

HOUSE BILL 110

F1, J1

9lr1128

By: Delegates Walker, Acevero, Anderson, Anderton, B. Barnes, Bartlett, Branch, Bridges, Bromwell, Brooks, Cardin, Carey, Charles, Conaway, Crutchfield, Cullison, D.E. Davis, Fennell, M. Fisher, W. Fisher, Gaines, Ghrist, Gilchrist, Glenn, Healey, Hill, Holmes, Hornberger, Ivey, Jackson, Jacobs, Kipke, Lehman, J. Lewis, Lierman, Long, McKay, Metzgar, Moon, Morgan, Mosby, Otto, Pena-Melnyk, Proctor, Reznik, Smith, Stein, Sydnor, Szeliga, Terrasa, Turner, Valderrama, Valentino-Smith, Washington, R. Watson, and Wilson, Wilson, Kaiser, D. Barnes, Boteler, Buckel, Cain, Ebersole, Feldmark, Guyton, Luedtke, Palakovich Carr, Patterson, Reilly, Rose, Shoemaker, and Wilkins

Introduced and read first time: January 18, 2019

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2019

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of requiring physical education to be given in a certain manner to
5 prekindergarten students; adding a certain representative to the Advisory Council
6 on Health and Physical Education; ~~a public school student~~ providing as a goal of the
7 State that each student in a public elementary school ~~to~~ be provided a certain
8 minimum level of a program of physical activity each week; requiring the State
9 Department of Education annually to collect certain data from certain public
10 elementary schools; requiring the Department annually to publish certain
11 information on its website; requiring that the program of physical activity for a
12 certain category of student be consistent with a certain program for the student;
13 ~~requiring public elementary schools to designate a certain group to plan and~~
14 ~~coordinate certain activities~~ prohibiting a certain student from being removed from
15 recess as part of a certain disciplinary procedure; providing an exception to the
16 prohibition in certain circumstances; requiring each school administrator to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 collaborate with certain teachers to identify certain alternative behavioral
 2 interventions; requiring each public school to develop a certain alternative plan to
 3 be used under certain circumstances; requiring the Department to develop and
 4 disseminate certain professional development resources; requiring the State Board
 5 of Education to adopt certain regulations; ~~requiring certain elementary schools to~~
 6 ~~provide certain notice to the local school system; authorizing certain elementary~~
 7 ~~schools to apply to the local school system for a certain extension; providing for~~
 8 ~~certain extensions; providing for the termination of certain extensions; requiring a~~
 9 ~~local school system that receives a certain extension to have a plan to ensure the~~
 10 ~~local school system's compliance with this Act by a certain date~~ requiring the
 11 Interagency Commission on School Construction to complete a certain needs
 12 assessment on certain school infrastructure; requiring the Commission to report the
 13 findings of the needs assessment to the Governor and the General Assembly on or
 14 before a certain date; requiring the Department to conduct a certain survey of certain
 15 elementary schools on the availability of certain programming; requiring the
 16 Department to submit a report with the results of the survey to the Governor and
 17 the General Assembly on or before a certain date; making stylistic changes; and
 18 generally relating to student health and fitness.

19 BY repealing and reenacting, with amendments,

20 Article – Education

21 Section 7–409

22 Annotated Code of Maryland

23 (2018 Replacement Volume and 2018 Supplement)

24 BY adding to

25 Article – Education

26 Section 7–409.1

27 Annotated Code of Maryland

28 (2018 Replacement Volume and 2018 Supplement)

29 Preamble

30 WHEREAS, Obesity leads to at least 300,000 deaths among adults in the United
 31 States each year due in part to physical inactivity and a poor diet; and

32 WHEREAS, Inadequate participation in physical activity is a significant contributor
 33 to the “epidemic of obesity” that has plagued the nation’s young people during the past 2
 34 decades; and

35 WHEREAS, Physical activity offers young people many health benefits, including
 36 improving aerobic endurance and muscular strength, helping to control weight, building
 37 lean muscle and reducing fat, and helping to build greater bone mass, all of which thwart
 38 the development of osteoporosis in adulthood and prevent or reduce high blood pressure;
 39 and

1 WHEREAS, A growing body of evidence suggests that providing students with more
2 physical education and physical activity opportunities helps reduce the cost schools incur
3 by reducing absenteeism, improving student health, and reducing staff time spent
4 addressing academic performance; and

5 WHEREAS, A growing body of evidence also suggests that improvement in test
6 scores and overall academic achievement can be linked to increased time in physical
7 education; and

8 WHEREAS, The National PTA considers “Early Physical Education” a “Parent
9 Priority” and urges its members to promote physical education in the schools; now,
10 therefore,

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
12 That the Laws of Maryland read as follows:

13 **Article – Education**

14 7–409.

