National Perspective

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The legal information and assistance provided in this webinar does not constitute legal advice or legal representation.

Safe Routes to School Programs: Legal Implications for Schools
Safe Routes to School Programs: Legal Implications for Schools
LIABILITY FOR VOLUNTEERS IN THE WALKING SCHOOL BUS PROGRAM

MINNESOTA LAW PROVIDES PROTECTION FROM LIABILITY CLAIMS.

A WALKING SCHOOL Bus Program allows students to get to and from school in a group accompanied by adults. It encourages exercise and reduces the levels of obesity in our children. The program is best for neighborhoods that have a school within walking distance.

Adult volunteers are essential to the Walking School Bus Program. They are responsible for organizing the program and for walking the children to and from school. Adult volunteers are expected to be responsible—just as they would be with their own children. Providing that adult volunteers are reasonable and with good intentions, Minnesota courts will protect them from liability claims for accidents that occur during the course of volunteering.

Q: What is liability?
A: The duty is to be reasonable and considerate for the circumstances.

Q: What is negligence?
A: A failure to act in a reasonable manner.

Q: What is the program ideal for neighborhoods that have a school within walking distance?
A: The program is ideal for neighborhoods that have a school within walking distance.

Each school day presents an opportunity for students of all ages to practice healthy behavior. Schools districts can improve student health in schools through well-designed public health initiatives that address the community’s individual needs and conditions. Across the state of Minnesota school district have added their policies to include a walking school bus plan, walk to school, Safe Routes to School, school gardens, and community recreational use of school property. An appropriate policy held by knowledgeable and supportive staff can advance student nutrition, increase physical activity and help develop healthy lifestyles.

Q: What is in liability?
A: Liability is a legal responsibility for actions or omissions. This includes failure to act or to do something that is required. Liability is the responsibility to commit an act or not to commit an act.

Q: What is negligence?
A: Negligence is the failure to act as a reasonably careful person would.

Q: What is a waiver?
A: A waiver is a signed document that releases the school from liability.

Q: What is a reason?
A: A reason is a valid reason for an action.

Q: What is a cause of action?
A: A cause of action is the reason for an action.

Q: What is a duty to care?
A: A duty to care is the responsibility to protect a child from harm.

Q: What is a duty to act?
A: A duty to act is the responsibility to protect a child from harm.

Q: What is a duty to provide a safe environment?
A: A duty to provide a safe environment is the responsibility to protect a child from harm.

Q: What is a duty to take reasonable care?
A: A duty to take reasonable care is the responsibility to protect a child from harm.

Q: What is a duty to prevent foreseeable harm?
A: A duty to prevent foreseeable harm is the responsibility to protect a child from harm.

Q: What is a duty to act reasonably?
A: A duty to act reasonably is the responsibility to protect a child from harm.

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Policy

Implementing Safe Routes to School Principles and Policies Makes Good Legal Sense
Policy

What is a policy?

Any plan or course of action designed to influence and determine decisions.
Policy

Moose Lake School District, Minnesota

Bicycle and Walk to School Policy

The purpose of this policy is to outline the criteria students, parents/guardians and employees need to follow when bicycling or walking to school. Bicycling and walking promote student and adult well being by integrating more physical activity into a daily routine and provides active living skills and healthy habits that will last a lifetime.

Safe Routes to School Programs: Legal Implications for Schools
Policy

DULUTH SAFE ROUTES TO SCHOOL PLAN
A project examining the safety in accessing five urban elementary and middle schools in Duluth, MN.

July 2006

Minneapolis Safe Routes to School
Helping Minneapolis youth be lean & green

Safe Routes Strategic Plan
City of Minneapolis
Minneapolis Public Schools

Ely Pedestrian and Bike Plan
June 2009

Prepared by:
Arrowhead Regional Development Commission
Regional Planning Division

Safe Routes to School Programs: Legal Implications for Schools
Elements of Liability

✓ Duty of care;

✓ Failed in Duty; and

✓ That failure caused harm that could have been reasonably expected to occur
Defenses to Liability

Immunity
Safe Routes to School Policy

✓ Duty of Care
✓ Immunity
✓ Risk Management
Duty of Care

School district policy that school personnel “are neither legally liable nor legally responsible for pupils en route to and from school if the pupils walk or furnish their own transportation.”

Duty of Care

*Bicycle Safety:* Adequate instruction to bicycle riders concerning signaling, riding on the right side of the street, and other vehicular traffic laws is primarily the responsibility of the parents. The privilege of riding a bicycle to school is given to students in grades 4, 5, and 6 and should be dependent on the child's adherence to safety practices. Bicycles are to be placed in the bicycle rack and locked while they are at school.

