



Mary Pat Fannon, Executive Director

BILL: Senate Bill 362  
TITLE: Primary and Secondary Education – Virtual Schools – Revisions  
DATE: February 16, 2022  
POSITION: Favorable with amendments  
COMMITTEE: Senate Education, Health, and Environmental Affairs Committee  
CONTACT: Mary Pat Fannon, Executive Director, PSSAM

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This bill changes the requirements for a local board of education or the Maryland State Department of Education (MSDE) to establish a virtual school and sets requirements for students, teachers, and services at a virtual school. A local school system is limited to establishing one virtual school; however, MSDE may authorize a local school system to establish a second virtual school on a showing of just cause. A virtual school may not include classes for prekindergarten or kindergarten students. MSDE or a local board of education may contract only with a nonprofit organization to provide services for a virtual school. A teacher preparation program must include instruction on training in the skills and techniques for teaching effectively in a virtual learning environment. By December 31, 2022, the State Superintendent of Schools must report the appropriate balance of synchronous and asynchronous learning.

The Public Schools Superintendents' Association of Maryland (PSSAM) **supports SB 362 with amendments.**

The Covid-19 pandemic has created many challenges in the delivery of public education. However, it has highlighted the value and potential of virtual learning. There is no doubt that virtual learning will continue as an important component of public education, well past the end of this pandemic. As the state's top educators, we embrace this new mode of learning and feel it is a welcome supplement to the high-quality education already provided in Maryland schools. We hope to have the opportunity to work collaboratively with MSDE and many other stakeholders, including teachers and students, to build the most effective and meaningful virtual education for Maryland public school students.

In order to preserve the highest quality public education in Maryland, we need to enter the world of virtual learning with a deliberate, methodical, and research-based approach. We need to create virtual school programs that ensure academic success for our students, and instills confidence for families knowing that their children will continue to receive the highest quality instruction. We also need to work collaboratively with public school teachers, giving them a meaningful role in the development of virtual schools and providing support for those who will work in such an environment.

Too many states have moved to a system of virtual learning that embraces and encourages private entities to run virtual schools. While there may be a role for some outside collaboration with well-tested companies as we build these models, our public school teachers will be at the center of any new mode of learning.

*One Voice, One Vision for Maryland's Students*

P. O. Box 12040, Baltimore, MD 21281

[www.pssam.org](http://www.pssam.org); [marypat.fannon@pssam.org](mailto:marypat.fannon@pssam.org); 410-935-7281

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There are several aspects to this bill that we embrace such as the teacher preparation program enhancements and the requirement of a lottery should demand exceed supply for seats in the school. Some of our schools have a waiting list but setting the expectation of a lottery will help families understand their choices. LEAs need the continued discretion to establish requirements and expectations for virtual participation and the bill's discussion of attendance, conduct, and requirements are helpful for setting an appropriate standard.

Our biggest concern about the legislation is what is truly defined as a virtual school. As you can see in the attachment, last year MSDE provided the checklist/application for virtual schools and for Blended Virtual Learning (BVL) Programs. Most of our LEAs used the BVL model and did not seek "school status," which in regulations creates a standalone school with its own school ID number. However, the bill's provisions regarding a school as one where the "majority" of teaching is online, and later referenced as 60% online teaching, creates some confusion as to the bill's intentions. The department's creation of the BVL model allows these programs to operate above those thresholds without being considered a "school." We believe more clarity on the definition of a "virtual school," "Blended Virtual Learning," and "virtual programs" needs to be discussed and defined more precisely.

Another concern is the limitation to one virtual school per LEA. This seems somewhat arbitrary because there may be opportunities to create smaller specialized schools focusing on a particular curriculum. A school system may also want to establish separate virtual schools by grade band. We want our virtual programs and schools to be designed to meet the needs of a range of learners and avoid policies that make them only available to students who are already highflyers. The language allowing MSDE to authorize an additional school partially addresses this concern, but without having a clearer idea of "just cause," there could be confusion.

A major concern is the requirement that county boards may only contract with a nonprofit to provide services for a virtual school. We understand the intent is not to allow a for profit entity to operate and manage a school system's virtual school, or to replace Maryland teachers in LEAs; however, "services" could mean a variety of other things including curriculum and material development and the use of a virtual platform created and maintained by a private entity. Even the State's Learning Management System (LMS), CANVAS, is owned by Instructure, a for-profit education technology company.

Generally, we would request greater local development of various provisions of the bill including development our own attendance policies, just as we do for traditional brick and mortar schools. We request flexibility in the application to include criteria as determined by the local board. We also request the ability to provide, with the Department's approval, Pre-Kindergarten or Kindergarten classes. At least one of our LEAs provides Kindergarten in our virtual school and were able to return home school students to the public school system. We prefer in-person learning for our youngest students, but some of these programs are extremely impressive and we would appreciate the ability to evaluate their success when we have more data before a complete prohibition.

We are also seeking an amendment to provide flexibility in class size to meet individual local personnel and budgetary needs, as well as vacancies. This is in keeping with our current practice of class size target ratios, and the language could read, "Average class sizes in virtual classes should be consistent with average class sizes of in-person classes." In addition, we believe the bill's limit to 10% of a single regular school's population participation in a virtual school should be a consideration, not a proscription. It is likely that most of our existing programs meet this threshold, but we would prefer to remove the requirement.

The provisions requiring virtual schools to offer enrolled students access to extracurriculars, wrap-around services, food and nutrition services, and equivalent health care services is important but may be too restrictive. We seek language that allows that these may be provided by the entire LEA and not just at the student's "home school," and in accordance with local board policies and procedures and offered to the "extent practicable." While many of our programs for the '21-22 school year are providing many of these amenities, they are not 100% across all LEAs. Some have focused on the food and wrap around services portions, but limited participation in sports and extracurriculars for various reasons including operational difficulties with transportation. It is important to remember that virtual schools are a choice for families and expectations should clear that this is a different opportunity compared to traditional in-person schools with some trade-offs.

The bill requires that MSDE submits a report on the appropriate balance of synchronous vs. asynchronous learning by December 31, 2022. We would like to see language included that requires MSDE to work with local school systems in determining the appropriate levels of virtual learning models.

The bill also requires MSDE to establish regulations regarding attendance, student engagement and conduct, program metrics, tracking and use of student data, and mandatory parameters for students to return to in-person instruction when failing academically. There are many reasons why virtual students may be moved back to their regular school beyond academic failure. The legislation discusses the need for virtual schools to reflect the populations in traditional schools, but this provision may not be realistic. We need to ensure students are in the best place for them for a variety of reasons. If the reason for a student's failure is their inability to manage the virtual environment, that is one element, but students fail for many reasons. The language here should require a regular review of placement decisions for students who are struggling, but placement determinations should remain case-by-case and/or in accordance with local board policies and procedures.

Currently LEAS are using the existing law, which as written, ensures the authorization and operation of high-quality virtual schools. We appreciate the need for guardrails as we move into this new stage of public education, but we need to retain the ability to create educational programs to meet and respond to our local priorities. We appreciate the sponsor's openness to working with us and other education advocates on this legislation, and look forward to working with the committee during their deliberations.

For the reasons stated above, PSSAM requests a **favorable report on SB 362, with amendments** addressing our concerns described above.