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*Testimony of  
Maria Neira  
Vice President  
New York State United Teachers  
to the  
Assembly Standing Committee on Education  
January 31, 2008*

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# **Testimony**

New York State United Teachers  
800 Troy-Schenectady Road ♦ Latham, NY 12110-2455 ♦ 518-213-6000  
[www.nysut.org](http://www.nysut.org)

*Representing More Than 585,000 Professionals in Education  
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Good morning. My name is Lawrence Waite, Manager of NYSUT's Educational Services. I am representing NYSUT's Vice President Maria Neira. NYSUT represents 585,000 members, including teachers, school-related professionals, and higher education faculty, other professionals in education and health care, and retirees.

I am joined by three members of the NYSUT Subject Area Committee for Health, Physical Education and Family and Consumer Sciences. They are Ms. Joanne Hamilton, Physical Education Teacher, Sayville Teachers' Association and Mr. Steven Esposito, Physical Education Teacher, Sachem Central Teachers Association. They will share their perspectives on the provision of physical education in their respective school districts. In addition, Dr. Linda Barley, who is involved in the preparation of physical education teachers, will also share her views on this important topic from her perspective as a professor at York College. We are also joined by Mr. Leo Casey, representing our New York City affiliate, the United Federation of Teachers.

On behalf of NYSUT, I wish to express our appreciation to Chairwoman Nolan and members of the Assembly Standing Committee on Education for providing this opportunity to share our views on the implementation of physical education programs throughout the state.

NYSUT recognizes the importance of school districts compliance with the state's regulatory requirements. That is the way to ensure our students receive quality instruction based the state's physical education learning standards, so students will:

- Have the necessary knowledge and skills to establish and maintain physical fitness, participate in physical activity, and maintain personal health;
- Acquire the knowledge and ability necessary to create and maintain a safe and healthy environment; and
- Understand and be able to manage their personal and community resources.

In 1997, NYSUT formed the Health, Physical Education and Family and Consumer Sciences Committee to examine critical issues related to these subject areas and the strategies to address them. Their work resulted in the delegates of our 2007 Representative Assembly unanimously approving a policy that calls on NYSUT to support and advocate for school district compliance with the state's physical education requirements.

Today, I would like to focus my remarks on two questions concerning physical and educational development and the important role physical education can play in this development:

1. Are our students getting access to the required physical education called for in our State's Regulations?
2. How can we ensure school districts are held accountable for meeting physical education requirements?

## **1. Are our students getting access to the required physical education called for in our State's Regulations?**

The importance of physical activity cannot be understated given recent research studies on the rising number of overweight children in our nation. As cited in the Fall 2007 Active Education Research Brief, more than one-third of children and teens, approximately 25 million students, are overweight or obese. Physical inactivity is a leading contributor to this rising rate, resulting in more children and adolescents who are more likely to have risk factors associated with cardiovascular disease such as high blood pressure, high cholesterol, and Type 2 diabetes.

While physical education plays an important role in improving the physical development and well being of our children, it also improves academic performance. Recent research (Active Living Research, Fall, 2007) indicates that children who are physically active and fit tend to perform better in the classroom. Studies also show that regular exercise improves students' concentration and cognitive functioning.

Our members affirm a national dilemma of diminished time being allocated to physical activity in our schools as a result of the expanding NCLB testing requirements. A recent study by the Center for Education Policy provided evidence of how NCLB has narrowed the curriculum. The researchers found that the vast majority of districts are spending more time on math and reading, at the expense of non-tested subject areas, including physical education. Our physical education teachers echoed these findings in their comments. Many described themselves, in the words of one, as "totally disheartened" by how many of their schools have eliminated or reduced physical education instruction to allow more time in the day for academic intervention services— all for the sake of raising test scores.

Section 135.4 of the Regulations of the Commissioner establishes school district requirements in regards to the provision of physical education for students enrolled in Kindergarten through Grade 12, including the amount of weekly participation in physical education programs. NYSUT recently conducted a statewide survey of physical education teacher members to learn how school districts in New York State were complying with these requirements. The respondents represented all parts of New York State including New York City, and teach physical education in grades ranging from kindergarten through grade 12.

The results indicate that there are indeed compliance issues throughout New York State. Our biggest problems are in the elementary grades.

- Just over 10 percent of the respondents indicated students in grades K through 3 in their district received physical education on a daily basis as required by state Regulations. Just 20 percent of the respondents indicated students in these grades in their district receive a weekly total of at least 120 minutes of physical education.

