**Unified Sports:**

**Providing Opportunities For Students With Disabilities**

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I. Introduction

People with intellectual disabilities have historically been victims of exclusion in our society. It is an unacceptable truth that too few of us are working to ensure all of our God-given abilities are valued in society. In August 2011, Pope Benedict XVI reminded us of the important contribution people with disabilities make to all of us: "[i]n a mysterious yet real way, their presence awakens in our often hardened hearts a tenderness which opens us to salvation. The lives of these young people surely touch human hearts and for that reason we are grateful to the Lord for having known them."[[1]](#footnote-1) Despite Pope Benedict's poignant address last summer, many school children rarely, if ever, interact with their peers with disabilities.

In American schools, students with disabilities are often denied the opportunity to participate in physical education, extracurricular activities, and school-sponsored athletics alongside their classmates. At the same time, throughout the country, states are concerned about the number of overweight children in schools. This concern remains as people reach adulthood, especially for people with disabilities. Adults with disabilities are approximately 10 percent more likely to be obese than adults without disabilities.[[2]](#footnote-2) Alarmingly, 77 percent of people with disabilities report being active less than thirty minutes three times per week, and 56 percent of people with disabilities report no physical activity at all.[[3]](#footnote-3) To combat this reality, health and fitness must be a priority for all children, especially those with disabilities. Yet, only one of the fifty states legally requires schools to integrate their physical education and athletics programs. As all children are entitled to attend school in the United States, schools must carry the responsibility of ensuring equal physical education and athletic opportunities for all of their students. The Special Olympics Unified Sports program may provide a workable model for inclusion for schools throughout the country to replicate or employ.

Special Olympics Unified Sports is a program first introduced in the United States in the mid-1980s.[[4]](#footnote-4) By 1989, Special Olympics International implemented Unified Sports as an official program throughout the world.[[5]](#footnote-5) The program partners athletes with disabilities and athletes without disabilities to play alongside one another in a variety of sporting events.[[6]](#footnote-6) While some minor problems have been documented, the spirit of community in the program has proven beneficial for all of these athletes.

This note seeks to explain the current state of athletic opportunities for students with disabilities. Moreover, this note will encourage the states to seriously consider the implementation of programs like Unified Sports into their school systems in an effort to end the segregation that currently exists in too many of our schools. I will argue that it is imperative that we level the playing field for all children, and provide fitness and athletic opportunities for all students in our school systems.

Unified Sports can educationally, socially and physically benefit students with and without intellectual disabilities in our schools. In part II of this note, I will provide a detailed explanation of Unified Sports. I will also begin to illustrate how it can work for the betterment of all school children.

In part III, I will discuss the health benefits of Unified Sports. I will begin by addressing the national health crisis, and the government's approach to tackling this problem. Next, I will present the current state of health for people with disabilities. Finally, I will discuss the health of Special Olympics athletes and explain how programs of this type could benefit people with disabilities in our communities.

Next, in part IV, I will outline the legal protections that currently exist for students with disabilities with regard to participation in physical education and school athletics. Specifically, I will cover the relevant case law and statutory protections, and the practical results for student-athletes attempting to challenge a school's discriminatory policy or decision. Unfortunately, the current protections for students with intellectual disabilities are not promising; however, they do grant important basic requirements.

In part V, I will further illustrate the benefits of Unified Sports to all students by examining concrete policies and findings. I will describe model programs and policy initiatives already utilizing Unified Sports or adapted sports programs into schools and communities. This part will conclude by discussing a relevant report completed by the Government Accountability Office in 2010.

Finally, in part VI, I will argue for the implementation of integrated athletic and physical education programs like Unified Sports throughout the United States. Through programs like this in our schools, we can hope to achieve "the goals of full citizenship, community membership, and respect for all people with intellectual disability."[[7]](#footnote-7) I will urge states to adopt laws similar to the Maryland Fitness and Athletic Equity for Students with Disabilities Act as a means of promoting inclusion and addressing the national health crisis that is particularly present in people with disabilities.

II. Unified Sports Background

*A. History of Unified Sports*

Robert "Beau" Doherty conceived the Unified Sports Program in 1982.[[8]](#footnote-8) Doherty realized that in order for people with intellectual disabilities to be treated as equals and to urge people to end their use of terms like "retarded," people with and without disabilities had to spend time together.[[9]](#footnote-9) Debuting in Massachusetts under the name, "integrated sports," a softball league was created to test the idea of putting athletes with intellectual disabilities with athletes without disabilities.[[10]](#footnote-10) The first league yielded results that would be replicated throughout the years of Unified Sports, improved social skills for those with disabilities and development of a distinct camaraderie between those athletes with disabilities and those without disabilities.[[11]](#footnote-11)

At the 1983 Special Olympics National Conference, the program was brought to the attention of Eunice Kennedy Shriver, the founder of Special Olympics.[[12]](#footnote-12) After meeting with Doherty, Shriver approved further research and expansion of the program to six states.[[13]](#footnote-13) Now President of Special Olympics Connecticut, Doherty has dedicated himself to Unified Sports. Over 50 percent of schools in the state now take part in the program, and the number is rising each year.[[14]](#footnote-14)

