



# Transportation Best Practices: Addressing Driver Shortages

Many school districts are facing challenges related to driver shortages. The Minnesota School Boards Association Insurance Trust and the Minnesota School Boards Association, in collaboration with our insurance partners, have created this document as a resource for school districts as they consider ways to address challenges related to the shortage.



This document is for general education and informational use only and does not constitute legal advice. If legal advice is needed, the school district's legal counsel should be contacted. This document is current as of the date it was created; legislative action, court decisions, and similar actions may affect the guidance offered in this document.

# Have a Plan B... before you need it!

Decisions related to student transportation must prioritize safety. While student safety is the primary focus, a school district must also consider its own risks when making these decisions.

The need to make a quick decision increases the likelihood of a bad outcome. Developing one or more alternatives in advance allows school district leaders to think through potential risks without the pressure of a quick decision. Thorough consideration of risks that may arise when Plan A is not available promotes a safer, more effective outcome when the unexpected becomes reality.



## When is transportation required?

### Transportation for Students – To and From School

School districts are required to provide transportation to and from school for students who live more than two miles from the school, per M.S. 123B.88, Subd. 1., which reads:

*In any district, the board must arrange for the attendance of all pupils living two miles or more from the school, except pupils whose transportation privileges have been voluntarily surrendered under subdivision 2, or whose privileges have been revoked under section 123B.91, subdivision 1, clause (6), or 123B.90, subdivision 2.*

School districts are not prohibited from transporting students who live within two miles of the school. If a hazard exists within that area, such as a busy highway or railroad tracks, school districts may opt to provide transportation within a closer radius.

While M.S. 123B.36 allows school districts to charge for transportation within a two-mile radius, "no pupil [can] be denied transportation solely because of inability to pay" (M.S. 123B.36, Subd. 1(b)(11)).

When transportation is provided, scheduling of routes, establishment of the location of bus stops, manner and method of transportation, control and discipline of school children, determination of fees, and any other matter relating thereto must be within the sole discretion, control, and management of the school board.



# When is transportation NOT required?

## Transportation for Students – Extracurricular Activities

M.S. 123B.36, Subd. 1(b)(10) allows school districts to charge for "transportation of pupils to and from extracurricular activities conducted at locations other than school, where attendance is optional."

### Best Practice

When practices, games, and other activities (including those related to combined sports teams with other school districts) are school-sponsored, MSBA recommends that school districts provide transportation for activities conducted away from school property.

Students should not travel to and from extracurricular events in private cars when the rest of the student participants are transported by a school vehicle. Doing so may create additional risk for the school district, as depending on the factual circumstances, school districts may be held responsible for the students until their return to school at the end of the event.

CAUTION

**When transportation is not available through the school district, the transportation should be arranged by the students and their parents.**

The school district must not facilitate or coordinate parents/volunteers/students driving students from other families. By making transportation arrangements, the school district could be suggesting that a parent/volunteer has been vetted and approved by the school district.

### Resources

#### Review MSBA's model policies on transportation:

- MSBA Model Policy 707 – Transportation of Public School Students
- MSBA Model Policy 708 – Transportation of Nonpublic School Students
- MSBA Model Policy 709 – Student Transportation Safety Policy (Form)
- MSBA Model Policy 710 – Extracurricular Transportation



# What types of vehicles can be used to transport students?

## School Buses

M.S. 169.011, Subd. 71(a) defines school buses as:

*"School bus" means a motor vehicle used to transport pupils to or from a school defined in section 120A.22, or to or from school-related activities, by the school or a school district, or by someone under an agreement with the school or a school district. A school bus does not include a motor vehicle transporting children to or from school for which parents or guardians receive direct compensation from a school district, a motor coach operating under charter carrier authority, a transit bus providing services as defined in section 174.22, subdivision 7, or a vehicle otherwise qualifying as a type III vehicle under paragraph (h), when the vehicle is properly registered and insured and being driven by an employee or agent of a school district for nonscheduled or nonregular transportation.*

## Type III Vehicles

M.S. 169.011, Subd. 71(h) defines type III vehicles as:

*A "type III vehicle" is restricted to passenger vehicles and buses having a maximum manufacturer's rated seating capacity of ten or fewer people, including the driver, and a gross vehicle weight rating of 10,000 pounds or less. A "type III vehicle" must not be outwardly equipped and identified as a type A, B, C, or D school bus or type A, B, C, or D Head Start bus. A van or bus converted to a seating capacity of ten or fewer and placed in service on or after August 1, 1999, must have been originally manufactured to comply with the passenger safety standards.*

Subdivisions within M.S. 169.454 outline various standards and requirements for type III vehicles, including the age of vehicle (Subd. 2) and safety (Subd. 4) and first aid equipment (Subd. 5).

