



Bucking local health warnings, two private religious schools are set to reopen in hard-hit Rio Grande Valley

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August 21, 2020

At the southernmost tip of the Rio Grande Valley, Cameron County has been a national coronavirus hotspot for weeks, a situation so dire that local health officials will not allow students to return to classrooms until late September at the earliest. But two private religious schools, leaning hard on guidance from state officials, plan to buck the local emergency directive and bring students back sooner — and they are prepared to defend their decision in court.

Laguna Madre Christian Academy and Calvary Christian School of Excellence plan to open Aug. 31 and Sept. 8, respectively, following new safety protocols and with the backing of the religious freedom law firm First Liberty Institute, which has deep ties to Texas Attorney General Ken Paxton. Paxton himself issued non-binding legal guidance last month advising that religious private schools have unique legal protections and “need not comply” with local health officials’ orders to close.

Whether schools can reopen safely depends largely on how widespread coronavirus infections are in the surrounding community, experts say. In Cameron County, health officials say the spread is well past the danger point. County Judge Eddie Treviño said earlier this month that no schools — public or private — may open in the county until Sept. 28.

But after the religious schools threatened legal action, the county granted Laguna Madre an exception, acknowledging that it is in “a unique situation” with just five staff members and 20 students. As of Friday afternoon, the county had not done the same for Calvary Christian, which has about 140 students.

“The hospitals are in a better position now such that if LMCA’s students, staff, or their families become ill and require hospitalization, the hospitals have the capacity to manage,” an attorney for the county told Laguna Madre officials — ominously — this week.

Hospitals in the Valley have been overwhelmed with the sick this summer, and crematoriums have worked overtime to dispose of the dead. Patients have been flown as far as 700 miles to

Amarillo — the closest hospital with room. Cameron County leads nearly every other county in the state in coronavirus cases and death proportional to population. The virus has proved particularly deadly to communities of color; Cameron County, which is majority-Hispanic, accounts for just 1.5% of Texas' population, but nearly 6% of its coronavirus fatalities.

The dispute strikes at a larger question: In a hard-hit area where public schools are closed, is it safe for private schools to open?

After all, the virus does not respect such distinctions. In the Valley, local health officials fear that reopening any schools would further endanger a community already in crisis. And experts say that with asymptomatic transmission of the virus — and without widespread, routine testing — reopening schools is likely to cause greater community spread of COVID-19.

Several school districts elsewhere in the state have already reported cases of the virus after reopening only briefly. Cameron County can't afford to take the risk, local officials say.

School officials and health authorities across the state have wrestled with similar choices as cases of the coronavirus surged in Texas this summer. Some of the state's largest districts have delayed in-person instruction hoping their communities will get healthier before kids return to classrooms. State guidance has largely left private schools to do as they please.

University of Texas researchers, who compiled county-level data to model the potential for infections in schools across the country, estimate that at a school of 100 in Cameron County, three people would arrive infected within the first week.

And a similar national risk assessment tool created by researchers at Stanford University and Georgia Tech predicts that at a Cameron County event of just 10 people, there is as much as a 57% chance of at least one COVID-19 positive person in attendance.

“We cannot decouple what's happening in communities in terms of rates of transmission from what's going to happen inside the school buildings, because kids go home to parents and grandparents and teachers come home to parents and grandparents and children,” Sara Johnson, a pediatrics professor at the Johns Hopkins University School of Medicine, told reporters earlier this month. “These are not islands.”

And the bigger the school, the greater the threat, said Spencer Fox, a University of Texas at Austin researcher who creates statistical models for infectious diseases.

Local health authorities have the power to shutter schools that see an outbreak of COVID-19, but cannot close them in advance, state leaders have said.

“Nothing in the law gives health authorities the power to indiscriminately close schools,” Paxton, the attorney general, wrote in non-binding legal guidance last month.

Both Laguna Madre and Calvary Christian say they have adopted safety protocols including physical distancing, frequent sanitization of high-touch surfaces and routine health checks.

At Laguna Madre, kids will enter and exit through designated entrances and exits (older kids through Mrs. Houston's door, younger kids using Miss Brenda's). Lunch, and perhaps chapel, will be held in individual classrooms. Masks are not required, but face shields are available for purchase at \$4 each.

At Calvary Christian, preparations are as detailed as separate recess sessions, touchless water fountains and single-use condiment packages. Parents will sign liability waivers.

Cameron County attorneys warned school officials that if they open without approval from local leaders, “you will do so at the risk of enforcement actions and potential penalties” including fines and even jail time.

“There is no question that if schools open when the cases in the community are high, as they currently are in Cameron County, they will open only to close again in 1-2 weeks when they have an outbreak of cases,” attorney Juan Gonzalez told school officials last week. “Reopening schools for in person instruction prematurely would increase the spread of the disease and the potential for some people to get very sick.”

Gonzalez added that Paxton’s letter “is nothing more than an opinion,” and said Cameron County’s order “does not discriminate based on religion nor violate any Constitutional right.”

But Jeremy Dys, an attorney with First Liberty, said the government can’t tell the religious institution to keep its doors closed.

Dys wrote to county officials this week threatening legal action if the schools are penalized for opening in person.

“Private, religious institutions retain the freedom to determine when it is safe to resume in-person meetings or instruction, not the State of Texas, nor Cameron County,” Dys wrote. “Cameron County’s order must yield.”

Private schools face different pressures than public schools — including dependence on tuition money on the one hand, and greater vulnerability to liability lawsuits on the other. According to a tally from the CATO Institute, a libertarian think tank, six Texas private schools have already closed down permanently due at least in part to the coronavirus pandemic.

Still, some private schools have greater resources than their government-funded peers.

Scientific literature, although ever-shifting, shows children are less likely than adults to suffer severe symptoms of COVID-19. But children can still transmit the virus, and some — particularly those with pre-existing conditions like asthma or diabetes — are more at risk.

U.S. Centers for Disease Control and Prevention research shows that Black and Hispanic children are far more likely than white children to be hospitalized from the coronavirus. COVID-19 has proved deadlier for Texans of color, particularly in the hard-hit Rio Grande Valley, where the population is mostly Hispanic. The virus can be particularly treacherous for multi-generational households, which are more common in communities of color, according to the Pew Research Center.

Public schools have also taken issue with local health guidelines meant to ensure community safety. In Harris County, 10 superintendents are pushing back against local authorities, arguing their schools should reopen earlier than the guidelines would indicate.

Other private schools have already opened in person. In Dallas, where public school students will begin the year online, the private First Baptist Academy opened last week for in-person instruction and even sports activities.

Jason Lovvorn, the school's head, said his school has enacted stricter safety precautions than some of its peers. It hasn't yet had a confirmed case of COVID-19, though some students and staff have stayed home when they experienced potential symptoms.

"We are really making sure that we're emphasizing safety," he said. "It's not just wearing masks and it's not just distancing and it's not just temperature checks or desk shields. It's at all times making sure we have a combination of that."

Still, experts acknowledge, even with the best precautions, schools may find themselves facing outbreaks simply because the virus spreads undetected among asymptomatic carriers. Even rigorous health checks won't identify kids who are spreading COVID-19 while feeling perfectly healthy. And the risks are especially great in hard-hit areas.

"More than anything," Calvary Christian's guidance reads, "we are trusting in the Lord Jesus Christ for His protection and salvation."