

# Health and Safety, Not Liability, Must Guide Resuming In-Person Instruction

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**We must keep students and educators safe and help prevent the spread of COVID-19 as we return to in-person instruction, but waiving school districts' and higher education institutions' liability for providing safe conditions may lessen the incentive to meet this goal.**

## CAVALIER APPROACH TO SAFETY

- ▶ Despite rising cases of COVID-19 in most states, President Trump is threatening to withhold funding from school districts if they do not return to in-person instruction and pressuring the Centers for Disease Control and Prevention to loosen its guidance for schools.
- ▶ Education Secretary Betsy DeVos says schools “must fully open and they must be fully operational,” yet she has no plan for ensuring the safety of students, their families, and educators, and won’t even affirm that schools should follow CDC recommendations.

## STANDARDS MUST BE IN PLACE

- ▶ Basic public health strategies for containing the pandemic must be in place and many issues must be addressed before schools and college campuses can resume in-person instruction *safely*—including adapting facilities for social distancing, improving ventilation systems, providing personal protective equipment for students and educators, and adjusting staffing and scheduling.
- ▶ But right now, few evidence-based federal or state mandates are in place to protect students, teachers, faculty, staff, and families.
- ▶ Absent such mandates, waiving the liability of school districts, colleges, and universities could encourage them to fully reopen despite public health advice to the contrary and/or fail to put the necessary safety precautions in place upon resuming in-person instruction. This could be especially true where school districts and colleges face significant political pressure to more quickly return to in-person instruction.
- ▶ No employer, including schools, colleges, or universities, should be freed of the general obligation to take reasonable care to ensure health and safety.

## STUDENTS AND EDUCATORS AT RISK

- ▶ In 24 states, employees of public schools and public institutions of higher learning are not covered by federal Occupational Safety and Health Administration protections, and most states have no real occupational safety standards for schools. Without the threat of liability, there is essentially no incentive to protect students and educators.
- ▶ The focus on liability sends the message that our leaders are unwilling to prepare K-12 schools and institutions of higher learning to operate safely and have chosen instead to limit potential lawsuits. This tells students, teachers, faculty, staff, and families that schools and college campuses are in fact *not* safe.
- ▶ K-12 educators and college faculty and staff alike are worried about returning to schools with no safety standards. They believe they are viewed as expendable, and they feel forced to choose between their jobs or the health of themselves and their loved ones.

- ▶ States should not even be considering waiving liability if they are not fully prepared to compensate educators who are injured, lose wages, or possibly die as a result of workplace exposure to COVID.

### RESUME IN-PERSON INSTRUCTION THE RIGHT WAY

- ▶ Whether schools and institutions of higher learning return to in-person instruction or not, educators have been and will continue teaching and supporting students. We all want to return to in-person instruction, but decisions about doing so must be guided by science, not by liability, and educators must be involved at every step of the way.
- ▶ [“All Hands on Deck: Initial Guidance Regarding Reopening Schools”](#) explains NEA’s principles for resuming in-person instruction in a way that prioritizes the health and safety of students and educators.
- ▶ A return to in-person instruction means incorporating these ABC’s: **All Hands on Deck** guidance should be followed; **Buffers** of six feet must be present; **Cleanliness** must be emphasized through rigorous cleaning and use of disinfectants; **Detection** of COVID must be a priority, through regular testing and contact tracing; **Equity** must be ensured through accessible learning opportunities for all students; and **Funding** must be provided that will address each of these issues.
- ▶ Two bills in the Senate offer a guide for providing the resources that would help schools and institutions of higher education resume in-person instruction safely: The HEROES Act, passed by the House of Representatives in May, and the Coronavirus Child Care and Education Relief Act (CCCERA), which addresses the national child care and education crisis and provides relief to students, families, schools, and educators.