

2010

SCHOOL ACCOMMODATIONS GUIDE FOR PARENTS AND GUARDIANS

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SCHOOL ACCOMMODATIONS BY TRANSPORTATION, RESIDENCY, OR OTHERWISE

RIGHTS OF PARENT, GUARDIAN, EMANCIPATED MINOR, OR PUPIL EIGHTEEN YEARS OF AGE

INTRODUCTION

The following guide is prepared for parents and guardians exclusively. It provides a summary of your rights without stating details of all of the statutory provisions referenced. The summary contains subheadings for various types of school accommodations and subsections for the different types of schools operating in Connecticut. Both public and private schools are addressed. Also, the guide provides a summary of the due process hearing procedure that is available to seek enforcement of your rights.

Statutory references for each subsection will be located next to the subsection. The text of the subsection will not contain statutory references unless such reference is necessary. Please note that the Connecticut General Statutes (C.G.S.) have been revised with the publication of the 2010 Supplement to the General Statutes (2010 Supp.). The Connecticut General Statutes and the Supplement to the General Statutes must be read together in order to include all of the Public Acts enacted by the General Assembly in 2009. Finally, the guide contains selected provisions of the laws concerning school accommodations. The selected provisions are at the end of the guide. If you want to access all applicable laws, please contact your public library or go to the website of the State Department of Education www.sde.ct.gov, click on Legal Affairs, then laws and follow the prompts.

I. PUBLIC SCHOOLS

A. Transportation In General – 2010 Supp. Sections 10-186 and 10-220

Each local or regional board of education to provide for the transportation of children wherever transportation is reasonable and desirable and to furnish, by transportation or otherwise, school

accommodations so that each child five years of age and over and under twenty-one years of age who is not a graduate of a high school or vocational school may attend public school. Also, local or regional boards of education possess the authority to suspend transportation to and from school for student misconduct while awaiting or receiving transportation.

If a local or regional board of education fails to furnish reasonable transportation or other school accommodations, then the parent, guardian, or student with legal standing has the right to initiate a hearing as summarized below.

B. Vocational (Transportation) – C.G.S. Section 10-97

1. *Connecticut Technical High School System*

The board of education of any town or regional school district shall provide the reasonable and necessary transportation for any pupil under twenty-one years of age who is not a graduate of a high school or vocational school and who resides with a parent or guardian in such town or regional school district or belongs to such town, and who attends a state or state approved vocational school as a regular all day pupil or a high school cooperative pupil. If reasonable and necessary transportation is denied, then the following rights are available:

Parents, guardians, pupils or veterans may appeal the actions of a board of education in the same manner as provided in 2010 Supp. Section 10-186.

Suspension from transportation services for improper conduct is not reviewable under Section 10-186.

The Commissioner may provide grants, in an amount not to exceed \$2,500 per pupil, to local and regional boards of education that transport students who previously attended J.M. Wright Technical High School in Stamford to Henry Abbott Technical High School in Danbury for fiscal years 2010 and 2011.

2. *Agricultural Science and Technology Education Center – C.G.S. Section 10-97*

Any local or regional board of education which does not furnish agricultural science and technology education shall designate a school or schools which a student may attend. The board of education making the designation shall pay the tuition and reasonable and necessary cost of transportation for a student attending the designated schools. The denial of the reasonable costs of transportation may be reviewable.

3. *Cap on Expenditures for Transportation – C.G.S. Section 10-97*

A board of education is not required to expend for transportation of a student to a Connecticut Technical High School or an Agricultural Science and Technology Education Center an amount greater than \$6,000 per school year. The questions of whether the board of education has made expenditures up to \$6,000 for costs of transporting students may be reviewable.

C. Residency – 2010 Supp. Section 10-186

A local or regional board of education is mandated to provide free school services to all school age children who are permanent residents of the town or school district. Sometimes the determination of permanent residency cannot be made easily by the responsible board of education. In order to make reasoned and correct determinations concerning permanent residency, a board of education may ask the parent, guardian or pupil eighteen years of age to provide documentation demonstrating residency. Copies of deeds, rental agreements, utility bills, tax bills, etc. may be requested. An affidavit signed by the persons relevant to the determination of permanent residency may be requested under certain circumstances.

If your child is presently enrolled in the school system where permanent residency is disputed by the school system, the provisions of Section 10-186 require the retention of the enrolled student when requested by the parents or guardians pending the hearing before the local or regional board of education and the subsequent appellate hearing before the State Board of Education. On the other

hand, if the child is not enrolled in the school system, the school system is not required to enroll the student in school.

