



THE SECRETARY OF EDUCATION  
WASHINGTON, DC 20202

March 24, 2022

Dear Educators and Parents<sup>1</sup>:

Thank you for all you have done to provide unwavering support to students over the past two years and help get students safely back to school in person, where they learn best. I am writing today with some updates and resources to aid in your efforts to mitigate the spread of COVID-19 in schools and ensure all students can safely learn in person, to the maximum extent possible. This letter addresses the needs of students with disabilities as we move into a new phase in our response to the pandemic.

Keeping all students safe in person at school<sup>2</sup> remains a top priority of the Biden-Harris Administration. Thanks to the unprecedented resources provided through the American Rescue Plan Act of 2021 (ARP Act) and prior relief packages, schools have resources to remain open, keep students and staff safe, and address the impact of the pandemic on student learning and mental health. Today, more than 99 percent of all schools are fully open, up from about 46 percent in early 2021.

In late February, the Centers for Disease Control and Prevention (CDC) released an updated framework for how we understand and respond to the risks and impacts of COVID-19 in our communities. CDC's new recommendations reflect the latest data and evolving science surrounding COVID-19, identifying COVID-19 Community Levels that account for severity of disease and the capacity of our healthcare systems to respond. We are now in a better position than ever before to fight COVID-19 – including to prevent medically significant illness, minimize the burden on our healthcare system, and protect individuals at increased risk for severe illness – including older adults, people with disabilities, people with medical conditions, and pregnant individuals – in our communities through vaccines, treatments, and layered prevention strategies. To find the COVID-19 Community Level in your community, please visit [CDC's website](#).

The Department recognizes the difficulties many families have experienced as they strived to balance the need to ensure their child's physical safety and their child's need for in-person learning. As we enter this next phase of pandemic response, we urge schools to lead with equity and inclusion to ensure all students have access to in-person learning alongside their peers. For nearly two years, educators and staff across the country have provided services and supports to students with disabilities in ways never anticipated prior to the COVID-19 pandemic, and the Administration is committed to ensuring that students with disabilities continue to receive the services and supports they are entitled to so that they have successful educational experiences. As you know, CDC [recognizes](#) that COVID-19 poses a heightened risk of severe complications

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<sup>1</sup> Parent has the meaning given in IDEA regulations at 34 C.F.R. § 300.30, which includes guardians and individuals acting in the place of a biological parent or adoptive parent (including a grandparent, stepparent or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare.

<sup>2</sup> In addition, please refer to the Office of Head Start website for requirements specific to Head Start.  
<https://eclkc.ohs.acf.hhs.gov/about-us/coronavirus/ohs-covid-19-updates>

to many people with disabilities – including (but not limited to)<sup>3</sup> those who are immunocompromised or with complex medical conditions. These students may need additional protections to ensure they can remain safe in the classroom.

It is important to remember that State and local educational agencies (SEAs and LEAs) are bound by Federal laws, including Title II of the Americans with Disabilities Act of 1990 (ADA), Section 504 of the Rehabilitation Act of 1973 (Section 504), and the Individuals with Disabilities Education Act (IDEA) to ensure the inclusion of students with disabilities, including those experiencing Long COVID,<sup>4</sup> in our nation’s schools.

This document is intended to help educators, staff, and families thoughtfully design learning experiences for all students – including students with disabilities. It reviews some important strategies for doing so and reiterates key rights afforded to students with disabilities to make sure they can maintain equal access to in-person instruction and receive a free appropriate public education (FAPE) in the least restrictive environment (LRE). Consistent with Federal civil rights laws, this must be done so that students with disabilities do not face risk to their school-related health needs.<sup>5</sup> It builds on [previously released guidance](#) and includes both policy guidance and examples of processes to help deliver safe, in-person learning.

