



ALAN WILSON
ATTORNEY GENERAL

August 10, 2021

The Honorable Stephen K. Benjamin
1737 Main St.
Columbia, SC 29201

Dear Mayor Benjamin and Columbia City Council Members,

My office received a letter on Friday, August 6th from Senate President Peeler and House Speaker Lucas asking me to review City of Columbia Ordinance Number 2021-068 and Ordinance Number 2021-069, both of which you adopted on Thursday August 5th. As you know these ordinances require all faculty, staff, visitors and students over the age of two to wear facemasks in all buildings in public and private schools or daycares. The leaders of the General Assembly have reviewed the ordinances and believe them to be in conflict with state law as enacted through budget Proviso 1.108, adopted by both bodies and approved by the Governor.

It is the opinion of my office that these ordinances are in conflict with state law and should either be rescinded or amended. Otherwise, the city will be subject to appropriate legal actions to enjoin their enforcement. Encouragement of facemask wearing by city officials and even requirements for facemasks in city buildings and other facilities would not be in violation of the proviso. Also, parents, students, and school employees may choose to wear facemasks anywhere at any time.

My office has previously opined that budget provisos have the full force and effect of state law throughout the fiscal year for which a budget is adopted. Proviso 1.108 states:

No school district, or any of its schools, may use any funds appropriated or authorized pursuant to this act to require that its students and/or employees wear a facemask at any of its education facilities. This prohibition extends to the announcement or enforcement of any such policy.

While the proviso does not mention municipalities, it is clear from both a plain reading of its language and from the intent expressed by legislative leaders that the General Assembly does not believe that school students or employees should be subject to facemasks mandates. While we appreciate the efforts of city leaders around the state to protect their populace from the spread of the COVID-19 virus and variants of it, these efforts must conform to state law.

Please let my office know by the close of business Friday, August 13th what efforts city council will undertake to bring the city's facemask ordinances for schools into compliance with state law or if any further clarification is needed. As always, I appreciate your service to your community, and I look forward to working together on this and other matters of importance to the city and to South Carolina.

Sincerely,



Alan Wilson

CC: Councilman Sam Davis
Councilwoman Tameika Isaac Devine
Councilman Howard E. Duvall, Jr.
Councilman Edward H. McDowell, Jr.
Councilman Daniel J. Rickenmann
Councilman Will Brennan