

SENATE BILL 362

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CF 2lr3237

By: **Senators Pinsky, Patterson, Lam, Washington, and Kagan**

Introduced and read first time: January 21, 2022

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 4, 2022

CHAPTER _____

1 AN ACT concerning

2 **Primary and Secondary Education – Virtual Schools – Revisions**

3 FOR the purpose of requiring a teacher preparation program to include certain training
4 related to teaching in a virtual learning environment as a component of instruction;
5 altering the requirements for virtual schools established by the State Department of
6 Education or a county board of education; providing that certain virtual schools
7 approved by the State Department of Education on or before a certain date may
8 continue to operate as a virtual school for a certain period of time under certain
9 circumstances; and generally relating to virtual schools.

10 BY repealing and reenacting, with amendments,
11 Article – Education
12 Section 6–121(a) and 7–1401 through 7–1408
13 Annotated Code of Maryland
14 (2018 Replacement Volume and 2021 Supplement)

15 BY adding to
16 Article – Education
17 Section 7–1401.1
18 Annotated Code of Maryland
19 (2018 Replacement Volume and 2021 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Education

6–121.

(a) A teacher preparation program shall:

(1) Include the following components of instruction:

(i) Basic research skills and methods and training on the routine evaluation and use of research and data to improve student performance;

(ii) Differentiation of instruction and demonstration of cultural competence for students of diverse racial, ethnic, linguistic, and economic backgrounds with different learning abilities;

(iii) Implementation of restorative approaches for student behaviors;

(iv) Identifying and assessing, in the context of the classroom, typical student learning deficits and techniques to remedy learning deficits;

(v) Recognizing and effectively using high quality instructional materials, including digital resources and computer technology;

(vi) Core academic subjects that teachers will be teaching;

(vii) Methods and techniques for identifying and addressing the social and emotional needs of students, including trauma-informed approaches to pedagogy; [and]

(viii) Skills and techniques for effective classroom management; **AND**

(IX) TRAINING IN THE SKILLS AND TECHNIQUES FOR TEACHING EFFECTIVELY IN A VIRTUAL LEARNING ENVIRONMENT;

(2) Require program participants to demonstrate competency in each of the components required under paragraph (1) of this subsection;

(3) Provide training in the knowledge and skills required to understand and teach the Maryland curriculum frameworks; and

(4) On or after July 1, 2025, require passing a nationally recognized, portfolio-based assessment of teaching ability as a requirement for graduation.

7–1401.

(a) In this subtitle the following words have the meanings indicated.

(b) “Quality online education standards” means the National Standards for Quality Online Programs: Second Edition (2019).

(c) “Sponsor” means the Department or a county [school] board, having a fiduciary responsibility for the operation of the virtual school.

(d) “Virtual school” means a public school ~~established:~~

(1) ESTABLISHED by the Department or by a county board under § 4–109 of this article ~~in which the school;~~

(2) THAT uses ~~technology~~ **ONE OR MORE TECHNOLOGIES** to deliver [a significant portion] ~~THE MAJORITY~~ of instruction to its students ~~via the Internet in a virtual or remote setting~~ **ENTIRELY OR PRIMARILY ONLINE; AND**

(3) IN WHICH THE STUDENTS AND INSTRUCTORS PARTICIPATE REMOTELY FROM SEPARATE LOCATIONS.

7–1401.1.

THIS SUBTITLE DOES NOT APPLY TO:

(1) A VIRTUAL LEARNING OPPORTUNITY OFFERED BY THE DEPARTMENT OR A COUNTY BOARD UNDER § 7–1002 OF THIS TITLE; OR

(2) AN UPPER–LEVEL HIGH SCHOOL PROGRAM THAT:

(I) HAS ONLINE COMPONENTS; AND

(II) DESIGNS A STUDENT’S ACADEMIC PROGRAM TO MAXIMIZE THE FLEXIBILITY OF THE STUDENT’S SCHEDULE TO ACCOMMODATE THE STUDENT’S WORK SCHEDULE.

7–1402.

