

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

CHRISTOPHER SEAMAN and ELIZABETH
ALLISON LYONS, individually and on behalf
of C.S., a minor; *et al.*

Plaintiffs,

v.

The COMMONWEALTH OF VIRGINIA; *et al.*

Defendants.

Case No. 3:22-cv-00006-NKM

**PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING
ORDER AND PRELIMINARY
INJUNCTION**

Plaintiffs hereby respectfully move for a temporary restraining order and preliminary injunction.

Plaintiffs seek injunctive relief to stop enforcement of Virginia Executive Order 2 (Jan. 15, 2022) insofar as it bars schools and localities from requiring masking in the schools. By prohibiting that basic public health measure, Defendants are preventing public entities statewide from complying with the Americans with Disabilities Act (“ADA”) and the Rehabilitation Act. Defendants are illegally forcing Virginia families of children with disabilities to choose between their child’s education and their child’s health and safety. Further, Executive Order 2 needlessly and unconscionably exposes Virginia school children and their families to a heightened risk of

infection, hospitalization, and death from COVID-19 infection. It is against the calamitous consequences of Executive Order 2 that Plaintiffs seek emergency injunctive relief.

Plaintiffs can demonstrate that they are likely to succeed on the merits because Defendants are discriminating against students with disabilities in violation of federal law; Plaintiffs are likely to suffer irreparable harm in the absence of preliminary relief; the balance of equities tips in Plaintiffs' favor; and an injunction is in the public interest.

This motion is supported by a memorandum of law which will be filed contemporaneously.

Dated: February 10, 2022

Respectfully submitted,

/s/ Eden B. Heilman

Eden B. Heilman (Va. Bar No. 93554)
Matthew Callahan (*pro hac vice* to be filed)
Monique Gillum (*pro hac vice* to be filed)
American Civil Liberties Union (ACLU)
Foundation of Virginia
701 E. Franklin St., Suite 1412
Richmond, VA 23219
Tel: (804) 644-8022
Fax: (804) 649-2733
eheilman@acluva.org
mcallahan@acluva.org
mgillum@acluva.org

Eve L. Hill (VA Bar # 96799)
Sharon Krevor-Weisbaum (*pro hac vice* to be filed)
Jessica Weber (*pro hac vice* to be filed)
Brown Goldstein Levy LLP
120 E. Baltimore Street, Suite 2500
Baltimore, MD 21202
Tel: (410) 962-1030
Fax: (410) 385-0869
EHill@browngold.com
skw@browngold.com
jweber@browngold.com

Steven M. Traubert (Va. Bar #41128)
Kerry M. Chilton (Va. Bar #90621)
disAbility Law Center of Virginia
1512 Willow Lawn Drive, Suite 100
Richmond, Virginia 23230
(804)225-2042
steven.traubert@dLCV.org
kerry.chilton@dLCV.org

Ian S. Hoffman (VA Bar #75002)
John A. Freedman (*pro hac vice* to be filed)
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., N.W.
Washington, DC 20001
Tel: (202) 942-5000
Fax: (202) 942-5999
Ian.Hoffman@arnoldporter.com
John.Freedamn@arnoldporter.com

Kaitlin Banner (*pro hac vice* to be filed)
Margaret Hart (*pro hac vice* to be filed)
Marja K. Plater (*pro hac vice* to be filed)
WASHINGTON LAWYERS'
COMMITTEE FOR CIVIL RIGHTS AND
URBAN AFFAIRS 700 14th Street, NW, Suite 400
Washington, DC 20005 Phone: (202) 319-1000
Fax: (202) 319-1010
kaitlin_banner@washlaw.org
margaret_hart@washlaw.org
marja_plater@washlaw.org

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of February 2022, I filed the foregoing document with the Clerk of Court using the CM/ECF system, and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

Commonwealth of Virginia
Secretary of the Commonwealth
1111 E. Broad St., #4
Richmond, VA 23219

Governor Glenn Youngkin
Office of the Governor
P.O. Box 1475
Richmond, VA 23218

Attorney General Jason Miyares
Office of the Attorney General
202 North Ninth Street
Richmond, VA 23219

Jillian Balow
Virginia Superintendent of Public Instruction
James Monroe Building
101 N. 14th Street
Richmond, VA 23219

Colin Greene
Acting Virginia Health Commissioner
Virginia Department of Health
109 Governor Street
Richmond, VA 23219

/s/ Eve L. Hill

Eve L. Hill (VA Bar # 96799)
Brown Goldstein Levy LLP
120 E. Baltimore Street, Suite 2500
Baltimore, MD 21202
Tel: (410) 962-1030
Fax: (410) 385-0869
EHill@browngold.com