

TRANSPORTING CHILDREN WITH SPECIAL NEEDS IN VIRGINIA:



Navigating the Law and Regulations to
Ensure a Violation Free Trip

BROUGHT TO YOU BY





The Virginia Department of Education

**Division of Special Education and Student
Services**

**Office of Dispute Resolution and Administrative
Services**

PURPOSE OF PRESENTATION

- The Regulations Governing Pupil Transportation, at 8 VAC 20-70-350, state, in part, that all drivers shall receive training in ...transportation of students with special needs.
- Compliance issues with Special Education laws and regulations related to transportation.
- Requirements -vs- Best Practice
- Better understanding of your role in ensuring that all children receive a free appropriate public education.

WARM-UP EXERCISE

IS YOUR AGE

A

SECRET???

You will need paper and pencil

- Pick a whole number from 1 – 9 (including 1 or 9)
- Multiply that number by 2
- Add 5 to the product obtained in step 2
- Multiply your new sum by 50
- If you **have not had** a birthday this year add 1757 to your new product
- If you **have had** a birthday this year add 1758 to your new product
- Subtract the year you were born

ANSWER

- Your age is the last two digits of your remaining number
- The first digit is the number you started with



Special education is much like a magic trick. There are lots of steps involved and everyone has to be focused in order to get it right. But when it comes right down to it – it really isn't magic at all, it is a defined process and as long as everyone follows the process, you will be in compliance.

SPECIAL EDUCATION

➤ Definition

- Special education is defined as specially designed instruction provided at no cost to the parent or parents in order to meet the unique needs of a child with a disability

- 8 VAC 20-80-10

RELATED SERVICES

➤ Definition

- Related services are defined as developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education; and include transportation.

- 8 VAC 20-80-10

TRANSPORTATION

➤ Definition

– As a related service, transportation is defined to include travel to and from school and between schools; travel in and around school buildings; and any specialized equipment (such as special or adapted buses, lifts and ramps), if required to provide special transportation for a child with a disability.

- 34 C.F.R. 300.34(c)(16)
- 8 VAC 20-80-10

REGULATING AUTHORITY

- Individuals with Disabilities Education Improvement Act (IDEA 2004)
- Section 504 of the Rehabilitation Act of 1973 (504)
- Americans with Disabilities Act (ADA)
- No Child Left Behind Act (NCLB)
- Regulations Governing Special Education Programs for Children with Disabilities in Virginia (Virginia Regulations)
- Office of Special Education Programs (OSEP)
- Office for Civil Rights (OCR)
- Local policy and procedure



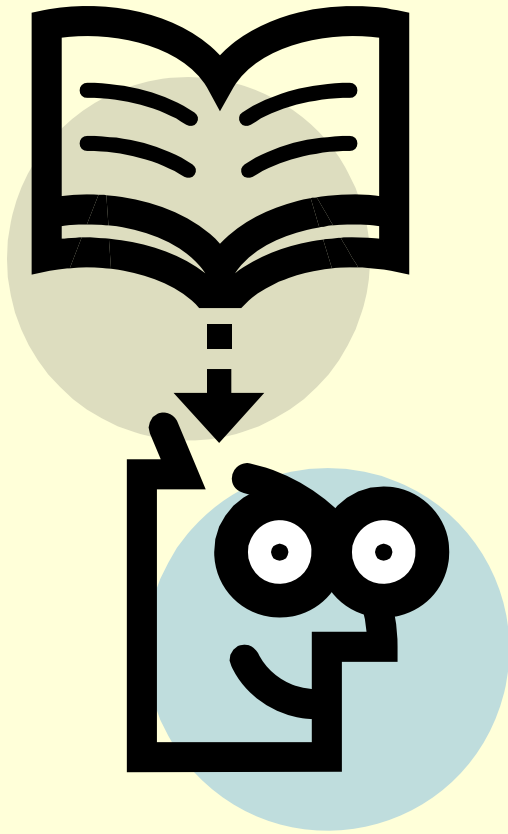
Virginia Code Requirements

Students with disabilities in Virginia are entitled to be transported to and from the school/class and home at no cost in order to enable the student to obtain the benefit of educational programs and opportunities.

