Transporting Students: Whats, Whys, and Wherefores
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### Table of Contents

- **Transportation: What Are the Issues?** 1
- **Vans: Can We Use Them?** 1
  - An Independent School Case 2
  - NHTSA Reports Involving Vans 3
  - The Cross Exam Test 3
  - But Higher Education Uses Vans All the Time 3
  - But What Should We Use Instead? 4
  - Pupil Transportation Safety Guidelines 4
  - Making the Decision 5
    - *Vehicle Selection – Things to Think About* 5
- **Beyond Small Vehicles Selection** 6
  - Students Being Picked Up From School 6
  - Long Trips 7
    - *Long Trips – Things to Think About* 7
  - Parent Drivers 8
    - *Parent Drivers – Things to Think About* 9
  - Teacher Drivers 9
    - *Teacher Drivers – Things to Think About* 10
  - Student Drivers 10
    - *Student Drivers – Things to Think About* 11
  - Larger Vehicles: 16-Passengers or More 12
    - Non-Business Private Motor Carriers of Passengers 12
    - Driver Basics 13
    - Drug and Alcohol Testing 13
    - Employee Notification Obligations 14
    - New Vehicle Marking Provisions 14
    - What if We Rent Larger Vehicles to Take Across State Lines? 15
- **Conclusion** 16
- **Helpful Resources** 16
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Questions about transporting students are among the top ten legally related questions NAIS receives every year. Schools are clearly confused about what is illegal and legal, and what is right and safe for students. Many schools once used 15-passenger vans to transport students, and several still do. Almost all schools that currently own 15-passenger vans have a notion that they may no longer be safe for student transportation, but not all schools know what to do instead of using these vans. The bowling team of 10 does not need a full sized bus to go to practice and events, but the teacher’s car only holds five students. What other options do schools have? This article addresses questions about vans, as well as questions concerning other transportation concerns: teachers driving students, students driving students, long trips, bigger vehicles and more. Readers are forewarned that this article, like federal law, does not offer one size fits all answers, but it should get schools on the right road to approaching their transportation issues.

Transportation: What Are the Issues?
Fifteen-passenger vans are only the tip of the student transportation iceberg. Schools need to think about transporting small groups of students in smaller vehicles, larger groups of students in larger vehicles, and the consequences of having teachers and other school employees transporting students in personal cars. Further, all schools should visit their policies relating to students driving students. Many times this last area is out of a school's control; but does the school encourage and condone students driving other students when teams must travel for away games or practices off campus? These issues are just a starting point; many schools will have more issues to consider beyond these relatively universal questions.

For almost every question the answer recipe is simple: check with your school’s counsel to determine state law, check with your insurance carrier to determine what sort of coverage you have for your situation, and check with yourself to see if you are truly comfortable with the amount of risk you are currently accepting through your school’s policies.

Vans: Can We Use Them?
Schools seeking advice on whether or not they can “legally” use vans are often surprised and somewhat confused by the answer. There is a federal law that forbids dealerships from selling or leasing new 10-or-more passenger vans for the purpose of transporting students. However, this
law does not apply to schools themselves. States regulate which vehicles schools must use; the federal government regulates the standards of the vehicles sold. When states do pass laws forbidding the use of non-school bus vehicles for student transportation, the laws often exclude independent schools either implicitly or explicitly.

Needless to say, these laws (or lack thereof) are not the end of the inquiry. Just because something is not illegal does not mean the course of action is wise. Just because it is not expressly illegal to take a group of 30 students mountain climbing on a steep ridge with one inexperienced chaperone does not mean that the school is immune from a suit if the event ends badly. Schools understand that allowing such a trip would be negligent. Some state courts may find that allowing students to travel in 15-passenger vans is also negligent.

An Independent School Case

Like many other independent schools in the early 1990s, one particular independent school bought a 15-passenger van to transport smaller groups of students. The van, however, was not built to meet the safety specifications for school buses outlined by the federal government, and it was sold to the school in violation of federal law. The dealership later contacted the school to inform it that the van did not meet school bus safety standards.

In July 1994, a six-year-old student was aboard the school’s 15-passenger van. As the van crossed an intersection, a tanker truck ran a red light and struck the side of the van. The six-year-old was fatally injured and several other students were injured as well. At the time of the accident, the state in which the accident occurred did not have a law forbidding schools from using these 15-passenger vans to transport students. The truck driver was determined to be at fault in the accident.

