

Department of Legislative Services  
 Maryland General Assembly  
 2019 Session

FISCAL AND POLICY NOTE  
 Third Reader - Revised

House Bill 110  
 Ways and Means

(Delegate Walker, *et al.*)  
 Education, Health, and Environmental Affairs

**Public School Students – Daily Physical Activity (Student Health and Fitness Act)**

This bill requires a specified program of physical education for prekindergarten students. The bill also establishes a goal that each public elementary school student be provided a daily program of developmentally appropriate moderate to vigorous physical activity of at least 150 minutes per week, including recess and at least 90 minutes per week of physical education. The Maryland State Department of Education (MSDE) must collect data from each public elementary school on the daily program of physical activity provided to students. MSDE must annually publish this data, and whether a public elementary school has met the goal discussed above, on its website. **The bill takes effect July 1, 2019.**

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$37,300 in FY 2020, increasing to \$48,100 by FY 2024 for MSDE. General fund expenditures further increase by an indeterminate amount, which under one assumption may total \$175,000, in FY 2020 and 2021 to cover additional facility assessment costs incurred by the Interagency Commission on School Construction (IAC).

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	37,300	43,500	44,900	46,500	48,100
Net Effect	(\$37,300)	(\$43,500)	(\$44,900)	(\$46,500)	(\$48,100)

*Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** Local school expenditures are not substantially impacted.

**Small Business Effect:** None.

## Analysis

**Bill Summary:** IAC must complete a statewide assessment on the need for school infrastructure that supports physical activity in public elementary schools, including gymnasium space, outdoor playing fields, playground space, sports facilities, and the accessibility of school recreation spaces for students with disabilities. MSDE must conduct a survey of each public elementary school in the State on the availability of before and after school programming providing students with opportunities for physical activity. IAC and MSDE must respectively report on the findings of the needs assessment and the results of the survey by January 1, 2020.

Membership on the Advisory Council on Health and Physical Education is altered.

**Current Law:** Every public school must have a program of physical education that is given in a planned and sequential manner to all students in order to develop their good health and physical fitness and improve their motor coordination and physical skills. The specific curriculum and course of study is set by each local board of education. Maryland regulations require a physical education comprehensive program to provide a developmentally appropriate instructional program that advances student knowledge, confidence, skills, and motivation to enjoy a lifetime of healthful physical activity.

By July 1, 2018, and in consultation with local school systems, IAC must adopt educational facilities sufficiency standards and a facility condition index for Maryland public schools. The standards are defined as a uniform set of criteria and measures for evaluating the physical attributes and educational suitability of public elementary and secondary school facilities in the State. The standards include specified categories, and they must be reviewed and updated periodically. The index is defined as a calculation to determine the relative physical condition of public school facilities by dividing the total repair cost of a facility by its total replacement cost.

By July 1, 2019, IAC must complete an initial statewide facilities assessment using the sufficiency standards. In completing the assessment, IAC must incorporate the index, contract with an independent third-party vendor to conduct the data collection and assessment, use existing data sources to the extent possible, and coordinate with local school systems to identify data elements to be used. After completing the initial assessment, IAC must share the results with the Workgroup on the Assessment and Funding of School Facilities that is established by the bill. The workgroup is chaired by the State Superintendent and staffed by IAC and the Department of Legislative Services (DLS). Working together and in consultation with local jurisdictions, IAC and the workgroup must consider (1) how the relative condition of public school facilities based on the standards and index should be prioritized and (2) if appropriate, how the results of the facilities assessment should be used in making funding decisions. The workgroup must report its

findings and recommendations to the Governor and General Assembly by December 1, 2019. Based on the workgroup's recommendations, IAC must adopt regulations no earlier than May 1, 2020, that establish the use of facility assessment results in annual school construction funding decisions beginning no earlier than fiscal 2021.

IAC must enter the facility assessment data into an integrated data system called the Integrated Master Facility Asset Library. IAC must manage the library and provide local school systems with access to it using a cloud-based system. Following the completion of the initial assessment, IAC must develop standards and procedures to comprehensively update the facilities assessment so that the data is not more than four years old. Local school systems must cooperate with IAC and contribute data as requested to update the assessment.

**Background:** SHAPE (Society of Health and Physical Educators) America finds that children between the ages of 5 and 12 should accumulate at least 60 minutes and up to several hours of age-appropriate physical activity on all or most days of the week. This daily accumulation should include, according to SHAPE America, moderate and vigorous physical activity with the majority of the time being spent in activity that is intermittent in nature. SHAPE America further finds that children should participate in several bouts of physical activity lasting 15 minutes or more each day, and that extended periods (periods of two hours or more) of inactivity are discouraged for children, especially during the daytime hours.

