



Colorado Student with Disabilities Transportation Manual

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FOREWORD

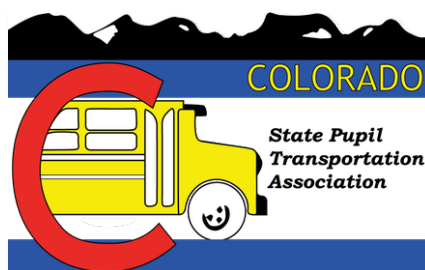
IF someone were to ask you to define, “special needs,” what would your answer be? Would you simply say a generic list of disabilities, “Autism, ADHD, Deaf, Blindness, etc.?” Would you give a long drawn out answer, or would it be something short and sweet? Within the pages of this book you’ll find an answer to that question, along with information on Federal and State laws, and more topics as we delve into the world of Special Needs. This book was revised by members of the CSPTA Special Needs Committee with the assistance of the CDE Transportation Unit. Additional information and assistance was provided by NAPT, NHTSA, FMCSA, and the National Congress on School Transportation.

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These guidelines were developed by the CDE School Transportation Unit with the assistance of a special group of educators including school nurses, transportation supervisors, schedulers, and trainers.

****Please note, that in all instances where “public school” or “district” is stated, this includes all Charter schools.****



TRANSPORTATION LEGISLATION

OVERVIEW

Two federal statutes, Section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act (IDEA), apply to the provision of school transportation for eligible students with disabilities. Section 504 requires school districts to provide transportation when necessary to meet the needs of a person with a disability as adequately as the needs of a non-disabled person are met. The IDEA requires transportation as necessary to assist a child with disabilities in benefiting from special education. Specialized transportation may be required when necessary for the child to access a Free Appropriate Public Education (FAPE).

GENERAL HISTORY

US Constitution

14th Amendment

The Fourteenth Amendment provides that no state may deny any person(s) within its jurisdiction equal protection under the law. All persons must be treated in an equivalent manner.

Federal Legislations

Section 504 (Public Law 93-112, The Rehabilitation Act)

Section 504 is a part of the Rehabilitation Act of 1973, which combined the Civil Rights Act of 1964 and The Education Amendments of 1972 (Title VI, Title VII and Title IX). This applies to any organization that receives federal financial assistance, including public/charter schools. The law in part states that, no otherwise qualified individual with a disability shall, solely by reason of her/his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

The Office of Civil Rights (OCR) within the U.S. Department of Education is responsible for enforcing Section 504.

Individuals MAY be eligible if:

- They have a history of a disability
- They have a physical or mental impairment that substantially limits major life activities
- They are regarded as disabled by others

Section 504 regulations require a school district/charter to provide a “free appropriate public education” (FAPE) to each qualified student with a disability who is in the school district’s/charter’s jurisdictions, regardless of the nature or severity of the disability. Under 504, a disabled student’s right to transportation is based solely on the need to travel to and from school to access special education and related services. Section 504’s definition of disability is broader than IDEA’s definition.

Section 504 is often the foundation for transportation complaints. Service disputes have included, but not been limited to, access to school transportation services, length of ride, transportation costs to parents, loss of instructional time, and suspension of transportation. The law requires a case-by-case analysis but assumes that students with disabilities will be provided integrated transportation with their non-disabled peers. This is referred to as “Least Restrictive Environment” (LRE).

Individuals with Disabilities Education Act (IDEA)

The IDEA Act requires transportation as necessary to assist a child with disabilities in benefiting from special education. This is also required when it is necessary for the child to be able to access FAPE. Transportation services are provided in conformity with an Individualized Education Plan (IEP) for each eligible student.

Transportation services include:

- Travel to and from school
- Travel in and around school buildings,
- Specialized equipment to make transportation a viability (Lift bus or vehicle with a ramp).

FAPE includes specially designed instruction and related services that must be made available to all children with disabilities between the ages of 3 and 21. In the State of Colorado, “Schools must ensure equal access to that rewarding experience for students with disabilities. Extracurricular athletics which include club, intramural, or interscholastic (e.g. freshman, junior varsity, varsity) athletics at all education levels are an important component of an overall education program.”

The IDEA governs how states and public agencies provide early intervention, special education, and related services to more than 6.5 million eligible infants, toddlers, children, and youth with disabilities. Congress reauthorized the IDEA in 2004 and most recently amended the IDEA through Public Law 114-95, Every Student Succeeds Act (ESSA), in December 2015.

In the law, Congress states:

“Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.”

Under IDEA, decisions for service delivery are based on the child's needs and must be made on a case-by-case basis. In order to be eligible under IDEA, a child needs to possess one of 13 disabilities that we will discuss later.

IDEA is composed of four parts, the main two being Part A and Part B. Part A covers the general provisions of the law; Part B covers assistance for education of all school aged children with disabilities; Part C covers infants and toddlers with disabilities, including children from birth to age three; and Part D consists of the nation support programs administered at the federal level.

Part C

Part C addresses the need for early intervention for infants and toddlers. States were offered financial incentives to establish an extensive, statewide service among numerous agencies that would be provided to children from birth through two years of age and their families. The age of eligibility for special education and related services for all children with disabilities was lowered to age three, and this requires that all eligible children receive early intervention services.

Services shall be specified in the Individualized Family Service Plan (IFSP). The responsibilities of transportation services are defined as the cost of travel (i.e., tolls and parking expenses) that is necessary to enable an eligible child and the child's family to receive early intervention services.

Due to Part C, transportation officials are faced with a variety of new challenges such as the need for age appropriate child safety restraint systems, adequate supervision during transport, and increased training for personnel serving this vulnerable population.

Transportation includes the cost of travel and related costs that are necessary to enable an eligible child and the child's family to receive early intervention services (i.e., mileage, travel by taxi, common carrier or other means).

Head Start Act

The Head Start Act serves infants and toddlers, preschool children with disabilities, and migrant children. It provides a comprehensive program that includes health, nutritional, educational, social, and other services. The regulation requires that a minimum of 10 percent of enrollment be available to children with disabilities. Eligible children with disabilities may be enrolled in Special Education and Head Start. Under this dual enrollment, both programs must decide who will be responsible for transportation.

HEAD START 'FINAL RULE'

45 CFR 1310, JANUARY 18, 2001

- **Applicability.** The final rule applies to all Head Start and Early Head Start Grantees whenever transportation services are provided. This final rule implements the statutory provision for establishing requirements for the safety features and safe operation of vehicles used by Head Start agencies to transport children participating in Head Start programs. It applies whether the program owns and operates its own fleet of vehicles or contracts with a private or public transportation provider. It has been noted that the single most important safety feature in the Head Start transportation regulations is the requirement that children be transported on school buses or in Allowable Alternative Vehicles (AAV)
- **Timelines**
 - **January 18, 2002**
 - All Head Start vehicles must be equipped with reverse beepers, fire extinguishers, first aid kits, seat belt cutters (with signs indicating the location of each), and a communication system such as a two-way radio or cell phone.
 - The Final Rule requires Head Start vehicles to be inspected by the appropriate state agency at least once a year, and Head Start drivers are required to perform a daily pre-trip inspection. Programs must establish a

- systemic preventive maintenance program for their vehicles. §(45 CFR 1310.14)
- All Head Start drivers must have a Commercial Driver's License (CDL) in states where such licenses are granted regardless of the size of the vehicle they drive. §45 CFR 1310.16 a1)
- All Head Start drivers must receive training as required by §(45 CFR 1310.17 A-D and 45 CFR 1304.52K).
- All Head Start monitors must receive training as required by §(45 CFR 1310.17 f2).
- **January 20, 2004 (Extended to June 21, 2004, with further extensions to January 20, 2006, in some cases when approved)**
 - All Head Start vehicles must be equipped with height and weight appropriate child restraint systems. As of this date all Head Start children weighing 50 pounds or less must be seated in appropriate child restraint systems. §(45 CFR 1310.15)
 - Every Head Start vehicle must have at least one monitor on board at all times. §(45 CFR 1310.15 c)
- **January 18, 2006**
 - All vehicles must be school buses or AAV's (Allowable Alternative Vehicles). §(45 CFR 1310.12 a)
 - To mainstream children with disabilities whenever possible, children with disabilities must be transported in the same vehicle used to transport other Head Start children. §(45 CFR 1310.222 a)

Public Law 101-136

Americans with Disabilities Act (ADA)

The ADA is a comprehensive civil rights law that enforces the non-discrimination of persons with disabilities and applies to public agencies. Transportation is specifically addressed in this law. The ADA does not change or diminish existing provisions of federal law protecting individuals with disabilities under Section 504 and IDEA.

The ADA regulations specifically exempt school buses from some of these requirements, but they echo the mandates of Section 504 with respect to access to transportation services. The ADA creates a higher standard of non-discrimination than Section 504 does in that it applies regardless of whether federal funding is received.

Free Appropriate Public Education (FAPE)

The cornerstone of the IDEA is the entitlement of each eligible child with a disability to a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet the child's unique needs and that prepare the child for further education, employment, and independent living.

Under the IDEA, the primary vehicle for providing FAPE is through an appropriately developed Individualized Education Program (IEP) that is based on the individual needs of the child. An IEP must

take into account a child's present levels of academic achievement and functional performance, and the impact of that child's disability on his or her involvement and progress in the general education curriculum.

Family Educational Rights and Privacy Act (FERPA)

FERPA is a federal law that protects the privacy of student education records and provides direction as to how student information can be shared. FERPA permits, at the discretion of a school, for school officials to receive relevant student information. This includes school transportation officials, bus drivers and contractors, if each of the requirements of the law is met.

Individualized Education Plan (IEP)

The IEP for each eligible child with disabilities is a written statement with legal force and commitment.

It must include:

- A statement of the child's present levels of academic achievement and functional performance as more fully described in the regulations.
- A statement of measurable annual goals, as more fully described in the regulations.
- A description of how and when the child's progress towards stated goals will be measured.
- A statement of the specific special education and related services, supplementary aids and services, and program modifications or supports for school personnel to be provided, as more fully described in the regulations.
- An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and activities.
- A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state and district-wide assessments, as more fully described in the regulations.
- The projected dates for initiation of services and modifications and the anticipated frequency, location, and duration of those services and modifications.
- Transition Services, including appropriate measurable post-secondary goals and the services (including transportation) needed to assist the child in reaching those goals, to be provided at age 16 or younger, if deemed appropriate by the IEP team

Individualized Education Program Team (IEP TEAM)

This team may be composed of:

- The child, whenever appropriate
- The parent/guardians
- At least one regular education teacher (if appropriate)
- At least one special education teacher or provider
- A representative of the local educational agency who meets the qualifications set forth in the regulations
- An individual who can interpret evaluation results (i.e. Physical Therapist, Psychologist)
- At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child including related services personnel as appropriate

Individualized Family Services Plan (IFSP)

The family has a central role in the provision of intervention services that are addressed through the Individualized Family Service Plan (IFSP). In an attempt to promote family centered early intervention services, the IFSP is the process that addresses the early intervention service, which may include transportation.

Requirements of the IFSP include:

- A statement about the child's status, i.e., present level of physical development
- A statement regarding family information
- A statement of early intervention services, including the frequency, intensity, and the method of delivering services, including payment, if any
- A statement of the projected dates for initiation of services and the anticipated duration of the services

Transporting Children with Disabilities, by Linda F. Bluth, Ed.D., presented by the NAPT Foundation, Inc. 2006, states (quoted with permission):

“The decision to provide the early intervention service, transportation, is made on a case-by-case basis and is directly related to the child and family need for this service. It is essential that when infants and toddlers are transported on a school bus, consideration be given to the use of appropriate child safety restraint systems and age appropriate supervision. Whenever transportation is required, a representative from transportation should be invited to serve as a member of the IFSP team to address the unique needs of a child who requires specialized services. The involvement of transportation personnel should occur as soon as it is known a child has specialized transportation needs. When a child transitions from the Part C program to a Part B program, a smooth and effective transition plan is required. At this time, the need for the related service transportation should be discussed.”

Least Restrictive Environment (LRE)

Integrated transportation is the presumption for students with disabilities. The rights of children with disabilities to ride with their non-disabled peers should be applied to the maximum extent feasible and consistent with the practice of safe transportation. When it is necessary to transport a child with disabilities on a school bus separate from their non-disabled peers, the IEP team should first consider supplementary aids and services, such as providing an attendant on the school bus with non-disabled peers. Decision about riding on a school bus that serves exclusively children with disabilities should only be made on a case-by-case basis, based upon review of a child's individual special needs. Transportation in a separate school bus designated for children with disabilities may be appropriate when necessary to accommodate the child's special needs to assure a safe ride.

The Individuals with Disabilities Education Act (IDEA) regulations state:

- To the maximum extent appropriate, disabled children, including children in public or private institutions or other care facilities, are educated with children who are non-disabled.
- That special classes, separate schooling, or other removal of disabled children from the regular education environment, INCLUDING TRANSPORTATION, occurs only when the

nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily (34 CFR 300.114-117).

The following information is a summary of some of the key provisions that impact transportation service in the LRE:

- To the maximum extent appropriate, disabled children are educated with children who are non-disabled.
- Each disabled child's educational placement is as close as possible to the child's home, and unless a disabled child's IEP requires some other arrangement, the child is educated in the school that he/she would attend if he/she were not disabled.
- In providing or arranging for the provision of non-academic and extra-curricular services and activities, disabled children shall participate with non-disabled children in those services and activities to the maximum extent appropriate to the needs of the individual child.

The implementation of transportation services and fulfilling the requirement of service delivery in the LRE are challenging. The following recommendations support the spirit and intent of IDEA:

- Transportation for each student with a disability should be examined on an individual basis.
- A Free Appropriate Public Education (FAPE) should be provided in accordance with Federal regulations in the least restrictive environment pursuant to a student's IEP.
- Recognizing the importance of transportation services for children with disabilities is the joint responsibility of all persons involved in administrative decisions regarding service delivery.
- A successful transportation program is contingent upon the cooperative involvement of students, parents, administrators, and advocates to realistically implement the LRE mandate.

Every Student Succeeds Act (ESSA)

ESSA is the reauthorization of the Elementary and Secondary Education Act (ESEA) and the replacement of the No Child Left Behind (NCLB) Act. This law now requires states to ensure certain protections for student in foster care-addressing the role of state and local education agencies to support school stability and collaborate with child welfare agencies. Thus, ensuring that all children have a fair, equal, and significant opportunity to obtain a high-quality education

Collaboration with the state and local child welfare agencies develops and implements clear written procedures governing how transportation maintains children in foster care in their school of origin when in their best interest will be provided, arranged and funded for the duration of time in foster care.

Transportation procedures must:

- Ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with the child welfare agency's authority to use child welfare funding for school of origin transportation.
- Ensure that, **if** there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, the LEA (Local Education Agency) will provide transportation to the school of origin **if**:
 - The local child welfare agency agrees to **reimburse** the LEA for the cost of such transportation;

- The LEA **agrees** to pay for the cost of such transportation; **or**
- The LEA and the local child welfare agency **agree** to share the cost of such transportation.

Note that *Title IA*'s new transportation procedures apply to all children in foster care for the duration of their time in foster care. The McKinney-Vento Act's transportation requirements apply to all homeless children and youth for the duration of their homelessness and until the end of the academic year in which they move into permanent housing.

McKinney-Vento Act

The McKinney–Vento Homeless Assistance Act of 1987 is a United States federal law that provides federal money for homeless shelter programs. It was the first significant federal legislative response to homelessness, and was passed by the United States Congress and signed into law by President Ronald Reagan on July 22, 1987. The act has been reauthorized several times over the years.

The Act uses the following definition for homeless children: "individuals who lack a fixed, regular, and adequate nighttime residence." The Act then goes on to give examples of children who would fall under this definition:

- Children sharing housing due to economic hardship or loss of housing;
- Children living in "motels, hotels, trailer parks, or campgrounds due to lack of alternative accommodations"
- Children living in "emergency or transitional shelters"
- Children whose primary nighttime residence is not ordinarily used as a regular sleeping accommodation (e.g. park benches, etc.)
- Children living in "cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations..."

The McKinney-Vento Act also ensures homeless children transportation to and from school free of charge, allowing children to attend their school of origin (last school enrolled or the school they attended when they first became homeless) regardless of what district the family resides in. It further requires schools to register homeless children even if they lack normally required documents, such as immunization records or proof of residence.

To implement the McKinney-Vento Act, States must designate a statewide homeless coordinator to review policies and create procedures, including dispute resolution procedures, to ensure that homeless children are able to attend school. Local school districts must appoint Local Education Liaisons/Agencies to ensure that school staff are aware of these rights, to provide public notice to homeless families (at shelters and at school) and to facilitate access to school and transportation services.

Public Law 94-142

The Education for all Handicapped Children Act of 1975

This law guaranteed that a FAPE, including special education and related services, be provided to all handicapped children. The law detailed the required steps that must be taken in identifying and

evaluating handicapped children, and provided that handicapped children are to be educated with other non-handicapped children to the maximum extent appropriate in the Least Restrictive Environment (LRE).

Exceptional Children's Education Act

This act provides a means for educating children who are exceptional. To accomplish this, it establishes a series of services that recognize the capabilities of all state agencies. This would include special classes in public schools, and the establishment of special schools, programs for children with disabilities who are confined to their homes or hospitals, and instruction in institutions of the state for exception children. The final determination of placement in a special education program of any eligible exceptional child must be made by the child's IEP team. It is in the intent of the general assembly that children with disabilities shall be educated in the Least Restrictive Environment (LRE).

This includes providing services directly to the children and consultative service to regular classroom teachers. This law is intended to ensure that there is a coordination of all services available to children with disabilities and that there is encouragement of development of agreements or contracts among agencies for the provision of appropriate services for children with disabilities.

10-day Rule: Suspension/Expulsion

School safety is important to school personnel and parents. The IDEA and its regulations incorporate prior court decisions and Department policy. The following information is adapted from **Legal Rules**, written by Peggy Burns and published by Roseann Schwaderer, September 2006: "Disabled students can receive the same consequences for behavior infractions as their non-disabled peers until the district gets to the point of removal from school for more than ten consecutive days. It is necessary to count bus suspensions toward these ten days *if* transportation is a related service for the student in question, and *if* the student does not otherwise get to school. When the district exceeds ten days of suspension, a manifestation determination review must occur."

Under IDEA 2004, nothing has changed regarding the first ten days of suspension. Thereafter, however, absent a direct connection between the conduct violation and the student's disability, the student can be removed so long as educational services are provided. Also, the longer exclusion is now possible if the student inflicts serious bodily injury upon another person.

To summarize:

It has been widely accepted that, where a special needs child is transported only on the same basis as a non-disabled child – because he/she lives beyond the district's/charter's walk distance to his/her school and is transported in the same manner and with the same equipment as is a non-disabled child – then, transportation is NOT a related service.

- If the IEP team has determined that the child's disability does not create special circumstances that would result in needs beyond those of a similar non-disabled child, transportation should not be on the IEP. In that case, a bus suspension does not count towards the ten-day rule.
- But, if the IEP team has indicated that transportation **IS** a related service, and the student faces suspension from the bus, the district/charter has, essentially, three choices:
 - Count the day towards the ten-day rule.

- Get the student to school at public expense some other way (i.e. a parent-provided transportation, with reimbursement).
- Address the bus behavior through some consequence or intervention other than suspension. If other members of the school (teachers, principals, assistants) are all witnessing similar behaviors, a Functional Behavioral Analysis (FBA) may be required.

Additionally, amendments to the IDEA have:

- Expanded the authority of school personnel to remove a child who brings a gun to school. This would also apply to all dangerous weapons and to the knowing possession of illegal drugs or the sale or solicitation of the sale of controlled substances.
- Added a new ability of schools to request a hearing officer to remove a child for up to 45 days if keeping the child in his or her current placement is substantially likely to result in injury to the child or to others.

Services do not need to be provided during the first ten school days in a school year that a child is removed. During any subsequent removal that is for ten school days or less, schools will provide services to the extent determined necessary to enable the child to progress in the general curriculum and achieve the goals of his or her IEP.

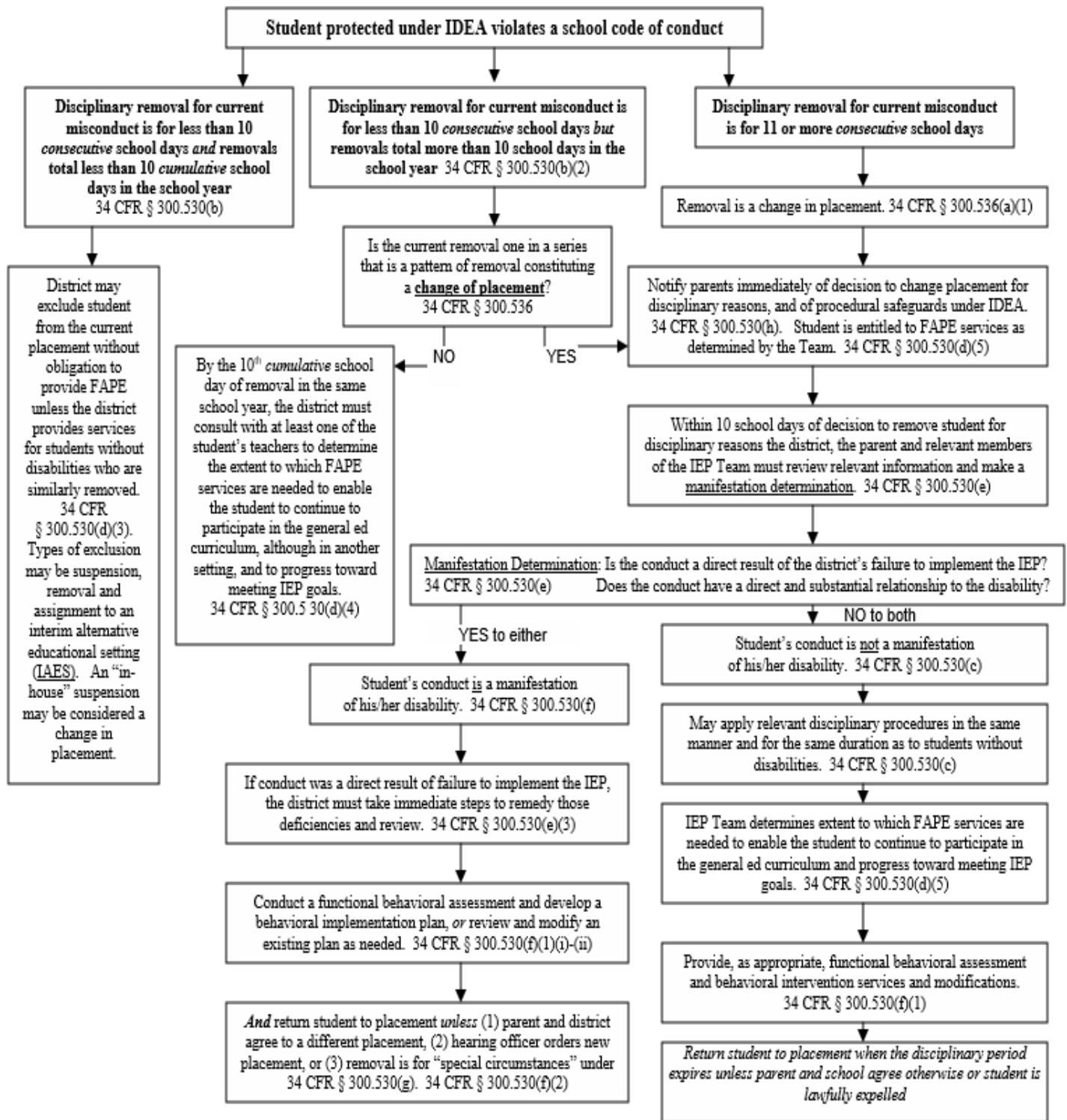
During any long-term removal for behavior that is not a manifestation of a child's disability, schools provide services to the extent determined necessary to enable the child to progress in the general curriculum and advance toward achieving the goals of his or her IEP. In situations involving removals for behavior that is not a manifestation of the child's disability, the child's IEP team makes the service determination.

