

Special Education Transportation Guidelines (Adapted from Riverside County SELPA)

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Introduction

There is no basic entitlement to transportation for the general student population – this is a matter of individual district policy. In districts that do supply transportation, most policies base eligibility on the number of miles a student lives from the school. Beyond this designated range, students may enjoy bus privileges. Some districts may not offer transportation to the general population, making it the responsibility of students and parents to locate their own means of transportation. Whatever transportation provisions are made to this group of students must be made available to all similarly situated students on equal terms.

If a public educational agency provides transportation for its general school population, then it is obligated to provide students with disabilities transportation to any special education program to which it assigns those children. However, if the district does not provide transportation to the general school population, then it must decide, on an individual basis, whether a special education student requires transportation as a related service to benefit from special education (34 CFR 300.34(c)(16)).

These guidelines are designed to assist local educational agencies (LEAs) to plan and implement a continuum of transportation service options to students with disabilities. Transportation as a related service may be required for a student to benefit from special education instruction and/or related services enrolled in school programs from birth to age 22.

Primary Considerations: Student Needs and Access

Decisions regarding the need for transportation services are left to the discretion of the individualized education program (IEP) team. The specific needs of the student must be the primary consideration when an IEP team is determining any transportation needs. IEP teams must determine the transportation needs of students with disabilities on a case-by-case basis, not automatically based on the student's type of disability (Fagan, Friedman, & Fulfrost, 2014). Transportation must be provided as a related service if the student's disability directly causes a "unique need" for some form of specialized transport or if a student with a disability would not be able to access his or her program of special education and related services without specialized transportation. There are some examples of how access issues apply later in this document. Some considerations of unique needs may include, but are not limited to the following:

1. Student's medical diagnosis and health needs;

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- a. Consideration of whether long bus rides could affect a student’s health (e.g. duration, temperature control, need for services, health emergencies);
 - b. Student’s general ability and/or strength to ambulate/wheel;
 - c. Approximate distance between home and school or the distance needed to walk or wheel oneself to the school, including:
 - i. nature of the area(s) through which student must pass;
 - ii. availability of other forms of public assistance in route (e.g., crossing guards or public transportation);
 - d. Consideration of student’s needs in inclement or very hot weather;
2. Physical accessibility of curbs, sidewalks, streets, and public transportation systems (e.g., one site might require transportation while another might not);
 3. The student’s age, cognitive ability, adaptive behavior and/or communication skills (e.g., capacity to understand, respond to, and/or communicate regarding problems or risks that may arise while in transit);
 4. Student’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;
 5. Implementation of positive behavioral intervention strategies specified by the student’s IEP while a student is being transported;
 6. Mid-day or other transportation needs (e.g., occupational or physical therapy or mental health services at another site, community based instruction, preparation for meeting post secondary goals, etc.);
 7. Extended school year (ESY) services should be another consideration of a student’s need for transportation if considered necessary to provide a free appropriate public education (FAPE) as specified in the student’s IEP.

Definitions

“Every individual with exceptional needs, who is eligible to receive educational instruction, related services or both under this part shall receive such educational instruction, services, or both, at no cost to his or her parents or, as appropriate, to him or her” (EC § 56040). Special education transportation is defined as a related service in the federal regulation (34 CFR § 300.34 (c)(16)). Under this definition, transportation can include travel to and from and between schools, travel in and around school buildings, and specialized equipment such as special or adapted buses, lifts, and ramps. Specialized transportation equipment can include safety devices, curb cuts, specialized seats, harnesses, locks, handrails, walkers, wheelchairs, scooters, golf carts, climate controlled or light-controlled vehicles, two-way radios or phones for emergencies, emergency

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medical equipment, or any other specialized equipment necessary to provide transportation to a special education student (Fagan, Friedman & Fulfroost, 2014). Travel training is instruction that enables a child with a disability to develop an awareness of the environment in which he or she lives, and to learn the skills necessary to move effectively and safely from place to place within that environment.

