

# **Step-by-Step: A Practical Guide to Assessing and Achieving Disability Equity in School Sports<sup>1</sup>**

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<sup>1</sup> This guide is based on “Step by Step: A Practical Guide to Assessing and Achieving Gender Equity in School Sports,” with Terri Lakowski, Phyllis Lerner and Donna Lopiano, published by the Women’s Sports Foundation (2009).



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Disability Equity in School Sports

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## Introduction

The Rehabilitation Act (Rehab Act) of 1973 is the federal law that prohibits disability discrimination in all aspects of education, including sports in Section 504. Yet, more than 40 years after the passage of the Section 504, much more work is needed to achieve fairness. Though the numbers of students with disabilities who play sports has increased, students with disabilities still do not have the same opportunities to participate in sports as their non-disabled peers.

To address these disparities, we have created this guide to help parents, students and coaches understand how to become your own advocates for change. Is your school treating its athletes with disabilities fairly? Not sure? We know that as you uncover inequities, you may want to correct them with the fierce determination of athletes striving for victory in sports.

To guide you on your path, we have developed this step-by-step playbook to move you through your disability equity event. We grouped the **Steps** into four quarters, just like a basketball game. That will give you a sense of how to progress and play the game. Just follow these easy, numbered steps to disability equity and make sure that your school is playing the Rehab Act disability equity game the right way.

We have also provided you, as an Appendix, with many samples (or templates) for steps along your way. So, we won't just suggest writing a letter, we'll provide an example that you can tweak to match *your* objectives. We might also offer a petition, a meeting agenda or a rough script to follow in a conference. If your program isn't up to par, these practical plans will help you reach the goal of disability equity.

# First Quarter: Preparation

### **Step One: Understand your Rights**

Start at the beginning. You may have a perception of inequity, and you may be right. But you have to begin the process by sorting out what is *actually* going on. The Appendix provides more information on your rights under Section 504.

### **Step Two: Gather the Facts**

Now that you better understand your rights, if you feel your school is violating Section 504, you'll want to research and write down every valid instance of a discrimination against student athletes with disabilities. Be sure your list includes at least one specific example for each instance of non-compliance. To strengthen your position, take this list with you to any meetings you'll be attending and always include a copy with any correspondence. A good example is specific. For instance: "The wheelchair basketball team wears six-year-old, discolored uniforms, while the boys' basketball team just received brand new uniforms after only three years of use." It is not enough to mention that the adapted teams have old uniforms. The more precise the finding, the more impact you will have with your audience.

As you work your way through (and up) these steps, you will want to include the legal standards required for Section 504 compliance referenced in Appendix One. As you gather facts, you will want to mirror the law's legal standards. Try not to get bogged down, yet look closely at each aspect of Section 504 compliance and include the specific language with your emerging pattern of facts. The Appendix will teach you what to look for in the sports programs at your school and provides a sample chart for documenting your observations.

### **Step Three: Rally a Strong Team**

If your school isn't complying with Section 504, chances are you're not the only one feeling shortchanged. It's important to gather the support of parents or legal guardians, friends, teammates, teammates' parents and anyone else who is willing to get involved. Talk to this "support team" and show them what you've learned. Make sure they know what Section 504 requires. Get as much assistance as possible—at every step of the way. Many of us are "wired" to try to accomplish tasks alone; however, we believe that the best way to get a big task accomplished is through teamwork. There is strength in numbers. Teamwork means tasks can be divided among individuals, which picks up the pace of your efforts. Also, good teamwork helps everyone to stay organized, build pressure and maintain morale. The Appendix provides suggestions for creating and managing your growing team of advocates.

## **Step Four: Prepare Your Case**

It may be hard to believe that your school administrators don't know what Section 504 requires. Help educate them by carefully preparing your case. Have copies of all your resources and research ready to share at meetings. This should include Internet links and hard copies of materials, such as:

1. The handout [\*Know Your Rights\*](#)
2. High school calendars, budgets, newspapers, photographs and other documentation that reinforces your findings
3. The updated list of examples of non-compliance, added to the chart from Step Two. Jotting down a reference (from the [\*Know Your Rights Document\*](#)) will provide legal and visible support for your findings.
4. A petition demonstrates that you are not just a little cadre of characters promoting an unimportant issue. It validates the depth and breath of your efforts by including students, parents and educators who are on your side or at least demand a review of programmatic realities.

Speaking of strength in numbers, do rally other area people with a petition requesting review of and action on your concerns. To be effective, a petition must be brief and well-worded. Each petition should begin with a request, followed by well-researched reasons for making the request. It needs a description of relevant circumstances and links to supporting documentation or facts. Finally, a petition should contain substance that suggests the request is feasible. The Appendix includes petition methodology and a sample. Yours can be housed on a Web site for easy management.

# **Second Quarter: Meetings, Letters, E- mails, Phone Calls**

### **Step Five: Make a Paper Trail**

Create a paper trail as you keep a complete and thorough record of your efforts. Once you start asking for meetings with officials, be sure to write down the name and title of attendees. After each meeting, follow-up with minutes and thank-you notes or emails—even if you don't always feel valued. Each letter should repeat your concerns and restate anything that was decided, or promised to you, during your meeting. In your note, indicate which person made what agreement or decision so that actions steps (before your next meeting) will be accomplished. A tool for tracking your steps is included with the Appendix.

### **Step Six: Educate the Educators**

It's time to approach your school's decision-makers and show them how Section 504's policies are not being followed. Definitely prepare an opening statement—one that is succinct, firm and positive. We know that many of you are tech-savvy and could prepare your presentation with credible facts and fancy visual aides. Do what works for your group. If possible, include teammates, teachers, parents or other supporters in your meetings. Having a whole team (even in their uniforms) behind you will help convince administrators that it's important to abide by the law. Be polite and concentrate on the facts. Even though you might feel angry at some points—do not get angry with any school officials. You must always assume that everyone you meet with will want to do the right thing. We've used our team's experience to create a sample opening statement for you in the Appendix.

### **Step Seven: Talk with the Athletic Director**

A school's athletic director is usually the most direct connection for implementing Section 504. Draft a letter requesting a meeting. Tell the AD about the research you've been doing, explain what you found and why you believe the school is not complying with Section 504. Make sure you include a copy of the Chart of Observations and [Know Your Rights document](#). After the meeting, follow up with a thank-you letter to the athletic director that repeats your concerns. If you are unhappy with the outcome of the meeting, send a copy ("cc:") of your all correspondence to the school principal (or other chief administrator), and school/school district Section 504 Coordinator. The Appendix includes a template and letter of complaint to initiate a request for change in current Section 504 practices.

### **Step Eight: Meet the Principal or Higher Education Dean/Director**

If you are unsuccessful in your talk with the athletic director, work your way up the administrative ladder and schedule a meeting with the principal or appropriate college administrator. In K-12 schools, you will not find it too tough to track the right, or at least next, person en route. Many high schools and most colleges and universities have a Student Policy Manual or Handbook (or a division designed version) that outlines an institution's obligations and students' rights. The content targets the people to see and the places to go regarding academics, student services, university policies and codes of conduct. Often (but



not always) you will find explicit information about Section 504 and/or athletics. In higher education, finding the appropriate dean or department director will be important, yet not always easy. At this step, you are intending to meet and discuss your concerns about Section 504 and sports—not planning to file an official complaint or grievance.

During this next meeting, be sure to review the earlier discussion you had with the athletic director and say why you suspect it was unsuccessful. In fact, know that each time you meet another individual along your route, you will want (and need) to review the steps you have already traveled. Bring your paperwork along and be straightforward in talking about the issues of disability equality and fair play. We've provided a draft script of a 30-minute meeting with your school's principal or college dean in the Appendix.

