

Can J.B. Pritzker Dictate School Dress Code?

An overlooked reason the Governor of Illinois' school mask mandate is unlawful



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"Obey" by an 11-year-old female in Oregon. Posted to Twitter by artist's parent [@fosters4future](#). Used with permission.

Simple questions: Legally, who gets to decide what public & private school students in Illinois can or can't wear to school? And what does that have to do with the Governor's ridiculous mask mandate?

My answers may surprise you.

It's Dress Code.

Let's start by acknowledging that all public and private schools have dress-code standards of one kind or another. Many Illinois districts have a generic Student Appearance policy, in addition to more detailed guidelines in Student Handbooks, like this:

7:160 Student Appearance

A student's appearance, including dress and grooming, must not disrupt the educational process, interfere with the maintenance of a positive teaching/learning climate, or compromise reasonable standards of health, safety, and decency. Procedures for handling students who dress or groom inappropriately will be developed by the Superintendent and included in the Student Handbook(s).

We don't even need to see the school-level specifics to know that anything a student either has to wear or is forbidden from wearing is part of the school's implicit or explicit dress code, as are rules about how to wear clothing & jewelry, permissible hairstyles, etc.

Which brings us to masks.

Whatever else a mask is or can be called — a face covering, personal protective equipment (PPE), a medical device, a health & safety measure — it's an article of clothing that students in most Illinois schools have been required to wear this year, as a condition of in-person attendance

It doesn't matter if a school has altered its dress code policy to include or address masks, adopted a separate "Face Coverings" policy, or mentions masks only in posted plans or in emails to parents. If students have to wear them - like these sad-eyed, presumably-adorable children at Churchill Elementary in Glen Ellyn — they're part of the dress code.



Glen Ellyn School District 41

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Good morning Churchill!



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1 Comment

In schools that are adhering to the Governor's wishes, masks must conform to certain criteria and be worn on the student's face in a particular way.

Practically speaking, asking a student to pull up or put on her mask or is no different from requesting a student pull up his pants, put on his shoes, or take off his hat.

Governor Pritzker himself publicly acknowledged this reality in August, saying, *"School districts have been enforcing dress codes for many, many years. And so they're expected to do the same thing they've been doing literally for decades, and I expect that people will do the right thing nonetheless and not put their school district in the difficult situation of having to tell somebody 'follow the rules.'"* [[minute 21:13](#)]

Not only are school staff telling students to "Follow the rules," some are using [brainwashing techniques](#), propaganda, [cursing](#), and other harsh consequences or shaming to ensure 100% compliance. Even teachers that believe cloth stops viruses or is saving grandparents' lives — are no doubt tired of using instructional time to mask-police. The effects of forced masking on student behavior, mental health, and teaching & learning are also becoming hard to ignore.

But guess what? Illinois law doesn't give the Governor authority to tell teachers — or school boards or superintendents — what kids have to wear to school, let alone to the power to indirectly use school staff as an enforcement arm of the Executive Branch.

Illinois School Dress Code Law

Why do I say this? Because the Illinois school code speaks plainly to student dress. Far as I know, the Governor's mask order - given under the auspices of an "emergency" - doesn't render Illinois law (or the U.S. Constitution) null and void.

Read carefully:

(105 ILCS 5/10-22.25b) (from Ch. 122, par. 10-22.25b)
(Text of Section before amendment by P.A. 102-360)
Sec. 10-22.25b. School uniforms. The school board may adopt a school uniform or dress code policy that governs all or certain individual attendance centers and that is necessary to maintain the orderly process of a school function or prevent endangerment of student health or safety. A school uniform or dress code policy adopted by a school board: (i) shall not be applied in such manner as to discipline or deny attendance to a transfer student or any other student for noncompliance with that policy during such period of time as is reasonably necessary to enable the student to acquire a school uniform or otherwise comply with the dress code policy that is in effect at the attendance center or in the district into which the student's enrollment is transferred; and (ii) shall include criteria and procedures under which the school board will accommodate the needs of or otherwise provide appropriate resources to assist a student from an indigent family in complying with an applicable school uniform or dress code policy. A student whose parents or legal guardians object on religious grounds to the student's compliance with an applicable school uniform or dress code policy shall not be required to comply with that policy if the student's parents or legal guardians present to the school board a signed statement of objection detailing the grounds for the objection. This Section applies to school boards of all districts, including special charter districts and districts organized under Article 34.
(Source: P.A. 89-610, eff. 8-6-96.)

