

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 • MADISON, WI 53701 • (608) 256-8900 • WWW.FFRF.ORG

January 20, 2022

SENT VIA FAX & U.S. MAIL: 302-739-2775

The Honorable John Carney
Office of the Governor
Tatnall Building
150 Martin Luther King Jr Blvd South
Dover, DE 19901

Re: Protective measures for gatherings must apply to all public places

Dear Governor Carney:

We write on behalf of the Freedom From Religion Foundation (FFRF) to raise concerns with the exceptions to mask-wearing under your recently enacted mask mandate. FFRF is a nationwide nonprofit organization with more than 35,000 members across the country, including members in Delaware. FFRF's purposes are to protect the constitutional separation between state and church and to educate the public on matters related to nontheism.

We understand that amid a spike in COVID-19 cases led by the Omicron variant, you signed a new mask mandate on Monday, which admirably requires citizens to wear facemasks in most public places. Unfortunately, your mask mandate makes an exception for churches and other houses of worship.

You have offered a statement explaining the need for this mask mandate:¹

Our hospital systems are facing a crisis-level situation with record numbers of Delawareans seeking emergency care. We need all Delawareans in the fight as we face this winter surge of COVID-19 to make sure our hospitals are not overrun. I know we're all exhausted by this pandemic. But at the level of hospitalizations we're seeing, Delawareans who need emergency care might not be able to get it. That's just a fact. It's time for everyone to pitch in and do what works. Wear your mask indoors. Avoid gatherings or expect to get and spread COVID. Get your vaccine and, if eligible, get boosted. That's how we'll get through this surge without endangering more lives.

We certainly agree that all Delawareans should join in the fight to face this latest COVID-19 surge, which is why it is particularly perplexing that your mask mandate exempts churches and other houses of worship. Religious gatherings spread COVID just as well, if not more efficiently than any other type of gathering. We request that you revise your mask mandate to require citizens who are medically able to do so to wear a mask in all public places, without exceptions for churches or other houses of worship. The continued health of the citizenry demands closing this loophole.

¹ <https://6abc.com/delaware-mask-mandate-indoor-face-masks-covid-19-in-de-covid-19-pandemic/11450095/>

The Supreme Court has long held that the Establishment Clause “mandates government neutrality between religion and religion, and between religion and nonreligion.” *McCreary Cty., Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Ark.*, 393 U.S. 97, 104 (1968); *Everson v. Bd. of Educ. of Ewing*, 330 U.S. 1, 15-16 (1947). Exempting religious facilities from the state’s mask order violates this basic stricture.

Since the beginning of this pandemic, houses of worship have repeatedly been shown to be hotbeds for spreading COVID-19. One-third of all COVID-19 cases in a California county’s first coronavirus outbreak were traceable to a single church congregation. The numbers were even bigger elsewhere. As Reuters reported: “South Korea announced thousands of coronavirus cases in the space of only a few days in late February. The surge in cases centered mostly around one main cluster from a church in Daegu city.”² That article documents the harrowing story of ***one infected person attending two church services and spreading COVID to another 1,200 people*** and that a single “church cluster accounts for at least 60 percent of all cases in South Korea.”³ Notably, the omicron variant is hyper-transmissible compared to earlier variants, making the exemption for churches during this surge all the more reckless.⁴

Many religious facilities are uniquely susceptible to spreading the disease and consequently should be held to at least the same mask-wearing standards as similar secular facilities. Worship services usually require people to sit together in an enclosed space for an extended period of time to share a communal experience. Church choirs and singing by participants have and can spread the virus. The greetings, socializing, potlucks and indoor events are all huge risk factors during a pandemic. Even when conducted under social distancing measures, this type of gathering creates a high risk of coronavirus transmission.

Governments ***already*** regularly place limits on worship gatherings that jeopardize public health. For instance, the government prohibits churches from cramming too many people into a building in violation of fire codes and also requires that church buildings comply with necessary building codes. The congregants’ right to gather and worship is limited by the government’s need to protect those congregants from being trampled to death and the community from a fire. Requiring masking due to a pandemic is even more crucial.

To protect the health and safety of all Delaware residents, we ask that you apply your mask mandate’s mask-wearing requirements to all public spaces, including churches and other houses of worship. The coronavirus unfortunately does not relent based on the type of building one enters. To be effective, neither must Delaware’s response to the virus. Thank you for your time and attention to this matter.

Very truly,



Annie Laurie Gaylor & Dan Barker
Co-Presidents
ALG/DB:cal

² <https://graphics.reuters.com/CHINA-HEALTH-SOUTHKOREA-CLUSTERS/0100B5G33SB/index.html>.

³ *Id.*

⁴ <https://www.nature.com/articles/d41586-022-00129-z>