



# San Diego Unified

## SCHOOL DISTRICT

### Transportation Department Safety & Training

### Unit 11: Transporting Passengers with Special Needs - Law

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**28 CFR § 41.51 General prohibitions against discrimination.**

(a) No qualified handicapped person, shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance.

**34 CFR § 300 Rehabilitative Service Department of Education**

(c ) It is the purpose of this Act to assure that all handicapped children have available to them, within the time periods specified in section 612(2) (B), a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist States and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children.

**42 USC § 12101 Americans with Disabilities Act (ADA)****(a) Findings**

The Congress finds that—

(1) physical or mental disabilities in no way diminish a person's right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination.

(2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem.

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services.

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination.

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities.

(6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally.

(7) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(8) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) Purpose

It is the purpose of this chapter—

(1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities.

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this chapter on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

**34 CFR § 300.560 Definitions.**

As used in § 300.560–300.577

(a) Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

(b) Education records means the type of records covered under the definition of “education records” in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974).

(c) Participating agency means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the Act.

**EDC § 56347 Individualized Education Program (IEP) Confidentiality**

A local educational agency, prior to the placement of the individual with exceptional needs, shall ensure that the regular teacher or teachers, the special education teacher or teachers, and other persons who provide special education, related services, or both to the individual with exceptional needs have access to the pupil's individualized education program, shall be knowledgeable of the content of the individualized education program, and shall be informed of his or her specific responsibilities related to implementing a pupil's individualized education program and the specific accommodations, modifications and supports that shall be provided for the pupil in accordance with the individualized education program, pursuant to Section 300.323(d) of Title 34 of the Code of Federal Regulations . A copy of each individualized

education program shall be maintained at each school site where the pupil is enrolled. Service providers from other agencies who provide instruction or a related service to the individual off the school site shall be provided a copy of the individualized education program. All individualized education programs shall be maintained in accordance with state and federal pupil record confidentiality laws.

### **34 CFR § 99 Family Education Rights and Privacy Act (FERPA)**

(a) Except as limited under §99.12, a parent or eligible student must be given the opportunity to inspect and review the student's education records.

### **EDC § 48900 Suspension or Expulsions**

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

- (a)
  - (1) Caused, attempted to cause, or threatened to cause physical injury to another person.
  - (2) Willfully used force or violence upon the person of another, except in self-defense.
- (b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.
- (c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.
- (d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.
- (e) Committed or attempted to commit robbery or extortion.
- (f) Caused or attempted to cause damage to school property or private property.
- (g) Stole or attempted to steal school property or private property.
- (h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit the use or possession by a pupil of his or her own prescription products.
- (i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.

(k)

(1) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

(2) Except as provided in Section 48910, a pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, shall not be suspended for any of the acts enumerated in this subdivision, and this subdivision shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion.

(l) Knowingly received stolen school property or private property.

(m) Possessed an imitation firearm. As used in this section, "imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

(n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for purposes of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

(p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

(q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, "hazing" means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, that is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, "hazing" does not include athletic events or school-sanctioned events.

(r) Engaged in an act of bullying. For purposes of this subdivision, the following terms have the following meanings:

(1) "Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:

(A) Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.

(B) Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.

(C) Causing a reasonable pupil to experience substantial interference with his or her academic performance.

(D) Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

(2)

(A) "Electronic act" means the creation or transmission originated on or off the school site, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:

(i) A message, text, sound, video, or image.

(ii) A post on a social network Internet Web site, including, but not limited to:

(I) Posting to or creating a burn page. "Burn page" means an Internet Web site created for the purpose of having one or more of the effects listed in paragraph (1).

(II) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in paragraph (1). "Credible impersonation" means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.

(III) Creating a false profile for the purpose of having one or more of the effects listed in paragraph (1). "False profile" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.

(iii)

(I) An act of cyber sexual bullying.

(II) For purposes of this clause, "cyber sexual bullying" means the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a pupil to another pupil or to school personnel by means of an electronic act that has or can be reasonably predicted to have one or more of the effects described in subparagraphs (A) to (D), inclusive, of paragraph (1). A photograph or other visual recording, as described above, shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of

a minor where the minor is identifiable from the photograph, visual recording, or other electronic act.

(III) For purposes of this clause, “cyber sexual bullying” does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

(B) Notwithstanding paragraph (1) and subparagraph (A), an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.

(3) “Reasonable pupil” means a pupil, including, but not limited to, an exceptional needs pupil, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs.

(s) A pupil shall not be suspended or expelled for any of the acts enumerated in this section unless the act is related to a school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to a school activity or school attendance that occur at any time, including, but not limited to, any of the following:

- (1) While on school grounds.
- (2) While going to or coming from school.
- (3) During the lunch period whether on or off the campus.
- (4) During, or while going to or coming from, a school-sponsored activity.

(t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(u) As used in this section, “school property” includes, but is not limited to, electronic files and databases.

