT VI
INJUNCTIVE RELIEF

79. The Districts repeat and reallege Paragraphs 1-78 as if fully restated herein.

80. The Districts have a right to not have their recognition status altered unless the same is expressly authorized by law.

81. Because of being on probation, Cowden-Herrick and Beecher City are suffering continuing harm in their ability to access the benefits of recognition status such as access to funding as well as athletic opportunities for their students.

82. As for Red Hill, Ayala has proclaimed she will reduce their recognition level back to “on probation”, through the same procedural and substantive process being complained of herein, should Red Hill once again refuse to follow the mandate of the Governor regarding mask wearing.

83. Red Hill has a right to not be subjected to this arbitrary threat by Ayala which is not authorized by Illinois Law.

84. Additionally, ISBE is going so far as to disallow Cowden-Herrick and Beecher City to exercise their clear right to an administrative appeal until such time as status has been lowered all the way to “non-recognized.”

85. The Districts have clear ascertainable procedural and substantive rights under Illinois law in need of protection by this Court.

86. The Districts will continue suffer irreparable harm if the injunction is not granted, in that the benefits of being fully recognized, which include students being allowed to participate in IHSA sanctioned, as well as state funding being protected from impairment, are at risk.

87. There is no adequate remedy at law to correct Ayala and ISBE’s violation of procedural and substantive due process as required under Illinois law.

88. The Districts have shown ISBE and Ayala are violating procedural and substantive due process in regard to the Districts recognition status to force compliance with an executive order.

WHEREFORE, the Districts pray that this Court enter an order:

- a) Find the Districts have a right to not have their recognition status lowered unless the same is accomplished as provided under Illinois law and Title 23 of the Illinois Administrative Code;
- b) Find the Districts will continue suffer irreparable harm if the injunction is not granted in the benefits of being a fully recognized district have, and will continue, to been taken away from them unless they comply with these mandates of Ayala and ISBE;
- c) Find the Districts have no adequate remedy at law to protect them from procedural and substantive violations by Ayala and ISBE;
- d) Find the Districts have proven Ayala and ISBE are violating the procedural and substantive due process rights of the Districts;
- e) Entering an injunction with reinstates Cowden-Herrick and Beecher City to fully recognized status instantler;
- f) Entering an injunction which enjoins Ayala from altering the recognition status of the Districts except as authorized during the annual compliance provisions.
- g) Entering an injunction which enjoins Ayala and ISBE from altering the recognition status of the Districts solely due to their failure to comply with executive order 2021-18.
- h) Entering an injunction with stays any administrative proceedings in regard to these matters.

Respectfully submitted,

/s/ Thomas G. DeVore
Counsel for Plaintiffs
IL Bar No. 06305737
Silver Lake Group, Ltd.
118 N. 2nd St.
Greenville, IL 62246
Telephone - 618-664-9439
tom@silverlakelaw.com

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: October 01, 2021

By: /s/ Seth Schuler
Cowden-Herrick CUSD 3A, authorized agent
Mr. Seth Schuler, Superintendent

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: October 01, 2021

By: /s/ Phil Lark
Beecher City CUSD 20, authorized agent
Mr. Phil Lark, Superintendent

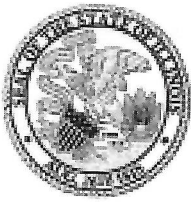
VERIFICATION

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: October 01, 2021

By: /s/ Jakie Walker
Red Hill CUSD 10 , authorized agent
Mr. Jakie Walker, Superintendent

Thomas G. DeVore
Counsel for Plaintiffs
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Illinois State Board of Education

100 W. Randolph St., Suite 14-300 • Chicago, Illinois 60601
www.isbe.net

Darren Reisberg
Chair of the Board

Dr. Carmen I. Ayala
State Superintendent of Education

August 20, 2021

Sent Via Electronic Mail

Red Hill CUSD 10

Mr. Jakie Walker, District Superintendent
1250 Judy Ave Bridgeport, IL 62417-1321
jwalker@cusd10.org

Dear Superintendent Mr. Jakie Walker,

Please be advised that staff from the Illinois State Board of Education (ISBE) verified that Red Hill CUSD 10 is not compliant with the universal masking requirements of Executive Order 2021-18. Therefore, effective the date of this letter, the recognition status of Red Hill CUSD 10 and all of its schools is hereby lowered to "On Probation" for exhibiting "deficiencies that present a health hazard or a danger to students or staff." (23 Ill. Admin. Code 1.20(b)(2)(A)).

