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MSBA/MASA Model Policy 708

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708 TRANSPORTATION OF NONPUBLIC SCHOOL STUDENTS

[Note: The obligations stated in this policy are largely governed by statute. An education district may choose to add obligations to the model policy.]

I. PURPOSE

The purpose of this policy is to address transportation rights of nonpublic school students and to provide equality of treatment in transporting such students pursuant to law.

II. GENERAL STATEMENT OF POLICY

The policy of the education district is to recognize the rights of nonpublic school students and to provide equal transportation to those students as required by law.

III. ELIGIBILITY

- A. The education district shall provide equal transportation within the district for all students to any school when transportation is deemed necessary by the education district because of distance or traffic conditions in like manner and form as provided in Minnesota Statutes, sections 123B.88 and 123B.92 when applicable.
- B. Upon the request of a parent or guardian, the education district must provide school bus transportation to the education district boundary for students residing in the education district at least the same distance from a nonpublic school actually attended in another education district as public school students are transported in the transporting education district. Such transportation must be provided whether or not there is another nonpublic school within the transporting education district, if the transportation is to schools maintaining grades or departments not maintained in the education district or if the attendance of such students at school can more safely, economically, or conveniently be provided for by such means.
- C. The education district may provide school bus transportation to a nonpublic school in another education district for students residing in the education district and attending that school, whether there is or is not another nonpublic school within the transporting education district, if the transportation is to schools maintaining grades or departments not maintained in the education district or if the attendance of such students at school can more safely, economically, or conveniently be provided for by such means. If the education district transports students to a nonpublic school located in another education district, the nonpublic school shall pay the cost of such transportation provided outside the education district boundaries.
- D. The education district must provide the necessary transportation within education district boundaries between the nonpublic school and a public school or neutral site for nonpublic education students who are provided pupil support services if the education district elects to provide pupil support services at a site other than a nonpublic school.
- E. When transportation is provided, the scheduling of routes, manner and method of transportation, control and discipline of students, and any other matter relating thereto shall be within the sole discretion, control, and management of the education district. A nonpublic or charter school student transported by the education district shall comply with education district student bus conduct and student bus discipline policies.

- F. The education district board and a nonpublic school may mutually agree to a written plan for the board to provide nonpublic pupil transportation to nonpublic school students. The education district must report the number of nonpublic school students transported and the nonpublic pupil transportation expenditures incurred in the form and manner specified by the Minnesota Commissioner of Education.
- G. If the education district board provides pupil transportation through the education district's employees, the education district board may transport nonpublic school students according to the plan and retain the nonpublic pupil transportation aid attributable to that plan. A nonpublic school may make a payment to the education district to cover additional transportation services agreed to in the written plan for nonpublic pupil transportation services not required under Minnesota Statutes, sections 123B.84 to 123B.87.
- H. A education district board that contracts for pupil transportation services may enter into a contractual arrangement with a school bus contractor according to the written plan adopted by the education district board and the nonpublic school to transport nonpublic school students and retain the nonpublic pupil transportation aid attributable to that plan for the purposes of paying the school bus contractor. A nonpublic school may make a payment to the education district to cover additional transportation services agreed to in the written plan for nonpublic pupil transportation services included in the contract that are not required under Minnesota Statutes, sections 123B.84 to 123B.87.
- I. Additional transportation to and from a nonpublic school may be provided at the expense of the education district when such services are provided in the discretion of the education district.

IV. STUDENTS WITH DISABILITIES

- A. If a resident student with a disability attends a nonpublic school located within the education district, the education district must provide necessary transportation for the student within the education district between the nonpublic school and the educational facility where special instruction and services are provided on a shared-time basis. If a resident student with a disability attends a nonpublic school located in another education district and if no agreement exists for the provision of special instruction and services on a shared time basis to that student by the education district of attendance and where the special instruction and services are provided within the education district, the education district shall provide necessary transportation for that student between the education district boundary and the educational facility. The education district may provide necessary transportation for that student between its boundary and the nonpublic school attended, but the nonpublic school shall pay the cost of transportation provided outside the education district boundary. education districts may make agreements for who provides transportation. Parties serving students on a shared time basis have access to a due process hearing system as provided by law.
- B. When the disabling conditions of a student with a disability are such that the student cannot be safely transported on the regular school bus and/or school bus route and/or when the student is transported on a special route for the purpose of attending an approved special education program, the student shall be entitled to special transportation at the expense of the education district or the day training and habilitation program attended by the student. The education district shall determine the type of vehicle used to transport students with a disability on the basis of the disabling conditions and applicable laws. This section shall not be applicable to parents who transport their own child under a contract with the education district.
- C. Each driver and aide assigned to a vehicle transporting students with a disability must (1) be instructed in basic first aid and procedures for the students under their care:

(2) within one month after the effective date of assignment, participate in a program of in-service training on the proper methods of dealing with the specific needs and problems of students with disabilities; (3) assist students with disabilities on and off the bus when necessary for their safe ingress and egress from the bus; and (4) ensure that proper safety devices are in use and fastened properly.

- D. Each driver and aide assigned to a vehicle transporting students with a disability shall have available to them the following information in hard copy or immediately accessible through a two-way communication system: (1) the student's name and address; (2) the nature of the student's disabilities; (3) emergency health care information; and (4) the names and telephone numbers of the student's physician, parents, guardians, or custodians, and some person other than the student's parents or custodians who can be contacted in case of an emergency.
- E. Any parent of a student with a disability who believes that the transportation services provided for that child are not in compliance with the applicable law may utilize the due process procedures provided for in Minnesota Statutes chapter 125A.

V. APPLICATION OF GENERAL POLICY

The provisions of the education district's policy on transportation of public school students [*Model Policy 707*] shall apply to the transportation of nonpublic school students except as specifically provided herein.

Legal References:

Minn. Stat. § 123B.44 (Provision of Pupil Support Services)
Minn. Stat. § 123B.84 (Policy)
Minn. Stat. § 123B.86 (Equal Treatment)
Minn. Stat. § 123B.88 (Independent School Districts, Transportation)
Minn. Stat. § 123B.91, Subd. 1a (School District Bus Safety Requirements)
Minn. Stat. § 123B.92 (Transportation Aid Entitlement)
Minn. Stat. Ch. 125A (Special Education and Special Programs)
Minn. Stat. § 125A.18 (Special Instruction; Nonpublic Schools)
Minn. Rules Part 7470.1600 (Transporting Pupils with Disability)
Minn. Rules Part 7470.1700 (Drivers and Aides for Pupils with Disability)
Americans United, Inc. as Protestants and Other Am. United for Separation of Church and State, et al. v. Independent Sch. Dist. No. 622, et al., 288 Minn. 1996, 179 N.W.2d 146 (Minn. 1970)
Eldredge v. Independent Sch. Dist. No. 625, 422 N.W.2d 319 (Minn. Ct. App. 1988)
Healy v. Independent Sch. Dist. No. 625, 962 F.2d 1304 (8th Cir. 1992)
Minn. Op. Atty. Gen. 166a-7 (June 3, 1983)
Minn. Op. Atty. Gen. 166a-7 (Sept. 14, 1981)
Minn. Op. Atty. Gen. 166a-7 (July 15, 1976)
Minn. Op. Atty. Gen. 166a-7 (July 17, 1970)
Minn. Op. Atty. Gen. 166a-7 (Oct. 3, 1969)
Minn. Op. Atty. Gen. 166a-7 (Sept. 12, 1969)

Cross References:

MSBA/MASA Model Policy 707 (Transportation of Public School Students)
MSBA/MASA Model Policy 709 (Student Transportation Safety Policy)