



**2020 New York State YMCA**

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FOR HEALTHY LIVING  
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Committee Assignment: Senate Liberty 2

Bill #:SL-16

**Sponsors:** Eli DeCampo, Coen Nelson, Ian Salyer

**An Act To**

An act to amend the Education Law §- 3208 -A to allow homeschooled students of New York to try out and be on public school sports teams.

*The People of the State of New York, represented in the Senate and Assembly do enact as follows:*

**Purpose**

To allow New York homeschoolers to participate in public school sports programs.

**Section 1: Definitions**

Homeschooler: A school-age child who is not actively enrolled in any running public or private school.

**Section 2:**

In no event shall a successful petitioner be entitled to costs in any proceeding brought pursuant to this section. The school district shall not be responsible for providing or bear the cost of, any special or preventive measures or devices needed to protect the student unless such special or preventive measures or devices are contained in a student's individual education plan recommended by the school district committee on the handicapped and such student is a child with a handicapping condition, as defined in section forty-four hundred one of this chapter. A physically impaired child eligible to commence a special proceeding as provided by this section shall be defined as any child determined by a school physician as ineligible for participation on the basis of the regulations of the state education department, the American Medical Association Guide for Medical Evaluation for Candidates for School Sports, or by any standard established by the school district involved.

An athletic program for the purpose of this section shall include intramural activities, inter-school activities, extramural activities, and organized practice as defined by section 135.1 by the commissioner of education's regulations except for section 135.4 (c) (7) (iii) (2). Additionally, any homeschooler will be given the opportunity to participate in public school athletic programs by entering the tryouts of the school, and by meeting the qualifications the school sets for all participants. If the homeschooler earns a position in the athletic program, they are allowed to participate in it just as the other participants from the school.



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40 **Justification**

41 Homeschoolers should be given the same athletic opportunities as people in public  
42 schools. This is because homeschool families pay school taxes as well. This type of  
43 legislation is not unheard of, and is rather common in the United States. Currently,  
44 Arizona, Colorado, Florida, and 19 other states allow homeschoolers to participate  
45 in public school sports. By giving public schools the opportunity to make their  
46 athletic teams stronger, they can be greatly affected in positive ways. These  
47 benefits include the schools being able to wield a stronger sports team, which can  
48 lead to better funding and donations, expanding the students' interactions with  
49 other children, and leading to an overall more connected community.

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51 **Environmental Impact**

52 This bill has no environmental impact.

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54 **Fiscal Implications**

55 This bill has no fiscal implications.

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57 **Effective Date**

58 This law will go into effect one academic year after its passage.

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**Original law**

§ 3208-a. Special proceeding to determine physical capacity of student to participate in athletic programs. 1. Upon a school district's determination that a student shall not be permitted to participate in an athletic program by reason of a physical impairment, based on a medical examination conducted by the school physician, the student may commence a special proceeding in the supreme court pursuant to the provisions of article four of the civil practice law and rules to enjoin the school district from prohibiting his participation. Such special proceeding may be brought in the county in which the student resides or in the county in which the school district is located.

2. The petition in the proceeding shall be a verified petition of a parent or guardian of the student. The petition shall have annexed affidavits of at least two licensed physicians setting forth that in their opinion the student is physically capable of participating in an athletic program, that participation would be reasonably safe, and any special or preventive measures or devices needed to protect the student.

3. The court shall grant such petition if it is satisfied that it is in the best interest of the student to participate in an athletic program and that it is reasonably safe for him to do so.

4. No school district shall be held liable for an injury sustained by a student granted an order under this section provided such injury is incurred during such student's actual participation in an athletic program and, provided further, that such injury is attributable to the physical impairment for which such court order was obtained.

5. Unless specifically prohibited by the court, an order granted pursuant to the provisions of this section shall be considered valid and sufficient for subsequent years, provided that the student has not changed athletic programs and, further, that two licensed physicians set forth current affidavits that, in their opinion, the student's physical impairment has not changed since the time of the original court order.

6. In no event shall a successful petitioner be entitled to costs in any proceeding brought pursuant to this section.

7. The school district shall not be responsible for providing or bear the cost of, any special or preventive measures or devices needed to protect the student unless such special or preventive measures or



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117 devices are contained in a student's individual education plan  
118 recommended by the school district committee on the handicapped and such  
119 student is a child with a handicapping condition, as defined in section  
120 forty-four hundred one of this chapter.

121 8. A physically impaired child eligible to commence a special  
122 proceeding as provided by this section shall be defined as any child  
123 determined by a school physician as ineligible for participation on the  
124 basis of the regulations of the state education department, the American  
125 Medical Association Guide for Medical Evaluation for Candidates for  
126 School Sports, or by any standard established by the school district  
127 involved.

128 9. An athletic program for the purpose of this section shall include  
129 intramural activities, inter-school activities, extramural activities,  
130 and organized practice as defined by section 135.1 by the commissioner  
131 of education's regulations.  
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