

**CORNERSTONE LAW FIRM, LLC**

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STEVE D. WILSON and JACQUELINE L.  
BRIDGES,

Plaintiffs,

v.

BOARD OF SCHOOL DIRECTORS OF  
KUTZTOWN AREA SCHOOL  
DISTRICT, KARL H. NOLTE, III,  
RANDY T. BURCH, MICHELLE R.  
BATZ, ALAN J. DARION, MICHAEL J.  
HESS, ERIC F. JOHNSON, CAECILIA  
HOLT, DENNIS S. RITTER, CHARLES  
N. SHURR, JR., and CHRISTIAN  
TEMCHATIN.

Defendants.

COURT OF COMMON PLEAS OF  
BERKS COUNTY, PENNSYLVANIA

CIVIL-ACTION—MANDAMUS AND  
INJUNCTION

Docket No.:

JURY TRIAL OF 12 DEMANDED

**COMPLAINT**

NOW COMES, Plaintiffs, by and through counsel, who hereby submits this Complaint and states the following:

**PARTIES**

1. Plaintiff, Steve D. Wilson, is a resident and taxpayer of Maxatawny Township, with a mailing address of [REDACTED].
2. Plaintiff, Jacqueline L. Bridges, is a resident and taxpayer of the Borough of Kutztown, with a mailing address of [REDACTED].
3. Defendant, Board of School Directors of Kutztown Area School District (the “School Board” or “Board”), is a school board constituted under 24 P.S. § 3-301 for a third-class public

school district comprised of all lands within the municipal boundaries of Kutztown, Lenhartsville, and Lyons boroughs and Albany, Greenwich, and Maxatawny townships.

4. The School Board's official address is 251 Long Lane Road, Kutztown, PA 19530-9722.

5. The following Defendants are school directors of the School Board (the "School Directors"): Karl H. Nolte, III, Randy T. Burch, Michelle R. Batz, Alan J. Darion, Michael J. Hess, Eric F. Johnson, Caecilia Holt, Dennis S. Ritter, and Charles N. Shurr, Jr.

6. Darion, Hess, and Holt are residents of the Borough of Kutztown.

7. Burch and Johnson are residents of Maxatawny Township.

8. Ritter is a resident of the Borough of Lyons.

9. Nolte, Batz, and Shurr are residents of Greenwich Township.

10. Defendant, Christian Temchatin, is the Superintendent of the Kutztown Area School District and an ex officio member of the School Board.

#### **GROUND FOR RELIEF**

11. On August 31, 2021, the Acting Secretary of the Pennsylvania Department of Health issued an Order, Directing Face Coverings in School Entities, which took effect on September 7, 2021 (the "Health Order") [**Exhibit A**].

12. The School Directors of the Kutztown Area School District used the Health Order as a pretext for hiding from parents and voters by conducting virtual meetings, thereby thwarting public expression and participation and facilitating controversial policy proposals — such as a mandatory COVID-19 vaccination mandate for teachers, staff, and employees — while avoiding any conversation or even the sight of their constituents face-to-face. The School Board is holding these virtual meetings illegally and the School Directors have ignored requests to explain the legality of these actions.

13. At all relevant times, the School Board had the ability to hold in-person public meetings that simultaneously complied with the Health Order and the Sunshine Act, 65 Pa.C.S. § 701 et seq., including by either (a) convening at a public venue, where facemasks are not required, other than a “School Entity” under the Health Order, or (b) convening on school property but having law enforcement officers escort off the premises any public attendee who refused to wear a facemask and, if necessary, arrest if refusing to obey an order to leave.

14. Plaintiffs believe very strongly in civic participation and the value and effectiveness of being heard through face-to-face interaction with public officials and, therefore, are appalled and aggrieved by the Defendants’ non-compliance with the Sunshine Act as alleged herein.

15. Steve D. Wilson, in particular, for approximately 16 years served as a member of the Maxatawny Township Municipal Authority and has firsthand experience with public meetings filled with passionate, angry, or contentious constituents, and has never previously learned of a local agency, such as the Board of School Directors of the Kutztown Area School District, resort to such pretexts to avoid those who are supposed to be served.

16. Jacqueline L. Bridges, in particular, is an advocate against Critical Race Theory and educational equity, and has for some time repeatedly asked the School Board to abolish any policies or curricula predicated on those concepts.

**I. The Decision to Switch to Virtual Meetings and the COVID-19 Vaccination Mandate.**

17. On September 13, 2021, Jacqueline L. Bridges attended the School Board’s public meeting for the Policy/Curriculum Committee at the Kutztown Area Middle School (the “Middle School”).

18. During the same meeting, many public attendees did not have face coverings. At the request of School Directors who were present, Mrs. Bridges was provided with a face covering and she wore it. Certain other attendees, however, refused to wear a face covering and the School

Directors, who were present, adjourned without conducting any regular business.

19. Following the September 13th Policy/Curriculum Committee meeting, the School Board disclosed on its Web site, “Kutztown Area School District announces the School Board Meeting scheduled for Monday, September 20, 2021 will be fully virtual. Links for attendance and participation for community members will be available on the district’s website (below),” which provided a hyperlink for residents to use that online platform called Zoom.

20. On September 17, 2021, the following notice appeared in the *Reading Eagle*, “Kutztown Area School District announces the School Board Meeting scheduled for Monday, September 20, 2021 will be fully virtual. There will be no in-person attendance available. Links for attendance and participation for community members will be available on the district’s website at <https://www.kasd.org/Page/68>.” A copy of the foregoing is provided in **Exhibit B**.

21. The September 20, 2021 “virtual” meeting was uploaded onto YouTube and can be viewed at the following hyperlink: <https://www.youtube.com/watch?v=tSjkJmMGuMk>

22. During the School Board’s “virtual” meeting held on September 20, 2021, School Board President Karl H. Nolte, III stated in substance, “There was an Executive Session prior to the meeting to discuss legal and personnel items, as well as there was an Executive Session on the Policy / Curriculum Committee meeting, on the previous Monday, September 13th, to discuss legal matters.”

23. During the same meeting, Nolte discussed the Health Order and stated in substance:

On Monday, September 13th, at the Policy/Curriculum committee meeting, there were members of the community in attendance that were not wearing face coverings. Face coverings were provided by the District, and community members would still not adhere to the Order signed by the Pennsylvania Secretary of Health. Ultimately, the meeting was adjourned without any business being completed. After consultation with the School District’s solicitors, **Board leadership** determined that the best course of action [for the next School Board meeting] was to conduct a virtual meeting to allow the whole Board to deliberate on this topic

with public participation, while adhering to the Health Order. The Order requiring face coverings, signed by the Acting Secretary of Health, is a legal order until it is proven otherwise.

[Emphasis added].

24. During the same meeting, Nolte stated in substance, “I’d like to be clear, the discussion for the Board this evening is not regarding the mask wearing and the effectiveness of masks to reduce the spread of COVID-19 in the school building. The discussion this evening for the Board would be the necessary steps required for compliance with the Health Order issued by the Acting Secretary of Health of Pennsylvania for upcoming School Board meetings.”

25. During the same meeting, the Board then unanimously passed a motion under School Board Policy 003, to suspend Board Policy 006.1 and to authorize the use of a virtual meeting platform for the conduct of the same September 20, 2021 meeting, having been advertised in a general newspaper.