If the local or regional school district denies access to school accommodations based on residency, then the parent, guardian or student with legal standing has the right to initiate a hearing as summarized below. The party denied schooling has the burden of proving permanent residency by a preponderance of evidence. This burden of proof always stays with the child in dispute. In other words, the board of education does not have to prove that the child is not a permanent resident. Since virtually every child located within the State of Connecticut will qualify for free public school attendance, the State Board of Education may exercise its authority to join at its hearing other local or regional boards of education as a party to a residency appeal.

The law defines residency for dwellings bordering on two or more town boundaries. By law, the child shall be a resident of each town in which the dwelling is located and may attend school in any one town. If the town boundary line crosses a property line, but does not cross the dwelling, then the residence does not border on the town line for purposes of dual residency.

C.G.S. Sections 10-76d(e) and 10-253, expressly address the responsibility of providing educational services for certain children and the obligation of a board of education or other public agency to pay the cost of the services provided. In general, these laws address the following conditions:

1. Children placed out by state agencies in various facilities or placements;
2. Children whose legal residence is in another state, and
3. Children residing with relatives or nonrelatives.

D. Voluntary Termination of Enrollment – 2010 Supp. Section 10-186

Whenever a student 16 years of age or older voluntarily terminates enrollment from school and subsequently seeks readmission, the school district may deny school accommodations for up to 90

school days from the date of such termination (half a school year). The question of whether the termination was voluntary may be reviewable.

Commencing with the school year beginning July 1, 2010, whenever a student 16 years of age or older voluntarily terminates enrollment in a school district and subsequently seek readmission not later than 10 days after termination, such board shall provide school accommodations to such child not later than 3 school days after the student seeks readmission. Commencing with the school year beginning July 1, 2011, whenever a child 17 years of age or older voluntarily terminates enrollment, the aforementioned rights to school accommodations are available to the student. If the student seeks readmission after 10 school days, such school district may deny school accommodations for the student up to 90 school days from the date of termination.

E. Reenrollment of Older Student – 2010 Supp. Section 10-220

Whenever a student who is 19 years of age or older reenrolls in school and it is determined by the local or regional board of education that the student cannot acquire sufficient credits for graduation by age 21, the board of education may place the student in an alternative school program or other suitable educational program instead of placing the student in the regular school program. The question of whether the determination by the board of education that the student cannot acquire sufficient credits to graduate may be reviewable under Section 10-186.

F. Charter School – 2010 Supp. Section 10-66ee

A local or regional board of education in which the charter school is located shall provide transportation services for students who are residents of the school district unless the charter school makes other arrangements for transportation. Any local or regional board of education may provide transportation services to a student attending a charter school outside of the district in which the student resides. Any board of education providing transportation service under the law, as amended, may suspend such transportation service to a student for improper conduct as permitted under disciplinary laws. The parent, guardian or student with legal standing may appeal the denial of required transportation services in the manner provided in Section 10-186.

G. Interdistrict Magnet School – 2010 Supp. Sections 10-264i and 10-264l

A local or regional board of education, a regional educational service center or a cooperative arrangement pursuant to C.G.S. Section 10-158a that transports a student to a magnet school in a district other than the district in which the student resides shall be eligible for a grant not to exceed \$1,300 per child for fiscal year 2010 and \$2,000 for fiscal year 2011 for the reasonable costs of transporting the student. Furthermore, nothing shall prevent a local or regional board of education, service center, or cooperative arrangement from receiving a grant reimbursement under Section 10-266m, for reasonable transportation expenses for which the board, service or cooperative arrangement is not reimbursed pursuant to Section 10-264i. If the magnet school is located in the town or regional school district in which the student resides, the local or regional board of education may make application for reimbursement under Section 10-266m for reasonable transportation expenses.

Each local or regional board of education in which the magnet school is located shall provide the same kind of transportation services as it provides for other public school students. The parent, guardian or student with legal standing may appeal the denial of transportation services in the manner provided in Section 10-186.

H. Cooperative Arrangements – 2010 Supp. Section 10-158a

Any two or more boards of education may, in writing, agree to establish cooperative arrangements to provide school accommodations and other services to enable such boards to carry out the duties specified in the general statutes. Any cooperative arrangement or any local or regional board of education which is a member of such cooperative arrangement which transports students to a school operated by the cooperative arrangement shall be reimbursed for such transportation expenses in accordance with C.G.S. Section 10-266m.

