

Date of Hearing: July 12, 2023

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
SB 291 (Newman) – As Amended May 18, 2023

SENATE VOTE: 37-0

SUBJECT: Pupil rights: recess

SUMMARY: Requires elementary schools, beginning with the 2024-25 school year, to provide students with at least 30 minutes of recess daily, and prohibits staff from denying recess to a student unless there is an immediate threat to the student or their peers. Specifically, **this bill:**

- 1) Requires elementary schools, beginning in the 2024-25 school year, to provide a daily recess period of at least 30 minutes.
- 2) Requires that recess be provided outdoors when the weather and air quality permits, and if outdoor space is not sufficient, authorizes recess to be held indoors.
- 3) Requires that recess complies with a student’s individualized education program (IEP) or 504 plan.
- 4) Prohibits school staff members from denying recess to a student unless the student’s participation poses an immediate threat to the student or their peers.
- 5) Requires staff members, if a student is denied recess, to make all reasonable efforts to resolve any threats and minimize exclusion from recess to the greatest extent practicable.
- 6) Defines the following terms for purposes of this requirement:
 - a) “Elementary school” means a school operated by a school district, county office of education (COE), or charter school that maintains kindergarten or any of grades 1 to 6, inclusive, but no grade higher than grade 6; and
 - b) “Recess” means a period of time during the schoolday, separate and distinct from physical education courses and meal times, when pupils are given supervised and unstructured time for physical activity, play, organized games, and/or social engagement with peers.

EXISTING LAW:

- 1) Authorizes the governing board of a school district to adopt reasonable rules and regulations to authorize a teacher to restrict for disciplinary purposes the time a student under their supervision is allowed for recess. (Education Code (EC) 44807.5)
- 2) Establishes the minimum schoolday in kindergarten and in grades 1 to 8, inclusive, in elementary schools, as exclusive of noon intermissions and, except in kindergarten, exclusive of recesses. (EC 46115)

- 3) Requires all elementary students to receive a minimum of 200 minutes of physical education instruction every ten school days. (EC 51223)
- 4) Requires all students in grades 1-8, except as specified, to attend physical education for a total period of time of not less than 400 minutes each 10 schooldays. (EC 51222)
- 5) Requires every teacher in the public schools to hold students to a strict account for their conduct on the way to and from school, on the playgrounds, or during recess. (EC 44807)
- 6) Requires each local education agency (LEA) and charter school to offer for each fiscal year, at a minimum, the following number of instructional minutes:
 - a) For pupils in kindergarten, 36,000 minutes;
 - b) For pupils in grades 1 to 3, inclusive, 50,400 minutes;
 - c) For pupils in grades 4 to 8, inclusive, 54,000 minutes; and
 - d) For pupils in grades 9 to 12, inclusive, 64,800 minutes. (EC 46207, 47612.5)

FISCAL EFFECT: According to the Senate Appropriations Committee, while most, if not all, LEAs already provide recess periods for students, by now requiring them to provide at least 30 minutes of recess each day, this bill could result in a state reimbursable mandate. The magnitude of the costs is unknown, but it could be in the millions to potentially low tens of millions of dollars in Proposition 98 General Fund each year. This estimate assumes that each school site in the state serving students in grades K - 6 would provide a minimum of 11 hours of recess each month at a cost of \$50 per hour for school personnel.

COMMENTS:

Need for the bill. According to the author, “As California finally emerges from the pandemic and its impacts, we are seeing some of the lingering effects on children’s social-emotional development play out in the form of behavioral disruptions which have become increasingly prevalent in classrooms. As schools and students seek to recover from COVID-related educational disruptions, the benefits of the unstructured play and peer-to-peer social interactions offered by recess are more important now than ever.”

Recess has social, behavioral, and academic benefits. The Centers for Disease Control and Prevention (CDC) defines recess as a regularly scheduled period in the school day for physical activity and play that is monitored by trained staff or volunteers. During recess, students are encouraged to be physically active and engaged with their peers in activities of their choice, at all grade levels, kindergarten through 12th grade. According to the CDC, recess has the following benefits for students:

Social and emotional outcomes:

- Improved ability to share and negotiate;
- Better social interactions;

- Increased school connectedness; and
- Improved school climate.

Academic achievement outcomes:

- Better grades and test scores;
- Better classroom behavior;
- Better school attendance; and
- Improved memory, attention, and concentration.

