

Effective date: May 23, 2014

# **Transportation Requirements for Community Schools**

# Objective

This document provides sponsors and charter/community schools (both public and non-public) guidance in meeting the requirements of Ohio's transportation standards.

# **Statutory Requirements**

Ohio Revised Code (ORC) Section 3301-83 inclusive, 3301-51-10, 3314.091 & 3314.092, 3327.01, 3327.02, 3327.10, 4511.01, 4511.75 & 6, 4511.62 & 3, 3319.39, 3319.40.

# **Policy**

#### A. Introduction

The local school districts are required to transport all students who reside in grades K-8 to the community/charters schools they attend, according to law. A district is not generally required to transport native high school students to charter schools unless the district also provides transportation to high school students. Districts are not required to transport students for a distance that exceeds 30 minutes. Districts establish their routes in early spring for the upcoming school year. Community schools are strongly encouraged to contact the traditional public school district's Transportation Office as early as possible, sharing all available information about their students eligible for transportation.

A community school may enter into an agreement with the transporting district to transport their own students. When providing transportation services, the community school must follow all the same requirements of the Ohio Department of Education and the Department of Public Safety as would a traditional public school district. The Pupil Transportation Office at the Ohio Department of Education has available an Operation and Safety Rules booklet and a School Bus Driver Training Manual. Both manuals are available at <a href="https://www.education.ohio.gov">www.education.ohio.gov</a> Alternate Arrangement

If the community school's governing authority designates the community school as responsible for providing or arranging for the transportation of its enrolled students to and from the community school, the agreement with the traditional public school district:

- a. Must be certified by the state superintendent of public instruction as having met all of the following requirements:
  - Deadline: The community school must submit its intentions to the department by Jan. 31 of the preceding year the community school wishes to start service.
  - ii. The transportation provided by the community school is subject to all provisions of Ohio law and all rules adopted under the Ohio administrative codes pertaining to pupil transportation.
  - iii. Sponsor approval: The sponsor of the community school must also sign the agreement.

#### b. Duration

Transportation responsibility lasts the entire school year and continues into subsequent

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school years unless the governing authority submits written notification to the district board stating otherwise. The traditional public school must agree to the change.

#### c. Relinquishing responsibility

A governing authority shall not relinquish responsibility for transportation before the end of a school year, and shall submit the notice relinquishing responsibility by Jan. 31, in order to allow the school district reasonable time to prepare transportation for its native students enrolled in the school.

# **B.** Approved Vehicles for Transportation

Under Ohio law, vehicles designed to carry nine or fewer passengers may only be used for students with special needs, extra-curricular activities, and homeless students, students placed in alternative schools, preschool children or children without access to school buses. Transportation funding is based upon compliance with Ohio law.

When filing the SEOS data, students with special needs should be noted in the system. Payment for special needs transportation is delayed one year. If the student is not flagged as special needs, for transportation purposes they are coded the same as other students. Therefore, the type of vehicle(s) used to provide the service, must be in compliance with revised and administrative codes. This would include school buses, contracted services of a school bus service, a neighboring district's school bus or public transit. Vans (vehicles designed to carry nine or fewer passengers, not including the driver) may not be used for typical riders. Failure to provide transportation service is a law violation and will result in non-payment for such services and potentially citations from the Ohio State Highway Patrol.

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The following chart summarizes these concepts:

Who is eligible?	Typically developing student transportation	Students with transportation special needs
Students not identified as having special transportation needs – typically developing students	Yes	No
Students identified as having special needs, without transportation as a related service	Yes	No
Students identified as having special needs, with transportation included in the students' IEPs as a related service	No	Yes
Type of transporting vehicle	School bus, Contracted school bus service, or public transit	School bus, contracted school bus service, public transit, school-owned-vans, or contracted vehicles other than school buses. Some vehicles may need to be specially equipped
When is reimbursement provided for the 2014-2015 school year	March 2015	March 2016

A student may have transportation noted within the IEP, but simply being noted does not necessarily make them eligible for specialized transportation or reimbursement for transportation. If transportation is not identified in the related services on the IEP, the student may be assigned to a school bus or have access to the transit system without any additional assistance or equipment. In the event that there are students that have an IEP where transportation is identified as a related service, at least 50% of the passengers must also have been identified as needing transportation. These students will subsequently be identified on the T1 Transportation Report for funding purposes as special needs students. When such students are noted, then the schools have an additional delay in funding. Funding for eligible special needs students is one year behind.

