

# Education Advocacy Coalition

for Students with Disabilities

## HOUSE WAYS AND MEANS COMMITTEE

### HOUSE BILL 985: PRIMARY AND SECONDARY EDUCATION—VIRTUAL SCHOOLS—ALTERATIONS

DATE: MARCH 1, 2023

POSITION: OPPOSE

The Education Advocacy Coalition for Students with Disabilities (EAC), a coalition of approximately 40 organizations and individuals concerned with education policy for students with disabilities in Maryland, strongly opposes House Bill 985, which would, in part, exempt virtual schools from regulations relating to curriculum, class size, instruction, staffing ratios, professional development, and textbooks.

Virtual schools established pursuant to House Bill 985 would need to determine if they could provide a free appropriate public education to a student with a disability who wants to attend the school. The federal Individuals with Disabilities Education Act (IDEA) and its implementing regulations, as well as Maryland law and regulations specify in detail the requirements regarding education of students with disabilities, including provisions regarding specialized instruction and Individuals Education Programs (IEPs), related services and supplementary services and supports, which could include, for example, such services as professional development for staff, adjustments in class size or staffing, curriculum adaptation or modification, and provision of adapted textbooks. These legal requirements cannot be waived.

Additionally, any virtual school receiving federal funds, as the schools established pursuant to House Bill 985 would do, would be obligated to comply with Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulations. This means that in addition to not discriminating against students with disabilities in its admissions process and in the delivery of education services to them, a virtual school would also have the obligation to provide reasonable accommodations to students with disabilities. Such accommodations could include, for example, the provision of specialized instruction or accommodations such as adjustment of staff to student ratios, professional development of staff, or adapted textbooks. The virtual schools established through the Maryland State Department of Education, a local school board or an institution of higher education would also be subject to the requirements of the Americans with Disabilities Act. These requirements cannot be waived.

EAC members have experience with the VLPs created by a number of school systems when school buildings reopened but not all students were able to return to school in person during the pandemic. Many families who welcomed the possibility of having their child attend school remotely because of continuing health concerns encountered barriers when the VLPs refused to accept students with IEPs, saying their needs could not be met in the VLP and refusing to make reasonable accommodations as required by federal law. Students with disabilities were routinely denied enrollment in the VLPs or had their acceptance rescinded for reasons ranging from a need for testing accommodations or reading support to the need for more intensive services than what the VLP said it could provide. VLPs did not independently consider accommodations under Section 504 or the Americans with Disabilities Act. Students with disabilities who could not attend school in person had no alternative but to seek home and hospital instruction, a much-reduced program offering only a few hours a week of instruction, with

no peer contact. The United States Department of Education's Office for Civil Rights is currently investigating one Maryland jurisdiction's VLP for discrimination on the basis of disability. Unmooring virtual schools from any obligation to comply with requirements for the basic components of education such as instruction, staffing, professional development, textbooks and curriculum will foreclose to those students with disabilities who may want or need virtual education the possibility of obtaining the free appropriate education guaranteed to them by federal and state laws.

For these reasons, the EAC strongly opposes House Bill 985. Please contact Leslie Seid Margolis, Chairperson, at [lesliem@disabilityrightsmd.org](mailto:lesliem@disabilityrightsmd.org) or 443-692-2505 for more information or with questions.

Respectfully submitted,

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