

Resources of Interest to Families of High Risk Children

CDC Guidance:

<https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-childcare-guidance.html>

Schools with students at risk for getting very sick with COVID-19 must make reasonable modifications when necessary to ensure that all students, including those with disabilities, are able to access in-person learning. Schools might need to require masking, based on federal, state, or local laws and policies, to ensure that students with immunocompromising conditions or other conditions that increase their risk for getting very sick with COVID-19 can access in-person learning. For more information, visit the [U.S. Department of Education's Disability Rights](#) webpage. Students with immunocompromising conditions or other conditions or disabilities that increase risk for getting very sick with COVID-19 should not be placed into separate classrooms or otherwise segregated from other students.

Civil Rights of Students with 504s and IEPs in Public Schools- DOE Office for Civil Rights Disability Rights | U.S. Department of Education

COVID-19 prevention strategies are beginning to evolve and will vary across local jurisdictions. As schools assess their policies, the goal is for schools to remain open for in-person learning for everyone, including students with disabilities. Schools should always consider layered prevention strategies needed to protect the civil rights of students with disabilities and ensure their equal access to safe in-person learning.

Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act protect the rights of individuals with disabilities to have equal access to public facilities and institutions, which means that students with disabilities have the right to access schools without taking on a far greater risk to their health than other students face. To comply with their federal obligations, school districts must (among other things) make reasonable modifications when necessary to ensure equal access for their students with disabilities, absent a showing that the modifications would constitute a fundamental alteration to the program in question. Depending on the circumstances, a school district could decide that some degree of masking is necessary as a reasonable modification to ensure that students with disabilities have meaningful access to in-person schooling without incurring an elevated risk of hospitalization or death due to COVID-19. This is necessarily a fact-specific inquiry depending on each school's particular circumstances and the modifications sought by their students.

Similarly, the Individuals with Disabilities Education Act guarantees that all eligible children who require special education, regardless of the nature or severity of their disability, receive a free appropriate public education (FAPE) in the least restrictive environment (LRE). Under IDEA, school officials and the child's parents work as a team to develop an individualized education program that details how the student will access education services. Based on the unique needs of the child, the team could determine that some degree of masking is necessary to ensure a specific child can receive a FAPE in the LRE.

[March 24, 2022 Letter to Educators and Parents Regarding New CDC Recommendations and Their Impact on Children with Disabilities \(PDF\)](#)

Masking: As a reminder, school districts, schools, early childhood centers and homes, and classrooms may still choose to implement masking at any COVID-19 Community Level depending on their community's needs, and individuals – including those at higher risk of severe outcomes from COVID-19 – located in communities at any COVID-19 Community Level may choose to mask at any time.

Federal civil rights laws stipulate that schools must consider the health and safety needs of their students in order to safely attend in-person. This includes expectations around masking in

schools on a case-by-case basis in order to comply with schools' obligation to make reasonable modifications for particular students with disabilities under federal law. Depending on the circumstances, a school could decide that some degree of masking of students and staff is necessary as a reasonable modification to ensure that students with disabilities have equal access to in-person learning without incurring an elevated risk of hospitalization or death due to COVID-19. In addition to deciding that an individual student with specific circumstances or needs must wear a [mask](#) or a modified mask such as with a clear front, a school may determine it is also necessary for other individuals in school settings to wear masks, depending on the specific circumstances of the student with a disability and in consideration of relevant health guidance.

III. Ensuring Students Receive Education and Services in the Least Restrictive Environment

In adopting practical, layered strategies to serve all students, schools must refrain from placing all students with disabilities, or all students with disabilities at high risk of severe outcomes from COVID-19, in a segregated setting away from their peers without disabilities as the only means to deliver FAPE safely. Both IDEA and Section 504 presume that all students with disabilities should be educated alongside their peers without disabilities unless the educational goals for the student cannot be successfully met in that setting. Similarly, schools should be cautious about singling out or identifying students with disabilities as the cause of any perceived burden to avoid stigma and the risk of bullying and must take steps to address any bullying that does occur.

When health plans are included in the student's IEP or Section 504 Plan, it is especially important that the IEP or Section 504 Plan be made available to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation. Further, school staff responsible for implementing any aspect of the student's IEP or 504 Plan must be informed of the relevant content and requirements, including the specific supplementary aids and services, accommodations, modifications, and other supports to be provided for, or on behalf of, the student.

