

SENATE BILL 542

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CF HB 516

By: **Senator Young**

Introduced and read first time: January 30, 2020

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **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; providing as a goal of the State that each student
7 in a public elementary school be provided a certain minimum level of a program of
8 physical activity each week; requiring the State Department of Education annually
9 to collect certain data from certain public elementary schools; requiring the
10 Department annually to publish certain information on its website; requiring that
11 the program of physical activity for a certain category of student be consistent with
12 a certain program for the student; prohibiting a certain student from being removed
13 from recess as part of a certain disciplinary procedure; providing an exception to the
14 prohibition in certain circumstances; requiring each school administrator to
15 collaborate with certain teachers to identify certain alternative behavioral
16 interventions; requiring each public school to develop a certain alternative plan to
17 be used under certain circumstances; requiring the Department to develop and
18 disseminate certain professional development resources; requiring the State Board
19 of Education to adopt certain regulations; requiring the Interagency Commission on
20 School Construction to complete a certain needs assessment on certain school
21 infrastructure; requiring the Commission to report the findings of the needs
22 assessment to the Governor and the General Assembly on or before a certain date;
23 requiring the Department to conduct a certain survey of certain elementary schools
24 on the availability of certain programming; requiring the Department to submit a
25 report with the results of the survey to the Governor and the General Assembly on
26 or before a certain date; making stylistic changes; and generally relating to student
27 health and fitness.

28 BY repealing and reenacting, with amendments,
29 Article – Education
30 Section 7–409

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2018 Replacement Volume and 2019 Supplement)

3 BY adding to
4 Article – Education
5 Section 7–409.1
6 Annotated Code of Maryland
7 (2018 Replacement Volume and 2019 Supplement)

8 Preamble

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

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

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

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

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

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

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

31 **Article – Education**

32 7–409.

33 (a) Each public school shall have a program of physical education that is given in
34 a planned and sequential manner to all students, [kindergarten] **PREKINDERGARTEN**
35 through grade 12, to develop their good health and physical fitness and improve their motor

1 coordination and physical skills.

2 (b) (1) The Department shall:

3 (i) Employ a full-time director of physical education;

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

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

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

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

15 (1) Establish baseline student data for the health-related components of
16 physical fitness;

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

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

20 (4) Identify effective practices for improvement of student health-related
21 physical fitness; and

22 (5) Encourage partnerships with health agencies to address student
23 health-related issues in the State.

24 (d) The Department shall:

25 (1) Develop a procedure to monitor and measure the implementation of a
26 local school system's Wellness Policy Implementation and Monitoring Plan;

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

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

31 (4) Provide staff support to each local school system that implements a

1 Wellness Policy Implementation and Monitoring Plan.

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

4 (1) The local school system's Wellness Policy Implementation and
5 Monitoring Plan, that shall include:

6 (i) Policy goals;

7 (ii) Activities;

8 (iii) Expected outcomes; and

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

10 (2) An annual report on the local school system's progress toward achieving
11 the policy goals of the implementation plan.

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

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

16 (i) A representative from the Department;

17 (ii) A representative from the Maryland Parent-Teacher
18 Association;

19 (iii) A representative from the Maryland State [Teachers]
20 EDUCATION Association;

21 (iv) A representative from the Public School Superintendents
22 Association of Maryland;

23 (v) Representatives from each local school system;

24 (vi) A representative from the Maryland Association of Boards of
25 Education;

26 (vii) A representative from the Maryland Association of Counties;

27 (viii) A representative from the Governor's Council on Physical
28 Fitness and Sport;

29 (ix) A representative of the Professional Organization for Health,

1 Physical Education, Recreation, and Dance;

2 (x) A representative from an institution of higher education
3 [having] **THAT HAS** a health and physical education teacher education program;

4 (xi) A representative from Special Olympics of Maryland;

5 (xii) A representative from the Maryland Department of Health;

6 (xiii) A representative from the American Academy of Pediatrics;

7 [and]

8 (xiv) **A REPRESENTATIVE FROM THE MARYLAND OUT OF**
9 **SCHOOL TIME NETWORK; AND**

10 (XV) Representatives from the following health organizations:

11 1. The American Heart Association;

12 2. The American Cancer Society; and

13 3. The American Diabetes Association.

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

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

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

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

24 (7) The Advisory Council shall:

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

27 1. Physical activity and physical movement;

28 2. The relationship of physical activity to a healthy lifestyle
29 and improved fitness;

1 3. The relationship between healthy eating, physical
2 activity, and maintaining a healthy weight; and

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

5 (ii) Identify promising health and physical education practices in the
6 State;

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

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

11 (v) Consult with organizations represented on the Advisory Council
12 as appropriate.

13 (8) The Advisory Council may:

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

16 (ii) Seek, accept, and use services from individuals, corporations,
17 and government entities.

18 **7-409.1.**

19 **(A) (1) IT IS THE GOAL OF THE STATE THAT EACH STUDENT IN A PUBLIC**
20 **ELEMENTARY SCHOOL BE PROVIDED A DAILY PROGRAM OF AT LEAST 150 MINUTES**
21 **EACH WEEK OF DEVELOPMENTALLY APPROPRIATE, MODERATE-TO-VIGOROUS**
22 **PHYSICAL ACTIVITY THAT INCLUDES:**

23 **(I) RECESS; AND**

24 **(II) AT LEAST 90 MINUTES EACH WEEK OF PHYSICAL**
25 **EDUCATION.**

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

29 **(I) THE NUMBER OF MINUTES OF PHYSICAL EDUCATION**
30 **PROVIDED EACH WEEK TO EACH STUDENT; AND**

31 **(II) THE NUMBER OF MINUTES OF MODERATE-TO-VIGOROUS**

1 PHYSICAL ACTIVITY PROVIDED EACH WEEK TO EACH STUDENT, INCLUDING RECESS.

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

3 (I) THE INFORMATION COLLECTED UNDER PARAGRAPH (2) OF
4 THIS SUBSECTION; AND

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

7 (B) AS APPLICABLE, A STUDENT'S PROGRAM OF PHYSICAL ACTIVITY SHALL
8 BE CONSISTENT WITH THE STUDENT'S INDIVIDUALIZED EDUCATION PROGRAM
9 (IEP).

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

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

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

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

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

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

33 SECTION 2. AND BE IT FURTHER ENACTED, That:

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

4 (i) adequate gymnasium space;

5 (ii) outdoor playing fields;

6 (iii) playground space;

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

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

10 (2) On or before January 1, 2021, the Interagency Commission on School
11 Construction shall report the findings of the needs assessment to the Governor and, in
12 accordance with § 2–1257 of the State Government Article, the General Assembly.

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

16 (2) On or before January 1, 2021, the State Department of Education shall
17 submit a report on the results of the survey to the Governor and, in accordance with §
18 2–1257 of the State Government Article, the General Assembly.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
20 1, 2020.