

AN ACT

relating to physical activity requirements and physical fitness assessment for certain public school students.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (1) and (1-1), Section 28.002, Education Code, are amended to read as follows:

(1) A school district shall ~~[The State Board of Education, after consulting with educators, parents, and medical professionals, by rule may]~~ require a student enrolled in kindergarten or a grade level below grade six ~~[nine]~~ to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year as part of the ~~[a school]~~ district's physical education curriculum or through structured activity during a school campus's daily recess~~[, except that the board may not require more than 30 minutes of daily physical activity]~~. A school district shall require students enrolled in grade levels six, seven, and eight to participate in moderate or vigorous daily physical activity for at least 30 minutes for at least four semesters during those grade levels as part of the district's physical education curriculum. If a school district determines, for any particular grade level below grade six, that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, the district may as an alternative require a student in that grade level

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1 to participate in moderate or vigorous physical activity for at  
 2 least 135 minutes during each school week [~~the board adopts rules~~  
 3 ~~under this subsection, the board must ensure by rule that students~~  
 4 ~~enrolled in middle and junior high school settings are allowed to~~  
 5 ~~meet the physical activity requirement by participating in physical~~  
 6 ~~activity twice each week throughout the school year or the option to~~  
 7 ~~schedule at least two semesters overall~~]. Additionally, a school  
 8 district may as an alternative require a student enrolled in a grade  
 9 level for which the district uses block scheduling to participate  
 10 in moderate or vigorous physical activity for at least 225 minutes  
 11 during each period of two school weeks. A school district [~~If the~~  
 12 ~~board adopts rules under this subsection, the board~~] must provide  
 13 for an exemption for:

14 (1) any student who is unable to participate in the  
 15 required [~~daily~~] physical activity because of illness or  
 16 disability; and

17 (2) a middle school or junior high school student who  
 18 participates in an extracurricular activity with a moderate or  
 19 vigorous physical activity component that is considered a  
 20 structured activity under rules adopted by the commissioner [~~State~~  
 21 ~~Board of Education~~].

22 (1-1) In adopting rules relating to an activity described by  
 23 Subsection (1)(2), the commissioner [~~State Board of Education~~] may  
 24 permit an exemption for a student who participates in a  
 25 school-related activity or an activity sponsored by a private  
 26 league or club only if the student provides proof of participation  
 27 in the activity.

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1 SECTION 2. Section 28.004, Education Code, is amended by  
2 amending Subsection (k) and adding Subsection (l) to read as  
3 follows:

4 (k) A school district shall publish in the student handbook  
5 and post on the district's Internet website, if the district has an  
6 Internet website:

7 (1) a statement of the policies adopted to ensure that  
8 elementary school, middle school, and junior high school students  
9 engage in at least the amount and level [~~30 minutes per school day~~  
10 ~~or 135 minutes per school week~~] of physical activity required by  
11 Section 28.002(1); [and]

12 (2) a statement of:

13 (A) the number of times during the preceding year  
14 the district's school health advisory council has met;

15 (B) whether the district has adopted and enforces  
16 policies to ensure that district campuses comply with agency  
17 vending machine and food service guidelines for restricting student  
18 access to vending machines; and

19 (C) whether the district has adopted and enforces  
20 policies and procedures that prescribe penalties for the use of  
21 tobacco products by students and others on school campuses or at  
22 school-sponsored or school-related activities; and

23 (3) a statement providing notice to parents that they  
24 can request in writing their child's physical fitness assessment  
25 results at the end of the school year.

26 (l) The local school health advisory council shall consider  
27 and make policy recommendations to the district concerning the

1 importance of daily recess for elementary school students. The  
2 council must consider research regarding unstructured and  
3 undirected play, academic and social development, and the health  
4 benefits of daily recess in making the recommendations. The  
5 council shall ensure that local community values are reflected in  
6 any policy recommendation made to the district under this  
7 subsection.

8 SECTION 3. Chapter 38, Education Code, is amended by adding  
9 Subchapter C to read as follows:

10 SUBCHAPTER C. PHYSICAL FITNESS ASSESSMENT

11 Sec. 38.101. ASSESSMENT REQUIRED. (a) Except as provided  
12 by Subsection (b), a school district annually shall assess the  
13 physical fitness of students enrolled in grades 3 through 12.

14 (b) A school district is not required to assess a student  
15 for whom, as a result of disability or other condition identified by  
16 commissioner rule, the assessment instrument adopted under Section  
17 38.102 is inappropriate.

18 Sec. 38.102. ADOPTION OF ASSESSMENT INSTRUMENT. (a) The  
19 commissioner by rule shall adopt an assessment instrument to be  
20 used by a school district in assessing student physical fitness  
21 under this subchapter.

