

STUDENT RIGHTS DURING THE COVID-19 PANDEMIC



Do I still have a right to an education during the pandemic?

YES. The California Constitution grants every student in California the right to a free public education and the right to equal educational opportunity. Also, public schools, including charter schools, must provide students with an educational environment that is safe and welcoming regardless of the student's race, ethnicity, color, national origin, religion, age, gender, gender identity, gender expression, sexual orientation, genetic information, disability, or immigration status. These rights still apply, even during the COVID-19 pandemic.

Do I still have the right to learn and receive instructional time during distance learning? Can I do something if my school is not providing instruction?

YES. Distance learning means that you and your instructor are in different locations. For example, your school might transition to online interaction, instructions, and check-ins with teachers and other students. If your school cannot offer in-person instruction because of a public health order, then your school must offer instruction through distance learning and your school must make sure that you have access to the materials you need, such as internet connectivity and devices, to participate and complete assignments.

But your school may not be able to provide you with online learning if you live in an area where there is no or weak internet connection. This may be the case if you live in a rural area of the state. But even if this is the case, your school has to provide you with an education. If you don't have access to internet or to a device, like a computer or tablet, at home for distance learning, then your school has to make plans to make sure you receive your education. This could mean that your school provides instructional materials to you in different ways such as:

- Providing you with a computer or tablet,
- Providing you with a mobile hotspot so you can have internet activity,
- Pre-loading learning materials on to a device that it issues to you so you can learn without internet, or
- Providing you with printed learning materials so you can do work, incorporating assignments for you to receive written or oral feedback.

Even if you don't have internet connectivity, your teacher must reach out to you, even if by phone.

If your school fails to provide you with instructional materials so you can learn while your school is not meeting in-person because of the pandemic, then you have the right to file a *Williams* complaint. To learn more about *Williams* complaints, including how to file one, visit this link:

<https://www.aclusocal.org/williams-complaint-process/>.

Even during the pandemic, it is not okay for your school to give you zero instruction. For the 2020-21 school year, schools, including charter schools, must provide you with a minimum number of instructional minutes each day depending on your grade. For example, you must receive at least:

- 180 instructional minutes in kindergarten.
- 230 instructional minutes in grades 1 to 3.

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- 240 instructional minutes in grades 4 to 12.
- 180 instructional minutes if you are enrolled in a continuation high school.

If your school does not provide you with any instruction during the 2020-21 school year, reach out to the ACLU Foundation of Southern California (<https://www.aclusocal.org/en/legal-intake>). You can also file a complaint with your school district (learn more at <https://www.myschoolmyrights.com/complaint-school/>).

Do I have to purchase a device, like a laptop or tablet, if I don't have one so I can participate in distance learning?

NO. The California Constitution guarantees students a free public education. This guarantee means that students in public schools cannot be charged fees for instructional materials or to participate in instructional activities. If participating in your school's distance learning *requires* a laptop, tablet, or internet connectivity, the school has to make sure you have access to the necessary equipment without requiring your family to purchase them.

If your school requires that you pay for equipment, like computer devices or internet, you should let your school know and ask that they provide you with what you need for free. But if your school insists that you pay for equipment so you can participate in distance learning, then you have the right to file a complaint if you believe that your school is requiring you to pay an illegal fee. For more information about California's "free school guarantee" or how to file a complaint with your school visit <https://www.aclusocal.org/en/know-your-rights/free-public-education-california>.

My school gave me a computer or tablet for distance learning but it does not work properly. Do I have the right to a computer or tablet that works?

YES, your device must be able to provide you with access to your classes, assignments, and curriculum. Reach out to your school immediately to receive a functioning device and consider filing a complaint.

To learn more about *Williams* complaints, visit <https://www.aclusocal.org/en/williams-complaint-process>.

Do I have to pay for technology that is damaged or lost?

YES, with exceptions. If you do not return property loaned to you by the school or if you purposefully damage the property, you may be responsible to pay for the replacement cost. The replacement cost cannot be more than \$10,000. However, you should not have to pay for the "wear and tear" of a device, if it is stolen, or if the device was accidentally damaged. Your school is required to analyze every situation on a case-by-case basis.

