



NOVEMBER 23, 2010

ACTION REQUIRED  
 INFORMATIONAL

**TO:** Chancellor, District of Columbia Public Schools (DCPS)  
Public Charter School Board  
Public Charter School Directors  
Principals, DCPS

**FROM:** Beth H. Colley  
Interim State Superintendent of Education

**RE:** Special Education Transportation Services Policy

**CONTACTS:** Amy Maisterra, Ed.D., Chief of Staff  
Division of Special Education  
Email: Amy.Maisterra@dc.gov  
(202) 481-3757  
OR  
Grace Chien, M.Ed., J.D., LEA Policy and Charter Implementation Specialist  
Division of Special Education  
Email: Grace.Chien@dc.gov  
(202) 741-5089

---

## INTRODUCTION

The purpose of this Memorandum is to establish state-level standards and criteria for special education transportation services that are consistent with the Individuals with Disabilities Education Act (IDEA) requirement to provide a free appropriate public education (FAPE) to all students with disabilities. It is the expectation of the Office of the State Superintendent of Education (OSSE) and the Division of Transportation at OSSE (OSSE-DOT) that all local educational agencies (LEAs) adhere to this policy to support Individualized Education Program (IEP) Teams in making appropriate special education transportation eligibility determinations and supporting related services designations. The District is obligated to transport students with disabilities when transportation is identified properly by an IEP as a related service under IDEA. Local DC law and regulations do not otherwise require OSSE's Division of Transportation to fund the transport of students to school.

## DEFINITION OF TRANSPORTATION IN THE CONTEXT OF SPECIAL EDUCATION

*Transportation* is a related service<sup>1</sup> that includes: travel to and from school and between schools; travel in and around school buildings; and specialized equipment such as special or adapted buses,<sup>2</sup> lifts and

---

<sup>1</sup> 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)

<sup>2</sup> 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)



ramps, if they are required to provide special transportation for a student with a disability.<sup>3</sup> Special education transportation services must be provided in accordance with the student's IEP, and at no cost to the parents of the student.<sup>4</sup>

### **ELIGIBILITY CATEGORIES FOR SPECIAL EDUCATION TRANSPORTATION**

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 address need-based concerns for student safety and access to FAPE. It is not appropriate for IEP Teams to designate special education transportation services for the primary purpose of facilitating daily attendance or mitigating the increased distance between the student's residence and school location which results from non-FAPE parent choice/enrollment decisions.

OSSE has established the following eligibility categories that IEP Teams must use in making special education transportation eligibility determinations and supporting related services designations. LEAs have the duty to evaluate and reevaluate a student's changing needs over time.<sup>5</sup> Therefore, the IEP Team must examine a student's need for special education transportation at least once annually as part of the IEP review process.<sup>6</sup>

#### **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 bus, due to a documented medical condition. In the context of special education transportation services, the term *specialized or adapted bus* refers to a bus 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.

Special education transportation services are not appropriate for all students with medical conditions. To determine if a student is eligible for special education transportation services under the MFS category, the IEP Team must 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 must assess the impact of the medical condition on the student's ability to travel safely without a specialized or adapted bus. 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 non-adapted or standard vehicle (*e.g.* oxygen delivery device, tracheotomy tube, feeding tube, etc.);
- The student's need for personal care services;

<sup>3</sup> 34 C.F.R. §300.34(c)(16)

<sup>4</sup> 20 U.S.C. §1412(a)(1)(A); 34 C.F.R. §300.101

<sup>5</sup> 34 C.F.R. §§300.301 and 300.303

<sup>6</sup> 34 C.F.R. §300.324(b)



- The student's mode of transportation outside of school (*i.e.* Does the student travel safely in non-adapted/standard vehicles or access public transportation during nights or weekends?); and
- 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 non-adapted or standard 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 must indicate its decision and justify its determination within the student's IEP, and determine if the student requires supporting related services such as individualized personal care services.<sup>7</sup> The IEP Team must determine the appropriateness of such related services on a case-by-case basis either by obtaining a physician's note or by reviewing current medical evaluation data from the past year, and document its designation of any resulting services in the student's IEP. The LEA must upload the physician's note or IEP Team summary worksheet into the Special Education Data System (SEDS) within 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. Students in this category are students for whom it is not appropriate to provide services in a traditional school setting and instead may need to receive services at the family's home, a hospital, or some other medical facility. In these cases, an IEP Team may determine that the family's home, a hospital, or medical 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 an intellectual/cognitive, emotional, sensory/communication, or physical disability may be eligible for special education transportation services if they cannot travel safely without structured transportation supports. The phrase *structured transportation supports* refers to a non-medical accommodation and/or form of assistance that addresses health and safety concerns such as unsafe behavior, compromised decision-making, or impaired navigation resulting from a severe disability.

