

# Steering Clear of Liability: Training for School Bus Drivers

## Discussion Guide

### April and Fatonya: Steering Clear of Liability for Student Fights That Erupt After Discharge

“This Louisiana driver became aware that two middle school girls were having a bit of a dispute. . . When the driver stopped at a district elementary school, April came hurriedly past other students to the front of the bus, and reported to him that Fatonya was picking a fight. In fact, she punched at April right in front of the driver. A big girl, Fatonya would have been too much for the driver, who put both girls off the bus and stood between them on the sidewalk. He called to a teacher to tell the principal. This driver knew his limits. In the meantime, the driver determined he was blocking other school buses, and that he had to move his bus. The girls seemed to have quieted down. Are you getting the picture? The driver got back on the bus, pulled it up a bit, looked back, and saw Fatonya on top of April.

April’s parents sued both the school district and the driver. The court held that the driver ‘failed to meet his obligation to April when he put her off the bus into the very arms of her waiting assailant.’ His obligation? To provide supervision after the girls’ exit from the bus, since he “knew that April needed protection from the bullying Fatonya. That’s the key – he knew what would happen.”

*What were the options available to this driver? How could you have avoided all this?*

- “It seems like he did everything right!” That’s what drivers often say about this story. And, that’s why it’s important to look at what this Louisiana driver might have done differently, in light of what he knew.
- What steps should you take if a student tells you another student has threatened to fight with him or her? Does your answer change if you heard about the threat “through the grapevine” of student rumor? What would you do differently (if anything) if the reporting student is a “whiner”? If the aggressor has a history of violence? If s/he doesn’t?
- What would you have said to dispatch if you called in about this situation? Do you think the answer you’d receive might depend on how you worded the question? Since you’re there, and dispatch isn’t, it’s very important to provide all relevant information. How can dispatch frame questions to you to get at the information that will help to clarify the situation so that the advice they give you takes all relevant factors into consideration?
- Of the options presented in the video, which would you have taken?
  - Delay moving the bus to avoid leaving the girls alone?
  - Bring one of the two girls back with you onto the bus?
  - Ask the teacher to stay with the girls?
  - Would you have done something entirely different? If so, what?

- Could the driver have kept the girls on the bus and separated them? If so, how could he have addressed the likelihood of danger once the girls disembarked?
- Do you think the appropriate action depends at all on whether you know that the alleged “threatener” has previously fought with others?
- How would you expect to receive information about prior aggression by the “threatener”? From whom would you expect to get it? What, if anything, could you do to increase the likelihood of getting that information? Do you want it, or do you think you’re better off not knowing, in light of the words of the video:
  - “Remember – and this is important – the driver was well aware of the lurking threat to April.”
  - “You may not be held responsible for what you can’t reasonably predict, but you’ll be vulnerable every time when you know danger is likely.”
- Why is it better to know, than not to know, about relevant student information? What are the restrictions on your ability to share student information with others?
- When, if at all, are you expected to intervene physically in a fight? What factors should you weigh to determine if that’s a good idea?

**A High School Student’s Request Leads to Tragedy:  
Steering Clear of Liability for Unauthorized Stops**

“An Illinois driver accommodated a high school student’s request to be dropped off across from a service road leading to the rear entrance of the high school.

The bus company’s policy allowed a driver to honor student requests for drop off if the driver could do so safely.

But it was still dark that day, and the place selected had minimal road shoulder composed of loose pebbles and grass, and no sidewalk, crosswalk or intersection. There were woods and ditches along the side of the road. The student took about one and a half steps into the northbound traffic lane when a van struck him. His high school career ended with brain damage and a multimillion dollar judgment against the bus company.”

***Most policies would not allow for this much driver discretion.  
In those cases, how would you handle a student request?***

- What is your responsibility to know about district/company policies? How/where would you find out about them?
- Think about this scenario in light of a news article that reported a student’s death when a sport-utility vehicle hit her as she crossed a street to get to her home:

A substitute bus driver was on duty that day. He had been handed an incomplete list of bus stops for a route that originated at the girl's school. He called to get the other stops, and checked the information he had on the stops already included. While he wrote down the correct intersection for the girl, he failed to write down which side of the road she should exit at.

- How could you keep this from happening in your district or company?
- How do you balance your desire to provide customer service with the risks of responding to on-the-spot student – or parent – requests?
- Where a student asks for an accommodation, could you call in to dispatch about the request? Do you think the answer you'd receive might depend on how you worded the question? Since you're at the scene, and dispatch isn't, it's very important to provide all relevant information. How can dispatch frame questions to you to get at the information that will help?
- How would you handle the request if it was after hours, and no one answered at dispatch?
- Where students or parents have submitted stop change request forms, what factors do you think would determine whether the requested location should be granted or denied? What is the importance of each of the following:
  - Age?
  - Maturity?
  - Disability?
  - Time of day?
  - Time of year?
  - Existence of previous incidents at that location?
  - Traffic patterns?
  - Rationale given for request?
  - Possible creation of precedence?
- Do you have a role in reporting factors to be considered by supervisors in granting or denying a stop change request? What is your role? What should you report?
- What are your district's or company's expectations in a situation like the one presented in the video?

