

# Americans with Disabilities Act: Its Impact on Youth Sports

This article describes the Americans with Disabilities Act (ADA) and its major titles and explains how the ADA affects youth sports programs.

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► **Christy**, a six-year-old who uses a wheelchair, wants to play in a county-sponsored t-ball league. The county has a Challenger Division that has been specially designed for children with disabilities. However, Christy wants to play with her peers who she sees everyday during school and in her neighborhood. *Should she be allowed to play in the regular t-ball league?*

► **Jamal**, a 10-year-old who is blind in one eye, wants to play in a YMCA basketball league. Although there are no special criteria for participation in this league, he needs considerable assistance, including extra verbal and physical cues to know where to pass the ball, where to move on the court, and where to stand. In addition, his skills are very weak compared to the other players. *Should Jamal be allowed to play?*

► **Steve**, a 15-year-old with mental retardation, wants to try out for a school-sponsored interscholastic soccer team. He already plays on a Special Olympics soccer team, but he wants to play for his high school team. *Should Steve be allowed to try out for his high school team?*

In each of these cases, persons with disabilities want to participate in youth sports programs sponsored by publicly funded groups (e.g., community recreation programs), privately funded groups (e.g., YMCA or church leagues), or by public or private schools (interscholastic and intramural sports programs). Although special sports programs for persons with disabilities are available for these individuals, they want to play on "regular" teams in "regular" leagues. What rights do these individuals have under federal antidiscrimination laws? What rights do the sponsoring agencies have to ensure the safety of participants and to protect program integrity?

### Americans with Disabilities Act

After suffering from years of discrimination, individuals with disabilities and their advocates on Capitol Hill worked for the passage of a law that would protect their rights as United States citizens. The passage of several laws set the precedent for such legislation:

- In 1964, Congress passed the Civil Rights Act which prohibited discrimination based on race, color, gender, religion, or national origin.
- In 1968, Congress passed the Architectural Barriers Act that required all facilities built with full or partial federal funding to be accessible to individuals with disabilities.
- In 1973, Congress passed the Rehabilitation Act which prohibited federal agencies and organizations that received federal funding from discriminating against people with disabilities.

Despite the passage of these acts, reports to Congress in the late 1980s showed continued discrimination against individuals with disabilities. On July 26, 1990, President George Bush signed into law PL 101-336, the Americans with Disabilities Act (ADA). This sweeping civil rights legislation, which extended Section 504 of the Rehabilitation Act to the private sector, provided a clear and comprehensive mandate to eliminate discrimination against individuals with disabilities (Thompson Publishing Group, 1992).

ADA is not an affirmative action statute; that is, it does not mandate that a certain percentage of participants in a program have disabilities. Rather, ADA was designed to dispel stereotypes and prevent wholesale discrimination based solely on a person's disability. ADA assures equal opportunity for participation in all aspects of life to otherwise qualified individuals (Thompson Publishing Group, 1992). For example, a competitive, community-sponsored soccer league must allow Gail, who is blind, a chance to try out. In addition, accommodations must be made so that Gail has a fair tryout (e.g., written material translated into Braille, a guide to help her around the field). Most likely, Gail would be cut because she would not have the visual and motor skills needed to make the team. That is, she is not "otherwise qualified." On the other hand, she could participate in a less competitive soccer program (e.g., focus on skill development, learning the rules of the game, no specific criteria other than interest in learning more about soccer) sponsored by the same agency. Since the only criterion is "interest in learning more about soccer," Gail is "otherwise qualified" for this league.

#### Four Major Titles in ADA

ADA is broken down into four major titles, with a fifth title covering other provisions such as accessibility issues, federal assistance, and attorney fees (ADA, 1990).

*Title I: Employment* prevents employers from discriminating against qualified individuals with disabilities solely because of disability in regard to job application procedures, hiring, advancement, or discharge of employees. In addition, employers must make reasonable accommodations for workers with disabilities. In terms of youth sports, private or public agencies that sponsor youth sports programs may not discriminate in their employment practices such as recruiting, interviewing, or hiring employees. In addition, agen-

cies cannot discriminate in any way against volunteers.

*Title II: Public Services and Transportation* prevents state and local governments from barring individuals with disabilities from participation in state and local government activities, programs, services, or transportation. Community-sponsored youth sports programs must provide opportunities for individuals with disabilities to participate in their programs, and, if necessary, provide reasonable accommodations (including access to transportation if it is provided by the agency) that enable their participation.