(a) **(1) [Subject] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND SUBJECT to the approval of the Department, a county board may establish [a] ONE virtual school PER GRADE BAND.**

(2) THE DEPARTMENT MAY AUTHORIZE A COUNTY BOARD TO ESTABLISH ONE ADDITIONAL VIRTUAL SCHOOL ON A SHOWING OF JUST CAUSE, AS DETERMINED BY THE DEPARTMENT.

1 **(3) THE DEPARTMENT MAY REVOKE APPROVAL OF A VIRTUAL**
2 **SCHOOL IF DURING THE PREVIOUS SCHOOL YEAR THE VIRTUAL SCHOOL FAILS TO**
3 **MEET THE STANDARDS ESTABLISHED BY THE DEPARTMENT IN REGULATION.**

4 **(B) A VIRTUAL SCHOOL MAY NOT INCLUDE CLASSES FOR**
5 **PREKINDERGARTEN OR KINDERGARTEN STUDENTS.**

6 **[(b)] (C)** A virtual school is subject to all applicable federal and State laws and
7 regulations governing the operation of a public school.

8 **(D) EACH APPROVED VIRTUAL SCHOOL SHALL HAVE A SCHOOL**
9 **ACCOUNTABILITY CODE ASSIGNED BY THE DEPARTMENT.**

10 ~~**(D) (E)**~~ **(1) THE DEPARTMENT OR A COUNTY BOARD MAY NOT**
11 **CONTRACT ONLY WITH A NONPROFIT ORGANIZATION FOR-PROFIT ENTITY TO**
12 **PROVIDE SERVICES FOR OPERATE OR ADMINISTER A VIRTUAL SCHOOL FOR THE**
13 **DEPARTMENT OR THE COUNTY BOARD.**

14 **(2) THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION MAY**
15 **NOT BE CONSTRUED TO PROHIBIT THE DEPARTMENT OR A COUNTY BOARD FROM**
16 **CONTRACTING WITH A FOR-PROFIT ENTITY FOR GOODS AND SERVICES FOR A**
17 **VIRTUAL SCHOOL.**

18 **7-1403.**

19 **[(c)] (A)** A student who is eligible for enrollment in a public school in the State
20 **[may] IS ELIGIBLE TO** enroll in a virtual school.

21 **(B) ~~AN~~ IN ADDITION TO THE CRITERIA ESTABLISHED BY THE DEPARTMENT**
22 **OR A COUNTY BOARD, AN APPLICATION FOR ENROLLMENT IN A VIRTUAL SCHOOL**
23 **SHALL REQUIRE AN APPLICANT TO DESCRIBE WHY INSTRUCTION IN A VIRTUAL**
24 **LEARNING ENVIRONMENT WILL LEAD TO SUCCESSFUL ACADEMIC OUTCOMES FOR**
25 **THE APPLICANT.**

26 **(C) (1) NOT MORE THAN 10% OF THE STUDENTS FROM A SINGLE PUBLIC**
27 **SCHOOL IN THE COUNTY MAY ENROLL IN A VIRTUAL SCHOOL ESTABLISHED BY A**
28 **COUNTY BOARD.**

29 **(2) THE DEPARTMENT MAY AUTHORIZE A COUNTY BOARD TO EXCEED**
30 **THE CAP UNDER PARAGRAPH (1) OF THIS SUBSECTION ON A SHOWING OF JUST**
31 **CAUSE.**

32 **(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF**
33 **THE DEPARTMENT OR A COUNTY BOARD RECEIVES MORE APPLICATIONS THAN**

1 THERE ARE AVAILABLE SPACES IN A VIRTUAL SCHOOL, THE DEPARTMENT OR THE
2 COUNTY BOARD SHALL ADMIT ALL STUDENTS ON A LOTTERY BASIS.

3 (2) THE DEPARTMENT OR A COUNTY BOARD MAY GIVE GREATER
4 WEIGHT TO A STUDENT'S LOTTERY STATUS AS A PART OF A LOTTERY HELD UNDER
5 PARAGRAPH (1) OF THIS SUBSECTION BASED ON CRITERIA ESTABLISHED BY THE
6 DEPARTMENT OR THE COUNTY BOARD.

