

# A PEATC

Do You Know....



## Factsheet for Virginia's Parents

### Extra-Curricular Activities – Rights of Students with Disabilities

#### There's More to School Than Academics

When we think about school and the rights of students with disabilities to a free appropriate public education (FAPE) under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973, we usually think of academics. But **school is much more than academics** and students with disabilities have the **right to participate in the full school experience**, including after school activities.

#### The Individuals with Disabilities Education Act (IDEA)

IDEA requires that school divisions provide students with disabilities **appropriate aids and services** to allow the student to participate in extracurricular activities. This includes the provision of *“supplementary aids and services determined appropriate and necessary by the child’s IEP team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.”*

IDEA regulations and Virginia’s special education regulations, provide **examples of extracurricular activities**. These include athletics, clubs, recreational activities, and other activities offered by school sponsored groups. The list is not all inclusive. Accommodations or modifications needed to participate in these activities should be included in the student’s Individualized Education Program (IEP).

#### Section 504 of the Rehabilitation Act

The U.S. Department of Education, **Office of Civil Rights** issued Guidance in 2013 following a finding by the federal General Accountability Office (GAO). The GAO found that students with disabilities participated in athletics at a consistently lower rate than students without disabilities and that school divisions did not have sufficient guidance in this area. The OCR Guidance clarified that **students with disabilities have the right, under Section 504 of the Rehabilitation Act, to an equal opportunity to participate in school extracurricular activities.**

#### References/Resources

[Disability Discrimination at School: Children With Health-Care Issues | Nolo](#)

[DOE Guidance on Legal Obligations for Extracurricular Activities | The Wrightslaw Way](#)

[DOE Guidance on Legal Obligations for Extracurricular Activities | The Wrightslaw Way](#)

[OCR Guidance on Participation in Extracurricular Activities](#)

[PACER Center - Extra Curricular Activities and Students with Disabilities](#)

[VDOE- Virginia Regulations Governing Special Education Services for Students with Disabilities](#)

#### Contact Us:

800-869-6782 / 703-923-0010  
www.peatc.org



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Under Section 504 regulations:

- School divisions must provide qualified students with disabilities **equal opportunity** to benefit from the division's programs as it does students without disabilities.
- Students **do not have to be allowed to participate in selective or competitive programs** where a certain level of skill or ability is required **as long as the selection or competition criteria are not discriminatory**.
- **Prohibits school divisions from denying a qualified student with a disability the opportunity to benefit from an aid, benefit, or service.** They also cannot provide a student with an aid, benefit or service that is **not as effective** as those provided to other students and which does not result in equal opportunity being provided to the student with the disability.
- The school **cannot provide different or separate aids or benefits** to students with disabilities **unless** it is necessary to provide the qualified student with a disability with an aid, benefit or service that is as effective as those provided to students without disabilities.
- Schools must provide **reasonable modifications to programs and policies** to ensure that students have the opportunity to participate **unless** the district is able to show that the modification would fundamentally alter the program.
- The school division **does not have to** create separate or different activities for students with disabilities if they cannot be accommodated in the desired activity. However, if they do create a new activity, it must be equal to the school district's other programs, including athletic programs.
- The school division **is not required to compromise student safety** to ensure that your child can participate in the activity.

The **Americans with Disabilities Act (ADA)** also prohibits schools from discriminating against students with disabilities. It requires schools to grant reasonable modifications in rules, policies, and practices when necessary to allow students with disabilities to fully participate in school programs and services including extracurricular activities. These protections are typically not needed with respect to public schools due to the protections under Section 504. However **only the ADA covers private schools, and only private non-religious schools**. Private religion connected schools are not covered under ADA.

## What is a Fundamental Alteration to a Program

A program modification may be a fundamental alteration if it:

- Alters an essential aspect of the activity or game that would be unacceptable if it affected all competitors equally; or
- The modification would provide the student with a disability with an unfair advantage over other students. For example, in a competitive race, allowing a student to start the race ahead of other students may be a fundamental alteration.

If you believe the **school has denied your child their rights under IDEA, the Rehabilitation Act, or ADA**, you can file a complaint with the school division, with OCR, or with the U.S. Department of Justice (the latter for ADA complaints.)

[OCR Complaint Process \(ed.gov\)](https://www.ed.gov/ocr/complaint-process)

[How to File an ADA Complaint with the Department of Justice](https://www.dhs.gov/ada-complaint)

**PEATC's mission focuses on building positive futures for Virginia's children by working collaboratively with families, schools, and communities to improve opportunities for excellence in education and success in school and community life. For more information about us, please contact:**

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[www.peatc.org](http://www.peatc.org)



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