Extra precautions may be needed to protect our students, friends, neighbors, and loved ones who are at increased risk of severe illness from COVID-19. CDC recommends that people who are at increased risk of severe illness – and family, friends, and coworkers who spend time with them – should consider taking extra precautions even when the [COVID-19 Community Level](#) is low. When the COVID-19 Community Level is medium or high, these precautions can include [properly wearing well-fitting masks](#) and getting tested before gathering.

We hope this document serves as a helpful resource and source of information for educators, families, and school communities on how to effectively include students with disabilities in in-person learning. We encourage school personnel who have questions to take advantage of the resources developed by the Department’s Office of Special Education Programs (OSEP)-funded

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<sup>3</sup> In addition to immunocompromised individuals and those with complex medical conditions, the CDC published updated guidance that outlines [People with Disabilities](#) who are at-risk of severe complications from COVID-19.

<sup>4</sup> For additional resources on Long COVID, please refer to the U.S. Department of Education’s Office for Civil Rights (OCR) and the Office of Special Education and Rehabilitative Services (OSERS) Long COVID under Section 504 and the IDEA: A Resource to Support Children, Students, Educators, Schools, Service Providers, and Families.

<sup>5</sup> For purposes of this document, a “student with a disability” includes both “child with a disability” as that term is defined in IDEA, 34 C.F.R. § 300.8, and “individual with a disability” as that term is defined in the Rehabilitation Act, 29 U.S.C. § 705(9)(B), (20)(B). All children with disabilities who are eligible for special education and related services under IDEA are protected by Section 504, but the inverse is not true; not all students protected by Section 504 are IDEA-eligible.

The term “free appropriate public education” is used in both IDEA and Section 504 regulations, although it has a slightly different meaning for students protected only by Section 504 but not IDEA. The term “least restrictive environment” is drawn from IDEA and is analogous to the Section 504 regulatory requirement that a student with a disability be provided an education with students who are not disabled “to the maximum extent appropriate to the needs of the” student with a disability. 34 C.F.R. § 104.34(a). Although these requirements are not identical, for purposes of this document, references to “least restrictive environment” encompass both requirements for ease of reading. For a fuller discussion of the similarities and differences of IDEA and Section 504, see Office for Civil Rights, [Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools](#) 40-44 (Dec. 2016).

[technical assistance centers](#). Additionally, parents, guardians and other caregivers may find their local parent training and information center [here](#) and reach out for direct assistance and referrals to other organizations, as well as gain skills to effectively participate in the education and development of their children.

### **I. Leveraging the IEP or Section 504 Processes to Ensure Protections are In Place to Protect In-Person Learning**

Although not identical in their scope, both IDEA and Section 504 rely on a team approach to decide the appropriate individualized education and services for a student with a disability, including school-related health services required to ensure the provision of FAPE to the student. Under IDEA, this group is called the individualized education program (IEP) Team and includes key individuals, including the general education teacher, special education teacher or provider, the child’s parent, and any other person that the parent or school determines may have knowledge or special expertise about the child; under Section 504, the team has no formal name, but is usually referred to as a Section 504 team.<sup>6</sup>

IDEA requires schools to address the school-related health needs of eligible students with disabilities who are at increased risk of severe illness from SARS-CoV-2. State or local laws, rules, regulations, or policies that have the effect of improperly limiting the ability of the IEP Team to address the school-related health needs of a student with a disability, or the ability of the placement team to appropriately place a student with a disability who has school-related health needs in the LRE, violate IDEA.<sup>7</sup> The same is true under Section 504.<sup>8</sup>

Likewise, the group of knowledgeable individuals making placement decisions under IDEA<sup>9</sup> or Section 504 is responsible for proposing an appropriate educational placement in the LRE that meets the student’s school-related health needs. Such individuals may include a person who knows about the health needs of the student, including whether COVID-19 prevention and risk prevention strategies may be needed. The team could include individuals such as school health service staff, school nurses, and the student’s healthcare professional(s), as appropriate, if they may have knowledge or special expertise regarding the student. Because eligible students with disabilities who need school-related health services are entitled to them as part of FAPE, teams should consider school-related health or medical information for students with disabilities who receive services under IDEA or are eligible for Section 504 services.

