



June 30, 2014

New Jersey Levels the Playing Field for Student-Athletes with Disabilities

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On June 19, 2014, Governor Christie signed into law a bill requiring school districts to accommodate students with disabilities in school sports. The law, which takes effect in the 2015-2016 school year, requires each school district to ensure students with disabilities are afforded equal opportunities to participate in the district's physical education programs; in existing classroom activities that involve physical activities; and to try out for and, if selected, participate in integrated athletic programs.

The new law incorporates guidance issued last year by the U.S. Department of Education, Office of Civil Rights ("OCR") which reinforced school districts' responsibilities under Section 504 of the Rehabilitation Act of 1973 to provide necessary modifications and/or accommodations to disabled students to allow them to participate in extracurricular athletics to the fullest extent possible. In essence, students with disabilities must be provided the opportunity to participate in these activities and compete with other students in unified athletic programs.

Consistent with OCR's guidance, the new law provides exceptions to including a student in a mainstream athletic or physical education program if the inclusion creates either an objective safety risk to the student or others or "fundamentally alters" the nature of the program. According to the OCR's guidance, a fundamental alteration includes, but is not necessarily limited to, changing the essential elements that affect the nature of the game or giving the student with disabilities an unfair advantage over other competitors.

In the event that the student is unable to participate in a unified or inclusive athletic program, the school district must make reasonable efforts to provide the student with the opportunity to participate in existing adapted sports programs facilitated by community organizations or programs which may be developed on a district, regional or county-wide basis.

CLIENT ALERT

June 30, 2014
Page 2

If you have any questions about the new law, please do not hesitate to contact the School Law attorneys at Schenck, Price, Smith & King, LLP.

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