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*District 77 Policy 707*

## **707 TRANSPORTATION OF PUBLIC SCHOOL STUDENTS**

### **I. PURPOSE**

The purpose of this policy is to provide for the transportation of students consistent with the requirements of law.

### **II. GENERAL STATEMENT OF POLICY**

- A. The policy of the school district is to provide for the transportation of students in a manner which will protect their health, welfare and safety.
- B. The school district recognizes that transportation is an essential part of the school district services to students and parents but further recognizes that transportation by school bus is a privilege and not a right for an eligible student.

### **III. DEFINITIONS**

- A. “Child with a disability” includes every child identified under federal and state special education law as deaf or hard of hearing, blind or visually impaired, deafblind, or having a speech or language impairment, a physical impairment, other health disability, developmental cognitive disability, an emotional or behavioral disorder, specific learning disability, autism spectrum disorder, traumatic brain injury, or severe multiple impairments, and who needs special education and related services, as determined by the rules of the Commissioner of Education. A licensed physician, an advanced practice nurse, or a licensed psychologist is qualified to make a diagnosis and determination of attention deficit disorder or attention deficit hyperactivity disorder for purposes of identifying a child with a disability. In addition, every child under age three who needs special instruction and services, as determined by the rules of the Commissioner, because the child has a substantial delay or has an identifiable physical or mental condition known to hinder normal development is a child with a disability. A child with a short-term or temporary physical or emotional illness

or disability, as determined by the rules of the Commissioner, is not a child with a disability. (Minn. Stat. §125A.02).

- B. “Home” is the legal residence of the child. In the discretion of the school district, “home” also may be defined as a licensed day care facility, a respite care facility, the residence of a relative, or the residence of a person chosen by the student’s parent or guardian as the home of a student for all of the day, if requested by the student’s parent or guardian, or an afterschool program for children operated by a political subdivision of the state, if the facility, residence or program is within the attendance area of the school the student attends. Unless otherwise specifically provided by law, a homeless student is a resident of the school district if enrolled in the school district. (Minn. Stat. §123B.92, Subd. 1(b)(1); Minn. Stat. §127A.47, Subd. 2).
- C. “Homeless student” means a student, including a migratory student, who lacks a fixed, regular, and adequate nighttime residence and includes: students who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; are awaiting foster care placement; have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings, and migratory children who qualify as homeless because they are living in any of the preceding listed circumstances. (42 U.S.C. § 11434d, *et.seq.*)
- D. “Nonpublic school” means any school, church, or religious organization, or home school wherein a resident of Minnesota may legally fulfill the compulsory instruction requirements of Minnesota Statutes §120A.22, which is located within the state, and which meets the requirements of Title VI of the Civil Rights Act of 1964. (42 U.S.C. §2000a, Minn. Stat. §123B.41, Subd. 9).
- E. “Nonresident student” is a student who attends school in the school district and resides in another district, defined as the “nonresident district.” In those instances when the divorced or legally separated parents or parents residing separately share joint physical custody of a student and the parents reside in different school districts, the student shall be a resident of the school district designated by the student’s parents. When parental rights have been terminated by court order the legal residence of a student placed in a residential or foster facility for care and treatment is the district in which the student resides. (Minn. Stat. § 123B.88, subd. 6; Minn. Stat. § 125A.51; Minn. Stat. § 127A.47, subd. 3).

- F. “Pupil support services” are health, counseling and guidance services provided by the public school in the same district where the nonpublic school is located. (Minn. Stat. §123B.41, Subd. 4).
- G. “School of origin,” for purposes of determining the residence of a homeless student, is the school that the student attended when permanently housed or the school in which the student was last enrolled. (42 U.S.C. § 11432(g)(3)(G))
- H. “Shared time basis” is a program where students attend public school for part of the regular school day and who otherwise fulfill the requirements of Minnesota Statutes § 120A.22 by attendance at a nonpublic school. (Minn. Stat. §126C.01, Subd. 8).
- I. “Student” means any student or child attending or required to attend any school as provided in Minnesota law and who is a resident or child of a resident of Minnesota. (Minn. Stat. §123B.41, subd. 11).

