

**STATE OF ILLINOIS  
IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT  
SANGAMON COUNTY, ILLINOIS**

AUSTIN, et al.,	)	
	)	
Plaintiffs,	)	
vs.	)	Case No. 2021-CH-500002
	)	
THE BOARD OF EDUCATION OF	)	
COMMUNITY UNIT SCHOOL DISTRICT	)	
#300, et al.	)	
	)	
Defendants.	)	

**PLAINTIFF’S EMERGENCY MOTION FOR ENTRY  
OF A TEMPORARY RESTRAINING ORDER WITHOUT NOTICE**

NOW COMES the Plaintiffs, JOHN BLAHUSIAK, THERESA GUDITIS, BRENDAN HEHIR, by and through their attorneys Thomas G. DeVore, and the Silver Lake Group, Ltd., and pursuant to 735 ILCS 5/11-101 and 5/11-102, moves this Court for entry of a Temporary Restraining Order against the Defendant, The Board of Education of the Chicago Public School District #299, and hereby plead:

1. Plaintiffs have filed a Verified Complaint in this cause which complaint is incorporated herein by reference.
2. The Plaintiffs have a right to insist their students not be compelled to quarantine, or modified quarantined, which is purported to limit the spread of an infectious disease, unless first being afforded their procedural and substantive due process rights as provided under Illinois law.
3. The Plaintiffs all have students (“Students”) who attend school within the Chicago Public School District #299.
4. The Chicago Public School District #299 continues to force the Students to wear a mask as a

type of quarantine, or modified quarantine, without any lawful authority to do so. <sup>1</sup>(See attached Exhibit A)

5. This Court should enter this temporary restraining order without notice as the harm being suffered by the Students is too great to wait until such time as the matter might be set for hearing. <sup>2</sup>
6. The Students are suffering continuing harm in that each is being subjected to wearing a mask as a type of modified quarantine without being provided their statutorily protected rights of due process of law by the Chicago Public School District #299.
7. The Students all have clear ascertainable procedural and substantive rights under Illinois law in need of protection by this Court and every day these rights are being disregarded is irreparable.
8. There is no adequate remedy at law to deter the Defendants continued violation of procedural and substantive due process as required under Illinois law in regard to forcing a quarantine, or a modified quarantine, on the students allegedly to prevent the spread of an infectious disease.
9. The Plaintiffs have shown a reasonably likelihood the Defendants are unlawfully violating the statutory procedural and substantive due process in regard to the Plaintiffs rights to not have their Students being forced to mask as a type of quarantine, or modified quarantine, which is alleged to prevent the spread of an infectious disease in a manner not authorized by law.

**WHEREFORE**, the Plaintiffs pray for an order:

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<sup>1</sup> Plaintiff Brendan Hehir's children have been attending school since February 04, 2022 without a mask consistent with this Court's prior TRO; however, today without explanation the staff of CPS advised Mr. Hehir that he children must wear a mask tomorrow or they will be excluded from the school building.

<sup>2</sup> Not only has this Court issued a prior TRO prohibiting such conduct by CPS, this Court even went so far as to clarify its TRO when it issued an order regarding contempt proceedings wherein this Court made it clear the policies of CPS cannot violate the students due process rights if they refuse to wear a mask as a type of quarantine. CPS continues to openly violate this Court's findings, which are still the law of the case, and as such issuance without notice is warranted.

- a) Find the Students have statutorily protected rights of procedural and substantive due process to not be subjected to quarantine or modified quarantine, which includes masking, except as provided by law;
- b) Find the Students will continue to suffer irreparable harm if the injunction is not granted in that the ongoing forcing of the wearing of masks will continue, unless this Court enjoins the Defendants to comply with the law.
- c) Find the students have no adequate remedy at law to protect them from procedural and substantive violations being engaged by the Defendants;
- d) Find the Plaintiffs have shown a reasonable likelihood of success that Defendants are violating the procedural and substantive due process rights of the students as provided under Illinois law;
- e) Entering a temporary restraining order enjoining the Board of Education of Chicago Public School District #299, or an of its agents, from requiring Students to wear a mask to prevent the spread of an infectious disease unless the students have first been afforded their procedural and substantive due process rights under *20 ILCS 2305 et seq.*
- f) For such other and further relief as this Court deems just and proper.