I. Open Choice Schools – C.G.S. Section 10-266aa

Within available appropriations, the State Department of Education may provide grants to Regional Education Service Centers for planning the expansion of the program to priority school districts. The law is intended to (1) improve academic achievement; (2) reduce racial, ethnic and economic isolation or preserve racial and ethnic balance; and (3) provide a choice of educational programs for students.

Students residing in Hartford, New Haven, New London or Bridgeport may attend school in another school district in the region and students residing in other districts may attend school in Hartford, New Haven, New London or Bridgeport. Each receiving school district shall receive an annual grant not to exceed \$2,500 for each participating student.

Regarding transportation, the State Department of Education shall provide grants to regional educational service centers, who assist in the operation of the program, or local or regional boards of education for the reasonable cost of transporting students participating in the program at an amount not to exceed a statewide average of \$3,250 per student. The State Department of Education shall set reasonable limits for the transportation of students participating in this program. Reasonable transportation shall be provided for school sponsored extracurricular activities at the high school level.

J. Homeless Children and Youth

The McKinney-Vento Homeless Assistance Act was reauthorized by the No Child Left Behind Act of 2001. See Title X, Part C, Education for Homeless Children and Youths Program. It is the policy of Congress that students in homeless situations should have access to the education and other services they need to ensure that they have an opportunity to meet the same challenging State student academic achievement standards to which all students are held.

Key provisions of the reauthorized Act requires school districts to remove barriers to their enrollment, attendance and success in school. The reauthorized Act establishes new duties for school

districts and new rights and protections for homeless children. The definition of homeless children and youths include, among other things, children and youth who are living in motels, hotels, trailer parks or camping grounds or are living with a friend, relative or someone else because of loss of housing, economic hardship or a similar reason. School districts must, to the extent feasible, keep students in homeless situations in their school of origin unless it is against the parent's or guardian's wishes. This includes the provision of transportation services to and from the school of origin which may be shared by the school districts effected. If a student is sent to a school other than the school of origin or the school requested by a parent or guardian, the school district must provide a written explanation of its decision and the right to appeal.

The Individuals with Disabilities Education Act (IDEA) amended by Public Law 108-446 addresses children and youth experiencing homelessness. The law contains a definition of homeless children that includes children and youth considered homeless under the McKinney-Vento Homeless Assistance Act. The term unaccompanied youth includes a youth not in the physical custody of a parent or guardian. IDEA requires the establishment of procedural safeguards by a local educational agency regarding the appointment of a surrogate for an unaccompanied homeless youth as defined in the McKinney-Vento Act. The individual assigned to act as a surrogate for the parents shall not be an employee of the local educational agency or any other agency that is involved in the education or care of the child or youth. Finally, the law requires that all homeless children and youth under the provisions of IDEA must receive initial evaluations within 60 days and be promptly provided special education services.

Regarding enrollment, school districts must immediately enroll students in homeless situations, even if they do not have required documents (proof of residency, medical records, etc.). If a student does not have immunizations or immunization or medical records, the designated homeless liaison of the school district must assist in obtaining the records and the student must be enrolled in school in the interim. Note that the U.S. Department of Education must publish school enrollment guidelines in the Federal Register. Also, said Federal Department must create a public notice of the educational rights of children and youth in homeless situations and disseminate such notice nationwide to other Federal agencies, programs and grantees.

Regarding transportation, the homeless student must be provided with transportation to and from their school of origin. If the student is living outside of the school district of the school of origin, the school district where the student is living and the school district of origin must determine how to divide the responsibility and cost of providing transportation, or they must share the responsibility and cost equally.

Regarding local subgrants, the State is required to award competitive subgrants to school districts based on need and quality of the application submitted. In determining the quality of applications, the State must consider the applicant's needs assessment; the types, intensity, and coordination of services; the involvement of parents or guardians; the integration of homeless children into the regular program; the quality of the applicants evaluation plan; coordination with other available services; and other measures.

K. Sheff v. O'Neill

1. *In General*

The General Assembly has approved a Stipulation and Order establishing a comprehensive approach to address desegregation goals for the public schools in Hartford. Laws were enacted addressing a number of areas to accomplish these goals. This comprehensive approach provides for the establishment of new interdistrict magnet schools including operating, construction and transportation grants, expansion of school choice options, provision of new transportation grants for other school choice options and establishment of cooperative program management. Furthermore, the law expands the types of entities eligible for construction and operation of interdistrict magnet schools.

2. *Connecticut Technical High School System*

As part of the school choice options, the law allows the Commissioner of Education to provide grants, not to exceed \$2,000 per pupil, to boards of education and regional educational service centers for transporting pupils out-of-district to the CTHSS to assist the State in meeting the Sheff goals.