By 1988, several states had organized local Unified Sports programs in basketball, soccer, volleyball and softball.[[15]](#footnote-15) Upon seeing the results with a larger sample size, Shriver announced the worldwide implementation of Unified Sports as an official Special Olympics program in 1989.[[16]](#footnote-16)

*B. What is Unified Sports?*

Special Olympics International offers athletic opportunities for children and adult athletes with intellectual disabilities year-round, around the world.[[17]](#footnote-17) Athletes are eligible for participation in Special Olympics training and events as long as they are 8 years of age and have been identified as a person with an intellectual disability by an agency or professional.[[18]](#footnote-18)

Unified Sports is a program that was instituted throughout the world in 1989 in an effort to encourage connection and socialization amongst young people with and without intellectual disabilities.[[19]](#footnote-19) The Unified Sports program combines similar numbers of athletes with intellectual disabilities and those without on athletic teams for training and competitive events against other Unified teams.[[20]](#footnote-20)

Unified Sports teams allow for athletes with and without disabilities to experience each other's capabilities, build friendships, and promote the inclusion of all persons in the arena of sport. In 2001, an evaluation of the Unified Sports program as a whole explained the combined goals of "improving self-esteem and self-confidence among athletes" with intellectual disabilities, while at the same time "promoting social acceptance among athletes" without intellectual disabilities.[[21]](#footnote-21)

An evaluation of Unified Sports in Europe, published in 2010, by the University of Ulster explained that Unified Sports provide "a forum for young people with intellectual disabilities to connect with their wider community and meet with other young people around a shared interest in sports."[[22]](#footnote-22)

Without a doubt, the Unified Sports program has provided thousands of opportunities for young people to connect throughout the world. In 2010, over 520,000 athletes and partners participated in Unified Sports around the world.[[23]](#footnote-23) However, it is also very important to recognize that Unified Sports does not replace other Special Olympics programs. Athletes still have the choice to participate in programs with only athletes with disabilities, or participate in both programs.[[24]](#footnote-24)

*C. Who are the Unified Athletes?*

On the whole, Unified Sports teams are made up of higher-ability athletes. For the future, Special Olympics International has recognized it may be necessary to adapt Unified Sports programs to encourage different levels of competition to accommodate the differing abilities of Special Olympians.[[25]](#footnote-25) Currently, Special Olympics has set the following rules for Unified Sports:

1) A roster containing proportionate numbers of athletes and partners.

2) A line-up during the competition in which half of the participants are athletes and half of the participants are partners.

3) Teams are divisioned for competition based primarily on ability.

4) All individuals on the team receive Special Olympics awards.

5) An adult, non-playing coach for team sports.[[26]](#footnote-26)

In addition to these rules, the Unified Sports Handbook encourages teams to be made up of athletes and partners of similar ages.[[27]](#footnote-27) While inclusion is the goal of Unified Sports, safety must remain a primary concern.[[28]](#footnote-28) Thus, the make-up of Unified Sports teams takes into account age and ability levels of the athletes and partners.[[29]](#footnote-29)

Taking this into account, flexibility still exists, depending on the sport. For example, sports such as basketball, soccer, and tennis require athletes and partners of similar age and ability to minimize the differences in ability that would be problematic in those sports.[[30]](#footnote-30) Yet, in sports like sailing, bowling, and bocce a vast difference in age and ability is not preferred, but is manageable.[[31]](#footnote-31) While these rules set out the policies, the most important aspect of Unified Sports is the atmosphere of participation and inclusion not explicitly required by the rules, but imperative to the program's success.

Unified Sports allows for greater community involvement, improved athletic skills, and higher self-esteem for athletes with disabilities. An evaluation of Unified Sports in Europe found that athletes and partners stated differing, yet complementary reasons for involvement on Unified Sports teams. Undoubtedly, both athletes and partners gained from their participation and experience, benefitting from new friendships, a greater understanding among peers, and new athletic opportunities.

Athletes, specifically, stated they derived fun, improved sport skills, friendship, and improved communication skills from their participation in Unified Sports.[[32]](#footnote-32) Similarly, partners stated they enjoyed themselves, improved sport skills, developed friendships, and learned life lessons during their participation in Unified Sports.[[33]](#footnote-33) Additionally and most importantly, partners said their experience led to a more positive view of individuals with intellectual disabilities.[[34]](#footnote-34)

It is apparent that the benefits of Unified Sports are present for all participants. Even with the original Special Olympics programs still available, since Unified Sports’ introduction, the program has developed wide appeal for athletes and their families. Furthermore, the majority of Unified Sports programs for children are already school-based.[[35]](#footnote-35) Thus, the athletic programming and organization already in existence in some schools can provide a model for other schools hoping to implement Unified Sports programs. In short, as stated in the 2001 evaluation, "it can be unequivocally stated that Unified Sports has a positive impact on all participants."[[36]](#footnote-36)

III. Health Benefits of Unified Sports

*A. Health Promotion Nationally*

As of 2008, more than one third of American children and adolescents were overweight or obese.[[37]](#footnote-37) More than 72 million American adults are obese.[[38]](#footnote-38) Over $147 billion dollars is spent annually on health care costs for obese adults in the United States.[[39]](#footnote-39) According to a recent CDC Vital Signs report, "people who are obese incurred $1,429 per person extra in medical costs as compared to people of normal weight."[[40]](#footnote-40)

