



Information UPDATE

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TO: District Administrators, CESA Administrators, CCDEB Administrators,
Directors of Special Education and Pupil Services, and Other Interested Parties

FROM: Carolyn Stanford Taylor, Assistant State Superintendent
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SUBJECT: Transportation Questions and Answers (Replaces Bulletin 03.06)

In addition to the regular transportation provided to all students, transportation as a related service is an important component of the program for many students with disabilities. Students with disabilities are entitled to this related service only if it has been determined by the Individualized Education Program (IEP) Team that transportation is necessary for the student to benefit from special education. State and local officials set most transportation policies and procedures.

Transportation may also be viewed as another way to include students with disabilities with their nondisabled peers. When appropriate, their transportation should occur in the same manner as for their peers. This may be especially important for students with disabilities who have limited opportunities during the school day to interact with their nondisabled peers. Of course, safety issues must be taken into consideration.

Transportation as a Related Service/General Transportation Questions and Issues

1. How does a public agency determine whether to include transportation in a student's IEP as a related service?

As with other related services, transportation as a related service must be provided if it is required in order for the student to benefit from special education. The IEP team must consider how the child's disability affects the child's need for transportation, including determining whether the student's disability prevents him/her from using the same transportation as nondisabled children, or from getting to school in the same manner as nondisabled children. If a student requires transportation at a different time or in a different way due to his/her disability, the local educational agency (LEA) must provide it.

The student's IEP should describe the transportation arrangement. Consider the type of vehicle, specific equipment needed, personnel, picking up and dropping off procedures, and goals/objectives for transportation if there is an independent purpose (e.g., life skills, behavior).

2. What are some considerations in determining whether transportation should be included as a related service?

Transportation is included as a related service when the IEP team determines it is necessary for the child to benefit from special education. This decision should be based on pupil needs which may include, but are not limited to:

- Medical and health needs – whether the length of bus ride could affect the student’s health, student’s general ability to ambulate/wheel, approximate distance from school, student needs in inclement or very hot weather, student is medically fragile and requires special assistance;
- Student needs for adaptive or assistive equipment;
- Need for safe transfers;
- Accessibility – even for students who may live close to school or use public transportation, consideration of the physical accessibility of curbs, sidewalks, streets, and public transportation systems;
- Student’s capacity – ability to arrive at school on time, avoid getting lost, avoid dangerous traffic situations, and avoid other potentially dangerous or exploitative situations on the way to and from school;
- Behavioral issues – implementation of a behavioral intervention plan (BIP) while the student is being transported;
- Other – transportation to community-based programming, off-site services or therapies.

There may also be a need for staff training related to transportation issues and safety, and this would be determined by the IEP team and documented on the IEP (program modifications or supports for school personnel).

3. Can parents provide transportation for their child with a disability?

The public agency must ensure that any transportation as a related service is provided at public expense and at no cost to the parents. A parent who transports a child with a disability is entitled to reimbursement if transportation is a related service. Parents cannot be compelled to provide transportation.

4. If the parents agree to provide transportation, how is reimbursement calculated?

There are not any specific formulas for figuring reimbursement. The district may have an established reimbursement rate for mileage. The rate should be related to the general market value of the services rather than what the parent might earn at their regular occupation.

5. Is there a law about the maximum amount of time a student can spend on a bus?

There are currently no state statutory requirements regarding the amount of time a student may spend being transported to and from school. In large extent, what constitutes an excessively long transport time is dependent on the student in question. The IEP Team should consider the nature of his/her disability, overall health, age, and norms for the region.

Discipline/Behavior

6. If a student with a disability is a behavior problem on the bus, what is the school district's responsibility?

The IEP Team must address the inappropriate bus behavior; including conducting a functional behavioral assessment (FBA) and developing a behavior intervention plan (BIP), as they would if the behavior occurred on school grounds. The bus may be considered an extension of the classroom [*Letter to Veir*, 20 IDELR 864 (OCR 1993)] and if the same or similar behavior occurs in the school building, it should be addressed on the bus as well.

There may also be safety issues if the student's behavior is dangerous to himself/herself and/or to others. The school district should take reasonable action to maintain the health and safety of all. Additional action may be considered as outlined below.

7. May a school district suspend a student with a disability from the transportation system on a short-term basis?

A school district may suspend the student from transportation for up to five consecutive school days if the district follows due process requirements. This is true whether the student is receiving the same transportation as nondisabled peers or is receiving transportation as a related service (see question 9).

8. What are the due process requirements for short-term suspensions from transportation?

The basic procedure is the same as for suspension of a student from school. Prior to a suspension, the student must be advised of the reason for the proposed suspension and given an opportunity to respond. The parent or guardian of the student must be given prompt notice of the suspension and the reason for the suspension.

The suspended student or the parent may, within five school days following the commencement of the suspension, have a conference with the school district administrator or his or her designee. The conference must be conducted by someone other than a principal, administrator or teacher in the suspended student's school. If the school district official finds the student was suspended unfairly or unjustly, the suspension was inappropriate given the nature of the alleged offense, or the pupil suffered undue consequences or penalties as a result of the suspension, reference to the suspension on the student's school record must be expunged. The school official must make a finding within 15 days of the conference.

9. Are short-term suspensions from the school bus counted when determining whether a series of suspensions may result in a significant change in placement?

If the suspension from the school bus is a suspension from the district's entire transportation system that results in the child not being able to receive special education and related services, then the suspension from the bus would be counted. If the district suspends the child from the bus, but provides alternative transportation, then the suspension would not be counted. Alternative transportation provided by the district may include transportation provided by a child's parent under contract to the district, or other contracted transportation services.

