

Transportation Guidelines for Work Experience* Program Students

Revised March 2017 for Wisconsin Public School Districts

INTRODUCTION

The manner in which students participating in work experience programs are transported to and from job sites can be a challenge, and sometimes a logistical headache. From a risk management and liability perspective, the ideal situation is one in which the students do not drive themselves to or from the work site. However, as with many issues, several alternatives, ranging from ideal to feasible, exist.

WHAT OPTIONS ARE AVAILABLE?

1. The “*Education/Training Agreement: Wisconsin Youth Apprenticeship*” [Form DETW-9471-E (R. 11/2016)] stipulates the parents/guardians agree to ensure the students’ transportation to and from the work site. However, families’ inability to provide transportation should not preclude a student from participating in a youth apprenticeship program.
2. Ideally, the school district should transport work experience students in a district vehicle, such as a yellow school bus. If this is not feasible, then using a district van (nine or fewer passengers) or private passenger vehicle, driven by a district employee, contract driver or vetted volunteer, is preferred.

Employing or contracting with an individual to use his/her personal vehicle to transport students is addressed in Wis. Stats. §121.555, Alternative Methods of Providing Transportation.

3. Motor Vehicle Records (MVR) and Criminal Background Checks
 - a. The MVRs of employees, contracted drivers and volunteers who will likely be driving on the district's behalf (for any reason) should be checked annually. Verify the driver's license is valid and he/she has received no more than three minor moving violations in the last five years. Major moving violations within the last five years, such as reckless driving, operating while intoxicated, etc., should be grounds for not allowing the individual to drive on the district’s behalf.
 - b. Be sure all individuals are informed their MVR may be checked by the district, and obtain from them prior, affirmative written permission using documents compliant with the Fair Credit Reporting Act.

- c. Criminal background checks on district employees, contracted drivers and volunteers who drive students should be conducted in accordance with district policy and procedure. Again, it is imperative written permission compliant with the Fair Credit Reporting Act be obtained from the person on whom a background check will be ordered prior to doing so.
 - d. Wis. Stats. §121.555 describes requirements that must be met before an individual can drive on behalf of a school district, regardless of who owns the vehicle. These include, but are not limited to, proving they are physically capable of having sufficient use of both hands, the foot used to operate the foot brake, and a long list of convictions that will disqualify the individual from driving students on the district's behalf.
4. If district private passenger vehicles are not available, allowing district employees, contracted drivers, and volunteers to use their *personally-owned vehicles* to transport students is acceptable. If an accident occurs under these circumstances, the driver's personal automobile insurance will apply first to any damages arising out of the accident. The district's automobile policy will respond on behalf of the district on a primary basis, and on an excess basis for the driver.

Every six months, require drivers, who may drive on the district's behalf, to provide proof of personal automobile liability insurance in an amount no less than \$100,000/\$300,000/\$100,000. Though higher than what is required by statute, these limits are reasonable minimum limits of protection.

Districts should assess the acceptability of all drivers based on the requirements detailed in §121.555.

- 5. If district vehicles and district representatives (employees, contracted individuals or volunteers) are not available, consider using a third-party contractor to transport students to the work experience, such as taxis or public busses.
- 6. **THOUGH NOT RECOMMENDED**, if all methods of transportation described above are not feasible or viable, students may be allowed to drive themselves to their respective community employers/job sites. Prior to approving this mode of transportation, the district should ensure the following occurs:
 - a. Inform the student and his/her parents he/she will be allowed to drive himself/herself to the job site contingent upon the following:
 - 1) Verification of the student's valid driver's license;

- 2) No more than one minor moving violation and no major moving violations appear on the student's MVR in the last three years. School districts can receive guidance from their insurance companies about what constitutes minor and major moving violations;
- 3) Proof the car driven by the student carries automobile liability coverage with limits no less than \$100,000/\$300,000/\$100,000. Proof of renewed coverage should be required upon expiration of the insurance policy initially submitted. NOTE: The student driver is not insured by the district's auto liability policy;

Use attached Exhibit A.2. and B.2. to accomplish items #2) and #3) above.

- 4) Written acknowledgment from the student about driving to/from the work site, including the student's agreement to abide by the driving parameters established by the district. This may be accomplished through the document describing the work experience program;
 - 5) IMPORTANT, as a separate document, obtain a written transportation-related waiver from the student's parents/guardians regarding the work experience transportation arrangements (*Exhibit A.1.*); and
 - 6) IMPORTANT, as a separate document, obtain a written transportation-related waiver from the student *if the student is 18 years old (Exhibit B.1.)*.
- b. Inform the parents about the work experience transportation arrangements. This can, and should, be accomplished through a written document outlining the transportation details.

Consideration should also be given to requiring parents to attend in person, or via teleconference, a meeting at which the work experience program will be discussed.

The transportation-related waiver document should be signed by parents (or guardians) and the school district. Sample waivers are attached (*Exhibits A.1 and B.1.*). PLEASE NOTE: THE ATTACHED WAIVERS WERE NOT AUTHORED BY AN ATTORNEY. THEY SHOULD BE REVIEWED BY THE DISTRICT'S LEGAL COUNSEL BEFORE USE.

Do not combine the waiver document with any other information. It should remain a separate, stand-alone document. Combining it with any other information will likely compromise its effectiveness.

Make sure the waiver is reviewed and approved by the district's legal counsel before use.

7. It is not recommended, and we greatly discourage, districts allowing one student to drive another student to a work site, even if they are participating in the same program at the same time. **However, if this is the only possible solution for transporting a student to a work site, the waiver signed by the passenger student (if 18 years of age) or his/her parents/guardians (if less than 18 years old) should be amended to include an acknowledgment that a fellow student will be driving their child to the work site.**

A final word about waivers. Wisconsin courts do not look kindly upon waivers of any sort. They are strongly held to be against public policy. Wisconsin courts have opined that, among other factors, absent the ability to negotiate the terms of waivers, they will not likely be upheld. See Benjamin Atkins v. Swimwest Family Fitness Center, case #03-2487-FT; Ronald J. Brooten v. Hickok Rehabilitation Services, LLC, et. al, case #2012AP1940; and Patti J. Roberts v. T.H.E. Insurance Company, case #2014AP1508.

As such, school districts should understand that use of any waivers may only act as a deterrent against lawsuits, not prevent them.

Questions about this document, or others relating to risk management and insurance, can be directed to Joy Gänder of Gänder Consulting Group, LLC. She can be reached at gander@ganderconsulting.com or (608) 286-0286.

**The term "Work Experience" refers to any student involved in a work study, job shadowing, school-to-work, youth apprenticeship, co-op, service learning or volunteer program. These Transportation Guidelines should be considered without regard to whether the student is receiving wages, compensation, or credit for his/her efforts.*