7 (E) TO THE EXTENT PRACTICABLE, THE STUDENT BODY OF A VIRTUAL
8 SCHOOL SHALL REFLECT THE RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY
9 OF THE STUDENTS ENROLLED IN THE PUBLIC SCHOOL SYSTEM IN THE COUNTY.

10 (F) THE DEPARTMENT OR THE COUNTY BOARD SHALL DEVELOP AN
11 OUTREACH ~~AND MARKETING~~ CAMPAIGN TO PROVIDE INFORMATION TO THE PUBLIC
12 ON THE AVAILABILITY OF THE VIRTUAL SCHOOL OPTION ~~AND TO ENCOURAGE~~
13 ~~APPLICATIONS FROM STUDENTS.~~

14 [7-1403.] 7-1404.

15 (a) A virtual school shall provide each enrolled student:

16 (1) Access to a sequential curriculum approved by the State Board that
17 meets or exceeds the standards adopted by the county board in the county of the virtual
18 school's principal place of business;

19 (2) The same length of time for learning opportunities per academic year
20 that is required for public school students, unless the virtual school can show that a student
21 has demonstrated mastery or completion of the subject area; [and]

22 (3) Regular assessment in the core areas of instruction as required by
23 regulations adopted by the State Board under [§ 7-1408] § 7-1409 of this subtitle; AND

24 (4) ACCESS TO THE FOLLOWING SERVICES:

25 (I) ~~EXTRACURRICULAR~~ TO THE EXTENT PRACTICABLE,
26 EXTRACURRICULAR ACTIVITIES AT THE PUBLIC SCHOOL THE STUDENT WOULD
27 OTHERWISE BE REQUIRED TO ATTEND;

28 (II) NOTWITHSTANDING ANY OTHER LAW OR REGULATION AND
29 SUBJECT TO A PARTICIPATION AGREEMENT BETWEEN THE PUBLIC SCHOOL AND
30 THE PARENT OR GUARDIAN OF THE STUDENT, PARTICIPATION IN ORGANIZED
31 ATHLETICS AND ON ATHLETIC TEAMS AT THE PUBLIC SCHOOL THE STUDENT WOULD
32 OTHERWISE BE REQUIRED TO ATTEND;

33 ~~(H)~~ (III) WRAPAROUND SERVICES;

~~(III)~~ (IV) FOOD AND NUTRITION SERVICES; AND

~~(IV)~~ (V) HEALTH CARE SERVICES EQUIVALENT TO SERVICES
AVAILABLE TO STUDENTS WHO RECEIVE IN-PERSON INSTRUCTION IN THE PUBLIC
SCHOOLS IN THE COUNTY.

(b) A curriculum adopted under subsection (a) of this section shall have [an]:

(1) AN interactive program with [significant online] ~~AT LEAST 60% OF~~
~~THE~~ components ~~ONLINE~~; AND

(2) ~~A~~ AN INTERACTIVE SOCIAL AND EMOTIONAL WELLNESS
COMPONENT DESIGNED FOR A VIRTUAL SCHOOL ENVIRONMENT.

(c) Beginning in the 2022–2023 school year, a virtual school shall follow the
quality online education standards.

(D) THE DEPARTMENT SHALL ESTABLISH IN REGULATION THE FOLLOWING
STANDARDS FOR ALL VIRTUAL SCHOOLS:

(1) ~~STUDENT~~ AFTER COLLABORATION WITH LOCAL SCHOOL
SYSTEMS, STUDENT ATTENDANCE REQUIREMENTS AND REPORTING;

(2) STUDENT ENGAGEMENT AND CONDUCT;

(3) PROGRAM QUALITY METRICS;

(4) TRACKING AND USE OF STUDENT DATA; AND

(5) DATA REPORTING REQUIREMENTS.

