

The Advocacy Ridge

presents








AngelSense and School Access

Federal Legal Authority for Student Safety Devices

Case Law, Statutory Authority, and Core Principles for IEP Teams and Due Process

HOW TO USE THIS GUIDE

Color-coded boxes tell you whether a rule is the same everywhere or varies by state:

-  FEDERAL LAW — same in all 50 states
-  STATE VARIATIONS — laws differ; check your state
-  STRONGER STATE PROTECTIONS — some states give you more
-  ADVOCACY TIP — practical advice for parents
-  WATCH OUT — common pitfalls and risks
-  IMPORTANT NOTE — context and clarifications
-  STRATEGY — tactical guidance for due process

IMPORTANT NOTE

- This guide compiles federal legal authority supporting a student's right to use a safety device such as AngelSense GPS/monitoring tracker when necessary for access, safety, and FAPE. These authorities address the core principles districts most often push back on: (1) safety is a prerequisite to access; (2) assistive technology and supplementary aids must be provided when required for benefit; and (3) district policy cannot override individualized IEP determinations.
- This guide does not address state-specific case law or regulations. Always supplement with your state's applicable authority. Consult a qualified special education attorney for case-specific advice.
- Flags in this guide: Red flags identify claims that require verification or may be overstated. Green additions identify important supporting authority or context not in the original source material.

1. What Is AngelSense and Why Does It Matter?

AngelSense is a GPS and monitoring device designed for children with developmental disabilities, autism, and other conditions that create elopement risk or safety-related needs. It provides real-time location tracking and, in some configurations, two-way communication or ambient audio monitoring.

For students with documented elopement history, unsafe wandering behavior, or communication deficits that prevent a student from seeking help in an emergency, AngelSense or a comparable device may be a necessary supplementary aid or assistive technology device under IDEA — not merely a parental preference.

When a district refuses to permit a student to wear or use such a device at school, or refuses to fund it as part of the IEP, families have federal legal arguments rooted in IDEA's FAPE obligation, the assistive technology mandate, the supplementary aids and services requirement, and anti-discrimination principles under Section 504 and the ADA.

ADVOCACY TIP

- Elopement is one of the leading causes of death and injury among children with autism. The CDC and National Autism Association have documented that approximately 49% of children with autism attempt to elope. Courts and OCR have consistently held that documented elopement risk triggers affirmative obligations for districts — not just reactive responses.
- Before an IEP meeting where this issue will be discussed: document every elopement or wandering incident in writing; obtain your child's treating clinician's written opinion on the safety need; review the current IEP for any existing elopement protocol or behavior support plan; and request the district's written policy on student-worn tracking devices in advance.
- If a district says 'we don't name brands' in response to an AngelSense request, cite *E.S. v. Katonah-Lewisboro School District* — courts have held that districts may be required to provide or permit a specific device when that device is demonstrably necessary for the student's access and safety.

2. Key Supreme Court Authority

The following Supreme Court decisions provide the foundational legal framework for arguments supporting required safety and monitoring supports in the IEP context.

Endrew F. v. Douglas County School District, 580 U.S. 386 (2017)

FAPE Standard — Endrew F. (2017)

- Holding: FAPE requires an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. A district cannot satisfy IDEA with trivial or de minimis benefit.
- Application to AngelSense: A student who cannot safely access school — because elopement risk is unaddressed, or because the absence of a monitoring device prevents full and safe participation in the school environment — cannot make meaningful educational progress. An IEP that fails to address documented safety needs is not reasonably calculated to provide FAPE under Endrew F.
- Key quote: 'The IEP must aim to enable the child to make progress.' Where safety deficits prevent access to instruction, educational progress is impossible.