15 (a) Each public school shall have a program of physical education that is given in
16 a planned and sequential manner to all students, [kindergarten] PREKINDERGARTEN
17 through grade 12, to develop their good health and physical fitness and improve their motor
18 coordination and physical skills.

19 (b) (1) The Department shall:

20 (i) Employ a full–time director of physical education;

21 (ii) Subject to paragraph (2) of this subsection, adopt regulations
22 that require a public school building that is newly constructed or completely renovated and
23 occupied on or after January 1, 2013, to include a gymnasium and adequate support space
24 for physical education instruction; and

25 (iii) Adopt guidelines for facilities for physical education programs.

26 (2) The regulations adopted under paragraph (1)(ii) of this subsection shall
27 include a process by which a local school system that is conducting a complete renovation
28 of a public school building may request a waiver, based on land or zoning constraints, from
29 the requirement to include a gymnasium.

30 (c) Each local school system may develop and implement an annual Wellness
31 Policy Implementation and Monitoring Plan to be used to:

32 (1) Establish baseline student data for the health–related components of
33 physical fitness;

1 (2) Assist students with the development of personal physical fitness plans;

2 (3) Encourage appropriate interventions for students identified as having
3 unhealthy levels of physical fitness;

4 (4) Identify effective practices for improvement of student health–related
5 physical fitness; and

6 (5) Encourage partnerships with health agencies to address student
7 health–related issues in the State.

8 (d) The Department shall:

9 (1) Develop a procedure to monitor and measure the implementation of a
10 local school system’s Wellness Policy Implementation and Monitoring Plan;

11 (2) Provide feedback and technical assistance to each local school system
12 that implements a Wellness Policy Implementation and Monitoring Plan;

13 (3) Identify and distribute to each local school system effective wellness
14 policy practices for physical activity and physical education; and

15 (4) Provide staff support to each local school system that implements a
16 Wellness Policy Implementation and Monitoring Plan.

17 (e) Each local school system that implements a Wellness Policy Implementation
18 and Monitoring Plan under subsection (c) of this section shall submit to the Department:

19 (1) The local school system’s Wellness Policy Implementation and
20 Monitoring Plan, that shall include:

21 (i) Policy goals;

22 (ii) Activities;

23 (iii) Expected outcomes; and

24 (iv) Measurements for physical activity and physical education; and

25 (2) An annual report on the local school system’s progress toward achieving
26 the policy goals of the implementation plan.

27 (f) (1) The Department shall establish an Advisory Council on Health and
28 Physical Education.

29 (2) The Advisory Council shall consist of the following members, selected
30 by each organization from which the member is a representative:

- 1 (i) A representative from the Department;
- 2 (ii) A representative from the Maryland Parent-Teacher
3 Association;
- 4 (iii) A representative from the Maryland State [Teachers]
5 EDUCATION Association;
- 6 (iv) A representative from the Public School Superintendents
7 Association of Maryland;
- 8 (v) Representatives from each local school system;
- 9 (vi) A representative from the Maryland Association of Boards of
10 Education;
- 11 (vii) A representative from the Maryland Association of Counties;
- 12 (viii) A representative from the Governor's Council on Physical
13 Fitness and Sport;
- 14 (ix) A representative of the Professional Organization for Health,
15 Physical Education, Recreation, and Dance;
- 16 (x) A representative from an institution of higher education
17 [having] THAT HAS a health and physical education teacher education program;
- 18 (xi) A representative from Special Olympics of Maryland;
- 19 (xii) A representative from the Maryland Department of Health;
- 20 (xiii) A representative from the American Academy of Pediatrics;
21 [and]
- 22 (xiv) A REPRESENTATIVE FROM THE MARYLAND OUT OF
23 SCHOOL TIME NETWORK; AND
- 24 (XV) Representatives from the following health organizations:
- 25 1. The American Heart Association;
- 26 2. The American Cancer Society; and
- 27 3. The American Diabetes Association.

