

FAQ: The CDC's Updated Masking Guidance

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1. What are the CDC's current recommendations on masking, and what has changed for schools?

On Feb. 25, the Centers for Disease control issued [new criteria](#) for determining the risk posed by COVID-19 on a county-by-county basis, as well as new recommendations on masking based on community risk levels.

Whereas prior CDC recommendations measured community risk based on confirmed COVID cases, the CDC is now relying on two indicators in measuring a county's risk level:

- 1) New COVID-19 admissions per 100,000 population (7-day total), and
- 2) Percent of staffed inpatient beds occupied by COVID-19 patients (7-day average)

The CDC's website also contains a map that allows anyone to find their county's current risk level based on the new indicators.

These requirements are intended to provide guidance to individuals as well as community-level decision-makers, including K-12 school officials. Whereas the CDC previously recommended "universal indoor masking for all teachers, staff, students and visitors to K-12 schools, regardless of their vaccination status and regardless of the level of community transmission," the [new guidance on masking](#) recommends the following:

- **Low** (less than 10/100,000 new COVID-19 admissions and less than 10 percent hospital beds occupied by COVID-19 patients): "Wear a mask based on your personal preference, informed by your personal level of risk."
- **Medium** (less than 10-19.9/100,000 new COVID-19 admissions and less than 10-14.9 percent hospital beds occupied by COVID-19 patients): "If you are immunocompromised or at high risk for severe illness, talk to your healthcare provider about additional precautions, such as wearing masks or respirators indoors in public. If you live with or have social contact with someone at high risk for severe illness, consider testing yourself for infection before you get together and wearing a mask when indoors with them."
- **High** (greater than 10/100,000 new COVID-19 admissions and greater than 10 percent hospital beds occupied by COVID-19 patients): "Wear a well-fitting mask indoors in public, regardless of vaccination status or individual risk (including in K-

12 schools and other community settings.) If you are immunocompromised or at high risk for severe illness, wear a mask or respirator that provides you with greater protection.”

2. How does the CDC’s updated guidance affect the 2021-22 recommendations from the Minnesota Department of Health for Minnesota schools?

The Minnesota Department of Health (MDH)’s [COVID-19 prevention guidance for schools](#) for this school year still recommends universal masking, but it was last updated on January 24, and in the past MDH’s recommendations for Minnesota schools have closely followed those of the CDC. While the recommendations on masking vary based on county risk levels, recommendations on vaccination, testing, screening and treatment are largely the same regardless of the new criteria.

3. Are schools required to drop their mask mandates for students and staff as a result of the CDC’s updated guidance?

No. Unlike the requirements in Minnesota’s 2020-21 Safe Learning Plan, the CDC’s COVID-19 prevention recommendations for schools have not been legally binding on schools. CDC’s new guidelines are not legally binding, either. This means that school districts are not required to immediately drop masking requirements based on these recommendations, and in some counties where risk remains high (including a significant portions of Minnesota) the metrics continue to support universal masking of students and staff in schools in schools, as well as other indoor spaces.

4. Are students and staff on school buses still required to wear masks?

School districts and bus companies now have discretion to make masks optional for students and staff. Although a CDC order requiring masks on public conveyances including school buses remains in effect, an updated FAQ on the U.S. Department of Transportation’s website states the following:

“Are school bus operators and their passengers required to wear masks?”

No, on Feb. 25, CDC announced that it is exercising its enforcement discretion to not require that people wear masks on buses or vans operated by public or private school systems, including early care and education/child care programs. CDC is making this change to align with [updated guidance](#) that no longer recommends universal indoor mask wearing in K-12 schools and early education settings in [areas with a low or medium COVID-19 Community Level](#). School systems at their discretion may choose to require that people wear masks on buses or vans.”

5. Are staff members and students who wish to continue masking in schools allowed to do so?

Yes. Nothing in the guidance *prohibits* students or staff from wearing masks or other PPE in school buildings if they or their parent/guardian choose to have them do so. For students with

disabilities who are immunocompromised or at greater risk for severe illness due to COVID-19, the ability to continue wearing a mask may be protected by their IEP, the Individuals with Disabilities Education Act, or Section 504 of the Americans with Disabilities Act. Staff may also have this right under the ADA; however, in the case of a staff member who works with students with disabilities who need to read lips or rely on facial cues, there may be a conflict between student and staff member rights that would need to be addressed on a case-by-case basis.

6. Do staff members or students who are immunocompromised have any legal right to require those in the same classroom or office space as them to continue wearing a face mask?

As with the question above, student and staff member's rights to require those around them to continue wearing face masks may be protected by the IDEA and/or ADA. For students, this would likely need to be an agreed upon accommodation in a student's IEP or 504 plan. Staff who believe continued masking of students or other adults in their workplace is necessary should make an accommodation request with their administration or their district's HR department. They will likely require medical documentation from the employee's health provider supporting the request, and the district would then be required to engage in the interactive process with the employee.

7. Does our union have the ability to prevent our school district from dropping its mask mandate?

Most likely not. Although staff safety is a mandatory subject of bargaining and a union could demand to bargain over the safety implications for staff of removing a mask mandate, the widespread availability of vaccines and decreasing COVID-19 case numbers might make it more difficult to argue that a district's decision to remove the mask mandate poses a significant risk to staff safety, especially in counties where the CDC has determined the risk to be low or medium. The union can and should advocate for individual members with health concerns, and Education Minnesota Field Staff will assist them in their advocacy.

8. What are my options as an individual if I think removing the mask mandate is premature?

Individual staff members have the right under PELRA to speak out about their working conditions, including speaking at school board meetings, provided that their advocacy does not interfere with the performance of their job duties or the rights of the exclusive representative.