Respectfully submitted,

/s/ Thomas G. DeVore  
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## 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: February 28, 2022

By: /s/ John Blahusiak  
JOHN BLAHUSIAK

## 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: February 28, 2022

By: /s/ Theresa Guditis  
THERESA GUDITIS

## 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: February 28, 2022

By: /s/ Brendan Hehir  
BRENDAN HEHIR

## CERTIFICATE OF FILING AND SERVICE

STATE OF ILLINOIS        )  
                                          ) SS.  
COUNTY OF BOND        )

The undersigned hereby certifies, pursuant to the provisions of 735 ILCS 5/1-109, and the penalties therein provided, that a copy of the foregoing instrument was served upon each of the parties hereinafter set forth by electronic filing, on February 28, 2022:

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**Subject:** Fw: CPS Universal Masking Policy to Remain In Place | Se Mantiene la Política Universal del Uso de Mascarillas en CPS

**Date:** Monday, February 28, 2022 at 5:30:33 PM Central Standard Time

**From:** Brendan Hehir

**To:** Thomas G. DeVore

A message from CHICAGO PUBLIC SCHOOLS

Dear CPS Families,

We want to update you on the legal situation around our District's decision to maintain the health and safety measures that have helped keep our staff and students safe this school year, including the use of masks in schools.

A contempt hearing that was scheduled to be held today for me and one of our principals has now been canceled. Our COVID-19 policies are NOT currently before a judge and we will continue requiring universal masking in our schools.

We all look forward to the day when masks are no longer necessary in schools, and we plan to work with our labor and public health partners on the best way to preserve a safe learning environment for all. For now, though, we need to remember that school buildings are not like other indoor settings. First, students and staff need to be together in small spaces for many hours every day. Also, fewer than half of our students are fully vaccinated, and we know that vaccines are the safest way to protect the health of students and families, and the best tool we have to prevent the spread of COVID in our schools. Please visit [cps.edu/vaccinations](https://cps.edu/vaccinations) to make an appointment and find out more information about the safety and effectiveness of vaccines in children and teens.

CPS has made incredible progress against the virus. Our case numbers are on the decline; our positivity rate continues to fall even though we are doing more testing than ever, and fewer students and staff are working and learning at home due to a positive test or exposure to COVID-19. We cannot jeopardize these wins by moving too quickly.

I thank you for your partnership and will continue to update you on how our District is managing the pandemic.

Sincerely,

Pedro Martinez  
Chief Executive Officer  
Chicago Public Schools

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Estimadas familias de CPS,

Queremos actualizarlos sobre la situación legal en torno a la decisión de nuestro Distrito de mantener las medidas de salud y seguridad que han ayudado a mantener seguros a nuestro personal y a los estudiantes este año escolar, incluido el uso de mascarillas en nuestras escuelas.

Una audiencia de desacato que estaba programada el día de hoy conmigo y uno de nuestros directores ha sido cancelada ahora. Nuestras políticas de COVID-19 NO están actualmente ante un juez y nosotros continuaremos requiriendo el uso universal de mascarillas en nuestras escuelas.

Todos esperamos el día en que las mascarillas ya no sean necesarias en las escuelas, y planeamos trabajar con nuestros socios laborales y de salud pública en la mejor forma de preservar un entorno de aprendizaje seguro para todos. Sin embargo, por ahora, debemos recordar que los edificios escolares no son como otros entornos interiores. Primero, los estudiantes y el personal deben estar juntos en espacios pequeños durante muchas horas todos los días. Además, menos de la mitad de nuestros estudiantes están completamente vacunados y sabemos que las vacunas son la forma más segura de proteger la salud de los estudiantes y las familias, y es la mejor herramienta que tenemos para prevenir la propagación de COVID en nuestras escuelas. Por favor visite [cps.edu/vaccinations](https://cps.edu/vaccinations) para programar una cita y obtener más información sobre la seguridad y la eficacia de las vacunas en niños y adolescentes.

CPS ha hecho un progreso increíble contra el virus. Nuestros números de casos están en declive; nuestra tasa de positividad continúa cayendo a pesar de que estamos haciendo más pruebas que nunca, y cada vez menos estudiantes y personal están trabajando y aprendiendo desde casa debido a una prueba positiva o exposición a COVID-19. No podemos poner en peligro estos logros moviéndonos demasiado rápido.

Les agradezco su colaboración y continuaré actualizándolos sobre cómo nuestro Distrito está manejando la pandemia.

Atentamente,

Pedro Martínez  
Director Ejecutivo  
Escuelas Públicas de Chicago

--  
Maureen Hehir

773-507-2395