



## Guidance Regarding Physical Education and High School Programs

### Introduction

Physical education (PE) is essential to a student's overall education experience and builds a foundation for lifelong healthy living. The goal of PE is to develop physically literate individuals who have the knowledge, skills, and confidence to enjoy a lifetime of healthy physical activity. Iowa Code and Iowa Administrative Code (IAC) require that all students who are physically able be required to participate in PE in each semester in which they are enrolled in school with some specific waivers, exemptions, and excusals (Iowa Code § 256.11; 281—IAC 12). Most exemptions/excusals require a written request by the student's parent or guardian to the school principal.

This document provides basic information on the following issues related to PE requirements and high school programs:

- [Physical Education at Alternative Schools and Programs](#)
- [Physical Education Exemptions and Excusals](#)
- [Participation in Iowa's Page Program](#)
- [Participation in Junior Reserve Officers Training Corps \(JROTC\)](#)
- [Physical Education and Physical Activity](#)
- [Contract or Independent Study Physical Education](#)
- [Single-Sex Physical Education Activities](#)

### Physical Education at Alternative Schools and Programs

By definition, an "alternative school" is to provide a comprehensive educational program to its students and, because it is a school, must meet all general accreditation requirements, including PE (Iowa Admin. Code r. 281—12.2). By definition, an "alternative program" is a part of the school's regular educational program, which would include PE.

A student who participates in alternative programs or attends alternative schools must participate in PE unless the student receives a student-specific excusal from PE, or the Iowa Department of Education (Department) has granted a waiver to the school or program, based on satisfaction of the high standards for a waiver of general accreditation standards (Iowa Code § 256.11(8); Iowa Admin. Code r. 281—12.9).

A school district may permit a waiver of the PE requirement to particular students who attend alternative schools or participate in alternative programs; however, those waivers must be based on written parent requests. Those student-specific waivers shall not be presumed, turned into "blanket" waivers, or built into the entrance process to the alternative school or program.

### Examples of Impermissible Excusals/Waivers (1-4)

**Example 1:** A clause in an alternative program's attendance agreement that states, "By requesting to attend the XYZ School District's Alternative Program, I agree to waive PE" would be an impermissible coerced "choice."

**Example 2:** It would be impermissible to state, “We are an off-campus program, so we do not need to have PE” (attempting to rely on the “off-campus program” rule described below) because that eliminates the requirement that PE excusals be requested by parents.

**Example 3:** It would be impermissible to state, “Our schedule at the QRST Alternative Program is too full, so PE is not available.” The “full schedule” excusal does not permit alternative schools or programs to construct their schedules in such a way that there is no room for PE, in addition to not being student-specific and parent-requested.

**Example 4:** It would be impermissible to state, “Students who are ‘over-aged-and-under-credited’ will not take PE so they maximize the number of credits they can earn in the alternative setting.” As noted in Example 3, a school cannot over-schedule to avoid offering PE. While it is important that students who are behind trajectory to graduate earn credits as rapidly and as meaningfully as possible, the law requires participation in PE unless one of the excusals is applicable. If a parent wants a child to fill the child’s schedule with credit and component recovery courses and activities and thereby request a waiver of PE, that is the parent’s decision to make. It cannot be made by the school for all children.

While students in alternative programs and schools are required to participate in PE, the activities and facilities do not need to be identical to the activities and facilities at a comprehensive school, so long as the content specifications in 281—IAC 12.5(5)“f” are available to students in alternative programs and schools.

In considering the required offering of PE in alternative schools, teachers and administrators may wish to give great weight to the proven, positive relationship between high-quality PE programs and academic achievement. While the PE program and methods at alternative schools and programs may look different than at other schools, it is a legal obligation to make PE available and taught by a teacher with the appropriate PE licensure.

## Physical Education Exemptions and Excusals

The law provides several narrow exceptions to and excusals from the PE requirement. Exemptions and excusals require a written request from a student’s parent or guardian to a school principal.

A principal may not grant any of these excusals until the principal has received a written request from a student’s parent. These excusals are to be considered on a student-by-student basis. They are not to be granted on a “blanket” or “en masse” basis (In re Jed and Tessa Thompson, 10 D.o.E. App. Dec. 195, 201 (Iowa St. Bd. of Educ. 1993)). The law requires that the principal notify the superintendent of the school district or nonpublic school of any student excused from PE under these provisions.