Students who are disabled under Section 504 may be expelled for behavior that is unrelated to their disability and not continue to receive services. The basic rules when considering an expulsion under any law are the following:

- The United States Supreme Court has ruled that suspension or expulsion of any student requires due process, including parental notification of charges, presentation of evidence, and the opportunity to respond.
- In cases where transportation is a related service, a student with a disability may be suspended, in accordance with the school's discipline policies, from transportation service for up to ten consecutive days in a school year. Suspensions, for more than ten cumulative days, may or may not constitute a change of placement depending on the circumstances of a particular case.
- If the student is dangerous and parent refuse alternative transportation arrangements within ten days (and transportation is a related service on the IEP), the school can request a hearing officer to change placement for up to 45 days, including the provision of alternative transportation. A special education student who brings a weapon to school or possesses, uses, sells or solicits the sale of drugs at school or during a school function can be removed for up to 45 days without parental agreement.

The last situation described requires the school district to have extensive documentation regarding the incident, as well as the steps taken to modify the inappropriate student behavior. An alternative transportation plan should be in place for the interim. For example, when transportation is a related service, reimbursement provided to a willing parent is an acceptable alternative to riding the school bus.

The 10-day Rule Flow Chart



Extended School Year

An extended school year is a program that targets goals and objectives in the areas where the student would likely regress in a substantial way without services. It is different from “summer school.” It is provided to prevent any interruption in the student’s ability to maintain skills he/she has learned. Courts have held that if a student will regress so severely that he/she cannot regain skills lost over a summer vacation in a reasonable time period, then an extended school year may be required.

If a student needs an extended school year program to implement an IEP, and transportation is listed as related service on the IEP, then free transportation service will need to be continued through the duration of the extended school year. These decisions are not limited to specific disabling conditions but are a function of the unique needs of the child to access his/hers extended school year program. Transportation to the extended school year program may be necessary (depending on the location of that program) even if the child does not otherwise receive transportation during the school year. That is an IEP team decision.

Infants and Toddlers

Availability and support to provide early intervention services for infants and toddlers with disabilities are found in the IDEA, Part B and Part C. Service delivery options are based on the age of the child. It is essential that knowledgeable, qualified personnel make decisions regarding each infant, toddler, and preschool child’s transportation services. In no instance should safety be compromised. Eligible children under the age of three, with medical, intellectual, behavioral, neurological, orthopedic, and respiratory needs require specialized interdisciplinary planning regarding transportation services. The local transportation department should determine how young a child may be who can be transported in the school transportation vehicles available within the district. A variety of service delivery options may be explored to transport young children. Safety should be the first consideration.

Service delivery options include:

- Public system of transportation
- Reimbursement for commercial or private system use
- Parent reimbursement of mileage
- Medical assistance for allowable services
- Local school district transportation services
- Voucher system
- Services arranged by the Health Department
- Taxi service

The option selected should always be based on the individual needs of the child and family, in accordance with state and federal laws and regulations. The option recommended should always be discussed with the family at the time of the IFSP (Individualized Family Service Plan) development and agreed upon prior to beginning transportation services.

Following are vital considerations in decision making:

- Age of child and special needs
- Parental concerns
- Safety considerations

- Frequency of services
- Length of ride
- Site location of early intervention service

To eliminate any interruption in service, transportation issues should be addressed in advance for children transitioning from Part C to Part B services. A representative from the transportation department should be participating in the IEP development.

Sexual Harassment

The definition of sexual harassment provided by the Office for Civil Rights (OCR) of the United States Department of Education includes verbal or physical conduct of a sexual nature, imposed on the basis of sex, by an employee or student, which is unwelcome, hostile or intimidating. The existence of a sexually hostile environment is determined from the viewpoint of a reasonable person in the victim's situation.

In determining whether sexual harassment exposes a student because of their sex to a hostile environment, relevant circumstances include:

- The age of the victim
- The frequency, duration, repetition, location, severity, and scope of the act(s) of harassment
- The nature and context of the incidents(s)
- Whether the conduct was verbal or physical
- Whether others joined in perpetuating the alleged harassment
- Whether the alleged incidents created an offensive, hostile, or abusive atmosphere at the district or at specific schools or in other district settings, such as on school transportation vehicles

To ensure that the rights of students are not violated by sexual harassment, school districts should have a written policy. Implementation of the policy should include:

- On an annual basis, dissemination in writing to all district employees, parents, and students, the district's policy prohibiting sexual harassment and violence.
- Training on the subject of sexual harassment to all staff on an annual basis and to new employees as part of their orientation.
- Education of students on the subject of sexual harassment through curriculum and by other means.
- Written guidelines to the staff and administrators on determining sexual harassment occurrences.
- Investigation and documentation of all allegations of harassment and making an informal resolution of minor allegations or making an initial determination as to whether harassment has occurred. Complaints of sexual harassment and the responsive action should be maintained in a centralized file and comply with school district policy.
- Written guidelines, consistent with the sexual harassment policy, to assist administrators with determining the appropriate corrective action.
- Consistency with Section 504 standards. Students with disabilities and other special needs passengers who have been found to be responsible for action of sexual harassment need to be disciplined or otherwise treated in a manner reasonably calculated to eliminate the harassment.

- Notification of all parents/guardians of incidents of sexual harassment. Minor occurrences could lead to major allegations. It is recommended that counseling should be provided when appropriate.

COLORADO LAW

Article 10 of Children's Code

According to Article 10 of the Children's Code, any school official or employee who has reasonable cause to know or suspect, or who witnesses a child being subjected to circumstances that would result in abuse or neglect, or suspects abuse or neglect, is to report it. In addition to whatever is required by local school board policy, a report is to be made and submitted by the individual to the Department of Human Services in the jurisdiction that the child resides. Any person who willfully violates these provisions can be prosecuted. School officials or employees reporting in good faith are immune from liability, both civil and criminal, according to Section §19-10-110, C.R.S., of the Children's Code.

Child abuse is defined as non-accidental physical or mental injury caused by the acts or omissions of the child's parents or caretakers. Child abuse and neglect includes cases in which a child is in need of services because the child's parent, legal guardian, or custodian fails to take the same actions to provide adequate food, clothing, shelter, medical care or supervision that a prudent parent would take.

COLORADO LAW

Traffic Code 42-4-1903

The intent of this legislation is to allow school districts a choice as to whether a student stop, requiring the operation of a lift device, can be done safely without the use of alternately flashing warning signal lamps and therefore eliminate the long interval of time controlling traffic. (Section §42-4-1903, (2) (b) (II), C.R.S.)

Section §42-4-808, C.R.S., states that drivers and pedestrians have an obligation to yield to disabled persons and take precautions necessary to avoid an accident or injury to said persons.

Nurse Practice Act

This was enacted to protect people from the unauthorized, unqualified, and improper application of services by individuals in the practice of nursing. To obtain a full copy of the Nurse Practice Act, write to: Colorado Board of Nursing, 1560 Broadway, Suite 670, Denver, CO 80202.

ACRONYMS

A	AAMVA	American Association of Motor Vehicle Administrators
	AAV	Allowable Alternative Vehicle
	ADA	Americans with Disabilities Act
	ADD	Attention Deficit Disorder
	ADHD	Attention Deficit Hyperactivity Disorder
	AED	Automated External Defibrillator
	ASD	Autism Spectrum Disorder
	ASL	American Sign Language
B	BD	Behavioral Disorder
	BIP	Behavioral Intervention Plan
C	CAPTA	Child Abuse Prevention and Treatment Act
	CFR	Code of Federal Regulations
	CP	Cerebral Palsy
	CSRS	Child Safety Restraint System
	CSS	Child Safety Seat
	CWA	Child Welfare Agency
D	DB	Deaf-Blind
	DD	Developmental Delay/Disability

E	EC	Early Childhood
	ECSE	Early Childhood Special Education
	ED	Emotional Disturbance
	EI	Early Intervention
	ESA	Educational Service Agency
	ESEA	Elementary and Secondary Education Act
	ESL	English as a Second Language
	ESSA	Every Student Succeeds Act
	ESY	Extended School Year
F	FAPE	Free Appropriate Public Education
	FBA	Functional Behavior Analysis
	FERPA	Family Educational Rights and Privacy Act
	FMCSR	Federal Motor Carrier Safety Regulations
	FMVSS	Federal Motor Vehicle Safety Standards
G	GE	General Education
	GEPA	General Education Provisions Act
H	HoH	Hard of Hearing
	HHS	Health and Human Services

	HS	Head Start
I	ID	Intellectual Disability
	IDEA	Individuals with Disabilities Education Act
	IEE	Independent Education Evaluation
	IEP	Individualized Education Plan
	IFSP	Individualized Family Service Plan
	ISP	Individualized Service Plan
	ITP	Individualized Transportation Plan
J	JJ	Juvenile Justice
K	KEA	Kindergarten Entry Assessment
L	LD	Learning Disability
	LEA	Local Education Agency
	LEP	Limited English Proficiency
	LRE	Least Restrictive Environment
M	MTSS	Multi-Tiered System of Support
N	NCLB	No Child Left Behind
	NE	Natural Environment
O	OCR	Office for Civil Rights
	OEL	Office of Early Learning

	OESE	Office of Elementary and Secondary Education
	OHI	Other Health Impairment
	OPE	Office of Post-Secondary Education
	OSEP	Office of Special Education Programs
	OSERS	Office of Special Education and Rehabilitative Services
	OT	Occupational Therapy
P	Part B	IDEA Part B Program for children age three through 21
	Part C	IDEA Part C Early Intervention Program for children birth through age 2
	PBIS	Positive Behavioral Interventions and Supports
	PPT	Planning and Placement Team
	PT	Physical Therapy
	PWN	Prior Written Notice
S	SEA	State Education Agency
	SEL	Social Emotional Learning
	SLD	Specific Learning Disability
	SLP	Speech Language Pathologist
	SPED	Special Education
T	TBI	Traumatic Brain Injury

U	USC	United States Code
V	VI	Visual Impairment
	VR	Vocational Rehabilitation
Numerical	504	Rehabilitation Act of 1973 . Enforced by Office for Civil Rights.

SCHOOL DISTRICT/CHARTER POLICY VS. SCHOOL DISTRICT/CHARTER PROCEDURES

Development, communication and implementation of school transportation policies can reduce risk and ensure safety for district/charter employees as well as passengers.

Transportation policies and procedures should anticipate and eliminate possible liability issues for the school district/charter, enabling the district/charter to provide the safest transportation service possible.

There is a significant difference between policy and procedure. Understanding this difference is important in order to develop the relationship between them for effective implementation.

POLICY

School district/charter policy must comply with federal and state laws and regulations. District/Charter employees are required to follow these directives that are adopted by the local board of education and written into the district's/charter's policy manual. Policies are established through the board and are necessary to ensure direction and uniformity in decision making for all school district/charter employees. Board policy can be stricter than federal or state law and regulation, but cannot be less restrictive. Policies are principles that need to be reviewed regularly to consider any necessary modifications or trends. District/Charter studies can be developed to evaluate the success of certain policies and recommend any required revisions.

PROCEDURE

A school district/charter procedure addresses particular areas within a policy and provides detailed directions to put a policy into practice. Established procedures provide information and methods to guide school district/charter employees as to the course of action recommended or required for a particular situation. Procedures may apply directly to all school district/charter employees or to an isolated area, department, or group of employees in a school district/charter. Once a need is identified, the district/charter determines whether development of procedures will occur at the board or superintendent level or in the individual department(s) of a school district/charter to which they would apply. It is necessary that all relevant employees be appropriately trained as to pertinent policies and procedures.

TRAINING

All staff members are responsible for understanding, implementing and enforcing those policies and procedures that impact their job duties in any way. Transportation department officials must reinforce this responsibility through a variety of communication methods. These methods should include distribution of relevant policy and procedure materials and regular in-services about the application of those policies and procedures to school transportation. For more information please see Section 6.

CONCLUSION

To develop a procedure without a strong board policy in place can create future problems. Coordination between policies and procedures helps to avoid conflict and inconsistency.

Litigation could render the procedure ineffective if the school district/charter or department, for which it was designed, ever had to defend the procedure. It is recommended that all department procedures receive the endorsement of the district's/charter's school administration and identify relevant policy(ies) and/or job description(s). A documented school board policy, along with school administration endorsement, will support transportation procedures necessary to operate smoothly.

The previous section (Legislation) lists brief summaries of federal and state legislation that impact transportation of students with disabilities. Whether writing policy or procedure, school districts/charters must have a clear understanding of these laws.

EQUIPMENT

VEHICLE EQUIPMENT

Every ride to school for a special needs student begins with the vehicle itself. How the vehicle is equipped is determined by specific needs of the student (i.e., integrated seats, lifts, air-conditioned vehicle, etc.), general operational needs, and procedures/policies of the school district/charter.

Determinations as to equipment choices should be made in coordination with the special education department, and it may sometimes be necessary for consideration by the IEP team. All vehicle and passenger equipment should be inspected and evaluated prior to being placed in service. This includes but is not limited to:

- child safety restraint systems
- mobility device tie down systems
- all lap/shoulder belts (this includes in seats and at mobility aid stations)
- lift operation
- other assistive devices that ensure the safe transportation of the student

Some manufacturers have produced videos about the construction and operation of their equipment and may provide a copy upon request.

PASSENGER EQUIPMENT

Passenger equipment is driven first and foremost by the student's needs. IEP team consultation and determination is essential when acquisition of safety vests or other equipment will create a short delay in transportation arrangements. The following is a sampling of what you may be required to transport.

- ***Animal Companions Service*** – animals(s) that are trained to be service animals are allowed to be transported on school vehicles. Make certain other students on the bus are free from fear of the animal and there is no concern of allergies. Verify that the animal is up-to-date on all required vaccinations (More information in Section 8)
- ***Augmentative and Assistive Devices*** - Equipment needs to be stowed and secured, and it may not block the aisle or an emergency exit.
- ***Battery Powered Equipment*** - Batteries should be sealed acid or gel type.
- ***Child Safety Restraint Systems (CSRS)*** - A CSRS is any device that keeps children secure on the bus seat or in a small vehicle. The CSRS includes forward and rear facing car seats, booster seats, and safety vests. The proper CSRS should be determined by the age, weight, or height of the child and meet Federal Motor Vehicle Safety Standard (FMVSS) 213. For more information, contact a child passenger safety technician. You may visit this website to find one in your area: <http://www.carseatscolorado.com/#19>
- ***Lap Trays*** - It is advisable that lap trays be removed and secured separately during transportation. If the tray is used for upper trunk positioning support, work with members of the IEP team (Occupational/Physical Therapist, nurse, teacher, parent/caregiver, etc.) about acquiring a foam support tray to be used during transportation.
- ***Medical Equipment*** - Medical equipment is determined by the student's needs. When transporting medical equipment, the following should be considered:

- Provide appropriate training for driver and/or paraprofessional.
- Develop and maintain evacuation procedures.
- **Medications** - Medications being transported for a student should be stored in a safe location. Always refer to district policy. C.R.S 22-1-119.5, Concerning Colorado School Children's Asthma and Anaphylaxis Health Management Act (2005), states in part: Student may possess self-administered medication, and the school district must approve a treatment plan if all of the following conditions are met:
 - Health care practitioner has prescribed medication during school hours, including school sponsored events and in transit to and from school and events.
 - Health care practitioner has instructed student on correct and responsible use of the medication.
 - Other conditions: www.state.co.us/gov_dir/leg_dir/olls/sl2005a/sl_71.html
- **Safety Vests** - The proper safety vest should be determined by the age, weight, height, and need of the child and meet Federal Motor Vehicle Safety Standard (FMVSS) 213 (49 CFR §571.213) requirements. Many safety vests are installed with a seat mount. This is a belt that wraps around the seat back. When a child is occupying this equipment, the seat behind must be unoccupied or occupied only by a child who is restrained as well.
- **Wheelchairs** - Wheelchairs are one of the mobility devices used by students with certain disabilities. The primary function of a wheelchair is just that: to address the mobility the student needs in order to allow him or her to access various activities throughout the day. Until recently, there were no wheelchairs that were built with any crashworthiness standards. Now wheelchair manufacturers and national transportation specialists have developed a more crashworthy wheelchair that meets a voluntary standard, commonly referred to as WC-19. Note WC-19 wheelchairs (voluntary standard by wheelchair manufacturers), particularly those with an integrated seat belt, must have WC-18 compliant tie downs. These tie downs are rated for the additional strain (increases load by 60%) the integrated lap belt puts on the wheelchair. These standards are post FMVSS, ie. SAE-J2249 (Society of Automotive Engineers for wheelchair standards) and ANSI/RESNA (American National Standards Institute, Rehabilitation Engineering and Assistive Technology Society of North America) ANSI/RESNA came up with WC-19, and SAE with WC-18. Wheelchairs that comply with the new standard will offer improved transportation safety to their users, but, under federal law, compliance with the new standard cannot and should not be used to limit or prevent motor vehicle transportation of wheelchairs. See www.ercwts.pitt.edu/WC19.html.

New WC18 regulations – <https://www.qstraint.com/qnews/wc18-19-benefits-of-wheelchair-securement-standards/>.



Image of the Wheelchair Transportation Safety Symbol



Image of a Wheelchair Securement point with symbol

Certain mobile seating devices may not be safe to transport while occupied (three-wheeled scooters, stroller-type aids, or homemade wheelchairs). In this case, transferring the student to the bus seat from his wheelchair may be an option. The IEP Team determines whether a

transfer is necessary. If the student is to remain in the wheelchair during transportation, the following items should be considered:

- Wheelchair frame should not be bent or damaged.
- Wheelchair seat belts should be fastened to the frame of the chair.
- Brakes should be functional.
- Batteries should be sealed acid or gel type and be secured snugly to the chair.
- Wheels should not be bent or damaged so that they wobble.
- Footrests should be properly attached to the chair and adjusted for the student.
- Seat covering should be clean and in good repair.

Transporters should also know that any mobile seating devices used to transport students on district vehicles are the responsibility of the school district. This means that the district must determine whether they can be transported and secured safely before transporting the student in an occupied mobile seating device.

SPECIAL POSITIONING

Some children need supportive or positioning devices (vests or seats) in the bus. Most car seat manufacturers' products have weight limits up to 65 pounds. **Always check the manufacturer's label.** Some special positioning seats are made for children over 65 pounds who are in need of extra support on the bus. Virtually all of these larger special positioning seats require a "tether" strap that keeps the top of the seat from toppling over. A tether is an additional anchor strap attached near the top and back of the special positioning seat. It is designed to keep the seat upright in a crash. Tethers must be used, if provided, in order for the seat to provide crash protection. Refer to seat manufacturers' instructions for installation. One copy of the manufacturer's instructions for the seat should be kept with it, and another should be on file in the district for reference. Ensure appropriate training of any district personnel responsible for installation.

Special child seats with tethers may not transfer easily to a school bus seat. Adequate floor space behind the bus seat would be needed to secure the tether anchor plate and adjust the tether at the proper angle. Securement of the tether to the belt from the seat behind would be the best option. If a child seat does not rest securely on the bus seat, do not attempt to hold it in place by making a tether to secure it. Use a tether only if supplied by the restraint manufacturer and install it according to manufacturer's instructions. Remember that not all special positioning devices are designed to provide crash protection. The manufacturer must be able to provide dynamic test results showing that the device can withstand impact forces. The product would then be labeled as meeting the requirements of FMVSS 213. It can be challenging to select seats or vests that fit well on the bus seat for children who exceed specified weight limits. You may want to contact a Child Passenger Safety Technician in your area for further guidance. See <http://www.carseatscolorado.com/#>.

CHILD SAFETY RESTRAINT SYSTEMS (CSRS) FOR CHILDREN WITH BEHAVIOR ISSUES

A child that will not or cannot stay seated on the bus seat is very likely to be injured, perhaps seriously, if the bus is involved in an emergency maneuver or an accident. Although not all vests are designed to provide crash protection and lap belts alone do not afford the safest protection, the use of either of these restraint systems is far better than having the child out of her/his seat. These devices could be used until

the appropriate restraint system is obtained. The IEP Team must meet and agree that a child safety restraint system is the best option for the child before any CSRS is used.

CHILD SAFETY RESTRAINT SYSTEM (CSRS) SELECTION

There are many “special” conditions and a number of different options for restraint systems. The choice should be made by the transportation team, which could include the parent, school transportation staff, physical or occupational therapists, and/or the school nurse. Districts should not have parents supply restraint systems for their children. If the restraint system is used for transportation, it must be provided at no cost to the parent. Most small children with disabilities can be comfortably and securely restrained in conventional car seats. These seats are easily obtained and relatively inexpensive. Passenger considerations when selecting child safety seats (CSRS):

- Height and weight
- Degree of support needed for trunk and/or head
- Control of extremities if needed
- Medical need to lie flat or in a semi-reclined position
- Need for supervision
- Behavioral characteristics
- The child’s ability to get out of usual restraint systems
- Vehicle constraints

Securing the CSRS in a school bus:

- CSRS must meet FMVSS 213, if intended for children under 50 pounds (many safety seats meet this standard for children up to 65 pounds; some special positioning seats do, also).
- CSRS must fit within the confines of the school bus seat when oriented forward or rearward depending on the weight of the child. (80% of CSS must fit on the school bus seat.)
- CSRS must be able to be reclined if the child's condition requires it.
- If required by the safety seat, the school transportation vehicle must be able to accommodate an additional tether.

USING CHILD SAFETY RESTRAINT SYSTEMS CORRECTLY

The correct use of any restraint system must be understood by parents, bus drivers and other members of the transportation and school staff who may need to help secure the child properly. A copy of the manufacturer's instructions should be kept on file in the district for reference. Although misuse of conventional child safety seats is common among parents, some types of misuse can have major consequences. Children can be thrown partially or completely out of their restraint system and be seriously injured. Drivers must have an understanding of the problems associated with misuse and be able to assure that their passengers are not only buckled up but also correctly restrained. Training is essential.

To avoid misuse of safety seats and vests consider the following:

- Is the infant under 20 pounds facing the rear of the bus?
- Is the angle of recline appropriate for the child's size, orientation, and condition?
- Is the safety belt in the correct place and pulled tight?
- Are additional anchors, required by the manufacturer, secured?
- Is the vest placed over the shoulders and snug?

- Are shoulder straps in the correct restraint system slots at the shoulders?
- Is the vest doubled back through the adjuster slide, if this mechanism is used?
- Is the safety seat or vest under recall?
- Is the safety seat or vest checked regularly for wear and tear or other problems that interfere with effectiveness?
- Is the child in a heavy winter jacket/coat that must be removed for proper securement fit?

