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MSBA/MASA Model Policy 707
Charter

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Policy)

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SABP 707 TRANSPORTATION OF CHARTER SCHOOL STUDENTS

[NOTE: The obligations stated in this policy are largely governed by statute. A charter school may choose to add obligations to the model policy.]

I. PURPOSE

The purpose of this policy is to provide for the transportation of students consistent with the requirements of law.

II. GENERAL STATEMENT OF POLICY

- A. The policy of the charter school is to provide for the transportation of students in a manner which will protect their health, welfare, and safety.
- B. The charter school recognizes that transportation is an essential part of the charter school services to students and parents but further recognizes that transportation by school bus is a privilege and not a right for an eligible student.

III. DEFINITIONS

- A. "Child with a disability" includes every child identified under federal and state special education law as deaf or hard of hearing, blind or visually impaired, deafblind, or having a speech or language impairment, a physical impairment, other health disability, developmental cognitive disability, an emotional or behavioral disorder, specific learning disability, autism spectrum disorder, traumatic brain injury, or severe multiple impairments, and who needs special education and related services, as determined by the rules of the Commissioner of the Minnesota Department of Education ("Commissioner"). A licensed physician, an advanced practice nurse, a physician assistant, or a licensed psychologist is qualified to make a diagnosis and determination of attention deficit disorder or attention deficit hyperactivity disorder for purposes of identifying a child with a disability. In addition, every child under age three, and at the charter school's discretion from age three to seven, who needs special instruction and services, as determined by the rules of the Commissioner, because the child has a substantial delay or has an identifiable physical or mental condition known to hinder normal development is a child with a disability. A child with a short-term or temporary physical or emotional illness or disability, as determined by the rules of the Commissioner, is not a child with a disability.
- B. "Home" is the legal residence of the child. In the discretion of the charter school, "home" also may be defined as a licensed day care facility, school day care facility, a respite care facility, the residence of a relative, or the residence of a person chosen by the student's parent or guardian as the home of a student for part or all of the day, if requested by the student's parent or guardian, or an afterschool program for children operated by a political subdivision of the state, if the facility, residence, or program is within the attendance area of the school the student attends. Unless otherwise specifically provided by law, a homeless student is a resident of the charter school if enrolled in the charter school.
- C. "Homeless student" means a student, including a migratory student, who lacks a fixed, regular, and adequate nighttime residence and includes: students who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack

of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; are awaiting foster care placement; have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings, and migratory children who qualify as homeless because they are living in any of the preceding listed circumstances.

D. "Nonpublic school" means any school, church, or religious organization, or home school wherein a resident of Minnesota may legally fulfill the compulsory instruction requirements of Minnesota Statutes, section 120A.22, which is located within the state, and which meets the requirements of Title VI of the Civil Rights Act of 1964

E. "Nonresident student" is a student who attends school in the charter school and resides in another district, defined as the "nonresident district." In those instances when the divorced or legally separated parents or parents residing separately share joint physical custody of a student and the parents reside in different charter schools, the student shall be a resident of the charter school designated by the student's parents. When parental rights have been terminated by court order, the legal residence of a student placed in a residential or foster facility for care and treatment is the district in which the student resides.

- "Pupil support services" are health, counseling, and guidance services provided by the public school in the same district where the nonpublic school is located.
- "School of origin," for purposes of determining the residence of a homeless student, is the school that the student attended when permanently housed or the school in which the student was last enrolled.
- "Shared time basis" is a program where students attend public school for part of the regular school day and who otherwise fulfill the requirements of Minnesota Statutes, section 120A.22 by attendance at a nonpublic school.
- "Student" means any student or child attending or required to attend any school as provided in Minnesota law and who is a resident or child of a resident of Minnesota.

IV. ELIGIBILITY

A. Upon the request of a parent or guardian, the charter school shall provide transportation to and from school, at the expense of the charter school, for all resident students who reside two miles or more from the school, except for those students whose transportation privileges have been revoked or have been voluntarily surrendered by the student's parent or guardian.