1 (3) From among its members, the Council shall elect a chair, vice chair,
2 and any other officers necessary to carry out the Advisory Council's functions.

3 (4) The Department shall provide staff and other necessary support to the
4 Advisory Council using existing resources.

5 (5) A member of the Advisory Council may not receive compensation for
6 servicing on the Advisory Council, but is entitled to reimbursement for expenses under the
7 Standard State Travel Regulations, as provided in the State budget.

8 (6) The Advisory Council shall meet at least twice each year and may hold
9 additional meetings at the discretion of the chair or at the request of a majority of the
10 members.

11 (7) The Advisory Council shall:

12 (i) Develop and coordinate programs in collaboration with public
13 schools to educate students regarding the importance of:

14 1. Physical activity and physical movement;

15 2. The relationship of physical activity to a healthy lifestyle
16 and improved fitness;

17 3. The relationship between healthy eating, physical
18 activity, and maintaining a healthy weight; and

19 4. The value of physical activity and its relationship to
20 improved academic achievement and stress reduction;

21 (ii) Identify promising health and physical education practices in the
22 State;

23 (iii) Build a network of health and physical education professionals
24 to share information and strengthen partnerships;

25 (iv) Support successful health and physical education programs in
26 the State and encourage the expansion of those programs; and

27 (v) Consult with organizations represented on the Advisory Council
28 as appropriate.

29 (8) The Advisory Council may:

30 (i) Seek, accept, and expend funds from any source, including
31 donations, State appropriations, and federal grants; and

1 (ii) Seek, accept, and use services from individuals, corporations,
2 and government entities.

3 **7-409.1.**

4 (A) (1) ~~IT IS THE GOAL OF THE STATE THAT EACH STUDENT IN A PUBLIC~~
5 ~~ELEMENTARY SCHOOL SHALL BE PROVIDED A DAILY PROGRAM OF AT LEAST 150~~
6 ~~MINUTES EACH WEEK OF DEVELOPMENTALLY APPROPRIATE,~~
7 ~~MODERATE-TO-VIGOROUS PHYSICAL ACTIVITY TOTALING 150 MINUTES EACH~~
8 ~~WEEK, INCLUDING A MINIMUM OF 90 MINUTES EACH WEEK OF PHYSICAL~~
9 ~~EDUCATION.~~

10 ~~(2) ANY MINUTES NOT CONSISTING OF PHYSICAL EDUCATION SHALL~~
11 ~~CONSIST OF DEVELOPMENTALLY APPROPRIATE, MODERATE TO VIGOROUS~~
12 ~~ACTIVITY, INCLUDING RECESS THAT INCLUDES:~~

13 (I) RECESS; AND

14 (II) AT LEAST 90 MINUTES EACH WEEK OF PHYSICAL
15 EDUCATION.

16 (2) THE DEPARTMENT ANNUALLY SHALL COLLECT DATA FROM EACH
17 PUBLIC ELEMENTARY SCHOOL IN THE STATE ON THE DAILY PROGRAM OF PHYSICAL
18 ACTIVITY PROVIDED TO STUDENTS IN EACH SCHOOL, INCLUDING:

19 (I) THE NUMBER OF MINUTES OF PHYSICAL EDUCATION
20 PROVIDED EACH WEEK TO EACH STUDENT; AND

21 (II) THE NUMBER OF MINUTES OF MODERATE-TO-VIGOROUS
22 PHYSICAL ACTIVITY PROVIDED EACH WEEK TO EACH STUDENT, INCLUDING RECESS.

