

ADAPTED PHYSICAL EDUCATION

Regulations, Recommendations, and Resources

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THE STATE EDUCATION DEPARTMENT
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SECTION I

ADAPTED PHYSICAL EDUCATION QUESTIONS AND ANSWERS

ADAPTED PHYSICAL EDUCATION

I

Section 504 of the Rehabilitation Act of 1973 provides that no otherwise qualified individual with a disability shall by reason of his/her disability be excluded from the participation in, be denied the rights of, or be subjected to discrimination under any program or activity. The definition of a person with a disability under Section 504 is broader than the definition of "a child with disability" under Article 89 of the Education Law and the Individuals with Disabilities Education Act. To be eligible under Section 504, an individual evaluation of student needs is conducted by a multidisciplinary team, including persons knowledgeable about the child. The multidisciplinary team, based on the evaluation data, recommends placement options and determines accommodations necessary to ensure access to all public school programs and activities. The multidisciplinary team may need to invite a specialist (i.e., physical education teacher, physical therapist, etc.) knowledgeable about the child, to assist with the child's program development. This may include an adapted physical education program.

Should all students be assessed to determine a unique need in the area of physical education?

It is highly recommended that school districts institute a formal assessment program to determine if any student has a unique need in physical education. The first step in an assessment program is screening. The purpose of screening is to identify students who should be evaluated further. A wide variety of measures can be used in a screening process, including those tests which are routinely given by the district (e.g., physical fitness tests) or less formal measures such as checklists and rating scales. Students should be referred for more testing by the Committee on Special Education if:

- a) they consistently score below the 20th percentile (or equivalent) on standardized measures for physical education,
- b) they consistently fall below criterion-referenced standards associated with physical education, or
- c) the physical education teacher feels, based on his/her professional judgment, that the student may have a unique need.

Instituting a formal assessment program does not imply that all students receive an in-depth evaluation.

How does a Committee on Special Education (CSE) determine whether a student needs to receive APE?

The CSE uses the individual evaluation process and the Committee's discussion of those evaluations to determine a student's need for adapted physical education. The individual evaluation must include a physical examination; an individual psychological assessment (an individual psychological evaluation, if determined to be necessary by the school psychologist); a social history; an observation of the student in the current educational setting; and other appropriate assessments or evaluations as necessary to ascertain the physical, mental, and emotional factors that contribute to the student's disability. Additionally, the Committee must consider the academic or educational

achievement and learning characteristics, social development, physical development, and management needs of the student. When a student is referred to the Committee because of unique physical education needs, a physical educator should be included in the evaluation process, as well as in the determination of the need for APE and in the development of the IEP.

Must physical education be included on the Individualized Education Program of students with disabilities?

Yes. The information that needs to be included in the individualized education program (IEP) depends on the physical education needs of the individual and the type of physical education program that is to be provided. Every student's IEP must include a description of the student's physical development in accordance with Section 200.1(kk) of the Commissioner's Regulations. The following descriptions are optional physical education programs that may be seen on an IEP.

- *Regular physical education.* If students with disabilities are enrolled in a regular physical education program, it should be noted on the IEP.
- *Regular physical education with adaptations and/or special equipment.* For these students, the IEP should:
 - a) include under "Present Level of Performance" a brief statement of the physical education needs that require adaptations/special equipment; and
 - b) describe in the educational services component of the IEP the special adaptations/special equipment that are necessary.
- *Adapted physical education.* For these students, a program designed to meet the unique needs of the student should be described in all of the following components of the IEP:
 - present levels of performance and individual needs of the student (e.g., physical development, including motor and sensory development, health, vitality, and physical skills or limitations);
 - the frequency and duration of the APE program;
 - the annual goals and short-term objectives;
 - special equipment and/or adapted devices; and
 - evaluation criteria, evaluation procedures, and schedules to be followed to determine if goals and objectives are met.

Is adapted physical education a related service?

The term "related services" means speech pathology, audiology, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling services, medical services, parent counseling and training, school health services, school social work, other appropriate developmental or corrective support services, appropriate access to recreation, and other appropriate support services which are provided to students with disabilities in order for them to benefit from their special education program. Related services do not include a program of physical education or APE.

How do physical education/special education departments within school districts evaluate district-wide adapted physical education programs?

As with other disciplines, ongoing evaluations/assessments of the effectiveness of the total physical education program should take place in order to identify strengths or weaknesses. Subsequently, it is important to implement changes to strengthen the identified areas of weakness.

Can a parent or physician exempt a student from physical education or APE?