10. May a school district exclude a student with a disability from the district's transportation system on a long-term basis (i.e., more than five consecutive days)?

The student may be excluded from transportation on a long-term basis only if the procedure in state law relating to expulsion from school, section 120.13(1), Wis. Stats., is followed. [*Opinion of the Attorney General 526, October 17, 1974*]

Further, the Individuals with Disabilities Education Act (IDEA) requires additional procedures prior to expelling a student with a disability. These procedures apply to excluding a student with a disability from transportation. The school district must follow the requirements relating to expulsion, including manifestation determination, prior to excluding the child from the district's transportation system. Requirements related to expulsion are discussed in Information Update 06.02, *Legal Requirements Relating to Disciplining Children with Disabilities*.

11. What are the district's options if the parents are not transporting the student, if the district does not have any other available buses or small vehicles, or if there is no taxi service or other public transportation in the community, etc.?

The district may provide transportation directly using its own vehicles and staff, or may contract with a third party to provide the transportation. The district may also wish to consider additional supervision on the bus. It is not appropriate to shorten a student's school day to accommodate transportation schedules.

12. What documentation do we need from the bus driver/bus company about the student's behavior?

The bus driver or other staff should make a written report about the behavior, including the date and time of the incident, a description of the behavior(s) of concern, and the immediate consequences of the behavior.

It is the responsibility of the school district for seeing that the due process requirements relating to discipline and transportation are met.

Transporting Students in Wheelchairs or Strollers

13. How do you safely transport a child in a wheelchair or stroller?

There are two pieces to this issue: seat securement and occupant restraints. Wheelchairs and strollers are not designed as motor vehicle seats and an unsecured wheelchair is a danger to the occupant and to others.

It is important to consider not only where on the bus the equipment will be secured, but also where on the equipment itself. For example, any tie-downs should not be on a moveable part or anything that would bend or break in case of an accident. It is also important to consider headrests, chest or trunk supports, lap belts, trays, and other miscellaneous accessories for the wheelchair or stroller.

14. What about transporting a child with medical equipment on a school bus?

Transporting a child with medical equipment on a school bus is generally not recommended, and alternative means of transportation should be used. Even if the wheelchair or stroller is secured on the bus, the occupant might not be. There is a difference between occupant restraints and positioning

or posture supports. The latter do not serve the purpose of restraining the occupant to the equipment in the case of an accident or sudden stop.

15. Where can we find information on requirements for school buses related to wheelchair transportation?

The Wisconsin State Patrol is responsible for bus inspection and has information on Wisconsin regulations and requirements. Their website is www.dot.wisconsin.gov/statepatrol.

The Federal Motor Vehicle Safety Standards (FMVSS 222) are available from the National Highway Transportation Safety Administration (NHTSA). Their website is www.nhtsa.dot.gov.

An additional source of information is the Engineering Research Center on Wheelchair Transportation Safety (RERCWTS) at the University of Pittsburgh, www.rercwts.pitt.edu.

Private School and Off-Site Placements

16. If a parentally-placed private school student is receiving special education services from the school district, must the district provide transportation needed to access the services?

Yes. Transportation necessary for the child to benefit from, or participate in, special education services must be provided from the student's school or the student's home to a site other than the private school, and from the service site to the private school or to the student's home.

17. Must the district provide transportation to off-campus sites (neutral site, technical college, alternative program)? What if the site is across district lines?

If transportation is a related service in the student's IEP and is, therefore, necessary for the student to benefit from special education, then the school district is responsible for ensuring that the transportation is provided to the student consistent with the student's IEP. This includes transporting the student beyond the school district's boundaries.

Open Enrollment

18. For a student with a disability attending another district under open enrollment, is transportation provided to that student?

The nonresident school district is required to provide transportation only if it is in the student's IEP as a related service.

19. If the IEP includes transportation as a related service, can the nonresident district cross district lines?

Yes.

20. Can a nonresident school district charge the student's resident school district for the cost of transporting the child?

A federal court decision precludes charging open enrollment tuition for a student with a disability that exceeds the open enrollment tuition for a non-disabled student plus any actual additional special

education costs the non-resident district would incur in educating the student with a disability. Thus, a nonresident school district may only charge the resident district for transporting the child to the extent the cost is an actual, additional special education cost to the nonresident school district.

21. Can the resident school district deny the open enrollment request due to the cost of transportation?

The resident district may deny the open enrollment request if the resident school board determines that the cost to provide the special education and related services (including transportation) in the nonresident school district is an undue financial burden in light of the resident school district's total economic circumstance. The resident school board's determination may be based only on tuition charges that reflect the actual additional special education costs the non-resident school district would incur in educating the student with a disability.

Miscellaneous

22. May safety vests or harnesses be used while transporting a student with a disability?

If the IEP Team determines that specific equipment is needed to safely support a student with a disability during transportation, the school district must provide that equipment in accordance with the IEP. Use of such equipment to restrict student movement as a means of addressing inappropriate or disruptive behavior is not permitted. In an emergency which poses immediate danger to the student and/or others during transportation, restraint procedures described in "Directives for the Appropriate Use of Seclusion and Physical Restraint in Special Education Programs" (available at <http://www.dpi.wi.gov/sped/sbseclusion.html>) are permitted.

23. What about communication with a child who is deaf/hard of hearing and only communicates through sign language, or other students who are non-verbal and/or use augmentative communication or assistive technology to communicate?

If the needs of the student and/or the student's safety require communication, there must be someone on the bus who can interpret information for those students who are not able to communicate clearly on their own. This could be the bus driver, a paraprofessional who rides the bus, or another responsible adult.

This information update can also be accessed through the Internet:

<http://www.dpi.wi.gov/sped/bulindex.html>