Do you see what I see?

This is a law.

Unlike the Governor's successively-issued Executive Orders, [105 ILCS 5/10-22.25b](#) is a section of the Illinois school code, which means it went through a legislative approval process. It was subject to open debate and revision. "We the People" had input, via their state representatives and opportunity for public comment. It's on the books, and in full effect. To my knowledge, nothing in or about the open-ended [August 4, 2021 order](#) suspends this statute, or renders it inapplicable to face coverings.

This law applies only to public school districts.

The last sentences of the statute delimit public & special charter districts/schools. Crisis or no crisis, the State's authority does not extend to private schools on matters of student appearance and dress. (That includes the recently-signed [bill on hairstyles](#), which will be added to the School Uniforms/Dress Code statute in January)

I daresay that prior to March 2020 - when all things suddenly become permissible in the name of a health emergency - the idea of elected public officials having any say about private school uniforms or dress requirements was unthinkable. Still is, for private schools that recognize what mandated masking has become.

This law grants local elected school authorities the power to control what students wear to school.

It's been easy to forget, but the Governor is *not* the boss of the state's 850+ school boards. For a refresher on public education governance & authority in Illinois, read this excellent excerpt from IASB's "[The Effective School Board Member](#)."

"Public education is the responsibility of the state...The Illinois Constitution of 1970 states, "The State shall provide for an efficient system of high-quality public education and services." The constitution also requires that there shall be a State Board of Education, but leaves it up to the General Assembly to determine the nature of the State Board and establish its powers.

To carry out this constitutional mandate, the Illinois General Assembly enacted a body of laws known as the Illinois School Code. That statute prescribes how public education works and what shall and what shall take place in the public schools. The courts have held that the General Assembly has absolute power over education, subject to limits established by federal and state constitutions...

It is impractical, of course, for the General Assembly to formulate policy for each local school district. The General Assembly instead created local school boards. Thus, the local school board is an agency of the state that is delegated much of state's sovereign power with respect to public education....

The local school board is subject to regulation both by laws enacted by the legislature and by the promulgated rules of the Illinois State Board of Education, otherwise known as ISBE...

The local school board is the vehicle through which the will and aspirations of the people are translated into educational programs and educational services upon the local board rest responsibility for the local school system. This is basic to the principle of the American public school education."

The Governor's chief part in this system is to appoint ISBE board members, subject to confirmation by the state Senate.

He's loooooong past the 30-day allowance under Illinois laws that afford him certain powers over schools in a true emergency. His [August 4th](#) fiat isn't a direct order to boards to make students mask. It's a command to do everything a joint-guidance document from ISBE & the Illinois Department of Public Health says to do, i.e., "Do what that document says, because I say so—or else!"

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.

Whence the authority to issue an EO like this? Not the cited sections of the Illinois Emergency Management Act — one of which (7[19]) doesn't even exist. The directive makes no sense and shouldn't be taken seriously, except as evidence of the Governor running interference for Unions and the school boards fearful thereof.

As to enforcement, there's been much wrangling over whether ISBE has the power to revoke recognition status of public & private schools who have mask-optional policies. The ILGA Joint Committee on Administrative Rules (JCAR) and decisions in several cases have compelled ISBE to revise its proposed procedures for revoking recognition status. But the agency is still apparently claiming that schools that don't require students to wear masks "exhibit deficiencies that present a health hazard or a danger to students or staff."

How that can be proven is beyond me, but I'm glad at least the Vandalia CUSD 303 School Board has said it's ready to fund and fight that fight.

In the meantime, the actual law makes clear that General Assembly has given local boards of education the power to decide what students wear to school.

Not J.B. Pritzker.

Not ISBE.

And definitely not the state or county health departments.

This law is inclusive of face coverings/masks.