Consequently, many states have attempted to actively address the problem of obesity in America. One way in which states have addressed America's weight problem is by implementing state physical education standards that will teach and promote healthy lifestyles.[[41]](#footnote-41) In 2010, Minnesota joined 47 other states in adopting the national physical education standards in order to qualify for federal physical education grants.[[42]](#footnote-42) The Minnesota Healthy Kids/Physical Education law mirrors laws enacted in other states that implement statewide standards for physical education which require students to:

Demonstrate competency in motor skills and movement needed to perform a variety of physical activities; Demonstrate understanding of movement concepts, principles, strategies, and tactics as they apply to learning and performance of physical activities; Participate regularly in physical activity; Achieve and maintain a health-enhancing level of physical fitness; Exhibit personal and social behavior that respects self and others in physical activity settings; and Value physical activity for health, enjoyment, challenge, self-expression, and/or social interaction."[[43]](#footnote-43)

While the law promotes healthy lifestyles in all kids, there is little, if any, focus on children with disabilities. In particular, there is no plan to integrate students with disabilities into these standards.

*B. Health of People with Disabilities*

With each new census, the number of people identified to have disabilities increases.[[44]](#footnote-44) According to statistics released from the U.S. Census Bureau in 2010, 54 million people have disabilities; the 2000 Census reported 49.7 million people with disabilities.[[45]](#footnote-45) The current number accounts for about 19 percent of the general population.[[46]](#footnote-46) Splitting the number into age demographics, 5 percent of children age 5 to 17 have disabilities, 10 percent of Americans age 18 to 64, and 38 percent of people 65 and older have disabilities.[[47]](#footnote-47) Notably, 11 million people age six and older need personal assistance with everyday activities (e.g. getting around the house, bathing, and preparing meals).[[48]](#footnote-48) Annually, the United States spends approximately $44 billion on health care for obesity related to disability.[[49]](#footnote-49)

The recently published Physical Activity Guidelines for Americans noted that children with disabilities are more likely to be inactive than children without disabilities.[[50]](#footnote-50) The National Center for Health Statistics reports that about 56 percent of people with disabilities do not engage in any physical activity.[[51]](#footnote-51) Further, only 23 percent of people with disabilities are active for more than 30 minutes at least three times a week.[[52]](#footnote-52) As a result, children and adults with intellectual or learning disabilities are at greatest risk for obesity.[[53]](#footnote-53) According to the Center for Disease Control, about 36 percent of adults with disabilities are obese.[[54]](#footnote-54) This rate is 58 percent higher than adults without disabilities.[[55]](#footnote-55) Additionally, about 22 percent of children ages 2-17 are obese.[[56]](#footnote-56) Children with disabilities are 38 percent more likely to be obese than children without disabilities.[[57]](#footnote-57)

At the same time, research indicates that sport participation can enhance the mental and physical development of all children.[[58]](#footnote-58) Athletic participation benefits youth by improving physical health, developing a positive self-image, teaching them teamwork, developing social skills, and teaching youth how to manage success and disappointment.[[59]](#footnote-59)

Sadly, the Center for Disease Control (CDC) has found that people with disabilities often find it harder to eat healthy and be physically active. As the CDC explained this could be due to several factors:

• A lack of healthy food choices.

• Difficulty with chewing or swallowing food, or its taste or texture.

• Medications that can contribute to weight gain, weight loss, and changes in appetite.

• Physical limitations that can reduce a person's ability to exercise.

• Pain.

• A lack of energy.

• A lack of accessible environments (for example, sidewalks, parks, and exercise equipment) that can enable exercise.

• A lack of resources (for example, money, transportation, and social support from family, friends, neighbors, and community members).[[60]](#footnote-60)

Several of these factors have little to do with personal choice and much to do with opportunity. People with disabilities are greatly in need of community support and local opportunities to address their health needs.

*C. Health of Special Olympics Athletes*

People with disabilities who participate in Special Olympics report a healthier lifestyle than non-participating people with disabilities. While obesity rates are still high, most report fairly regular exercise.[[61]](#footnote-61) The following table shows obesity rates for Special Olympics athletes in the United States and globally:[[62]](#footnote-62)

|  |  |  |
| --- | --- | --- |
| **Health Indicator** | **U.S.** | **Global** |
| Obese (youth) | 32.9% | 14.2% |
| Overweight (youth) | 16.2% | 12.9% |
| Obese (adults) | 46.4% | 32.1% |
| Overweight (adults) | 28.2% | 28.9% |

Special Olympics International also studies the physical activity and nutrition choices of their athletes. The following tables represent results of self-reports from Special Olympics Healthy Athletes screening tests:[[63]](#footnote-63)

Physical Activity:

|  |  |  |
| --- | --- | --- |
| **Health Indicator** | **U.S.** | **Global** |
| No Regular Exercise Program | 4.4% | 4.9% |
| Less than 3 days per week | 30.9% | 40.1% |
| More than 3 days per week | 64.7% | 55.0% |

Nutrition:

