Utah Institute on Special Education Law

Ogden Eccles Conference Center

August 2, 2010

Transporting Children with Disabilities

Presented by

Dr. Linda F. Bluth

President, NAPT

Lead Quality Assurance Specialist, Maryland State Department of Education

&

Launi Schmutz, CDPT

Director-At-Large/Treasurer, NAPT

Director of Transportation Washington County School District, St. George, Utah

1

## *Transporting Children with Disabilities*

**-Challenges Impacting Daily Transportation For Children With Disabilities**

**-Legal Basis For Requiring Transportation**

**-Definition Of Transportation And Related Terms**

**-Deciding Eligibility For Transportation As A Related Service Under IDEA 2004**

**-Transportation And The Individualized Education Program (IEP)**

**-Transportation And The Individualized Family Service Plan (IFSP)**

2

## *Transporting Children with Disabilities*

**-Children With Disabilities And Transportation**

**-Impact Of Specific Disabilities And The Relationship To The School Bus Ride**

**-Discipline/Bullying /Violence**

**-Sexual Harassment**

**-Special Considerations For Transporting Children With Special Needs**

**&**

**Lessons From Case Law**

3

## Challenges Impacting Transportation For Children With Disabilities

-IEP Service Requirements

-Range And Severity Of Disabilities

-Implementation Of Transportation In The Least Restrictive Environment

-Number Of Locations For Serving Children With Disabilities

-Cost Of Services For Children With Disabilities

-Requirement To Transport Different Types Of Specialized Equipment

4

## Legal Basis For Requiring Transportation

-U.S. Constitution *Fourteenth Amendment*

-Public Law 93-112 *The Rehabilitation Act of 1973 §504*

-Public Law 94-142 *The Education for all Handicapped Children Act of 1975*

-Public Law 97-35 *The Head Start Act*

-Public Law 99-457, Part H *The Handicapped Children Amendments of 1986*

-Public Law 101-336 *The Americans with Disabilities Act of 1990*

5

## Definition Of Transportation

**Related Services-Transportation §300.34 (c)(16)**

**Transportation includes -**

(i) Travel to and from school and between schools;

(ii) Travel in and around school buildings; and

(iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.

6

## Related Terms
## Assistive Technology Device (Part B)

As used in this part, assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. This term does not include a medical device that is surgically implanted or the replacement of such device.

7

## Related Terms
## Assistive Technology Service (Part B)

As used in this part assistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device.

The term includes–

(a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(c) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing assistive technology devices;

8

## Related Terms
## Assistive Technology Service (Part B)

(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and

(f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

9

## Related Terms
## **Charter Schools** (Part B)

Charter Schools And Their Students

Children With Disabilities Who Attend Public Charter Schools
And Their Parents Retain All Rights Under Part B.

Do You Have Questions About Charter School Transportation?

10

## Related Terms
## The Family Educational Rights and Privacy Act (FERPA)

FERPA is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. The FERPA permits at the discretion of a school, school officials may include school transportation officials (including bus drivers),….and contractors, provided that each of the requirements in the law is met.

11

## Related Terms
## Location of Services and Transportation (Part B)

If necessary for the child to benefit from or participate in the services provided under this part, a parentally-placed private school child with a disability must be provided transportation--

(A) From the child's school or the child's home to a site other than the private school; and

(B) From the service site to the private school, or to the child's home, depending on the timing of the services.

12

## Related Terms
## Location of Services and Transportation (Part B)

LEAs are not required to provide transportation from the child's home to the private school.

Cost of transportation. The cost of the transportation described in this section may be included in calculating whether the LEA has met the requirement of Sec. 300.133.

13

## Related Terms
## **Nonacademic Services** (Part B)

Each public agency must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.

14

## Related Terms
## **Nonacademic Services** (Part B)

Nonacademic and extracurricular services and activities may include counseling services, athletics, **transportation**, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.

15

## Related Terms
## Orientation and Mobility (Part B)

(i) Means services provided to blind or visually impaired children by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home and community; and

(ii) Includes teaching children the following, as appropriate:

(A) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);

16

## Related Terms
## Orientation and Mobility (Part B)

(B) To use the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision;

(C) To understand and use remaining vision and distance low vision aids; and

(D) Other concepts, techniques, and tools.

17

## Related Terms
## Special Education-Travel Training (Part B)

Travel training means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to--

(i) Develop an awareness of the environment in which they live; and

(ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).

18

## Related Terms
## Transfer During The Academic Year (Part B)

**IEPs For Children Who Transfer Public Agencies In The Same State**

If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either—

(1) Adopts the child's IEP from the previous public agency; or

(2) Develops, adopts, and implements a new IEP that meets the applicable requirements.

In Utah

19

## Related Terms
## Transfer During the Academic Year (Part B)

**IEPs For Children Who Transfer From Another State**

If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency--

(1) Conducts an evaluation (if determined to be necessary by the new public agency); and

(2) Develops, adopts, and implements a new IEP, if appropriate.

From New Mexico to Utah

20

## Deciding Eligibility For Transportation As A Related Service Under IDEA 2004

The process for deciding when a child with a disability requires transportation as a related service under IDEA 2004 is required to be determined on an individual basis by the child's individualized education program (IEP) Team, including the parent.