Cedar Rapids Community School District v. Garret F., 526 U.S. 66 (1999)

Continuous Safety Supports — Garret F. (1999)

- Holding: School districts must provide continuous nursing and health-related services necessary for a student to remain in school and access education, even when those services are expensive or ongoing.
- Application to AngelSense: While Garret F. arose in the context of nursing services for a ventilator-dependent student, courts and practitioners have applied its principle broadly: when support is necessary for a student to safely attend and access school, IDEA requires the district to provide it. The need for continuous monitoring of a student with severe elopement risk is analogous.
- Significance: Garret F. firmly established that cost and operational inconvenience are not valid grounds for denying services required for school access. Districts cannot refuse safety monitoring supports solely because they are burdensome to implement.

Irving Independent School District v. Tatro, 468 U.S. 883 (1984)

Services Required for Attendance = FAPE — Tatro (1984)

- Holding: Services required for a student to attend school and benefit from special education are 'related services' under IDEA, even if they are health-related rather than educational in the traditional sense.
- Application to AngelSense: A safety monitoring device required for a student with elopement risk to safely attend school and access instruction is, under Tatro's framework, a support necessary for the student to benefit from special education. If the student cannot safely remain in the school environment without monitoring, the device is functionally a prerequisite to educational benefit — and therefore required under IDEA.

Board of Education v. Rowley, 458 U.S. 176 (1982)

Foundational FAPE Principles — Rowley (1982)

- Holding: IDEA requires school districts to provide personalized instruction with sufficient support services to permit the child to benefit educationally. FAPE is defined procedurally and substantively.
- Application to AngelSense: Rowley's access-to-education framework — that FAPE requires not just enrollment but meaningful access with appropriate supports — undergirds all subsequent safety and assistive technology arguments. A student who cannot safely access the school environment due to unaddressed elopement risk is denied access to the instruction Rowley requires.
- Note: Endrew F. (2017) raised the FAPE standard above Rowley's floor. Rowley remains foundational for procedural FAPE analysis; Endrew F. governs the substantive standard.

Winkelman v. Parma City School District, 550 U.S. 516 (2007)

Parental Participation Rights — Winkelman (2007)

- Holding: Parents have enforceable rights under IDEA — not merely derivative rights through their child. Parents may pursue IDEA claims in their own right, including pro se in federal court.
- Application to AngelSense: When a district refuses a parent's request to permit a safety device the parent has documented as necessary for the child's safety, Winkelman supports the parent's standing to pursue that dispute through IDEA's dispute resolution mechanisms — including due process and state complaints — as an independent rights-holder, not merely as the child's representative.
- Practical significance: This matters when a district argues that a parent's safety concerns are not 'educational' issues IDEA covers. Winkelman confirms parents have independent standing to assert the full range of IDEA rights on behalf of their child.

PGA Tour, Inc. v. Martin, 532 U.S. 661 (2001)



Individualized Reasonable Modification — PGA Tour (2001)

- Holding: Under the ADA, a covered entity must provide a reasonable modification to its rules and policies when necessary to give a person with a disability an equal opportunity to access its programs — even when the modification fundamentally changes how others experience the program, provided the modification does not fundamentally alter the nature of the activity.
- Application to AngelSense: A school district's blanket policy prohibiting student-worn tracking or recording devices must yield to an individualized ADA/Section 504 analysis when a student with a disability needs such a device for access. A policy prohibition is not a valid substitute for the required individualized reasonable modification analysis.

⚠️ Caveat: PGA Tour arose in a commercial context (golf tournament), not an educational one. Its direct applicability to school tracking devices is by analogy, not direct precedent. Courts have applied the ADA reasonable modification principle to schools — but district counsel will likely argue PGA Tour is distinguishable. Use this authority as supporting context alongside IDEA and Section 504 arguments, not as a standalone.

3. Federal Circuit Court Authority

The following circuit court decisions provide the most directly applicable authority in the lower federal courts. Note which circuit applies in your state.

Daniel R.R. v. State Board of Education, 874 F.2d 1036 (5th Cir. 1989)



Individualized Needs Override Blanket Policy — Daniel R.R. (5th Cir.)