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **Sources of Calcium** | | **Fruits and Vegetables** | | **Snack Foods** | | **Sweetened Beverages** | |
| **Frequency** | **Global** | **U.S.** | **Global** | **U.S.** | **Global** | **U.S.** | **Global** | **U.S.** |
| Daily | 65.1% | 77.7% | 71.2% | 77.6% | 32.3% | 49.6% | 34.8% | 46.3% |
| Weekly | 29.7% | 18.3% | 26.6% | 20.0% | 47.8% | 40.5% | 48.5% | 38.9% |
| Never | 5.2% | 3.9% | 2.2% | 2.4% | 20.0% | 9.9% | 16.7% | 14.8% |

The physical activity and nutrition numbers are promising, but the rate of obesity amongst Special Olympics athletes is still too high. The Special Olympics programs have done much to promote health awareness, but our schools and communities need to ensure that the health of people with disabilities is not overlooked.

Community-based organizations represent the primary means of promoting healthy lifestyles for people with disabilities.[[64]](#footnote-64) Non-profit organizations, churches, rehabilitation facilities and schools are largely responsible for encouraging healthy lifestyles by providing a variety of opportunities for people with disabilities.[[65]](#footnote-65) Our schools and communities have largely remained on the sideline in this fight. While many states have adopted physical education laws aimed at addressing the general problem of childhood obesity, only one has adopted a law to allow the same opportunities for students with disabilities.

IV. Legal Protections

The Constitutional rights of, and protections for, people with disabilities are in many ways deficient in this country. The plain text of the Constitution of the United States affords little protection for people with disabilities. The Supreme Court has determined that people with disabilities are not part of a suspect or quasi-suspect class for purposes of the Equal Protection Clause of the 14th Amendment.[[66]](#footnote-66) The Court held in *City of Cleburne v. Cleburne Living Center* that people with developmental disabilities are not entitled to heightened scrutiny even when they are discriminated against by reason of their disability.[[67]](#footnote-67)

Schools, for example, can discriminate against students with disabilities as long as it is rationally-related to a legitimate objective.[[68]](#footnote-68) In cases involving schools, the Court has found that protecting the safety of student-athletes and maintaining competition are legitimate objectives.[[69]](#footnote-69) Therefore, in cases of discrimination based on disabilities, people with disabilities are left to rely on statutory protections awarded to them long after the ratification of the 14th Amendment, which are not nearly as strong as the strict scrutiny protection that was being sought in *City of Cleburne*.

*A. Rehabilitation Act of 1973 & Americans with Disabilities Act of 1990*

The Rehabilitation Act of 1973 (hereinafter the Rehabilitation Act) provides statutory protection for individuals with disabilities.[[70]](#footnote-70) It provides more protection than the Constitution for individuals with disabilities. As it relates to this note, it prohibits schools that receive federal funding from discriminating against (e.g. excluding from participation) an "otherwise qualified individual with a disability" by reason of the person's disability.[[71]](#footnote-71) Notably, the Supreme Court gave the Rehabilitation Act more teeth when it indicated in *Alexander v. Choate* that the discriminatory act or behavior does not need to be intentional to violate the Rehabilitation Act.[[72]](#footnote-72)

The Americans with Disabilities Act of 1990 (hereinafter the ADA) followed the Rehabilitation Act and expanded protections for individuals with disabilities, making the protections afforded to individuals applicable to non-federally funded entities as well.[[73]](#footnote-73) Title II and Title III of the ADA provide the relevant statutory language for student-athletes in elementary, middle and high schools.[[74]](#footnote-74) Title II applies to public schools and prohibits them from denying the "benefits of the services, programs, or activities of a public entity."[[75]](#footnote-75) Title III extends the protections for students with disabilities in private schools by prohibiting the denial of benefits of "public accommodations."[[76]](#footnote-76) As will be discussed later, the ADA has been helpful in cases where reasonable accommodations could allow a person to participate in the activity.

*B. Department Of Education Athletic Regulations*

As a result of the Rehabilitation Act, the Department of Education issued regulations to address and elaborate on the standards for interscholastic athletics.[[77]](#footnote-77) These regulations require that students with disabilities be allowed an "equal opportunity" to participate in physical education classes and school athletics.[[78]](#footnote-78) Unfortunately, the regulations do not offer a definition of "equal opportunity" in interscholastic physical education and athletic programs.[[79]](#footnote-79)

Indeed, under the regulations it is permissible for schools to operate separate physical education and athletic programs for their students with disabilities.[[80]](#footnote-80) Where schools create separate teams for students with disabilities, the regulations only require schools to ensure that the facilities and services are akin to the mainstream athletic and physical education programs.[[81]](#footnote-81) The Department of Education's Athletic Regulations do not present nearly enough clarity or strength to properly ensure students with disabilities receive equal physical education and athletic-program opportunities.