#### **IV. ELIGIBILITY**

- A. Upon the request of a parent or guardian, resident elementary students who reside one (1) mile or more from the school, and middle school and senior high school students who reside two (2) miles or more from school, shall be eligible for transportation to and from school at the expense of the school district except for those students whose transportation privileges have been revoked or voluntarily surrendered by the student’s parent or guardian. (Minn. Stat. §123B.88, Subd. 1.)

- B. Transportation will not be provided for any students excluded under Regulation A except for a hazardous condition which is to be determined by the School Board; except where the children must be transported from one school area to another to equalize enrollments; or for other exceptions which the Board and/or Superintendent find necessary.

Rural students may be required to meet a school bus on an approved route a distance of not to exceed three-fourth (3/4) of a mile. Students within city limits may be required to meet a school bus on an approved route a distance of not to exceed one-half (1/2) of a mile.

When transportation by school bus is not practical or where school bus service is not available, the Board may require the parents or guardians to transport their children to the closest bus stop. The parent or guardian will be reimbursed for such transportation as designated by statute.

- C. In the discretion of the school district, transportation along regular school bus routes may also be provided, where space is available, to any person where such use of a bus does not interfere with the transportation of students. The cost of

providing such transportation must be paid by those individuals using these services or some third-party payor. Bus transportation also may be provided along school bus routes when space is available for participants in early childhood family education programs and school readiness programs if these services do not result in an increase in the school district's expenditures for transportation. (Minn. Stat. §123B.88, Subd. 10, 11, 12, and 13).

- D. Transportation of students may be provided if there are extraordinary traffic hazards which meet one or more of the following criteria:
1. If the student is required to cross a trunk, state, US, or interstate highway.
  2. If a non-signalized street or roadway that the student has to cross has a speed limit greater than 35 miles an hour and there are no crossing guards present.
  3. If the student is required to cross railroad tracks.
  4. If a school patrol or crossing guard present will not reduce the hazard.
  5. If during the peak time children are in the area, more than 40 cars per minute travel in either direction on the same roadway as the students.
  6. If the width of the roadway is too narrow and no sidewalk, designated walk way, or alternate routes exist.
  7. If the student is required to cross a non-signalized or unattended four-lane roadway.
  8. If other traffic hazards exist (i.e., temporary road construction or hazard).

Requests for hazardous transportation services should be made in writing to the transportation office of the school district.

- E. For purposes of stabilizing enrollment and reducing mobility, the school district may, in its discretion, establish a full-service school zone and may provide transportation for students attending a school in that full-service school zone. A full-service school zone may be established for a school that is located in an area with higher than average crime or other social and economic challenges and that provides education, health or human services, or other parental support in collaboration with a city, county, state, or nonprofit agency.

## **V. TRANSPORTATION OF NONRESIDENT STUDENTS**

- A. If requested by the parent of a nonresident student, the school district may provide transportation to a nonresident student within its borders at the same level of service that is provided to resident students. The school district may provide transportation to a nonresident student outside its borders only after written notice to the resident district. (Minn. Stat. §124D.04, Subd. 7; Minn. Stat. §123B.92, Subd. 3; Minn. Stat. §123B.88, Subd. 6).
- B. The school district may send school buses into other districts to pick up or discharge open enrollment nonresident students only, if 1) the school district decides to transport a nonresident student within the student's resident district, the school district will notify the student's resident district of its decision, in writing, prior to providing transportation (Minn. Stat. § 123B.88, subd. 6), 2) the bus route change required to accommodate the open enrollment student does not significantly impact the existing bus route. The criteria used to measure the impact of the route change will include space availability on the bus, time added to the route, number of District 77 students affected by the change, safety considerations, and mileage added to the route.