26. During the same meeting, the Board held discussion on a motion to continue with a virtual School Board meeting for October 4, 2021. During the discussion of that motion, School Director Nolte mentioned, in substance, that if another in-person School Board meeting was held and if attendees from the public refused to wear face masks during that meeting, then the Board would be compelled to adjourn unless there were alternatives.

27. While deliberating the same motion, School Director Dennis Ritter of Lyons Borough stated in substance:

[A]t this point I just don’t trust folks to be forthright about whether they’re going to wear masks or not. I was very disheartened at the behavior at our last meeting and the failure to even try to understand the situation we are in as members of the Board and our families by extension.” He later added, “Some members of the community have indicated a lack of trust of the district, at this point I have some lack of trust of them — some of those folks.

28. While deliberating the same motion, School Director Michelle R. Batz of Greenwich

Township stated in substance:

[T]here's definitely a disadvantage to being virtual because it's harder to have some of the dialogue that we necessarily need to have. I think — I don't know if others feel it but definitely some Zoom fatigue because I'm on zooms all day long at work. It just becomes nice to be able to have those in-person dialogues so I think if there is a way for us to move forward that doesn't put liability at risk on the District, we need to figure out what that way is. Because I think being in person is certainly the more favorable way for meeting.

29. While deliberating the same motion, Nolte stated in substance it was unfortunate to burden the community because of “a few folks that may not decide” they want to wear face coverings during the September 13th School Board meeting.

30. While deliberating the same motion, the School Directors discussed potential alternatives to holding public meetings in-person, including social distancing (minimum of six feet) and signed waivers by public attendees who declined to wear face masks.

31. While deliberating the same motion, School Director Randy Burch, a member of the Pennsylvania bar in good standing, stated in substance that if the School Board was confronted with attendees who won't comply with the Health Order then “we're put in a very difficult position of having to either cancel and adjourn the meeting or have that person declared a trespasser and removed, and that's something I don't think we want to do as a district if we don't have to . . .”

32. Nothing during that same Board meeting indicated a serious consideration of the alternatives of holding School Board meetings at venues other than a “School Entity” as defined under Section 1 of the Health Order or of having law enforcement officers escort attendees from the premises if refusing to wear a face covering and, if necessary, arrest if refusing to obey an order to leave.

33. Nothing in the statutory law requires School Board meetings to be held on the premises of any property owned by the Kutztown Area School District. See, e.g., 24 P.S. § 4-421. Under School

Board Policy 006, “Regular Board meetings shall be public and shall be held at specific places at least once every two (2) months.” [Exhibit D at 2].

34. While deliberating the same motion, School Director Eric Johnson explored the benefits of holding an in-person meeting to see if the public will comply with the Health Order, “if it results in a meeting being cancelled” then “I would argue at least we tried.” Johnson later added that the persons refusing to wear face masks during the September 13th Policy / Curriculum Committee meeting were “a really small percentage of the overall group.”

35. During the same meeting, the foregoing motion to continue the virtual meeting for October 4, 2021 passed by a vote of 7-to-2.

36. After voting to continue the virtual meeting, the Board then considered public comments.

37. Superintendent Temchatin had unfettered discretion to determine the order of who was permitted to speak with Zoom capability—and the first persons to speak were Jennifer Hatch and Erin Fenstermacher.

38. Jennifer Hatch is an administrator or moderator of the Facebook Group, KOFEE (Kutztown Organized for Educational Excellence), which supports educational equity and endorsed several of the incumbent School Directors, Hess, Nolte, Shurr, and Batz, for the November 2, 2021 Municipal Election.

39. During the same School Board meeting, Hatch and Fenstermacher expressed their approval of educational equity.

40. Fenstermacher also stated (through written comments) that public attendees who refuse to wear face masks during School Board meetings can and should be asked to leave and removed as trespassers by police officers if they won’t comply.

41. During the public comments, Carrie Wessner, a member of the public, expressed her

disapproval of the Board's decision to hold virtual meetings and indicated, in her opinion, a majority of public attendees would wear the masks "because we would like to have our voices heard at the meetings face-to-face with you guys." Wessner also indicated that the School Board had nearly an entire year as a history of public attendees who complied with facemasking.

42. It came out during the meeting there were two "chat rooms" where public attendees could post comments, and Temchatin was selectively copying and pasting comments from one into the other.

43. During the same meeting — and after closing the public comment section — School Director Alan J. Darion of Kutztown Borough then introduced a controversial motion to add to the agenda at the next School Board meeting a proposal for compulsory COVID-19 vaccination of teachers, staff, and volunteers, if having substantial contact with children. During the same meeting, Darion stated in substance, "My point is, choosing to not get vaccinated is not truly a personal choice. People who come into a school building, who are not vaccinated, have also made that choice for every kid they have contact with." He also stated that a vaccination mandate is "the only way" to protect children under the age of 12.

44. The School Board deliberated Darion's motion and, during the same meeting, School Director Michelle R. Batz of Greenwich Township stated in substance, "There's a lot of evidence that, even when you're vaccinated, you can still carry and infect people," noting that COVID-19 vaccines do not have long-term data like others. She added, "There's a lot of unknowns. I feel like that's not our decision to make for people."

45. During the same meeting, the foregoing motion by Darion passed by a vote of 7-to-2.

46. Under School Board Policy 003, a proposed policy or procedure must have "been proposed at a previous Board meeting and has remained on the agenda of such succeeding Board meeting



until approved or rejected.” [Exhibit C].

47. Based on the foregoing, the public was denied opportunity for public comment on a new proposal for compulsory COVID-19 vaccination of teachers, staff, and volunteers as a condition precedent to adoption by the School Board.

48. Plaintiffs were deprived of their rights to be physically present during a public meeting of the School Board on September 20, 2021 and, on information and belief, will be deprived of such rights for the School Board’s October 4, 2021 “virtual” meetings and any subsequent “virtual” meetings held by the School Board.

## **II. No Statutory Authority for Virtual Meetings.**

49. Fully recognizing that the Sunshine Act, 65 Pa.C.S. § 701, did not authorize virtual meetings, the General Assembly enacted and, on April 20, 2020, Governor Tom Wolf signed into law Act 15 of 2020 (“Act 15”).

50. Section 1.1 of Act 15 added 35 Pa.C.S.A. § 5741 (“Response to COVID-19 Disaster Emergency”). It authorized local governments to “conduct hearings, meetings, proceedings or other business through the use of an authorized telecommunications device until the expiration or termination of the COVID-19 disaster emergency.” 35 Pa.C.S. § 5741(a). Section 5741 makes express, “This section shall apply to COVID-19 disaster emergency,” id. § 5741(h), and “This section shall expire when the COVID-19 disaster emergency terminates or expires,” id. § 5741(i).

51. A “COVID-19 disaster emergency” means, “The duration of the proclamation of disaster emergency by the Governor on March 6, 2020 published at 50 Pa.B. 1644 (March 21, 2020) and any renewal of the state of disaster emergency.” Id. § 5701.

52. During a Special Election on May 18, 2021, a majority of Pennsylvania electors duly passed ballot questions for the purpose of amending the Constitution of Pennsylvania, namely, by

amending Article III, Section 9 and by adding Article IV, Section 20.

