

# Accommodating Disabled Students into Athletic Programs



By Michael L. Williams, CMAA

## Background

A typical public school system includes a significant number of students with disabilities, often up to 10 percent of the total enrollment. Limited opportunity for athletic participation is provided to students with disabilities, a circumstance many parents have begun to challenge. These challenges have reached the federal courts and the implications of recent decisions are forcing local public schools systems (LSS) to evaluate how they are athletically accommodating students with disabilities.

Local public school systems have accommodated students with disabilities under the auspices of four major laws. These include the 2004 Individuals with Disabilities Education Act (IDEA), the Rehabilitation Act of 1973 (Section 504), the Americans with Disabilities Act of 1990 (ADA), and state and local codes. Each of these includes regulations and provisions for the participation of individuals with disabilities.(1)

The 1999 IDEA regulations define "nonacademic services and extracurricular activities" and include athletics in the definitions (34 CFR 3000.306(b)). Section 504 regulations also include athletics in their definitions (34 CFR 104.3(a)(2)).

Participation in athletics is not a required component of a student's free and appropriate

education (FAPE). However, the 2004 IDEA regulations (34 CFR 300.17) require local public school systems to provide nonacademic and extracurricular services and activities in a way that affords students with disabilities an equal opportunity for participation in those services and activities. Neither IDEA nor Section 504 considers participation in athletics a FAPE issue. Both do consider participation as an issue of nondiscrimination, accessibility and equal opportunity.(2)

A Maryland State Department of Education (MSDE) Workgroup recently interpreted *the letter and intent of these laws and regulations to mean that local school systems have a responsibility to affirmatively act to ensure the inclusion of students with disabilities in interscholastic athletics to the maximum extent possible. These affirmative actions would ensure access, as well as increase the number of students with disabilities participating in athletics. Students with disabilities may not be excluded from participation purely on the basis of their disability.*(3)

Finally, courts consider it the legal duty to make "reasonable accommodations" to a public school system's participation requirements. Three categories of requested modifications have been generally considered patently "unreasonable." They are:

1. Fundamental Alterations of the athletic activity or the impairment of the purpose of the regulation.
2. Undue Financial or Administrative Burden imposed on the governing body or school system making the application of the rule impractical.
3. Safety risks to the health or safety of the person with the disability or participants.(4)



## The Debate

Much of the recent debate has been centered on two issues. First, should each accommodation be considered on an individual, case-by-case basis or can the local school system establish rules for participation that accommodate the novice as well as the elite athlete? Second, can the accommodations in some instances (wheelchair track) require scoring? Two recent cases in the federal district court in Baltimore, Maryland have begun to clarify the issue -- *McFadden v. The Howard County Public School System (HCPSS)* and *McFadden v. Nancy Grasmick, et al.*

In those cases, 16-year-old wheelchair racer Tatyana McFadden, a sophomore at Columbia (Maryland) Atholton High School whose legs are paralyzed as a result of spina bifida, wanted to compete against her able-bodied peers in a track meet. Previously forced to compete in separate wheelchair events at high school track meets, McFadden didn't want her points to be counted toward team totals; but rather simply wanted the same experience as everyone else in the race. After suing the school system in federal district court in Baltimore, Judge Andre Davis issued a temporary injunction permitting her to race at the same time as able-bodied runners for the rest of the school year.

For now, scoring accommodations do not have to be considered and each student must be accommodated on a case-by-case basis.(5,6)

National Federation of State High School Associations (NFHS) rules encourage interpretation and application of the rules "so as to make reasonable accommodations for disabled athletes, coaches and officials." Furthermore, the NFHS Mission Statement seeks to promote "education-based interscholastic activities which support academic achievement, good citizenship and equitable opportunities."(7)

Research has shown time and again that participation in extracurricular activities and athletics significantly improves academic performance, behavior and attendance.(8) Student-athletes get better grades, they are in trouble less, they attend school and go to class, and are more likely to graduate and go to college. Participation in athletics is a better future indicator of future success than GPAs and SAT scores and student-athletes are more likely to be leaders.(9)

Because of the limited opportunities for participation in athletics, students with disabilities are not afforded all of these benefits. Essentially, students with disabilities have less opportunity to enrich their educational experience, develop good citizenship and healthy lifestyles, achieve academically, and promote positive school/community relations.(10) Without educationally based athletic opportunities, students with disabilities are less likely to be well-rounded people when leaving their high schools for higher education or the work force. It is for this reason, more than any other, that opportunities for students with disabilities to participate in interscholastic athletics will continue to expand, either by legislative mandate or court interpretation of the law. No one can justify limiting the opportunities for the full development of 10 percent of our students, just as we cannot justify limiting participation because of race or gender.



