

KASB suggested language regarding recommendation/order issued by local health departments

KASB recommends that local school boards and administrators follow the recommendations/order issued by their local health departments.

HB 2016 and the statutes on the authority of county health departments gives the county health department all the decision making authority when it comes to contagious diseases.

I recommend that school boards and administrators follow their recommendations as it provides school boards and districts with a "good faith immunity" defense in the event there is a lawsuit filed by a parent or relative of a loved one alleging that their child/relative died of COVID because the school district failed to follow the medical guidelines/recommendations of the county health officer. By following the recommendations of the county health officer, the board is following the latest medical advice issued by the group who has the statutory authority to address the spread of this contagious disease.

Failure to follow the county health officers recommendations could create risk of liability for the board and individual board members. Insurance carriers across the nation have said they will not cover any wrongful death claims arising from COVID but individuals could still sue the district and the board even if your insurance carrier does not provide coverage.

There is some false information being circulated that schools can do what they want since school boards have "Home Rule" authority and school boards can ignore the recommendations/orders of the county health officer.

This is **not correct** and does not comply with Kansas "home rule" statute. While school boards have "Home Rule" authority, Kansas law states that home rule **does not allow school boards** to assume the duties set forth to other local entities in Kansas law. HB 2016 and the Kansas contagious disease statutes clearly give only the county health officer and the county commissioners the authority to make contagious disease and quarantine decisions.

The only law that gives school districts authority when it comes to contagious diseases is KSA 65-122 which states:

65-122. Schools and child care facilities; non-admissions and exclusions; readmissions, when. No person afflicted with an infectious or contagious disease dangerous to the public health shall be admitted into any public, parochial or private school or licensed child care facility. It shall be the duty of the parent or guardian, and the principal or other person in charge of any public, parochial, private school or licensed child care facility to exclude therefrom any child or other person affected with a disease suspected of being infectious or contagious until the expiration of the prescribed period of isolation or quarantine for the particular infectious or contagious disease. If the attending person licensed to practice medicine and surgery or local health officer finds upon examination that the person affected with a disease, suspected of being infectious or contagious is not suffering from an infectious or contagious disease, he or she may submit a certificate to this effect to the person in charge of the public, parochial, private school or licensed child care facility and such person shall be readmitted to school or to the child care facility.