53. Under the foregoing constitutional amendments, a disaster emergency declaration “shall be in effect for no more than twenty-one (21) days, unless otherwise extended in whole or part by concurrent resolution of the General Assembly,” Pa. Const., art. IV, § 20, and any resolution of the General Assembly for the “termination or extension of a disaster emergency declaration as declared by an executive order or proclamation” is excepted from any presentment to the Governor for approval or disapproval, Pa. Const., art. III, § 9.

54. Under the Emergency Management Services Code, “The General Assembly by concurrent resolution may terminate a state of disaster emergency at any time.” 35 Pa.C.S. § 7301(c).

55. The General Assembly passed a Concurrent Resolution, “That the General Assembly, in accordance with its authority, hereby terminates the disaster emergency declared on March 6, 2020, as amended and renewed, in response to COVID-19,” and published such on June 19, 2021 in Volume 51, No. 25, of the *Pennsylvania Bulletin* at 51 Pa. B. 3336 (June 19, 2021) [**Exhibit F**].

56. Based on the foregoing, 35 Pa.C.S. § 5741 expired on June 19, 2021, and provides no authority to the School Board to conduct virtual meetings.

### **III. The School Board Did Not Follow Its Own Rules or the Sunshine Act.**

57. The School Board’s Policy Manual does not contain any policy or procedure for virtual meetings nor does the Sunshine Act authorize such a policy. Neither did the School Board adhere to its procedures for the adoption of a policy for virtual meetings of the School Board.

58. Under School Board Policy 006.1, “A Board member shall be able to attend a Board meeting, and participate in Board deliberations and voting, through electronic communications, but only under extraordinary circumstances,” and, “A majority of Board members shall be physically present at a Board meeting when a Board member attends through electronic

communications.” [Exhibit E].

59. School Board Policy 006.1 reduces to writing the holding by our Supreme Court of Pennsylvania in Babac v. Pennsylvania Milk Marketing Bd., 613 A.2d 551 (Pa. 1992), where it was held that a public official — attending by telephone speaker — did not violate the Sunshine Act provided that “the absent members are able to hear the comments of and speak to all those present at the meeting and all those present at the meeting are able to hear the comments of and speak to such absent members contemporaneously.” Id. at 553.

60. Where the Sunshine Act provides, “The General Assembly finds that the right of the public to be present at all meetings of agencies and to witness the deliberation, policy formation and decisionmaking of agencies is vital to the enhancement and proper functioning of the democratic process and that secrecy in public affairs undermines the faith of the public in government and the public’s effectiveness in fulfilling its role in a democratic society,” 65 Pa.C.S. § 702(a), the *Babac* Court noted, “In other words, the statute gives *the public* the right to be present to personally observe the deliberation, policy formation and decisionmaking process of agencies. It does not mandate that Board members be physically present at such meetings.” Babac, 613 A.2d at 553 n.4 (emphasis added).

61. Under School Board Policy 006, a vote of two-thirds of the School Board is needed for “[a]dopting, amending or repealing a Board procedure.” [Exhibit D at 3]. And, under School Board Policy 003, a proposed policy or procedure must have “been proposed at a previous Board meeting and has remained on the agenda of such succeeding Board meeting until approved or rejected.” [Exhibit C]. The aforementioned procedures were not followed by the School Board in switching to “virtual” meetings.

62. There was no emergency on September 20, 2021 as defined by Policy 003 and where more

than two weeks had lapsed since September 13th and the School Board had the option of either (a) convening at a public venue, where facemasks are not required, other than a “School Entity” under the Health Order, or (b) convening on school property but having law enforcement officers escort off the premises any public attendee who refused to wear a facemask and, if necessary, arrest if refusing to obey an order to leave.

**IV. Continuing Violations; Willful and Wantonness.**

63. On September 27, 2021, Mrs. Shawnee Wilson submitted an e-mail to the School Directors, “I am attempting to ascertain, under what authority your school board can institute online-only meetings?” Mrs. Wilson then quoted Section 704 of the Sunshine Act and from School Board Policy 006.1, and pointed out, “Pennsylvania is no longer under a State of Emergency for Covid-19, so I fail to see what ‘extraordinary circumstances’ exist that would allow you to bar citizens from a meeting that you are required to hold in person.”

64. Nolte replied by e-mail dated September 28, 2021, referencing his above-noted statements from the September 20, 2021 “virtual” meeting of the School Board.

65. On information and belief, the Defendants will continue to foregoing violations even during the pendency of the instant action, thereby evidencing a willful or wanton disregard of the provisions of the Sunshine Act.

**WHEREFORE**, Plaintiffs requests judgment in their favor and against Defendants as follows:

(A) Preliminarily enjoin the Defendants under 65 Pa.C.S. § 713 and, after affording the parties an opportunity to be heard in accordance with law, finally enjoin Defendants from holding virtual meetings for official action in the absence of statutory authority; or, alternatively, that after a jury trial the peremptory writ of mandamus shall issue, compelling Defendants to hold public, in-person

meetings for official action in accordance with the Sunshine Act.

(B) Declare that all official action taken on September 20, 2021 is invalid, including the motion to place on the next monthly School Board agenda a proposal for compulsory COVID-19 vaccination of teachers, staff, and volunteers having substantial contact with children.

(C) Declare that all official action taken at any virtual meeting held during the pendency of this action is invalid, including any official action taken on October 4, 2021.

(D) Declare that the authority of Defendants to hold virtual meetings under 35 Pa.C.S. § 5741 expired upon the General Assembly's concurrent resolution published on June 19, 2021.

(E) Find that the Defendants acted willfully or with wanton disregard of the Sunshine Act and aware Plaintiffs reasonable attorneys' fees and costs of litigation.

(F) Such as other relief as is necessary, just, or appropriate.

Respectfully submitted,

**CORNERSTONE LAW FIRM, LLC**



Dated: October 1, 2021

By: \_\_\_\_\_

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Exhibit A

Exhibit A

## Order of the Acting Secretary of the Pennsylvania Department of Health Directing Face Coverings in School Entities

The 2019 novel coronavirus (COVID-19) is a contagious disease that continues spreading rapidly from person to person in the world, the United States, and this Commonwealth. Despite periods of time when the virus seemed to wane, it, like all viruses, has continued to mutate, and spread. As of the date of this Order, there have been 1,300,368 cases and 28,235 deaths in this Commonwealth caused by the still present and ongoing pandemic. At this time, the Centers for Disease Control and Prevention (CDC) estimates that the Delta variant is the predominant strain in the Commonwealth. COVID-19 can be transmitted from any person who is infected, even if they have no symptoms and, with the Delta variant, even if they have been vaccinated.<sup>1</sup> Symptoms of COVID-19 may include fever or chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or diarrhea. Older adults and people who have serious chronic medical conditions were considered to be at higher risk for serious illness. Now, because of the rise of the Delta variant, increasing disease and hospitalizations, and the inability to obtain vaccines for a large part of that vulnerable group, children are more and more at risk.