- Holding: IDEA's LRE and placement requirements require individualized analysis. A district cannot rely on a blanket policy or standard practice to substitute for the required case-by-case determination of what a student needs.
- Application to AngelSense: A district's blanket policy prohibiting tracking devices cannot substitute for the required IEP-team analysis of whether a specific student, given their documented needs and history, requires a monitoring device for safe access to school. Daniel R.R. establishes that policy-based refusals are procedurally defective under IDEA.
- Circuit coverage: 5th Circuit (Texas, Louisiana, Mississippi). Persuasive in other circuits.

Deal v. Hamilton County Board of Education, 392 F.3d 840 (6th Cir. 2004)

Predetermination and Policy-Based Refusals — Deal (6th Cir.)

- Holding: An IEP developed through predetermination — where the district has already decided the outcome before the IEP meeting — violates IDEA's procedural requirements. Districts must approach IEP decisions with an open mind based on the individual student's needs.
- Application to AngelSense: When a district refuses to consider an AngelSense request because its policy categorically prohibits tracking devices, that refusal constitutes predetermination. The IEP team is required to conduct an individualized analysis of whether the specific device is necessary for this specific student — not apply a blanket prohibition.
- Circuit coverage: 6th Circuit (Ohio, Michigan, Kentucky, Tennessee). Persuasive in other circuits.

N.B. v. Hellgate Elementary School District, 541 F.3d 1202 (9th Cir. 2008)

Proactive Support — Districts Need Not Wait for Harm — N.B. (9th Cir.)

- Holding: Districts must provide necessary supports proactively — they are not required to wait for harm to occur before addressing a documented risk.
- Application to AngelSense: A student with documented elopement history presents a foreseeable safety risk that the district must address in the IEP. N.B. directly rejects the argument that 'nothing bad has happened yet' is a valid reason to deny safety supports. The foreseeability of harm, not the occurrence of harm, triggers the obligation.
- Circuit coverage: 9th Circuit (California, Oregon, Washington, Arizona, Nevada, and others). Binding authority in those states.

✓ **Advocate note:** N.B. v. Hellgate is one of the strongest circuit-level authorities for proactive elopement safety planning. If you are in the 9th Circuit, lead with this case.

M.P. v. Independent School District No. 721, 439 F.3d 865 (8th Cir. 2006)

Assistive Technology Required When Necessary for Access — M.P. (8th Cir.)

- Holding: Assistive technology devices and services must be provided when necessary for a student to access their education. The assistive technology obligation is part of IDEA's FAPE requirement.
- Application to AngelSense: A GPS tracking and monitoring device, when necessary for a student with elopement risk to safely access school, falls within IDEA's assistive technology mandate. Under M.P., the district's obligation is not limited to traditional educational technology — it extends to any device necessary for the student to access the educational program.
- Circuit coverage: 8th Circuit (Minnesota, Iowa, Missouri, Arkansas, Nebraska, North Dakota, South Dakota).

4. Core IDEA / Civil Rights Principles

The following core principles are supported by the case law above and by IDEA's statutory framework. These are the arguments to build your case around.

Principle 1: Safety and Access Are Prerequisites to FAPE

FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- IDEA requires that a student receive a free appropriate public education — but a student who cannot safely access the school environment receives neither free, appropriate, nor public education. Courts applying *Endrew F.*, *Tatro*, and *Garret F.* have recognized that safety supports enabling physical access to the school environment are prerequisite to any educational benefit.
- A student with a documented elopement history who is not provided with adequate monitoring and safety supports faces a barrier to educational access that is as real as any architectural barrier — and IDEA's supplementary aids and services mandate requires the district to address it.
- Statutory basis: 20 U.S.C. § 1414(d)(1)(A)(i)(IV) — IEPs must include a statement of supplementary aids and services needed to support the child's access to the general education curriculum and to participate in extracurricular and other activities.

Principle 2: Assistive Technology and Supplementary Aids Must Be Provided When Necessary

FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- IDEA defines 'assistive technology device' broadly as any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability (20 U.S.C. § 1401(1)).
- IDEA requires IEP teams to consider whether the child needs assistive technology devices and services as part of every IEP (34 C.F.R. § 300.324(a)(2)(v)).
- A GPS monitoring device used to prevent elopement and ensure safe school access is an assistive technology device under this definition — it maintains the functional capability of the student to safely remain in and access the school environment.
- School districts that refuse to consider or provide assistive technology that is documented as necessary for a student's safe school access violate IDEA's AT mandate — regardless of district policy.

