NOVEMBER 6, 2013

(X) ACTION REQUIRED
( ) INFORMATIONAL

TO: Local Educational Agencies
Public Agencies (providing educational services to children with disabilities)

CC: Public Charter School Board
Deputy Mayor of Education

FROM: Jesús Aguirre, Acting State Superintendent of Education

RE: Special Education Transportation Services Policy

CONTACTS: Grace Chien, Director of Policy
Division of Specialized Education
Grace.Chien@dc.gov
(202) 741-5089

AND

Ryan Solchenberger, Director of Transportation
Division of Transportation
Ryan.Solchenberger@dc.gov
(202) 576-5555

INTRODUCTION

The purpose of this Memorandum is to establish a uniform system of standards and procedures for special education transportation services in the District of Columbia that is consistent with the Individuals with Disabilities Education Act (IDEA) requirement to provide a free appropriate public education (FAPE) to all students with disabilities. This purpose is accomplished through:

- Establishing state-level criteria that assist Individualized Education Program (IEP) Teams in making appropriate eligibility decisions.
- Clarifying local education agency (LEA) responsibilities, and establishing documentation and procedural requirements that enable timely coordination between LEAs and OSSE's Division of Transportation (OSSE-DOT).
- Establishing a bi-annual LEA certification requirement that enables OSSE-DOT to prepare for the provision of extended school year (ESY) related transportation services during the summer months and special education transportation services at the start of each school year.

It is the expectation of the Office of the State Superintendent of Education (OSSE) that all LEAs adhere to this Policy. OSSE-DOT shall provide special education transportation services to students with disabilities when transportation is appropriately identified and documented on an IEP as a related service under the IDEA. With

the exception of the pick-up and drop-off residency address requirement, this Policy is effective as of January 6, 2013. The pick-up and drop-off residency address requirement will become effective at the start of the 2014-2015 school year.

MONITORING AND COMPLIANCE

The U.S. Department of Education's Office of Special Education Programs (OSEP) requires that every state education agency (SEA) monitor local educational agencies (LEAs) to ensure compliance with Part B of the Individuals with Disabilities Education Act (IDEA). A finding of LEA noncompliance by OSSE will result in corrective actions for each area of noncompliance and may result in the requirement to submit an improvement plan. OSSE may also recommend or require training and technical assistance for LEA staff when crafting corrective actions. All items of noncompliance shall, by federal law, be corrected within one year of the finding; sustained noncompliance by an LEA may result in sanctions that include potential withholding of Part B grant funding.[1] Consistent with the IDEA and its regulatory framework, all LEAs shall comply with monitoring requirements established annually by OSSE, which include the collection and submission of both quantitative and qualitative data that support monitoring for regulatory compliance and programmatic quality. Additionally, a subset of LEAs will be selected for OSSE's annual monitoring process. OSSE, in its role as SEA, ensures FAPE by meeting with other public agencies providing education services to children with disabilities to review and discuss the delivery of special education services. If any noncompliance is identified during OSSE's review, the public agency will be asked to take corrective action, as appropriate.

DEFINITION OF TRANSPORTATION IN THE CONTEXT OF SPECIAL EDUCATION

In the context of special education, *transportation* is a related service[2] that includes: travel to and from school and between schools; travel in and around school buildings; and specialized equipment such as special or adapted vehicles,[3] lifts, and ramps, if they are required to provide transportation for a student with a disability.[4] Special education transportation services shall be provided in accordance with a student's IEP, and at no cost to the parents of a student.[5]

ELIGIBILITY CATEGORIES FOR SPECIAL EDUCATION TRANSPORTATION SERVICES

It is the responsibility of the IEP Team to determine, on an individual basis, whether transportation is required to assist a student with a disability with accessing special education and related services, and if so, how the transportation services should be implemented. The intent behind special education transportation services is to ensure that children with disabilities receive transportation when it is

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[1] 34 C.F.R. §300.600(a)(3)

[2] Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a student with a disability to benefit from special education. 34 C.F.R. §300.34(a)

[3] The IDEA does not require transportation on special or adapted buses for all students with disabilities who are eligible to receive transportation. The use of special or adapted buses is only required where specified by the IEP Team. *See* 71 Fed. Reg. 46,576 (Aug. 14, 2006).

