

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

R.K. et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 3:21-cv-00853
)	
GOVERNOR BILL LEE, in his official)	
capacity as GOVERNOR OF)	
TENNESSEE et al.,)	
)	
Defendants.)	

ORDER

Plaintiffs consist of eight disabled students from ages 7 to 14 years old, all with alleged disabilities under the Americans With Disabilities Act (“ADA”) and/or Section 504 of the Rehabilitation Act. They believe their disabilities make them at extreme risk for COVID-19 and possible serious health complications. Plaintiffs sue Governor Bill Lee and Penny Schwinn, Commissioner of the Tennessee Department of Education, because each has responsibility to enforce Tennessee Code Annotated § 14-2-104 that became effective on November 12, 2021. That section dictates how Tennessee schools may or may not require persons to wear masks while on school grounds.

As a consequence of their disabilities, Plaintiffs believe that wearing masks while in school is critical to their ability to enjoy educational opportunities. Indeed, in prior litigation several Plaintiffs have sought to effectuate their right to reasonable accommodations by challenging other restrictions on school mask wearing. Plaintiffs now argue that Tennessee Code Annotated § 14-2-104 attempts to override their federal protections under the ADA and § 504, because wearing face masks in schools is now governed solely by the terms of Tennessee Code Annotated § 14-2-


104, notwithstanding any other law. Plaintiffs contend by operation of the Supremacy Clause in Article VI, clause 2 of the United States Constitution, Tennessee lacks the authority to override enforcement of federal rights and seek immediate injunctive relief. (Doc. No. 5)

Given the alleged conflict and the possible confusion this creates for schools in Tennessee, pending an expedited hearing, the parties shall maintain the STATUS QUO as it pertains to students with disabilities and their federally guaranteed rights as of Thursday, November 11, 2021, prior to the effective date of Tennessee Code Annotated § 14-2-104.

A status conference will be held on **Monday, November 15, 2021**, at 1:00 p.m., Courtroom A-826.

Counsel for the Plaintiffs are responsible for serving a copy of this Order on Defendants' counsel.

IT IS SO ORDERED on this 14th day of November, 2021.



WAVERLY D. CRENSHAW, JR.
CHIEF UNITED STATES DISTRICT JUDGE