## Mandatory Exemptions

### MEDICAL EXEMPTION

If a parent of a student files a statement signed by a physician or health care provider within the scope of the provider’s licensure and authorized practice that a student is not “physically able” to participate in PE, then the student is exempt from PE (see Iowa Code § 256.11(6)). If a document is signed by a physician or health care provider, it shall not be questioned by the school.

Medical exemptions should not be sought by the school to unilaterally exempt students with physical disabilities from PE. States and schools are required to provide equal opportunity to participate in PE for children and youth with and without disabilities. The Individuals with Disabilities Education Act (IDEA, 2004) and the Iowa Administrative Rules of Special Education (2010) require schools to provide students with a free appropriate public education (FAPE) in the least restrictive environment (LRE). Special education requires all students to have access to appropriate PE instruction, specifically listing “instruction in PE.” [Separate guidance](#) is available for PE for students with disabilities.

## CONFLICT WITH RELIGIOUS BELIEF

If a parent of a student files a written statement that a PE course conflicts with the “pupil’s religious belief,” the student shall be exempt from participation in the PE course (Iowa Code § 256.11(6)“a”). If a parent files such a statement, the student is exempt (without question) from PE. The school has no discretion to deny the exemption. School officials shall not require the parent to provide proof of or otherwise question the sincerity of the asserted belief.

## Discretionary Excusals Available to Students in Grade 12

A high school’s principal has the discretion to grant an excusal from PE to students in the 12<sup>th</sup> grade in three instances. These excusals need not be available on-demand, and a school may set reasonable conditions when receiving one of these excusals. The principal must be rational and even-handed in granting or denying requested excusals. A principal may not grant any of these excusals until the principal has received a written request from a student’s parent.

## OFF-CAMPUS EDUCATIONAL PROGRAM

If a 12<sup>th</sup> grade student is enrolled in a “work-based learning program or other educational program authorized by the school” requiring the student’s absence from school premises during the school day, the principal may excuse the student from the PE requirement (Iowa Code § 256.11(5)“g”(1)(a); 281—IAC 12.5(5)“f”(1)). Additional exemptions apply for participation in the Iowa page program and Junior Reserve Officers Training program (see the related sections that follow).

If the student drops the program, the student must enroll in PE.

If the student spends their entire school day in a location other than the child’s school (e.g., all of the student’s education is provided at an off-campus alternative school), this excusal is not available. It is only available for students who divide their time between two locations. If a student spends their entire school day at another location, the student is required to take PE at that location unless another excusal applies (see the previous section regarding alternative schools and programs).

Note that the off-campus educational program must be “authorized” by the school, and it must require the student’s absence during the school day. If the student participates in an off-campus educational activity that occurs outside of the school day (e.g., work study on weekends, college class in the evening), this excusal is not available.

This is not a blanket excusal for students in “vocational” programs. First, the law does not restrict off-campus programs to those programs providing career and technical education content (CTE; e.g., a student could be taking an off-campus world language course). Second, students whose educational programs are entirely on-campus, including on-campus CTE, are not eligible to request this excusal. Enrollment in an on-campus standalone CTE course does not qualify for this excusal. For **example**, a student who is enrolled in an on-campus work study program in the school’s food service department is not eligible for this excusal.

## ACADEMIC COURSE NOT OTHERWISE AVAILABLE

If a 12<sup>th</sup> grade student seeks to enroll in “academic courses not otherwise available to the student,” the student’s parent may request excusal from PE in writing (Iowa Code § 256.11(5)“g”(1); 281—IAC 12.5(5)“f”(2); *In re Jed and Tessa Thompson*, 10 D.o.E. App. Dec. 195). This matter is within the principal’s discretion. To qualify under this excusal provision, it is not necessary that the course at issue be a core course or a graduation requirement. The course may be an elective.

If the student drops the course, the student must enroll in PE.

This excusal is only available if the item in the student’s schedule is an academic course. A student cannot be excused if the basis for it is a time conflict with something that is not an academic course, such as an optional study hall or an opportunity for early dismissal.

Schools may not make blanket excusals from PE because the school has what the school considers to be “more rigorous” graduation requirements.

It would be improper to excuse 12<sup>th</sup> grade students automatically and categorically from PE based on “participation in an advanced placement course,” “registration in a foreign language,” “registration for an instrumental or vocal music course,” “participation in an alternative program,” or similar categorical statements. Statements such as this improperly eliminate the requirement that the parent makes a written request for excusal from PE.

