

Federal Laws Guiding Special Education

U.S. Constitution-Fourteenth Amendment

The U.S. Constitution provides that no state may deny any person within its jurisdiction the equal protection of the laws. A state must treat all persons alike. Therefore, disabled individuals are provided this “equal protection” of access to school bus transportation services.

Individuals with Disabilities Education Act 1990 (IDEA) (formerly the Education for all Handicapped Children Act of 1975

The individuals with Disabilities Education Act requires public schools to make available to all eligible students with disabilities a free appropriate public education (FAPE) in the least restrictive environment (LRE) appropriate to their individual needs. This changed the terminology of “handicapped children” to “children with disabilities” and broadened the definition of the terms “assistive technology device” and “assistive technology service.” IDEA mandates public school systems to develop an Individual Education Program (IEP) for each child. The specific special education and related services outlined in each IEP reflects the individualized needs of each student. The language for training and personnel development for can be found below in Section 662 (b) (1) (A) of IDEA:

Section 602(26) Related services.--

(A) In general.--The term 'related services' means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive a free appropriate public education as described in the individualized education program of the child, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit

from special education, and includes the early identification and assessment of disabling conditions in children.

(B) Exception.--The term does not include a medical device that is surgically implanted, or the replacement of such device.

Sec. 662. Personnel development to improve services and results for children with disabilities.

(b) Personnel Development; Enhanced Support for Beginning Special Educators.--

(1) In general.--In carrying out this section, the Secretary shall support activities--
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(A) for personnel development, including activities for the preparation of personnel who will serve children with high incidence and low incidence disabilities, to prepare special education and general education teachers, principals, administrators, and related services personnel (and school board members, when appropriate) to meet the diverse and individualized instructional needs of children with disabilities and improve early intervention, educational, and transitional services and results for children with disabilities, consistent with the objectives described in subsection (a);

Individuals with Disabilities Education Act (IDEA); Federal register/Vol. 64, No. 48/ Friday, March 12, 1999/Rules and Regulations 34 CFR Part 303 Early Intervention Program for Infants and Toddlers with Disabilities (Part C of the Individual with Disabilities Act)

This section encourages states to maintain and implement a statewide comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families. Early intervention services also include transportation and related cost of travel that are necessary to enable eligible children under this part and their families to receive early intervention services.

Therefore, districts may provide transportation services to infants and toddlers with disabilities as part of a local program or part of an interagency program.

The Education of All Handicapped Children's Act Amendments of 1986 (EHCA)

Part H

Part H addressed 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. In addition, it lowered the age of eligibility for special education and related services for all children with disabilities to age three and required that all eligible children receive early intervention services. This law also required that services be specified in the Individualized Family Service Plan (IFSP). The responsibilities of transportation services are defined as the cost of travel that is necessary to enable an eligible child and the child's family to receive early intervention services.

The Handicapped Children's Protection Act of 1986 (P.L. 99-372)

This law amended EHA to authorize the award of reasonable attorney's fees to parents who prevail in due process hearings and judicial proceedings in dispute over special education and related services.

The Education For All Handicapped Children Act of 1975 (Pub. L. 94-142) (EHCA)

The Education For All Handicapped Children Act guaranteed a "free appropriate public education" (FAPE), including special education and related services, to all handicapped children.

It also provides funding to help states bear the additional costs they would incur in educating handicapped students. It provides that they must be educated with other, non disabled students to the extent possible (Least Restrictive Environment) and establishes an elaborate system of procedural safeguards to ensure parental input. Persons involved with the student's special education program must be appropriately trained.

Transportation services may include schools, travel in and around school buildings, specialized equipment (lift buses), counseling, or social work services.

The Family Education Rights and Privacy Act of 1974 (FERPA)

The privacy rights of students extend to education records maintained by a school district and by a person acting for the school district. Personal notes made by a driver concerning a student for their own use and not available to other persons, except a substitute driver, are not subject to FERPA. Disclosure of "personally identifiable information" about a

student to persons other than professional personnel employed in the school district is prohibited without parental consent. Parental consent is the guiding principle regarding the release or exchange of student records and information in those records. Emergency information should be carried on the bus at all times to provide appropriate identification for students in emergency situations.

Section 504 of The Rehabilitation Act of 1973 (Pub. L. 93-112)

The Rehabilitation Act prohibits discrimination against individuals with disabilities by any recipient of federal funding, including public schools. Section 504 covers persons with a disability who would otherwise be qualified to participate in and benefit from programs or other activities receiving federal financial assistance. Section 504 has been used as the foundation for special education complaints involving transportation services, such as access to bus service, length of ride, transportation costs to parents, loss of instructional time, suspension, method of transportation, and specialized needs.

The Civil Rights Act of 1994 and The Education Amendments of 1972 (Title VI, Title VII and Title IX)

These laws protect the civil rights and equal education opportunities of all individuals regardless of race, color, religion, sex, or national origin. Harassment and discriminatory behavior that denies civil rights or access to equal educational opportunities include comments, name calling, physical conduct or other expressive behavior directed at an individual or group that intentionally demeans the race, color, religion, sex, or national origin of the individual(s) or creates an intimidating, hostile, or demeaning environment for education.

The Reauthorization of IDEA 2004 (Individuals with Disabilities Education Improvement Act)

This law, as amended by the 2004 changes, will not provide mandatory full funding. Although the annual amounts now authorized to be spent on IDEA would achieve full funding in six years, that assumes these amounts will actually be appropriated and explains why mandatory funding of IDEA is so important. A new provision in the Act authorizes the Secretary to issue only regulations necessary to secure compliance with the

statute. This provision may limit the Secretary's authority to issue regulations that could be useful in clarifying ambiguities. A new section of the Act also suggests that states minimize the number of rules, regulations and policies to which the school districts are subject.

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The No Child Left Behind Act 2001**

The No Child Left Behind Act is a plan for comprehensive education reform. This law provides for stronger accountability for results, expanded flexibility and local control, expanded options for parents, and an emphasis on teaching methods that have been proven to work. Public school choice, Charter Schools and supplemental services are some of the issues that will impact transportation for school districts.

Americans with Disabilities Act of 1990.

This law affords legal rights to persons with disabilities by expanding access to facilities. ADA involves access issues and design standards. The American National Standards Institute ANSI) standards detail how accessibility is to be achieved in new construction and alterations, specifications for various building elements and spaces, including entrances, ramps, parking, restrooms and telephones, among others. ADA is the continuum of Section 504. The Department of Justice enforces ADA.