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# United States Department of Education Policy Letters: Advocating for Students with Disabilities in P.E.

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## Session Description

In this presentation, we U.S. Department of Education policy letters and guidance documents from national organizations that support physical education and sport for students with disabilities. We present common situations related to physical education along with resources stakeholders can use to address issues and advocate for physical education and extracurricular athletics for their students with disabilities.

## Critical Information

- **Advocating using Policy Letters, Dear Colleague Letters, and Other Professional Resources: A Case Study**

While the various Dear Colleague Letters, OSEP policy letters, and resources developed by national organizations referenced in this paper provide interpretation of existing educational laws and

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*(Authority: 20 U.S.C. 1221e-3 and 3474)*

regulations in response to specific situations regarding physical education, they are not inclusive of every situation pertaining to physical education for students with disabilities. They do provide a foundational understanding of how the U.S. Department of Education interprets current laws. They also serve as a tool that can be used by parents, educators, and LEAs as they work to improve outcomes for students with disabilities through individualized special education programming.

For example, as applied to the following scenario, the letters and documents can be used by parents and teachers alike. In December, Mr. Ruiz, an itinerant APE teacher, receives notification of an annual IEP meeting for Jayden, a 9<sup>th</sup> grader with dyscalculia (a learning disability) and spinal bifida who uses a wheelchair for mobility. Mr. Ruiz consulted the family for information on sports or activities they do at home and found tennis to be an important leisure time activity for the family. In the development of the IEP, Mr. Ruiz will advocate for Jayden's participation on the high school tennis team in the spring as well as Jayden's plan for continued enrollment in physical education in 10<sup>th</sup> grade (beyond the one physical education credit required for graduation). Mr. Ruiz uses his knowledge of federal mandates, interpretation of laws and regulations from policy papers and Dear Colleague Letters, and documents from national organizations to guide his professional practice related to the IEP meeting, including consideration of extracurricular athletics.

In preparation for the meeting, Mr. Ruiz prepares the APE content specific for the federally mandated components of the IEP for the team to consider (e.g., present level of academic achievement and functional performance [PLAAFP] suggestions, ideas for appropriate APE goals). He also reviews relevant professional resources (e.g., policy letters, Dear Colleague Letters). Mr. Ruiz reviews the Federal Register of August 14, 2006 (regarding 34 CFR §300.108) to support his

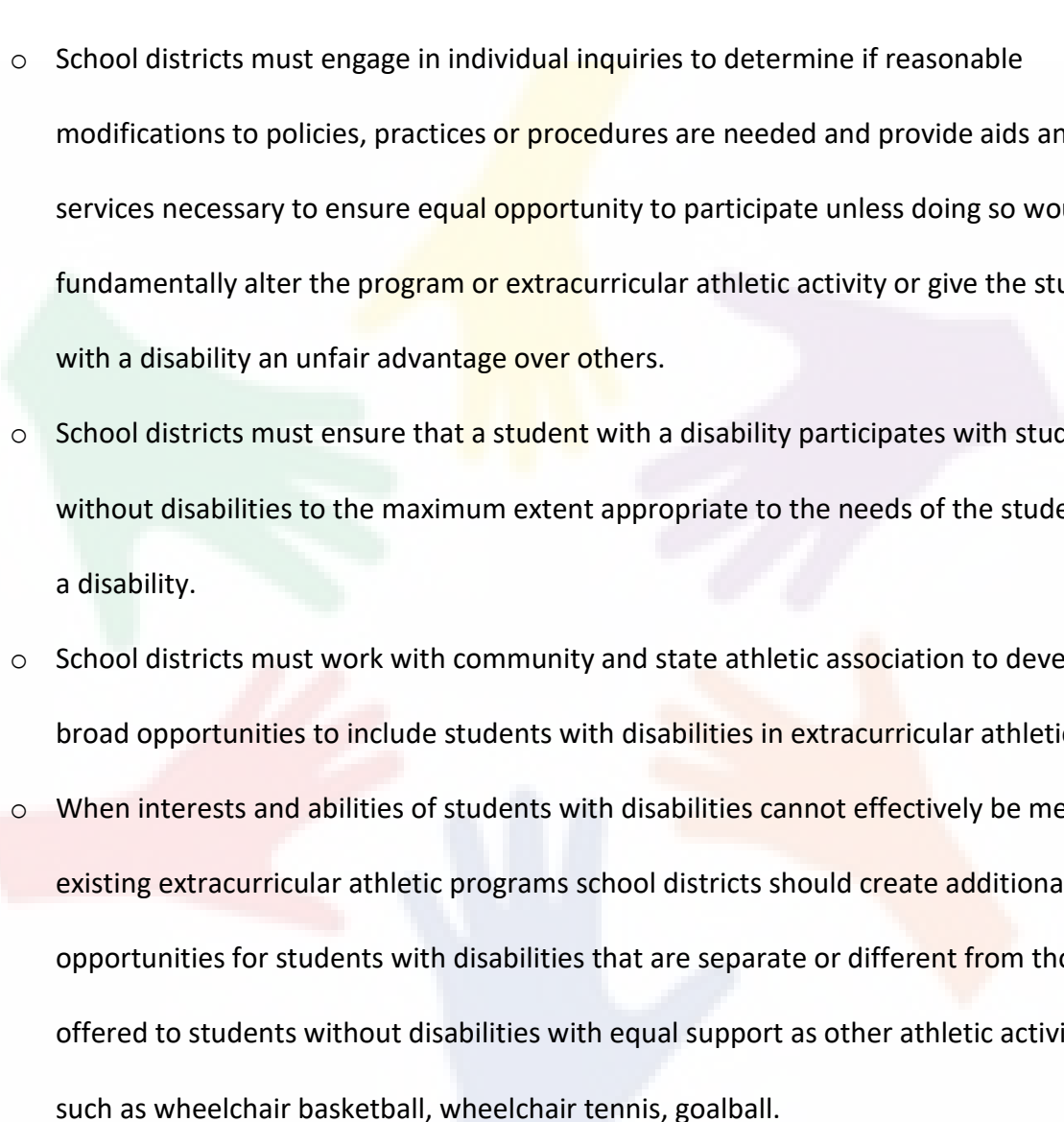
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recommendation for continuation of APE services into 10<sup>th</sup> grade as Jayden's specially designed physical education is an individually determined special education service, not a grade level requirement. He also reviews section of IDEA (34 CFR §300.117) and the OCR *Dear Colleague Letter Regarding Extracurricular Athletics* (2013) to support Jayden's participation on the LEA sponsored tennis team as an extracurricular activity (e.g., transportation support to and from practice and competitions, reasonable accommodations in tennis practice and competitions). As a collaborative professional practice, Mr. Ruiz has consistently shared these types of resources with administrators and key special education personnel as he learns of them, but he also has a copy on hand in IEP meetings. At the IEP meeting, Mr. Ruiz is prepared with recommendations for the PLAAFP statement, suggestions for APE services including goals, modifications to the curriculum and state-mandated fitness testing, and frequency, duration, and placement for services, as well as supplementary aids and services needed to support Jayden's participation on the tennis team. With this IEP information and his APE resources in hand, Mr. Ruiz is prepared to contribute as a member of the IEP team and support Jayden during the IEP meeting.

