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Press Release**

Douglas County School District
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DOUGLAS COUNTY SCHOOL DISTRICT FILES SUIT AGAINST COUNTY HEALTH DEPARTMENT TO PROTECT MEDICALLY AT-RISK STUDENTS FROM COVID-19

The lawsuit asks the court to block enforcement of the Douglas County Health Department's recent Public Health Order changing classroom masking procedures and quarantining requirements for students exposed to COVID-19

Newly-created Douglas County Health Department's order violates federal civil rights of students with disabilities

School District seeks to uphold the District's previous mask mandate requiring face coverings and allowing for the quarantining of those potentially infected with COVID-19, consistent with CDPHE and TCHD guidance

Castle Rock, CO – Today, the Douglas County School District (“DCSD”) and the families of students with high-risk health conditions filed suit to help protect the District’s most vulnerable students from COVID-19 and guarantee their right to equal access to a quality public education. The Complaint for Declaratory and Injunctive Relief filed in the United States District Court for the District of Colorado aims to uphold the District’s requirement that all students and staff in DCSD’s PK-12 schools wear face coverings, except for limited, medically necessary exceptions, in order to prevent against the spread of COVID-19, protect the health and safety of vulnerable student populations, and ensure in-person learning for all students.

On October 8th, Douglas County’s newly created health department issued a Public Health Order (“PHO”) including the following provisions:

1. **Regarding Face Coverings:** Parents of minors may opt their children out of the requirement to wear masks by simply providing a written declaration stating that they feel that wearing a mask negatively impacts their child’s physical and/or mental health. Likewise, individuals over the age of 18 – that is, students or staff – may exempt themselves by simply stating that they believe that masks are harmful.
2. **Regarding Quarantine Measures:** The PHO also hinders efforts to contain the spread of COVID by prohibiting the quarantining of asymptomatic students and staff “because of exposure to a known COVID-19 positive case unless the exposure is associated with a known

Outbreak.” In other words, students or staff can come to school knowing they have been exposed to COVID, and the District is powerless to protect others via quarantine measures.

The Order ignores well-settled science and guidance regarding COVID-19 mitigation and puts the health and learning of vulnerable students – those with chronic conditions, respiratory issues, and other serious health challenges – in jeopardy. The Centers for Disease Control and Prevention (CDC), American Academy of Pediatrics (AAP), the Colorado Department of Public Health and Environment (CDPHE), and the Tri-County Health Department (TCHD) all recommend universal indoor masking for all teachers, staff, and students in schools to make in-person learning safe and possible. It is an important – and temporary – safety measure. In addition, [Children’s Hospital Colorado](#) itself has been very clear, explaining that “[t]here are no valid reports or scientific studies linking masks to mental health problems in children or any other group.”

The number of newly reported cases, hospitalizations, and deaths due to COVID-19 have all increased sharply across Colorado, including in Douglas County. Moreover, the test positivity rate in Douglas County is high, suggesting that cases may be undercounted. The newest data on the Delta variant nationwide is particularly troubling for students and school districts. For example, data shows children are infected with the Delta variant at much higher rates than was true with previous virus strains, especially those who are unvaccinated (including those under 12 years old who are not yet eligible to receive a vaccine). Children now account for approximately 18% of all COVID-19 cases in Colorado.

The Douglas County School District serves approximately 64,000 children, including thousands of disabled students with health conditions putting them at greater risk of experiencing severe illness if they contract COVID-19, including those with asthma, diabetes, compromised immune systems, sickle cell disease, cystic fibrosis, severe respiratory conditions, seizure disorders, heart conditions, and more. Further, over 700 students in the school district have significant support needs, meaning they require intensive support in a special setting in order to fully benefit from their educational programming. Maintaining a safe in-person learning environment is of paramount importance to these students, as effective remote educational programming is not as effective for them.