# **Frequently Asked Questions**

1. **Question:** If there are academic programs during the evening or summer or the community school is a year-round school, and the school district is providing the transportation services, does the district have an obligation to provide services beyond the 180 days a year, which are the school district's typical hours of operation?

**Answer:** The school district is not obligated to provide transportation outside the minimum, typical school day and school year (capped at 180 days). Additional specific circumstances may exist to meet federal requirements in the Individuals with Disabilities Education Act.

2. **Question:** A district of residence can designate transportation for a student as "impractical." What is the definition of "*impractical*" to transport? Is this time or cost related? What is the rubric for making these decisions and is it evenly applied?

**Answer:** This designation is left to the discretion of the district in accordance with law. If transportation is deemed "impractical," the school board must provide the parent or guardian with proper notifications and information regarding their rights and options. The rubric used for determining impractical is addressed within Ohio Revised Code 3327.02. Measurement of such timing must be in compliance with Ohio Administrative Code 3301-83-01(G)(1)(a).

3. **Question:** The number of days a new student has to wait before receiving transportation from the district is very long. Is there something in law addressing this?

**Answer:** No. Deadlines for enrollment of a new student should be addressed in the local school district's policy and apply to both traditional and community school students.

4. **Question:** Students are picked up as early as 5:18 a.m. Is there anything that can be done about this?

**Answer:** There are no restrictions as to the length of time a student may be on a bus or length of the bus ride. Actual routing processes are not restricted to the 30-minute rule used for determination of eligibility. The district must create their bus routes taking into account the entire population of the district.

5. **Questions:** There have been complaints that the location of the bus stops are very far away from the students' homes and located in areas that not safe.

**Answer:** Students in Kindergarten through eighth grade cannot walk more than ½ mile to their assigned bus stop. The district must create their bus stops in accordance with administrative and revised codes. Special consideration may be made when addressing bus stop locations for special needs students.

6. **Question:** For community school students, is proof of residency for transportation purposes the same thing as proof of residency for payment purposes?

**Answer:** Yes. Ohio law governs transportation by a traditional school district of its students residing in the district to and from a community school. This section of the law requires a school district to provide transportation services per law to students residing in the district.

For payment purposes, the term "district of residence" is often used, but the more precise definition is "the district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code." In the School Options Enrollment System, for payment purposes, the community school should be listing the district in which the student is entitled to attend school.

7. **Question:** For a community school student, does proving the child's residency in a district entitle the student to pupil transportation?

**Answer:** No. Students are only entitled to transportation services as provided for in ORC 3327.01. For many students living in the district, the district may not be required to transport, based on the several factors, including special education status, grade level, and distance to the school. See the position paper "Transportation Services for Nonpublic and Community School Students" for more details.

#### Entitled to Attend

1. Question: Do traditional school districts follow the same process for determination of where the community school student is "entitled to attend" and the student's pick-up/drop-off point for transportation purposes?

**Answer:** Not necessarily. "Where the student is entitled to attend" can be associated with an address of a parent or guardian, and is used to determine which traditional school district provides both funding for the community school and is responsible for transportation of the student.

However, in special cases, a student may actually reside at a different address. Generally, it will be helpful for community schools to note this type of situation in the School Options Enrollment System. Traditional school districts must provide bus stop locations in accordance with administrative code, and may also use their own policies to determine the proper bus stop for the student.

