Inclusion of Athletes with Disabilities in Sport: New Guidance and New Opportunities

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Sport for people with disabilities continues to be a growing segment of the sport industry (DePauw & Gavron, 2005; “Disabled People Playing More Sport as London 2012 Games Approach,” 2012; Le Clair, 2012). As more research examines the benefits of sport and physical activity to promote social inclusion (Aitchison, 2010; Macbeth, 2010), sport managers in both disability and able-bodied sport face several challenges to implement new programming and offer more opportunities that promote inclusion of athletes with disabilities. The purpose of this symposium is to focus on recent developments in regulations, policies, and practices impacting the management of sport for people with disabilities in the United States. In particular, three areas will be addressed: (a) legal issues related to the U.S. Department of Education’s 2013 Dear Colleague Letter implementing § 504 of the Rehabilitation Act (45 CFR Part 84, 2013), (b) current managerial policies and practices developed in response to Dear Colleague Letter for interscholastic and intercollegiate sport, and (c) ongoing governance changes to the Olympic Movement in the United States related to inclusion of Paralympic athletes.

The first section of the symposium focuses on the legal issues related to the Dear Colleague Letter. In January of 2013, the Department of Education issued a Dear Colleague Letter providing guidelines for educational institutions regarding Section 504 of the Rehabilitation Act of 1973 and athletic opportunities (US Department of Education, 2013). The guidance arose from a multi-year initiative to increase athletic opportunities for high school students with disabilities and is driven by five key principles: (a) generalizations/stereotypes are not permitted, (b) equal opportunity is required, (c) inclusion whenever possible, (d) provide needed aids and services, and (e) expand/create opportunities (Department of Education, 2013; Moorman & Hums, 2013). This guidance is a clear policy statement which is applicable on the interscholastic and intercollegiate levels (Wolverton, 2013) and confirms that the primary legal responsibility lies for implementation lies with these institutions (Galanter, 2013). The 2013 Dear Colleague Letter requires a holistic approach by schools seeking to comply with the Rehab Act and ensures that schools look broadly and proactively to include students with disabilities in athletic programs in order to satisfy their civil rights obligations to provide equal educational opportunities (Active Policy Solutions, 2013). Under the Department’s Section 504 regulations, a school district is required to provide a qualified student with a disability an opportunity to benefit from the school district’s program equal to that of students without disabilities (34 C.F.R. § 104.3(j)). A school district’s legal obligation to comply with Section 504 and the Department’s regulations supersedes any rule of any association, organization, club, or league that would render a student ineligible to participate, or limit the eligibility of a student to participate in any aid, benefit, or service on the basis of disability (34 C.F.R. §104.4(b)(1)(v)). A school district that offers extracurricular athletics must do so in such manner as is necessary to afford qualified students with disabilities an equal opportunity for participation. To meet its duty, a school must make reasonable modifications and provide those aids and services that are necessary to ensure an equal opportunity to participate, unless the school district can show that doing so would be a fundamental alteration to its program (34 C.F.R. §104.37(a), (c)). The guidance clarifies and illustrates the requirement of the individualized inquiry and the fundamental alteration analysis upheld by the Supreme Court in PGA Tour, Inc. v. Martin, (2001). The clarified legal standards will be presented.

The second part of the symposium focuses on a number of practical implications of the Dear Colleague Letter for sport managers at the interscholastic and intercollegiate sport levels. The guidance is applicable in interscholastic and collegiate settings (Active Policy Solutions, 2013; Toppo, 2013). What will the implementation of the Dear Colleague Letter look like in practice and how will this impact these two industry segments? On the high school level, athletes with disabilities who are able to compete with their able-bodied peers can readily be included in many sports. For example, a swimmer with one-hand or a deaf cross-country runner who meet the requisite competitive standards will compete alongside their able-bodied peers. For other sports, such as wheelchair basketball, specific teams would...
need to be established. If one school does not have enough athletes to form a team, districts may allow several schools to combine their students into one team that would compete against other similarly situated teams. The National Federation of State High School Associations (NFHS) gathered a task force to further address the inclusion of athletes with disabilities (Monaghan, 2013). Individual assessment of each student’s ability to participate will be an essential element of determining the best participation opportunities (Active Policy Solutions, 2013). When considering the intercollegiate level, the NCAA recently took a step toward studying what the Dear Colleague Letter would look like, organizing a Disability Sport Think Tank consisting of approximately 40 athletic administrators, coaches, and disability advocates from around the country (NCAA, 2013). The group focused on four main areas: (a) inclusion/accommodations (equal opportunity for participation in existing sports), (b) adapted sports, (c) best practices, and (d) supporting those with education-impacting disabilities (Ruckdaschel, 2013). This group generated discussion on several policy areas that need to be examined in light of the inclusion of athletes with disabilities including eligibility rules, use of performance enhancing substances, recruiting rules, and structuring events to include athletes with disabilities, such as additional heats at swim or track meets. It must also be noted that the Dear Colleague Letter extends beyond intercollegiate competition and also encompasses intramural and recreational sports on campus (Department of Education, 2013) and so NIRSA will no doubt be weighing in on this topic soon as well (NIRSA, 2013).

The third section addresses recent governance and policy changes in the Olympic Movement related to athletes with disabilities. For several years, the Olympic Movement has struggled to effectively integrate Paralympic organizations into its governance structure (Hums, Moorman, & Wolff, 2003). After an initial agreement in 2010 to incorporate Paralympians within the Olympians Association (USOC, 2010), the agreement was revoked and further reviewed from 2010 until a new proposal was put forward in 2012 that was then adopted. In October 2013, the United States Olympians Association officially changed its charter to become the United States Olympians and Paralympians Association (USOC, 2013). This inclusion and integration of Paralympians and Olympians into one alumni organization will be analyzed and discussed. Specific initiatives at the alumni level of the organization and also within the media space also represent a shift in visibility and commitment toward inclusion. For example, in September of 2013, the United States Olympic Committee announced the plans for NBC to present 100 hours of broadcast coverage 2014 Sochi and 2016 Rio Paralympic Games, more than ever before (USOC, 2013; Whiteside, 2013). The authors will discuss this new development in the media contract for the United States media coverage of the Paralympic Games. Further, the authors will look at the 2012 media coverage of the 2012 London Paralympic Games and the activities and developments since then (Channel 4, 2013; The Telegraph, 2012) that facilitated the engagement by NBC to provide further coverage of the Games.