
CHILDREN WITH SERIOUS AND CHRONIC HEALTH CONDITIONS

COVID-19 and Your Child's Return to School in Fall 2021



WHY IS IN-PERSON LEARNING A PRIORITY?

The COVID-19 pandemic has hurt many students. The loss of regular in-school learning has affected student progress across all academic subjects.ⁱ

Student mental health has been hurt.ⁱⁱ Certain groups of at-risk students have been particularly affected by the pandemic, including students with disabilities.ⁱⁱⁱ The full impact on Alabama's students likely will not be known for years but state educators expect that it will be especially significant among students who did not receive good supports while learning virtually and who received little in-person instruction.^{iv}

Because of this, educators^v and health care^{vi} policymakers believe that safely returning to in-person classroom instruction in Fall 2021 must be a top priority. But some children with serious and chronic health conditions may be at increased risk for more severe illness and complications stemming from COVID-19.^{vii} These children include children with chronic physical and developmental conditions, disabilities, and medically complex conditions. What does a "safe" school year look like for them?

This fact sheet talks about:

- Federal anti-discrimination disability laws
- How some children with serious and chronic health conditions are protected under these laws
- How to plan for school in Fall 2021, considering the ongoing COVID-19 pandemic

For more information, look at the special education resources and COVID-19 resources on ADAP's [website](#).

Or contact ADAP to set up a telephone intake appointment with one of our intake specialists.

ADAP's advocacy services are free.

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ENSURING SAFETY AND EDUCATION ACCESS

As COVID-19 continues to spread across Alabama, parents of children with serious and chronic health conditions have been contacting ADAP seeking information about their children's rights to accommodations and services that would help minimize COVID-19 health risks. They want to understand how they can protect their children's health and how their children can access the educational services they need and to which they are entitled. For some children, returning to in-person learning is not appropriate; the risks are too great. These children may require homebound instruction or some hybrid program of in-person and homebound learning.

SCHOOL REOPENING PLANS

As of early August 2021, Alabama school districts are still deciding^{viii} what COVID-19 safety



The [Alabama Department of Public Health](#), the [American Academy of Pediatrics](#), and the [Centers for Disease Control and Prevention](#) (among others) have recommended universal masking as part of a layered approach to reducing the spread of the COVID-19 virus in schools.

measures they are going to put in place for the 2021-2022 school year: masking, social distancing, cleaning strategies, reduced class sizes, etc. These decisions will impact everyone in a school system, especially vulnerable students with serious health conditions.

Families should be in close contact with their children's schools so they understand what safety measures are going to be put into place. They should share this information with their child's health care provider.

Q. What laws protect children with serious health conditions from discrimination and provide access to educational and related services in public K-12 schools?

There are three federal laws that protect and support eligible children with serious health conditions in school:

- Section 504 of the Rehabilitation Act of 1973 (Section 504)^{ix}
- Americans with Disabilities Act (ADA) (Title II)^x
- Individuals with Disabilities Education Act (IDEA)^{xi}

Section 504 and the ADA prohibit discrimination against persons with disabilities. Section 504 protects individuals with disabilities from discrimination by programs that receive any federal funding, which would include most public schools and public charter schools. Title II of the ADA prohibits discrimination by state and local governments, including public schools and public charter schools. The IDEA is a statute that requires that eligible students with disabilities be provided a free appropriate public education (FAPE) as defined by the statute. This fact sheet focuses on the obligations of schools under Section 504 and the IDEA.

Q. Are all children with serious health conditions eligible for protection and services under Section 504 or the IDEA?

No. A medical diagnosis alone does not automatically mean a child is eligible under Section 504 or the IDEA.

To be eligible under Section 504, a student must be identified as having a disability. That means that the student must have a physical or mental impairment that substantially limits one or more major life activities. A student who has a record of such an impairment, or is regarded as having such an impairment, is also protected under Section 504.

Major life activities include actions that a person does (ex., breathing, walking, or concentrating) as well as major bodily functions (ex., the functions of the respiratory or immune systems). A student does not need to be substantially limited in his or her learning to be eligible for protection and services under Section 504.

To be eligible under the IDEA, a student must have at least one of the thirteen specific disabilities identified in the IDEA and, because of that disability, need specially designed instruction and related services.



If your child has a serious and chronic health condition, your child may meet the eligibility requirements of Section 504 or the IDEA. If your child is not currently eligible, contact your school in writing and request that your child be evaluated.

School teams must consider a student’s health condition when considering a student’s eligibility and deciding whether the student qualifies as having a disability as defined under Section 504 or the IDEA.

Q. My child had COVID-19 and is now diagnosed with Long COVID. Is Long COVID considered a disability?

In Long COVID^{xii} persons have new or ongoing symptoms that can last weeks or months after they are first infected with COVID-19.

 As of late July 2021, more than four million American children have tested positive for COVID-19.

The U.S. Department of Justice and the U.S. Dept. of Health and Human Services have issued guidance^{xiii} stating that Long COVID can be a disability under the ADA and Section 504.

The U.S. Department of Education has issued guidance^{xiv} about children who have Long COVID and how schools must consider that diagnosis as a potential disability.

Q. If my child is eligible under Section 504 or the IDEA, what services will my child be provided?

Both Section 504 and the IDEA require that a free appropriate public education (FAPE) be provided to eligible students. Each defines FAPE differently.

Section 504 prohibits disability discrimination and ensures that students with disabilities have equal access to educational opportunities. Under Section 504, FAPE means ensuring that students with disabilities have their educational needs met as adequately as non-disabled students’ needs are met. A 504 plan lays out the regular

 Section 504 prohibits disability discrimination. It ensures that your child with a disability has equal access to the educational opportunities offered by his or her school.

or special education and related aids/services that are necessary to ensure equal access to all school programming (academic, non-academic and extracurricular activities). These services are

developed through an interactive team process, which should include the parent. The services are commonly documented in a written 504 plan.

