

LEGAL ROUTES™

Your roadmap to pupil transportation law and compliance™

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BULLYING IN THE AFTERMATH OF COLUMBINE: RECOGNIZE, RESPOND, REPORT, REASSURE

On the day I began writing this article – April 20 – it had been exactly 12 years since the tragic shooting at Columbine High School in Littleton, Colorado. A wounded state – indeed, a shocked nation – examined the “how’s” and “why’s” behind Eric Kleibold and Dylan Harris’ rampage. “Bullying” was featured in the news. The *Denver Post* reported on October 3, 2000 that testimony at the Governor’s Columbine Review Commission asserted that bullying at Columbine High was rampant, and victims’ parents were shocked that the principal had said there were no danger signs leading to the shooting.

Excessive bullying was offered as motivation for Eric Harris and Dylan Kleibold to kill 12 fellow students and a teacher before killing themselves. Public comments were in stark contrast to principal Frank DeAngelis’ testimony in August about incidents of bullying at Columbine High School. He said, “If it was occurring, it was not being reported.” A former special ed assistant and the aunt of slain Columbine student Isaiah Shoels both testified that DeAngelis discounted their concerns about bullying.

Five days after I started this article, the U.S. District Court, Eastern District for New York, denied a school district’s motion for summary judgment in a case in which parents of a student with disabilities alleged that their daughter had been denied a Free Appropriate Public Education by school administrators’ deliberate indifference to bullying (T.K. and S.K. v. New York City Department of Education, April 25, 2011).

The judge’s opinion used interchangeably the words bullying and harassment, a confusion I alluded to in the article “Bullying and Harassment: Thin Line and Thin Ice” in the April/May 2011 issue of *School Bus Fleet*. The judge’s alternations in language were deliberate: he noted that both other judges and even the feds do the same. Although the case doesn’t focus on student behavior on the bus, the judge’s exhaustive discussion of research, remedy, and options for legal resolution of bullying and harassment cases is very instructive to all school transportation professionals.

THE FACTS

The story of relentless bullying and harassment involves L.K., a 12-year old girl originally diagnosed as autistic, but since reclassified as learning disabled. Teachers’ aides and others who testified noted the

BULLETIN BOARD: PLEASE WELCOME TIP SHEET

On page 8 of this issue, you’ll see our latest addition to *Legal Routes*. It’s *Tip Sheet*, an interactive tool where you can share with and learn from your fellow *LR* subscribers.

Since we began publication, “Since You Asked” has been a routine feature of the newsletter. With *Tip Sheet*, we direct your thoughts to *questions we’ll ask you* via email Subscriber Polls – and then share your comments with other *LR* readers. So, you’ll have two avenues to communicate with us and with each other!

For our first *Tip Sheet*, we selected the **topic:** When Training Dollars are Cut; and we asked this **question:** “If training is really for the purpose of raising staff’s awareness of something of importance, what quick and inexpensive delivery methods have you used – or might you use in the future – to keep an issue in front of your staff?”

We bet you’ll learn about some effective methods that you hadn’t considered and will want to try once you’ve read *Tip Sheet*. Please keep your questions coming for “Since You Asked,” and please take a moment to respond to our emails when we ask... So, does anyone have a topic to suggest for our next *Tip Sheet*?

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Bullying, continued from page 1 -----

extreme isolation, ostracism, and negative interaction to which L.K. was subjected by her peers. Examples included students refusing to touch a pencil that L.K. had touched, derision by students when she attempted to participate in class, and students tripping her and pushing her. Witnesses painted the picture of teachers who were disinterested, turned a deaf ear to attempts others made to advocate for L.K., and, in fact, regarded her as the trouble-maker.

THE CONTEXT

Judge Weinstein explores the history of bullying with reference to “presidential summits and school shootings,” and even the fact that “literature is blotted with bullies, and many people have had personal experience with a schoolyard antagonist.” He references “the consensus among physicians and social scientists, educators and youth development organizations, civil rights advocates and law enforcement” that “bullying is neither inevitable nor normal.”

The judge explores the “why’s” of bullying and well as the impact of bullying on even those who are not the targets: “Thus the problem of bullying is also the problem of the unresponsive bystander,” citing Philip C. Rodkin, *Bullying and Children’s Peer Relationships*, in White House Conference on Bullying Prevention on March 10, 2011 (this, and other resources, are available at <http://www.stopbullying.gov/references>). He notes the greater vulnerability to bullying of students with disabilities.

