



April 2014

# Governance Brief

## Special Education Pupil Transportation

*Considerations in the era of LCFF*

Special education pupil transportation involves several principles directly related to the board's governing roles. Boards must balance their representative duties (consulting with parents about special education student needs and interests), the enforcement role (ensuring the district is in compliance with all applicable special education law), and their fiduciary responsibility (safeguarding the long-term viability of the district). Because of the very technical nature of these issues, boards should look to the professional advice of the superintendent and staff for how to best meet the transportation needs of special education students.

Local education agencies (LEAs) are mandated to provide transportation to special education students who require it under their individualized education program (IEP) or their individualized family service plan (IFSP) as a related service under the federal Individuals with Disabilities Education Act (IDEA).<sup>1</sup> This service must be provided if it is determined to be necessary in order to meet the criteria for a free, appropriate public education (FAPE).<sup>2</sup> IEP teams, in coordination with Special Education Local Plan Areas (SELPA) must develop plans for each special education student within their jurisdiction.<sup>3</sup> If the plan includes transportation, then the LEA must provide this service for free.<sup>4</sup> Transportation can be provided as school-to-school or home-to-school as determined by the IEP or IFSP. The IEP also determines the need for assistive mobility devices such as wheelchairs, or other devices such as safety harnesses. In some cases, parental transportation may be appropriate, but in these cases the district is responsible for providing reimbursement in a manner agreed upon by both the parents and district. Charter schools are equally bound to provide transportation for students with disabilities if their IEP determines that it is necessary. These requirements remain in place under the Local Control Funding Formula (LCFF).

### Eligibility

Individuals ages 3 to 21 are eligible for transportation services if their IEP requires it. Individuals ages 0 to 5 are eligible for transportation if their IFSP requires it.<sup>5</sup> Eligibility is determined based on the provisions of the IDEA. All grade levels are eligible including pre-K and transitional kindergarten.

### Funding

Most districts obtain funding through a variety of sources, including the categorical grants intended for special education and related services. The newly enacted LCFF eliminated most categorical grants, but the grants for special education and pupil transportation were left unchanged.

#### *Transportation funding*

Only rarely do districts receive sufficient transportation funds to fully meet both general and special education transportation costs, but special education funds can supplement transportation funds to accommodate special education needs. LEAs previously supplemented transportation funds from general fund resources. Under LCFF, transportation funds must continue to be used for transportation purposes and may be used to fund mandated special education transportation.

LEAs continue to receive the same amount of transportation funding that they did previously, despite the fact that those apportionments were very different depending on a formula in place back in the early 1980s. Districts that were not funded at that time have never been eligible for transportation funding, except by special legislation. These districts must find other funds for special education student transportation. Charter schools have been

treated similarly: since no charter schools existed when the funding rates were locked in, no charter school has been eligible for transportation funding. (The only exception is for school districts that have converted all of their schools to charter schools.) In addition, charter schools will not receive higher base rates or any funding in lieu of transportation funds, as they did under the Charter School Block Grant, pre-LCFF system.

Although the LCFF does not change the amount of funding an LEA receives, it does provide some additional flexibility over the use of state funds. In previous years, most LEAs had their transportation allocations split into two parts: home-to-school transportation (HTS) and severely disabled/orthopedically impaired transportation (SD/OI). State law did not allow comingling these allocations. An LEA could not, for example, discontinue its regular home-to-school transportation service and use the savings to fund the transportation of severely disabled students. Now under the LCFF, each LEA's HTS and SD/OI allocation is merged into a single allocation that may be spent on either type of transportation service.

### *Special education funding*

Funding for special education has three components. First, it is partially reimbursed by the California Department of Education (CDE) in the form of a block grant that includes funding for both HTS and SD/OI transportation. Special education transportation eligibility extends from birth through age 21 and is not dependent on grade level.

Second, additional funds from both the federal and state government are distributed to SELPAs. Each SELPA develops a local plan for how to allocate funds based on how it has chosen to organize services. In single-district SELPAs, the funding is directly received from the state and then spent on either providing their own services or contracting with others. The majority of SELPAs consist of multiple LEAs and decide internally how to divide funding for all students with disabilities in the region. In most cases, consortia members reserve some funding at the SELPA level in order to operate shared responsibilities while distributing the rest of the funds to individual LEAs to serve their students locally. SELPAs are not required to use any state mandated allocation formula, but rather are free to base their distribution plan on average daily attendance, specific student population values or other local priorities and considerations. In the 2012-13 fiscal year, \$2.8 billion in state special education was split between the various SELPAS that administer the funds in their respective

regions. The federal government's funding for special education totaled \$1.3 billion.<sup>6</sup>

Third, LEAs must utilize funds from their general fund in order to cover the costs not met by the state and federal grants. In actuality, the state and federal governments never intended to fully fund the education of special needs students with targeted special education funds but rather aimed to cover a share of the excess costs caused by their disabilities, with LEAs paying for both the remainder of the excess costs and the non-disability costs of those students. LEAs receive state general purpose funds and state and federal categorical funds to meet the general education needs of both non-disabled students and students with disabilities. However, the federal government has never provided the amount of special education funding the IDEA intended—roughly 40% of the excess costs associated with students' disabilities. Rather, federal special education funding covers less than 20% of statewide special education costs, leaving the state special education grant and LEA general funds to cover the remainder.