No. In New York State, physical education is required for all students grades K-12, as specified in Section 135.4 of the Commissioner's Regulations. (See Section II)

INTERSCHOLASTIC ATHLETICS

Must students with disabilities be afforded equal access to interscholastic athletic

SECTION II

FEDERAL AND STATE REGULATIONS

FEDERAL AND STATE REGULATIONS REGARDING PHYSICAL EDUCATION

The following are excerpts from federal and State regulations regarding physical education, adapted physical education, and extracurricular activities, such as athletic programs.

PART 300 OF THE CODE OF FEDERAL REGULATION

300.17 Special education

(a) (1) As used in this part, the term “special education” means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including—

(i) . . .

(ii) **Instruction in physical education.**

(2) . . .

(3) . . .

(b) The terms in this definition are defined as follows:

(1) . . .

(2) **“Physical education” is defined as follows:**

(i) **The term means the development of—**

(A) **Physical and motor fitness;**

(B) **Fundamental motor skills and patterns; and**

(C) **Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports).**

(ii) **The term includes special physical education, adaptive physical education, movement education, and motor development.**

(Authority: 20 U.S.C. 1401(a)(16))

§00.307 Physical education

(a) *General. Physical education* services, specially designed if necessary, must be made available to every child with a disability receiving Free Appropriate Public Education (FAPE).

(b) *Regular. Physical education.* Each child with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless—

(1) The child is enrolled full time in a separate facility; or

(2) The child needs specially designed **physical education**, as prescribed in the child's IEP.

(c) *Special physical education.* If specially designed physical education is prescribed in a child's IEP, the public agency responsible for the education of that child shall provide the services directly, or make arrangements for those services to be provided through other public or private programs.

(d) *Education in separate facilities.* The public agency responsible for the education of a child with a disability who is enrolled in a separate facility shall ensure that the child receives appropriate physical education services in compliance with paragraphs (a) and



200.4 Procedures for referral, evaluation, individualized education programs (IEP) development, placement, and review

(c) *Recommendation.* . . .

(1) . . .

(2) If the student has been determined to be eligible for special education services, the recommendation shall:

(i) report the present levels of performance and indicate the individual needs of the student according to each of the four areas listed in section 200.1 (kk) of this Part;

(ii) indicate the classification of the disability;

(iii) list annual goals that are consistent with the student's needs and abilities and short-term instructional objectives and evaluative criteria, evaluation procedures, and schedules to be followed during the period beginning with placement and ending with the next scheduled review by the committee. Such short-term instructional objectives shall be measurable, intermediate steps between present levels of educational performance and the annual goals that are established for a student with a disability;

(iv) indicate the recommended program from the options set forth in section 200.6 of this Part, the class size, if appropriate, and the extent to which the student will participate in regular education programs, including:

(a) **physical education or adaptive physical education;**

(b) occupational education, if appropriate; and

(c) the regular education classes in which the student will receive consultant teacher services;

(v) indicate the projected date for initiation of special education and related services, the amount of time per day the student will receive such services, whether the student is eligible for a 12-month special service and/or program and the identity of the provider of services during the months of July and August, and the projected date of the review of the student's need for such services;

(vi) describe any specialized equipment and adapted devices needed for the student to benefit from education;

(vii) list those testing modifications to be used consistently by the student in the recommended educational program; and

(viii) indicate the recommended placement.

Note: To obtain a complete copy of *Part 200 of the Regulations of the Commissioner of Education* and *Part 300 of the Code of Federal Regulation*, contact your local Special Education Training and Resource Center (SETRC). See Section III for a listing.

PART 100 OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Section 100.2 General School Requirements

(k) *Nondiscrimination in curricular and extracurricular activities.* No student shall be denied membership or participation, on the basis of race, sex, marital status, color, religion, national origin, or **disability**, in any program or activity which is included in a school program of curricular or extracurricular activities, provided that:

(l) **in the case of students with handicapping conditions, such activity shall be appropriate to a student's special educational needs as identified by the Committee on Special Education;**

(2) male and female participation in extraclass athletic activities shall be in accordance with the provisions set forth in section 135.4(c)(7) of this Title;

(3) . . .

(4) . . .

(s) *Students with handicapping conditions.*

(l) Each student with a handicapping condition, as such term is defined in section 200.1(cc) of this Title, shall have access to the full range of programs and services set forth in this Part to the extent that such programs and services are appropriate to such student's special educational needs.

(2) Instructional techniques and materials used by schools shall be modified to the extent appropriate to provide the opportunity for students with handicapping conditions to meet diploma requirements. At each annual review of a student's individualized education program, the Committee on Special Education shall consider the appropriateness of such modifications.