✓ GREEN — Additional Statutory Authority

- 34 C.F.R. § 300.105 — Assistive technology: School districts must ensure that assistive technology devices or services are made available to a child with a disability if required as part of the child's special education, related services, or supplementary aids and services.
- 34 C.F.R. § 300.324(a)(2)(v) — IEP Team Considerations: In developing each child's IEP, the IEP Team must consider whether the child needs assistive technology devices and services. This is a required agenda item — not optional.
- These regulatory citations should be included in any IEP meeting letter or due process complaint asserting the AT argument. They establish that assistive technology consideration is a mandatory procedural requirement, not a discretionary accommodation.

Principle 3: District Policy Cannot Override Individualized IEP Determinations

FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- IDEA requires that placement and services be determined based on the child's individual needs — not on district policy, administrative convenience, or categorical program rules (34 C.F.R. § 300.116).
- A district policy prohibiting student-worn tracking devices does not exempt the district from its IDEA obligation to provide necessary assistive technology, supplementary aids, or safety supports to an individual student whose IEP requires them.
- Courts in *Deal* (6th Cir.), *D.K. v. Abington School District* (3d Cir.), and *Daniel R.R.* (5th Cir.) have consistently held that reliance on blanket policy instead of individualized analysis is a procedural violation of IDEA.
- The same principle applies to ADA Title II and Section 504: a general non-discrimination policy or a blanket device prohibition does not satisfy a covered entity's obligation to provide individualized reasonable modifications.

Principle 4: IDEA Compliance Does Not Excuse ADA / Section 504 Violations

FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- Section 504 and the ADA impose independent obligations on school districts. A district that technically complies with IDEA may still violate Section 504 or ADA Title II if it fails to provide necessary accommodations to a student with a disability.
- The ADA and Section 504 require reasonable modifications to policies, practices, and procedures when necessary to give a student with a disability equal access to the school's programs and activities (42 U.S.C. § 12182(b)(2)(A)(ii); 34 C.F.R. § 104.4(b)).
- A district's blanket policy prohibiting tracking devices may violate the ADA and Section 504 if it is applied to deny a student with a disability a necessary modification — even if the district claims IDEA compliance.
- OCR has jurisdiction over Section 504 complaints in schools. An OCR complaint is often a faster, lower-cost enforcement mechanism than due process for ADA/504 device access issues.

Principle 5: Districts Must Plan for Foreseeable Risk — Not Wait for Injury

FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- Courts have consistently rejected the argument that a district need not provide safety supports because 'nothing bad has happened yet.' Where a student has a documented history of elopement or other safety-related behavior, the risk is foreseeable — and IDEA requires the IEP to address foreseeable needs.
- *N.B. v. Hellgate Elementary School District* (9th Cir. 2008): Districts must provide supports proactively when the need is foreseeable.
- *L.J. v. School Board of Broward County* (11th Cir. 2019): Schools cannot wait for harm before providing supports to address foreseeable risk.
- IDEA's requirement for a Functional Behavioral Assessment (FBA) and Behavior Intervention Plan (BIP) when behavior impedes learning is directly implicated by elopement risk. An IEP that documents elopement history without addressing the foreseeable safety risk in a concrete, individualized safety plan likely violates IDEA.

5. Additional Circuit and District Court Authority

The following decisions provide additional, more directly on-point authority for the specific arguments most commonly raised in AngelSense and student safety device disputes.