The family sued the school, the teacher, the truck driver, and the trucking company. The case was eventually settled out of court. The trucking company paid $1,000,000, and the settlement amounts of the other parties remain confidential. The settlement specified that the school would never again transport students in a vehicle that did not meet federal requirements for school buses.

What does this case have to do with other independent schools?

In this case, the court looked at what it considered to be the reasonably acceptable transportation methods provided for students by a school and held the school to that standard. By not dismissing the school from the case, the court sent the message that schools are accountable for their actions even if there is no law that expressly forbids the activity in question. Although this case is not necessarily controlling in other states, the likelihood that the ruling is an anomaly in this landscape is minimal.
NHTSA Reports Involving Vans
Since this case, there has been a surge of literature on the dangers of 15-passenger vans. The National Highway Traffic Safety Administration (NHTSA) has issued at least two major reports involving 15-passenger vans.

In the most recent report, issued in April of 2001, the NHTSA looked at the roll-over propensity of 15-passenger vans at different occupancy levels. The study showed that the likelihood of a roll-over almost tripled when the occupancy of these vehicles was greater than nine people. In June 1999, NHTSA issued a report describing its investigation into a number of fatal accidents in which the vehicles did not conform to the federal standards for school buses. Not surprisingly, the report concluded that had the students been traveling in school bus-standard vehicles, the passengers would have had potentially lifesaving protection. Of the four accidents investigated, three involved 15-passenger vans. To view these reports go to the NHTSA web site at http://www.nhtsa.dot.gov.

The Cross Exam Test
If your school still balks at the notion that 15-passenger vans are unsafe or that the vans do not warrant replacement consider the following hypothetical cross exam question:

Opposing Counsel: “You read these articles about the dangers of 15-passenger vans. You heard about a number of accidents involving these vans. You know that many other schools no longer use these vans to carry children. Why did you continue to use this vehicle to transport your school’s children?”

What is your answer? Is it any of the following?

- Vans are cheaper than safer vehicles.
- We only used them on short trips.
- The vans were here when I got here.
- We have always used vans.
- There is no state law prohibiting us from using these vans.

Now think about how this exchange looks to a jury of your peers. What do the follow up questions from the attorney look like? Have you presented this issue to your board? Were you taking steps to phase the vans out? Had you taken any steps to make the vans safer for student travel?

But Higher Education Uses Vans All the Time
Many schools continue to rely on the argument that universities and colleges keep using these 15-passenger vans. This argument fails for the very same reason that independent schools must provide more supervision, more safety practices, and often more liability insurance. Independent school students are almost always, by definition, minors. Schools owe these students a special obligation because under the law they are generally not old enough to protect themselves.
But What Should We Use Instead?

The reality of most independent schools is that small groups of students often need to be transported. Independent schools rarely have the means to afford a fleet of full sized school buses, nor do they have the requisite number of drivers with commercial drivers’ licenses to operate the larger vehicles. If your school decides to move away from 15-passenger vans, the following options might be viable:

*Mini-Buses:* The price of mini-buses is coming down and they are built “to code.” This is often the safest — but potentially more costly — answer to the problem.

*Vans made to school bus-standards:* Several major manufacturers are now building vans to school bus-standards. These vans are acceptable in many states. The vans are cheaper than mini-buses, and they are built on van chassis, making them easier and more comfortable for staff to drive. Further, most do not require a commercial driver’s license to drive the van. Schools should check with the dealership or manufacturers on the safety of these vehicles and in which states these vehicles are acceptable.

*Passenger Cars:* Some schools have purchased SUVs or similar vehicles to transport students. These vehicles are generally built to passenger car standards. They are usually safer than vans, which are built to truck standards, but not as safe as school buses. Any school exploring this option should examine all of the requisite safety information and comparative cost information before making this decision; not all SUVs are necessarily built to passenger car standards, and some may be more expensive than vehicles that are built to school bus safety standards.

*Modifying Current Vans:* It is possible to “modify” your current vans so that they are safer for students. News from the field reports that this process costs around $15,000. The make-over includes seat belts, roll bars, lights on the outside of the van, and myriad other upgrades. Schools need to decide for themselves whether this option makes the most sense. How soon will the vans need to be replaced regardless of the upgrade? Is using this method worth the risk of a court finding that the modification was not sufficient?