- Code of Virginia § 22.1-221



TERMINOLOGY



- FAPE
- IEP
- MDR
- FBA
- BIP
- LRE
- Modification
- Accommodation

FREE APPROPRIATE PUBLIC EDUCATION (FAPE)

➤ Definition

- Means special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the Virginia Board of Education; include preschool, elementary school, middle school, and secondary school education in the state; and are provided in conformity with an individualized education program that meets the requirements set forth in state and federal regulations.

▪ 8 VAC 20-80-10



INDIVIDUALIZED EDUCATION PROGRAM (IEP)

➤ Definition

- A written statement for a child with a disability that is developed, reviewed, and revised in a team meeting in accordance with the specified regulations, which specifies the individual needs of the child and what special education and related services are necessary to meet those needs.

- 8 VAC 20-80-10



IEP DEVELOPMENT

- Bus driver may be included in the IEP meeting.
- Bus driver input could be critical in the development, review, and revision of a student's plan.



IEP DEVELOPMENT (Continued)



- Communicate with the IEP Case Manager regarding behavioral incidents; observations of the student; intervention strategies; other concerns.
- Document all behavioral incidents in detail.

IEP RESPONSIBILITY

- School divisions are required to ensure that each child's IEP is accessible to any service provider who is responsible for the implementation of the IEP and that providers are informed of their responsibilities related to the implementing of the child's IEP and are made aware of the specific accommodations, modifications, and supports that must be provided to the child in accordance with the IEP.

- 8 VAC 20-80-62.B.3

IEP RESPONSIBILITY (Continued)

- Bus drivers are required to implement the provisions of the child's IEP that relate to the child's transportation and behavioral needs while in transport.

MANIFESTATION DETERMINATION REVIEW (MDR)

➤ Definition

- A process to review all relevant information and the relationship between the child's disability and the behavior subject to the disciplinary action.

- 8 VAC 20-80-10



MANIFESTATION DETERMINATION REVIEW (MDR) (Continued)

- An MDR is required
 - when the school division is considering a long term suspension/expulsion of more than 10 consecutive school days; and
 - when a series of removals constitute a pattern because the removals cumulate to more than 10 school days

MANIFESTATION DETERMINATION REVIEW (MDR) (Continued)

- The MDR team must determine if the behavior in question:
 - was caused by, or had a direct substantial relationship to, the child's disability; **or**
 - was a direct result of the school division's failure to implement the IEP.

BUS DISCIPLINE

- Federal and state laws regarding students with disabilities outline procedural protections for these students, including discipline procedures.
- These procedural protections must be applied in **ALL** school environments: the classroom, the cafeteria, and when transported.



BUS DISCIPLINE (Continued)



- However, the student may be disciplined for behavior incidents occurring while in transport to or from school.
- Two types of bus suspensions:
 - Short-term (1 - 10 days)
 - Long-term (More than 10 consecutive days)

BUS DISCIPLINE (Continued)

- If alternative arrangements are not made for the student to receive educational services, then a bus suspension will count in the number of removal days – even if the student is not suspended from class.

BUS DISCIPLINE (Continued)

- Only the school's provision of an alternative means of transportation erases the removal. Otherwise, the bus suspension counts as a disciplinary removal – just like an out of school suspension.
- Impact on student's access to FAPE.

ALTERNATIVE ARRANGEMENTS

- Changing the school division's mode of transportation.
- Parentally provided transportation.
- Public transportation.
- Must be of **no cost** to child or parent.
- IEP Team decision to permanently change.

OTHER DISCIPLINE ISSUES

- May also be occasioned by a specific behavior.
- Without consideration to the relationship of the behavior to the child's disability, if a child commits one of the following three behaviors, the child may be placed in an interim alternative educational setting (IAES) for up to 45 school days.

OTHER DISCIPLINE ISSUES

- The student carries or possess a dangerous weapon
 - Does not include “look alike” weapons
- The student **knowingly** possess or uses illegal drugs or sells or solicits a controlled substance.
 - Does not include “over the counter” medications
- The student inflicts serious bodily injury
 - Serious bodily injury means a bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the functions of a bodily member, organ or mental faculty.