- 22 (b) The assessment instrument must:  
23 (1) be based on factors related to student health,  
24 including the following factors that have been identified as  
25 essential to overall health and function:  
26 (A) aerobic capacity;  
27 (B) body composition; and

1                    (C) muscular strength, endurance, and  
2 flexibility; and

3                    (2) include criterion-referenced standards specific  
4 to a student's age and gender and based on the physical fitness  
5 level required for good health.

6                    Sec. 38.103. REPORTING OF SUMMARY RESULTS. (a) A school  
7 district shall compile the results of the physical fitness  
8 assessment required by this subchapter and provide summary results,  
9 aggregated by grade level and any other appropriate category  
10 identified by commissioner rule, to the agency. The summary  
11 results may not contain the names of individual students or  
12 teachers.

13                    (b) The results of individual student performance on the  
14 physical fitness assessment instrument are confidential and may be  
15 released only in accordance with state and federal law.

16                    Sec. 38.104. ANALYSIS OF RESULTS. (a) The agency shall  
17 analyze the results received by the agency under this subchapter  
18 and identify, for each school district, any correlation between the  
19 results and the following:

- 20                    (1) student academic achievement levels;
- 21                    (2) student attendance levels;
- 22                    (3) student obesity;
- 23                    (4) student disciplinary problems; and
- 24                    (5) school meal programs.

25                    (b) The agency may contract with a public or private entity  
26 for that entity to conduct all or part of the analysis required by  
27 Subsection (a).

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1        (c) Not later than September 1 of each year, the agency  
2 shall report the findings of the analysis under this section of the  
3 results obtained during the preceding school year to the School  
4 Health Advisory Committee established under Section 1001.0711,  
5 Health and Safety Code, for use by the committee in:

6                (1) assessing the effectiveness of coordinated health  
7 programs provided by school districts in accordance with Section  
8 38.014; and

9                (2) developing recommendations for modifications to  
10 coordinated health program requirements or related curriculum.

11        Sec. 38.105. DONATIONS. The agency and each school  
12 district may accept donations made to facilitate implementation of  
13 this subchapter.

14        Sec. 38.106. RULES. The commissioner shall adopt rules  
15 necessary to implement this subchapter.

16        SECTION 4. Not later than September 1, 2008, the Texas  
17 Education Agency, in consultation with the School Health Advisory  
18 Committee established under Section 1001.0711, Health and Safety  
19 Code, shall provide a report to the legislature that details  
20 options and recommendations for providing moderate or vigorous  
21 daily physical activity for students for at least 30 minutes  
22 outside the seven-hour instructional day. The options and  
23 recommendations must be developed with consideration for the needs  
24 of students who are enrolled in multiple enrichment curriculum  
25 courses.

26        SECTION 5. The commissioner of education shall adopt the  
27 physical fitness assessment instrument required under Subchapter

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1 C, Chapter 38, Education Code, as added by this Act, and rules  
2 necessary to implement that subchapter not later than the date that  
3 enables the instrument to be used by school districts during the  
4 2007-2008 school year.

5 SECTION 6. Notwithstanding Section 11, Chapter 784, Acts of  
6 the 79th Legislature, Regular Session, 2005, Section 38.014,  
7 Education Code, as amended by that Act, applies beginning with the  
8 2007-2008 school year.

9 SECTION 7. Subsection (1), Section 28.002, Education Code,  
10 as amended by this Act, applies to students enrolled in  
11 kindergarten or a grade level below grade six beginning with the  
12 2007-2008 school year and to students enrolled in grade levels six  
13 through eight beginning with the 2008-2009 school year.

14 SECTION 8. Except as otherwise provided by this Act, this  
15 Act applies beginning with the 2007-2008 school year. This Act  
16 shall apply to junior high or middle schools only upon adoption of a  
17 coordinated school health program for these grades by the Texas  
18 Education Agency.

19 SECTION 9. This Act takes effect immediately if it receives  
20 a vote of two-thirds of all the members elected to each house, as  
21 provided by Section 39, Article III, Texas Constitution. If this  
22 Act does not receive the vote necessary for immediate effect, this  
23 Act takes effect September 1, 2007.

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David Dewhurst  
President of the Senate

Tom Craddick  
Speaker of the House

I hereby certify that S.B. No. 530 passed the Senate on April 11, 2007, by the following vote: Yeas 29, Nays 1; May 25, 2007, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2007, House granted request of the Senate; May 27, 2007, Senate adopted Conference Committee Report by the following vote: Yeas 28, Nays 2.

Ratsy Spaw  
Secretary of the Senate

I hereby certify that S.B. No. 530 passed the House, with amendments, on May 23, 2007, by the following vote: Yeas 138, Nays 8, one present not voting; May 26, 2007, House granted request of the Senate for appointment of Conference Committee; May 28, 2007, House adopted Conference Committee Report by the following vote: Yeas 139, Nays 4, two present not voting.

Robert Haney  
Chief Clerk of the House

Approved:

15 JUN 07  
Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
9 PM O'CLOCK

ROBERT WILLIAMS  
Secretary of State