Safe Routes to School – Liability

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Speakers

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Agenda

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• Why are we talking about it?
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• Virginia liability example
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Disclaimer

This webinar has been prepared by VDOT Safe Routes to School to present a key issue regarding SRTS liability and potential strategies to address that issue. It has not been prepared by a lawyer and thus should not be construed as legal advice.

We will not discuss school division policies and liabilities for any specific school division, school, or school-related incident.

We highly recommend that anyone concerned with liability seek the advice of their school division or agency’s legal counsel for information specific to your situation.
What is liability?

• A legal responsibility for one’s negligent actions or omissions.

• Liability for negligence usually requires:
  • Evidence that the school had a legal duty of care.
  • Evidence that the school breached that duty.
  • Evidence that the breach caused the damages or injury.

10 Tips for Safe Routes to School Programs and Liability, National Center for Safe Routes to School.
What is a duty of care?

• A requirement that a person act toward others with the watchfulness, attention, caution and prudence that a reasonable person in the circumstances would use.

http://dictionary.law.com/

• Duty of care depends on:
  • The degree to which the school controls or directs the activity that results in injury,
  • The extent to which the school’s actions conformed to applicable rules, regulations, policies, or procedures,
  • The extent to which the school knew or should have known of a particular hazard and failed to correct or warn against it.

10 Tips for Safe Routes to School Programs and Liability, National Center for Safe Routes to School.
Why are we talking about it?

• Liability concerns are sometimes given as reason not to encourage or remain neutral on walking and biking to school.
• Liability concerns are often based on incomplete information.
• Bike to School Day is May 7.

Jeannie Dean Elementary School, Manassas
Maryland Study

• 2011 survey of 350 principals
• Asked about attitudes relative to walking and bicycling
  • 19% encouraged
  • 19% discouraged/prohibited
  • 62% neither encouraged nor discouraged
Maryland Study

• 73% of principals who discouraged/prohibited walking/biking said liability concerns influenced their decision.
• None of these principals reported consulting an attorney or risk assessment officer.
Prince William County

Becky Short
SRTS Division Coordinator
Virginia Liability Example--Prince William County

- How did you get involved with the Safe Routes to School liability issue?
- What did you do once you discovered liability was an issue?
- Without going into specifics, generally what did the attorney say about liability?
Virginia Liability Example--Prince William County

- After speaking with the division’s attorney, what did you do with the information?
- How have principals reacted?
- How do you plan to address liability in the future?
Additional Tips for Addressing Liability

• Be aware of local laws, regulations and school policies.
• Provide safety education to students.
• Provide safety information to parents.
• Provide training to crossing guards and all school employees involved in traffic safety.

Parkview Elementary, Portsmouth
Additional Tips for Addressing Liability

- Develop a plan to identify potential safety concerns and improvements.
- Document efforts to address known safety problems.
- Consider waivers as an approach to acknowledge risk.
- Obtain adequate insurance to cover the program.

Spotswood Elementary, Harrisonburg
Lessons Learned

• Liability is an important consideration for Safe Routes to School

• Decision makers are sometimes unclear about liability.

Matthew Maury Elementary School, Alexandria
Lessons Learned

• The best approach is to speak with your school division’s legal counsel or risk management officer to clarify liability.

• Share and remind school administrators about the division’s liability policy, in advance of SRTS events.

Dumbarton Elementary School, Henrico
Resources

SRTS National Center
• Liability Tip Sheet
• Liability Issues
Webinar

SafeRoutesInfo.org

10 TIPS for Safe Routes to School Programs and Liability (continued)

1. Work with your school district’s administrative and legal staff to understand the relevant liability issues and to develop appropriate policies.

Most likely, your school district already has a number of policies in place to help manage the liability for various school programs and activities. A SRTS program is no different. You should work closely with your school district’s administrative and legal staff to identify any particular risk management and insurance needs based on your individual SRTS program and the relevant laws of your jurisdiction.

2. Be aware of local laws, regulations, and school policies.

Work with your school’s legal counsel to identify the laws and regulations that are relevant to walking and bicycling. These may include laws regarding school safety zones, the designation of school walking routes (some states require them), student bus transportation, and any bicycle safety requirements such as helmets, bells or lights. You should also review state and local pedestrian laws and provisions of the local development code regarding pedestrian safety and provision of pedestrian accommodations. Make sure you are following any applicable school policies, such as parental permission slips, waivers, or required supervision for school-sponsored activities. If appropriate, your school may consider making modifications or exceptions to any school policies that appear to be in conflict with your SRTS activities.

3. Take steps to fix problems.

If you are aware of unsafe walking and bicycling conditions, such as unsafe vehicle drop-off and pick-up conditions, take steps to fix them. Even if the problem is not subject to the school’s control, such as a heavily traveled local street, the school should warn parents of any known hazards, and take any prudent steps to address conditions under the school’s control that might exacerbate the risk of injury.

4. Be proactive.

Develop a plan.

Developing a SRTS plan for an individual school is a great way to identify potential safety problems and promote needed improvements. If you identify problems, take steps to address the problems and inform the school community of possible hazards that have not yet been corrected.

5. Document your efforts.

If you are aware of potential problems, document your efforts to fix them. For example, if you are made aware of problems with speeding vehicles in the school area, keep records of your communication with law enforcement officials to address the problems and your communications to parents warning them of any uncorrected problems.
Resources

SRTS National Partnership

- Webinar - Liability 201: Addressing Liability Concerns Related to Walking School Buses, Bike Trains, Remote Drop Off and More!

SafeRoutesPartnership.com
Local Technical Assistance Coordinators
Piedmont Region, Jim@VirginiaSRTS.org
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