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**OHIO SCHOOL BOARDS ASSOCIATION  
CAPITAL CONFERENCE**

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“The Effective and Efficient Delivery of Related Services”

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I. Introduction

II. Federal Law

- A. Related services under the Individuals with Disabilities Education Improvement Act (IDEIA) are provided to a child with disabilities to assist the child to benefit from special education.
- B. IDEIA defines “Related Services” as follows:

“The term ‘related services’ means transportation, and such developmental, corrective and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to

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receive a free appropriate public education as described in the individualized education program of the child, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

The term does not include a medical device that is surgically implanted, or the replacement of such device.”  
[20 U.S.C. §1402(26)]

C. IDEIA’s regulations require each IEP to include the following:

A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, to enable the child:

1. To advance appropriately toward attaining the annual goals;
2. To be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities; and
3. To be educated and participate with other children with disabilities and nondisabled children in the general curriculum and other activities. [34 C.F.R. §300.320(a)(4)]

D. IDEIA’s regulations define “Related services” as follows:

“*General. Related services* means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early

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identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.

Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device." [34 C.F.R. §300.34]

The regulation includes specific definitions for the following terms:

- (1) Audiology
- (2) Counseling services
- (3) Early identification and assessment of disabilities in children
- (4) Interpreting services
- (5) Medical services
- (6) Occupational therapy
- (7) Orientation and mobility services
- (8) Parent counseling and training
- (9) Physical therapy
- (10) Psychological services
- (11) Recreation
- (12) Rehabilitation counseling
- (13) School health services and school nurse services

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- (14) Social work services in schools
- (15) Speech-language pathology services
- (16) Transportation

E. The regulations discussion section states the following regarding related services:

\*\*\*[R]elated services include other supportive services that are required to assist a child with a disability to benefit from special education. We believe this clearly conveys that the list of services in §300.34 is not exhaustive and may include other developmental, corrective, or supportive services if they are required to assist a child with a disability to benefit from special education. It would be impractical to list every service that could be a related service\*\*\*. [IDEIA Regulations Discussion, p. 46569]

III. Determining Appropriate Related Services

- A. Individualized Determination –Each child’s IEP Team, which includes the child’s parent along with school officials, determines the instruction and services that are needed for an individual child to receive FAPE. [IDEIA Regulations Discussion, p. 46569]
- B. IEP Requirements – A student’s IEP must contain a statement of the special education and related services and supplementary aids and services to be provided to or on behalf of the child. [34 C.F.R. §300.320(a)(4)]

“In all cases concerning related services, the IEP Team’s determination about appropriate services must be reflected in the child’s IEP, and those listed services must be provided in accordance with the IEP at public expense and at no cost to the parents. Nothing in the Act or in the definition of *related services* requires the provision of a related service to a child unless the child’s IEP Team has determined that the related service is required in order for the child to benefit from special education and has included that service in the child’s IEP.” [IDEIA Regulations Discussion, p. 46569]

C. Related Service Providers as IEP Team Members

- 1. The IDEIA does not specifically require that related service providers be members of the IEP Team.

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2. However, at the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate, may be included as members of the IEP Team. [34 C.F.R. §300.321(a)(6)]
  3. A member of the IEP Team may be excused from attendance, in whole or in part, if the parent and the school district agree, in writing, that the attendance of the member is not necessary because the member's area of curriculum or related services is not being modified or discussed at the meeting. [34 C.F.R. §300.321(e)(1)]
  4. A member of the IEP Team may be excused from attendance, in whole or in part, when the meeting involves a discussion of or modification to the member's area of the curriculum or related services if the parent and the school district agree to the excusal, in writing, and the member submits, in writing, to the parent and the IEP Team input into the development of the IEP prior to the meeting. [34 C.F.R. §300.321(e)(2)]
- D. Amount of Services – A statement of the anticipated frequency, location, and duration of related services that will be provided must be included in the IEP. [34 C.F.R. §300.320(a)(7)]
- E. Funding
- Lack of funding is not a sufficient basis for a school district's failure to provide necessary related services. Insufficient staff, heavy workload, and inadequate pay to attract qualified personnel are not acceptable excuses for failing to provide FAPE to students with disabilities. [Washington State School for the Deaf, 22 IDELR 987 (OCR 1995)]
- F. Qualifications
1. Each state educational agency (SEA) is responsible for establishing and maintaining qualifications to ensure that personnel necessary to carry out the IDEIA “are appropriately and adequately prepared and trained including that those personnel have the content knowledge and skills to serve children with disabilities.” [20 U.S.C. §1412(a)(14)(A)]

