

Transportation of Nonpublic Students

Minnesota Statutes, sections 123B.84 through 123B.87, require public school districts to provide transportation within the district for resident students attending nonpublic schools. These sections provide in part that “it is in the public interest to provide equality of treatment in transporting school children of the state who are required to attend elementary and secondary schools pursuant to chapter 120A, so that the health, welfare and safety of such children, while using the public highways of the state, shall be protected.” These laws are known as the “Equal Treatment Laws” or the “Fair Busing Bill.”

The basic premise of this law is that school districts must provide the same level of service for nonpublic school students that they do for public school students. If it is a district’s policy to transport all public elementary students who live one mile or more from their public school, then the school district must transport all nonpublic elementary students who live one mile or more from their nonpublic school.

In general, school districts are not required to provide transportation to nonpublic schools on days when the public schools are not in session. The terms of a school district’s specific contract with a nonpublic school will dictate the schedule in any individual case. As a result, a school district should consult with its legal counsel before cancelling transportation service for days it has otherwise agreed to provide transportation to the nonpublic school.

Nonpublic School Located Within the District

An attorney general’s opinion provides that a public school district has the authority to set attendance areas for nonpublic schools if it establishes attendance areas for its public schools. For example, if there are two Type A nonpublic schools within a district, the public school board may establish an attendance area for each of the schools. If there is only one Type A nonpublic school within a district, then the entire district would become the attendance area.

Even though there may be a Type A nonpublic school within a district, a district may assign some nonpublic school students to a Type A nonpublic school located in another district, if the attendance of the children at that school “can more safely, economically, or conveniently be provided for by such means.” School districts would be required to provide transportation only to the boundary in this instance.

These laws also provide that “when transportation is provided, manner and method of transportation, control and discipline of school children and any other matter relating thereto shall be within the sole discretion, control and management of the school board.”

This provision allows the public school district to set the starting and ending times for the nonpublic schools, the dates transportation will be provided, bus routes, location of bus stops, etc. In setting the starting and ending

times for the nonpublic schools, the public school district must not set times that would deprive the nonpublic school students of the same number of hours of instruction that the district's public school students receive. In addition, Minnesota Rules, part 3520, requires that a school district meet at least once a year with nonpublic school representatives to discuss attendance areas, safety, economics, conveniences and availability of space for the pupils. Although the final authority on attendance areas, starting times, etc., rests with the public school board, an annual meeting would help to avoid any subsequent disputes.

Nonpublic School Located Outside the District

If there is not an appropriate nonpublic school within the district (i.e., proper religious or other affiliation, grade levels, etc.), then the public school district is responsible for transporting the nonpublic school students to the appropriate school district boundary.

School districts may do this by transporting the students on district-owned buses, contractor-owned buses, or contracting with the parents for the trip from the home to the border. A district cannot force parents to accept a contract. If the parents cannot, or are not willing to provide the service, the district must find another way to transport the students. When transporting students to the border, the district may have to drive beyond the border or stop short of the border in order to find a safe transfer point. That may mean finding a place for the students to wait indoors or having the bus meet another vehicle. Students should never be left at the boundary without a safe place to wait. The district where the nonpublic school is located is not required to transport nonresident students attending nonpublic schools within its district.

Timely Mileage Claims

If parents are transporting their own children, they **may** be entitled to mileage reimbursement from their resident district. It is very important that the parents contact their resident district before the school year starts (in July) to check on this matter. A public school district has the right to determine the method of transportation. If a parent contacts the district after the school year has started or after the school year is over, the district would not have been given the opportunity to examine the safest and most economical way to transport the children. The district may deny any claims from parents because of the lateness of their request.

Also, parents would not be entitled to any mileage reimbursement if the district is offering transportation but the parents choose to transport their own children; if they choose to send their children to a nonpublic school outside the assigned attendance area; or if they choose to send their children to a nonpublic school in another district when there is an appropriate nonpublic school within the district. Remember, for parents sending their children to a nonpublic school in another district because there is not an appropriate nonpublic school within the district, any mileage reimbursement they may qualify for would be limited to the travel within the resident district (i.e., from their home to the district border).

Safety Training for Students

Nonpublic schools must provide school bus safety training for all students in grades kindergarten through 10th grade. The age-appropriate training must be given in both the classroom and on the school bus (evacuation drills). If the public school district transports the nonpublic school students, they must make a school bus available for this training.

All students in grades kindergarten through three, enrolled during the first or second week of school, must demonstrate knowledge and understanding of the competencies on school bus safety training by the end of the third week. Students in grades four through 10 must demonstrate knowledge and understanding of the competencies by the end of the sixth week of school. All students who enroll in school after the second week must receive training within four weeks.

The competencies of which all students must demonstrate knowledge and understanding include at least all of the following:

- transportation by school bus is a privilege and not a right
- district policies for student conduct and school bus safety
- appropriate conduct while on the school bus
- the danger zones surrounding a school bus
- procedures for safely boarding and leaving a school bus
- procedures for safe street or road crossing
- school bus evacuation and other emergency procedures
- appropriate training on the use of lap belts or lap and shoulder belts, if the district uses buses equipped with lap belts or lap and shoulder belts

The nonpublic school principal or administrator must annually certify, to the school transportation safety director of the district in which the nonpublic school is located, that all students transported by school bus at public expense have received training. **A school district may deny transportation to nonpublic school students if the nonpublic school fails to provide school bus safety training.**

Nonpublic schools must also, to the extent possible, provide kindergarten students with safety training before the first day of school. This may be done during kindergarten roundup or through a safety bulletin directed to parents and guardians.

The nonpublic school administrators should contact the school district in which they are located to obtain a copy of the district's transportation policy. This policy should explain what behaviors are unacceptable and that may result in students losing their bus riding privileges. A student with a disability may not be denied bus-riding privileges because the student is unable to understand the competencies.

Summary

This paper gives a brief overview of the statutes and rules governing the transportation of nonpublic school students. Nonpublic school administrators and parents should contact their local school district business or transportation office for more information on the district's transportation services.