(v) For a pupil subject to discipline under this section, a superintendent of the school district or principal may use his or her discretion to provide alternatives to suspension or expulsion that are age appropriate and designed to address and correct the pupil’s specific misbehavior as specified in Section 48900.5.

(w) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

**EDC § 48915.5 Suspension or Expulsions**

(a) An individual with exceptional needs, as defined in Section 56026, may be suspended or expelled from school in accordance with Section 1415(k) of Title 20 of the United States Code, the discipline provisions contained in Sections 300.530 to 300.537, inclusive, of Title 34 of the Code of Federal Regulations, and other provisions of this part that do not conflict with federal law and regulations.

(b) A free appropriate public education for individuals with exceptional needs suspended or expelled from school shall be in accordance with Section 1412(a)(1) of Title 20 of the United States Code and Section 300.530(d) of Title 34 of the Code of Federal Regulations.

(c) If an individual with exceptional needs is excluded from school bus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent or guardian provided that transportation is specified in the pupil's individualized education program.

(d) If the individual with exceptional needs is a foster child, as defined in Section 48853.5, and the local educational agency has proposed a change of placement due to an act for which a decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools, the attorney for the individual with exceptional needs and an appropriate representative of the county child welfare agency shall be invited to participate in the individualized education program team meeting that makes a manifestation determination pursuant to Section 1415(k) of Title 20 of the United States Code. The invitation may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(e) If the individual with exceptional needs is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, and the local educational agency has proposed a change of placement due to an act for which a decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools, the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code shall be invited to participate in the individualized education program team meeting that makes a manifestation determination pursuant to Section 1415(k) of Title 20 of the United States Code. The invitation may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

**EDC § 56195.8(b)(5) Special Education Programs**

(b) The policies shall include, but not be limited to, all of the following:

(5) Transportation, where appropriate, which describes how special education transportation is coordinated with regular home-to-school transportation. The policy shall set forth criteria for meeting the transportation needs of special education pupils. The policy shall include procedures to ensure compatibility between mobile seating devices, when used, and the securement systems required by Federal Motor Vehicle Safety Standard No. 222 (49 C.F.R. 571.222) and to ensure that school bus drivers are trained in the proper installation of mobile seating devices in the securement systems.



**EDC § 39839 Signal, Service or Guide Dogs**

Guide dogs, signal dogs, and service dogs trained to provide assistance to individuals with a disability may be transported in a school bus when accompanied by disabled pupils enrolled in a public or private school or by disabled teachers employed in a public or private school or community college or by persons training the dogs.

**45 CFR § 1310.10 Head Start Act Transportation Requirements, General.**

- (a) Each agency must assist as many families as possible who need transportation in order for their children to attend the program in obtaining that transportation.
- (b) When an agency has decided not to provide transportation services, either for all or a portion of the children, it must provide reasonable assistance to the families of such children to arrange transportation to and from its activities. The specific types of assistance being offered must be made clear to all prospective families in the program's recruitment announcements.
- (c) Each agency providing transportation services is responsible for compliance with the applicable requirements of this Part. When an agency provides transportation through another organization or an individual, the agency must ensure the compliance of the transportation provider with the requirements of this part.
- (d) Each agency providing transportation services, must ensure that each vehicle used in providing such services is equipped with:
- (1) a communication system to call for assistance in case of an emergency;
  - (2) safety equipment for use in an emergency, including a charged fire extinguisher that is properly mounted near the driver's seat and a sign indicating its location.
  - (3) a first aid kit and a sign indicating the location of such equipment; and
  - (4) a seat belt cutter for use in an emergency evacuation and a sign indicating its location.
- (e) Each agency providing transportation services must ensure that any auxiliary seating, such as temporary or folding jump seats, used in vehicles of any type providing such services are built into the vehicle by the manufacturer as part of its standard design, are maintained in proper working order, and are inspected as part of the annual inspection required under § 1310.13(a) of this subpart.
- (f) Each agency providing transportation services must ensure that all accidents involving vehicles that transport children receiving such services are reported in accordance with applicable State requirements.
- (g) Each agency must ensure that children are only released to a parent or legal guardian, or other individual identified in writing by the parent or legal guardian. This regulation applies when children are not transported and are picked up from the classroom, as well as when they are dropped off by a vehicle. Agencies must maintain lists of the persons, including alternates in case of emergency, and up-to-date child rosters must be maintained at all times to ensure that no child is left behind, either at the classroom or on the vehicle at the end of the route.

**45 CFR § 1310.11 Child Restraint Systems.**

(a) Effective June 21, 2004, each agency providing transportation services must ensure that each vehicle used to transport children receiving such services is equipped for use of height- and weight-appropriate child safety restraint systems.

**EDC § 56523 – Positive Behavior Intervention**

(a) On or before September 1, 1992, the Superintendent of Public Instruction shall develop, and the State Board of Education shall adopt regulations governing the use of behavioral interventions with individuals with exceptional needs receiving special education and related services.

(b) The regulations shall do all of the following:

(1) Specify the types of positive behavioral interventions which may be utilized and specify that interventions which cause pain or trauma are prohibited.

