



Mask Litigation FAQ

Q. What is ASBA's reaction to the Maricopa Superior Court Judge Katherine Cooper's decision?

A. ASBA applauds the ruling today because it allows school boards to exercise local decision making, based on local conditions, in determining whether to have a mask requirement in their schools. The ruling applies to the entire state.

Q. What did the court rule?

A. The court ruled that the Legislature violated the Arizona Constitution by including in budget bills numerous public policy changes that weren't related to the budget. The Arizona Constitution requires that bills be focused on a single subject. The Constitution also requires that bills have a short title description that encompasses a bill's principal provisions; the court ruled this also was not complied with.

Q. What were the invalidated education-related policy provisions in the bills?

A. Four key provisions:

1) The prohibition on districts requiring masks "on students or staff during school hours and on school property"

2) "requir(ing) a student or teacher to receive a vaccine for COVID-19 or to wear a face covering to participate in in-person instruction"

3) the prohibition of a teacher, administrator or other school official from making certain curriculum and instruction choices that would have been prohibited under the new legislation ("blame or judgment" instructional ban)

4) prohibition of a public official from using public monies or public resources to "organize, plan or execute any activity that impedes or prevents a public school from operating for any period of time"

Q. Could the Governor issue an Executive Order banning school districts from requiring masks?

A. Yes. Although that may have legal problems as well and would likely be challenged.

Q. Could the Legislature re-enact the invalidated provisions in a Special Session called for that purpose or in the next regular session of the Legislature in a manner that was consistent with the Arizona Constitution?

A. Yes – which is why we need to continue to advocate for local control.

Q. Could otherwise eligible districts that missed out in the Governor’s “PLUS” funding that were ineligible because of their local mask requirements now become eligible again because of this decision?

A. We believe so because the requirements for that program include being in compliance with the mask ban which is no longer valid – thus, they are in compliance.

Q. What if the Legislature appeals the ruling?

A. The coalition of plaintiffs will continue to defend our position of local control. Districts can continue to make local choices based on what is in the best interest of their communities while any appeal is in process.