B. The charter school may, in its discretion, also provide transportation to any student to and from school, at the expense of the charter school, for any other purpose deemed appropriate by the school board.

[NOTE: In this section, charter schools may wish to outline those discretionary areas where they intend to provide transportation. For example, some charter schools may provide that transportation shall be provided for all resident elementary students who reside one mile or more from the school.]

C. In the discretion of the charter school, transportation along regular school bus routes may also be provided, where space is available, to any person where such use of a bus does not interfere with the transportation of students. The cost of providing such transportation must be paid by those individuals using these services or some third-party payor. Bus transportation also may be provided along school bus routes when space is available for participants in early childhood family education programs and school readiness programs if these services do not result in an increase in the

charter school's expenditures for transportation.

- D. For purposes of stabilizing enrollment and reducing mobility, the charter school may, in its discretion, establish a full-service school zone and may provide transportation for students attending a school in that full-service school zone. A full-service school zone may be established for a school that is located in an area with higher than average crime or other social and economic challenges and that provides education, health or human services, or other parental support in collaboration with a city, county, state, or nonprofit agency.

V. TRANSPORTATION OF NONRESIDENT STUDENTS

- A. If requested by the parent of a nonresident student, the charter school shall provide transportation to a nonresident student within its borders at the same level of service that is provided to resident students.
- B. If the charter school decides to transport a nonresident student within the student's resident district, the charter school will notify the student's resident district of its decision, in writing, prior to providing transportation.
- C. When divorced or legally separated parents or parents residing separately reside in different charter schools and share physical custody of a student, the parents shall be responsible for the transportation of the student to the border of the charter school during those times when the student is residing with the parent in the nonresident charter school.
- D. The charter school may provide transportation to allow a student who attends a high-need English language learner program and who resides within the transportation attendance area of the program to continue in the program until the student completes the highest grade level offered by the program.

VI. TRANSPORTATION OF RESIDENT STUDENTS TO NONDISTRICT SCHOOLS

- A. In general, the charter school shall not provide transportation between a resident student's home and the border of a nonresident district where the student attends school under the Enrollment Options Program. A parent may be reimbursed by the nonresident district for the costs of transportation from the pupil's residence to the border of the nonresident district if the student is from a family whose income is at or below the poverty level, as determined by the federal government. The reimbursement may not exceed the pupil's actual cost of transportation or 15 cents per mile traveled, whichever is less. Reimbursement may not be paid for more than 250 miles per week (Minnesota Statutes, section 124D.03, subdivision 8).
- B. Resident students shall be eligible for transportation to and from a nonresident charter school at the expense of the charter school, if in the discretion of the charter school, inadequate room, distance to school, unfavorable road conditions, or other facts or conditions make attendance in the resident student's own district unreasonably difficult or impracticable. The charter school, in its discretion, may also provide for transportation of resident students to schools in other districts for grades and departments not maintained in the district, including high school, for the whole or a part of the year or for resident students who attend school in a building rented or leased by the charter school in an adjacent district.

VII. SPECIAL EDUCATION STUDENTS/STUDENTS WITH A DISABILITY/ STUDENTS WITH TEMPORARY DISABILITIES

- A. Upon a request of a parent or guardian, the board must provide necessary transportation, consistent with Minnesota Statutes, section 123B.92, subdivision 1(b)(4), for a resident child with a disability not yet enrolled in kindergarten for the provision of special instruction and services. Special instruction and services for a child with a disability not yet enrolled in kindergarten include an individualized education program (IEP) team placement in an early childhood program when that placement is necessary to address the child's level of functioning and needs.

B. Resident students with a disability whose disabling conditions are such that the student cannot be safely transported on the regular school bus and/or school bus route and/or when the student is transported on a special route for the purpose of attending an approved special education program shall be entitled to special transportation at the expense of the charter school or the day training and habilitation program attended by the student. The charter school shall determine the type of vehicle used to transport students with a disability on the basis of the disabling condition and applicable laws. This provision shall not be applicable to parents who transport their own child under a contract with the charter school.