Pupil Transportation Safety Guidelines

NHTSA also recommends to the states various guidelines they may choose to adopt. Some states have done so, many have not. Highlights of these guidelines are below and, although a school’s state may not have elected to adopt them, the guidelines may be instructive to schools approaching vehicle choice issues.

- A school bus is any motor vehicle designed to carry more than 10 persons (including the driver) that is used to carry students to and from school and...
related events on a regular basis. It does not include a transit bus or a school-chartered bus.

- Buses must be identified with the words “School Bus” printed in letters not less than eight inches high, be painted national school bus glossy yellow, have bumpers of glossy black, be equipped with safety equipment to use in an emergency, be equipped with devices demonstrated to enhance safe operation of school vehicles (such as stop signal arm, system of signal lamps) and have an approved system of mirrors.

- Also in this guideline NHTSA recommends replacing, consistent with economic realities, those school buses that are not manufactured to meet the April 1, 1977 Federal Motor Vehicle Safety Standards for school buses. NHTSA also recommends not chartering any pre-1977 school buses. Furthermore, schools should inform potential buyers of pre-1977 school buses that these buses may not meet current standards.

Making the Decision
An important question that often falls through the cracks is who, exactly, makes the decision to change from one type of vehicle to another. The answer may be different among the various schools, but there is no doubt that approaching this issue is part of the school’s risk management. Given the safety interest at stake, as well as the money required to change from one type of vehicle to another, it is likely that most schools would bring the ultimate decision to the board. Regardless of which governing body or group makes the decision, it should be obvious that much fact finding and research should be done and no single individual should approach the decision alone.

Vehicle Assessment — Things to Think About:
- Take a full inventory of current school vehicles looking at the model year, safety of the vehicles, current condition, and any other relevant characteristics.
  Include:
  - Buses
    o Large
    o Small
  - Vans
    o 15-or-more-passenger
    o Smaller
  - Passenger Cars
  - Anything Else _____________________________

- Consult with your school’s attorney. Have him or her identify any current state laws that apply to your school

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Consult with your insurance company and discuss whether your coverage is adequate.
If necessary, start making plans and taking steps to reduce the school’s liability exposure in this area.

Remember that it is better to start taking steps to remedy the problem than to be overwhelmed by the expense and logistics of the possible solutions.

Beyond Small Vehicle Selection
Questions about vans are the most frequent transportation questions, but there are many other areas of transportation that touch independent schools. The sections below address common concerns pertaining to students being picked up from school, teacher drivers, student drivers, long trips, and larger vehicles.

Students Being Picked Up From School
The most basic transportation issues involve how students arrive at and leave from the school. The first of these is usually easy, the latter is often more complicated. Most schools have a system in place for students to be picked during the school day. However, this point bears reviewing. Schools are responsible for students during the school day. If a school allows a student out of its control during the school day, whoever takes control of the student (even if it is the student driving himself home or elsewhere) must be authorized to do so by the parent or guardian of the child. This is true for all students that are minors, and should be underscored repeatedly in regard to young students. Students that are over the age of 18 should still fall under the school’s policies, both for consistency and liability purposes.

The school should have a record of the student’s routine transportation type to and from school as well as a list of other permitted forms of transportation for the student. At the end of the school day, if the student is going to vary from his or her routine or other permitted transportation home, the school should be notified, in writing, by the parent or guardian of the student. Parents should understand that without this form the school will not knowingly let a student go home any other way. Again, the school should not guarantee that students may not find away around the school structure, but it can set a reasonable policy and oversight procedure in place.

The school should have an initial list of those individuals permitted to pick up each student if the student must leave school early. The person who picks up the student should be required to come into the school and sign the student out. Alternatively, the student may submit written permission from a parent informing the school when the child will be picked up and by whom. Regardless, before the student is picked up by any individual not on the list, the parent of the student must give permission for that person to do so. Any student who leaves the school before the end of the school day must have express permission from the parent or guardian to do so unless it is an emergency situation already covered by the emergency release form.
Obviously, policies in this area will vary depending upon a school’s structure, the school community, and other factors. Schools should take the time to develop common sense and safe practices in this area as suits the school in its particular situation; however, this portion of student transportation must be addressed and the policies must be clear to both parents and students. This information should be included in the policies and procedures section of student handbooks.

Long Trips
Many independent schools sponsor long trips away from the school’s campus. These trips might be a shopping trip into New York City, a week-long trip following the historic trail of the Civil War, a ski trip, or any number of other reasons for students and chaperones to find themselves on the road for a long period of time. Many times, particularly for the in-between length trips, there is a debate over whether the school should hire a professional transportation service or provide the transportation itself.