IEP Team

21

## Deciding Eligibility For Transportation As A Related Service Under IDEA 2004

When a decision is agreed upon regarding the appropriate transportation services for a child with a disability, it is the IEP process that should be used to both document and record the agreed upon transportation services.

The parent is required to be invited to participate in this process.

The IEP Team should consider how the child's disability affects the child's need for transportation. Qualified personnel including transportation, nurses, occupational and physical therapists and psychologists are among those IEP team members that may be consulted to participate in the IEP meeting.

22

## Deciding Eligibility For Transportation As A Related Service Under IDEA 2004

The IEP Team is responsible for addressing all of the required specialized transportation services for an individual child.

Each transportation decision shall be made on a case-by-case basis. Eligibility for transportation as a related service may not be a unilateral decision. This decision is required to be made by a qualified IEP Team.

Transportation personnel should participate in decision-making impacting daily services.

23

## Deciding Eligibility For Transportation As A Related Service Under IDEA 2004

In Reviewing Each Child's Individual Transportation Needs, the IEP Team At Minimum Should Ask The Following Questions:

Does the child require transportation in order to access special education and related services?

If yes, can the child utilize the same transportation services as children without a disability to access general and special education, or does the child require specialized services?

If a child requires specialized services (accommodations), can the services be provided on the same bus as children without disabilities with appropriate supplementary aids, or services or does the child require these services on a separate bus with specialized equipment and trained personnel?

24

**Related Service Under IDEA 2004**

**Transportation Checklist**

***Facilitating Communication***

***-Special Education***
***-Related Services***
***-Transportation***

25

**Transportation**
**The Individualized Education Program (IEP)**

Each child who receives special education and related services in a public school or placed by a local education agency (LEA) in a special education program is required to have an IEP before services are initiated.

**IEP SERVICES**

26

**Transportation**
**The Individualized Education Program (IEP)**

Each IEP is only designed for one specific child and is an individualized document for that child. The IEP creates an opportunity for teachers, parents, related services personnel, school administrators, transportation personnel and children (when appropriate) to work together to provide a student with a free appropriate education (FAPE).

27

**Transportation**
**The Individualized Education Program (IEP)**

Procedural Safeguards

Handle Problems The First Time Around!

28

**Transportation**
**The Individualized Education Program (IEP)**

When All Is Said And Done

Don't Underestimate the Importance of the IEP Process

*A LESSON OR TWO FROM CASE LAW*

29

***Should Transportation Participate in the IEP Meeting?***

**IEP Team Scenario I**

John is a 9-year-old child with Autism who is returning to the same special center for the next school year. At his annual IEP meeting, his mother informs the team that for the upcoming school year, transportation services will require a change in drop-off location from his home to his grandmother's home, which is on the same block.

What steps should be taken at this IEP meeting to address the mother's information? What steps should be taken at this IEP meeting to address transportation. Should the IEP team have a transportation representative in attendance at this meeting? Should transportation services be documented on the IEP?

30

*Should Transportation Participate in the IEP Meeting?*

**IEP Team Scenario II**

A mother presents her concerns at a school board meeting that her four-year-old child who has autism is attending a Head Start program in the morning and receives IEP services in a school district program in the afternoon. She is complaining because her child is transported using two different safety standards.

In the morning, the bus is a "little bus" with a lap-shoulder belt and a bus aide. This bus is provided by the Head Start program.

In the afternoon, the bus is provided by the school district and is a "big bus" with no lap-shoulder belt and no aide. The mother is insisting that the use of a lap-shoulder belt be included in the child's IEP.

What steps should be taken to address her concerns?

31

## Transportation
## The Individualized Family Service Plan (IFSP)

- **Early Intervention Program For Infants and Toddlers with Disabilities (34 CFR Part 303)**

The definition of transportation is somewhat broader under the Regulations for the Early Intervention Programs for Infants and Toddlers with Disabilities than in the IDEA 2004.

Transportation and related costs includes the cost of travel (e.g., mileage or travel by taxi, common carrier, or other means) and other costs (e.g., tolls and parking expenses) that are necessary to enable a child eligible under this part and the child's family to receive early intervention services.

32

## Impact of Specific Disabilities And The Relationship To The School Bus Ride

**-Autism**

**-Deaf-blindness**

**-Deafness**

**-Emotional disturbance**

**-Hearing impairment**

**-Mental retardation**

33

## Impact of Specific Disabilities And The Relationship To The School Bus Ride

-Multiple disabilities

-Orthopedic impairment

-Other health impairment

-Specific learning disability

-Speech or language impairment

-Traumatic brain injury

-Visual impairment including blindness

34

## Discipline

**Discipline: What Does IDEA 2004 Really Say?**

**Discipline Procedures**
**Manifestation Determination**

35

## Bullying

Children with disabilities have reported to authorities (OCR) that drivers and attendants sometimes ignore bullying on school buses.

It has been established that children being bullied, teased, and tormented on a daily basis on a school bus can exhibit behavior resulting in unanticipated violence as a means of fighting back.

