STATE OF NEW YORK

6939--A

2025-2026 Regular Sessions

IN ASSEMBLY

March 18, 2025

Introduced by M. of A. WOERNER, McDONALD, BUTTENSCHON, KAY, YEGER, McMAHON, SLATER, SIMPSON, STECK, COOK, McDONOUGH, DeSTEFANO, K. BROWN, BENDETT, SHIMSKY, E. BROWN, HAWLEY, HYNDMAN, HEVESI, SIMON, HOOKS, GANDOLFO, SMITH -- read once and referred to the Committee on Education -- recommitted to the Committee on Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to providing for daily recess for elementary students

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The education law is amended by adding a new section 813-a to read as follows:

§ 813-a. Daily recess for elementary students. 1. (a) The legislature recognizes that recess is essential to the physical well-being and mental health of elementary school students. Young students learn through play. Given the nation's youth mental and physical health crisis, rising obesity levels among children, and decline in skill-building and peer group formation during the COVID-19 pandemic, it is vital to support student socialization, creativity, and stress release through self-directed free play. Recess is a critical part of the school experience and contributes to academic success and social cohesion.

(b) The legislature also recognizes that the amount of time spent on recess varies throughout the state and that children in different school districts may not have equal access to outdoor, self-directed play time. The requirements set forth in this section are minimum requirements and school districts are encouraged to exceed such requirements.

2. (a) Each school district shall ensure that every public school in which school days exceed five hours in duration provides a daily recess of up to thirty minutes within the school day for all students in

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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kindergarten through fifth grade and for students in sixth grade who attend an elementary school.

(b) Recess shall be supervised but shall be student-directed and not involve phones, videos, computers or tablets. The school shall provide items such as balls, jump ropes and other materials and implements for students to use in physical play.

(c) Recess shall be held outside whenever possible, including in the winter months, but, if held indoors shall be in an appropriate space that promotes physical activity.

(d) Recess shall be in addition to lunch breaks and physical education activities.

(e) Each school district shall develop a plan for physical play for any elementary school that does not have an outdoor playground or adequate indoor space to accommodate recess for all its students on school grounds. If no such play plan is possible, then the school district shall seek a waiver from the department.

3. (a) Recess shall not be routinely withheld as a disciplinary or punitive measure except when a student's participation in recess poses an immediate threat to the safety of any person. School districts may develop guidelines for the withholding of recess under other unusual circumstances, and any such guidelines shall be published in school handbooks and/or on school websites for parents, guardians and students to read.

(b) During the regular school day, physical activity shall not be used as punishment, such as having students run laps or do push-ups as a punitive measure.

(c) Recess shall not be withheld to have students complete academic work.

§ 2. Paragraph u of subdivision 1 of section 3602 of the education law, as amended by section 11 of part B of chapter 57 of the laws of 2007, is amended to read as follows:

u. "Instructional expense" shall mean the sum of all year prior to the base year expenditures related to the instructional program of the district, as defined in regulations of the commissioner, including the cost of supervision for up to thirty minutes of recess within the school day for all students in kindergarten through fifth grade and for students in sixth grade who attend an elementary school and the cost of fringe benefits paid by such district for the instructional staff of the district.

§ 3. This act shall take effect on the first of July next succeeding the date on which it shall have become a law.