As with eligible students with disabilities who have severe food allergies, health plans may be included as part of the student’s IEP or Section 504 Plan<sup>10</sup> to ensure that the health and safety of the student in the school environment is properly addressed, with appropriate privacy protections in place. For example, for some students with disabilities, the provision of FAPE in the LRE may

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<sup>6</sup> 34 C.F.R. § 300.321; 34 C.F.R. § 104.35(c).

<sup>7</sup> See Questions C-7 through C-11 of the Department’s [Return to School Roadmap: Development and Implementation of Individualized Education Programs](#) (Sept. 30, 2021).

<sup>8</sup> See [Brief for the United States as Amicus Curiae, Disability Rights South Carolina v. McMaster](#) (4th Cir. Nov. 30, 2021).

<sup>9</sup> 34 C.F.R. § 300.116

<sup>10</sup> Though not explicitly required by the Department’s Section 504 regulations, school districts often document the elements of an individual student’s FAPE under Section 504 in a document, typically referred to as a Section 504 Plan. In general, a Section 504 Plan describes the regular or special education and related aids and services a student needs and the appropriate setting in which to receive those services.

require that the IEP or Section 504 Plan addresses appropriate preventive and risk-reducing strategies, such as sanitizing or avoiding shared use of personal and classroom items. IEP, placement, and Section 504 teams can address continuation of school-wide layered prevention strategies recommended by CDC to address the special circumstances of the student and ensure that the student with a disability can receive FAPE in the LRE.

## **II. Continuing Use of Layered Prevention Strategies to Keep School Communities Safe**

As part of CDC’s new recommendations, masking for school, preschool, and early intervention settings now follow the same recommendations for the community in which they are located. Based on the latest data, in areas where the [COVID-19 Community Level is high](#), CDC [recommends universal masking for schools](#), preschool, and early intervention settings, and on school buses and vans. At any COVID-19 Community Level, individuals – including those at higher risk of severe outcomes from COVID-19 – may choose to mask at any time. In addition, people who spend time with individuals at increased risk of severe illness should consider taking extra precautions even when the COVID-19 Community Level is low. At any level, people with or around those with higher risk for serious illness, people with symptoms of COVID-19 or individuals who are not up-to-date on COVID-19 vaccinations who had exposure to someone with COVID-19, or a positive test should take extra precautions to protect themselves and others. This includes quarantining for 5 days and properly wearing a well-fitting mask around others for 10 days.

School districts, schools, early childhood centers and homes, and classrooms may still choose to implement masking requirements at any COVID-19 Community Level depending on their community’s needs – and especially keeping in mind those for whom these prevention strategies provide critical protection for in-person learning. Implementing layered prevention strategies (using multiple prevention strategies together) in schools can protect the rights of students with disabilities by ensuring their continued access to safe in-person learning.

Schools must continue to take action to preserve safe in-person learning opportunities for students with disabilities, including those at high risk of severe outcomes from COVID-19. To comply with their Federal non-discrimination obligations under Section 504, school districts must 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 or undue administrative burden to the program.<sup>11</sup> In addition, if a parent or other member of the IEP or Section 504 team believes that particular COVID-19 prevention strategies are necessary for the provision of FAPE to the student, the team must consider whether, and to what extent, such measures are necessary, based on student-specific information, which may include medical or health records, diagnostic or other evaluative data, or information documented by medical or health professionals. If the IEP or Section 504 team determines that COVID-19 prevention and risk reduction measures are necessary in order for a student with a disability to receive FAPE – where the prevention measures constitute special education, related services, supplementary aids and services under IDEA, related aids and services under Section

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<sup>11</sup> See 34 C.F.R. § 104.4(b); see also 28 C.F.R. § 35.130(b)(7)(i).