In addition, the Americans with Disabilities Act (“ADA”) and Section 504 of the Rehabilitation Act prohibit discrimination based on disability and require that the school district reasonably accommodate its disabled students to provide them access to public education safely and equally. Reasonable accommodations that would allow such students to access public education safely and equally include universal masking of students except for limited, medically necessary exceptions, and quarantining asymptomatic individuals exposed or potentially exposed to COVID as recommended by CDPHE and TCHD. Douglas County Health Department’s PHO prohibits the School District from doing this. As a result, the District’s medically at-risk students with disabilities are being denied their civil rights.

“No parent should be forced to choose between sending their children to school and risking their health, and no family should have to choose between access to learning and putting their child’s life in jeopardy,” said **Douglas County School District Board President David Ray**. “Students with certain disabilities or medical conditions are at higher risk for suffering from severe, life-threatening illness, and it is our obligation as a school district to ensure that every student has an inclusive, accommodating public education – a responsibility that the District takes very seriously. The message is simple: in these very complex times, our most vulnerable children cannot be left behind. Everyone wants a return to normal, but a return to normalcy cannot come at the expense of those with chronic and severe health issues. That’s why this legal step is being taken.”

“The choice is this: are we going to ignore the recommendations of medical experts everywhere and put the lives of vulnerable students in jeopardy? Or are we going to give all children a fair shot to succeed in person, in school, where they belong? That is why we are taking these legal steps to ensure every child has the opportunity to receive a public education, which is their right as Americans,” said **Douglas County School District Superintendent Corey Wise**. “We deeply appreciate there may be many families who don’t want their children wearing masks in school. But what this is ultimately about is us, as a district and a community, coming together to embrace the temporary measure of masking so that every child – not just many, and not to the exclusion of some – has the ability to thrive in our classrooms.”

The School District has filed this lawsuit alongside the parents and guardians of students who rely on in-person learning for their special education services, as well as students with medical conditions that put them at high risk of severe illness should they contract COVID-19, including:

- Plaintiff CB has autism and an intellectual disability. Because of his increased sensory sensitivities, he is not able to tolerate wearing a mask, and he relies on public health mitigation measures in the school environment to reduce his risk of exposure to COVID-19. He relies on in-person instruction in a center-based setting that is staffed and specifically designed to educate students with significant disabilities like him.
- JG is diagnosed with cystic fibrosis, a progressive, genetic disease that causes persistent lung infections and limits the ability to breathe. His cystic fibrosis puts JG at greater risk of serious health complications, even death, if he contracts COVID-19.
- MM has an intellectual disability and a rare disease called Arthrogryposis Multiplex Congenita, which affects her joints and muscles and limits her ability to wear a mask. MM requires in-person instruction, where licensed educators are specially trained to support her significant disabilities. Given the intensity and complexity of her needs, remote learning is not a reasonable option.
- DB has Down Syndrome, intellectual disabilities, speech delays, dysphagia, hypotonia, developmental delays, and impaired vision. His health conditions put him at greater risk of infection and severe health complications if he contracts COVID-19. Given his disabilities, DB routinely pulls his mask down during the day, though his teachers diligently try to pull it back up and help him keep it on. As a result, he relies on others around him to wear masks to protect him from infection. He relies on in-person learning to continue the specially designed academic instruction and other services in a specifically designed classroom setting.
- AL has a rare genetic disorder called Partial Trisomy 1q, which has caused developmental and intellectual delays. He also has several respiratory disorders, including asthma, hypoxia, and apnea, that put him at risk of severe illness if he contracts COVID-19. His respiratory challenges are so severe that he requires supplemental oxygen to breathe, and he’s at greater risk of respiratory infections. Because of his special needs, he is not able to receive meaningful educational benefits through remote learning.
- Other plaintiffs include students with moderate-to-severe asthma, epilepsy, a heart defect, and Type-1 Diabetes—which put students at high risk if they are exposed to COVID-19.

The Douglas County Health Department’s PHO discriminates against these and other medically at-risk children with disabilities in the District’s schools, and the School District and the other plaintiffs hope the Court will issue an injunction blocking Douglas County’s new health department from preventing the School District’s compliance with federal protections for disabled students.

The full text of the complaint can be accessed [HERE](#).

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About DCSD

Douglas County School District is Colorado's third largest school district and serves 64,000 students. Learn more at www.dcsdk12.org.