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Jessica Westerman, left, a kindergarten teacher at St. Athanasius Catholic School in Louisville, Ky., and Margie Reece, the school's principal, measure and arrange desks in a classroom July 6, 2020, to provide more space between students in preparation for the new school year. On Nov. 29, a federal appeals panel upheld Gov. Andy Beshear's order to stop in-person classes at religious schools during the COVID-19 pandemic. (CNS/The Record/Jennifer Jenkins)

by The Associated Press

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A federal appeals panel has upheld Kentucky Gov. Andy Beshear's order to stop in-person classes at religious schools during the coronavirus pandemic.

A three-member panel of the Sixth Circuit U.S. Court of Appeals in Cincinnati on Nov. 29 issued a stay of a federal judge's order from last week.

U.S. District Judge Gregory F. Van Tatenhove ruled Nov. 25 that the Democratic governor's order cannot apply to religious schools as the "First Amendment protects the right of religious institutions 'to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine.'"

But the appellate court said Nov. 29 that it is likely to rule that Beshear's order was "neutral and of general applicability" in that all schools were affected.

Under Beshear's new restrictions, middle and high schools are required to continue with remote learning until January. Elementary schools may reopen Dec. 7 if the county they are located in is not in a "red zone," the highest category for COVID-19 incidence rates.

"While we all want to get our kids back to in-person instruction, the United States Court of Appeals for the Sixth Circuit recognized that doing so now would endanger the health and lives of Kentucky children, educators and families," Beshear said Nov. 29 on Twitter.

Kentucky Attorney General Daniel Cameron, a Republican, had supported the religious schools in their bid to stay open to in-person learning.

"We're disappointed with the Sixth Circuit's ruling allowing the Governor to close religious schools, but we're already hard at work to take this matter to the United States Supreme Court," Cameron said Nov. 29 on Twitter.

The state Supreme Court upheld the governor's authority to issue coronavirus-related mandates in an unanimous ruling on Nov. 12.

Coronavirus cases continue to surge throughout Kentucky. The state reported more than 2,400 new confirmed cases and 14 virus-related deaths Nov. 28.

Almost all of Kentucky's 120 counties are reported to be in the red zone — the most serious category for COVID-19 incidence rates. People in those counties are asked to follow stricter recommended guidelines to contain the virus.

For most people, the coronavirus causes mild or moderate symptoms that clear up within weeks. But for others, especially older adults and people with existing health problems, the virus can cause severe symptoms and be fatal. The vast majority of people recover.

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