Your school is not allowed to charge a security deposit when you are loaned a device as a guarantee that you won't lose, damage, or otherwise break it.

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Can I do something if I am being cyberbullied?

YES. All students have the right to be free from discrimination, harassment, and bullying, including cyberbullying, during distance learning. Schools must have procedures in place for preventing bullying, including cyberbullying. Cyberbullying is willful and involves recurring or repeated harm inflicted through electronic text. If you are bullied because of your actual or perceived disability, language, immigration status, race, ethnicity, gender, gender identity, gender expression, sexual orientation or religion, you have a right to be safe at school, even if it is online. School staff are required to intervene immediately if they witness discrimination, harassment, or bullying.

To report bullying, always screenshot or save any negative comments made about you or a friend so you have a record if you decide to report it. Your school must have a process in place for receiving and investigating complaints of discrimination, harassment, and bullying and should help you feel safer at school.

I have had a hard time dealing with the effects of this pandemic, emotionally and mentally, and it would help if I had someone I can talk to about what I'm going through. Can my school provide me with mental health services while we are social distancing and off-campus?

YES. If your school is practicing social distancing for any part of the 2020-21 school year, then your school should monitor and support the social and emotional wellbeing of its students, including offering supports designed to address trauma and the other impacts of COVID-19 on students.

If you want to learn how your school district or charter school is monitoring and supporting the mental health and social and emotional well-being of students during the 2020-21 school year, then you can check out your district's or charter school's Learning Continuity and Attendance Plan.

Can I be disciplined for being late or absent?

MAYBE. Daily participation during distance learning is required. For each day that your school provides instruction, your school should *not* count you as absent on that day if:

- there is evidence that you participated in online activities,
- you completed regular assignments,
- you completed assessments, or
- you are in contact with a teacher or other school staff.

Schools are required to create procedures to reach out to students who are absent from distant learning for more than 3 schooldays or 60 percent of the instructional days in a school week. So, if you are not completing assignments or not participating in online activities, your school should reach out to you or your family. Ask your school for more information about its policies and procedures related to absenteeism.

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If I am eligible for free or reduced-price meals, do I still have a right to receive school-provided meals during distance learning?

YES. California law requires school districts, county offices of education, and charter schools to provide nutritionally adequate breakfast and lunch to students who are eligible for free and reduced-price meals whether they are engaged in in-person instruction or distance learning. Additionally, information about how to pick up the meals should be communicated in the language and format the parent understands.

Does my school have to provide menstrual products while in-person classes are cancelled due to COVID-19?

YES. Menstrual hygiene products are necessary to your health and wellbeing, just like lunches. Normally, public schools that are Title I, which means at least 40% of students at a school are enrolled in the free and reduced lunch program, and serve students in grades 6 to 12 must make pads and tampons available for free in at least half of all school restrooms. You can find out if your school is a Title I school by asking a school administrator. During remote instruction, if your school is a Title I middle school or high school, it should provide you with free menstrual hygiene products if you ask for them—call or email your school administrator for help. If your school refuses to provide menstrual products, you can reach out to us for help.

Do I still have the right to receive sexual health education even during remote learning?

YES. California law requires comprehensive and inclusive sex ed to be taught at least once in middle school and once in high school, and this is still the case while students are learning through remote instruction during the COVID-19 pandemic. Your school district should have a plan in place for teaching sex ed that includes being mindful of student privacy and confidentiality and that ensures opportunities for skill-building during lessons. Examples of skill-building activities can include things like practicing internet research to find valid and reliable information or practicing communication skills.

If your school district finds that it cannot provide sex ed in a safe and appropriate manner, it can postpone lessons within the same grade span. So, for example, if your district usually teaches sex ed in 7th and 9th grade, it can choose to teach it next year for 8th and 10th grade instead. However, if your district usually teaches sex ed in 8th and 12th grade, it cannot postpone and must teach sex ed this year because it legally has to provide comprehensive sex ed at least once in middle school and once in high school. In other words, no student should miss out on their right to sex ed because of the pandemic.