We do not take this recognition action lightly. We understand that state masking requirements have changed over the course of the pandemic, in line with scientific evidence and public health data. We assure you that masking requirements will continue to change and be lessened as soon as it is possible to do so safely. As we have throughout the pandemic, we will notify you immediately when changes to public health requirements are made.

Someone from our agency will reach out to you to schedule a conference to discuss compliance issues with representatives of the State Board.

Within 60 days of this conference, Red Hill CUSD 10 is required to submit a corrective plan to the Regional Superintendent of Schools and State Superintendent.

I will respond to the corrective plan within 15 days after receipt. If the plan is not approvable, I will so notify you. If no plan is submitted, or if no approvable plan is received within 60 days after our conference, the State Board of Education may act to change the status of the district, or of the affected school or schools, to "Nonrecognized."

Please closely inspect the entirety of [23 Ill Admin. Code 1.20](#), which outlines the steps necessary for the District and its schools to avoid the imposition of a status of "Nonrecognized."

Ex. A

We are committed to continuing to partner with you, your board, and your local health department to ensure the safest and healthiest learning environment for your students and staff to succeed. Reaching the end of this pandemic will take all of us working together.

Should you have questions regarding this correspondence, please contact Dr. Ernesto Matias, Education Officer ematias@isbe.net.

Sincerely,

A handwritten signature in black ink, appearing to read "Carmen Ayala". The signature is fluid and cursive, with the first name "Carmen" and last name "Ayala" clearly distinguishable.

Dr. Carmen I. Ayala

State Superintendent of Education

cc: The Honorable Monte Newlin, mnewlin@roe12.org

Executive Order Number 18

(COVID-19 EXECUTIVE ORDER NO. 85)

August 04, 2021

WHEREAS, since early March 2020, Illinois has faced a pandemic that has caused extraordinary sickness and loss of life, infecting over 1,430,000, and taking the lives of more than 23,475 residents; and,

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a novel severe acute respiratory illness that spreads rapidly through respiratory transmissions; and,

WHEREAS, as Illinois continues to respond to the public health disaster caused by COVID-19, the burden on residents, healthcare providers, first responders, and governments throughout the State has been unprecedented; and,

WHEREAS, the Delta variant of the coronavirus is more aggressive and more transmissible than previously circulating strains, and poses new risks in the ongoing effort to stop and slow spread of the virus; and,

WHEREAS, the Delta variant may cause more severe disease than prior strains of the virus; and,

WHEREAS, the Centers for Disease Control and Prevention (CDC) estimates that the Delta variant now accounts for more than 90 percent of all sequenced coronavirus in the U.S.; and,

EX.B

WHEREAS, protecting the health and safety of Illinoisans is among the most important functions of State government; and,

WHEREAS, it is critical that the State take every step possible to ensure children can attend school in-person; and,

WHEREAS, social distancing, face coverings, and other public health precautions have proven to be critical in slowing and stopping the spread of COVID-19; and,

WHEREAS, COVID-19 vaccines are effective at preventing COVID-19 disease, especially severe illness and death, but a proportion of the population remains unvaccinated and some residents, including younger children, cannot yet receive the vaccine; and

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,

WHEREAS, the CDC continues to advise that day care providers use COVID-19 prevention strategies, including masking and physical distancing, even after day care providers and their staff are vaccinated; and,

WHEREAS, the Illinois Department of Children & Family Services (DCFS) and IDPH are issuing updated joint COVID-19 guidance and recommendations for day care facilities, including all licensed day care centers, day care homes, group day care homes, and license-exempt facilities; and,

