

Pupil Transportation 101

Legal Requirements & Best Practices

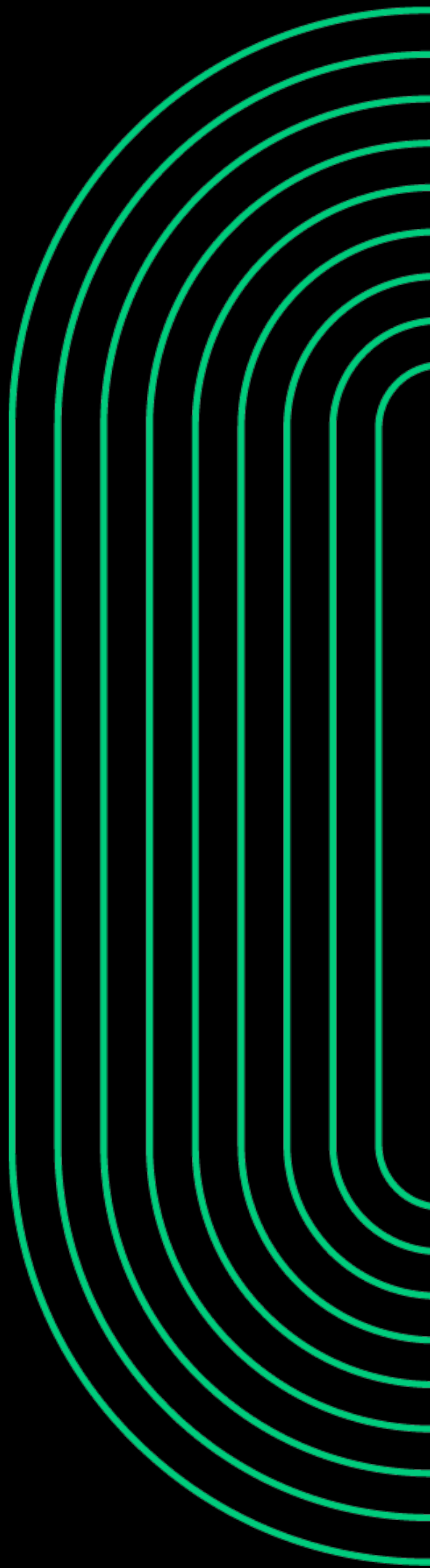
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Today's Roadmap & Objectives

WHY

- ❖ The Legal Framework For Pupil Transportation

WHAT

- ❖ General Transportation Requirements
- ❖ Schools of Choice
- ❖ Homeless Student Obligations
- ❖ Privacy and Cameras
- ❖ Recent Transportation Legal Changes

OBJECTIVES

- ❖ Implementing the Law Effectively
- ❖ Understand Key Issues
- ❖ Identify Best Practices



Legal Framework

Obligations under the Revised School Code – MCL 380.1321 through 380.1332

- ❖ The general statutory scheme applicable to pupil transportation is set forth in **Sections 1321 through 1332** of the Revised School Code.
- ❖ A school district **may elect** to provide daily home to school transportation for its resident pupils, **other than students with a disability required to be transported or pupils who cannot safely walk to school**. If transportation is provided to resident pupils, transportation to and from school must meet the following requirements are met:
 - The school district provides transportation for the **elementary school level, middle or junior high school level, or high school level**, as defined by the school board, in which the pupil is enrolled.
 - The pupil attends either the public or the nearest state approved nonpublic school in the school district to which the pupil is eligible to be admitted.
- ❖ Transportation must be **without charge**.
- ❖ Maximum walking distance is **1.5 Miles**.