There are several reasons for the increasing risk to children from COVID-19. The risk overall to the unvaccinated population is rising. Given the rise in hospitalizations and deaths, and despite COVID-19 vaccines being available, the Delta variant of the SARS-CoV-2 virus is causing the rate of cases of COVID-19 to increase.<sup>2</sup> The Delta variant is more infectious, and it is leading to increased transmissibility.<sup>3</sup> Additionally, data is suggesting that the Delta variant may cause more severe illness than previous strains of SARS-CoV-2.<sup>4</sup> Vaccination remains the most effective protection against all strains of SARS-CoV-2; however, not all of our population is able to get vaccinated. As of yet, no vaccine has been approved for children under the age of 12. As of August 26, 2021, the total number of cumulative cases reported in children in the Commonwealth was 23,974 in the 0-4 years of age cohort, 56,039 in the 5-12 years of age cohort, and 88,205 in the 12-18 years of age cohort.

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<sup>1</sup> Outbreak of SARS-CoV-2 Infections, Including COVID-19 Vaccine Breakthrough Infections, Associated with Large Public Gatherings — Barnstable County, Massachusetts, July 2021, *Weekly* / August 6, 2021 / 70(31);1059-1062 (last visited, August 26, 2021); Key Things to Know About COVID-19 Vaccines, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/keythingstoknow.html> (Updated August 19, 2021) (last visited August 26, 2021).

<sup>2</sup> Delta Variant: What we Know about the Science, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html> (last visited Aug. 9, 2021); Rachel Herlihy, *et al.*, “Rapid Increase in Circulation of SARS-CoV-2 B.1.617.2 (Delta) Variant,” Aug. 6, 2021, CDC, [https://www.cdc.gov/mmwr/volumes/70/wr/mm7032e2.htm?s\\_cid=mm7032e2\\_w](https://www.cdc.gov/mmwr/volumes/70/wr/mm7032e2.htm?s_cid=mm7032e2_w) (last visited Aug. 9, 2021); Megan Scudellari, “How the Coronavirus Infects Cells – and Why Delta is so Dangerous,” *Nature*, <https://www.nature.com/articles/d41586-021-02039-y> (last visited Aug. 11, 2021).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

In addition to the concern that COVID-19 spreads quickly and dangerously among children, there are concerns that school closures create health issues for children, too. Maintaining in-person instruction at schools is imperative, since it has also been shown that in-person instruction and socialization are necessary for the health and well-being of our children.<sup>567</sup> In view of this serious concern for our nation's children, the CDC has issued a strong recommendation for masking of all persons, teachers, students and staff, within the nation's schools, regardless of vaccination status, to create a multi-layered approach for fighting COVID and to keep our schools open for in-person education. In addition, the American Academy of Pediatrics (AAP) has also strongly recommended masking in schools. Finally, recent studies have shown that mask-wearing in schools has contributed to lower levels of COVID-19 transmission among students and staff and allowed for the continued in-person attendance.<sup>8</sup> Requiring face coverings in schools, therefore, balances the concerns for the mental health of our children with the need to protect them against a disease that is growing more virulent as we struggle to protect the most vulnerable members of our population. In accordance with the recommendations of the CDC and the AAP and based upon the rising case numbers and hospitalizations in general in the Commonwealth, including the number of cases in our children, as well as the need to protect and maintain in-person education for the health and well-being of those children, I am issuing this Order to protect the ability of our schools to continue to educate our children, and of our children to receive in-person instruction in the safest environment possible.

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<sup>5</sup> Engzell P., Frey A., Verhagen M.D., "Learning loss due to school closures during the COVID-19 pandemic," *Proc Natl Acad Sci* 2021;118(17), <https://www.pnas.org/content/118/17/e2022376118> (last visited August 26, 2021).

<sup>6</sup> Barnett W.S., Jung, K., "Seven Impacts of the Pandemic on Young Children and their Parents: Initial Findings from NIEER's December 2020 Preschool Learning Activities Survey. 2021," New Brunswick, NJ: National Institute for Early Education Research.

<sup>7</sup> Verlenden J.V., Pampati S., Rasberry C.N., *et al.*, "Association of Children's Mode of School Instruction with Child and Parent Experiences and Well-Being During the COVID-19 Pandemic — COVID Experiences Survey, United States, October 8–November 13, 2020," *MMWR Morb Mortal Wkly Rep* 2021;70:369–376, <https://www.cdc.gov/mmwr/volumes/70/wr/mm7011a1.htm> (last visited August 26, 2021).

<sup>8</sup> Zimmerman KO, Akinboyo IC, Brookhart MA, *et al.*, "Incidence and Secondary Transmission of SARS-CoV-2 Infections in Schools," *Pediatrics* 2021;147(4), <https://pubmed.ncbi.nlm.nih.gov/33419869/> (last visited August 26, 2021); Hershov R.B., Wu K., Lewis NM, *et al.*, "Low SARS-CoV-2 Transmission in Elementary Schools – Salt Lake County, Utah, December 3, 2020–January 31, 2021," *MMWR Morb Mortal Wkly Rep* 2021;70(12):442–448, <https://www.cdc.gov/mmwr/volumes/70/wr/mm7012e3.htm> (last visited August 26, 2021); Falk P., *et al.*, "COVID-19 Cases and Transmission in 17 K-12 Schools – Wood County, Wisconsin, August 31–November 29, 2020," *MMWR Morb Mortal Wkly Rep* 2021;70(4):136–140, <https://www.cdc.gov/mmwr/volumes/70/wr/mm7004e3.htm> (last visited August 26, 2021); Dawson P., Worrell M.C., Malone S., *et al.*, "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 Morb Mortal Wkly Rep* 2021;70(12):449–455, <https://www.cdc.gov/mmwr/volumes/70/wr/mm7012e4.htm> (last visited August 26, 2021).



COVID-19 is a threat to the public's health, for which the Secretary of Health may order general control measures. This authority is granted to the Secretary of Health pursuant to Pennsylvania law. *See* section 5 of the Disease Prevention and Control Law, 35 P.S. § 521.5; section 2102(a) of the Administrative Code of 1929, 71 P.S. § 532(a); and the Department of Health's regulation at 28 Pa. Code § 27.60 (relating to disease control measures). Particularly, the Department of Health (Department) has the authority to take any disease control measure appropriate to protect the public from the spread of infectious disease. *See* 35 P.S. § 521.5; 71 P.S. §§ 532(a), and 1403(a); 28 Pa. Code § 27.60. With the opening of the 2021 school year at hand, and case counts and hospitalizations continuing to rise, there is a need for additional action to protect our Commonwealth's children.

Accordingly, on this day, August 31, 2021, in order to prevent and control the spread of disease, I hereby order:

Section 1. Definitions

For purposes of this Order, the listed terms have the following meanings:

"Alternative to a face covering" may include a plastic face shield that covers the nose and mouth, extends below the chin and to the ears, and leaves no exposed gap between the forehead and the shield's headpiece. The Centers for Disease Control and Prevention (CDC) has advised there is currently not enough evidence to determine how much protection a face shield provides to individuals around the person wearing the face shield because of gaps where respiratory droplets may escape. The CDC does state, however, that face shields may still be an option in situations where wearing a cloth face covering is not otherwise feasible.

"Department" means the Department of Health of the Commonwealth.

"Face covering" means covering of the nose and mouth with material that is secured to the head with ties, straps, or loops over the ears or is wrapped around the lower face. A "face covering" can be made of a variety of synthetic or natural fabrics, including cotton, silk, or linen. A "face covering" may be factory-made, sewn by hand, or be improvised from household items, including, but not limited to, scarfs, bandanas, t-shirts, sweatshirts, or towels. While procedural and surgical masks intended for health care providers and first responders, such as N95 respirators, meet those requirements, these specialized masks should be reserved for appropriate occupational and health care personnel.