### **Step Nine: Contact the Section 504 Compliance Coordinator**

If both your athletic director and your principal or college president are unresponsive, you can file a grievance or complaint. To do that, you should contact the school's Section 504 compliance coordinator. (The law requires that every school have one.) One way to discover their name and contact information is to call the school administration. Ask for the Section 504 Compliance Coordinator and don't be surprised if you have trouble getting a name. Many sites tag this job title onto someone with numerous roles—from bus safety to student services.

Once in contact, your first task will be to thoroughly describe (with documentation) every step you have taken thus far. That's why your paper trail and action planning minutes (See Appendix: Step Five) are so valuable. You have created a team of advocates, done your research, prepared your case, circulated a petition, met with the athletic director and principal, and remain confident that winning is everything. You are now ready (and able) to initiate a complaint or file a grievance.

Request the procedure for filing an official Section 504 complaint. Depending on the coordinator's prescribed role and relationship to the institution, the Section 504 person may be energized and supportive of your efforts, or defensive and overwhelmed. Their positive feedback might allow you to partner and re-walk through many of the previous steps, but with another layer of authority. Or, their neutrality could mean that they will just fill their obligation to inform you of the complaint and filing process. If things get a little technical at this point, the Active Policy Solutions will help you proceed through the steps. We've provided some dialogue in the Appendix that might help you during a phone call with your school's Section 504 Coordinator.

Your school is not the only institution required to identify a Section 504 coordinator. The school district office would typically appoint an employee in the human resources or diversity office area, to be the District Section 504 Coordinator. As a liaison between the school site and the state level Section 504 Coordinator (described in Step 14), the district's coordinator is generally available for training and technical assistance. Including your district's Section 504 Coordinator will be beneficial to your advocacy efforts, especially as you begin the third quarter of the "game."

# Third Quarter: When the Going Gets Tough, Go Public

## **Step Ten: Write to your Chief Administrator and Board**

When the going gets tough, go public! To make the right things happen you may need to go over the heads of your school administrators. Consult with your support team, including parents, teachers and coaches. You will benefit from their help and advice.

Moving your concerns to a higher level means contacting the district superintendent and everyone who sits on your local school board. In post-secondary institutions, it's time to communicate with the president and the college's board of trustees. The chief executive and board members' contact information is routinely available through a district or college website. If not, the Office of the Superintendent or President can provide them at your request.

It's best to create a letter—not e-mail—listing your concerns to the administration and board. Include details about past meetings and how each school official has responded. Finish your letter by asking the administration and overseers to investigate the situation you've described. Offer to meet with the chief executive officer and board members to state your case. In addition to your signature, have as many athletes and parents as possible sign your letter. (This would be a good place to include your petition from Appendix: Step Four, along with the other resources.) You should also send separate copies of the letter to individual board members. A template with a sample letter is available in the Appendix.

## **Step 11: Tell your Local Media**

See how the key administrator and board chair respond, or don't respond, to your letter. Sometimes you'll find that nothing happens. If so, gather your teammates [the Advocates for Change] and talk over the possibility of "going public" with your efforts. Remember that taking this step will put you all in the spotlight, so make sure to prepare your supporters for this new level of commitment.

Some advocates may feel hesitant, fearing retaliation, but retribution is illegal. This is why keeping a record is very important. It will allow you to show if you were at risk for working to fix a problem. No matter what, you should feel safe when going public as long as your observations and facts are accurate.

Put together a list of your local newspapers, radio and television stations. Get the names of key editors and senior management. For newspapers, you'll want to seek out the editor-in-chief, the sports editor and the publisher. For radio and television, official titles can vary. Most likely you'll want to contact the news editor, the most senior producer at the station who is responsible for newscast programming, the head of the sports department and the station's general manager. Send them all copies of the same letter.



The Internet has become a very powerful tool, so use it to your advantage. It may be beneficial to talk about your Section 504 concerns in appropriate chat rooms or forums, start your own blog or send out e-mail blasts. You can also send comments or e-mails to different online sportswriters to try to get them interested in your story. A sample letter to the media is in the Appendix.

### **Step 12: Write to Your Legislators**

Everything we've suggested to this point could be considered a logical step...stating your case to people in order to persuade them to do the right thing. Yet we know, even these good-faith efforts might not work. Another way to "go public" is by asking your local, state and federal elected officials for assistance. Responding to voters—parents, legal guardians or even you, if you are of voting age—is important to office-holders. Write a formal message to your policymakers, sign it and also have your parents or guardians add their signatures. If you're using e-mail, it's important to send a copy of via regular mail to encourage a response. The Appendix has both a template and sample letter to a mayor, assisting you to generate your own letter to an elected official. Check out the Web link in the Appendix to find out your policymaker's contact information.

# Fourth Quarter: Playing Hardball—Complaints and Lawsuits

### [Step 13: Keep On Going](#)

We have arrived at the final plateau of our journey, and you have come too far to give up now. You have reached one of those places where you need to know what crucial steps are ahead before you proceed. Your two choices are to file a complaint with the Office for Civil Rights or file a lawsuit, each of which could produce a meaningful result. Part of our mission is to help you think through the pros and cons of these actions as well as suggest the “How to...” steps to move forward. Remember, it’s important to stand up for your rights or the rights of your daughter, son, relative or friend. A matrix will allow you to compare and contrast the available options, and a sample is provided as an Appendix.

### [Step 14: The Section 504 Complaint](#)

The Federal Office for Civil Rights (OCR) is the branch of the U.S. Department of Education, which is responsible for enforcing Section 504. Making a formal complaint to the OCR is not a lawsuit but rather an administrative complaint. An administrative complaint can be filed by anyone; it could come from a parent, an athlete, an entire team or even be initiated by a total stranger. You do not need a lawyer to file a complaint.

#### **Filing the Complaint:**

The best and easiest way to file a complaint with OCR is to use its electronic complaint form at [www.ed.gov/about/offices/list/ocr/complaintintro.html](http://www.ed.gov/about/offices/list/ocr/complaintintro.html).

You may also file a complaint by writing a complaint letter and mailing it to the OCR office in your area. If you choose to file using a letter rather than an OCR complaint form, be sure to include a) the name and address of the person filing the complainant, b) the signature of the person filing the complaint, c) a description of the person or group injured, d) the name of the institution, e) a detailed description of the alleged discrimination, and f) information about when the discrimination occurred or whether it’s ongoing.

While a complaint form requires the name and address of the complainant, the OCR will ensure your confidentiality upon request. On the OCR complaint form, there is a place to request confidentiality. If you file using a letter, be sure to specifically make the request. If possible, TYPE the complaint. Schools are allowed to review the complaint, so if you are worried about the confidentiality of the complaint, we advise you not to handwrite it.

Remember your paper trail (See Step Five): If you file your complaint by mail rather than electronically, be sure to send your letter “Registered Mail/Return Receipt Requested” so that you can document that it was received.

Regardless of how you choose to file your complaint, **it must be filed within 180 calendar days of the date the discrimination occurred**, unless the time for filing is extended by OCR for good cause. The OCR tends to be very strict about its filing deadline; however, there is a



place on the OCR complaint form to specifically request an extension. These are reviewed on a case-by-case basis.

The OCR will not process a complaint that is already being addressed by another government agency or within a school's formal grievance procedure—if the OCR believes that the agency you filed with will handle things comparable to the OCR. Once the other complaint process is completed, you have 60 days to refile your complaint with the OCR. The OCR's first step will be to determine whether to defer to the result reached in the other process.