Schools will approach this question differently, and the answer will usually depend on the trip itself. However, it is vital for a school to consult with its insurance carrier to determine the school’s coverage and truly assess the risk of the particular trip. Will the road trip to the regional championship finals require the basketball coach to drive late into the night after coaching the team all day? Will chaperones be expected to drive students into a major city and supervise simultaneously?

These situations can be recipes for disaster. Professional transportation services usually provide insurance coverage for the trips, taking on much of the school’s transportation liability. Often the services are more reasonably priced than one might think, and the company may work with the school to provide discounts if the school uses them more than once a year. Parents are often inclined to pay a trip fee to help insure their child’s safety. To check on a professional transportation company’s track record, the Federal Motor Carrier Safety Administration (FMCSA) allows users to look up the safety records of companies that provide transportation across state lines on its website, www.safetysys.org. If this tool does not provide information about a service provider you’re looking into, simply ask the company for its references or a safety history.

Long Trips -- Things to Think About
The following list will help get schools started in assessing potential trip liability. Your school might want to add more factors as it sees fit.

- How long is the trip?
  - Time (e.g., days)
  - Distance

- What school vehicles would have to be used to safely and reasonably make this trip?
  - Mini-buses
  - Vans

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- Full sized buses
- Passenger Cars
- Other _______________________________

- How many chaperones are there?
  - School staff
  - Parents and other volunteers

- What are the chaperones’ obligations for the trip?
  - Coaching
  - Assistant coaching
  - Driving
  - Leading tours
  - Navigating
  - Other __________________________

- Is the school hiring a professional transportation company?
  - Overall costs
  - Does the transportation company have insurance coverage?
  - Properly licensed

- What does the school insurance cover?
  - When school provides transportation
  - When professional transportation company provides transportation
  - When others (parents, teachers, students, etc.) provide transportation

- Any other relevant transportation information.

**Parent Drivers**

Independent schools rely heavily on parent volunteers and involvement, particularly for transportation needs. Use of these drivers should be carefully evaluated by the school. The school may be inadvertently taking on liability for the actions of these volunteers. Schools should also check with counsel to determine if there are any state laws that may affect the ability to use volunteer drivers. At the time of writing, Ohio had recently passed regulations that may prohibit schools from using parent drivers to transport students.

Counsel should also be asked to explain what the school’s possible liability may be if a parent gets into an accident while driving the students. The liability result may vary from state to state. The school should also consult with its insurance company to determine what coverage, if any, the school has to cover these situations. In some states the parent’s liability insurance will be the primary insurance and the school’s insurance coverage will be secondary. If a school is going to use parent drivers consistently it may wish to require that the drivers have a certain level of insurance before they transport students.

If a school is going to use parent volunteer drivers, at a minimum the school should obtain a copy of the driver’s insurance card and the relevant information and have all parents of students...
who will be driven in these cars sign releases giving permission for their children to use this type of transportation. The school’s counsel may suggest other guidelines beyond these minimums.

**Parent Drivers — Things to Think About:**
- Are there any state laws prohibiting use of parent drivers?
- Whose insurance will cover the accident?
  - School insurance?
  - Parent insurance?
  - Both?
- Does your school require minimum levels of insurance for parent drivers?
- Does your school collect information from parent drivers?
- Does your school have release forms for children to ride in parent volunteer vehicles?

**Teacher Drivers**
In many independent schools, teachers drive students in either school vehicles or the teachers’ own passenger cars. Particularly for smaller group trips, this situation is a regular occurrence in the independent school world. Schools must also take care to identify the risk in these situations.

**Teacher Drivers and Insurance**
School insurance usually covers teachers driving school vehicles. However, teachers may still have liability if an accident goes beyond the school’s insurance for the incident and the teacher’s insurance is turned to as secondary insurance. Schools should check their coverage for teachers driving school vehicles and may want to require that teachers who drive these vehicles carry a specified minimum insurance for their own protection.

