

RESOLUTION OF THE BOARD OF EDUCATION
OF
DOUGLAS COUNTY SCHOOL DISTRICT RE-1

Addressing Face Coverings and Other COVID Mitigation Requirements

WHEREAS, the Douglas County School District RE-1 (“District”) Board of Education (“Board”) has the duty to adopt policies necessary and proper for the efficient administration of the affairs of the District; and

WHEREAS, pursuant to Board File Policy JLCC addressing Communicable Diseases and Long-Term Illnesses, students were required to wear face coverings in accordance with Colorado Department of Public Health and Environment (“CDPHE”) or Tri-County Health Department guidelines while within indoor school settings of the District, with limited exceptions when medically necessary; and

WHEREAS, the Board strongly values preserving student safety, and also strives to balance that safety with the needs of District students to engage in an in-person learning environment; and

WHEREAS, the U.S. Department of Education has recognized in the context of providing educational services during the COVID-19 pandemic: “It is important to emphasize that federal disability law allows for flexibility in determining how to meet the individual needs of students with disabilities.”¹; and

WHEREAS, students enter and are present in numerous daily situations where not every individual must wear a face covering, including grocery stores, restaurants, family gatherings, and entertainment venues; and

WHEREAS, the District was a plaintiff in a lawsuit against the Douglas County Health Department (“DCHD”), asserting legal claims against the DCHD that its Public Health Order (“PHO”) issued on October 8, 2021 discriminated against some students with disabilities in violation of the Americans with Disabilities Act (“ADA”) and Section 504 of the Rehabilitation Act (“Section 504”), and a Temporary Restraining Order was granted temporarily restraining the DCHD from enforcing its October 8 PHO as it pertained to the District; and

¹[www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FIN
AL.pdf](http://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf)

WHEREAS, on November 12, 2021, the DCHD modified its October 8 PHO exempting the District from its application; and

WHEREAS, this lawsuit in which the District was a plaintiff brought against DCHD was dismissed on November 19, 2021; and

WHEREAS, DCHD has declined to issue a county-wide mask mandate; and

WHEREAS, the vast majority of the District's students reside in Douglas County, where there is no county-wide mask mandate; and

WHEREAS, COVID-19 vaccines are now available for students five years of age and older for those that choose to take them as guided by the wishes of their parents and guardians and COVID-19 vaccines have been available to District staff and many District staff members have elected to get vaccinated; and

WHEREAS, testing for COVID-19 and other mitigation measures are readily available at numerous locations throughout the District; and

WHEREAS, the Board encourages students who prefer to wear face coverings to do so, guided by the wishes of their parents and guardians; and

WHEREAS, the Board is a strong proponent of individual responsibility and personal choice, such that students and staff members can generally make their own decisions about their own health outcomes; and

WHEREAS, the Board acknowledges its responsibility to comply with the requirements of the ADA and Section 504 requiring all students equal access to the educational programs of the District; and

WHEREAS, the Board acknowledges its responsibility to comply with federal, state, or local law and/or public health orders that address the mitigation of or response to communicable disease, including the requirement that students and staff wear face coverings while riding District school buses; and

WHEREAS, the Board wishes to further personal and parent choice with respect to whether their children should or should not have to wear face coverings at school while at the same time allowing for appropriate and necessary accommodation of students with disabilities as required by the ADA and Section 504.

NOW THEREFORE, BE IT RESOLVED by the Board of Education of Douglas County School District RE-1 as follows:

1. The Board recommends, regardless of vaccination status, personal and parent choice with respect to whether or not children should wear face coverings while at school, while also allowing for appropriate and necessary accommodation of students with disabilities as required by the ADA and Section 504.
2. That in furtherance of the Board's respect for and support of personal autonomy and choice:
 - Unless otherwise required by federal, state, or local law and/or public health order, there shall be no District policy requiring universal mandatory masking of students or staff, nor shall any individual school in the District enact its own universal mandatory mask policy.
 - Unless otherwise required by federal, state, or local law and/or public health order, there shall be no District policy requiring a COVID-specific universal vaccine mandate for District students or staff.
3. That consistent with ADA , Section 504, and the Individuals with Disabilities Education Act, 20 U.S.C. §1400 *et seq.* (“IDEA”), individualized determinations shall be made to determine requisite accommodations to support individuals with unique conditions and circumstances in a manner that impacts the fewest number of other individuals as possible. The Board acknowledges that this may require that certain classrooms and activities that occur within the schools to require students and staff to wear face coverings while participating in programs within those classrooms or activities.
4. That should students or staff be required to wear face coverings in certain classrooms or activities, the District shall make individualized determinations as to whether a student may be exempt from such requirement as a result of medical necessity or as otherwise required by law.
5. That other avenues be explored, as appropriate and as directed by the Superintendent, to promote the appropriate balance between safety and an unconstrained learning environment.

APPROVED this _____ day of _____, 2021, by a vote of _____.

DOUGLAS COUNTY SCHOOL DISTRICT RE-1

By: _____

President Board of Education

Attest:

By: _____

Secretary, Board of Education