But recess is not necessarily all fun and games. Social conflict, including bullying, is common at recess times. As noted above, recess provides numerous benefits to students. It is also a time when behavioral problems are more common. As one review noted, “a sizable body of research on recess...indicates that this space has long been associated with aggression, bullying, loneliness, boredom, and social exclusion.” (McNamara, 2021) One large study found that recess is a time when students felt the most unsafe at school. (Villaincourt, 2010)

Principals report that the majority of discipline-related problems occur outside of class time (87%) with the majority of those occurring during recess or lunch (89%) (Robert Wood Johnson Foundation, 2010). Children with disabilities report more negative affect and victimization, and lower positive affect and belongingness, than their peers, at recess times. (McNamara, 2018)

Perhaps in response, recess supervisors “approach their duties from the point of view of safety, risk aversion, and the prevention of ‘mess,’ and typically focus on creating and enforcing rules that restrict children’s agency and freedom in play.” (Mak, 2023) Researchers have observed, and children have reported, that recess supervisors can restrict play, remove equipment, ban games, punish student misbehavior by taking away recess, remove recess in bad weather, and even threaten students. (Mak, 2023)

To address negative recess experiences such as social exclusion and physical or nonphysical aggression, researchers and educators have identified five ways to improve recess quality: improving the recess environment and access to equipment; providing training for supervision staff; implementing structured activities; implementing behavioral reinforcements; and scaffolding the development of social skills. (Mak, 2023)

The CDC, the American Academy of Pediatrics (AAP), and other organizations emphasize the need to maintain a safe, supervised environment at recess and to ensure that staff members who lead or supervise recess receive ongoing professional development.

Policy statements on recess. The CDC and the American Academy of Pediatrics (AAP) have published recommendations on recess. The CDC recommends that schools:

- Provide all students K-12 with 20 minutes or more of recess daily (or similar daily period of physical activity);

- Incorporate recess into the planning for a Comprehensive School Physical Activity Program;
- Do not replace physical education with recess or use recess to meet time requirements for physical education policies;
- Provide schools and students with adequate spaces, facilities, equipment, and supplies for recess;
- Ensure that spaces and facilities for recess meet or exceed recommended safety standards;
- Do not exclude students from recess for disciplinary reasons or academic performance in the classroom;
- Do not use physical activity during recess as punishment;
- Schedule morning recess before lunch; and
- Provide staff members who lead or supervise recess with ongoing professional development.

The AAP policy statement on recess (2013) recommends:

- Recess is a necessary break in the day for healthy child development and should not be withheld for academic or punitive reasons;
- Children and adolescents need regular breaks from concentrated classroom work to improve cognitive processing and academic performance;
- Recess is a complement to, but not a replacement for, physical education;
- Recess can serve as a counterbalance to sedentary time and contribute to the recommended 60 minutes of moderate to vigorous activity per day, which is strongly supported by AAP;
- Recess should be safe and well supervised. Environmental conditions, well-maintained playground equipment, and well-trained supervisors are the critical components of safe recess; and
- Peer interactions during recess are important for developing skills such as communication, negotiation, cooperation, sharing, problem solving, and coping. These are foundations for healthy child development and a positive school experience.

Recess time in U.S. schools. National survey data from the U.S. Department of Education (USDOE) indicate that:

- On average, students had 27 minutes of recess, 5 days per week (2005 and 2014);
- The number of minutes of recess declines by elementary grade, with kindergarten students provided the greatest number of minutes, and 6th grade students with the least (2005 and 2014);
- Elementary schools have regularly scheduled recess during the school day at rates between 95% (kindergarten) and 91% (5th grade) (2014); and
- The number of minutes of recess declined with increasing school size. (2005)

Research has found that children have a natural preference for recess play that is exciting, uncertain, and slightly dangerous - behaviors that allow children to test and push their limits, develop physical literacy, and achieve mastery of new skills. School recess policies, however, tend to be highly risk averse, often out of proportion to actual risk. (Mak, 2023)

Low-income students and students of color have less, and lower quality, recess time. Survey data collected through the National Teacher and Principal Survey, administered by the National Center for Education Statistics (NCES) found that, as of 2005:

- Schools with the highest poverty concentration had fewer minutes of scheduled recess and were more likely than those with lower concentrations of poverty to have no scheduled recess for elementary grades;
- Schools with the highest proportion of minority enrollment had fewer minutes of scheduled recess and were more likely to have no scheduled recess.

An analysis of a large longitudinal data set found that children exposed to no or minimal recess were much more likely to be black, to be from families with lower incomes and lower levels of education, to live in large cities, and to attend public school, compared with those with recess. (Barros, 2009).

