

**A RESOLUTION REQUESTING THE ATTORNEY GENERAL TO FILE SUIT ON
BEHALF OF THE DISTRICT
SEEKING AN INJUNCTION AGAINST COVID-19 MANDATES RELATED TO THE
HEAD START PROGRAM**

At a lawfully called meeting on December 13, 2021, the Board of Trustees (the “Board”) of Muleshoe Independent School District (the “District”) does hereby adopt the following Resolutions requesting that the Texas Attorney General file suit on behalf of the District seeking an injunction enjoining enforcement of the federal government’s mask and vaccine mandates as related to the Head Start program

WHEREAS, on July 29, 2021, Governor Greg Abbott issued Executive Order No. GA-38 in response to the state of Texas’s continued response to the COVID-19 pandemic (“GA-38”); and

WHEREAS, GA-38 states the following regarding a Texas school district’s ability to require mandatory masking as a COVID-19 mitigating measure:

“To further ensure that no governmental entity can mandate masks, the following requirements shall continue to apply . . . No governmental entity, including a county, city, school district, and public health authority, and no governmental official may require any person to wear a face covering or to mandate that another person wear a face covering. . .”; and

WHEREAS, On August 25, 2021, Governor Greg Abbott issued Executive Order No. GA-39 in response to the state of Texas’s continued response to the COVID-19 pandemic (“GA-39”); and

WHEREAS, GA-39 states the following regarding a Texas school district’s ability to require mandatory vaccination against COVID-19 as a mitigating measure:

- 1. No governmental entity can compel any individual to receive a COVID 19 vaccine. I hereby suspend Section 81.082(f)(1) of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that no governmental entity can compel any individual to receive a COVID-19 vaccine.*
- 2. State agencies and political subdivisions shall not adopt or enforce any order, ordinance, policy, regulation, rule, or similar measure that requires an individual to provide, as a condition of receiving any service or entering any place, documentation regarding the individual’s vaccination status for any COVID-19 vaccine. I hereby suspend Section 81.08(i) of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to enforce this prohibition. This paragraph does not apply to any documentation requirements necessary for the administration of a COVID-19 vaccine.*

WHEREAS, President Joe Biden called for rulemaking from the Department of Health and Human Services requiring vaccination mandates in Head Start programs in his Path Out of the Pandemic Plan announced on September 9, 2021; and

WHEREAS, the Department of Health and Human Services/Administration for Children and Families/Office of Head Start published an Interim Final Rule with Comment on November 30, 2021, in the Federal Register that requires a masking mandate for all persons two years of age and older in Head Start programs to wear masks, with some narrow exceptions, effective on November 30, 2021; and

WHEREAS, such Interim Final Rule also requires a vaccination mandate for all Head Start staff, contractors whose activities involve contact with or providing direct services to children and families of Head Start, and volunteers working in Head Start classrooms or in close contact with children of the Head Start program to be fully vaccinated by January 31, 2021; and

WHEREAS, such interim rule is in direct conflict with Executive Orders GA-38 and GA-39 because it is impossible for school districts that operate Head Start Programs to comply with both the state prohibitions and the federal mandates; and

WHEREAS, on December 1, 2021, in *E.T. v. Paxton*, Docket No. 21-51083, the Fifth Circuit granted a stay on a District Judge's permanent injunction prohibiting the enforcement of GA-38 because "the Attorney General demonstrated a strong likelihood of success on the merits and the prospect of irreparable injury absent a stay"; and

WHEREAS, the District recognizes the challenges of enforcing a mask mandate on children under the age of five years old and the potential dangers of requiring such children to wear masks; and

WHEREAS, teaching and learning are adversely affected by mandatory mask wearing, especially in an early childhood setting where students are learning how to use spoken language, how to decode and understand language spoken to them, and how to converse with others, and generally receiving instruction from teachers and aides in the most formative years for lingual and social development; and

WHEREAS, the District provides crucial early childhood intervention and instructional services to many needy children within its territorial boundaries through its Head Start and Early Head Start programs; and

WHEREAS, such children are at risk of not receiving the needed early childhood services if the District complies with GA-38 and GA-39 and the federal government terminates its Head Start and Early Head Start programs; and

WHEREAS, under Section 11.151 of the Texas Education Code, the Board of Trustees of a school district may authorize that the district seek judicial remedies through suit;

NOW BE IT THEREFORE RESOLVED THAT THE BOARD OF TRUSTEES OF THE MULESHOE INDEPENDENT SCHOOL DISTRICT finds it is in the best interest of the District to request that Texas Attorney General Ken Paxton file an appropriate challenge to the Interim Final Rules published in the Federal Register on November 30, 2021; and

BE IT FURTHER RESOLVED that the Board authorizes the President of the Board, or in his absence the Superintendent of Schools, to take any and all action necessary to carry out the wishes of the Board, including but not limited to, seeking the assistance of the Texas Attorney General's Office, signing as engagement letter to retain the Texas Attorney General's Office's representation, and assisting the District's legal counsel in carrying out the wishes of the Board as expressed in this Resolution;

This Resolution shall be in full force and effect from and after its passage, and it is so resolved.

PASSED AND APPROVED ON THIS 13th DAY OF DECEMBER 2021.



Secretary, Board of Trustees



President, Board of Trustees