Stadler Sacks LLC

August 1, 2025

VIA EMAIL

Jodi Traas (Jodi.Traas@charlestaylor.com)
Vance Forrest (Vance.Forrest@charlestaylor.com)

RE: The use of fifteen-passenger vans for School District transportation.

Dear Ms. Traas and Mr. Forrest:

Community Insurance Corporation has asked us to review the legal issues surrounding a public-school district's possible purchase and use of passenger vans for transporting students. Specifically, issues have arisen since Ford discontinued production of its ten-passenger vans. Since then, dealerships have been offering various configurations of vans to take the place of the ten-passenger vans that are no longer available. These include vans that have been designed with the capacity to seat 10 or more students (fifteen-passenger vans), but which have been modified by the manufacturer or dealer to only contain 9 passenger seats. Another iteration being offered is a fifteen-passenger van that is reconfigured to seat eight or nine passengers before it completes the assembly process.

We will address whether a school district can legally purchase, lease, or operate these vehicles and whether a dealer or other seller is authorized to sell such a vehicle to a school district. These questions require us to apply the same legal principles discussed in our 2023 opinion letter on similar issues.

A. Appliable Law

The sale of passenger vans to a school district is governed by federal and state law. The relevant governing laws are summarized below.

1. Federal Law

The federal National Highway Traffic Safety Administration ("NHTSA"), through the Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU), addresses the safety standards for motor vehicles that may be used by school districts. The NHTSA provides:

> (1) Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a person may not manufacture for sale, sell, offer for

> sale, introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or motor vehicle equipment manufactured on or after the date an applicable motor vehicle safety standard prescribed under this chapter takes effect unless the vehicle or equipment complies with the standard and is covered by a certification issued under section 30115 of this title.
>
> (2) Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, **a school or school system may not purchase or lease a new 15-passenger van if it will be used significantly by, or on behalf of, the school or school system to transport preprimary, primary, or secondary school students to or from school or an event related to school, unless the 15-passenger van complies with the motor vehicle standards prescribed for school buses and multifunction school activity buses under this title.** This paragraph does not apply to the purchase or lease of a 15-passenger van under a contract executed before the date of enactment of this paragraph.

49 U.S.C. § 30112(a)(2) (emphasis added).

For purposes of the regulations, a fifteen-passenger van is defined as, "a vehicle that seats 10 to 14 passengers, not including the driver." P. L. 109-59, Title X, Subtitle C, § 10309(a), 119 Stat. 1942. This correlates to the fact that the law defines a "school bus" as "a passenger motor vehicle **designed** to carry a driver and more than 10 passengers, that the Secretary of Transportation decides is likely to be used significantly to transport preprimary, primary, and secondary school students to or from school or an event related to school." 49 U.S.C. § 30125(a)(1) (emphasis added). The vehicle passenger rating is typically on a sticker on the driver door jam.

When read together, these provisions effectively mean that a dealer cannot sell or lease, and a school district cannot purchase or lease, a new van that is **designed** to seat more than ten passengers unless the van has the required safety features typically associated with a school bus, such as yellow paint, reflective tape, stop-arm, flashing lights, etc. If dealers or manufacturers are converting fifteen-passenger vans to what they describe as a "non-fifteen passenger van" because they have removed enough seats to have less than ten passengers, it is our opinion that this van is still a "fifteen passenger van" because it is a passenger motor vehicle **designed** to carry a driver and more than 10 passengers.

Violation of the regulation's prohibition on the sale of 15-passenger vans without required safety features can carry a civil penalty of up to $10,000.00, and the maximum civil penalty for a related series of violations is $15,000,000.00.

2. Wisconsin Law

Wisconsin law is consistent with federal law on a school's purchase or lease of passenger vans. The Wisconsin Department of Transportation ("Wisconsin DOT") takes the position that: "Automobile dealers may not sell large vans to school districts for pupil transportation."[1] Wisconsin DOT explains that: "Pupils of educational institutions may not be transported in any vehicle other than a school bus if more than ten students are being transported." A school bus is defined in relevant part as "a motor vehicle which carries 10 or more passengers in addition to the operator or a motor vehicle painted in accordance with s. 347.44 (1) for the purpose of transporting . . . Pupils to or from a public school . . . [and] Pupils to or from curricular or extracurricular activities." Wis. Stat. § 340.01(56)(a). Thus, any vehicle that meets the definition of a school bus must be painted school bus yellow in accordance with Wis. Stat. § 347.44 and equipped in accordance with Admin. Rule Trans. Ch. 300.

