



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 6, 2021

VIA EMAIL

The Honorable Clay Jenkins
Dallas County Judge
411 Elm Street
Dallas, Texas 75202
dcjudge@dallascounty.org

Dear Judge Jenkins:

We learned that you recently mandated mask use at a Dallas County Commissioners Court meeting and enforced your mandate by removing a duly elected county commissioner who declined to comply. Your actions exceeded your authority as restricted by Governor Abbott's Executive Order GA-38, which states that "[n]o governmental entity, including a county, city, school district, and public health authority, and no governmental official may require any person to wear a face covering or to mandate that another person wear a face covering[.]"¹

The Governor's executive orders "have the force and effect of law" and supersede local regulations.² The courts have agreed.³ The County Commissioners Court is not subject to the Texas Supreme Court's recent order.⁴ The Commissioners Court is only subject to the Governor's executive orders. Moreover, by violating the Governor's order you have compromised a county commissioner's constitutional responsibility to represent his constituents.⁵

¹ See Executive Order GA-38, issued July 29, 2021, available at: https://gov.texas.gov/uploads/files/press/EO-GA-38_continued_response_to_the_COVID-19_disaster_IMAGE_07-29-2021.pdf.

² Tex. Gov't Code § 418.012.

³ *State v. El Paso Cty.*, No. 08-20-00226-CV, 2020 WL 6737510 (Tex. App.—El Paso, November 13, 2020, no pet.).

⁴ *Henry v. Cox*, 520 S.W.3d 28, 38 (Tex. 2017).

⁵ Tex. Const. art. V, § 18(b) ("[t]he County Commissioners so chosen, with the County Judge as presiding officer, shall compose the County Commissioners Court, which shall exercise such powers and jurisdiction over all county business, as is conferred by this Constitution and the laws of the State, or as may be hereafter prescribed.").

I strongly encourage you to reconsider your decision to mandate masks at County Commissioners Court meetings as your actions conflict with Executive Order GA-38. Please revoke your recent mask mandate by August 9, 2021, or I will consider all available options to stop your unlawful mandate.

For Texas,

A handwritten signature in black ink that reads "Ken Paxton". The signature is written in a cursive, flowing style.

KEN PAXTON
Attorney General of Texas