Do I still have a right to an education if I am experiencing homelessness?

YES. The McKinney-Vento Homeless Assistance Act is still in full effect. This means that schools have to take steps to ensure that you receive full access to instruction and other school activities during distance learning. To learn more about your rights as a student experiencing housing insecurity or homelessness, check out <https://www.myschoolmyrights.com/homeless-youth/>.

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You may be considered homeless if you are:

- Sharing another person’s house, such as a friend or relative, because your family cannot afford to live alone or because you lost your housing or have nowhere else safe to go. This is often called “doubling up.” For example, you are doubling up if your family is sharing housing with others because a parent lost a job. As another example, you are doubling up if you move in with a friend to escape domestic violence or abuse;
- Staying in a motel, hotel, trailer park, or camping ground because you do not have other adequate housing;
- Living in an emergency shelter or transitional shelter, such as a youth shelter, family shelter, domestic violence shelter, or transitional living program;
- Being abandoned in a hospital;
- Staying in a private or public place not designed for or usually used for sleeping;
- Living in a car, park, public space, abandoned building, bus or train station, or camping ground; or
- Living in “substandard housing,” which might include housing that does not have water, electricity, or heat; is infested with vermin or mold; lacks a working kitchen or toilet; or presents unreasonable dangers to residents.

You have a right to immediate enrollment, school stability, and full participation in distance learning.

If your housing situation has changed during the COVID-19 pandemic and you are experiencing housing insecurity described in the bullet points above, then you should let someone at your school know. For example, if your parent/caregiver lost their job because of the coronavirus pandemic and you are crashing at a family member’s home, then you may be considered a student experiencing homelessness and are entitled to extra supports at school, but you need to let someone at your school know. All school districts have a homeless liaison, whom you can contact and who should be able to help you. You can find your school district’s liaison here: <https://www.cde.ca.gov/sp/hs/>.

Do I still have a right to an education if I am an English learner?

YES. If your school is providing distance learning, you have a right to an education as an English Learner. Specifically, your school must provide language instruction services and continue to provide English language development instruction. Schools are given the flexibility to determine how best to ensure you are advancing towards the English language proficiency required by your grade-level. This means that services might be provided virtually, online, or on the telephone. Your language program might look different than it did during in-person instruction, but your school must make every effort to continue to provide the services they normally would.

If your school was not able to administer the English Language Proficiency Assessments for California (ELPAC) during the 2019-20 school year because your school closed on account of the COVID-19 pandemic, you will have the opportunity to take the optional Summative ELPAC during the extension of the window, beginning on August 20, 2020. Contact your school to learn more.

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LGBTQ STUDENT RIGHTS DURING THE PANDEMIC

I am an LGBTQ student. Do I still have the same rights in school during the pandemic?

YES. California has some of the strongest protections for LGBTQ students in California public schools and those rights do not disappear just because schools have switched to remote learning. You can learn more about your rights generally at <https://www.myschoolmyrights.com/lgbtq-student-rights/>.

Can my GSA club still meet during remote learning?

PROBABLY. Students have the right to form a Genders and Sexualities Alliance (GSA) or similar club as long as their school allows for non-curricular school clubs. For example, if your school only allows a math club or an English club, then you may not have a right to form a GSA, but if your school allows a chess club or an environmental club or another club that does not closely relate to standard class subjects, then you have a right to form a GSA club and that club should be treated just like all other clubs.

This same rule applies during remote learning. If your school is allowing other clubs to meet, then it must allow GSAs to meet. For many schools, GSAs have continued to meet without issue; however, if all clubs are cancelled, it is possible your club cannot meet either. Ask your club advisor or school administrator for your school's policy on clubs during remote learning. Remember, even if your school has cancelled all club activities, there is no rule against students meeting and self-organizing outside of school—although if you are meeting on your own, you likely will not be able to use school platforms like Google Classroom for personal activities.