The general purpose of uniform & dress code requirements is to "maintain the orderly process of a school function or prevent endangerment of student health or safety." All reasons for requiring students to wear face coverings I've seen - including those given in CDC

recommendations — fit under those goals. In other words, there is no rationale for forcing students to mask in school that isn't applicable to or covered by this statute.

This law affords religious objections.

Consistent with the First Amendment, religious objections to a uniform or dress code policy are permitted. Notably, such objections are not subject to the Board's discretion. All that's required per the statutes and corresponding ISBE document is for "the student's parents or legal guardians [to] present to the school board a signed statement of objection detailing the grounds for the objection."

Given the clarity of this statute, it's puzzling that Governor, ISBE, and a number of local school boards have pretended that religious objections to masking don't exist. Truth is, as with vaccines, wearing a mask does require at least some individuals to violate or forgo a sincerely-held religious belief, practice, or observance. In fact, my spouse and I wrote an extensive case for the conflict between masking & our religious beliefs, which we submitted to our daughter's public school and our son's private school, respectively.

The Illinois Department of Public Health even admitted in September, "*The free exercise of religion is exempted from the face covering requirement*".

Of course.

Such a freedom is secured by the First Amendment and isn't limited to being in a house of worship on a specific day of the week. It makes no sense to say Illinois children don't have to wear masks in church, but do have to wear masks in school (religious or otherwise), especially if their parents' religious beliefs preclude doing so.

Apparently, some schools - like Wheaton North in DuPage County - understand that a student's religion might exempt him or her from abiding by a no hats/hoods rule, but regard religious beliefs as inapplicable to face coverings (which, like hats/hoods, are also worn on the head).

A few other reminders:

- We have three offices available to provide support for students who are experiencing emotional stress or a mental health crisis: Blue Support Hub, Gold Support Hub, Counseling Center. These offices are staffed by mental health professionals who can assist students in using their coping strategies and preparing to return to class.
- Face Coverings are still required; students must consistently wear their face covering over both their nose and mouth while in the school building. The exception to this rule is while eating at lunch.
- Dress Code - Hats and hoods are not permitted. Our school rules allow for students to wear a scarf, hair wrap, or hair bonnet (now approved). Religious headwear (such as hijabs, burkas, etc.) are, of course, permitted. To begin the year, we have been offering students reminders of our no hats/no hoods rule; in the coming week, we will begin issuing consequences to students who are not complying with this rule.

Please remind your students of the importance of following school expectations and of ways to access support. The entire Wheaton North staff is committed to ensuring North is a physically and emotionally safe space for all students.

Excerpt from Wheaton North's Falcon Focus e-newsletter, 11/12/21

It's impossible to claim that there are religious and cultural exceptions to the "no head coverings" rule but not to a "no uncovered faces" rule. Even more ludicrous would be to claim that recognizing religious objections to forced masking creates a health hazard or threatens student/staff safety.

Masks have been optional all year in in Hutsonville CUSD #1, with few students choosing to wear them, and COVID case numbers comparable to surrounding districts, per the Board President. Hutsonville Superintendent Julie Kraemer rightly observed in September, "This is not a mask issue. This is a local control issue."

Five Admissions

So, what am I suggesting Illinois schools do?

I believe 5 "admissions" are involved in using the Illinois dress code statute as a rationale for schools asserting lawful, local control over masks on kids.

- **Admission 1: Masks are a dress-code requirement.** It's disingenuous for any school board to assert masks are a "health and safety necessity" apart from dress code. By agreeing to mandate the Governor's order, they've consented to add face coverings to the implied, enforced dress code, if nothing else. Maybe their lawyers have told them

otherwise, but hundreds of lawyers believing a wrong thing doesn't make the wrong thing right.

There's also a good chance the mask requirement conflicts with other dress code rules one way or another. This is predictable when schools let a Governor with zero understanding of how schools function, and no checks on his power, exceed his authority.

For instance, typically, anything that impedes learning or distracts from the education process is forbidden, and garb that keeps staff from being able to identify students isn't allowed. Evanston Township HS circumvents this principle, laughably, by saying "except PPE".