"School Entity" means any of the following:

- (1) A public PreK-12 school.
- (2) A brick and mortar or cyber charter school.
- (3) A private or parochial school.
- (4) A career and technical center (CTC).

- (5) An intermediate unit (IU).
- (6) A PA Pre-K Counts program, Head Start Program, Preschool Early Intervention program, or Family Center.
- (7) A private academic nursery school and locally-funded prekindergarten activities.
- (8) A child care provider licensed by the Department of Human Services of the Commonwealth.

Section 2: General Masking Requirement

Each teacher, child/student, staff, or visitor working, attending, or visiting a School Entity shall wear a face covering indoors, regardless of vaccination status, except as set forth in Section 3.

Section 3: Exceptions to Covering Requirement

The following are exceptions to the face covering requirements in Section 2. All alternatives to a face covering, including the use of a face shield, should be exhausted before an individual is excepted from this Order.

- A. If wearing a face covering while working would create an unsafe condition in which to operate equipment or execute a task as determined by local, state, or federal regulators or workplace safety guidelines.
- B. If wearing a face covering would either cause a medical condition, or exacerbate an existing one, including respiratory issues that impede breathing, a mental health condition or a disability.
- C. When necessary to confirm the individual's identity.
- D. When working alone and isolated from interaction with other people with little or no expectation of in-person interaction.
- E. If an individual is communicating or seeking to communicate with someone who is hearing-impaired or has another disability, where the ability to see the mouth is essential for communication.
- F. When the individual is under two (2) years of age.
- G. When an individual is:
  - (1) Engaged in an activity that cannot be performed while wearing a mask, such as eating and drinking, or playing an instrument that would be obstructed by the face covering; or

- (2) Participating in high intensity aerobic or anerobic activities, including during a physical education class in a well-ventilated location and able to maintain a physical distance of six feet from all other individuals.

- H. When a child/student is participating in a sports practice activity or event, whether indoors or outdoors.

Section 4. School Entity Obligations

A. A School Entity must:

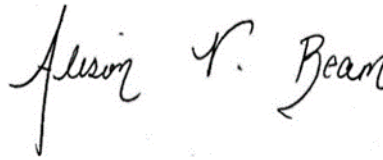
- 1. Require and enforce the requirement that all teachers, children/students, staff, and visitors (subject to the exceptions in Section 3) wear a face covering indoors, regardless of whether this Order is reflected in a school entity's Health and Safety Plan.
- 3. Post prominent signs in conspicuous locations for teachers, children/students, staff, and visitors stating that face coverings are required by the Order of the Secretary of Health.
- 4. Provide reasonable accommodations for individuals who state they have a medical condition, mental health condition, or disability that makes it unreasonable for the person to maintain a face covering.
- 5. A School Entity should not:
  - a. Enforce face covering requirements when there is an exception under Section 3 or if it is unsafe to do so.
  - b. Restrain, use force, or physically remove, teachers, children/students, staff, or visitors who refuse to comply with this Order when it would not otherwise be legal to do so.
  - c. Violate other laws, including state and federal anti-discrimination laws.

Section 5. Federal Requirements Relating to Transportation

This Order shall not impact the obligation of any School Entity to comply with requirements issued by the CDC, including requirements for masking on public transportation conveyances, such as school district transportation.

Section 6. Effective Date and Duration

This Order shall take effect at 12:01 a.m. on September 7, 2021, and shall remain in effect until otherwise terminated.



---

Alison V. Beam  
Acting Secretary of Health

Exhibit B

Exhibit B

Nicole Werner  
Heidelberg Township  
Secretary  
RE Sept. 17 A-1

---

Kutztown Area School District announces the School Board Meeting scheduled for Monday, September 20, 2021 will be fully virtual. There will be no in-person attendance available. Links for attendance and participation for community members will be available on the district's website at <https://www.kasd.org/Page/68>.  
RE Sept. 17 A-1

Exhibit C

Exhibit C

Book	Policy Manual
Section	000 Local Board Procedures
Title	Functions
Code	003
Status	Active
Adopted	May 20, 1991
Last Revised	September 21, 2009

### **Legislative**

The Board shall exercise leadership through its rule-making power by adopting Board procedures and policies for the organization and operation of the school district. Those procedures and policies which are not dictated by the statutes, or regulations of the State Board, or ordered by a court of competent authority may be adopted, amended or repealed at any meeting of the Board, provided the proposed adoption, amendment or repeal has been proposed at a previous Board meeting and has remained on the agenda of each succeeding Board meeting until approved or rejected.[\[1\]](#)[\[2\]](#)[\[3\]](#)[\[4\]](#)[\[5\]](#)

Changes in a proposed Board procedure or policy, except for minor editorial revisions, at the second reading shall cause that reading to constitute a first reading.[\[2\]](#)

Board procedures and policies may be suspended, adopted or amended at a single meeting of the Board, given unanimous approval of members present, in an emergency. An emergency shall be defined, for purposes of this rule, as any situation or set of circumstances which the Board has reason to believe will close the schools and jeopardize the safety or welfare of the students or employees of the district.

Any resolution adopted under emergency conditions shall expire automatically at the first public meeting of the Board following the abatement of the emergency unless the Board moves to adopt the resolution in final form.

As a general procedure of the Board, if it chooses to name a Policy/Curriculum Committee, requests for policy addition, deletion or change shall be referred to the committee for study and recommendation. Also, the Board directs, when possible, that individuals or groups that might be affected by policy addition, deletion or change be contacted.

The Board may, upon a majority vote, cause to suspend at any time the operation of a Board procedure or policy, provided the suspension does not conflict with legal requirements. Such suspension shall be effective until the next meeting of the Board, unless an earlier time is specified in the motion to suspend.[\[2\]](#)

Procedures of the Board shall be adopted, amended or repealed by a two-thirds vote of the full Board.

Policies shall be adopted, amended or repealed by a majority vote of the Board.[\[6\]](#)

The adoption, modification, repeal or suspension of a Board procedure or policy shall be recorded in the minutes of the Board meeting. All current procedures and policies shall be maintained in the Board Policy Manual and disseminated appropriately.[\[7\]](#)

### **Executive**



The Board shall exercise its executive power by the appointment of a district Superintendent, who shall enforce the statutes of the Commonwealth, the regulations of the State Board of Education, the policies of the Board, and all other applicable laws and regulations.[\[8\]](#)[\[9\]](#)[\[10\]](#)

The Superintendent shall be responsible for implementing Board policies and establishment of administrative regulations for the operation of the school district that are not inconsistent with state and federal statutes or regulations; are dictated by the policies of this Board; are binding on district employees and students when issued; and shall be submitted to the Board for review. The Board reserves the right to alter or rescind any such administrative regulation.[\[3\]](#)[\[5\]](#)

The Board reserves the right to review and to direct revisions of administrative regulations when it considers the regulations, to be inconsistent with Board policy or district practices. However, the Board shall not adopt administrative regulations unless required by law or requested by the Superintendent. Such adoption and/or amendment of administrative regulations shall adhere to the policy for adoption and amendment of Board procedures and policies.