I am worried about the privacy of GSA club members. Can my school have a policy of recording or compiling data about GSA meetings during remote learning?

PROBABLY NOT. Students have the right to keep information about their gender identity, sexual orientation, or transgender status private. California Education Code sections 200 through 220 guarantee equal rights and opportunities in education and prohibit discrimination on the basis of gender, gender identity, gender expression, and sexual orientation, among other traits. In addition, the U.S. and California constitutions protect the right to privacy, including for students while at school. Your school cannot share information about your LGBTQ status without your permission, or they risk violating your right to privacy and right to be free from harassment, because “outing” students can often make them more vulnerable to harassment. However, in limited emergency circumstances, a school can share private information about a student's LGBTQ status to an appropriate person like a parent or guardian.

This does not change during remote learning. If your school is requiring GSA meetings to be recorded, or creating other records containing private information, ask your school about its policy and remind school staff that enforcing such policies without a well-thought out plan for storing and protecting your private information runs the risk of violating your privacy rights.

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Also note that students have a right to have their student records protected under the federal Family Educational Rights and Privacy Act (FERPA). You can learn more about these rights below under our student digital privacy rights section.

Can I use my chosen name on a video call or online classroom?

YES. California Education Code section 220 prohibits discrimination based on gender, gender identity, gender expression, and sexual orientation, among other traits. This means that a school must respect your gender identity and gender expression. This includes using your chosen name and pronouns, even during remote learning. In fact, a school should not require legal documentation or a parent or guardian's permission to honor a student's identity, and should update your name on all *unofficial* records upon request (e.g., Google classroom name, school email, student ID, yearbook, etc.). A school cannot require you to provide proof of a particular medical treatment or diagnosis or meet an age requirement to prove who you are in order to have your rights protected and respected. School staff who intentionally use a student's incorrect name or pronouns or who persistently refuse to respect a student's chosen name or pronouns violate that student's right to be free from harassment at school under California law.

Any official documents reflecting your legal name, gender, or other sensitive information regarding LGBTQ status should be protected so that your information is not inadvertently disclosed in violation of your right to privacy. (See question above). For the same reason, your school should also check in with you about which name and pronouns should be used when contacting home.

I am transgender and I struggle with gender dysphoria when I have to be on video. Can my school make me turn on my camera for video calls with my teacher or classmates?

IT DEPENDS. If being on video feels harmful, you can request a gender-related accommodation to help reduce feelings of gender dysphoria. For example, you can request that you do not have to be on video, or that you only have to check in for the start of class on video and then are able to turn your video off. Alternatively, you can hide your self-view on Zoom and other video-conferencing platforms. Talk to your teacher, counselor, or trusted school administrator to help figure out the best solution for you.

Internet filters used by my school are blocking things like LGBTQ resources and support hotlines or sexual health websites and services. Is this allowed?

NO. Schools should be mindful of proxy and browser settings that could potentially filter out these critical resources. This is particularly important for LGBTQ students because not everyone feels safe or comfortable discussing sexual orientation or gender identity with their family members. If your school is using filters that block access to LGBTQ resources or websites relating to sexual health information or services, you should alert your teacher, counselor, or other district administrator so that they can come up with safety guidelines that protect students and school staff, but also allow students to access the information they need.

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STUDENT DISABILITY RIGHTS DURING THE PANDEMIC

If I have a disability, do I still have a right to an education during the pandemic?

YES. While education during distance learning may look different than in-person learning, you still have a right to an education.

Is my IEP or 504 Plan still in effect during distance learning?

YES. Your IEP or 504 Plan is still valid during this time. However, the way you access those services may be different during distance learning. The government has not waived any special education or disability related laws, but they are being flexible with how schools meet these requirements. This can mean administering services and instruction online or on the phone.

Does the school still have to hold my annual IEP meeting?

YES. Special education laws have not been waived during the COVID-19 pandemic, so schools are still required to hold IEP meetings. IEP meetings in most cases will be virtual, but the same people still have to attend (teacher, counselor, vice principal, parent/guardian). Written consent from your parent or guardian is still required, but this can be done electronically.

