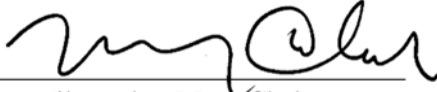




Councilmember Robert White



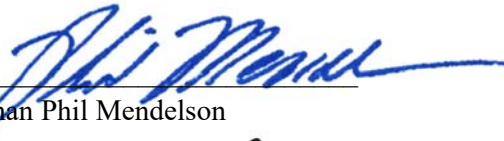
Councilmember Mary Cheh



Councilmember Christina Henderson



Councilmember Brianne Nadeau



Chairman Phil Mendelson



Councilmember Janeese Lewis-George



Councilmember Charles Allen



Councilmember Kenyan McDuffie

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To require, on an emergency basis, that the District of Columbia Public School (DCPS) system or any public charter school local education agency (LEA) provide a distance learning program that complies with the Individual with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973 if recommended by a physician, nurse practitioner, or physician assistant to students with certain high-risk medical conditions or to students who live with individuals with certain high-risk medical conditions, as well as to make clear that those students are considered enrolled in the LEA for the purposes of the enrollment audit, school payment process, and other reasons as determined by the Office of the State Superintendent of Education, even if the student is not physically attending the LEA; to mandate a tiered COVID-19 asymptomatic testing program; to provide that each DCPS and public charter school shall notify parents whenever a student attending, or a staff member working at, the school tests positive for the COVID-19 virus; to require certain reporting requirements related to COVID-19 cases by the Department of Health and certain reporting by the Department of General Services and DCPS on DCPS facility issues; to direct the Department of Consumer and Regulatory Affairs (DCRA) to expedite the permitting process for LEAs that request permits for outdoor eating and learning structures and equipment and to waive any associated fines if DCRA does not issue the permits within 3 weeks of receiving the permit application; and to amend an Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes to define excused absences as including certain absences related to COVID-19 infections during school year 2021-22.

45 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
46 act may be cited as the “Protecting Our Children Emergency Amendment Act of 2021”.

47 **TITLE I. COVID-19 PUBLIC EDUCATION REQUIREMENTS**

48 Sec. 101. Definitions.

49 For the purposes of this title, the term:

50 (1) “DCPS” means District of Columbia Public Schools.

51 (2) “Distance learning” means virtual instruction provided through simulcasting,  
52 streaming a classroom, or another mechanism that provides a student with instruction while the  
53 student is not physically present in school.

54 (3) “Enrollment audit” means the process by which the Office of the State  
55 Superintendent of Education determines the number of students enrolled in DCPS or a public  
56 charter school LEA pursuant to section 107(d) of the Uniform Per Student Funding Formula for  
57 Public Schools and Public Charter Schools Act of 1998, approved March 12, 1999, (D.C. Law  
58 12-207; D.C. Official Code § 38-2906(d)).

59 (4) "LEA" means local education agency, which is the District of Columbia  
60 Public School system or any individual or group of public charter schools operating under a  
61 single charter in the District.

62 (5) “School” means a school in the DCPS system or an individual public charter  
63 school.

64 (6) “School payment process” means the process by which the annual payment for  
65 each LEA is determined pursuant to the Uniform Per Student Funding Formula for Public  
66 Schools and Public Charter Schools Act of 1998, approved March 12, 1999, (D.C. Law 12-207;  
67 D.C. Official Code §§ 38-2901 *et seq.*).

68 (7) “Special education school” shall have the same meaning as provided in section  
69 102(11D) of the Uniform Per Student Funding Formula for Public Schools and Public Charter  
70 Schools Act of 1998, approved March 12, 1999, (D.C. Law 12-207; D.C. Official Code § 38-  
71 2901(11D)).

