

# Community Use of Busses

What to Keep in Mind when Using Vehicles for Non-Student Transportation

CSDSIP InSight Newsletter | December 2020

Given the extraordinary circumstances associated with the COVID-19 outbreak, some Members are using their buses and other school vehicles less often than they would under normal circumstances.

Because of this reduction, as well as an uptick in many communities' transportation needs, many Members are being asked to make their transportation vehicles available to individuals and groups not related to the School, District, or BOCES. If your organization is considering such a request, please consider the following non-student transportation vehicle usage guidelines.



[Colorado Revised Statute, §22-32-128](#), provides for the use of school vehicles by residents of the district. Specifically, it states that "vehicles used for the transportation of pupils . . . shall be available to groups of five or more residents of the district who are sixty-five years of age or older for use within or without the district." This statute directs the Board of Education to adopt policies regarding the reasonable use of such vehicles and you likely have policy EEAFB in place to satisfy this requirement.

This article addresses discretionary requests for community use of school buses to transport the public. This can include both private and public events like music concerts, weddings/receptions, art festivals, golf tournaments, and fundraisers.

## What can go wrong?

Though it is unpleasant to engage in worst-case-scenario thinking, we encourage our Members to consider possible negative outcomes when lending out vehicles in order to properly prepare and assure you have a robust plan in place should you need it.

For example, suppose your school bus is leased to transport community members to a local charity event and that bus is involved in a major accident, leading to several serious injuries that require emergency attention. Because nobody foresaw such a tragic event, there was no written usage agreement between you and the community members, and no insurance protection obtained from the group. Because it is your name on the side of the bus, and very likely your employee driving the bus, you could be left to deal with not only the emotional fallout, but also many potential claims and exposures to include physical damage to both your bus and the other vehicle involved in the accident, auto medical payment claims, and bodily injury claims. The best way to keep yourself out of a similar situation is to understand and educate yourself on your options when it comes to community use of Member vehicles, and properly prepare if your vehicles are to be loaned.

## Is there coverage?

Use of Member transportation vehicles beyond the customary transportation of students to and from school or school activities is not expressly covered in the Auto Liability or Auto Physical Damage Coverage forms offered to the Membership, nor is this additional use contemplated in the rates developed for the Coverage. Transportation for non-Member students is not recommended, but there are no exclusions applicable if the Member gives permissive use. CSDSIP requests that the Member notify us prior to any vehicle use for non-school related activities.

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Members should carefully review their auto liability limits to determine whether they are carrying adequate limits for this additional exposure. When reviewing your limits, please remember that if you or others using your vehicles are traveling out-of-state, you may be outside the protection of the Colorado Governmental Immunity Act (CGIA). In addition, the statute is unclear as to whether CGIA will limit your liability when the vehicle is not being used for school purposes, such as the transportation of students to or from school or for school-sponsored activities.

## CSDSIP Non- Student Transportation Usage Guidelines

CSDSIP recommends that you implement the following Non-Student Transportation Vehicle Usage Guidelines. If making changes, you may wish to have your general counsel to review your policy to ensure that it complies with the statutes and does not conflict with other Board policies, school district procedures, CDE requirements or federal Department of Transportation regulations. Additionally, ensure that you:

- ✓ Provide appropriately licensed employee drivers for vehicles that require a Commercial Driver's License (CDL).
- ✓ Provide appropriately licensed and trained driver for any vehicle not requiring a Commercial Driver's License (CDL).
- ✓ Use a written application process that identifies the stated vehicle usage agreement the holds the renting party financially responsible for any claim, injury, or loss and requires them to provide a certificate of insurance naming the school district as an additional insured on the individual's auto coverage. The auto liability limits should not be less than the Member's limits as provided by CSDSIP.
- ✓ Ensure the usage agreement contains a hold harmless and indemnity provision in favor of the school district and district employees.
- ✓ Obtain signed liability waiver from each adult passenger.
- ✓ Obtain signed permission slip for each minor passenger in a transportation vehicle not driven by a school district employee.
- ✓ Review and understand NHTSA guidelines for transporting pre-school age individuals, on which CDE relies. A link to this information is available under the "For More Information" section of this article.
- ✓ Notify CSDSIP prior to vehicle use for non-school related activities.
- ✓ Coordinate your driver(s) schedule to determine if overtime compensation must be paid.
- ✓ Keep in mind the CDE Hours of Service requirements as stated in Code of Colorado Regulations rule 4204-R-229.00. These requirements hold that "The school transportation vehicle operator, including small vehicle operators, shall not drive nor shall the school district/service provider permit or require an operator to drive...in excess of 10 hours or after being on-duty 14 hours until completing 10 hours off duty. This would include on-duty time for all employers. Ten hours off duty may be consecutive or accumulated in two or more periods of off duty time with one period having a minimum of 6 consecutive hours off duty.
- ✓ **Understand that even if you follow all of the recommendations on this list, you may still be liable in the event an accident is caused by your employee driving your bus.**

## For More Information

For more information, please visit <https://one.nhtsa.gov/people/injury/buses/buseatbelt/index.html> or contact CSDSIP's Risk Control team.

If you plan to allow community use of your vehicles, please contact our Risk Programs Department prior to entering into a usage agreement. We often find that the level of risk outweighs the benefit of providing transportation to the public, but are happy to discuss your specific situation with you and answer any questions you may have.