3. *Agricultural Science and Technology Center*

As part of the school choice options, the Commissioner of Education may provide to regional agricultural science and technology centers the same transportation grants as provided above in paragraph 2.

4. *Interdistrict Magnet School*

Entities that are eligible for interdistrict magnet school operating grants and transportation grants include the Boards of Trustees of the Community-Technical Colleges, the Connecticut State University System and the University of Connecticut, the board of governors for an independent college or university and other third-party, not-for-profit corporations approved by the Commissioner of Education. The aforementioned entities are in addition to the current entities which include, but are not limited to, local and regional boards of education, regional education service centers and cooperative arrangements.

Also, the law expands the types of entities that are eligible for school construction grants to include the same entities listed above regarding school operating grants and transportation grants.

Recent amendments increase the per pupil grant for transportation for students attending magnet schools in the Sheff region to \$1,400 for fiscal year 2010 and \$2,000 for fiscal year 2011.

5. *Open Choice School*

The Commissioner of Education may provide grants for pupils in the Hartford Open Choice program to participate in preschool programs and, within available appropriations, for academic support for pupils in Open Choice programs that assist the State in meeting the Sheff goals.

6. *Charter School*

Within available appropriations, the state may provide grants for start-up costs associated with new charter schools that assist the State in meeting the Sheff goals.

II. PRIVATE SCHOOLS (TRANSPORTATION) – 2010 Supp. Section 10-281

C.G.S. Section 10-281 requires the municipality or school district to provide for its children attending private schools therein, not conducted for profit, when a majority of the children attending such school are from the State of Connecticut, the same kind of transportation services provided for its children attending public schools. If transportation is denied, then the following rights are available:

Any parent or guardian of a student who is denied the same kind of transportation services may seek a hearing in the same manner as provided for parents of public school children.

III. DUE PROCESS HEARING – 2010 Supp. Section 10-186

A review of the denial of school accommodations is available to certain parties. A hearing may be requested by a parent, guardian, emancipated minor or pupil eighteen years of age or older. Pursuant to 2010 Supp. Section 10-186 the hearing before the local or regional board of education may be heard by either the majority of the board, subcommittee of three members or an impartial hearing board established by the board of education. The decision of the board, subcommittee or impartial hearing board is a final decision which may be appealed to the State Board of Education in accordance with the procedures set forth below in accordance with paragraphs 7-9, inclusive.

A parent, guardian, emancipated minor or pupil eighteen years of age is entitled to a hearing in accordance with C.G.S. Sections 4-176e to 4-180, inclusive, and 4-181a as follows:

1. The local or regional board of education shall give such parent, guardian, or student with legal standing notice of the right to request a hearing concerning the denial of school accommodations by such board;
2. Parents, guardians, or the student with legal standing may, in writing, request a hearing before the board of education; (Note that the transportation policy and the residency policy of the board of education are accessible under the Freedom of Information Act.)
3. Parents, guardians, or the student with legal standing, shall receive a hearing within ten days of the receipt of the request to the board of education and reasonable notice shall be provided. Pursuant to C.G.S. Section 10-15b(b), the parent or guardian with whom the student does not primarily reside shall be provided with all school notices in the same manner that are provided to the other parent or guardian;
4. An opportunity to respond and present evidence and argument on all issues involved shall be provided;
5. An opportunity to examine all documentary evidence shall be provided;
6. Cross-examinations required for a full and true disclosure of the facts shall be provided;
7. A decision from the board of education shall be rendered with ten days after the conclusion of the hearing;
8. Parents, guardians, or the student with legal standing shall, upon request, be provided with a transcript of the hearings within thirty days of such request. (Note that it is the practice of the State Department of Education to enable an appellant to appeal a decision of a local or regional board of education without requiring a transcript of a hearing. The provision of a copy of the tape recording of the hearing is sufficient.);
9. Parents, guardians, or the student with legal standing, may take appeal therefrom to the State Board of Education within twenty days of the mailing of the decision by the local or regional board of education. If the appeal is not made within twenty days, then the decision becomes final; and

10. Parents, guardians or the student with legal standing aggrieved by the decision of the State Board of Education may take appeal therefrom to the Superior Court as provided in C.G.S. Section 10-187 and may file with the State Board of Education within fifteen days after the personal delivery or mailing of the final decision, a petition for reconsideration of the final decision pursuant to and in accordance with C.G.S. Section 4-181a.

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