To avoid misuse of a wheelchair, consider the following:

- Is the wheelchair suitable for securement in a motor vehicle?
- If the child is to be transported in the wheelchair, has it been secured facing forward, with four tie-downs attached to the frame and adjusted to be tight?
- If the wheelchair is WC19 compliant with integrated lap belt, are the four tie downs WC18 compliant?
- Has the child in the wheelchair been restrained with a separate lap and shoulder belt system that fits correctly?
- Can the child be moved to a vehicle seat and be secured with a restraint system or utilize compartmentalization?
 - What is compartmentalization?
 - Large school buses use a passive restraint system known as "compartmentalization," which combines a high padded seat back and narrow seat spacing, creating a compartment within which each occupant is confined in severe vehicle crashes. It protects the passenger by reducing the crash forces on the occupants. This passive restraint system also utilizes the reinforced steel construction of the school bus body and the large size that raises the height of the vehicle. The National Traffic Safety Board (NTSB) and the National Academy of Sciences (NAS) have confirmed the effectiveness of "compartmentalization" through independent studies conducted.

POSITIONING CHILDREN IN THE CSRS

The following material is informational only. It is intended to make transporters aware of the complex issues when installing CSRS and transporting infants and toddlers and students with special needs. Always consult with an Occupational Therapist/Physical Therapist (**OT/PT**), parent, school nurse and/or child passenger safety technician for the answers to the wide-ranging questions that arise with this special population. Transportation's role in installing any equipment and securing students should be clearly spelled out. Training is of the utmost importance.

Infants Facing Rearward

Infants under 20 pounds and one year of age must ride facing the rear of the vehicle. It is important for the infant to ride reclined at about a 45-degree angle. This position provides maximum support and protection for the infant's relatively heavy head and weak neck. Keeping the infant facing rearward as long as possible is very important. An infant may outgrow the infant-only seat before reaching 20 pounds and one year of age. When the infant's head reaches the top of the CSRS, it is time to move him into a convertible CSRS, facing the rear. If the CSRS does not fit this way, try another position on the bus with more space between the seats. It is important not to turn an infant to face the front of the bus, as a neck injury could occur during a crash. Maintain the rear-facing position for as long as possible. Note: in most

buses the convertible CSRS will only fit in the passenger side front seat because the bolster in front of it is vertical (not slanted like the seats) and therefore promotes the 45-degree angle.

Padding for Torso Support

Children with disabilities that affect their muscles may need additional padding in a safety seat to help keep their bodies (torso) comfortable and relaxed. This padding is usually prepared by a physical or occupational therapist. In general, padding that is appropriate for transportation should be put alongside the child or between the knees, but not behind the child. If padding were placed under or behind the child, this would move the child forward in the restraint and require the straps to be longer. On impact, the padding would be compressed, loosening the straps causing the straps to possibly not hold the child in the device.

Providing Head Support

While it is important for the infant to ride reclined at about a 45-degree angle, the child over 20 pounds (in a forward-facing safety seat) should ride upright. If necessary, the seat can be reclined just enough to accommodate a special condition. For the child with poor head control, reclining the safety seat slightly may be enough to allow the child's body and head to rest comfortably against the back of the device. Some convertible CSRS's that are used fully-reclined facing the rear for an infant or upright and forward-facing for a toddler have three recline positions, two of which are appropriate for use facing forward. A convertible seat should not be used in its fully reclined position when facing forward unless the manufacturer's instructions allow this. (Always check the manufacturer's instructions.)

In the confines of the school bus seat, there may be insufficient space for a reclined restraint with a child in it. It might be appropriate for some seats on the bus to be spaced more widely apart to provide the necessary space. FMVSS 222 specifies no more than 24 inches from the "seating reference point" to the back of the seat in front. The child's head should not be taped or strapped to the safety seat or restraint. This could cause injury to the neck in a crash. In most cases a foam neck support is recommended.

Safety Harness/Vest Use

The safety vest system, which may include a padded shield as well as straps, must be used correctly in order to hold the child in place. Make sure:

- The straps are placed on the shoulders and remain there
- The straps are snugly fitted; they will have to be adjusted from child to child if a number of children use the safety vest system.
- The vest adjuster keeps the safety vest snug; if a single metal slide is used, the end of the strap must be doubled back through the slide to prevent slippage.
- The vest retainer clip (a plastic piece that holds the two shoulder straps in place) is at armpit level. Some safety vests/seats do not use this clip; check the instructions.

PERSONAL SAFETY ISSUES

Some bus drivers, assistants, and/or parents may have concerns regarding the type of physical contact that could occur when the harness or vest of a restraint device is buckled and adjusted around a child. Shoulder and crotch straps are located in sensitive areas. Many child restraints have buckles located on crotch straps; others have the buckle on a stiff post under a shield that fastens to the shield between the legs. Many have shoulder straps that are adjusted in front of the child's chest.

You can make the crotch strap easy to reach by laying out the straps prior to having the child sit, so they are ready to be put on before the child is placed in the safety seat. Parents may want to choose a restraint with a harness that does not buckle directly in the crotch area and that has a harness adjustment mechanism that is not at the chest. (Some standard safety seats have such designs.) However, there is no child restraint designed to completely avoid physical contact in either buckling or removing the harness. Moreover, if a child requires a very specialized type of equipment, parents may not have a choice in the safety harness types. Training in the first instance is key.

If you, as a transportation professional, feel uncomfortable with a particular situation, you could invite the parent into the bus to fasten the harness or to observe the process, prior to transporting the student. Another option is to make sure that another adult, such as another driver, student assistant, or teacher, is with you during this part of the operation. It is important to "diffuse" any situation in which you feel uncomfortable by discussing it with your supervisor or the child's teacher.

WHEN TO TRANSFER TO THE BUS SEAT

Who is to decide when it is "reasonable" to transfer a child from a mobility device to the bus seat? The IEP Team.

For the busy bus driver, one consideration is the extra time a transfer may take. Other considerations are:

- Will the child's condition and weight permit the transfer?
- Has the physician and parental approval been obtained to assure that a child can be moved safely?
- Who is to actually accomplish the transfer?
- Can the transfer be done by one person?
- Has that person or persons been trained in transfer techniques?
- Would the child's dignity be compromised during a transfer?

USING LAP BELTS

When speaking of seat belts to parents, school staff, or other interested parties, it is critical that transporters use the proper terms. They are "lap belts" and "lap/shoulder belts." Lap belts, if they must be used, must be placed across the hip bones, below the belly. Teach children to push the belt down to touch their thighs after buckling it. It should be adjusted as snugly as possible. Children should never share a lap belt or lap/shoulder belt. This practice may contribute toward an injury. A separate lap belt or lap/shoulder belt should be available for each child who must be buckled up. Warning: The use of lap belts alone has been known to cause serious injuries in younger students when they are placed up on the abdomen, because the abdomen contains many organs (stomach, liver, intestines). Younger children do not have strong bones to protect these organs from crash forces. Older, larger students experience head and neck injuries when using the "lap belt only" system. Therefore, in most cases, it is best practice not to use a lap belt only system.

Before securing children in restraints it is recommended that heavy coats be removed, so that the belt(s) contact the body through minimal layers of clothing. The shoulder belt must go across the collarbone of the shoulder. It should also be snug. It may rest against the neck but should not go across the front of the

neck. Proper fit of a lap/shoulder system may require the use of a booster seat for younger children. Warning: Never to put a shoulder belt under the child's arm so it goes across the rib cage. This has been known to cause serious injury to internal organs. This is because the ribs are not strong enough to restrain the body.

WHEELCHAIR POSITIONS

Wheelchairs must be forward-facing. All four-point securement systems are designed to be used with the wheelchair facing forward and are crash tested that way. All new school buses manufactured with wheelchair securement systems since January 1994 have forward-facing systems. Wheelchair securement positions are inherently safer, and wheelchairs and the human body are better capable of surviving a frontal crash when facing forward.

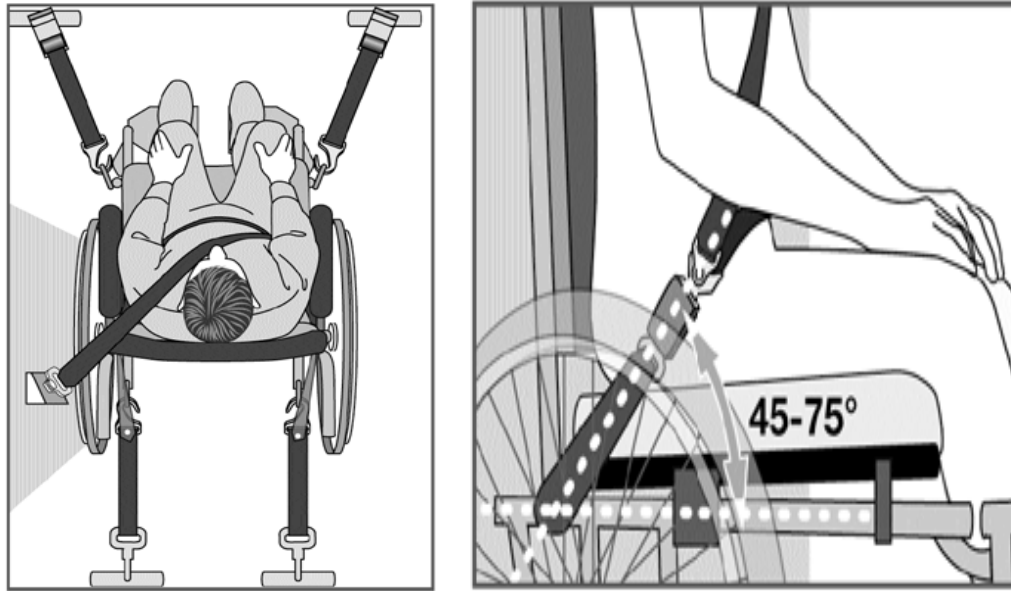
Sled/Crash tests show that side-facing wheelchairs are unstable and often collapse. Lap and shoulder belt restraint systems are designed to be most effective in the frontal impact position, and wheelchairs are believed to be stronger in frontal loading conditions as opposed to side loading positions. The placement of wheelchairs at the back of the vehicle raises concerns about the rougher ride for students and the distance from the driver to those students. The possibility that the driver might not be able to monitor them adequately must be considered before adopting this seating arrangement.

SECURING THE WHEELCHAIR

In order to protect the rider during a crash or sudden braking, and to minimize the likelihood of injury caused by contact with the vehicle, a seatbelt system with both pelvic and upper torso belts must be used when securing a wheelchair in a school bus. Make sure:

- Always position the wheelchair and rider facing forward in the vehicle. Most sudden stops are in a forward direction and most crashes are frontal. In emergency stopping situations, the student is thrust in the direction that the school bus is traveling. The forward-facing student will bend forward, rather than sideward, reducing the risk of serious injury.
- The shoulder belt **must** be attached to the vehicle. The lap belt can be attached to the wheelchair 4-point system or to the vehicle.
- When securing a WC19 wheelchair, attach the four tie-down straps to the securement points provided on the wheelchair. Tighten the straps and remove all slack.
- If you do not have a WC19 wheelchair, it is best to attach the tie down straps to welded junctions of the wheelchair frame or to other structural areas where the frame is fastened together with hardened steel bolts indicated by six raised lines or bumps on the bolt head.
- **Do not attach tie downs to adjustable, moving, or removable parts of the wheelchair such as armrests, footrests, and wheels.**
- When securing non-WC19 wheelchairs, choose structural securement points as close to the seat surface as possible to provide greater wheelchair stability during travel. It is best if the rear securement points are high enough to result in angles of the rear tie down straps between 30 and 45 degrees to the horizontal.
- If you have a non-WC19 wheelchair with a tilt seat, make sure to attach both the front and rear straps to either the seat frame or to the base frame. Mixing wheelchair securement points between the seat and base can result in the tie down straps becoming slack if the angle of the seat changes during a crash.
- It is best if floor anchor points for rear tie down straps are located directly behind the rear securement points on the wheelchair. If possible, the front tie down straps should anchor to

the floor at points that are spaced wider than the wheelchair to increase lateral stability during travel.



SECURING THE STUDENT

In addition to securing the wheelchair, it is very important to provide effective restraint for the wheelchair user with a crash-tested lap and shoulder belt or with a child restraint harness/vest.

- The lap belt should be placed low across the front of the pelvis near the upper thighs, not high over the abdomen. When possible, the lap belt should be angled between 45 and 75 degrees to the horizontal when viewed from the side.
- A diagonal shoulder belt should cross the middle of the shoulder and the center of the chest and should connect to the lap belt near the hip of the wheelchair rider. The upper shoulder-belt anchor point, or D-ring guide should be anchored above and behind the top of the occupant's shoulder, so that the belt is in good contact with the shoulder and chest while traveling.
- Newer WC19 wheelchairs offer the option of a crash-tested lap belt that is anchored to the wheelchair frame. If the wheelchair has an onboard crash-tested lap belt, complete the belt system by attaching the lower end of a shoulder belt to the lap belt.



Other Notes

- Read and follow all manufacturers' instructions.
- It is best to ride with the wheelchair backrest positioned at an angle of 30 degrees or less to the vertical. If a greater recline angle is needed, the shoulder belt anchor point should be moved rearward along the vehicle sidewall, so the belt maintains contact with the rider's shoulder and chest.
- Maximize the clear space around the rider to reduce the possibility of contact with vehicle components and other passengers in a crash. Cover vehicle components that are close to the rider with dense padding.
- Check WTORS (Wheelchair Tie down and Occupant Restraint System) equipment regularly and replace torn or broken components. Keep anchorage track free of dirt and debris.

OXYGEN INFORMATION

Oxygen-enriched atmospheres may exist in the immediate vicinity of any oxygen containers. A hazardous condition exists if containers are located so that they may become overheated or tip over. Oxygen containers should not be left on a closed bus because of heat and the expansion and possible release of oxygen. Liquid oxygen can cause frostbite on contact with skin. Prevent tipping by securing to the wall or floor of the bus. Do not secure near a heater source.

ROUTING AND SCHEDULING

Routing and scheduling for a student with special needs can be very complex. Due to constant changes in special needs transportation, flexibility is essential to effectively route our special needs students.

Unlike regular scheduling, a special needs student may not be attending the school closest to his home, so the bus ride could possibly be longer than that of other children in their area. The Individuals with Disabilities Education Act (IDEA 2004) does not specify a time limitation for a student's bus ride. However, every effort should be made to make the ride as short as possible, and travel time should be comparable with that of non-disabled students. Transportation needs, written into the student's IEP, must be met and should reflect any likely impact on achievement of academic and non-academic IEP goals. A shortened school day for the purpose of accommodating transportation schedules is not permissible.

This section outlines the process of scheduling a student with special needs for transportation. It is recommended that transportation departments develop guidelines in conjunction with their district's special education department or BOCES personnel. Open communication between transportation, the special education department, and parents will enable your district to provide safe, appropriate, cost effective transportation for the special needs student.

REQUEST FOR TRANSPORTATION

A request for transportation is the trigger for the communication needed to provide appropriate transportation for the special needs student. Whether the request is oral or written, the person making the request must provide accurate and complete information. All information must be handled confidentially in accordance with the Family Educational Rights to Privacy Act (FERPA). Since scheduling one student with special needs can be much more complex than scheduling an entire bus load of non-disabled students, each district should establish a realistic timeline in which to arrange transportation for a new student. The IDEA 2006 Regulations do say that the IEP must be implemented as soon as possible. §300.323(c)(2). The Official Commentary to the IDEA 2006 Regulations offers the following examples of "situations" that might warrant "a short delay":

- "When the IEP meetings occur at the end of the school year or during the summer, and the IEP team determines that the child does not need special education and related services until the next school year begins"
- "When there are circumstances that require a short delay in the provision of services (e.g., finding a qualified service provider **or making transportation arrangements for the child**)" (Emphasis added)

An oral request for transportation is a "quick" way of receiving information. An authorized person, usually a special education staff person, calls the transportation department requesting transportation services for a new student or one for whom transportation has become necessary. Each district's transportation department should find out who is authorized by the special education department in their district to request special transportation services for students.

A written request form may be developed by the transportation department in conjunction with the special education department. The written form of communication provides documentation with the signature of the person authorized to request special transportation for a student. This means of communication eliminates many of the problems in the complex procedure of routing and scheduling a special needs student. Prior to development and implementation of that schedule, the transportation department should develop a checklist of questions to have answered during the conversation with the person making the request. This checklist will become a record of the initial request for transportation.

Example Checklist Questions:

- Name and title of the person making the request
- Name and title of the person receiving the request
- Date of request
- Name, address, phone number, age, and sex of student
- Name, address, phone number of parents/guardians
- Name, address, phone number of alternate stop, if required
- Work phone numbers
- Emergency contact persons and phone numbers
- School of attendance
- Date transportation should begin
- Consideration of the need to coordinate discussion of the relationship between the disabling condition and the student's transportation needs.
- Special transportation needs/equipment

Transportation in turn sets up a schedule and begins transporting in accordance with the request.

STEPS IN SCHEDULING

Scheduling a student must be done on an individual basis. What works for one child may not work for another. The scheduler must assess all available information about the student and find the best transportation plan for that child. The most efficient and economical route that effectively meets the needs of the student should be selected.

IDENTIFY THE STUDENT'S NEEDS

What specialized equipment is used?

Identifying specialized equipment used by a student will help determine the vehicle assigned. If the student has a wheelchair, is it battery powered or a standard chair? If battery powered, does it have a sealed acid or gel cell battery? Is it a WC19 chair, or WC18 compliant? Is it a three-wheeler? Does the student use a lap tray? Will the student be transported in the wheelchair or be transferred to a bus seat? Other specialized equipment and assistive devices that the scheduler should be aware of are walkers, crutches, computers, oxygen, medical devices, or any other equipment that requires special securement while being transported.

Is there a need for a bus assistant?

In some cases, the student's IEP will request that a student assistant or a registered nurse (RN), assist the child. Often it is the responsibility of the transportation department to determine if an adult other than

the driver is needed. Each district should develop guidelines for determining the assignment of a student assistant to a route. It's important to evaluate the following:

- Physical, health, or emotional needs of the student(s)
- The student's ability or lack of ability to communicate safety-related concerns
- Any related IEP goals
- Behavior
- Combinations of disabilities and equipment on the bus
- Length of ride
- Number of students on the bus
- Efficiency of emergency evacuation

What is an acceptable length of ride?

As stated, IDEA 2004 does not specify the length of the ride. If the length of the ride is specified on the IEP, the requirement must be met, and there must be a very specific reason that this is specified. For example, does the child have a physician's letter that states a medical condition requiring a modified length?

Consideration should be given to what is acceptable on an individual basis.

Where can the student meet the bus?

Establishing the pickup or drop-off location is also important. Can the student meet the bus at an existing bus stop, or is a home address stop necessary? When establishing pickup and drop-off locations, care must be given to follow all state and local regulations regarding the safe loading and unloading of school children.

Recommended Questions to ask at the First IEP Meeting

1. What qualifies the students for specialized transportation?
2. What is the students disability? (if you don't know)
3. How can our transportation team best support the student and help them meet their goals?
4. What are the students abilities?
5. Is there a health care plan already in place?
 - a. If not, can we please get a copy when it is done?
6. If the student has seizures, is there a seizure action plan?
 - a. Can we please go over it so there is a clear understanding of it?
7. When writing the behavior plan, can we discuss behavior strategies for the bus so they can be included in that plan?
 - a. When they are writing the behavior plan, make sure transportation is included. Many times, the plan is classroom specific and the strategies they use cannot be used on a school bus.
8. What are the students likes and dislikes?
 - a. These can sometimes be a trigger for a behavior from a brand new student simply because we did not know what the common triggers, likes, and dislikes were.
9. If the team or someone on the team is requesting a CSRS, why are they requesting it?
 - a. There should be a discussion about why they are in it and is there a goal for them to come out of it so we are meeting the requirements of LRE?
10. If they are in a mobility device (wheelchair), when can the someone from the transportation team do an inspection?
11. Can your student be dropped off if no one is home to receive them?

12. Is your student able to be picked up at a different location other than curb to curb? the corner? down the block?
 - a. This a question that goes with travel training.

Some issues that can be resolved in the first IEP meeting that relate to routing and scheduling may be:

- Can the student be safely transported without undue risk to the child or others?
- Will the length of the trip and/or other aspects of transportation put the child at unreasonable risk?
- Where is the child to be picked up and dropped off?
- Does transporting the child involve disability-related concerns that will impact timing?
- Can the child's adaptive equipment be accommodated?
- What is an appropriate restraint system, and how long will it take to put the child in the restraint system correctly?
- Can the child be transferred to a bus seat from the mobility device?
- Are there specialized care or intervention concerns?
- What level of supervision might be required (i.e., bus assistant, nurse)?
- How will any auxiliary equipment be transported?

ASSIGN THE STUDENT TO A ROUTE

Using the information gathered in identifying the student's needs, the scheduler will assign the student to a route. Three possible options are the following:

- Existing route
- New route
- Alternate transportation

Consider all the school transportation vehicles traveling in the area. Evaluate particular needs of the student in relation to the route traveled by each possible vehicle, the type of special equipment each vehicle accommodates, the status of the other students riding on each vehicle, and the possible length of the ride.

If all of the special needs of the new student can be met on one of the existing routes, make the assignment to that route.

If there is no existing route that meets the unique needs of the student, consider re-routing existing routes to meet the need, or develop a new route that will satisfy all the criteria. Assign the appropriate bus/vehicle, driver, bus attendant, if required, and the student to the new route.

There are situations in which school bus transportation is impractical because of distance, road conditions, placement of the student, or medical condition of the student. In these cases, it is advisable to consider alternative means of transporting the student. Options must be discussed with parents and ideally be agreed upon by all parties concerned. However, an IEP team can make a determination over parent objections. Some alternative transportation options are to:

- Reimburse a parent/ guardian for transportation, upon receipt of proper documentation. (The district/charter should obtain proof that whoever transports the child is properly licensed and carries adequate insurance based on requirements of the Colorado Division of Motor Vehicles and the Local Education Agency (LEA).)

- Use the local transit authority. (The school district is responsible for the fee.)
- Use a taxi. (The school district is responsible for the fee.)
 - Contracted Special Needs Transportation Specialists (contract established through district lawyers, Administration, SPED/Transportation Departments, and contracting company. Fee is paid by the district and is expensive).

The transportation department must communicate the scheduled bus pickup and drop-off times to parents, bus driver, and school personnel. Fostering a sense of teamwork and communication will provide more efficient service for the students. Establishing written procedures will provide consistency and efficiency in the routing and scheduling of special needs students. The following topics should be considered:

STOP LOCATION

- Can the student access an established stop?
- Does the student need an address stop? In most cases, you will be able to provide curb to-curb rather than door-to-door service.
- Does the student have an alternate address or a fluctuating schedule? Typically, you will not be required to accommodate a fluctuating schedule unless this is necessary because of the needs stemming from the child's disability.
- If an alternate address is requested, these things should be considered:
 - Does it fall within an existing route, or will it result in re-routing or adding a route?
 - Does it meet the same criteria for busing as the home address?