(2) Require that, if appropriate, the pupil's individual education plan includes a description of the positive behavioral interventions to be utilized which accomplishes the following:

(A) Assesses the appropriateness of positive interventions.

(B) Assures the pupil's physical freedom, social interaction, and individual choices.

(C) Respects the pupil's human dignity and personal privacy.

(D) Assures the pupil's placement in the least restrictive environment.

(E) Includes the method of measuring the effectiveness of the interventions.

(F) Includes a timeline for the regular and frequent review of the pupil's progress.

(3) Specify standards governing the application of restrictive behavioral interventions in the case of emergencies. These emergencies must pose a clear and present danger of serious physical harm to the pupil or others. These standards shall include:

(A) The definition of an emergency.

(B) The types of behavioral interventions that may be utilized in an emergency.

- (C) The duration of the intervention which shall not be longer than is necessary to contain the dangerous behavior.
  
- (D) A process and timeline for the convening of an individual education plan meeting to evaluate the application of the emergency intervention and adjust the pupil's individual education plan in a manner designed to reduce or eliminate the negative behavior through positive programming.
  
- (E) A process for reporting annually to the State Department of Education and the Advisory Commission on Special Education the number of emergency interventions applied under this chapter.

**Unit 11 Quiz**

1. Students with special needs learn better if educated, grouped and segregated with others with disabilities

T \_\_\_\_\_ F \_\_\_\_\_

2. Students with special needs should not be expected to achieve and behave as their non-disabled peers.

T \_\_\_\_\_ F \_\_\_\_\_

3. People with disabilities want the same opportunities as their non-disabled peers

T \_\_\_\_\_ F \_\_\_\_\_

4. People with special needs prefer to be introduced to others as people with a disability who are different.

T \_\_\_\_\_ F \_\_\_\_\_

5. Transportation is mandated for the person with special needs to access their school day.

T \_\_\_\_\_ F \_\_\_\_\_

6. Students with disabilities can be suspended from the bus for demonstrating poor behavior on the bus that is not caused by the disability.

T \_\_\_\_\_ F \_\_\_\_\_

7. A student's appropriate behavior is often a result of a structured and consistent bus environment the driver creates by demonstrating trust and care.

T \_\_\_\_\_ F \_\_\_\_\_

8. A student with special needs who demonstrates dangerous behavior cannot be suspended from the school bus because of their right to a free appropriate public education.

T \_\_\_\_\_ F \_\_\_\_\_

9. It is important for each school district or transportation company to have written policies addressing medications, loading, unloading procedures, confidentiality and discipline on school buses.

T \_\_\_\_\_ F \_\_\_\_\_

10. The driver must be knowledgeable and proficient in all vehicles and equipment used in transporting students with special needs.

T \_\_\_\_\_ F \_\_\_\_\_

11. Transporting pre-school aged children involves the same challenges as transporting K-12 grade students.

T \_\_\_\_\_ F \_\_\_\_\_

12. Students with special needs experience few behavioral problems during their education process while learning coping skills to adapt to society with their disability.

T \_\_\_\_\_ F \_\_\_\_\_

13. Well-prepared evacuation plans will help you understand passengers' needs.

T \_\_\_\_\_ F \_\_\_\_\_

14. It's important to know the unique health needs of our passengers

T\_\_\_\_\_ F\_\_\_\_\_

15. It is important to know when a student's health diminishes to the point of being a medical emergency.

T\_\_ F\_\_\_\_\_

16. The driver's interest and energy is essential toward fulfilling their responsibility.

T\_\_ F\_\_\_\_\_

17. The bus driver can refuse to transport wheelchair pupils if the chair does not have a restraining belt for the pupil.

T\_\_\_\_\_ F\_\_\_\_\_

18. State regulations do not require bus evacuation drills for students with special needs.

T\_\_ F\_\_\_\_\_

19. Medication taken by students may affect their behavior on the bus.

T\_\_ F\_\_\_\_\_

20. Private contractor drivers must follow the policies established by the district for whom they provide service.

T\_\_\_\_\_ F\_\_\_\_\_

21. It is permissible to leave a student with special needs unattended when dropping off at school or home.

T\_\_\_\_\_ F\_\_\_\_\_

22. Improper lifting techniques may result in an injury to a driver.

T\_\_ F\_\_\_\_\_

23. It's important for the driver to know the nearest emergency facilities in case of an emergency situation.

T\_\_\_\_\_ F\_\_\_\_\_

24. The parents have the responsibility of maintaining the brakes, batteries, and belts on their child's wheelchair.

T\_\_\_\_\_ F\_\_\_\_\_

25. It's important for the driver to demonstrate care and interest in their children.

T\_\_ F\_\_\_\_\_

26. Monitors and aids should always be trained for their responsibilities during an emergency and non-emergency situation in which they assist the driver.

T\_\_\_\_\_ F\_\_\_\_\_

27. Drivers should always remain calm and demonstrate respect and authority.

T\_\_ F\_\_\_\_\_