THE ISSUE

The parents’ legal action challenged L.K.’s placement by the district as inappropriate, and sought reimbursement for private school tuition. The New York Department of Education sought summary judgment seeking to dismiss the case. The judge characterizes “the central question” raised by the case as “what actions, if any, [is] a school required to take to stop bullying of disabled students.”

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L.K.'s father testified that the effect of the bullies' actions made L.K. "emotionally unavailable to learn."

After exploring various federal laws often cited in bullying cases – including the First Amendment and Due Process Clause of the U.S. Constitution, Title IX of the Civil Rights Act, and the Individuals with Disabilities Education Act – the opinion focuses on “whether bullying can be grounds for finding that a school district deprived a student of a free and appropriate education,” a question answered with a “yes” by the 9th, 3rd, and 7th circuit courts of appeal, but not yet by the 2d circuit court of appeals which includes New York.

The judge concludes that, “under IDEA the question to be asked is whether school personnel were deliberately indifferent to, or failed to take reasonable steps to prevent bullying that substantially restricted a child with learning disabilities in her educational opportunities.”

As to the “reasonable steps,” the school must:

- Take prompt and appropriate action, and
- It must investigate reported harassment.
- If harassment is found to have occurred, the school must take appropriate steps to prevent it in the future.

THE EVIDENCE AND THE DECISION

There was a notable lack of incident reports despite the testimony of school personnel that raised questions about whether the school was actually on notice or, if on notice, it was deliberately indifferent. While the principal admitted having received letters about L.K.'s victimization, and knowing about an incident of bullying, she couldn't recall what, if anything, she had done to investigate.

Although the school offered evidence that L.K. made academic progress, the judge notes that, “Academic growth is not an all-or-nothing proposition. There are levels of progress.” A student “may not be deprived of her entire educational benefit, but still may suffer adverse educational effects as a result of bullying.”


The court's ruling against dismissal of the case against the school district permits the matter to proceed for further evidence and rulings.

LESSONS

Will courts consider future cases as an opportunity to play a role in the eradication of bullying? What must you do if the case of a student with disabilities is predicated, at least in part, on allegations concerning the presence of bullying and harassment on the school bus which was not properly addressed by a school district? I'll summarize your obligations with the 4 R's: *Recognize, Respond, Report, and Reassure*:

- **Recognize.** Train drivers and attendants to be alert to behavior which is more than developmentally appropriate horseplay, and, instead, stems from an imbalance of power in which the bully is, essentially, terrorizing the victim. There's a caveat here. A school bus company owner recently

characterized the rearview mirror as a culprit in distracted driving. His point was that drivers' primary responsibility must be safe driving, and he's right. The obligation to be aware of student conduct does not suggest that a driver should ever sacrifice safety for surveillance. In other words, your staff members are not the “bullying police.”

- **Respond.** That's right – transportation professionals need not search out inappropriate student behaviors. But, when such behaviors do take place, and drivers or attendants receive reports or have direct observation, doing nothing is never the right thing. Instead, they must intervene. At a minimum, *say something*. Remember, silence is permission. If words are ineffective, the driver should pull over, and seek assistance from dispatch.
- **Report.** A district's duty includes investigation. That requires that transportation provide full and timely information to those individuals identified in policy – whether the ultimate recipient is the school principal or someone else. Reporting is *not*, however, an alternative to response. Remember the *Lopez* case (discussed in the September 2009 issue of *Legal Routes* at, p. 5 *ff.*, and the March 2010 issue, at p. 1 *ff.*) in which a driver did nothing while an inappropriate incident was in progress, but did report at the end of her route, or the *Talabi* case (*Legal Routes*, September 2009, p. 2 *ff.*), in which an attendant said nothing when a driver took a student into his own home and sexually assaulted her, but reported the matter after the fact?
- **Reassure.** Let the victim of bullying know – by your words, by your behavior, by your on-going concern – that you know he or she has been hurt, and you will do your part to avoid a repeat performance. While reporting specifics about consequences levied on an aggressor is probably not your job, the U.S. Department of Education has reminded school districts about how to resolve confusion regarding what information a district may disclose to the complainant:
“. . . FERPA permits a school to disclose to the harassed student information about the sanction imposed upon a student who was found to have engaged in harassment when the sanction directly relates to the harassed student. This includes an order that the harasser stay away from the harassed student, or that the harasser is prohibited from attending school for a period of time, or transferred to other classes or another residence hall. Disclosure of other information in the student's 'education record,' including information about sanctions that do not relate to the harassed student, may result in a violation of FERPA.” 