*C. Practical Result of These Protections*

The case law, statutory protections, and regulations do not adequately support students with disabilities in making a strong case for discrimination in interscholastic sports. Circuits have split in relevant cases interpreting the precise requirements of the Rehabilitation Act and the Americans with Disabilities Act. Courts have struggled to determine what constitutes a reasonable accommodation for claims under the ADA. To establish a prima facie case of discrimination under the Rehabilitation Act:

an individual with a disability must establish that: (1) she has a disability; (2) she is otherwise qualified for the benefit in question; (3) she was excluded from the benefit solely on the basis of the disability; and (4) this denial was discriminatory because she could not be accommodated with reasonable accommodations.[[82]](#footnote-82)

The ADA's "reasonable accommodations" requirement allows some athletes with disabilities to participate in athletics with minor adjustments for them.[[83]](#footnote-83) In *PGA Tour, Inc. v. Martin*, the Court held that the use of a golf cart did not substantially alter the game of golf, and thus was a reasonable accommodation under Title III of the ADA.[[84]](#footnote-84)

In another case, *Washington v. Indiana High School Athletic Association, Inc.*, the Seventh Circuit affirmed a preliminary injunction for a student denied the right to play on the high school basketball team due to an "eight semester rule" enforced by the Indiana High School Athletic Association.[[85]](#footnote-85) The district court had granted a preliminary injunction due to the likelihood of success of claims under §504 of the Rehabilitation Act and Title II of the ADA.[[86]](#footnote-86)

In *Washington*, the student had a learning disability, which resulted in his dropping out of school for a semester. Upon returning to a different school, the student hoped to participate on the basketball team, but was denied the opportunity since it would be his ninth semester. Affirming the district court order, Judge Kenneth Ripple writing for the majority stated: "[w]e believe that the district court was on solid ground in determining that waiver of the eight semester rule in Mr. Washington's case would not create a fundamental alteration of the eight semester rule."[[87]](#footnote-87)

While these protections are helpful for the "otherwise qualified" student-athletes, they still do not provide a forum for the inclusion of a number of students with disabilities. For students who have a more-limiting disability, there are often few physical education and athletic options at school, and there is no legal way to address the problem.

Many students with intellectual disabilities may not be "otherwise qualified" to play on a school's mainstream athletic team; however, they should still be permitted the chance to participate in athletics at school with their classmates. Unfortunately, most states do not legally require physical education and athletic programs to be offered to students with disabilities in the same, equal manner that they are offered to students without disabilities.

V. Policy Initiatives & Model Programs

*A. University of Auckland Study*

One study conducted in New Zealand studied the reaction of children asked about the possible inclusion of students with intellectual disabilities in school unified sports programs.[[88]](#footnote-88) The participants of the study were primary- and secondary-school students. One group was made up of 10-year olds and another group was made up of 16- and 17-year olds.[[89]](#footnote-89)

The study revealed a generally positive opinion of integrated sports programs amongst students without disabilities.[[90]](#footnote-90) A notable part of the study found that younger students reported the most positive, accepting views of unified sports programs at school.[[91]](#footnote-91) In fact, the study reinforced the idea that inclusion and integration should occur amongst children with and without disabilities before fourth grade.[[92]](#footnote-92)

As authors Michael Townsend and John Hassall explained, "schools are uniquely placed to act as change agents if they have already accepted the principles of normalization and inclusion, and organized sport is an existing part of school life."[[93]](#footnote-93) The vast majority of students held positive attitudes about the possible inclusion of students with intellectual disabilities into an integrated sports program at school proving that the programs are not unwelcome by students without disabilities.

*B. An Evaluation of A Unified Sports Football Pilot Project*

In 2005, Special Olympics Europe/Eurasia introduced a pilot Unified Sports project into schools in five countries.[[94]](#footnote-94) Students with and without intellectual disabilities were recruited to play on school football (soccer) teams in Austria, Poland, Romania, Serbia, and Slovakia. The pilot project consisted of over 900 Unified football (soccer) athletes and partners, and over 500 were interviewed individually for the evaluation.[[95]](#footnote-95)

Over the course of a school year, athletes and partners participated in weekly training and regular competitions.[[96]](#footnote-96) After their participation in Unified Sports at school, all were interviewed in an attempt to determine the impact on the participants' sport skills, social skills and self-esteem.[[97]](#footnote-97)

The results of this project were greatly encouraging for school-based Unified Sports programs. The findings reflect general satisfaction and enjoyment from athletes and partners.[[98]](#footnote-98) Both athletes and partners expressed a feeling of improved sport skills and self-esteem.[[99]](#footnote-99) Additionally, 41 percent of athletes reported they developed friendships outside of the Unified Team's practices and games with teammates across all disability statuses.[[100]](#footnote-100)

When asked to rate the most important aspects of competition, athletes and partners alike reported that the least important factor was winning.[[101]](#footnote-101) This evaluation further supports the movement for athletic inclusion at schools.