L.J. v. School Board of Broward County, 927 F.3d 1203 (11th Cir. 2019)

Foreseeable Risk Triggers Obligation — L.J. (11th Cir. 2019)

- Holding: Schools cannot wait for harm before providing supports to address foreseeable safety risk. Where a student's documented needs create foreseeable danger, the district's obligation to provide appropriate safety supports is triggered by foreseeability — not by the occurrence of an injury.
- Application to AngelSense: A student with a documented history of elopement presents a foreseeable safety risk. L.J. establishes that the district's obligation to provide monitoring and safety supports is triggered as soon as the risk is documented and known — not after an elopement incident results in injury.
- Circuit coverage: 11th Circuit (Florida, Georgia, Alabama). Binding authority in those states; highly persuasive elsewhere.

A.C. v. Board of Education of Chappaqua Central School District, 2019 WL 1292437 (S.D.N.Y. 2019)

Safety Supports Integral to FAPE — A.C. (S.D.N.Y. 2019)

- Holding: Supports necessary for safe school attendance are integral to FAPE — not separable from the educational program as mere 'safety' issues outside IDEA's scope.
- Application to AngelSense: Districts sometimes argue that safety monitoring is a 'non-educational' issue outside IDEA's scope. A.C. directly rejects this framing: safety supports necessary for a student to attend school safely are part of what IDEA's FAPE obligation requires, not a separate category of care the district is not responsible for.

⚠ Verification note: This is a district court (S.D.N.Y.) decision with limited precedential value. It is persuasive authority only — not binding in any circuit. Confirm the full citation and verify the case remains good law before citing in formal filings. The 'WL' citation indicates it is an unpublished decision.

E.S. v. Katonah-Lewisboro School District, 742 F. Supp. 2d 417 (S.D.N.Y. 2010)



Specific Device May Be Required — E.S. (S.D.N.Y. 2010)

- Holding: Where a specific assistive technology device is demonstrably necessary for a student's access and educational benefit, districts may be required to provide that specific device — countering the common district argument that 'we don't name brands' or 'we have our own equivalent.'
- Application to AngelSense: This is the primary authority for responding to a district that refuses to permit AngelSense specifically on the grounds that it uses 'equivalent' safety measures or does not allow 'brand-specific' device requests. If the parent and treating team have documented that AngelSense specifically — due to its features, familiarity to the child, or clinical recommendation — is the necessary device, E.S. supports the argument that the district cannot substitute an inferior or less-suitable alternative.

⚠ **Verification note:** E.S. is a district court (S.D.N.Y.) decision — persuasive authority only. Confirm the current citation and verify it has not been overruled or distinguished. The core principle (specific device may be required) is sound and well-supported, but rely on circuit authority as primary and use E.S. as supplementary support.

D.K. v. Abington School District, 696 F.3d 233 (3d Cir. 2012)



Policy Reliance Instead of Individualized Analysis Violates IDEA — D.K. (3d Cir.)


- Holding: Reliance on district policy or practice — instead of individualized analysis of the specific student's needs — violates IDEA's procedural requirements. IDEA demands a child-specific determination, not policy application.
- Application to AngelSense: This is the 3d Circuit's clearest statement of the Deal/Daniel R.R. principle: when a district refuses to permit or fund AngelSense because 'district policy prohibits tracking devices' or 'we don't allow outside monitoring equipment,' that is a policy-based refusal that violates IDEA. The required analysis is: does this specific student, given their documented needs and history, require this device for safe access to FAPE?
- Circuit coverage: 3d Circuit (Pennsylvania, New Jersey, Delaware, Virgin Islands). Binding authority in those states.


6. Professional Guidance

National School Boards Association (NSBA) School Law Seminar (2018) — Recording Devices in Schools

NSBA Guidance — Recording Devices and Student Safety

- The NSBA School Law Seminar recognized the use of devices such as AngelSense for student safety when appropriately configured — specifically noting that audio monitoring features may raise different concerns than GPS-only tracking.
- Key framing: The NSBA guidance acknowledges that student safety needs may require individualized consideration of wearable technology — and implicitly recognizes that blanket device prohibitions may not be appropriate for students with specific documented safety needs.