LOUISIANA COURT ALLOWS CASE AGAINST DRIVER FOR FATALITY RELATED TO BUS ZONE FIGHT

Here's a message you must never convey: “Don't get

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Bus Zone Fight, continued from page 3 -----

involved in a student fight once the students are off the bus.” I frankly have reason to believe that drivers hear that – even when that’s not what you mean to say. *Credit v. Richland Parish School Board*, April 13, 2011 (LA) is a tragic reminder of what can happen.

THE FACTS

After high school student Breana was dropped off by a school bus at the rear of Rayville High School (she had been expelled from Rayville and now attended a Career Center in another location), student LeBaron instigated a fight between the girl and Courtney, a student at Rayville. During the fight, Courtney pushed Breana off the sidewalk into the path of an oncoming school bus driven by Hesser. Breana was run over by the bus and died of her injuries.

THE ISSUE

In what essentially is legal wrangling involving insurance companies and various school district officials, the court’s April 13 opinion focused on the lawsuit by Breana’s mother against driver Hesser and various other school district officials.


The suit charges that the bus driver “saw or should have seen the fight and yet continued to operate the bus near the fight without regard to the safety of the children in the school bus zone.”

Other allegations point to the failure of anyone to intervene to prevent or stop the fight; the failure to have designated bus safety areas; the failure to have marked bus safety zones and barricades; and the failure to properly supervise the area.

THE DECISION

The court determined that the trial court had erred in dismissing the case against the superintendent, various school administrators, several on-duty teachers, and the bus driver. In addition, under state law, court costs would be the joint responsibility of these defendants. The outcome will be decided after a full trial, or, perhaps, settlement negotiations.

THE LESSON

You can do everything right and still wind up in a lawsuit. But when the facts point to inaction in the face of foreseeable harm, the result of that lawsuit may follow prolonged investigation, testimony, court proceedings, and certainly considerable angst. When you’re reading our *Tip Sheet: When Training Dollars Are Cut*, (page 8 of this issue) consider writing “ACT” in a number of “in-your-face” locations, and tell drivers the story of this sad case. 

ZERO TOLERANCE: WHEN, WHERE, HOW?

Imagine this scenario: An inexperienced high school dean investigated and evaluated a situation in which a student with low cognitive ability allegedly “chose” to be “jumped” as a gang

initiation. She had felt terribly isolated and alone, and wanted friends. Her perceptions of others were clouded, in part, by her desperation to be part of a group, and by her limited judgment and intellect.

The student was told by students whom she hoped to befriend that she was to take bus 74 home one day; she was not, normally, a bus rider. Two girls – gang members – also boarded the bus. When they arrived at a bus stop, and the bus had left, the girls beat the “wannabe” gang member to a pulp, and congratulated her for having “jumped in.”

The dean and the school resource officer were convinced that the girl understood fully what she was getting into, despite her assertions that she hadn’t understood the significance of the situation. Because she participated in a fight, she was suspended for five days, just like the girls who beat her up. That’s what the district’s “zero tolerance” policy required.

Dad found this hard to swallow, especially in light of his feeling that if the driver had not allowed his daughter to board the bus in the first place – she was clearly an unauthorized rider with no ID nor recognition by the driver – the fight wouldn’t have occurred. We can debate the fact situation all day, but I suggest that where a district hasn’t exactly put its own “best foot” forward, application of a rigid discipline matrix may not be in order.

WHEN IS A POLICY A “ZERO TOLERANCE” POLICY?

While there does not appear to be an “official definition” of the term “zero tolerance,” the term generally means that a harsh predefined mandatory consequence is applied to a violation of school or bus rules without regard to the “seriousness of the behavior, mitigating circumstances, or the situational context.” (American Psychological Association, 2006).

“Zero tolerance” policies typically require expulsion (or at least serious consequences) for certain conduct violations, regardless of the circumstances under which the violations occur. While some school districts and schools will apply such policies to major disruptions, others apply it to minor disruptions as well. When complete exclusion from the bus, or application of a prescribed set of disciplinary consequences applies to violations of bus conduct rules, they, too, might be described as “zero tolerance.”