The Wisconsin DOT also advises that: "A van that holds 11 or more passengers sold to a school district would violate that federal law" and "School district administrators should NEVER consider buying such a vehicle." In a seemingly contradictory statement, however, WISDOT also states that: "The driver and only 9 students can legally be accommodated in a vehicle which is not a school bus as defined." This statement appears to be based upon the fact that the administrative code states that a "'School bus' does not include an alternative vehicle." Wis. Admin. Code Trans. 300.02(6)(b). An alternative vehicle is "A motor vehicle transporting 9 or less passengers in addition to the operator." Wis. Stat. § 121.555(1)(a).

We caution against the interpretation that a vehicle can be used to transport students if the school district does not allow more than nine passengers in the vehicle. We would also caution against a similar interpretation that a van with only nine passenger seats is legally compliant if the vehicle was designed or capable of seating 10 to 14 passengers, not including the driver.

As set forth above, federal law defines a school bus as a motor vehicle "designed to carry a driver and more than 10 passengers, that the Secretary of Transportation decides is likely to be used significantly to transport preprimary, primary, and secondary school students to or from school or an event related to school." 49 U.S.C. § 30125(a)(1). The Wisconsin DOT points out that the concern about such vehicles is that they ". . . are highly prone to roll over in off-the-road single vehicle crashes as well as head-on crashes. Combined with that and the lower structural integrity of the roof supports, occupants are at high risk of serious or fatal injury in a crash of this vehicle." The Wisconsin DOT also points out that: "Drivers need to understand the different handling characteristics of these larger vehicles compared with a

[1] *See* https://wisconsindot.gov/Pages/safety/equipment/sch-bus/prohibited.aspx.

regular automobile. Large vans respond to steering and braking differently, especially when driving in windy conditions and when fully loaded."

The concern about these vehicles is the inherent danger in how the vehicles are constructed and how they handle. Based upon these considerations, it appears to us that the Wisconsin DOT's statement that "The driver and only 9 students can legally be accommodated in a vehicle which is not a school bus as defined" means that the alternative motor vehicle cannot be "designed to carry a driver and more than 10 passengers." If the vehicle is designed to carry a driver and more than 10 passengers, it cannot be used by a school district to transport students even if the manufacturer or dealer sells the vehicle with only 9 passenger seats. A conclusion that modifying, for example, a fifteen-passenger van by removing seats and only allowing nine or less passengers seats would avoid any vehicle being labeled as a "school bus" would also render the definition of "school bus" superfluous, and that result should be avoided. *See Lake City Corp. v. City of Mequon*, 207 Wis. 2d 155, 162, 558 N.W.2d 100, 103 (1997) ("[I]t is a basic rule of statutory construction that effect is to be given to every word of a statute if possible, so that no portion of the statute is rendered superfluous.").

3. Application of Federal and State Law.

Therefore, based on the above, it is our opinion that under federal and state law, a school district cannot purchase or lease a van that is designed to hold ten or more passengers unless the van is equipped to meet the more vigorous safety requirements for traditional school buses. Modifications to the seating arrangement in a vehicle with the capacity to hold ten or more students likely cannot be used to avoid the obvious intent of the state and federal laws.

Beyond this reading of the law, there are serious liability concerns that attach to a decision to modify a fifteen-passenger van (i.e., a school bus) by reducing the number of seats in the van. The inherent dangerousness of a fifteen-passenger van triggers the need for modifications required for a "school bus." It is not the number of seats that creates inherent dangers. A fifteen-passenger van as designed is highly prone to roll over in off-the-road single vehicle crashes as well as head-on crashes.

Fifteen-passenger vans have a rollover risk that's like other light trucks and vans when carrying a few passengers. However, the risk of rollover increases dramatically as the number of occupants increases from fewer than five to more than ten passengers. A NHTSA study noted that even when carrying between one and four passengers, the fifteen-passenger vans were 17 percent more likely to be involved in a rollover accident than smaller vans or minivans. The fifteen-passenger vans (with ten or more occupants) had a rollover rate in single vehicle crashes that is nearly three times (300%) the rate of those that were lightly loaded. The NHTSA analysis revealed that loading the fifteen-passenger van causes the center of gravity to shift rearward and upward, increasing the likelihood of rollover. The

shift in the center of gravity also will increase the potential for loss of control in panic maneuvers.

In addition to the risk of rollover, fifteen-passenger vans also have lower structural integrity in their roof supports. Because of these factors, occupants are at high risk of serious or fatal injury in a crash of this type of vehicle.