Research has also found that children of color, children from low-income households, children attending in urban schools, and children with disabilities are more likely to experience “poor quality recess.” Many of the schools which these students attend provide minimal and barren settings, lack of outdoor space or fenced-off concrete areas that prevent running, as well as minimal equipment with which to play. Adults in these schools are more likely to restrict access to playground equipment – a practice which has been shown to increase aggressive behavior and inappropriate use of the available equipment, due to boredom and conflict over use of the limited equipment. (Mak, 2023)

Recess time declined during the high-stakes testing era. Is it making a comeback? Under the federal No Child Left Behind law and high-stakes state policies, schools were under significant pressure to raise test scores in English language arts and mathematics. This led to a national trend of reducing non-academic time, including recess time. According to the CDC, during those years, up to 40% of U.S. school districts reduced or eliminated recess in order to free up more time for core academics, and one in four elementary schools no longer provides recess to all grades. One in five principals surveyed indicated that annual yearly progress (AYP) testing

requirements led to a decrease in recess minutes at their school. (Robert Wood Johnson Foundation, 2010)

In recent years, shifts in policy from punitive to supportive models of school improvement have lessened the pressure to reduce non-academic time. A growing understanding of the importance of positive social interaction in promoting academic success, and a greater recognition of the role recess plays in behavioral and academic outcomes, may be causing schools to grant greater priority to recess and play time. According to the CDC, at least 8 states now require recess time, and other states require time for physical activity.

Withholding of recess as a disciplinary measure. Current law authorizes the governing board of a school district to adopt reasonable rules and regulations to allow a teacher to restrict for disciplinary purposes the time a student under their supervision is allowed for recess. This bill proposes to prohibit the withholding of recess as a disciplinary measure.

Nationally, the withholding of recess as punishment for behavior or for failure to complete schoolwork is a relatively common practice, according to surveys of teachers and principals. A Gallup Poll found that 77% of principals report taking recess away as a punishment. (Robert Wood Johnson, 2010). Other research has found that even in school districts with strong policies to protect recess, 60% of schools still withheld recess for bad behavior, and 69% of schools withheld recess for academic work. (Mak, 2023)

In recent years, schools have begun to question this practice. Withholding physical activity, including recess, is now prohibited in 10 states, and 54% of elementary schools prohibit or actively discourage staff from withholding recess as punishment. As noted above, both the CDC and the AAP recommend against withholding recess as punishment.

California students may have more recess time than national average. Survey data collected through the National Teacher and Principal Survey (NCES) indicate that in the 2017-18 school year, California 3rd grade students had 32 minutes of recess (excluding time for lunch) per week, compared to a national average of 26 minutes per week. Schools in western states, on average, provide more time for recess than schools in other regions. The NCES notes that these survey data should be interpreted with caution.

Recommended Committee amendments. Staff recommends that this bill be amended as follows:

- 1) At the author's request, require that recess time of at least 15 minutes be provided on early release days (and 30 on non-release days).
- 2) At the author's request, limit the recess time requirements to schools which already provide recess.
- 3) Exempts schools from the recess time requirements on days in which there a field trip or other educational program.
- 4) Permit the requirement to provide recess to be fulfilled by minutes in a single or in combined periods.
- 5) Encourage staff members to use other means of correction prior to withholding recess.

- 6) State that the measure shall not prohibit a school from providing snacks during recess.
- 7) Defines public schools to mean a school operated by a school district or county office of education (COE), or a charter school.
- 8) Define recess to include periods of time which precede or follow physical education and meal times.
- 9) Define educational program to mean the entire school-sponsored offering for pupils, including in-class and out-of-class activities.

Arguments in support. The California Association for Health, Physical Education, Recreation & Dance (CAHPERD) states, “Our association’s membership are excited to stand tall in our support for Senate Bill 291, The Pupils Rights: Recess bill. The Center for Disease Control and Prevention (CDC) defines recess as a regularly scheduled period in the school day for physical activity and play that is monitored by trained staff or volunteers. During recess, students are encouraged to be physically active and engaged with their peers in activities of their choice, at all grade levels, kindergarten through 12th grade. Recently, numerous LEAs have removed/eliminated recess to increase instructional time. Therefore, CAHPERD supports the legislators and CDC recommendations for a quality based recess.”

Related legislation. AB 2572 (Calderon) of the 2017-18 Session would have required school districts to keep students indoors during recess, lunch, outdoor breaks, or outdoor instructional time, when the outdoor air quality is poor. This bill was held in the Assembly Education Committee.

AB 1391 (Gomez and O’Donnell) Chapter 706, Statutes of 2015, makes complaints regarding compliance with instructional minute requirements for physical education subject to the Uniform Complaint Procedures (UCP), states that the Legislature finds and declares that neither the original provisions of the applicable section, nor any subsequent amendments to it, were intended to create a private right of action.

REGISTERED SUPPORT / OPPOSITION:

Support

American Heart Association
 California Association for Health, Physical Education, Recreation & Dance
 California Catholic Conference
 County of Los Angeles Board of Supervisors
 Delta Kappa Gamma International - Chi State
 Eat. Learn. Play.
 Gasol Foundation
 Kaboom!
 Protection of the Educational Rights of Kids
 Shape Up San Francisco Coalition

Opposition

None on file

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