

From: "Sen. Natasha Marcus" <Natasha.Marcus@ncleg.gov>
Date: February 5, 2021 at 3:50:16 PM EST
To: REDACTED FOR PRIVACY
Subject: Re: Support for SB 37

Ms. XXXXXXX,

Thank you for your email and your concern about how and when to return students to in-person learning under Plan A and/or B. I was not able to be present for the debate and vote on SB37 because I am currently quarantining at home with COVID-19. The Senate does not permit legislators to participate remotely. That said, I wanted to share with you my thoughts on the bill.

We all share the goal of returning to in-person learning – the Governor, the Superintendent, legislators, parents, students, and school staff. We want students back in person as soon as it's safe to do so, but SB37 does not do that. My Senate colleagues offered several amendments to make the bill workable, but all our efforts were summarily rejected. That makes me believe that the people pushing SB37 are not interested in finding a workable, safe path forward. This is political, and that's a shame.

One of the biggest problems with SB37 is the mandate concerning students with IEPs and 504 plans. The bill creates an insurmountable, unfunded mandate to bring all students with IEPs or 504 plans back under Plan A – full-time in-person with minimal social distancing (if they so choose). Charlotte-Mecklenburg Schools has more than 18,000 students with an IEP and/or 504 plan and simply cannot meet that mandate under current conditions. Not all students in this category need full-time in person instruction to meet their plan. (For example, some IEPs simply require more time to complete homework, which does not necessitate daily in-person instruction. Yet the bill would require CMS to offer it, without funding the special education resources CMS would need to do so.) We offered an amendment to allow flexibility for these students, a way for CMS to meet the requirements, and the special education funding needed to make the bill work, but the bill sponsors refused our amendment. This is a huge problem for schools like CMS, which has more students with IEP & 504 plans than some districts have total students.

Another problem with SB37 is that it does not follow CDC guidelines or the Strong Schools NC Public Health Toolkit recommendations. Note that the study cited by the bill sponsors supports the safety of in-person learning under Plan A or Plan B for K-5 students, if protections are in place, but there is little to no similar data about older students especially given the emergence of more contagious strains of the virus. It is impossible to accurately predict how much viral spread there will be in grades 6-12 given current community spread, the status of our vaccination progress, and the new more virulent strains. The CDC says Plan B is safe for older students, but that requires six feet of social distancing (among other precautions), which will be impossible in some schools. So there is a direct conflict between saying "follow CDC guidelines" and "give all students the option to return to in-person learning." You can't do both. Again, members of my caucus offered an amendment to follow CDC guidelines for older students, but it was rejected.

Finally, in order to make sure teachers are not required to also serve the role of school nurse during a pandemic, we offered an amendment to put a nurse in every school. We needed this before the pandemic, and it is especially critical now. We have money in the rainy day and unappropriated general fund that could pay for school nurses. This third amendment was also rejected.

Other problems with SB37 are that it completely removes the Governor's ability to revert to all-remote learning in the case of an unexpected wave of COVID infections. While this outcome is unlikely, it is a possibility and the bill should include that safety valve just in case. The bill also does not acknowledge that most educators and non-certified staff will not have access to the vaccine before they would be required to return in person and most schools do not have adequate ventilation.

Given the complete refusal to work on a bipartisan basis to address the problems with SB37, most Democrats, and all the Senators from Mecklenburg County, voted no. I also would have voted no, if I had been able to vote. Please understand that I support the goal of bringing students back safely, but not SB37's approach. I hope that when the bill moves through the NC House, some compromises will be made. I will continue to keep an open mind about paths forward and keep you updated on my thinking.

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