

The 2013 California Physical Education Lawsuit's Impact on Physical Education in Elementary Schools

Summary of Research Study Results, April 2017



Purpose

Physical Education in California. The state of California, recognizing the importance of physical activity, requires that elementary students (grades 1-6) receive a minimum of 200 minutes of physical education every 10 days. While this law (*Education Code 51210*) has been in existence for 4 decades, research has shown that the majority of schools are non-compliant. A significant percentage of students, particularly students of color and those from low-income families, do not receive the legally mandated physical education minutes.

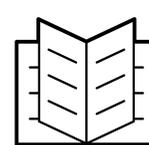
In 2013, a lawsuit was filed against 37 school districts that were found to be non-compliant with state physical education law. The lawsuit settled in spring 2015, with districts agreeing that elementary school teachers would: (1) teach the mandated physical education minutes; (2) report minutes spent teaching physical education to their district and Board of Education; (3) publish physical education schedules for the public; (4) note the reason why any scheduled physical education was missed and report when those minutes were made up; and (5) be subject to spot checks from principals to check for compliance. It is unknown whether this litigation resulted in increased compliance with the law and/or if it led to unintended consequences that could undermine physical education.

UC Berkeley's study of the California physical education lawsuit. We wanted to identify the effects of the physical education lawsuit with respect to: (1) how the lawsuit has impacted compliance with physical education law; (2) whether it has been difficult to fulfill the settlement requirements; and (3) consequences of the lawsuit that could undermine physical education or student health. We included districts and schools that were not parties to the lawsuit (control districts/schools) to see if they were aware of the lawsuit and how that knowledge may have affected physical education programming in their schools.

Methods

What we did. Researchers from UC Berkeley conducted 97 phone interviews with district administrators, school principals, physical education teachers, and 5th grade teachers (whose students take the state-mandated physical fitness test). Interviews were conducted with 14 districts that were parties to the lawsuit and 15 control districts (not involved in the lawsuit), and with 14 schools that were parties to the lawsuit and 25 control schools. Districts and schools were selected for participation in the study based on factors known to affect physical education delivery: total student enrollment and the percent of students who qualify for free or reduced price meals (a proxy for socio-economic status and race/ethnicity). Primary study findings are summarized on the next pages.

This work was supported by the Robert Wood Johnson Foundation's Evidence for Action Program.



Summary of Findings

Physical education minutes have reportedly increased

 **The physical education lawsuit positively impacted physical education in California elementary schools.** The majority of personnel in districts and schools that were parties to the lawsuit believe it had a positive impact on elementary physical education, noting that it has raised awareness of the importance of physical education and the law. The vast majority of personnel reported that schools are now providing more physical education minutes in 2016 than they did before the lawsuit (in 2013).

"...because kids are getting more involved in movement and physical activity, I think [the lawsuit] ended up being a good thing."

- Coordinator for Elementary Instruction, lawsuit district

 **The fear of being sued increased physical education minutes in control districts.** In districts and schools that were not parties to the lawsuit, personnel reported that the lawsuit prompted them to think about the importance of physical education and the law, how class is taught, and how minutes are tracked. This has led to increased physical education minutes in schools.

"I think [the lawsuit is] kind of the kick in the rear that they needed to realize, 'Hey, P.E. is more important than we thought. Okay, we need to get on the ball... and start treating P.E. more like our math classes.' So, hopefully now they see it more as an eye-opener requirement."

- Physical education teacher, control school

Accountability for physical education matters

 **Tracking and reporting physical education minutes increases accountability.** Interviewees reported that the lawsuit settlement requirement that schools track and report physical education minutes was the primary reason for the increase in physical education minutes in schools that were parties to the lawsuit. Districts and schools have implemented new systems for tracking and reporting physical education minutes, which interviewees believe has been time-consuming, but beneficial for ensuring compliance with the law.

"I think that the lawsuit ... really brought to the forefront [that] this is something that we are accountable to in the same way we talk about accountability to English, Language Arts or Math."

- Director of Teaching and Learning, lawsuit district

 **Creating efficient physical education minute tracking and reporting systems is necessary.** Schools reported high compliance with the lawsuit settlement requirements, but noted the paperwork involved was burdensome. Schools using paper-based tracking systems noted the most difficulties. A mobile app was cited frequently as a solution to reduce the burden and ensure increased accuracy in reporting.

"So, if it were a simpler process where there was some interactive way where they could quickly enter their minutes and it would go into a file that someone else could analyze or tabulate – I think become more 21st century about how we're doing it – there might be more buy-in."

