

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

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SENATE BILL 78

Short Title: A Safe Return for In-Person Learning. (Public)

Sponsors: Senators Davis and Blue (Primary Sponsors).

Referred to: Rules and Operations of the Senate

February 11, 2021

A BILL TO BE ENTITLED

AN ACT TO PROVIDE ACCESS TO IN-PERSON LEARNING FOR STUDENTS IN GRADES KINDERGARTEN THROUGH TWELVE.

Whereas, the Centers for Disease Control and Prevention (CDC) outlined the dramatic increase in children's mental health visits to hospital emergency rooms from April to October of 2020 over the same time period in 2019, an increase of 24% for children ages 5–11 and 30% for children between the ages of 12–17; and

Whereas, the CDC further found that with mitigation efforts, the COVID-19 transmission risk in schools appears low, showing that with the necessary precautions in place, schools can open during the pandemic and that there is little evidence that schools have contributed meaningfully to increased community transmission; and

Whereas, the ABC Science Collaborative confirms the CDC's findings, as it reported that no instances of child-to-adult transmission of COVID-19 were reported within schools during their examination of 11 open school districts in North Carolina serving 90,000 students during the first quarter of the 2020-2021 school year; and

Whereas, the ABC Science Collaborative's study sampled schools operating in accordance with the StrongSchoolsNC Public Health Toolkit (K-12) in the fall of the 2020-2021 school year, which limited the sample of middle and high school to only schools operating in Plan B or Plan C; and

Whereas, high failure rates in remote learning classes among middle and high school students are being reported statewide; and

Whereas, the Organisation for Economic Co-operation and Development found for every one-third of a school year lost, current students will suffer a 3% loss in income across their entire careers; and

Whereas, a study in the Journal of the American Medical Association found that today's students' increased financial stress could be associated with a collective loss of 13.8 million years of life; and

Whereas, even last summer, experts at Harvard University warned that school closures are a disaster that some students may never recover from; and

Whereas, the Department of Health and Human Services, in the updated interim guidance issued in the StrongSchoolsNC Public Health Toolkit (K-12) on February 2, 2021, strongly encouraged daily in-person instruction to the fullest extent possible for grades kindergarten through five under either Plan A or Plan B and strongly encouraged daily in-person instruction to the fullest extent possible for grades six through 12 under Plan B; Now, therefore, The General Assembly of North Carolina enacts:



1 **SECTION 1.** All public school units shall provide the option of in-person instruction
2 to students in grades kindergarten through 12 enrolled in that unit in accordance with this act for
3 the remainder of the scheduled 2020-2021 school year, beginning no later than the first weekday
4 that occurs 21 days following the effective date of this act.

5 **SECTION 2.** In providing for in-person instruction, public school units shall comply
6 with the following:

7 (1) Reopening requirements. – Public school units shall comply with all
8 requirements of the most current guidance in the StrongSchoolsNC Public
9 Health Toolkit (K-12) issued by the Department of Health and Human
10 Services for implementation of Plan A (Minimal Social Distancing) and Plan
11 B (Moderate Social Distancing) that are appropriate to the Plan of reopening,
12 as follows:

13 a. Elementary school students. – A governing board shall provide the
14 option of in-person instruction under either Plan A (Minimal Social
15 Distancing) or Plan B (Moderate Social Distancing) for all other
16 students enrolled in grades kindergarten through five in that unit,
17 including students with an individualized education program, as
18 defined in G.S. 115C-106.3(8), or a section 504 (29 U.S.C. § 794)
19 plan. It shall be in the discretion of the governing board whether
20 in-person instruction shall be provided under Plan A (Minimal Social
21 Distancing), Plan B (Moderate Social Distancing), or both Plans as
22 necessary to address the needs of different school settings. A
23 governing board shall continue to provide remote instruction options
24 for students to elect to participate in, at the discretion of the parent or
25 guardian, for the remainder of the 2020-2021 school year.

26 b. Middle and high school students. – A governing board shall provide
27 the option of in-person instruction under Plan B (Moderate Social
28 Distancing) for all students in grades six through 12 enrolled in that
29 unit, including students with an individualized education program, as
30 defined in G.S. 115C-106.3(8), or a section 504 (29 U.S.C. § 794)
31 plan. If the Department of Health and Human Services issues guidance
32 for students in grades six through 12 to return to school under Plan A
33 (Minimal Social Distancing), any governing board may provide
34 in-person instruction under Plan A (Minimal Social Distancing), Plan
35 B (Moderate Social Distancing), or both plans for students enrolled in
36 grades six through 12, in the discretion of the governing board as
37 necessary to address the needs of different school settings. A
38 governing board shall continue to provide remote instruction options
39 for students to elect to participate in, at the discretion of the parent or
40 guardian, for the remainder of the 2020-2021 school year.

41 (2) Special education and at-risk students. – Public school units shall ensure that
42 students with an individualized education program (IEP), as defined in
43 G.S. 115C-106.3(8), or a section 504 (29 U.S.C. § 794) plan, shall receive
44 in-person instruction and related services in accordance with the student's IEP
45 plan or 504 plan. Local boards of education are encouraged to prioritize daily
46 in-person instruction for students with disabilities in self-contained
47 classrooms, students with excessive absenteeism, and students who are
48 identified, as provided in G.S. 115C-105.41, as at risk for academic failure
49 and not successfully progressing toward grade promotion and graduation. For
50 the purposes of this act, "students with disabilities in self-contained
51 classrooms" means students whose individualized education plans have

1 determined that the nature or severity of the disability is such that special
2 classes or separate schooling is the least restrictive environment to receive a
3 free appropriate public education for those students, consistent with the
4 requirements of the Individuals with Disabilities Education Improvement Act,
5 20 U.S.C. § 1400, et seq., (2004).

6 (3) Student assignment adjustments. – Governing boards may adjust student
7 assignments as necessary for the remainder of the 2020-2021 school year to
8 comply with in-person instruction plan requirements and ensure efficient use
9 of school resources in order to provide both in-person instruction and offer
10 remote instruction alternatives to families.

11 (4) COVID-19 related closures. – Governing boards shall have the authority to
12 make day-to-day decisions concerning whether shifting individual schools or
13 individual classrooms that are providing in-person instruction to remote
14 instruction is necessary due to COVID-19 exposures that result in insufficient
15 school personnel or required student quarantines. A governing board shall
16 report any shift by a school or classroom from in-person to remote instruction
17 to the Department of Public Instruction within 72 hours of the shift.

18 **SECTION 3.** For the purposes of this act, in-person instruction includes all of the
19 following components:

20 (1) Is offered to the student in person by a teacher of record on a public school
21 unit campus. Continued enrollment in a North Carolina Virtual Public School
22 course or other e-learning course offering or use of prerecorded learning
23 materials integrated in instruction that occurs on a public school unit campus
24 shall be considered to meet this requirement.

25 (2) Meal service.

26 (3) Transportation services to the campus where the student is assigned.

27 **SECTION 4.** As the Department of Health and Human Services continues to follow
28 the Centers for Disease Control and Prevention guidance for COVID-19 vaccinations of frontline
29 essential workers, governing boards are encouraged to coordinate with local health departments
30 and other vaccine providers to facilitate coordinating and scheduling COVID-19 vaccination
31 events for frontline K-12 school-based employees.

32 **SECTION 5.** The Department of Public Instruction, in coordination with the
33 Department of Health and Human Services, shall examine the impacts of reopening schools in
34 the various Plans and shall report these findings to the Joint Legislative Education Oversight
35 Committee by June 15, 2021.

36 **SECTION 6.** This act is effective when it becomes law.