



**PRESS RELEASE from  
LIBERTY JUSTICE CENTER**

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## **South Carolina school district sued for denying in-person education required by state law**

CHARLESTON, S.C. (May 4, 2021) — A mother in Berkeley County is suing the school district for refusing to allow her children to attend school in-person. Two of Brigette Herbst's children remain stuck in virtual learning despite a new state law requiring that "every school district in the State must offer five-day, in-person classroom instruction to students no later than April 26, 2021."

Attorneys from the Liberty Justice Center, a national public interest law firm that fights for constitutional rights and educational opportunity, is representing Herbst and her middle school children. On Monday, May 4, the attorneys filed a complaint against the Berkeley County School District and the superintendent. They also asked the court to take emergency action to force the district to immediately comply with state law.

"Berkeley County is violating state law and failing to serve all students who want to return to school," said **Daniel Suhr, senior attorney at the Liberty Justice Center**. "The law is clear that all South Carolina students must have access to in-person learning. The school district is brazenly ignoring parents' pleas for education and must be held accountable."

South Carolina Governor Henry McMaster signed S. 704 on April 22, 2021. The day before the signing, the State Superintendent of Education, Molly Spearman, was clear about the bill's meaning: "Every family must be given the option of sending their child to school five days a week face to face..." Yet, when Herbst requested in-person instruction that week, Berkeley County School District said it was not available. She and her children are suing the district for denying her children equal protection under the law and equal access to education, and continuing to harm her kids by forcing them to stay in virtual learning.

"After over a year of virtual learning, I thought we finally had the law on our side and a mandate to get our kids back in school," said **Brigette Herbst, mother of three Berkeley County School District students**. "It is sad that I had to find lawyers and file a lawsuit to get the school district to follow state law and do what's best for kids."

Berkeley County School District claims it is complying because it is already offering five-day, in-person instruction. However, that option was only available to families who chose it at the beginning of the school

year. Families like the Herbsts who moved to the district mid-year and those who initially chose virtual learning have no access to in-person learning.

***Herbst v. Berkeley County School District*** was filed May 3, 2021, in the Berkeley County Court of Common Pleas. Case filings are available here: <https://libertyjusticecenter.org/media/berkeley-county>

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**The Liberty Justice Center** is a nonprofit, public-interest litigation center that fights to protect school choice and fundamental constitutional rights. The Liberty Justice Center is best known for its 2018 U.S. Supreme Court victory in *Janus v. AFSCME*. Learn more about the Liberty Justice Center at [LibertyJusticeCenter.org](https://LibertyJusticeCenter.org).