504, or program modifications and supports for school personnel – the team must include these in the child’s IEP or Section 504 Plan.<sup>12</sup>

Over the past two years, schools have demonstrated expansive abilities in implementing layered prevention strategies recommended by CDC to help keep students safe while attending schools in person. Implementing layered prevention strategies can help protect students, educators, staff, and other members of their households, and supports in-person learning for all students. Continued use of these strategies may help to ensure that all students can continue to safely receive instruction and services in person. These strategies can be implemented using ARP Act funds, which provided unprecedented resources for schools and communities to keep schools open and safe for in-person instruction.

Importantly, schools have taken great care to communicate prevention strategies to families, work to foster a culture of prevention, and ensure they are answering questions and alleviating concerns families may have. Schools can find additional resources on how to communicate about prevention strategies – including sample letters and language – on [CDC’s website](#).

**Vaccination:** COVID-19 vaccination among all eligible students, as well as educators, staff, and their respective household members is the most critical strategy to help schools safely maintain full-time, in-person instruction for all students. Vaccination is the leading public health strategy to prevent severe disease and complications from COVID-19. People who have completed the primary series (and a booster when eligible) are at substantially reduced risk of severe illness and death from COVID-19 compared with unvaccinated people.<sup>13</sup>

Schools should encourage eligible students, educators, staff, and families, including extended family members who have frequent contact with students, to get vaccinated as soon as they can. Schools should also consider partnering with state or local public health authorities to host COVID-19 [vaccination clinics](#) and work with local healthcare providers and community-based organizations, including school-based health centers. Individuals may visit [vaccines.gov](#) to find out where educators, staff, students, and their families can get vaccinated against COVID-19 in their community. People who are moderately or severely immunocompromised have specific COVID-19 vaccine recommendations for the primary series and booster dose due to their different immune response following COVID-19 vaccination.

**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

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<sup>12</sup> If the IEP Team or group of knowledgeable persons making a placement decision is unable or unwilling to address the school-related health needs of an eligible child with a disability who is at increased risk of severe illness from COVID-19, the parent may utilize IDEA’s dispute resolution procedures and mechanisms or Section 504’s procedural safeguards. 34 C.F.R. §§ 300.151-300.153, 300.506, and 300.507-300.516; 34 C.F.R. § 104.36.

<sup>13</sup> [COVID-19 Incidence and Death Rates Among Unvaccinated and Fully Vaccinated Adults with and Without Booster Doses During Periods of Delta and Omicron Variant Emergence — 25 U.S. Jurisdictions, April 4–December 25, 2021 | MMWR \(cdc.gov\)](#)

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.

The Federal government has made high-quality masks available to Americans for free, as well as provided schools with several avenues to access masks at low or no cost. We encourage schools to reach out to their [state emergency management agency](#) to receive masks or use their ARP Act funding to [purchase masks](#) from American-made manufacturers.

**Testing:** Testing identifies infected people, including those with or without symptoms (or before development of symptoms) who may be contagious, so that measures can be taken to prevent further transmission. More frequent testing can be an efficient way to promptly identify and isolate cases, initiate quarantine, and identify clusters to help reduce the risk to in-person education. As the use of masks decreases, schools may want to increase their use of testing as a core safety and prevention strategy.

One approach to increased testing in school is through [Test to Stay](#) approaches. Test to Stay combines contact tracing and serial testing (i.e., testing that is repeated at least twice during a seven-day period after last close contact with a person with COVID-19) to allow some students, educators, and staff who would otherwise need to quarantine to continue in-person learning or teaching. People who are not up-to-date on their vaccines, or who have not had COVID-19 in the previous 90 days, do need to quarantine and are therefore eligible for Test to Stay. Test to Stay participants should get tested at least upon notification of their close contact and again 5-7 days after their last close contact with someone with COVID-19. CDC continues to recommend Test to Stay as an important strategy schools should consider in order to support in-person learning when the COVID Community Level is at medium.