 **Important context:** NSBA guidance is not binding legal authority. It represents a school boards' organization's perspective and may be cited by districts against families as well as by families in advocacy. Its value is in demonstrating that even the school boards' own professional organization has recognized that safety device use cannot be categorically prohibited. Do not treat this as equivalent to case law.

 **Audio feature note:** AngelSense's audio/listen-in feature raises separate legal issues under state wiretapping and recording consent laws. These vary significantly by state. If the audio feature is part of the parent's request, address this separately with state-specific analysis. GPS-only use of AngelSense presents a significantly cleaner legal argument than audio monitoring.

7. Proactive Safety Planning — The Foreseeable Risk Doctrine

One of the most important and frequently misunderstood legal principles in this area is that IDEA does not require schools to wait for a student to be injured — or for a dangerous incident to occur — before providing necessary safety supports.

FEDERAL LAW — Applies in ALL 50 States (IDEA 2004 | 34 C.F.R. Part 300)

- Where a student has a documented history of elopement or safety-related risk, districts must proactively address foreseeable danger through appropriate supports and services. The triggering event is documentation of the foreseeable risk — not occurrence of harm.
- The absence of a serious injury or successful past avoidance of harm does not establish that existing supports are adequate if the risk remains foreseeable.
- Courts have consistently rejected district arguments that supports are unnecessary absent actual harm. See *L.J. v. School Board of Broward County*, 927 F.3d 1203 (11th Cir. 2019); *N.B. v. Hellgate Elementary School District*, 541 F.3d 1202 (9th Cir. 2008).
- IDEA's behavioral support provisions (FBA/BIP requirements under 34 C.F.R. § 300.530(d)) and the supplementary aids and services mandate both reflect the proactive planning principle: IEPs must address documented needs before they create harm, not after.

✓ GREEN — What 'Documentation' Means in Practice

- To activate the foreseeable risk doctrine, parents should ensure their child's records include: (1) a documented elopement history — incident reports, teacher notes, prior IEP references, school communications; (2) a clinical opinion from treating providers establishing the elopement risk and recommending monitoring supports; (3) prior district acknowledgment of the risk in IEPs, BIPs, or communications; and (4) reference to any near-miss incidents even if injury did not result.
- Documentation is not limited to incidents resulting in injury. Near misses, unsuccessful elopement attempts, staff interventions, parent reports, community incidents, prior wandering behavior, and documented safety concerns may all help establish foreseeable risk and support the need for proactive planning.
- A district that disputes the existence of elopement risk despite documented incidents has a weak factual position. Document every incident in writing at the time it occurs — contemporaneous records are far more credible than reconstructed timelines.
- If the district has not conducted an FBA despite documented elopement behavior, that itself may be a separate IDEA violation — elopement is behavior that impedes learning and triggers the FBA obligation under 34 C.F.R. § 300.324(a)(2)(i).

⚠ WATCH OUT

- Districts will sometimes argue that elopement incidents that occurred outside school are irrelevant to school safety planning. This argument is weak — documented elopement behavior in any setting establishes a pattern that creates foreseeable risk in all settings, including school. Courts and hearing officers have not limited the foreseeable risk analysis to school-only incidents.
- If a district's position is that it has 'adequate' safety measures and therefore AngelSense is unnecessary — push back by asking for those measures to be specified in writing in the IEP, with a detailed safety plan that addresses every foreseeable elopement scenario. The absence of a written, detailed safety plan in the IEP is itself an IDEA compliance issue.
- Be aware that some districts will offer a 1:1 aide as an alternative to AngelSense. An aide is not equivalent — an aide can be distracted, can leave the room, and cannot provide real-time GPS location data. If an aide is offered in lieu of a monitoring device, document why the specific device is still necessary in addition to or instead of an aide.