The investigator or attorney assigned to your complaint may wish to interview you to gather additional information or clarify your concerns. During the interview, provide as much specific information as possible to help demonstrate that there is a specific disparity between the mainstream and adaptive overall sports program in your school district.

Once you initiate an action with the OCR, it's useful to anticipate what steps lay ahead.

**Filing the Complaint:** A complaint letter must: a) be signed, b) contain the name and address of the complainant, c) describe the person or group injured, d) identify the institution, e) describe the alleged discrimination, and f) provide information about when discrimination occurred. Make sure to write down every single discriminatory problem you see at the school. You should never feel that something is too simple or obvious to write down. You must explain how *overall* the facilities for all of the adapted sports programs are inferior to those for the mainstream programs.

**Investigation Process:** The OCR must resolve all complaints in a "timely manner." The OCR says that each case is dealt with on a case-by-case basis, but that on average these are the steps they will mount, as a result of your action.

1. A complaint must be filed within six months of the date of the last act of alleged discrimination.
2. Within seven days, the OCR will acknowledge receipt of the complaint.
3. Within about 30 days of receiving the complaint, a decision on an investigation is made.
4. Over the next month, data is gathered from the school.
5. About a month later, the OCR will set up school interviews and go onto campus for investigation.
6. Within six months, the OCR attempts to have all complaints resolved.

The Appendix has the specific items required to file a complaint with the Office for Civil Rights (See [Appendix, Step 15](#)).

## **Step 15: A Section 504 Lawsuit**

We suspect that no one likes going to court. However, because of your particular circumstances, you may decide to pursue this avenue. The step beyond filing an OCR complaint is a lawsuit. A lawsuit must be filed by a person or by several persons who are directly affected by the discrimination. You will need an attorney. If you need help finding a lawyer, contact the National Disability Rights Network: 202-408-9514 or [info@ndrn.org](mailto:info@ndrn.org). The Appendix provides additional thoughts on pursuing a Section 504 case (See [Appendix, Step 15](#)).

## **Conclusion**

You've been in training and probably feel that with each step, you've mastered a marathon by now. You could be tired, frustrated or in shape! And you may have shaped up your school as well. The issue of disability equity should not be a problem in today's society. Most adults and children presume that schools and publicly funded programs provide benefits and services for all students—equally. With the help of your team—students, parents, teachers, coaches and administrators, you may have broken down barriers.

This Step-by-Step Guide is but one tool that can help you assess and achieve disability equity.

At any point in the process, contact Active Policy Solutions to discuss your situation and get our assistance. E-mail our [Advocacy Department](#) call us at 202.656.1350.

# Appendices



## **Appendix: Step One: (Know Your Rights)**

In order to understand whether your rights have been violated, you must first learn more about the rights of students with disabilities to participate in interscholastic or intercollegiate sports. Active Policy Solutions created this document to assist individuals with disabilities in understanding their rights to equal athletic opportunities. This document is meant to serve as a resource as parents, students and coaches seek to understand the legal requirements pertaining to the provision of equal opportunities for student athletes with disabilities. For more background on the laws, visit: [Know Your Rights](#)

## Appendix: Step Two (Gather the Facts)

### Example: Questions to Ponder

Having studied your school, you certainly have some questions about what is fair and what the standard for Section 504 compliance must be. Here are some questions that will help you assemble observations or facts.

1. Are students with disabilities afforded equal opportunities as students without disabilities to try out for interscholastic athletic teams?
2. Does the school have a policy requiring that students with disabilities requesting accommodations to mainstream athletic programs be provided with an individualized assessment?
3. Has your school relied on justifications besides competitive advantage and changing the nature of a sport to deny a student with disability an accommodation to access a mainstream sports program?
4. If a school has denied an accommodation on the grounds that it is not reasonable, has the student been provided with an opportunity for an appeal?
5. Where a student with disabilities is provided an accommodation to access mainstream sports, does the school work with the student to provide other needed aids and services (i.e. transportation, accessible facilities) to ensure their ability to participate?
6. If a student with a disability cannot be reasonably included in the mainstream programs has the school considered the development of adapted or Unified Sports programs?
7. Does the school provide comparable resources, such as facilities, equipment, transportation and coaching to the adapted sports programs as it does for the athletic programs for students without disabilities?
  - a. For example, do the mainstream programs have brand-new uniforms, after getting new uniforms two years prior, and the adapted teams are still wearing the same old uniforms from four years ago?
  - b. Do the mainstream teams have all brand-new equipment provided by the school and the adapted teams have to share or fix their own equipment?
  - c. When it is time for an away game, does the school provide transportation to the mainstream teams but the adapted teams must provide their own transportation?



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Your questions will now allow you to **Gather the Facts** and chart your observations.

Sample Site Observation/ Observer Date/Time	Details/Facts	Source/ Reference
Parent 3/4/14 Cheerleading Program	My daughter is in 8th grade she is dyslexic. She has an IEP. Cheerleading tryouts were in April, but the school district wouldn't let her tryout because her GPA wasn't a 3.0 I requested the school and the school district to waive the GPA standards due to her learning disability/Dyslexia, but they declined my request.	<a href="#"><u>Know Your Rights</u></a> (Individual Assessment Section)
Track and Field  Julia L. (11 <sup>th</sup> -grade racer)  10/24 4:15 p.m.	I was at track practice today racing on the track with my wheelchair, when the facilities director came over to me and shouted at me to get off the track. He said that my chair was damaging the surface of the track and that I was no longer allowed to race.  I've been using this track for the past 3 months and there is no evidence of any damage, but the Facilities Director forced me to stop racing without examining the situation in detail.	<a href="#"><u>Know Your Rights</u></a> (Stereotypes)

## Appendix: Step Three (Rally a Strong Team)

### Example: Gathering Supportive Advocates

1. Gather names of people that share your values, such as sports, disability equity and fairness.
2. Add people committed to equality including parents, former and current athletes, coaches and members of the administration.

<b>Sample Name/Contact Information</b>	<b>Special Interests/Skills</b>
<i>Sample Entry</i> Erica F. E-mail Preferred phone Address	Graphic designer, former HS basketball player, parent of 11 <sup>th</sup> -grade daughter with disability playing JV basketball, son on varsity boys' basketball team

3. Show your new “teammates” the [Know Your Rights Document](#) and any other information you have gathered. Find out if anyone else has any information to share that would help. Add to the gather Your Facts chart from Step Two. Encourage people to go online and grade their schools as well.
4. Set up time for the group to organize, strategizing ways to get something done.
  - a. Provide snacks/lunch/dinner and have teammates talk over Section 504 as you bounce ideas around. Food and the informality are good conversation starters.
  - b. Different people may have varied connections within or outside the school that may be helpful.
5. Being on a team also means you can divide duties, like playing different positions. Maybe someone has time during the day to get signatures for a petition, while someone else knows a lawyer that would provide advice.
6. Having a large, yet manageable size group matters. Your school administration may be more likely to fix the problem with pressure from lots of local people, anxious about media coverage or outsiders.

## Appendix: Step Four (Prepare Your Case)

With a team, your case will have additional credibility if you have a petition that demonstrates your support for Section 504 compliance. Don't clutter your petition with information or requests that have no essential connection to the main message. Read over your petition carefully, trying to make sure it is clear and concise. Make sure it:

1. Describes the situation,
2. Suggests what is needed, and
3. Explains why it is needed.

Here is an example of a student petition to administrators.

### Description/History

Dear Athletic Director, StepUp High School:

On Friday, October 10<sup>th</sup>, 14 members of the Section 504 Advocacy group made school-wide observations regarding disability inequities in sports. Our findings included the following realities, all disadvantaging students with disabilities participation in athletic programs.