72 Sec. 102. Expansion of virtual education.

73 (a) During School Year 2021-2022, an LEA shall provide distance learning to a student  
74 enrolled in the LEA if:

75 (1) A licensed physician, nurse practitioner, or physician assistant has  
76 recommended that the student participate in distance learning and not in-person school because  
77 the student has a documented medical condition that puts the student at high risk of severe illness  
78 from COVID-19, consistent with the guidance of the Centers for Disease Control and  
79 Prevention; or

80 (2)(A) The student is ineligible for a vaccine that is approved and authorized in  
81 the United States to prevent COVID-19; and

82 (B) A licensed physician, nurse practitioner, or physician assistant has  
83 recommended that the student participate in distance learning and not in-person school because  
84 the student’s in-person attendance would endanger an individual in the student’s household  
85 because the individual has a documented medical condition, as defined by the Centers for  
86 Disease Control and Prevention, that places the individual at high risk of severe illness from  
87 COVID-19.

88 (b) Distance learning provided pursuant to subsection (a) of this section shall comply  
89 with the Individuals with Disabilities Education Act, approved April 13, 1970 (118 Stat. 2647;

90 20 U.S.C. § 1400 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (87 Stat. 394, 29 U.S.C.  
91 § 701 *et seq.*), and their implementing regulations.

92 (c) Notwithstanding any other provision of District law, during School Year 2021-2022, a  
93 student who receives distance learning instruction pursuant to subsection (a) of this section shall  
94 be considered to be enrolled in the LEA for the purposes of the enrollment audit, school payment  
95 process, and other reasons determined by the Office of the State Superintendent of Education,  
96 even if the student has not physically attended or is not physically attending the LEA during any  
97 portion of the school year; provided, that the student otherwise complies with the attendance  
98 policies of the LEA.

99 Sec. 103. Asymptomatic testing for COVID-19.

100 (a)(1) Each school shall conduct weekly asymptomatic testing for the COVID-19 virus  
101 of:

102 (A) Before November 1, 2021, at least 10% of its students attending in-  
103 person learning;

104 (B) Beginning November 1, 2021, at last 15% of its students attending in-  
105 person learning; and

106 (C) Beginning November 15, 2021 through January 15, 2022, at least 20%  
107 of its students attending in-person learning.

108 (2) The testing methodology a school uses to comply with the requirements of  
109 paragraph (1) of this subsection shall be of equal or greater accuracy than the methodology the  
110 school employed as of October 1, 2021.

111 (b) A special education school may seek a waiver from the Office of the State  
112 Superintendent of Education for the testing requirements required in subsection (a) of this  
113 section.

114 Sec. 104. Notification requirement.

115 (a)(1) Each school shall notify all parents or guardians of students attending the school  
116 whenever it receives notice that a student who attends in-person learning at the school or a staff  
117 member who physically works at the school tests positive for the COVID-19 virus.

118 (2) A school shall be deemed to have complied with paragraph (1) of this  
119 subsection if the school's LEA provides the notification on the school's behalf.

120 (3) The identity of the individual who has tested positive for the COVID-19 virus  
121 shall not be disclosed in the notification provided pursuant to paragraph (1) of this subsection.

122 (b) The notification required in subsection (a) of this section may be electronic.

123 Sec. 105. COVID-19 infection and mitigation reporting requirements.

124 (a)(1) On or before November 1, 2021, the Department of Health shall make available  
125 and update the following information on a weekly basis for the previous week on the District's  
126 coronavirus website ([coronavirus.dc.gov](https://coronavirus.dc.gov)), broken out by week:

127 (A) The number of students who tested positive for COVID-19, broken  
128 out by LEA, school, and grade level;

129 (B) The number of school personnel who tested positive for COVID-19,  
130 broken out by LEA and school;

131 (C) The total number of students tested, broken out by LEA, school, and  
132 grade level;

133 (D) The total number of school personnel tested, broken out by LEA and  
134 school;

135 (E) The number of students currently in quarantine, broken out by LEA,  
136 school, and grade level; and

137 (F) The number of school personnel in quarantine, broken out by LEA and  
138 school.

139 (2) If, when broken out by LEA, school, or grade, the number of individuals  
140 required to be reported pursuant to paragraph (1)(A) through (F) of this subsection is less than  
141 10, the actual number shall be suppressed, and the Department of Health shall report the number  
142 as “n<10”.

