

# Attorneys For Education Rights

## Board of Directors, Attorneys for Education Rights

Kerri W. Feeney, President  
Nicholle S. Minciro, Vice President  
Scot Johnston, Secretary  
Jeannette A. Cohen, Treasurer  
Charlotte D. Cassidy, Immediate Past President  
Monica K. Hollenberg, Education Director  
Kathy A. George, Policy/Advocacy Director

## Attorneys for Education Rights

1037 NE 65<sup>th</sup> St., #81814  
Seattle, Washington 98115  
Tel. (206) 659-1898/ Fax (800) 991-2996  
[afewashington@gmail.com](mailto:afewashington@gmail.com)  
Web: [attorneysforeducationrights.org](http://attorneysforeducationrights.org)

January 18, 2022

Chair Lisa Wellman and Members of the Senate Early Learning and K-12 Education Committee  
P.O. Box 40466  
Olympia, Washington 98504

### Re: Opposition to SB 5735 (counting asynchronous time as instructional hours)

Dear Committee Members:

Attorneys for Education Rights (AFER) advocates on behalf of Washington parents and students. AFER seeks to improve educational outcomes for children in Washington State through legal advocacy and by contributing to development of effective educational policies.

As you know, all Washington students have a constitutional right to at least 1,000 instructional hours per school year (1,080 for high school students). These instructional hours are needed so students can learn the essential skills to become productive, engaged citizens. Regardless of disability status, students in Washington must be treated equitably. To be fair and equitable, you must not allow school districts to count asynchronous time as instructional hours. Let's face it – asynchronous activity is not instruction. It is akin to homework. It is, by definition, carried out independently at home. As the COVID pandemic has painfully demonstrated, many students are disadvantaged when educational activity shifts to home. Pretending asynchronous activity is equal to direct instruction hours is unfair to all students, but most particularly to students with disabilities who need specialized support to learn and to complete schoolwork. For all students, the pandemic has made clear that requiring students to stay home and rely on asynchronous learning (really homework), resulted in either students at home unsupervised or parents forced to take time off from work to ensure their children were appropriately supervised. It is also unfair to students whose parents are unable to help with schoolwork, whether because of work schedules, health issues, language differences, lack of stable housing, or other inequities. For students with disabilities, the absence of real instruction delivered by qualified providers has resulted in lack of progress and academic delay, which these students are still struggling to overcome.

**AFER** 

ATTORNEYS FOR EDUCATION RIGHTS

SB 5735 would undermine what it means to receive a basic education in Washington State. It defines asynchronous instruction time as lacking “two-way interactive communication contact with school district staff” – in other words, it is devoid of teaching. It allows school districts to replace up to 20 percent of instructional hours with asynchronous time in the homes of students, where capacities for accessing instruction are highly variable and, in some cases, nonexistent. Such a shift would be contrary to your constitutional obligations including those arising under Article IX, section 3, which says: “The legislature shall provide for a general and uniform system of public school.”

Please do not pass SB 5735.

Sincerely,

**Board of Directors, Attorneys for Education Rights**



Kerri W. Feeney, Board President