

281—41.412(256B,34CFR300) Transportation. Transportation of eligible individuals shall generally be provided as for other individuals, when appropriate. Specialized transportation of an eligible individual to and from a special education instructional service is a function of that service and, therefore, an appropriate expenditure of special education instructional funds generated through the weighting plan. Transportation includes travel to and from school and between schools; travel in and around school buildings; and specialized equipment, such as special or adapted buses, lifts, and ramps, if required to provide special transportation for a child with a disability.

41.412(1) *Special arrangements.* Transportation of an eligible individual to and from a special education support service is a function of that service, shall be specified in the IEP, and be considered an appropriate expenditure of funds generated for special education support services. When, because of an eligible individual's educational needs or because of the location of the program, the IEP team determines that unique transportation arrangements are required and the arrangements are specified in the IEP, the resident LEA shall be required to provide one or more of the following transportation arrangements for instructional services and the AEA for support services:

a. Transportation from the eligible individual's residence to the location of the special education services and back to the individual's residence, or child care placement for eligible individuals below the age of six.

b. Special assistance or adaptations in getting the eligible individual to and from and on and off the vehicle, en route to and from the special education services.

c. Reimbursement of the actual costs of transportation when by mutual agreement the parents provide transportation for the eligible individual to and from the special education services.

d. Agencies are not required to provide reimbursement to parents who elect to provide transportation in lieu of agency-provided transportation.

41.412(2) *Responsibility for transportation.*

a. The AEA shall provide the cost of transportation of eligible individuals to and from special education support services. The AEA shall provide the cost of transportation necessary for the provision of special education support services to nonpublic school eligible individuals if the cost of that transportation is in addition to the cost of transportation provided for special education instructional services.

b. When individuals enrolled in nonpublic schools are enrolled in public schools to receive special education instructional services, transportation provisions between nonpublic and public attendance centers will be the responsibility of the school district of residence.

c. Transportation of individuals, when required for educational diagnostic purposes, is a special education support service and, therefore, an appropriate expenditure of funds generated for special education support services.

41.412(3) *Purchase of transportation equipment.* When it is necessary for an LEA to purchase equipment to transport eligible individuals to special education instructional services, this equipment shall be purchased from the LEA's general fund, the physical plant and equipment levy (PPEL) fund, or the secure an advanced vision for education (SAVE) fund, if appropriate. The direct purchase of transportation equipment is not an appropriate expenditure of special education instructional funds generated through the weighting plan. A written schedule of depreciation for this transportation equipment shall be developed by the LEA, using the method specified in Iowa Code section 285.1(12). An annual charge to special education instructional funds generated through the weighting plan for depreciation of the equipment shall be made and reported as a special education transportation cost in the LEA Certified Annual Report if the equipment was purchased from the general fund. If the transportation equipment was purchased using funds from the PPEL fund or SAVE fund, that purchase is not reported as a cost from special education funds generated through the weighting plan. Annual depreciation charges on transportation equipment purchased with funds from the PPEL fund or SAVE fund shall be calculated by the LEA according to the directions provided with the Annual Transportation Report and adjusted to reflect the proportion of special education mileage to the total annual mileage.

41.412(4) *Lease of transportation equipment.* An LEA may elect to lease equipment to transport eligible individuals to special education instructional services, in which case the lease cost would be an

expenditure from the PPEL fund or the SAVE fund, if appropriate. Cost of the lease, or that portion of the lease attributable to special education transportation expense, shall not be considered a special education transportation cost and shall not be reported in the LEA Certified Annual Report.

41.412(5) *Transportation equipment safety standards.* All transportation equipment, either purchased or leased by an LEA to transport eligible individuals to special education instructional services or provided by an AEA, must conform to the transportation equipment safety and construction standards contained in 281—Chapters 43 and 44.

41.412(6) *Transportation for students in interdistrict and intradistrict school choice programs, such as open enrollment.* The following provisions apply to the transportation of eligible individuals who participate in school choice programs:

a. A parent who elects to have an eligible individual attend another school within an LEA may be required by the LEA to provide transportation to that eligible individual, even if transportation is listed on the eligible individual's IEP as a service.

b. If a parent elects to have an eligible individual with transportation listed as a service on the individual's IEP attend a school in a different LEA under the open enrollment provisions of Iowa Code section 282.18 and 281—Chapter 17, and the resident district informs the parent it will not be providing transportation for the eligible individual to the receiving district, a parent who chooses to proceed with open enrollment will be deemed, as a matter of law, to have waived the transportation listed as a service on the IEP.

c. If a parent of an eligible individual with transportation listed as a service on the individual's IEP elects to have the eligible individual attend a school in a different LEA under the open enrollment provisions of Iowa Code section 282.18 and 281—Chapter 17, and the resident district elects to provide that transportation as a service, such transportation as a related service may be provided by the resident district, regardless of consent granted or refused by the receiving district and notwithstanding any other statute or rule to the contrary.

d. If a parent of an eligible individual with transportation listed as a service on the individual's IEP elects to have the eligible individual attend a school in a different LEA under the open enrollment provisions of Iowa Code section 282.18 and 281—Chapter 17, and the receiving district elects to provide that transportation as a service, such transportation as a related service may be provided by the receiving district, regardless of consent granted or refused by the resident district and notwithstanding any other statute or rule to the contrary, but the costs of such transportation shall not be paid by the individual's resident district.

e. If an eligible individual's placement team proposes placement in a district other than the district of residence based on a tuition arrangement, regardless of whether the eligible individual's IEP lists transportation as a related service, and the other district agrees to accept the eligible individual as an open enrollment student but not as a tuition student, the receiving district must provide transportation as a related service, regardless of consent granted or refused by the receiving district and notwithstanding any other statute or rule to the contrary.

f. Except as expressly provided in this subrule, nothing in this subrule creates or expands any right, license, or privilege concerning transportation of persons who are not eligible individuals or transportation of eligible individuals who do not have transportation listed as a service on an IEP.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]