143 (b) On or before November 1, 2021, and every 2 weeks thereafter, the Department of  
144 General Services (“DGS”) shall transmit to the Council and post on the DGS website:

145 (1) A list of open work orders for HVAC units serving school facilities, including  
146 the status of any repairs and the anticipated repair date; and

147 (2) The date of the most recent inspection of HVAC units, by school.

148 (c) On or before November 1, 2021, and every 2 weeks thereafter, DCPS shall provide to  
149 the Council and post on the DCPS website a report that includes the following information:

150 (1) A list of unfulfilled requests for outdoor learning equipment, which shall  
151 include requests for tents or awnings, outdoor furniture, and electric or wi-fi hookups,  
152 disaggregated by school; and

153 (2) For each request, whether it will be fulfilled, in whole or in part, and the  
154 anticipated date of the equipment’s delivery and installation, when appropriate.

155 Sec. 106. Waiving of building fines for outdoor eating and learning.

156 Notwithstanding any other provision of law, if the Department of Consumer and  
157 Regulatory Affairs does not issue a permit to a LEA for the building of outdoor eating and  
158 learning structures or equipment within 3 weeks of receiving the application for the permit from  
159 the LEA, all fines associated with building the outdoor eating and learning structures or  
160 equipment shall be waived.

161 **TITLE II. COVID-19 PUBLIC SCHOOL ATTENDANCE**

162 Sec. 201. An Act To provide for compulsory school attendance, for the taking of a school  
163 census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat.  
164 806; D.C. Official Code § 38-201 *et seq.*) is amended as follows:

165 (a) Section 2(c) of Article II (D.C. Official Code § 38-203(c)) is amended by adding new  
166 paragraphs (3) and (4) to read as follows:

167 “(3) The absence of a minor shall be deemed excused if:

168 : “(A) The cause of the minor’s absence falls into a category identified in  
169 5A DCMR § 2102.2;

170 “(B) For School Year 2021-2022:

171 “(i) The minor is absent from school following a determination that  
172 the minor or a member of the minor’s household is a close contact, pursuant to current  
173 Department of Health guidelines, of a person who tested positive for the COVID-19 virus, and  
174 the period of the minor’s absence from the school is not longer than the period of quarantine for  
175 COVID-19 recommended by the Department of Health;

176 “(ii) The minor did not have access to distance learning, as defined  
177 in section 101(2) of the Protecting Our Children Emergency Amendment Act of 2021, passed on  
178 emergency basis on October 5, 2021 (Bill 24-\_\_\_) (“the act”) but would have been eligible to

179 receive distance learning pursuant to section 102(a)(2) of the act, had the act been in effect  
180 during the period of the minor’s absence from the school;

181 “(iii) The minor is participating in distancing learning pursuant to  
182 section 102 of the act and has a valid excuse for an absence listed in 5A DCMR § 2102.2; or

183 “(iv) The minor’s school determines the absence to be excused.

184 “(4) Paragraph (3)(B)(iv) of this subsection shall not apply after January 15,  
185 2022.”.

186 (b) Section 7(c)(1) of Article II (D.C. Official Code § 38-208(c)(1)) is amended by  
187 adding a new subparagraph (D) to read follows:

188 “(D) During school year 2021-2022, a referral made pursuant to  
189 subparagraphs (A) or (B) of this paragraph shall include any information the educational  
190 institution has that would indicate whether the absences listed in the referral were because the  
191 student or a member of the student’s household was determined to be a close contact of a person  
192 who has tested positive for the COVID-19 virus.”.

193 **TITLE III. GENERAL PROVISIONS**

194 Sec. 301. Fiscal impact statement.

195 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact  
196 statement required by section 4a of the General Legislative Procedures Act of 1975, approved  
197 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-307.47a).

198 Sec. 302. Effective date.

199 This act shall take effect following approval by the Mayor (or in the event of veto by the  
200 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than  
201 90 days, as provided for emergency acts of the Council of the District of Columbia in section



- 202 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
- 203 D.C. Official Code § 1-204.12(a)).