



Commonwealth of Virginia
Office of the Governor

Executive Order

NUMBER TWO (2022)
AND
ORDER OF PUBLIC HEALTH EMERGENCY ONE

**REAFFIRMING THE RIGHTS OF PARENTS IN THE
UPBRINGING, EDUCATION, AND CARE OF THEIR CHILDREN**

By virtue of the authority vested in me as Governor, I hereby issue this Executive Order reaffirming the rights of parents in the upbringing, education, and care of their children.

Importance of the Issue

There is no greater priority than the health and welfare of Virginia's children. Under Virginia law, parents, not the government, have the fundamental right to make decisions concerning the care of their children.

Recent government orders requiring virtually every child in Virginia wear masks virtually every moment they are in school have proven ineffective and impractical. They have also failed to keep up with rapidly changing scientific information. For example, the August 12, 2021 Order of the State Health Commissioner explicitly relates to the Delta variant and not the Omicron variant, which results in less severe illness. The order states children under the age of 12 cannot obtain vaccines. Now children five and older are eligible. The order also states vaccination rates for children that are now out of date. The order notes that "universal and correct mask use" helps reduce transmission. As parents and educators have observed, many children wear masks incorrectly, providing little or no health benefit. The masks worn by children are often ineffective because they are made from cloth material, and they are often not clean, resulting in the collection of impurities, including bacteria and parasites. Additionally, wearing masks for prolonged periods of time, such as for an entire school day, decreases their effectiveness. Masking may be more or less effective dependent on the age of the child.

At the same time that a universal masking requirement in schools has provided inconsistent health benefits, the universal requirement has also inflicted notable harm and proven to be impracticable. Masks inhibit the ability of children to communicate, delay language development, and impede the growth of emotional and social skills. Some children report difficulty breathing and discomfort as a result of masks. Masks have also increased feelings of isolation, exacerbating mental health issues, which in many cases pose a greater health risk to children than COVID-19. Two years into the COVID-19 pandemic, mask mandates in schools have proved demoralizing to children facing these and other difficulties.

While the Center for Disease Control (CDC) recommends masks, its research has found no statistically significant link between mandatory masking for students and reduced transmission of COVID-19. And the CDC has acknowledged that certain masks may be ineffective due to the material from which they are made or how they are worn. A review of CDC, WHO, and other local and international health authorities' recommendations reveals a lack of consensus on the costs and benefits of mask-wearing for children in school for many of the reasons noted above.

In light of the variety of circumstances confronted by students in the Commonwealth, parents should have the ability to decide whether their child should wear masks for the duration of the school day. This approach is consistent with the broad rights of parents. The Commonwealth recognizes in § 1-240.1 of the *Code of Virginia*, that “a parent has a fundamental right to make decisions concerning the upbringing, education, and care of the parent’s child.” Permitting parents to make decisions on where and when to wear masks permits the Commonwealth’s parents to make the best decision for the circumstances confronting each child. Parents can assess the risks and benefits facing their child, consult their medical providers, and make the best decision for their children based on the most up to date health information available.

While parents of some students with conditions that increase the risks of COVID-19 infection might require their children to remain masked during the duration of the school day, other parents may require masks for a more limited duration, if at all.

Masks are not the only method to reduce transmission of COVID-19. Local schools must ensure they are improving inspection, testing, maintenance, repair, replacement and upgrades of equipment to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation, and air conditioning systems, filtering, purification, fans, control systems and window and door repair. Other mitigation efforts can be made in consultation with health authorities. The benefit of mitigation efforts must always be weighed against the cost to children’s overall wellbeing.

Directive

Therefore, by virtue of the authority vested in me as Governor by Article V of the Constitution of Virginia, by § 44-146.17 of the *Code of Virginia*, by any other applicable law, and by virtue of the authority vested in the State Health Commissioner pursuant to §§ 32.1-13, 32.1-20, and 35.1-10 of the *Code of Virginia*, Executive Order Number Seventy-Nine (2021) is rescinded and the following is ordered:

1. The State Health Commissioner shall terminate Order of Public Health Emergency Order Ten (2021).
2. The parents of any child enrolled in a elementary or secondary school or a school based early childcare and educational program may elect for their children not to be subject to any mask mandate in effect at the child's school or educational program.
3. No parent electing that a mask mandate should not apply to his or her child shall be required to provide a reason or make any certification concerning their child's health or education.
4. A child whose parent has elected that he or she is not subject to a mask mandate should not be required to wear a mask under any policy implemented by a teacher, school, school district, the Department of Education, or any other state authority.
5. The Superintendent of Public Instruction shall rescind the Interim Guidance for COVID-19 Prevention in Virginia PreK-12 Schools, issued January 14, 2021, and updated October 14, 2021, and issue new guidance for COVID-19 Prevention consistent with this Order.
6. School districts should marshal any resources available to improve inspection, testing, maintenance, repair, replacement and upgrades of equipment to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation, and air conditioning systems, filtering, purification, fans, control systems and window and door repair.

Effective Date of this Executive Order

This Executive Order shall be effective 12:00 a.m., Monday, January 24, 2022, and shall remain in full force and effect until amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 15th day of January, 2022.



Handwritten signature of Glenn Youngkin in black ink.

Glenn Youngkin, Governor

Handwritten signature of Colin M. Greene in black ink.

Colin Greene, Acting State Health Commissioner

Attest:

Handwritten signature of Kelly Thomasson in black ink.

Kelly Thomasson, Secretary of the Commonwealth