

Hop on the Bus: Ensuring a Smooth Ride for Students (and a Risk-Free Ride for the District)

SCASBO

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Roadmap

To achieving a smooth ride for students and a risk-free ride for the District, we will consider the following:

1. Hiring Qualified Bus Drivers
2. Training Bus Drivers
3. The District's Responsibilities
4. The Day-to-day Operation of School Buses
5. Transporting SPED Students
6. Common Sources of Legal Liability
7. Practical Tips for Avoiding Legal Liability

Hiring Qualified Bus Drivers

- In South Carolina, the school bus drivers are employed by the local district. The South Carolina Department of Education distributes state funding to districts, provides driver training, and certifies completion of driver training.
- The SC DOE's requirements are the formal requirements for a person being certified as a bus driver.
- However, prior to discussing those formal, statutory requirements, it is important to note that there are many desired qualifications of bus drivers that reach beyond the realm of law or regulations.

Hiring Qualified Bus Drivers

- S.C. Code Ann. Section 59-67-108(A)(1): “Only a person who has been certified by the State Board of Education may drive a school bus, as defined in Section 59-67-10, when transporting preprimary, primary, or secondary students to or from school.”
- Steps for Certification with the State Board of Education:
 - Apply with the local school district and submit an application for the new bus driver class.
 - Complete 20 hours of new bus driver class.
 - Pass the DOE Test and the behind-the-wheel test.
 - Obtain a DOE physical and complete a medical examination showing that you are physically able to drive a bus and can see and hear well.
 - Receive a CDL and maintain it.
 - Successfully complete a:
 - Physical Performance Test.
 - Drug Screening.
 - SLED Background Check.

Modules Covered in SCDOE Training

Driver
Responsibilities

Basic
Operations

The Air Brake
System

School Bus
Driving
Procedures

Accidents &
Other
Emergencies

“The People
Factor”

Transporting
Students with
Special Needs

District Bus Driver Training

- After a person seeking to be a bus driver has satisfied the requirements of the South Carolina Department of Education, a District should require internal training of new bus drivers. In this training, District staff should:
 - Review Applicable School Board Policy and Procedures.
 - Establish the District's Expectations of Drivers.
 - Explain Day-To-Day Duties of each Driver.
 - Guide Drivers on How to Respond to Conflicts.

Internal Training of School Bus Drivers

- Common School Board Policies and Procedures that each Driver should know:
 - “Bus drivers are responsible for the children on their bus unless accompanied by a teacher, in which case the teacher is responsible and the driver should assist the teacher only at the teacher’s request, or as required by law.”
 - “The bus driver may stop the bus at any time that misbehavior or threatened misbehavior presents a hazard to safe driving.”
 - “The driver will report students who create a disturbance on school buses.”

In-Service Annual Training

- It may be wise to require all drivers to undergo training on an annual basis. Let's face it, drivers will forget the things they learned in their new driver training. Some districts do this during annual in-service days. Potential topics to cover:
 - Bus Drivers Handbook, with emphasis on rules and procedures
 - Sign-In Sheets, Work Sheets
 - Supervising Students, Handling Student Misconduct
 - Interacting with Special Education Students, Teacher's Aides, Shadows, and Bus Monitors
 - Social Media
 - Documentation
 - Sexual Harassment

Statutory Duties of Drivers

- S.C. Code Ann. Section 59-67-180: “The driver of every school bus while the bus is being operated as such shall have general supervision of it and shall not permit or allow any person in the bus to occupy such a position as will interfere with the vision of the driver either to the front, either side or rear of the vehicle while it is in motion.”
- S.C. Code Ann. Section 59-67-240: “The driver of each school bus shall cooperate with the teachers in their work in the school to which he is transporting pupils by being on time in the mornings and waiting in the afternoons until all his pupils are dismissed by the school faculty and safely aboard his bus. He also shall take particular notice along his route in the mornings and give pupils within sight a reasonable time in which to board his bus. The driver shall be responsible for maintaining good conduct upon his bus and shall report promptly to the governing head of the school to or from which the pupils are transported any misconduct or any violation of the driver's instructions by any person riding in his bus.
- District boards of school trustees in this State may authorize school administrators to suspend or expel pupils from riding a school bus for misconduct on the bus or for violating instructions of the driver.

Recap:

The State Department will:

- Own the school buses.
- Carry insurance to cover roadway incidents.
- Defend lawsuits on behalf of the DOE. (NOT the District)
- Provide initial training and certifications.
- Perform Maintenance on buses, at the request of District Employees.

The District will:

- Operate the school buses. (Employ the Drivers)
- Carry insurance to cover driver misconduct.
- Defend lawsuits on behalf of the District.
- Provide annual training on applicable policy, legal updates and District specific policies.
- Make requests for maintenance.

The District's Responsibilities

- As noted, the District carries insurance to cover liability relating to driver misconduct.
- Thus, it is in the District's best interest to give drivers the tool kit they need to be able to drive students safely. The District should:
 - Provide training when needed.
 - Support Drivers regarding student discipline.
 - Provide assistance to drivers when needed. (Monitors, Cameras, etc.)
 - Listen to concerns of drivers, students, and parents.
 - Investigate incidents as they arise.
 - Document!!