36

## Bullying

Ignored bullying prevents vulnerable children from receiving a safe ride to and from school can result in poor self esteem.

Bullying can constitute a violation of IDEA 2004, Section 504 of the Rehabilitation Act, and Title II of the ADA by preventing children with disabilities from equal access to education because of a fear for their safety.

There should be a formal written procedure for reporting all incidences of bullying that occur on the school bus to the appropriate authorities.

37

## Violence

It is essential to address any incident of violent behavior on the school bus immediately in order to restore a safe transportation environment.

It has been established that children being bullied, teased, and tormented on a daily basis on a school bus can exhibit behavior resulting in unanticipated violence as a means of fighting back.

38

## Sexual Harassment

School districts have an obligation under federal law (Title IX of the Education Amendments of 1972) to address sexual harassment in a prompt and adequate manner.

"Sexual Harassment" can refer to a wide range of behaviors, both verbal and physical including, by way of example, sexual molestation, severe and pervasive sexually oriented language or slurs, graffiti, and unwelcome intimate touching, etc.

39

## Transporting Children With Special Needs
## Special Considerations

**SPECIAL CONSIDERATIONS**
**FOR**
**TRANSPORTING CHILDREN WITH SPECIAL NEEDS**
**&**
**Lessons From Case Law**

40

## Transporting Children With Special Needs
## Special Considerations

**Child Safety Restraint Systems (CSRS)**

*Preventing Harmful Restraint and Seclusion in Schools Act ( H.R. 4247)*
*Vehicle safety restraints when used as intended during*
*the transport of a student in a moving vehicle.*

41

## Transporting Children With Special Needs
## Special Considerations

**Climate Controlled School Buses**

Climate control may be a requirement for children with specific health impairments because of their unique medical condition's.

Climate control, including air-conditioning and specific temperature requirements on the school bus to and from school, should be discussed and approved at an IEP Team meeting.

This meeting should include qualified health professionals who are knowledgeable about the child and their specific health needs.

42

## Transporting Children With Special Needs
## Special Considerations

### Distance to and from School (Length of Ride)

Federal regulations do not address allowable travel distance or length of ride time on a school bus to and from school.

Some individual states do address the allowable maximum length of ride.

It is important when selecting an educational placement to consider the distance to and from school and the specific length of ride with respect to any harmful affect's) upon the child's ability to benefit from special education and related services.

43

## Transporting Children With Special Needs
## Special Considerations

### Evacuation Procedures

It is essential to have a written evacuation plan for emergency situations that takes into account the individual needs of children who use wheelchairs, ventilation and oxygen equipment. This need should be discussed at the IEP team meeting.

Children should participate and practice evacuation procedures to the same extent as nondisabled peers.

44

## Transporting Children With Special Needs
## Special Considerations

### Homeless Children (Students)

Under the McKinney-Vento Act, homeless parents and children are allowed to remain in the same school attended prior to becoming homeless.

For children with disabilities, complications are further increased by having to implement the IEP including the provision of the related services including transportation.

Parents and school districts are encouraged to work together to make the best decisions allowable under the law for a child to benefit from their special education and related services.

45

## Transporting Children With Special Needs
## Special Considerations

### Least Restrictive Environment

The right of children with disabilities to ride with their nondisabled 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 nondisabled peers, the IEP Team should first consider the provision of supplementary aids and services, such as providing an attendant on the school bus with nondisabled peers.

46

## Transporting Children With Special Needs
## Special Considerations

### Medication Transport

Unknown to special education and transportation personnel, parents sometimes send medicine to school with their children on the school bus.

It is essential that the school district have a written policy regarding acceptable procedures for transporting medicine.

Medicine transported to school should only be handled in accordance with approved policies and procedures.

47

## Transporting Children With Special Needs
## Special Considerations

### Oxygen Transport

Because of the complex needs of most oxygen dependent children, it is recommended that planning for the needs of these children be done by members of the IEP Team, including qualified health professionals.

The use of oxygen should be appropriately documented. This information should be made available to transportation personnel.

The IEP Team should always include a representative from the transportation office if the child requires transportation by the school district.

48

## Transporting Children With Special Needs
## Special Considerations

### Service Animals

Service animals are recognized as a valuable source of assistance for children with disabilities who are blind, deaf or physically challenged.

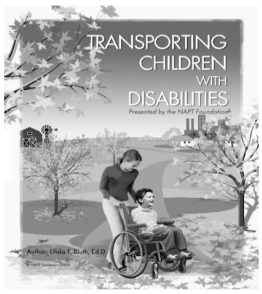
Decisions regarding the use of service animals at school, including transportation, should be addressed during the IEP meeting and documented. Positive communication and accurate information will foster receptiveness.

Prohibiting a certified service animal to accompany a child on the bus may be illegal under IDEA, Section 504 and the Americans with Disabilities Act.

49

## Questions and Answers

50




51

**Children With Disabilities And Transportation**

# REMEMBER

***THE SCHOOL DAY***
***BEGINS AND ENDS WITH TRANSPORTATION***

52

THANKS
FOR
ATTENDING OUR SESSION

Launi and Linda

53