The ARP Act has provided significant funding to implement testing in K-12 schools. This includes \$10 billion provided through the [Epidemiology Laboratory Capacity \(ELC\) Reopening Schools](#) award administered by CDC to support screening and diagnostic testing, \$650 million through [Operation Expanded Testing](#) to implement lab-based testing, and \$122 billion through the [Elementary and Secondary School Emergency Relief \(ESSER\) Fund](#) that can be used to cover the cost of COVID-19 tests for students and school staff in whole or in part. CDC is also making 5 million point-of-care rapid tests available to schools each month for free, which may be requested through your [state or territorial health department](#). Please visit the above links to access these supports and launch [testing programs](#).

**Ventilation:** Proper ventilation is a key prevention strategy for maintaining healthy environments and, along with other preventive actions, can reduce the likelihood of spreading disease. CDC and the Environmental Protection Agency outline ways that schools can [improve ventilation](#), including bringing in as much outdoor air as safely possible; using heating, ventilation, and air conditioning (HVAC) settings to maximize ventilation; ensuring exhaust fans in restrooms and kitchens are working properly and are in use; filtering the air with filters that have minimum

efficiency reporting value (MERV)-13 rating or the highest MERV rating a building’s ventilation system can accommodate; and using portable air cleaning devices with high-efficiency particulate air (HEPA) filters.

LEAs can use ARP Act funds for all of these [efforts to improve indoor air quality for in-person instruction](#), including inspection, testing, and maintenance of current ventilation systems and approaches; purchasing portable air filtration units and HEPA filters; purchasing MERV-13 (or higher) filters for a school’s HVAC systems or stand-alone air conditioners; repairing windows and/or doors so that they can safely open to let fresh air in; and servicing or upgrading HVAC systems consistent with industry standards.<sup>14</sup>

***Additional prevention strategies to layer into the school community:*** CDC continues to recommend additional prevention strategies to help students remain safely in-person at school. Continued use of these prevention strategies can help promote the health and safety of all students, especially those at higher risk of severe outcomes due to COVID-19. These strategies include [physical distancing](#), [handwashing and respiratory etiquette](#); [staying home when sick and getting tested](#); and [cleaning and disinfection](#).

### **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

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<sup>14</sup> Purchasing of equipment by LEAs using ARP Act funds requires prior approval by the SEA. See 2 C.F.R. § 200.407 (i.e., Uniform Guidance). For more information, see B-7 and B-8 of the Department’s [Frequently Asked Questions on Elementary and Secondary School Emergency Relief Programs and Governor’s Emergency Education Relief Programs \(May 2021\)](#).

addition, where remote learning or other alternatives may still be required, schools should continue best practices to ensure all students remain engaged and connected to learning.

Schools may consider whether providing smaller cohorts of group instruction with peers without disabilities can minimize a student's health risks while maintaining the obligation to provide FAPE in the LRE based on the individual needs of the student with a disability. The [TIES Center](#) is the OSEP-funded national technical assistance center on inclusive practices and policies. It works with States, districts, and schools to support the movement of students with disabilities from less inclusive to more inclusive environments. It has developed a model IEP that can be used to create an inclusive program for students with disabilities.

Students learn best in person and [all children with disabilities must continue to receive FAPE and must have the chance to meet challenging objectives](#). Students are better able to engage with rigorous instruction and access services and supports tailored to their needs when they are learning alongside their peers. The Biden-Harris Administration has made learning in person a top priority for all students, including students with disabilities. As we learn to safely engage with our communities and navigate the current state of the pandemic, the Department will continue to provide guidance and resources to school communities to ensure we support the ability of students with disabilities to learn in person. To learn more, visit the disability rights section on [ed.gov/coronavirus](https://ed.gov/coronavirus). Thank you for being our partner in this effort.

Sincerely,

A handwritten signature in blue ink, reading "Miguel A. Cardona". The signature is fluid and cursive, with the first name "Miguel" being the most prominent.

Miguel A. Cardona, Ed.D.