

**IN THE CIRCUIT COURT
FOR THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS**

AUSTIN, et al.,

Plaintiffs,

v.

THE BOARD OF EDUCATION OF
COMMUNITY UNIT SCHOOL DISTRICT
#300, et al.,

Defendants.

Case No. 2021-CH-500002

Judge Grischow

ROBERT GRAVES, *et al.*,

Plaintiffs,

v.

GOVERNOR JB PRITZKER, *et al.*,

Defendants.

No. 2021-CH-500003

Judge Grischow

MARK AND EMILY HUGHES, et al.,

Plaintiffs,

v.

HILLSBORO COMMUNITY SCHOOL
DISTRICT #3, et al.,

Defendants.

Case No. 2021-CH-500005

Judge Grischow

ALLEN, *et al.*,

Plaintiffs,

v.

GOVERNOR JB PRITZKER, in his official
capacity, *et al.*,

Defendants.

Case No. 2021-CH-500007

Judge Grischow

EMERGENCY MOTION TO STAY TEMPORARY RESTRAINING ORDER

The State Parties respectfully request that the Court stay the Temporary Restraining Order entered on February 4, 2022 pending appeal, and in support of their motion, state as follows:

1. On February 4, 2022, the Court issued a temporary restraining.
2. Trial courts “may grant a stay pending appeal, as a matter of discretion.” *Fick v. Weedon*, 244 Ill. App. 3d 413, 418 (4th Dist. 1993); *see also Stacke v. Bates*, 138 Ill. 2d 295, 302 (1990) (“Courts have inherent power to grant a stay pending appeal, and whether or not to do so is a discretionary act.”); Ill. S. Ct. R. 305(b) (authorizing stay of “appealable interlocutory orders” pending appeal).
3. The State Parties (and, on information and belief, other defendant parties in this suit) intend to appeal the temporary restraining order entered by the Court. The Court should exercise its discretion and stay its order pending appeal for at least three reasons.
4. *First*, the Court should stay its TRO because the anticipated duration of the stay pending appeal is short, and will not prejudice any party. Under Ill. S. Ct. R. 307, briefing an appeal of a temporary restraining order must be completed within four business days of the issuance of the order being appealed, and the Appellate Court will rule on that appeal within five business days thereafter. Accordingly, ***any appeal will be resolved within two weeks***. A stay for such a short period will not prejudice Plaintiffs. Indeed, given that Plaintiffs waited months after filing this case to pursue a TRO, they can hardly claim that a two week stay will cause them undue prejudice or harm.
5. *Second*, the Court should stay its TRO because the record in the form of declarations of public health experts, Dr. Susan Bleasdale and Dr. Allison Arwady, unrebutted by any evidence presented by Plaintiffs, is that the Court’s TRO is likely to (a) disrupt the ability of schools to continue in-person instruction, and (b) cause an increase in sickness, and possibly death.

See, e.g., The State’s Response In Opposition To Plaintiffs’ Motions For Emergency Preliminary Relief at 47–51, *Allen et al. v. Pritzker et al.*, Sangamon County Case No. 2021-CH-500007; The State’s Response In Opposition To Plaintiffs’ Motions For Emergency Preliminary Relief at 37–40, *Austin et al. v. Pritzker et al.*, Sangamon County Case No. 2021-CH-500002. Conversely, Plaintiffs face the minimal inconvenience associated with wearing a mask, or the possibility of a brief exclusion from school premises during the pendency of an appeal.

6. *Third*, the State Parties incorporate by reference their arguments in opposition to Plaintiffs’ motions for emergency relief. From those submissions, and from the record in its entirety, Plaintiffs have not met their burden of showing a right in need of protection, a likelihood of success on the merits, irreparable harm, no adequate remedy at law, and that the balance of harms favors the issuance of an injunction to a degree sufficient to suggest that a stay pending appeal would be inappropriate.

CONCLUSION

For all of these reasons, the State Parties respectfully request the Court stay its temporary restraining order pending decision on appeal from the order dated February 4, 2022.

Dated: February 4, 2022

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Respectfully Submitted,

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CERTIFICATE OF SERVICE

Under penalties as provided by law pursuant to 735 ILCS 5/1-109, the undersigned hereby certifies the statements set forth in this certificate of service are true and correct and that she has caused a copy of the foregoing to be served upon:

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