1. [List very specific concerns] Parents of the adapted and mainstream basketball varsity teams work at the snack booth for all football and basketball games, but the money they raise only supports mainstream sports.
2. When a mainstream student athlete gets his first sports letter, he's able to buy a letter jacket (that's sized and styled for him). Even if an adapted sports athlete wanted a jacket, there's nothing available.
3. We have these huge seasonal pep rallies for the mainstream sports, but the adapted sports athletes are not included at all.
4. [List any additional concerns]...

The federal Section 504 law guarantees that disability should not determine the quality or quantity of a student's athletic experience in our school. We, the undersigned, recognize that our school has not been playing fair for students with disabilities in sports, and we call on the administration and the athletic department to remedy the situation. We request a full athletic assessment of our school's compliance with Section 504 and a planned and speedy achievement of the law's requirements by July of this year.

### **Name Address/Contact information**

1. \_\_\_\_\_
2. \_\_\_\_\_

To write and distribute a petition electronically, use [www.gopetition.com/howtowriteapetition.php](http://www.gopetition.com/howtowriteapetition.php).

## Appendix: Step Five (Make a Paper Trail)

We strongly suggest that you keep copies of everything. Be conscientious about creating a record of each attempt you've made to address disability discrimination. Maintain a separate set for every meeting or conversation (with dates and results). And don't forget to document phone calls by taking down notes. You may need to show this "history" later on. If you procrastinate, it will be very difficult, if not impossible, to accurately reconstruct everything that has happened.

So, we are offering a tracking tool, really just concepts of materials and methods for retaining a log of your efforts. Using the Action Planning Minutes Chart from your meetings, calls and other communications will help you to stay on track.

### Action Planning Minutes Chart

Sample Contact Person/ Date/Day Agenda Item	Report Out	Next Steps?
Kayan B.  10/6  Uniform Disparities: Interviewed the Wheelchair Basketball Captains from the past 3 years	Wheelchair basketball athletes have complained about their uniforms for 4 years, describing them as dated and not fitting their teammates. People in the gym make fun of them, even during practices, about their attire. (interview notes filed).	Contact (in the next 2 weeks) the b-ball coaches and AD to find out how uniforms are typically ordered for all teams. Try to identify if there is a cycle based on wear, disability, costs, sport hierarchy, booster clubs, etc.

Please be sure to use the content and text from the legal standards and language for Section 504 in any letters or documents sent to school officials to explain why you feel the treatment of your program violates Section 504.

## Appendix: Step Six (Educate the Educators)

### Example: Draft Opening Statement for the Advocate Group's First Meeting

Welcome, Everyone.

We are gathered here today to bring attention to a serious situation. We have confidence that everyone knows the guidelines of Section 504. A school is obligated to ensure that it provides its male and female athletes with disabilities comparable benefits, resources and participation opportunities as student athletes without disabilities. [The example that follows focuses on treatment of athletes. If your group's concern is related to opportunities to participate or funding (you want an adapted varsity soccer team), please target that in your statement.] The treatment categories may include: equipment, facilities, publicity, scheduling, coaching, travel and daily allowance, training (medical) [tutoring, recruitment, housing/dining-typically in high education] and support services.

As a group, we believe that our students should understand the value of equality and that this lesson should first be learned at home as well as realized in school. However, the students and athletes of [insert school name] do not experience a model of equality. Therefore, as the group **Advocates for Change**, we are willing to ensure that our school's student athletes have fair treatment.

Everyone here should understand the inequities that currently exist between the adapted and mainstream athletic programs in our school. I am pretty sure everyone has their own story to share. We will provide sufficient time to share those throughout this process. Our individual stories represent problems strictly prohibited by Section 504.

Let's listen to just three today...

- 1.
- 2.
- 3.

The next phase of our plan focuses on meeting with the athletic director and principal [or college president]. Each of us has the potential to educate them on situations at our school. As a group, we need to sort through approaches for each meeting. In addition to raising awareness, we must call for **action**. We want to leave each meeting with the appropriate person agreeing to fulfill a request.

## Appendix: Step Seven (Talk With the Athletic Director)

### Example: Initial Advocate's [Parent] Letter to the Athletic Director

This may be your first official letter, drawn from the work of your advocacy committee. It requires several general yet crucial components. First note a template, which will need your particular additions, in order to become a useful letter of advocacy. If you have collected signatures on a petition (Step Four), include that with your letter and the steps yet to come.

[Your Address/Contact Information]

[Date]

To [Athletic Director]:

On [date], I [observed] a [circumstance out of compliance with Section 504]. I am disappointed because our [school site] has [not performed as it should, is wrong] because [state the problem as you understand it giving as much detail as possible].

A school is obligated to ensure that it provide a qualified student with a disability an opportunity to benefit from the institution's athletics program equal to that of students without disabilities. [The example that follows focuses on treatment of athletes. If your group's concern is related to opportunities to participate or funding (you want an adapted varsity soccer team), please target that in your statement.] The treatment categories may include: equipment, facilities, publicity, scheduling, coaching, travel and daily allowance, training (medical) [tutoring, recruitment, housing/dining-typically in high education] and support services. [Add specific standard language from Step Two.]

To resolve the problem I would appreciate your [state the action you require]. Enclosed is [a copy/are copies] of the [documentation, supporting resources] that supports my concern.

I look forward to hearing from you and to a resolution of this problem. I will wait for [set a time limit] before seeking help from [the school's Principal or Section 504 Coordinator]. Please contact me at the above locale, e-mail address or by phone [give e-mail address and/or phone numbers].

Sincerely,  
[Name]

A Concerned Parent  
cc. [send copies to other related parties]



Now, let's see how a sample letter looks when the text is filled in with a story drawn from our files.

1150 17<sup>th</sup> St., NW  
Washington, DC 20036  
Cparent@emailaddress.net

October 25, 2008

Athletic Director  
Stepup High School

Dear A. Roadblock:

As a parent and sports fan of Stepup High School, I have cheered for wonderful teams and athletes over the years. However, it pains me to see some inequalities and inconsistencies occurring in athletics. As you may already know, Section 504 is the portion of the Education Amendments of 1972 that prohibits disability discrimination in educational institutions that receive any federal funds. In brief:

*No person in the United States shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.*

As I'm sure you are aware, a school is obligated to ensure that it provide a qualified students with a disability an opportunity to benefit from the institution's athletics program equal to that of students without disabilities. These benefits include: equipment, facilities, publicity, scheduling, coaching, travel and daily allowance, training (medical) and support services.

Therefore, I want to present several disparities that I have witnessed. I have done an assessment of the school and its athletic opportunities for both athletes with and without disabilities. I have seen the difference in equipment quality and quantity for athletes with disabilities, including overused tennis balls and cheap rubber versus leather balls for volleyball. Also the lack of adequate facilities for both basketball teams has resulted in the wheelchair basketball team going off-site to public courts, while the mainstream team stays here at school. I have noted that for the past four years, the wheelchair basketball team has played in the same old uniforms, but the mainstream basketball team has new uniforms every other year. As someone who had a son playing mainstream varsity sports for three years, I have a unique vantage point for these comparisons.

These are just a few of the problems I have observed, and I chose to bring these issues to you so that we can rectify them quickly. I have included copies of "[\*Know Your Rights\*](#)," an Active Policy Solutions publication that explains all about Section 504, a federal requirement. I know that you have the responsibility to see that changes are made and you would want our student-athletes to experience the law's intent. I will call your office in the next five days to make an appointment so that we can determine together our next best steps.

