

Advocating for the Legal Rights of People with Disabilities



IEPs and Section 504 Plans can include information about, and provisions to address, a student's needs related to masking.

Know Your Rights School Masking



There is not a one-size-fits-all rule when it comes to school masking policies:

- ✓ Some students cannot or should not wear masks due to a medical condition or disability.
- ✓ Some students may not be able to safely attend school if masks are not worn around them.

Federal and state civil rights laws, including Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Individuals with Disabilities Education Act (IDEA), that require schools to provide a free appropriate public education (FAPE) to students with disabilities remain in effect despite the pandemic.

Section 504: Requires public schools to ensure that students with disabilities have equal opportunities to access their school buildings, programs, and activities as students without disabilities. This may be accomplished through providing reasonable accommodations, modifications or supports for students with disabilities.

The IDEA: Requires school districts to develop individualized education programs (IEPs) that meet each qualifying students' individual needs.

School districts that implement blanket masking policies – whether they require masks or do not require masks – must make reasonable accommodations for qualifying students when such accommodations can be made consistent with the health, safety, and well-being of all students and staff, and are necessary to provide a FAPE or avoid disability-based discrimination.



(Examples may be found on next page)

Contact us for assistance:

If your child is not able to access their education due to their school's masking policy or if you have other related questions, contact us to speak with an attorney free of charge at

(603) 228-0432 or
mail@drcnh.org

Disability Rights Center - New Hampshire (DRC-NH) is dedicated to the full and equal enjoyment of civil and other legal rights by people with disabilities.

DRC-NH is New Hampshire's designated Protection and Advocacy agency and authorized by federal statute "to pursue legal, administrative, and other appropriate remedies" on behalf of individuals with disabilities. We are a statewide organization independent from state government or service providers.



Examples of reasonable accommodations to a mask wearing requirement for a student who is not able to continuously wear a mask due to a disability:

- Increase social distancing in areas where the student will be receiving instruction.
- Increase space between desks and/or use clear barriers between the student and others in the classroom.
- Provide an N-95 or other PPE to all faculty that work close to the student.
- Work with the student's family to minimize potential COVID-19 exposure outside the school.
- Assist student to increase ability to tolerate masking by allowing them to try different types of masks, providing them with frequent mask breaks, or providing services like counseling to reduce anxiety or positive behavioral supports to encourage mask-wearing.

Examples of reasonable accommodations when masks are not required but student is medically vulnerable:

- Require masking of all students and faculty while they are in the same classroom as the medically vulnerable student.
- Ensure desks are spaced in accordance with social distancing guidelines.
- Install plexiglass barriers around individual workspaces.
- Identify classmates who are willing to wear masks for a portion of the school day and group medically vulnerable student with those students (e.g., for small group projects or activities).

(Continued on next page)





How to request reasonable accommodations for your child:

- **Send** a written request (a letter or email) to the school asking for a reasonable accommodation to the mask requirement policy or non-requirement policy.
- **Include** a description of your child’s disability and why your child cannot consistently comply with the mask requirement or needs a masking policy implemented.
- **Be ready** to provide the school with supporting documentation from a medical provider about the student’s need for the accommodation.
- **You can** also suggest possible alternatives to the current policy.



Disability Rights Center - NH

Protection and Advocacy System for New Hampshire

64 North Main Street, Suite 2
3rd Floor, Concord, NH 03301-4913

MISSION: The Disability Rights Center is dedicated to eliminating barriers to the full and equal enjoyment of civil and other legal rights for people with disabilities.

twitter.com/DRCNH

facebook.com/DisabilityRightsCenterNH

WEBSITE: www.drcnh.org

EMAIL: mail@drcnh.org

VOICE AND TDD: (603) 228-0432
1-800-834-1721

FAX: (603) 225-2077

TDD access also through NH Relay Service

VOICE AND TDD: 1-800-735-2964

This publication was supported solely by federal funding from grants from the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration; U.S. Department of Health and Human Services, Administration for Community Living/Administration on Intellectual and Developmental Disabilities; U.S. Department of Education, Department of Rehabilitation Services; Social Security Administration; and a grant from the New Hampshire Bar Foundation.