4. Students Cannot Wear:

- Violent language or images.
- Images or language depicting/suggesting drugs, alcohol, vaping or paraphernalia (or any illegal item or activity).
- Bullet proof vest, body armour, tactical gear, or facsimile.
- Hate speech, profanity, pornography.
- Images or language that creates a hostile or intimidating environment based on any protected class or consistently marginalized groups.
- Any clothing that reveals visible undergarments (visible waistbands and visible straps are allowed)
- Swimsuits (except as required in class or athletic practice).
- Accessories that could be considered dangerous or could be used as a weapon.
- Any item that obscures the face or ears (except as a religious observance or as personal protective equipment (PPE)).

A school may have a guiding dress code philosophy that's clearly violated by or at-odds with forcing children to cover their faces, like one Chicago-area private Christian school who says a dress code shouldn't be burdensome, legalistic, or frustrating to students. One would hope the leaders of this institution see the disconnect between these aspirations and masking students who don't want to be masked.

DRESS CODE

A biblical approach to a dress code is one which should be neither burdensome nor legalistic; for, as Jesus teaches in Matthew 11:29-30, His yoke is easy, and His burden is light. An appropriate dress code should not be a frustration to the students who must abide by it, nor to the parents, the faculty, and administrators who must enforce it. It must be clear and compliance must be easy, in order that the educational process will not be distracted by excessive attention to dress.

A biblical approach to appearance must be designed to complement other educational and character-building efforts. There are numerous disciplines within the Christian life which, in and of themselves, do not create a mature believer, but do provide a framework for growth to occur. These disciplines are helpful to students as they deal with the matters of their own hearts (Proverbs 22:6). While certain clothing or hairstyle will not by itself "create" a responsible, humble student, guidelines and expectations can present opportunities for personal growth and development of Christian character, especially when applied in an atmosphere which seeks to integrate all aspects of life from a biblical perspective.

Granted, integrity & intellectual honesty are tough to exercise when school leaders (and parents) fail to see a human-rights heist from the get-go. Sunk-cost fallacy sinks in, and before you know it, they've sold both the dress code and those lofty "Serving-The-Whole Child" ideals to the Governor for the price of an alleged liability shield and feigned virtue.

Admitting masks are a dress code standard is a step toward sanity.

- **Admission 2: There is no "COVID emergency" for Illinois schools.** Despite the claims in Governor Pritzker's school mask order, there is no Covid-related emergency for children — certainly not one that requires kids to wear facial cloth in school. The extremely low risk that SARS-CoV-2 presents to pediatric and young adult age bands is well-documented. Indeed, my county of ~950,000 residents has had zero COVID-related deaths among <20-year-olds in two years — which is far fewer than the number of accident & suicide deaths in the same timeframe & age group.

COVID-19 is not more prevalent in schools than it is in any other place the public interacts. Numerous studies have repeatedly shown in-school transmission is very low and children are inefficient transmitters.

Vaccines for the virus, which have little to no direct medical benefit to 99.99+% of children & teens, are readily available to every school-aged kid in the state. There's no basis for adding these shots to the school-attendance schedule given the number children & teens with naturally-conferred immunity and the absence of a flu-jab mandate.

As for the "Protect the Hospitals!" argument, our hospitals were never overwhelmed. (Chicago ER visits fell 40%, for heaven's sake, and still haven't recovered to pre-pandemic levels.) Moreover, staff & beds continue to be cut, and healthcare system capacity isn't children's burden to bear, regardless.

I have serious questions about the ethics of any Illinois school board member who, at this point, can't recognize (a) there is no emergency and (b) mask-optional schools ARE are safe.

As a skeptical optimist, I believe most of those men & women DO suspect it and simply need to gather the courage to tell each other and their communities.

- **Admission 3: Illinois law gives local school boards/ administrators control over what students wear to school.** This admission requires a "flip" in seeing what masks are, in the context of schools. School buildings are not health clinics or hospitals, and managing an alleged ongoing public-health crisis isn't the responsibility of school staff, including school nurses.

Say your Board wants to force students to wear masks, no matter what. Maybe they're afraid of Union blowback, or truly believe cloth has magical virus-mitigating power, or incorrectly assume there are no downsides to masking.

