

WILL: Argues Kenosha County Health Department has no legal authority to close schools

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The News: The Wisconsin Institute for Law & Liberty (WILL) issued a [letter](#) to Kenosha County Public Health, the local health department, reminding the agency that [Wisconsin Supreme Court precedent](#) forbids local health officers from closing local schools. WILL received multiple reports from Kenosha-area parents that local health officials recently informed school boards and administrators that schools would be closed for in-person learning if COVID-19 numbers reached certain levels. Documents and emails obtained by WILL support these claims.

The Quote: WILL Deputy Counsel, Luke Berg, said, “Less than six months ago, the Wisconsin Supreme Court held that local health officers have no power to close schools. The Kenosha County health department can make recommendations, offer guidance, and help schools navigate the pandemic. But they cannot close schools.”

Background: When health officers in Dane County and Racine attempted to close schools for in-person learning in 2020, the Wisconsin Supreme Court quickly issued injunctions while WILL lawsuits were under consideration. In June 2021, the Wisconsin Supreme Court issued a decision affirming that “local health officers do not have the power to close schools.”

But in recent weeks, WILL received multiple reports from Kenosha-area parents that the Kenosha County health department issued warnings to local schools that schools would be closed for in-person learning if COVID-19 infections reached certain thresholds. One recent document from the health department states that certain “indicators will trigger a transition to at-home learning for all staff and students in a school or the district.” Another email from a school district administrator to families in the district states that “Kenosha County Public Health has shared they would intervene and require a move to virtual instruction for all of our students if we reached a point of 3% active infections.”

WILL issued a [letter](#) to the Kenosha County health department reminding the local agency that a recent Wisconsin Supreme Court decision, [James v. Heinrich](#), prevents local health officers from closing schools for in-person learning. Under state law, local elected school boards retain the authority to make decisions on how schools are run and if precautions should be taken. The health department can offer guidance, recommendations, and advice to school boards and administrators as they navigate the pandemic. But they do not retain the authority to close schools. Read More:

- [WILL's Letter to Kenosha County Health Department](#), September 30, 2021
- [Wisconsin Supreme Court Decision in James v. Heinrich](#), June 11, 2021