*Title III: Public Accommodations* prevents private agencies that are open

*Title IV: Telecommunications* requires telephone relay services for persons who are deaf and provides funding for TV service messages to be closed-captioned. Public and private agencies that sponsor youth sports programs must make telecommunications accessible to individuals who are deaf.

#### Who is Protected?

The definition of disability in ADA follows the exact wording as Section 504 of the Rehabilitation Act. As in Section 504, ADA does not identify specific disabilities. Rather, ADA provides a more general profile, describing a qualified individual with

**The Americans with Disabilities Act (ADA) provides civil rights protection to individuals with disabilities. ADA, which was signed into law by President Bush in 1990, provided wide-sweeping legislation covering diverse areas such as employment, public service, transportation, public accommodations, and telecommunications. Community sports programs, coaches, and parents need to know the implications of ADA on youth sports.**

to the public from barring individuals with disabilities from any services they may offer. Such agencies include YMCAs, restaurants, theaters, hotels, shopping centers, banks, and private schools that provide public accommodations. Private agencies must change their policies and practices, provide auxiliary aids, and improve accessibility unless that would impose an undue hardship. Privately sponsored youth sports programs must provide opportunities for individuals with disabilities to participate and, if necessary, make their programs readily accessible to participants with disabilities by remodeling locker room facilities, making playing fields and swimming pools accessible, etc.

a disability as a person: with a physical or mental impairment that substantially limits one or more of the major life activities; or who has a record of such an impairment; or who is regarded as having such an impairment.

A "major life activity" includes walking, seeing, hearing, speaking, breathing, learning, or working. A person who "has a record of such an impairment" is someone who may have had such an impairment but no longer has that impairment. For example, it would be illegal to discriminate based on past records that show an individual has had mental retardation,

yet the person functions independently in all aspects of life and is otherwise qualified for a particular job. A person who "is regarded as having such an impairment" is someone who does not have a condition that substantially limits one or more major life activities, yet this individual is perceived or treated as having such an impairment. In such cases, ADA addresses situations in which employers, businesses, or other agencies react negatively to a perceived physical or mental impairment such as severe burns, epilepsy, diabetes, HIV/AIDS, alcoholism, or mental illness (ADA, 1990; Thompson Publishing Group, 1992).

The law excludes individuals whose participation poses a direct threat to the health or safety of others because of a disability that cannot be corrected by appropriate modifications or aids. Three factors must be satisfied to use "threats to health or safety" for excluding a person with disabilities:

1. The threat must be real, not speculative. For example, simply saying that a football player who has an artificial arm would be a threat to other players would be speculative until it is proven that such a threat truly exists. (Prior to 1975, all players with prostheses were banned by the National High School Athletic Association from such sports as football and wrestling.) Epstein, McGovern, and Moon (1994) suggest that a personalized assessment be conducted to determine real risk of injury.
2. The threat must be based on objective information. For example, a person with HIV may be considered a threat to the safety of others, but objective medical information does not support such a threat if proper "universal precautions" are taken when dealing with blood (Olenik & Sherrill, 1994; Sutliff & Bomgardner, 1994).
3. If real risk is found, then attempts must be made to reduce or eliminate the risk (in the first example, the prosthesis could be padded or the athlete could play without it).

ADA does not allow the exclusion of persons with disabilities because of perceived or real threat to their own personal health and safety. For example, in the past, school districts have not allowed athletes with one eye or one kidney to play contact sports (Stein, 1978). Although the danger of losing the remaining sight or use of the kidney while playing a contact sport should be fully explained to athletes, such dangers cannot be used to exclude a class of athlete (e.g., all athletes who have one kidney cannot play football) from participation even when recommended by a physician. Physician recommendations should be carefully considered; however, ultimately the decision to participate is made by athletes and their parents.