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2. The standards must include qualifications for related services personnel that:
  - a. Are consistent with any state-approved or state-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing related services; and
  - b. Ensure that related services personnel who deliver services in their discipline or profession have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis. [20 U.S.C. §1412(a)(14)(B)]
3. Each school district must also take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services to children with disabilities under the IDEIA. [20 U.S.C. §1412(a)(14)(D)]
4. Qualified personnel under the IDEIA are “defined as those who meet SEA-approved or SEA-recognized certification, licensing, registration, or other comparable requirements that apply to the area in which individuals are providing special education and related services.” However, if the child’s IEP team determines that it is necessary for an individual providing special education or related services to the child to have specific training, experience, and/or knowledge in order to enable the child to receive FAPE, then it would be appropriate to include those specifications on the IEP. [Letter to Dickman, 37 IDELR 284 (OSEP 2002)]

IV. Transportation

- A. The related service of transportation includes transportation to and from school and between schools, as well as travel in and around school buildings. It also includes specialized equipment (such as special or adapted buses, lifts and ramps) required to provide special transportation. [34 C.F.R. §300.34(c)(16)]
- B. Entitlement to transportation
  1. Transportation to and from school is a related service that must be included in a student’s IEP if the service is required to meet the unique needs of the child caused by the disability. [McNair v. Oak Hills Local School Dist., 872 F.2d 153 (6<sup>th</sup> Cir. 1989)]

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2. A school district must transport a student with a disability to and from school when the student's disability prevents her from using conventional bus transportation. *See e.g., Norton Public School District*, 21 IDELR 974 (SEA VT 1994). If a child with a disability has no need for special arrangements or accommodations in connection with transportation, transportation is not a related service.

It is assumed that most children with disabilities will receive the same transportation provided to nondisabled children, consistent with the LRE requirements, unless the IEP Team determines otherwise. If a child's IEP Team determines that supports or modifications are needed in order for the child to be transported so that the child can receive FAPE, the child must receive the necessary transportation and supports at no cost to the parents. [IDEIA Regulations Discussion, p. 46576]

C. Specialized Transportation Programs

The exact nature of the transportation that a school must provide for a student with a disability depends on the unique needs of the child. If the student requires transportation at a different time or in a different manner due to disability, the school must provide it.

D. Modes of Transportation

As long as the transportation provided is appropriate, the particular mode of transportation selected for a student is generally within the discretion of the school district. *See e.g., Davis School Dist.*, 18 IDELR 696 (SEA UT 1992).

E. Transportation Provided by Parents

1. A parent who transports a child with a disability is entitled to reimbursement of transportation as a related service that a disabled student needs to receive FAPE when the student's IEP provides for transportation.
2. Parents cannot be compelled to provide transportation.
3. Parents cannot demand reimbursement if the school district has offered to provide appropriate transportation and the parent insists on providing their own. *See e.g., Maynard School District*, 20 IDELR 394 (SEA AR 1993).

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F. Calculation of Transportation Reimbursement

Neither IDEIA Regulations nor Administrative Guidelines provide directives concerning parental reimbursements. Courts interpreting the issue have not established a specific formula for determining reasonable rates.