WHEREAS, the CDC continues to advise that congregate facilities use COVID-19 prevention strategies, including masking and physical distancing, regardless of vaccination status; and,

WHEREAS, IDPH issues and updates COVID-19 guidance for nursing homes and other long-term care facilities, which includes mitigation strategies such as masking and physical distancing, even among vaccinated residents, staff, and visitors; and,

WHEREAS, on July 23, 2021, considering the continuing spread of COVID-19 and the ongoing health and economic impacts that will be felt over the coming month by people across the State, I declared all counties in the State of Illinois as a disaster area;

THEREFORE, by the powers vested in me as the Governor of the State of Illinois, pursuant to the Illinois Constitution and the Illinois Emergency Management Agency Act, 20 ILCS 3305, Sections 7(1), 7(2), 7(3), 7(8), 7(12), and 7(19) thereof, and consistent with the powers in public health laws, I hereby order the following:

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, handwashing 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.

Section 2: Day Care Mitigation Measures. All day care facilities in Illinois must follow the joint guidance issued by DCFS and IDPH and take proactive measures to ensure the safety of children, staff, and visitors, including, but not limited to:

- a. Requiring the indoor use of face coverings by children, 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, handwashing 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.

Section 3: Long-Term Care Mitigation Measures. All nursing homes and long-term care facilities in Illinois must continue to follow the guidance issued by the CDC and IDPH that requires the use of face coverings in congregate facilities for those over the age of two and able to medically tolerate a face covering, regardless of vaccination status.

Section 4: Savings Clause. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

JB Pritzker, Governor

Issued by the Governor August 4, 2021

Filed by the Secretary of State August 4, 2021



Illinois State Board of Education

100 W. Randolph St., Suite 14-300 • Chicago, Illinois 60601
www.isbe.net

Darren Reisberg
Chair of the Board

Dr. Carmen I. Ayala
State Superintendent of Education

August 30, 2021

Sent Via Electronic Mail

Red Hill CUSD 10
Mr. Jakie Walker, District Superintendent
1250 Judy Ave Bridgeport, IL 62417-1321
jwalker@cusd10.org

Dear Superintendent Mr. Jakie Walker,

Thank you for providing the requested evidence demonstrating that Red Hill CUSD 10 is now in compliance with the universal masking requirements set forth in Executive Order 2021-18 (as reissued and extended by EO 2021-19). Effective immediately, the status of the district has been restored to Fully Recognized.

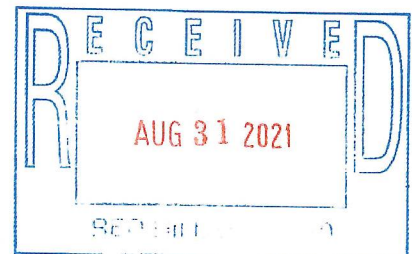
Please be aware that ISBE will continue to investigate any received complaints of noncompliance. If we determine that the district is no longer in compliance with the mandate, the district will be returned to "On Probation" status.

We thank you for having immediately addressed this important issue. Should you have questions or concerns regarding this or any other topic, please contact Ernesto Matias at ematias@isbe.net.

Sincerely,

Dr. Carmen I. Ayala
State Superintendent of Education

cc: The Honorable Monte Newlin, mnewlin@roe12.org



EX. C



Illinois State Board of Education

100 W. Randolph St., Suite 14-300 • Chicago, Illinois 60601
www.isbe.net

Darren Reisberg
Chair of the Board

Dr. Carmen I. Ayala
State Superintendent of Education

August 19, 2021

Sent Via Electronic Mail

Cowden-Herrick Community Unit School District 3A
Seth Schuler, District Superintendent
633 Co Hwy 22, Cowden, IL 62422
sschuler@cowdenherrick.org

Dear Superintendent Seth Schuler,

Please be advised that staff from the Illinois State Board of Education (ISBE) verified that Cowden-Herrick Community Unit School District 3A is not compliant with the universal masking requirements of Executive Order 2021-18. Therefore, effective the date of this letter, the recognition status of Cowden-Herrick Community Unit School District 3A and all of its schools is hereby lowered to "On Probation" for exhibiting "deficiencies that present a health hazard or a danger to students or staff." (23 Ill. Admin. Code 1.20(b)(2)(A)).