- Less than 30 percent of our teachers said students in grades 4 through 6 in their district receive a weekly total of at least 120 minutes of physical education.
- Nearly one-quarter of the respondents indicated that in their district, recess time is sometimes used as physical education time for grades K through 6. (Recess time is not instruction of the state's learning standards, and may not be used as a substitute for physical education instruction per a Commissioner's Decision.)
- On a positive note, nearly 80 percent of the respondents indicated Physical Education in grades K through 6 in their district is taught only by certified Physical Education teachers.
- In the higher grades the results were slightly more positive. Nearly 70 percent of the respondents indicated the students in grades 7 through 12 in their districts receive Physical Education three times per week during one semester and two times per week during the other semester as required by state Regulations.
- Unfortunately only, one-third of the respondents believe their district has adequate facilities for teaching physical education.

Here's what some of our teachers are saying:

A physical education teacher in a large urban district stated that he was surprised to learn about the state regulation requirements. The number of Physical Education minutes per grade level required by this district are not congruent with the state requirements.

A Long Island teacher responded that his district is out of compliance and has been for years. Contractually - this would involve hiring more personnel to fulfill this requirement. You might get around it by holding 2 classes at the same, but then you run into a safety issue as some gyms are too small to handle a double class in an activity based lesson.

At the middle school level in a wealthy suburb, a physical education teacher tells us that students receive physical education 80 minutes one week and 120 minutes the following week, not meeting the state requirements. All minutes include passing time and changing time so the time is not a true indication of actual time in class. "We are out of compliance and our school knows it because it has been brought to their attention at least four times in the past seven years I've been at this school," the teacher told us.

A physical education teacher in a rural junior high school commented that the time for physical education is being reduced so that students can receive the academic intervention services they need to pass the next battery of state tests.

Kindergarten students do not receive any physical education in a Monroe County school district. A physical education teacher informed us that full day kindergarten was reduced to ½ day after NCLB was implemented. She feels that since Kindergarten is not mandated by NYS and that is probably the loophole that districts use to eliminate kindergarten from art, music, and physical education.

In a small city district, a physical education teacher tells us that most school administrators believe compliance with the regulation to be unrealistic given the enormous demands placed on the academic side of the elementary school day. To devote an additional 44 minutes to organized physical education activities would mean 44 minutes per week of not focusing on math and reading. She went on to say that the district has encouraged classroom teachers to cover this additional 44 minutes in a cross curricular manner - i.e. - walking and counting steps to point A, then estimating the number of steps needed to get to point B. (The district, however, has never checked plan books to determine if this instruction is taking place and has never entertained the idea of hiring additional Physical Education teachers to comply with state regulations, but would rather support the veiled attempt described above.)

## **2. How can we ensure school districts are held accountable for meeting physical education requirements?**

We urge your advocacy for the following recommendations on improving access to quality physical education in our public schools:

### **➤ Include information about physical education on the school report card**

A school district report card currently contains information on how well the district is performing in various areas including graduation rates and student performance on the grades 3–8 ELA and math assessments and Regents examinations. Parents should know if their district is in compliance with the New York State physical education regulations. With the growing concern about the health and well-being of students, information regarding physical education, as well as health education and family and consumer sciences, should be a part of a school's report card.

A section on the school report card should indicate the number of days and minutes per week the students in grades K – 3 and 4 – 6 receive instruction in physical education. At the secondary level, grades 7 – 12, information regarding middle and /or high school's compliance with the regulations for those grades should also be included on the school report card.

The Legislature should urge the State Education Department to monitor school district compliance with the Commissioner's Regulations for physical education through site visits and consider requiring school districts to implement the New York State Physical Education Profile. This State-developed resource gives school districts the option of using evidence of student achievement at the commencement level for the physical education learning standards.

### **➤ Create a core curriculum for physical education**

We urge the Legislature to encourage SED to develop a K–12 core curriculum for physical education, as well as for health and family and consumer sciences as part of its responsibility under Chapter 57 of the Laws of 2007 which requires the State Education Department to review the New York State Learning Standards. This core curriculum would create a uniform framework for physical education instruction in our elementary, middle, and high schools. The curriculum should also include the

health and family and consumer sciences standards, which calls for instruction in wellness, taking care of our bodies, and making wise, healthy choices in life.

➤ **Informing Teachers of State's Physical Education Requirements**

Information on the state requirements for physical education should be included in our physical education teacher preparation programs. Students who are studying to be physical education teachers need to have knowledge of these requirements so they will be better prepared to monitor school compliance and develop appropriate programs that meet the needs of students with the regulatory time requirements.

**Summary:**

In schools across New York State, the physical and cognitive development of our students is being short changed because instruction in physical education does not meet the mandated requirements. Regardless of the reason -- pressures of increased NCLB testing or budgetary concerns- it is clear that not all school districts are complying with the state's physical education requirements. Thinking and learning are both mental and physical activities that help students focus their attention on learning. In this day of mandated testing under the federal No Child Left Behind, physical education should be viewed as a key to giving students the edge to succeed.

We welcome the opportunity to work with the state Legislature, the State Education Department and other key groups to improve both this access to and the quality of physical education in our state – to help our children succeed in school and in life.

We appreciate your willingness to address this important issue on behalf of our children, parents and the educators who serve them.

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