



Western New York Students First

January 24th, 2022

This evening, a NYS Supreme Court justice in Nassau county ruled in *Michael Demetriou et al v. NYS Department of Health et al* (616124/2021) that the State Department of Health did not properly follow state law when enacting section 2.60 of the health code, "Face Coverings for COVID-19 Prevention."

This means that the New York State Department of Health and local Boards of Education have illegally masked children, including two year old children, for at least the past five months.

In his decision, Judge Rademaker noted the good intentions of the policy in question, but ruled that the department exceeded its authority in enacting the statute, and as such it is null and void, and Judge Rademaker has permanently enjoined the state from enforcing it.

Western New York Students First is incredibly happy with this ruling. The rights of students and the proper obligation(s) of New York State officials have been clearly laid out.

We are aware that Governor Hochul has already said she will try and reverse the ruling. To Governor Hochul, we say "Enough is enough." Children in New York have suffered unprecedented losses during the pandemic. New Yorkers have seen the state's response to COVID devastate the access to education, mental health, confidence, and social skills of our students.

If Governor Hochul wishes to continue masking children, without legal authority and despite no sound scientific basis for doing so, she should encourage the legislature to give her that authority. For the first time in two years, the state legislature would have to have open hearings from the public on COVID policy, and the legislature would have the opportunity to serve their stated purpose.

We are encouraged that several brave school districts across the state have already rescinded their masking mandate. Smiles want to be seen.

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