According to the Institute of Medicine (IOM), “[e]xtensive scientific evidence demonstrates that regular physical activity promotes growth and development in youth and has multiple benefits for physical, mental, and cognitive health.” IOM finds a relationship between physical activity and “lower body fat, greater muscular strength, stronger bones, and improvements in cardiovascular and metabolic health, as well as to improvements in mental health by reducing and preventing conditions such as anxiety and depression and enhancing self-esteem.”

Data from the Maryland State Department of Education indicate that physical education programs in the 24 local school systems vary widely. For example, some elementary schools provide only 40 or 45 minutes of physical education per week, while a small percentage of public elementary schools in Maryland may provide as many as 120 minutes per week. The minimum and maximum amounts of time per week in physical education for elementary schools in each school system are shown in **Exhibit 1**.

Six counties – Allegany, Anne Arundel, Cecil, Montgomery, Queen Anne's, and Somerset – do not provide 90 minutes of physical activity each week at *any* school. In 13 other school systems, the minimum number of minutes per week is below 90 while the maximum is at or above 90.

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**Exhibit 1**  
**Minimum and Maximum Minutes per Week in Physical Education**  
**in Public Elementary Schools**  
**As of January 2019**

<u>School System</u>	<u>Minimum</u>	<u>Maximum</u>
Allegany	45	45
Anne Arundel	60	60
Baltimore City	45	100
Baltimore	50	100
Calvert	90	90
Caroline	40	90
Carroll	90	90
Cecil	45	45
Charles	45	90
Dorchester	50	105
Frederick	80	90
Garrett	50	100
Harford	45	90
Howard	90	90
Kent	90	90
Montgomery	45	60
Prince George's	40	90
Queen Anne's	60	60
St. Mary's	45	90
Somerset	50	60
Talbot	45	120
Washington	50	100
Wicomico	90 (min) 135 (max) per 6 days	
Worcester	60	90

Source: Maryland State Department of Education

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**State Expenditures:** General fund expenditures increase by \$37,300 in fiscal 2020, under the following assumptions. MSDE will require a half-time education program specialist to develop, oversee, and monitor the collection and reporting of data and to develop and disseminate professional development resources at an estimated cost of \$37,300 in fiscal 2020. This estimate assumes a 90-day start-up delay and includes salary and fringe benefits for the half position, one-time start-up costs, and other ongoing operating expenses.

Position	0.5
Salary and Fringe Benefits	\$32,212
One-time Start-up Costs	4,890
Other Ongoing Operating Expenses	<u>235</u>
<b>Total FY 2020 MSDE Expenditures</b>	<b>\$37,337</b>

Future year expenditures reflect annual increases, employee turnover, ongoing operating expenses, and elimination of one-time costs.

IAC advises that the requirement to assess sports facilities is not included in the scope of the current statewide school facility assessment and that the adopted educational facilities sufficiency standards do not include requirements for sports facilities such as basketball and tennis courts. While IAC advises that it will need to enter into a new contract, DLS believes that IAC may be able to amend the contract that it is currently developing for purposes of the facility assessment required by Chapter 14 of 2018. DLS estimated that expenditures for the Chapter 14 facility assessment will total \$3.5 million. *For illustrative purposes only*, if the requirements of this bill increase facility assessment costs by 5%, then the bill will add approximately \$175,000 in expenditures, which are assumed to be split evenly between fiscal 2020 and 2021.

**Local Expenditures:** It is assumed that the establishment of the *goal* related to minimum time devoted to a program of physical activity for public elementary school students does not constitute a mandate on local schools systems to meet the goal. Further, it is assumed that local public elementary schools can incorporate physical education for prekindergarten students, accommodate the IAC facility assessment, and respond to MSDE survey questions using existing resources. Thus, it is assumed that local school system costs are not substantially impacted.

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### Additional Information

**Prior Introductions:** HB 1430 of 2010, HB 168 of 2011, HB 196 of 2012, HB 855 of 2013, HB 1428 of 2014, HB 247 of 2015, HB 474 of 2016, and HB 393 of 2018 each received a hearing in the House Ways and Means Committee, but no further action was taken on the bills. HB 1529 of 2017 was referred to the House Rules Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Anne Arundel County Public Schools; Baltimore City Public Schools; Montgomery County Public Schools; St. Mary's County Public Schools; Talbot County Public Schools; SHAPE America; Institute of Medicine; Maryland State

Department of Education; Interagency Commission on School Construction; Department of Legislative Services

**Fiscal Note History:** First Reader - January 29, 2019  
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