*C. Unified Sports in American Schools*

Vermont has successfully integrated Unified Sports into some of their schools as a means of providing interscholastic athletics.[[102]](#footnote-102) In fact, the Vermont Healthy Schools Resource promotes Unified Sports stating, "[s]tart a Unified Sports program which is designed to mainstream special education and other students together in athletic competition. Students learn to recognize people for their abilities and not their disabilities."[[103]](#footnote-103) As of 2009, Vermont was operating twenty-one Unified Sports programs with almost 1,500 athletes.[[104]](#footnote-104)

In 2010, a study of six elementary school-based Unified Sports teams was completed in Massachusetts.[[105]](#footnote-105) As was found in the other studies, the participants reported a "more positive self-concept at the end of their Unified Sports experience, particularly in the area of social acceptance."[[106]](#footnote-106)

The findings also mentioned that the schools need to engage and seek acceptance for the program, "the Unified Sports Handbook specifies that 'a school setting also requires efforts to make the Unified Sports program accepted within the school community... steps need to be taken to both highlight the Unified Sports team and engender school pride in it'; thus, explicitly articulating social inclusion as a primary goal."[[107]](#footnote-107)

Overall, studies have shown that Unified Sports can be a useful tool for school systems to ensure equal opportunity for all students. Further studies could examine the integration of students with more-limiting disabilities. Matching those students with partners could prove difficult when based on age and ability, while maintaining the spirit of inclusion. On the whole, the students who have been involved in Unified Sports report high levels of satisfaction.

*D. Maryland's Fitness and Athletic Equity Act*

In 2008, Maryland became the first state to require county boards of education to provide athletic and physical education opportunities for all students with disabilities. Governor Martin O’Malley signed the unique bill into law on May 13, 2008.[[108]](#footnote-108) Governor O'Malley explained, "[i]n Maryland we believe that everyone should have the chance to grow and develop to their highest potential. Senate Bill 849 will ensure that students with disabilities have the same opportunity to compete and excel in athletic activities as students without disabilities."[[109]](#footnote-109)

Proponents of the Act credit the lawsuit brought by Paralympian, Tatyana McFadden, as part of the inspiration behind the law.[[110]](#footnote-110) In 2006, Ms. McFadden brought suit against Howard County School District for the right to compete on the same track with her teammates.[[111]](#footnote-111) The district had required her to race alone on a separate track citing her wheelchair as a safety hazard and an unfair advantage.[[112]](#footnote-112) The U.S. District Court granted a temporary injunction allowing Tatyana to compete alongside her teammates.[[113]](#footnote-113)

The new law built upon a policy that had been adopted by the Maryland State Board of Education in 2007.[[114]](#footnote-114) That policy affirmed the courts previous holdings that students with disabilities have the opportunity to try out for athletic teams if they are otherwise qualified for the team. The law, however, goes further in that it requires local school systems to ensure students with disabilities are provided the chance to participate in mainstream physical education.

It also requires that students with disabilities be allowed to participate in athletic programs, if selected.[[115]](#footnote-115) Most notably, the Act requires that adapted, allied or unified physical education and athletics are made available for students in Maryland school systems.[[116]](#footnote-116)

Since passing the Act, The Maryland State Department of Education's Division of Instruction and the Maryland Adapted Physical Education Consortium have worked with the Division of Special Education/Early Intervention Services to publish a guide for adapted physical education.[[117]](#footnote-117) The "Guide for Serving Students with Disabilities in Physical Education," is meant to assist schools with the implementation of adapted physical education services for children with disabilities.[[118]](#footnote-118) Generally, the guide is intended to be a resource to help school system efforts to improve physical education and physical activity outcomes for students with disabilities.[[119]](#footnote-119) As the Guide stated,

For many students with disabilities movement is a mode of learning. Physical education can help students with and without disabilities learn to work and play together in movement and recreational activities available to all members of the community.

A quality physical education program provides the foundation for a healthy, happy, and productive lifestyle. Maryland teachers work enthusiastically to ensure this is provided to ALL our students.[[120]](#footnote-120)

Overall, the Act is an encouraging step toward the inclusion and health of students with disabilities in Maryland. The Act can also serve as a template for other states wishing to expand their special education programs, promote physical activity and nutrition amongst their students with disabilities and join the movement towards inclusion.

*E. Government Accountability Office Report*

Partially as a result of the Maryland state law, the Government Accountability Office (GAO) conducted a report on improving opportunities for children with disabilities in physical education.[[121]](#footnote-121) The GAO report found that while students with disabilities participate in physical education at a similar rate to students without disabilities, many states and districts find it difficult to serve students with disabilities due to preparation and budget constraints.[[122]](#footnote-122)

The report also observed that students with disabilities participate in athletics at consistently lower rates than their peers without disabilities.[[123]](#footnote-123) School officials remarked that they were unaware of ways to expand athletic opportunities for students with disabilities, unsure of the schools' responsibility to do so and concerned with budget constraints.[[124]](#footnote-124) The schools considered those to be the primary reasons for lower rates of athletic participation amongst students with disabilities.[[125]](#footnote-125)

Importantly, several states and districts indicated that they could benefit from more information and guidance from the federal Department of Education.[[126]](#footnote-126) States noted that the Department of Education could be more helpful by sharing information on best practices and resources relating to physical education, extracurricular activities and athletics for students with disabilities.[[127]](#footnote-127) States and districts also stated that the Department of Education should provide further clarification as to the schools' responsibilities under federal law to offer extracurricular activities and athletics for students with disabilities.[[128]](#footnote-128)

During the GAO study, many states, districts and schools expressed an interest in improving the manner and extent to which they provide physical education, athletic and extracurricular activities for students with disabilities.[[129]](#footnote-129) As the GAO report explained, even with the Department of Education's limited resources, "focusing some of its existing resources on helping schools provide opportunities in PE and extra curricular athletics could yield important benefits and enable students with disabilities to more fully experience the rewards of physical activity."[[130]](#footnote-130)

VI. Policy Recommendations for Unified

Sports Programs in Schools

Unfortunately due to weak constitutional and statutory protections for students with disabilities, it is difficult to prove discrimination without being considered "otherwise qualified."[[131]](#footnote-131) However, this qualification fails to take into account positive differences in human ability, and instead focuses on what seem to be considered higher-functioning abilities.

