P&C Bridge
A Keenan Solution

TRANSPORTATION/AUTO

Auto Liability - District and Private Vehicles – Best Practices

Source: Keenan & Associates

TRANSPORTATION - DISTRICT AND PRIVATE VEHICLES

- The District is responsible for the negligence of an employee or volunteer who is acting as an agent of the District while driving a private vehicle. This includes field trips/excursions, co-curricular activities, business trips, running errands for the District, etc.

Sometimes the District sponsors an activity but not the transportation and does not intend for the drivers to be agents of the district. Seemingly harmless, well intentioned actions can create a legal argument that an agency relationship exists which could make the District legally responsible for the negligence of the driver.

Agency could be established in the following ways:

- Mandated the route or time of travel
- Mandated caravanning, car pooling or assigned ridership
- Driver transports District personnel, equipment, or materials
- District "screens" drivers; i.e., a check of Department of Motor Vehicles records, proof of liability insurance coverage, check of vehicle condition, etc.
- District approves drivers

NON-DISTRICT-SPONSORED TRANSPORTATION

- Occasionally students drive themselves or ride together while traveling to and from District activities, e.g., off-campus instruction and participation in athletic events. Care must be taken to reduce the likelihood that a student driving a private vehicle will be considered an agent/volunteer of the District.

If the District is not providing the transportation it is important to avoid these issues.

- It should be made clear to the participants that they are "on their own" and are responsible for arranging their own transportation to and/or from the activity by signing a form whereby they acknowledge that while driving their vehicle or riding as a passenger in a private vehicle, the driver is not an agent of the District and the District assumes no liability.

This information on the Risk Advisor website is intended to assist Keenan clients in identifying and reducing certain loss exposures. It is not possible for us to identify all potential sources of liability or to offer a fail-safe mechanism for dealing with them. Keenan offers no guarantee that clients will recognize any financial savings or improved loss experience as a result of the information and suggestions presented here.
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- Prior to the activity, all parent/guardian and student drivers should complete a "Student Voluntary Transportation Agreement."

- Students riding with student drivers should have a signed "Non-District Transportation Notice form on file.

- Students who have not signed the Agreement must ride in District-sponsored transportation.

- The District should not dictate the route, time, passengers, caravanning, etc.

- The district should not check for driver's license or proof of insurance.

The appropriate form should be used when:

- Student provides own transportation even though District provides transportation.

- Student and parent/guardian acknowledge responsibility for transportation since the District is not providing it.

DISTRICT SPONSORED TRANSPORTATION

For district sponsored transportation there should be a procedure to "screen," control and approve the drivers. All drivers should complete a form that includes:

- Liability insurance information

- Drivers' license information

The financial responsibility laws in California require automobile liability coverage as a condition for operating a vehicle on public streets. Failure by the District to make a reasonable attempt to verify the liability coverage for drivers of private vehicles on District business could be construed as condoning an illegal act.

Regular or frequent drivers, such as employees who receive mileage reimbursement, should be run through the Department of Motor Vehicles Pull Notice Program. This will not only verify the validity of their driver's license but also provide a record of driving violations.

All drivers on District business, whether in their personal vehicle, a District owned vehicle, a rental vehicle or a loaned vehicle, should be advised of the following:

- Only authorized passengers are allowed

- Follow the safest, most direct route giving consideration to the weather and road conditions

- Avoid unnecessary stops
- All passengers must be in the passenger compartment and wear a seat belt
- The "rules of the road," including speed limits, must be followed

The District should consider not allowing students or other minors to sit in the front passenger seat if there is an operable passenger side airbag.

The personal vehicle use procedure should include:

- Identification of those persons who regularly drive on district business
- Pull Notice Program for regular drivers-See DMV Pull Notice topic in Risk Advisor.
- Obtaining liability insurance and drivers license information

It is important to note that the primary layer of liability coverage is the insurance which is on the vehicle driven. Therefore, when an authorized user is driving a District vehicle, the District's liability coverage will be primary. When a private vehicle is being driven, the primary liability coverage will be that which is on the vehicle and the District's liability coverage will be excess.

The District is not providing any collision or comprehensive coverage on private vehicles.

In order for the District to have a viable transportation risk management policy, consideration should be given to the following:

- The minimum information required of all drivers, e.g., proof of insurance, driver's license/driving record checks, etc.
- Completion of appropriate automobile use forms.
- Department of Motor Vehicle records check, i.e., "Pull Notice Program"
- Adherence to Education and Vehicle Code requirements regarding transportation, minimum liability limits, number of passengers, etc.