

[First Reprint]

SENATE, No. 2079

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED MAY 12, 2014

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Co-Sponsored by:

Senator Beck and Assemblyman Moriarty

SYNOPSIS

Provides that school districts must ensure that students with disabilities have opportunities to participate in athletic activities equal to those of other students.

CURRENT VERSION OF TEXT

As reported by the Senate Education Committee on June 9, 2014, with amendments.

(Sponsorship Updated As Of: 6/17/2014)

1 AN ACT concerning athletic activities of students with disabilities
 2 and supplementing chapter 11 of Title 18A of the New Jersey
 3 Statutes.

4
 5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 6 *of New Jersey:*

7
 8 1. The Legislature finds and declares that:

9 a. The United States Government Accountability Office issued
 10 a report in June 2010 that underscored that access to, and
 11 participation in, extracurricular athletic opportunities provide
 12 important health and social benefits to all students, particularly
 13 those with disabilities, including socialization, improved teamwork
 14 and leadership skills, and fitness. Unfortunately, the report found
 15 that students with disabilities are not being afforded an equal
 16 opportunity to participate in extracurricular athletics in public
 17 elementary and secondary schools.

18 b. The United States Department of Education, Office for Civil
 19 Rights, issued guidance on January 25, 2013, which clarifies
 20 existing legal obligations of school districts to provide equal access
 21 to extracurricular athletic activities to students with disabilities and
 22 urges school districts to work with community organizations to
 23 increase athletic opportunities for students with disabilities in club,
 24 intramural, and interscholastic athletic programs.

25 c. Students with intellectual, developmental, physical, and
 26 other forms of disabilities should consistently have opportunities to
 27 participate in athletics equal to those of other students, which is in
 28 keeping with school district responsibilities under section 504 of the
 29 federal Rehabilitation Act of 1973, 29 U.S.C. sec.794, regarding the
 30 provision of extracurricular activities.

31

32 2. As used in this act:

33 “Adapted program” means a program that is developed for a
 34 student with a disability.

35 ¹ **“Mainstream athletic”** “Athletic”¹ program” means ¹ a club,¹
 36 intramural ^{1,1} or interscholastic athletic activity that is developed
 37 and offered to students ¹ **in** ¹ by¹ the school district.

38 ¹ **“Mainstream physical”** “Physical”¹ education program” means
 39 the physical education program of the school district.

40 “Student with a disability” means a student who meets the
 41 definition of a “handicapped person” as defined in 45 C.F.R. §84.3
 42 (j).

43 “Unified sports ¹ **or inclusive**¹ program” means ¹ **a** ¹ an
 44 athletic¹ program that ¹ **is** specifically designed to combine groups

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SED committee amendments adopted June 9, 2014.

1 of students with and] combines individuals with disabilities and
2 individuals¹ without disabilities.

3

4 3. a. Each school district shall, subject to the provisions of
5 subsection b. of this section:

6 (1) ensure that a student with ¹**[disabilities]** a disability¹ has an
7 equal opportunity to: participate in ¹**[mainstream]**¹ physical
8 education programs; participate in existing classroom activities
9 that involve physical activity;¹ and try out for and, if selected,
10 participate in ¹**[mainstream]**¹ athletic programs in an integrated
11 manner to the maximum extent appropriate to the needs of the
12 student¹ ; ¹and¹

13 (2) ensure the provision of reasonable modifications or aids or
14 services necessary to provide a student with ¹**[disabilities]** a
15 disability¹ an equal opportunity to participate ¹**[**, to the fullest
16 extent possible, in **mainstream]** in¹ physical education ¹programs,
17 existing classroom activities that involve physical activity;¹ and
18 ¹**[mainstream]**¹ athletic programs ¹**[**; and

19 (3) ensure that adapted programs or unified sports or inclusive
20 programs for physical education and athletics are available] as set
21 forth in paragraph (1) of this subsection in an integrated manner to
22 the maximum extent appropriate to the needs of the student¹.

23 b. An exception to the requirements under subsection a. of this
24 section may be made when the inclusion of a student with a
25 disability:

26 (1) presents an objective ¹health or¹ safety risk to the student or
27 to others, based on an individualized assessment of the student; or

28 (2) fundamentally alters the nature of the ¹**[mainstream]**¹
29 physical education ¹**[or mainstream]** program or¹ athletic program
30 in accordance with the “Americans with Disabilities Act of 1990,”
31 42 U.S.C. s.12101 et seq. and section 504 of the Rehabilitation Act
32 of 1973, 29 U.S.C. s.794¹.

33

34 4. ¹**[A school district, in consultation with students, parents,**
35 **community members, and advocacy groups, shall offer unified**
36 **sports or inclusive programs either during or after school hours**
37 **through one or more of the following:**

38 a. within existing physical education class activities;

39 b. within existing classroom activities that involve physical
40 activity;

41 c. as part of school intramural sports opportunities;

42 d. as part of school district-sponsored club sport or athletic
43 programs; or

44 e. on the interscholastic level]

45 In the event that an exception applies under subsection b. of
46 section 3 of this act, a school district, in consultation with students,

1 parents, community members, and advocacy groups, shall make
2 reasonable efforts to provide a student with a disability the
3 opportunity to participate in existing adapted or unified sports
4 programs facilitated by community organizations, such as the
5 Special Olympics New Jersey. A school district may develop such
6 programs on a school, district, regional, or county basis. The
7 provision of an adapted program or a unified sports program for a
8 student with a disability shall not mitigate the responsibility of the
9 school district to provide a student with a disability an equal
10 opportunity to participate in programs and activities in accordance
11 with section 3 of this act¹ .

12

13 5. The New Jersey State Interscholastic Athletic Association,
14 in consultation with Special Olympics New Jersey and any other
15 adapted sports organizations, may establish interscholastic athletic
16 programs for student-athletes with intellectual or developmental
17 disabilities who are participating in a unified sports ¹**【or inclusive】**¹
18 program of athletics developed by a school district. The New
19 Jersey State Interscholastic Athletic Association may require any
20 coach of a unified sports ¹**【or inclusive】**¹ program of athletics to
21 receive training specific to that program.

22

23 6. This act shall take effect ¹**【immediately】** in the 2015-2016
24 school year¹ .