

## Wabasha-Kellogg Public Schools Policy

### 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

It is 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 Minnesota Statutes **sections 123B.88 and 123B.92** ~~Sections § 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. **A nonpublic or charter school student transported by the school district shall comply with school district student bus conduct and student bus discipline policies.** (~~Minn. Stat. § 123B.86, subd. 3; Minn. Stat. § 123B.91, Subd. 1a~~)
- 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 STUDENTS~~ **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 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 **boundary**. School Districts may make an agreement for who provides transportation. Parties serving students on a shared time basis have access to the due process hearing system **as provided by law**, ~~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. **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, the student 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.** ~~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 section 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. Rules Part 7470.1600, Subd. 1)~~

- C. Each driver and aide assigned to a vehicle transporting students with a disability must (1) be instructed in basic first aid and procedures for the students under their care; (2) within one month after the effective date of assignment, participate in a program of in-service training on the proper methods of dealing with the specific needs and problems of students with disabilities; (3) assist students with disabilities on and off the bus when necessary for their safe ingress and egress from the bus; and (4) ensure that proper safety devices are in use and fastened properly.**
- D. Each driver and aide assigned to a vehicle transporting students with a disability shall have available to them the following information in hard copy or immediately accessible through a two-way communication system: (1) the student's name and address; (2) the nature of the student's disabilities; (3) emergency health care information; and (4) the names and telephone numbers of the student's physician, parents, guardians, or custodians, and some person other than the student's parents or custodians who can be contacted in case of an emergency.**
- E. 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 due process procedures provided for in Minnesota Statutes chapter 125A.**
- ~~C. 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 Minn. Stat. § 125A.09, subd. 6. (Minn. R. 3520.3300, subd. 2)~~

## **V. APPLICATION OF GENERAL POLICY**

The provisions of the School District's policy on transportation of public school students (**W-K 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 (School District Bus Safety Requirements)  
Minn. Stat. § 123B.92 (Transportation Aid Entitlement)

Minn. Stat. Ch. 125A (Special Education and Special Programs)  
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 Disability)  
*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. Ct. App. 1988)  
*Healy v. Independent Sch. Dist. No. 625*, 962 F.2d 1304 (8<sup>th</sup> 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:*** Wabasha-Kellogg Policy 707 (Transportation of Public School Students)  
Wabasha-Kellogg Policy 709 (Student Transportation Safety Policy)