If a request, preferably in writing, is made for multiple stop locations on a daily or weekly basis, careful consideration should be given to the impact on transportation. Although this can be beneficial to parents, it can lead to longer rides, the possible addition of routes, or confusion in routing (i.e., a child being dropped off at a wrong stop on the wrong day).

PICK-UP

Establish a length of time the bus will wait at the pickup location. For example, each student should be ready to board the bus five minutes before the designated stop time. The driver should wait no longer than two minutes past the stop time. Establish a procedure as to whether the bus will return to pick up students who miss the bus (both at home and at school). If this is done, clear instruction must be provided to students and parents. Additionally, this may be a matter for policy development.

DROP-OFF

Does the child have to be met by a parent/guardian or another responsible person? (Again, this is an area for developing policy.) If so, develop a procedure that details what will happen when a parent/guardian fails to have a responsible person meet the student at the bus stop. Some options are to:

- Wait for a designated length of time at the stop
- Consider an alternate drop-off location, if available
- Finish route and return to stop
- Return to school
- Return to transportation facility
- Notify local law enforcement agency or social services

STUDENT INFORMATION

Although some details regarding a student may not be necessary, there is some information that is pertinent to safe transportation. Certain disabling and/or health conditions should be noted with specific information about the impact of the condition on transportation. The “label” or “diagnosis” alone is not enough. Some examples are:

- Autism
- Asthma
- Allergies (i.e., bee stings, certain foods)
- Behavior disorders
- Medically fragile
- Seizures
- Any other medical condition that affects transportation

EMERGENCY INFORMATION

Districts should have a plan for conveying accurate information to the bus driver and student assistant. Transportation should decide what information will be carried on the bus. Any information provided should be appropriate for medical staff in the event of an emergency. Information should cover such basics as:

- Student name, address, and phone
- Parent/guardian name, address, and phone
- Medical condition(s)
- Physician name/phone number
- Emergency contacts (names and phone numbers)

All information regarding students is confidential, and transportation personnel should be trained in the proper handling of such information. Check with your district to see what policy and procedure is in place.

ROUTE/SCHEDULE CHANGES

Since special needs transportation must be flexible, districts may want to develop procedures to cover the following:

- Temporary or permanent change of address
 - How much advance notice is needed to implement change?
 - Is a written request necessary, or will a phone call suffice?
 - Does the new address meet all busing criteria?
- Change in program or school placement.
 - Does it involve a new or different route or time changes?
 - Will a student be absent for the a.m. run, p.m. run, or for the whole day? (Make sure parents know whom to call and by what time.)

FIELD TRIPS/ACTIVITY TRIPS

Special needs students cannot be excluded from participating in field trips/activity trips. Careful planning and coordinating with the class sponsor will ensure a safe and happy trip.

Some issues to consider are:

- Training for school building personnel on trip requests and provision of necessary information when ordering field trip buses
- Assigning a properly trained driver and equipped bus
- Having the same emergency information available that is on the daily route bus
- Including non-disabled students on the regularly scheduled bus if possible

TRANSFER POINTS - VEHICLE TO VEHICLE

Due to scheduling or time constraints, a district may need to establish transfer points for some special needs routes. With careful planning this can be accomplished smoothly and safely. Points to consider include:

- Choosing an appropriate location
- Allowing sufficient time to complete the transfer
- Ensuring radio contact between vehicles
- Personnel necessary to accomplish the transfer

TRAVEL TRAINING

Teaching independent travel skills to people with developmental disabilities is very individualized and are largely taught in classrooms or by teach staff. Though the basic skills that need to be learned are the same, the method of teaching should be flexible to adapt to the learning needs of the individual. Basic skills include orientation to the immediate environment, identifying landmarks, learning a route, street-crossing skills, and safety while moving in close proximity to traffic. When use of public transportation is an option, additional skills are needed such as understanding the concept of fixed-route schedules, identifying the public transit vehicles, locating transit stops, paying fares, recognizing when to disembark, and learning the route from the transit stop to the points of origin and destination. Finally, interactive and problem-solving skills are also needed, such as how to interact with the vehicle operator and other passengers, and what to do when unexpected changes occur such as delays, detours or inclement weather. How much instruction is needed in each of these areas will vary from individual to individual, and practitioners report that skills can be effectively taught in days or weeks based on the individual's ability and experience and the complexity of the route. People with developmental disabilities can also learn to make use of available resources around public transportation such as telephone and web-based trip planning assistance, printed maps and schedules and customer information booths in transit centers.

Many districts/charters are using this throughout the US to help their student become more independent and eventually go to a general education bus rather than a special education route.

TRAINING

According to Federal Guidelines, anyone providing services to a student with special needs must be trained. Training programs must be designed to ensure a comprehensive understanding of services provided and prepare personnel to meet the individual needs of each student. Drivers and student assistants are required to be trained and qualified in the operation of equipment related to their assignment. Training shall also include securement of assistive devices and competent delivery of routine health care services. **All areas of training should be documented.**

TRAINING TOPICS

- Behavior management
- Characteristics of students with disabilities
- Confidentiality
- Emergency evacuation plans and drills
- First aid training
- Home, transportation and school communication
- IEP
- Loading and unloading procedures.
- Medically complex students
- Operational procedures.
- Proper handling of adaptive/assistive devices.
- Proper Child Safety Restraint Systems (CSRS's) and Manufacturer's Specifications
- Regulations and Guidelines
- Universal Precautions

OTHER RECOMMENDED TRAINING TOPICS

- Child abuse/neglect reporting – Refer to District Policy.
- Crisis intervention – Refer to District Policy.
- CPR – Refer to District Policy.
- DNR
- Occupational therapy/physical therapy
- Proper use of vehicle safety equipment – See Manufacturer's Specifications.
- Reasonable restraint – Refer to District Policy.
- Seizures
- Sensitivity training.
- Service animals
- Sign language
- Student specific medical conditions
- Suspension of students – Ten-Day Rule – Refer to District Policy.
- Transporting medications – Refer to District Policy.
- Two-way radio operation / cell phones – Refer to District Policy.

JOB RESPONSIBILITIES--DRIVER AND PARAPROFESSIONAL (Passenger Comfort)

The driver needs to be aware of road hazards or other problems that might affect the smooth, comfortable, and safe ride necessary for special needs passengers. For example:

- Avoid potholes or other rough road surfaces and take the path of least resistance.
- Make turns slowly so that students are not subjected to extreme side motion.
- Accelerate and decelerate smoothly.
- Look for an appropriate place to pull over and park when a behavioral or medical emergency occurs on the bus.
- Position vehicle properly for appropriate loading and unloading.
- Place a medically fragile student toward the front of the bus.
- Address other student needs, such as sensitivity to heat, sun or cold, accordingly.

OPERATIONAL PROCEDURES

PERSONAL PRE-TRIP

A personal, mental/physical inspection is also important for the driver and student assistant to evaluate. Possible questions to ask oneself:

- Are you mentally prepared to drive today?
- Are your personal problems or conflicts with others set aside so you are able to focus 100 percent on your job?
- Are you physically impaired due to illness or injury?

VEHICLE PRE-TRIP INSPECTION

In addition to the regularly checked items in a school transportation vehicle's pre-trip inspection, the driver or paraprofessional is required to check for:

- Lift and ramp operation (including manual application)
- Additional emergency equipment such as a belt cutter and an evacuation blanket
- Emergency evacuation plans
- Mobility aid and passenger equipment securement devices
- Child safety seats and/ or booster seats
- Safety belts, tether straps, and/or harnesses

This might detect operational problems at the terminal rather than out on the route.

VEHICLE POST-TRIP INSPECTION

At the end of the route, transportation personnel are required to post-trip the vehicle for the following:

- Equipment cleanliness and condition
- Personal belongings, such as, medication, backpacks, assistive devices, etc.
- All items inspected on pre-trip should also be inspected on a post trip excluding the engine compartment and brake test or according to your district policy.

Please note you are responsible for the safe operation of your bus. It is legally required to perform pre-trip and post-trip inspections per state and federal regulations, following your district/charter procedures.

LOADING AND UNLOADING

School districts may want to document their appropriate loading and unloading procedures for non-ambulatory students and ambulatory special needs students. Important issues to address when evaluating necessary assistance for a non-ambulatory passenger are the following:

- How a wheelchair and/or any specialized equipment is used for boarding purposes when a student is unable to enter through the service door.
- Where is the proper positioning of the vehicle for appropriate loading and unloading?
- Who is authorized to operate the lift?
- Positioning the wheelchair so the heaviest part of the chair is at the rear of the lift, with the student facing away from the vehicle.
- Applying the wheel locks (brakes) of the chair when the lift is in operation.
- Does the uniqueness of the equipment require additional training?
- Is an additional person necessary for increased safety during loading/unloading and/or lifting?
- Turning off the power on battery powered wheelchairs.
- Making sure the lift platform barrier guard or roll plates are operational.
- Making sure that the driver/para is standing next to the platform at the front corner of the lift. Keeping one hand on the wheelchair as it is raised and lowered, and then operating the controls with the other hand.
- Security check for sleeping children

Some ambulatory students also require special assistance or guidance when boarding or exiting the bus. Issues that a district may need to address include:

- Parents who want to carry their child onto the bus.
- Providing assistance to students who physically cannot negotiate the service door steps by themselves.
- Providing assistance to students who may have to cross the street due to routing difficulties.
- Providing assistance to visually impaired students.
- Providing assistance to students who are unable to walk unassisted to their seats.
- The bus assistant should greet the student at the top of the bus steps to determine if the student needs assistance.

Care should be taken to keep the stairwell and aisle clear of obstacles, including backpacks, securement straps, or assistive devices.

COMMUNICATION

To have a transportation system that meets the needs of students with disabilities, communication is a key ingredient. Ongoing communication with administrators in school districts and/or BOCES, teaching and support staff, transporters, parents, and the students involved must occur as a team effort.

If transportation is deemed a related service in order for a child to access FAPE, it must be documented in the student's IEP. A form of written communication must be generated to the transportation provider indicating the areas essential for the safe transportation of the student. The form should be preliminary to actual transportation to ensure that specialized equipment or training of the bus driver and student assistant can be a reality by the time transportation begins.

The following areas of responsibility are intended to be a guide for special needs transportation trainers and supervisors when training school bus drivers and student assistants and everyone else involved in the transportation process.

ADMINISTRATION

School district and/or student assistant and administrators are responsible for implementing local board of education policies. The director of special needs education, or designee, needs to be in communication with the director of transportation, or designee.

Emergency personnel (i.e., fire, police and ambulance) in the area need to be advised of emergency information forms, and where they are located on the bus, that may be necessary to effectively treat the students in the bus environment. Name, address, phone number, emergency contact, disabling conditions, current medications, and past medical history are some of the required information that emergency personnel may request.

Two-way radio/cell phone communication devices on each school transportation vehicle are imperative to ensure safe transportation of students with special needs. Local transportation directors should be responsible for obtaining these invaluable instruments.

SCHOOL STAFF

There should be communication between school staff and transportation staff about what type of day the student had. Be sure to include the positive side of the student's day as well as any negative aspects that the teacher or transporter would need to know, such as hitting people, being physically or verbally out of control, seizure episodes, asthma attack, etc.

Drivers and student assistants are encouraged to visit student classrooms to learn how to work with students on their routes. Teachers can be particularly helpful with the school bus rides and they should inform the students about bus behavior and help the drivers and student assistants with key words, phrases, songs, and reading material for the students while riding.

Teachers can provide instruction for therapeutic implementation, such as walking on and off of the bus and waiting until students are secured properly in and type of equipment needed. Working together with the teachers to find what activities and tools that will help keep the student occupied, with rewards and consequences for appropriate and inappropriate behavior.

Behavior modification of students needs to be supported by transportation staff. Drivers and student assistants should have ongoing communication with school staff and understand the suggested techniques that are effective with specific students.

PARENTS/GUARDIANS

Parents need to encourage students to obey the bus safety rules and demonstrate proper bus behavior. A parent handbook given to parents at the beginning of the school year or whenever a student begins to ride the bus should reference this and other helpful information.

When a student is not going to ride the bus, the parent should be required to contact the transportation office as well as the school.

A student emergency information form should be required to be completed by the parent with names and phone numbers of the emergency contacts, prior to transport. Health care plan/seizure action plan and medication(s) presently administered are essential and must be provided by the school nurse for the bus driver. This information is confidential and will be shared only with school officials, transportation providers, and emergency personnel on a need to know basis. If medications are changed or discontinued, written and verbal communication from the school nurse to the transportation office personnel or designee should take place immediately, and revision of the emergency form should be completed as soon as possible. Always consult your district policy.

DRIVERS / PARAPROFESSIONAL

Daily communication between the driver/paraprofessional, school staff, and parent is essential. Such communication can be helpful to everyone, especially the special needs student. Drivers and assistants need to take the initiative to learn as much as they can about the students they are transporting.

Drivers and paraprofessionals need to learn to communicate with students in the most effective manner depending upon the student's ability. Gentleness, patience, firmness, persistence, and praise will result in more consistent behavior and more enjoyable rides for the students and transportation staff. School staff can be a great asset with key words and other suggestions.

Drivers and paraprofessionals need to report to the proper school authorities and/or the parents any unusual behavior, episodes, or attitudes immediately and in detail, since they may have medical implications. Documentation in a journal or notebook of behavioral problems, seizure duration, etc., is an excellent resource to refer to at a later date.

Drivers shall maintain the route schedule for pickup and drop-off times of students as closely as possible. Inform parents of changes in schedule and adhere to the written schedule as much as possible but know the schedule can be modified when students are not riding, according to your district policy.

The paraprofessional and/or driver shall explain the bus rules to the students and be consistent in carrying them out. The bus rules should be posted on the bus.

Drivers and paraprofessionals need to be proficient in the use of the two-way radio.

It is essential that bus drivers and student assistants have good communication with one another. An understanding of each other's responsibilities is necessary for the safe transportation of special needs students.

STUDENT HEALTH CONCERNS

A significant number of students have health conditions that require special management during the school day. In Colorado, the school district Registered Nurse (RN) is mandated to train, delegate, and supervise non-nursing personnel who perform nursing tasks (e.g. gastrostomy feedings, tracheal suctioning, catheterizations, administration of medications, etc.). The RN determines if non-nursing personnel may safely perform the care. If so, she/he may “delegate” authority under their license (train others) to perform the care. If not, the care will not be delegated. The school nurse is also responsible for obtaining information and coordinating health management for the student.

<http://www.cde.state.co.us/cdesped/download/pdf/nur-Delegation.pdf>

Every Colorado school district has a school nurse for at least Special Education services. All school transportation departments should know who their nurse is and ask for help in acquiring information about the student to ensure her/his safe transportation. Working together, the nurse and the transportation department can implement a medical plan that ensures the safety of the student.

An Individual Health Care Plan (IHCP) is developed to identify a student’s health needs. The plan is written by the school nurse with input from the parent, child (if appropriate), school administrator, and the health care provider. These plans assist students with self-care and are written so non-medical personnel who are in contact with students during the day may utilize them in a practical manner while using LRE, least restrictive environment.

Components of an IHCP include identifying information, sources of medical care, a list and brief description of health problems, treatment plan, emergency plan, transportation health care plan, and a plan for IHCP re-evaluation. In addition, it may contain signatures from parents and health care providers and the names of persons trained to execute the IHCP.

EMERGENCY INFORMATION

Each student’s current medical emergency information should be provided to drivers and student assistants. Emergency information should be made available to substitute personnel (on a need to know basis), and accessible on buses for emergency response personnel. If this information is not available in your district, be sure to request it. There are a variety of forms being used in Colorado, customized to each district’s needs, but in general they include:

- The student’s medical condition or disability
- What to do in a medical emergency
- The student’s and parent’s name, address and phone numbers
- Names and numbers of emergency contacts
- The physician’s name and phone number

It is imperative that district personnel treat this information with confidentiality.

HEALTH CONDITIONS

In addition to Characteristics of Students with Disabilities described under IDEA, the Exceptional Children's Educational Act (ECEA) of Colorado provides the following definitions:

A sustained illness means a prolonged, abnormal physical condition requiring continued monitoring characterized by limited strength, vitality, or alertness due to chronic or acute health problems, and a disabling condition means a severe physical impairment. Conditions such as, but not limited to, traumatic brain injury, autism, ADHD and cerebral palsy may qualify as a physical disability if they prevent a child from receiving reasonable educational benefits from regular education.

Criteria for a physical disability that prevents the child from receiving reasonable education benefits from regular education depend on the diagnosis and degree of involvement in the regular school setting as characterized by any of the following:

- The child's chronic health problem or sustained illness requires continual monitoring, intervention, and/or specialized programming in order to accommodate the effects of the illness, so the child may reasonably benefit from the education program.
- The child's disabling condition interferes with ambulation, attention, hand movements, coordination, communication, self-help skills and other activities of daily living to such a degree it requires special services, equipment, and/or transportation.

Special procedures such as suctioning tracheostomies, catheterizations, gastrostomy tube, and more are being performed in schools on a routine basis, and there should be extra consideration and education for transportation staff when required to transport. Staff who are transporting students that may require oxygen, respirators, or ventilators should be properly trained in transporting and securing this equipment.

It is required that the transportation departments be informed about medically fragile students prior to beginning service. Transportation decisions need to be made by qualified personnel, who should also be included in developing and implementing the student's IEP and Transportation Plan while practicing LRE.

The term “**Chronic Health or Medical Problems**” describes temporary or permanent health conditions that make it impractical for the student to receive adequate education in the regular school program. Conditions may include but are not limited to seizure disorder, cardiac conditions, asthma, malnutrition, diabetes, pregnancy, or some physical disabilities such as muscular dystrophy, cerebral palsy, or spina bifida.

Students with serious medical conditions need a Transportation Health Care Plan, prepared with help from the district's nurse. Following are descriptions of several student health concerns that drivers and student assistants need to be aware of. They should know how to transport students with these concerns in a safe manner as long as they are made aware.

Anaphylactic shock:

Anaphylaxis is a serious allergic reaction that is rapid in onset and may cause death. It typically causes more than one of the following: an itchy rash, throat or tongue swelling, shortness of breath, vomiting, lightheadedness, and low blood pressure. These symptoms can come on in minutes or over hours.

Asthma:

Asthma is a chronic lung disease that inflames and narrows the airways. Asthma causes recurring periods of wheezing, chest tightness, shortness of breath and coughing. Coughing is normally worse in the morning or evening.

Attention Deficit Hyperactivity Disorder (ADHD or ADD):

When many people think of attention deficit disorder, they picture an out-of-control kid in constant motion, bouncing off the walls and disrupting everyone around. But this is not the only possible picture. Some children with ADHD are hyperactive, while others sit quietly—with their attention miles away. Some put too much focus on a task and have trouble shifting it to something else. Others are only mildly inattentive, but overly impulsive.

Cerebral Palsy (CP)

Cerebral palsy occurs as a result of a brain injury sustained during fetal development or birth. However, because the symptoms of CP affect a child's coordination and independent movement, the injury is not always diagnosed right away, especially when the symptoms are mild.

Colostomy

A colostomy is an opening in the abdominal wall that is made during surgery. The end of the colon is brought through this opening to form a stoma. Colostomies can be large or small, and location can vary.

Cystic fibrosis (C.F.)

Cystic fibrosis is a genetic disorder that affects mostly the lungs, pancreas, liver, kidneys and intestine. Long-term issues normally include difficulty breathing and frequent lung infections.

Diabetes

Diabetes is a disease in which your blood glucose, or blood sugar, levels are too high. With type 1 diabetes, your body does not make insulin. With type 2 diabetes, which is more common, your body does not make or use insulin well, leaving it in the blood stream where it cannot be accessed as energy.

Down Syndrome

Down syndrome is a condition in which a person has an extra chromosome. This extra copy changes how the baby's body and brain develop, which can cause both mental and physical challenges for the child.

Gastrostomy (G-Tube):

Some kids have medical problems that prevent them from being able to take adequate nutrition by mouth. A gastrostomy tube (also called a G-tube) is a tube inserted through the abdomen that delivers nutrition directly to the stomach.

Hearing Disability:

Hearing loss, is also known as hearing impairment, is a partial or total inability to hear. In children, hearing problems can affect the ability to learn spoken language and in adults it can create difficulties with social interactions and at work.

Heart Disease:

Heart disease, or Cardiovascular disease, generally refers to conditions that involve narrowed or blocked blood vessels that can lead to a heart attack, chest pains, or stroke. Other heart conditions, such as those that affect your heart's muscle, valves or rhythm, also are considered forms of heart disease.

Hemophilia:

Hemophilia is a rare disorder in which your blood doesn't clot normally because it lacks enough blood-clotting proteins (clotting factors). If you have hemophilia, you may bleed for a longer time after an injury than you would if your blood clotted normally.

Hydrocephalus:

This is a condition in which the primary characteristic is excessive accumulation of fluid in the brain. Although hydrocephalus was once known as "water on the brain," the "water" is cerebrospinal fluid (CSF) — a clear fluid that surrounds the brain and spinal cord. This widening creates potentially harmful pressure on the tissues of the brain.

Kidney Disease:

This happens when your kidneys are damaged and waste products and fluid can build up in your body. That can cause swelling in your ankles, nausea, weakness, poor sleep, and shortness of breath. Without treatment, the damage can become worse and your kidneys may eventually stop working.

Leukemia:

Leukemia is a type of cancer that affects blood and bone marrow cells. After beginning in a cell in the bone marrow the disease rapidly begins to duplicate creating more and more leukemia cells and then suppresses the normal, healthy cell development.

Mononucleosis (Mono):

Mononucleosis is an infectious illness that's more commonly called mono or the "kissing disease." This is usually caused by the Epstein-Barr Virus and it is transferred via saliva. According to the Centers for Disease Control and Prevention (CDC), EBV is a member of the herpes virus family and is one of the most common viruses to infect humans around the world.

Muscular Dystrophy (MD):

Muscular dystrophy is a group of diseases that cause progressive weakness and loss of muscle mass. In this disease, abnormal genes (mutations) interfere with the production of proteins needed to form healthy muscle. There are many different kinds of muscular dystrophy.

Neurofibromatosis (NF):

Can affect many parts of the body, including the brain, spinal cord, nerves, skin, and other body systems. NF can cause growth of non-cancerous (benign) tumors involving the nerves and brain.

Oxygen:

Oxygen may be transported on buses when medically necessary and must be properly secured. It is recommended that only one tank per student be transported due to safety concerns. Maximum tank size should be no more than 38 cubic feet. Tank should be no more than 10 pounds or no more than 5 inches in diameter. <http://www.ucch.org/ucch/healthpages/pulmcrit/oxygen/todo.html>

Seizure Disorders (epilepsy):

A neurological disorder marked by sudden recurrent episodes of sensory disturbance, loss of consciousness, or convulsions, associated with abnormal electrical activity in the brain.

Spina Bifida (myelomeningocele) and Spinal Cord Injuries:

Spina bifida is a birth defect that occurs when the spine and spinal cord don't form properly. It falls under the broader category of neural tube defects. The neural tube is the embryonic structure that eventually develops into the baby's brain and spinal cord and the tissues that enclose them.

Spinal Cord injuries usually begin with a blow that fractures or dislocates your vertebrae, the bone disks that make up your spine. Most injuries cause damage when pieces of vertebrae either tear into cord tissues or press down on the nerve parts that carry signals.

