708 TRANSPORTATION OF NONPUBLIC SCHOOL STUDENTS

[Note: The obligations stated in this policy are largely governed by statute. Statutory references are included throughout the policy. A school 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 school district 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 Minn. Stat. § 123B.88 and §123B.92 when applicable. (Minn. Stat. § 123B.86, Subd. 1)

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. Minn. Stat. § 123B.86, Subd. 2(a))

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 shall pay the cost of such transportation provided outside the school district boundaries. (Minn. Stat. § 123B.86, Subd. 2(b))

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. (Minn. Stat. § 123B.44, Subd. 1)

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. (Minn. Stat. § 123B.86, Subd. 3)

F. Additional transportation to and from a nonpublic school may be provided at the expense of the school district where such services are provided in the discretion of the school district.

IV. SPECIAL EDUCATION/DISABLED STUDENTS

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 shall 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 shall 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 the due process hearing system described under United States Code, Title 20, and the complaint system under Code of Federal Regulations, Title 34, Section 300.660. to 300.662. (Minn. Stat. § 125A.18)

B. Disabled students 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. The school district shall determine the type of vehicle used to transport disabled students on the basis of the handicapping condition and applicable laws. This section shall not be applicable to parents who

transport their own child under a contract with the school district. (Minn. Rules Part 7470.1600, Subd. 1)

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 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)

D. Any parent of a disabled student 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 Minn. Stat. Ch. 125A. (Minn. Rules Part 7470.1600, Subd. 2)

V. APPLICATION OF GENERAL POLICY

The provisions of the school 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 (Compliance by Nonpublic and Charter School Students)
Minn. Stat. § 123B.92 (Transportation Aid Entitlement)
Minn. Stat. Ch. 125A (Children With a Disability)
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 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 (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)

Foley Public Schools Adoption Record: 04-23-2018