



EDWARD P. RAE
Assemblyman 19th District

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

RANKING MINORITY MEMBER
Ways and Means Committee

January 31, 2022

The Honorable Kathy Hochul
Executive Chamber
New York State Capitol
122 State Street
Albany, NY 12224

Dear Governor Hochul:

As you are aware, the State Department of Health is currently arguing before the Appellate Division, Second Judicial Department to reverse Nassau County Supreme Court Justice Rademaker's recent decision in *Demtriou et. al v. New York State Department of Health and Health Planning Council*. We urge you to drop this appeal. We agree with Justice Rademaker that regulation 10 NYCRR 2.60; 2.60(a) represents an end around the legislative process that is enshrined in Article III, Section 1 of the New York Constitution, which states "[t]he legislative power of this state shall be vested in the senate and assembly". As duly elected members of the State Assembly and Senate, we believe that the power to entrust the Health Commissioner to impose such mandates lies with those elected by the people in the Senate and Assembly, not appointed commissioners.

At the beginning of the Covid-19 pandemic, Governor Cuomo requested and received from the Legislature enhanced powers to deal with an unprecedented public health emergency. While we often disagreed with how the then Governor wielded that authority, it was clear that the Legislature had granted extra authority to make determinations he felt were in the best interests of the public's health. When the original emergency declaration ended last June, those enhanced powers were deemed legally repealed. Absent express authorization by the Legislature, neither the Governor nor the Department of Health possess such powers.

We have heard from parents throughout this state loud and clear that they want a return to normalcy, including a return to representative government. Regardless of one's opinion regarding the effectiveness of mask mandates, the People of this state nevertheless deserve to have a voice in this discussion through their elected representatives. To the contrary, New Yorkers currently are in the dark as to what data the Department of Health is relying on in imposing and extending this mandate, and what metrics have been identified that will allow the lifting of this mandate on New York's school children.

We urge you to reverse course and return authority to our local governments as the New York State Public Health Law was designed to do.

We look forward to your response.



Ed Ra
19th Assembly District



Mike Durso
9th Assembly District



Missy Miller
20th Assembly District



John Mikulin
17th Assembly District



Michael Montesano
15th Assembly District



Dave McDonough
14th Assembly District



Jarett Gandolfo
7th Assembly District



Joseph DeStefano
3rd Assembly District



Doug Smith
5th Assembly District



Michael Fitzpatrick
8th Assembly District



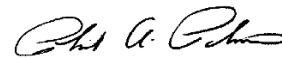
Keith Brown
12th Assembly District



Jodi Giglio
2nd Assembly District



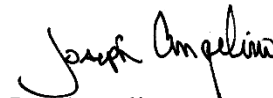
Anthony Palumbo
1st Senate District



Phil Palmesano
132nd Assembly District



Michael Lawler
97th Assembly District



Joe Angelino
122nd Assembly District



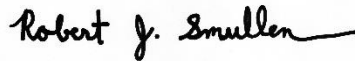
Kevin Byrne
94th Assembly District



Karl Brabenec
98th Assembly District



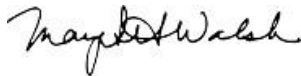
Brian Miller
101st Assembly District



Robert Smullen
118th Assembly District



Matt Simson
114th Assembly District



Mary Beth Walsh
112th Assembly District



John Lemondes
126th Assembly District



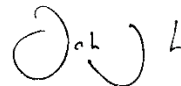
Mike Reilly
62nd Assembly District



Michael Norris
144th Assembly District



Jake Ashby
107th Assembly District



John Salka
121st Assembly District



Chris Tague
102nd Assembly District



Kieran Lalor
105th Assembly District



Jeff Gallahan
131st Assembly District



Brian Manktelow
130th Assembly District



Steve Hawley
139th Assembly District

Cc: Hon. Leticia James, Attorney General, State of New York
Dr. Mary T. Bassett, Commissioner, New York State Department of Health