

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, 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

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

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

¹www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf

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 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

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.
 - 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 masking by others may, or may not, be found to reasonably accommodate an individual under these laws. If so, lawful exemptions from masking will be respected for any individual impacted by such accommodation.

4. 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 while periodically reporting to the Board of Education local and district COVID severity data (deaths and hospitalizations) for those under the age of 18.

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

DOUGLAS COUNTY SCHOOL DISTRICT RE-1

By: Michael Peterson

President Board of Education

Attest:

By: Becky Myers

Secretary, Board of Education