Including Students with Disabilities in School Sports
New Guidance from the U.S. Department of Education Echoes Law Previously Passed in Maryland

In January 2013, the U.S. Department of Education issued new guidance about the inclusion of students with disabilities in school sports programs. The guidance was prompted by a Government Accountability Office report that recommended the Department clarify and communicate schools’ responsibilities under Section 504 of the Rehabilitation Act of 1973 regarding the provision of extracurricular athletics. According to the new guidance, schools must find ways to include students with disabilities in their sports programs (through “reasonable modifications” that don’t change the nature of the game) or develop equivalent alternative sports programs. The guidance came in the form of a “dear colleague” letter from the Department’s Office for Civil Rights (OCR) and was directed to elementary and secondary schools (the letter can be found at www2.ed.gov/about/offices/list/ocr/letters/colleague-201301-504.pdf).

“Participation in extracurricular athletics can be a critical part of a student’s overall educational experience,” acting assistant secretary for the OCR Seth Galanter said in the Department’s press statement. “Schools must ensure equal access to that rewarding experience for students with disabilities.”

As the guidance states,

Schools may require a level of skill or ability for participation in a competitive program or activity; equal opportunity does not mean, for example, that every student with a disability is guaranteed a spot on an athletic team for which other students must try out. A school district must, however, afford qualified students with disabilities an equal opportunity for participation in extracurricular athletics in an integrated manner to the maximum extent appropriate to the needs of the student.

Though the letter sets no date for compliance, many special education advocates see the guidance (to continue the sports theme) as a game changer for special needs kids. At least one state, however, already changed its game several years ago.

In 2008, the Maryland Legislature passed the Maryland Fitness and Athletics Equity for Students with Disabilities Act, which was designed to ensure that special needs students could participate in mainstream physical education, and to try out and, if selected, participate in mainstream athletic programs, and/or participate in adapted, allied, unified, or corollary sports programs. The state board of education, which previously passed its own policy to ensure students with disabilities were able to participate in physical education, was asked to adopt the regulations needed to make this law a reality and develop a model policy to help districts implement the law.

This meant, according to the law, that schools must offer “reasonable accommodations necessary to provide students with disabilities with equal opportunities to participate to the fullest extent possible in mainstream athletic programs,” except if their inclusion “a) presents an objective safety risk to the student or others based on an individualized assessment of the student; or b) fundamentally alters the nature of the school’s mainstream athletic program.” The law further stipulates that each district must have a plan to “provide students with disabilities equivalent opportunities for participation in either the Interscholastic Athletic Program or the Corollary Athletic Program.”

While several school systems were able to build on existing sports programs for students with disabilities, many had to develop the programs from scratch. Several districts partnered with Special Olympics of Maryland (SOMD) to develop some of their unified sports programs, and the Maryland State Department of Education also joined with SOMD to provide professional development presentations on adapted physical education and other topics.

The most important growth, of course, is on the part of the students. As the co-coach for Montgomery County’s corollary bocce team said, “[The students with disabilities] like to compete, like anybody, and they like to be successful. On another level, the sports, and them as athletes, are very accepted by the entire school population. We had practice the other day and the basketball team was asking if we had a match. Just that they’re included in the school population as athletes: that’s a big deal.” —DK