

## Laws Protecting Children with Special Needs

### Federal Regulations

#### **Section 504 of the Rehabilitation Act of 1973 – Non-Discrimination Act**

Introduction: “No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . .”. Section 504 defines a person with a disability as “any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.”

#### **104.37 Nonacademic services.**

(a) *General* (1) A [school] shall provide non-academic and extracurricular services and activities in such manner as is necessary to afford handicapped students **an equal opportunity** for participation in such services and activities.

(2) Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipients, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the recipient and assistance in making available outside employment.

(b) *Counseling services...*

(c) *Physical education and athletics.* (1) In providing physical education courses and athletics and similar aid, benefits, or services to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors interscholastic, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different from those offered to nonhandicapped students only if separation or differentiation is consistent with the requirements of 104.34 and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

## **IDEA (Individuals with Disabilities Education Act) Federal Regulations**

School must provide a Free and Appropriate Public Education (FAPE) to children found eligible for special education. Services required to provide FAPE must be in student's Individual Education Program (IEP) - a written statement describing the child's needs, goals, services, placement, if a longer or shorter school day or school year is needed, and "all elements required under federal and state law."

Sec. 300.107 Nonacademic services.

(a) Each public agency must take steps ...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.

(b) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.

## **State Laws and Regulations**

### **Massachusetts Regulation 603 CMR 28.00: Special Education**

28.06: (5) **Access to district programs.** All students receiving special education, regardless of placement, shall have an **equal opportunity** to participate in and, if appropriate, receive credit for the vocational, supportive, or remedial services that may be available as part of the general education program as well as the non-academic and extracurricular programs of the school.

### **MGL Chapter 71B, Section 3 of the General Laws (Chapter 57)**

Whenever an evaluation indicates that a child has a disability on the autism spectrum, which includes autistic disorder [autism], Asperger's disorder, pervasive developmental disorder not otherwise specified, childhood disintegrative disorder, and Rhett's Syndrome as defined in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV, 2000), the IEP Team shall consider and shall specifically address the following: **the verbal and nonverbal communication needs of the child; the need to develop social interaction skills and proficiencies**; the needs resulting from the child's unusual responses to sensory experiences; the needs resulting from resistance to environmental change or change in daily routines; the needs resulting from engagement in repetitive activities and stereotyped movements; the need for any positive behavioral interventions, strategies, and supports to address any behavioral difficulties resulting from autism spectrum disorder; and other needs resulting from the child's disability that impact progress in the general curriculum, including social and emotional development.