[4] 34 C.F.R. §300.34(c)(16)

[5] 34 C.F.R. §300.34(a); 20 U.S.C. §1412(a)(1)(A); 34 C.F.R. §300.101

necessary to enable the child to receive FAPE. It is inappropriate for IEP Teams to designate special education transportation services for the primary purpose of facilitating daily attendance or mitigating the increased distance between a student's residence and a school location which results from non-FAPE related parent choice/enrollment decisions.

OSSE has established the following eligibility categories that IEP Teams shall use in making special education transportation eligibility determinations and supporting related services designations. An IEP Team shall find that a student meets the requirements under at least one eligibility category before determining that the student is eligible to receive special education transportation services. LEAs have the duty to reevaluate and document a student's changing needs over time.[6] Therefore, the IEP Team shall review and determine a student's need for special education transportation at least once annually as part of the IEP process.[7]

Eligibility Category 1: Medically Fragile Students (MFS) Requiring Transportation to Access FAPE

Medically fragile students may be eligible for special education transportation services. In the context of special education transportation services, the term *medically fragile* applies to students who cannot travel safely without a specialized or adapted vehicle due to a documented medical condition.[8] In the context of special education transportation services, the term *specialized or adapted vehicle* refers to a vehicle that has specialized equipment such as a specialized seat or seatbelt, positioning device, or wheelchair lift/ramp. OSSE-DOT is responsible for providing specialized equipment when such equipment is deemed necessary by a student's IEP Team. OSSE-DOT is not responsible for providing assistive devices (*e.g.* wheel chairs, crutches, walkers), which constitute personal equipment belonging to the student. (More information on assistive devices is provided on page 8 of this Policy.)

Not all students with medical conditions are eligible for special education transportation services under the MFS category. To determine if a student is eligible for special education transportation services under the MFS category, the IEP Team shall review the student's medical history to consider any data that substantiates the existence of a chronic or persistent medical condition. An IEP Team that finds evidence of a documented chronic or persistent medical condition shall assess the impact of the medical condition on the student's ability to travel safely without a specialized or adapted vehicle or specialized medical equipment. IEP Teams should consider factors such as:

- The severity of the student's medical condition (*i.e.* Does the student's medical condition require constant monitoring?);
- The student's reliance on specialized medical equipment that is not readily transportable in a standard or non-adapted vehicle (*e.g.* oxygen delivery device, tracheotomy tube, feeding tube);
- The student's need for health-related services (*e.g.* health-related assistance from an aide, nursing services);
- The student's mode of transportation outside of school (*i.e.* Does the student travel safely in standard/non-adapted vehicles or access public transportation during week nights or weekends?); and

[6] 34 C.F.R. §§ 300.301 and 300.303
[7] 34 C.F.R. §300.324(b)
[8] Distance is not an appropriate factor of consideration under the Medically Fragile Student (MFS) eligibility category.

- The restrictiveness of student activity during the school day (*i.e.* Is it safe for the student to participate in common physical activities during recess or physical education without specialized equipment or the aid of additional school personnel?).

Students who do not have a chronic or persistent medical condition, or who have a medical condition that does not prevent the student from traveling safely in a standard or non-adapted vehicle, are not eligible for special education transportation services under the MFS category.

An IEP Team that determines that a student is eligible for special education transportation services under the MFS category shall provide a written justification for its determination using the appropriate eligibility worksheet in SEDS, indicate its decision in the student's IEP, and substantiate its decision by obtaining a physician's note or by reviewing current medical evaluation data from the past year. The IEP Team shall also determine if the student requires specialized equipment on the OSSE-DOT vehicle and/or any additional supporting related services (*e.g.* health services, aide assistance) on a case-by-case basis, and shall similarly document the need for such equipment and/or services by obtaining a physician's note or by reviewing current medical evaluation data from the past year and providing a written justification for the IEP Team's decision. The IEP Team must designate any specialized equipment and/or supporting related services in the student's IEP. The LEA shall upload all documentation into the Special Education Data System (SEDS) and the Transportation Online Tool for Education (TOTE), as appropriate, within five (5) business days of the eligibility determination.