Day-to- Day Operation of School Buses

We all understand that the goal each day for the District is to safely transport students from Point A to Point B. However, this is easier said than done.



It is evitable that conflicts will arise, and your District must know how to address them.

Emerging Areas of Emphasis in the Day-to-Day Operation of School Buses

Student Supervision

Sexual Misconduct

Incident Protocol

Camera Usage, Inspection, and Maintenance

Documentation

Document Retention – Hardcopy or Electronic

Student Supervision and Sexual Harassment

- We truly do ask our bus drivers to wear a ton of different hats. Our bus drivers are supervisors, reporters, investigators, documenters, and drivers. However, all of these roles are important.
- It is common for lawsuits to allege that bus drivers were negligent in supervising students. When drivers are negligent in supervising students, fights, bullying, physical abuse, and sexual harassment often occur.
- It is important that drivers supervise their bus as best they can and report incidents as soon as they are aware of them. **NOTE:** A driver has a duty to report incidents where they believe a child is being abused or neglected.

Incident Protocol

- Driver:
 - Completely pull the bus off the road.
 - Call 911, if necessary.
 - Call/report to the Transportation Supervisor.
 - Remove the students from the bus, if the incident has not been contained. If students are removed, make sure the students are safely away from oncoming traffic.
 - After the situation has been contained, and if the Transportation Supervisor has arrived on the scene, allow the student to leave with his/her guardian.
 - Cooperate with law enforcement – police report.
 - DO NOT leave the scene of an accident.
- District:
 - The Transportation Supervisor may call the student's parent/guardian.
 - Complete your own incident report.
 - Conduct an investigation – pull the recording; witness interviews and statements.
 - Reprimand, as necessary – Suspension or Termination.

What to Do when Students Misbehave

- Minor Problems: Utilize written warnings to let parents and the District know about their child's behavior.
- If the violation is serious enough, the child should be written up and the form turned into the school the child attends. This should be done as soon as possible.
- If the situation is serious enough that the driver feels that he/she needs help, either return the child to the nearest school or stop and call for assistance.
- A child should only be removed from a bus under serious circumstances and with District approval.
- A driver should never:
 - Attempt to discipline a student while the bus is in motion.
 - Strike a Student.
 - Place their hands on a student unless the safety of others is threatened.
 - Argue with a student.
 - Play favorites and treat children unfairly.

Camera Usage, Inspection, and Maintenance

- School Districts must receive permission from DOE to install cameras.
- After installing cameras, School Districts will assume the responsibility for inspecting and maintaining the cameras.
- Regular inspection and maintenance must be routinely conducted.
 - Cameras may not be working or be misplaced or out of focus.
- The recordings captured by School District Cameras on buses is subject to the Family Educational Rights and Privacy Act (FERPA).
- The School District must know and provide knowledge of its data/recording retention policy to all employees.
- You can expect that video recordings will be requested during a lawsuit.

Documenting and Document Retention

- It is the responsibility of bus drivers to document issues with bus operation, student misconduct, and automobile accidents **on a daily basis**.
- The District's responsibilities lie in responding to documents received from bus drivers and supervising bus drivers as employees of the District.
- Documents relating to all of the issues that arise from employing bus drivers should be kept for a reasonable amount of time. (5 to 10 years)
- Documenting is important because it memorializes the District's side of an event should a lawsuit arise.

Transporting SPED Students

- Transporting students with special needs warrants special considerations with regards to student discipline and safety.
- As a District, you may want to consider:
 - Creating a forum for teachers, teacher's aides, bus drivers, and parents/guardians to communicate and share relevant communication, re: transportation.
 - Collaborating with teachers, aides, bus drivers, and parents/guardians to create a consistent routine for these students.
 - Using technology that provides ride transparency. (ex. Cameras, Times of Routes (Pick ups and drop offs) from Transversa)
 - Providing resources for drivers. (ex. Providing bus monitors, allowing aides to ride the bus)

Common Sources of Legal Liability

- District negligently hires bus drivers.
- Driver forgets to report, supervise, or document incidents as they arise.
- Driver or District fails to follow law, policy, or established protocol.
- District does not listen to concerns of parents, teachers, or drivers.
- District does not investigate matter brought to its attention.
- District does not to support drivers.

Tips for Avoiding Legal Liability

- Conduct a comprehensive hiring process that goes beyond the legal requirements. Find out as much as possible about the applicant.
 - Consider: Is this person the type of person that can be trusted with children?
- Develop and provide training that goes beyond required safety instruction to equip drivers and bus aides with the information and tools necessary to adequately supervise and protect students from harm.
 - Consider: Can this person recognize certain behaviors as bullying and sexual harassment, and will they know how to respond?
- Supervise and monitor drivers to assure that school board policies are followed and that drivers comply with the rules.
 - Consider: Is this person capable of learning and honestly following the rules?

Why does all of this matter?

- Recent Headlines:
 - “School District Required to Pay \$2 Million after Student Attacked on School Bus”
 - “Lawsuit: Student Fell Out of Moving School Bus at 20+ mph.”
 - “Mother files Lawsuit Against School District Claiming Bus Driver Assaulted Son.”

Questions?

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