To determine whether a student is eligible for special education transportation services under the STS category, the IEP Team must review the student's most recent functional assessment and evaluation data. An IEP Team that finds evidence of a documented severe intellectual/cognitive, emotional, sensory/communication, or physical disability must 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?);
- The student's documented deficit in assessing risk or advocating for personal safety;

---

<sup>7</sup> Personal care services include assisting students with mobility/positioning, as appropriate; assisting with self-administered medications; redirection and intervention for behavior; and health-related functions through hands-on assistance, supervision and cueing.



- 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 street signs/signals and 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 outside of school?).

Students who have a disability that does not prevent the student from traveling safely without structured transportation supports are 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 must indicate its decision and justify its determination within the student's IEP. The IEP Team must document its determination by obtaining a note from the evaluator or summarizing the nature of the student's disability which warrants the eligibility determination. The IEP Team must also determine if the student requires supporting related services such as individualized personal care services.<sup>8</sup> The IEP Team must determine the appropriateness of such related services on a case-by-case basis, by reviewing current evaluation data from the past year,<sup>9</sup> and document its designation of any resulting services in the student's IEP. The LEA must upload the evaluator note or IEP Team summary worksheet into SEDS within 5 business days of the eligibility determination.

### **Eligibility Category 3: Students Accessing FAPE Outside of the Neighborhood School (ONS)**

Students traveling to a school or program outside their neighborhood schools for the purpose of accessing special education and/or related services as a part of FAPE may be eligible for special education transportation services. To determine eligibility under the ONS category, IEP Teams must review the student's special education record to ascertain if the student is attending the school or program outside the LEA as a result of a placement made by the IEP Team because the placement is determined to be the appropriate and least restrictive environment for the student.<sup>10</sup> If so, the student is eligible for special education transportation services only if the school or program outside the student's neighborhood school is further than 1.5 miles for elementary and middle school students or 2 miles for high school students from the family residence. Students who elect to attend a school or program outside their LEA or neighborhood school for non-FAPE related reasons (*e.g.* parent's school of choice, out of boundary lottery, etc.) are not eligible for special education transportation services under the ONS category. LEAs may be responsible for providing transportation to private school students receiving equitable services.<sup>11</sup>

An IEP Team that determines that a student is eligible for special education transportation services under the ONS category must indicate its decision and justify its determination within the student's IEP. Students eligible for special education transportation under the ONS category, who are over the age of 12 years old, will receive metro fare cards for public transportation (rail or bus) rather than be transported by an OSSE-DOT bus unless the IEP Team determines that public transportation is not appropriate. An IEP Team that determines that public transportation is not appropriate for a student over the age of 12 must justify the need for a bus and develop a transition plan that considers travel

<sup>8</sup> See footnote 7.

<sup>9</sup> 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.

<sup>10</sup> Nonpublic placements should be located as close as possible to the student's home residence. 34 C.F.R. §300.116(b)(3)

<sup>11</sup> 34 C.F.R. §300.139; 71 Fed. Reg. 46,596



training. OSSE-DOT is not responsible for the loss or theft of metro fare cards, and will not provide replacement fare cards.

### **ORDERED TRANSPORTATION**

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. An IEP Team does not need to determine eligibility if special education transportation services have been so ordered. IEP Teams are, however, required to document that the student qualifies for special education services through a court order or HOD in the student's IEP, and upload a copy of the order or HOD to SEDS to fulfill the documentation requirement. Once the court order or HOD expires or ceases to be in effect, an IEP Team must 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. OSSE-DOT will not honor settlement agreement terms if OSSE-DOT is not a party to the settlement agreement.

### **RELATED SERVICE PROVIDERS ON THE BUS**

OSSE-DOT provides a bus driver and bus attendant on each bus operated by OSSE-DOT. The bus driver is primarily responsible for the safe operation of the bus. The bus attendant is responsible for assisting the bus driver with tasks central to the safe operation of the school bus. If the student is not waiting curbside for the bus, the bus attendant is responsible for knocking at the door of the residence to determine the student's status for the day. Bus drivers and attendants are not related service providers. They are not responsible for responding to the health or medical needs of any student passengers, except in cases of emergency where their response would be limited to taking steps to seek and enlist proper medical assistance. Bus drivers and attendants may not administer medication to students. Lifts, ramps or other mechanized equipment will be used by OSSE-DOT personnel to assist students with wheelchairs. Bus drivers and attendants are not responsible for physically handling student passengers other than providing occasional simple assistance that does not require lifting or carrying the student or specialized training.

