

MEMORANDUM

TO: Colby Brunt

FROM: Colleen Shea

DATE: October 9, 2018

RE: Salem Public Schools - Guide to Specialized Transportation and Regular Transportation for Students with Disabilities

A. General Overview

Federal law assumes that most students with disabilities will receive the same transportation provided to nondisabled students, consistent with the least restrictive environment (LRE) requirement, unless the IEP Team determines otherwise.¹ Additionally, special education students who attend schools outside of their neighborhood school because of their disabilities (e.g. attend specialized in-district program, or out-of-district program) are entitled to transportation, even if it is not normally provided to nondisabled peers.² Specialized transportation is appropriate when a student with a disability requires a modification to the transportation that is normally provided to non-disabled peers in order to access school. For example, if a student, due to disability, requires modifications such as a van, bus monitor, special equipment or other assistance in order to access school, then specialized transportation is appropriate. Moreover, if a bus is not provided to general education peers, and the student, due to disability, is not able to navigate walking/MBTA to access school, then specialized transportation would also be appropriate.

B. Regular Transportation

Regular transportation is appropriate when a student with a disability can access school and a FAPE through the same mode of transportation (or lack thereof) available to non-disabled peers; or, when a student attends a non-neighborhood school, or out-of-district school due to his or her disability and does not require specialized transportation, but is entitled to regular transportation even if the town does not normally provide it.³

This is best clarified through three categories: 1) students with disabilities in neighborhood school assignments; 2) students placed in non-neighborhood schools due to disabilities; and, students with disabilities placed in out-of-district placements. As such, specialized transportation should not be checked off if the student fits into these categories.

1) Neighborhood School Assignment

¹ See 34 C.F.R. §§ 300.114 - 120. 71 Fed. Reg. 46,578 (2006).

² 603 CMR 28.05(5).

³ 603 CMR 28.05(5)(a).

If the student attends the school he or she would normally be assigned to even if he or she did not have a disability; and, the student can access school using the same mode of transportation normally provided to non-disabled peers. Salem provides free regular busing to some students based on grade and distance from school, but not to others.⁴

Regular bus provided for all students:

- Grades K – 2: Students who live 1 mile or more from school
- Grades 3 – 5: Students who live 1.5 miles or more from school
- Grade 6: Students who live 2 miles or more from school

No regular bus provided:

- Grades K – 2: Students who live less than 1 mile from school
- Grades 3 – 5: Students who live less than 1.5 miles from school
- Grade 6: Students who live less than 2 miles from school
- Students enrolled in Grades 7 – 12

The IEP Team must determine if a student assigned to a neighborhood school can access their IEP program and receive a FAPE with the regular transportation (i.e. what a nondisabled peer receives), or whether due to the child's disability, he or she would not be able to access their IEP program without specialized transportation modifications (e.g. provide transportation when nondisabled peer does not receive; and/or require other special modifications bus monitor; van; safety seat).

2) Non-Neighborhood School Assignment Due to Disability

If a student is enrolled in a school he or she would not normally be assigned because of his or her disability (e.g. attending another school in-district with a particular IEP program), then the student is entitled to transportation to and from the school, even if the town normally does not provide transportation. If the child does not require any specialized modifications or equipment (e.g. ramp, van, monitor, safety seat) in order to access school and receive a FAPE, then regular transportation is appropriate. Do not check off specialized transportation for these students.

3) Out-of-District School Due to Disability

If a student is enrolled in an out-of-district school because of his or her disability (e.g. therapeutic day school), then the student is entitled to transportation to and from the school, even if the town normally does not provide transportation. If the child does not require any

⁴Salem Public Schools, Bus Application (May 14, 2018), available at: https://www.salemk12.org/UserFiles/Servers/Server_268054/File/Transportation/2018-2019%20Bus%20Application/2018-2019%20Bus%20Application/2018-19BusAppEnglish.pdf.

specialized modifications or equipment (e.g. ramp, van, monitor, safety seat) in order to access school and receive a FAPE, then regular transportation is appropriate. Do not check off specialized transportation for these students.

C. Specialized Transportation

Specialized transportation is appropriate when a student requires regular transportation to access school and receive a FAPE and it is not normally provided to nondisabled peers; and/or, a student requires a modification to the transportation provided to nondisabled peers (e.g. van), special equipment, assistance, bus monitors or any other particular transportation necessity.⁵

If the IEP Team determines specialized transportation is required, the IEP should specify:

- whether the student requires assistance in or out of the home, on or off the vehicle, and in and out of the school;
- if the student has a particular need or problem that causes difficulties during transportation (e.g. seizures, motion sickness, behavioral concerns, communication disabilities); and,
- note that students who use wheelchairs should not be removed from wheelchair to be transported, unless recommended by the student's physician.⁶

Specialized transportation is considered a related service and the least restrictive environment principle applies. Thus, if a regular bus is available for non-disabled peers and the student can access school with some modifications to the regular transportation (e.g. bus monitor), then this should be utilized instead of a separate, more segregated van. However, if the student requires a smaller space or a specialized seat that cannot be modified in the regular transportation vehicle, then a more restrictive option is appropriate.

D. Examples

1) Could a 1st grader with Autism who lives more than one mile away from school ride the regular bus without modifications (e.g. monitor, van, curb pick up)?

If yes, then regular transportation is appropriate. If not, then specialized transportation is appropriate. The Team should then specify the reason for the specialized transportation (e.g. behavioral concerns, safety concerns, communication concerns) and what modifications the student requires (e.g. van, monitor, safety seat).

2) Could a 6th grader with an Emotional Disability who lives less than 2 miles from school access (i.e. navigate) getting to school via MBTA bus or walking?

⁵603 CMR 28.05(5)(b).

⁶603 CMR 28.05(5)(b)(1)(a-c).

If yes, then regular transportation is appropriate. If not, then specialized transportation is appropriate. The Team should then specify the reason for the specialized transportation (e.g. behavioral concerns; inability to navigate independently due to disability) and what modifications the child requires (e.g. transportation only, still specialized because it is not normally provided to non-disabled peers; or something additional like a bus monitor).

3) Does a 9th grade student who attends Salem Prep require specialized transportation?

Not unless they require a specific modification to regular transport. Because the student is already entitled to transportation as an out-of-district student, he or she only needs specialized transportation if he or she needs a modification to regular transport (e.g. bus monitor, van, curbside pick up and drop off) to access school and receive educational benefit.

4) Does an 11th grade student who attends an out-of-district therapeutic day program require specialized transportation?

Not unless they require a specific modification to regular transport. Because the student is already entitled to transportation as an out-of-district student, he or she only needs specialized transportation if he or she needs a modification to regular transport (e.g. bus monitor, van, curbside pick up and drop off) to access school and receive educational benefit.

5) Does a student with a free public bus pass mean the IEP Team marks specialized transportation?

It depends. If students without disabilities in that particular grade/neighborhood are provided free public bus passes and the student with the IEP can access school using a public bus, then the IEP Team should check regular transportation (as this is the regular mode of transport for all students in this particular grade/neighborhood).

If students without disabilities are not provided free bus passes for a particular grade/neighborhood, but because of the student's disability, the student requires a bus pass to access school, then the IEP Team should mark specialized transportation and specify free public bus pass as the appropriate specialized transportation.

However, if the free bus pass is given to the student for another reason (family circumstances, income, etc) then it should not be on the student's IEP as specialized transportation because the free bus pass is not provided to the student because of disability. The IEP Team should check regular transportation, but can note in additional information that the student receives a free public bus pass based on family circumstances, income etc.