

## **Wabasha-Kellogg Public Schools Policy**

### **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 having a hearing impairment, visual disability, speech or language impairment, physical handicap, other health impairment, mental handicap, emotional/behavioral disorder, specific learning disability, autism spectrum disorder, traumatic brain injury, multiple disabilities, or deaf/blind disability 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, and at the School District’s discretion from age three to seven, 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 part or all of the day, if requested by the student’s parent or guardian, if the facility or residence 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. (42 U.S.C. § 11434a)
- 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. § 2000 d. *et seq* (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 parents share joint physical custody of a student and the divorced 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, the School District shall provide transportation to and from school, at the expense of the School District, for all resident students who reside two miles or more from the school, except for those students whose transportation

privileges have been revoked or, in the case of a secondary student, have been voluntarily surrendered by the student's parent or guardian. (Minn. Stat. § 123B.88, subd. 1)

- B. The School District may, in its discretion, also provide transportation to any student to and from school, at the expense of the School District, for any other purpose deemed appropriate by the school board.
- 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. This includes part-time secondary students, early childhood family education participants and area learning center students. The cost of providing such transportation must be paid by those individuals using these services or some third-party payer, with the exception of early childhood family education participants and area-learning center students if the provision of such transportation services can be provided without an increase in the School District's expenditures. (Minn. Stat. § 123B.88, subd. 10, 11, 12 and 13)

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

- A. If requested by the parent of a nonresident student, the School District shall provide transportation to a nonresident student within its borders. The School District may provide transportation to a nonresident student outside its borders only with the approval of the resident district. (Minn. Stat. § 124D.04, subd. 7; Minn. Stat. § 123B.92, subd. 3; Minn. Stat. § 123B.88, subd. 6)
- B. If 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)
- C. When divorced parents 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))

#### **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. Resident students shall be eligible for transportation to and from a nonresident School District at the expense of the School District, if in the discretion of the School District, inadequate room, distance to school, unfavorable road conditions, or other facts or conditions make attendance in the resident student's own district unreasonably difficult or impracticable. The School District, in its discretion, may also provide for transportation of resident students to schools in other districts for grades and departments not maintained in the district, including high school, for the whole or a part of the year or for resident students who attend school in a building rented or leased by the School District in an adjacent district. (Minn. Stat. § 123B.88, subds. 1 and 4)
- C. 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/DISABLED STUDENTS/STUDENTS WITH TEMPORARY DISABILITIES**

- A. Upon a request of a parent or guardian, the board must provide necessary transportation, consistent with Minn. Stat. ss 123B.92. Subd. 1(b)(4), for a resident child with a disability student who is not yet enrolled in kindergarten, for the provision of special instruction and services. Special instruction and services for a child with a disability not yet enrolled in kindergarten include an individualized education program (IEP) team placement in an early childhood program when that placement is necessary to address the child's level of functioning and needs. (Minn. Stat. § 123B.88, subd. 1)
- B. Resident 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 or the day training and habilitation program attended by the student. 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 provision shall not be applicable to parents who transport their own child under a contract with the School District. (Minn. R. 3520.3300)
- C. Resident disabled students who are boarded and lodged at Minnesota state academies for educational purposes, but who also are enrolled in a public school within the School District, shall be provided transportation, by the School District to and from said board and lodging facilities, at the expense of the School District. (Minn. Stat. § 125A.65)
- D. If a resident disabled student attends a public school located in a contiguous School District and the School District of attendance does not provide special instruction and services, the School 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 School District boundary. (Minn. Stat. § 123B.88, Subd. 19; Minn. Rules Part 7470.1600)

- E. When a disabled student or a student with a short-term or temporary disability is temporarily placed for care and treatment in a day program located in another School 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 disabled student 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 (d); Minn. Stat. § 125A.51(e))
- G. 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 due process procedures provided for in Minnesota Statutes § 125A.09, subd. 6. (Minn. R. 3520.3300, 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 two or more miles 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 two or more miles 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))

## **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**

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)

## **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 procedures 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 extra curricular 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. (Minn. Stat. § 123B.36, subd. 1(11))
- 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))
- D. Where, in its discretion, the School District provides transportation to and from an instructional community-based employment station that is part of an approved occupational experience vocational program, the School District may require the payment of reasonable fees for transportation from students who receive remuneration for their participation in these programs. (Minn. Stat. § 123B.36, subd. 3)

***Legal References:*** Minn. Stat. § 120A.22 (Compulsory Instruction)  
Minn. Stat. §§ 121A.40-121A.56 (Pupil Fair Dismissal Act)  
Minn. Stat. § 121A.59 (Bus Transportation Is a Privilege Not a Right)  
Minn. Stat. § 123B.36 (Authorized Fees)  
Minn. Stat. § 123B.41 (Educational Aids for Nonpublic School Children;  
Minn. Stat. § 123B.44 (Provision of Pupil Support Services)  
Minn. Stat. § 123B.88 (Independent School Districts, Transportation)  
Minn. Stat. § 123B.92 (Transportation Aid Entitlement)  
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. § Ch. 125A (Children With a Disability)  
Minn. Stat. § 125A.02 (Children With a Disability, Defined)  
Minn. Stat. § 125A.09 (Procedures for Decisions)  
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. R. 3520.3300 (Transportation of Handicapped Students)

20 U.S.C. § 1415 (Individuals With Disabilities Education Improvement Act of 2004)  
29 U.S.C. § 794 (Rehabilitation Act)  
42 U.S.C. § 2000a-d (Prohibition Against Exclusion from Participation in, Denial of Benefits of, and Discrimination under Federally Assisted Programs on Ground 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  
Wabasha-Kellogg Policy 708 (Transportation of Nonpublic School Students)  
Wabasha-Kellogg Policy 709 (Student Transportation Safety Policy)  
Wabasha-Kellogg Policy 710 (Extracurricular Transportation)