### **Do Not Release Unattended: Steering Clear of Liability for Failure to Follow Directives**

“Here's what the driver knew: The special education students in her charge were to be delivered into the hands of a supervising adult. The driver had a clear directive: Do not release unattended. What she did, however, in spite of what she knew, was to allow a female student to run off the bus and go into the school alone. She watched, too, as a male student dashed past her off the bus and entered the building. In fact, the girl went into a ladies' room, and was followed by the boy who sexually assaulted her in that ladies' room.”

*A sad irony about this next story is that the driver had the information*

*she needed to keep her students safe. But she didn't use it.*

- What information do you receive about students? In what formats? From whom would you expect to get it? Is there anything you can do to increase the likelihood of getting that information? Do you want it, or do you think you're better off not knowing, in light of the words of the video?
- In the video, the students ran off the bus. What, if anything, could you have done to prevent student harm where the students behave in similar unpredictable, spontaneous ways?
- What would you do if you knew the student has run off the bus before?
- What steps could you take to prevent harm where you have reason to know about a student's sexual tendencies? About another student's vulnerability? If the students have an on-going relationship?
- In the case described in the video, the students are special education students. Are there other situations in which students are only to be released into the hands of a supervising adult? When? How would you know? What steps are you expected to take in those situations?
- Think about what the court said: "Drivers are required to use the bus as a safety device, and to keep students in it until they can leave the bus safely? Can you think of situations in which the message would be particularly important? Could it be relevant in bad weather? Traffic situations? Presence of unknown or threatening individuals? Other times? Do the steps you should take change from situation to situation?"

### **Gang Fight at a Bus Stop: Steering Clear of Liability Because of Unauthorized Riders**

"Despite transportation department policy, a driver failed to check the ID's of high school students and allowed a girl – who wasn't a bus rider at all – to board the bus. Her reason for getting on? She had told two other girls that she wanted to join a gang; the girls told her she could 'jump in.' The girls directed the wannabe gang member to board a particular bus – their bus – which would take her to the place where she could 'jump in.' The three girls arrived at the park where the bus stopped, and gang members beat our victim up badly – that was her initiation."

***Does your policy require you to check to be sure the student has a right to ride? If so, do you check bus passes, eligibility lists, or any other form of ID? What are you looking for?***

- Where, if at all, does your district or company policy address your role in ensuring that the right students ride?
- What, if anything, does your district/company use to distinguish a rider from a non-rider? How do you know which bus each rider is assigned to?
- Do you have different procedures depending upon whether it's the beginning of the school year?

- What steps are you expected to take if a student isn't a rider? Is it different if s/he is a rider, but is not assigned to your bus? Are particular bus stops designated on ID's or other eligibility indicators? How?
- Do you have accurate parent/guardian contact information to use when you need it?
- What should you do if you find out that you need updated student identification information, and you don't have it?
- In the video, there's no indication that the driver had any reason to know that there would be a gang initiation, or any fighting at all. What would you do if you actually heard students talking about gang activity or some kind of initiation or hazing?

**Andy Turner, whose driver arrived early:  
Steering Clear of Liability by Following Published Schedules**

“Since two children who usually rode the bus were not on the bus that afternoon, the driver decided to modify her route, and arrived at Andrew’s house approximately thirty minutes earlier than the normal arrival time of 4:18. She was well aware that Mr. Turner’s car was normally in the driveway, because he made sure to be home in time for his son Andrew’s arrival. On this day, when she arrived a half hour early, the car wasn’t there. Seven-year-old Andrew assured the driver that he had a key, and she allowed him to exit. The driver worried about her decision, and later testified that she was so distracted by her concern over what she had done that she missed her next stop, and had to turn back. Andrew didn’t have his key that day, and wanting to get into the house, he found another way. Mr. Turner. . .found Andrew unconscious and trapped in the window which had closed on the boy, pinning him between the window and sill. Andrew was rushed to the hospital, but never regained consciousness and died five days later.”

***It’s important that you recognize the elements of this case that distinguish it from others you might be thinking about. The court said, “This is not a situation where the bus driver was unaware that no one was at the house.” What if you have reason to know of factors which increase the likelihood of harm to a student?***

- “The driver decided to modify her route.” This driver made the decision to alter her schedule on her own, without any input from dispatch, or anyone else. What would you do – with whom would you consult – if faced with a similar decision?
- Do you call parents if you’re running early? Pull over to the side and wait? Drop another student off first whose parents *are* home?
- How do you ensure you have accurate contact information for parents so you can call them when necessary?

- Think about the students who ride your bus. How would you know if something had changed for the student? Would you know if something unusual had occurred? What would you do?
- This driver “worried about her decision” and even “missed her next stop” because she was so distracted. Did she have a second chance to prevent tragedy? What should she have done?
- What if Andy Turner **had** had a key? Would the driver have made the right decision? Why or why not?
- Is there any age in your state, or in accordance with your district/company policy, when you “can let a student enter his house alone if you know his or her parent isn’t home”?
- If part of the problem here was that the driver deviated from consistent, published scheduled, would the district or company have been better off if it didn’t publish a schedule? Why or why not?
- Without taking into account the issue of potential liability, what are the advantages of having a published schedule that allows parents to know when their children will arrive? What is your role in communicating that schedule?
- What about “early out” days? Who lets parents know if they change during the course of the school year?
- Make no mistake: a number of factors came together in this tragic case to result in the lawsuit. Consider ways in which this situation is like – and not like – a day when no one is at the bus stop to meet a student. Is it different if the parent has always been there, even if not required to be? What would you do? What if you can’t reach anyone at school?