OTHER DISCIPLINE ISSUES

- If a safety/danger situation exists for the child or others, school personnel may assign the student to IAES for up to 10 school days after consultation with the special education teacher.
- May also:
 - Seek parent consent to change the IEP for a longer IAES removal, or
 - Seek a hearing officer order through an expedited due process hearing (The hearing officer may place the student in an IAES for up to 45 school days.); or
 - Seek a court injunction.

OTHER DISCIPLINE ISSUES

- School personnel may consider any unique circumstances on a case-by-case basis when deciding to order a change in placement for a child violating a school conduct code.

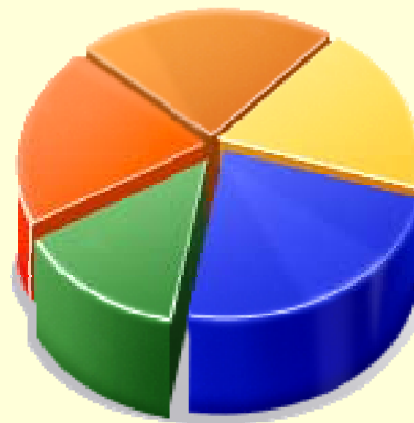


FUNCTIONAL BEHAVIORAL ASSESSMENT (FBA)

➤ Definition

- A process to determine the underlying cause or functions of a child's behavior that impede the learning of the child with a disability or the learning of the child's peers.

- 8 VAC 20-80-10



BEHAVIORAL INTERVENTION PLAN (BIP)

➤ Definition

- A plan that utilizes positive behavioral interventions and supports to address behaviors that interfere with the learning of students with a disability or the learning of others or behaviors that require disciplinary action.

▪ 8 VAC 20-80-10



LEAST RESTRICTIVE ENVIRONMENT (LRE)

➤ Definition

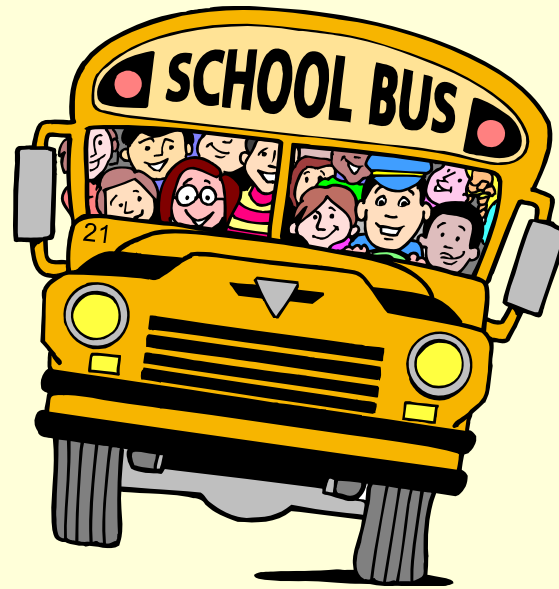
- Means that, to the maximum extent appropriate, children with disabilities are included with their non-disabled peers and that their exclusion occurs only when the severity of the disability is such that participation with the use of supplementary aids and services cannot be achieved satisfactorily.