## Implications

Budget -- Boards of education and superintendents will be forced to increase spending to accommodate athletes with disabilities (preferred) and/or cut existing programs (discouraged). A 10-percent increase in spending can be expected if no existing programs are cut.

Defining a Student with Disability -- When considering the educational services for which a student with disabilities qualifies, IEP committees have prescribed guidelines. When considering whether a student has a physical or mental disability entitling him/her to accommodations in athletics, there is no clear, uniform definition -- how will the LLS require a student with a disability to prove how substantially limited his/her life is by a physical or mental disability?

Equal Opportunity -- More students with disabilities will have an equal chance to participate in education-based programs. If expanded budgets are affordable, cuts of existing programs will not reduce opportunities for students without disabilities.

Numbers -- More students will participate in interscholastic athletics so long as existing programs are not cut to accommodate budgets.

Connections -- More students will be connected to their schools and communities, extending the "ownership" of schools to more students and families. Increasing connections can only help decrease the sense of alienation that is becoming more prevalent among students. Disconnected/alienated students are more likely to be

disruptive, even violent.

Cultural Diversity -- The erosion of stereotypes, biases and prejudices will continue, promoting safety, cooperation and acceptance within our increasingly diverse population.

Rules -- Changes will occur as greater accommodations are made to include, as fully as is possible, our students with disabilities. Scoring will continue to be an issue. If not scored, then the student's participation has intrinsically less value than that of students without disabilities. If scored, schools without students with disabilities in those sports/events will be at a competitive disadvantage and less likely to win the contest/event. Educationally sound compromises must be reached.

Scheduling -- Games and practices must be scheduled in already booked facilities. Time and space will be an administrative issue.

Officials -- Already stretched officials associations may experience greater shortages. Training of officials will undergo changes. More students with disabilities will go on to be officials.

Coaches -- Certification and training of coaches will undergo changes. More students with disabilities will go on to be coaches.

Safety and Risk Management -- Additional safeguards to protect students from the risk of injury will need to be developed and implemented, often on a case-by-case basis.

Accessibility of Facilities -- Students will need to be able to access fields, tracks and all other facilities, which may require intensive accessibility studies by LEA staff.

## **Conclusion**

It is under the guarantee of federal statutes (ADA, IDEA and Section 504) that local public school systems will be required to develop and implement an interscholastic athletic program for students with disabilities. The inclusion of students with disabilities into athletics will generally take three forms:(11)

1. The student is able to participate in athletics without accommodations.
2. The student is able to participate against or alongside athletes in individual events (not team sports) with allowable accommodations or modifications.
3. The school system will develop an alternative athletic program because the student is unable to participate in individual or team sports because the necessary accommodations or accommodations:
  - Fundamentally alter the sport
  - Significantly increase the safety risk to the student or other athletes
  - Disadvantage other athletes
  - Provide the student with an advantage

Like Title IX, the ADA and other disability laws guaranteeing equal opportunity will continue to alter the athletic landscape. The benefits and opportunities afforded by an educationally based athletic program must include our disabled students.

**Notes:**

1. Draft Report of the Workgroup to Review the Participation of Students with Disabilities in Athletics. Maryland State Department of Education (MSDE), Division of Special Education/Early Intervention Services, Maryland Public Secondary Schools Athletic Association (MPSSAA), and Maryland Department of Disabilities. November 1, 2006. pp 4 & 5.
2. Ibid. Draft Report of the Workgroup.
3. Ibid. Draft Report of the Workgroup.
4. National Interscholastic Athletic Administrators Association (NIAAA), Leadership Training Manual 508, Legal Issues III, 2007 edition. pp 123 & 124.
5. Tatyana McFadden v. Howard County Public School System (Injunction).
6. Tatyana McFadden v. Nancy Grasmick, et al., Civil No AMD 07-719.
7. National Federation of State High School Associations (NFHS) Handbook 2006-07. Constitution. Article 1. Page 6.
8. Athletics and Achievement, The Report of the National Association of State Boards of Education (NASBE) Commission on High School Athletics in an Era of Reform. 2004. pp 7-11.
9. National Federation of State High School Associations, The Case for Extracurricular Activities, 2002. Page 2.
10. NFHS Handbook, 2006-07. Page 6.
11. Ibid. Draft Report of the Workgroup. Page 14.

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[previous p](#)