### **Minnesota Administrative Rule 7170.1400 states:**

Type III vehicles are restricted to automobiles, station wagons, and other vehicles having a manufacturer's rated seating capacity of ten or fewer people including the driver, and a gross vehicle weight rating of 10,000 pound or less.

### **Best Practice**

When school districts provide transportation for students, MSBA recommends that students be transported only in school buses or Type III vehicles, as defined in statute; these vehicles may be owned by the school district, a transportation contractor, or a private party, as outlined within this document.





# Who can transport students?

## Best Practice

MSBA recommends that school bus and type III drivers be employed by the school district and drive a district-owned or district-leased vehicle.

Alternatively, drivers may be employees of a transportation company contracted by the school district.



Encourage parents/volunteers to be trained and certified as on-call, substitute drivers of district-owned or district-leased vehicles. These individuals should be employed by the school district or the transportation company.

## 2<sup>nd</sup> Best Practice

When the school district is not involved in planning transportation, parents should transport their own child(ren) without reimbursement by the school district.

If necessary, the school district may contract with a parent to transport only their own child(ren). For example, this practice can be used when a special education student has transportation included in their individualized education plan (IEP). A [sample contract](#) is available from the Minnesota Department of Education.

Students should not travel to and from extracurricular events in private cars when the rest of the student participants are transported by a school vehicle. Doing so may create additional risk for the school district, as depending on factual circumstances, school districts may be held responsible for the students until their return to school at the end of the event.



CAUTION

**When transportation is not available through the school district, the transportation should be arranged by the students and their parents.**

The school district must not facilitate or coordinate parents/volunteers/students driving students from other families. By making transportation arrangements, the school district could be suggesting that a parent/volunteer has been vetted and approved by the school district.



## Who can transport students?, continued

### Not Recommended



School districts are strongly discouraged from contracting with a parent/guardian/volunteer and/or reimbursing them mileage for the use of their personal vehicle to transport one or more children from another family.

### If a school district contracts with a parent/guardian/volunteer to provide transportation for students who are not their own children:

- The driver should be trained as a Type III driver according to the practices of the school district. A copy of the driver's valid driver's license and current certificate of insurance for the vehicle used should be on file with the school district.
- The vehicle must be Type III-eligible, meeting vehicle age and equipment requirements.
- The driver's name should be included on the drug testing roster.
- The driver's auto coverage will likely be the primary coverage in the event of an accident. Individuals should be encouraged to contact their insurance agent to discuss any effects on their personal auto coverage and to ensure they have adequate coverage in place for all risks.
- Tort caps that apply to the school district likely will not apply to the driver's personal policy.

## When are background checks required?

[M.S. 123B.03](#) requires all individuals who are offered employment in a school to have a complete background check. Refer to MSBA Model Policy 404 (Employment Background Checks) for additional information.

Before entering into an agreement with a parent/guardian/volunteer to provide transportation, MSBA recommends that school districts conduct a background check. Any concerns about the contents of the background check should be discussed with the school district's legal counsel.

**Reminder:** In order to complete a criminal background check, statute requires the individual to give consent by completing a criminal history consent form.



# Are school districts required to check driver's license and motor vehicle records?

[M.S. 171.321, Subd. 5](#) requires an annual verification of the validity of the driver's license of each employee who transports students for the school district. MSBA recommends that school districts verify the validity of the driver's license for any parent/guardian/volunteer who enters into an agreement to provide transportation.

## Best Practice

MSBA recommends that school districts complete a motor vehicle records check on each employee who transports students for the school district.

Insurance carriers may require annual motor vehicle records checks for all individuals who drive school-owned or school-leased vehicles.