C. Resident students with a disability who are boarded and lodged at Minnesota state academies for educational purposes, but who also are enrolled in a public school within the charter school, shall be provided transportation, by the charter school to and from said board and lodging facilities, at the expense of the charter school.

D. If a resident student with a disability attends a public school located in a contiguous charter school and the charter school of attendance does not provide special instruction and services, the charter school shall provide necessary transportation for the student between the charter school boundary and the educational facility where special instruction and services are provided within the charter school. The charter school may provide necessary transportation of the student between its boundary and the school attended in the contiguous district, but shall not pay the cost of transportation provided outside the charter school boundary.

E. When a student with a disability or a student with a short-term or temporary disability is temporarily placed for care and treatment in a day program located in another charter school and the student continues to live within the charter school during the care and treatment, the charter school shall provide the transportation, at the expense of the charter school, to that student. The charter school may establish reasonable restrictions on transportation, except if a Minnesota court or agency orders the child placed at a day care and treatment program and the charter school receives a copy of the order, then the charter school must provide transportation to and from the program unless the court or agency orders otherwise. Transportation shall only be provided by the charter school during regular operating hours of the charter school.

F. When a nonresident student with a disability or a student with a short-term or temporary disability is temporarily placed in a residential program within the charter school, including correctional facilities operated on a fee-for-service basis and state institutions, for care and treatment, the charter school shall provide the necessary transportation at the expense of the charter school. Where a joint powers entity enters into a contract with a privately owned and operated residential facility for the provision of education programs for special education students, the joint powers entity shall provide the necessary transportation.

- . Each driver and aide assigned to a vehicle transporting students with a disability will be provided with appropriate training for the students in their care, will assist students with their safe ingress and egress from the bus, will ensure the proper use of protective safety devices, and will be provided with access to emergency health care information as required by law.
- . Any parent of a student with a disability who believes that the transportation services provided for that child are not in compliance with the applicable law may utilize the alternative dispute resolution and due process procedures provided for in Minnesota Statutes, chapter 125A.

VIII. HOMELESS STUDENTS

A. Homeless students shall be provided with transportation services comparable to other students in the charter school. Students qualifying under the McKinney-Vento Act will be admitted regardless of Capacity Space as determined by the board and will be an exception.

B. Upon request by the student's parent, guardian, or homeless education liaison, the charter school shall provide transportation for a homeless student as follows:

1. A resident student who becomes homeless and is residing in a public or private shelter location or has other non-shelter living arrangements within the charter school shall be provided transportation to and from the student's school of origin and the shelter or other non-shelter location on the same basis as transportation services are provided to other students in the charter school.
2. A resident student who becomes homeless and is residing in a public or private shelter location or has other non-shelter living arrangements outside of the charter school shall be provided transportation to and from the student's school of origin and the shelter or other non-shelter location on the same basis as transportation services are provided to other students in the charter school, unless the charter school and the charter school in which the student is temporarily placed agree that the charter school in which the student is temporarily placed shall provide transportation.
3. If a nonresident student is homeless and is residing in a public or private homeless shelter or has other non-shelter living arrangements within the charter school, the charter school may provide transportation services between the shelter or non-shelter location and the student's school of origin outside of the charter school upon agreement with the charter school in which the school of origin is located.
4. A homeless nonresident student enrolled under Minnesota Statutes, section 124D.08, subdivision. 2a, must be provided transportation from the student's district of residence to and from the school of enrollment.

IX. AVAILABILITY OF SERVICES

Transportation shall be provided on all regularly scheduled school days or make-up days. Transportation will not be provided during the summer school break. Transportation may be provided for summer instructional programs for students with a disability or in conjunction with a learning year program. Transportation between home and school may also be provided, in the discretion of the charter school, on staff development days.

