



Denver Public Schools  
Transportation Services  
2909 W 7<sup>th</sup> Ave Denver Co. 80204

June 15, 2009

Mr. Bruce Little, Senior Consultant  
School Nutrition and Transportation  
Colorado Department of Education  
201 E Colfax Ave.  
Denver, Co 80203

Dear Bruce,

The intent of the letter is to request a revision to **4204-R-208.00 Student Medical Information of 1 CCR 301-26 Rules for the Operation of School Transportation Vehicles** which goes into effect July 1, 2009.

Current language:

**4204-R-208.00 Student Medical Information**

*208.01 Medical and behavioral information as it relates to student transportation must be on file with the transportation department prior to the first day of service. This shall include medical and behavioral plans. [IDEA sec. 300.342(b)(2) and (3)]*

Proposed revision:

**4204-R-208.00 Student Medical Information**

208.01 Medical and behavioral information as it relates to student transportation SHALL BE PROVIDED WHEN REQUESTED BY THE TRANSPORTATION DEPARTMENT. REQUESTED INFORMATION must be on file with the transportation department prior to the first day of service. This shall include medical and behavioral plans. [IDEA sec. 300.342(b)(2) and (3)]

The following excerpt from the National Association of State Directors of Pupil Transportation Services **Information Report, Sharing Student Health and Medical Information with School Transporters** by Peggy A. Burns, Esq.

*"When transportation is provided as a related service to a special education student -- that is, because transportation is necessary for the child to access Individualized Education Program (IEP) services -- then transporters are related service providers. [See IDEA Regulations (hereafter "Regs"), Section 300.24.] Under such circumstances, the school district must provide necessary information to school transporters. That information includes setting forth the role of transportation personnel in meeting the unique needs of the child as identified in his/her IEP, and those "accommodations, modifications, and supports" identified in the child's IEP which relate in any way to the transportation environment. [See Regs., Section 300.342(b) (2) and (3).]*

*While the IDEA Regulations impose a mandatory duty on school districts when transportation is a related service, FERPA provides for broader permission to disclose information about a child under two situations:*

- (1) when a parent consents to the disclosure; or*
- (2) when "school officials" have a "legitimate educational interest," even when the district has not obtained such prior consent.*

***Who is a school official with a legitimate educational interest?***

*When FERPA was modified in 1996, a "Model Notification of Rights Under FERPA for Elementary and Secondary Institutions" was included in Appendix B. That Model Notification clearly demonstrates Congressional intent as to who might reasonably be entitled to receive student information: "A school official is a person employed by the District as an administrator, supervisor, instructor or support staff member. . .; a person serving on the School Board; a person or company with whom the District has contracted to perform a special task. . ." And, a school official has "a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility."*

*It is clear that school transporters meet this standard when student health and medical information is necessary to enable the safe and efficient transport of a student."*

As stated in the last sentence transporters meet the above standard to receive necessary information to enable the safe and efficient transport of a student. The intent of the 4204-R-208.00 is to provide additional documentation in support of this requirement. However, current language states "Medical and behavioral information as it relates to student transportation must be on file with the transportation department prior to the first day of service. This shall include medical and behavioral plans." The emphasis is on the word **must** which clearly states unless this information is on file with transportation students **will not** receive transportation services.

The intent is to receive information not withhold services. Students with a behavior and/or medical plan may or may not affect transportation service. Plans required by transporters are those which truly affect our ability to provide safe and efficient service.

I believe the language proposed above addresses this requirement while allowing transporters to continue to provide and not withhold service for students who may have a plan in place yet pose no danger to themselves or others.

Transportation should be building a strong partnership with the Special Education Department through collaboration and communication in an effort to provide a safe, reliable efficient service in a timely manner. The proposed revision to the current language supports this effort.

Your consideration is appreciated.

Respectfully yours,



Pauline M Gervais, Executive Director Transportation Services  
(720) 423-4602  
[pauline\\_gervais@dpsk12.org](mailto:pauline_gervais@dpsk12.org)

CC: CSPTA via email