~~(5)~~ (E) THE DEPARTMENT AND A COUNTY BOARD SHALL ADOPT
POLICIES FOR THE MANDATORY RETURN TO IN-PERSON INSTRUCTION FOR
STUDENTS ENROLLED IN A VIRTUAL SCHOOL, INCLUDING STUDENTS WHO ARE
FAILING ACADEMICALLY AFTER RECEIVING THE APPROPRIATE SUPPORTS.

[7–1404.] 7–1405.

(a) A virtual school shall provide to the parent or guardian of each enrolled
student:

(1) Instructional materials, including software; [and]

(2) Information on the closest public facility that offers access to a computer[, printer,] and Internet connection; AND

(3) INFORMATIONAL MATERIALS ON:

(I) SCHOOL POLICIES;

(II) STUDENT ATTENDANCE, CONDUCT, AND ENGAGEMENT REQUIREMENTS;

(III) ACCESS TO EXTRACURRICULAR ACTIVITIES AND WRAPAROUND SERVICES;

(IV) ACCESS TO FOOD AND NUTRITION SERVICES AND HEALTH CARE SERVICES;

(V) TECHNOLOGY REQUIREMENTS AND SUPPORT SERVICES;

(VI) CYBERSECURITY POLICY AND BEST PRACTICES;

(VII) TEACHER CONTACT INFORMATION AND OFFICE HOURS;
AND

(VIII) ANY OTHER RELEVANT INFORMATION AS DETERMINED BY THE VIRTUAL SCHOOL.

(b) A virtual school [may]:

(1) MAY not provide funds for the purchase of instructional programs or materials to a student or to a student's parent or guardian; AND

(2) SHALL PROVIDE THE APPROPRIATE DIGITAL DEVICE TO A STUDENT TO PARTICIPATE IN THE VIRTUAL SCHOOL, IF REQUIRED.

[7-1405.] 7-1406.

(A) (1) A teacher ~~employed by~~ ASSIGNED TO a virtual school shall ~~have~~ +

~~(1) HAVE~~ a teacher's certificate issued by the State Superintendent under Title 6 of this article; OR ANY OTHER RELEVANT PROFESSIONAL CERTIFICATION AUTHORIZED UNDER COMAR 13A.12.01.

(2) TEACHERS OR EDUCATION SUPPORT PERSONNEL ASSIGNED TO WORK IN A VIRTUAL SCHOOL SHALL:

~~(2)~~ (I) BE AN EMPLOYEE OF THE COUNTY, OR A COLLABORATING COUNTY, THAT ESTABLISHED THE VIRTUAL SCHOOL;

~~(3)~~ (II) SUBJECT TO SUBSECTION (B) OF THIS SECTION, BE SUBJECT TO THE COLLECTIVE BARGAINING AGREEMENT OF THAT JURISDICTION; AND

~~(4)~~ (III) HAVE ACCESS TO PROFESSIONAL DEVELOPMENT.

(B) A COLLECTIVE BARGAINING AGREEMENT MAY INCLUDE PROVISIONS SPECIFIC TO ~~TEACHERS~~ EMPLOYEES WHO TEACH WORK IN A VIRTUAL SCHOOL IN CONSIDERATION OF THE CONDITIONS AND REQUIREMENTS RELEVANT TO THAT WORK ENVIRONMENT.

(C) ~~A TEACHER EMPLOYED TO TEACH IN~~ AN EMPLOYEE ASSIGNED TO A VIRTUAL SCHOOL MAY NOT BE REQUIRED TO PROVIDE VIRTUAL AND IN-PERSON INSTRUCTION OR SUPPORT TO STUDENTS SIMULTANEOUSLY.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT OR THE COUNTY BOARD SHALL DETERMINE THE APPROPRIATE STUDENT-TEACHER RATIO FOR THE SIZE OF A CLASS IN A VIRTUAL SCHOOL BASED ON MULTIPLE FACTORS, INCLUDING GRADE LEVEL, SUBJECT MATTER, AND TEACHER WORKLOAD.

(2) THE SIZE OF A CLASS IN A VIRTUAL SCHOOL ~~MAY NOT EXCEED THE STATEWIDE OR~~ SHALL BE CONSISTENT WITH THE COUNTYWIDE AVERAGE CLASS SIZE FOR IN-PERSON CLASSES.

