

THE HOUSTON INDEPENDENT SCHOOL DISTRICT



AGENDA

**Board of Education
Meeting**

August 26, 2021

THE HOUSTON INDEPENDENT SCHOOL DISTRICT
BOARD OF EDUCATION

Agenda Index

- | | |
|--------------------------------------|---------------------------------------|
| A. Superintendent's Priority Items | G. Human Resources |
| B. Trustee Items | H. Business Operations |
| C. Closed Session (Closed to Public) | I. Finance |
| D. Academic Services | J. Other |
| E. School Offices | K. Policy |
| F. Strategy and Innovation | L. Superintendent's Information Items |

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Millard House II, *Superintendent of Schools*

BOARD OF EDUCATION AGENDA

August 26, 2021

Table of Contents

A. SUPERINTENDENT'S PRIORITY ITEMS

- A-1. Approval Of Personal Services Performed By The Superintendent, Including Speaking Engagements, Panel Discussions, Workshops, Etc., In Accordance With Texas Education Code Section 11.201(E)
- A-2. Ratification Of The Filing Of The Petition In Intervention, Request For Declaratory Judgment, And Request For Temporary And Permanent Injunctions In Cause No. D-1-GN-21-003897, Which Opposes Governor Greg Abbott's Order 38 Prohibiting Mask Mandates

B. TRUSTEE ITEMS

C. CLOSED SESSION

- C-1. Personnel
 - a. Deliberate the duties of the superintendent of schools, chief officers, assistant superintendents, principals, employees, chief audit executive, and board members; evaluations of the superintendent and chief audit executive, consideration of compensation, and contractual provisions.
 - b. Consider and approve proposed appointments, reassignments, proposed terminations, terminations/suspensions, contract lengths, proposed nonrenewals, renewals, and resignations/retirements of personnel including teachers, assistant principals, principals, including resignation agreements and full and final release for chief officers, assistant superintendents, executive officers, and other administrators, and, if necessary, approve waiver and release and compromise agreements, including Settlement and Release Agreement for former South Area Superintendent.
 - c. Hear complaints against and deliberate the appointment, evaluation, and duties of public officers or employees and resolution of same.
- C-2. Legal Matters
 - a. Matters on which the district's attorney's duty to the district under the Code of Professional Responsibility clearly conflicts with the Texas Open Meetings Law, including specifically any matter listed on this agenda and meeting notice.
 - b. Pending or contemplated litigation matters and status report.

- c. Update on federal law enforcement activity on February 27, 2020.
- d. Legal discussion and advice concerning House Bill 1842 (84th Leg., 2015), Senate Bill 1882 (85th Leg., 2017), and the district's options.
- e. Legal discussion concerning Houston ISD v. Texas Education Agency, et al., In the 459th Judicial District Court, Travis County, Texas, Cause No. D-1-GN-19-003695.
- f. Legal Update on Special Education Accreditation Investigation.

C-3. Real Estate

D. ACADEMIC SERVICES

E. SCHOOL OFFICES

F. STRATEGY AND INNOVATION

G. HUMAN RESOURCES

H. BUSINESS OPERATIONS

I. FINANCE

J. OTHER

K. POLICY

L. SUPERINTENDENT'S INFORMATION ITEMS

ADJOURN

Office of the Superintendent of Schools
Board of Education Meeting of August 26, 2021

Office of Legal Services
Elneita Hutchins-Taylor, General Counsel

SUBJECT: RATIFICATION OF THE FILING OF THE PETITION IN INTERVENTION, REQUEST FOR DECLARATORY JUDGMENT, AND REQUEST FOR TEMPORARY AND PERMANENT INJUNCTIONS IN CAUSE NO. D-1-GN-21-003897, WHICH OPPOSES GOVERNOR GREG ABBOTT'S ORDER 38 PROHIBITING MASK MANDATES

This agenda item serves to ratify the filing of the Petition in Intervention, Request for Declaratory Judgment, and Request for Temporary and Permanent Injunctions in Cause No. D-1-GN-21-003897, Which Opposes Governor Greg Abbott's Order GA-38 Prohibiting Mask Mandates. The petition was filed Thursday, August 19, 2021, on behalf of six school districts from across the state seeking to join a lawsuit opposing Governor Abbott's Executive Order 38 prohibiting governmental bodies, including public school districts, from mandating the wearing of face masks in their facilities. In addition to the Houston Independent School District (HISD), the other districts intervening into the lawsuit are Dallas Independent School District, Northside Independent School District, Austin Independent School District, Aldine Independent School District, and Spring Independent School District.

The COVID-19 virus has significantly impacted teaching and learning within the district over the past two school years. In the interest of protecting the health and safety of students and staff the district has implemented several protocols, which included the wearing of face masks inside district facilities. As more members of the community became vaccinated and the protocols of wearing face masks, handwashing, and social distancing took effect, the rate of COVID-19 related hospitalizations and deaths began to subside in the Houston-Harris County area.

Unfortunately, however, as the administration continued preparation for the upcoming school year, the rate of infections and hospitalizations began to climb as a result of the new Delta variant. In response to the data, Harris County Judge Lina Hidalgo moved the Harris County COVID-19 threat level to red on August 5, 2021, which is the highest and most severe level. Houston Mayor Sylvester Turner supported the increased threat level. Based on the raised threat level and information from medical professionals in the area, Superintendent of Schools House announced, pursuant to his authority to manage the day-to-day operations of the district, that face masks must be worn while inside all HISD campuses, facilities, and district buses. By unanimous vote at the August 12, 2021, meeting of the Board of Education, a resolution was approved, supporting the superintendent's decision to mandate masks throughout the district.

On August 17, 2021, Superintendent House received a letter from the Attorney General of Texas, Ken Paxton, threatening legal action related to HISD's mask requirement. Mr.

Paxton’s letter stated that “[his] office will pursue further legal action including any available injunctive relief, costs and attorney’s fees, penalties, and sanctions—including contempt of court—available at law against any local jurisdiction and its employees that persist in enforcing local mask mandates...” The letter further stated that if HISD did not rescind its mask policy, “you will face legal action taken by my office to enforce the Governor’s order and protect the rule of law.”

As a result of this threatened enforcement action, HISD must now defend its right to local control pursuant to Sections 7.003, 11.051, 11.151, 11.1511, and 11.201 of the Texas Education Code, and ensure its superintendent and Board of Education continue to have the right to determine the appropriate measures to protect HISD’s students, families of students, and staff during this ongoing pandemic by intervening in pending litigation opposing the Executive Order GA-38.

COST/FUNDING SOURCE(S): The cost for this action will be paid from Legal Services funds.

Fund Source	Fund	Cost Center	Functional Area	General Ledger	Internal Order/ Work Breakdown Structure	Amount
General Fund	1993000000	1080825000	AD41990000000000	6211000000	400000001072	\$XXX,XXX

STAFFING IMPLICATIONS: None

ORGANIZATIONAL GOALS/IMPACT: This agenda item supports all four district goals and is aligned to Core Initiative 5: Culture of Trust through Action.

THIS ITEM DOES NOT REQUIRE CONSULTATION.

THIS ITEM DOES NOT ESTABLISH, MODIFY, OR DELETE BOARD POLICY.

RECOMMENDED: That the Board of Education ratifies the filing of the Petition in Intervention, Request for Declaratory Judgment, and Request for Temporary and Permanent Injunctions in Cause No. D-1-GN-21-003897, Which Opposes Governor Greg Abbott’s Order 38 Prohibiting Mask Mandates, effective August 27, 2021.