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U.S. District Court Grants Preliminary Injunction for Immunocompromised Students
Temporary Injunction Granted for 12 Plaintiff Students in 10 School Districts

On Wednesday night, Senior Judge Norman K. Moon of the U.S. District Court of the Western Region granted a preliminary injunction for the plaintiffs in *Seaman, et al. v. Commonwealth of Virginia, et al.* The plaintiffs, 12 students with disabilities in school districts throughout Virginia, challenged Executive Order 2 and Senate Bill 739 which strip from school districts the ability to provide accommodations for students with disabilities by banning schools from using community masking as a COVID-19 prevention strategy. This violates the federal Americans with Disabilities Act and Section 504 of the Rehabilitation Act and puts the lives of immunocompromised students at risk.

The preliminary injunction prohibits the state defendants from enforcing Executive Order 2 or SB 739 against the 10 school districts in which the 12 plaintiffs live if those schools make accommodations for the Plaintiffs, ensuring safe access to education. While the injunction is limited to these 12 students, it is clearly a blueprint for any parent of a student with disabilities to assure their school district can make accommodations when the safety of their children is at stake and that state law cannot stand in the way.

Judge Moon wrote, “E.O. 2 and S.B. 739—just like any other state law—cannot preclude Plaintiffs from asking for some required masking as a reasonable modification, nor can they bar Plaintiffs’ schools from implementing some required masking, if in fact, it would constitute a reasonable modification under federal law.” Under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (Section 504), both state agencies and public schools are obligated to provide reasonable modifications to policies, practices, and procedures to give students with disabilities an equal opportunity to benefit from public education.

The injunction is a win for schools and students. Schools in the 10 impacted districts can now make accommodations to keep students safe – a flexibility all schools should have to address the needs of their students, not only from COVID but any health crisis that may arise in the future. It also sends a clear signal that parents should not have to make the difficult choice between their child’s health and their education.

The Court’s injunction affirms the basis of our case: That schools must have the authority and discretion to provide accommodations for students with disabilities, including the masking of those around them during infectious disease outbreaks, so that they can attend public school like their nondisabled peers.

The parents are represented by the ACLU of Virginia, the Washington Lawyers' Committee, Brown Goldstein & Levy, the disAbility Law Center of Virginia, and Arnold & Porter.

The preliminary injunction order can be found here:

https://acluva.org/sites/default/files/field_documents/ecf_68_injunction_order.pdf

The preliminary injunction opinion can be found here:

https://acluva.org/sites/default/files/field_documents/ecf_67_-_memo_opinion.pdf

Full case information can be found here: <https://acluva.org/en/cases/christopher-seaman-et-al-v-commonwealth-virginia-et-al>

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