Tourette Syndrome (TS):

Tourette's Syndrome is classified as a neurological disorder characterized by repetitive, stereotyped, involuntary movements and vocalizations called tics.

Tracheostomy:

This surgical procedure uses a curved tube that is placed in a tracheostomy stoma, or incision in the trachea, to allow for direct breathing.

Traumatic Brain Injury (TBI):

A brain dysfunction that is usually caused by an outside force (i.e. car accident) resulting in a violent blow to the head.

Universal Precautions: Please also see District policies on this.

Universal precautions refer to the practice, in medicine, of avoiding contact with patients' bodily fluids, by means of the wearing of nonporous articles such as medical gloves, goggles, and face shields.

Vision Disability:

A decreased ability to see to a degree that causes problems not fixable by usual means, such as glasses/contacts. Some also include those who have a decreased ability to see because they do not have access to glasses or contact lenses.

V-P Shunt:

This is a cerebral shunt that is usually put into place to help the draining of the cerebrospinal fluid that is putting pressure on the brain (hydrocephalus).

IDEA's 13 DISABILITY CATEGORIES

Not every child with learning and attention issues is eligible for special education under IDEA. To qualify, your child's issues must fall under one of the 13 disability categories that IDEA covers. They are:

Autism

The Student

These students exhibit a wide range of intellectual and behavioral differences. Some students do not communicate, communicate in a meaningless manner, or have emotional outbursts, abnormal reaction to sound, hyperactivity, lethargy, abnormal responses to objects, abnormal fears, and difficulty communicating with others.

The Driver/Attendant

- Bus attendants are essential to assure transportation safety for this population.
- Ignore behaviors that don't hamper bus safety.
- When behaviors affect bus safety, intervene.
- Plan intervention carefully. For example:
 - Give only one- or two-word directions to correct inappropriate behavior.
 - Do not provide choices.
 - Be sure that all requests are given in a quiet, gentle, firm voice.
 - Stop the bus if there is a severe disruption.
- Maintain a daily routine that minimizes inappropriate behaviors.

Deafness

The Student

Not all deaf students communicate in the same manner. Some deaf students only use sign language, other deaf students only lip-read, and other students use a total communication system that includes both sign language and lip-reading.

The Driver /Attendant

- Deaf students who are able to maintain communication with the driver or assistant will present fewer behavioral problems.
- Be familiar with the student's mode of communication.
- If the primary mode of communication is sign language, learn enough basic signs and finger spelling to provide safe transportation.
- Keep paper and pencil available for transportation purposes.

Deaf-blindness

The Student

Students with hearing and visual impairments require very specialized planning. Consistency in seating, communication, and daily management are required to minimize transportation problems. Students who are deaf-blind react positively to a daily routine and are easily distracted and upset by sudden change.

The Driver/Attendant

- Bus attendants should be considered essential to accommodate these students.
- Transporters of this population require extensive training, skill, and knowledge about mobility and alternative communication techniques.

Hearing Impairment

The Student

Students with hearing impairments may or may not use sign language. These students may have fluctuating hearing and therefore do not respond consistently to verbal communication.

The Driver/Attendant

- Establishing good communication practices increases acceptable behavior.
- Be sensitive to each student's communication needs.
- Accommodate hard-of-hearing students by patiently repeating missed information, speaking clearly, and avoiding excessive background noise, which further reduces hearing.
- Students should be able to see the lips of the person speaking.

Development Delay

The Student

Students who are developmentally delayed demonstrate a broad range of abilities and functional levels. These students may be ambulatory or non-ambulatory and may attend their local home school or a special education center.

The Driver/Attendant

- The degree to which transportation services must be modified depends on such factors as independent functional level, ability to follow directions, ability to memorize and retain safety rules, and day-to-day age-appropriate self-help and adaptive behavior skills.
 - More and more mentally retarded students are being transported on regular vehicles and integrated with their non-disabled peers.
 - Severely and profoundly mentally retarded students require a greater level of assistance because of their limited level of comprehension or severe memory limitations.
 - Work closely with the school educational staff regarding best practices.
- It is difficult for students to conform to what is expected if they can't comprehend the expectation. Expectations should be directly related to the student's functional ability.
- Follow a daily routine.
- Speak softly and firmly.
- Be friendly.
- Give one-part directions.
- Students who have toileting problems should be toileted before leaving home in the morning and before leaving school in the afternoon. Appropriate garments should be worn to protect the school bus seats.

Multiple Disabilities

The Student

Students with multiple disabilities require extensive planning.

The Driver/Attendant

- Recommendations for other disability students may be implemented for these students. In addition, many of these students may also have medical problems that require special knowledge and skills.
- In-service training must include extensive information and skill development about alternative communication systems, special equipment management, student positioning, and behavior management techniques.
- Because of the range of severity of disabilities under this definition, emphasize safety.
- Visually monitor the status of each child during the ride. It is recommended that there be a trained bus attendant who can work closely with the driver.

Orthopedic Impairment

The Student

Students with orthopedic impairments may require specialized services.

The Driver/Attendant

- Many of these students require specialized seating, physical handling, or specialized equipment with adaptations.
- If significant modifications are required, they should be discussed at the IEP meeting where the parent, and appropriate educational and related services personnel, can address the required modifications.
- If special personnel are required to assist these students, both the driver and attendant should be knowledgeable about each student's needs.
- Safety in student handling and equipment management are essential skills for drivers and attendants.

Other Health Impairments

The Student

This definition encompasses a broad range of students. This category includes children who have limited strength but may appear no different from their non-disabled peers.

The Driver/Attendant

- Know about each student's disability and how it may be manifested while on the school bus. Special education personnel, occupational and physical therapists, and nurses can provide valuable assistance that increases safety and reduces the risk of liability in emergencies.
 - For example, safety of a student with hemophilia requires priority seating to prevent any dangerous bleeding.
 - For the epileptic student, seat assignment and climate control may be vital to reduce

- seizure activity.
- For the student with diabetes, glucose tablets should be available on each school bus and the driver or attendant should be familiar with administration.
- Students with lead poisoning may demonstrate mild to severe attention deficits, as well as an inability to control impulsive behavior.
- All drivers should be provided adequate in-service training about children with disabilities since children with health impairments may frequently be transported with their non-disabled peers.

Emotional Disturbance

The Student

These students can be the most challenging to provide with daily transportation services. The day-to-day transportation problems may range from mild to severe behavior disruptions. Inappropriate behaviors may include failure to stay seated, name calling, hitting, spitting, screaming, stealing, fighting, exiting the bus, and destruction of property.

The Driver/Attendant

- Get behavior management training.
- A structured daily routine that is coordinated with the student's instructional program will enhance appropriate behavior.
- Video cameras have been recognized for their effectiveness in modifying bus behavior.
- In addition, there has been success in not transporting all seriously emotionally disturbed students on the same bus. In urban areas where mass transit is available, many students have successfully used this means of transportation.

Specific Learning Disability

The Student

This student population rarely requires special transportation intervention. The majority of these students ride the school bus with their non-disabled peers.

The Driver/Attendant

- Because these students frequently do not look or act differently from others, their special needs are not obvious.
- A learning-disabled student may have a problem using or understanding language.
- Students who have severe learning disabilities may require patience and understanding with written and oral communication.

Speech or Language Impairment

The Student

This student population rarely requires special education transportation services except for the reason of age. Because of the emphasis on early intervention, this population is more frequently being served at a very young age.

The Driver/Attendant

- Have transportation equipment that is appropriate for a child's age to ensure safety for young children.

Traumatic Brain Injury

The Student

This student population often requires very specialized transportation planning because of limited physical, behavioral, or intellectual abilities. Students who have suffered traumatic brain injury were not born disabled and may demonstrate extreme frustration trying to accept changes in their physical, behavioral, or intellectual status.

The Driver/Attendant

- Identify personnel to provide assistance with interventions recommended on the student's IEP. Rehabilitation personnel are often the most knowledgeable about the needs of this population and can provide valuable assistance.
- Patience, compassion, and good communication are essential elements for appropriate services.

Vision Impairment

The Student

This student population may or may not require special services. The degree of intervention required depends on the student's ability to function independently.

The Driver/Attendant

- Carefully assess each student to provide the appropriate level of assistance.
- Some students require extensive assistance to be seated, while others need little or none.
- To ensure safety, maintain a consistent daily routine that includes the same seat assignment.
- Use verbal communication to provide compensation for what cannot be seen.
- Directions should be precise.
- Communication should be friendly and direct.

However, having one of the 13 disabilities doesn't automatically qualify a child under IDEA. To be eligible, a student must:

- Have a disability ***and, as a result of that disability...***
- Need special education in order to make progress in school

DO NOT RESUSCITATE ORDERS (DNR)

Except in rare circumstances as indicated below, in emergency situations involving accident or illness, school district employees are expected to render first-aid and life-sustaining care to the extent of their knowledge and training, utilize emergency medical resources available in the community and seek assistance of school medical personnel or other staff members.

When a student with special health needs is enrolled in a district school, an Individualized Health Plan ("IHP") shall be prepared and reviewed at least annually (and whenever there is a change in personnel or a change in the student's medical status) by the school nurse, the parent/guardian and the student's physician. The IHP shall set forth the special health needs of the student and the plan for dealing with those needs in the school setting. In planning for the student's special health needs, the school nurse shall consult with and access applicable community resources when appropriate. If the student has an IEP or 504 plan, the IEP team or 504 team will determine whether the IHP, and any emergency protocol, should be attached to the student's IEP or 504 plan.

BEHAVIOR MANAGEMENT

MANAGING YOUR PASSENGERS

All passengers on the school bus must follow rules established by the school district. Behavior that puts the safety and health of the student, other students, the driver/paraprofessional, or the community at risk should not be permitted.

Bus rules apply to all students, including those with disabilities. General rules include:

- Remain seated when the vehicle is moving
- Keep hands, feet, and objects to oneself
- No swearing, rude gestures, or teasing
- Speak at a classroom level
- Follow the driver's and/or paraprofessional's directions
- Stay out of the danger zone surrounding the vehicle, when loading or unloading

More specific requirements may be mandated by the school district and must be communicated to the student and family. These may include:

- Keep all parts of the body inside the windows
- Do not throw objects out of the windows or onto the floor
- Do not touch emergency exits or tamper with any part of the bus
- Do not use pencils or other sharp and unsafe implements
- No eating or drinking allowed on-board a school transportation vehicle (IEP may dictate otherwise)
- No use of alcohol, cigarettes, or illegal drugs

BEHAVIOR OF CHILDREN WITH SPECIAL NEEDS

It is important to find out if the child understands that his/her actions are inappropriate or unsafe. It may be that the behavior is related to the particular disability and is not willful misbehavior. If the disability is at the root of the child's behavior, discipline may not be an appropriate way to handle the disruption. Behavior problems are usually a form of communication; a student may not be able to communicate with the driver/paraprofessional in any other way to let them know that something is wrong. It is important to understand why students are acting as they are. Corrective steps geared to the student's particular situation should be implemented.

Students with emotional disorders will usually have a behavior modification program in place at home and at school. This program should be extended to the bus environment, and the driver and paraprofessional need to understand how to follow the program.

School personnel and the family must be involved in solving any behavior problems on the school bus. It is important to get involved with the school and the family as soon as behavior problems occur.

PRAISE AND PATIENCE: TWO KEYS TO GOOD DISCIPLINE

Children respond better to praise for good behavior than to punishment for breaking the rules. Praise is usually an appropriate reward, but food should never be used to reward a student. Not only would this encourage eating on the bus, but the student may have food allergies or could choke while eating. Smiles and kind words work best! Additionally, a driver and or paraprofessional may choose to acknowledge appropriate passenger behavior by issuing a reward certificate (tickets, school approved reward system).

Patience may be needed with children with disabilities. Some may have limited memory or attention spans because of conditions that cannot be seen. Therefore, instructions and praise may need to be repeated frequently. Having written rules with pictures may help. For some students, it helps to give directions in short phrases, only one or two instructions at a time.

If behavior of a student is an ongoing problem, an appropriate behavior program could be written into the child's IEP. By doing so, the teachers, parents, driver(s), and all other service providers agree on the course of action that must be taken.

WHAT IS REASONABLE RESTRAINT??

This type of restraint should not be confused with occupant restraint or Child Safety Restraint System (CSRS), which prevent crash-related injuries. When we talk about reasonable restraint in connection with misbehavior it means "immobilization of the individual's movement by staff member's direct contact."

Most districts have very specific School Board Policies on Reasonable Restraint. It is critical to the safety of the students and legal protection of the Drivers/Assistants that these policies are in place and adhered too. Restraints and seclusion should never be used for coercion, retaliation, or as a convenience to staff when dealing with problematic behaviors. Restraints are used **only as a last resort**, and only by trained personnel. Schools should never use mechanical restraints to restrict a child's freedom of movement. You must be trained before you can use any restraint on a student.

If a child with disabilities has a behavior plan that requires some specific type of discipline-related restraint, this must be addressed in the IEP and behavior plan. If you, as a transportation professional, are unclear about what is expected of you or how to deal with specific behavior, ask the other members of the group that have prepared the plan.

Fifteen Principles for Restraint

1. Every effort should be made to prevent the need for the use of restraint and for the use of seclusion.
2. Schools should never use mechanical restraints to restrict a child's freedom of movement, and schools should never use a drug or medication to control behavior or restrict freedom of movement (except as authorized by a licensed physician or other qualified health professional).
3. When imminent danger to self and others has dissipated, physical restraints or seclusion should be discontinued.
4. Policies restricting the use of restraint and seclusion should apply to all children, not just children with disabilities.
5. Any behavioral intervention must be consistent with the child's rights to be treated with dignity and to be free from abuse and should only be used for the protection of the child and/or those around them.
6. Restraint or seclusion should never be used as punishment or discipline (e.g., placing in seclusion for out-of-seat behavior), as a means of coercion or retaliation, or as a convenience.
7. Restraint or seclusion should never be used in a manner that restricts a child's breathing or harms the child.
8. The use of restraint or seclusion, particularly when there is repeated use for an individual child, multiple uses within the same classroom, or multiple uses by the same individual, should trigger a review and, if appropriate, revision of strategies currently in place to address dangerous behavior; if positive behavioral strategies are not in place, staff should consider developing them.
9. Behavioral strategies to address dangerous behavior that results in the use of restraint or seclusion should address the underlying cause or purpose of the dangerous behavior.
10. Teachers and other personnel should be trained regularly on the appropriate use of effective alternatives to physical restraint and seclusion, such as positive behavioral interventions and supports and, only for cases involving imminent danger of serious physical harm, on the safe use of physical restraint and seclusion. Every effort should be made to prevent the need for the use of restraint and for the use of seclusion.
11. Every instance in which restraint or seclusion is used should be carefully and continuously and visually monitored to ensure the appropriateness of its use and safety of the child, other children, teachers, and other personnel.
12. Parents should be informed of the policies on restraint and seclusion at their child's school or other educational setting, as well as applicable Federal, State, or local laws.
13. Parents should be notified as soon as possible following each instance in which restraint or seclusion is used with their child.
14. Policies regarding the use of restraint and seclusion should be reviewed regularly and updated as appropriate.
15. Policies regarding the use of restraint and seclusion should provide that each incident involving the use of restraint or seclusion should be documented in writing and provide for the collection of specific data that would enable teachers, staff, and other personnel to understand and implement the preceding principles

TIPS FOR WORKING WITH CHILDREN WITH SPECIAL NEEDS

- Make sure that your students are aware of the bus rules the first day and then enforce them
- You should expect the same standard of behavior from a special needs student as you expect from a regular education student unless there is a legitimate reason to treat the student differently
- Show the children that you care. Look for the good qualities!
- Never give an instruction that you cannot enforce. Be consistent with your follow-through
- Let the students sit with their friends (IF POSSIBLE)
- Learn the children's names and greet them each morning and evening
- Show a sense of humor that is appropriate with the student's understanding
- Remember that you are working with children not adults
- Show an interest in the students and their school
- If you have minor problems with the riders, first try to solve them yourself before going to the school and/or parents
- Listen to suggestions from the school staff and parents
- Set a good example by your conduct, appropriate dress, and follow the appropriate district policies, procedures and rules of the road
- The safety and well-being of your passengers are your responsibility. Put your heart into it
- Be patient. It takes a lot of patience when there is a large group of healthy, lively, youngsters
- You are the first person to see the child in the morning and the last to see him/her in the afternoon. Always report anything suspicious or unusual to school authorities immediately
- Remember, you are a very valuable member of the team who deals with these students. You can be proud that you have special skills to work with these kids! If you need additional training, please contact the school

INAPPROPRIATE BEHAVIOR

This is any misbehavior that involves the safety and welfare of bus riders or others:

- Failure to remain seated
- Teasing/harassing others
- Hitting, fighting, or assaulting other students, driver(s) or paraprofessionals
- Refusal to obey the driver/para instructions
- Throwing objects out of the bus
- Improper bus loading or unloading
- Unauthorized use of emergency exits or equipment
- Possession of a weapon
- Vandalism or destruction of property
- Profanity/obscene gestures
- Use of tobacco on the bus or on school property
- Use of illegal drugs or alcohol on the bus or school property
- Spitting
- Other dangerous, disruptive, or inappropriate behavior

All students, including students with disabilities, are expected to exercise self-control commensurate with their development and abilities

TYPES OF RESTRAINT TRAININGS

- CPI - Crisis Prevention Institute
 - What is Nonviolent Crisis Intervention® Training?
 - Nonviolent Crisis Intervention® training equips you with skills, confidence, and an effective framework to safely manage and prevent difficult behavior.
 - Reduce restraint use!
 - The truth is that CPI training is designed to help you reduce and even eliminate restraint use. Of course, sometimes there are last-resort situations where restraint is needed—only if a student presents an immediate threat of physical harm to self or others. But so often, restraint can be prevented. In fact, 61% of educators report that CPI has helped their schools reduce restraint use by 50–99%. You can even go as far as the schools that eliminated restraint use entirely.
- NHTSA – Child Passenger Restraint System
 - Available at STN
- QBS – Quality Behavioral Services
 - Safety-Care™ Behavioral Safety Training program provides the skills and competencies necessary to effectively prevent, minimize, and manage behavioral challenges with dignity, safety, and the possibility of change. Using the newest and most effective technologies from Applied Behavior Analysis (ABA) and Positive Behavior Interventions & Supports (PBIS), this Safety-Care program will provide your staff with strategies for not only preventing and managing behavioral challenges, but also to effectively teaching replacement behaviors. Appropriate for individuals experiencing developmental, neurologic, psychiatric and other impairments, Safety-Care will result in a more positive reinforcement-based approach, the development of new skills, and fewer restraints.
 - Safety-Care provides the tools you need to be safe when working with behaviorally challenging individuals.
 - We can help you to:
 - Understand how and why crisis events happen, and ways in which we might inadvertently contribute to them.
 - Prevent crises using a variety of supportive interaction strategies.
 - Apply simple, evidence-based de-escalation strategies that are effective for any population.
 - Respond appropriately and safely to dangerous behavior.
 - Prevent the need for restraint.
 - Intervene after a crisis to reduce the chance that it will happen again.
- MANDT – Trademarked Program
 - We maintain and continue to promote a commitment toward **Restraint Reduction** and **Restraint Elimination** by achieving the ultimate goal of the Mandt System® - to build healthy relationships in the workplace between all people.

EMERGENCY EVACUATIONS

EMERGENCY EVACUATION REQUIREMENTS FOR SPECIAL NEEDS STUDENTS

The Colorado rules for the Operation of School Transportation Vehicles (1CCR 301-26, 4204-R-216.01, 216.02) require that emergency evacuation drills shall be conducted at least twice during each school year. It is recommended that one drill be through the rear and/or side emergency doors(s). Records shall be maintained showing that the required evacuation drills have been conducted. These regulations do not exempt disabled or special needs students, nor does it provide special instructions for them.

In an actual emergency, there would be no time to explain the evacuation plan. Drivers, paraprofessionals and students must be aware of what to do ahead of time. These regulations should encourage each transportation department to prepare procedures as to how these drills should be conducted. A bus carrying special needs students, particularly students who are physically disabled, would be evacuated in an emergency only when absolutely necessary in order to preserve life. Some special needs students may not be able to participate fully in an evacuation drill due to the nature of their disabilities. Decisions should still be made as to how these students can be evacuated in an actual emergency and documented.

PREPARING A PLAN

Drivers and paraprofessionals should have extensive conversations with each other about the plan they write. They should also consult teachers, parents, therapists, or any other person(s) who could lend insight on how to handle a specific child. Emergency information forms and health care actions plans are excellent sources of information about the students. Transportation personnel should be familiar with each student's medical or disabling condition, especially if the condition might be a factor to consider in an emergency evacuation.

If clarification of the information or additional information is needed, contact the person(s) who can provide or obtain whatever is necessary to prepare the evacuation plan. That person may be the special education scheduler, driver/trainer, dispatcher, school nurse, or a district representative who is designated those responsibilities in the school district and / or transportation department.

TRAINING FOR DRIVERS AND PARAPROFESSIONALS

Train drivers and paraprofessionals to:

- Examine adaptive equipment or assistive devices used by each student (lap belts, safety vests, leg braces, wheelchairs, etc.) and get familiar with how they work. Determine what kind of quick-release methods might be used with them. Request in-service training on any equipment or device that is new or unfamiliar.
- Evaluate each student and her/his equipment on an individual basis, in terms of how quickly they can be removed from the bus.

Some determining factors include:

- Size (weight/height of student and her/his equipment).
- Is the combined weight of student and equipment too heavy to lift out the emergency door?
- If the lift is inoperable would the student be carried off the bus or dragged to the exit (s) on a blanket?
- Which students are capable of assisting in an emergency situation? Which students(s) tends to wander, needs monitoring or other special attention, etc?
- Is there a serious medical problem which would prevent the driver/paraprofessional from removing the student from a wheelchair in the event the lift is rendered inoperable due to an accident or fire?
- Understand the extent of each student's disability and /or physical limitations, impairments or weaknesses.
- Evaluate seating location of the student. Where the student is seated on the bus, combined with the type of assistive device s/he might require, will impact the emergency evacuation plan.
- Know the length of time a student requiring life support equipment or medical care procedures can survive, if such service is interrupted or delayed during the emergency evacuation process.

Other questions that may need to be answered, or issues that may need to be addressed, include:

- If a ventilator dependent student needs assistance, what are the appropriate procedures, and who is trained to assist, if the IEP required nurse is incapacitated?
- What precautions should be taken with any oxygen tanks on board if there is a fire or threat of fire?
- What are the procedures for any companion animal on board during an emergency?
- What special challenges might a student with a quadriplegic condition present?
- When will an expensive augmentative device be removed from the bus or left behind?
- Consider challenges that might be encountered with a student who is unwilling or unable to respond to verbal instructions. Consult the student's teacher and /or parent for the proper techniques to handle a child who refuses to get on or off the bus. If the techniques are not successful during practice drills, pursue further assistance from the appropriate designee assigned to provide such information in the school district.
- If a driver is not assigned a paraprofessional on the route, s/he might consult other drivers for feedback on her/his emergency evacuation plan and include talking with the drivers who have driven the child before.
- Discuss the plan with each student's parent/guardian to make sure there is support and agreement as to how the student should/could be removed from the bus in an emergency situation.