IEP Teams must document the need for any related services required by the student while traveling on an OSSE-DOT bus. For students eligible under the MFS category, the IEP Team must document the need for related services while traveling on an OSSE-DOT bus by obtaining a physician's note or by reviewing and summarizing current medical evaluation data from the past year, and documenting any resulting services in the student's IEP. For students eligible under the STS category, the IEP Team must document the need for related services on the bus by obtaining a note by the evaluator or summarizing the nature of the student's disability which warrants the related service. OSSE-DOT will employ related service personnel, as indicated by related services needs documented in the IEP, for students throughout the remainder of the 2010-2011 school year. Parents must consent to services provided by the related service provider before the service provider may handle student devices or assist with self-administered medication, except in the case of an emergency.

When the IEP Team does not provide a physician's note or documented review of current medical evaluation data validating the need for related service personnel on the bus for students eligible for transportation under the MFS category, OSSE-DOT maintains the duty to assess the student's condition to determine whether the student can be transported safely on the bus without the additional care or supervision of a related service provider. OSSE-DOT reserves the right to refuse to transport a student on the basis of safety concerns. In such cases, LEAs have the obligation to reconvene the student's IEP



Team to discuss and address the safety concerns. LEAs will be responsible for making and providing alternative instructional options in the interim period before the IEP Team reconsiders its decisions.

Once the 2011-2012 school year commences, LEAs will be responsible for providing individualized personal care services on the school bus in the same way that LEAs are responsible for providing these related services in the school-based setting. LEAs will then need to ensure that related service providers are present for pickup at the scheduled time assigned to the student.

### **TRAVEL TRAINING**

A student may transition from riding on an OSSE-DOT bus to utilizing public transportation if the IEP Team determines that such a transition is appropriate. To facilitate this transition, IEP Teams may designate travel training when appropriate.<sup>12</sup> Travel training is specialized instruction 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.<sup>13</sup> Both special education transportation and travel training are important services that IEP Teams should continue to consider when they plan for a student's postsecondary transition needs. LEAs are responsible for providing travel training to a student, as a part of FAPE, if such services are designated on the IEP. OSSE-DOT does not provide travel training for students with disabilities.

### **LEA DOCUMENTATION OF ELIGIBILITY DETERMINATION & SERVICE DESIGNATION**

LEAs must complete and upload all documentation associated with special education transportation services to the SEDS within 5 business days of the eligibility determination. The LEA must document its reasonable efforts to obtain information that is necessary for documentation completion from parents in SEDS. Reasonable efforts are defined as a minimum of three attempts and multiple modalities (e.g. phone, mailed correspondence, and in-person) by the LEA.<sup>14</sup> OSSE-DOT will not process requests for transportation without complete documentation in SEDS. An IEP Team must communicate any subsequent changes in student eligibility status to OSSE-DOT by submitting the appropriate documentation within 5 business days of the eligibility determination. IEPs with incomplete documentation in SEDS may be considered noncompliant for monitoring and auditing purposes.

### **Assistive Devices**

IEP Teams must indicate, on the administrative transportation request form and IEP, any assistive device that the student will be utilizing on the bus. 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.<sup>15</sup> 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.

---

<sup>12</sup> 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.

<sup>13</sup> 34 C.F.R. §§300.39(a)(2)(ii) and 300.39(b)(4)

<sup>14</sup> 34 C.F.R. §300.322(d)

<sup>15</sup> 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)



## ADMINISTRATIVE INFORMATION

### Pick-Up and Drop-Off Locations and Times

OSSE-DOT will provide transportation from each student's residence to the student's attending school. The address of the student residence provided to OSSE-DOT must match the address used to establish District of Columbia residency or must be an alternate address in the District of Columbia that has been documented in writing by the parent. The documentation must then be uploaded into SEDs and submitted to OSSE-DOT within 5 business days. OSSE-DOT will not change a student's route to accommodate the student or parent for personal reasons (*e.g.*, 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 file with OSSE-DOT (i.e., the address of residence or the documented alternate address).

OSSE-DOT will not pick up or drop off students on District snow days or any other day that District schools are closed due to poor or unsafe weather conditions. In such cases, LEAs need to address make-up special education and related services according to their LEA-level policies<sup>16</sup> and consider the equitable manner in which they would account for missed instruction for special education students the way they would for general education students.

