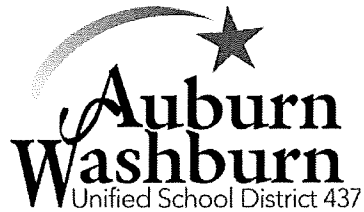

To: Auburn-Washburn Board of Education
From: Dr. Scott McWilliams, Superintendent of Schools
Subject: Response to 4/15/2021 Hearing with Mr. McIntosh
Date: April 19, 2021



Background Information

On April 13, 2021, Washburn Rural High School Parent Earl McIntosh emailed a formal request to the Board of Education to make facials masks optional but not required. I responded to Mr. McIntosh's email on April 13, 2021, to clarify his intent. He confirmed that he wanted to schedule a hearing based on his understanding of SB 40. The decision was made to schedule a hearing with Mr. McIntosh to provide him with the opportunity to speak, however, the Auburn-Washburn U.S.D. 437 Board of Education had not taken action in response to the disaster emergency related to COVID-19 health emergency within the last 30 days, as described in K.S.A. 2020 Supp. 48-924b and amendments thereto.

On April 15, 2021, a hearing was held with Board Subcommittee members Tom Bruno, Jacquie Lightcap, and Bryan Smith. Mr. Bruno served as the hearing officer. I attended the hearing as well and Kim Turner served as the recorder.

Response to 4/15/2021 Hearing with Mr. McIntosh

As Superintendent of Schools, it is my professional responsibility to provide a response to the Board of Education regarding the April 15, 2021, hearing. I offer the following three-part response.

Part I: Not Timely Submitted Under Senate Bill 40 (SB40)

SB40 states, "The bill provides that an employee, a student, or the parent or guardian of a student aggrieved by an action taken, order issued, or policy adopted by a local school board under the above provisions or by an action of an employee of a school district violating any such action, order, or policy may request a hearing by such board to contest the action within 30 days of the action, and such request shall not stay or enjoin the action, order, or policy."

On April 13, 2021, Mr. McIntosh formally requested "making masks optional at USD 437 effective as soon as possible."

The Board of Education approved "Facial Masks – students, staff, and visitors will be required to wear face coverings throughout the school day, at school-related activities, and on school buses" on July 27, 2020. Since July 27, 2020, 260 days had passed when Mr. McIntosh made his formal request on April 13, 2021. No Board action has been taken regarding facial masks since July 27, 2020. Therefore, Mr. McIntosh's request "to contest the action within 30 days of the action" was not timely submitted under Senate Bill 40.

Part II: Facial Masks

As documented in the Safely Forward in Auburn-Washburn Return to School Plan that the Board of Education approved on July 27, 2020, the two top priorities this school year have been 1) Safety, and 2) Teaching and Learning.

Safety – As a public school district, we closely monitor the data and guidance provided by medical and public health professionals. In July 2020, the Center for Disease Prevention and Control, Kansas Department of Health and Environment, Shawnee County Health Department, and Kansas State Department of Education recommended layering the following mitigation strategies to reduce the spread of COVID-19:

1. Temperature checks
2. Facial masks
3. Social distancing
4. Regular handwashing
5. Frequent disinfecting

Based on over twelve months of scientific and medical research, much more is known about the COVID-19 virus, COVID-19 transmission, COVID-19 variants, isolation and quarantining, vaccinations, and mitigation strategies today compared to July 2020. With this significant body of research currently available to medical and public health professionals, the consensus analysis of data by the Center for Disease Prevention and Control, Kansas Department of Health and Environment and Shawnee County Health Department is that facial masks work to reduce the spread of COVID-19. On April 13, 2021, the day Mr. McIntosh emailed a formal request to the Board of Education to make masks optional, the following information was posted on the websites of the above listed agencies as effective mitigation strategies:

- Center for Disease Prevention and Control (Attachment A)
- Kansas Department of Health and Environment (Attachment B)
- Shawnee County Health Department (Attachment C)
- Kansas State Department of Education (Attachment D)

Facial masks were recommended by medical and public health officials on July 27, 2020, when the Board of Education approved the Safely Forward in Auburn-Washburn – Return to School Plan that documented the following on page 2 of 33:

- Facial Masks – students, staff, and visitors will be required to wear face coverings throughout the school day, at school-related activities, and on school buses (Attachment E).