WRITING A PLAN

Once a plan has been verbally discussed and mentally planned between the driver and paraprofessional, a written evacuation plan should be documented for each individual bus run on the route package. A complete plan for both front and rear exits is recommended. A diagram of the floor plan, indicating the seats and the wheelchair tie-down locations for each bus will be helpful. Write in the names of each student according to where they sit on the bus.

Beneath the student's name make the notation that is most appropriate for that student (i.e., can assist driver/paraprofessional in emergency, needs assistance to walk, remove student and chair, may remove student from chair, may use blanket drag, etc.)

Another technique for identifying the student's abilities or special needs is using the "Dot System," a colorful eye catcher:

- Green Dot: Indicates that the student may evacuate on their own without supervision and can assist other students.
- Yellow Dot: Indicates the student may have some difficulty but can undo seat belt and may be able to crawl to the emergency exit.
- Red Dot: Indicates the student will need complete supervision and/or assistance.

When discussing an evacuation plan, keep in mind that the goal is to safely evacuate all students, as quickly as possible. Indicate on the evacuation plan the sequence of removal for the students to each emergency exit. Write out a brief description and include any necessary and appropriate information and /or special instructions for each student.

District procedures may require a copy of the written plan to be available to the training department, scheduler, dispatcher, and any substitute driver or paraprofessional who may be scheduled on the route in the regular driver's/paraprofessional's absence.

Once the plan is written and practiced, drivers and paraprofessionals should review the plan frequently, update and adjust any passenger changes, and always remain mentally alert. The reality that an emergency evacuation may be necessary can happen at any given moment. We do not get to choose our emergencies or when they happen.

CONDUCTING THE EVACUATION DRILL

Any sudden change in a daily routine may be upsetting to some special needs students. To eliminate the element of surprise, discuss the plan with all students before actually conducting an emergency evacuation drill. Allow them to contribute their suggestions and information. Spend several days preparing them verbally for the actual drill.

Once everything has been discussed in detail, put the plan into action and evacuate all ambulatory and semi-ambulatory students from the bus using the exit that has been designate as the emergency exit.

To avoid any chance of injury, evacuate all non-ambulatory students using the lift, even if the plan calls for them to be removed from their wheelchair and carried off the bus.

Always do practice drills in a safe location, preferably on school grounds. Make sure there are plenty of district personnel and / or parents available to assist when necessary. Continue to practice the drill, if appropriate, until the students are comfortable with the routine and their responsibilities, which may be simply to cooperate. Actual practice often contributes toward a better plan, revealing outcomes that may not have been apparent before the actual drill. Offer lots of praise and appreciation to the students and assure them that this drill is because of the driver's/paraprofessional's genuine caring for the them.

Review with the students, regularly, throughout the school year about their responsibilities/cooperation if the bus needed to be evacuated in an emergency. Never assume that based on a student's special need that they are incapable of performing some of the basic tasks of evacuation. Work with the student

progressively to increase their comfort with and understanding of these basic tasks with the goal of helping them to become as independent as possible during the evacuation.

DECIDING WHEN TO EVACUATE THE BUS

Not all emergencies or accidents would require that the evacuation plan actually be carried out. Keep in mind that buses are well constructed, and there are times when students would be safer inside the bus.

Conditions such as fire, threat of fire, stalled vehicle on a railroad track, or any unsafe road location, present situations which would require an evacuation. This decision depends on the driver and paraprofessionals' training and good judgment.

Much time and effort goes into the preparation of an emergency evacuation plan, but it may be placed into action during the required drills and in a real life-threatening emergency situation. It would only take one life-threatening emergency to make all the effort to design this evacuation plan worthwhile.

This plan may also be used if the bus breaks down and the students need to be transferred to another bus. Minor modification of the plan would permit a safe, smooth transition to the other bus.

TRAINING CONSIDERATIONS

The following training and review could have a positive impact on an evacuation drill if an actual emergency ever occurred:

- Hands-on emergency techniques and procedures should be reviewed with drivers and paraprofessionals before each summer school session, and prior to the beginning of each school year.
- Departmental procedures for reporting emergency situations via two-way radio should be reviewed and rehearsed with all drivers at the beginning of each school semester.
- During training sessions, troubleshoot unexpected circumstances that might arise during an emergency situation (i.e., inoperable two-way radio, absence of emergency blanket on board, students going into seizure, driver unconscious) and explore possible alternative actions.
- Consider establishing a "pool" of substitute drivers who excel in special needs transportation. Include them in all special education in-services and refresher sessions.
- To eliminate surprise situations, driver and paraprofessionals should frequently monitor the condition of all assistive devices and other equipment used by their special needs passengers.
- If different buses in the fleet are equipped with different types of wheelchair and occupant restraint systems, rotate drivers and paraprofessionals for a few days so that all personnel have the opportunity to become familiar and work with the different types of equipment systems.
- Explore and practice quick release methods for occupant restraint systems. If a belt cutter is an option, test the cutter on sample straps by cutting on the angle. Trying to cut straight across a strap with a belt cutter has not always proven successful.

PRESCHOOL CHILDREN

For clarification, the term “preschooler” will be defined as children three to five years of age. Public school transportation is not automatically required for this age group in Colorado. Transportation, as a required related service for preschoolers with disabilities, must be stipulated on the preschooler’s Individualized Education Program (IEP).

EQUIPMENT CONSIDERATIONS

The Colorado Department of Education (CDE) School Transportation Unit encourages school transporters of preschoolers under four years of age and weighing under 40 pounds to use a Department of Transportation (DOT) approved child restraint system when transporting preschoolers in a school transportation vehicle (school bus and small vehicle). This recommendation may be difficult to follow since this type of equipment is not required on a school bus, and the school bus was not designed to transport this type of passenger. It is wise to document the district’s reason why or why not a safety restraint system is used for preschoolers. The use of a restraint system and / or safety equipment may be required on the IEP.

Other complicating factors in Colorado are found in statute requirement (42-4-236 CRS):

- A child safety restraint system (i.e., safety seat, booster seat, harness) is required when transporting a child who is less than four years of age and weighs less than forty pounds in a privately – owned small vehicle.
- Every child who is at least four years of age but less than 16 years of age or who is less than four years of age and weighs 40 pounds or more, being transported in a privately-owned small vehicle shall be provided with a seat belt system.

Government-owned small vehicles are exempt from these two requirements. CDE recommends that all school district passengers in a small vehicle have their safety belts fastened and properly adjusted or be in an appropriate restraint system whenever the vehicle is in motion.

For the children’s sake, let us keep them safe while they travel in a school transportation vehicle. When preschoolers with disabilities are transported, restraints should be appropriate for the level of disability. Always document the reasons for the school district decision as to how a preschooler is transported.

At any age, a child is safer riding in the back seat of a small vehicle than in the front passenger seat. It is important that the restraint system be appropriate for the child’s size, age, weight and disability. A safety restraint system and / or safety seat should be secured according to the manufacturer’s instructions. The design and type of appropriate equipment may be determined by the child’s physician, occupational therapist, physical therapist, school nurse, parent, and school transportation representative.

The transportation department representative’s input is very important at the IEP staffing. The transportation representative’s responsibility is to match the appropriate safety equipment with the appropriate vehicle and to assist in the planning for the training of transportation employees. In some cases, the appropriate vehicle may not be immediately available, or an additional employee may need to be hired.

The number one killer of children in this age group is traffic crashes. Over 90 percent of fatalities and 80 percent of serious injuries could be prevented if a safety restraint system was used. These national

figures are from small vehicle crashes. Of those children who died in Colorado, 64 % were killed when ejected from a vehicle. To date there is no state or national data as to crashes on school buses transporting this age group. Only “Best Practices” may be utilized when making a determination to transport a preschooler with special needs on a school bus or in a small vehicle.

Preschoolers depend on us to make safety decisions from them. Because their bodies are different, they need their own special restraint system designed to distribute crash forces over the body area. Children up to the age of four are not only small but have soft, flexible bones. A safety belt, which is designed for an adult, does not offer adequate protection to a preschooler in a small vehicle. School bus seats do not offer “passive” restraint protection (compartmentalization) to this age and weight passenger under the current FMVSS 222, “School Bus Passenger Seating and Crash Protection.”

Simply securing a safety seat according to the manufacturer’s instructions may not always prevent it from tipping forward or tipping sideways. CDE recommends that a secured safety seat (secured according to the manufacturer’s instructions) be “hands-on” tested by trying to pull (tip) the top of the safety seat forward when it is properly secured. If the safety seat, with an occupant, can be pulled away from the bus seat back by three inches or more, the safety seat could rotate on its restraint system (seat belt) and tip upside-down with the occupant in a collision. This has occurred on a school bus! This has also happened in small vehicles! In a school transportation vehicle an additional restraint system (seat belt or strap) may be available and necessary to wrap around or attach to the upper third of the safety seat and the school transportation vehicle seat back; behind, not around the preschooler. The straighter the vehicle seat back, the more likely it is that the safety seat will tip forward with its occupant. That is how the bus seat is designed. As a bench seat.

Sideways tipping should also be checked before transporting preschoolers in school transportation vehicles. Always review manufacturer’s recommendations. Also, respond immediately to all manufacturer recalls.

CDE recommends that “hands-on” testing of a secured child safety seat before transporting will always be necessary. The shape, design, material, incline, stitching, etc. of a seat bottom and seat back, may alter the effectiveness of the manufacturer’s recommended location for securement. Also, the placement, style, buckle or a shoulder strap of safety belt restraint systems may also adversely influence the securement of a safety seat. The only way to appropriately anticipate problems before they occur and adjust to changing vehicles and equipment is consistency in “hands-on” testing the secured safety seat.

Dynamic crash testing has not been performed to evaluate the performance of a safety seat or restraint device in a school bus and there is no national data as to how many preschool children are being transported by school districts. Districts may have difficult and sometimes complicated decisions to make when transporting preschoolers.

Preschoolers with special needs not only need supervision dependent on their chronological age, but also their physical capabilities, mental development and independent functioning abilities.

The school district should be prepared and knowledgeable in the area of training drivers and paraprofessionals for this type of school transportation vehicle passenger.

ADDITIONAL ISSUES TO CONSIDER

- The spacing between the bus seats needs to be evaluated when considering using a safety seat.

- The type of vehicle compared to the child's age needs to be determined. Evaluate the child size to the window height, feet to floor measurement, seat style, seat back height/incline and seat cushion length/width.
- Is there a need for a paraprofessional? Procedures could be developed to determine the necessity for a paraprofessional when transporting a large number of preschoolers in a school transportation vehicle. The IEP may require a paraprofessional for an individual preschooler.
- Driver, paraprofessional and substitute driver/paraprofessional appropriate training should be given and documented.
- Are lap belts available? If added to bus seat, is the seat frame seat-belt ready? Have the belts been tested for preschoolers use? Is a belt cutter available?
- Decisions concerning the length of ride should be addressed on the IEP. This information may be included in the Transportation Health Care Plan by the school district nurse.
- Emergency evacuation plans should be developed and practiced more frequently than the required two times a year.
- School district student stop procedures should be developed for this age. What are the parental responsibilities at the student stop location, boarding and disembarking, and on the school transportation vehicle?
- Who will supply the safety equipment, if needed? What are the manufacturer's recommendations, maintenance requirements and procedures for the safety equipment? How will recalls be tracked and responded to?

INTERACTIONS BETWEEN TRANSPORTATION STAFF AND PRESCHOOLERS

The driver and paraprofessional should interact frequently with preschoolers, demonstrating appropriate affection and touch. Nonverbal interaction may be demonstrated with a smile. Friendly greetings are important when preschoolers board or disembark the school transportation vehicle. Learning and using their names is helpful. Always give these children adequate time to respond. It is important to see and encourage appropriate humor in situations and to respect their privacy in matters of personal hygiene and care. Songs, word games, and CD's with music or rhymes may gain their interest while being transported. These passengers need to be reassured frequently and comforted in times of distress. Listen to preschoolers with attention and respect. Continually reassure these passengers that they are liked and cared about. Always respond to their questions and requests. Communicate with preschoolers at their eye level by sitting or stooping next to them. Repetition is often necessary when it comes to teaching them about safety considerations.

Service Animals

Decisions regarding the accommodations required for any student are made on an individual basis. A school district cannot unilaterally prohibit the use of service animals or other accommodations or modifications deemed necessary for a student to access a public school program. When establishing a policy for the use of service animals, consideration for the need and integration of a service animal should be addressed in the student's individual educational plan (IEP) or developed under section 504 of the Rehabilitation Act of 1973 (section 504 plan), with documentation supporting the need for the service animal as an accommodation deemed necessary for the student to access the school program. The information provided applies the legal standards as set forth in the following: Individuals with Disabilities Education Act (IDEA)

1. Section 504 of the Rehabilitation Act of 1973, as amended (Section 504)
2. Americans with Disabilities Act (ADA)

GENERAL STATEMENT

(Sample language below)

A student's service animal is personal property and cannot be brought onto school property without prior knowledge and approval by the school and/or district administration. The student's need for the use of the service animal must be documented in the student's individual educational plan (IEP) or Section 504 plan.

A service animal – “an animal that is trained to perform tasks for the Individual with a disability. The tasks may include, but are not limited to, guiding a person who is visually impaired or blind, alerting a person who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting a person who is having a seizure, retrieving objects, or performing other special tasks. A Service animal is not a pet.”

INFORMING OTHER PARENTS

A Letter should be sent out to Parents that a service animal will be riding the bus with their student.

Dear Parents:

This letter is to notify you that your son's/daughter's bus will be transporting a service animal to assist a fellow student. The service animal is allowed during transport to and from school and is in compliance with CDE regulations.

If you need further information concerning service animals, please contact _____.

Thank you,

Transportation

TRANSPORTATION OF THE SERVICE ANIMAL

In determining the necessity of a service animal for a student with a disability at school, the district may also need to provide directions for transporting the student and the service animal. Provide a clear description of the factors to be considered.

TRAINING

1. The driver and assistant should meet with the animal's owner. The owner is responsible for providing information to the driver and assistant regarding critical commands needed for daily interaction and emergency/evacuation.
2. The animal's owner should provide an orientation to students riding the bus with the service animal regarding the animal's functions and how students should interact with the animal.
3. The service animal should practice the bus evacuation drills with the student.
4. Loading/Unloading
5. The service animal should board the bus by the steps, not the lift.

SEATING LOCATION

1. The service animal should be positioned on the floor, at the student's feet or on a seat across.
2. A representative of the Transportation Department will meet with the animal's owner to determine whether the service animal should be secured on the bus.

CESSATION OF TRANSPORTATION

Situations that would cause cessation of transportation of the service animal include:

- a. The service animal's behavior poses a direct threat to the health or safety of others.
- b. The animal not under control.
- c. The service animal urinates or defecates on the bus.
- d. If transportation is suspended due to any of the above reasons, transportation may be reinstated after additional training or medical issues are resolved.

NOT SERVICE ANIMALS

1. Therapy dogs
2. Emotional support animals
3. A service animal undergoing training before being partnered with a person with disabilities.

HOW TO KNOW IF IT IS A SERVICE ANIMAL

Permitted two questions

1. Is the animal needed because of a disability?
2. What tasks does the animal perform?
3. Staff cannot ask about the person's disability, require medical documentation, require a special identification card or training for the dog.

NO DOCUMENTATION NEEDED

1. No vest
2. No badges or certification
3. NO size or breed limitation

SUPERVISION AND CARE

Schools not responsible under ADA for care and supervision of the animal. But they may have to assist the student to do so.

SECTION TWELVE – QUESTIONS AND ANSWERS

COMMON QUESTIONS AND ANSWERS

1. **Does a wheelchair need brakes in order to use the transportation service?**
 - a. No, the DOT ADA regulations' definition of a wheelchair does not include a requirement for brakes or any other equipment. A transportation operator may not deny transportation to a wheelchair user because the device does NOT have brakes or the user does not choose to set the brakes.
2. **Is there a process that is established to communicate necessary information to sub drivers who may have to relief a route with a special needs child?**
 - a. Please check with your department/district/charter policy
3. **Are we required to put signs on school buses transporting students with oxygen? A sign (in a visible location, and not covering required lettering or reflective tape) that states, "Oxygen on board" for emergency responders and the public.**
 - a. It is not required to have a placard for transporting personal oxygen tanks, but the oxygen tank must be properly secured while being transported.
4. **What is a "sled test?"**
 - a. Sled testing allows engineers to reproduce the dynamic conditions of a full-scale crash event in a controlled environment and at a fraction of the cost of a crash test. Sled systems provide repeatable and reliable impact conditions around which automotive seats, seat belts, and supplemental restraints can be developed. Sled testing offers a method of testing products to simulate crash conditions at a much lower cost than crashing a new off-the-line vehicle.
5. **What is the definition of Special Needs?**
 - a. As far as transportation is concerned, this would be any student that cannot access education without transportation. This sometimes can require adaptive equipment, paraprofessional assistance, and other student specific modifications.
6. **What is Child Find, and what purpose does this organization serve?**
 - a. Child Find is the program to identify a child who has special needs as early as age 3 to help them access resources to allow them to have a more successful education and access FAPE.
7. **What are the differences between Accommodation and Modification?**
 - a. Accommodation – a convenient arrangement (i.e. route changes, private property drop-off)
 - b. Modification – when something is required by an IEP, or an action performed to a CSRS/Wheelchair device
8. **Why must there be a very specific reason that a length of ride is specified?**

- a. If it is a medical reason then it should be accompanied by a physician's letter, etc. If not, parents could ask that a time be specified without justification, just their preference, which could end up being virtually impossible for the transportation department to comply with. i.e. 12 kids that are only permitted to be on the bus for 30 minutes, they live 20 miles apart, one is a wheelchair and the district only has one driver.
- 9. If a district/charter decides to have a parent transport, what documentation is needed?**
- a. Districts must have documentation of some kind for proof that the parent transported and appropriate mileage, as well as proof of insurance that is compliant with the Colorado Division of Motor Vehicles and the Local Education Agency.
- 10. What is a BIP? What is a Seizure Action Plan? What is a Medical Action Plan? Are there similarities, and what are the differences between these plans?**
- a. BIP – Behavior Intervention Plan, this plan is put in place during an IEP meeting to better assist the student in obtaining good behavior goals
 - b. Seizure Action Plan – the predefined actions that are taken in the event that the student has a seizure
 - c. Medical Action Plan – a set of predefined actions that are taken for either general or specific medical concerns.
 - d. Each of these plans should be included in the student's informational file/book and provided to the driver (sub, as need to know)
- 11. Can a Special Needs Team (driver/paraprofessional) arbitrarily place a student they are having behavioral issues with into a CSRS?**
- a. No, this can be done through an IEP ONLY. This can be a modification to a current IEP through an amendment process.
- 12. How does a Special Needs Team know if a behavior is a manifestation of a student's disability if no information is provided?**
- a. The only way to determine if it is a manifestation is to go through a manifestation hearing with the IEP team.
- 13. Can a Special Needs Team request an emergency IEP staffing if new behaviors (violent, aggressive, etc....) are emerging? Behaviors that are not a manifestation of current IEP behavior prognosis.**
- a. Yes, a special needs team, along with their supervisor, may request an emergency IEP staffing.
- 14. Can Special Needs Team (driver/paraprofessional) attend an IEP meeting?**
- a. Yes, and transportation should be present at all IEP meetings for the individuals that we transport as defined in IDEA.
- 15. Can a Special Needs Team, trainers, or transportation staff make modifications to any CSRS/wheelchairs when required equipment is missing or broken?**
- a. No, please refer to the manufacturer

- 16. What are the legal ramifications of going against an IEP?**
- It is a violation of a student's Civil Rights, and is in violation of FAPE
 - Legal ramifications can be anywhere from a simple reprimand to a lawsuit
- 17. Do wheelchair securements have to match: lap/shoulder belt and the four tie-downs.**
- Yes, best practice has manufacturer and model being the same. This is so that if there were ever an accident, you would be covered by manufacturer warranties.
- 18. What is a wheelchair inspection? Why do a wheelchair inspection?**
- A wheelchair inspection can be broken down into two sections. The first being pre-transport and you are looking for attachment points on the wheelchair, seeing if the wheelchair is WC19, and if there is any other adaptive equipment that is needed to transport the student. The second being during transportation, and this monitors the wheelchair to ensure that the device remains structurally sound and free of defects.
- 19. How do you inspect a wheelchair lift?**
- Inspect all elements. Starting from the outside and going into the vehicle. Check the door, the hold open is present and working, the control pendant, check for proper movement of the lift (completely deploy and stow), check the cables and lift plates
- 20. How do you perform an emergency evacuation out the back door with a wheelchair?**
- This can be done with 1, 2, or 3 people, but can only be done with a manual wheelchair as the powerchairs are too large to lift out of the rear door.
 - 1 Person evacuation**
 - This is done very carefully. Begin by placing your hip against the wheelchair and progress slowly towards the rear emergency exit door. As you reach the door gently move the wheelchair out the door, leaning the chair back against your hip and SLOWLY drop to your knees as the wheelchair descends towards the ground. Once you can go no further on your knees, drop to your belly and finish the descent.
 - There will be a slight drop for the back of the wheelchair once you have reached the end of your abilities to lower the wheelchair any further while still holding on.
 - Release wheelchair evacuate bus and move to safety.
 - 2 Person evacuation**
 - Begin by placing your hip against the wheelchair and progress slowly towards the rear emergency exit door as the second person slides out of the rear door. As you reach the door, gently move the wheelchair out the door and leaning the chair back against your hip. The aide outside will then grab on to the wheelchair frame and assist with the descent. SLOWLY drop to your knees as the wheelchair descends towards the ground, the aide is still guiding and maneuvering the chair as you carefully slide the wheelchair down the outside of the vehicle. Once you can go no

further on your knees, drop to your belly and finish the descent with the aide reaching back and taking the weight of the wheelchair and moving to safety.

d. 3 Person evacuation

- i. Begin by placing your hip against the wheelchair and progress slowly towards the rear emergency exit door as the second and third persons slide out of the rear door. As you reach the door, gently move the wheelchair out the door and leaning the chair back against your hip. The aides outside will then grab on to the wheelchair frame and assist with the descent. SLOWLY drop to your knees as the wheelchair descends towards the ground, the aides are still guiding and maneuvering the chair as you carefully slide the wheelchair down the outside of the vehicle. Once you can go no further on your knees, drop to your belly and finish the descent with the aides reaching back and taking the weight of the wheelchair and moving to safety.

e. Emergency Evacuations for lifting/blanket drags.

General Lifting Guidelines

1. Never lift anyone more than half your weight. Ask for help if you are unsure.
2. Test your lifting ability with a small movement that can be stopped. If the student weighs too much, use another method.
3. Process for lifting a student:
 - a. Clear the path to the exit.
 - b. Tell the student exactly what you are going to do before you do it.
 - c. If necessary, cut the seat belt and other positioning straps.
 - d. Stand balanced with your feet shoulder width apart. Face the student. Face in the direction you want to go, if possible.
 - e. Get a good grip on the student or the student's clothing. Use your palms, not just your fingers.
 - f. Squat down but keep your heels off the floor. Get as close to the student as you can.
 - g. Lift gradually (without jerking) using your leg, abdominal, and buttock muscles. Keep the student as close to you as possible.
 - h. Keep your chin tucked in so as to keep a relatively straight back and neck line
 - i. Lift straight up; avoid twisting at the waist while carrying the students.
 - j. Take small steps. Keep the student close to your body.
 - k. With students with poor muscle control:
 - o Curl the student as much as possible
 - o Keep the student's arms and legs from flopping
 - o Support the student's head and neck.