The Board delegates authority to the Superintendent to take necessary action in circumstances not provided for in Board policy. The Superintendent shall promptly inform the Board of such action. The Superintendent's decision may be subject to review by the Board.

The Superintendent shall implement a procedure to inform Board members and designated employees of their responsibility under the Ethics Law.

Whenever responsibility is delegated to the Superintendent or other administrator, it is understood that such individual may designate a representative to act on his/her behalf.

### **Review**

The Board may assume jurisdiction over controversies or disputes arising within this school district concerning any matter over which the Board has authority granted by statute or where the Board has retained jurisdiction in contract or policies.[\[3\]](#)

In furtherance of its adjudicatory function, the Board may hold hearings in accordance with law which shall offer the parties to a dispute, on notice duly given, a fair and impartial forum for the resolution of the matter.[\[11\]](#)

Beyond the basic requirements of due process, a hearing may vary in form and content in line with the severity of the consequences that may flow from it, the difficulty of establishing findings of fact from conflicting evidence, and the impact of the Board's decision on the school district.[\[11\]](#)

### **Evaluation of Board Procedures**

The Board shall plan an annual evaluation of its functions as a Board. The Board may evaluate Board procedures, relationships, or activities, or focus on a particular area or issue.

The Board President, working with the Superintendent, shall develop an annual plan.

Legal

1. 24 P.S. 301
2. 24 P.S. 407
3. 24 P.S. 510
4. 24 P.S. 511
5. Pol. 000
6. Pol. 006
7. Pol. 007
8. 24 P.S. 508
9. 24 P.S. 1001
10. 24 P.S. 1081
11. 2 Pa. C.S.A. 551 et seq
- 65 Pa. C.S.A. 1101 et seq

Exhibit D

Exhibit D

Book	Policy Manual
Section	000 Local Board Procedures
Title	Meetings
Code	006
Status	Active
Adopted	May 20, 1991
Last Revised	September 21, 2009
Last Reviewed	April 22, 2014

### **Parliamentary Authority**

All Board meetings shall be conducted in an orderly and business-like manner. Parliamentary Procedure shall govern the Board in its deliberations in all cases in which it is not inconsistent with law, state regulations or Board procedures.[\[1\]\[2\]](#)

### **Quorum**

A quorum shall be five (5) Board members present at a meeting. No business shall be transacted at a meeting without a quorum, but the Board members present at such a meeting may adjourn to another time.[\[3\]](#)

### **Presiding Officer**

The President shall preside at all Board meetings. In the absence, disability or disqualification of the President, the Vice-President shall act instead. If neither person is present, a Board member shall be elected President pro tempore by a plurality of those present to preside at that meeting only. The act of any person so designated shall be legal and binding.[\[4\]\[5\]\[6\]\[7\]](#)

### **Notice**

Notice of all public Board meetings, including committee meetings and work sessions, shall be given by publication of the date, place, and time of such meetings in the newspaper(s) of general circulation designated by the Board and posting of such notice at the district offices of the Kutztown Area School District.[\[8\]\[9\]](#)

1. Notice of regular meetings shall be given by publication and posting of a schedule showing the date, place and time of all regular meetings for the calendar year at least three (3) days prior to the time of the first regular meeting.[\[8\]\[9\]](#)
2. Notice of all special meetings shall be given by publication and posting of notice at least twenty-four (24) hours prior to the time of the meeting, except that such notice shall be waived when a special meeting is called to deal with an actual emergency involving a clear and present danger to life or property.[\[8\]\[9\]](#)
3. Notice of all rescheduled meetings shall be given by publication and posting of notice at least twenty-four (24) hours prior to the time of the meeting.[\[8\]\[9\]](#)
4. Notice of all recessed or reconvened meetings shall be given by posting a notice of the place, date and time of meeting and sending copies of such notice to interested parties.[\[8\]](#)

5. Notice of all public meetings shall be given to any newspaper(s) circulating in Berks County and any radio or television station which so requests. Notice of all public meetings shall be given to any individual who so requests and provides a stamped, addressed envelope for such notification. [\[9\]](#)

Notice of all regular and special Board meetings shall be given to Board members by the Board Secretary prior to the time of the meeting. [\[10\]](#)

### **Regular Meetings**

Regular Board meetings shall be public and shall be held at specified places at least once every two (2) months. [\[11\]](#)[\[2\]](#)

#### 1. Agenda

It shall be the responsibility of the Superintendent, in cooperation with the Board Secretary, to prepare an agenda of the items of business to come before the Board at each regular meeting.

The agenda, together with all relevant reports, shall be provided each Board member at least two (2) days before the meeting. There may be times additional items may be added to the agenda.

#### 2. Order Of Business

The order of business for regular meetings shall be as follows, unless altered by the President or a majority of those present and voting:

Call to order

Roll call

Approval of minutes

Treasurer's report

Approval of bills for payment

Communications and reports

New business (Introduction of New Business by Board Members, followed by Public Comment)

Discussion items

Adjournment

### **Special Meetings**

Special meetings shall be public and may be called for special or general purposes. [\[2\]](#)

The President may call a special meeting at any time and shall call a special meeting upon presentation of the written requests of three (3) Board members. Upon the President's failure or refusal to call a special meeting, such meeting may be called at any time by a majority of the Board members. [\[5\]](#)

The order of business shall be as follows, unless altered by the Board President:

Call to order

Roll call

Announcement

Reading of notice of meeting

Transaction of business for which meeting was called

Other matters

Adjournment

### **Public Participation**

District residents and taxpayers present at a Board meeting may address the Board in accordance with law and Board procedures and policy.[\[2\]](#)[\[12\]](#)

### **Voting**

All motions shall require for adoption a majority vote of those Board members present and voting, except as provided by statute.

1. The following actions require the recorded affirmative votes of two-thirds of the full number of Board members:
  - a. Transfer of budgeted funds during the first three (3) months of the fiscal year.[\[13\]](#)[\[14\]](#)
  - b. Incur a temporary debt to meet an emergency or catastrophe.[\[14\]](#)
  - c. Elect to a teaching position a person who has served as a Board member and who has resigned.[\[15\]](#)
  - d. Convey land or buildings to the municipality co-terminus with the school district in accordance with law.[\[16\]](#)
  - e. Adopt or change textbooks without the recommendation of the Superintendent.[\[17\]](#)
  - f. Dismiss, after a hearing, a tenured professional employee.[\[18\]](#)
  - g. Adopting, amending or repealing a Board procedure.
2. The following actions require the recorded affirmative votes of a majority of the full number of Board members:
  - a. Fixing the length of school term.[\[19\]](#)
  - b. Adopting textbooks recommended by the Superintendent.[\[19\]](#)[\[20\]](#)
  - c. Appointing the district Superintendent and Assistant Superintendent(s).[\[19\]](#)[\[21\]](#)[\[22\]](#)
  - d. Appointing teachers and principals.[\[19\]](#)
  - e. Adopting the annual budget.[\[19\]](#)[\[23\]](#)
  - f. Appointing tax collectors and other appointees.[\[19\]](#)[\[24\]](#)[\[25\]](#)

