

# UNITED SPINAL<sup>NOW</sup>

## Are Masks “Reasonable?”

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To those who live in the Northeast, prohibiting public school districts from mandating masks at the height of the Delta variant surge, defying the recommendations of the American Academy of Pediatrics and the Center for Disease Control (CDC), in the name of local control and then denying control to the locality seems completely bonkers.

However, Florida, or at least its governor, has done just that. Push-back is coming from left, right and center, but the ultimate arbiter could turn out to be the courts and their interpretation of the Americans with Disabilities Act (ADA), the Individuals with Disabilities Education Act (IDEA), and, of course, the Florida courts' examination of the actual powers of the governor.

Fox and other more extreme right-wing cable news channels and social media spread misinformation about vaccines and politicized the wearing of masks. So did politicians. Gov. Ron DeSantis, a graduate of Harvard Law School, has outlawed mandatory masking in public schools, even if the school district wants to do it. He has threatened to withhold financial assistance and salaries of those who defy him and protect children.

At least one lawsuit has already been filed in federal court challenging DeSantis, saying he is violating several laws, including the ADA and IDEA. The suit alleges that children diagnosed with conditions that compromise their immune systems, such as severe asthma, were being exposed to risk unnecessarily and/or discriminated against because they cannot attend school with their peers, unless their peers are masked.

Many children with disabilities have been stranded at home longer than children without disabilities because of the difficulty of accommodating each child during an emergency. Parents are anxious for their children to receive the services to which they are entitled in the most integrated setting appropriate to their child's needs, i.e. IDEA compliance.

The ADA requires reasonable accommodation. The child that needs masking in order to attend public school safely cannot be accommodated, even by a board of education that wants to make the accommodation.

Gov. DeSantis is the discriminator-in-chief in this case, and is ultimately responsible for the IDEA and ADA violations, but that's if, and only if, a mask mandate is a reasonable accommodation. Three years ago, asking the whole school to wear a mask to accommodate one child or several children, or faculty members, too, for that matter, might have seemed unreasonable. Today, we know just how reasonable and important it is.

Gov. Greg Abbott of Texas, a wheelchair-using paraplegic, issued an executive order in May that banned masking in public schools. Several big cities in the state have announced plans to defy this reckless ban, as the governor has ordered hospitals to halt non-urgent procedures to make room for more COVID patients and seeks out-of-state help for overflowing Texas hospitals.

Political attitudes about healthcare have always evolved. During the 1960s, Ronald Reagan believed Medicare would lead to the socialist takeover of the United States. By the time he was eligible to receive Medicare benefits, he and just about every other American, believed it was a fundamental right. But until now, no one has just denied science, living in an alternate universe, void of facts but filled with opinion and politics.