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From: **Sandy Burroughs** <sburroughs@nhprimex.org>

Date: Thu, Sep 2, 2021 at 10:01 AM

Subject: RE: Liability Questions - Transportation

To: Marjorie Whitmore <m.whitmore@sau33.com>, David DeRuosi <d.deruosi@sau33.com>

Good Morning Marjorie and David:

You are not the only District working through this issue. Here is what we generally recommend:
15 passenger vans are strongly NOT recommended. In fact, The National Highway Traffic Safety Administration, who is the agency responsible for establishing federal motor vehicle safety standards (FMVSS) in order to reduce the number of fatalities and injuries that result from motor vehicle crashes, provides clear guidance regarding nonconforming vehicles for school transportation:

*“Federal requirements regulate new vehicles that carry 11 or more persons that are sold for transporting students to or from school or school related events. Those vehicles are required to meet all FMVSSs for school buses. The FMVSSs applicable to school buses require that school buses have stop arms along with many other safety features over and above those of other passenger vehicles. Under 49 U.S.C. 30101, etseq., a vehicle is regarded as being sold for use as a school bus if, at the time of sale, it is evident that the vehicle is likely to be significantly used to transport students to or from school or school related events. This statute applies to school buses sold to public as well as parochial schools. **Thus, a dealer selling a new 15-passenger van to be used for school transportation must ensure that the van is certified as meeting our school bus FMVSSs.***

Federal regulations do not prohibit the use of vans by schools, but require any van (with a capacity of more than 10) sold or leased for use as a school bus to meet the safety standards applicable to school buses. Federal regulations apply only to the manufacture and sale/lease of new vehicles. Each State prescribes its own regulations that apply to the use of any vehicle that is used to transport students.”

I've included the link for your review: <http://www.nhtsa.gov/people/injury/buses/pub/noncom.hmp.html>

In addition, the NHTSA has reissued their advisory regarding the use of 15 passenger vans:

<http://www.nhtsa.gov/CA/10-14-2010>

*This is a statement that's part of the advisory: **“Pre-primary, primary and secondary schools should not use 15-passenger vans for transporting school children, as they do not provide the same level of safety as school buses. It is also against federal law for schools to buy new 15-passenger vans for school transportation purposes.”***

We recently asked Troop G to clarify if rental vans would be included in this: Based on the context of the question and the fact that the term “leased” was never defined as it relates to RSA 259:96-a. When readopting Saf-c regulations, the term ‘lease’ came up and the DOS stance was the verbiage was not defined. As the rental is a financial agreement with a contract, the direction at the time was that this would in fact constitute the term lease as well. Though we have not tackled the issue in quite some time, it was essentially then agreed upon that the term was synonymous to each other. Based on the information at that time, I was directed to allow a rental agreement for the exact same purpose. Compliance would only necessitate the need for a properly accredited SAU employee to operate the vehicle

So, yes you can lease or rent vans. 15-Passenger vans are highly discouraged. We recommend vans with 10 or less capacity. When renting a vehicle, we highly encourage you to purchase the additional

collision and liability insurance from the rental agency. You will have increased limits should an injury/accident occur. Additionally, if you have any property damage to the vehicle, this insurance would respond and that loss would not adversely affect your loss history with Primex.

The Troopers from Troop G of the NH State Police are also a good resource to our members. I have included their contact information below:

<http://www.nh.gov/safety/divisions/nhsp/fob/troopg/driver/fagpupil.html>

FAQ from Troop G of the NH State Police.

Contact information:

Pupil Transportation Supervisor

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