

Information Brief:

Transportation for Wisconsin's Religious & Independent K-12 School Students

Overview

Wisconsin has long recognized that a successful school day begins with students transported to school safely and is complete when students are transported home safely. In 1967, Wisconsin took action to ensure that the state constitution would not be used as the basis to deny this benefit to students enrolled in private schools. [Section 23](#) was added to Article I of the State Constitution, and it reads,

“Nothing in this constitution shall prohibit the legislature from providing for the safety and welfare of children by providing for the transportation of children to and from any parochial or private school or institution of learning.”

While this language demonstrates the importance of Wisconsin's interests in student safety, it is a costly endeavor and takes a delicate combination of communication, scheduling, and of course, government regulation.

Through this information brief you can strengthen your understanding of Wisconsin's school transportation requirements and use this knowledge to ensure that your students and their families are receiving the benefit to which they are entitled.

Eligibility

With some exception, any student enrolled in a private K-12 school is eligible for transportation benefits if the student meets certain basic criteria in statute [121.54\(2\)\(b\)](#):

1. The student's primary residence is within the district boundaries;
2. The private school attended is at least two miles from the student's home;
3. The student resides within the private school's attendance area, and;
4. The private school where the student is enrolled is within the district's boundaries, or within five miles when measured along the usually traveled route.

One Exception:

There is one additional requirement that is not stated in the statutes, but is part of Wisconsin Administrative Rule and state court proceedings. In order to meet the attendance area requirement under #3 above, the attendance area in which the student resides cannot overlap with the attendance area of a school of the same denomination in the public school district. The only exception to this rule is for schools serving a single gender. An example would be an all-boys Catholic school having an overlapping attendance area with an all-girls Catholic school. It is important for schools of the same denomination to decide on attendance areas prior to submitting their attendance maps to the public school districts.

If all of the above requirements are met, it is the district where the private school student resides that will have the obligation to provide the transportation benefit.

Transportation of K-4 students

Transportation for students also extends to students enrolled in a private K-4 program. Wisconsin statutes [121.54\(2\)\(b\)](#) states that transportation will be provided to a student, "...who attends any elementary grade, including kindergarten..." Thus, students enrolled in a kindergarten program, will receive transportation benefits. Under Wisconsin statutes, the definition of "kindergarten," includes both 4-year-olds and 5-year-olds.

Young private school students are eligible for busing services, including midday services, regardless of what type of program is being offered at the public school. However, as always, we encourage you to try and accommodate schedules as much as possible, to help the local school district manage its costs.

Public school district options in providing transportation

School districts are flexible in how they can meet their obligation to provide transportation to eligible private school students. School boards may contract with a busing company to meet the district's transportation needs. Other options are: contracting with a taxi company to transport certain students; transporting students in nine to ten person motor vehicles (vans), either owned by the district or through contract; or offering a reimbursement contract to parents who in turn make arrangements for the transportation of their child.

Parent Contracts: Contracts between the parents and district are becoming more prevalent. These contracts are complicated and can cause confusion. This is an arrangement between the public school district and the parent, not the private school. Thus, the parent must take a lead in the arrangement. There are only two circumstances where a public school district can look at parent reimbursement contract to meet its obligation of providing transportation benefits to eligible private school students.

Districts can offer a **voluntary** reimbursement contract prior to the start of a school year. Parents offered a voluntary contract are under no obligation to accept. If the voluntary parent contract is rejected, the district must look for other means to meet its obligations.

Wisconsin state statutes and Administrative Code allows for the use of **mandatory** parent contracts in very limited circumstances. Mandatory contracts are a one-time offer. If the family of an eligible private school student rejects a mandatory parent contract, then the district has no obligation to transport the student for the rest of the school year.

Mandatory parent reimbursement contracts can be offered when the cost to transport the eligible private school student becomes "excessive." The threshold of excessive is reached when the estimated cost to the district to transport the private school student is more than 150% of the district's average cost per public school student in the previous year. The average cost is

calculated by dividing the district's total amount spent on transporting the public school students by the number of students that rode the bus on at least one day during the previous school year. This calculation excludes the cost for transporting kindergarten students over the noon hour, and the cost of transporting students with disabilities.

In a mandatory parent contract, the district will pay a parent for each student no less than \$5 times the distance in miles between the home and the private school they attend, or the district's average cost to transport its public school students in the previous year, whichever is greater. The reimbursement amount cannot exceed the anticipated actual cost to transport the private school student. The district must notify the parents no less than 30 days prior to the start of the public school term to which the mandatory parental contract would apply.

For more information on parent reimbursement contracts, see Wisconsin Statutes section [121.55\(3\)](#), and [PI-7](#) of the Wisconsin Administrative Code.

Transportation on days public school districts are not in session

Districts have an obligation to provide transportation to private school students both to and from school. There is no limiting language in state statutes that restrict transportation to only days the district is in session. The generally accepted rule is that districts must provide transportation on days the private schools are in session, regardless of the public school district calendar. The District does NOT have to accommodate your daily starting and ending times. Work with them closely to adjust daily schedules and be helpful. If you cannot come to an agreement and feel your students are losing too much classroom time, an appeal can be made to the DPI. Contact WCRIS for assistance with this process.

Setting bus routes

Section 121.56 of the Wisconsin statutes allows for school boards of public school districts to set the bus routes that will be used in the transportation of both public and private school students. The setting of bus routes includes pick-up and drop-off times and locations.

The school boards have an obligation to effectively coordinate the transportation of both public and private students to insure their safety and welfare. In the past, public schools have asked for concessions which would cause significant loss of classroom time at the beginning and end of the school day. The term "welfare of the pupils" in the above statute offers our students some protection from this situation.

In addition, the Superintendent of the Department of Public Instruction can stop any bus route that is determined to be unsafe or is jeopardizing student welfare. In practice, this is rare and difficult to effectuate. It usually requires assistance from local law enforcement or a traffic engineer to stipulate the arrangement is unsafe. Contact WCRIS for assistance with this process.

Reporting obligations

Private schools have two main reporting obligations under the state's transportation laws:

1. Annually, by April 1, each private school will submit a detailed map of its attendance area for the following school year to each public school board that the private school's attendance area is in. For example, if your school's attendance area covers parts of three public school districts, the private school would send a copy of its entire attendance area to each district's school board.

If a private school fails to send its attendance area to a district by the deadline, the district will use the most recent attendance area on file as the attendance area of the private school. If these areas are not documented and kept up to date, your school could discover after the deadline, when no remedy is available, that new neighborhoods or subdivisions are left out.

2. Annually, by May 15, each private school will submit a list of "probable" names and addresses to the public school districts who may ride the bus next term. This requirement is meant for budgeting and planning purposes and is not meant to exclude additional riders at a later date. A school board can extend this May 15 deadline, at its own discretion. It is recommended that you list as the last student on the roster: Any student who applies for admission on or after May 15, YEAR.

Conclusion

To learn more about the laws regarding transportation, refer to the WCRIS Legal Handbook. There you will find a breakdown of the laws and legal terms. You can find a digital copy of the handbook through the [member portal](#), or you can purchase a hard copy through our office. If you have any questions or need help in working with your school district, please contact [WCRIS](#) for help.