In assessing students under the MFS category, the IEP Team should consider whether it is appropriate to transport the student at all. Although uncommon, it is possible that a student's medical condition is so severe that he or she cannot be transported without presenting a serious risk to his or her personal health and safety. Under such circumstances, it may not be appropriate to provide services in a traditional school setting, but rather the student may need to receive services at the family's home, a hospital, or some other facility. In these cases, an IEP Team may determine that the family's home, a hospital, or other facility is the appropriate least restrictive environment (LRE) for a student.

Eligibility Category 2: Students Requiring Structured Transportation Supports (STS) to Access FAPE
Students with intellectual/cognitive, emotional, sensory/communication, or physical needs significant enough to prevent safe travel without structured transportation supports may be eligible for special education transportation services. The phrase *structured transportation supports* refers to a non-medical accommodation and/or form of assistance that addresses safety concerns such as unsafe behavior, compromised decision-making, or impaired navigation resulting from the child's disability.[9]

To determine whether a student is eligible for special education transportation services under the STS category, the IEP Team shall review the student's most recent functional assessment and evaluation data. An IEP Team that finds evidence of documented intellectual/cognitive, emotional, sensory/communication, or physical needs, related to disability, shall assess the impact that the disability has on the student's ability to travel safely without structured transportation supports. The IEP Team should consider factors such as:

- The severity of the student's disability (*i.e.* Does the manifestation of the student's disability require constant supervision?);

[9] Distance is not an appropriate factor of consideration under the Structured Transportation Supports (STS) eligibility category.

- The student's documented deficit in assessing risk or advocating for personal safety;
- The student's behavior as it relates to any history of the student being dangerous to self or others;
- The student's ability to understand cues and instructions (*e.g.* ability to understand street signs/signals or navigate an established route); and
- The student's need for structured transportation supports during travel outside of school (*i.e.* Does the student travel safely without structured transportation supports during week nights or weekends?).

A student who has a disability that does not prevent the student from traveling safely without structured transportation supports is not eligible for special education transportation services under the STS category. An IEP Team that determines that a student is eligible for special education transportation services under the STS category shall provide a written justification for its determination using the appropriate eligibility worksheet in SEDS, indicate its decision in the student's IEP, and substantiate its decision by obtaining a note from an appropriate evaluator or summarizing the nature of the student's disability that warrants the eligibility determination. The IEP Team shall also determine if the student requires specialized equipment on the OSSE-DOT vehicle and/or any additional supporting related services (*e.g.* aide assistance) on a case-by-case basis, and shall similarly document the need for such equipment and/or services by obtaining an evaluator's note or by reviewing current evaluation data from the past year[10] and providing a written justification for the IEP Team's decision. The IEP Team must designate any specialized equipment and/or supporting related services in the student's IEP. The LEA shall upload all documentation into SEDS and TOTE, as appropriate, within five (5) business days of the eligibility determination.

Eligibility Category 3: Students Accessing Specialized Program (ASP) to Access FAPE

Students, who are not eligible under the MFS or STS categories, may be eligible for special education transportation services if they are traveling to a school site for the purpose of accessing a specialized program due to an IEP Team placement decision. Students who elect to attend a school or program for non-FAPE related reasons (*e.g.* parent's school of choice, out of boundary lottery) are not eligible for special education transportation services under the ASP category. District of Columbia Public Schools (DCPS) is responsible for providing transportation to parentally-placed private school students receiving equitable services.[11]

The term *specialized program* refers to a special education instructional setting, within an LEA or nonpublic school, in which the student is instructed apart from the general education population for the majority of the school day (*e.g.* separate special education classroom, separate school designed specifically for students with disabilities). To determine eligibility under the ASP category, the IEP Team shall review the student's special education record to ascertain whether the student's current program is a specialized program that an IEP Team has determined is the appropriate least restrictive environment (LRE) for the student, as evidenced by prior written notice (PWN) documenting the change in placement.[12] An IEP Team that determines that a student is eligible for special education transportation services under the ASP category shall provide a written justification for its determination

[10] IEP Teams do not need to order a new evaluation if current evaluation data exists in the student's record that can be accurately summarized.