Transportation is required to be provided if it is necessary for the student to benefit from special education instruction. In addition, the service must be provided to meet the criteria for a free, appropriate public education (FAPE) in the least restrictive environment (LRE) to provide opportunities for the student with disabilities to interact with nondisabled peers to the maximum extent appropriate. If the IEP team determines that a student with a disability requires transportation as a related service in order to receive FAPE, or requires supports to participate in integrated transportation with nondisabled students, these must be provided at no cost to the parents.

“Criteria and options for meeting the special education transportation needs of individuals with exceptional needs between the ages of three and five, inclusive, shall be included in the local transportation policy” (EC § 56441.14). Typically this type of policy is developed and adopted at the LEA level based upon their preschool program options, location of services, students served, and regular education transportation policy, procedures and practices.

EC § 41850(d) defines “special education transportation” as: “The transportation of severely disabled special day class students, and orthopedically impaired students who require a vehicle with a wheelchair lift, who received transportation in the prior fiscal year, as specified in their individualized education program”. Although a student may have a “disability label” historically considered to be a severe disability (i.e., autism, blind, deaf, deaf-blind, emotional disturbance, intellectual disability, multiple disabilities, orthopedic impairment), many of these disabilities fall along a continuum of impairment. Therefore it is important to look at each student’s unique needs and then determine if he or she may be able to access school related activities without specialized transportation.

Per EC § 41850(b) “home-to-school transportation services” includes all of the following:

- The transportation of students between their homes and the regular full-time day school they attend, as provided by a school district or county superintendent of schools.
- The payment of monies by a school district or county superintendent of schools to parents or guardians of students made in lieu of providing for the

transportation of students between their homes and the regular full-time day schools they attend.

- Providing board and lodging to students by a school district or county superintendent of schools made in lieu of providing for the transportation of students between their homes and the regular full-time day schools they attend.
- The transportation of students between the regular full-time day schools they would attend and the regular full-time occupational training classes they attend, as provided by a regional occupational center or program.
- The transportation of individuals with exceptional needs as specified in their individualized education programs, who do not receive special education transportation as defined in subdivision (d), stated above.
- Examples that IEP teams may consider under EC § 41850(b) include:
 - Students with severe disabilities who are not placed in special day classes or otherwise enrolled in programs serving students with profound disabilities.
 - Students with orthopedic disabilities who do not use wheelchairs or require lifts.
 - Students beginning special education who did not receive transportation under an IEP in the prior fiscal year.
 - Students with other health impairment, learning disabilities or other cognitive disabilities.
 - Students who live beyond a reasonable distance to their school and would not, without transportation, have access to appropriate special education instruction and related services at no cost.

A LEA may not operate its transportation program or activities on the basis of generalizations, assumptions, prejudices, or stereotypes about disability generally or specific disabilities in particular. Nor can a LEA rely on generalizations about what students with a certain type of disability are capable of. A decision about a student's participation must be based on the same criteria used for all others. For example, if a LEA offers extracurricular activities it must do so in a manner as is necessary to afford qualified students with disabilities an equal opportunity for participation; the provision of unnecessarily separate or different services is discriminatory (Office of Civil Rights, 2013).

Administrative Responsibilities

All students, including those receiving specialized instruction and services, are subject to the rules and policies governing regular transportation offerings within the LEA (school district, county office of education, or charter school), unless the specific needs

of a student with a disability or the location of a special education program or service dictate that special education transportation is required.

A LEA can provide specialized transportation by using LEA personnel and buses or via contract and payment of fees. It is recommended that all LEAs that provide any special education transportation take the following administrative issues and concepts under consideration to design a transportation system and services that allows for students to be supported in the LRE alongside non-disabled peers to the maximum extent appropriate while also allowing for a cost effective special education transportation system.

