



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

GRETCHEN WHITMER
GOVERNOR

MICHAEL F. RICE, Ph.D.
STATE SUPERINTENDENT

MEMORANDUM

DATE: October 20, 2020

TO: Local and Intermediate School District Superintendents
Public School Academy Directors

FROM: Michael F. Rice, Ph.D., State Superintendent 

SUBJECT: Facial Covering Requirements for Students with Disabilities –
MEMO #COVID-19-128

Since the release of [Michigan's Safe Return to School Roadmap](#) on June 30, the Michigan Department of Education (MDE) has consistently supported a wide range of mitigation strategies, including the wearing of masks for students and staff in schools to the extent possible. The better we do with our mitigation strategies, including facial coverings, the longer we will be able to keep schools open and have children attend school in person.

On October 2, 2020, the Michigan Supreme Court ruled that the executive orders issued under the Emergency Powers of the Governor Act of 1945 were unconstitutional, including those that had addressed the use of facial coverings.

On Monday, October 5, 2020, the Michigan Department of Health and Human Services exercised its authority through Public Act 368 of 1978, and issued an epidemic order to require the wearing of masks at all indoor and outdoor gatherings, an order that was updated on October 9, 2020.

The October 9 [order](#) requires individuals to wear masks when in gatherings, defined as any occurrence where persons from multiple households are present in a shared space in a group of two or more. The order also requires the wearing of masks at schools, except in Michigan Economic Recovery Council Region 6 (the Lower Northern region), which is currently in phase 5.

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Facial coverings are required in schools *except for those students who cannot medically tolerate them*. On September 28, 2020, the United States Department of Education Office of Civil Rights (OCR) issued a [Questions and Answers for K-12 Public Schools In the Current COVID-19 Environment](#) guidance document. The guidance document reminds districts that situations may exist where a student with a disability is unable to tolerate a face covering in school or at all, and that forcing a face covering may impede a student's ability to receive a free appropriate public education (FAPE). The OCR encourages districts to make individualized determinations to consider the following:

1. Does the student require a reasonable accommodation to the district's policy regarding facial coverings to receive a FAPE?
2. Can the reasonable accommodation be made consistent with the health, safety, and well-being of students and staff?
3. Is the reasonable accommodation necessary to avoid discrimination on the basis of disability?

District policies or practices that require a family to provide a physician statement or note to grant a reasonable accommodation of not wearing a facial covering may be in conflict with the federal Individuals with Disabilities Education Act (IDEA) requirements for a free appropriate public education (FAPE). MDE encourages districts to read and follow the OCR guidance document referenced above to ensure a FAPE for each student with a disability.

Please contact the MDE-OSE information line mde-ose@michigan.gov with questions.

cc: Michigan Education Alliance
Confederation of Michigan Tribal Education Directors