

# Assessing Liability and Legitimacy of School Transportation Services

*Districts can receive maximum value from their transportation program without jeopardizing student safety or exposing the school district to liability.*

By Tim Ammon and Peggy Burns

**A**ccording to Newton's third law of motion, for every action there is an equal and opposite reaction. For those who deal with changes to a school transportation system, that concept seems optimistic at best.

Whenever a school district considers changing bus stops, bus routes, or bell times, the public reaction is often decidedly unequal to the magnitude of the changes proposed.

Unfortunately, the severity of continued budget crises has compelled many school districts to make major

changes to their transportation systems. While additional cuts in service are likely for at least the foreseeable future, a little planning can help school districts avoid downstream concerns regarding liability and other risk management issues.

## **Likely Strategies, Likely Concerns**

Transportation management is a complex effort that's actually uncomplicated at its core. The simple goal of every transportation operation is to deliver the maximum number of students to the maximum number of



locations using the fewest possible resources—and to do so safely and in compliance with applicable laws and regulations.

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The effort becomes complex when district officials must consider where the students live, where the programs they attend are located, and when they must be there—in other words, the realities of demographics and logistics.

### ELIMINATING TRANSPORTATION

Many school districts have considered eliminating transportation services as a way to control or reduce costs; many have already implemented major cuts to transportation services. For the current school year, school districts have eliminated everything from high school transportation to nonpublic or out-of-district services up to and including services to all students.

While this approach will certainly affect costs, some key concerns must be addressed:

- Even if such changes have already been implemented, it’s a good idea to double-check the district’s authority to consider this approach. In many states, transportation services are compulsory and thus the outright elimination of service is not a viable option.
- In many states, the requirement to transport in-district and out-of-district students using “like services” precludes the elimination of such services.
- The relationship between maintenance of transportation and student success may not, as yet, be fully understood. As districts discontinue or reduce transportation services, they must monitor attendance rates.

The most important concern, of course, is student safety.

### CONSOLIDATING BUS STOPS

Consolidating bus stops is another common technique for reducing transportation costs. Many district officials who have tried to eliminate bus stops would likely agree that it is an excellent strategy for increasing attendance at school board meetings. Yet, parents often vehemently oppose bus stop changes on the grounds that the new stop location is unsafe or too far for a student to walk.

Addressing these concerns is an issue of policy and procedure. District policies must be clear about eligibility, how far students can walk to a school or bus stop (often distinguished by grade level), and who has authority to establish the stop locations. Transportation procedures should clearly define the criteria used to

determine if a location is safe and acceptable for the placement of a stop. Visibility, roadway topography, sufficient shoulder area, traffic, and student age should all be part of a formally documented procedure that assesses each stop location.

Implementing such analysis ensures students are treated equitably and the characteristics of a “safe” bus stop are considered.

District administrators may benefit from reading “Selecting School Bus Stop Locations: A Guide for School Transportation Professionals,” available from the National Highway Traffic Safety Administration ([www.nhtsa.gov/staticfiles/nti/buses/pdf/Selecting\\_SchoolBusStopLocations.pdf](http://www.nhtsa.gov/staticfiles/nti/buses/pdf/Selecting_SchoolBusStopLocations.pdf)).

### CHANGING BELL TIMES

Changing school start and end times to increase the use of the bus fleet is one of the most effective techniques for managing transportation costs. District administrators must address two immediate concerns to evaluate the effect of bell time changes on this reduced workforce.

First, they must consider the effect of additional hours on staff members’ eligibility for benefits. Reducing the number of buses used through bell time changes can often increase the number of hours the remaining pool of drivers must work. To the extent that hours worked are directly related to eligibility, the potential cost savings associated with a bell time change can be dramatically compromised by the district’s increased exposure to benefits costs.

## Consolidating bus stops is another common technique for reducing transportation costs.

Second, they must consider federal and state fair labor standards laws. If a change in bell times or consolidation of positions results in an employees working more than 40 hours per week, overtime pay or compensatory time may be required.

### Special Needs, Special Considerations

Special-needs transportation costs are overwhelming many transportation budgets. Studies commissioned by the Pennsylvania and Michigan ASBOs have shown that costs per special-needs student are 5 to 10 times more than those of his or her regular education peers.

Inevitably, districts will have to try to control these costs where possible. However, these efforts require particular caution to ensure compliance with statutory, regulatory, and procedural requirements.

District administrators must give primary consideration to ensuring that students with special needs continue to receive a free appropriate public education.



## Special-needs transportation costs are overwhelming many transportation budgets.

Fulfilling this obligation may require districts to make special accommodations for students with special needs, regardless of what is provided for the general student body.

Providing transportation when accommodations are required involves the full range of services, from determining stop locations, walking distances, and ride lengths to assigning bus attendants. Ensuring that any cost-control strategy does not negatively affect individual student requirements is a challenge the district must meet.

Providing appropriate equipment and adequately trained staff is also a major concern when budgets tighten, but both are requirements of federal law. The district must heighten its vigilance to ensure that student safety and individualized education program requirements continue to be met or the district may needlessly expose itself to potential liability.

Finding ways to meet these requirements may mean pooling resources with neighboring school districts, seeking vendor assistance, or exploring alternatives, such as

video and Web-based electronic training options. Regardless of the methods chosen to ensure adequate oversight, districts must be aware of their statutory and procedural requirements for providing service. It is equally important to ensure that there is no automatic correlation between having an individualized education program and receiving special transportation.

The failure to provide transportation in the least restrictive way that is appropriate for each student can be a denial of a free appropriate public

education and a lost opportunity to reduce costs.

Districts should also assess whether the transportation needs of particular students with disabilities have changed. Failure to regularly assess whether changes in a student's age, size, or disability affect the student's transportation needs can result in the continuation of arrangements that may be unnecessarily expensive or inappropriate for the student.

### The New Normal

Cost-cutting measures will likely be necessary for school districts and transportation departments for the foreseeable future. School districts will be forced to consider options that may have never before been thought possible as deeper cuts are made and the availability of "low-hanging fruit" dries up.

Being aware of the legal, financial, and operational consequences of potential changes will help ensure that districts receive maximum value from their transportation program without jeopardizing safety or exposing the school district to liability.

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