Get Out & Get Moving
Opportunities to Walk to School through Remote Drop-Off Programs

Understanding the legal implications of implementing a remote drop-off program can help school districts, parents, and active transportation advocates determine whether a remote drop-off program is appropriate for their community.
THE BENEFITS OF WALKING TO SCHOOL

As the Safe Routes to School movement continues to gain momentum across the country, it is clear that in many communities, particularly rural ones, not all children can easily and safely walk or bicycle to school. Even the very best programs do little for students who live too far away or whose walk to school is obstructed by an unsafe physical or social situation such as a dangerous highway or a high-crime hot spot. Remote drop-off programs, also called “park and walk” programs, are a low-cost way to get more children out of their parents’ cars and onto their own feet, allowing them to take advantage of the many benefits associated with walking to school:

**Healthier Kids**
By walking to school, students get more exercise, reduce their risk of obesity and diabetes, and improve their overall health.¹

**Better Academic Performance**
Students who exercise before school are more focused and engaged, and get better grades.² Also, healthier children miss fewer days of school.³

**Traffic Safety**
Ten to 14 percent of morning rush-hour traffic is attributable to families driving their children to school.⁴ Getting children to walk to school reduces traffic congestion and lowers the risk of crash incidents.⁵

**Improved Environment**
Fewer car trips mean lower greenhouse gas emissions and decreased levels of air pollution.⁶ This, in turn, minimizes children’s exposure to pollutants,⁷ which is of particular benefit to students with asthma.⁸

**Family Convenience**
Remote drop-off sites can reduce the time families have to spend on the morning school commute.

**Community**
Creating a remote drop-off program builds community cohesion, and encourages students to socialize with neighbors and students in different grades and classes.

When school districts or parents inquire about establishing a remote drop-off program, they are likely to face concerns about liability. It’s easy to assume that existing routines are safest, simply because everyone is used to them. But that’s not necessarily true. Existing drop-off routines often involve potential conflicts between cars, school buses, and kids who are walking or biking. Determining the best approach requires careful organization and consideration. If schools and community members act reasonably and assess challenges thoroughly, a remote drop-off program is unlikely to increase risks for children or their families.

Remote drop-off programs designate one or more sites within walking distance of a school (typically a ¼ or ½ mile) where parents, and sometimes school buses, drop students off in the morning so they can walk the rest of the way.
MANAGING RISK

From a legal perspective, one of the first steps to take when deciding whether to create a remote drop-off program is to identify any hazards associated with potential sites, routes, and supervision plans. The next step is to compare the potential dangers and benefits of the program with the existing dangers and benefits of the school’s current drop-off system. Minimizing the risks that usually worry parents and school officials most – traffic injuries and crime – requires a careful examination of the options. You can start your risk analysis by using the Cost-Benefit Worksheet for Remote Drop-off Programs at the end of this fact sheet. It may also be appropriate to consult with your district’s risk management office.

Liability concerns may discourage some districts from initiating or participating in a remote drop-off program, but given the special responsibilities of districts during the school day, remote drop-off programs can actually reduce district liability while improving student health and safety.

DISTRICT-RUN PROGRAMS

In some communities, school districts may prefer to plan and direct a remote drop-off program because they can contribute important assets, including relationships with local government and transit organizations, and experience creating programs that are safe and engaging for children. By consulting with community members, local government agencies, and an attorney, school districts can maximize access to a remote drop-off program, minimize risk, and facilitate effective solutions to any challenges.

Immunity for Off-Campus Conduct or Safety

In California, schools generally are not responsible for students’ off-campus conduct or safety, even while students are traveling to and from school. This means that schools have special immunity protecting them from certain lawsuits involving student injuries that occur off campus. While this immunity doesn’t prevent a school from being sued, it does protect a school from being held responsible in the event that it is sued.

One exception to this immunity arises when a school specifically agrees to supervise students, such as providing transportation or sponsoring an activity. Some districts may want to handle the supervision of elementary school students at remote drop-off sites and on their way to school, to ensure that things are done properly; however, providing supervision means giving up the special immunity for claims involving students’ off-campus conduct and safety.