- Principal, lawsuit school

Consequences that could undermine physical education



The primary unintended consequence of the lawsuit was that personnel from schools that were sued were significantly less likely to participate in this research, for fear of being proven to be non-compliant with the physical education law and getting into further legal trouble. This could have implications for schools' willingness to participate in future research studies,

whether related to physical education or not, which would hamper researchers' ability to grow the evidence base for policies supporting important health and academic outcomes. More importantly, perhaps, unwillingness to participate in research could stymie future collaboration to support and improve PE and school health.

"We were fairly terrorized [by the lawsuit], which is why I'm not letting you speak to anybody else"

- Assistant Superintendent, lawsuit district (did not allow the district's schools participate in the study)



Personnel worried about instructional time lost due to physical education tracking and reporting paperwork, as well as time spent on actual physical education. A few personnel worried that the burden of tracking physical education took teachers' time away from other school-related work. Despite consistent research showing time spent in physical education helps (and does not hurt) students academically, several interviewees were also concerned that spending the time the law requires for physical education could negatively impact student learning, which highlights the need to better communicate the benefits of physical education for school performance.

Districts and schools want more physical education teachers



The lawsuit has impacted the deployment of human resources; the number of personnel working on physical education at the district level has increased, but has not substantially changed at the school level. Two-thirds of districts that were parties to the lawsuit appointed someone at the district level

(either hired a new person or reassigned an existing employee) to oversee physical education or track minutes because of the lawsuit. However, fewer than 1/3 of districts that were parties to the lawsuit hired additional physical education teachers and only two districts provided additional physical education training for classroom teachers.

"[The district] introduced my position – so it's an administrative position, a management position...But as far as funding for actual PE teachers? No, that hasn't changed"

- New Coordinator of Physical Education, Health and Wellness, lawsuit district



When asked what could be done to increase compliance with the law, the most frequent answer from all personnel was to increase the number of physical education teachers. The second and third most often mentioned suggestions were: (2) adding or increasing classroom teacher training or professional development related to physical education (including for the principal) and (3) increasing awareness about

the importance of physical education for administrators, teachers, and parents.

"If there was a requirement to have credentialed PE teachers and funding to support that, that's how you're going to make sure that compliance is achieved"

- Assistant Superintendent of Curriculum and Instruction, control district

Without additional financial investment, class quality has not improved



Physical education quality has not necessarily improved because of the lawsuit. Most school-level personnel did not believe the lawsuit improved

physical education quality (e.g., physical education class-time spent being physically active or meeting model content standards). A common frustration with the lawsuit was that it penalized schools for being non-compliant, but didn't provide the financial support to meaningfully satisfy state law requirements. The Department of Education should allocate funding for dedicated physical education teachers and/or additional training or professional development for classroom teachers to aid in compliance with the law.

*"...there's no money allocated towards it ... no workshops... There's nothing being done to make [us] better PE teachers."
- 5th grade teacher, lawsuit schools*

Action steps to promote elementary physical education law compliance

- 1. Provide financial support for physical education, specifically for physical education teachers, evidence-based curricula, and professional development for classroom teachers.** Taking advantage of the new ability to allocate Title I and Title II federal funding for physical education (through the federal Every Student Succeeds Act), would demonstrate commitment to student health at the state and federal levels.
- 2. Mandate the inclusion of physical education tracking, reporting, and budgeting in districts' annual Local Control Accountability Plans (LCAPs).** Because the new LCAPs must include plans for assessing outcomes, including physical education in LCAPs would increase accountability, especially if physical education non-compliance is tied to financial incentives or penalties, such as loss of district funding.
- 3. Provide support for districts and schools to track and report physical education minutes,** including trainings and technologies like smart phone apps to increase efficiency and accuracy.
- 4. The California Department of Education (CDE) should increase accountability for the physical education law by investing in more meaningful physical education audits.** Committing CDE staff time to monitor physical education minutes submitted by districts, and mandating physical education be built into the accountability requirements for the new Local Control Funding Formula, would make physical education a greater priority for districts and schools.
- 5. Increase awareness about physical education's importance for health and academic outcomes among administrators, teachers, and parents.** Schools still feel pressure to focus on academic subjects more than on physical education. Ensuring that priority for, and implementation of, physical education is on par with that of traditional academic subjects would improve student outcomes.

Suggested Citation: Hannah R. Thompson & Kristine A. Madsen. The 2013 California physical education lawsuit's impact on physical education in elementary schools: Summary of research study results. April 2017. UC Berkeley School of Public Health.

Please contact Hannah Thompson at ThompsonH@Berkeley.edu with questions about the study or results.