Teaching and Learning – In October, PreK – grade 6 students were able to attend school on-site and in-person every school day. In March, grade 7 – 12 students were able to attend school on-site and in-person every school day. Currently, approximately 90% of all enrolled students attend school on-site and in-person every school day because students, parents, and staff find tremendous value with on-site and in-person instruction compared to hybrid and remote learning models. There is academic and social-emotional value with being in school. The

Shawnee County Health Department sets rules and expectations for student quarantines for Shawnee County schools. Per the Shawnee County Health Department, "If there is a close contact in the classroom and both individuals (the positive case and the exposed individual) are wearing a facial mask correctly while maintaining at least 3-feet of distance for the entire duration of the close contact, in general the exposed individual(s) will not be placed into quarantine (Attachment F)." As stated above, the two top priorities this school year have been 1) Safety, and 2) Teaching and Learning. Wearing facial masks at school, specifically in classrooms, greatly reduces the number of students needing to quarantine and missing school.

Facial masks were not only recommended by medical and public health officials on July 27, 2020, but on April 13, 2021, when Mr. McIntosh emailed his request, based on over twelve months of scientific and medical research as documented in attachments A – D, facial masks continue to work to reduce the spread of COVID-19. In addition, when facial masks are worn in classrooms, it greatly reduces the number of student needing to quarantine and missing school.

Part III: Narrowly Tailored and Least Restrictive Means

Action taken by the Board of Education related to COVID-19 during the 2020-21 school year has been taken solely for the 2020-21 school year. The 2020-21 school year concludes for students on May 26, 2021. So, after the April 19, 2021, Board of Education meeting, there are 26 student school days remaining in the school year. Board decisions have been narrowly tailored to solely this school year. In this case specifically, for the remaining 26 days of school.

Facial masks work to reduce the spread of COVID-19, and when facial masks are worn at school in classrooms, it greatly reduces the number of student needing to quarantine and missing school. The following are viable facial mask options to consider:

- N95 mask with respirator
- N95 mask with respirator and full facial shield
- N95 mask without respirator
- N95 mask without respirator and full facial shield
- KN95 mask
- KN95 mask and full facial shield
- Double cloth mask
- Double cloth mask and full facial shield
- Two masks: a cloth mask and a disposable mask
- Two masks: a cloth mask and a disposable mask and a full facial shield
- Cloth mask with full facial shield
- Disposable mask with full facial shield
- Cloth mask
- Disposable mask

The least restrictive means to effectively cover the mouth and nose for the purpose of reducing the spread of COVID-19 is with a cloth or disposable mask and that is the approved expectation in Auburn-Washburn. When the 2020-21 school year began, the school district purchased and

gave each staff member and each student two cloth masks to wear. The school district also purchased thousands of disposable masks that are given to students, staff, and visitors when needed.

Appendix A

Center for Disease Prevention and Control

Center for Disease Prevention and Control
(cdc.org; 4/13/2021)

Prevention Strategies to Reduce Transmission of SARS-CoV-2 in Schools

Regardless of the level of community transmission, it is critical that schools use and layer prevention strategies. Five key prevention strategies are essential to safe delivery of in-person instruction and help to prevent COVID-19 transmission in schools:

- 1. Universal and correct use of masks**
2. Physical distancing
3. Handwashing and respiratory etiquette
4. Cleaning and maintaining healthy facilities
5. Contact tracing in combination with isolation and quarantine

Schools providing in-person instruction should prioritize two prevention strategies:

- 1. Universal and correct use of masks should be required**
2. Physical distancing should be maximized to the greatest extent possible.

All prevention strategies provide some level of protection, and layered strategies implemented at the same time provide the greatest level of protection. Schools should adopt prevention strategies to the largest extent practical—a layered approach is essential.

