

THE RISK OBSERVER

FOUNDED 2006 – VOL. CLXI

GLATFELTER PUBLIC PRACTICE

DAILY 5 CENTS, SUNDAY 15 CENTS

TRANSPORTATION OF STUDENTS IN PRIVATE AUTOMOBILES

The transportation of students by staff in their private car for extra class activities is a widespread phenomenon and occurs chiefly as a matter of convenience or cost saving. The basic problem with this is it is frequently an informal arrangement without guidelines that have been developed to reduce the risk inherent in such a course of action.

There is a valid axiom in risk management which instructs us not to assume the risk of loss for an activity over which we have no control. In this case, we should examine all the ways that this transportation might occur and begin to establish elements of control over those kinds of private auto transportation which will be permitted and determine those kinds which will not be allowed.

Private Auto Insurance

It is impermissible in most jurisdictions for a public employer to pay for or purchase private auto insurance on behalf of the employee/owner. This is usually covered as part of a mileage or car allowance paid by the employer for actual use. While public entities can purchase liability coverage for non-owned vehicles, this coverage is typically excess of the coverage provided by the owner of this private vehicle and is coverage only for the district. This means that the person who transports pupils for school purposes in his or her car is providing the primary liability coverage through his/her personal auto insurance.

Do not assume the risk...for an activity over which you have no control.

Emergency Transportation

Although a district may have a policy which requires ill or injured students, or employees to be transported to medical care in an emergency vehicle, there may be circumstances when this is not possible or timely. In this case, a greater liability may be incurred if transportation is not provided by car. This might occur when the wait for an emergency vehicle is excessive in light of the seriousness of the injury or no emergency vehicle is known to be available. You must do what you believe to be in the best interest of the ill or injured person, keeping in mind that moving a person with a back or neck injury can be more dangerous than waiting for appropriate help.

Evaluate the Options, Establish Rules, Qualify Drivers

In general, the best solution to all pupil transportation is to provide an approved school bus and a qualified school bus driver. If it is not possible, then you must weigh the value of the activity to which the students will be transported against the risks involved. Remember, you are exposing students to risks over which you have little control. The worst solution for pupil transportation is to permit students to drive other students to school activities with or without adult supervision. While young adults have the physical attributes to be good drivers, the evidence overwhelmingly supports the proposition that there is no substitute for driving experience as a major contributor to highway safety.



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Except in very unusual circumstances, individual student participants should never travel to and from athletic contests, field trips or other activities in private cars when the rest of the students are transported by a school vehicle. You are responsible for the student at every step of the way including the return to school at the end of the trip.

Additionally, no student of either sex should be permitted to ride to and from a school day function alone with a staff member. As you know, this exposes both persons to the possibility of assault or the allegation of assault. The only exception might be circumstances described above for emergencies.

Student transportation in private cars occurs frequently when small groups of students are participating in an interscholastic activity or field trips and a school vehicle is not available. Most often the driver is the coach or teacher and uses his or her own car. If it has been determined that this transportation is appropriate, you should take steps to do what you can to insure the safety of the students. Permission to do this should be sought and granted in writing. The application should demonstrate the safety of the driver through a check of the driver's motor vehicle record for vehicle and traffic violations. Some documentation should be made of the safe condition of the vehicle on a current basis and that the vehicle is adequately insured for the intended trip. A planned route should be filed and the driver instructed not to deviate from that route or let students leave the vehicle before returning to school. The documentation generated by this process should be kept on file as evidence of concern for pupil safety in the event a claim is made for accidental injury under these circumstances.

Another typical situation involves permitting a coach or teacher to drive a school vehicle for these trips in the absence of a regular driver. If you permit this, is that person qualified to drive your school vehicle? Qualifying other staff members to drive school vehicles used to transport students may be time consuming and have a cost, but the end result is a much more defensible position.