**Teachers Transporting Students in Personal Vehicles**
There are also times when staff may drive students in their personal cars. In many states the teacher’s insurance will provide the initial coverage for any incidents, and then the school’s insurance may become involved as secondary insurance. In other states, depending on school coverage, the outcome may be exactly the opposite. Either way, the two insurance companies may end up fighting with each other over which should cover the accident. The school’s insurance company will argue that the teacher’s insurance should cover the accident because the teacher was driving, and it was his car. The teacher’s insurance company will argue that the teacher was acting within the course of his employment, as an agent for the school, and that the school’s insurance should therefore cover the incident.

Whichever way the insurance and liability law lands in a school’s state, it is important to determine the outcome of this hypothetical before it happens. Both your school’s insurance company and your school’s counsel will be helpful in this area.
Teacher Drivers— Things to Think About:
- Consult with insurance company to determine current coverage
- Determine if additional coverage is available if the school chooses to purchase it.
- Determine the school’s need to use teacher drivers in both teacher-owned and school-owned vehicles.
- Consult with teachers to get feedback on their driving liability
- Consult with counsel to determine liability under state law
- Discuss all information gathered
- Discuss various solutions to problems and the risk exposure each will bring
- Work out a livable solution for all, some examples are below:
  - Purchase insurance to cover teachers driving within the scope of employment
  - Ask teachers to carry additional liability insurance in exchange for cost difference reimbursement
  - Limit number of teachers who drive students in teacher-owned or school-owned vehicles and work out a special insurance and additional pay measure for these teachers
- Provide a workshop explaining any potential liability issues for teachers who drive students in either their own or school vehicles.
- Ensure that the staff has enough information to make an informed decision.

Student Drivers
Secondary schools have a unique problem with student drivers. Most schools allow students to drive to school with parent permission. However, there is often the question of who the students may drive, particularly to extracurricular activities. As an initial matter, schools may want to truly focus on how wise it is to use new drivers to transport students to school-related activities in the first place. Similar to the independent school case provided in the van section of this advisory, if an accident should occur, a court may very well find that it was not reasonable for the school to rely on a young, new driver to transport other students. This area is particularly important because parents may feel uncomfortable having their children ride with new drivers, and the ultimate harm to the school could be overwhelming.

Another area to consider is whether the school may become otherwise liable for the student driver. In some states a court may find that in driving other students to school-related events the student was acting on behalf of the school. This is commonly known as an “agency” argument; it makes the relationship between the school and the student reminiscent of that between the school and teacher. Whether this analysis applies to a school depends on state law, an area that the school should have counsel research.
If you do use student drivers . . .

If a school decides to use student drivers, informing and gathering information and releases from parents about their permissions in this area is very important. The school should give the parent the option of not having his or her child ride with a new driver. The school should also take reasonable steps to insure that parents’ wishes are upheld for all formal school functions. For example, if the soccer team’s field is located five miles from campus and a parent does not want his daughter driving with a student driver to get there, that wish should be noted and alternative transportation should be regularly provided.

On the other side of the equation, parents of young drivers should also be considered in this fact scenario. Not wanting to be exposed to additional liability, these parents may not want their children driving other students. The ideal time to gather this information is at the beginning of the year when the school is first notified that the student will be driving to school. Clearly, these parents’ wishes should also be observed.

Regardless of parental wishes and the amount of information the school obtains, the school should explain that it does not have absolute control over student actions, particularly after the school day is over. Schools should encourage parents to talk to their children, both those who drive and those who do not, about the school policies and the parents’ policies relating to this area.

State Law

Many states are now putting restrictions on new drivers. These restrictions affect how old they are when they get their licenses, what times of day they may drive, how many people they may drive, and even who they may drive. Clearly, if state law prohibits new drivers from transporting other students, the school should be aware of the law and not encourage students to break it. Further, if a school is currently relying on student drivers, it should become familiar with any new legislation that might have an impact on this driver source at a later date.

Student Drivers — Things to Think About:

- Set guidelines for student drivers
  - Where they may park
  - What the rules are for when they may leave and to whom they must report
  - Who they may transport
    - To and from school
    - During school hours
- Approach the issue of student drivers and extracurricular activities
  - Does your school use student drivers to transport other student to these events?
  - Is it necessary?
  - Are there steps taken to ensure that parents who do not want their children driving with student drivers have other options?
- Approach counsel about school liability for students who drive other students to school-related events and activities
- Create ground rules if students are driving to events.
  - Discuss any potential coverage or liability ramifications with your school’s insurance company and counsel.
  - Know what the state law is regarding new drivers

**Larger Vehicles: 16 Passengers or More**

Owning and operating vehicles designed to carry 16 passengers or more triggers a lot of issues, both in terms of liability and general regulatory adherence. Due to the incredible amount of both state and federal regulation of this area, this advisory does not even attempt to cover all of the issues. However, it does cover some of the basic areas and refers schools to sources of more complete information on the Internet. The Department of Transportation is fairly thorough in its coverage of this topic, as are many state departments of transportation.