**Example 5:** ABCD High School has an eight period day. The high school senior schedules five periods of required courses (other than PE), a mandatory study hall, and an elective Ceramics class. She also wants to take an eighth period of Auto Mechanics, also an elective, in lieu of PE. The principal has the discretion to excuse the student from PE so she may take Auto Mechanics. Alternatively, the principal has the discretion to deny the excusal and require the student to choose which of her electives she wishes to forego.

**Example 6:** EFG High School has an eight period day. The high school senior has six periods of required courses (other than PE) and an elective vocal music class. He wants to be excused from PE for the eighth period of the day so he may take advantage of early dismissal. “Early dismissal” is not an academic course, so this excusal is not available.

**Example 7:** HIJ High School requires 64 credits to graduate, which includes a requirement to take the one credit College Readiness course. The high school senior has room for eight credits in her final semester, requires eight credits to graduate, and has not taken College Readiness. She has seven credits in her schedule already (six required and one elective). Her principal has the discretion to excuse her from PE so she may take College Readiness. Alternatively, the principal may deny the excusal and require her to take PE in lieu of the one elective course.

**Example 8:** KLM High School requires 64 credits to graduate, which includes a requirement to take a one credit College Readiness course. The school has a policy that students are excused from PE in the semester that the student enrolls in College Readiness. This is impermissible.

## ORGANIZED AND SUPERVISED ATHLETIC PROGRAM

If a 12<sup>th</sup> grade student is participating in an “organized and supervised athletic program which requires at least as much participation per week as one-eighth unit of PE” (900 minutes), the student’s principal may excuse the student from PE (Iowa Code § 256.11(5)“g”(1)(b); 281—IAC 12.5(5)“f”(3)).

If the student withdraws from the activity, the student must enroll in PE.

To be eligible for this excusal, the activity must equal or exceed 900 minutes during the semester. If the activity does not equal 900 minutes in a semester, parents of seniors participating in the activity are not eligible to request this excusal.

To qualify as an organized and supervised athletic program, the activity must be sponsored by the school or school district. Outside activities sponsored by other entities are not eligible for this excusal. The activity must be supervised by appropriately licensed and endorsed school staff. For example, for a school’s cheerleading squad, drill team, dance team, show choir, or similar activity to be “supervised” under this excusal, the activity must be supervised by school employees with appropriate PE or coaching endorsements issued by the Iowa Board of Educational Examiners. If the activity is not supervised by an appropriately licensed and endorsed employee, it does not qualify for this excusal.

It would be improper to excuse 12<sup>th</sup> grade students automatically and categorically from PE based on participation in sports, participation in drill team, participation in show choir, or similar categorical statements. First, statements such as these improperly presume that the activity meets the requirements of the excusal (e.g., number of minutes, appropriate supervision). Second, statements such as these improperly eliminate the requirement that the parent makes a written request for excusal from PE.

**Example 9:** A 12<sup>th</sup> grade student participates in a physical fitness club sponsored by the school and supervised by an appropriately licensed and endorsed teacher. It meets for 45 minutes each Wednesday for the 18 week semester. This equals 810 minutes. Because this is less than 900 minutes, participation in this activity does not create eligibility to request an excusal.

**Example 10:** A 12<sup>th</sup> grade student participates in intensive daily coaching in a private gymnastics studio. The activity is not eligible for this excusal because it is not sponsored by the school district.

Schools who request and receive a general accreditation standards waiver from the Department may have students complete a full year's worth of PE in less than a full-year course, such as having students take PE daily for one trimester each year with the total time in PE meeting the legal requirement for being equivalent to ¼ unit (1,800 minutes). To align the PE requirement with the organized and supervised athletic program requirement, the following applies for 12<sup>th</sup> grade students seeking this excusal: students may be excused from PE based on participation in an organized and supervised athletic program meeting the requirements above and requiring as much participation as ¼ unit of PE (1,800 minutes) for the year.

## Discretionary Excusals Available to Students in Grades 9-11

There are two discretionary excusals available to students in grades nine to 11. The two available excusals are similar to two of the excusals available to 12<sup>th</sup> grade students but with important differences.

Like excusals available to seniors, these two excusals are not available on-demand, and a school may set reasonable conditions when receiving one of these excusals. The school or school district must be rational and even-handed in granting or denying requested excusals. The school or school district must carefully balance all factors when determining whether to grant these excusals.

A school or school district may not grant any of these excusals until the school has received a written request from a student's parent or guardian. These excusals are to be considered on a student-by-student basis. They are not to be granted on a blanket or en masse basis (In re Jed and Tessa Thompson, 10 D.o.E. App. Dec. at 201). The law requires that the principal notify the superintendent of the school district or nonpublic school of any student excused from PE under these provisions.