- 8 VAC 20-80-10

TRANSPORTATION AND LRE

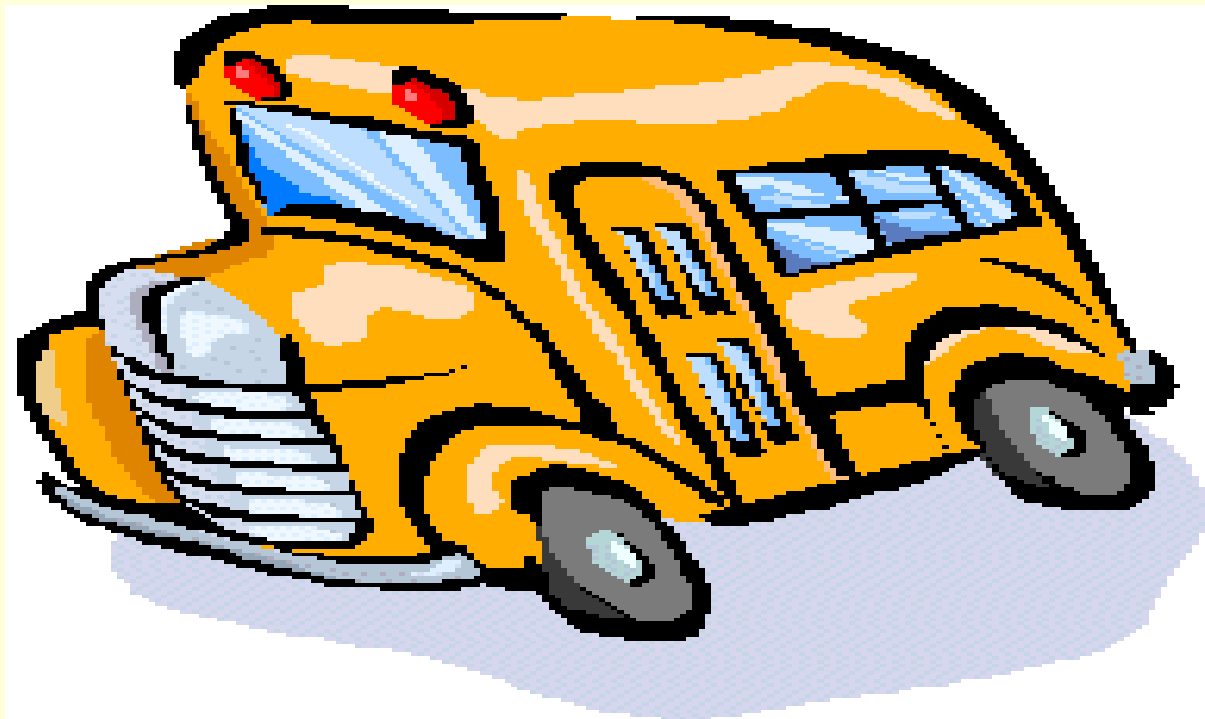
- IEP Team determines how the child will be transported:

By bus ...



TRANSPORTATION AND LRE (Continued)

By “special” bus ...



TRANSPORTATION AND LRE (Continued #2)

... or by alternative means!



TRANSITION EXERCISE

(Part 1)

- Take out the blue colored sheet of paper.
- When directed to do so, begin to connect the numbers on the paper in sequence.
- You will have 20 seconds to finish.

TRANSITION EXERCISE

(Part 2)

- Take out the green colored sheet of paper.
- Fold the paper in half lengthwise with the numbers inside.
- Open it up and you should notice that the numbers on the left are odd and the numbers on the right are even.
- Also note that, the number 1 is identified for you.
- When directed to do so, begin to connect the numbers in sequence.
- You will have 30 seconds to finish.

MODIFICATION -VS- ACCOMMODATION

- Modification
 - Usually involves a physical change
- Accommodation
 - Usually requires a special circumstance to occur for the child

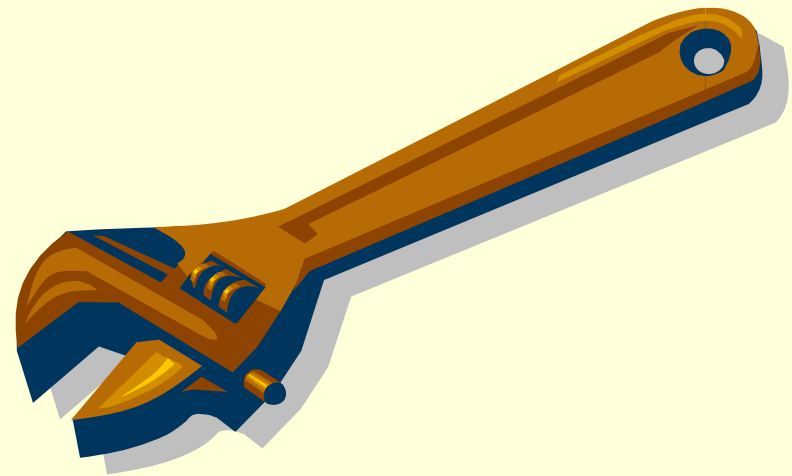
MODIFICATION -VS- ACCOMMODATION (Continued)

- The IEP should outline any modifications or accommodations required for transportation.



MODIFICATION

- Special Harness Installed
- Ramp
- Elevator
- Wheelchair access
- Others?