[11] 34 C.F.R. §300.139(b); 71 Fed. Reg. 46,596

[12] Nonpublic placements should be located as close as possible to the student's home residence. 34 C.F.R.§300.116(b)(3)

using the appropriate eligibility worksheet in SEDS, indicate its decision in the student's IEP, and substantiate its decision by uploading the applicable PWN. The LEA shall upload the PWN and, in the case of placement into a nonpublic program, the OSSE location assignment, into SEDS and TOTE, as appropriate, within five (5) business days of the eligibility determination.

Students eligible for special education transportation under the ASP category, who are over the age of twelve (12) years old, generally are not transported on an OSSE-DOT vehicle and will instead receive Metro fare cards for public transportation (rail or bus). An IEP Team may, however, determine that public transportation is not appropriate due to safety concerns or lack of feasible public transit options. An IEP Team that determines that public transportation is not appropriate for a student over the age of twelve (12) years old, eligible under the ASP category, shall justify in writing the need for OSSE-DOT transport.

TRAVEL TRAINING

Travel training is specialized instruction[13] that enables students with disabilities who require this instruction to develop an awareness of the environment in which they live and to learn the skills necessary to move effectively and safely from place to place within that environment.[14] Both special education transportation and travel training are important services that IEP Teams shall consider when they plan for a student's postsecondary transition needs. IEP Teams must formally consider a student's secondary transition needs when the student turns sixteen (16) years old, or younger, if determined appropriate.[15] LEAs are responsible for providing travel training to a student as a part of FAPE if such services are designated on the IEP.

ORDERED TRANSPORTATION

Court Ordered/IDEA Hearing Officer Determinations (HODs). Special education transportation services that have been ordered by a District of Columbia court, a federal court, or by a hearing officer in an administrative due process case (HOD) fall outside of OSSE's eligibility category framework. Under these circumstances, an IEP Team is required to document in the student's IEP that the student qualifies for special education services through a court order or HOD. The order or HOD must be uploaded to SEDS to fulfill the documentation requirement. Once the court order or HOD expires or ceases to be in effect, an IEP Team shall use OSSE's eligibility determination framework to consider student eligibility for special education transportation services. LEAs are responsible for monitoring court orders and HODs to ensure that a valid court order, HOD, or IEP Team eligibility determination is in effect at all times. If the court order or HOD does not include effective dates or indicate the duration of time for which special education transportation services are ordered, an IEP Team's responsibility to review and determine eligibility for special education transportation services on an annual basis shall resume after one full year of court order/HOD implementation. LEAs are responsible for reimbursement costs related to the provision of special education transportation services that arise out of court orders or HODs that determine that the LEA has failed in its obligation to provide FAPE. If a court order or HOD finds that the student has been denied FAPE by the LEA which is attributable to a failure by OSSE-DOT to provide special education transportation services in accordance with the student's IEP, OSSE-DOT will be responsible for reimbursing the transportation costs in accordance with the order or HOD.

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[13] Transportation is included as a related service under the IDEA regulations in 34 CFR §300.34(a) and (c)(16). Travel training is included in the definition of special education in 34 CFR §300.39(a)(2)(ii), and is specifically defined in §300.39(b)(4). Travel training is not a related service.

[14] 34 C.F.R. §§300.39(a)(2)(ii) and 300.39(b)(4)

[15] 34 C.F.R. §§300.320(b) and 300.43(a)(1)

Settlement Agreements. LEAs must include OSSE-DOT in all settlement agreement meetings that involve potential designation of special education transportation services. LEAs are responsible for costs related to the provision of special education transportation services agreed to by the LEA without input or approval by OSSE-DOT. LEAs will be invoiced for the costs of transportation arising out of settlement agreements which have been entered into by the LEA without OSSE-DOT's written consent. Any designation of special education transportation services that arise out of a settlement agreement must be based upon a determination that the eligibility criteria set forth in this Policy are met. In cases in which the Parties agree that parents should be reimbursed for special education transportation costs related to an LEA's violation of FAPE, LEAs are responsible for these reimbursement costs.

