



NEW YORK STATE SENATOR

George M. Borrello

Lawsuit Challenges School Mask Mandate

[George M. Borrello](#)

September 17, 2021

ISSUE:

- [COVID-19](#)
- [Mask Mandates](#)
- [DOH Regulations](#)

NEW YORK
COURT : COUNTY OF ALBANY

BORRELLO, NEW YORK SENATOR,
HOUSE, 14TH DISTRICT LEGISLATOR,
PARENTS TO UNMASK CHILDREN INC.,
ST. JOHN LUTHERAN CHURCH & SCHOOL,

VERIFIED

Index No.

ALBANY – Senator George Borrello is part of a lawsuit filed in State Supreme Court challenging the underlying authority of a universal mask mandate for students, teachers and staff in Pre-Kindergarten through Grade 12, public and private schools, that was imposed by New York State in late August 2021.

Other petitioners in the lawsuit include Niagara County Legislator John Syracuse, St. John Lutheran Church and School, NY Parents to Unmask Children, Inc. and numerous individual parents on behalf of their minor children.

“The expansive emergency powers granted to our former governor for a year and a half established a troubling precedent of government overreach that is proving very difficult to reverse,” said Senator Borrello. “The mask mandate for school children is a blatant example. In handing down this regulation, the Health Department exceeded its authority and is attempting to override the judgement of parents, many of whom are vehemently opposed to masking their children seven hours a day. If we don’t act, these dictates will continue and eventually, there will be no turning back.”

The lawsuit notes that the masking regulation affects 2.9 million students throughout the state. The filing states the regulation “was adopted as an emergency measure, despite the Department of Health’s failure to comply with lawful procedure for emergency adoption of regulations. Further, this measure is arbitrary and capricious given the absence of any emergency justifying the use of emergency

adoption procedures rather than standard rulemaking and its commensurate notice and comment requirements.”

“Our laws were designed to protect our rights and freedoms. During the pandemic, many of these laws and procedures were circumvented with the argument that the public health crisis necessitated swift and unilateral decision-making. We are beyond the point of acting in emergency mode. We need to restore our system of checks and balances, which is why unlawful mandates like this one must be challenged and overturned.”

###