Because the trip outside of the district is not authorized for either state aid or levy, the school district may charge the open enrollment student a fee for the additional costs incurred by the district because of the route change.

- C. When divorced or legally separated parents or parents residing separately reside in different school districts and share physical custody of a student, the parents shall be responsible for the transportation of the student to the border of the school district during those times when the student is residing with the parent in the nonresident school district. (Minn. Stat. § 127A.47, Subd. 3(b))
- D. The school district may provide transportation to allow a student who attends a high-need English language learner program and who resides within the transportation attendance area of the program to continue in the program until the student completes the highest grade level offered by the program. (Minn. Stat. § 123B.92, Subd. 3(b))

## **VI. TRANSPORTATION OF RESIDENT STUDENTS TO NONDISTRICT SCHOOLS**

- A. In general, the school district shall not provide transportation between a resident student's home and the border of a nonresident district where the student attends school under the Enrollment Options Program. A parent may be reimbursed by the nonresident district for the costs of transportation from the pupil's residence to the border of the nonresident district if the student is from a family whose income is at or below the poverty level, as determined by the federal government. The reimbursement may not exceed the pupil's actual cost of transportation or 15 cents

per mile traveled, whichever is less. Reimbursement may not be paid for more than 250 miles per week. (Minn. Stat. §124D.03, Subd. 8)

- B. In general, the school district is not responsible for transportation for any resident student attending school in an adjoining state under a reciprocity agreement but may provide such transportation services at its discretion. (Minn. Stat. § 124D.041)

## **VII. SPECIAL EDUCATION STUDENTS/STUDENTS WITH A DISABILITY/STUDENTS WITH TEMPORARY DISABILITIES**

- A. Upon request of a parent or guardian, a resident student with a disability who is not yet enrolled in kindergarten, who requires special education services in a location other than the student's home, shall be transported to and from the student's home at the expense of the school district and shall not be subject to any distance requirement. (Minn. Stat. §123B.88, Subd. 1)
- B. Resident students with a disability whose handicapped conditions 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 shall be entitled to special transportation at the expense of the school district or the day training and habilitation program attended by the student. The school district shall determine the type of vehicle used to transport students with a disability on the basis of the handicapped condition. This provision shall not be applicable to parents who transport their own child under a contract with the school district. (Minn. Stat. § 123B.88, Subd. 19; Minn. R. 7470.1600)
- C. Resident students with a disability, who are boarded and lodged at Faribault State Academies for educational purposes, shall be provided transportation to and from said board and lodging facilities, at the expense of the school district. (Minn. Stat. §125A.65)
- D. If a resident student with a disability attends a public school located in a contiguous district and the district of attendance does not provide special instruction and services, the district shall provide necessary transportation for the student between the school district boundary and the educational facility where special instruction and services are provided within the school district. The school district may provide necessary transportation of the student between its boundary and the school attended in the contiguous district, but shall not pay the cost of transportation provided outside the boundary. (Minn. Stat. §125A.12)
- E. When a student with a disability or a student with a short-term or temporary disability is temporarily placed for care and treatment in a day program located in another district and the student continues to live within the school district during

the care and treatment, the school district shall provide the transportation, at the expense of the school district, to that student. The school district may establish reasonable restrictions on transportation, except if a Minnesota court or agency orders the child placed at a day care and treatment program and the school district receives a copy of the order, then the school district must provide transportation to and from the program unless the court or agency orders otherwise. Transportation shall only be provided by the school district during regular operating hours of the school district. (Minn. Stat. §125A.15(b), Minn. Stat. §125A.51(d))