Sincerely,  
*P. A. Rent*

cc: The Stepup HS Section 504 Advocacy Group

## Appendix: Step Eight (Meeting with the Principal or College Administrator)

### Example: Draft Script for Meeting with the Principal [or College Administrator]

When you plan a meeting with a high-level school administrator, you need to prepare a tight outline (even with minute cues for a 30-minute session) to keep your group on task.

[3-5 minutes] **Introduction:** Thank you for taking time out of your busy schedule to speak with us. Let's briefly introduce ourselves by name first. [name and role of all attendees] I know we must improve the quality of our sports programs by improving their *equality*. We have confidence that you know Section 504's guidelines. We have provided several supplemental materials that have guided our efforts.

[4-5 minutes] **Student/Athlete:** I am a student-athlete with a disability and have played for three years on two teams. As a participant, I have seen differences in our treatment, including facilities and equipment. A school is obligated to provide students with a disability an opportunity to benefit from the institution's athletics program equal to that of students without disabilities. [The example that follows focuses on treatment of athletes. If your group's concern is related to opportunities to participate or funding (you want an adapted varsity soccer team) please target that in your statement.] These benefits may include: equipment, facilities, publicity, scheduling, coaching, travel and daily allowance, training (medical) [tutoring, recruitment, housing/dining-typically in high education] and support services.

*Specific examples: The wheelchair basketball team has all of its games at 4 p.m. and the mainstream basketball team plays games at 7 p.m.; the booster club paid for a new uniforms for the mainstream team while the wheelchair team's uniforms badly need replacement.*

[4-5 minutes] **Parent:** The examples presented represent a few of the problems prohibited by Section 504. Plus, I have received [Know Your Rights: Disability Sports](#) that outlines the guidelines for Section 504, which I have included along with the examples of non compliance for your review.

[3-4 minutes] **Team Captain:** A school is obligated to ensure that the overall benefits and treatments of the athletes with and without disabilities are comparable. Under Section 504, budgets for adapted and mainstream teams do not have to be equal, but the bottom line is that the benefits provided must be equal, such as with equipment, facilities, publicity, scheduling, coaching, travel and daily allowance, training (medical) [tutoring, recruitment, housing/dining-typically in high education] and support services.



[5-6 minutes] **Supporter:** What suggestion might you offer as a next step for us? [open conversation] Perhaps you would call an action meeting with your staff and discuss these matters. We will partner with you all to rectify the current concerns and introduce guidelines to make sure the problems do not reoccur. Keeping us involved will support transparency and model the community-school partnership that is so effective.

[4-5 minutes] **Closer:** I'll analyze briefly what has been presented today. [Review the opening comment, athlete's perspective, parent's input and supporter's viewpoints.] Now more importantly, let's restate what our plan is to move forward on Section 504 compliance. Would each of you summarize what *your* next step will be? [Take notes so that you have confirmation and direction when you leave the meeting.]



Following the meeting, within 2-3 days, write a letter of thanks to the school administrator. It's important to review the meeting, including a restatement of what happened from the opening introduction and the student and parent revelations to what your group wants to occur to what the school officials promised to do in a step-by-step manner.

**Example: Draft Thank-You Letter for Meeting with the Principal or College Administrator**

Note that the sample provides several key places to insert your own story and details.

[Your Address/Contact Information]

[Date]

To [Administrator]:

On [date], the [Advocates for Change] met with you to review findings that show our school's non-compliance with Section 504. We are so grateful for your time, demonstrating your willingness to examine the law's policies and practices for our student athletes.

The reasons for our meeting remain clear. We have several explicit disability disparities [insert your own examples] regarding facilities, uniforms and overall support (or non-supportive) services that consistently favor athletes without disabilities and their programs over the athletes with disabilities.

We agreed on the following course of action [describe your own results] driven by a newly established Task Force for Equity:

- 1) Meeting with AD and administrative staff to analyze data, with information to be submitted within 20 days.
- 2) Establish a time line of financial compliance for the current and next budget cycle.
- 3) Meet with the administrative team, coaches and support staff, within 30 days, to clarify campus compliance with Section 504 and invite solutions for this year.
- 4) *[Whatever else you need to describe.]*

Incidentally, the new and disability-balanced publicity materials you shared provide concrete hope that our progress will continue. [Add any positive meeting outcomes.] We remain appreciative of your agreement to develop a Task Force for Equity. On behalf of our committee, I look forward to hearing from you in the next week with the meeting date, place and the short range objectives. Please contact me [via e-mail address] or by phone [list numbers].

Sincerely,

[Name]

*P. A. Rent*

cc: [The StepUp HS Section 504 Advocacy Group and previous contacts]

## **Appendix: Step Nine (Contact the Section 504 Compliance Coordinator)**

### **Example: Initial 1-on-1 Conference Opening with Section 504 Compliance Coordinator**

Once you get the chance to speak with the Section 504 Compliance Coordinator, begin by reviewing all the steps you have covered. While this review may seem tedious to you, each new individual needs to know that they are not your first point of contact. They are part of a series of steps you have made, and will continue to make, on behalf of Section 504 and fairness.

Please remember, that the example which follows is just that! You will need to communicate your concerns and highlight the specific inequities drawn from your school's situation.

“Hi, I am connecting with you because I have not received the proper guidance from others regarding Section 504 issues at this university. I believe that we do not provide equitable facilities to the adapted sports programs when compared with the mainstream program and that could be a Section 504 violation.

I have witnessed the *[provide specific examples of disparities here]*

I do not believe this treatment is fair and something needs to be done about it. Therefore, I am bringing this situation to light, hoping that when the school knows the program discrepancies, we can fix them. I would like to know the procedure for filing a Section 504 grievance or complaint against the school. What are the next steps I must make and how will you assist me?”



## **Appendix: Step Ten (Write to your Chief Administrator and Board)**

This may be yet another official letter, drawn from the work of your advocacy committee. Each version requires several general yet crucial components. First note the template, which will need your particular additions, in order to become a useful letter of advocacy.

[Your Address/Contact Information]

[Date]

To [Superintendent/President and Board Members]:

On [date], I [observed] a [circumstance out of compliance with Section 504]. I am disappointed because our [school site or district.] has [not performed as it should, is wrong] because [state the problem as you understand it giving as much detail as possible].

A school is obligated to provide students with a disability an opportunity to benefit from the institution's athletics program equal to that of students without disabilities. [The example that follows focuses on treatment of athletes. If your group's concern is related to opportunities to participate or funding (you want an adapted varsity soccer team) please target that in your statement.] These benefits may include: equipment, facilities, publicity, scheduling, coaching, travel and daily allowance, training (medical) [tutoring, recruitment, housing/dining-typically in high education] and support services.  
[Add specific standard language of Section 504.]

To resolve the problem I would appreciate your [state the action you require]. Enclosed is a copy/are copies of the [documentation, supporting resources] that supports my concern. I look forward to hearing from you and to a resolution of this problem. I will wait for [set a time limit] before seeking help from [an attorney; the state Section 504 Coordinator; the Office for Civil Rights]. Please contact me at the above locale, e-mail address or by phone [give numbers].

Sincerely,

[Name]

A Concerned Citizen and Parent

cc: [send copies to other related parties]



**Example: Formal Letter to the Chair: Board (of Education)**

[Your Address/Contact Information]

[Date]

Dear Board Chair Russ Tration,

I have been a proud parent of three students in our K-12 district, and I have watched and supported their achievements as both students and student athletes. I am also an advocate for equality, and I am reaching out to correct local inequities, especially in athletics. I have been on a step-by-step journey to correct problems, but unfortunately I have met astonishing roadblocks. I have spoken with many individuals who have power to make changes. Regrettably, they have neither done so, nor do they seem to care. Therefore, I am writing you in an effort to guarantee change—understanding that equality must be evident across all of our campus programs and services.

