



Members Transporting Students in Their Vehicles

To: Presidents and All Members
From: Pierre Côté, General Secretary

For Information

Issue: Members occasionally use their own vehicles to transport students.

The issue of a member's liability when transporting students often arises. All members should be clearly informed that **WE ADVISE MEMBERS NOT TO TRANSPORT STUDENTS**. The situation arising from being isolated with students may leave a member vulnerable to allegations of inappropriate conduct. This being said, there will be circumstances that arise in which our members feel compelled to use their own vehicles to transport students; however, in the event of a traffic incident, members' own insurance will be the primary coverage. It should be noted that in this discussion, the transportation of students is assumed to be transportation for a school-related activity.

Members should consider the Highway Traffic Act, Section 192, Liability for Loss or Damage. Specifically, the Highway Traffic Act imposes liability on the owner of a vehicle regardless of whether he or she was operating the car at the time of an accident. Therefore, members need to be aware that if they are driving a family vehicle owned by their spouse or partner the owner will incur liability that may arise in the event there is an accident.

In addition, teachers should take into account the Education Act, Regulation 298, Operation of Schools and Section 20, Duties of Teachers. Under the Education Act, teachers must ensure that all reasonable safety procedures are carried out in courses and activities for which the teacher is responsible. The Board must make provision for insuring adequately the building and equipment of the board and for insuring the board and its employees and volunteers who are assigned duties by the principal against claims in respect of accidents incurred by pupils while under the jurisdiction or supervision of the board.

The Standard Ontario Automobile Policy (OAP #1) does not restrict coverage if a private passenger automobile is occasionally used for carrying students. The policy states:

"1.8.1 General Exclusion

Except for certain Accident Benefits coverage, there is not coverage under this policy if:

1. The automobile is used to carry explosives or radioactive materials; or
2. The automobile is used as a taxicab, bus, a sightseeing conveyance or to carry paying passengers.



HOWEVER, we don't consider the following as situations involving carrying paying passengers:

- giving a ride to someone in return for a ride
- sharing the cost of an occasional trip with others in the automobile,
- carrying a domestic worker hired by you or your spouse,
- occasionally carrying children to or from school activities that are conducted within the education program, or
- carrying current or prospective clients and customers."

Members occasionally carrying students to and from events off site, who are using their personal vehicles automatically have coverage and would not be violating their policy. However, there are several facts to take into consideration:

1. Drivers owe a special duty of care to child passengers;
2. Members should purchase the maximum amount of third-party liability coverage (not the minimum of \$200,000);
3. Regardless of the coverage carried by the Employer, the member's own insurance is the primary coverage.
4. Any litigation allowable under No Fault insurance would be settled using the member's insurance, a potentially stressful and time-consuming process.

It should be noted that employer liability coverage pays after the employee's liability coverage is exhausted where the employee was transporting students arising out of the course of the job. The employer should carry this coverage as part of its liability insurance package. Negotiators are referred to the bulletin dealing with liability coverage. (Benefits #9.1)

If however, the carrying of students is frequent or included in the scope of their duties, this could be considered carrying passengers for compensation and the coverage should be extended beyond the scope of the basic automobile policy. This is done by adding an endorsement called OPCF (Ontario Policy Change Form) #6A, Permission to Carry Passengers for Compensation. A change in the premium would accompany this policy change.