One Person Lift

1. Follow general lifting guidelines.
2. Pass the student's near arm over your shoulder.
3. Place one of your arms behind the student's shoulders with your hand under the student's other arm.
4. Place your other arm under the student's knees.

5. Squat down, feet shoulder width apart.
6. Lift the student with the load equally divided between both arms, holding the student close to you.

Two Person Lift

1. Follow general lifting guidelines.
2. Move the student in a wheelchair as close to the exit as possible. Slide the student on a seat next to the aisle.
3. The taller person stands behind the student and the other person stands in front of the student and off to the side.
4. If the student is in a wheelchair, the person in front should remove the armrests and fold up the footrests.
5. The person in back reaches under the student's arms and **either** grasps right hand to student's right wrist and left hand to student's left wrist **or** clasps hands across the student's chest.
6. The person in front lifts the lower extremities under the thighs and hips.
7. Squat down and lift together on a count of 3.
8. Move to the designated area and lower the student on the count of 3.

Blanket Drag

1. Follow general lifting guidelines.
2. Fold a blanket in half and place in on the floor next to the student.
3. Lower the student's legs onto the blanket first, then the head. Place the student with his head toward the exit.
4. Wrap the blanket around the student to prevent arms and legs from being caught on obstacles.
5. Grasp the blanket near the student's head and drag the student to the exit.

Practice

1. Practice lifts and the blanket drag.
2. Practice operating the lift manually.
3. Conduct regular evacuation drills with the students on the school grounds with school personnel observing.

21. **Who is responsible for a student in a wheelchair when the student has a nurse assigned and rides the bus daily?**
 - a. The Nurse. That nurse is there for that specific student only.
22. **Can you separate a service dog if it is tethered to a wheelchair?**
 - a. Yes, you can separate the dog from the WHEELCHAIR, not the STUDENT.
23. **Where would the service dog sit/lay safely on a school bus if tethered to a wheelchair?**
 - a. The dog can lay/sit next to the wheelchair in any location except the aisle
24. **Should a driver/para place their hand on the wheelchair as the chair is utilizing the lift?**
 - a. NHTSA states that best practice is that the school personnel who is operating the lift, should have their hand on the wheelchair to assist the student and to help steady the wheelchair as the lift raises and lowers.

SECTION THIRTEEN – RESOURCES & REFERENCES

RESOURCES & REFERENCES

Some of the information found in this manual has been taken from the previous version (2007) as no updates on those sections were required.

RULES AND REGULATIONS

- CSPTA Special Needs Manual(s) 1996, 2007.
- National Highway Transportation Safety Administration. School Bus Safety.
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- Colorado Department of Education – ECEA.
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- Every Student Succeeds Act. <http://www.everystudentsucceedsact.org/>
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- Understood for Learning and Attention Issues. ESSA. <https://www.understood.org/en/school-learning/your-childs-rights/basics-about-childs-rights/every-student-succeeds-act-essa-what-you-need-to-know>

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- Colorado Department of Education – Extended School Year. https://www.cde.state.co.us/cdesped/esy_guidelines_rev2017
- Understood.org – What you need to know about Extended School Years. <https://www.understood.org/en/friends-feelings/child-social-situations/summer-camp-summer-school/extended-school-year-services-what-you-need-to-know>
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- Cornell Law: Legal Law Institute – Free Appropriate Public Education. <https://www.law.cornell.edu/cfr/text/34/300.101>
- Understood.org – What is covered under FAPE? <https://www.understood.org/en/school-learning/your-childs-rights/basics-about-childs-rights/what-is-and-isnt-covered-under-fape>
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- Cornell Law: Legal Law Institute – Family Education Rights Privacy Act. <https://www.law.cornell.edu/uscode/text/20/1232g>
- Electronic Privacy Information Center – FERPA. <https://www.epic.org/privacy/student/ferpa/>
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- Congressional Research Service. Individuals with Disabilities Education Act, Part B. <https://fas.org/sqp/crs/misc/R41833.pdf>
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- Smart Kids with Learning Disabilities – IEP and Team. <https://www.smartkidswithld.org/getting-help/know-your-childs-rights/idea-iep-process/>
- United States Department of Education – Individualized Education Plan. <https://www2.ed.gov/parents/needs/speced/iepguide/index.html>
- Wrights Law – Individualized Education Plan. <https://www.wrightslaw.com/info/iep.index.htm>

INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP)

- Center for Parent Information and Resources – Individualized Family Service Plans. <https://www.parentcenterhub.org/ifsp/>
- Special Education Guides. <https://www.specialeducationguide.com/early-intervention/the-who-what-why-of-an-individual-family-services-plan-ifsp/>
- United States Department of Education – Individualized Family Service Plan. <https://sites.ed.gov/idea/regs/c/d/303.344>

INFANTS AND TODDLERS – IDEA PART C

- Center for Parent Information and Resources – Part C. <https://www.parentcenterhub.org/partc/>
- Early Childhood Technical Assistance Center – IDEA PART C. <http://ectacenter.org/partc/partc.asp>
- United States Department of Education – IDEA PART C. <https://sites.ed.gov/idea/regs/c>

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- Center for Parent Information and Resources – Least Restrictive Environment. <https://www.parentcenterhub.org/fapebrief-ref-list-lre/>
- Understood.org: Least Restrictive Environment, What you need to know. <https://www.understood.org/en/school-learning/special-services/special-education-basics/least-restrictive-environment-lre-what-you-need-to-know>

- United States Department of Education – IDEA Least Restrictive Environment. <https://sites.ed.gov/idea/regs/b/b/300.114>

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- National Center for Homeless Education. <https://nche.ed.gov/mckinney-vento/>
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- Colorado Department of Education – Guidance on Delegation of Colorado Nurses. <https://www.cde.state.co.us/healthandwellness/guidanceondelegationforschoolnurses>
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- United States Department of Education: Office for Civil Rights – Resource Guide. <https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>
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- Wright’s Law – Section 504. <https://www.wrightslaw.com/info/sec504.index.htm>

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- Association for Supervision and Curriculum Development – What to do to Stop Sexual Harassment at School. <http://www.ascd.org/publications/educational-leadership/nov93/vol51/num03/What-to-Do-To-Stop-Sexual-Harassment-at-School.aspx>
- Equal Rights Advocates – Sexual Harassment in Schools. <https://www.equalrights.org/legal-help/know-your-rights/sexual-harassment-at-school/>
- United States Department of Education – Sexual Harassment. <https://www2.ed.gov/about/offices/list/ocr/docs/sexhar00.html>

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- Cornell Law: Legal Law Institute – 14th Amendment. <https://www.law.cornell.edu/constitution/amendmentxiv>
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- American School Superintendents Association – Discipline Under IDEA. <http://www.aasa.org/SchoolAdministratorArticle.aspx?id=14964>
- Children’s Hospital of Philadelphia: Car Autism Roadmap – Understanding the 10-day Rule for School Transportation. <https://www.carautismroadmap.org/transportation-to-school-and-special-education-services/>
- Department of Education: Massachusetts – 10-day Rule Flow Chart. http://www.doe.mass.edu/sped/IDEA2004/spr_meetings/disc_chart.pdf

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Anaphylactic shock

- American Academy of Allergy Asthma and Immunology. <https://www.aaaai.org/conditions-and-treatments/allergies/anaphylaxis>
- Food Allergy Research and Education. <http://www.foodallergy.org/>
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- American Lung Association. <https://www.lung.org/lung-health-and-diseases/lung-disease-lookup/asthma/>
- American Academy of Allergy Asthma and Immunology. <https://www.aaaai.org/conditions-and-treatments/asthma>
- National Heart, Lung, and Blood Institute. <https://www.nhlbi.nih.gov/health-topics/asthma>

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- Children and Adults with Attention Deficit Hyperactivity Disorder. <https://chadd.org/understanding-adhd/>
- Help Guide. <https://www.helpguide.org/articles/add-adhd/attention-deficit-disorder-adhd-in-children.htm/>
- Kids Health from Nemours. <https://kidshealth.org/en/parents/adhd.html>

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- Centers for Disease Control and Prevention. <https://www.cdc.gov/ncbddd/cp/facts.html>
- Cerebral Palsy. <https://cerebralpalsygroup.com/cerebral-palsy/>

- National Institute of Neurological Disorders and Stroke.
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- American Cancer Society. <https://www.cancer.org/treatment/treatments-and-side-effects/physical-side-effects/ostomies/colostomy/what-is-colostomy.html>
- Johns Hopkins Medicine. Colostomy.
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- Stanford Children's Health. Hirschsprung's Disease.
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- Medline Plus – US National Library of Medicine. Diabetes.
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- Association for Children with Down Syndrome. <http://www.acds.org/>
- Centers for Disease Control and Prevention. Down Syndrome.
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- National Down Syndrome Society. <https://www.ndss.org/about-down-syndrome/down-syndrome/>

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- Children's Hospital of Pittsburgh. Gastrostomy. <http://www.chp.edu/our-services/transplant/intestine/education/patient-procedures/gastrostomy>
- Feeding Tube Awareness Foundation. <https://www.feedingtubeawareness.org/tube-feeding-basics/tubetypes/g-tube/>
- Kids Health from Nemours. Gastrostomy. <https://kidshealth.org/en/parents/g-tube.html>

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- American Speech-Language-Hearing Association.
<https://www.asha.org/public/hearing/causes-of-hearing-loss-in-children/>

- Disabled World, Hearing Impairment. <https://www.disabled-world.com/disability/types/hearing/>
- Hands and Voices. Deaf people and Their Perspective. http://www.handsandvoices.org/articles/articles_index.html#misc

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- American Heart Association. Heart Disease. <https://www.heart.org/en/health-topics/consumer-healthcare/what-is-cardiovascular-disease/top-10-myths-about-cardiovascular-disease?s=q%3Dheart%2520disease%26sort%3Drelevancy>
- American Heart Association. Cardiovascular Disease. <https://www.heart.org/en/health-topics/consumer-healthcare/what-is-cardiovascular-disease?s=q%3Dheart%2520disease%26sort%3Drelevancy>
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- Centers for Disease Control and Prevention. <https://www.cdc.gov/ncbddd/hemophilia/facts.html>
- National Hemophilia Foundation. <https://www.hemophilia.org/Bleeding-Disorders/Types-of-Bleeding-Disorders/Hemophilia-A>
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- American Association of Neurological Surgeons – Hydrocephalus. <https://www.aans.org/Patients/Neurosurgical-Conditions-and-Treatments/Hydrocephalus>
- National Institute of Neurological Disorders and Stroke – Hydrocephalus. <https://www.ninds.nih.gov/Disorders/Patient-Caregiver-Education/Fact-Sheets/Hydrocephalus-Fact-Sheet>
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- Kids Health by Nemours – Kidney Disease. http://kidshealth.org/parent/medical/kidney/chronic_kidney_disease.html
- National Kidney Foundation – Kidney Disease. <https://www.kidney.org/kidneydisease>
- United States National Library of Medicine: Medline Plus – Kidney Disease. <https://medlineplus.gov/kidneydiseases.html>

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- American Cancer Society – Leukemia. <https://www.cancer.org/cancer/leukemia.html>
- Kids Health by Nemours – Leukemia. http://kidshealth.org/parent/medical/cancer/cancer_leukemia.html

- Leukemia and Lymphoma Society. <https://www.lls.org/leukemia>

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- American Academy of Pediatric Physicians – Mononucleosis. <https://familydoctor.org/condition/mononucleosis/?adfree=true>
- Centers for Disease Control and Prevention – Mononucleosis. <https://www.cdc.gov/epstein-barr/about-mono.html>
- Kids Health by Nemours – Mononucleosis. <https://kidshealth.org/en/teens/mononucleosis.html>

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- Kids Health by Nemours. http://kidshealth.org/parent/medical/genetic/muscular_dystrophy.html
- Muscular Dystrophy Association. <https://www.mda.org/disease>
- United States National Library of Medicine: Medline Plus – Muscular Dystrophy. <https://medlineplus.gov/musculardystrophy.html>

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- School Bus Fleet – Oxygen on School Buses. <https://www.schoolbusfleet.com/article/610689/oxygen-transport-guide>
- Synovia Solutions - Oxygen on School Buses. <https://blog.synoviasolutions.com/Transporting-Oxygen-on-School-Buses>

Seizure Disorders (epilepsy):

- American Association of Neurological Surgeons – Epilepsy. <https://www.aans.org/Patients/Neurosurgical-Conditions-and-Treatments/Epilepsy>
- Centers for Disease Control and Prevention – Epilepsy. <https://www.cdc.gov/epilepsy/index.html>
- Epilepsy Foundation. <https://www.epilepsy.com/>

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- Centers for Disease Control and Prevention – Spina Bifida. <https://www.cdc.gov/ncbddd/spinabifida/facts.html>

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- Mayo Clinic – Spina Bifida. <https://www.mayoclinic.org/diseases-conditions/spina-bifida/symptoms-causes/syc-2037786>
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- United States National Library of Medicine: Medline Plus – Spinal Cord Injuries.
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Tourette Syndrome (TS):

- Centers for Disease Control and Prevention – Tourette’s Syndrome.
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- National Institute of Neurological Disorders and Stroke – Tourette’s Syndrome.
<https://www.ninds.nih.gov/Disorders/Patient-Caregiver-Education/Fact-Sheets/Tourette-Syndrome-Fact-Sheet>
- National Organization for Rare Disorders – Tourette’s Syndrome.
<https://rarediseases.org/rare-diseases/tourette-syndrome/>

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- Connecticut Children’s Hospital – Tracheostomy. https://www.connecticutchildrens.org/wp-content/uploads/2017/02/ENT_tracheostomy_care_handbook.pdf
- St. Jude’s Children’s Organization – Tracheostomy.
<https://www.stjude.org/treatment/patient-resources/caregiver-resources/patient-family-education-sheets/tracheostomy-care.html>
- United States National Library of Medicine: Medline Plus – Tracheostomy.
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- American Association of Neurological Surgeons – Traumatic Brain Injuries.
<https://www.aans.org/Patients/Neurosurgical-Conditions-and-Treatments/Traumatic-Brain-Injury>
- Mayo Clinic – Traumatic Brain Injuries. <https://www.mayoclinic.org/diseases-conditions/traumatic-brain-injury/symptoms-causes/syc-20378557>
- Merck Manual – Traumatic Brain Injuries.
<https://www.merckmanuals.com/professional/injuries-poisoning/traumatic-brain-injury-tbi/traumatic-brain-injury-tbi>

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- Aftermath: Trauma Cleaning and Biohazard Removal.
<https://www.aftermath.com/content/universal-precautions-bloodborne-pathogens>
- National Center for Biotechnology Information – Universal Precautions.
<https://www.ncbi.nlm.nih.gov/books/NBK470223/>
- United States Department of Labor: Occupation Safety and Health Administration – Universal Precautions.
<https://www.osha.gov/SLTC/etools/hospital/hazards/univprec/univ.html>

Vision Disability:

- California Optometric Association – Visual Disabilities -
<https://www.coavision.org/m/pages.cfm?pageid=3625>
- Tennessee Council for the Blind – What is Considered a Visual Disability?
http://www.acb.org/tennessee/what_is_blindness.html
- World Health Organization – Blindness and Vision Impairment. <https://www.who.int/news-room/fact-sheets/detail/blindness-and-visual-impairment>

V-P Shunt:

- Johns Hopkins Medicine Health Library – VP Shunt.
https://www.hopkinsmedicine.org/healthlibrary/conditions/adult/pediatrics/hydrocephalus_22_neu002
- Memorial Sloan Kettering Cancer Center – VP Shunt. <<https://www.mskcc.org/cancer-care/patient-education/about-your-ventriculoperitoneal-vp-shunt-surgery>
- United States National Library of Medicine: Medline Plus – VP Shunt.
<https://medlineplus.gov/ency/article/003019.htm>

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- National Highway Transportation Safety Administration.
<https://www.nhtsa.gov/search?keywords=Special+Needs/>
- United States Department of Education – IDEA. <https://sites.ed.gov/idea/regs/b/a/300.8>
- United States Department of Education – Office of Special Education Programs.
<https://ccrs.osepideasthatwork.org/teachers-social-emotional-behavior/understanding-disabilities>

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- Americans with Disabilities Act and Service Animals.
https://adata.org/sites/adata.org/files/files/Service_Animals_LP_final2018.pdf
- Service Animals and Emotional Support Animals, Where are they allowed and under what conditions? <https://adata.org/publication/service-animals-booklet>
- Legal Information on Service Animals. <https://www.law.cornell.edu/cfr/text/28/35.136>

- 4 Paws for Ability. (ADA Service Dog description and what each dog is trained to do according to individual's disability)
 - <https://4pawsforability.org/>
 - <https://4pawsforability.org/seizure-assistance-dog/>
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 - <https://4pawsforability.org/mobility-assistance-dog/>
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 - <https://4pawsforability.org/autism-assistance-dog/>
 - <https://4pawsforability.org/fasd-assistance-dog/>
 - <https://4pawsforability.org/hearing-ear-dog/>
 - <https://4pawsforability.org/facilitated-guide-dog/>
 - <https://4pawsforability.org/alzheimers-assistance-dog/>

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- www.schoobusfleet.com/news/683012/industry-veteran-pens-paper-on-travel-training

WHEELCHAIR SECUREMENTS

- Q'Straint Wheelchair Securements. <https://www.qstraint.com/securement-101/>
- Q'Straint Wheelchair Securements. <https://www.qstraint.com/qrt-max/>
- Q"Straint Wheelchair Securements. <https://www.qstraint.com/qrt-deluxe/>



**Joint Guidance on the Application of the
Family Educational Rights and Privacy Act
(*FERPA*) And the *Health Insurance Portability*
and Accountability Act of 1996 (HIPAA)
To Student Health Records**

November 2008

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I. Introduction

The purpose of this guidance is to explain the relationship between the *Family Educational Rights and Privacy Act (FERPA)* and the *Health Insurance Portability and Accountability Act of 1996 (HIPAA)* Privacy Rule, and to address apparent confusion on the part of school administrators, health care professionals, and others as to how these two laws apply to records maintained on students. It also addresses certain disclosures that are allowed without consent or authorization under both laws, especially those related to health and safety emergency situations. While this guidance seeks to answer many questions that school officials and others have had about the intersection of these federal laws, ongoing discussions may cause more issues to emerge. Contact information for submitting additional questions or suggestions for purposes of informing future guidance is provided at the end of this document. The Departments of Education and Health and Human Services are committed to a continuing dialogue with school officials and other professionals on these important matters affecting the safety and security of our nation's schools.

II. Overview of FERPA

FERPA is a Federal law that protects the privacy of students' "education records." (See 20 U.S.C. § 1232g; 34 *CFR* Part 99). *FERPA* applies to educational agencies and institutions that receive funds under any program administered by the U.S. Department of Education. This includes virtually all public schools and school districts and most private and public postsecondary institutions, including medical and other professional schools. If an educational agency or institution receives funds under one or more of these programs, *FERPA* applies to the recipient as a whole, including each of its components, such as a department within a university. See 34 *CFR* § 99.1(d).

Private and religious schools at the elementary and secondary level generally do not receive funds from the Department of Education and are, therefore, not subject to *FERPA*. Note that a private school is not made subject to *FERPA* just because its students and teachers receive services from a local school district or State educational agency that receives funds from the Department. The school itself must receive funds from a program administered by the Department to be subject to *FERPA*. For example, if a school district places a student with a disability in a private school that is acting on behalf of the school district with regard to providing services to that student, the records of that student are subject to *FERPA*, but not the records of the other students in the private school. In such cases, the school district remains responsible for complying with *FERPA* with respect to the education records of the student placed at the private school.

An educational agency or institution subject to *FERPA* may not have a policy or practice of disclosing the education records of students, or personally identifiable information from education records, without a parent or eligible student's written consent. See 34 *CFR* § 99.30. *FERPA* contains several exceptions to this general consent rule. See 34 *CFR* § 99.31. An "eligible student" is a student who is at least 18 years of age or who attends a postsecondary institution at any age.

See 34 *CFR* §§ 99.3 and 99.5(a). Under *FERPA*, parents and eligible students have the right to inspect and review the student's education records and to seek to have them amended in certain circumstances. See 34 *CFR* §§ 99.10 – 99.12 and §§ 99.20 – 99.22.

The term "education records" is broadly defined to mean those records that are: (1) directly related to a student, and (2) maintained by an educational agency or institution or by a party acting for the

agency or institution. See 34 *CFR* § 99.3. At the elementary or secondary level, a student's health records, including immunization records, maintained by an educational agency or institution subject to *FERPA*, as well as records maintained by a school nurse, are "education records" subject to *FERPA*. In addition, records that schools maintain on special education students, including records on services provided to students under the *Individuals with Disabilities Education Act (IDEA)*, are "education records" under *FERPA*. This is because these records are (1) directly related to a student, (2) maintained by the school or a party acting for the school, and (3) not excluded from the definition of "education records."

At postsecondary institutions, medical and psychological treatment records of eligible students are excluded from the definition of "education records" if they are made, maintained, and used only in connection with treatment of the student and disclosed only to individuals providing the treatment. See 34 *CFR* § 99.3 "Education records." These records are commonly called "treatment records." An eligible student's treatment records may be disclosed for purposes other than the student's treatment, provided the records are disclosed under one of the exceptions to written consent under 34 *CFR* § 99.31(a) or with the student's written consent under 34 *CFR* § 99.30. If a school discloses an eligible student's treatment records for purposes other than treatment, the records are no longer excluded from the definition of "education records" and are subject to all other *FERPA* requirements.

The *FERPA* regulations and other helpful information can be found at:
<http://www.ed.gov/policy/gen/guid/fpco/index.html>.

III. Overview of HIPAA

Congress enacted *HIPAA* in 1996 to, among other things, improve the efficiency and effectiveness of the health care system through the establishment of national standards and requirements for electronic health care transactions and to protect the privacy and security of individually identifiable health information. Collectively, these are known as *HIPAA*'s Administrative Simplification provisions, and the U.S. Department of Health and Human Services has issued a suite of rules, including a privacy rule, to implement these provisions. Entities subject to the *HIPAA* Administrative Simplification Rules (see 45 *CFR* Parts 160, 162, and 164), known as "covered entities," are health plans, health care clearinghouses, and health care providers that transmit health information in electronic form in connection with covered transactions. See 45 *CFR* § 160.103. "Health care providers" include institutional providers of health or medical services, such as hospitals, as well as non-institutional providers, such as physicians, dentists, and other practitioners, along with any other person or organization that furnishes, bills, or is paid for health care in the normal course of business. Covered transactions are those for which the U.S. Department of Health and Human Services has adopted a standard, such as health care claims submitted to a health plan. See 45 *CFR* § 160.103 (definitions of "health care provider" and "transaction") and 45 *CFR* Part 162, Subparts K–R.

