

COUNCIL OF THE DISTRICT OF COLUMBIA

Office of the Budget Director

Fiscal Impact Statement

Jennifer Budoff

Jennifer Budoff – Budget Director

LEGISLATIVE MEETING:

October 5, 2021

SHORT TITLE:

Protecting Our Children
Emergency Amendment
Act of 2021, as amended

TYPE:

Emergency

REQUESTING MEMBER:

Chairman Phil Mendelson

FISCAL IMPACT:

Funds are sufficient



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Conclusion

Funds are sufficient to implement this emergency legislation as amended. Although there is some amount of fiscal impact in Fiscal Year 2022, those anticipated costs can be absorbed within the budgets of the implementing agencies.

Background

The District of Columbia Public Schools (DCPS) and the District of Columbia Public Charter Schools (DCPCS) fully reopened for the 2021-2022 academic school year with certain COVID-19 protocols in place. This emergency legislation includes several provisions related to expanding or enhancing those protocols.

Section 102 of the measure requires a local education agency (LEA) to provide distance learning to a student who is ineligible for an approved and authorized vaccine and is recommended by a licensed physician, nurse practitioner, or physician assistant to participate in distance learning because: (1) the student has a documented medical condition that puts them at high risk of severe illness from COVID-19; or (2) the student's in-person attendance would endanger an individual in the student's home because that individual has a documented medical condition that puts them at high risk of severe illness from COVID-19. Distance learning instruction provided must comply with the Individuals with Disabilities Education Act (IDEA) and students receiving virtual instruction are still considered to be enrolled even though they may not physically attend school. As amended, section 102 also allows DCPS to limit the total number of students who receive distance learning under this legislation to 200 elementary school students and 150 secondary school students above the number of students already enrolled in its virtual learning academy as of October 5, 2021. The amended version provides a public charter school LEA with the ability to limit the total number of students who receive distance learning instruction under this legislation, provides the limit is no less than 3 percent of the total number of students enrolled in that LEA.

Section 103 of the bill requires that each school conduct weekly asymptomatic COVID-19 testing for students attending in-person learning. At least 10 percent of students are required to be tested weekly before November 1, 2021, at least 15 percent weekly beginning November 1, and at least 20 percent by November

15, 2021. After January 15, 2022, weekly asymptomatic testing will no longer be required under the bill. The measure exempts special education schools from these testing requirements if they seek a waiver from the Office of the State Superintendent of Education (OSSE).

Section 104 requires that each school or its LEA must notify all parents or guardians whenever a student or staff member at the school tests positive for COVID-19.

Section 105 requires the Department of Health (DC Health) to report certain COVID-19 school data on the District's coronavirus website related to testing and quarantine of students and staff. This information must be reported on a weekly basis beginning on or before November 1, 2021. The Department of General Services (DGS) is also required to report to the Council and publish on its website the status of open work orders for repairs of HVAC units in school facilities and the most recent inspection date of HVAC units, by school. Lastly, section 104 requires DCPS to report to the Council and publish on its website a report listing all unfilled requests for outdoor learning equipment, whether it will be fulfilled, and the anticipated timeline for fulfillment. This information must be reported bi-weekly beginning on or before November 1, 2021.

Section 106 waives the building fines associated with the construction of outdoor eating and learning structures if the Department of Consumer and Regulatory Affairs (DCRA) does not issue a permit to an LEA for the building of outdoor eating and learning structures or equipment within three weeks of receiving the application for the permit from the LEA.

Section 201 expands the definition of excused absences for the 2021-2022 academic school year to include certain absences related to COVID-19 infections. Under the expanded definition, a student's absence is considered excused if: (1) the student or member of their household is a close contact of a person who tested positive for COVID-19, and the period of the minor's absence from the school is not longer than the period of quarantine recommended by DC Health; (2) the student did not have access to distance learning but would have been eligible under this bill during the period of time they were absent from school; (3) the student is participating in distance learning as described under this bill; and (4) the school determines the student's absence has been excused. The measure also mandates that a truancy referral made to the Child and Family Services Agency, Court Social Services, or the Attorney General must include information indicating whether the absences listed were because the student or a member of the student's household was a close contact of a person who tested positive for COVID-19.

Funds are sufficient to implement this emergency legislation as amended. DCPS and DCPCS currently have stand-alone virtual programs in place for the 2021-2022 academic school year. Section 102 as amended gives DCPS the flexibility to limit the number of students who receive distance learning to 200 elementary school students and 150 secondary school students in addition to the students already enrolled in its virtual learning academy. DCPS currently has 85 elementary school students enrolled in virtual school and has the capacity to accommodate 300 to 350 elementary school students. They have also indicated that there is additional capacity to expand its virtual learning program for secondary students where demand has been lower than at the elementary school level. The new language also gives DCPCS the flexibility to limit the number of students who receive distance learning to no less than three percent of the total number of students enrolled in the public charter school LEA. The amendments to section 102

cap the expansion in virtual schooling to the number of slots that are already included in the DCPS and DCPCS budgets.

The bill also sets parameters for asymptomatic COVID-19 testing of in-person students and notification of parents and guardians. DCPS and DCPCS COVID-19 testing is administered by the Office of the State Superintendent of Education (OSSE) and the current DCPS protocol is to test 10 percent of students each week to screen for COVID-19. The Office of the Chief Financial Officer has confirmed that funds are sufficient to implement the testing requirements set forth in this emergency bill. Both DCPS and DCPCS already send notifications to parents and guardians, so this requirement presents no costs.

DC Health currently reports certain COVID-19 case data on coronavirus.dc.gov. There is no cost to report the testing and quarantine data required by the bill. There are also no costs to DGS for the reporting of HVAC work order status or to DCPS for reporting of outdoor equipment requests.

Lastly, there is potential for foregone revenue if building fines are waived for LEAs, however the fines are only waived if DCRA does not issue a requested permit in a timely manner; any resulting revenue loss would be de minimis.