### **Building a transportation system**

A transportation system requires the cohesive operation of both specialized equipment and personnel. The district policy, in coordination with the requirements set by the IEP team, can determine what types of equipment and training are available or required. Depending on the geographic circumstances, certain vehicles may be a better fit for the system. Additionally, population densities of students requiring services may dictate which types of transportation modes are appropriate for certain routes. These range from buses and vans to taxis or may include private transportation by parents. Some districts utilize public transportation systems and reimburse parents. Contracting these services to third parties can appear to be cost-effective, but can put districts at a disadvantage when negotiating future contracts.

The wide range of potential disabilities means a variety of specialized equipment could be necessary. IEP teams, in conjunction with occupational and physical therapists, can determine what types of assistive mobility devices may be required in specific cases. Devices like seat restraints, safety harnesses, security harnesses, and car seats must be utilized properly in order to avoid injury. This may require that drivers undergo proper training for the operation of these devices. In addition, some vehicles may need to be equipped with wheelchair lifts, ramps, or some other modification such as climate

control equipment. Existing transportation options may not include all of the required specialized equipment for certain students with disabilities. Districts must set policy regulating the acquisition and installation of after-market equipment upgrades or choose to invest in new vehicles that are preloaded with disability equipment.

The transportation staff comprises a variety of personnel. These individuals range from drivers, aides, and volunteers to the transportation director. IEP evaluations may determine that certain personnel, such as bus monitors or escorts, are necessary during transportation. Often these may be parents or volunteers, but they still should be notified of their legal responsibilities and confidentiality of pupils' personal information. Background checks for permanent staff are necessary and may be advisable for volunteers and parents as well. The drivers of these vehicles must be trained in a variety of skills in order to foster the best possible environments while transporting. These should include knowledge of the disabilities they will be encountering as well as the various laws and administrative policies regarding the transportation of special education students. It is also important to ensure that the drivers are aware of the requirement to ensure the confidentiality of personally identifiable information. Behavior management techniques or bus monitors may be utilized in order to maintain smooth operation. Basic first aid and cardiopulmonary resuscitation certification is a necessity.

## IEP process and considerations

When IEP teams develop plans for special education students, one of the constraints that they operate under is the desire to place students in the least restrictive environment (LRE).<sup>7</sup> LRE means that students with disabilities should be educated with nondisabled students to the greatest extent possible and should have access to the same general education curriculum, as well as access to nonacademic programs and activities. Generally, placements are considered to be more restrictive when students spend less time learning and interacting with nondisabled peers.

IEP teams should be sure to consider a variety of factors regarding the design of a transportation plan for a student. Some of the major concerns are medical needs such as the safe travel of medication or the maintenance of a climate controlled environment. Physical accessibility can largely be augmented by mobility devices, but in some situations IEP teams may have to implement creative solutions in order to ensure that special

needs students are afforded equal opportunity to take advantage of extracurricular and nonacademic activities. Some students may require services at times at which normal transportation does not usually occur, such as midday activities or post-school activities. As often as possible, IEP teams and transportation officials should strive to streamline services and design schedules that reduce both the number of routes run as well as the amount of time spent on buses.

Some students may express their disability with poor behavior during transportation. To cope with this, IEP teams can devise specific behavior intervention plans in which both school and transportation officials should be included. District policy should determine which individuals are allowed to use physical intervention if necessary, as well as establish a protocol for involving local community medical services or law enforcement. Suspension from the transportation system is allowable, but it may constitute a significant change of placement to the student. This is the case when the district has an ongoing commitment to transport a student but stops transportation due to the student's suspension from the vehicle and then fails to provide a new form of transportation. When this occurs, the IEP team must reconvene and assign a new form of transportation at no cost to the pupil or parent or guardian in order to ensure access to FAPE.<sup>8</sup>

## Potential board decisions

The efficiency of a transportation system for special education is partially dependent on the location of the program sites and the placements of students. Placements should not be made solely on a space-available basis. If a student is receiving services outside of his/her residence area, the placement should be reviewed at least annually in order to determine if a placement closer to the student's residence would be appropriate. A demographic and geographic review that analyzes the present locations of programs, program needs, and populations served should take place. Program service regions with clearly defined service areas can then be established, using residence areas of the neighborhood schools. While this also involves the issue of available facilities, policies developed by the district should promote the comprehensive commitment to all pupils and the acceptance of pupils with exceptional needs in a broad variety of settings.