APPROPRIATE DISCONTINUATION OF TRANSPORT

Health and Safety. OSSE-DOT personnel will utilize lifts, ramps, or other mechanized equipment to assist students with wheelchairs. Drivers and attendants are not responsible for providing physical assistance to student passengers other than providing occasional non-intrusive assistance that does not require lifting or carrying the student. OSSE-DOT retains the right to assess a student's condition to determine whether the student can be transported safely. OSSE-DOT reserves the right to refuse to transport a student on the basis of health and/or safety concerns. In such cases, OSSE-DOT shall provide same-day written notification to the parent and LEA with information regarding the basis of its refusal to transport. Upon notification, LEAs have the obligation to reconvene the student's IEP Team to discuss and address the health and/or safety concerns. LEAs will be responsible for providing alternative instructional options in the interim period before the IEP Team reconsiders the student's needs.

Chronic Student Absence from the Bus. To effectively provide special education transportation services, OSSE-DOT relies upon student data from LEAs and reviews data regarding student rider attendance on the bus. After three (3) consecutive school days of student absence from the bus, OSSE-DOT will contact the LEA and parents in writing and request information regarding the student's absence. The requested information shall include, as appropriate, an explanation for student rider absence, and any appropriate updated information including any change in the parents' and students' contact information and address. In such cases, LEAs are responsible for communicating with parents to resolve student rider absence issues and, if appropriate, convene the student's IEP Team to discuss and address any absence/truancy or related service concerns. After seven (7) consecutive school days of student absence from the bus, and does not receive a sufficient reason for continuing daily transportation in light of the student's absence, OSSE-DOT shall send to the LEA and parents a written notification of its intent to cease special education transportation services including the proposed date of termination. Following such notification, if OSSE does not receive a response from the parent or LEA within the following three (3) school days with regard to continuing transportation, OSSE-DOT shall remove the student from the route roster, send a written notice of termination of special education transportation services to the LEA and parents, and cease transportation services.

The LEA is responsible for uploading all notifications into SEDS and TOTE within five (5) business days. The LEA must assess the student's continued eligibility for special education transportation services by convening an IEP Team meeting or completing an IEP amendment to update the student's eligibility status, as appropriate. If the IEP Team determines that the student continues to be eligible for special education transportation services, the IEP Team must maintain and upload documentation related to the reason for the student's continued absence from the bus. If appropriate, a student's IEP Team may reestablish special education transportation services through the IEP process. The process to reestablish

special education transportation services includes the same application of state-level eligibility criteria, documentation, and timelines as an initial request for transportation submitted by an LEA.

STUDENT CONDUCT ON THE BUS

Repeated student misconduct on the bus may result in revocation of bus services. In such cases, DOT will send a same-day notice to both the LEA and parent describing the student's misconduct and the resulting consequence. Upon receipt of a notice advising of revocation of bus services or in cases in which similar behavior issues extend into the school day, LEAs are responsible for convening an IEP Team meeting to review the student's IEP to consider the use of positive behavioral interventions, supports, and strategies to address the behavior,[16] and to consider other appropriate disciplinary consequences in accordance with the LEA's code of conduct and the procedural safeguards under IDEA Part B.[17] DOT will provide alternative transportation in the form of parent reimbursement in any case of revocation from the bus that lasts longer than ten (10) consecutive school days or ten (10) cumulative school days in a school year. In cases of extreme infractions (*e.g.* possession of a weapon, repeated threats of violence, unsafe behavior that threatens the safety of others or self), DOT may revoke bus services for the remainder of the school year and provide alternative transportation in the form of parent reimbursement.

ADMINISTRATIVE INFORMATION

Assistive Devices. IEP Teams shall indicate any assistive device that the student will utilize during transport on the student's IEP. The term *assistive device* refers to personal equipment such as a wheelchair, walker, or helmet that the student utilizes throughout the school day. It is the responsibility of the parent to provide the student's wheelchair or other assistive devices that the student requires for personal use outside of school. This does not apply if the IEP Team determines that the student needs the assistive device to receive FAPE, and it does not eliminate the LEA's ultimate responsibility of providing assistive devices that are needed to provide FAPE.[18] OSSE-DOT is not responsible for providing assistive devices to students, and will not transport students without assistive devices if such a device is specified in the IEP.