PART 135 OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Health, Physical Education, and Recreation Regulations

Section 135.1 Definition

(e) Adaptive physical education is a specially designed program of developmental activities, games, sports, and rhythms suited to the interests, capacities, and limitations of students with disabilities who may not safely or successfully engage in unrestricted participation in the activities of the regular physical education program.

135.4 Physical education.

(a) *School district plans.* It shall be the duty of trustees and boards of education to develop and implement school district plans to provide physical education experiences for all pupils as provided in this section. Such current plans shall be kept on file in the school district office and shall be filed with the Division of Physical Education, Fitness, Health, Nutrition, and Safety Services*. All school districts shall comply with the provisions of this section by August 1, 1982. However, the requirement for submission of a plan shall become effective by January 1, 1983. A school district may conduct an instructional physical education program which differs from, but is equivalent to, the required program of instruction set forth in paragraph (2) of subdivision (c) of this section, with the approval of the Commissioner. An equivalent program may be implemented only after approval from the Division of Physical Education, Fitness, Health, Nutrition, and Safety Services. A request for approval to conduct an equivalent instructional physical education program shall be filed with the Division of Physical Education, Fitness, Health, Nutrition, and Safety Services, and shall include the:

- (1) program goals and objectives;
- (2) way in which students are to be scheduled and the length of time daily, weekly, monthly, or yearly;
- (3) program activities offered at each grade level or each year of instruction; and
- (4) assessment activities for determining the students' performance toward the goals and objectives of the program.

(b) *Nonpublic schools.* Similar courses of instruction shall be prescribed and maintained in private schools in the State, and all pupils in grades kindergarten through 12 shall attend such courses. If such courses are not established and maintained in any private school, instruction in such school shall not be deemed to be substantially equivalent to instruction given to children of like ages in the public school or schools of the city or district in which the child resides.

(c) *Program plans.* School district plans shall include the following:

- (1) Curriculum. (i) The curriculum shall be designed to:
 - (a) promote physical activity and the attainment of physical fitness, and a desire to maintain physical fitness throughout life;
 - (b) attain competency in the management of the body and useful physical skills;
 - (c) emphasize safety practices;
 - (d) motivate expression and communication;
 - (e) promote individual and group understanding;

* now known as the Office of Curriculum, Instruction, and Assessment

- (f) provide knowledge and appreciation of physical education activities;
- (g) make each individual aware of the effect of physical activity upon the body;
- (h) provide opportunities for the exercise of pupil initiative, leadership, and

(b) as provided in an equivalent program approved by the Commissioner of Education.

(ii) Secondary instructional program—grades 7 through 12. All secondary pupils shall have the opportunity for regular physical education, but not less than three times per week in one semester and two times per week in the other semester, taught by a certified physical education teacher, and all such pupils shall participate in the physical education program either:

(a) a minimum of three periods per calendar week during one semester of each school year and two periods during the other semester; or

(b) a comparable time each semester if the school is organized in other patterns; or

(c) for pupils in grades 10 through 12 only, a comparable time each semester in extraclass programs for those pupils who have demonstrated acceptable levels of physical fitness, physical skills, and knowledge of physical education activities; or

(d) for pupils in grades 10 through 12 only, a comparable time each semester in out-of-school activities approved by the physical education staff and the school administration; or

(e) as provided in an equivalent program approved by the Commissioner of Education.

(3) Attendance. (i) All pupils shall attend and participate in the physical education program as approved in the school plan for physical education and as indicated by physicians' examinations and other tests approved by the Commissioner of Education. **Individual medical certificates of limitations must indicate the area of the program in which the pupil may participate.**

(ii) School district plans shall indicate through the sequential curriculum the steps to be taken to insure that each pupil meets the requirement for participation in a physical education program which complies with the provisions of this section. School districts may award local diploma credit for the required program, and may also submit plans for elective units in physical education for additional credit.

(4) Personnel. (i) Elementary classroom teachers may provide instruction under the direction and supervision of a certified physical education teacher.

(ii) When students participate in out-of-school activities as part of alternative programs, such activities may be taught by noncertified personnel, provided they have appropriate experience and are so approved by the board of education.

(iii) Each school district operating a high school shall employ a director of physical education who shall have certification in physical education and administrative and

supervisory service. Such director shall provide leadership and supervision for class instruction, intramural activities, and interschool athletic competition in the total physical education program. Where there are extenuating circumstances, a member of the physical education staff may be designated for such responsibilities, upon approval of the Commissioner. School districts may share the services of a director of physical education.

(5) Facilities. . .

(6) Administrative procedures. . .

(7) . . .