- g. Levying and assessing taxes.[\[19\]](#)[\[26\]](#)
- h. Purchasing, selling, or condemning land.[\[19\]](#)
- i. Locating new buildings or changing the location of old ones.[\[19\]](#)
- j. Adopting planned instruction.[\[19\]](#)[\[27\]](#)[\[19\]](#)
- k. Establishing additional schools or departments.
- l. Designating depositories for school funds.[\[19\]](#)[\[28\]](#)
- m. Expending district funds.
- n. Authorizing the transfer of any unencumbered balance, or portion thereof, from one appropriation to another or from one spending agency to another during the last nine (9) months of the fiscal year.[\[14\]](#)[\[29\]](#)
- o. Entering into contracts of any kind, including contracts for the purchase of fuel or any supplies where the amount involved exceeds \$100 (including items subject to \$10,000 bid requirements).[\[19\]](#)[\[30\]](#)
- p. Fixing salaries or compensation of officers, teachers, or other appointees of the Board.[\[19\]](#)
- q. Combining or reorganizing into a larger school district.[\[31\]](#)
- r. Entering into contracts with and making appropriations to the intermediate unit for the district's proportionate share of the cost of services provided or to be provided by the intermediate unit.[\[19\]](#)
- s. Dismissing, after a hearing, a nontenured employee.[\[19\]](#)[\[32\]](#)[\[33\]](#)
- t. Adopting a corporate seal for the district.[\[34\]](#)
- u. Determining the location and amount of any real estate required by the school district for school purposes.[\[35\]](#)
- v. Vacating and abandoning property to which the Board has title.[\[36\]](#)
- w. Determining the holidays, other than those provided by statute, to be observed by special exercises and those on which the schools shall be closed for the whole day.[\[37\]](#)
- x. Removing a school director.[\[38\]](#)
- y. Declaring that a vacancy exists on the Board by reason of the failure or neglect of a school director to qualify.[\[38\]](#)
- z. Removing an officer of the Board.[\[24\]](#)
- aa. Removing an appointee of the Board.[\[24\]](#)
- ab. Adopting, amending or repealing Board procedures and policy.[\[39\]](#)
- ac. Only a Board member who voted in the majority against a motion, or who was not in attendance when the voting took place, may revisit a motion that did not pass.

- ad. With the exception of Budget & Finance Committee Meetings, no action will be taken at committee meetings. Instead, recommendations will be brought to the next regular board meeting.

## **Minutes**

The Board shall cause to be made, and shall retain as a permanent record of the district, minutes of all open Board meetings. Said minutes shall be comprehensible and complete and shall show: [\[40\]](#)[\[41\]](#).

1. Date, place, and time of the meeting.
2. Names of Board members present.
3. Presiding officer.
4. Substance of all official actions.
5. Actions taken.
6. Recorded votes and a record by individual members of all roll call votes taken. [\[42\]](#)
7. Names of all residents who appeared officially and the subject of their testimony.

The Board Secretary shall provide each Board member with a copy of the minutes of the last meeting no later than fourteen (14) days before the next regular meeting. [\[1\]](#)

The minutes of Board meetings shall be approved at the next succeeding meeting and signed by the Board Secretary. [\[43\]](#)

Notations and any tape or audiovisual recordings shall not be the official record of a public Board meeting but may be available for public access, upon request, in accordance with Board policy. Any notations, tape and/or audiovisual recordings of a Board meeting shall be retained and disposed of in accordance with the district's records retention schedule. [\[1\]](#)[\[44\]](#)[\[45\]](#)

## **Adjournment**

The Board may at any time adjourn a meeting to a specified date and place, upon the majority vote of those present and voting. The adjourned meeting shall take up its business at the point in the agenda where the motion to adjourn was acted upon. Notice of the rescheduled meeting shall be given as provided in Board policy. [\[8\]](#)[\[9\]](#)[\[46\]](#)

## **Executive Session**

The Board may hold an executive session, which is not an open meeting, before, during, at the conclusion of a public meeting, or at some other time. The presiding officer shall announce the reasons for holding the executive session; the announcement to be made at the public meeting prior to or after the executive session. [\[47\]](#)[\[48\]](#)

The Board may discuss the following matters in executive session:

1. Employment issues.
2. Labor relations.
3. Purchase or lease of real estate.
4. Consultation with an attorney or other professional advisor regarding potential litigation or identifiable complaints that may lead to litigation.



5. Matters that must be conducted in private to protect a lawful privilege or confidentiality.

Official actions based on discussions held in executive session shall be taken at a public meeting.

### **Workshop Meeting**

The Board may meet as a Committee of the Whole in a public meeting to vote on or to discuss issues. Public notice of such meetings shall be made in accordance with Board procedures. [2][46]

A meeting of the Committee of the Whole, not regularly scheduled, may be called at any time by the President; the President shall call such a meeting when requested to do so by three (3) Board members. Public notice of the meeting shall be made in accordance with Board procedures.

The Board Secretary shall provide notice of a meeting of the Committee of the Whole in accordance with Board procedures. [8][9]

### **Committee Meetings**

Standing committee meetings may be called at any time by the committee chairperson, with proper public notice, or when requested to do so by a member of the community. [8][9][46]

A majority of the total membership of a committee shall constitute a quorum.

Unless held as an executive session, standing committee meetings shall be open to the public, other Board members, and the Superintendent. [2]

A majority of the committee or the chairperson may invite Board employees, consultants or other persons who have special knowledge of an area under discussion.

Board members who are not committee members but who attend committee meetings may vote on committee matters.

### **Distribution of Materials**

The tentative agenda, together with non-confidential attachments, will be made available to the public via the school web site. Links to the information may be provided via CougarServ, social media, etc.

Legal

1. 24 P.S. 407
2. 65 Pa. C.S.A. 701 et seq
3. 24 P.S. 422
4. 24 P.S. 405
5. 24 P.S. 426
6. 24 P.S. 427
7. 24 P.S. 428
8. 65 Pa. C.S.A. 703
9. 65 Pa. C.S.A. 709
10. 24 P.S. 423
11. 24 P.S. 421
12. Pol. 903
13. 24 P.S. 609
14. 24 P.S. 687
15. 24 P.S. 321

15. 24 P.S. 524
16. 24 P.S. 707
17. 24 P.S. 803
18. 24 P.S. 1129
19. 24 P.S. 508
20. Pol. 108
21. 24 P.S. 1071
22. 24 P.S. 1076
23. Pol. 604
24. Pol. 005
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26. Pol. 605
27. Pol. 107
28. 24 P.S. 621
29. Pol. 612
30. Pol. 610
31. 24 P.S. 224
32. 24 P.S. 514
33. 24 P.S. 1080
34. 24 P.S. 212
35. 24 P.S. 702
36. 24 P.S. 708
37. 24 P.S. 1503
38. Pol. 004
39. Pol. 003
40. 24 P.S. 518
41. 65 Pa. C.S.A. 706
42. 65 Pa. C.S.A. 705
43. 24 P.S. 433
44. Pol. 800
45. Pol. 801
46. Pol. 006
47. 65 Pa. C.S.A. 707
48. 65 Pa. C.S.A. 708
- 24 P.S. 408
- 24 P.S. 634
- 24 P.S. 671
- 24 P.S. 1075
- 24 P.S. 1077
- 24 P.S. 1111

Exhibit E

Exhibit E

Book	Policy Manual
Section	000 Local Board Procedures
Title	Attendance at Meetings Via Electronic Communications
Code	006.1
Status	Active
Adopted	September 21, 2009
Last Reviewed	April 14, 2020

### **Authority**

The Board recognizes that factors such as illness, travel, schedule conflicts and weather conditions can make impossible the physical presence of a Board member at a Board meeting, and that electronic communications can enable a Board member to participate in a meeting from a remote location.