23 (3) THE DEPARTMENT ANNUALLY SHALL PUBLISH ON ITS WEBSITE:

24 (I) THE INFORMATION COLLECTED UNDER PARAGRAPH (2) OF
25 THIS SUBSECTION; AND

26 (II) WHETHER A PUBLIC ELEMENTARY SCHOOL IN THE STATE
27 HAS MET THE GOAL DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

28 (B) AS APPLICABLE, A STUDENT'S PROGRAM OF PHYSICAL ACTIVITY SHALL
29 BE CONSISTENT WITH THE STUDENT'S INDIVIDUALIZED EDUCATION PROGRAM
30 (IEP).

~~(C) EACH PUBLIC ELEMENTARY SCHOOL SHALL DESIGNATE A PHYSICAL ACTIVITY LEADERSHIP TEAM TO PLAN AND COORDINATE OPPORTUNITIES FOR ACTIVITIES THAT MEET THE REQUIREMENTS OF SUBSECTION (A)(2) OF THIS SECTION.~~

~~(D) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A STUDENT IN A PUBLIC ELEMENTARY OR MIDDLE SCHOOL MAY NOT BE REMOVED FROM RECESS AS PART OF THE ROUTINE SCHOOL DISCIPLINE OF THE STUDENT.~~

~~(II) A STUDENT MAY BE REMOVED FROM RECESS AS PART OF THE ROUTINE SCHOOL DISCIPLINE OF THE STUDENT ONLY IF THE STUDENT'S REMOVAL FROM A REGULAR CLASSROOM SETTING AS PART OF AN IN-SCHOOL SUSPENSION OR A SIMILAR DISCIPLINARY INTERVENTION PREVENTS A STUDENT FROM PARTICIPATING IN RECESS.~~

~~(2) EACH SCHOOL ADMINISTRATOR SHALL COLLABORATE WITH THE TEACHERS IN THE SCHOOL TO IDENTIFY ALTERNATIVE BEHAVIORAL INTERVENTIONS THAT DO NOT INCLUDE THE REMOVAL FROM RECESS AS PART OF THE ROUTINE DISCIPLINE OF THE STUDENT.~~

~~(D) EACH PUBLIC ELEMENTARY AND MIDDLE SCHOOL SHALL DEVELOP AN ALTERNATIVE PLAN FOR STUDENTS WHO ARE UNABLE TO PARTICIPATE IN OUTDOOR RECESS ACTIVITIES DUE TO INCLEMENT WEATHER OR OTHER SIMILAR CIRCUMSTANCES TO ENGAGE IN PHYSICAL ACTIVITY FOR THE SAME PERIOD OF TIME.~~

~~(E) THE DEPARTMENT SHALL DEVELOP AND DISSEMINATE PROFESSIONAL DEVELOPMENT RESOURCES FOR TEACHERS ON THE INTEGRATION OF PHYSICAL ACTIVITY INTO CONTENT AREA INSTRUCTION OTHER THAN PHYSICAL EDUCATION.~~

~~(F) THE STATE BOARD SHALL ADOPT REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

~~(a) A public elementary school that does not meet the requirements of § 7-409.1 of the Education Article as enacted by Section 1 of this Act shall notify the local school system on or before October 1, 2019.~~

~~(b) Any local school system that does not meet the requirements of § 7-409.1 of the Education Article as enacted by Section 1 of this Act by October 1, 2019, may apply to the State Department of Education for an extension in compliance with this Act. If granted, an extension shall terminate at the end of July 1, 2022.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That a local school system that receives an extension under Section 2 of this Act shall have a plan to ensure full compliance by the local school system with the requirements of this Act by July 1, 2022.~~

(a) (1) The Interagency Commission on School Construction shall complete a statewide needs assessment on the need for school infrastructure that supports physical activity in public elementary schools, including:

(i) adequate gymnasium space;

(ii) outdoor playing fields;

(iii) playground space;

(iv) sports facilities, including basketball and tennis courts; and

(v) the accessibility of outdoor and indoor school recreation spaces for students with disabilities.

(2) On or before January 1, 2020, the Interagency Commission on School Construction shall report the findings of the needs assessment to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

(b) (1) The State Department of Education shall conduct a survey of each public elementary school in the State on the availability of before and after school programming that provides students with opportunities for physical activity.

(2) On or before January 1, 2020, the State Department of Education shall submit a report on the results of the survey to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.