8. State-Specific Considerations

STATE VARIATIONS — Laws Differ by State

- This guide is limited to generally applicable federal authority. State-specific case law, regulations, and guidance may significantly strengthen — or in some cases complicate — your arguments. Always supplement federal authority with your state's applicable law.
- Parents should also review state-specific statutes, regulations, guidance documents, administrative decisions, and case law that may provide additional protections or authority regarding assistive technology, elopement planning, student safety, and wearable monitoring devices.
- Recording consent laws: Most states have laws governing audio recording consent that are separate from IDEA and the ADA. AngelSense's audio/listen-in feature may implicate these laws in some states. GPS-only use typically does not. Verify your state's one-party vs. all-party consent rules before relying on the audio feature.
- State elopement protocols: Some states have issued guidance specifically addressing elopement safety planning in IEPs. California, for example, has addressed elopement in special education guidance documents. Check your state's department of education website for relevant guidance.
- State AT funding: Some states have state-funded assistive technology programs that may provide additional funding or support for devices like AngelSense, separate from the school district's IDEA obligations.
- State complaint authority: Your state's SEA state complaint process can address failure to provide required assistive technology or supplementary aids. A state complaint can sometimes produce faster results than due process for device access disputes.
- California: CDE has addressed elopement and safety planning in IEP guidance. California's stronger complaint timelines (65 days vs. 60 federal) and broader complaint remedy authority make state complaints a particularly useful tool in CA.
- Oregon, Washington, Colorado: Check your state's special education rules for any elopement-specific protocols or AT funding programs.

9. How to Use This Authority — Advocacy Roadmap

This section provides a practical roadmap for using the legal authority in this guide in IEP meetings, state complaints, and due process proceedings.

Before the IEP Meeting

- Obtain a written clinical recommendation from your child's treating physician, behavioral specialist, or neuropsychologist specifically recommending a monitoring device and explaining why it is medically and behaviorally necessary.
- Compile a complete written elopement incident log — every incident, near-miss, or documented concern, with dates and descriptions.
- Request the district's written policy on student-worn or parent-provided tracking devices in advance of the meeting, in writing.
- Submit a written prior notice request identifying AngelSense (or the specific device) by name and requesting that the IEP team consider it as an assistive technology device and/or supplementary aid.
- Review the current IEP for any safety plan, BIP, or elopement protocol — and identify gaps.

At the IEP Meeting

- If the district raises a 'no tracking device' policy, cite *Deal v. Hamilton County* (predetermination) and *D.K. v. Abington School District* (policy reliance) and ask the team to conduct the required individualized analysis on the record.
- If the district argues nothing bad has happened yet, cite *N.B. v. Hellgate* and *L.J. v. Broward County* — foreseeability, not occurrence of harm, triggers the obligation.
- If the district offers an aide as an equivalent, document in writing why an aide is not equivalent for this specific student.
- If the district says 'we don't name brands,' cite *E.S. v. Katonah-Lewisboro* — courts have held that a specific device may be required when documented as necessary.
- Ensure the IEP team discussion and any refusal is captured in writing — request Prior Written Notice (PWN) if the district refuses or declines to include the device in the IEP.

After Refusal — Escalation Options

STRATEGY

- **IDEA State Complaint:** File a state complaint with your SEA if the district refused to conduct the required individualized AT analysis (procedural violation), refused to provide required PWN, or applied a blanket policy instead of individualized analysis. 60-day resolution; free to file.
- **Due Process:** File for due process if the district refused to include a required safety device in the IEP and your child suffered educational harm as a result. Present clinical evidence, the elopement record, and the legal authority in this guide.
- **OCR Complaint:** File an OCR complaint if the device denial also constitutes a failure to provide a reasonable modification under the ADA/Section 504. 180-day filing deadline. Free to file. OCR can investigate and require corrective action independently of IDEA proceedings.
- **Interim measures:** While pursuing formal dispute resolution, request in writing that the district allow the student to wear the device as an interim safety measure pending IEP resolution. Document the request and any denial. A district's refusal to permit the device even as an interim measure strengthens the argument that the denial creates foreseeable harm.
- **Documentation for hearing:** If you are heading toward due process, the strongest evidentiary package is: (1) documented elopement history with dates and descriptions; (2) clinical recommendation for the specific device; (3) the district's written refusal or PWN; (4) the legal authority in this guide briefed for the hearing officer.