A Board member shall be able to attend a Board meeting, and participate in Board deliberations and voting, through electronic communications, but only under extraordinary circumstances.[\[1\]](#)

The Board authorizes the administration to provide the equipment and facilities required to implement this Board procedure.

### **Guidelines**

A Board member who attends a meeting through electronic communications shall be considered present only if the member can hear everything said at the meeting and all those attending the meeting can hear everything said by that member. If the Board President determines either condition is not occurring, s/he shall terminate the Board member's attendance through electronic communications.

A majority of Board members shall be physically present at a Board meeting when a Board member attends through electronic communications.

To attend a Board meeting through electronic communications, a Board member shall comply with the following:

1. Submit such request to the Board President at least three (3) days prior to the meeting.
2. Ensure that the remote location is quiet and free from background noise and interruptions.
3. Participate in the entire Board meeting.

Legal [1. 24 P.S. 407](#)

Exhibit F

Exhibit F

# PENNSYLVANIA BULLETIN

Volume 51

Number 25

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Pages 3329—3426

**Agencies in this issue**

The General Assembly

The Courts

Department of Banking and Securities

Department of Environmental Protection

Department of Health

Department of Human Services

Department of Revenue

Department of Transportation

Independent Regulatory Review Commission

Insurance Department

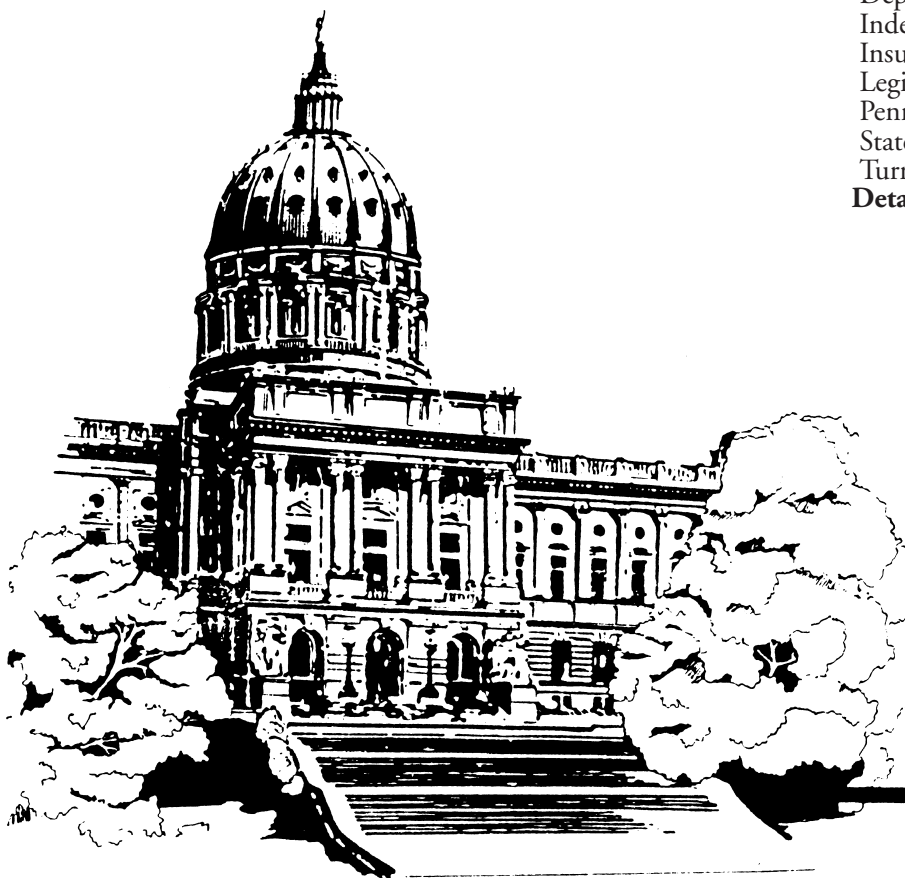
Legislative Reference Bureau

Pennsylvania Public Utility Commission

State Board of Barber Examiners

Turnpike Commission

**Detailed list of contents appears inside.**



**Latest Pennsylvania Code Reporter  
(Master Transmittal Sheet):**

**No. 559, June 2021**

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Available Online at <http://www.pacodeandbulletin.gov>

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# THE GENERAL ASSEMBLY

## THE GENERAL ASSEMBLY

### A Concurrent Resolution

Terminating the March 6, 2020, proclamation of disaster emergency, as amended and renewed, issued under the hand and seal of the Governor, Thomas Westerman Wolf.

*Whereas*, On March 6, 2020, the Governor issued a proclamation declaring a disaster emergency in response to the existence of COVID-19 cases in Pennsylvania; and

*Whereas*, On June 3, 2020, the Governor issued an amendment to the proclamation of disaster emergency renewing the March 6, 2020, declaration for an additional 90 days; and

*Whereas*, On August 31, 2020, the Governor issued an amendment to the proclamation of disaster emergency renewing the declaration for an additional 90 days; and

*Whereas*, On November 24, 2020, the Governor issued an amendment to the proclamation of disaster emergency renewing the declaration for an additional 90 days; and

*Whereas*, On February 19, 2021, the Governor issued an amendment to the proclamation of disaster emergency renewing the declaration for an additional 90 days; and

*Whereas*, On May 20, 2021, the Governor issued an amendment to the proclamation of disaster emergency renewing the declaration; and

*Whereas*, On May 18, 2021, the People of Pennsylvania adopted an amendment to section 9 of Article III of the Constitution of Pennsylvania which provides, as amended, that orders, resolutions or votes "to which the concurrence of both Houses may be necessary, except on

the questions of . . . termination or extension of a disaster emergency declaration as declared by an executive order or proclamation, or portion of a disaster emergency declaration as declared by an executive order or proclamation, shall be presented to the Governor" for his approval or veto; and

*Whereas*, On May 18, 2021, the People of Pennsylvania adopted section 20(c) of Article IV of the Constitution of Pennsylvania which provides, in relevant part, "A disaster emergency declaration under subsection (a) shall be in effect for no more than twenty-one (21) days, unless otherwise extended in whole or part by concurrent resolution of the General Assembly"; therefore be it

*Resolved* (The Senate concurring), That the General Assembly, in accordance with its authority, hereby terminates the disaster emergency declared on March 6, 2020, as amended and renewed, in response to COVID-19; and be it further

*Resolved*, That upon adoption of this concurrent resolution by both chambers of the General Assembly, the Chief Clerk of the House of Representatives shall notify the Governor of the General Assembly's action; and be it further

*Resolved*, That the Chief Clerk of the House of Representatives shall transmit this concurrent resolution to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* under 45 Pa.C.S. § 725(a)(4); and be it further

*Resolved*, That this concurrent resolution shall take effect immediately.

[Pa.B. Doc. No. 21-947. Filed for public inspection June 18, 2021, 9:00 a.m.]