

# HOUSE BILL 516

F1, J1  
HB 110/19 – W&M

01r2780  
CF 01r2906

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By: **Delegates Walker, Anderton, Arentz, D. Barnes, Bhandari, Boyce, Branch, Brooks, Buckel, Cardin, Charkoudian, Clark, Corderman, Cullison, D.E. Davis, Fennell, M. Fisher, Ghrist, Harrison, Hettleman, Hill, Jacobs, Johnson, Korman, Krimm, Lopez, McComas, McKay, Miller, Patterson, Qi, Reznik, Shetty, Szeliga, Terrasa, Turner, Valderrama, Wivell, and K. Young**

Introduced and read first time: January 27, 2020

Assigned to: Ways and Means

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## 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.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article – Education  
3 Section 7–409  
4 Annotated Code of Maryland  
5 (2018 Replacement Volume and 2019 Supplement)

6 BY adding to  
7 Article – Education  
8 Section 7–409.1  
9 Annotated Code of Maryland  
10 (2018 Replacement Volume and 2019 Supplement)

11 **Preamble**

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

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

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

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

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

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

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

34 **Article – Education**

35 7–409.

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

5 (b) (1) The Department shall:

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

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

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

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

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

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

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

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

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

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

27 (d) The Department shall:

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

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

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

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

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

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

9 (i) Policy goals;

10 (ii) Activities;

11 (iii) Expected outcomes; and

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

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

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

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

19 (i) A representative from the Department;

20 (ii) A representative from the Maryland Parent-Teacher  
21 Association;

22 (iii) A representative from the Maryland State [Teachers]  
23 EDUCATION Association;

24 (iv) A representative from the Public School Superintendents  
25 Association of Maryland;

26 (v) Representatives from each local school system;

27 (vi) A representative from the Maryland Association of Boards of  
28 Education;

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

1 (viii) A representative from the Governor’s Council on Physical  
2 Fitness and Sport;

3 (ix) A representative of the Professional Organization for Health,  
4 Physical Education, Recreation, and Dance;

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

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

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

9 (xiii) A representative from the American Academy of Pediatrics;  
10 [and]

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

13 **(XV)** Representatives from the following health organizations:

- 14 1. The American Heart Association;
- 15 2. The American Cancer Society; and
- 16 3. The American Diabetes Association.

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

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

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

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

27 (7) The Advisory Council shall:

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

- 30 1. Physical activity and physical movement;



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

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

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

6           **(I) THE INFORMATION COLLECTED UNDER PARAGRAPH (2) OF**  
7 **THIS SUBSECTION; AND**

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

10           **(B) AS APPLICABLE, A STUDENT'S PROGRAM OF PHYSICAL ACTIVITY SHALL**  
11 **BE CONSISTENT WITH THE STUDENT'S INDIVIDUALIZED EDUCATION PROGRAM**  
12 **(IEP).**

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

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

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

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

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

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

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

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

7                           (i) adequate gymnasium space;

8                           (ii) outdoor playing fields;

9                           (iii) playground space;

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

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

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

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

19                          (2) On or before January 1, 2021, the State Department of Education shall  
20 submit a report on the results of the survey to the Governor and, in accordance with §  
21 2–1257 of the State Government Article, the General Assembly.

22           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
23 1, 2020.