### ACADEMIC COURSE NOT OTHERWISE AVAILABLE

This excusal requires action by the school board or nonpublic school authorities before it is available. Policies implementing this excusal usually delegate the authority to grant excusals to the high school's principal. Absent such authorization, the school's principal has no authority to grant a requested excusal.

If a ninth through 11<sup>th</sup> grade student seeks to enroll in academic courses not otherwise available to the student, the student's parent may request excusal from PE, in writing, if the school district's board of directors or the authorities in charge of a nonpublic school determine that students from the school may be excused from PE (Iowa Code § 256.11(5)"g"(1); 281—IAC 12.5(5)"f").

To qualify under this excusal provision, it is not necessary that the course at issue be a core course or a graduation requirement. The course may be an elective (In re Jed and Tessa Thompson, 10 D.o.E. App. Dec. 195). This excusal is only available if the item in the student's schedule is an academic course. A student cannot take advantage of this excusal if the basis for it is a time conflict with something that is not an academic course, such as an optional study hall or an opportunity for early dismissal.

If the student drops the course, the student must enroll in PE.

As is the case for seniors, schools and school districts may not make blanket excusals from PE for ninth through 11<sup>th</sup> grade students because the school or school district has what it considers to be more rigorous graduation requirements (see Examples 7 and 8).

It would be improper to excuse automatically and categorically ninth through 11<sup>th</sup> grade students from PE based on participation in an advanced placement course, registration in a foreign language, registration for an instrumental or vocal music course, participation in an alternative program, or similar categorical

statements. Statements such as these improperly eliminate the requirement that the parent makes a written request for excusal from PE.

**Example 11:** NOP High School has an eight period day. The high school junior schedules six periods of required courses (other than PE) and an elective Latin class. He also wants to take an eighth period of Baking, also an elective, in lieu of PE. The principal has the discretion to excuse the student from PE so he may take Baking. Alternatively, the principal has the discretion to deny the excusal and require the student to choose which of his electives he wishes to forego.

**Example 12:** QRS High School has a seven period day. The high school sophomore has five periods of required courses (other than PE) and an elective instrumental music class. She wants to be excused from PE for the seventh period of the day so she may take advantage of an optional study hall. An optional study hall is not an academic course, so this excusal is not available.

#### ORGANIZED AND SUPERVISED ATHLETIC PROGRAM

If a ninth, tenth, or 11<sup>th</sup> grade student is participating in an “organized and supervised athletic program which requires at least as much participation per week as one-eighth unit of PE” (900 minutes) at some time during one semester, quarter, or trimester in a school year, the student’s principal may excuse the student from PE for one quarter, semester, or trimester per year after consultation with the student’s guidance counselor (Iowa Code § 256.11(5)“g”(2); 281—IAC 12.5(5)“f”). This excusal must be requested by the parent in writing.

Unlike the similar excusal that may be granted to high school seniors, this excusal requires the involvement of the student’s guidance counselor. This is to ensure the child’s multiple academic and developmental needs are met and to ensure that the child and parents are aware of the positive and negative consequences of excusal from PE.

If the student withdraws from the activity, the student must enroll in PE.

There are some common elements with the similar excusal for 12<sup>th</sup> grade students. First, to be eligible for this excusal, the activity must equal or exceed 900 minutes in a semester. If the activity does not equal 900 minutes in a semester, parents of seniors participating in the activity are not eligible to request this excusal. To qualify as an organized and supervised athletic program, the activity must be sponsored by the school or school district. Outside activities sponsored by other entities are not eligible for this excusal. Unlike the similar excusal that may be granted to high school seniors, this excusal only allows excusal from one semester, trimester, or quarter of PE. It is not available for additional semesters, trimesters, or quarters during that school year.

**Example 13:** A ninth grade student at TUVW High School is excused from PE for the fall semester due to her membership on the school’s swimming team. She and her parent request excusal for the spring semester due to her membership on the school’s tennis team. That excusal must be denied, as the student has already been excused from one semester of PE during the school year.

**Example 14:** A 10<sup>th</sup> grade student participates in a weight lifting club sponsored by XYZ High School and supervised by an appropriately licensed and endorsed teacher. It meets for 45 minutes each Tuesday morning before school for the 18 week semester. This equals 810 minutes. Because this is less than 900 minutes, participation in this activity does not create eligibility to request an excusal under this rule.