Visit the Disability Rights Education and Defense Fund’s website at <https://dredf.org/special-education/sample-letters/> to download a letter to request an IEP meeting during COVID-19 remote learning periods.

Where can I find more information about my rights during distance learning?

You can learn more information from groups that provide services and support to students with disabilities such as Disability Rights Education & Defense Fund (DREDF) (<https://dredf.org/covid-19-advocacy-and-resources/>), Disability Rights California (or the Learning Rights Law Center (<https://www.learningrights.org/>).

You can also read guidance issued by the state and federal government:

- United States Department of Education, Office for Civil Rights “Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities” (March 21, 2020)ⁱ
- California Department of Education, “Special Education Guidance for COVID-19” (April 9, 2020)ⁱⁱ
- United States Department of Education, “Questions and Answers On Providing Services To Children With Disabilities During The Coronavirus Disease 2019 Outbreak” (March 2020)ⁱⁱⁱ

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STUDENT DIGITAL PRIVACY RIGHTS

Do I have to turn my camera on for video calls with my teacher or my classmates?

It depends. Your school may have a policy that requires that you turn on your camera when your teacher asks you to do so. But you may be hesitant to turn on your camera for a number of reasons – for example, turning on the video slows down your internet connection, it is unhealthy for you to see yourself on camera, you don’t want to show your teacher all that is happening behind you in your home, you’ve been cyber-bullied before and are worried about participating in a video-conference or video recording, your parents are concerned about your image being shared over the internet due to safety concerns, or you’re undocumented and want to safeguard your privacy. Whatever the reason, if you are uncomfortable turning on your camera to participate in learning time or even student clubs during distance learning, let your teacher, counselor, or other trusted adult at your school know why you don’t want to turn on your camera and ask that they may an exception so you can keep your camera off.

If your school records your classes or club meetings, your privacy rights may come into play. Generally, when schools make video recordings that clearly shows students, schools must take steps to protect the privacy rights of the students in the recording. If a recording includes personally identifiable information (“PII”), like your name or student biometric information which includes facial characteristics like the shape and color of your eyes, then the recording becomes a protected educational record and can be used only as permitted by the Family Educational Rights and Privacy Act (“FERPA”). FERPA is a federal law that requires schools to keep information and documents about you safe and private, with some exceptions. You can ask your school what steps it is taking to ensure your privacy is protected when your school records you.

Maybe you or your family are concerned about your information or image being shared with companies, like Zoom or Google, so you can connect with your school. Your school should take steps to protect your information so you and your classmates can use products and services for educational purposes (sometimes referred to as “EdTech”). School districts must follow federal and state laws to protect your privacy as a student when using online software and services, including Zoom, for school. For example, there should be limitations on a private company’s access to student data, clear security provisions, and policy terms that control the private company’s data use, retention, disclosure, and destruction. It is okay to ask questions about whether and how your school is protecting your information, including with the companies it uses to provide you access to remote learning.

If you or your family want to learn more about EdTech and your school’s obligations to protect your privacy, check out the U.S. Department of Education’s guidance on student privacy in distance learning at https://studentprivacy.ed.gov/sites/default/files/resource_document/file/FERPA%20%20Virtual%20Learning%20032020_FINAL.pdf

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Do I have privacy rights on a computer or online account, like email, provided by my school?

YES, with exceptions. You have a right to keep the contents on your computer or online accounts private, even if the school gives you the computer or account. These rights are similar to your right to keep the contents of your cell phone private. To learn more about these rights and exceptions, visit <https://www.myschoolmyrights.com/cell-phone-privacy/>.

You also have the right to know if your school has a social media monitoring program, which is software to search through your email account, instant messages, your social media account like Facebook or Instagram, or other types of electronic information. If your school starts a social media monitoring program, your school district must let you and your parents know, limit the monitoring to school safety or student safety purposes, allow you to see the information it has collected about your social media activity, and delete it when you leave the district or turn 18. To learn more about these rights, visit <https://www.myschoolmyrights.com/social-media-rights>.

