



# KENTUCKY DEPARTMENT OF EDUCATION

Capital Plaza Tower, 500 Mero Street, Frankfort, KY 40601

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## MEMORANDUM

Date: May 27, 2016

To: Transportation Directors

From: Elisa Hanley, Pupil Transportation Supervisor  
Student Tracking and Transportation Branch  
Division of District Support Services

Re: Service Animals and Food on the School Bus

### Service animals

In 2010, ADA regulations that specifically addressed the topic of service animals became final. 702 KAR 5:080 has not been amended since the ADA regulations became final. KDE will be working towards updating this regulation.

The link to the Department of Justice's Frequently Asked Questions about Service Animals and the ADA:  
[http://www.ada.gov/regs2010/service\\_animal\\_qa.pdf](http://www.ada.gov/regs2010/service_animal_qa.pdf)

Since public schools are covered by Title II of the ADA and Section 504, service animals must be allowed on school grounds, as well as the school bus, so long as the animal meets the definition of a service animal under the ADA.

The service animal may be prohibited if admitting it would fundamentally alter the nature of a service or program. The Department of Justice states this would not usually happen in most settings. The more likely scenario is the service animal may be restricted to certain areas of a building.

Service animals may be excluded from school if:

- The animal is not under the control of the handler, or,
- The animal is not housebroken.
  
- Service animals may be included on a student's IEP **if** the animal is required to ensure the student's educational program is appropriate. In most situations, the student is relying on the service animal as an accommodation under the ADA / Section 504. This means the service animal **will not be listed on the IEP**. Pupil Transportation Departments, to include bus drivers, must be informed that it is more likely that documentation required by 702 KAR 5:080 will be the Section 504 Plan or an ADA plan, not the IEP.
  
- When a service animal at school is an issue, transportation directors and bus drivers should be included in Admissions and Release Committee (ARC) meetings or 504/ADA meeting, depending on which law is applicable. They must understand the student has a right to have the service animal at school and on the bus, as well as recognize the student's right to have the animal at school is unrestricted.

### **Food on the bus**

There may be times in which a student's IEP or Section 504 Plan includes food as a related service under both laws. An IEP may also allow food as a Supplementary Aid or Service.

Food may be part of a student's behavior plan as a re-enforcer. It may also be required as an emergency option for a student with diabetes or other medical issues.

1. Food may act as a re-enforcer for some students with disabilities, such as:
  - a young student with behavioral or attention issues
  - a student with significant disabilities, such as a significant intellectual disability, an emotional/behavioral disability or autism

If food as a re-enforcer is on the IEP/ behavior plan and the behaviors continue on the bus, then the re-enforcer (food) must be allowed on the bus. The IEP or 504 Plan as part of federal law will prevail over state law or local district policy.

To avoid confusion, the IEP or 504 Plan should state the behavior plan is to be implemented on the bus. However, even if it is not stated explicitly, it would still be allowed if the student exhibited behaviors on the bus that required the use of the behavior plan.

Food as a re-enforcer seems to have lost favor on behavior plans. A movement substituting preferred activities for food as a re-enforcer has been in place for a number of years. However, if a student responds only to yellow peanut M&Ms as part of a behavior plan, in spite of attempts to find other appropriate activities, then yellow peanut M&Ms it shall be- even on the bus.

### 2. Students with diabetes

There should be a preventive plan for students with diabetes to check glucose levels before boarding a bus for home or prior to/during a field trip. This is a good way to (hopefully) prevent an emergency from occurring during transport. However, unexpected events may occur that cause glucose levels to quickly rise or fall during a bus ride home:

- The student's diabetes may not be under control
- Long delays may occur during the ride, due to construction, traffic jams or a bus breakdown
- Air conditioning on the bus may fail
- Unexpected conditions may occur on a field trip, that would cause a spike or drop in the student's glucose levels

In addition to the preventive plan, there must be an emergency plan in place, documented in the student's IEP or 504 plan that prevents the student from going into insulin shock or a diabetic coma. Fruit juice, candy, raisins or any food that can be converted quickly into glucose must be allowed on a bus, to prevent the student from suffering serious injury or death.

In most situations, food on the bus for a student with a disability would be the exception not the rule. But IDEA and Section 504 focus on individual needs of a student. If an ARC or a Section 504 team decides including food in the student's individual plan is necessary to provide the student with appropriate education services, then it must be provided, even on the bus.

If you have any questions regarding a child's special needs, please contact the child's ARC team to discuss the issue further.