Establish Policies

It is the responsibility of the administration to list or assemble all the needs for transportation of pupils for the entire school year and then determine the resources available to meet those needs. If those needs exceed the resources, then the governing body should be asked to establish the policy which will meet appropriate needs and disallow transportation which cannot be defended. The governing body must decide if the benefits of transporting pupils in private cars outweigh the risk of loss and in general terms, what will be permitted. It will then be the administration's responsibility to carry out the policy in a way that protects the students' welfare, while at the same time reducing the district's exposure to loss from liability claims to the lowest possible level. Informality and spur of the moment decisions are the worst possible course and present a greater likelihood of an unwanted outcome than a carefully thought out approach that has some flexibility for emergencies and other circumstances, which might not be anticipated at the beginning of the year.

Some teachers or coaches will attempt to provide transportation on their own initiative for an activity which has been determined not to be in accordance with the policy or regulations. This should not happen without your knowledge and you should take affirmative steps to dissociate the district from the activity. Under such circumstances, pupils should not be solicited or organized for the trip at school, should not leave from or return to the school, and the governing body should publicly assert that it is not an approved school function.



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In summary, the use of private vehicles for pupil transportation to and from school related activities should be determined to be necessary and desirable under policy guidelines. Administrative regulations should insure that such transportation occurs under the safest possible conditions and that adequate documentation is maintained to demonstrate that the regulations have been met and the pupils' welfare protected to the greatest extent possible. Informal transportation arrangements should be prohibited and if pursued, clearly identified as a private, non-school matter.



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DRIVING RECORD CHECK

Driver Name: _____

Address: _____ City: _____ State: _____ Zip: _____

Operator's License Number: _____ Expiration Date: _____

Limiting conditions noted on license, if any: _____

MOTOR VEHICLE RECORD CHECK

Date Requested: _____ Date Received: _____

Violations noted, with dates: _____

PRIVATE VEHICLE INSPECTION RECORD

Vehicle Make: _____ Model: _____ Year: _____

V.I.N.: _____ Seating Capacity: _____

<u>ITEM</u>	<u>PASS</u>	<u>FAIL</u>
Headlights	<input type="checkbox"/>	<input type="checkbox"/>
Signal Lights/Flashers	<input type="checkbox"/>	<input type="checkbox"/>
Tail Lights	<input type="checkbox"/>	<input type="checkbox"/>
Stop Lights	<input type="checkbox"/>	<input type="checkbox"/>
Horn	<input type="checkbox"/>	<input type="checkbox"/>
Brakes/Fluid (Pull one front wheel)	<input type="checkbox"/>	<input type="checkbox"/>
Steering Play	<input type="checkbox"/>	<input type="checkbox"/>
Shocks/Struts	<input type="checkbox"/>	<input type="checkbox"/>
Wipers	<input type="checkbox"/>	<input type="checkbox"/>
Mirrors	<input type="checkbox"/>	<input type="checkbox"/>
Defroster	<input type="checkbox"/>	<input type="checkbox"/>
Heater	<input type="checkbox"/>	<input type="checkbox"/>
Safety belts for all passengers and driver	<input type="checkbox"/>	<input type="checkbox"/>
Exhaust system	<input type="checkbox"/>	<input type="checkbox"/>
Body/Frame Integrity	<input type="checkbox"/>	<input type="checkbox"/>

Signed: _____

(Inspector)

Date: _____

NOTE: Reliance on a state or local private vehicle inspection may be inadequate for this purpose.



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TRIP RECORD

Activity: _____

Location (from): _____ (to) _____

Time (start): _____

Route: _____

Students (list): _____

Driver: _____ Car Owner: _____

Car make, model, year: _____ Approved: _____

PRIVATE VEHICLE INSURANCE RECORD

Vehicle Make: _____ Model: _____ Year: _____

V.I.N.: _____ Seating Capacity: _____

Driver Name: _____ Title: _____

Owner Name: _____ Address: _____

Current Liability Insurance Coverage I.D. Card: Yes No

Carrier Name: _____ Agency Name: _____

Limits B.I. _____ , _____

P.D. _____

Expiration Date: _____ Time: _____



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