



**PSSAM**  
Public School Superintendents' Association  
OF MARYLAND

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**BILL:** SB 610  
**TITLE:** Primary and Secondary Education - Virtual Education  
**DATE:** March 1, 2023  
**POSITION:** Support with Amendment  
**COMMITTEE:** Education, Energy, and the Environment  
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The Public School Superintendents' Association of Maryland (PSSAM), on behalf of all twenty-four public school superintendents, **supports** Senate Bill 610. However, over the interim, clearer guidance has come from the Maryland State Department of Education (MSDE) on the use of virtual school days. It is our strong preference that the Department continue to be the authorizing entity for any virtual education plans. Additionally, it would be our preference to work with MSDE and other stakeholders, including teachers and students, to build the most effective and meaningful virtual education for Maryland public school students. Further, it should be the responsibility of MSDE to craft and promulgate regulations reflecting this work after collaboration with stakeholders, rather than using legislation to create all the parameters of virtual education.

PSSAM appreciates the prior collaboration with this committee and the sponsors in crafting a reasonable framework for virtual programming and virtual schools. While this legislation largely reflects the collaborative work over the last two legislative sessions, we want the committees to be keenly aware of our organization's priorities, concerns, and preferences.

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 pre-kindergarten 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. This legislation authorizes the continued existence of an existing virtual program that does not meet all of the bill's new requirements through the 2024/2025 school year under certain conditions. The bill also authorizes virtual education days for severe weather conditions under specified circumstances. No virtual schools for the elementary band may be approved for operation before December 1, 2024. The bill requires, to the extent practicable that virtual students may participate in activities at the public school the student otherwise would be required to attend. Further, the bill ensures the following services be provided to virtual students including (1) wraparound services; (2) food and nutrition services, and; (3) health care services available to students who receive in-person instruction.

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, superintendents embrace this new mode of learning and feel it is a welcome supplement to the high-quality education already provided in Maryland schools.

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 instill 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.

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 this 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*. Last year MSDE provided guidance and a 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 definitions of a "virtual school," "Blended Virtual Learning," and "virtual programs" is warranted.

Another concern is the limitation to one virtual school per LEA. This number 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, as well as 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 more authority in the development of local plans, including 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 homeschool 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 the local decision making to include discussion of 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 of 10% of a single regular school's population for 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 over the last two years have provided many of these amenities, this is not happening 100% across all LEAs. Some have focused on the food and wrap-around services, while others have 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 that expectations should be clear that this is a different opportunity compared to traditional, in-person schools with some trade-offs. As such, local boards and superintendents should have the right to set the criteria for participation in a virtual program.

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 committee's prior engagement with us, as well as other education advocates, and look forward to working with the committee during their deliberations.

For the reasons stated above, PSSAM requests a **favorable report on Senate Bill 610, with amendments** addressing our concerns described above.