Adopted: May 7, 1996 *District 77 Policy 708*

Revised: February 18, 1997, February 12, 1998, June 3, 2002, August 18, 2003, March 1, 2004, March 13, 2007, August 11, 2008, December 21, 2009, February 21, 2012, December 4, 2018, December 5, 2023, January 6, 2025

708 TRANSPORTATION OF NONPUBLIC SCHOOL STUDENTS

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 school 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 school district shall provide equal transportation within the school district for all students to any school when transportation is deemed necessary by the school 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 school district shall provide school bus transportation to the school district boundary for students residing in the school district at least the same distance from a nonpublic school actually attended in another school district as public school students are transported in the transporting school district. Such transportation shall be provided whether there is or is not another nonpublic school within the transporting school district, if the transportation is to schools maintaining grades or departments not maintained in the school district or if the attendance of such students at school can more safely, economically, or conveniently be provided for by such means.

C. The school district may provide school bus transportation to a nonpublic school in another school district for students residing in the school district and attending that school, whether there is or is not another nonpublic school within the transporting school district, if the transportation is to schools maintaining grades or departments not maintained in the school district or if the attendance of such students at school can more safely, economically, or conveniently be provided for by such means. If the school district transports students to a nonpublic school located in another school district, the nonpublic school must pay the cost of such transportation provided outside the school district boundaries.

D. The school district shall provide the necessary transportation within school district boundaries between the nonpublic school and a public school or neutral site for nonpublic school students who are provided pupil support services, if the school 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 school district.

F. The school 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 school 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 school board provides pupil transportation through the school's employees, the school 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 school 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 school 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 school 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 school 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 school district where such services are provided at the discretion of the school district.

IV. STUDENTS WITH DISABILITIES

A. If a resident student with a disability attends a nonpublic school located within the school district, the school district shall provide necessary transportation for the student within the school 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 school district and if no agreement exists for the provision of special instruction and services on a shared time basis to that student by the school district of attendance and where the special instruction and services are provided within the school district, the school district must provide necessary transportation for that student between the school district boundary and the educational facility. The school district may provide necessary transportation for that student between its boundary and the nonpublic school attended, but the nonpublic school must pay the cost of transportation provided outside the school district. School 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 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 disabling conditions and applicable laws. This section shall not be applicable to parents who transport their own child under a contract with the school district.

C. 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 insure the proper use of protective safety devices, and will be provided with access to emergency health care information as required by law.

D. 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 Statute Chapter 125A.

V. APPLICATION OF GENERAL POLICY

The provisions of the school district's policy on transportation of public school students (Policy 707) shall apply to the transportation of nonpublic school students except as specifically provided herein.

Legal References: Minn. Stat. § Ch. 125A (Children With A Disability)
Minn. Stat. § 125A.18 (Special Instruction; Nonpublic Schools)
Minn. Stat. § 123B.88 (Independent School Districts, Transportation)
Minn. Stat. § 123B.84 (Policy)
Minn. Stat. § 123B.86 (Equal Treatment)
Minn. Stat. § 123B.44 (Provision of Pupil Support Services)
Minn. Stat. § 123B.91, Subd. 1a (Compliance by Nonpublic and Charter

School Students)
Minn. Stat. § 123B.92 (Transportation Aid Entitlement)
Minn. Rules Part 7470.1600 (Transporting Pupils with Disability
Minn. Rules Part 7470.1700 (Drivers and Aides for Pupils with Disabilities)
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. 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 (September 4, 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 (October 3, 1969)
Minn. Op. Atty. Gen. 166a-7 (September 12, 1969)

Cross References: District 77 Policy 707 (Transportation of Public School Students)
District 77 Policy 709 (Student Transportation Safety Policy)