

Equal Opportunities in School Sports for Students with Disabilities

Students with disabilities are all too often denied the chance to participate in school sports at the club, intramural and interscholastic level, and as a result, students with disabilities often miss out on the many health and social benefits of athletics. A 2010 United States Government Accountability Office report confirmed that many students with disabilities are not afforded an equal opportunity to participate in athletics. On January 25, 2013, the United States Department of Education's Office for Civil Rights (OCR) issued guidance reiterating and clarifying school districts' existing legal obligations under Section 504 of the Rehabilitation Act of 1973 (Section 504) to provide students with disabilities an equal opportunity to participate in extracurricular athletic activities.

The guidance warns school districts not to operate their programs based upon generalizations or stereotypes about disabilities. Instead, each student should be assessed individually. School districts may require a level of skill or ability for participating in a competitive program, so long as the selection or competition criteria are not discriminatory. The provision of an equal opportunity does not mean that every student with a disability is guaranteed a spot on a team for which other students must try out.

However, a school district must allow a student with a disability an equal opportunity for participation in extracurricular athletics in an integrated manner to the maximum extent appropriate for the particular student. This means that a school must allow reasonable modifications when necessary, unless the requested modification would constitute a fundamental alteration of the activity. The school must engage in an "individualized inquiry" to determine if a reasonable modification is required.

A modification may constitute a fundamental alteration if it would alter an essential aspect of the game or create an unfair advantage for the student with a disability. By way of example, the guidance notes as a reasonable modification a visual cue instead of a starting gun so that a student with a hearing impairment can compete on the track team. Students with disabilities must be included in existing school sports program as much as possible.

For students with disabilities who are not able to participate in the existing programs with reasonable modifications, the guidance states that school districts should offer additional athletic opportunities and that these opportunities "should be supported equally, as with a school district's other athletic activities." If the number of students with disabilities at one school is insufficient to field a team, schools can develop regional or co-ed teams or offer "allied" or "unified" teams on which students with and without disabilities participate.

We will be watching to see the impact this guidance will have on our local communities. Stay tuned!

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