Appendix B

Kansas Department of Health and Environment

Kansas Department of Health and Environment
(kdhe.org; 4/13/2021)

How to Protect Yourself & Others: Stop the Spread, Kansas

Reduce Your Risk

The best way to prevent COVID-19 is to avoid being exposed to the virus. Take the following steps to minimize your risk:

- Stay home as much as possible.
- Wash hands frequently with soap and water for at least 20 seconds. If soap and water is not available, use hand sanitizer with at least 60% alcohol.
- Avoid touching your eyes, nose and mouth.
- Distance yourself from others when in public, especially if you are a senior or have a medical condition that puts you in a high-risk category.
- **Cover your mouth and nose with a cloth mask when in public.** Learn more about children and masks. KDHE recommends wearing a mask that fits snugly around the nose, mouth and chin and has multiple layers of fabric. Alternatively, a thinner disposable mask may be worn underneath a cloth face mask to improve the fit.
- Cover coughs and sneezes with an elbow or tissue. Throw the used tissue away and immediately wash your hands.
- Clean and disinfect frequently touched surfaces daily -- including phones, keyboards, doorknobs, handles and light switches -- with an EPA-registered disinfectant.

Appendix C

Shawnee County Health Department

MASK AND OTHER MITIGATION IN SCHOOLS.

MASKS WORK! (EFFICACY)

- Confusing information about masks made early in the pandemic stemmed from a lack of information about the modes of spread of the SARS-CoV-2 virus and the importance of asymptomatic carriers along with shortages of masks.
- We now know that the SARS-CoV-2 virus is spread by droplet and aerosol means
- We also know that spread of the virus by people without symptoms can account for over 50% of the spread (1)
- Now that the pandemic is over 1 year old the consensus analysis of the data by medical and public health professionals is that mask work to prevent the spread of COVID-19
- A recent article in The Journal of the American Medical Association (2) reviewed numerous studies looking at mask effectiveness and stated:
 - “Compelling data now demonstrate that community mask wearing is an effective nonpharmacologic intervention to reduce the spread of this infection, especially as source control to prevent spread from infected persons, but also as protection to reduce wearers’ exposure to infection.”
- The best protection from masks is when both are wearing masks properly. (3)

SCHOOL DATA

- Recent data from the CDC has shown that if proper mitigation methods are used there is minimal spread within the classroom.

- “These findings are consistent with other studies that have reported that despite high community SARS-CoV-2 transmission, schools that implemented multicomponent measures to reduce spread reported lower in-school transmission unless lapses in these measures occurred. (4)
- “Success in preventing the introduction of SARS-CoV-2 into schools depends upon controlling community transmission and adhering to mitigation measures in schools, particularly masking, physical distancing, testing, and increasing room air ventilation“(5)
- These studies and others were what has led to the safe reopening of schools for in-person education.

QUARANTINE

- Isolation and Quarantine rules are still determined by the Local Health Officer.
- Data has shown that in a classroom setting if both students are wearing face masks properly and one tests positive for COVID-19 then the other student does not need to quarantine. (4)
- In the case of Shawnee County quarantine decisions within the classroom have followed this.
- If a student without a mask tests positive, then the other student(s) will be subjected to quarantine rules. This can result in a hardship for the family of those students now placed in quarantine.
- This defeats the purpose of in-person education if more students in quarantine

VARIANTS

- Variants of the original SARS-CoV-2 virus have been spreading throughout the country