**Example 15:** An 11<sup>th</sup> grade student takes evening ballroom dance lessons made available by the local community college’s community education division. That activity, not sponsored by a school or school district, is not eligible for this excusal.

The third similarity involves the credentials of those providing the supervision. The activity must be supervised by appropriately licensed and endorsed school staff. For example, for a school’s cheerleading squad, drill team, dance team, show choir, or similar extracurricular to be considered supervised under this excusal, the activity must be supervised by a school employee with appropriate PE or coaching

endorsements issued by the Iowa Board of Educational Examiners. If the activity is not supervised by an appropriately licensed and endorsed employee, it does not qualify for this excusal.

The final similarity is the fact that this excusal is not one-size-fits-all. It is improper to excuse automatically and categorically ninth, 10<sup>th</sup>, or 11<sup>th</sup> grade students from PE based on participation in sports, participation in drill team, participation in show choir, or similar categorical statements. First, statements such as these improperly presume that the activity meets the requirements of the excusal (e.g., number of minutes, appropriate supervision). Second, statements such as this improperly eliminate the requirement that the parent makes a written request for excusal from PE. Third, it eliminates the important and statutory role of the student's guidance counselor in the decision-making process.

Schools who request and receive a general accreditation standards waiver from the Department may have students complete a full year's worth of PE in less than a full-year course, such as having students take PE daily for one trimester each year with the total time in PE meeting the legal requirement for being equivalent to ¼ unit (1,800 minutes). To align the PE requirement with the organized and supervised athletic program requirement, the following applies for students in grades nine through 11 who qualify for this excusal: principals may choose to either not excuse students from PE at all or excuse students only for one-half of the PE course with the student meeting the requirements of the organized and supervised athletic program (including at least 900 minutes of supervised activity).

## Students Who Qualify for More Than One Excusal/Exemption

While only one ground is necessary, some students may have more than one ground for an excusal. If one of the grounds becomes unavailable to the student, the school or school district may consider the other ground or grounds. The school is to prudently exercise its discretion, keeping in mind the purpose of each excusal and working to avoid further disruptions to the student's high school experience.

**Example 16:** A high school senior is involved in extracurricular athletics at ZYX High School and is eligible for an excusal based on her participation in basketball. She also has eight academic courses in an eight period schedule. The senior and her family requested an excusal based on her academic course load, which was granted. The senior and her family did not need to request an excusal based on her participation in basketball. During the semester, the senior decides to drop an elective course. This is to allow herself time outside of school hours to take an evening job to save for college. The school insists that the student must enroll in PE. The student and family request that the school continue to excuse the child based on participation in basketball. The school should consider this request in light of the purposes of the laws allowing for excusal from PE, with consideration for the disruption of the student's education.

## Participation in Iowa's Page Program

In 2021, [Senate File 517](#) added new subsection 18 to Iowa Code 256.11 relating to academic credit and exemptions for students who participate in the Legislative Page program at the Iowa State Capitol. The subsection adds that while participating in the page program at the Iowa State Capitol, a student is excused from the PE requirement and is exempt from the physical activity requirements of the Healthy Kids Act.

If the student withdraws from the activity, the student must enroll in PE.

## Participation in Junior Reserve Officers Training Corps (JROTC)

In 2021, [House File 793](#) added a new subparagraph to Iowa Code section 256.11. The new subparagraph adds that a student enrolled in a Junior Reserve Officers' Training Corps (JROTC) program shall not be required to participate in PE activities under subparagraph (1) or to meet the physical activity requirement of the Healthy Kids Act but shall receive one-eighth unit of PE credit (or the equivalent) for each semester of JROTC the student completes (Iowa Code § 256.11(5)g(4)).

If the student withdraws from the activity, the student must enroll in PE.

## Physical Education and Physical Activity

In 2008, Iowa enacted the Healthy Kids Act. As part of that law, schools and school districts must require that physically able students in grades six through 12 engage in 120 minutes per week of physical activity (see Iowa Code § 256.11(6)"b"(2)) in weeks in which there are five days of school (see Iowa Admin. Code r. 281—12.5(19)). "Physical activity" is defined as "any movement, manipulation, or exertion of the body that can lead to improved levels of physical fitness and quality of life" (Iowa Admin. Code r. 281—12.2).

A school or school district shall not reduce instructional time to implement the Healthy Kids Act's physical activity requirement (Iowa Code § 256.11(6)"b"(3); 281—IAC 12.5(19)"c"). IAC provides that a school or school district may meet the physical activity requirement through "PE classes, activities during recess or during class time, and before- or after-school activities" (281—IAC 12.5(19)"c").

