

SPECIAL EDUCATION TRANSPORTATION

Legal Requirements Regarding Special Education Transportation

Education Code Section 56040(a) states: "Every individual with exceptional needs, who is eligible to receive special education instruction and related services under this part, shall receive that instruction and those services at no cost to his or her parents or, as appropriate, to him or her." Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education [34 CFR 300.34(a)]. Transportation as a related service includes travel to and from school and between schools, travel in and around school buildings; and specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability [34 CFR 300.34(c)(16i-iii)].

LEAs/districts should not automatically assign students to transportation based on the students' disability without considering the students' individual needs and the continuum of placements [Hopkinton (MA) Pub. Schs., [108 LRP 41626](#) (OCR 2007)].

For students with medical needs, 34 CFR 300.34(a)(ii) limits the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school.

Length of School Day, Related Services, Extracurricular Events

The use of alternative starting times for all special education students at a site can lead to program compliance concerns. Pupils receiving special education and related services must be provided with an educational program in accordance with their Individualized Education Program (IEP) for at least the same length of time as the regular school day for their chronological peer group, unless otherwise stated in a student's IEP. If a student is temporarily placed on a shortened day due to an IEP team decision, the LEA/district is required to offer transportation to the student to accommodate their modified schedule if that student is otherwise eligible for special education transportation. In addition, there may be occasions where the needs of the pupil require receiving therapy or some other related service that cannot be provided during the "established" school day. If it is determined by an IEP team that a student requires services outside the typical school day, the team must also consider whether transportation to and from the service is required. If provisions for "early" or "late" transportation are made for pupils within the general education program due to extracurricular events, provisions for equal opportunity to these events for pupils with exceptional needs who require special transportation must also be made.

Transportation in IEPs

Per legal mandate, the IEP team determines if transportation is required to assist a child with a disability to benefit from special education and related services, and how the transportation services should be implemented. The IEP document should describe the transportation services to be provided, including transportation to enable a child with disabilities to participate in nonacademic and extracurricular activities in the manner necessary to afford the child an equal opportunity for participation in those services and activities to the maximum extent appropriate to

the needs of that child. The IDEA's Least Restrictive Environment (LRE) mandate applies to all aspects of special education and related services, including the provision of transportation services. According to the comments and discussion preamble to the 2006 IDEA Part B regulations, the Education Department stated: "It is assumed that most children with disabilities will receive the same transportation provided to nondisabled children, consistent with the LRE requirements in [34 CFR 300.114](#) through [34 CFR 300.120](#), unless the IEP team determines otherwise." LEAs/districts should start with the presumption that a student with a disability will ride regular transportation with nondisabled peers, as long as such transportation is appropriate to meet the child's educational needs. Additionally, transportation is a related service under the IDEA, which means that it should be provided such that it enables a child with a disability to be as fully integrated as possible with nondisabled peers. Denial of parent participation in the IEP process, including decisions relating to the least restrictive environment for transportation, may result in a procedural violation that results in substantive harm to the student.

It is important to remember that all pupils, including those receiving special education instruction and services, are subject to the rules and policies governing regular transportation offerings within the LEA/district, unless the specific needs of the eligible pupil or the location of the special education program/service dictate that special education transportation is required.

Transportation Options

The IEP for any special education student must clearly specify how the child's transportation needs will be met. Regarding transportation as a related service, it is recommended that services be described in sufficient enough detail to inform the parties of how, when, from where and to where transportation will be provided, where arrangements for the reimbursement of parents are required, and the amount and frequency of reimbursement. Transportation options may include, but not be limited to: walking, riding the regular school bus, utilizing available public transportation (any out-of-pocket costs to the pupil or parents are reimbursed by the LEA/district), riding a special bus from a pick up point, and portal-to-portal special education transportation via a school bus, taxi, reimbursed parent's driving with a parent's voluntary participation, or other mode as determined by the IEP team. The specific needs of the pupil must be the primary consideration when an IEP team is determining transportation services.

If a student with a disability is found eligible for specialized transportation and parents voluntarily elect to arrange for their own transportation, it is advisable that schools should document this fact in the IEP. Thorough documentation of this arrangement should include the following information:

- That the child is entitled to transportation;
- That parents are knowledgeable about their special education rights;
- That parents prefer to provide their own transportation without the involvement of the school district; and
- An explanation of how the reimbursement will be calculated.

The school also may seek to include a waiver of liability for injuries that result from parents using their own methods of transportation and attempt to obtain parents' signature to give legal effect to these provisions.

The IDEA does not specify the type of vehicles to be used for students who are disabled or the nature of the specialized equipment that is appropriate. The IEP team generally determines the choice and type of equipment. If decisions regarding these aspects of transportation will have an impact on the health, safety or welfare of the student or the educational program provided to the student, then parental input into these decisions may be required. Safety is only one of many relevant considerations that go into making a determination about the appropriate equipment for transporting a student who is disabled. The following criteria should also be met in selecting assistive devices for students with disabilities:

- Functional assistance
- Whether an excessive amount of equipment is involved
- Normalcy of the child's appearance in using the device
- Family's acceptance of the device
- Child's acceptance of the device

While the student's IEP can specify the type of transportation or special equipment required, it usually may not mandate the selection of the company that will perform the service. Even in situations justifying parental leverage over the mode of transportation and types of equipment to be used in transporting a student with a disability, parents generally cannot compel the use of certain brand name vehicles or equipment, unless the device in dispute is the only one of its kind on the market and no substitutes would be reasonable under the circumstances. LEAs/districts generally have discretion in selecting the item to fit necessary specifications and criteria, provided the district's choices are equally as suitable as parental preferences.

