



SECRETARY OF EDUCATION WARNING TO DISTRICTS VIOLATING THE MASK ORDER

1. Failure to implement and follow the control measures under the Order subjects each board member to the penalty provisions of the Disease Prevention and Control Law of 1955. A violation occurs each day that the Order is not enforced and each board member may be charged a financial penalty for each student or staff member attending the school.
2. Failure to implement and follow the control measures under the Order exposes each board member to personal liability under 42 Pa.C.S. §8550 (relating to willful misconduct), as well as other remedies and actions as provided by law. PDE is serving notice to each board member that failure to comply with the mask order is a violation of law. A knowing violation may be used by a plaintiff to establish personal liability in a negligence action per 42 Pa.C.S. § 8550.
3. Each board member may face lawsuits from those who may be affected by noncompliance with the Order, including children who may become ill as a result of the district's violation, or disabled children who are unable to attend school because of the district's failure to follow the order.
4. Each board member may bear potential liability with no indemnification or protection.
5. School districts' liability insurers are exploring cancelling coverage as a result of those districts' possible illegal conduct and potential purposeful violations of law.
6. School districts' violations of law may negatively affect workers' compensation claims coverage and premium calculations.
7. Districts that do not comply with or elect to violate the law may be referred to the United States Department of Education's Office for Civil Rights for investigation. In particular, failure to comply with the Order may prevent immunocompromised and other susceptible students from attending class in violation of the IDEA, ADA, and Rehabilitation Act.
8. Employees who report non-compliance may be entitled to protection under the state whistleblower law.