A student in grades six through 12 who takes part in "an organized and supervised athletic program or non-school-sponsored extracurricular activity which requires the student to participate in physical activity for a minimum of 120 minutes per week is exempt" from the physical activity requirement (Iowa Code § 256.11(6)"b"(2)). IAC provides examples of ways to meet this requirement:

- (1) Interscholastic athletics sponsored by the Iowa High School Athletic Association or Iowa Girls High School Athletic Union;
- (2) School-sponsored marching band, show choir, dance, drill, cheer, or similar activities;
- (3) Non-school gymnastics, dance, team sports, individual sports; or
- (4) Similar endeavors that involve movement, manipulation, or exertion of the body. (281—IAC 12.5(19)"a").

If the student meets some or all of the 120 minutes per week with non-school activities, the school or school district and the student shall enter into a written agreement as provided in 281—12.5(19)"b." The written contract permitted by this rule is not a means of earning a PE credit or demonstrating eligibility for a PE excusal.

A parent may request a child be exempted from the physical activity requirement based on conflict with religious beliefs (Iowa Code § 256.11(6)"a"; Iowa Admin. Code r. 281—12.5(6), see Section II.A.2).

"Physical activity" and "physical education" are conceptually related but legally separate. For example, a student may satisfy the physical activity requirement in a manner that qualifies for neither a PE excusal nor a PE credit. Likewise, an activity that satisfies a requirement for a PE credit or excusal may not meet the minimum physical activity requirement. In that case, the minimum physical activity requirement must be met by other means.

**Example 17:** A high school senior participates in a recreational basketball league arranged by the city's parks department. The league has practice one hour a week on Wednesday nights and one hour a week on Friday nights. During the weeks that the league is in session, the basketball league is eligible to meet the Healthy Kids Act's physical activity requirement because it equals 120 minutes per week. The activity would not qualify for a PE excusal because it is not organized and supervised by a school or school district.

**Example 18:** A high school senior participates in an after-school strength and agility training program supervised by an appropriately credentialed school employee. The activity meets for 10 weeks for 90 minutes per week. The activity is eligible for an excusal as an organized and supervised athletic program because it equals 900 minutes in a semester; however, because the activity is less than 120 minutes per week, the senior will be required to engage in additional physical activity.

The physical activity requirement is a part of the accreditation standards. It is not a graduation requirement. Schools and school districts must maintain documentation to demonstrate compliance with this requirement. "This documentation may be provided through printed schedules, district policies, student handbooks, and similar means" (281—IAC 12.5(19)"d").

## “Contract” or Independent Study Physical Education

The use of physical activity “contracts” to meet the requirements of the Healthy Kids Act has led to the belief that a standalone physical activity contract may lead to awarding a PE “credit.” This is incorrect, based on general accreditation standards.

To earn credit, a student must complete all or a portion of a “unit” (Iowa Admin. Code r. 281—12.5(15)). The definition of a unit requires that it be “taught” (Iowa Admin. Code r. 281—12.5(14)). Before awarding credit for contract or independent study PE, a school or school district must ensure that a student receives instruction from a teacher during the term of the contract or independent study period. The question about whether a course is taught is answered with reference to the general accreditation standards’ definition of “teacher,” which is defined as follows:

A teacher diagnoses, prescribes, evaluates, and directs student learnings in terms of the school’s objectives, either singly or in concert with other professional staff members ... and evaluates or assesses student progress during and following instruction in terms of the objectives sought, and uses this information to develop further educational procedures. (Iowa Admin. Code r. 281—12.4(8))

In light of this rule, to be taught and eligible to earn credit, a PE contract or independent study plan must have a learning objective related to one or more of the PE content specifications from Chapter 12:

- Physical fitness activities that increase cardiovascular endurance, muscular strength, and flexibility;
- Sports and games;
- Tumbling and gymnastics;
- Rhythms and dance; water safety; or
- Leisure and lifetime activities (281—12.5(5)“f”).

The learning objective must be selected in conjunction with an appropriately licensed teacher and based on the student’s current and individual needs and may be aligned with the recommended PE standards and grade-level outcomes. The contract or plan must contain a description of:

- How the child’s participation will be supervised by the teacher, including a description of how the student’s progress will be monitored and assessed and how its contents will be revised, if necessary, based on lack of progress or greater-than-expected progress; and
- What objective must be attained for a credit to be successfully completed.

Consider the following examples, which relate to the content specification of physical fitness and align with skill and knowledge standards.

