

Tuesday, Aug. 24, 2021

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## **Brattleboro's indoor mask mandate nixed by Scott administration**

BRATTLEBORO — The Scott administration told the town Tuesday that it should reconsider the Aug. 17 vote by the Selectboard to require the use of face masks in indoor public spaces in the community to reduce the spread of COVID-19.

While the board voted 4-1 to reinstate the masking rule that had been dropped in June, Town Manager Peter Elwell said it was a decision that was subject to the approval of the Vermont Department of Health.

In an email to Elwell sent Tuesday morning, Scott administration Deputy Chief of Staff Brittney Wilson wrote that while the administration recognized the town's "desire to exercise some measure of local control," they advised that the town "consider withdrawing your request" to Health Commissioner Dr. Mark Levine "and instead review the general statutory or charter powers which may be available to your jurisdiction at this time for this purpose."

The town currently requires the wearing of face masks in all municipal buildings in Brattleboro, which Wilson indicated was within the town's legal right.

Montpelier adopted a similar policy "in reliance on authority under 24 V.S.A. § 1236(4) regarding the charge and supervision of public town buildings. We have no objection to Montpelier's more narrow jurisdictional approach," she wrote.

Wilson wrote that the state's current policy position "is that mask use is recommended for people who are unvaccinated in indoor settings. We are following the data closely and should the data demonstrate it is warranted, we would consider additional mitigation recommendations with the reimposition of a statewide state of emergency, but only if mandates were to be demonstrably necessary."

Brattleboro first instituted a mask requirement in the spring of 2020, however, there was no formal enforcement of the mandate by the town. That mandate ended with the lifting of state restrictions in June.

In an email to Wilson, Elwell said that "I do not have the authority to withdraw the Selectboard's request" and that "until and unless the Selectboard decides to withdraw that request, it is my responsibility on their behalf to ask the state to act on this matter, rather than simply urging Brattleboro to withdraw."

Elwell said that, "on behalf of the Selectboard, I respectfully request that you refer this matter back to the Commissioner of the Department of Public Health so that this matter can be addressed as intended in Vermont Statutes."

Gov. Phil Scott said Tuesday his administration will stick with current state COVID-19 guidance and has no plans to reinstate mask or other emergency restrictions in the wake of this month's surge of new cases linked to the Delta variant.

Based on current data, Scott said at his weekly news briefing that returning to a state of emergency is unnecessary and doing so would "abuse" that power.

With many schools in Vermont opening this week, some top lawmakers say the state needs to provide clearer guidance to schools. For now, the state is recommending, not requiring, students and staff start the school year masked.

In a statement Tuesday, Senate President Becca Balint, D-Brattleboro, said many parents, including herself, remain anxious about sending their unvaccinated children back to school.

"It is unclear and confusing to thousands of parents across Vermont why students, faculty, and staff are not being required to wear masks in schools at a time when we have community spread of the virus and our youngest children don't have the protection that adults have available to them," Balint said.

State data show that case growth is starting to slow down in Vermont, breakthrough cases are rare and Vermont's high vaccination rate — now at 85.6 percent of eligible Vermonters — is protecting residents from the worst effects of the virus.

Children under age 12 have not yet been authorized to receive vaccines, but Scott said he learned at his weekly conference call with White House officials that an emergency use authorization for the Pfizer vaccine for this age group could happen by the end of September.