The Children’s Internet Protection Act requires schools to put measures in place to protect students from visual depictions that are obscene, from child pornography, and from computer usage that is considered harmful to minors. Because of this law, schools can monitor the online activities of minors using that school’s computers to filter out these categories of information or graphics. But if your school begins to filter out information that goes beyond these categories, like in the question above about your school blocking out things like searching for LGBTQ resources, then blocking access to this information is not okay.

Can online service providers and educational technology platforms collect my data without my permission?

SOMETIMES, if certain requirements are met. Your school may use products and services for educational purposes (sometimes referred to as “EdTech”) to provide you with online accounts, services, or programs. Your school may share certain information with EdTech providers so you can access the service or platform for education purposes and the EdTech provider may collect certain information about you and your use of the product or service, like how long it took you to complete an assignment, to share with your school. However, the EdTech providers must keep your information protected and cannot use your information for purposes outside of those allowed by your school district.

Generally, Internet Service Providers and EdTech companies who provide or sell remote learning technologies are not allowed to collect, use, retain, or share any private, personally identifying information about you or your family members, consistent with FERPA and the California Student Online Personal Information Protection Act, unless doing so is directly necessary for their platforms’ remote learning functionality.

Usually, there should be an agreement between your school district and the EdTech company to ensure the company is protecting your information and your privacy. You can ask your school how it protects your information when you use any EdTEch

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If you or your family want to learn more about EdTech and your school's obligations to protect your privacy, check out the U.S. Department of Education's guidance on student privacy in distance learning at

https://studentprivacy.ed.gov/sites/default/files/resource_document/file/FERPA%20%20Virtual%20Learning%20032020_FINAL.pdf

INTERNET ACCESS RIGHTS

Is the internet service provided by my school district allowed to block me from viewing certain websites or slow down when I visit certain websites?

NO. Students and their families should be free to access all *lawful* content and applications equally without interference by Internet Service Providers against specific online services or websites. School districts and internet service providers that supply families with free or subsidized broadband access should comply with net neutrality principles by prohibiting providers from controlling what students and families choose to do on the internet. Complying with net neutrality principles includes following strict anti-censorship rules prohibiting the provider from blocking, slowing, or monitoring traffic to any websites or services. Families who cannot otherwise afford to pay the full price for broadband services should not be forced to sacrifice their free speech rights as a condition of free or low-cost internet access.

How do I know if the internet services my school district provides to me are adequate?

The circumstances created by COVID-19 have increased the need for higher internet speeds so students and families can participate in virtual classroom platforms, attend medical appointments, and consume entertainment over the internet. For a single user, 25 Mbps / 3 Mbps (download/upload speed), is a reasonable minimum standard. Most video conferencing and virtual classroom platforms recommend 4 Mbps-8 Mbps of download speed and 1-3 Mbps of upload speed for conferencing experiences with multiple users. The more people in your household, the more the minimum connection speed required to function properly increases.

Who do I contact if I experience difficulties with accessing the internet?

Contact your school to see if they can help you solve the problem. If they can't, then contact your internet service provider.

If you can't resolve the matter with the internet service provider, then your parents or caregiver can file a complaint with the California Public Utilities Commission. To learn more, visit <https://consumers.cpuc.ca.gov/CABUtilityComplaint.aspx>.

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RETURNING TO IN-PERSON INSTRUCTION

Do I have to return to in-person instruction if I am worried about my health or the health of someone I live with?

No. Schools are supposed to offer distance learning based on the unique circumstances of each student. For example, if you are medically fragile, self-quarantining because of exposure to COVID-19, or your health might be put at risk by in-person instruction, you may request distance learning. There is no definition or specific standard you have to meet to be considered “at risk by in-person instruction” because everyone’s circumstances are unique. Other examples include students with family members with a health condition, students who cohabitate with high-risk individuals, or if the student is otherwise deemed “at-risk” by a parent or guardian.