### **Readily Accessible**

According to ADA, "readily accessible" and "readily achievable" refer to adaptations to programs, facilities, or work places that allow individuals with disabilities to participate in the program or service or perform a job. Accommodations also may consist of changes in policies, practices, or services and the use of auxiliary aids (ADA, 1990; Thompson Publishing Group, 1992). The term "readily accessible" focuses on what persons with disabilities need to be successful, while the term "readily achievable" focuses on the ease in which such accommodations can be made. The following are examples of readily accessible accommodations:

- qualified interpreters for persons who are deaf
  - qualified readers or taped texts for persons who are blind
  - acquisition or modification of equipment or devices (i.e., supplying beep baseballs for a child who is blind or a bowling ramp for a child who uses a wheelchair)
- "Readily accessible" applies to "otherwise qualified" individuals with disabilities. That is, special accommodations are not needed to make an unqualified person qualified. For example, it would not be necessary

to keep a player who is blind and who does not have the skills of the other interscholastic, high school volleyball players just because she is blind. However, it would be a violation not to let this player try out or to make a blanket statement that all players who are blind are not allowed to play volleyball. Determining if a program is readily accessible should be made on an individual basis and should not impose an undue burden on the operation of the program or agency. In most cases, these decisions can be made by the sponsoring agency. However, if the sponsoring agency and the participant cannot agree on the reasonableness of a particular accommodation, then a representative from the Justice Department can be called in to serve as an arbitrator. If either party still disagrees with the arbitrator's ruling, the decision can be appealed in court.

### **Undue Burden**

According to ADA, an "undue burden" is an action that is unduly costly, extensive, substantial, disruptive, or that will *fundamentally alter the nature of the program* (ADA, 1990; Thompson Publishing Group, 1992). For example, it would be an undue burden, and would fundamentally alter the nature of the program, if a community soccer league asked all its players to wear blindfolds to accommodate a player who is blind. However, it would not be an undue burden to allow a guide to assist this player during the game if such an accommodation was approved by the league.

Besides factors associated with changing the nature of the game, an undue burden is determined by considering the nature and cost of the accommodation in relation to the financial resources of the program. For example, a large community baseball league that included 40 teams in 4 different divisions could afford a beeping baseball and batting tee for a player who is blind and basic training in sign language to a coach who has a player who is deaf.

On the other hand, it may be considered an undue burden to ask a small community soccer league, whose playing field is at the bottom of a hill, to make their field accessible for a player who uses a wheelchair. To change the grade of the hill to make it accessible or to build a ramp could cost thousands of dollars which would limit the ability of the league to sponsor the program. An alternative is to move games to a more accessible field when a player who uses a wheelchair is involved. Similar to determining if a program is readily accessible, decisions related to undue burden should be made on an individual basis, using objective information to guide decisions. Disagreements regarding undue burden can be settled through the Justice Department or through the courts.

### **ADA and Youth Sports**

The following questions and answers show how the ADA directly affects youth sports.

*Does ADA cover both publicly sponsored and privately sponsored youth sport programs?*

Yes. Title II covers public entities such as local governments that sponsor community youth sport programs and interscholastic sport programs. Title III covers private entities such as YMCAs and Little League of America that are open to the public. Even if not covered by Title III, most of these private entities would be covered under Title II because most use public fields (e.g., school fields, county maintained fields). The only private groups not covered under the ADA are religious groups, but many have voluntarily opted to follow ADA guidelines (Epstein, McGovern, & Moon, 1994).

*Under what conditions must a league allow a player with a disability to participate?*

When there are no specific criteria (e.g., skill criteria) other than age, gender, or living within a particular jurisdiction, then any player with a



disability who meets these minimum criteria must be given an opportunity to participate in a league. In addition, the league must make itself readily accessible to ensure the success of any player with disabilities and to ensure that players' participation does not threaten other players. Making the program readily accessible might include: modifications to rules, policies, or practices to enable an individual to participate; removal of architectural, transportation, and communication barriers to enable an individual to participate; and provision of auxiliary aids or services as necessary. These accommodations must be provided during tryouts, practices, games, and post-game parties. However, these accommodations should not cause undue burden to the sponsoring agency.

*Can't we just create criteria that exclude players with disabilities?*

No. You may not use eligibility criteria that screen out players with disabilities, such as "you must be able to walk" or "you must be able to see." Criteria must be worded in a nondiscriminatory manner and must be used for all participants in the league. Also, criteria must be examined in light of the program's responsibility to be readily accessible to persons with disabilities. For example, a minimum criterion for softball states that players must be able to hit a pitched ball. It would be reasonable to allow a blind player to have a beeping ball pitched to him or allow a player who uses a wheelchair to hit while sitting in her wheelchair. Such accommodations make the program readily accessible without fundamentally changing the game.