Transportation Policies

For most students receiving transportation, the LEA retains the discretion to manage vehicle and equipment purchases, bus personnel decisions, and bus route and bus stop arrangements as it sees fit. However, there can be exceptions when a student's unique needs call for specific requirements, such as a highly specialized type of vehicle or equipment, or pick-up or drop-off at a specific location or within a specific time window (e.g., last on, first off; bus ride no longer than one hour) (Fagan, Friedman & Fulfrost, 2014). Each LEA providing special education is required to adopt policies for the program and services it operates, consistent with EC § 56195.8(b)(5) which states:

“Transportation, where appropriate, which describes how special education transportation is coordinated with regular home-to-school transportation. The policy shall set forth criteria for meeting the transportation needs of special education students. The policy shall include procedures to ensure compatibility between mobile seating devices, when used, and the securement systems required by Federal Motor Vehicle Safety Standard No. 222 (49 C.F.R. 571.222) and to ensure that school bus drivers are trained in the proper installation of mobile seating devices in the securement systems”.

It is recommended these policies focus upon student needs as the primary consideration for determining transportation services and that these policies also address the needs of students who may be eligible for transportation services as required by the Rehabilitation Act of 1973, Section 504.

Other subjects that need policy and procedures directives may include:

- Control and management of confidential information,
- Control of student's medicine transported between home and school),

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- Student suspension,
- Physical intervention/management (i.e., authority to use special harness, vest, and belts),
- Early closing of schools due to emergency,
- When no adult is home to receive students,
- When and how to involve community emergency medical and/or law enforcement personnel,
- Use of mobility and/or bus aides, and
- Document requirements.

In addition, an overview of all available transportation resources should be provided to all administrators, IEP team leaders/case managers or chairpersons and other IEP team members who are authorized to recommend the type of special education service and the location where the service will be provided.

Location of Programs

The efficiency of a transportation system for special education is partially dependent on the location of the program sites and the placements of students. A demographic and geographic review that analyzes the present locations of programs, program needs, and populations served should take place at least annually. Program service regions with clearly defined service areas can then be established, using residence areas of the neighborhood schools. While this also involves the issue of facilities, a mission statement and policies developed by the agency may promote the comprehensive commitment to all students and the acceptance of students with exceptional needs in a broad variety of settings.

Coordination of Calendars and Schedules

Coordination of student attendance calendars at all school sites that provide special education services is necessary to fully utilize transportation services and to minimize the number of required days of transportation service. The standardization of calendars should include the following coordination: starting and ending dates of school years, vacation/intersession breaks, staff development days, and minimum day schedules. This coordination helps ensure that all significant transportation implications are addressed and transportation resources are effectively utilized.

Length of School Day, Related Services, Extracurricular Events

It should be noted that the use of alternative starting times for all special education students at a site could lead to program compliance concerns and charges of discrimination. Each student with a disability must be provided with an educational program in accordance with their 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. When the needs of the student require receiving therapy or some other related services that cannot be provided during the "established" school day, specialized transportation may need to be provided. If provisions for "early or late" transportation are made for students within the general education program due to extra curricular events, provisions for equal opportunity to these events for students with exceptional needs who require special transportation must also be made.

Guidelines for IEP Teams

School personnel need to be familiar with the LEA transportation rules and policies, understand when to invite transportation staff to an IEP meeting, know the options available to promote LRE decisions about transportation options, lessons learned from due process, and follow legal obligations after suspending a student with a disability from the school bus.

Local Educational Agency Rules and Policies

Personnel responsible for implementation of IEPs should be knowledgeable of their LEA transportation policies and/or procedures that address the responsibilities of the IEP team in regard to transportation and the delivery of services to eligible students in the LRE. This includes consideration of transportation options to the neighborhood school, within the district or SELPA, and/or to a nonpublic school within or outside of district boundaries. The effect that the location of the special education services will have on the type of transportation restraints required and the length of time that a student has to be on a bus or van to and from school each day can be considered as a LRE factor. According to the 2017 Education Law Conference by Atkinson Andelson Loya Ruud & Romo, Government Code section (c) states: A related service or designated instruction and service shall only be added to the child's Individualized Education Program if a formal assessment has been conducted and a qualified person conducting the assessment recommend the service in order for the child to benefit from special education. According to AALRR, a transportation assessment may consider the

students need for transportation in conjunction with routine testing of cognitive, adaptive and sensory functioning, as well social skills and behaviors.

