

RIGHTS OF MASSACHUSETTS YOUTH WITH DISABILITIES REGARDING TRANSPORTATION TO SCHOOL

**Prepared by the Mental Health Legal Advisors Committee
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Is the school required to provide transportation to all students?

School districts that provide transportation to students without disabilities must make the same transportation services available to students with disabilities.¹ If the school does not provide transportation to students without disabilities, the student's Individualized Education Program (IEP) team must determine whether the student should receive special transportation.²

Who is entitled to special transportation services?

Children with disabilities are entitled to special education and related services.³ One such "related service" is transportation.⁴ The student's IEP team must analyze "whether the student requires transportation because of his or her disability in order to benefit from special education."⁵ Moreover, when special transportation is being considered, the IEP team must conduct this analysis, and the team may not simply argue that regular transportation is warranted as it is less restrictive than special transportation.⁶ If the team determines that the student requires specialized transportation services in order to benefit from special education, then the team must note so in the student's IEP.

What are special transportation services?

Special transportation services are transportation services other than regular transportation that take the student to and from school and school-related activities. Special transportation may include accommodations such as special or adapted buses, lifts, and ramps.⁷

Is special transportation only for students with physical disabilities?

No. Special transportation is required for any student who needs it in order to benefit from special education services.⁸ This is true even if the student has no physical disability that causes a need for specialized transportation.⁹ If a student has a mental or cognitive disability, it may be helpful to have the student's clinicians, such as a therapist or psychiatrist, provide information to the IEP team to inform their decision about whether to provide special transportation.¹⁰ For such students, special transportation may be required for the student's well-being¹¹ or to allow the student to arrive at school ready to learn.¹²

Will the school provide an attendant on the school's transportation?

The IEP team should determine the need for qualified attendants on vehicles.¹³ The school district must provide a qualified attendant if the team so recommends.¹⁴ The team should specify if the student has a particular need or problem, such as a behavioral concern, that may cause difficulties during transportation.¹⁵

What would be the role of the attendant?

The attendant could be present on the vehicle and provide support as needed for the student. The team is required to provide clear, written information to the driver and the attendant on the nature of any need or problem that may cause difficulties for a student receiving special transportation.¹⁶ The team should also provide information on appropriate emergency measures that may be necessary.¹⁷ The school must also provide appropriate training to the driver and the attendant.¹⁸

What if the student's parent or guardian has been providing transportation for the student?

If a student's parent or guardian provides transportation to a student who requires special transportation, the school district will reimburse that parent or guardian at the prevailing rate per mile for state employees.¹⁹ Parents are not obligated to provide transportation on their own.²⁰ However, if parents do provide transportation, they will be reimbursed for the round-trip distance between the home and the school.²¹

¹ 603 CMR 28.05(5)(a).

² 603 CMR 28.05(5)(b).

³ 20 USC § 1411.

⁴ 20 USC § 1401(26)(A) (“The term ‘related services’ means transportation, and such developmental, corrective, and other supportive services... as may be required to assist a child with a disability to benefit from special education....”).

⁵ 603 CMR 28.05(5).

⁶ See Chicopee Public Schools & Oakley, BSEA # 11-2568 (2010).

⁷ 603 CMR 28.05(5)(b)1.

⁸ 20 USC § 1401(a)(17).

⁹ In re: Weymouth Public Schools, BSEA # 11-2663 (2011) (quoting Donald B. By and Through Christine B. v. Board of School Com'rs of Mobile County, Ala., 117 F.3d 1371, 1374-74 (11th Cir. 1997)).

¹⁰ In re: Belmont Public Schools, BSEA #06-2596 (2006) (citing 603 CMR 28.06(8)(b)) (affording significant weight to a letter from a clinical director stating that a student needed special transportation).

¹¹ In re: Belmont Public Schools, BSEA #06-2596 (2006).

¹² In re: Chicopee Public Schools, BSEA #11-2568 (2010).

¹³ 603 CMR 28.05(5)(b).

¹⁴ 603 CMR 28.06(8).

¹⁵ 603 CMR 28.05(5)(b).

¹⁶ 603 CMR 28.06(8)(b).

¹⁷ 603 CMR 28.06(8)(b).

¹⁸ 603 CMR 28.06(8)(c).

¹⁹ 603 CMR 28.07(6).

²⁰ 603 CMR 28.07(6).

²¹ 603 CMR 28.07(6).