- We now have four variants documented in Kansas and one in Shawnee County: B.1.1.7, B.1.351, B.1.429, P.1
- There will be more variants occurring in the county soon
- These variants are more transmissible and can cause more severe disease
- There has been growing evidence that the variants affect children more readily.
- We still do not know if these variants will cause more severe illness in children but there is a good likelihood.
- Throughout the US we are seeing increased numbers of cases in children most likely due to the variants
 - An outbreak of the coronavirus in Carver County, Minn., driven by the B.1.1.7 variant (the variant in Shawnee County) caused interlinked cases spanning all levels of K-12 schools, from elementary to high school, and 18 hockey, four basketball, three lacrosse and one soccer teams.
 - In Michigan, cases among those ages 10 to 19 have jumped 133 percent during the past month, faster than any other age group, and the state's leading epidemiologist said the infections seem to have been spread through activities "including sports, but not limited to sports," rather than in the classroom.
 - At a briefing on 4/5/21 Rochelle Walensky, director of the Centers for Disease Control and Prevention, stated many of these outbreaks involving young people "are related to youth sports and extracurricular activities."
- In our county we have already begun to see higher percentage of children with positive cases and higher percent positivity rates.
- Continuing the current mitigation efforts that schools have used since the school year started must be maintained if we are to continue to keep schools open in face of these variants.

- The schools have been using these mitigations for the entire school year with no significant difficulty to students.

REFERENCES

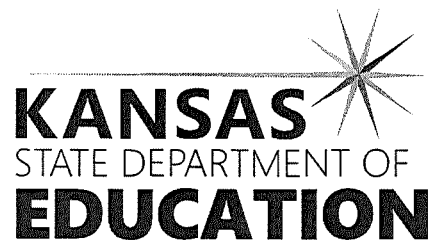
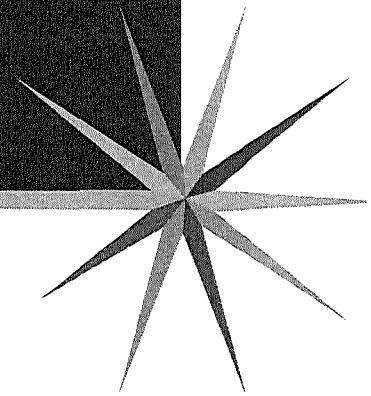
- 1) *SARS-CoV-2 Transmission From People Without COVID-19 Symptoms ; Johansson et al.; JAMA Network Open. 2021;4(1):e2035057. doi:10.1001/jamanetworkopen.2020.35057*
- 2) *Effectiveness of Mask Wearing to Control Community Spread of SARS-CoV-2; Brooks, Butler; JAMA Published online February 10, 2021*
- 3) *Maximizing Fit for Cloth and Medical Procedure Masks to Improve Performance and Reduce SARS-CoV-2 Transmission and Exposure, 2021; MMWR, February 10,2021; Vol 70*
- 4) *Pilot Investigation of SARS-CoV-2 Secondary Transmission in Kindergarten Through Grade 12 Schools Implementing Mitigation Strategies — St. Louis County and City of Springfield, Missouri, December 2020; MMWR, March 19,2021; Vol 70*
- 5) *COVID-19 in Primary and Secondary School Settings During the First Semester of School Reopening — Florida, August–December 2020; MMWR, March 19 2021; Vol 70*

Appendix D

Kansas State Department of Education

Navigating Change:

KANSAS' GUIDE TO LEARNING AND
SCHOOL SAFETY OPERATIONS



Kansas leads the world in the success of each student.

Wearing Masks, Cloth Face Coverings and other

- Best practices suggests that visitors, staff, and students should be required to wear masks or cloth face coverings while inside school facilities unless it inhibits the person's ability to perform his or her job, inhibits a student's ability to participate in the educational process or is disruptive to the educational environment.
- Masks or cloth face coverings are also recommended outside when social distancing is not possible.
- Masks or cloth face coverings should be required anytime social distancing and cohorting cannot be maintained. Face shields may be added, but are not a replacement for masks.

