

VIRGINIA ACTS OF ASSEMBLY -- 2022 SESSION

CHAPTER 2

An Act to amend the Code of Virginia by adding a section numbered 22.1-2.1, relating to public elementary and secondary schools and public school-based early childhood care and education programs; student instruction; emergency.

[S 739]

Approved February 16, 2022

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-2.1 as follows:

§ 22.1-2.1. Provision of in-person instruction.

A. As used in this section, "in-person instruction" means instructional interaction between teachers and students that occurs in person and in real time. "In-person instruction" does not include the act of proctoring remote online learning in a classroom.

B. Except as otherwise permitted in subdivision C 4 of § 22.1-98 or Article 3 (§ 22.1-276.01 et seq.) of Chapter 14, each school board shall offer in-person instruction to each student enrolled in the local school division in a public elementary and secondary school for at least the minimum number of required annual instructional hours and to each student enrolled in the local school division in a public school-based early childhood care and education program for the entirety of the instructional time provided pursuant to such program.

C. Notwithstanding any other provision of law or any regulation, rule, or policy implemented by a school board, school division, school official, or other state or local authority, the parent of any child enrolled in a public elementary or secondary school, or in any school-based early childhood care and education program, may elect for such child to not wear a mask while on school property. A parent making such an election shall not be required to provide a reason or any certification of the child's health or education status. No student shall suffer any adverse disciplinary or academic consequences as a result of this parental election. Nothing in this section shall be construed to affect the Governor's authority under Chapter 3.2 (§ 44-146.13 et seq.) of Title 44 to accomplish the purposes of such chapter with regard to a communicable disease of public health threat as defined in § 44-146.16.

2. That each local school division must comply with the provisions of subsection C of § 22.1-2.1 of the Code of Virginia, as created by this act, no later than March 1, 2022.

3. That an emergency exists and this act is in force from its passage.