Pick-Up and Drop-Off Locations and Times. OSSE-DOT will provide one round trip from each student's residence in the District of Columbia to the student's attending school per school day. The student's address provided to OSSE-DOT shall match the address used to establish District of Columbia residency.[19] OSSE-DOT will not change a student's route to accommodate the student or parent for personal reasons (*e.g.* accommodations of non-FAPE related child care, one-time or sporadic changes in pick-up or drop-off locations for the student's or parent's convenience). Parents are responsible for making their own arrangements for days that the student needs pick-up and drop-off services from locations other than the address on record with OSSE-DOT.

OSSE-DOT will not pick up or drop off students on official school snow days announced by the District of Columbia. When OSSE-DOT cannot transport due to poor or unsafe weather conditions, LEAs remain

[16] 34 C.F.R. §300.324(a)(2)

[17] 34 C.F.R. §300.530; DOT personnel shall participate in manifestation determination meetings as appropriate.

[18] *See Letter to Stohrer*, 213 IDELR 209 (OSEP 1989). The LEA may access the student's public or private insurance for the purpose of procuring or seeking reimbursement for procuring assistive devices. *See* 34 C.F.R. §300.154(d) & (e).

[19] Exceptions and accommodations will be made on case-by-case basis to account for students who are in foster care or living in group homes.

responsible for making up, as appropriate, missed instruction for special education students just as they are responsible for doing so for general education students.

Adult to Adult Transfer. Students who are eligible for special education transportation services under the MFS or STS category and students twelve (12) years of age or younger who are eligible under the ASP category shall be accompanied by an adult at pick-up and drop-off times. If no adult is waiting at the residence identified for drop-off, the student will be transported to the intake center at the end of the route.[20] OSSE-DOT will attempt to contact the parent to notify him or her that the student can be picked up at the intake center. Students over the age of twelve (12) who are eligible for special education transportation services under the ASP category may be dropped off at the parent's residence without an adult present if the parent submits written permission in advance to OSSE-DOT. LEAs must ensure that the appropriate parental consent form is completed and uploaded in TOTE.

Transportation Outside of the Daily School Route. In addition to the daily school route, OSSE-DOT provides transportation for eligible students to activities that are necessary for the provision of FAPE as specified in the student's IEP (*e.g.* secondary transition activities, education-related activities). To initiate transportation to such activities, LEAs shall submit the appropriate completed special accommodations request within five (5) business days of the IEP Team decision and at least ten (10) business days in advance of the activity. If the activity occurs after school hours, LEAs are responsible for making arrangements for transportation from the activity to the student's residence, subject to reimbursement from OSSE-DOT. Just as LEAs are responsible for transporting general education students to field trips, LEAs are also responsible for transporting students with disabilities to field trips, unless the student is eligible for special education transportation under the MFS category and needs specialized equipment/vehicle. LEAs are responsible for providing accommodations, as appropriate, to students with disabilities in order to enable them to be transported with their nondisabled peers (*e.g.* behavioral assistance for students with significant behavior problems).

LEA DOCUMENTATION AND SUBMISSION OF APPROPRIATE FORMS TO OSSE-DOT

LEAs shall complete and upload all documentation associated with special education transportation services to SEDS and TOTE within five (5) business days of the eligibility determination. The LEA shall document in SEDS its reasonable efforts to obtain completed documentation from parents. Reasonable efforts are defined as a minimum of three (3) contact attempts using at least two (2) different modalities (*e.g.* phone, mailed correspondence, and in-person visits) on three (3) different dates by the LEA.[21] IEPs with incomplete documentation in SEDS may be considered noncompliant for monitoring and auditing purposes.

OSSE-DOT will not begin to route a student or initiate transport until all of the required documentation is uploaded in SEDS and TOTE.[22] All data and supporting documentation must be completed and

[20] The intake center is identified in the OSSE-DOT Parent Handbook. After 6:00 p.m., students are released to the DC Department of Child and Family Services.

[21] 34 C.F.R. §300.322(d)

[22] LEAs are required to submit a completed administrative transportation form with completed documentation for every student determined eligible for special education transportation services. This documentation submission requirement is separate and apart from the bi-annual certification process required that enables OSSE-DOT to route students for the purposes of providing transportation during the summer months to support extended school year (ESY) services and transportation for the start of the school year.

accurately submitted at least seven (7) business days before the first day of school in order for transportation services to begin on the first day of school. Submissions with less notice than seven (7) business days before the first day of school will be processed on a rolling basis starting on the third day of the school year. LEAs will receive a final roster sheet five (5) business days before the start of school that will list all of the students who will receive special education transportation services starting on the first day of school. LEAs are responsible for contacting the parents of those students for whom transportation services will start after the first day of school, to inform the parent of the expected start date.

