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Dear Members of the Kentucky General Assembly,

The ACLU of Kentucky calls on you to protect Kentucky students whose disability, including underlying health conditions, makes them particularly susceptible to severe illness from COVID-19. Any legislation that bans schools and school districts from mandating masks for students and teachers would effectively exclude these students from public schools, in violation of the Americans with Disabilities Act and the Rehabilitation Act. Last week, a federal court in Tennessee entered a Temporary Restraining Order preventing a similar ban from going into effect in Tennessee. *See G.S. et al. v. Lee*, Case No. 21-cv-02552 (W.D. Tenn. Sept. 3, 2021).

Further, the Kentucky General Assembly's move to rely on local school districts to choose whether to implement a mask mandate jeopardizes the health and safety of vulnerable children. This is a disability rights issue. Students with health conditions or disabilities that make them vulnerable to COVID have a right to attend school without endangering their health or safety. Schools who have children with these conditions have legal obligations under federal disability rights laws.

Under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, public schools cannot exclude students with disabilities, deny them equal access to their education, or segregate them unnecessarily, and they are obligated to provide reasonable modifications to policies, practices, and procedures to give students with disabilities an equal opportunity to benefit from their public education.

The COVID-19 pandemic has not absolved Kentucky schools from these requirements, and Kentucky officials cannot waive these obligations for them.

Respectfully,

Kate Miller
Advocacy Director