G. Amount of Transportation Time

Transportation time should be reasonable or could be considered to be a denial of FAPE. The amount of time can vary depending upon the student, the nature of the disability, and the overall health conditions. Some decisions have suggested that a student's daily commute should not exceed one hour either way. *See e.g., Covington Community School Corp.*, 18 IDELR 180 (SEA IN 1991).

H. Decisions about Transportation

In determining whether a child needs to receive transportation as a related service, it is appropriate to include a person with expertise in this area at the IEP meeting. The IEP team must consider how the child's disability affects the child's need for transportation, including determining whether the disability prevents the child from using the same transportation provided to nondisabled children or from getting to school in the same manner as nondisabled children.

I. Ohio Department of Education Reimbursement for Special Education Transportation

V. Nursing and Other School Health Services

A. School district was required to provide student with a disability with clean intermittent catheterization as a related service in order to enable the child to attend school. Court adopted a two-part test: First, are the requested services "supportive services" that are necessary to enable the child to attend school; and second, are the services excluded as medical services. The services are not excluded as medical services if they can be provided by a nurse or qualified layperson as opposed to a physician. [Irving Independent School Dist. v. Tatro, 468 U.S. 883 (1983)]

B. A school district is required to provide school health services to a disabled student that can be provided by a nurse or qualified layperson in order for the student to attend school. [Cedar Rapids Community School Dist. v. Garret F., 526 U.S. 66 (1999)]

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- C. A school district is not required to provide any medical services that can be provided only by a physician (other than for diagnostic and evaluation purposes).
- D. A school district was not required to provide full-time nursing services to a 7 year old student with Congenital Central Hypoventilation Syndrome who had a breathing tube, because the nature of the care was inherently burdensome and fell within the medical services exclusion. [Neely v. Rutherford County School, 68 F.3d 965 (6<sup>th</sup> Cir. 1995)]
- E. “School health services” means those services that are designed to enable a child with a disability to receive FAPE as described in the child’s IEP and may be provided by either a qualified school nurse or other qualified person. School nurse services are services provided by a qualified school nurse. [34 C.F.R. §300.34(c)(13)]
- F. “Medical services” means services provided by a licensed physician to determine a child’s medically related disability that results in the child’s need for special education and related services. [34 C.F.R. §300.34(c)(5)]

VI. Tips on Dealing with Related Service Issues

- A. Must be necessary to assist disabled child to benefit from special education.
- B. The student’s individualized needs drive decisions.
- C. Methodology and choice of service provider is for the district to determine.
- D. These are IEP Team decisions.
  - 1. Have qualified professionals conduct any required evaluation.
  - 2. Have someone present at the IEP meeting knowledgeable about the child and the child’s related services needs.
    - a. Factually intensive.
    - b. Battle of experts.
  - 3. Are other supports/options appropriate?
  - 4. Be able to document and support the rationale for decisions.

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5. Prepare legally adequate IEP and implement the IEP.

Could reduce the need for related services and parent requests for related services in the future.

6. Do not give in to parents' demands.

The right to FAPE belongs to the child not to the parents.

- E. Does data exist to support the IEP Team's decision?

1. Extent

2. Frequency

Know when to provide direct service vs. consultation.

3. Duration

- F. Is documentation being kept for the related service provided and of student progress?

- G. Know your providers.

Educational needs vs. clinical needs.

- H. Avoid Surprises.

1. Educate staff, including teachers, about limitations in providing related services.

2. Investigate likely parent and teacher requests.

3. Talk to staff to find out what parents/teachers are likely to request.

4. Avoid the aide trap.

- a. Classroom aide.

- b. Review continued need for aide.

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- I. Educate medical personnel about scripts/requests to school for related services.
  - 1. How to make referrals.
  - 2. School requirements.
- J. Funding issues.
  - 1. No individual entitlement to services.
  - 2. Delegated psychology.
  - 3. Medicaid (CAFS) funding.
- K. IEP team must decide if related services will be changed.
- L. Procedural safeguards apply.

VII. Conclusion