

Ride on the Magic School Bus: Navigating Student Needs with Staff Shortages

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It is every student's favorite time of the school year: Field trip season! However, for school districts across Wisconsin grappling with staffing challenges, field trips are additional areas of risk where student needs can go unmet. Such emerging needs might include accommodations for diabetes, the fastest growing chronic disease in children in the United States. On a national scale, from 2001 to 2017, the number of people under age 20 living with Type 1 diabetes increased by 45 percent. In Wisconsin, doctors are particularly concerned about the steady increase in children diagnosed with Type 2 diabetes, up more than 10 percent since 2018. For K-12 schools, this could mean more of a need for care management and accommodation coordination during off-campus events, as well as an increased caseload for school nurses.

This *Update* discusses school districts' responsibilities to ensure that students with disabilities can enjoy the same school-sponsored activities as their non-disabled peers, as well as recommendations for guaranteeing that student accommodations carry into out-of-classroom experiences. In the words of Ms. Frizzle, "Seatbelts, everyone!"

M.F. v. N.Y.C. Dep't of Educ.

Multiple federal and state special education laws confirm a school district's duty to provide a FAPE to a student with a disability, which includes providing equal opportunities to participate in nonacademic and extracurricular services. In *M.F. v. N.Y.C. Dep't of Educ.*, a class of public school students with Type 1 and Type 2 diabetes sued a New York school district, alleging that it failed to provide them appropriate care in school, denied them services, and failed to ensure that trained adults were available to administer glucagon on school buses. F. Supp. 3d. 49 (E.D. N.Y. 2022). Specifically, the students argued the school district improperly cancelled field trips and denied bus services when it was short-staffed, and failed to have a trained adult available to administer emergency diabetes medication. The students moved for summary judgment.

The U.S. District Court, Eastern District of New York granted summary judgment, finding that the school district discriminated against the students under Section 504 and Title II of the ADA, and failed to provide them a FAPE. Under Title II of the ADA and Section 504, a school district engages in discrimination, if the services it provides, including field trips and bus transportation, are not equal to or as effective as those offered to non-disabled students. School districts must also make reasonable accommodations to enable disabled students to enjoy the same rights as non-disabled students, unless it would impose an undue hardship or require a fundamental modification to the nature of the service.

Staffing Shortages Do Not Relieve Schools of Their Duties

While the school district struggled with staffing, the court held that not training bus drivers and attendants to administer glucagon in emergencies was unreasonable. The court explained that, the school district's policy, which did not permit teachers, bus drivers, attendants, and unlicensed staff to administer insulin or glucagon, despite the serious risk of waiting for 911 services in diabetic emergencies, was ineffective. The court concluded that, if the school district properly trained existing bus drivers and attendants, it would not have encountered challenges during staffing shortages and would not have denied students services.

Recommendations

School districts' needs for staff members and students' needs for services are only growing, and courts will not accept staffing shortages as an excuse for denying students support. So, how can school districts and families move forward?

- **Plan Ahead.** Proactive communication is key. Work with students, families, teachers, support staff, and nurses to develop an accommodation plan that carries into transportation, field trip, and other off-campus spaces. If a reasonable accommodation exists, document and implement it.
- **Think Creatively.** To combat the staffing crisis, school districts across the country are developing creative solutions. For example, some school districts are requiring school nurses on all field trips or relying on volunteers and parents or guardians to assist with out-of-classroom activities. Other school districts have resorted to hiring specialists through private agencies. To improve retention, school districts have pursued "grow-your-own" programs and coaching/mentorship partnerships. Expanding the capacity of existing staff through meaningful trainings and incentives can also be effective tools.

Staffing challenges are not getting easier for schools. Despite this, courts will not accept staffing concerns as an excuse not to provide a FAPE to a student. Similar to other challenges faced by school districts over the years, thoughtfulness, resourcefulness, and creativity will be needed to overcome.

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