Adopt Hygiene Measures

- All people are required to wash hands when they come to school and every hour.
- Teach and reinforce hand-washing with soap and water for at least 20 seconds, and increase monitoring to ensure adherence among students and staff.
 - If soap and water are not readily available, hand sanitizer that contains at least 60% alcohol can be used (for staff and older children who can safely use hand sanitizer).
 - Place hand hygiene stations at the entrances of the building.
- Encourage staff and students to practice social distancing whenever possible. Social distancing is defined as physical separation of a minimum of 6 feet or a minimum of 3 feet in a regular classroom setting.
- Encourage students and employees to sanitize their backpacks and personal items at the beginning and end of the day and separate personal items into cubbies or baskets that are not shared with other students. Do not allow students to share lockers.
- Encourage staff and students to cover coughs and sneezes with a tissue. Used tissues should be thrown in the trash, and hands should be washed immediately with soap and water for at least 20 seconds.
- Encourage classes and employees to create their own hand signals to replace shaking hands, hugging or giving high-fives.
- Make sure that disinfectant and related supplies are available to all employees close to their workstations.
- Post signs at all entrances informing all who enter that they must:
 - a. Not enter if they have a cough or fever.
 - b. Maintain a minimum 3 feet of distance in a regular classroom setting and a minimum of 6 feet in any other school area.
 - c. Not shake hands or engage in any unnecessary physical contact.
- Post signs in highly visible locations (e.g., school entrances, restrooms) that promote everyday protective measures and describe how to stop the spread of germs (such as by properly washing hands and properly wearing a mask or cloth face covering).
- Post signs in bathrooms with directions on how to effectively wash hands.
- Include messages about behaviors that prevent the spread of COVID-19 when communicating with staff and families (such as on school websites, in emails, and on school social media accounts).

- Employee handbooks and student handbooks should include information on how to recognize the signs of infection and directives not to come to school if sick.

Considerations for nurse/health personnel

- Inventory and request necessary supplies for the health room and other building use. Examples: Personal Protective Equipment (PPE) - gloves, masks, face shields, gowns; touch-free thermometers; and sanitizers/cleanser, hand soap, tissues.
- Make sure, at minimum, surgical masks are available for health room staff members; any employee working with a medically fragile child; and any person exhibiting symptoms.
- A surgical mask plus face shield can be used during an interaction with students/staff that will likely aerosolize droplets. N95 masks should only be used by personnel who have been fit tested and as part of an established respiratory health program.
- Review health office/facility to minimize infection. Examples:
 - Provide a separate room for students/staff who might have COVID-19 or other communicable disease and are waiting for pickup. The room needs to be disinfected frequently and restricted to authorized staff and students.
 - Determine if an area separate from the nurse's office is necessary to care for students that need suctioning, tube feeding and nebulizers to minimize contact with potentially ill children.
 - Ensure furniture and other surfaces can be easily disinfected.
 - Ensure trash cans and other receptacles are no-touch.

Appendix E

Safely Forward in Auburn-Washburn Plan

One-Page Executive Summary

There are two documents that have been prepared for both staff and parents that provide valuable information about the 2020-21 school year. Both documents will be posted on the Auburn-Washburn School District website and can be reviewed at any time as we proceed through the school year. Each document will be “live and active” meaning updates and additions will continue to be made. COVID-19 creates an ever-changing environment so flexibility will be key as we navigate through the school year.

When planning for the 2020-21 school year, our two top priorities have been:

- Safety – To implement safety precautions necessary to keep students, educators, and community members as safe as possible at school and school-related activities.
- Teaching and Learning – To provide effective instruction to ensure each student is learning and being supported regardless of the learning environment (Phase 3: On-site, Phase 2: Hybrid, Phase 1: Remote).

This document, **Safely Forward in Auburn-Washburn – Return to School Plan**, provides a broad overview of the three Phases of Education we have planned as well as the safety precautions that will be in place to begin the school year. Here is a quick summary of those precautions:

- Temperature Checks – students, staff, and visitors will have their temperatures checked before entering a school for the first time each day.
- Social Distancing – During the school day, individuals shall maintain six feet of distance from other individuals with only infrequent or incidental moments of closer proximity.
- Facial Masks – students, staff, and visitors will be required to wear face coverings throughout the school day, at school-related activities, and on school buses.
- Hand Washing / Sanitizing – students will wash or sanitize their hands at regular intervals throughout the school day and no less than once every hour.
- Cleaning and Disinfecting – during the school day, common spaces and high traffic areas will be continuously disinfected, classrooms and restrooms will be thoroughly disinfected each night with an electrostatic misting system and buses will be disinfected after every route with an electrostatic misting system.