Do I have to wear a face covering at school?

YES, unless you are exempt. Exemptions include, but are not limited to, having a medical condition, mental health condition, or disability that prevents you from wearing a face covering. Schools are supposed to offer alternative educational opportunities for students who are excluded based on an exemption.

Face coverings have to be worn in accordance with public health guidance from the California Department of Public Health, from your county, or from your city. The guidance may require you to wear a mask to fight against the spread of the coronavirus.

Visit one of these sites for more information on face coverings including a list of exemptions and background on what a face covering is:

- California Department of Education, *Stronger Together: A Guidebook for the Safe Reopening of California’s Public Schools*, <https://www.cde.ca.gov/ls/he/hn/documents/strongertogether.pdf>
- California Department of Public Health, *Guidance Documents: Coronavirus Disease 2019 (COVID-19)* (Updated July 30, 2020), <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Guidance.aspx>
- State of California—Health and Human Services Agency & California Department of Public Health, *Guidance for the Use of Face Coverings*, (Updated June 29, 2020), https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Guidance-for-Face-Coverings_06-18-2020.pdf.
- Centers for Disease Control and Prevention, *Use of Masks to Help Slow the Spread of COVID-19* (Updated June 28, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>.

Do I have a right to personal protective equipment provided by my school?

YES. If your school requires students to wear masks and you don’t take one to school with you, then your school needs to provide you with a mask to wear.

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If I get COVID-19, can my school disclose who I am to my classmates and school staff?

NO. Your school cannot share private information about you with others in a way that identifies you unless your parent/caregiver provides permission to your school to share the information about you under the Family Educational Rights and Privacy Act (FERPA). FERPA is a federal law that requires schools to keep information and documents about you safe and private, with some exceptions. While your school may want to alert parents that a student is infected with COVID-19, it should provide the alert in a way to ensure that others cannot figure out that it is you.

In rare cases, if you contract COVID-19 and had close contact with other students at school, your school may want to share your identity with the parents of the students you had close contact with to ensure they get immediate and proper medical attention for their student. However, this can only happen when the disclosure is necessary to protect the health and safety of you and others. Even if your school does decide it is necessary to share your identity, they are only allowed to disclose the minimum amount of personal identifying information to address the issue at hand. If your school discloses information about you without your parent's consent under this health and safety exemption, then the school must make a record in your student files documenting the specific and significant threat that formed the basis for the disclosure of your private information and note the parties to whom the information was disclosed. Under FERPA and California law, your parent/caregiver has the right to review your student file.

Your school may ask you to sign a consent form to share personally identifying information about you and COVID-19 test results or diagnosis to others, like public health officials outside of your school. The choice is yours. Your school cannot require you to sign a consent form to waive your privacy rights under FERPA to receive educational services.

If you and your parent believe that your school has violated your privacy rights under FERPA, then you can file a complaint with the U.S. Department of Education. Visit <https://studentprivacy.ed.gov/file-a-complaint> to learn more.

RESOURCES FOR MORE INFORMATION

- ACLU's My School, My Rights website for information about student rights on multiple topics, like LGBTQ student rights, rights of students experiencing homelessness, immigrant student rights, and more, www.myschoolmyrights.com
- Common Sense Media, *Educational Apps and Sites with Solid Privacy Policies*, <https://www.common Sense Media.org/lists/educational-apps-and-sites-with-solid-privacy-policies>
- California Department of Education, *Stronger Together: A Guidebook for the Safe Reopening of California's Public Schools* (June 2020), <https://www.cde.ca.gov/ls/he/hn/documents/strongertogether.pdf>

STUDENT RIGHTS DURING THE COVID-19 PANDEMIC



- California Department of Education, *Learning Continuity and Attendance Plan*, <https://www.cde.ca.gov/re/lc/learningcontattendplan.asp>
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ⁱ <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf>

ⁱⁱ <https://www.cde.ca.gov/ls/he/hn/specialedcovid19guidance.asp>

ⁱⁱⁱ <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-covid-19-03-12-2020.pdf>