Under the IDEA, FAPE is, among other things, the provision of specialized instruction and related services designed to meet the unique needs of a student. The services are developed through an interactive team process. Parents are part of the team. They are documented in a written Individualized Education Plan (IEP).

Both statutes require that services be provided to a student with a disability, to the maximum extent appropriate, with students who are not disabled. This is referred to as a student's least restrictive environment.

Any student eligible under the IDEA is also protected by the anti-discrimination provisions found in Section 504.

Q. How can my child's health care provider support my advocacy regarding my child's return to school?

Share your school's reopening plans with your child's health care provider. In light of those plans, ask your provider to talk with you about the benefits and risks of your child attending school in-person. You and the provider should consider any accommodations that your child's school could provide to lessen risks to your child if he or she is onsite and/or to ensure access to school programming. Ask your provider to prepare a letter for you to share with your child's school that:

- identifies your child's diagnosis
- describes how the condition impacts your child, including the impact on any major life activities or functions^{xv}
- describes key health issues related to your child's condition as related to COVID-19, including how the condition puts your child at risk for catching COVID-19 and/or facing complications from the disease
- outlines recommended accommodations or strategies that the school team should consider as it puts together a plan to minimize risks to your child (enforced masking, social distancing, notification regarding the existence any identified COVID-19 positive cases in the school, etc.)

- outlines reasons why your child cannot attend school safely in-person (if applicable) and identifies the need for homebound learning.

Q. Can a school refuse to consider a service, accommodation, or support for my child?

Section 504 requires individual decision-making about the type of, frequency of, and the way special education and related services will be provided to students with disabilities.

Any state-wide, district-wide, or school-wide policies that are designed to reduce or limit services for students with disabilities, without regard to the individualized needs of those students, violate Section 504.

In other words, all services, accommodations, and supports have to be on the table for consideration by a school planning team as it considers the individualized needs of your child. This includes homebound learning or a hybrid of in-person and homebound learning if needed by your child to receive FAPE.

Q. My child's health care provider is recommending that my child not attend school in-person because of the health risks. How can I ensure that my child receives appropriate homebound services individualized to my child's needs?

ADAP has special education and COVID-19-related resources on its website (<http://adap.ua.edu>) that can help you advocate for your child's homebound learning needs. If you have questions after reviewing these materials, call us to schedule a telephone intake appointment with one of our intake specialists.

You also can contact the [Alabama Parent Education Center](#) (APEC), Alabama's Parent Training and Information (PTI) Center. APEC is a federally-funded non-profit agency that provides parents with training and information to help them become meaningful participants in their children's education.

Q. What should I do with the information provided by my child's health care provider?

Ask, in writing, that your child's school promptly hold a 504 or IEP team meeting. Send the health care provider's letter to the school when requesting this meeting. At the meeting, the

team should discuss and identify any school services or accommodations needed to address your child's health and educational needs, including the need for homebound instruction if applicable to your child. These services and accommodations should be documented in a written 504 Plan or IEP. Below is a sample letter you could send to your school district requesting a team meeting.

Date

Dear 504 / IDEA Special Education Coordinator,

My child is eligible for services under Section 504 (or the IDEA).

My child has a serious and chronic health care condition. The attached letter from my child's health care provider describes my child's condition.

Because of this health condition, my child's health care provider believes my child faces certain COVID-19 health risks that must be addressed this school year. These concerns are explained in the provider's letter.

I would like to schedule a team meeting to discuss my child's disability related needs.

At this meeting, I would like to discuss the services and/or accommodations that need to be included in my child's plan so that my child can continue to equally access the education opportunities provided by this school. My child's health care provider has identified some recommended services and/or accommodations.

Because school is starting soon, I would like to schedule this meeting as soon as possible. Please contact me at (PHONE NUMBER) or by email (EMAIL ADDRESS) so we can schedule the meeting.

Sincerely,

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- i <https://files.eric.ed.gov/fulltext/ED609141.pdf>
- ii <https://namica.org/blog/impact-on-the-mental-health-of-students-during-covid-19/>
- iii <https://www2.ed.gov/about/offices/list/ocr/docs/20210608-impacts-of-covid19.pdf>
- iv <https://www.wbrc.com/2020/12/09/total-covid-impact-learning-loss-alabama-may-not-be-known-years/>
- v <https://www.ed.gov/news/press-releases/us-department-education-continues-aggressive-plan-safely-reopen-schools>
- vi <https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/clinical-guidance/covid-19-planning-considerations-return-to-in-person-education-in-schools/>
- vii <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/children/symptoms.html#higher-risk>
- viii <https://www.al.com/news/2021/07/back-to-school-2021-heres-where-to-find-your-alabama-school-mask-covid-reopening-plans.html?fbclid=IwAR1118CFWrC1JQK-JgiMMbX8ypcSx9IGQ7-8pX6z6OuNRS8Xcinwkr0KXtU>
- ix <https://www2.ed.gov/policy/rights/guid/ocr/disabilityoverview.html>
- x https://www.ada.gov/ada_title_II.htm
- xi <https://sites.ed.gov/idea/>
- xii <https://www.cdc.gov/coronavirus/2019-ncov/long-term-effects.html>
- xiii https://www.hhs.gov/civil-rights/for-providers/civil-rights-covid19/guidance-long-covid-disability/index.html#footnote1_w3ypec3
- xiv <https://www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-504-20210726.pdf>
- xv <https://northeastada.org/glossary/major-life-activity>