(E) A VIRTUAL SCHOOL SHALL PROVIDE TO A TEACHER AND ANY OTHER EMPLOYEE EMPLOYED TO TEACH OR PROVIDE DIRECT INSTRUCTION IN A VIRTUAL SCHOOL:

(1) THE TECHNOLOGY AND EQUIPMENT REQUIRED TO PERFORM THE FUNCTIONS OF THE JOB; AND

(2) IF NECESSARY, A PHYSICAL SPACE TO CONDUCT TEACHING OR PROVIDE DIRECT INSTRUCTION IN THE VIRTUAL SCHOOL.

[7-1406.] 7-1407.

A virtual school shall maintain an administrative office in the State that shall be considered its principal place of business.

[7-1407.] 7-1408.

1 A virtual school shall be evaluated each year by its sponsor based on the following
2 criteria:

3 (1) The extent to which the school demonstrates increases in student
4 achievement according to county and State academic standards; and

5 (2) The accountability and viability of the virtual school, as demonstrated
6 by its academic, fiscal, and operational performance.

7 [7-1408.] **7-1409.**

8 **(A) (1) (I) THE STATE SUPERINTENDENT MAY ASSIGN THE DUTIES**
9 **RELATED TO THE OVERSIGHT OF VIRTUAL SCHOOLS TO THE APPROPRIATE OFFICE**
10 **OR DIVISION WITHIN THE DEPARTMENT.**

11 **(II) THESE DUTIES SHALL INCLUDE:**

12 **1. THE DEVELOPMENT, COMPILATION, AND UPDATING**
13 **OF BEST PRACTICES FOR TEACHING AND LEARNING IN A VIRTUAL ENVIRONMENT,**
14 **PROVISION OF SERVICES, AND THE OPERATION AND ADMINISTRATION OF A VIRTUAL**
15 **SCHOOL; AND**

16 **2. LIAISING WITH COUNTY BOARDS THAT OPERATE**
17 **VIRTUAL SCHOOLS OR OTHER STAKEHOLDERS.**

18 **(2) THE OFFICE OR DIVISION ASSIGNED THE DUTIES UNDER**
19 **PARAGRAPH (1) OF THIS SUBSECTION MAY CREATE AN ADVISORY COMMITTEE TO**
20 **PROVIDE ADVICE ON TOPICS REGARDING VIRTUAL SCHOOLS AND VIRTUAL**
21 **LEARNING.**

22 **(B)** The State Board shall adopt regulations to carry out the provisions of this
23 subtitle, including establishing minimum criteria for the establishment and approval of a
24 virtual school.

25 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31,
26 2022, the State Superintendent of Schools shall submit a report to the State Board of
27 Education and, in accordance with § 2-1257 of the State Government Article, the General
28 Assembly on findings and recommendations regarding the appropriate balance of the
29 number of hours of synchronous learning and asynchronous learning for instructional
30 effectiveness of students in virtual schools based on research that has systematically
31 examined this issue and collaboration with local school systems.

32 **SECTION 3. AND BE IT FURTHER ENACTED, That:**

(a) (1) Subject to paragraph (2) of this subsection, a virtual school established and operated by a county board of education under § 4–109 of the Education Article and approved by the State Department of Education under § 7–1402 of the Education Article before the effective date of this Act, including a virtual education program established through the Eastern Shore of Maryland Educational Consortium for students enrolled in public schools in counties that are members of the Consortium, may continue to operate as a virtual school through the 2023–2024 school year.

(2) The State Department of Education may revoke approval of a virtual school authorized to continue operations under paragraph (1) of this subsection if during the previous school year the virtual school performs in the bottom 10% of schools as determined by metrics of the State accountability system.

(b) A virtual school that is authorized to continue operations under subsection (a) of this section is encouraged to seek all available opportunities to bring the virtual school into compliance with the requirements for virtual schools enacted under Section 1 of this Act as soon as practicable if not otherwise inconsistent with the law.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2022.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.