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2021 SPECIAL SESSION I

CHAPTER 456

An Act to require each school board to offer in-person instruction to students enrolled in the local school division; exceptions permitted.

[S 1303]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. Section 1. As used in this act:

"In-person instruction" means any form of instructional interaction between teachers and students that occurs in person and in real time.

"In-person instruction" does not include the act of proctoring remote online learning in a classroom.

Section 2. Each school board shall offer in-person instruction to each student enrolled in the local school division in a public elementary and secondary school for at least the minimum number of required instructional hours and to each student enrolled in the local school division in a public school-based early childhood care and education program for the entirety of the instructional time provided pursuant to such program. For the purposes of this act, each school board shall (i) adopt, implement, and, when appropriate, update specific parameters for the provision of in-person instruction and (ii) provide such in-person instruction in a manner in which it adheres, to the maximum extent practicable, to any currently applicable mitigation strategies for early childhood care and education programs and elementary and secondary schools to reduce the transmission of COVID-19 that have been provided by the federal Centers for Disease Control and Prevention.

Section 3. Notwithstanding the provisions of Section 2 of this act:

1. If a local school board determines, in collaboration with the local health department and in strict adherence to "Step 2: Determine the Level of School Impact" in the Department of Health's Interim Guidance to K-12 School Reopening or any similar provision in any successor guidance document published by the Department of Health, that the transmission of COVID-19 within a school building is at a high level, the local school board may provide fully remote virtual instruction or a combination of in-person instruction and remote virtual instruction to the at-risk groups of students indicated as the result of such collaboration or, if needed, the whole student population in the school building, but in each instance only for as long as it is necessary to address and ameliorate the level of transmission of COVID-19 in the school building.

2. Any local school board may, for any period during which the Governor's declaration of a state of emergency due to the COVID-19 pandemic is in effect, provide fully remote virtual instruction to any enrolled student upon the request of such student's parent, guardian, or legal custodian.

3. Any local school board may permit any teacher who is required to isolate as the result of a COVID-19 infection and any teacher who is required to quarantine as the result of exposure to another individual with a COVID-19 infection to teach from a remote location and in a fully virtual manner for the duration of such period of isolation or quarantine, consistent with the mitigation strategies as set forth in Section 2 of this act.

4. Any teacher or other school staff member who is permitted to perform any job function from a remote location or in a fully virtual manner as a reasonable accommodation pursuant to Title I of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12111 et seq.) shall be permitted to continue to perform any such job function in such a manner.

Section 4. The Department of Education shall establish benchmarks for successful virtual learning and guidelines for providing interventions to students who fail to meet such benchmarks and for transitioning such students back to in-person instruction.

Section 5. All teachers and school staff shall be offered access to receive an approved COVID-19 vaccination through their relevant local health district.

2. That in order to facilitate the implementation of Section 3 of the first enactment of this act, the Department of Health shall maintain a guidance document for K-12 school reopening that contains metrics for determining whether transmission of COVID-19 within public school buildings is at a low, medium, or high level.

3. That the provisions of this act shall expire on August 1, 2022.

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