Legal Framework



Obligations For Special Education Pupils – MCL 380.1756

- ❖ School district shall provide by contract or agreement for the transportation of a student with a disability who would **otherwise be unable to participate** in an appropriate special education program or service operated or contracted for by the school district.
- ❖ A pupil's IEP **may or may not** include special transportation provisions/requirements:
 - Due to disability, student needs special accommodations (lift bus etc.)
 - If the offer of FAPE is for a program at a building the student would not otherwise attend, would be required to provide transportation.
 - Once transportation is in the IEP, it is no longer elective. For example, cannot cancel routes due to staffing shortages as failure to provide required transportation would be failure to implement IEP.
- ❖ Above rule does not apply to a student with a disability in residence at facilities operated by the department of community health or the department of human services.
- ❖ The school district **may** provide for weekend transportation of a student with a disability in residence at the Michigan schools for the deaf and blind.

Legal Framework

Obligations For Nonpublic Students – MCL 380.1322 and MCL 380.1323

- ❖ The School District is **not obligated** to transport nonpublic school pupils **at the levels it does not provide** transportation to its own general education pupils.
- ❖ The School District is not obligated to transport nonpublic school pupils on days when the School District is **not in session**.
- ❖ If the resident nonpublic school pupil lives **less than 1.5 miles from the nonpublic school they attend**, and that nonpublic school is the nearest nonpublic school in the School District to which the pupil is eligible to be admitted, the School District is not obligated to provide transportation for said pupil.
- ❖ If the resident nonpublic school pupil lives in excess of 1.5 miles from his/her nonpublic school of attendance, but also lives within the “walk zone” of a school within the School District that said pupil would attend if he/she were enrolled in the School District, the School District is **only obligated to provide transportation from that School District school which the pupil would attend** to the nonpublic school for said pupil.
- ❖ The School District does not have to transport nonpublic school pupils to nonpublic schools **outside the School District boundaries** unless the School District provides general education transportation outside the School District, but then only the same distance and same direction of travel.

Non-mandatory and Non-credit Events

Permissible Charges – MCL 380.1332

- ❖ School district **may** collect a fee for transporting pupils enrolled in grades K to 12 to or from **nonmandatory and noncredit** events sponsored by the school district.
- ❖ School district shall not purchase additional school buses for the sole purpose of providing transportation for such nonmandatory and noncredit events.
- ❖ The fee charged to each pupil must not exceed the pupil's pro rata share of the expenses for the trip involved. School district shall calculate each pupil's pro rata share of the trip expenses by adding all of the following costs and dividing the total by the number of pupils to be transported:
 - The cost per mile for the travel of the school bus multiplied by the number of miles to be traveled on the trip.
 - The increased cost of insurance necessary because of the trip. The cost of insurance to indemnify the school district, its officers, or employees against liability for damages arising out of the use of school buses shall be obtained before fees charged.
 - The actual cost of the salary of drivers for the trip, including the time spent driving, waiting for pupils to board and leave the bus, and waiting for pupils at the trip destination.
 - The actual cost of the salary of attendants and chaperones employed for supervision of pupils during the trip.
 - The trip expenses of drivers, attendants, and chaperones, including lodging, meals, necessary telephone calls, and gratuities.

Schools of Choice Students



Requirements for 105 and 105c students – MCL 388.1705 and MCL 388.1705c

- ❖ Two types of schools of choice programs:
 - 105 – permit students from other school districts within school district's ISD.
 - 105c – permit students from any school district in an ISD that is contiguous to the school district's ISD.
- ❖ Under both Section 105 and Section 105c, a school district is **not required to provide transportation** for a nonresident pupil who is enrolled in the district under the schools of choice program.
- ❖ Under both Section 105 and Section 105c, a school district is **not required to provide transportation** for a resident pupil enrolled in another district under that other school district's schools of choice program.
- ❖ However, at the time a nonresident pupil enrolls in the school district, must provide to the pupil's parent or legal guardian information on available transportation to and from the school in which the pupil enrolls.

Homeless Students

Requirements under the McKinney-Vento Homeless Assistance Act (42 USC §11431 et seq.)