That decision would at least be more lawful than pretending the Governor has power he doesn't have. These locally-elected officials would then have to defend their decision to the community, ideally using relevant, substantial evidence. It takes humility to stop blaming an illegal order & phantom penalties, make a choice, and be directly accountable to the taxpayers & voters.

Unfortunately, too many Illinois school board members — like Brad Paulsen of Wheaton-Warrenville CUSD 200 — *wanted* the Governor to issue a mask mandate, precisely so that they *wouldn't* have to take credit or blame for a dress code decision.

Verizon LTE 11:43 AM 95%

Brad Paulsen - Member, CUSD 200 School Bo... ***

Brad Paulsen - Member, CUSD 200 School Board
4h · 🌐

Yes, please.



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But imagine J.B. Pritzker issued an Executive Order dictating that students wear latex gloves in school at all times “because COVID”. Or goggles. Or HAZMAT suits.

What about a winter mandate for all PK-12 kids to wear wool scarves when outside temps fall to less than 20 degrees? Is that okay?

Could he also issue a mandate that says schools can’t set a dress code for remote learning, like [Springfield #189 did](#)?

At this point, none of those things is hard to imagine, but it isn’t cost or supply or feasibility that makes each one outrageous. It’s his lack of authority to tell school boards what to make kids wear — including during a non-existent emergency.

- **Admission 4: Religious objections to masking are permissible under Illinois & Federal law.** Although the Governor’s order and ISBE/IDPH guidelines for schools mention only medical exemptions to the face covering dress-requirement, state officials know the law speaks to religious objections, which is probably why they’ve been quiet about it.

I’m aware of several Chicagoland private schools — and one “downstate” public district — that honor the First Amendment “free exercise of religion” provision in the dress code statute, either by accepting parental objections or by setting their own internal policy, backed by religious arguments and data.

Regardless of institution type, schools who continue to follow the Governor’s order can & should at least follow the law on religious objections to requirements for student dress, which applies to face coverings.

(For what it's worth, I've yet to see a serious or thorough theological defense or justification of forced masking from any Christian, Catholic, or Jewish PK-12 school in Illinois. Nothing prevents these institutions from allowing parents to object to masks for *any* reason, but it would be nice if these institutions could admit the state has no power over what their students wear, and articulate a rationale for either compelled or optional masking in their religious setting. Mindlessly bowing to the Governor and CDC on this issue is both illogical and borderline idolatrous.)

- ***Admission 5: Metrics-based masking is not the answer.*** A whole lotta Illinois school boards are happier than a plate o' clams to sit back and do nothing until the Governor gives the "all-clear" based on an irrelevant metric du jour. Cases, percent positive, number of people in the hospital with a SARS-CoV-2 infection, deaths among fully vaccinated & unvaccinated Illinoisans — all of these are subject to testing biases, easily manipulated, and irrelevant to the issue of *mandatory* masking or the inability of cloth to stop COVID.

Thousands of schools across the county have given children, parents, & teachers a choice, without linking that choice to a moving target. For kids' sake, it's best to steer clear of any implementing or waiting for any criterion that could activate either a perpetual on/off switch or "unvaxed kids have to wear mask" dress codes.

Final Thoughts

Sadly, Illinois continues to be the only state in our country's midsection that denies local control over masking in schools exists. I don't know what supporters of forced-masking tell themselves about what's happening to children in freer states, but I suspect it's deeply rooted in sheer ignorance, denialism, and/or fear.

Truth is, the COVID situation is static, not crisis, and there is no scientific or legal basis to make kids cover their faces in school. The risks of the disease are known; illness prevention & treatment options abound. SARS-CoV-2 is seasonal & slated to become endemic, if it isn't already.

Sooner or later, studies like this one will indict U.S. schools' use of mitigations against kids, including masking, & may provide a basis for lawsuits — especially if it's shown that school boards knew better (or should have) but acted in self-interest.

The Illinois dress code statute isn't the only exit ramp from the Mask Madness, but it's an obvious and sensical one that all school boards and administrators should consider taking now.