**2. Question:** If a school district, through the process of providing school bus transportation, has reason to believe that the community school's determination of the "district the student is entitled to attend" is incorrect (for instance, the family has moved), can it use this information to question the community school's determination?

**Answer:** Yes. The school district should follow the process outlined in law and use the flagging system in the School Options Enrollment System. Again, cooperation and dialogue between the school district and the community school is essential.

3. Question: What help can the Ohio Department of Education provide?

**Answer:** The whole process of determining where the student is entitled to attend depends on the cooperation and good will of the school district and community school staff. Typically school district and community school staff should work together to properly identify where the student is entitled to attend and whether the child is eligible for transportation. In instances where the process is not working smoothly, schools should contact the department's area coordinators or pupil transportation staff to seek clarification or request assistance.

**4. Question:** If a school district has a residency determination process for transportation purposes, does this override the determination of the school district where the student is "entitled to attend" for fiscal purposes in law?

**Answer:** No. The process of determination for fiscal purposes is valid for all community school students.

**5. Question:** Can a school district make parents of community school students apply for pupil transportation and/or require the parent to provide certain documentation to verify residency?

**Answer:** No. The determination of which district is required to provide transportation is the same determination that is made through the "entitled to attend" process described in law. School districts should follow the process outlined in law to give input or resolve disputes regarding the "entitled to attend" district determination. The district may, however, communicate with the parent to determine the proper bus stop or make other transportation decisions such as "payment in lieu" based on impracticability as detailed in law.

#### Students with Disabilities

1. **Question:** Can a community school charge for providing transportation to a student with disabilities?

**Answer:** A community school governing authority shall provide or arrange transportation free of any charge for any disabled student enrolled in the school.

2. **Question:** What guidance is available regarding incongruous calendars?

**Answer:** The Attorney General has addressed the issue of incongruous calendars. The Attorney General ruled that there is still an obligation to transport students on days when the original district of residence is not in session. When the district of residence is closed due to weather or other recognized calamity, there is *no* obligation to provide service by the district to the community school.

3. **Question:** What do we do if a student has a 504 plan?

**Answer:** Section 504 and the Americans with Disabilities Act define disability much more broadly than the Individuals with Disabilities Education Act. They include any individual who has a physical or mental impairment that substantially limits one or more life activities, or who has a record of such impairment, or who is regarded as having such an impairment. Reasonable accommodations are required by both of these laws. Section 504 goes further by specifically requiring the provision of educational services that are designed to meet the individual educational needs of the child. The school is required to keep the 504 plan current and implement any transportation accommodations identified.

# Alternate Arrangements

1. Question: Currently, a new community school has to wait a minimum of one year to receive funding for transportation services. Is there any way to expedite this? Is there anything in statue that would prevent the department from developing a policy to work around the reporting issue so new schools can get paid earlier?

**Answer:** There is an unavoidable delay in payment for newly developed schools. This is necessary because of the reporting cycles for EMIS and the T-1 (on enrollment numbers) reports. The T-1 report has to match up with EMIS which runs a year behind. The EMIS reporting cycle is dictated by statute.

**2. Question:** If we, as a community school, decide to provide transportation services, can we set up one contract for the various districts which "feed into" our school?

**Answer:** No, a community school must contract with districts individually because the payment structures vary with each district. This includes contracting for substitutes.

**3. Question:** Is there anything that would be illegal for the community school to set up an agreement with parents to provide their own transportation and get reimbursed?

**Answer:** This is legal. No parental reimbursements are permitted unless the school has contracted with a parent/guardian for special needs student services. If a community school contracts with parents, or other vendor, both the parents and vendor must be compliant with Ohio law.

**4. Question:** Can a community school or school district that is providing transportation charge parents for the service?

Answer: No.

**5. Question:** Is it legal for community schools to provide transportation without department approval or funding?

**Answer:** No. If a community school chooses to provide or arrange for transportation services they must register, and be in compliance, with the Office of Pupil Transportation.

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