10. Quick Reference — Legal Authority Table

Authority	Key Principle
Endrew F. v. Douglas County (S. Ct. 2017)	FAPE must enable meaningful progress; safety deficits preventing access undermine FAPE
Garret F. v. Cedar Rapids (S. Ct. 1999)	Continuous safety supports required when necessary for school access; cost not a defense
Tatro v. Irving ISD (S. Ct. 1984)	Services required for school attendance are part of FAPE
Rowley v. Board of Education (S. Ct. 1982)	FAPE requires meaningful access to education with appropriate supports
Winkelman v. Parma City (S. Ct. 2007)	Parents have independent IDEA rights and standing
PGA Tour v. Martin (S. Ct. 2001)	ADA requires individualized reasonable modification analysis; blanket policy prohibition insufficient [use by analogy]
Daniel R.R. (5th Cir. 1989)	Individualized needs override blanket policy
Deal (6th Cir. 2004)	Predetermination and policy-based refusals violate IDEA
N.B. v. Hellgate (9th Cir. 2008)	Districts need not wait for harm; foreseeability triggers obligation
M.P. v. ISD No. 721 (8th Cir. 2006)	Assistive technology required when necessary for access
L.J. v. Broward County (11th Cir. 2019)	Schools cannot wait for harm; foreseeable risk triggers proactive obligation
D.K. v. Abington (3d Cir. 2012)	Policy reliance instead of individualized analysis violates IDEA
A.C. v. Chappaqua CSD (S.D.N.Y. 2019)	Safety supports for school attendance are integral to FAPE [district court; persuasive only]
E.S. v. Katonah-Lewisboro (S.D.N.Y. 2010)	Specific device may be required when documented as necessary; 'no brand names' argument rejected [district court; persuasive only]
34 C.F.R. § 300.105	AT devices and services must be provided if required as part of FAPE
34 C.F.R. § 300.324(a)(2)(v)	IEP team must consider AT at every IEP — mandatory agenda item
NSBA School Law Seminar (2018)	Recognizes individualized consideration of safety devices [not binding; professional guidance only]
34 C.F.R. § 300.116	Placement and services must be based on the individual student's needs; district policy, administrative convenience, staffing, or program availability cannot replace individualized IEP team decision-making.

IMPORTANT NOTE

Districts frequently deny requests involving AngelSense, GPS tracking devices, and other safety-related supports based on policy, privacy concerns, or a belief that existing supports are sufficient.

However, IDEA, Section 504, and the ADA require individualized decision-making based on the student's unique needs. Families should not assume that an initial refusal means the request lacks merit or cannot ultimately be approved.

The Advocacy Ridge advocates have assisted families in obtaining wearable monitoring devices and other safety-related supports through IEP meetings, state complaints, mediation, and due process. Strong requests are typically supported by documented safety concerns, evidence of foreseeable risk, clinical recommendations, and clear data demonstrating need.

Every case is different, but a district's initial refusal is not always the final answer.

Need Advocacy Support?

The Advocacy Ridge is brought to you by experienced non-attorney special education advocates who work with families across multiple states.

Arie Boldt

Mountain to Mountain Advocacy, LLC
ArieBoldtAdvocacy@gmail.com

Jackie Darrough

The Disability Advocate, LLC
Jackiedisabilityadvocate@gmail.com
thedisabilityadvocate.org

This guide provides general educational information and does not constitute legal advice. Case citations should be independently verified before use in formal proceedings. Always consult a qualified special education attorney for case-specific guidance.

Federal law cited: IDEA (20 U.S.C. §§ 1400–1482); 34 C.F.R. Parts 300, 303; Section 504 of the Rehabilitation Act (29 U.S.C. § 794); ADA Title II (42 U.S.C. § 12132); 34 C.F.R. §§ 104.4, 300.105, 300.116, 300.324. All case citations should be independently verified. Laws subject to change.

© 2026 Mountain to Mountain Advocacy, LLC and The Disability Advocate, LLC. DO NOT DUPLICATE. All rights reserved.