Although many schools have had experience with larger vehicles, it is important to understand the basic complications that the vehicles tend to raise. As an initial matter, whoever drives the vehicles must have a commercial driver’s license (CDL). This is primarily because these vehicles under federal and most states laws are considered commercial motor vehicles (CMVs). As an owner of a CMV, the school must follow all of the required policies and procedures relating to drivers, operation, and maintenance of CMVs. The regulation in this area can be onerous. Additionally, by virtue of owning and operating these larger vehicles the school moves into a new level of transportation liability because it is usually moving more students more often. Some schools that have opted to have a fleet of larger vehicles have set up subsidiaries just for their transportation needs.

Before examining the more complicated issues bigger vehicles raise, there are some basic myths that should be addressed: First, altering a vehicle does not change the designation of the vehicle. In other words, if the school owns a van designed to carry 16 passengers, taking the back seat out of the van does not change the characterization of the van. Second, use of bigger vehicles in interstate commerce (i.e., traveling across state lines) sometimes triggers more transportation regulation concerns for the school (e.g., see the marking provisions below). Schools might want to limit the number of vehicles they use for interstate travel or consider renting vehicles when trips will be going out of state.

**Non-Business Private Motor Carriers of Passengers**

Independent schools that own or lease 16-or-more-passenger vehicles are usually considered Non-business Private Motor Carriers of Passengers (PMCPs). Schools that directly charge for transportation provided are the exception to this rule. This article does not address those schools and their circumstances as they are subject to more involved regulations.

Essentially, being labeled a non-business PMCP gives the school fewer obligations when running commercial motor vehicles, but does not exempt them from all of the obligations. For
example, non-business PMCPs are not required to meet the federal minimum financial responsibility levels or many of the federal record-keeping requirements of business PMCPs. The Department of Transportation provides general information on this topic at http://www.fmcsa.dot.gov/factsfigs/eta/MCpassengers.html.

As non-business PMCPs, independent schools must follow the regulations relating to controlled substance and alcohol abuse testing; CDL regulations; most of the qualifications for drivers; the basic regulations relating to driving procedures; the particulars of parts and accessories that should be found on or in the vehicle; the hours of service requirements; and the inspection, repair, and maintenance mandates.

All of the regulations and regulatory guidance issued by the Department of Transportation may be found at http://www.fmcsa.dot.gov/rulesregs/fmcsr/fmcsrguide.htm.

Schools are strongly encouraged to devise a system to comply with both federal and state laws. All of the state departments of transportation are listed at http://www.fhwa.dot.gov/webstate.htm. Depending on your state, you may find all of the applicable regulations on your state’s web site.

**Driver Basics**

Drivers for vehicles that are designed to carry 16 or more passengers must have a CDL. A CDL is obtained through the state, which must test according to federal mandates and often includes many mandates of its own. Holders of CDLs are not allowed to have more than one license and must follow fairly stringent guidelines in a variety of areas such as how long they drive at any one time (generally no more than 10 hours of driving after eight hours off-duty). The complete federal requirements in this area may be found at http://www.fmcsa.dot.gov/rulesregs/fmcsr/fmcsrguide.htm.

For basic information on the CDL program, visit http://www.fmcsa.dot.gov/safetyprogs/cdl.htm.

**Drug and Alcohol Testing**

As an employer of those who hold and use CDLs in the course of employment, independent schools also have several drug and alcohol testing obligations. Regulations require schools to remove any driver who uses alcohol on the job, has a blood alcohol level of .04 or greater while on the job, or uses alcohol within four hours of going to work.

The regulations also require random testing, testing when a driver's supervisor has reason to suspect alcohol misuse, testing before returning to work and additional testing at least 6 times in the first year after any driver who has misused alcohol and undergone treatment returns to driving, and testing after any crash where alcohol misuse could have been a factor. All testing must be conducted with a certified breath testing device and by certified technicians.