Transportation systems are configured primarily by the transportation director and the district office. The

primary responsibility of the board is to make budgetary decisions. These may include approval or denial of various purchases for the system or perhaps the decision to outsource the transportation in order to avoid purchasing their own equipment altogether. Sometimes it may be more cost effective to reimburse a parent for driving their child rather than to procure the necessary and often costly components required for the district to transport that child. County offices of education play an important role by coordinating shared services between districts as well as by conducting general fiscal oversight. The county superintendent is responsible for approving or denying annual budget proposals and must take specific actions if a district cannot meet its financial obligations.

Districts that provide transportation for extracurricular and nonacademic activities to the general student body must also provide these services to students with disabilities. These students are entitled to an equal opportunity to participate in activities including athletics and field trips as well as other after school activities. These can likely find their way into your Local Control and Accountability Plan (LCAP) under the state priorities of student engagement and basic services. Students in the general body may be charged a fee for services so long as it does not exceed the maximum of \$9.08 for a round trip. The sum of state aid, federal aid and collected fees must be less than or equal to the actual cost of transportation services. Students with IEPs as well as indigent families and guardians are exempt from any fee requirement.

Some students may be accompanied by complicated medical equipment or require certain specialized physi-

cal health care services during the regular school day. These individuals may only be treated by qualified individuals with health credentials or by trained school personnel in the presence of a licensed nurse, doctor or surgeon.<sup>9</sup> These medical procedures may include catheterization, gastric tube feeding, suctioning or other services that require medically related training. Governing boards should set general policy regarding health care professionals and services provided by the district, which will then be used by the administration to hire staff and place students based on the availability of services. Additionally, boards may decide what medical procedures may be performed by school nurses and how many campuses may be staffed full time with a school nurse.

Some transportation systems utilize the staggering of school start times in order to consolidate bus routes. This can result in earlier start times for some students and potentially longer school days. Starting school earlier coupled with longer bus rides can affect student performance. However, some districts are constrained by the geographic characteristics of their region. Districts should seek to balance the logistical realities of their region with the goal of providing shorter routes while maintaining cost effectiveness.

## Measuring transportation success

Board members should be aware of various data indicators that can be used to monitor the efficiency of transportation systems. This can include fuel costs, mileage of routes, cost per pupil, and number of pupils transported, among other indicators. Boards should expect

### Special note on homeless student transportation

In California, the fastest growing segment of the homeless population is families with school-age children. Unfortunately, this has a wide range of effects on the academic performance and overall well-being of these students. The McKinney-Vento Homeless Assistance Act was enacted by the federal government in 1987 as the first significant response to homelessness. Under this act, school districts are required to provide FAPE for homeless students at their school of origin if it is in their best interest, regardless of the location of their current temporary shelter. According to some studies, homeless students are slightly more likely to be placed in special education programs which often entitle them to transportation under their IEP. Regardless of special education status, the McKinney-Vento act requires that districts provide transportation as necessary to homeless students in order for them to access FAPE. Funds are distributed by the federal government to cover some of the costs of implementing transportation for homeless students, but the rest must come from a district's general fund. Under the McKinney-Vento act, \$7.4 million has been distributed to individual LEAs. These funds are intended for all services provided to homeless students and excess transportation costs must be covered by the general fund. However, funding for homeless special education students must come from the funds set aside for special education transportation as well as the general fund.

regular updates from the administration regarding the performance of the transportation system. Guiding questions may include:

1. How many students do we transport and how far do we transport them? What is the cost of providing this service?
2. Would it be more efficient to contract services, maintain the district's own transportation system or coordinate with nearby districts?
3. Is the board receiving adequate and regular information updates from the transportation authority or administration?
4. Does the ride length interfere with students' ability to access courses or extracurricular activities? Does it cause some students to have substantially longer school days?

- 8 Education Code 48915.5(c)\_ AB1859, Chapter 492, Statutes of 2002 as amended by AB685, Chapter 56, Statutes of 2007
- 9 Education Code 49423.5

## For further information

CDE link for financial reporting  
[www.cde.ca.gov/fg/sf/fr](http://www.cde.ca.gov/fg/sf/fr)

California Legislative Analyst's Office  
[www.lao.ca.gov](http://www.lao.ca.gov)

Community Alliance for Special Education  
[www.caseadvocacy.org](http://www.caseadvocacy.org)

Easter Seals Project Action  
[www.projectaction.org/](http://www.projectaction.org/)

Federal Office of Special Education Programs  
[www2.ed.gov/about/offices/list/osers/osep/index.html](http://www2.ed.gov/about/offices/list/osers/osep/index.html)

## Endnotes

- 1 Code of Federal Regulations 34 Sec 300.34(c)(16)
- 2 Code of Federal Regulations 34 Sec 300.17
- 3 Education Code 56205,56206,56208,56211,56241,56243,56244,56255; PL 93-112, PL 94-142, PL 99-457
- 4 Code of Federal Regulations 34 Sec 300.17
- 5 California Government Code: Section 95014(a)
- 6 U.S. Department of Education
- 7 Code of Federal Regulations 34 Sec