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## Non-Structured Physical Activity For Students

October 4, 2016

August 30, 2016, the Office of the Attorney General issued an Opinion regarding the scope of “non-structured physical activity” as required under T.C.A. § 49-6-1021 (adopted in 2005).

The statute requires that local education agencies (“LEAs”) integrate a certain amount of activity into school days for their student. Students in Kindergarten to grade one are allotted a minimum of three (3) fifteen-minute periods of non-structured physical activity per day; students in grades two through six are allotted a minimum of two (2) twenty-minute periods; students in grades seven through twelve receive a minimum of ninety (90) minutes of physical activity per week. Note the change that occurs when students reach seventh grade; their requirement changes from “non-structured physical activity” to “physical activity.” As such, this Opinion only applies to students in grades K-6.

The statute defines “non-structured physical activity” as: “a temporary withdrawal or cessation from usual school work or sedentary activities during which an opportunity for rigorous physical activity is provided” and specifically excludes walking to and from class.

In the Attorney General’s Opinion, the definition of “non-structured physical activity” was further defined to exclude “classroom activity breaks” that were previously held out by the Tennessee Department of Education as acceptable activities to meet the statutory requirement. “Classroom activity breaks” included games such as: Go Noodle, Fit Wizard, Take 10!, Energizing Brain Breaks, Chair Yoga, Fuel up to Play 60 Classroom Activity Breaks, Move to Lear, Take a Brea!, Active Academics, bike desks, etc. It is the opinion of the Attorney General that these activities, while not without their merits, do not meet the specific “non-structured” requirement.

“Non-structured” means that there is an “absence of a definite pattern of organization” and incorporate distinct pedagogical concepts that advance a specific objective. In addition to physical activity objective of combatting obesity, there is also an objective for students to communicate with each other and build their skills in negotiations, problem solving, and social skills.



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The “classroom activity breaks” suggested by the Tennessee Department of Education do not accomplish both objectives and therefore falls short of the statutory requirements for “non-structured physical activity.” Instead, the students should be afforded the opportunity to engage in physical activities that do not follow a definite pattern of organization so as to both combat obesity by physical activity as well as increase communication and social skills through their interactions with fellow students.

Janice Bowling, Tenn. Op. Atty. Gen. No. 16-34 (Aug. 30, 2016).

*Clifton N. Miller and Erica R. Marino is available to consult with school system and other governmental entities regarding these and related matters.*

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