We do not take this recognition action lightly. We understand that state masking requirements have changed over the course of the pandemic, in line with scientific evidence and public health data. We assure you that masking requirements will continue to change and be lessened as soon as it is possible to do so safely. As we have throughout the pandemic, we will notify you immediately when changes to public health requirements are made.

Someone from our agency will reach out to you to schedule a conference to discuss compliance issues with representatives of the State Board.

Within 60 days of this conference, Cowden-Herrick Community Unit School District 3A is required to submit a corrective plan to the Regional Superintendent of Schools and State Superintendent.

I will respond to the corrective plan within 15 days after receipt. If the plan is not approvable, I will so notify you. If no plan is submitted, or if no approvable plan is received within 60 days after our conference, the State Board of Education may act to change the status of the district, or of the affected school or schools, to "Nonrecognized."

Please closely inspect the entirety of [23 Ill Admin. Code 1.20](#), which outlines the steps necessary for the District and its schools to avoid the imposition of a status of "Nonrecognized."

EX. D

We are committed to continuing to partner with you, your board, and your local health department to ensure the safest and healthiest learning environment for your students and staff to succeed. Reaching the end of this pandemic will take all of us working together.

Should you have questions regarding this correspondence, please contact Dr. Ernesto Matias, Education Officer ematias@isbe.net.

Sincerely,

A handwritten signature in black ink, appearing to read "Carmen I. Ayala". The signature is fluid and cursive, with the first name "Carmen" being more prominent.

Dr. Carmen I. Ayala
State Superintendent of Education

cc: The Honorable Dr. Kyle Thompspon, kthompson@roe11.org



COWDEN-HERRICK C.U.S.D. #3A
633 County Highway 22
Cowden, IL 62422
(217) 783-2126



September 14, 2021

Dr. Carmen I Ayala, State Superintendent of Education
Illinois State Board of Education
100 N. 1st Street
Springfield, IL 62777
(217) 782-2223

Illinois State Board of Education
Attention: Darren Reisberg, Chairman
100 N. 1st Street
Springfield, IL 62777
(217) 782-2223

Dear Dr. Ayala and Mr. Reisberg:

On August 19, 2021, Cowden-Herrick Community Unit School District 3A received notice that the Illinois State Board of Education had lowered Cowden-Herrick's status as a recognized school to being on probation, effective immediately.

On behalf of Cowden-Herrick Community Unit School District 3A, this letter is a formal request for an appeal as it pertains to Cowden-Herrick's recognition status, per our rights under the *Illinois Administrative Code*.

Cowden-Herrick Community Unit School District 3A is committed to operating our school in a manner that best represents the interests of our students, staff, and community. We look forward to working with Dr. Ayala and the State Board of Education to ensure the best possible outcome for all parties involved.

Sincerely,

Seth Schuler
Superintendent, Cowden-Herrick Schools

EX. 5



Illinois State Board of Education

100 W. Randolph St., Suite 14-300 • Chicago, Illinois 60601
www.isbe.net

Darren Reisberg
Chair of the Board

Dr. Carmen I. Ayala
State Superintendent of Education

August 16, 2021

Sent Via Electronic Mail

Beecher City CUSD 20
Phillip Lark
438 E State Highway 33 Beecher City, IL 62414-2219
plark@beechercity.org

Dear Beecher City CUSD 20:

On August 12, staff from the Illinois State Board of Education (ISBE) verified that Beecher City CUSD 20 is not compliant with the universal masking requirements of Executive Order 2021-18. Therefore, effective the date of this letter, the recognition status of Beecher City CUSD 20 and all of its schools is hereby lowered to "On Probation" for exhibiting "deficiencies that present a health hazard or a danger to students or staff." (23 Ill. Admin. Code 1.20(b)(2)(A)).

We do not take this recognition action lightly. We understand that state masking requirements have changed over the course of the pandemic, in line with scientific evidence and public health data. We assure you that masking requirements will continue to change and be lessened as soon as it is possible to do so safely. As we have throughout the pandemic, we will notify you immediately when changes to public health requirements are made.