IEP and Section 504 Teams should be careful to consider how their decisions about services and service delivery impact placement in the LRE. It is important to keep in mind that every IDEA-eligible student's program is the sum of their access to, and progress in, the general education curriculum along with progress on their individual functional goals. The two are linked, and both must be prioritized. It is important for teams to be creative and make decisions promoting maximum and appropriate inclusivity, rather than more separate or restrictive programs. In

<https://www2.ed.gov/about/offices/list/ocr/docs/qa-covid-20200928.pdf>

<https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf>

<https://www2.ed.gov/about/offices/list/ocr/docs/ocr-coronavirus-fact-sheet.pdf>

General Info about federal Department of Education Office for Civil Rights

Overview of OCR: <http://www2.ed.gov/about/offices/list/ocr/aboutocr.html>

Know Your Rights: <http://www2.ed.gov/about/offices/list/ocr/know.html>

Complaint Processing Procedures:

<http://www2.ed.gov/about/offices/list/ocr/complaints-how.html>

Frequently Asked Questions about OCR's Complaint Process:

<http://www2.ed.gov/about/offices/list/ocr/qa-complaints.html>

How to file a complaint against your state or school district if they do not provide/allow for masked environments for your high risk child:

<https://ocrcas.ed.gov>

Where to file healthcare related civil rights complaints:

- [Health Care and Human Services OCR](#)

American Academy of Pediatrics:

[Caring for Children and Youth With Special Health Care Needs During the COVID-19 Pandemic \(aap.org\)](#)

Children and youth with special health care needs (CYSHCN) are defined as **those who have or are at increased risk for chronic physical, developmental, behavioral, or emotional conditions and who also require health and related services of a type or amount beyond that required by children generally.**

- Ensuring equity for CYSHCN at all levels should be a priority for pediatricians and all service sectors. Community and public health strategies should ensure accommodation of needs of CYSHCN, including mitigation of community transmission and individual protection against disease. CYSHCN are more likely to have ongoing **disruption** to health care, education, and community life as a result of the coronavirus disease 2019 (COVID-19) pandemic. Consequences may include delayed development, reduced learning, and mental health challenges. Interruptions to services disproportionately affect subpopulations of CYSHCN, such as those of younger age, those with medical complexity, and those with behavioral health conditions, in different ways. Inequities attributable to [poverty](#), [racism](#), [immigration status](#), [ableism](#), health conditions, geography, health care access, educational access, child care access and other factors make these disruptions particularly dangerous for some CYSHCN.
- **Subgroups** of CYSHCN, specifically children with [certain chronic conditions](#) such as [prematurity](#), [obesity](#), [type 1 diabetes](#), [neurodevelopmental disability](#), and [medical complexity](#), are more likely to have a diagnosis of [severe acute biological effects](#) of acute respiratory syndrome-coronavirus 2 (SARS-CoV-2) infection [requiring admission to the hospital or intensive care unit](#). Black and Latinx children with chronic conditions experience a disproportionate burden of hospitalization. Data on the risk of infection, as well as detection of its acute and chronic effects, continue to evolve with different SARS-CoV-2 variants. **It is essential to use precaution in the extrapolation of prior pandemic epidemiologic data to the circumstances of the upcoming period and specific patient contexts.**

- **Use face masks and personal protective equipment (PPE)**, especially when the risk of exposure is higher and when individuals are unvaccinated. Face masks are essential to protecting CYSHCN. Nearly all CYSHCN, 2 years and older, can successfully use face masks that securely cover the nose and mouth. Practice, modeling, and consistent use by the child and caregivers will increase success. There are few valid medical exceptions. Close contacts of CYSHCN must also use PPE appropriately to limit spread. **Use PPE with particularly heightened consistency and vigilance in situations in which spread is more likely, such as close contact, closed spaces, and crowded locations** (see PPE section for details), particularly in communities when there is substantial or high virus transmission.

Caregivers, CYSHCN, child care center personnel, education workers, therapists and other individuals may require additional counseling on the use and selection of face masks to promote inclusion and ensure the safety of all contacts in a variety of situations. Schools, day cares and other institutions should require universal mask use when indoors, recognizing the importance of safety of children who are not yet vaccinated as well as accommodation and inclusivity. It is essential to ensure that the child and all contacts use face masks appropriately.

How should schools accommodate CYSHCN during the pandemic?

