

Written in Partnership with
disabilityrights | WISCONSIN

While in-person school is best for most children, a lack of consistent and predictable COVID safety measures may make it unsafe for children with significant health conditions. In partnership with their medical team, families may have to make difficult decisions about whether the school setting is safe for their child. This fact sheet is a guide for families whose children need more options to maximize health and safety while still taking part in public education.



CONSIDER THE OPTIONS

1st: Ask the question, “What will it take to make in-person learning safe for my child?” Your child’s doctor is an important resource for this discussion and will provide documentation to support you if you need to talk with the school district. Schools must consider physician input, though they are not required to agree.

2nd: Talk to your child’s 504 or IEP team about accommodations for keeping your child healthy and safe while still meeting their educational needs and ensuring that a **free appropriate public education (FAPE)** continues to be provided.

Examples of Accommodations:

- Staff who work closely with the student must follow defined safety procedures like social distancing, handwashing and wearing masks.
- Arrange socially-distanced seating arrangements with the student seated among classmates wearing masks.
- Limit contact with fewer staff by staying with the same teacher and aides.
- Avoid large-group activities in all settings, for example, eat lunch outside or in a classroom.
- In-person physical, occupational or speech therapy is provided in a small group or one-on-one setting.
- Participate in virtual or online education: part-time, hybrid, or full-time.
- Participate in [homebound instruction](#), which must support the student in meeting IEP goals and making progress in general education.

If you can’t agree on accommodations with your school district, think about contacting the [Wisconsin Special Education Mediation System](#) for help. Another option is [open enrollment](#) to a different district that has stricter COVID-safety measures or virtual-learning options. Applications for open enrollment are usually only available from February to April, but exceptions can be made “in the best interest of the pupil.”



YOUR CHILD HAS THE RIGHT TO AN EDUCATION

Students with disabilities have the right to FAPE. This includes children with complex medical or other health needs that put them at risk of severe health complications if exposed to COVID. An Individual Education Plan (IEP) or 504 Plan are the best tools to help assert these rights.

Individual Education Plan: A student who needs special education services due to a disability is eligible for an IEP, which can include accommodations for health and safety in addition to specialized instruction and related services. As an equal member of a child's IEP team, a parent or guardian may request, in writing, an IEP team meeting to update any necessary accommodations or modifications for health and safety.

504 Plan: A student who has a condition or impairment that limits a life activity in a significant way is eligible for a plan at school under [Section 504 of the Rehabilitation Act](#). A [504 Plan](#) is an agreement with the school district that outlines the accommodations needed for students to access their education. A 504 Plan does not change what a student learns but instead makes needed adjustments to allow that learning to take place, including accommodations for health and safety. If your child has a 504 Plan, you can request to revisit the plan to include changes for COVID safety. You can request an evaluation of a 504 Plan by writing to your school's principal.



Wisconsin and Federal Guidance

Families may find the following guidance helpful in discussions with school districts and IEP teams.

The Wisconsin Department of Public Instruction has issued [COVID-related guidelines](#) which recommend that schools provide "the option of virtual instruction" for students with disabilities and that schools should "honor requests from families." Specifically, **Wisconsin's DPI recommends:**

"School districts and individual schools should plan for accommodations, modifications, and assistance for children and youth with disabilities and special healthcare needs. The CDC and the federal Department of Education have provided guidance for schools serving students with special needs. Try to honor requests of families who may have concerns about their children attending school due to underlying medical conditions of those in their home. Families of students who are at increased risk of severe illness (including those with special healthcare needs) or who live with people at increased risk should be given the option of virtual instruction."

The **U.S. Department of Education**, Office of Civil Rights (OCR), has issued a [supplemental fact sheet](#) on the risks of COVID in schools while serving children with disabilities, including the following:

"School districts must provide a free and appropriate public education (FAPE) consistent with the need to protect the health and safety of students with disabilities and those individuals providing education, specialized instruction, and related services to these students. In this unique and ever-changing environment, OCR and OSERS recognize that these exceptional circumstances may affect how all educational and related services and supports are provided, and the Department will offer flexibility where possible. However, school districts must remember that the provision of FAPE may include, as appropriate, special education and related services provided through distance instruction provided virtually, online, or telephonically."



OTHERS WHO CAN HELP

Wisconsin Special Education Mediation System (wsems.us): Wisconsin offers a special education mediation service for families and schools willing to seek compromise if the outcome of a student's IEP isn't satisfactory.

Families of students with IEPs, who cannot find a solution should know that they have the right to submit a formal [IDEA complaint](#) to Wisconsin's DPI, regarding their child's right to FAPE.

Families of students with 504 Plans, who are not receiving necessary accommodations can submit a formal [discrimination complaint](#) to the U.S. Department of Education, Office of Civil Rights (OCR).

Family Support Organizations: We encourage you to connect with the following agencies:

- DPI—Wisconsin Parent-Educator Initiative, wspei.org, 833.879.7734
- Disability Rights Wisconsin, disabilityrightswi.org, 800.928.8778
- Family Voices of Wisconsin, familyvoiceswi.org, 608.220.9598
- Regional Centers for Children and Youth with Special Health Care Needs, dhs.wisconsin.gov/cyshcn/regionalcenters.htm
- WI FACETS, wifacets.org, 877.374.0511

Your Child's Doctor: Explain your concerns about the current situation at your child's school. A [letter](#) to school from your child's doctor will give a medical perspective on why your child needs COVID-related accommodations or if in-person learning is not the right choice for the health and safety of your child. Also, **schools cannot require a doctor's note** to make modifications, accommodations or other changes to your child's IEP or school schedule.

Special Education Teacher: Your child's special education teacher can help you think about ways to meet your child's goals in a safe environment. If your child's special education teacher can't help, you can ask for a meeting with your school district's special education director to advise the IEP team on accommodations for your child's needs.

School Principal: At the building level, your principal can provide information about decisions by the district and the school board on accommodations like virtual learning.

District Special Education Director: This person can be a resource to both families and schools with accommodations that are not typically provided but are needed to meet IEP goals.

Other Families: You are not alone! Other families will have good ideas through their work with the school.

ADDITIONAL RESOURCES

Restarting Safe Education & Testing (ReSET) for Children with Medical Complexity, reset4kids.org

Department of Public Instruction, Special Education Team,
dpi.wi.gov/support/contact-special-education or 608.266.1781

COVID-19 Resources from the U.S. Office of Special Education & Rehabilitative Services (OSERS):
www2.ed.gov/about/offices/list/osers