



February 8, 2022

House Education Committee
Virginia House of Delegates
Virginia State Capitol
1000 Bank Street
Richmond, VA 23219

Re: HB 1272's Negative Impact on Students with Disabilities

Dear Chair Davis and Committee Members:

We are writing on behalf of the Arlington Special Education Parent Teacher Association (SEPTA). SEPTA supports the educational experience of students with disabilities in Arlington Public Schools, who comprise approximately 15% of our school division population.

SEPTA is concerned that HB 1272 will prevent students with disabilities from accessing their education in public schools during the Covid-19 pandemic. We ask you to amend this bill to remedy this problem.

The Problems with HB 1272:

Many students with disabilities are at higher risk for severe illness from Covid-19 due to their disabilities and underlying medical conditions. In-person instruction is the most integrated, beneficial, and appropriate setting for most students with disabilities. These students need schools to follow CDC mitigation strategies so they can safely access in-person school, alongside their non-disabled peers.

The return to in-person instruction during the 2021-22 school year has been very successful under the framework the General Assembly enacted last year with SB 1303 because SB 1303 requires schools to offer:

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.

Under SB 1303, schools in Virginia have, for the most part, remained open with minimal levels of in-school transmission, even as the Omicron variant swept through our communities. Students with and without disabilities have all been able to learn safely in schools that are following CDC guidance. This is a remarkable achievement, for which the General Assembly should be congratulated.

HB 1272 would undo all of that.

HB 1272 keeps only the one part of SB 1303 that requires schools to offer in-person instruction. That's it.

HB 1272 removes these five key parts of SB 1303:

- The requirement that schools follow CDC guidance to the maximum extent practicable;
- The allowance for schools to temporarily shift to virtual instruction when Covid-19 transmission is at a high level;
- The option to offer a virtual learning program to students who elect it;
- The direction to School Boards to set their own parameters for the provision of in-person instruction;
- Allowing teachers to teach virtually during isolation, quarantine or as an Americans with Disabilities Act (ADA) accommodation, and have that count as in-person instruction.

Without the requirement that schools follow CDC guidance and the allowance for schools to temporarily shift to virtual instruction when transmission in a school is high, students with disabilities will need to risk their health, or even their lives, by attending school. And school divisions will not have the option to provide a virtual program to their highest risk students, leaving them shut out of school altogether.

At a time when schools are experiencing teacher and substitute shortages, we are also concerned that teachers would not be allowed to temporarily teach virtually during isolation or quarantine or as an ADA accommodation, causing more educational disruption to students.

We cannot support this bill in its current form and we ask you not to either. Students with disabilities deserve equal access to a safe learning environment and no parent should have to choose between their child's health or their education.

How to Fix HB 1272:

Fortunately, this bill is easy to fix.

Please amend HB1272 by inserting this language which comes directly from SB1303, a law that passed with overwhelming bipartisan support just last year:

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.

§ 3. Notwithstanding the provisions of § 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 § 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. § 12111 et seq.) shall be permitted to continue to perform any such job function in such a manner.

§ 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.

§ 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 § 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.

This is the exact same language that the General Assembly passed last year by an overwhelming bipartisan majority, so it should not be controversial or partisan. And we know it works.

We look forward to seeing an amended version of HB 1272 that accounts for the needs of all students, including Virginia's students with disabilities who are more vulnerable to severe illness from Covid-19.

Thank you for the opportunity to provide input and for the work you do on behalf of children in the Commonwealth of Virginia.

Sincerely,

Alison Cassels and Kathleen Clark, Co-Presidents
Wendy Pizer, Advocacy Chair
Arlington Special Education PTA
Arlington, Virginia