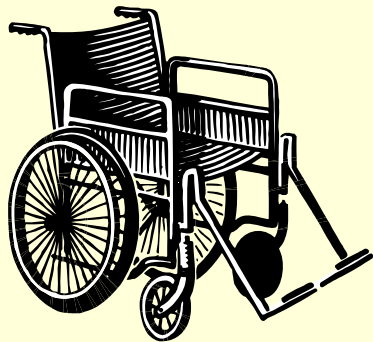
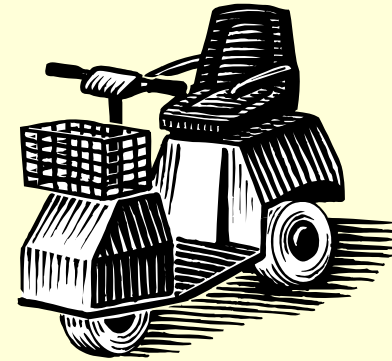
ACCOMMODATION

- “Last On – First Off”
- “Door-to-Door”
- Bus stop -vs- Home Pick-up
- Use of an Aide/Escort
- Supervised Bus
- Seat Placement
- Seating Arrangement
- Special Route
- Length of Ride
- Shortened Route
- Alternative Transportation
- Signaling
- Others?



OTHER ISSUES

- Driving techniques
- Types of wheelchair
 - Preparation of wheelchair prior to loading
 - Proper tie-down



MEDICAL ISSUES

The school division has a responsibility to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school.

- 34 C.F.R. 300.34(b)(2)(ii)



504 PLAN

- Governed by:
 - Section 504 of the Rehabilitation Act of 1973
- Developed in accordance with the policies established by the local school division.
- Requirements for implementation remain the same as for IEP implementation.

RESPONSIBILITIES

- Referring
- Conferring
- Implementing
- Documenting
- Reviewing



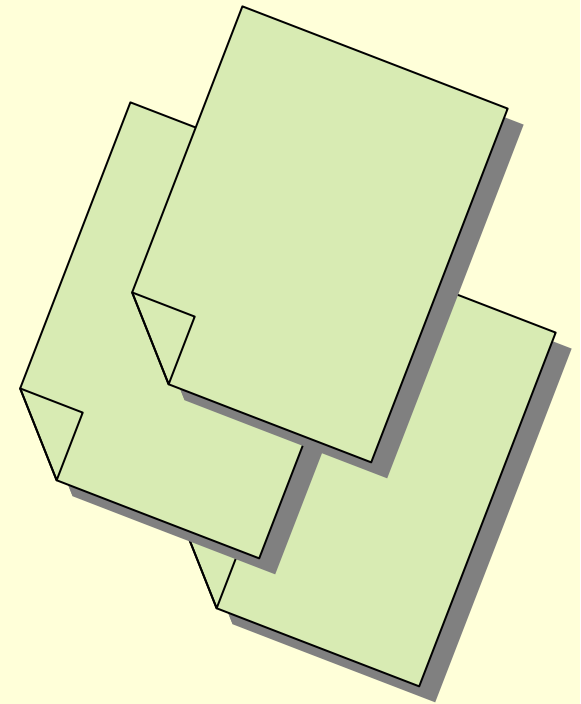
“POTHOLES” TO AVOID

- Assumptions
 - Not a SPED child
- Independent Decision Making
- Not Communicating
- “Living on an Island”
- “Out of Sight Out of Mind”
- Assuming Responsibility
- Failing to Document



DOCUMENTATION

- When you are sure – Document
- When in doubt – ask questions – Document
- Be Proactive – Document
- Maintain Documentation



CONSEQUENCES OF A VIOLATION

- Parental/Advocate Complaint
 - “Blue Lights”
- Notice of Complaint
 - “Citation”
- Investigation
 - “Pleadings”
- Letter of Findings
 - “Guilty” or “Not Guilty”
- Corrective Action
 - “Fine”
- School administration decision for any personnel action

TIME FOR QUESTIONS

My thoughts on questions!

- Without questions, there can be no answers?
- Unasked questions go unanswered!

ONE LAST THOUGHT ...



You make a difference, without you - the final piece could be missing.

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