

**PUBLIC HEALTH ORDER NO. 8 -- ORDER OF THE BOARD OF COUNTY
COMMISSIONERS OF POTTAWATOMIE COUNTY, KANSAS**

This Public Health Order No. 8 is issued on this 19th day of August, 2020, pursuant to the authority provided in K.S.A. 65-119, K.S.A. 65-129b and K.S.A. 65-202, the provisions of Section 33 of HB 2016, and other applicable laws or regulations. This Order applies to the entire geographic boundaries of Pottawatomie County, Kansas, and to all private schools within Pottawatomie County, Kansas. This Order shall take effect forthwith on this 19th day of August, 2020.

WHEREAS, on July 20, 2020, Governor Kelly issued Executive Order No. 20-59, which Executive Order outlines procedures for K-12 schools to mitigate the spread of COVID-19, and

WHEREAS, the provisions of Section 33 of HB 2016 provide that the Board of County Commissioners of any County may issue an order relating to public health that includes provisions that are less stringent than the provisions of an executive order effective statewide issued by the Governor, and

WHEREAS, Attorney General Derek Schmidt has issued Attorney General Opinion No. 2020-8 which states that local public school boards have constitutional and statutory authority to adopt local policies governing matters addressed in Executive Order 20-59; that Executive Order 20-59 has not displaced or overridden such pre-existing local authority; and that local public school boards have constitutional and statutory authority to issue local orders for their schools which are less stringent or less restrictive than Executive order 20-59, and

WHEREAS, Attorney General Opinion No. 2020-8 further opines that pursuant to Section 33 of HB 2016, Boards of County Commissioners have the authority to issue local orders which are less stringent or less restrictive than Executive Order 20-59, and

WHEREAS, Attorney General Opinion No. 2020-8 fails to address whether private schools, or church affiliated private schools, may adopt less restrictive measures to mitigate the spread of COVID-19 than those measures mandated by Executive Order 20-59, and

WHEREAS, the Board of County Commissioners finds that there have been no deaths in Pottawatomie County, Kansas, resulting from COVID-19, that the number of confirmed active cases of COVID-19 in Pottawatomie County have been, and are now, minimal, and that hospitalizations from COVID-19 from Pottawatomie County have also been minimal, and

WHEREAS, the Board of County Commissioners has consulted with, and has received

recommendations from, the local Health Officer and local physicians regarding the Governor's Executive Order No. 20-59, and

WHEREAS, following such consultations, the Board of County Commissioners has determined that implementation of the provisions in the Governor's Executive Order No. 20-59 as to K-12 private schools is not necessary at this time to protect the public health and safety of Pottawatomie County, and

WHEREAS, the Board of County Commissioners has further determined that the applicability or inapplicability of Executive Order No. 20-59 should not depend on whether a K-12 school is a public school or a private school.

NOW, THEREFORE, BE IT ORDERED by the Board of County Commissioners of Pottawatomie County, Kansas, pursuant to the above statutory authorities, and more particularly, pursuant to the provisions of Section 33 of HB 2016, that the provisions of Governor Kelly's Executive Order No. 20-59 shall not be implemented or enforced in Pottawatomie County, Kansas, for private schools or for church affiliated private schools.

FURTHER, the following guidelines are recommended and encouraged, but not ordered, for K-12 private schools in Pottawatomie County, Kansas:

1. K-12 private schools should, but are not mandated to, have all students, faculty, staff, vendors and other visitors to private K-12 school attendance centers to cover their mouth and nose with a mask or other face covering at all times except as described below:
 - a. While eating;
 - b. While working—other than to prepare food or meals—in a room or office that is (1) not open to students or visitors and (2) in which all individuals present can maintain a 6-foot distance from other individuals with only infrequent or incidental moments of close proximity;
 - c. While engaged in an activity during which it is unsafe or impossible to wear a mask or other face covering;
 - d. Children who are not students and are 5 years of age or under—children age two years and under in particular should not wear a face covering because of the risk of suffocation;
 - e. Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering—this includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;
 - f. Persons who are deaf or hard of hearing, or communicating with a person who is deaf or hard of hearing, where the ability to see the mouth is essential for communication;
 - g. Persons for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or

- workplace safety guidelines; and
- h. Persons engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law.
 2. Throughout all private K-12 school buildings or facilities individuals should, but are not mandated to, maintain a 6-foot distance from other individuals with only infrequent or incidental moments of closer proximity. This recommendation does not apply to in-person instruction in classrooms when masks or other face coverings are worn.
 3. Hand sanitizer should be made available in all private K-12 classrooms and should be made conveniently accessible through other areas of K-12 private school buildings or facilities. Students and faculty should sanitize their hands at regular intervals throughout the school day and not less than once every hour.
 4. Individuals entering all private K-12 attendance centers should, but are not mandated to, have their temperatures checked before entering the building for the first time each day.

Nothing in this Order shall restrict, limit or supersede the Secretary of Health and Environment's authority to make isolation, quarantine, or other orders restricting movement as necessary to respond to escalating or worsening conditions in any local jurisdiction.

With full community cooperation, this proactive public health order may minimize the impact of COVID-19 on Pottawatomie County communities.

People at high risk of severe illness from COVID-19 or sick are urged to stay in their residence except to seek medical care.

The Pottawatomie County Health Officer shall have the right to impose more stringent restrictions, conditions, or provisions, as provided by law.


The Pottawatomie County Health Officer retains any authority to issue and enforce isolation or quarantine orders or other orders restricting movement as necessary to respond to escalating or worsening conditions within Pottawatomie County.

Pottawatomie County Public Health Order No. 7 shall remain in full force and effect.


IT IS SO ORDERED THIS 19th DAY OF AUGUST, 2020. THIS ORDER SHALL BECOME EFFECTIVE FORTHWITH ON THIS 19th DAY OF AUGUST, 2020, AND SHALL REMAIN IN EFECT UNTIL RESCINDED OR MODIFIED BY THE BOARD OF COUNTY COMMISSIONERS OF POTTAWATOMIE COUNTY, KANSAS. THIS ORDER IS EXECUTED BY THE BOARD OF COUNTY COMMISSIONERS ACTING AS SUCH BOARD OF COUNTY COMMISSIONERS, AND AS THE BOARD OF HEALTH OF POTTAWATOMIE COUNTY, KANSAS.



Deloyce McKee, Chairperson



Dennis P. Weixelman, member



Greg Riat, member

Attest 


County Clerk