Moose Lake School District, Minnesota
Bicycle and Walk to School Policy

II. GENERAL STATEMENT OF POLICY
A. The District supports bicycling and walking as transportation as long as students and staff can do so safely.
B. Students, parents/guardians and employees have a responsibility to follow the laws and rules for safe walking, bicycling and driving to ensure the safety of all road users - pedestrians, bicyclists, and motorists.
Immunity

Using Safe Routes to School Policy to support immunity
Risk Management

Safe Routes to School Policy as a Risk Management Tool
Background and Overview

Forty years ago, nearly 90 percent of children who lived close to their school walked or bicycled to get there. Today, the number has decreased by about 25 percent! As Safe Routes to School (SRTS) programs have developed to reverse this trend, some have wondered if encouraging walking and bicycling to school may increase a school’s liability exposure.

In general, the answer is no. In fact, SRTS programs are designed to help schools and communities identify and address potential safety concerns. Taking concrete steps to make walking and bicycling safer will reduce the likelihood of injury, and thereby minimize exposure to liability.

A SRTS program that simply encourages or promotes bicycling and walking to school should not, in most cases, expose schools to increased liability risk. From school-sponsored walking and bicycling programs, such as a Walking School Bus or Bicycle Toon, should not expose schools to any greater liability than other school-sponsored activities. Of course, schools with SRTS programs must ensure they are meeting their responsibilities for children’s safety just as they must routinely do with all other forms of school transportation and with other school activities.

SRTS programs can vary greatly, ranging from programs to encourage walking and bicycling programs and providing new infrastructure to support responsibility for safety will vary according to the individual elements of the context. This information below provides a brief overview of the relevant legal limits you may want to look into as you develop your program to ensure you are.

This information is not intended as legal advice and should not be guidance, you should consult with an attorney with relevant knowledge.

Legal Context

Schools and school districts must regulate address issues of liability for occurrence of activities. Regardless of who is responsible for the activity or how the activity is conducted, schools and school districts must ensure that any injury or death is properly handled. However, the extent to which a school will be held legally responsible or “liable” for an injury, will depend on the facts of the case, the nature and legal principles that vary from state to state and school district.

In general, to establish liability for negligence, the injured person or someone close to the injured person, that the school owed a duty of care to that person, that the school had a breach of that duty, that the breach caused the injury, and that the injury was reasonably foreseeable.

Safe Routes to School Programs: Legal Implications for Schools

Safe Routes to School (SRTS) programs can help reduce schools’ risk of liability while making it safer for students to walk or bike. This fact sheet explains why liability fears shouldn’t keep schools from supporting SRTS programs, and offers practical tips for schools and community advocates.

Safe Routes to School: Minimizing Your Liability Risk

Some schools have been reluctant to support Safe Routes to School (SRTS) programs due to concerns about being sued for injury or public action. But such fears are largely unwarranted. By acting responsibly and understanding the liability issues in question, schools can safely and effectively help students and the health and academic benefits of SRTS programs while minimizing the risk of a lawsuit. In fact, well-implemented SRTS programs can reduce schools’ risk of liability by identifying potential dangers and putting measures in place to prevent children against injury.

Because schools, parent groups, and school maps are involved in SRTS programs, it is important for schools to understand SRTS and liability. This fact sheet explains why liability fears shouldn’t stop school districts from supporting SRTS programs, provides an overview of liability and negligence, and offers practical tips on how school leaders can reduce their risk of liability.

Because liability issues vary from state to state, consulting with a local lawyer may be critical to understanding your specific issues, as well as structuring SRTS programs to minimize liability concerns.

Safe Routes to School Local Policy Guide

June 2011

Safe Routes to School Programs: Legal Implications for Schools

Safe Routes to School

Public Health Law

NPLAN
Other Legal Considerations

10 TIPS FOR
Safe Routes to School Programs and Liability (continued)

1 Work with your school district’s administrative and legal staff to understand the relevant liability issues and to develop appropriate policies.

Most likely, your school district already has a number of policies in place to help manage its liability for various school programs and activities. A SRTS program is no different. You should work closely with your school district’s administrative and legal staff to identify any particular risk management and insurance needs based on your individual SRTS program and the relevant laws of your jurisdiction.

2 Be aware of local laws, regulations, and school policies.

Work with your school’s legal counsel to identify the laws and regulations in your jurisdiction that are relevant to walking and bicycling. These may include laws regarding school safety patrols, the designation of

3 Take steps to fix problems.

If you are aware of unsafe walking and bicycling conditions, such as unsafe vehicle drop off and pick up conditions, take steps to fix them. Even if the problem is not subject to the school’s control, such as a heavily trafficked local street, the school should warn parents of any known hazards,
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