

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

SUPERIOR COURT DEPARTMENT  
CIVIL ACTION NO:

2182cv874

CHILDREN’S HEALTH RIGHTS OF  
MASSACHUSETTS, a Massachusetts  
Nonprofit Corporation,

Plaintiff,

vs.

DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION, CAMBRIDGE  
PUBLIC SCHOOL DISTRICT, CITY OF  
CAMBRIDGE, FRANKLIN PUBLIC  
SCHOOL DISTRICT, NORTHBOROUGH  
PUBLIC SCHOOL DISTRICT,  
SOUTHBOROUGH PUBLIC SCHOOL  
DISTRICT, NORTHBOROUGH-  
SOUTHBOROUGH REGIONAL PUBLIC  
SCHOOL DISTRICT, TYNGSBOROUGH  
PUBLIC SCHOOL DISTRICT,

Defendants.

**PLAINTIFF’S EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER  
AND/OR PRELIMINARY INJUNCTION**

Plaintiff Children’s Health Rights of Massachusetts, Inc. (“CHRM”), pursuant to Massachusetts Rules of Civil Procedure 65(a) and (b), moves, on an *ex parte* basis, for a temporary restraining order or, in the alternative, moves for a preliminary injunction enjoining Defendants from enforcing their policies or mandates requiring children to wear face masks or coverings while in school and the City of Cambridge from enforcing its mask mandate.

As set forth more fully in its Memorandum of Law filed contemporaneously with this Motion, CHRM requests that the Court issue an emergency temporary restraining order without notice or, in the alternative, a preliminary injunction because (1) DESE and the Districts lacked

the authority to pass these mandates; (2) even if DESE had the authority to pass the mandate, it exceeded its authority in doing so; (3) the City of Cambridge lacked the authority to issue a city-wide mask mandate; (4) the mandates are preempted by the Massachusetts Department of Health's comprehensive regulatory scheme concerning infectious diseases; and (5) the mandates violate parents' right to due process and their natural rights under the Massachusetts Constitution because they violate their rights to make healthcare decisions for their children and otherwise direct the care and upbringing of their children.

**REQUEST FOR RELIEF**

WHEREFORE, CHRM respectfully requests that the Court:

- A. Schedule a hearing as soon as practicable;
- B. Enjoin the enforcement of the Defendants' face mask mandates;
- C. Enjoin the Defendants from extending these mandates for any portion of the 2021-2022 school year and beyond; and
- D. Award such other relief as is just and equitable.

Respectfully submitted,

CHILDREN'S HEALTH RIGHTS OF  
MASSACHUSETTS, INC.,

By Its Attorneys,

FOJO LAW, P.L.L.C.

Dated: September 20, 2021

/s/Robert M. Fojo

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