X. MANNER OF TRANSPORTATION

The scheduling of routes, establishment of the location of bus stops, manner and method of transportation, control and discipline of school children, the determination of fees, and any other matter relating thereto shall be within the sole discretion, control, and management of the school board. The charter school may, in its discretion, provide room and board, in lieu of transportation, to a student who may be more economically and conveniently provided for by that means.

XI. RESTRICTIONS

Transportation by the charter school is a privilege and not a right for an eligible student. A student's eligibility to ride a school bus may be revoked for a violation of school bus safety or conduct policies, or violation of any other law governing student conduct on a school bus pursuant to the charter school's discipline policy. Revocation of a student's bus riding privilege is not an exclusion, expulsion, or suspension under the Pupil Fair Dismissal Act. Revocation procedures for a student who is an individual with a disability under 20 United States Code, section 1415 (Individuals with Disabilities Act), 29 United States Code, section 794 (the Rehabilitation Act), and 42 United States Code, section 12132 (Americans with Disabilities Act) are governed by these provisions.

XII. FEES

A. In its discretion, the charter school may charge fees for transportation of students to and from extracurricular activities conducted at locations other than school, where attendance is optional.

- B. The charter school may charge fees for transportation of students to and from school when authorized by law. If the charter school charges fees for transportation of students to and from school, guidelines shall be established for that transportation to ensure that no student is denied transportation solely because of inability to pay. The charter school also may waive fees for transportation if the student's parent is serving in, or within the past year has served in, active military service as defined in Minnesota Statutes, section 190.05.
- C. The charter school may charge reasonable fees for transportation of students to and from post-secondary institutions for students enrolled under the post-secondary enrollment options program. Families who qualify for mileage reimbursement may use their state mileage reimbursement to pay this fee.
- D. Where, in its discretion, the charter school provides transportation to and from an instructional community-based employment station that is part of an approved occupational experience vocational program, the charter school may require the payment of reasonable fees for transportation from students who receive remuneration for their participation in these programs.

Legal References: Minn. Stat. § 120A.22 (Compulsory Instruction)
Minn. Stat. §§ 121A.40-121A.56 (Pupil Fair Dismissal Act)
Minn. Stat. § 121A.59 (Bus Transportation is a Privilege Not a Right)
Minn. Stat. § 123B.36 (Authorized Fees)
Minn. Stat. § 123B.84 (Policy)
Minn. Stat. § 123B.88 (Independent School Districts; Transportation)
Minn. Stat. § 123B.92 (Transportation Aid Entitlement)
Minn. Stat. § 124D.03 (Enrollment Options Program)
Minn. Stat. § 124E.03 (Applicable Law)
Minn. Stat. § 124E.15 (Transportation)
Minn. Stat. § 124E.23 (Transportation Revenue)
Minn. Stat. Ch. 125A (Special Education and Special Programs))
Minn. Stat. § 125A.02 (Children with a Disability Defined)
Minn. Stat. § 125A.51 (Placement of Children Without Disabilities; Education and Transportation)
Minn. Stat. § 125A.515 (Placement of Students; Approval of Education Program)
Minn. Stat. § 127A.47 (Payments to Resident and Nonresident Districts)
Minn. Stat. § 190.05 (Definitions)
Minn. Rules Part 7470.1600 (Transporting Pupils with Disability)
Minn. Rules Part 7470.1700 (Drivers and Aides for Pupils with Disability)
20 U.S.C. § 1415 (Individuals with Disabilities Education Act)
29 U.S.C. § 794 (Rehabilitation Act of 1973, § 504)
42 U.S.C. § 2000d (Prohibition against Exclusion from Participation in, Denial of Benefits of, and Discrimination under Federally Assisted Programs on Ground of Race, Color, or National Origin)
42 U.S.C. § 11431 *et seq.* (McKinney-Vento Homeless Assistance Act of 2001)
42 U.S.C. § 12132 *et seq.* (Americans with Disabilities Act)

Cross References: MSBA/MASA Model Policy 709 (Student Transportation Safety Policy)
MSBA/MASA Model Policy 710 (Extracurricular Transportation)