**Example 19:** A student at WVU High School completes a PE contract, in which she agrees to walk briskly for 60 minutes a week for an 18 week semester. The contract does not contain any provision for instruction by a PE teacher. It does not contain any objective measure for determining either whether student growth or improvement has occurred or whether the student shall receive a credit. This contract contains insufficient “teaching” to justify an award of PE credit.

**Example 20:** A student at TSR High School completes a PE contract, in which she agrees to complete an 18 week guided study of walking or jogging theory and practice. During their first meeting, the teacher provides the student with a course outline, including a grading rubric. The teacher then completes a video-assisted walking and jogging gait analysis of the student, followed by face-to-face instruction and assigned readings to reinforce the theoretical components of the content. The student is assigned a minimum of one hour of practice per day on appropriate terrains reinforcing good body mechanics. She logs her walking and jogging experiences, responds in writing to selected articles, and meets with her teacher once every two weeks to discuss and demonstrate progress. Course assessment activities include evaluation of her log, written article responses, and a final video-assisted walking and jogging gait analysis. This contract is taught, as that term is used in Iowa law and is eligible for PE credit.

While a PE contract, like any independent study plan, is flexible to account for student needs, it must be taught to justify awarding credit. To the extent a plan is more similar to Example 20 than to Example 19, the more likely awarding credit for plan completion complies with Chapter 12 standards.

As in any independent study course, the supervising teacher of the independent study or contract PE must consider:

- The student's present performance,
- A meaningful and attainable learning outcome,
- The required instruction required to attain that outcome, and
- How progress will be monitored.

The starting point is the student's current attainment of PE standards. For some students with greater needs, independent study PE will not be appropriate. Independent study PE has many legitimate uses (e.g., accounting for a child's full schedule, allowing a child to make up unearned PE credits); however, independent study or contract PE is not to be used to subvert the law's PE requirements.

## Single-Sex Physical Education Activities

PE courses and activities are required to be coeducational as opposed to single-sex or single-gender, subject to certain narrowly defined exceptions. This rule is based on Title IX of the Education Amendments of 1972 (Title IX, 1972). "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...." (20 U.S.C. § 1681(a)). Title IX governs any "public or private preschool, elementary, or secondary school" receiving such assistance (20 U.S.C. §1681(c)). Additionally, the general accreditation standards require school districts to "take affirmative steps to integrate students in attendance centers and courses" (281—12.1(1)). "Sex" rather than "gender" is used in this document because that is the term in the statute.

Under Title IX regulations, "a recipient shall not provide or otherwise carry out any of its education programs or activities separately on the basis of sex or require or refuse participation therein by any of its students on the basis of sex" (34 C.F.R. § 106.34(a)). The regulations provide for two exceptions to this rule for PE classes: contact sports and ability grouping.

### Contact Sports

Concerning contact sports, the regulations provide that Title IX allows separation of students by sex within PE classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports where "the purpose or major activity of which involves bodily contact" (20 U.S.C. § 106.34(a)(1)). If the activity is not listed in the regulation, the school or school district must be able to demonstrate that the activity's purpose or major activity involves bodily contact. If physical contact is a minor or rare part of the activity this exception does not apply.

**Example 21:** The PE department at QRO High School has decided to divide its PE classes by sex for contact drills, scrimmages, and games during the basketball unit. This decision is specifically authorized by the Title IX regulations; however, separation may only occur during the actual contact play, not during warm-up, lecture, demonstration, or non-contact drill work.

**Example 22:** The PE department at NMLK High School has decided to separate its PE classes by sex whenever the classes play softball. Any physical contact in softball is incidental to the game. This decision is not authorized by Title IX regulations.

### Ability Grouping

Concerning ability grouping, the regulations allow "grouping of students in PE classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex" (20 U.S.C. § 106.34(a)(2)). This regulation provides that students may be grouped based on demonstrated

skill or performance, even if that results in nearly all males in one group and nearly all females in another group. The grouping must be made on objective criteria, and those criteria must not be developed or applied for the purpose of separating males and females or based on sex stereotypes.

**Example 23:** The PE department at JIH High School has decided to separate students for distance running activities based on pace per mile, which results in more males than females in one pace group, more females than males in one pace group, and two pace groups that are almost exclusively male and female, respectively. The decision was made on the results of an initial one mile run. This action is permissible.

