

September 7, 2021

Re: Cupertino Unified School District Outdoor Mask Mandate for Students;
Response to Notice Dated September 1, 2021

Dear Ms. Ricci:

Throughout this pandemic the Cupertino Unified School District has made the health and safety of all of our students and staff a priority and followed the guidance issued by the California Department of Health (CDPH) and the local county health department for all our schools.

The District agrees with the assessment of the CDPH that, "Masks are one of the most effective and simplest safety mitigation layers to prevent in-school transmission of COVID-19 infections and to support full-time in-person instruction in K-12 schools. SARS-CoV-2, the virus that causes COVID-19, is transmitted primarily by aerosols (airborne transmission), and less frequently by droplets. Physical distancing is generally used to reduce only droplet transmission, whereas masks are one of the most effective measures for source control of both aerosols and droplets. Therefore, masks best promote both safety and in-person learning by reducing the need for physical distancing."

Further, the District has determined to elect the option of requiring masks outdoors. Universal masking in K-12 schools is recommended by the American Academy of Pediatrics (AAP) and by the CDC in their Guidance for COVID-19 Prevention in K-12 schools (updated July 27, 2021). Specifically, the AAP recommends that all students older than 2 years and all school staff wear face masks at school (unless medical or developmental conditions prohibit use). The AAP's recommendation is for *universal* masking and does not distinguish between indoor and outdoor mask use. Similarly, while the CDC notes that masks may not be required in some outdoor settings, it too recommends that people who are not fully vaccinated wear a mask in crowded outdoor settings or during activities that involve sustained close contact with other people.

Therefore, to comply with the recommendations of public health officials, the District is requiring that all students in grades K-8 returning to in-person instruction this fall wear a mask both while indoors and outdoors at school

as part of our effort to ensure all students have access to safe in-person learning.

We acknowledge that families have different viewpoints on the mask requirement issue, and while we acknowledge these viewpoints, we must continue to prioritize the safety and well-being of our educational community. School districts are legally authorized to implement a more conservative requirement than the CDPH, such as requiring masks on campus, indoors and outdoors. As your letter noted, the Education Code establishes that districts have "broad jurisdiction" to undertake actions that are consistent with the purposes for which school districts are established. (Ed. Code, §§ 35160 et seq.) The District has a constitutional obligation to provide safe and secure schools. (Cal. Const. art. I, § 28(a)(7) & (f)(1).) The Board has delegated its authority to implement this obligation to the Superintendent and District staff through Board Policy, including Board Policy 5000. ("The Governing Board recognizes the importance of providing a safe school environment that is conducive to learning and helps ensure student safety and the prevention of student injury. The Superintendent or designee shall implement appropriate practices to minimize the risk of harm to students, including, but not limited to, practices relative to school facilities and equipment, the outdoor environment, educational programs, and school-sponsored activities.")

Essentially, the District, via District staff, may take any action to ensure safe schools as long as a statute does not prohibit it. Just as there is no statute prohibiting schools from creating rules, for example, that children may not run on the blacktop because it is unsafe, there is no statute prohibiting the district from requiring universal, indoor and outdoor masking to mitigate the risks of COVID-19 transmission.

Finally, I am unclear what students you are referring to when you raised concerns regarding least restrictive environment requirements. If any particular student has a specific medical condition, mental health condition, or disability that prevents them from wearing a face covering, they may provide the school with documentation and request an exemption. Further, if there are concerns regarding the implementation of a student's Individual Education Plan (IEP) or general adherence to the Individuals with Disabilities Education Act, that student/parents or guardians may request an IEP meeting to discuss.

We hope that you can remain patient as we work through this next stage of the pandemic and transition back to in-person instruction this school year. Thank you for your anticipated understanding and continued support.

Please feel free to contact either myself or Erin Lindsey, Director of Communication, if you have any questions and/or need further about District programs.

Regards,

Stacy Yao
Superintendent