- **Dear Colleague Letter Guidance**

- School districts must provide a qualified student with a disability (ie., a student with a disability who also has the required level of skill or ability to participate in a selective or competitive program or activity) an opportunity to benefit from the school districts program equal to that of students without disabilities.

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- School districts should work with school associations, organizations, clubs, or leagues to ensure students with disabilities are not denied equal opportunity to participate in interscholastic athletics.
  - School districts cannot rely on generalizations, assumptions, stereotypes, or prejudices about what students with a disability can do or may not be able play with, in regard to sport.
  - School districts must engage in individual inquiries to determine if reasonable modifications to policies, practices or procedures are needed and provide aids and services necessary to ensure equal opportunity to participate unless doing so would fundamentally alter the program or extracurricular athletic activity or give the student with a disability an unfair advantage over others.
  - School districts must ensure that a student with a disability participates with students without disabilities to the maximum extent appropriate to the needs of the student with a disability.
  - School districts must work with community and state athletic association to develop broad opportunities to include students with disabilities in extracurricular athletics
  - When interests and abilities of students with disabilities cannot effectively be met by existing extracurricular athletic programs school districts should create additional opportunities for students with disabilities that are separate or different from those offered to students without disabilities with equal support as other athletic activities such as wheelchair basketball, wheelchair tennis, goalball.

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- School districts can develop district wide or regional teams or programs when an individual school cannot field a team of students with disabilities to form a school-based team.

## Resources and/or References

OSEP (2010). *Letter to Irby*. <https://sites.ed.gov/idea/idea-files/policy-letter-february-12-2010-to-alabama-attorney-james-irby-2/>

OSEP (2013). *Letter to Kelly*. [https://urldefense.com/v3/https://sites.ed.gov/idea/idea-files/policy-letter-october-23-2013-to-luke-e-kelly/ ;!!KGKeukY!wb6xe8hc7BPkIpOsIVMO0TZI4E4hbqAsNHZrLI7tEqdJT1202VeWfNOOXxFyf8BwOT4WJD0XtRVIVKLiQWlzbUYxOAPQo94D\\$](https://urldefense.com/v3/https://sites.ed.gov/idea/idea-files/policy-letter-october-23-2013-to-luke-e-kelly/)

OSEP (2013), *Letter to Tymeson*. [https://urldefense.com/v3/https://sites.ed.gov/idea/idea-files/policy-letter-july-31-2013-to-qarth-tymeson/ ;!!KGKeukY!wb6xe8hc7BPkIpOsIVMO0TZI4E4hbqAsNHZrLI7tEqdJT1202VeWfNOOXxFyf8BwOT4WJD0XtRVIVKLiQWlzbUYxONPIGZqu\\$](https://urldefense.com/v3/https://sites.ed.gov/idea/idea-files/policy-letter-july-31-2013-to-qarth-tymeson/)

OSEP (2021). *Letter to Tymeson*. [https://urldefense.com/v3/https://sites.ed.gov/idea/idea-files/policy-letter-may-12-2021-to-tymeson/ ;!!KGKeukY!wb6xe8hc7BPkIpOsIVMO0TZI4E4hbqAsNHZrLI7tEqdJT1202VeWfNOOXxFyf8BwOT4WJD0XtRVIVKLiQWlzbUYxOCRFR-5S\\$](https://urldefense.com/v3/https://sites.ed.gov/idea/idea-files/policy-letter-may-12-2021-to-tymeson/)

Dear Colleague guidance letter regarding Section 504 of the Rehabilitation Act of 1973 and the provision of extracurricular athletics for students with disabilities.

[https://urldefense.com/v3/http://www.ed.gov/ocr/letters/colleague-201301-504.pdf ;!!KGKeukY!wb6xe8hc7BPkIpOsIVMO0TZI4E4hbqAsNHZrLI7tEqdJT1202VeWfNOOXxFyf8BwOT4WJD0XtRVIVKLiQWlzbUYxOJ53IKnu\\$](https://urldefense.com/v3/http://www.ed.gov/ocr/letters/colleague-201301-504.pdf)

The National Consortium for Physical Education for individuals with Disabilities (NCPEID)  
<https://www.ncpeid.org/>

American Association of Adapted Sports Programs  
<https://adaptedsports.org/>

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