WHAT’S THE RISK?

Application of “zero tolerance policies” has led to increased litigation and headlines that portray school districts and schools as acting without judgment when, for example, young students are met with zero tolerance for relatively trivial incidents in school settings. The American Bar Association (2001) and the American Psychological Association (2006) are among professional associations that have adopted statements opposing the use of zero tolerance policies in school because they do not necessarily lead to appropriate actions, or desired results. Moreover, there is little evidence, direct or indirect, supporting the effectiveness of suspension or expulsion for improving stu-

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Zero Tolerance, continued from page 4 -----

dent behavior or contributing to overall school safety (National Center for Education Statistics). In 2008, the American Psychological Association reported that the data that does exist may actually point to a negative impact of zero tolerance policies on school climate.

Like the situation in which the student with cognitive limitations was beaten up by gang members after a bus ride she wasn't even eligible to take, here are examples of school-based situations that have been challenged, or, at least, ridiculed in the media:

- Permanent expulsion for a 15-year old student found with an unloaded gun in his book bag.
- Expulsion for a 6th grader, when a squirt gun, painted black and brown, fell out of his backpack.
- Suspension for the remainder of the term for a 7th grader who brought a homemade rocket made from a potato chip canister to school.
- A 10-day suspension, and threatened expulsion, when a teacher witnessed a sophomore girl lend her nail clippers with an attached nail file.
- A 5-year old suspended for wearing a 5-inch plastic axe as part of a firefighter's costume to a Halloween party in his classroom.
- An 11-year old arrested, hand-cuffed, and taken to jail for bringing a plastic butter knife to school.

ZERO TOLERANCE ON THE SCHOOL BUS

Zero tolerance policies that may have direct application to student behavior on the school bus have included the making of sexually explicit statements; inappropriate statements based on race, religion, ethnicity, national origin, disability, and gender; threats; use and/or sale of alcohol or drugs; and weapons possession. These seem to make sense, don't they? But individuals within one school district protested a "zero tolerance" policy toward weapons "that had become so rigid that it forced schools to expel any student who belongs to a military organization, a drum-and-bugle corps or any other legitimate extracurricular group and is simply transporting what amounts to harmless props." (Richardson, School Gun Case Sparks Cries For "Common Sense," *Washington Times*, Feb. 13, 2009.)

And, parents of a 6-year old complained that "school officials overreacted" when they punished their daughter for kissing a second-grade boy." (O'Brien & Buckham, Girl's Smooch on School Bus Leads to Suspension, *Buffalo News*, Jan. 6, 2008.)

COURTS' APPROACHES

The U.S. Supreme Court weighed in on the issue in *Safford Unified School District No. 1 v. Redding*, June 25, 2009 with respect to a search of a student when she brought prescription medication to school in violating of a zero tolerance policy. The court stated, "In the end, the task of implementing and amending public school policies is beyond this Court's function. Parents, teachers, school administrators, local politicians, and

state officials are all better suited than judges to determine the appropriate limits [of zero tolerance policies]. Preservation of order, discipline, and safety in public schools is simply not the domain of the Constitution. And, common sense is not a judicial monopoly or a Constitutional imperative."

But on the subject of common sense, The Clearinghouse on Educational Policy and Management recommends that applicable disciplinary policies allow administrators some degree of discretion in responding to infractions. The policy should allow officials to consider such special circumstances of a violation as:

- The age of the offender;
- The ability of the offender to comprehend the policy;
- The intent of the offender;
- The effect of the transgression on other students (both those directly and indirectly involved); and
- The past disciplinary record of the offender.

Courts are less tolerant of a school district's exercise of power under zero tolerance policies in these cases:

- Where there is no consideration of mitigating circumstances;
- Where there is no inclusion of an "amnesty" clause, which allows non-violent students to inadvertently bring banned objects to school — or find them — to give them to a school official without fear of punishment;
- Where there are no exceptions to imposition of expulsion;
- Where the student is deprived of his due process right to present his side of the story;
- Where application of zero tolerance is discriminatory. 🚌

VIDEO SURVEILLANCE ON SCHOOL BUSES – A SCRIPT FOR PLAYING IT SAFE

By Pauline M. Gervais, Consultant, Education Compliance Group, Inc.