Immunity for Discretionary Decisions

California school districts also enjoy another form of protection called “discretionary immunity,” which was created to encourage districts to set policies and make choices based on a careful assessment of risks and advantages without fear of lawsuits. In the context of a remote drop-off program, discretionary immunity:

- Very likely protects districts from claims based on the decision to create a program,
- Likely protects against claims of negligence in the selection of remote drop-off sites and choices pertaining to staffing and supervision of sites, and,
- May protect against claims challenging some day-to-day decisions.

A district that wants to operate only within the scope of its discretionary immunity should avoid handling daily operations and should limit its involvement to policy decisions: setting the policy, site and route selection, and creating a system for supervision.
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IDENTIFYING & ADDRESSING DANGEROUS CONDITIONS

If a district chooses a remote drop-off location that will increase or intensify a significant risk of injury, it creates what’s known legally as a “dangerous condition.” For example, a district could create a dangerous condition by selecting a site location that increased exposure to traffic collisions or violence.

Districts are expected to assess the risks, act reasonably given the practical alternatives, and take all feasible, appropriate steps to address known hazards. A district that has acted reasonably won’t be held responsible just because a dangerous condition exists. In fact, a district will unlikely be liable for creating a dangerous condition if the answer to any one of the following questions is “no.”

- Is the location or property either dangerous itself, or dangerous because it increases the risk of injury on adjacent property?
- Is the risk of injury significant even when students and their families act reasonably (taking into consideration that children are expected to be less careful because they often don’t recognize dangers)?
- Was the injury foreseeable?
- Is the site itself, or the decision about where to locate it, within the district’s control?
- Did school district employees do something wrong that created the dangerous condition?
- Did the district fail to act when it had both notice of the danger and enough time to fix it?
- Were the decisions that created the danger unreasonable in light of the options available and the cost of an alternative approach?
- Were the measures taken to address the danger insufficient in light of the circumstances and the cost of alternatives?

This list may seem complicated, but the most important take-away is: school districts must do their best under the circumstances to avoid increasing risk of harm, and they must take reasonable steps to address any dangerous conditions on property they own or control. That’s all that the law requires.
VOLUNTEER-RUN PROGRAMS

A district that prefers to preserve its immunity can recommend a volunteer program, instead of directly handling operations. In such cases, there are several critical messages that the district should convey:

- The district does not assume responsibility for students until they arrive on campus, nor is the district providing supervision while children are at the remote drop-off site or while they are walking to school.

- Parents retain responsibility for their children’s conduct and safety off campus and should assess for themselves whether the remote drop-off program is appropriate for their child, and whether the site, route, and volunteer supervision are sufficiently safe.

- Neither the program nor any activities offered at the remote drop-off site are school-sponsored or school-supervised.

Families can create a remote drop-off program on their own, and in many communities, this type of volunteer-run program makes the most sense. The first step is to find a good location: a safe place along a safe walking route, with enough space for kids to gather or play. Families may want to ensure that an adult volunteer supervises the remote drop-off site during the drop-off period. As an additional safety precaution, adult volunteers can also accompany children on the walk to school. School districts or individual schools don’t need to be involved, but school personnel often have special knowledge of the traffic flow and potential hazards near their school sites. So it’s always a good idea for program leaders to ask school personnel to share any concerns, especially if a particular site, route to school, or campus entry point may present a hazard. Parents and guardians need to decide which mode of transportation best suits their child in light of his or her personality, age, maturity, physical and cognitive development, and decision-making abilities. They should also consider the street, traffic, and crime conditions likely to be encountered during their child’s commute to and from school.

Family members may be more willing to create a program – or volunteer in a district-run program – if they know that there is some special legal protection available for volunteers. Under the federal Volunteer Protection Act, people who volunteer for a school district or a nonprofit organization usually cannot be held legally responsible for harm caused by something they did or failed to do in the course of their volunteer activities.

Case Study: Sacramento, California

The North Natomas Transportation Management Association coordinates a Walk to School program with Westlake Charter School in Sacramento, California. Most Westlake Charter students live long distances from campus and cannot walk to school on a regular basis.

Every Wednesday and Friday, parents may drop-off their children at a strip mall down the street from the school. Teachers and parent-volunteers walk students from this designated drop-off site to campus.