The rules for testing an employee's misuse of drugs are similar to that for alcohol testing.
Schools are prohibited from permitting a driver to operate a bus if managerial personnel are aware that the driver is using an illegal drug or has tested positive for an illegal drug. Regulations require urine testing for illegal drug use at the times prescribed for alcohol testing, and list for the type of drugs to test for, and under what circumstances that the tests are to be conducted.

The Department of Transportation has a very thorough publication relating to drug and alcohol testing of CDL employees. That publication may be found at http://www.fmcsa.dot.gov/safetyprogs/drugs/engtesting.htm

Employee Notification Obligations
Employees have several obligations relating to their CDLs too. Employees holding CDLs for the purpose of their employment must notify their employers of a conviction for any traffic violation, regardless of the nature of the violation or the type of vehicle the employee was driving at the time. The employee must still give notice if such a violation happens when the employee is driving his or her own car. The employee must give notification within 30 days of the conviction. The only exception to this rule is if the conviction was for a nonmoving traffic violation (e.g., parking ticket).

If an employee has his license suspended, revoked, canceled, or is disqualified from driving, the employee must notify the employer by the end of the next business day following the employee’s notice of the action against his license. Obviously, the employer may no longer use the employee for driving purposes.

The Department of Transportation has included other important facts relating to basic obligations for CDL drivers at http://www.fmcsa.dot.gov/safetyprogs/cdl.htm. The Department of Transportation has also provided many questions and answers about the regulations online at http://www.fmcsa.dot.gov/rulesregs/fmcsr/regs/383reg/htm

Sixteen-passenger (or larger) vehicles owned or leased by the school to carry passengers in interstate commerce (i.e., across state lines) must be marked in accordance with a new scheme introduced by the FMCSA in June 2000. In order to comply with the new regulations schools must:

1. Obtain a USDOT number from the FMCSA by filing a form MCS-150. This USDOT number replaces the former Interstate Commerce Commission (ICC) number some schools may currently have on their vehicles. The form for this may be found at http://www.fmcsa.dot.gov/Pdfs/Form150.pdf

2. Schools must then mark these vehicles with the legal name of the school, as provided on the Form MCS-150, and the USDOT number assigned to
the vehicle.

3. The marking must be:
   • On both sides of the vehicle (it may be painted on or removable)
   • In letters that contrast sharply in color with the background on which the letters are placed
   • Readily legible, in daylight, from distance of 50 feet of a stationary vehicle.

4. When these marking provisions apply:
   • All CMVs in the school’s existing fleet as of July 3, 2000, and which are marked with an ICCMC number must display the vehicle’s USDOT number on the vehicle by July 3, 2002.
   • All CMVs in the school’s existing fleet as of July 3, 2000, and which are not marked with the school’s legal name on both sides must do so by July 5, 2005. Note – your school will still have to mark the vehicle with the USDOT number by July 3, 2002.
   • All vehicles that are brought into the school’s fleet after July 3, 2000, and used in interstate commerce must be marked before they are operated on public roadways.

What if We Rent Larger Vehicles to Take Across State Lines?
If your school rents larger vehicles for fewer than 30 days, the vehicle must either comply with the provisions above or:

1. Have the legal name/trade name of lessor as above and have the rental agreement conspicuously contain following:
   • name and complete physical address of principal place of business of renting motor carrier,
   • identification number issued the renting motor carrier preceded by USDOT and number, if issued number.

2. In lieu of the USDOT number, have the following:
   • any interstate or intrastate commerce information and information regarding whether renting carrier is engaged in transporting hazardous materials; and
   • This sentence: “This lessor cooperates with all federal, state, and local law enforcement officials nationwide to provide the identity of customers who operate this rental CMV” on the rental agreement entered into by the parties. The agreement must be on the vehicle for the full term of agreement.
Conclusion
Schools are faced with a myriad of issues surrounding student transportation that must be addressed and incorporated into the school’s risk management analysis. Schools can never be risk free, but each can be aware of the risks it takes and can address the risks appropriately for its particular situation. Despite all of the issues raised in this article, the most fundamental formula for approaching a schools transportation issues are: consult with counsel to determine the school’s potential liability exposure; consult with the insurance company to determine the extent of the school’s coverage; and make sure the school is comfortable with the amount of risk it is accepting through its policies and procedures.

Helpful Resources
Department of Transportation: http://www.dot.gov/
Listing of all State Departments of Motor Vehicles: http://www.fhwa.dot.gov/webstate.htm

N.B. This article is for general information purposes only and should not be relied upon as or used in place of legal counsel.