School systems throughout the country should look to Unified Sports as an example of successful inclusion and growth for children with and without disabilities. It is important for our schools to encourage the spirit of inclusion amongst their students. Unified Sports can serve as a model for integrated physical education and athletic programs to break down the barriers to inclusion so often present for students with disabilities.

As shown by the studies discussed earlier, the program's success for athletes with disabilities can easily be translated to valuable physical education and athletic programs in schools. The documented results of Unified Sports programs unquestionably show increased inclusion and increased self-esteem for athletes with disabilities.

Unified Sports programs can also play a much-needed role in encouraging interaction across student-disability statuses. Separate physical education or athletic teams result in little time for students of varying abilities to work on skills like teamwork, or allow them to simply have fun together in a constructive school-sponsored environment.

Perhaps most persuasively, the program can also be useful for states and districts looking to improve the fitness and health of students with disabilities. While budgetary concerns may present a hurdle for some states, integrated programs like Unified Sports have been proven to result in extraordinary benefits for students with and without disabilities. With the increasing health concerns of children, states should consider investing early in health and fitness on a unified basis.

States have already stressed the importance of physical education and nutrition in schools, but have failed to address ways to integrate students with disabilities into these positive changes. Maryland stands alone as the only state to statutorily require school systems to provide physical education to students with disabilities in the same, equal manner as their peers.

Other states have expressed an interest in receiving more information from the Department of Education. The Department of Education should make a significant effort to distribute information regarding best practices and model programs related to physical education and athletics for students with disabilities. In doing so, the Department of Education would clarify its own regulations as well as encourage states and districts to examine the manner in which they promote the physical health of their students with disabilities. The states' desire for this information is an encouraging step in the right direction, but these states should also consider adopting a law similar to Maryland's Fitness and Athletics Equity for Students with Disabilities Act in order to address the serious health issues of youth with disabilities.

As discussed earlier, adults with disabilities are more likely than adults without disabilities to be obese. All students should enjoy the well-documented benefits of physical activity and athletics. Good habits need to be taught in schools, and students with disabilities are equally, if not more, in need of this education.

Advocates must encourage states to follow Maryland's lead and enact a similar law protecting and providing physical education and athletic opportunities for students with disabilities. The social and health benefits alone outweigh the monetary concerns, but equality demands that students with disabilities receive the opportunity to participate in all of their school's activities.

VII. Conclusion

States must make a more significant effort to ensure that students with disabilities are given equal opportunity to participate in their schools. Inclusion should start early. The health and fitness of children is important for the rest of their lives. If we want to address the national health problem, we must create solutions for all people. It is also very important for children to learn the values of inclusion and acceptance. Pope Benedict XVI addressed our differing, yet worthy, abilities in a 2008 address to young people with disabilities:

God has blessed you with life, and with differing talents and gifts. Through these you are able to serve him and society in various ways. While some people's contributions seem great and others' more modest, the witness value of our efforts is always a sign of hope for everyone.[[132]](#footnote-132)

We all have a worth, and no child should be denied the opportunity share their worth with friends, classmates and the community.

I can personally attest to the human growth that can occur through Unified Sports. Last spring, in a few short weeks of coaching a Unified soccer team, I witnessed the molding of a true team, the building of friendships that still exist, and a willingness to continue participating for years to come. As a coach, I was encouraged by the development of relationships between athletes and partners from the early stages, where the partner was typically more of a helper, to our final competition, where the participants were truly partners.

This year, I was able to witness similar results. There was a significant difference in the skill level of athletes and partners from the first practice to the last practice. We practiced for 90 minutes, two days a week for four weeks leading up to our competition. The long practices were beneficial for us all in terms of both physical health and team bonding.

In an address to the Maryland State Senate, Chairman and CEO of Special Olympics International, Timothy P. Shriver proclaimed, "we are acutely aware of tight budgets, limited facilities, and the high demand on local governments to provide recreation programs. However, we are not willing to accept that individuals with ID [intellectual disabilities] are not valuable, not important, not worth the effort, and most importantly, not equal."[[133]](#footnote-133)

I wholeheartedly agree with and emphasize Mr. Shriver’s forceful sentiments. Although we are facing many challenges in a very uncertain future, one thing should be and remain a constant, and that is that we see that all persons, especially those with intellectual disabilities, are deserving of opportunities for education and growth. As I have addressed in this note, I strongly believe that school-based Unified Sports programs can offer an appropriate and necessary avenue on which to take to foster opportunities for *all* individuals.