Transportation personnel, parents and school staff are becoming more apt to rely on video surveillance systems and cameras to provide documentation on incidents that occur in school environments. In many cases, they are the exclusive witness and final factor in determining the cause of an incident, and they can play a major role as evidence in cases that escalate to prosecution, expulsion and or termination.

But the reality is video surveillance isn't the all-inclusive mechanism that can prevent incidents from occurring. Nor does it excuse drivers from doing their job and intervening when an incident occurs on the bus, in reliance upon the illusion that the driver doesn't need to do anything because it's all on tape.

What happens when video surveillance systems don't work? How do you mitigate camera failures? Following are five steps which will provide helpful information to enhance current procedures and policies or to create new procedures and policies in your district.

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NOTIFICATION – VIDEO/AUDIO MONITORING

It is a district's responsibility to notify parents, staff and community when video surveillance equipment has been installed and may be utilized on school grounds, in district buildings, and in district vehicles such as school buses. This information should be included in advisories such as:

- Board policy
- Transportation procedures
- School bus rules
- Department handbook
- District/department web sites

Notification may be general in nature such as "Video/audio surveillance is used by the district and may be in use in schools, district buildings, and district vehicles to include school buses."

Additionally, each vehicle equipped with a camera system should have a clearly displayed decal stating "Video/audio equipment may be/is in use on this vehicle;" or similar verbiage.

ACCESS – WHO CAN VIEW VIDEO AND WHEN

This is a very important decision which should not be made in isolation, nor without regard to applicable state law. Work closely with district staff such as Legal, Human Resources, Safety and Security to determine who is allowed to view video, and under what circumstances. Transportation administrators such as managers, supervisors, student management coordinators, and training staff may all have access and a legitimate need to view video.

Parents are the most likely source of a request to view video. There is no right or wrong answer on whether parents are allowed to view video but it is imperative that a decision is made based on established policy. The key factor is communicating this decision to parents so they are well aware of the protocol. Prior to permitting parents to view the video, you should advise them that "You may see other events occurring on the bus; however this information is confidential and you are to focus on your child only." [*Editor's note:* See "Indiana Case Explores Use of Restraint and Grandparent's Request to View Video" on page 7 of this issue.]

Other personnel who may have a need to view videos are school administrators, school security, legal, human resources, and law enforcement officials. Law enforcement may request a copy of or the original video to be used as evidence in a criminal investigation. It is important to establish protocol to address these areas.

Although the majority of incidents may involve students, it is also important to recognize and communicate to employees the consequences that video surveillance may provide for them. Video has proven to be an effective tool to clear employees of false accusations, but it can also provide proof that an employee has failed to properly and safely perform job requirements which ultimately may lead to corrective action up to and including dismissal from employment. Employees and any representing bargaining units should be informed that video can

and will be used as evidence in disciplinary actions as necessary. Provide information to union representatives regarding when video may be viewed, and by whom.

Generally video recordings are not retained unless there is a pending case or incident which warrants a need to secure video. Therefore, include information such as "Video recordings are maintained in the system for X length of time (depending on the hard drive size). Once the system reaches capacity it automatically reverts to the beginning and records over existing video."

WHEN THE SYSTEM FAILS

In the event that there is no video footage of an incident which occurred on the bus, it is still necessary to investigate the situation. It should go without saying that the driver and an attendant, if any, should be questioned about their knowledge – or lack of knowledge – of an incident. Clearly define this procedure to determine who, what, why, and when students will be interviewed. Under most circumstances interviews are performed jointly by transportation and school administrative staff and are conducted in the school. Students who were on the bus at the time of the incident may be questioned. All students who witnessed and who may have been, or were, involved in the incident should be interviewed. This process should be included in transportation procedures for video surveillance. Be sure to follow district procedure/policy on parent notification prior to student interviews.

TRAINING

Training is a critical part of any successful program. Drivers and bus attendants should be trained to recognize when the system is in operational mode, when it's not working, and how to mark an event when an incident occurs on the bus. Although there is no foolproof way to determine whether the cameras are fully operational, this will at least provide some assurance that the system is operational. An easy way to ensure checks are done routinely by the driver is to incorporate a system check in the pre and post trip requirements.

Video surveillance is a tool that assists in documenting events. However drivers and attendants are still required to address, react and intervene as necessary to incidents that occur on the bus. You don't want the driver to decide to do nothing because "It's all on tape!"