- ❖ McKinney–Vento requires that homeless students be provided services comparable to those offered to other students in the school district, including transportation.
- ❖ Transportation focuses on the homeless student's “school of origin.”
 - School of Origin is the school that the student attended when permanently housed or the school in which the student was last enrolled, including preschool.
 - Once student completes last grade offered at that school, the School of Origin include the school at the next grade level for all feeder schools.
- ❖ If the homeless student continues to live in the area served by the school district in which the School of Origin is located, that school district is obligated to provide or arrange for transportation to the School of Origin.
- ❖ If the homeless student begins living in an area served by another school district, the school district of origin and the new school district must agree on method of apportionment of costs of transportation. If no agreement, costs split equally.
- ❖ Must ensure that the parent or guardian of the homeless student is fully informed of all transportation services.
- ❖ School District must provide or arrange for transportation without delay; however, the school district is may determine the mode of transportation so long as it aligns with school district policies, safety standards, and not create a barrier to arriving to school on time or cause undue burden on parents or student.



Students in Foster Care

Every Student Succeeds Act of 2015 (ESSA)

- ❖ ESSA provides that children and youth in foster care should remain in the “**school of origin**” when found in their best interest.
- ❖ Determination of best interests will either show that child:
 - Should stay in the School of Origin even if that would place the child in a school district outside of that of foster care residence; **or**
 - Should transfer to the school district of foster care residence.
- ❖ ESSA requires that the child in foster care needing transportation to school of origin will **promptly receive transportation**.
- ❖ ESSA provides that the school district and child welfare placing agency (MDHHS) must meet to collaborate on the mode of transportation to continue to school of origin.
- ❖ If school district and MDHHS cannot agree on the transportation and cost responsibilities, either entity may initiate a **dispute process**.
- ❖ During dispute process, the school district will transport to the school of origin and pays 100% of the transportation costs.

Privacy Concerns – Video on Buses



- ❖ No requirement that a school bus have video recording equipment on-board, but many have them installed.
- ❖ Family Educational Rights and Privacy Act (FERPA)(20 USC §1232g and 34 CFR Part 99)
 - Protects the privacy of students' Education Records and Personally Identifiable Information (PII).
 - Education Records mean records that are: (1) directly related to a student; and (2) maintained by an educational entity or institution or by a party acting for the agency or institution.
 - May not disclose PII or Education Records unless disclosure meets an exception to FERPA's general consent requirements.
- ❖ While FERPA requires a school district to permit inspection and review of Education Records, FERPA does not require a school district to provide copies of Education Records unless circumstances effectively prevent parent from inspecting and school district does not make other arrangements to inspect. There may be an obligation to provide a copy under FOIA, however.
- ❖ If Education Records contain information on more than one student, the parent may inspect and review **or** be informed of only the specific information about their own child.
- ❖ Do not need to segregate or redact (blur) content if will destroy meaning of video. If have inability to redact video, may “inform the parent of specific information about their child” by explaining content of video to parent without giving copy of video to parent (could also provide screen shots of video that only should their student).
- ❖ Students who are “bystanders” that are not being disciplined and not witnesses do not need to be redacted (blurred).

Recent Laws Affecting Pupil Transportation

- ❖ Unauthorized Person **Attempting to Board a Bus** – MCL 257.1833
 - May affix a sticker on left side of service door below windows and above black rub rails.
 - Unauthorized person attempting to board the bus is subject to a civil infraction and fine up to \$500.

- ❖ Ticketing Drivers who **fail to stop** when school buses have activated red flashing lights – MCL 257.682
 - A school bus equipped with a stop-arm camera can provide video/photo evidence to law enforcement to issue ticket.
 - Must provide copy of video or photo recorded by stop-arm camera if requested by law enforcement agency.

- ❖ Address **Confidentiality** Program Act (PA 301 of 2020)
 - Created to conceal addresses of victims of stalking, domestic violence , sexual assault, human trafficking and individuals at risk of being threatened or physically harmed from being located.
 - Can have impact on school district's ability to perform routing obligations.



Thank you!

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