



"How I Advise My Clients" is a Special Ed Connection® feature that provides expert opinions from attorneys and education consultants for overcoming common problems and core challenges in the field. Each installment will include insights from multiple stakeholders, offering you a variety of perspectives to strengthen your efforts to serve students with disabilities.

Key points:

- **Collect multiple rounds of observational data while student rides bus**
- **Ensure bus driver, aide are trained in BIPs**
- **Student's removal from school bus may amount to change in placement, require MDR**

HOW I ADVISE MY CLIENTS: How should districts respond if a student with a disability engages in inappropriate behavior on the school bus?

Districts may have questions about what disciplinary action they can take when a student with a disability exhibits problem behavior on the school bus.

For instance, how should a student's BIP address his bus behavior? Under what circumstances is a district required to conduct a manifestation determination review for a student's behavior on the school bus?

According to OSERS, a district may suspend a student with a disability from the school bus for behavioral issues. If the student's IEP includes transportation as a required service, the district must treat a [suspension from the school bus](#) in the same way it would treat a suspension from school, with all of the applicable procedures and protections required under the IDEA. *Questions and Answers on Serving Children with Disabilities Eligible for Transportation*, [53 IDELR 268](#) (OSERS 2009).

Special Ed Connection® posed this issue to two school attorneys. Their advice, edited for length and clarity, is below:

Jessika Kleen, school attorney, [Machado Law Group](#), Clark, N.J.:

Primarily, school districts must understand that transportation, if necessary for FAPE, is a requirement under the IDEA and must be included in the student's IEP. As such, anything that may prevent a student from accessing transportation needs to be addressed in the same thorough manner as in-school behavior.

What this means is that a special education student may not be removed from the school bus until documentation has been gathered, the IEP team convened, and the behavior discussed and appropriately addressed.

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Typically, this includes the collection of behavioral data through observation. I recommend the district send a specialist trained in behavior to ride the school bus on several occasions, during both morning and afternoon routes. The specialist will observe, collect data, and develop a behavioral plan if appropriate.

Given the nature of a school bus, the implementation of a behavioral plan will almost always require the student be assigned an aide. The aide must be trained in behavior principles in general, the student's specific needs and BIP, and how to collect appropriate data.

School districts should be aware that if transportation is included in the student's IEP, it cannot be removed or taken away without parental consent or a court order.

Finally, while a student may be suspended for conduct on the school bus, districts need to be mindful of the student's manifestation rights. Suspension of a student may constitute a change in placement if the suspension prevents the student from getting to his educational program and no alternative form of transportation is provided. In this case, an MDR must be conducted in accordance with the procedures described in [34 CFR 300.530](#).

Sometimes, parents will agree to transport their child in exchange for a fee, and this can be the alternative form of transportation. Though this is often the most appropriate step for some students, districts need to keep the following in mind:

- While the parent is transporting the child, there should be some plan in place to help the student gain skills that would allow her to be transported by the school.
- A parent may be able to decline to provide transportation at any time, leaving the district scrambling to find alternative transportation.
- Any agreement for the parent to provide transportation should be noted in the student's IEP after following the procedural requirements for changing an IEP.
- Districts should consider entering into separate contractual agreements with parents regarding the parameters of the transportation; some states require this step.

Anne Littlefield, school attorney, [Shipman & Goodwin LLP](#), Hartford, Conn.:

When a student engages in disruptive, distracting, or unsafe behavior on the bus, I typically suggest that the district conduct a specific safety/functional behavioral assessment to determine what strategies or accommodations will be successful in truncating or extinguishing the behavior.

If the behaviors are similar to those seen in the classroom or during unstructured times, the strategies in an existing BIP may also prove successful in addressing the bus behaviors.

With some students, preferential bus seating or the provision of headphones on the bus will be sufficient to address concerns. In other cases, after looking at a student's needs and determining that his tolerance

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for being on the bus has a time limit, we have changed bus routes to shorten the student's ride, which enabled the student to maintain appropriate behavior during transportation.

In Connecticut, we have a 10-day maximum for bus suspensions. An IDEA-eligible student may be suspended from bus transportation for any reason that would warrant suspension for a nondisabled student. That said, if behaviors leading to bus suspensions are disability-related, an LEA should treat these behavioral concerns as it would if the behaviors manifested in the classroom, cafeteria, hallway, or sports field: as opportunities for helping the student learn strategies that will enable her to access transportation just as effectively as nondisabled students access transportation.

At the end of the day, however, if, after assessment and intervention, a student's behaviors continue to present a safety concern, separate transportation should be provided to assure that the student gets to school safely.

[Ragini Algole](#) covers postsecondary transition, charter school, and transportation issues for LRP Publications.

November 30, 2016

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