



## When is a Bus Ride too Long?

First, it is important to clarify that there is no regulation that determines the reasonableness of travel time. Rather, every situation must be evaluated on a case by case basis. However, an unusually long bus ride may result in either a denial of a free appropriate education (FAPE) or a Section 504 compliance violation if there is an unequal effect on a child with a disability. Virginia Regulations state:

A school division shall ensure that a child with a disability is provided a commute to and from an education program that is comparable in length to the commute provided to children without disabilities, **unless** the child's IEP team determines that a longer or shorter commute is necessary to ensure the provision of FAPE.<sup>i</sup>

What this means, is that a school division must make sure the commute of a student with a disability is similar in length and duration to the commute of students without disabilities. While this does not clearly define what makes a bus ride too long, these four decisions made in cases dealing with this issues, and the rationale behind the decisions, demonstrate how a school division should evaluate whether a bus commute is excessively long.

In one case, it was determined that there was no denial of FAPE even though a student had an approximate 2 hour commute each way because:

- The student was unable to show any physical, mental, emotional or behavioral reason why he couldn't tolerate the commute, and
- Student did not demonstrate an inability to make meaningful progress in his education due to the commute.<sup>ii</sup>

In another case, a student with a visual impairment was placed, through his IEP, in a private school. The bus ride to the school took two hours each way. A hearing officer found the bus ride inappropriate because the student, in addition to his visual impairment, was confined to a wheelchair and could not tolerate being in the chair for two hours at a time on the bus. The finding was not that the bus ride was too long; rather, he found that the *placement* was

inappropriate because it was too far away from home for this particular student due to the student's physical disability.<sup>iii</sup>

In yet another case, the district bus transportation was found to discriminate against special needs students because their ride was one and a half hours long as compared to the half hour bus ride for the general education students.<sup>iv</sup> In one final case example, a bus trip of an hour was considered too long for a student because of her individualized needs, not because it was inappropriate for all students.<sup>v</sup>

So remember, IDEA and the Virginia Regulations do not specifically outline the appropriate length of bus rides for special needs students. This lack of strict guidance is understandable because every situation is unique. This determination must be made on an individualized basis by analyzing the needs and circumstances of each specific child. School divisions should consider such factors as; age, what is inappropriate for a child of three may not be inappropriate for a child of 12; limitations imposed by a disability, what is inappropriate for a child with physical limitations may not be inappropriate for a child with no such limitations; the effect prolonged sitting or confinement has on a child.

If you want the school division to consider shortening your child's bus ride, share your concerns with the IEP team in writing. Be sure you are raising your concerns as one or more of the factors a school will consider listed above. If your child's bus ride is not shortened after sharing your concerns with the school division and the case law that supports your request, you may consider engaging the Virginia Department of Education (VDOE) dispute resolution process.

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<sup>i</sup> 8 VAC 20-81-100.G.3

<sup>ii</sup> Oceanside Unified School District (OAH 2012) N2011120626, 112 LRP 14645

<sup>iii</sup> District of Columbia Public Schools (SEA D.C. 2004) 108 LRP 7451

<sup>iv</sup> Palm Beach County School Dist. (OCR 1998) 31 IDELR 57

<sup>v</sup> Covington Community School Corp. (SEA Ind. 1991) 18 IDELR 180