Participation of Transportation Personnel and Administrators/ Designees in IEPs

Effective practice requires that procedures are developed for communication with transportation personnel and that transportation staff are present at IEP team meetings when:

- Student needs the use of adaptive or assistive equipment
- School bus equipment is required to be modified
- Student exhibits severe behavioral difficulties and a Behavior Intervention Plan (BIP) is to be implemented
- Student is medically fragile and requires special assistance
- Student has other unique needs

It is often beneficial to have transportation staff present at IEP team meetings for the purposes of planning, problem solving, and communication even if the above mentioned conditions are not met. It is up to an LEA/district to determine those IEP meetings at which it may be beneficial to have transportation staff attend.

It is recommended that administrative designees and case managers be familiar with the transportation options available locally prior to attending IEP meetings at which transportation may be identified as a necessary related service, in order to facilitate consideration of transportation options in the least restrictive environment at IEP meetings. An LEA/district may need to conduct research to identify transportation options that may be available to serve students.

Special Education Transportation Evaluation

Districts must evaluate the student's transportation needs prior to determining what services to provide. LEAs/districts should keep in mind that, in many instances, the results of the evaluation will be essential in designing appropriate transportation programs for students. For example, findings about motor skills, communication abilities, health, vision and hearing are not only important in the classroom, but they also can impact the student's ability to access transportation and may present unique needs that do not arise among the general student population.

While some transportation requirements will remain constant, others may change in direct response to a student's physical or mental condition, as well as outside circumstances unrelated to the child's disability. Schools must stay responsive to such developments as they arise. Evaluation is important when considering changes in an existing transportation program. While the student need not be observed on the school bus or other form of transportation, school districts nevertheless have found personal observation to be extremely helpful in gauging the student's special education needs.

Medical evaluations of transportation needs may be necessary for some students. When a student suffers from a disability that makes him medically fragile, LEAs/districts have an obligation not only to accommodate him in the classroom, but also during transportation to and from school.

Key Considerations for Determining Transportation Need

The case-by-case determination of students' eligibilities for transportation should include consideration of a child's mobility, behavior, communication skills, physical needs, age, ability to follow directions, the distance the child will have to travel, the nature of the area, and the availability of private or public assistance. Issues in these areas may make it difficult for a student to get to and from school, and may create a need for special education transportation. Factors that may contribute to the consideration of special education transportation may include, but are not limited to:

- Medical diagnosis and health needs: consideration of whether long bus rides could affect a pupil's health (duration, temperature control, need for services, health emergencies); general ability and/or strength to ambulate/wheel; approximate distance from school or the distance needed to walk or wheel oneself to the school; consideration of pupil needs in inclement weather;
- Physical accessibility of curbs, sidewalks, streets, and public transportation systems;
- Consideration of a pupil's capacity to arrive at school on time, to avoid getting lost, to avoid dangerous traffic situations, and to avoid other potentially dangerous or exploitative situations on the way to and from school;
- Behavioral Intervention Plans (BIP) specified by the pupil's IEP and consideration of how to implement such plans while a pupil is being transported;
- Mid-day or other transportation needs as required on a pupil's IEP (occupational or physical therapy or mental health services at another site, community based classes, etc.) must also

be taken into consideration when the IEP team discusses a pupil's placement and transportation needs;

- Extended school year services should be another consideration of a pupil's need for transportation if considered necessary to provide a free appropriate public education as specified in a pupil's IEP.

IEP Goals and Services to Increase Transportation Independence

The determination as to whether goals and objectives addressing transportation are required in a student's IEP depends upon the purpose of the transportation. If transportation is being provided solely to enable the student to attend school, no goals or objectives may be needed. However, if transportation is provided for some other purpose related to the student's education and the student receives instruction during the provision of the related service, then goals and objectives must be provided. For instance, if services are being provided to increase a student's independence while in transit, goals and objectives would be necessary. When developing specific IEP goals and objectives related to the pupil's use of transportation, the IEP team may wish to consider a blend of transportation services as the pupil's needs evolve. Students may require ongoing assessment and refinement of IEP goals as transportation skills increase.

The 2006 IDEA Part B regulations continue the requirement of travel training for some students. Travel training is "instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to:

- A. Develop an awareness of the environment in which they live; and
- B. Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community.)"

The IEP team may wish to consider the travel training needs of some students for whom transportation is being considered as a related service.

Bus Suspension

Occasionally pupils receiving special education services are suspended from bus transportation. The suspension of a pupil receiving special education services from transportation can constitute a significant change of placement if the district:

- Has been transporting the student;
- Suspends the student from transportation as a disciplinary measure; and
- Does not provide another mode of transportation.

A significant change in placement requires a meeting of the IEP team to review the pupil's IEP.

An alternative form of transportation must be provided if transportation is specified in the pupil's individualized education program. During the period of any exclusion from bus transportation, pupils must be provided with an alternative form of transportation at no cost to the pupil or parent

or guardian in order to be assured of having access to the required special education instruction and services.

Resources

CDE Special Education Transportation Guidelines:
<http://www.cde.ca.gov/sp/se/tr/trnsprtgdlns.asp>