

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

FILED SENATE  
Feb 10, 2021  
S.B. 78  
PRINCIPAL CLERK

S

D

SENATE BILL DRS15018-TC-10B

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

Sponsors: Senators Davis and Blue (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE ACCESS TO IN-PERSON LEARNING FOR STUDENTS IN  
3 GRADES KINDERGARTEN THROUGH TWELVE.

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

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

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

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

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

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

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

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

30 Whereas, the Department of Health and Human Services, in the updated interim  
31 guidance issued in the StrongSchoolsNC Public Health Toolkit (K-12) on February 2, 2021,  
32 strongly encouraged daily in-person instruction to the fullest extent possible for grades  
33 kindergarten through five under either Plan A or Plan B and strongly encouraged daily in-person  
34 instruction to the fullest extent possible for grades six through 12 under Plan B; Now, therefore,  
35 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.