

## Q&A: School Transportation

Transportation is defined in the school context as “travel to and from school and between schools; travel in and around school buildings; and specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.” The transportation directives set forth in the Individuals with Disabilities Education Act (IDEA) ensure that children with disabilities are educated with students without disabilities to the maximum extent appropriate. Section 504 of the Rehabilitation Act also requires that students with disabilities receive the same access to transportation services as students without disabilities, regardless of need.

### How do districts determine if transportation is necessary?

The general student population does not have a basic entitlement to transportation; it is instead a matter of individual school policy. In districts that do provide transportation, most of their policies base eligibility on the number of miles a given student lives from the school. Beyond this policy of designated range, students may enjoy some bus privileges. Whatever transportation provisions are made to this group must be made available to all similarly situated students on equal terms, including students with disabilities.

Regardless of district policy, students with disabilities may be entitled to transportation if needed for the child to benefit receive a free appropriate public education (FAPE). Transportation is considered necessary if, in its absence, a child with a disability would be denied a genuine opportunity for equitable participation in a special education program.

A child’s Individualized Education Program (IEP) or Section 504 team determines if transportation is required to assist the child with a disability to and from school, and how that transportation should be implemented. The IEP or Section 504 team should describe the transportation services to be provided, including any transportation needed to provide the child with disabilities to participate in nonacademic and extracurricular activities. This transportation plan should consider whatever is necessary to afford the child an equal opportunity for participation in services and activities to the maximum extent appropriate to the needs of that child.

### Who determines what the transportation will look like?

The IEP or Section 504 team determines what transportation services will look like. However, when considering convenience or difficulty to the parent, that is not something districts are generally required to consider. Ultimately, it all depends on what the student needs to receive FAPE.

### Does the least restrictive environment (LRE) requirement apply to transportation?

Generally, yes. The student’s Section 504 or IEP team should consider the LRE for the student in the context of transportation and only consider separate transportation if needed for that student. Specialized transportation can also be considered if the student’s behaviors present safety concerns that cannot be addressed through appropriate accommodations. Transportation of one student by themselves can be appropriate if the IEP team agrees this is what the student needs. Selection of drivers is solely the decision of the district and parent input does not determine personnel decisions, unless there are reasons a specific person would result in a denial of FAPE for the student.

### When may a bus ride be considered too long?

Neither the IDEA nor Section 504 addresses the length of a bus ride. However, if a student is denied FAPE because of the length of the bus ride, this may be problematic under the IDEA and/or Section 504. This can happen when the student must arrive late or leave early to accommodate the bus ride and therefore loses out on services. It can also happen if the length of the bus ride impacts the student’s disability-related behaviors and therefore interferes with their ability to receive FAPE once they are at school.

### **How does school choice impact transportation availability?**

If a student or their parent chooses for the student to attend a school or district other than the one which they would usually attend, the district is **not** responsible for providing transportation to the school of choice.

If a student goes to a different school district, the student's district of residence (sending district) is not responsible for the student's services in the district of choice, assuming the sending district did offer the student the opportunity to receive FAPE. In this case, the district of choice (receiving district) takes on the burden of providing FAPE.

### **How can suspensions impact transportation?**

The impact that suspension has on transportation depends on the length of the suspension.

#### *Long-Term Suspension*

A long-term suspension is a removal from school for more than ten consecutive school days, **or** a series of separate suspensions that cumulatively total more than ten days during the course of the year **and** constitute a pattern of exclusion.

The suspension of a student with a disability from transportation may constitute a change in educational placement if a district has been transporting the student, suspends them from transportation as a disciplinary measure, and provides no other form from transportation. When districts evaluate whether a bus suspension is part of a prohibited pattern of removals, it must consider prior instances in which the student was suspended from instruction. Long-term bus suspensions may result in the need for a district to conduct a manifestation determination review (MDR). For more about MDRs, see [Manifestation Determination Reviews](#).

#### *Short-Term Suspension*

A short-term suspension is one that does not meet the definition of a long-term suspensions above. A district is not required to provide alternative transportation to a child with a disability when it subjects the student to a short-term removal from the school bus unless it provides transportation in this manner to students without disabilities, as required by Section 504. Short-term suspensions do not usually require an MDR.

#### *When a Bus Suspension Becomes a School Suspension*

A bus suspension counts as a day of school suspension for purposes of the IDEA and Section 504's disciplinary protections if the child receives transportation as a related service **and** the district does not provide the student with alternative transportation to school.

If transportation is not in the child's IEP or Section 504 plan, the child's parents have the same obligations to transport the suspended student to and from school as do the parents of a suspended nondisabled student. If transportation is not a related service in a student's IEP or Section 504 plan but the student requires transportation to receive FAPE, a district may need to revise the IEP or 504 plan.

### **What transportation is available to private school students?**

There are varying guidelines for students enrolled in private school depending on whether they were publicly placed there by an IEP team or parentally placed outside the IEP process.

#### *Publicly Placed Private School Students (Student placed by their IEP or Section 504 team)*

A publicly placed private school student has all the IDEA rights of a child with a disability who is served by a public agency. A district owes publicly placed private school students the same rights and obligations that it owes to public school students with disabilities, including the related service of transportation to conform with their IEP, at no cost to the parents. A district needs only to provide a student publicly placed in an out-of-district or private program with transportation services necessary to provide the student free, appropriate public education (FAPE).

### *Parentally Placed Private School Students (Parent chose placement without IEP or Section 504 team agreement)*

Parentally placed private school children with disabilities are children enrolled by their parents in private, including religious, schools or facilities that are considered elementary or secondary schools under the law. Whether a student who is unilaterally placed by a parent in a private school is entitled to transportation services is not as straightforward as it is for students who are publicly placed. See [Rights in Private Schools](#) for more information.

### **What if I have a dispute about transportation?**

If your student has transportation in their IEP and the district is not provided what was agreed to, you could potentially file a state complaint or request mediation or a facilitated IEP meeting to resolve your complaint. If you do not agree with the IEP team about what should be in the IEP regarding transportation, you may file a due process complaint or request mediation or a facilitated IEP meeting to resolve your complaint. If your student has a 504 plan and you have disputes about transportation, you could file a complaint with the U.S. Department of Education's Office for Civil Rights. More about these dispute resolution options can be found here: [Dispute Resolution Options \(youtube.com\)](#) (VIDEO), [Dispute Resolution for K-12 Students with Disabilities](#), [The Office of Civil Rights \(OCR\)](#), [CDE's Q&A for Mediation](#), [CDE's Checklist for Preparing for Mediation](#), [CDE's Q&A for State Complaints](#), [CDE's Q&A for Due Process Complaints](#).

### **Where can I get more information?**

To learn more, see:

- [School Transportation | CDE \(state.co.us\)](#)
- [Colorado transporting students with special needs guide \(state.co.us\)](#)

\*\*\* DISCLAIMER: This is not intended as legal advice, but rather for informational purposes only.

Always consult a lawyer if you have questions about your legal rights. \*\*\*

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