A school is obligated to provide students with a disability an opportunity to benefit from the institution’s athletics program equal to that of students without disabilities. These benefits may include: equipment, facilities, publicity, scheduling, coaching, travel and daily allowance, training (medical) [tutoring, recruitment, housing/dining-typically in high education] and support services.

There are many differences in the athletic programs for our students with and without disabilities. Issues include quality of equipment, lack of proper facilities, and coaching. As a parent, I come to many of the after-school and evening events and I am distressed by the condition of the adapted sports teams gear. *[Provide more specific examples of disparities here]*

These conditions represent just a few school problems involving equality between the athletes with and without disabilities. I have spoken with the athletic director [name and date] and the school principal [name and date] and neither have done anything to remedy the problem or even provide the due diligence these issues require.

I have included my notes from both meetings and several resources from Active Policy Solutions. Therefore, I am seeking a meeting with you as the School Board Chair, to personally relay my concerns and feel confident that my voice will be heard. Then we can put a strategy in place to fix the problems, being sure Section 504 compliance is achieved. I will contact your office by phone this week, looking to establish a date for our initial meeting.

Sincerely,

*P. A. Rent*

cc: The StepUp HS Section 504 Advocacy Group, District Superintendent Dr. Rightmove

## Appendix: Step 11 (Tell Your Local Media)

This example letter is a sample meant to describe and engage the local media in a Section 504 pitch. While written to demonstrate a concern for a local college, it could be revised to accommodate the needs and interests of high school students.

[Your Address/Contact Information]

[Date]

Dear [Media Target]

I have distressing news about our higher education system and its choice to avoid fixing a big problem. Our local college [school name] ignores its responsibility to provide a fair and equal experience for all its students. In this case, I am speaking about athletics and the requirements of Section 504. A school is obligated to provide students with a disability an opportunity to benefit from the institution's athletics program equal to that of students without disabilities. [The example that follows focuses on treatment of athletes. If your group's concern is related to opportunities to participate or funding (you want an adapted varsity soccer team) please target that in your statement.] These benefits may include: equipment, facilities, publicity, scheduling, coaching, travel and daily allowance, training (medical) [tutoring, recruitment, housing/dining-typically in high education] and support services.

The athletes with disabilities face inequalities in funding, facilities, equipment, and travel. And I am linked to the college as my daughter is enrolled and my taxes provide monetary support. [College name] has done a great disservice to its athletes with disabilities. [*Describe disparities here and compare it to athletes without disabilities*]

When I spoke with school administrators, the athletic director [name and date] and the dean (name and date) both explained that new men's equipment and facilities were covered by the Alumni Booster Clubs and that the school did not have the resources to provide comparable amenities for the athletes with disabilities' programs. This type of treatment is a clear violation of Section 504. Neither administrator has taken our complaints seriously. Therefore, nothing is being done about this horrible situation.

While these inequities might be apparent in other communities, we are ready to take a stand and make changes here. I urge you to investigate with us because the consequences for our women are unacceptable. On behalf of [Advocates for Change], please contact me to plan a site visit. We will set up meetings and interviews, allowing your reporters (and photographers) to see and hear the weight of our concerns.

Sincerely,

*Red T. Go*  
Advocates for Change



## Appendix: Step 12 (Write to Your Legislators)

This may be one more formal letter, drawn from the work of your advocacy committee. Each version requires several general yet crucial components. First note the template, which will need your particular additions, in order to become a useful letter of advocacy. Writing to an elected official is a big step, yet know that your response may vary widely depending upon the official's locus of control and the availability of support staff and resources.

Checkout our Web link to find your policymaker's contact information.

<https://www.govtrack.us/congress/members>

[Your Address/Contact Information]

[Date]

Dear (State Legislator/Mayor),

On [date], I [observed] a [circumstance out of compliance with Section 504]. I am disappointed because our [college site.] has [not performed as it should, is wrong] because [state the problem as you understand it giving as much detail as possible]. A school is obligated to provide students with a disability an opportunity to benefit from the institution's athletics program equal to that of students without disabilities. [The example that follows focuses on treatment of athletes. If your group's concern is related to opportunities to participate or funding (you want an adapted varsity soccer team) please target that in your statement.] These benefits may include: equipment, facilities, publicity, scheduling, coaching, travel and daily allowance, training (medical) [tutoring, recruitment, housing/dining-typically in high education] and support services.

To resolve the problem, I would appreciate your [state the action you require]. Enclosed [is a copy/are copies] of the [documentation, supporting resources] that supports my concern.

I look forward to hearing from you as well as a resolution to this problem. I will wait for [set a time limit] before seeking help from [an attorney; the State Section 504 Coordinator; the Office for Civil Rights]. Please contact me at the above locale, e-mail address or by phone [give numbers].

Sincerely,

[Name]

A Concerned College Student, Athlete and Community Activist  
cc. [send copies to other related parties]



**Example: Letter to the City Mayor**

[Your Address/Contact Information]

[Date]

Dear Mayor Matters,

Thank you for being an elected official who focuses on issues plaguing students in today's schools and colleges. My concern, the disability disparities for athletes at Nofair University stems from a lack of compliance with Section 504. A school is obligated to provide students with a disability an opportunity to benefit from the institution's athletics program equal to that of students without disabilities. These benefits may include: equipment, facilities, publicity, scheduling, coaching, travel and daily allowance, training (medical) [tutoring, recruitment, housing/dining-typically in high education] and support services.

I have spoken with many people in varied job roles about these issues, but their lack of corrective actions obligates me to request your assistance. As I have explained to our athletic directors and administrators, the unequal treatment of female athletes at Nofair U. is unlawful. The problems, including poor equipment, unsatisfactory facilities, limited funding and insufficient coaching, are all violations of Section 504. The mainstream athletics programs do not face any of these limitations. Some adapted sports teams even raise money to cover travel and food, while the mainstream programs receives full funding for all they do.

As citizens, we expect our students to learn many different lessons in higher education, including the valuable lifetime lessons athletes experience through sports. However, allowing programs to discriminate by treating students with disabilities unfairly sends a terrible message and should be quickly corrected. While some officials might avoid working on this problem, I know that with your help we can accomplish the needed changes. I will contact your office in the next week to find the name of a legislative aide who will monitor and track your response to my request.

Sincerely,

*Needa Chance*

A Concerned College Student, Athlete and Community Activist, Nofair University

### Appendix: Step 13 (Keep On Going)

You have come to a serious plateau in your step-by-step process. Any step you take will require some planning, noted by both pros and cons. And, one option does not delimit the need or possibility of going the other or both ways. You and your committee (we hope you still have the team on your side) will need to see which route you want to go. Will you file a Section 504 complaint with the Office for Civil Rights? Or, will you initiate a Section 504 lawsuit? Read through Steps 14-15 and use this chart below to capture your research.

Option	Benefits	Consequences
Filing a Section 504 Complaint with the Office for Civil Rights	<ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> <li>4.</li> <li>5.</li> <li>6.</li> </ol>	<ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> <li>4.</li> <li>5.</li> <li>6.</li> </ol>
Initiating a Section 504 Lawsuit	<ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> <li>4.</li> <li>5.</li> <li>6.</li> </ol>	<ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> <li>4.</li> <li>5.</li> <li>6.</li> </ol>

As you examine the advantages and disadvantages of these steps, are you best able to see which route is best for your concerns?



## Appendix: Step 14 (Crafting and Filing an OCR Complaint)

### Example: Crafting an OCR Complaint

The best and easiest way to file a complaint with the OCR is to use its electronic complaint form at: [www.ed.gov/about/offices/list/ocr/complaintintro.html](http://www.ed.gov/about/offices/list/ocr/complaintintro.html).