Up to 40 percent of students from Westlake Charter School participate in this drop-off program. Traffic has dramatically decreased near school on Walk-to-School days, and both students and parents have expressed enthusiastic support for this program.
The need for remote drop-off sites can be even greater in rural areas than urban centers. Because of the physical design of roads, rural residents generally walk and bike less than their urban and suburban counterparts. Many students in rural districts can’t walk to school because of prohibitively long distances; thus they often rely on school buses. Therefore, setting up a rural remote drop-off program typically involves working together with school bus services.

Before school buses can stop at a remote drop-off site, the stop has to be approved by the district superintendent, who is legally responsible for selecting all school bus stops. Practically speaking, therefore, most rural districts will need to be involved to some extent and will not have the option of using an exclusively volunteer-run program.

A district that plans to incorporate busing into its remote drop-off program should expand its risk analysis to consider:

- Whether to require all students riding the bus to participate in the program, and how to accommodate students with disabilities who may not be able to walk the required distance;
- Whether it is best to use parental permission, require parents to sign liability waivers and allow students to walk to school unsupervised, or give up potential immunity by providing supervision;
- How to create and enforce an effective permission system;
- How traffic patterns, bus schedules, crossing guards, and other safety considerations will be affected.

Because of the additional complexity involved, a district may wish to seek technical assistance and legal counsel before creating new bus stops as part of a remote drop-off program.

What about Pick-Up Programs?

Pick-up programs may seem like drop-off programs in reverse, but they require some additional considerations.

First, schools will need either an effective permission system, district-run supervision, or a clear rule stating that the school has no responsibility for determining when, how, or with whom students leave the school grounds. Otherwise, the program will blur the boundaries between parental and school responsibilities off-campus, jeopardizing the district’s immunity.

Second, for districts using school buses in a pick-up program, the timing can be complicated. It’s easy for a student to miss the bus and be stuck at the pick-up site. To avoid that risk, a school might have participating students leave the school as a group or designate a staff person to walk the route and bring anyone who missed the bus back to campus.
THE BOTTOM LINE
Every option involves risks. Deciding what to do means assessing the relative risks and benefits of each approach. There’s always comfort in the familiar, but existing morning routines are not necessarily safer just because everyone is used to them. When evaluating whether to create remote drop-off sites, decision makers must examine existing practices together with the proposed program, and carefully determine what would best serve the interests of students and parents.

LEARN MORE ABOUT CA4HEALTH
CA4Health is the Public Health Institute’s Community Transformation Grant, funded by the Centers for Disease Control and Prevention, that is focused on reducing the burden of chronic disease in California counties with populations under 500,000. CA4Health partners with some of the state’s leading technical assistance providers and content experts to provide local county partners with tools, training and guidance to make their communities healthier. CA4Health’s four strategic directions are reducing consumption of sugary beverages, increasing availability of smoke-free housing, creating safe routes to schools, and providing people with chronic disease with skills and resources to better manage their health.

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See ChangeLab Solutions Resources on Safe Routes to School
www.changelabsolutions.org/childhood-obesity/safe-routes-schools
COST-BENEFIT WORKSHEET FOR REMOTE DROP-OFF PROGRAMS

One of the benefits of Safe Routes to School is the opportunity for collaboration among stakeholders and government agencies that may not traditionally interact with one another. For example, some districts establish a Safe Routes to School District Task Force that, among other things, serves as an advisory committee for challenges encountered in implementing Safe Routes to School policies and programs. Often, individual schools create School Teams to ensure that Safe Routes to School policies and programs are a success. Both district Task Forces and individual School Teams can be important partners when developing a remote drop off program.

When thinking about the pros and cons of establishing a remote drop off program, it’s important to keep in mind that every option involves risks. Deciding what to do means assessing the relative risks and benefits of each approach. One challenging part of this analysis is looking critically at the risks society generally accepts. There’s always comfort in the familiar. But existing morning routines, for example, are not necessarily safer just because everyone is used to them. At the same time, it’s always harder to identify the risks in a plan that has yet to be tested.

The Worksheet below is designed to provide a framework for thinking about these issues. It should not be used to score and select an outcome. Ideally, a district Task Force or School Team would complete this Worksheet together so that the cost-benefit analysis is as comprehensive as possible. Of course, the Worksheet may be expanded to consider multiple options, and any additional risks or benefits that are relevant to a specific community should be added.

We suggest using a -5 to 5 scale, where 0 is neutral.

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