**Example 24:** The PE department at GFE High School has decided to separate students for swimming into the “girls’ group” and the “boys’ group,” based on its perception that males are stronger swimmers. The odd result of this decision is that the boys’ group contains non-swimmers, and the girls’ group contains the four members of a conference-record-holding relay team. This decision is not allowed by Title IX regulations, as it is based on sex stereotypes and is not based on objective measures of ability.

**Example 25:** DCBA High School has decided to separate students for swimming instruction into the boys’ group and the girls’ group based on concerns about student modesty. This is not based on ability grouping or student performance. Modesty concerns, while legitimate, must be addressed in other manners (such as by PE uniform requirements adopted by a school district’s board of directors to create a “positive educational environment,” see Iowa Code § 279.58).

There are two exceptions in the Title IX regulations that might not be directly related to PE courses or activities but may relate tangentially depending on how PE is included in a school’s schedule or curriculum. First, the regulations allow separation based on sex when content on human sexuality is presented and discussed (20 U.S.C. §106.34(a)(3)). Second, the regulations allow for grouping based on vocal range in vocal music activities (20 U.S.C. § 106.34(a)(4)).

The Title IX regulations were amended in 2006 to allow experimentation with sex-segregated classes, including (but not limited to) PE classes if the following conditions are met:

(1) *General standard.* Subject to the requirements in this paragraph, a recipient that operates a non-vocational coeducational elementary or secondary school may provide non-vocational single-sex classes or extracurricular activities, if—

- (i) Each single-sex class or extracurricular activity is based on the recipient's important objective—
  - (A) To improve educational achievement of its students, through a recipient's overall established policy to provide diverse educational opportunities, provided that the single-sex nature of the class or extracurricular activity is substantially related to achieving that objective; or
  - (B) To meet the particular, identified educational needs of its students, provided that the single-sex nature of the class or extracurricular activity is substantially related to achieving that objective;
- (ii) The recipient implements its objective in an even-handed manner;
- (iii) Student enrollment in a single-sex class or extracurricular activity is completely voluntary; and
- (iv) The recipient provides to all other students, including students of the excluded sex, a substantially equal coeducational class or extracurricular activity in the same subject or activity.

(2) *Single-sex class or extracurricular activity for the excluded sex.* A recipient that provides a single-sex class or extracurricular activity, in order to comply with paragraph (b)(1)(ii) of this section, may be required to provide a substantially equal single-sex class or extracurricular activity for students of the excluded sex.

(3) *Substantially equal factors.* Factors the Department will consider, either individually or in the aggregate as appropriate, in determining whether classes or extracurricular activities are substantially equal include, but are not limited to, the following: the policies and criteria of admission, the educational benefits provided, including the quality, range, and content of curriculum and other services and the quality and availability of books, instructional materials, and technology, the qualifications of faculty and staff, geographic accessibility, the quality, accessibility, and availability of facilities and resources provided to the class, and intangible features, such as reputation of faculty.

*(4) Periodic evaluations.*

(i) The recipient must conduct periodic evaluations to ensure that single-sex classes or extracurricular activities are based upon genuine justifications and do not rely on overly broad generalizations about the different talents, capacities, or preferences of either sex and that any single-sex classes or extracurricular activities are substantially related to the achievement of the important objective for the classes or extracurricular activities.

(ii) Evaluations for the purposes of paragraph (b)(4)(i) of this section must be conducted at least every two years. (34 C.F.R. § 106.34(b))

Several items are noteworthy:

1. The regulation requires that single-sex education be based on clearly identified educational objectives that are “substantially related” to single-sex education and not based on sex stereotypes or the desire to separate the sexes as an end in itself (rather than as a means to attain an educational objective).
2. This regulation requires that the school or school district keep data to evaluate the effectiveness of the single-sex class. If a single-sex class is not based on “genuine” educational justifications, it must be discontinued.
3. Both sexes must be provided with “substantially equal” educational opportunities.
4. Enrollment in a single-sex course must be “completely voluntary.” The United States Department of Education was intentional in its use of this modifier. Coerced, “voluntary” choices (“If you don’t agree to participate in this single-sex activity, then we won’t be able to have it. You don’t want to be responsible for that, do you?”) do not qualify under this regulation.

If a school or school district chooses to pursue the exception allowed by regulation 106.34(b), it must also file an exemption request (i.e., waiver) under the general accreditation standards (Iowa Admin. Code r. 281—12.9).

## **Additional Guidance and Questions**

For additional guidance, see the Department’s [Physical Education and Health Education](#) webpage. For questions, contact Lyn Jenkins at [lyn.jenkins@iowa.gov](mailto:lyn.jenkins@iowa.gov).