You will need to include the information below with your submission.

U.S. Department of Education  
Office for Civil Rights  
(Region)  
(Address)

List of OCR Regional Offices:

<https://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm> !

#### A. Complainant's Information

1. Advocates for Change  
(Address)  
(Phone Number(s))  
(E-mail)

#### B. Filing on Behalf of Another

1. Names of Person(s) Discriminated Against:  
Attached is a list of persons who have been discriminated against in athletics at (school).  
(It is requested that this list remain confidential because of fear of retaliation).
2. Person(s) discriminated against: athletes with disabilities,

#### C. Institution

1. (School Name)  
(Address)
2. Complainant is filing on behalf of student, (others if necessary)

#### D. Bases and allegations

1. Reason for Discrimination: Disability
2. The alleged discriminatory conduct includes the following:

[The list of examples we have provided is both long and deep. They are provided only to help you word the content of your complaint and get a better understanding of what types of situations OCR will find violate Section 504.

*Please Note: the more details you include about the alleged discrimination the better. Always tie the conduct of the school back to how it violates Section 504. These examples provide situations to illustrate the different requirements schools have under Section 504.*

### Examples<sup>2</sup>

#### **Impermissible Stereotypes and Generalizations**

**Example 1:** A student has a learning disability and is a person with a disability as defined by Section 504. While in middle school, this student enjoyed participating in her school's lacrosse club. As she enters the high school, she tries out and is selected as a walk-on on the school's lacrosse team. The coach is aware of this student's learning disability and believes that all students with the student's particular learning disability would be unable to perform well under the time constraints and pressures of an actual game at the high school level, but admires the student's passion for the game and level of effort displayed during practices. Based on this assumption, the coach decides never to play this student during games. In his opinion, participating fully in all the team practice sessions is good enough.

**Analysis:** OCR would find that the coach's decision violates Section 504. The coach denied this student an equal opportunity to participate on the team by relying solely on characteristics he believed to be associated with her disability. A high school, including its athletic staff, must not operate on generalizations or assumptions about disability or how a particular disability limits any particular student. Rather, the coach should have permitted this student an equal opportunity to participate in this athletic activity, which includes the opportunity to participate in the games as well as the practices. The student, of course, does not have a right to participate in the games; but the coach's decision on whether the student gets to participate in games must be based on the same criteria the coach uses for all other players (such as performance reflected during practice sessions).

#### **Fundamental Alteration**

**Example 2 (reasonable and necessary modification):** A student has a disability as defined by Section 504 due to a hearing impairment. The student is interested in running track for the school team. He is especially interested in the sprinting events such as the 100 and 200 meter dashes. At the tryouts for the track team, the start of each race was

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<sup>2</sup> These case examples are based on the examples in the "Dear Colleague Letter." *Office for Civil Rights*. January 24, 2013. (retrieve at <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201301-504.html>).

signaled by an assistant coach using a visual cue, and the student's speed was fast enough to qualify him for the team in those events. After the student makes the team, the coach also signals the start of races during practice with the same visual cue. Before the first scheduled meet, the student asks the State High School Athletic Association and the school's athletic Conference that a visual cue be used at the meet simultaneously when the starter pistol sounds to alert him to the start of the race. Visual cues as an alternative start in their track and field meets is used in many high school track meets. Those districts report that their runners easily adjusted to the visual cue and did not complain about being distracted by the use of the visual cue.

After conducting an individualized inquiry and determining that the modification is necessary for the student to compete at meets, the State High School Athletic Association/Conference nevertheless refuses the student's request because of their concern that the use of a visual cue may distract other runners and trigger complaints once the track season begins. The coach tells the student that although he may practice with the team, he will not be allowed to participate in meets.

*Analysis:* OCR would find that the school district's decision violates Section 504. While the State High School Athletic Association/Conference/School is entitled to set its requirements as to skill, ability, and other benchmarks, it must provide a reasonable modification if necessary, unless doing so would fundamentally alter the nature of the activity. Here, the student met the benchmark requirements as to speed and skill in the 100 and 200 meter dashes to make the team. Once the school determined that the requested modification was necessary, the school was then obligated to provide the visual cue unless it determined that providing it would constitute a fundamental alteration of the activity. In this example, OCR would find that the evidence demonstrated that the use of a visual cue does not alter an essential aspect of the activity or give this student an unfair advantage over others. The State High School Athletic Association and school should have permitted the use of a visual cue and allowed the student to compete.

*Example 3 (competitive advantage):* A high school student was born with only one hand and is a student with a disability as defined by Section 504. This student would like to participate on the school's swim team. The requirements for joining the swim team include having a certain level of swimming ability and being able to compete at meets. The student has the required swimming ability and wishes to compete. She asks the school district to waive the "two-hand touch" finish it requires of all swimmers in swim meets, and to permit her to finish with a "one-hand touch." The school district refuses the request because it determines that permitting the student to finish with a "one-hand touch" would give the student an unfair advantage over the other swimmers.

*Analysis:* A school district must conduct an individualized assessment to determine whether the requested modification is necessary for the student's participation, and must determine whether permitting it would fundamentally alter the nature of the

activity. Here, modification of the two-hand touch is necessary for the student to participate. In determining whether making the necessary modification – eliminating the two-hand touch rule – would fundamentally alter the nature of the swim competition, the school district must evaluate whether the requested modification alters an essential aspect of the activity or would give this student an unfair advantage over other swimmers.

OCR would find a one-hand touch does not alter an essential aspect of the activity. If, however, the evidence demonstrated that the school district’s judgment was correct that she would gain an unfair advantage over others who are judged on the touching of both hands, then a complete waiver of the rule would constitute a fundamental alteration and not be required.

In such circumstances, the school district would still be required to determine if other modifications were available that would permit her participation. In this situation, for example, the school district might determine that it would not constitute an unfair advantage over other swimmers to judge the student to have finished when she touched the wall with one hand and her other arm was simultaneously stretched forward. If so, the school district should have permitted this modification of this rule and allowed the student to compete.

### **Direct Threat to Safety**

*Example 4:* A student-athlete who plays football for his high school has ocular albinism a recognized disability under Section 504. He requested that he be permitted to wear a tinted visor on his football helmet to block sunlight due to his extreme sensitivity to sunlight. The State High School Athletic Association’s football rules provide that Eye shields must be clear, not tinted, and made from molded or rigid material and that no medical exceptions are allowed, therefore, the school refused his request because the tinted visor would require paramedics to remove his helmet to see his pupils in the event he was injured on the field and needed to be evaluated for a concussion. Removing the helmet under those circumstances would be dangerous to his health. Alternative devices such as tinted eyewear were not effective and interfered with his performance having to stop frequently to adjust the glasses.

*Analysis:* OCR would find that the school had violated Section 504 by failing to make a reasonable modification of its policies, practices, and procedures to permit the student-athlete to use the tinted visor when playing football. If students with disabilities are excluded from participation in an athletic activity, it must be based on an individualized assessment that inclusion of the student presents an objective and direct risk of harm. A school must conduct an individualized assessment to determine whether the requested modification is necessary for the student’s participation, and must determine whether permitting it would create an objective and direct safety risk. In order to deny the request the school must prove that the modification would create a substantial risk of

significant harm. In this situation, the visor could be removed rather than the helmet for purposes of concussion assessment if that circumstance arose.<sup>3</sup> Since other modifications were not effective, the school should permit the student to wear the tinted visor.