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2. *Fitness and Athletes Equity for Students with Disabilities Act*, Maryland Senate Bill 849 (2008) (testimony of Timothy P. Shriver, Ph.D.). [↑](#footnote-ref-2)
3. *Id.* [↑](#footnote-ref-3)
4. *Special Olympics Handbook: Unified Sports,* Special Olympics 1 (2003). [↑](#footnote-ref-4)
5. *Id*. at 3. [↑](#footnote-ref-5)
6. *Id*. at 3. [↑](#footnote-ref-6)
7. Steven M. Eidelman, *The Times They Are a Changing: Special Olympics and the Movement Towards Valued Lives and Inclusion*, Intellectual and Developmental Disabilities 403, 403-06 (2011). [↑](#footnote-ref-7)
8. *See supra*, note 4, at 6. [↑](#footnote-ref-8)
9. *Id*. [↑](#footnote-ref-9)
10. *Id*. [↑](#footnote-ref-10)
11. *Id*. [↑](#footnote-ref-11)
12. *Id*. at 7. [↑](#footnote-ref-12)
13. *Id*. [↑](#footnote-ref-13)
14. *See supra*, note 4. [↑](#footnote-ref-14)
15. *Id*. [↑](#footnote-ref-15)
16. *Id*. [↑](#footnote-ref-16)
17. *Id.* [↑](#footnote-ref-17)
18. *Id*. at 2. [↑](#footnote-ref-18)
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21. *National Evaluation of the Special Olympics Unified Sports Program*, Center for Social Development and Education University of Massachusetts Boston and Department of Special Education University of Utah (2001). [↑](#footnote-ref-21)
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24. *See supra*, note 4 at 3-5. [↑](#footnote-ref-24)
25. E-mail from Annett Lynch, Senior Manager, Sports Partnerships, Special Olympics North America to author (Nov. 2, 2011) (citing Unified Sports World Games results, on file with the author). [↑](#footnote-ref-25)
26. *See supra*, note 4. [↑](#footnote-ref-26)
27. *Id*. at 7. [↑](#footnote-ref-27)
28. *Id*. at 7-8. [↑](#footnote-ref-28)
29. *Id*. at 7-8. [↑](#footnote-ref-29)
30. *See supra*,note 4, at 7-8. [↑](#footnote-ref-30)
31. *Id.* at 7. [↑](#footnote-ref-31)
32. Sandra Dowling, Roy McConkey, David Hassan, and Sabine Menke, *'Unified gives us a chance': An evaluation of Special Olympics Unified Sports Programme in Europe/Eurasia*, University of Ulster 1 (2010). [↑](#footnote-ref-32)
33. *Id*. at 23-26. [↑](#footnote-ref-33)
34. *See supra*,note 23, at 29. [↑](#footnote-ref-34)
35. Joanne Kersh, Gary N. Siperstein, and Robin C. Parker, *Beyond the Playing Field: The Impact of Special Olympics Unified Sports*, Executive Summary, University of Massachusetts, Boston, Special Olympics Global Collaborating Center (2010). [↑](#footnote-ref-35)
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39. *Id*. [↑](#footnote-ref-39)
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47. *Id*. [↑](#footnote-ref-47)
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52. *Id*. [↑](#footnote-ref-52)
53. *See supra*, note 36. [↑](#footnote-ref-53)
54. *Id*. [↑](#footnote-ref-54)
55. *Id*. [↑](#footnote-ref-55)
56. *Id*. [↑](#footnote-ref-56)
57. *Id*. [↑](#footnote-ref-57)
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62. *Id*. [↑](#footnote-ref-62)
63. E-mail from Amy Shellard, Special Olympics International to author (Feb. 24, 2012) (citing results of Healthy Athletes Screening Tests on file with the author). [↑](#footnote-ref-63)
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76. *Id*. [↑](#footnote-ref-76)
77. 34 C.F.R. §104.37 (a). [↑](#footnote-ref-77)
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79. *Id*. at 290-91. [↑](#footnote-ref-79)
80. *See generally*, 34 C.F.R. §104.37. [↑](#footnote-ref-80)
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91. *Id*. at 267. [↑](#footnote-ref-91)
92. Michael Townsend and John Hassall, *Mainstream Students' Attitudes to Possible Inclusion in Unified Sports with Students who have an Intellectual Disability*, Journal of Applied Research in Intellectual Disabilities 265 (2006) (citing T.P. Shriver, *Effects of the Special Olympics World Games on attitudes of non-handicapped children towards persons with mental retardation* (1997)). [↑](#footnote-ref-92)
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98. *Id*. [↑](#footnote-ref-98)
99. *Id.* [↑](#footnote-ref-99)
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101. *Id.* at 4 (explaining that athletes and partners were asked to rate the most important aspects of competition. These factors included: having fun, teamwork, fair play and winning.). [↑](#footnote-ref-101)
102. *See generally*, Vermont Departments of Health and Education & Action for Healthy Kids, *available at* http://healthvermont.gov/local/school/documents/ Healthy%20Schools%20Resource\_Activity.pdf. [↑](#footnote-ref-102)
103. *Id*. [↑](#footnote-ref-103)
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107. *Id*. at 2 (citing *Special Olympics Handbook: Unified Sports*, Special Olympics 1 (2003)). [↑](#footnote-ref-107)
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126. *Id*. [↑](#footnote-ref-126)
127. *Id*. [↑](#footnote-ref-127)
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