*Under what conditions can a league exclude a player with a disability from participating?*

There are two situations when a player with a disability can be excluded from a league:

1. A player with a disability can be cut when there are specific skill criteria for participation, such as those used for select teams in community leagues or interscholastic teams in schools. If the player does not meet the set criteria, then he or she can be cut. However, the player must be allowed to try out for the team even if everyone knows that he or she does not possess the necessary skills. In addition, provisions must be made during tryouts such as interpreters for deaf players, assistants for blind players, and ramps and accessibility to practice facilities for players in wheelchairs.

Criteria used to make decisions must be written in nondiscriminatory language. For example, it is discriminatory to say criteria for making final cuts are based on the players' ability to run (discriminatory to a person who uses a wheelchair) or ability to see (discriminatory to a person who is blind). Rather, criteria must be worded in nondiscriminatory language such as "fastest and most agile players" or "players who do the best job at finding the open player and delivering the ball to that player."

2. A player can be excluded if he or she poses a threat to others by participating. Recall the three factors that must be met to determine if

a player truly is a threat to others: (1) the threat must be real, not speculative; (2) the threat must be based on objective information; and (3) consideration must be given as to whether accommodations would eliminate the threat. In most cases, simple accommodations can allow players with disabilities to participate. If, after considering the three factors, it is still determined that a player is a threat to others, then the player may be excluded from participation. Players with disabilities may not be excluded if there is a real or perceived threat to their own personal health or safety.

*Our town already has Special Olympics and Challenger Baseball. Do they cover our players with disabilities?*

No. Although players with disabilities may choose special programs, they are not required to choose these special options. For example, a child with mental retardation may choose to play Special Olympics soccer in the fall, but then choose to play regular Little League baseball in the spring rather than Challenger Baseball or Special Olympics softball.

*What does "undue burden" mean in terms of our regular programs? I do not mind allowing children with disabilities opportunities to participate in our league, but I do not want their participation to negatively affect the game for everyone else.*

Auxiliary aids and services must be provided to player with disabilities unless such services would cause undue burden on the sponsoring agency. As noted, undue burden is weighed against two factors: (1) if it is significantly difficult to do, and (2) if it fundamentally alters the program. Both of these factors should be considered on an individual basis, so it is difficult to develop a policy statement that covers all situations. In general, "significantly difficult to do" often refers to architectural barriers. If it would be extremely expensive to make a site accessible, another facility

can be used for players or coaches who use wheelchairs. It is even less clear what it means to "fundamentally alter the program." Modifications that seem reasonable to one person could seem extreme to another.

For example, allowing a player with mental retardation and poor coordination to hit a ball off a tee in a fast-pitch softball game, or making a rule that any ball hit to this player in the outfield is a ground rule double, may seem reasonable to some coaches, players, and parents. This situation actually occurred in a softball league in Illinois. All of the coaches in this local league discussed the situation prior to the season and agreed on these modifications (Bernabe & Block, 1994). However, others might consider this rule to be a major change that affects the game for everyone. The key question is, How does the change affect the game for the majority of players? Accommodations that affect only the player with a disability seem to work best. When accommodations begin to alter the game fundamentally for all involved, or when accommodations give one side an advantage over the other, then the accommodation is probably not appropriate.

### The Impact

The Americans with Disabilities Act is arguably the most important piece of civil rights legislation since the Civil Rights Act of 1964. It provides a mandate to eliminate discrimination against persons with disabilities in virtually all aspects of life, from work, to living accommodations, to access to the community, to recreation. While not directly addressed in the law, ADA has many specific implications to public and private agencies sponsoring youth sports programs. No youth sports program may discriminate against players or coaches with disabilities. Equal opportunity to play on recreational teams and to try out for select teams is the right of all players including players with disabilities. Even if special programs exist, a player with disabilities has the

right to choose to play in, or try out for a regular league. Programs must be readily accessible to players and coaches with disabilities during try-outs, practices, and games. The goal of the law is to provide greater access to all aspects of life including recreation programs such as youth sports. With a little support from sponsoring agents, coaches, team members, and parents, many more children with disabilities can experience the joy and excitement of youth sports.

*Note: This paper is based on a presentation conducted by the author at the AAHPERD National Convention in Denver, CO.*

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