



# **Disability & Sport: The Casey Martin Effect**

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# Overview of Disability Laws

- Rehabilitation Act of 1973
  - ◆ Section 504
    - ★ **applies to recipients of federal financial assistance, requires non-discrimination and reasonable accommodation, fundamental alteration not required, and undue burden is a defense**
- Special Education Act of 1975
  - ◆ IDEA – Individuals with Disability Education Act
    - ★ **Requires free appropriate education for eligible students, individualized inquiry, and procedural safeguards**
- Americans with Disabilities Act of 1990

# ADA – Three Titles

- Title I – employers with 15+ employees
- Title II – public agencies – includes public colleges/universities
- Title III – private providers of places of public accommodation – includes private colleges and businesses.

# ADA and Title III

- Substantially same requirements as Section 504
- Major Questions
  - ◆ Who is covered?
  - ◆ What is a major life activity?
  - ◆ What is a reasonable accommodation?
  - ◆ What is a fundamental alteration? This is our point of inquiry

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# Casey Martin Refresher

- Does permitting an elite golfer with a disability to ride in a golf cart during professional competitions constitute a fundamental alteration of the competition?
- Supreme Court Answer: No, the “walking rule” is not a fundamental part of the game of golf. Based upon Casey Martin’s individual circumstances, being permitted to ride a golf cart does not give him an unfair advantage over other golfers.

◆ Individualized Inquiry

# Legal Actions Post Casey Martin in the Sport Industry

- Several Interesting Issues and Twists
  - ◆ Adult Entertainment
  - ◆ Season Ticket Renewals and Seat Locations
  - ◆ Disabled Fan Hit by a Foul Ball
  - ◆ NFL Super Bowl Lottery Promotion ticket disbursement policy
  - ◆ Texas Little League Accessibility of Parking Lots
  - ◆ Initial Eligibility, Learning Disabilities, and NCAA

# Policy Development in Sport

- Haven't seen much activity
- Participation & Requests for Accommodation Numbers are not clear, only randomly reported or available.
- Recreation Programs have seen some policy development
- Education may be the best source of lessons and ideas

# Can Education Be a Guide?

- Educational Institutions Have Been required to identify, locate, and evaluate children with disabilities since 1975
- Numerous procedures are in place to help Educational Institutions fulfill this responsibility
- Office of Civil Rights also helps to investigate complaints of discrimination and resolve disputes



# Overview of Educational Disability Issues

- Individual with Disabilities Education Act (IDEA)
- Individualized Education Plan (IEP)
- Office of Civil Rights (OCR)



# IEP Process

- Timelines
- Committee composition
- Meeting notification
- Provide for revisions
- Components
- Service delivery
- Placement

# OCR Complaint Procedures

- **File a claim**
  - ◆ **What's included**
  
- **How does OCR respond?**
  - ◆ **Send consent form**
  - ◆ **Evaluate complaint**
  - ◆ **Resolve by either:**
    - ★ **Resolution between parties**
    - ★ **Agreement for corrective action**
    - ★ **Enforcement**



# Examples of Education Based Discrimination Complaints in Sport

- Basketball manager
- Baseball try-out
- Softball player
- Volleyball player
- Football player



# Differing Views

- Hunter Scott – 14 year old swimmer with above the knee amputation.
- Desired to use a swim fin in competition – USA Swimming Rules do not permit use of assistive devices.
- Georgia High School Association approved use of the prosthetic swim fin



# How Will Sport Organizations Deal with Future Requests

- Must Adopt Policies and Develop Procedures to be Followed
- Most Sport Organizations including High School Athletic Associations don't have any specific written policy statement or procedures developed.
- Use the classroom as a template for the gym, pool, field, court, and track

# What Steps Might Followed by Sport Organizations?

- Focus on the Individualized Inquiry
  - ◆ Must Notify Participants of their Rights
  - ◆ Encourage them to Explore Accommodations
  - ◆ Assure prompt and fair review
  - ◆ It is OK to request verification of eligibility
- Provide for Disputes
  - ◆ Alternative dispute resolution – arbitration/mediation, or traditional

# Proposed Procedures/Policies for Sport Organizations

- **Statement of Non-Discrimination Policy**
  - ◆ Include in all manuals, website, printed materials, and posted at all facilities
- **Designate an ADA Compliance Coordinator**
- **Establish Procedure for Complaints and Inquiries**
  - ◆ Ask for all C/I to be made in writing
  - ◆ Establish timeline for resolution
  - ◆ Retain copies of all complaints
  - ◆ Track complaints, resolution, and modifications/accommodations made



**Thank You.**

**Questions?**

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