The IEP team may want to address the fundamental question: Can the student get to school the same way as a typically developing peer? This may involve considering whether the student has adequate vision, orientation and mobility proficiency to safely navigate their route and whether the student has special medical needs and/or requires transportation of specialized medical equipment. Assessment facilitates thoughtful consideration of the decision to offer, or not offer, transportation services.

Transportation Staff and IEP Team Meetings

Effective practice requires that procedures are developed for communication with transportation personnel. As school districts strive to provide quality transportation for their special needs students, feedback from students and parents is to be expected. Unfortunately, many times that feedback takes the form of complaints about unsatisfactory service. Special Ed Connection (www.specialedconnection.com) asserts negative experiences can be reduced with these three steps:

- Provide the same driver every day. Consistency leads to quality.
- Encourage strong parent/driver relationships. A driver should know the parents and vice versa.
- Facilitate direct communication between parents and drivers. Too many middlemen create misunderstandings.

Office of Special Education and Rehabilitative Services (OSERS, 2009) recommends that, to the extent appropriate, LEAs should ensure that school bus drivers or other transportation providers are well informed about protecting the confidentiality of student information related to (1) the special needs of the individual children with disabilities who ride on the bus and (2) possible strategies and assistance that may be available to drivers (including a bus aide).

Transportation staff may be invited to an IEP team meeting when:

- The student needs the use of adaptive or assistive equipment;
- School bus equipment is required to be modified;
- The student exhibits severe behavioral difficulties and a positive behavioral intervention plan is to be implemented while the student is on the bus;
- The student is medically fragile and requires special assistance; or,
- The student has other unique needs.

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Transportation Options

Considering the identified needs of the student, if he or she can use the same transportation as nondisabled peers without complications and the goal to support the student in the LRE to maximize interaction with nondisabled peers is one factor. Other considerations can include cost effectiveness and efficiency factors such as the number of students the LEA must transport to a particular educational facility and distance between the educational facility and the student's home. Transportation options may include, but not be limited to:

- Walking (no transportation);
- Riding the regular school bus, especially when the child lives in the same neighborhood and is going to the same location as peers;
- Utilizing a lift-equipped vehicle for the regular routes;
- Adding a monitor or aide on the bus;
- Having a bus stop monitor (parents or community volunteers) to provide assistance to students who have difficulty going to or waiting at the bust stop independently;
- Integrating a student's positive behavioral intervention planned strategies on the bus;
- Utilizing available public transportation (any out-of-pocket costs to the student or parents may be reimbursed by the LEA);

When developing specific IEP goals and objectives related to the student's use of public transportation, the IEP team may wish to consider a blend of transportation services as the student's needs evolve;

- Riding a special bus from a pick up point;
- Portal-to-portal special education transportation via a school bus or van;
- Transportation via taxi or specialized shuttle service; or
- Reimbursement of parent's voluntary participation to provide transportation in lieu of other alternatives.

Specialized transportation as a related service must be written on the student's IEP with specificity and should be approved by the transportation and/or special education administrator. When a child is expected to learn specific skills during the specialized transportation time (i.e., increase independence, demonstrate appropriate behavior while on the bus), an IEP goal should

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be written. It is recommended that services be described in sufficient enough detail to inform the parties of how, when and from where to where transportation will be provided. (e.g., identify pick up and drop-off points, any aide support, equipment, specialized physical health care plan, behavior plan, etc.). Clarifying the details in the IEP strengthens the LEA's offer of FAPE, helps team members understand exactly what must be implemented during the transport, and can avoid misunderstandings (Fagan, Friedman, & Fulfrost, 2014). As needed, detailed arrangements for the reimbursement of parents, which includes the amount and frequency of the reimbursement, should be provided in a memorandum or letter outside of the IEP document.