- F. When a nonresident student with a disability or a student with a short-term or temporary disability is temporarily placed in a residential program within the school district, including correctional facilities operated on a fee-for-service basis and state institutions, for care and treatment, the school district shall provide the necessary transportation at the expense of the school district. Where a joint powers entity enters into a contract with a privately owned and operated residential facility for the provision of education programs for special education students, the joint powers entity shall provide the necessary transportation. (Minn. Stat. §125A.15 (c), and Minn. Stat. § 125A.51(e))
- G. Each driver and aide assigned to a vehicle transporting students with a disability will be provided with appropriate training for the students in their care, will assist students with their safe ingress and egress from the bus, will ensure the proper use of protective safety devices, and will be provided with access to emergency health care information as required by law. (Minn. Rules Part 7470.1700)
- H. 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 alternative dispute resolution and due process procedures provided for in Minnesota Statutes Ch. 125A. (Minn. Rules Part 7470.1600, Subd. 2)

## **VIII. HOMELESS STUDENTS**

- A. Homeless students shall be provided with transportation services comparable to other students in the school district. (42 U.S.C. § 11432(e)(3)(C)(i)(III)(cc) and (g)(4)(A))
- B. Upon request by the student's parent, guardian, or homeless education liaison, the school district shall provide transportation for a homeless student as follows:
  - 1. A resident student who becomes homeless and is residing in a public or private shelter location or has other non-shelter living arrangements within the school district shall be provided transportation to and from the student's school of origin and the shelter or other non-shelter location if the shelter or non-shelter location is one (1) mile or more for elementary and two (2) or more miles for middle school and senior high school.

students from the school of origin and the student's transportation privileges have not been revoked. (42 U.S.C. § 11432(g)(1)(J)(iii)(I))

2. A resident student who becomes homeless and is residing in a public or private shelter location or has other non-shelter living arrangements outside of the school district shall be provided transportation to and from the student's school of origin and the shelter or other non-shelter location if the shelter or non-shelter location is one (1) mile or more for elementary and two (2) or more miles for middle school and senior high school students from the school of origin and the student's transportation privileges have not been revoked, unless the school district and the school district in which the student is temporarily placed agree that the school district in which the student is temporarily placed shall provide transportation. (Minn. Stat. § 125A.51(f); 42 U.S.C. § 11432(g)(1)(J)(iii)(II))
3. If a nonresident student is homeless and is residing in a public or private homeless shelter or has other non-shelter living arrangements within the school district, the school district may provide transportation services between the shelter or non-shelter location and the student's school of origin outside of the school district upon agreement with the school district in which the school of origin is located. (Minn. Stat. § 125A.51(f))
4. A homeless nonresident student enrolled under Minn. Stat. § 124D.08, Subd. 2a, must be provided transportation from the student's district of residence to and from the school of enrollment. (Minn. Stat. § 123B.92, Subd. 3(c)).

## **IX. AVAILABILITY OF SERVICES**

Transportation shall be provided on all regularly scheduled school days or make-up days.

Transportation will not be provided during the summer school break. Transportation may be provided for summer instructional programs for students with a disability or in conjunction with a learning year program. Transportation between home and school may also be provided, in the discretion of the school district, on staff development days. (Minn. Stat. §123B.88, subd. 21)

## **X. MANNER OF TRANSPORTATION**

- A. The scheduling of routes, establishment of the location of bus stops, manner and method of transportation, control and discipline of school children, the determination of fees, and any other matter relating thereto shall be within the sole discretion, control and management of the school board. The school district may, in its discretion, provide room and board, in lieu of transportation, to a student



who may be more economically and conveniently provided for by that means. (Minn. Stat. § 123B.88, subd. 1)

- B. Distance to school or to a bus route shall be measured by the most direct route, starting in the roadway opposite the private entrance to the residence of the student and ending in the roadway opposite the entrance to the school grounds or designated point on his route.