### **Auxiliary Aids and Services**

*Example 5 (insulin administrative and assistance):* A student-athlete with diabetes is determined to have a disability under Section 504. In order to participate on the team, the student is provided services under Section 504 that include assistance with glucose testing and insulin administration from trained personnel during practices and home games. However, the athletics department has told the athlete that they are not able to provide those same services for road games, therefore, the student will not be part of the traveling squad. The School agrees that the services are necessary but respond that it is cost prohibitive to include additional staff on road trips.

*Analysis:* OCR would find that the school's decision violates Section 504. The student needs assistance in glucose testing and insulin administration in order to participate in activities both during on campus activities and off-campus activities. To meet the requirements of Section 504, the school must provide this needed assistance while traveling to compete away from campus. The student needs this assistance in order to fully participate on the team, and providing this assistance to this student would not constitute a fundamental alteration of the district's education program or impose an undue burden on the school.

*Example 6 (qualified language interpreter):* A student-athlete is deaf and uses sign language for communication. For effective communication during a tennis match, a qualified sign language interpreter is required. The school tennis team provides sign language interpreting services during all school-sponsored tennis matches. During a conference tournament, the event director, in response to an opposing coach's protest, prohibited a sign language interpreter from providing interpreting services during the game, except between the sets or before and after the match. After the ruling, the athlete was unable to communicate effectively with her partner and opposing players during the game.

*Analysis:* OCR would find that the school and conference discriminated on the basis of disability against an individual with a disability by refusing to permit the use of a sign language interpreter during tennis matches. Ensuring that individuals who are deaf or hard of hearing can fully and equally participate in interscholastic extracurricular activities is an issue of general public importance. Both the school and the Conference are subject to Section 504 and are required to afford individuals who are deaf or hard of hearing a benefit equal to that provided to others, and to ensure that appropriate

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<sup>3</sup> Settlement Agreement between the USA and the Mountain Valley Midget Football League, DJ #202-64-82 (2012).



auxiliary aids and services will be provided where necessary to afford effective communication<sup>4</sup> with individuals who are deaf or hard of hearing during tennis matches. An interpreter should be allowed to stand or sit at a side of the playing area so as to facilitate effective communication among the players and others<sup>5</sup>.

Internal Grievance

The Advocates for Change have attempted to solve these equity concerns. [List all actions you have taken to date and how the school officials have responded. Refer to your notes and paper trail for more details to include here.] For example, beginning on (date), we have participated in a conversation with members of the Athletic Department, (list other people) regarding our disability equity concerns.

However, for all of our efforts, they did not respond to our concerns or claims. In our observations and tracking of e-mails, letters and phone calls, the recipients have delayed responses, provided little (if any) school-based data and appeared half-hearted in their intent. Colleagues in our group have stated:

“They seem like they’re just trying to wear us down.”

“We’ll graduate before anything good ever happens.”

“Now that I know the Section 504 law, what’s going on is really unfair and illegal.”

Timeliness

In light of the continuing nature of the violations alleged, timeliness is not at issue. (If there is a time constraint, let them know.)

Other Agency or Court

This complaint has not been filed with any other agency or court.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

<sup>4</sup> “Effective communication” means communication with persons with disabilities that is as effective as communication with others. Effective communication is achieved by furnishing appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is afforded to other individuals. 28 C.F.R. § 36.303.

<sup>5</sup> Settlement Agreement between USA and The Arizona Interscholastic Association, Inc., March 30, 2012.

## Appendix: Step 15 (A Section 504 Lawsuit)

If you have come this far, we can only imagine how much you've learned and how committed you are to equity in sports. Please accept our congratulations; take a deep breath and gather your team for some solid analysis of your cause.

Active Policy Solutions does not provide attorneys to manage your case. However, we do have access to lawyers and associations that may be able to assist you. You are not alone, your team is not alone, and there are many heroes who have already won settlements and set legal precedents—giving all girls and women a fair opportunity to participate in sports. Each case is different, yet today you have access to books and online resources that share a legal history of Section 504 achievements. For suggestions of other legal and advocacy groups that might be helpful to your cause, visit the National Disability Rights Network to find the legal resource in your state: <http://www.ndrn.org/about/about-ndrn.html>

Other experts and organizations that might be helpful include:

### **American Association of Adapted Sports Programs**

Bev Vaughn  
Atlanta, Georgia 31145  
404.291.3073  
[bvaughn@adaptedsports.org](mailto:bvaughn@adaptedsports.org)  
[www.adaptedsports.org](http://www.adaptedsports.org)

\* Adapted Sports Training/Program Development

### **Disabled Sports USA (DSUSA)**

Kirk Bauer  
Rockville, Maryland 20850  
301.217.9838  
[kbauer@dsusa.org](mailto:kbauer@dsusa.org)  
[www.disabledsportsusa.org](http://www.disabledsportsusa.org)

\* Adapted Sports Training/Program Development

### **National Center on Health, Physical Activity and Disability**

Amy Rauworth  
Birmingham, Alabama 35209  
(205) 313-7487  
[amyr@lakeshore.org](mailto:amyr@lakeshore.org)  
[www.ncpad.org](http://www.ncpad.org)

\*Adapted Sports Training; Research; Technical Assistance

### **BlazeSports**

Jon McCullough  
Decatur, GA 30030  
404.270.2031  
[JMcCullough@blazesports.org](mailto:JMcCullough@blazesports.org)  
[www.blazesports.org](http://www.blazesports.org)

### **Institute for Human Centered Design & University of Illinois**

Eli Wolff  
Boston, MA 02114  
617.869.8027  
[Eli\\_Wolff@brown.edu](mailto:Eli_Wolff@brown.edu)  
[www.humancentereddesign.org](http://www.humancentereddesign.org)

\*Program Development; Program Evaluation; Research; Coalition Building

### **National Wheelchair Basketball Association**

Dan Humphreys  
Colorado Springs, CO 80907  
404.751.8748  
[Daniel.r.humphreys@gmail.com](mailto:Daniel.r.humphreys@gmail.com)  
[www.nwba.org](http://www.nwba.org)

\* Adapted Sports Training/Program Development

**Special Olympics**

Brian Quinn  
Raleigh, North Carolina 27609  
202.628.3630  
[bquinn@specialolympics.org](mailto:bquinn@specialolympics.org)  
[www.specialolympics.org](http://www.specialolympics.org)  
\*Unified Sports  
Training/Program Development

**US Paralympics, US Olympic  
Committee (USOC)**

Colorado Springs, CO 80903  
Cathy Sellers  
719.235.1686  
[Cathy.Sellers@usoc.org](mailto:Cathy.Sellers@usoc.org)  
Paul Ackerman  
719.866.2087  
[paul.ackerman@usoc.org](mailto:paul.ackerman@usoc.org)  
<http://www.teamusa.org>  
\*Sports Training/Program  
Development; Paralympic  
Participation

**US Association of Blind Athletes  
(USABA)**

Matt Simpson  
Colorado Springs, CO 80909  
719.866.3019  
[msimpson@usaba.org](mailto:msimpson@usaba.org)  
<http://www.usaba.org>  
\*Sports Training/Program Development

**University of Louisville**

Anita Moorman  
Louisville, Kentucky 40292  
502-852-0553  
[anita.moorman@louisville.edu](mailto:anita.moorman@louisville.edu)  
[www.louisville.edu](http://www.louisville.edu)  
\*Legal Workshops/Trainings; Program  
Compliance Assessment

**Wheelchair Ambulatory Sports USA  
(WASUSA)**

Gregg Baumgarten  
Kendall Park, NJ 08824  
480.215.5240  
[chairman@wasusa.org](mailto:chairman@wasusa.org)  
[www.wasusa.org](http://www.wasusa.org)  
\*Sports Training/Program Development