LEAs are responsible for any delays and expenses that result from failure to submit the necessary data and supporting documentation in a complete and timely manner. OSSE-DOT is responsible for ensuring that transportation services are implemented no later than three (3) business days after receiving a complete submission from the LEA initiating transportation or changing the student's school of attendance. After processing the initial transportation request, OSSE-DOT will implement any subsequent changes made to the pick-up or drop-off address within ten (10) business days. LEAs shall communicate any subsequent changes in student eligibility status to OSSE-DOT by submitting the appropriate documentation in SEDS and TOTE within five (5) business days of the eligibility determination.

OSSE-DOT will reimburse parents for mileage[23] for transportation provided by parents that results from untimely OSSE-DOT implementation after the three (3) or ten (10) business day processing period, as applicable. OSSE-DOT may reimburse expenses incurred by parents who opt to transport the student in the family vehicle, so long as the parent has obtained formal approval in advance from OSSE-DOT to transport the student under a reimbursement agreement.[24]

BI-ANNUAL LEA CERTIFICATION OF ELIGIBILITY

LEAs are responsible for certifying[25] special education transportation services for students to OSSE-DOT twice a year. LEAs shall provide certification to OSSE-DOT of all students eligible to receive special education transportation services for extended school year (ESY) services,[26] including those students attending nonpublic schools and programs, <u>no later than the first Monday of May</u> every year. LEAs shall provide certification to OSSE-DOT of all students eligible to receive special education transportation services for the upcoming school year, including those students attending nonpublic schools and programs,[27] <u>no later than the first Monday of June</u> of the current school year. Certification includes

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[23] Mileage rates set by the U.S. General Services Administration (GSA).

[24] Bus transportation may not be the most appropriate means of transporting a student. OSSE-DOT offers reimbursable transportation methods such as Metro or direct reimbursement to parents who transport their children to school.

[25] The term "certification" refers to the requirement that LEAs provide adequate and timely notice to OSSE of services that result in state-level expenditures. The term "certification" does not imply that LEAs have unilateral decision-making discretion over IEP Team decisions.

[26] OSSE-DOT will transport to an extended school year (ESY) services program or to and from off-site programs that are necessary for the provision of FAPE as specified in the student's IEP. OSSE-DOT does not provide transportation for summer school.

[27] The LEA at which the student is enrolled is responsible for participating in all eligibility determinations and service designations associated with special education transportation services made in IEP Team meetings initiated and convened by nonpublic school personnel. LEAs may participate in IEP Team meetings held at nonpublic schools in-person or through designee of the nonpublic school. Regardless of mode of participation, the LEA remains responsible for being actively involved in all IEP decisions. 34 C.F.R. §300.325(b)(2)

formal confirmation of school calendars and bell times for all schools attended by students receiving special education transportation services, including nonpublic schools and programs, on a yearly basis.

Certification is an LEA-level responsibility; nonpublic schools may not submit certification on behalf of LEAs. OSSE-DOT will not transport students who do not have completed documentation in SEDS and TOTE (*i.e.* current eligibility determination and supporting documents). LEAs are responsible for the costs of transporting students for whom they have failed to properly or timely certify (*i.e.* students who have completed documentation in SEDS and TOTE).[28] An LEA that fails to properly or timely certify shall continue to be responsible for transportation costs until the LEA completes certification.

ADDITIONAL GUIDANCE

This memorandum supersedes all previous policy, memoranda, and/or guidance promulgated by the state educational agency (SEA) on this topic. Please direct any questions regarding the content of this document to Grace Chien, Director of Policy, at (202) 741-5089 or by email at Grace.Chien@dc.gov.

[28] LEAs will not be responsible for the costs associated with eligibility determinations that occur after the certification date due to feasibility issues (*e.g.* students who transfer to the LEA after the certification date).