

WHEN A BUS RIDE ISN'T JUST A BUS RIDE
~~OR~~
BUS SUSPENSION: DISCIPLINE OF GENERAL &
SPECIAL EDUCATION STUDENTS FOR BUS CONDUCT

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I. THE GENERAL EDUCATION BUS RIDE

1. Riding the school bus in California is a privilege. The authority to provide for school bus transportation is provided for under the California Code of Regulations and under the California Education Code. School bus transportation is viewed as a privilege which may be suspended as a disciplinary measure for violations of bus conduct rules. Students who are suspended from bus riding privileges are entitled to notice of the reason for the proposed suspension and given an opportunity to respond.

2. Each student extended this privilege has a right to a safe, non-coercive environment on the school bus while riding to and from school or related events. Each student has the responsibility to follow the direction of the driver and established safety guidelines.

5 CCR § 14103 Authority of the Driver

(a) Pupils transported in a school bus or in a school pupil activity bus shall be under the authority of, and responsible directly to, the driver of the bus, and the driver shall be held responsible for the orderly conduct of the pupils while they are on the bus or being escorted across a street, highway or road. Continued disorderly conduct or persistent refusal to submit to the authority of the driver shall be sufficient reason for a pupil to be denied transportation. A bus driver shall not require any pupil to leave the bus enroute between home and school or other destinations.

(b) Governing boards shall adopt rules to enforce this section. Such rules shall include, but not be limited to, specific administration procedures relating to suspension of riding privileges and shall be made available to parents, pupils, teachers, and other interested parties.

3. While each school district sets discipline standards for school bus conduct, most discipline standards include some form of warnings and/or bus suspensions for the following types of behaviors:

- ▶ Use of tobacco, alcohol, illegal drugs; fighting, hitting, biting, or spitting.
- ▶ Threat, harm, or harassment of any person(s) on the school bus. Possession or use of any dangerous objects (knives, guns, lighters, etc.)
- ▶ Vandalism to bus.
- ▶ Defying the bus driver.
- ▶ Unauthorized exit from any emergency exit.
- ▶ Throwing articles in and out of the school bus.
- ▶ Body parts hanging out the window.

II. WHEN BUS TRANSPORTATION IS MORE THAN BUS TRANSPORTATION — TRANSPORTATION AS A SPECIAL EDUCATION RELATED SERVICE

4. When transportation services are provided in a Student's IEP, riding the school bus ceases to be a privilege and is instead a related service to a student's Individualized Education program or is an accommodation under a student's 504 plan. As either an accommodation or a related service, the transportation provided has been determined to be a necessary component of the student's educational program. The Office of Civil Rights considers the school bus an extension of the classroom for disabled students and views a bus suspension as the equivalent to an out-of-school suspension. When a district suspends a disabled student's bus privileges, it must still provide all of the due process safeguards ordinarily applicable to school suspensions. The district must provide the student with minimal constitutional requirements of notice and opportunity to be heard by a designated school official or board.

5. Special education students have additional protections whenever a bus suspension exceeds 10 days, or whenever there is a pattern of behavior and subsequent short term suspensions totaling 10 days or more. The Office of Civil Rights considers that these lengthy suspensions may constitute a "significant change in placement" which may trigger IDEA protections and a denial of FAPE if alternative transportation is not provided. Additionally, where a student with a disability engages in a pattern of behaviors resulting in repeated suspensions, or a serious behavior, an IEP meeting should be held to determine if the student requires a behavior support plan or other supports for the bus. However, the Office of Civil Rights has determined that there is no significant change of placement when a parent refuses a district's offer of alternative transportation.

6. When providing an alternative mode of transportation, a district should provide an analysis of the methods considered and the impact of the methods on the student. In *Wetzel County (WV) Sch. Dist., (OCR III, Philadelphia (WV) 2005)*, the Office of Civil Rights reprimanded a district for failing to consider the educational impact of placing an ADHD student on the “Disabled bus.” The question to consider is did the student require additional supervision which could only be provided on the disabled bus or was riding with disabled students meant to be a form of punishment for the student suspended from the regular school bus? If the student was placed on the “Disabled Bus” so he could be provided with additional necessary supervision, then the alternative method is not considered discriminatory action.

7. In considering alternative transportation offers, the district may offer a different bus, mileage reimbursement to the parents, a van, or a variety of other creative, nondiscriminatory methods, so long as the offer is at no cost to the parents.

8. The Office of Civil Rights , in accordance with 34 CFR 104.35, has determined that “The suspension of a [Student with a disability] from transportation can constitute a significant change in placement if a district has been transporting a student . . .; suspends the student from the transportation as a disciplinary measure; and provides no other transportation. If such a suspension goes on long enough, it constitutes a significant change in placement. *Mobile County (AL) Sch. Dist., 18 IDELR 70, 71 (OCR 1991)*).