The *HIPAA* Privacy Rule requires covered entities to protect individuals' health records and other identifiable health information by requiring appropriate safeguards to protect privacy, and setting limits and conditions on the uses and disclosures that may be made of such information without patient authorization. The rule also gives patients rights over their health information, including rights to examine and obtain a copy of their health records, and to request corrections.

IV. Where FERPA and HIPAA May Intersect

When a school provides health care to students in the normal course of business, such as through its health clinic, it is also a “health care provider” as defined by *HIPAA*. If a school also conducts any covered transactions electronically in connection with that health care, it is then a covered entity under *HIPAA*. As a covered entity, the school must comply with the *HIPAA* Administrative Simplification Rules for Transactions and Code Sets and Identifiers with respect to its transactions. However, many schools, even those that are *HIPAA* covered entities, are not required to comply with the *HIPAA* Privacy Rule because the only health records maintained by the school are “education records” or “treatment records” of eligible students under *FERPA*, both of which are excluded from coverage under the *HIPAA* Privacy Rule. See the exception at paragraph (2)(i) and (2)(ii) to what is considered “protected health information” (PHI) at 45 *CFR* § 160.103. In addition, the exception for records covered by *FERPA* applies both to the *HIPAA* Privacy Rule, as well as to the *HIPAA* Security Rule, because the Security Rule applies to a subset of information covered by the Privacy Rule (i.e., electronic PHI). Information on the *HIPAA* Privacy Rule is available at: <http://www.hhs.gov/ocr/hipaa/>. Information on the other *HIPAA* Administrative Simplification Rules is available at: <http://www.cms.hhs.gov/HIPAAGenInfo/>.

V. Frequently Asked Questions and Answers

1. Does the HIPAA Privacy Rule apply to an elementary or secondary school?

Generally, no. In most cases, the *HIPAA* Privacy Rule does not apply to an elementary or secondary school because the school either: (1) is not a *HIPAA* covered entity or (2) is a *HIPAA* covered entity but maintains health information only on students in records that are by definition “education records” under *FERPA* and, therefore, is not subject to the *HIPAA* Privacy Rule.

- *The school is not a HIPAA covered entity.* The *HIPAA* Privacy Rule only applies to health plans, health care clearinghouses, and those health care providers that transmit health information electronically in connection with certain administrative and financial transactions (“covered transactions”). See 45 *CFR* § 160.102. Covered transactions are those for which the U.S. Department of Health and Human Services has adopted a standard, such as health care claims submitted to a health plan. See the definition of “transaction” at 45 *CFR* § 160.103 and 45 *CFR* Part 162, Subparts K–R. Thus, even though a school employs school nurses, physicians, psychologists, or other health care providers, the school is not generally a *HIPAA* covered entity because the providers do not engage in any of the covered transactions, such as billing a health plan electronically for their services. It is expected that most elementary and secondary schools fall into this category.
- *The school is a HIPAA covered entity but does not have “protected health information.”* Where a school does employ a health care provider that conducts one or more covered transactions electronically, such as electronically transmitting health care claims to a health plan for payment, the school is a *HIPAA* covered entity and must comply with the *HIPAA* Transactions and Code Sets and Identifier Rules with respect to such transactions. However, even in this case, many schools would not be required to comply with the *HIPAA* Privacy Rule because the school maintains health information only in student health records that are “education records” under *FERPA* and, thus, not “protected health information” under *HIPAA*. Because student health information in education records is protected by *FERPA*, the *HIPAA* Privacy Rule excludes such information from its coverage. See the exception at paragraph (2)(i) to the definition of “protected health information” in the *HIPAA* Privacy Rule at 45 *CFR* § 160.103.

For example, if a public high school employs a health care provider that bills Medicaid electronically for services provided to a student under the *IDEA*, the school is a *HIPAA* covered entity and would be subject to the *HIPAA* requirements concerning transactions. However, if the school's provider maintains health information only in what are education records under *FERPA*, the school is not required to comply with the *HIPAA* Privacy Rule. Rather, the school would have to comply with *FERPA*'s privacy requirements with respect to its education records, including the requirement to obtain parental consent (34 *CFR* § 99.30) in order to disclose to Medicaid billing information about a service provided to a student.

2. How does *FERPA* apply to health records on students maintained by elementary or secondary schools?

At the elementary or secondary school level, students' immunization and other health records that are maintained by a school district or individual school, including a school-operated health clinic, that receives funds under any program administered by the U.S. Department of Education are "education records" subject to *FERPA*, including health and medical records maintained by a school nurse who is employed by or under contract with a school or school district. Some schools may receive a grant from a foundation or government agency to hire a nurse. Notwithstanding the source of the funding, if the nurse is hired as a school official (or contractor), the records maintained by the nurse or clinic are "education records" subject to *FERPA*.

Parents have a right under *FERPA* to inspect and review these health and medical records because they are "education records" under *FERPA*. See 34 *CFR* §§ 99.10 – 99.12. In addition, these records may not be shared with third parties without written parental consent unless the disclosure meets one of the exceptions to *FERPA*'s general consent requirement. For instance, one of these exceptions allows schools to disclose a student's health and medical information and other "education records" to teachers and other school officials, without written consent, if these school officials have "legitimate educational interests" in accordance with school policy. See 34 *CFR* § 99.31(a)(1). Another exception permits the disclosure of education records, without consent, to appropriate parties in connection with an emergency, if knowledge of the information is necessary to protect the health or safety of the student or other individuals. See 34 *CFR* §§ 99.31(a)(10) and 99.36.

3. Does *FERPA* or *HIPAA* apply to elementary or secondary school student health records maintained by a health care provider that is not employed by a school?

If a person or entity acting on behalf of a school subject to *FERPA*, such as a school nurse that provides services to students under contract with or otherwise under the direct control of the school, maintains student health records, these records are education records under *FERPA*, just as they would be if the school maintained the records directly. This is the case regardless of whether the health care is provided to students on school grounds or off-site. As education records, the information is protected under *FERPA* and not *HIPAA*.

Some outside parties provide services directly to students and are not employed by, under contract to, or otherwise acting on behalf of the school. In these circumstances, these records are not "education records" subject to *FERPA*, even if the services are provided on school grounds, because the party creating and maintaining the records is not acting on behalf of the school. For example, the records created by a public health nurse who provides immunization or other health services to students on school grounds or otherwise in connection with school activities but who is not acting on behalf of the school would not be "education records" under *FERPA*. In such situations, a school that wishes to disclose to this outside party health care provider any personally identifiable information

from education records would have to comply with *FERPA* and obtain parental consent. See 34 *CFR* § 99.30.

With respect to *HIPAA*, even where student health records maintained by a health care provider are not education records protected by *FERPA*, the *HIPAA* Privacy Rule would apply to such records only if the provider conducts one or more of the *HIPAA* transactions electronically, e.g., billing a health plan electronically for his or her services, making the provider a *HIPAA* covered entity.

4. Are there circumstances in which the *HIPAA* Privacy Rule might apply to an elementary or secondary school?

There are some circumstances in which an elementary or secondary school would be subject to the *HIPAA* Privacy Rule, such as where the school is a *HIPAA* covered entity and is not subject to *FERPA*. As explained previously, most private schools at the elementary and secondary school levels typically do not receive funding from the U.S. Department of Education and, therefore, are not subject to *FERPA*.

A school that is not subject to *FERPA* and is a *HIPAA* covered entity must comply with the *HIPAA* Privacy Rule with respect to any individually identifiable health information it has about students and others to whom it provides health care. For example, if a private elementary school that is not subject to *FERPA* employs a physician who bills a health plan electronically for the care provided to students (making the school a *HIPAA* covered entity), the school is required to comply with the *HIPAA* Privacy Rule with respect to the individually identifiable health information of its patients. The only exception would be where the school, despite not being subject to *FERPA*, has education records on one or more students to whom it provides services on behalf of a school or school district that is subject to *FERPA*. In this exceptional case, the education records of only those publicly- placed students held by the private school would be subject to *FERPA*, while the remaining student health records would be subject to the *HIPAA* Privacy Rule.

5. Where the *HIPAA* Privacy Rule applies, does it allow a health care provider to disclose protected health information (PHI) about a troubled teen to the parents of the teen?

In most cases, yes. If the teen is a minor, the *HIPAA* Privacy Rule generally allows a covered entity to disclose PHI about the child to the child's parent, as the minor child's personal representative, when the disclosure is not inconsistent with state or other law. For more detailed information, see 45 *CFR* § 164.502(g) and the fact sheet regarding personal representatives at:

<http://www.hhs.gov/ocr/hipaa/guidelines/personalrepresentatives.pdf>. In some cases, such as when a minor may receive treatment without a parent's consent under applicable law, the parents are not treated as the minor's personal representative. See 45 *CFR* § 164.502(g)(3). In such cases where the parent is not the personal representative of the teen, other *HIPAA* Privacy Rule provisions may allow the disclosure of PHI about the teen to the parent. For example, if a provider believes the teen presents a serious danger to self or others, the *HIPAA* Privacy Rule permits a covered entity to disclose PHI to a parent or other person(s) if the covered entity has a good faith belief that: (1) the disclosure is necessary to prevent or lessen the threat and (2) the parent or other person(s) is reasonably able to prevent or lessen the threat. The disclosure also must be consistent with applicable law and standards of ethical conduct. See 45 *CFR* § 164.512(j)(1)(i).

In addition, the Privacy Rule permits covered entities to share information that is directly relevant to the involvement of a family member in the patient's health care or payment for care if, when given the opportunity, the patient does not object to the disclosure. Even when the patient is not present or it is

impracticable, because of emergency circumstances or the patient's incapacity, for the covered entity to ask the patient about discussing his or her care or payment with a family member, a covered entity may share this information with the family member when, in exercising professional judgment, it determines that doing so would be in the best interest of the patient. See 45 *CFR* § 164.510(b).

6. Where the *HIPAA* Privacy Rule applies, does it allow a health care provider to disclose protected health information (PHI) about a student to a school nurse or physician?

Yes. The *HIPAA* Privacy Rule allows covered health care providers to disclose PHI about students to school nurses, physicians, or other health care providers for treatment purposes, without the authorization of the student or student's parent. For example, a student's primary care physician may discuss the student's medication and other health care needs with a school nurse who will administer the student's medication and provide care to the student while the student is at school.

7. Does *FERPA* or *HIPAA* apply to records on students at health clinics run by postsecondary institutions?

FERPA applies to most public and private postsecondary institutions and, thus, to the records on students at the campus health clinics of such institutions. These records will be either education records or treatment records under *FERPA*, both of which are excluded from coverage under the *HIPAA* Privacy Rule, even if the school is a *HIPAA* covered entity. See the exceptions at paragraphs (2)(i) and (2)(ii) to the definition of "protected health information" at 45 *CFR* § 160.103.

The term "education records" is broadly defined under *FERPA* to mean those records that are: (1) directly related to a student and (2) maintained by an educational agency or institution or by a party acting for the agency or institution. See 34 *CFR* § 99.3, "Education records."

"Treatment records" under *FERPA*, as they are commonly called, are:

"records on a student who is eighteen years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice."

See 20 *U.S.C.* § 1232g(a)(4)(B)(iv); 34 *CFR* § 99.3, "Education records." For example, treatment records would include health or medical records that a university psychologist maintains only in connection with the provision of treatment to an eligible student, and health or medical records that the campus health center or clinic maintains only in connection with the provision of treatment to an eligible student. (Treatment records also would include health or medical records on an eligible student in high school if the records otherwise meet the above definition.)

"Treatment records" are excluded from the definition of "education records" under *FERPA*. However, it is important to note, that a school may disclose an eligible student's treatment records for purposes other than the student's treatment provided that the records are disclosed under one of the exceptions to written consent under 34 *CFR* § 99.31(a) or with the student's written consent under 34 *CFR* § 99.30. If a school discloses an eligible student's treatment records for purposes other than

treatment, the treatment records are no longer excluded from the definition of “education records” and are subject to all other *FERPA* requirements, including the right of the eligible student to inspect and review the records.

While the health records of students at postsecondary institutions may be subject to *FERPA*, if the institution is a *HIPAA* covered entity and provides health care to *nonstudents*, the individually identifiable health information of the clinic’s *nonstudent* patients is subject to the *HIPAA* Privacy Rule. Thus, for example, postsecondary institutions that are subject to both *HIPAA* and *FERPA* and that operate clinics open to staff, or the public, or both (including family members of students) are required to comply with *FERPA* with respect to the health records of their student patients, and with the *HIPAA* Privacy Rule with respect to the health records of their *nonstudent* patients.

8. Under *FERPA*, may an eligible student inspect and review his or her “treatment records”?

Under *FERPA*, treatment records, by definition, are not available to anyone other than professionals providing treatment to the student, or to physicians or other appropriate professionals of the student’s choice. However, this does not prevent an educational institution from allowing a student to inspect and review such records. If the institution chooses to do so, though, such records are no longer excluded from the definition of “education records” and are subject to all other *FERPA* requirements.

9. Under *FERPA*, may an eligible student’s treatment records be shared with parties other than treating professionals?

As explained previously, treatment records, by definition, are not available to anyone other than professionals providing treatment to the student, or to physicians or other appropriate professionals of the student’s choice. However, this does not prevent an educational institution from using or disclosing these records for other purposes or with other parties. If the institution chooses to do so, a disclosure may be made to any party with a prior written consent from the eligible student (see 34 *CFR* § 99.30) or under any of the disclosures permitted without consent in 34 *CFR* § 99.31 of *FERPA*.

For example, a university physician treating an eligible student might determine that treatment records should be disclosed to the student’s parents. This disclosure may be made if the eligible student is claimed as a dependent for federal income tax purposes (see 34 *CFR* § 99.31(a)(8)). If the eligible student is not claimed as a dependent, the disclosure may be made to parents, as well as other appropriate parties, if the disclosure is in connection with a health or safety emergency. See 34 *CFR* §§ 99.31(a)(10) and 99.36. Once the records are disclosed under one of the exceptions to *FERPA*’s general consent requirement, the treatment records are no longer excluded from the definition of “education records” and are subject to all other *FERPA* requirements as “education records” under *FERPA*.

10. Under what circumstances does *FERPA* permit an eligible student’s treatment records to be disclosed to a third-party health care provider for treatment?

An eligible student’s treatment records may be shared with health care professionals who are providing treatment to the student, including health care professionals who are not part of or not acting on behalf of the educational institution (i.e., third-party health care provider), as long as the information is being disclosed only for the purpose of providing treatment to the student. In addition, an eligible student’s treatment records may be disclosed to a third-party health care provider when the student has requested that his or her records be “reviewed by a physician or other appropriate

professional of the student's choice." See 20 U.S.C. § 1232g(a)(4)(B)(iv). In either of these situations, if the treatment records are disclosed to a third-party health care provider that is a *HIPAA* covered entity, the records would become subject to the *HIPAA* Privacy Rule. The records at the educational institution continue to be treatment records under *FERPA*, so long as the records are only disclosed by the institution for treatment purposes to a health care provider or to the student's physician or other appropriate professional requested by the student.

If the disclosure is for purposes other than treatment, an eligible student's treatment record only may be disclosed to a third party as an "education record," that is, with the prior written consent of the eligible student or if one of the exceptions to *FERPA*'s general consent requirement is met. See 34 *CFR* § 99.31. For example, if a university is served with a court order requiring the disclosure of the mental health records of a student maintained as treatment records at the campus clinic, the university may disclose the records to comply with the court order in accordance with the provisions of § 99.31(a)(9) of the *FERPA* regulations. However, the mental health records that the university disclosed for non-treatment purposes are no longer excluded from the definition of "education records" and are subject to all other *FERPA* requirements as "education records" under *FERPA*.

11. Are all student records maintained by a health clinic run by a postsecondary institution considered "treatment records" under *FERPA*?

Not all records on eligible students that are maintained by a college- or university-run health clinic are treatment records under *FERPA* because many such records are not made, maintained, or used only in connection with the treatment of a student. For example, billing records that a college- or university-run health clinic maintains on a student are "education records" under *FERPA*, the disclosure of which would require prior written consent from the eligible student unless an exception applies. See 34 *CFR* § 99.30. In addition, records relating to treatment that are shared with persons other than professionals providing treatment to the student are "education records" under *FERPA*. Thus, to the extent a health clinic has shared a student's treatment information with persons and for purposes other than for treatment, such information is an "education record," not a treatment record under *FERPA*.

12. Does *FERPA* or *HIPAA* apply to records on students who are patients at a university hospital?

Patient records maintained by a hospital affiliated with a university that is subject to *FERPA* are not typically "education records" or "treatment records" under *FERPA* because university hospitals generally do not provide health care services to students on behalf of the educational institution. Rather, these hospitals provide such services without regard to the person's status as a student and not on behalf of a university. Thus, assuming the hospital is a *HIPAA* covered entity, these records are subject to all of the *HIPAA* rules, including the *HIPAA* Privacy Rule. However, in a situation where a hospital does run the student health clinic on behalf of a university, the clinic records on students would be subject to *FERPA*, either as "education records" or "treatment records," and not subject to the *HIPAA* Privacy Rule.

13. Where the *HIPAA* Privacy Rule applies, does it permit a health care provider to disclose protected health information (PHI) about a patient to law enforcement, family members, or others if the provider believes the patient presents a serious danger to self or others?

The *HIPAA* Privacy Rule permits a covered entity to disclose PHI, including psychotherapy notes, when the covered entity has a good faith belief that the disclosure: (1) is necessary to prevent or

lessen a serious and imminent threat to the health or safety of the patient or others and (2) is to a person(s) reasonably able to prevent or lessen the threat. This may include, depending on the circumstances, disclosure to law enforcement, family members, the target of the threat, or others who the covered entity has a good faith belief can mitigate the threat. The disclosure also must be consistent with applicable law and standards of ethical conduct. See 45 *CFR* § 164.512(j)(1)(i). For example, consistent with other law and ethical standards, a mental health provider whose teenage patient has made a credible threat to inflict serious and imminent bodily harm on one or more fellow students may alert law enforcement, a parent or other family member, school administrators or campus police, or others the provider believes may be able to prevent or lessen the chance of harm. In such cases, the covered entity is presumed to have acted in good faith where its belief is based upon the covered entity's actual knowledge (i.e., based on the covered entity's own interaction with the patient) or in reliance on a credible representation by a person with apparent knowledge or authority (i.e., based on a credible report from a family member or other person). See 45 *CFR* § 164.512(j)(4).

For threats or concerns that do not rise to the level of "serious and imminent," other *HIPAA* Privacy Rule provisions may apply to permit the disclosure of PHI. For example, covered entities generally may disclose PHI about a minor child to the minor's personal representative (e.g., a parent or legal guardian), consistent with state or other laws. See 45 *CFR* § 164.502(b).

14. Does *FERPA* permit a postsecondary institution to disclose a student's treatment records or education records to law enforcement, the student's parents, or others if the institution believes the student presents a serious danger to self or others?

An eligible student's education records and treatment records (which are considered education records if used or made available for any purpose other than the eligible student's treatment) may be disclosed, without consent, if the disclosure meets one of the exceptions to *FERPA*'s general consent rule. See 34 *CFR* § 99.31. One of the permitted disclosures is to appropriate parties, which may include law enforcement or parents of a student, in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. See 34 *CFR* §§ 99.31(a)(10) and 99.36.

There are other exceptions that apply to disclosing information to parents of eligible students that are discussed on the "Safe Schools & FERPA" Web page, as well as other information that should be helpful to school officials, at:

<http://www.ed.gov/policy/gen/guid/fpco/ferpa/safeschools/index.html/>.

15. Are the health records of an individual who is both a student and an employee of a university at which the person receives health care subject to the privacy provisions of *FERPA* or those of *HIPAA*?

The individual's health records would be considered "education records" protected under *FERPA* and, thus, excluded from coverage under the *HIPAA* Privacy Rule. *FERPA* defines "education records" as records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. 34 *CFR* § 99.3 ("education records"). While *FERPA* excludes from this definition certain records relating to employees of the educational institution, to fall within this exclusion, such records must, among other things, relate exclusively to the individual in his or her capacity as an employee, such as records that were created in connection with health services that are available only to employees. Thus, the health or medical records that are maintained by a university as part of its provision of health care to a student who is also an employee of a university are covered by *FERPA* and not the *HIPAA* Privacy Rule.

16. Can a postsecondary institution be a “hybrid entity” under the *HIPAA* Privacy Rule?

Yes. A postsecondary institution that is a *HIPAA* covered entity may have health information to which the Privacy Rule may apply not only in the health records of nonstudents in the health clinic, but also in records maintained by other components of the institution that are not education records or treatment records under *FERPA*, such as in a law enforcement unit or research department. In such cases, the institution, as a *HIPAA* covered entity, has the option of becoming a “hybrid entity” and, thus, having the *HIPAA* Privacy Rule apply only to its health care unit. The school can achieve hybrid entity status by designating the health unit as its “health care component.” As a hybrid entity, any individually identifiable health information maintained by other components of the university (i.e., outside of the health care component), such as a law enforcement unit, or a research department, would not be subject to the *HIPAA* Privacy Rule, notwithstanding that these components of the institution might maintain records that are not “education records” or treatment records under *FERPA*.

To become a hybrid entity, the covered entity must designate and include in its health care component all components that would meet the definition of a covered entity if those components were separate legal entities. (A covered entity may have more than one health care component.) However, the hybrid entity is not permitted to include in its health care component other types of components that do not perform the covered functions of the covered entity or components that do not perform support activities for the components performing covered functions. That is, components that do not perform health plan, health care provider, or health care clearinghouse functions and components that do not perform activities in support of these functions (as would a business associate of a separate legal entity) may not be included in a health care component. Within the hybrid entity, most of the *HIPAA* Privacy Rule requirements apply only to the health care component, although the hybrid entity retains certain oversight, compliance, and enforcement obligations. See 45 *CFR* § 164.105 of the Privacy Rule for more information.

VI. Conclusion

The *HIPAA* Privacy Rule specifically excludes from its coverage those records that are protected by *FERPA*. When making determinations as to whether personally identifiable information from student health records maintained by the educational agency or institution may be disclosed, school officials at institutions subject to *FERPA* should refer to *FERPA* and its requirements. While the educational agency or institution has the responsibility to make the initial, case-by-case determination of whether a disclosure meets the requirements of *FERPA*, the Department of Education’s Family Policy Compliance Office is available to offer technical assistance to school officials in making such determinations.

For quick, informal responses to routine questions about *FERPA*, school officials may e-mail the Department at FERPA@ed.gov. For more formal technical assistance on the information provided in this guidance in particular or *FERPA* in general, please contact the Family Policy Compliance Office at the following address:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Ave. S.W.
Washington, D.C. 20202-8520

You may also find additional information and guidance on the Department's Web site at:
<http://www.ed.gov/policy/gen/guid/fpcg/index.html>.

For more information on the *HIPAA* Privacy Rule, please visit the Department of Health and Human Services' *HIPAA* Privacy Rule Web site at: <http://www.hhs.gov/ocr/hipaa/>. The Web site offers a wide range of helpful information about the *HIPAA* Privacy Rule, including the full text of the Privacy Rule, a *HIPAA* Privacy Rule summary, over 200 frequently asked questions, and both consumer and covered entity fact sheets.

In addition, if you would like to submit additional questions not covered by this guidance document or suggestions for purposes of informing future guidance, please send an e-mail to OCRPrivacy@hhs.gov and FERPA@ed.gov.