



# ***FAPE: DRIVING STUDENTS TO SUCCEED***

*Providing a legal & educative basis for  
transporting  
students in the community*

2017 CAOMS Conference

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# THE PROBLEM: Schools preventing O&M Specialists from providing training in the community



Point of Clarification:  
As O&M Specialists we don't have the "right" to drive students in personal vehicles. But, students with visual impairments *do* have the right to training in the community - and schools are legally obligated to provide the transportation.

# Scope of the problem?



- The full scope in CA is unknown
- Survey conducted by CAOMS Ad Hoc Task Force on FAPE (Feb 2017)
  - 64 O&M respondents representing 53 districts & SELPAs
  - 39% reported limitations in providing O&M services due to transportation restrictions

SURVEY: <https://www.surveymonkey.com/r/M29ZKCR>

# Impact:

- Many students with visual impairments are not receiving the breadth of community travel experiences they need to develop safe independent travel skills.
- This will have lifelong impact on their abilities to pursue competitive employment and to participate in many activities of daily living.



# One Experience: LA County Office of Education (LACOE)

- LACOE Administrative Concerns
- Impact on O&M provision
- Steps to Educate Administrators
- Uniform Complaint
  - LACOE legal council directive
  - Actual outcome



# LACOE UNIFORM COMPLAINT: LEGAL COUNCIL DIRECTIVE

- **Disposition:** “Federal and state law clearly establishes that O&M services are a related service and that such services include instruction in the community. Transportation, when it is required to assist a child in benefiting from special education, is also considered a related service. LACOE is not currently providing these required related services. As stated by the O&M specialists, students receiving O&M services have a unique need to access community settings to receive appropriate services meeting their unique needs. In order to meet this unique need, O&M students require transportation to community settings to benefit from special education.”
- **Corrective Actions:** “The Division of Special Education is directed to provide transportation for O&M students to access community settings as deemed appropriate by their IEP goals.”

# Legal rights of our students

- Federal and state law clearly establishes that O&M services are a related service and that such services include instruction in the community.
- Transportation, when it is required to assist a child in benefiting from special education, is also considered a related service.



# LEGAL BACKING:

Federal law - Individuals with Disabilities Education Act (IDEA)  
& California Education Code: §56040

## IDEA

- **FAPE** – ensures all children with disabilities are entitled to a free appropriate education that includes special education and related services designed to meet their unique needs and to prepare them for employment and independent living. 20 U.S.C. § 1400(d)(1); Ed.Code, § 56000(a).
- **Related Services** – are transportation and other developmental, corrective, and supportive services as may be required to assist the child in benefitting from special education. 20 U.S.C. § 1401(26); 34 C.F.R. § 300.34; Ed. Code, §56363(a).





# LEGAL BACKING:

Individuals with Disabilities Education Act (IDEA)  
& California Education Code §56031

O&M is identified as a Related Service and defined in IDEA as follows:

**Orientation and Mobility** - (i) ...” services provided to blind or visually impaired children by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community; and

(ii) includes teaching children the following, as appropriate:

- (A) spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street)”

Code of Federal Regulations, Title 34, section 300.34(c)(7)

Retrieved November 2017 from: <http://idea.ed.gov>



# California Guidelines for Programs Serving Students with Visual Impairments – 2014 REV

Developed in response to the mandate in the California Education Code *EC 56136 - Guidelines for Low Incidence Disability Areas*

- Under “Assessment Modes and ECC (Expanded Core Curriculum), pg. 24:
  - The O&M specialist will assess this area, including sensory/motor skills, concept development and independent travel skills, during on-going observation and using informal checklists. An assessment should address how the visual impairment affects the student’s:
    - Understanding of the physical environment and space
    - Orientation to different school and community environments
    - Ability to travel in school and community environments
    - Opportunities for unrestricted independent movement and play

# Strategies to consider:



- Meet with administrators to clarify concerns
- Come prepared with solutions
- Educate administrators, colleagues, and families on O&M needs of visually impaired students and the impact on quality of life, transition, ability to seek competitive employment
- Educate administrators, colleagues and families on legal rights of our students
- Establish relationships and seek support from parent groups (e.g. CAPVI, NAPVI), consumer groups (e.g. CCB, ACB, NFB), and professional organizations (e.g. CAOMS and AER), CA Department of Rehabilitation
- Consider formal complaint procedures if above doesn't work. District level, then State level - California Department of Education
- Last Resort Steps? (Litigation?)

# LEGAL ADVICE CONTACTS

\*Both are familiar with O&M FAPE Committee work and are willing to consult with affected families.

## 1) Christian Knox, J.D. of Ruderman & Knox LLP

- Over 20 years of experience in special education law; previously a Special Education Hearing Officer in California
- [Christian@rudermanknox.com](mailto:Christian@rudermanknox.com)

## 2) Taymour Ravandi, J.D., of Disability Rights California

- Specializing in disability law since 1995; special education law since 2001
- (916) 504-5800, [taymour.ravandi@disabilityrights.org](mailto:taymour.ravandi@disabilityrights.org)



# Contact Information:

- **California Department of Education**
  - Kristen Wright, Director of Special Education Division
  - Special Education Complaint Process – Quality Assurance Process
    - <http://www.cde.ca.gov/sp/se/qa/cmplntproc.asp>
- **Parent Groups**
  - NAPVI – National Association of Parents of Children with Visual Impairments - <http://napvi.org/>
  - CAPVI – California Association of Parents of Children with Visual Impairments - <http://capvi.org/index.html>)
- **Consumer Groups**
  - California Council of the Blind (CCB): <http://www.ccbnet.org/>
  - American Council of the Blind (ACB): <http://www.acb.org/>
  - National Federation of the Blind (NFB)?
- **AER**
  - Division 9 Representative - Justin T. Kaiser, [jkaiser@uscupstate.edu](mailto:jkaiser@uscupstate.edu)
  - Related Services Representative - Olga Overbury, [olga.overbury@umontreal.ca](mailto:olga.overbury@umontreal.ca)



# EDUCATIVE

# Resources

- **California Guidelines for Programs Serving Students with Visual Impairments – 2014 REV Edition** [http://www.csb-cde.ca.gov/Documents/VI%20Guidelines/VI\\_Guidelines\\_110314.pdf](http://www.csb-cde.ca.gov/Documents/VI%20Guidelines/VI_Guidelines_110314.pdf)
- **LACOE Legal Council** written determination that LACOE must provide transportation to students with visual impairments. \*Will post on [www.caoms.org](http://www.caoms.org)
- **AER Position Paper: O&M in Natural Settings** [http://oandm.aerbvi.org/position\\_paper2.htm](http://oandm.aerbvi.org/position_paper2.htm)
- **ACVREP – Scope of Practice** for Certified O&M Specialists; describe the skills and concepts to be assessed and taught in a variety of settings. [www.acvrep.org](http://www.acvrep.org)

EDUCATIVE ↓

# Resources

- **National Agenda** for the Education of Children and Youths with Visual Impairments, Including Those with Multiple Disabilities, Revised 2004  
<http://www.afb.org/info/national-agenda-for-education/2>
- **Federal Register policy guidelines for IDEA specifically address transportation of kids with disabilities in the definition of Transportation.**  
<http://idea.ed.gov/download/finalregulations.pdf>
- **CAOMS Letter** – initially written to Long Beach Unified School District and later to LACOE (Merri Leonard & Hedy Zikratch)

It's time to be the