Someone from our agency will reach out to you to schedule a conference to discuss compliance issues with representatives of the State Board.

Within 60 days of this conference, Beecher City CUSD 20 is required to submit a corrective plan to the Regional Superintendent of Schools and State Superintendent.

I will respond to the corrective plan within 15 days after receipt. If the plan is not approvable, I will so notify you. If no plan is submitted, or if no approvable plan is received within 60 days after our conference, the State Board of Education may act to change the status of the district, or of the affected school or schools, to "Nonrecognized."

Please closely inspect the entirety of 23 Ill Admin. Code 1.20, which outlines the steps necessary for the District and its schools to avoid the imposition of a status of "Nonrecognized."

ex. F

We are committed to continuing to partner with you, your board, and your local health department to ensure the safest and healthiest learning environment for your students and staff to succeed. Reaching the end of this pandemic will take all of us working together.

Should you have questions regarding this correspondence, please contact Dr. Ernesto Matias, Education Officer ematias@isbe.net.

Sincerely,

A handwritten signature in black ink, appearing to read "Carmen I. Ayala". The signature is fluid and cursive, with the first name "Carmen" being more prominent.

Dr. Carmen I. Ayala
State Superintendent of Education

cc: The Honorable Julie Wollerman, juliewollerman@roe3.org



BEECHER CITY

COMMUNITY UNIT DISTRICT NO. 20

BOBCATS



BRIAN DEADMOND
PRINCIPAL
Jr./Sr. High School
618/487-5100

PHILIP LARK, SUPERINTENDENT
P.O. Box 98
Beecher City, Illinois 62414
618/487-5100 Fax 618/487-5242
www.beechercity.org

KAREN HANFLAND
PRINCIPAL
K-5 Elementary
618/487-5100

September 14, 2021

Dr. Carmen I Ayala, State Superintendent of Education
Illinois State Board of Education
100 N. 1st Street
Springfield, IL 62777
(217) 782-2223

Illinois State Board of Education
Attention: Darren Reisberg, Chairman
100 N. 1st Street
Springfield, IL 62777
(217) 782-2223

Dear Dr. Ayala and Mr. Reisberg:

On August 16, 2021, Beecher City CUSD 20 received notice that the Illinois State Board of Education had lowered Beecher City's status as a recognized school to being on probation, effective immediately.

On behalf of Beecher City CUSD 20, this letter is a formal request for an appeal as it pertains to Beecher City's recognition status, per our rights under the *Illinois Administrative Code*.

Beecher City CUSD 20 is committed to operating our school in a manner that best represents the interests of our students, staff, and community. We look forward to working with Dr. Ayala and the State Board of Education to ensure the best possible outcome for all parties involved.

Sincerely,

Philip Lark-Superintendent
Lee Roadarmel- Board President
David Doty-Vice-President
Jordan Shields-Secretary
Jake Burks-Board Member
Darren Doty-Board Member
Ryan Schaefer-Board Member
Aaron Summers-Board Member

EX G

----- Forwarded message -----

From: **MOHIP KRISH** <KMOHIP@isbe.net>

Date: Fri, Sep 17, 2021 at 8:50 AM

Subject: Follow up from ISBE

To: plark@beechercity.org <plark@beechercity.org>

Phil,

It was nice talking to you last night. The question I posed to you was the following:

We understand that you would like to enter an appeal. As explained in our meeting held on August 23rd, you can begin the appeal process after your district's status has been changed to nonrecognized. This occurs after the 60 days provided to your district to supply ISBE with an acceptable corrective action plan. If we do not receive any plan, or if the plan is not acceptable, the State Superintendent will make a recommendation to the State Board of Education to place your school in the status of nonrecognized. Once they act, you may begin the appeal process.

Is your intention to wait the 60 days as described above, or are you asking to forgo the 60 days and have the State Superintendent recommend nonrecognition status to the State Board at this time?

Thanks for helping us better understand your intentions.

Krish

EX. H