ROUTINE MAINTENANCE

This is by far the most critical aspect of your video surveillance system. Video surveillance is a substantial investment which should and must be protected by incorporating routine inspection cycles to ensure systems are maintained and working properly. Failing to maintain the system can jeopardize functionality, creating an unreliable system where failures increase as time goes on. As with any product without proper maintenance, the system will eventually fail, may be beyond repair and can lead to substantial replacement costs.

It is also important to provide all necessary training to ensure that technicians can diagnosis and repair any problems

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they may encounter. Additionally, random checks by qualified transportation staff should be incorporated throughout the year.

A good rule of thumb is to incorporate a small inventory of units, if funding allows, to be used for replacement in the event a system is in for repair or has been removed for investigative purposes. This practice will help ensure surveillance coverage is available and uninterrupted. 

INDIANA CASE EXPLORES USE OF RESTRAINT AND GRANDPARENT'S REQUEST TO VIEW VIDEO

When a parent of a student with a disability complains about the use of physical restraint in the course of school transportation, the issues can be complex. In the increasingly typical situation in which other family members are involved in a student's educational environment, additional questions may arise about the district's ability to deal directly with the relative. In *Loogootee Community School Corporation and the Daviess-Martin Special Education Cooperative*, decided by the Indiana State Educational Agency on December 20, 2010, a short state agency opinion provides useful lessons.

THE FACTS

The student's grandparent requested that a monitor ride the bus and supervise him when the student's behavior on the afternoon bus warranted concern. The parent and the school district agreed that a Behavioral Intervention Plan (BIP), providing for strategies that included the use of physical restraint when the student was likely to harm himself or others, would apply to behavior on the bus. Until a paraprofessional was trained on the special needs of the student and the intervention strategies to be used, the student's teacher agreed to ride the bus and supervise the child. The teacher was trained in Crisis Prevention Intervention, and in the use of de-escalation techniques.

Following an incident in which the teacher placed the student on her lap and held his arms at his side to intervene in dangerous behavior, the principal suspended the student from the bus. In response, the grandparent sought to view the videotape of the incident. The district refused, citing school policy, and the grandparent filed a complaint with the state.

THE ISSUES

Grandparents can be important people in the lives of their grandchildren, and, in fact, the Individuals with Disabilities Education Act defines "parent" to include "an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare." 34 C.F.R. 300.30.

But here, the grandparent had no clear legal authority. The child's parent agreed to the BIP focusing on bus behavior, and state and federal law permit a parent to inspect and review his

or her child's educational records, but makes no provision for grandparents in the absence of parental consent where the parent is active in the child's life. (The FERPA regulations, at 34 C.F.R. 99.3 define a "parent" as "including a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.")

The videotape itself, and the status of the child's grandparent, took center stage as the issue to be resolved in this complaint. Could the videotape be viewed by the grandparent? And, what about the fact that the tape depicted other students on the bus?

THE DECISION

The interim use of the teacher as bus monitor while a paraprofessional was being trained, and the teacher's use of physical restraint, were consistent with the BIP. Where the bus video tape in question was viewed by the principal and used as a basis to exclude the student from the bus, it became an education record under state law.


Since the videotape "is of activities on the school bus, where there is limited expectation of privacy and the students riding the bus are readily visible to the public, the school is not required to protect the images of the other students on the bus."

As a result, the parent could view the portion of the videotape that showed the student's behavior that led to discipline. However, the grandparent – who was neither the child's parent nor legal guardian – had no rights to review education records under the law without the parent's written consent for such access. Since the parent had not provided that consent, the district had not violated the law.


THE LESSONS

This case is a reminder that "who's asking" is a key issue in whether you may provide access to student records. In the absence of contrary opinion by a state's attorney general, the rule of thumb is that a surveillance tape made on a school bus by a district-installed camera is an education record if:

- It directly relates to a student, and
- Is used as the basis for disciplinary action

When economic circumstances or day care arrangements result in situations in which a number of adults are invested in a child's education, you must have parent permission to share the information with a relative or caretaker – however insistent they may be. 

EDITOR'S NOTE: SUPPLEMENT TO "SINCE YOU ASKED," LEGAL ROUTES MARCH, 2011

In considering questions about the authority to administer medications on the school bus, the provisions of the state's Nurse Practice Act may be the "last word." Issues of delegation, including the ability of the nurse to be in a position to provide guidance and supervision, may determine, ultimately, whether a particular staff member may administer medication. 

