

Students at High Risk of COVID Complications - Know your Rights Factsheet

As schools go back into session many students who are at high risk of COVID complications need accommodations such as a masked classroom. At the Education Justice Coalition of Vermont we believe that no one should be left behind and that everyone deserves a safe place to learn. In this factsheet you'll learn what rights students have to accommodations and how to advocate for these accommodations.

What are the rights of students at high risk for COVID complications to a safe, in person instruction during this moment in the pandemic?

- In order to qualify for accommodations students must have a disability that puts them at high risk of severe outcomes from COVID-19. Having an IEP or 504 can help to assert legal rights.
- According to the CDC and the federal Department of Education, schools might need to require masking in some settings or activities to protect some students ([here is the language](#)).
- Students are entitled to education in the least restrictive environment. Typically, this means students learning alongside non-disabled peers who are the same age. The school team determines the least restrictive environment based on the individual's needs ([learn more here](#)).
- Students living with vulnerable family members are not entitled to accommodations, however their family members may be. These students may be able to benefit from accommodations offered to other students such as joining an existing masked classroom.
- **NOTE:** The Vermont Agency of Education (AOE) has historically been unclear on this issue. [Recent state guidance](#) clarified that

accommodations for students at high risk of COVID complications such as a masked classroom are possible.

How to advocate for your rights at a school level

- If kids don't already have an IEP, guardians need to request a 504 meeting.
- In advance of the meeting parents/caregivers should get a note from the doctor with:
 - The child's diagnosis(es)
 - The specific and individual negative impacts that COVID could have on the child's life and learning
 - If in-person instruction is appropriate/needed if it can be provided safely, or if remote learning is needed/appropriate
 - Recommended modifications (see possible accommodations below)
 - Doctors may need education on this issue and this factsheet and resources within it can be shared with them.
- Here are some of the accommodations you may want to consider:
 - Plan for lunch/snack (outside with peers, in a room with a masked staff member and someone brings lunch to them, etc.)
 - Ventilation system
 - Research can show that air purifiers for the room can really help. Here is an [example air purifier](#) and putting in three per room is a good starter number. Here is more info about [air purifiers](#).
 - Seating arrangement (nearest the door or window away from peers, etc.)
 - Types of masks required
 - If parents need to be informed of close contact positives
 - School transportation

- Access or alternatives to after-school programming and field trips
 - Not having symptomatic people around child, etc.
- Some children may not be able to attend school because the medical risk is too high. These children may qualify for home/hospital instruction and should still have access to FAPE which will be planned out with the IEP or 504 team.
 - The IEP Team, not the child's physician or family, determines whether a child is eligible for home/hospital instruction.
- If your school's IEP/504 team needs support they can contact the state head of special education, Dr. Kelleher, for technical support (Jacqui.Kelleher@vermont.gov)

Steps you can take if you believe your child's rights are being violated

- For Students Eligible for IEPs:
 - The Vermont Agency of Education has [three dispute resolution processes](#).
 - File a disability discrimination complaint with the [Office for Civil Rights](#)
- For Students Eligible for 504 Plan.
 - File a disability discrimination complaint with the [Office for Civil Rights \(direct link to file\)](#)
- For Family Members with Disabilities
 - Family members do not have legal protections in schools unless they are asking for accommodations for themselves for times when they need to be at the school. You can contact [Disability Rights Vermont](#) for advocacy support.

- If you need help or have legal questions you can contact Vermont Legal Aid [here](#) or (800) 889-2047 to complete an intake.

Additional Resources

- Advocating for schoolwide COVID mitigations - [Sample Letter](#)
- [Resources for parents](#)