

HOUSE BILL 989

F1, J1
HB 1296/21 – W&M

2lr0641

By: **Delegates Walker, Anderton, Buckel, Carey, Hornberger, Kipke, Szeliga, Valderrama, and Valentino-Smith**

Introduced and read first time: February 10, 2022

Assigned to: Ways and Means

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 each public school to have a program of physical education
5 for prekindergarten students; adding a representative to the Advisory Council on
6 Health and Physical Education; establishing as a State goal that each student in a
7 public elementary school be provided a certain daily program of physical activity;
8 requiring the State Department of Education to collect data on the physical activity
9 of elementary school students and publish the information on its website; prohibiting
10 a student in a public elementary or middle school from being removed from recess
11 and requiring certain alternative behavioral interventions to be identified; requiring
12 each public elementary and middle school to develop an alternative physical activity
13 plan for use when circumstances prevent students from participating in outdoor
14 recess; requiring the Department to develop and disseminate professional
15 development resources to assist teachers with integrating physical activity into
16 content area instruction; requiring the Interagency Commission on School
17 Construction to complete a certain statewide needs assessment; requiring the
18 Department to conduct a certain survey of each public elementary school in the
19 State; and generally relating to student health and fitness.

20 BY repealing and reenacting, with amendments,
21 Article – Education
22 Section 7–409
23 Annotated Code of Maryland
24 (2018 Replacement Volume and 2021 Supplement)

25 BY adding to
26 Article – Education
27 Section 7–409.1
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2018 Replacement Volume and 2021 Supplement)

Preamble

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

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

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

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

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

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

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

Article – Education

7–409.

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

(b) (1) The Department shall:

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

(ii) Subject to paragraph (2) of this subsection, adopt regulations that require a public school building that is newly constructed or completely renovated and

1 occupied on or after January 1, 2013, to include a gymnasium and adequate support space
2 for physical education instruction; and

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

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

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

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

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

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

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

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

19 (d) The Department shall:

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

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

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

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

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

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

- 1 (i) Policy goals;
- 2 (ii) Activities;
- 3 (iii) Expected outcomes; and
- 4 (iv) Measurements for physical activity and physical education; and

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

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

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

- 11 (i) A representative from the Department;
- 12 (ii) A representative from the Maryland Parent-Teacher
13 Association;
- 14 (iii) A representative from the Maryland State [Teachers]
15 EDUCATION Association;
- 16 (iv) A representative from the Public School Superintendents
17 Association of Maryland;
- 18 (v) Representatives from each local school system;
- 19 (vi) A representative from the Maryland Association of Boards of
20 Education;
- 21 (vii) A representative from the Maryland Association of Counties;
- 22 (viii) A representative from the Governor's Council on Physical
23 Fitness and Sport;
- 24 (ix) A representative of the Professional Organization for Health,
25 Physical Education, Recreation, and Dance;
- 26 (x) A representative from an institution of higher education
27 [having] **THAT HAS** a health and physical education teacher education program;
- 28 (xi) A representative from Special Olympics of Maryland;
- 29 (xii) A representative from the Maryland Department of Health;

1 (xiii) A representative from the American Academy of Pediatrics;
2 [and]

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

5 (XV) Representatives from the following health organizations:

- 6 1. The American Heart Association;
- 7 2. The American Cancer Society; and
- 8 3. The American Diabetes Association.

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

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

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

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

19 (7) The Advisory Council shall:

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

- 22 1. Physical activity and physical movement;
- 23 2. The relationship of physical activity to a healthy lifestyle
24 and improved fitness;
- 25 3. The relationship between healthy eating, physical
26 activity, and maintaining a healthy weight; and
- 27 4. The value of physical activity and its relationship to
28 improved academic achievement and stress reduction;

29 (ii) Identify promising health and physical education practices in the
30 State;

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

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

5 (v) Consult with organizations represented on the Advisory Council
6 as appropriate.

7 (8) The Advisory Council may:

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

10 (ii) Seek, accept, and use services from individuals, corporations,
11 and government entities.

12 **7-409.1.**

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

17 (I) RECESS; AND

18 (II) AT LEAST 90 MINUTES EACH WEEK OF PHYSICAL
19 EDUCATION.

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

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

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

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

28 (I) THE INFORMATION COLLECTED UNDER PARAGRAPH (2) OF
29 THIS SUBSECTION; AND

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

3 **(B) AS APPLICABLE, A STUDENT’S PROGRAM OF PHYSICAL ACTIVITY SHALL**
4 **BE CONSISTENT WITH THE STUDENT’S INDIVIDUALIZED EDUCATION PROGRAM**
5 **(IEP).**

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

10 **(II) A STUDENT MAY BE REMOVED FROM RECESS AS PART OF**
11 **THE ROUTINE SCHOOL DISCIPLINE OF THE STUDENT ONLY IF THE STUDENT’S**
12 **REMOVAL FROM A REGULAR CLASSROOM SETTING AS PART OF AN IN-SCHOOL**
13 **SUSPENSION OR A SIMILAR DISCIPLINARY INTERVENTION PREVENTS A STUDENT**
14 **FROM PARTICIPATING IN RECESS.**

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

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

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

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

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

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

33 (i) adequate gymnasium space;

34 (ii) outdoor playing fields;

- 1 (iii) playground space;
- 2 (iv) sports facilities, including basketball and tennis courts; and
- 3 (v) the accessibility of outdoor and indoor school recreation spaces
- 4 for students with disabilities.

5 (2) On or before January 1, 2023, the Interagency Commission on School

6 Construction shall report the findings of the needs assessment to the Governor and, in

7 accordance with § 2–1257 of the State Government Article, the General Assembly.

8 (b) (1) The State Department of Education shall conduct a survey of each

9 public elementary school in the State on the availability of before– and after–school

10 programming that provides students with opportunities for physical activity.

11 (2) On or before January 1, 2023, the State Department of Education shall

12 submit a report on the results of the survey to the Governor and, in accordance with §

13 2–1257 of the State Government Article, the General Assembly.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July

15 1, 2022.