TIP SHEET: WHEN TRAINING DOLLARS ARE CUT

We hear from you that training dollars have, in some cases, all but disappeared. That's a real concern, because avoidance of liability and compliance issues often depends upon the quality and frequency of training of staff. That's especially true when reductions in staff necessitate your pulling people from one job to serve in another function, sometimes very quickly and with minimal opportunity for critical reminders about safety.

In our first Subscriber Poll, we asked about your “quick and dirty” reminders and inexpensive delivery methods you’ve used, or could use, to keep an issue in front of your staff.

Here are some of your responses:

- Darryl Dettloff of Macomb ISD in Clinton Township MI sends **monthly newsletters**, as does Tom Given of Granite School District in Utah. Given described his newsletters: “Our office staff puts together two separate documents. The “Yellow and Black” is more positive in nature and has many newsy items. It is published when needed, which is about 10 times each school year. We often include reminders and informational items to improve the environment and safety of our department.” Granite’s second newsletter is called “Transportation Tidbits” and is published about 4-5 times each year. “Although it is newsy also, it contains far more information regarding items needing to be corrected, directives, memos, etc. The drivers recognize it is on a specific color of paper (bright orange) and immediate attention should be given what has been published in the newsletter.”
- **Posting messages** as a means to communicate was mentioned by several of you. Linda Bishop, of First Student in St. Joseph, Missouri, places messages “on the employees’ Zonar remote where they must see them in order to swipe in and out of work.” And Sanja Morgan of Garfield Re-2 in Rifle, Colorado has several boards around the office that they use “together to reinforce one message or put several messages out at the same time. We also use **e-mail**. We have two Teddy Bears on posts that we attach memos to and place out in the parking lot or different places that will catch the eye. We tape notes to the floor in the path as the drivers come from the waiting area to their bus. We have to change things up often to keep their attention.”
- Several of you use **bulletin boards**, but Granite’s Tom Given finds that “What we post on the glass doors coming in and out of the office are truly the most read. It is for immediate attention such as an early-out situation, need for spare drivers during vacations, etc. We only leave it up for a day or two or else it becomes too common and then it is ignored.”
- Lori Smock of Gunnison Watershed District in Gunnison CO writes, “We are already using large dry erase boards, are looking at putting our training on computer, so we can email those drivers that have computers.”

- Pauline Bryan, of Carroll ISD in Southlake, Texas does “**Paper Safety Meetings**.” “Our director, office staff and trainers put together a list of things we want the drivers and aides to be aware of. This is called ‘Paper Safety Meeting’ and goes into every mailbox. Each person must sign off that he/she has been read it.”
- For specific driver needs, put **notes into individual mail boxes**. Given notes that “Many times these notes just ask drivers to come and see us so that we can be sure the situation discussed is understood.”
- **Verbal messaging** is another way to get key matters across without convening an in-service or safety meeting. Carroll ISD’s Pauline Bryan does “quick reminders over the two-way radio,” and Tom Given notes that “absolutely critical information” can be relayed over the two-way “just before the junior highs get out and all 121 route buses are waiting for students to exit buildings.”
- **Using the bus** itself to create a community of safety was the essence of suggestions by John D. Clements, of Kings Canyon Unified School District in Reedley, CA: “One of our best methods of advertizing / spreading the information is to park a school bus in a high traffic area and place a banner on the side. We get a greater response for recruiting potential employees from that ‘message school bus,’ than we would from a news paper advertisement.” And, “Spending a little money and participating in local community parades and street fairs to send a safety theme or message can be low cost and a real team builder for a transportation family.”
- **Variety** can be the essential ingredient in training. Tom Given says, “The more we mix up the communication devices, the better the results. Our spare drivers can pick up newsletters from a pile we keep next to the clipboards they take on field trips. We also attach specific notes for them to the clipboard of the route or field trip they are taking each day.”

Finally, having staff members sign off on forms that are then placed in the employees’ file to acknowledge receipt and responsibility for the content of new policies conveys the importance of the policies. Here’s sample language from Granite School District, referencing the driver manual:

I acknowledge that I have received a copy of the Granite School District “School Bus Driver Manual” outlining department policies and procedures. I agree to read and familiarize myself with these policies and procedures and to comply with them at all times.

I understand that violations of department policies or procedures will result in disciplinary action up to and including termination.

Employee Name (Printed)

Employee Signature

Date