



# KANSAS JUSTICE INSTITUTE

October 13, 2020

Sent via Electronic Mail Only

Dr. Joseph LeMaster (Johnson County Public Health Officer)

Dr. Sanmi Areola (Director, Johnson County Department of Health and Environment)

Re: Purported Quarantine Order(s) Issued on or about October 9, 2020

Dr. LeMaster and Dr. Areola,

According to several recent reports, purported quarantine orders were issued to as many as 200 people in the Olathe school district, including 150 Olathe football players. See ex., Makenzie Koch, *Over 150 Olathe football players placed under quarantine after COVID-19 exposure*, Fox News (updated Oct. 12, 2020 at 4:13 p.m.); Maggie Holmes, *200 people in quarantine after COVID-19 outbreak among the Olathe School District*, KCTV5 News (Posted October 12, 2020).

Kansas Justice Institute<sup>1</sup> has reason to believe these Orders were issued on or about October 9, 2020.

This purported quarantine order states, in part, “exposed individuals are to quarantine in their homes and limit contact with others ... (including having company in the home) until 14 days has passed ... **[a] negative COVID test does NOT shorten the quarantine period.**” (Parenthetical and bold in original).<sup>2</sup>

The purported quarantine order states it came from the “Olathe Public Schools” but upon information and belief, a school official is claiming the “county” issued the Order(s). This lack of clarity and lack of transparency is deeply troubling and requires immediate, public, correction, especially because this appears to have occurred before. On or about September 18, 2020, KJI raised a similar issue in connection with Timber Creek Elementary School.

In Kansas, the quarantine process is outlined in KSA §§ 65-129b and 129c. The statutes empower a *local health officer* or the *Secretary of the Kansas Department of Health* to issue quarantine orders under certain, limited, circumstances. The statutes do not expressly or

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<sup>1</sup> Kansas Justice Institute is a non-profit, public-interest litigation firm committed to protected individual liberty and the constitutional rights of all Kansans.

<sup>2</sup> KJI recognizes this is a rapidly developing situation. As such, if you believe this is inaccurate, please respond by setting forth what you believe to be inaccurate; and, please set forth the accurate facts.

implicitly authorize school districts or school employees to issue such Orders, or expressly or implicitly authorize a local health officer to delegate this power to a school employee.

Moreover, a *local health officer's* power to issue a quarantine order is not unlimited. For example, KSA § 65-129b does not allow a local health officer to issue an isolation or quarantine order unless it is “medically necessary” and “reasonable to prevent or reduce the spread of the disease or outbreak[.]” This “129b Order” must be specific and must inform the public of their ability to contest the order. KSA § 65-129c sets forth a procedure for challenging the order.

Individuals isolated or quarantined may request “a hearing in district court contesting the isolation or quarantine[.]” KSA § 65-129c(d)(1).

Courts “shall appoint counsel” to represent individuals who “are not otherwise represented by counsel.” KSA § 65-129c(d)(10). A challenge to the health officer’s order must take place within 72-hours (KSA § 65-129c(d)(3)) absent extraordinary circumstances. KSA § 65-129c(d)(4)(A). At the hearing’s conclusion, the judge must lift the quarantine order “unless the court determines that the isolation or quarantine order is necessary and reasonable to prevent or reduce the spread of the disease or outbreak believed to have been caused by the exposure to an infectious or contagious disease.” KSA § 65-129c(d)(4)(C)(i).

A school employee is not statutorily authorized to order students to remain in their homes. A health officer is not statutorily authorized to tell a school employee to order students to remain in their homes. These purported quarantine orders are, in our view, egregious oversteps requiring immediate and public correction. If these are *bona fide* orders, they must include the statutory language. If they are not *bona fide* quarantine orders, parents need to know the quarantines are merely recommendations.

We insist you immediately, and publicly, explain whether your department issued these orders; whether your department instructed schools to issue these orders; or whether you believe the schools acted on their own initiative. If this is merely a recommendation, as opposed to a *bona fide* quarantine order, we insist you publicly correct the notification to make it clear it is merely a recommendation.

Parents deserve to know how, why, and under what authority their children are purportedly under quarantine.

KJI recognizes this is a rapidly developing situation. As such, if you believe that anything contained in this letter is inaccurate, please respond by setting forth what you believe to be inaccurate; and, please set forth the accurate facts in writing.

Thank you for your time and consideration. If you wish to discuss this matter, I will make myself available to you at any time. If you call my direct line listed in the below signature block,

it will automatically forward to my mobile phone. If for some reason I do not immediately answer, please leave a message and I will return the call.



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Cc: Dr. John Allison (Superintendent of Schools)  
Joe Beveridge (Olathe Public Schools Board President)  
Brian Geary (Olathe Public Schools Vice President)