MSBA further recommends that an annual motor vehicle records check be completed for any parent/guardian/volunteer who provides transportation through an agreement with the school district; a current certificate of insurance should be on file for any vehicle used to transport students through such an agreement.

## Resource

[M.S. 171.02, Subd. 2b](#) outlines driver's license requirements for type III drivers.

# When is proof of insurance required?

When a school district enters into an agreement with a parent/guardian/volunteer to transport their own student, a copy of the parent's/guardian's/volunteer's valid and in-force insurance coverage should be on file for any vehicle that may be used to transport the student under the agreement.

## Recommendation

Minimum coverage: \$500,000  
Preferred coverage: \$1,000,000

Required insurance coverage levels should be established after consultation with the school district's insurance advisor(s).



## When is a certificate of insurance required?

When a school district contracts for transportation services, a certificate of insurance should be provided by the contractor.

### Recommendation

Preferred coverage: \$5,000,000 or more

The certificate of insurance should:

- List the school district as an additional insured.
- Provide coverage at levels set after consultation with the school district's insurance advisor(s).

Note: Minnesota statutes provide tort caps for public sector organizations. For claims against a transportation contractor's insurance plans, those tort caps may not apply. Questions on coverage should be directed to the school district's insurance advisor(s).

### Resources

**Review these Minnesota Department of Education documents:**

[Minnesota School Transportation Best Practices](#)

[Minnesota Statutes and Rules Pertaining to the Pupil Transportation Program](#)

## When is a signed permission form from a parent required?

If a school district is providing transportation to and from an activity, a signed permission form should be completed and submitted when the student does not travel to or from that activity using the transportation provided. Note that, other than a parent, signed permission forms should only be accepted from a legal guardian.

Example:

- A student travels with the team to an extra-curricular event. After the event is completed, the parent submits a permission form (or follows school district procedures) to sign the student out. This acknowledges the student will not be riding the district-provided transportation back to the school.

### Best Practice

Ridership lists should be maintained for all extra-curricular events. Any student not traveling back to school using the transportation provided should submit a permission form signed by a parent or legal guardian.







Students should not travel to and from extracurricular events in private cars when the rest of the student participants are transported by a school vehicle. Doing so may create additional risk for the school district, as depending on factual circumstances, school districts may be held responsible for the students until their return to school at the end of the event.

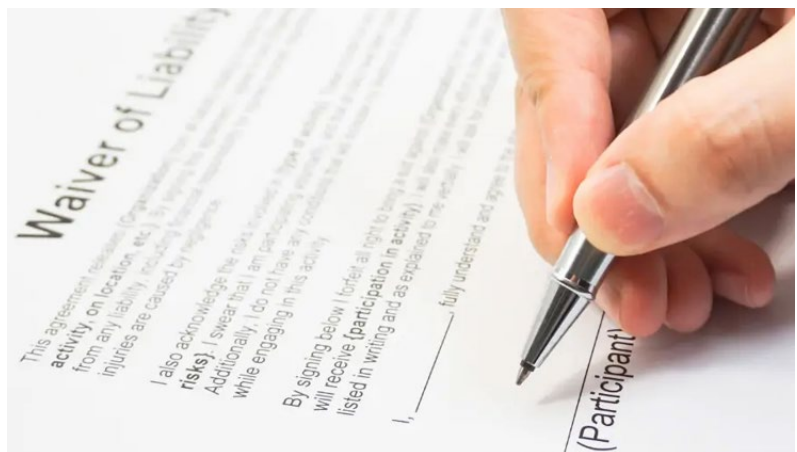
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## Can school districts have parents sign releases, waivers, or “assumption of risk” agreements?

The use of releases, waivers and “assumption of risk” agreements may have limited value in the transfer of risk. Using these documents can be beneficial to the school district by clearly outlining and acknowledging the understanding of the transfer of responsibility by both parties.

While MSBA will provide a sample agreement upon request, school districts should consult their legal counsel and insurance advisor(s) to discuss the situation-specific circumstances before using any such agreement.



If a school district is not providing transportation to and from school or a school-sponsored event, the school district should consult with their insurance advisor(s) on whether the use of a release, waiver, or “assumption of risk” agreement is appropriate.