Transportation Obligations in Placements Outside of Neighborhood School

In cases of an administrative transfer – where the decision to transfer the student to a school outside of the student's geographic area is made solely by the LEA, the transportation obligations owed to the student are not altered in any way and the LEA will be responsible for the student's transportation to and from the alternate school site.

School-choice policies give students and their parents the option to select a school other than the school they would normally attend.

- In inter-district school choice cases, the LEA responsible for providing FAPE – the receiving LEA – will be required to provide any necessary transportation services. An exception to this general principle has been recognized when the LEA's placement denied FAPE and the placement selected by the parents provided FAPE.
- In cases of intra-district school choice programs, where a student with a disability elects to attend a school in the LEA other than the neighborhood school he or she would normally attend out of personal choice and not due to disability needs, the LEA is not required to provide transportation to that school.

Obligations to provide transportation to a private school change based on who made the choice and the grade of the child.

- A publicly placed private school student has all the rights of a child with a disability who is served by a public agency, including related service transportation in conformance with an IEP, at no cost to the parents.
- For preschool students, if the LEA is required to provide Part B special education services to the child at a separate site from that of the child's private school, the LEA will be required to provide transportation to and from that other site.

- When a parent places a student in a private school as a unilateral placement, the IDEA explicitly states that a LEA is not required to provide transportation from the student's home to the private school (34 CFR 300.139(b)(1)(ii)). However, for K-12 students, a LEA may offer transportation to students with disabilities as part of their private school protocol and use proportionate share funds.

Obligations to provide transportation to a student attending a homeschool charter school program depends on whether or not the service is needed for the student to receive FAPE.

- Generally, if in a homeschool program being taught by the family, the parents will be responsible for transportation. However, if part of the student's offer of FAPE requires transportation to benefit from FAPE, the Charter may be responsible and the IEP team would make that determination based on need at the IEP team meeting.

Suspension from the School Bus

Occasionally students receiving special education services are suspended from bus transportation under EC §48900-48900.7, Grounds for Suspension. The Office of Special Education and Rehabilitative Services (OSERS, 2009) notes that a bus suspension of a student that receives transportation as a related service triggers all of the discipline procedures required by the IDEA. An LEA is not required to provide alternative transportation to a child with a disability who has been suspended from transportation for 10 school days or less unless the LEA provides alternative transportation to children without disabilities who have been similarly suspended from the bus service (34 CFR §300.530(d)(3)).

Per both OSERS (2009) and the Office of Civil Rights (1989), the suspension of a student receiving special education services can constitute a significant change of placement if the LEA (1) has been transporting the student; (2) suspends the student from transportation as a disciplinary measure; and/or, (3) does not provide another mode of transportation. If the suspension continues for more than 10 consecutive school days or amounts to a pattern of suspensions, a manifestation determination review (MDR) meeting must be held. The student must continue to receive educational services during any subsequent suspensions so that he or she can access the curriculum, a functional behavioral analysis (FBA) must be conducted, and the LEA must implement intervention services designed to prevent the behavior from recurring.

A significant change in placement requires a meeting of the IEP team to review the student's IEP. The following Education Codes drive what needs to happen during the period of any exclusion from bus transportation:

- The student must be provided with an alternative form of transportation at no cost to the student or parent in order to be assured of having access to the required special education instruction and services. EC §48915.5.
- The alternative mode of transportation to be provided during the suspension from the school bus must be specified in the student's IEP (EC §48915.5(c)).

Summary

The LEA providing special education is required to adopt policies for the programs and services it operates, consistent with agreements with other districts or county offices stated as part of the local plan for special education. These policies describe how special education transportation is coordinated with regular home to school transportation and set forth criteria that are consistent with these guidelines for meeting the transportation needs of students receiving special education.

Transportation policies and an overview of all available transportation resources and options to promote LRE should be provided to all administrators, IEP team leaders, case managers, chairpersons and other IEP team members who are authorized to recommend the type of special education service and the location where the service will be provided.

The specific needs of the student must be the primary consideration when an IEP team is determining transportation services. The combination of planning and providing information to IEP teams maximizes appropriate placements and efficient cost-effective transportation systems.