In-person learning should be prioritized for CYSHCN through implementation of multi-layer risk reduction in schools. Information on safe schools is available via the [AAP interim guidance](#). Schools should prioritize special considerations for in-person learning for CYSHCN, including surveillance of community transmission, on-site SARS-CoV-2 testing, need for universal masking, PPE, reasonable accommodation, and mental health support. Education is particularly critical for the development and well-being of CYSHCN, and communities must prioritize CYSHCN by taking all steps necessary to suppress community transmission of SARS-CoV-2 and giving school districts the resources needed to conduct education safely during the pandemic. Inequities are particularly salient in education. Decisions at the community and individual level must take into account the level of community transmission and the risk of transmission to household members who may be at [higher risk](#) for severe acute biological effects of SARS-CoV-2 infection, such as older individuals and individuals with certain chronic conditions, as well as reasonable assessments of the resources required to implement plans.

[COVID-19 Guidance for Safe Schools and Promotion of In-Person Learning \(aap.org\)](#)

Relevant News

- [NCIL Statement on Face Masks in Education Settings](#)
- [VT education officials say masking in schools may be needed to protect vulnerable students](#)

Legal Opinions/Findings of Interest:

- [Eastern Pennsylvania Civil Action Ruling](#)
- [Dec 22 Virginia Settlement Agreement](#)

What is FAPE?

- [Free Appropriate Public Education under Section 504](#)

State of Vermont Special Education Rules

- [State of Vermont Special Education Rules](#)

Airborne Diseases

[Evidence base for aerosol based transmission of COVID \(and 12 other diseases\)](#)

Children and Long COVID

- [Selected Studies](#)

Masking as Evidence-Based Mitigation

- [Evidence of widespread mask use as source control to reduce community transmission](#)
- [Mask wearing in community settings reduces SARS-CoV-2 transmission](#)
- [Community mask-wearing can improve public health, especially for high risk individuals](#)
- [Efficacy of mask wearing to control community spread](#)
- [With all occupants in the indoor classroom wearing masks, aerosol conditional infection probabilities are greatly reduced](#)
- [Boston school study: masking requirements protect students and staff from COVID-19](#)

Commonly Asked Questions to Prepare for in IEP and 504 Meetings

Public Health Questions

- Why isn't one-way masking sufficient?
- What types of masks are recommended and why?
- Why does it matter if a symptomatic person is in class so long as your child is masking?
- CDC community measure is low so why is this a concern? (There is lots of needed education here about the difference between community measure about healthcare infrastructure and CDC's community transmission measures. There is also education needed about why the risk of an individual child shouldn't be tied to such measures at all.)
- Why aren't the state department of health recommended "best practices" for school sufficient?

Medical Recommendation Questions

(Would be good to be addressed in doctor's note or to have the doctor speak to them if attending)

- What are the diagnoses that puts child at higher risk?
- What could be the impact on life functions and learning if the child contracted COVID?
- What could happen medically if the child got COVID?
- Why aren't existing therapeutics sufficient? (People often think that because adults have access to Paxlovid, kids do too, and there isn't an understanding about contraindications and also how intense remdesivir is and the lower levels of efficacy.)
- Why isn't vaccination sufficient? (Long COVID and other medical complications tend to be an afterthought)

Myth Busting Questions

- It used to be that one way masking was acceptable and there was a 15 minute guideline. Why isn't that enough now/how does the current virus differ?
- Why aren't [fill in the blank with random things people think of at the moment such as plastic dividers, handwashing, taking a shower after school, portable air filtration system, sneezing into sleeves, opening the window, et. al.] sufficient?
- We never did this with flu or colds. How is this different? (Note: I believe the burden of proof for schools in deciding to make accommodations/modifications is something to the tune of will the requested change foundationally alter/disrupt the nature of the programming. Three years ago kids would have had to do home/hospital instruction due to this reason. But now that many schools have consistently done masking continuously for a year or more, there is precedent.)
- Why isn't sitting near an open window enough?
- Why isn't our HVAC enough to protect your child?

Other Questions

- Is the child ever in other one way or no masking situations outside of school? (The line of questioning being why should schools have the onus of providing additional protections for students.)
- Beyond masking in the classroom, what modifications need to be considered for communal spaces (such as hallway, front office, library, etc.)
- What about safe plans for lunch, snack, transportation, field trips, afterschool programming, etc.?