### Transportation to Non-Attending School Locations for Special Education and Related Services

OSSE-DOT will transport to an afterschool program or to and from off-site programs during the school day that are necessary for the provision of a free appropriate public education (FAPE) as specified in the student's IEP. OSSE-DOT will also transport a student who participates in off-site secondary transition activities ordered by the student's IEP.<sup>17</sup> To request transportation to non-attending school locations, LEAs must submit the appropriate special accommodations transportation request form within 5 business days of the IEP Team decision that the student will receive services somewhere other than the attending school site. The LEA is responsible for arranging for transportation of the student from the afterschool program or secondary transition activity location to the student's residence or documented alternate address, subject to reimbursement from OSSE-DOT.<sup>18</sup>

Any atypical transportation-related expenditure, such as transportation for education related field trips, must be requested through a special accommodation form within 5 business days of the IEP Team decision that transportation is needed for the student to participate in the field trip and at least 5 business days in advance of the field trip.

### Adult to Adult Transfer

Students who are eligible for special education transportation services under the MFS or STS category or students 12 years of age or under who are eligible under the ONS category must be accompanied by an adult at pick-up and drop-off times. If no adult is waiting in the afternoon at the residence identified for

<sup>16</sup> As the SEA, OSSE reserves the right to request and review all LEA-level policies for compliance with IDEA.

<sup>17</sup> IEP Teams must consider Travel Training, where appropriate, for students receiving secondary transition services. See Travel Training section of this policy.

<sup>18</sup> OSSE-DOT will reimburse at mileage rates set by the U.S. General Services Administration (GSA).



drop-off, the student will be transported to the intake center at the end of the bus route.<sup>19</sup> OSSE-DOT will attempt to contact the parent to notify him/her that the student can be picked up at the intake center. Students over the age of 12 who are eligible for special education transportation services under the ONS 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.

#### LEA SUBMISSION OF DOCUMENTATION TO OSSE-DOT

LEAs must submit a completed administrative transportation request form to OSSE-DOT within 5 business days of the eligibility determination. OSSE-DOT will not begin to process a transportation request until all of the following documentation is uploaded in SEDS:

1. Completed special education transportation services page (and supporting worksheet) from the student's IEP indicating eligibility in one of the eligibility categories established by OSSE and, if appropriate, any assistive devices and/or related services needed on the bus (or qualification for special education transportation services through a court order or HOD), and
2. Completed medical or disability documentation supporting the eligibility determination and the need for any additional related services on bus (or copy of a court order or HOD).

LEAs are responsible for any delays and expenses that result from failure to submit the necessary documentation in a complete and timely manner. OSSE-DOT is responsible for ensuring that transportation services are implemented no later than 3 business days of receiving completed documentation. OSSE-DOT will implement any changes made to the pick-up or drop-off address after the initial transportation request within 10 business days. OSSE-DOT may reimburse expenses incurred by parents who prefer 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.

#### LEA CERTIFICATION OF ELIGIBILITY

LEAs are responsible for certifying<sup>20</sup> special education transportation services to OSSE-DOT twice a year. LEAs must provide certification to OSSE-DOT of all students receiving special education transportation services for the upcoming school year, including those students attending nonpublic schools and programs,<sup>21</sup> no later than the first Monday of June of the current school year. LEAs must provide certification to OSSE-DOT of all students receiving special education transportation services for ESY services no later than the first Monday of May every year. OSSE-DOT will not process requests for uncertified transportation services resulting from IEP Team decisions made without appropriate knowledge or involvement of the LEA at which the student is enrolled.

<sup>19</sup> 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, 400 6th Street, S.W. Washington DC 20024 (202-671-7233).

<sup>20</sup> 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.

<sup>21</sup> 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 designation of nonpublic school personnel. 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)





---

## COMPLIANCE AND MONITORING

The U.S. Department of Education’s Office of Special Education Programs (OSEP) requires that every State Education Agency monitor LEAs to ensure compliance with IDEA Part B. A finding of LEA noncompliance by the OSSE results in the requirement to submit an improvement plan containing corrective actions for each area of noncompliance. The OSSE may also recommend or require training and technical assistance to LEA staff when crafting corrective actions. All items of noncompliance must, 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.<sup>22</sup>

All LEAs must comply with monitoring requirements established annually by the OSSE, which include the collection and submission of both quantitative and qualitative data that supports monitoring for regulatory compliance and programmatic quality. Additionally, a subset of LEAs will be selected for the OSSE’s focused monitoring process annually.

## ADDITIONAL GUIDANCE

OSSE is committed to ensuring that all children with disabilities receive a free appropriate public education in compliance with the law and that LEAs have the knowledge base and tools to support LEA compliance, including, but not limited to, necessary training and technical assistance.

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

---

<sup>22</sup> 34 C.F.R. §300.604(a)