

Just you and me here –

Speaking only for myself based on my conversations with authorities at different levels. Director Ryan will not put out a State PHO until incidence rates across the state get back to the high levels we saw last fall/winter and the Gov will similarly not put out another EO until we get there because the Gov has a libertarian streak and heard too many complaints from more conservative areas of our state during all the lock downs.

Denver's LPHA Director prefers strongly to have DPS make the call, for all the same reasons I've expressed to you. Schools have always had the authority to put in place any health and safety rules they wish and have never requested nor required LPHAs to issue formal PHOs to make that happen. I will not share my discussions with him regarding what he will do if DPS fails to implement rules on their own,

Again, if I put a PHO in place JCPH will be sued and Jeffco tax dollars and the CAO and my staff will waste countless tax dollars and personnel time on defending the PHO in court. If the currently unpredictable courts rule against the PHO the future authority of public health in Jefferson County is greatly damaged. What happens when a landowner then refuses to follow our JCPH order to stop contaminating an open water source with a failed OWTS? What happens when a restaurant owner who has miserably failed his inspection refuses our order to close until he comes into compliance? Public Health Orders are supposed to be the very last resort, used only when there is no compliance expected from those causing or at risk to a public health danger.

This is very different. You have 100% authority over all health and safety rules in your schools and complete control over enforcing them. You have the ability to implement a mask order and to enforce it. You also know I will support you 100% - I will even be willing to say I pressured you to make this decision so you can say you took action that you knew would protect students but would also protect the school culture, etc in order to avoid having the public health authority dictate rules that would not be sensitive to the needs of students and their parents.

You are choosing not to implement rules for purely political reasons. You are bowing to pressure from misinformed parents in a way that clearly puts all of the students in your charge at unnecessary and unacceptable levels of risk.

I need to make sure we both clearly understand the precedent that will be set by our actions moving forward on this. If you require me to enact a PHO for this school health and safety issue you will be undermining your/JPS' authority to enact and enforce all of your other current and future health and safety rules. What happens when parents start sending their children to school with high fevers and

whilst vomiting and refuse to come pick them up or to keep them home the next day because "it is my right to do what I think is best for my child's health"? If a large enough group of parents do this you will then have to turn to CDE, CDPHE, or to me to receive the authority to force compliance. What happens if parents begin sending children to school armed because they fear for their safety in this era of school shootings and do so touting the 2<sup>nd</sup> amendment? If enough parents do so and those parents begin challenging your weapons bans in court you will have to turn to CDE, the State, or me to receive the authority to force compliance. Heck, what happens if large numbers of students blatantly begin violating your dress codes or honor codes in ways you feel are bullying or otherwise detrimental to student wellness and when you try to suspend them they take you to court? CDE may be able to help you but I certainly won't have grounds to issue a PHO to help you. Right now you and other school leaders truly have far more authority in your schools on this issue of masking than I do – unless you choose to give that up and, in so doing, set this precedent.

If I have to issue a PHO, I will likely not only issue one just for masks in school classroom settings. If I am going to end up in court anyway I will do everything that is needed to keep schoolchildren as safe as possible. I will consult all legal resources at State and County as well as my national professional organizations to determine if Mondays DOJ announcement provides a path to requiring vaccination – at least for all of your faculty, staff, and any other adults who will interact with schoolchildren. I will address the testing issue and the extreme risk extracurricular activities pose. If I am going to take that step that will so damage the future authority of public health I will do exactly what is truly needed to prioritize, emphasize, and protect in-person educational activities. That means no unvaccinated visitors or volunteers interacting with school students, weekly testing for all unvaccinated students, faculty, and staff, and a likely ban on all extracurricular activities held indoors as well as a ban on holding other high risk activities (e.g. band, choir) indoors even if they are school classes rather than extracurriculars. If you force me to use a PHO I will use it to take every reasonable and evidence-based action to ensure students can safely have in-person education this year - everything else must be sacrificed for that.