



325 W. Main St.
Suite 2210
Louisville, KY 40202

(502) 581-9746
ACLU-KY.org
@ACLUofKY

Dear Members of the House Education Committee,

HB 51 undermines the rights of all Kentuckians, especially Kentucky kids, with disabilities. By denying local institutions the right to put in place reasonable accommodations for children with disabilities, as it relates to masking, you undermine the fundamental rights afforded to people with disabilities under federal Law and the Constitution.

Two federal laws – the Americans with Disabilities Act and the Rehabilitation Act – prohibit schools from excluding students with disabilities, denying them equal access to education, or segregating students with disabilities unnecessarily. Schools are also obligated to provide reasonable modifications to policies, practices, and procedures to give students with disabilities an equal opportunity to benefit from their public education. If the Kentucky General Assembly not only ignores but defies their responsibility to equal protection under the law, students with disabilities will be placed in harm's way.

Late last month, the Eighth Circuit struck down a similar Iowa law, ruling that schools are required to impose universal masking rules where necessary to ensure students with disabilities have access to public school education. *Arc of Iowa v. Reynolds*, No. 21-3268, 2022 U.S. App. LEXIS 2110 (8th Cir. Jan. 25, 2022). “The Eighth Circuit affirmed what we’ve known to be true from the start: School mask mandate bans are discriminatory and illegal,” said Susan Mizner, director of the ACLU’s Disability Rights Program. This is just the most recent ruling whereby the rights of students with disabilities, as they pertain to masking mandates, were affirmed by the courts. Closer to home, a federal judge in Tennessee also granted a preliminary injunction against a similar statute in December on the basis that “without question, plaintiffs have established a likelihood of success on the merits” of their claim that the law violates the ADA and the Rehabilitation Act. *R.K. v. Lee*, No. 3:21-cv-00853, 2021 U.S. Dist. LEXIS 236817, at *70 (M.D. Tenn. Dec. 10, 2021).

We urge you to prioritize the well-being of kids with disabilities and vote NO on HB 51.