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# Fwd: UPDATE RE: Executive Order No. 2021-23 - Emergency Measures Regarding Face Coverings, Vaccine Passports, & Other Matters

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email: "csmelton@lexrich5.org Christina Melton"      **Wednesday, May 12, 2021 at 1:58:11 PM Eastern Daylight Time**  
To: email: "kloveless@lexrich5.org" , email: "chuddle@lexrich5.org" , email: "ngardner@lexrich5.org" , email:  
"jhammond@lexrich5.org Jan Hammond" , email: "mhogan@lexrich5.org" , email: "ewhite@lexrich5.org Ed White" , email:  
"rhines@lexrich5.org"

FYI

This continues to evolve .

Christina S. Melton , Ed.D.  
Superintendent of School District 5 of Lexington & Richland Counties

Sent from my iPhone

Begin forwarded message:

**From:** "Brown, Ryan" <[RyBrown@ed.sc.gov](mailto:RyBrown@ed.sc.gov)>  
**Date:** May 12, 2021 at 10:48:09 AM EDT  
**To:** "Brown, Ryan" <[RyBrown@ed.sc.gov](mailto:RyBrown@ed.sc.gov)>  
**Subject:** **UPDATE RE: Executive Order No. 2021-23 - Emergency Measures Regarding  
Face Coverings, Vaccine Passports, & Other Matters**

District Superintendents,

After a thorough legal review of Executive Order 2021-23, the South Carolina Department of Education (SCDE) finds no legal grounds by which the Governor can set aside a policy and regulatory directive issued by another constitutional officer or constitutional board whose power is not derived from the state of emergency nor the Executive Branch but by the South Carolina Constitution and Code of Laws. This power is reserved solely for the South Carolina General Assembly. The

Governor thoroughly understands the rule of law and surely recognizes this but has been successful in his mission of circumventing public health guidance by inciting hysteria and sowing division in the waning days of the school year.

Rather than wage a debate over constitutionality that would pit elected officials, students, and families against one another, Superintendent Spearman has, effective immediately, rescinded the state face covering policy

**with the exception** of the school bus requirement that is now required by the federal government. The SCDE recommends school boards and administrators confer with their legal counsel as to what liability protections, if any, are provided by DHEC's opt out form. Superintendent Spearman and the SCDE continue to urge schools and districts to follow DHEC's public health guidance as they have throughout the pandemic.

DHEC's form is posted here - <https://scdhec.gov/sites/default/files/Library/D-4286.pdf>

**Ryan Brown**

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**From:** Brown, Ryan <[RyBrown@ed.sc.gov](mailto:RyBrown@ed.sc.gov)>

**Sent:** Tuesday, May 11, 2021 7:09 PM

**To:** Brown, Ryan <[RyBrown@ed.sc.gov](mailto:RyBrown@ed.sc.gov)>

**Subject:** Executive Order No. 2021-23 - Emergency Measures Regarding Face Coverings, Vaccine Passports, & Other Matters

**Importance:** High

District Superintendents,

This evening Governor McMaster issued Executive Order 2021-23, attached, that has language pertaining to the use of face coverings in South Carolina public schools. Due to the lateness of the Order, the legal ambiguities, and the absence of a DHEC opt out form, the [state face covering guidelines](#) will remain in effect until such time as the agency has the opportunity to confer with legal counsel and provide further guidance.

As noted in the Order, face covering requirements as they relate to students and staff on school buses have not changed as a result of President's Executive Order No. 13998 (Executive Order on Promoting COVID-19 Safety in Domestic and International Travel) (Jan. 21, 2021); CDC Order Under Section 361 of the Public Health Service Act (42 U.S.C. § 264) and 42 C.F.R. §§ 70.2, 71.31(b), 71.32(b) (Requirement for Persons to Wear Masks While on Conveyances and at Transportation Hubs) (Jan. 29, 2021).

**Ryan Brown**

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**Attachments:**

**image001.gif** 589

**image002.gif** 843

**image003.gif** 1.4k

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