## **XI. RESTRICTIONS**

Transportation by the school district is a privilege and not a right for an eligible student. A student's eligibility to ride a school bus may be revoked for a violation of school bus safety or conduct policies, or violation of any other law governing student conduct on a school bus pursuant to the school district's discipline policy. Revocation of a student's bus riding privilege is not an exclusion, expulsion, or suspension under the Pupil Fair Dismissal Act. Revocation for a student who is an individual with a disability under 20 U.S.C. §1415 (Individuals with Disabilities Act), 29 U.S.C. §794 (the Rehabilitation Act), and 42 U.S.C. §12132, (Americans with Disabilities Act) are governed by these provisions. (Minn. Stat. § 121A.59)

## **XII. FEES**

- A. In its discretion, the school district may charge fees for transportation of students to and from extracurricular activities conducted at locations other than school, where attendance is optional. (Minn. Stat § 123B.36, subd. 1(10)).
- B. The school district may charge fees for transportation of students to and from school when authorized by law. If the school district charges fees for transportation of students to and from school, guidelines shall be established for that transportation to ensure that no student is denied transportation solely because of inability to pay. The school district also may waive fees for transportation if the student's parent is serving in, or within the past year has served in, active military service as defined in Minn. Stat. § 190.05. (Minn. Stat § 123B.36, subds. 1(11) and 6).
- C. The school district may charge reasonable fees for transportation of students to and from post-secondary institutions for students enrolled under the post-secondary enrollment options program. Families who qualify for mileage reimbursement may use their state mileage reimbursement to pay this fee. (Minn. Stat § 123B.36, subd. 1(13)).

**Legal References:** Minn. Stat. § 124D.03 (Enrollment Options Program)  
Minn. Stat. § 124D.04 (Enrollment Options Programs in Border States)

Minn. Stat. § 124D.041 (Reciprocity with Adjoining States)  
 Minn. Stat. § 124D.08 (School Board's Approval to Enroll in Nonresident District)  
 Minn. Stat. § 120A.22 (Compulsory Instruction)  
 Minn. Stat. § 125A (Children With a Disability)  
 Minn. Stat. § 125A.02 (Children With a Disability, Defined)  
 Minn. Stat. § 121A.40-121A.56 (Pupil Fair Dismissal Act)  
 Minn. Stat. § 123B.36 (Authorized Fees)  
 Minn. Stat. § 123B.88 (Independent School Districts, Transportation)  
 Minn. Stat. § 121A.59 (Bus Transportation Is A Privilege Not A Right)  
 Minn. Stat. § 123B.41 (Educational Aids for Nonpublic School Children; Definitions)  
 Minn. Stat. § 123B.44 (Provision of Pupil Support Services)  
 Minn. Stat. § 123B.92 (Transportation Aid Entitlement)  
 Minn. Stat. § 125A.12 (Attendance in Another District)  
 Minn. Stat. § 125A.15 (Placement in Another District; Responsibility)  
 Minn. Stat. § 125A.51 (Placement of Children Without Disabilities; Education and Transportation)  
 Minn. Stat. § 125A.515 (Placement of Students; Approval of Education Program)  
 Minn. Stat. § 125A.65 (Attendance at Academies for the Deaf and Blind)  
 Minn. Stat. § 126C.01 (General Education Revenue - Definitions)  
 Minn. Stat. § 127A.47 (Payments to Resident and Nonresident Districts)  
 Minn. Stat. § 190.05 (Definitions)  
 Minn. Rules Part 7470.1600 (Transporting Pupils with Disability)  
 Minn. Rules Part 7470.1700 (Drivers and Aides for Pupils with Disabilities)  
 20 U.S.C. § 1415 (Individuals with Disabilities Education Improvement Act of 2004)  
 29 U.S.C. § 794 (Rehabilitation Act of 1973, § 504)  
 42 U.S.C. § 2000d (Prohibition Against Exclusion from Participation in, Denial of Benefits of, and Discrimination under Federally Assisted Programs on Grounds of Race, Color or National Origin)  
 42 U.S.C. § 11431, et seq. (McKinney-Vento Homeless Assistance Act of 2001)  
 42 U.S.C. § 12132, et seq. (Americans with Disabilities Act)

***Cross References:*** MSBA Service Manual Chapter 10, Transportation  
 District 77 Policy 708 (Transportation of Nonresident Students)  
 District 77 Policy 709 (Student Transportation Safety Policy)  
 District 77 Policy 710 (Extracurricular Transportation)