More detailed and building-specific safety procedures and routines will be shared by building principals prior to the start of the school year.

A second document, **Moving Teaching and Learning Safely Forward – A Plan to Responsibly Keep Learning in the Age of COVID-19**, provides information on Auburn-Washburn learning objectives, key points on instructional strategies and technology integration for each Phase of Education, and student expectations and accountability measures. [Click here to access the document.](#)

More detailed and grade level-specific (elementary) and course-specific (secondary) information will be provided by teachers once they have returned to school and received the appropriate professional development to accommodate each Phase of Education.



Appendix F

Shawnee County Health Department Quarantine Modification in the School Setting



Public Health
Prevent. Promote. Protect.

Shawnee County Health Department

Shawnee County Health Department
Teresa Fisher, Interim Director
2600 SW East Circle Dr., Topeka, KS 66606
Ph. 785.251.5600 | Fax 785.251.5696
www.shawneehealth.org

Close Contact Quarantine Modification in the School Setting – Shawnee County K - 12 Schools ONLY

Close contact is defined as any individual who was within 6 feet of an infected person for at least 10 minutes starting 2 days before illness onset or, for asymptomatic individuals, 2 days prior to positive specimen collection. The best approach for prevention of COVID-19 transmission continues to be wearing a mask and maintaining social distancing of 6 feet at all times. However, there are instances when a close contact may occur within a school. In those cases, appropriate isolation or quarantine precautions need to be taken. Based on a review of data from scientific studies and information obtained from SNCO schools over the past 4 to 5 months, and based on the [CDC Operational Strategy for K-12 schools](#)¹, we are implementing a close contact follow-up modification for **K-12 students in Shawnee County**. The modification exists as follows:

²Per the [CDC's Core principle for physical distancing](#): Establish school policies and implement structural interventions to promote physical distance between people.

Between students in classrooms

- In elementary schools, students should be at least 3 feet apart.
- In middle schools and high schools, students should be at least 3 feet apart in areas of low, moderate, or substantial community transmission. In areas of high community transmission, middle and high school students should be 6 feet apart if cohorting is not possible.

Maintain 6 feet of distance in the following settings:

- Between adults (teachers and staff), and between adults and students, at all times in the school building. Several studies have found that transmission between staff is more common than transmission between students and staff, and among students, in schools.¹
- When masks cannot be worn, such as when eating.
- During activities when increased exhalation occurs, such as singing, shouting, band, or sports and exercise. Move these activities outdoors or to large, well-ventilated space, when possible.
- In common areas such as school lobbies and auditoriums.

"If there is a close contact **in the classroom** and both individuals (the positive case and the exposed individual) are wearing a mask **correctly** while maintaining at least 3-feet of distance for the entire duration of the close contact, in general the exposed individual(s) will not be placed into quarantine. Each case/situation will continue to be evaluated on a case by case basis, through collaboration with the school(s)/district POC and SCHD."

This close contact modified quarantine guidance does not include close contact situations that occur during athletic and other school sponsored events. It also only applies to situations where there is at least one child/student involved. Adult to adult contact should continue to follow the 6-foot social distancing mitigation strategy. Symptomatic individuals and individuals who test positive for COVID-19 must continue to adhere to the isolation guidelines they receive from the health department.

1. CDC updates operational strategy for K-12 schools to reflect new evidence on physical distance in classrooms. (2021, March 19). Retrieved March 23, 2021, from <https://www.cdc.gov/media/releases/2021/p0319-new-evidence-classroom-physical-distance.html>
2. Operational strategy for k-12 schools through phased prevention. (n.d.). Retrieved March 23, 2021, from <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/operation-strategy.html>

Created 10-20-2020; Revised 12-11-20; Revised 2-26-21; Revised 3-23-21

Healthy People – Healthy Environment – Healthy Shawnee County