A school district that knows of these risks and yet chooses to use that fifteen-passenger van by removing enough seats to limit the van to nine occupants runs the risk of exposing itself to claims of negligence and even punitive damages. Because it appears that such vans would violate Federal law, a school district's purchase, lease or use of those vans that result in injuries could lead to a claim that the school district has been negligent per se and have a finding of liability entered against it as a matter of law. Negligence per se arises from the violation of a safety statute if three requirements are met: (1) the harm inflicted was the type the statute was designed to prevent; (2) the person injured was within the class of persons sought to be protected; and (3) there is some expression of legislative intent that the statute become a basis for the imposition of civil liability. *Totsky v. Riteway Bus Serv., Inc.*, 2000 WI 29, ¶67, 233 Wis. 2d 371, 607 N.W.2d 637 (citation omitted).

A school district that knows of these risks and yet chooses to use that fifteen-passenger van by removing enough seats to limit the van to nine occupants also runs the risk of losing its statutory immunity/damage caps under Wis. Stat. § 893.80. Section 893.80 grants a school district discretionary immunity and liability caps of $50,000, but that immunity can be lost in situations where there is a known danger:

> The known danger exception to governmental immunity, set forth in *Cords v. Anderson*, 80 Wis. 2d 525, 259 N.W.2d 672 (1977), applies when an obviously hazardous situation known to the public officer or employee is of such force that a ministerial duty to correct the situation is created.

Engelhardt v. City of New Berlin, 2019 WI 2, ¶ 5, 385 Wis. 2d 86, 921 N.W.2d 714. One could argue that a school district that transports students in a fifteen-passenger van in violation of Federal law is a hazardous situation of such force that a ministerial duty to correct the situation is created.

Ignoring federal law and transporting students in a fifteen-passenger van could also expose a school district to punitive damages if students were injured in a crash. A plaintiff "may receive punitive damages if evidence is submitted showing that the defendant acted maliciously toward the plaintiff or in an intentional disregard of the rights of the plaintiff." *Lorbiecki v. Pabst Brewing Co.*, 2024 WI App 33, 412 Wis. 2d 641, 676, 8 N.W.3d 821, 838 (citing Wis. Stat. § 895.043(3)).

B. Van's being marketed to School Districts.

You have indicated that auto dealers are marketing vans to school districts that appear to be on a 15-passenger frame and have been modified by the manufacturer or dealer to have less seats. We reviewed publicly available information about these vehicles to help form the basis for our opinions.

For example, according to publicly available information, the 2023 Chevrolet Express Passenger LS referenced in your email is capable of seating up to 12 passengers. The Ford Transit Vans in the quotes provided to one school are openly marketed as fourteen-passenger capacity vans. The 2023 Ford Transit U4X-XLT[2], 2025 StarTrans Senator II with a 2025 Ford E450[3], and 2024 Collins NexBus with a 2024 Ford Transit[4] all specifically state that they are designed to hold 14 passengers and a driver.

You also provided us with another quote that shows the floor plan seating arrangement in a fifteen-passenger van but with seats removed. Another bid specifically labels the vans as "14 passenger & driver" but with seats removed to allow only nine passengers. To us, these are an admission that what these dealerships are selling as a nine-passenger van is not truly a nine-passenger van and is, instead, a fifteen-passenger van with seats removed.

Another quote you provided to us was for a 2023 Ford Transit XL, 1FDAX2C88PKC00924, and based on publicly available information[5], this specific vehicle is marketed as having eight passenger seats. However, other dealers are publicly marketing the 2023 Ford Transit XL van as having seating for up to 12 or 15, with options for different seating arrangements.[6] The gross weight of this vehicle is approximately 9,250 lbs. regardless of the number of seats.

The 2024 Ram ProMaster 2500 is marketed by Ram as a cargo van/commercial work vehicle.[7] This vehicle is marketed as a "Crew Van" with seating options to accommodate up to six people.[8] However, the Ram ProMaster Crew Van also has multiple storage options behind a partition separating the passengers from the cargo space with 6, 7, or 9 feet of cargo space, which

---

[2] https://www.tescobus.com/buses-for-sale/2023-Ford-Transit-U4X-XLT-Ford-14-Passenger-Van_WAL22212/.
[3] https://www.tescobus.com/buses-for-sale/2025-StarTrans-Senator-II-Ford-14-Passenger-Shuttle-Bus_ST120747/.
[4] https://www.tescobus.com/buses-for-sale/2024-Collins-NexBus-Ford-14-Passenger-Child-Care-Bus_88092/.
[5] https://incacar.com/used/cars/ford/transit/2023-Ford-Transit-350-XL-65e60c2368e80a7dac022308.
[6] https://vehicles.dorianford.com/models/2023/ford-transit-passenger-van-xl#:~:text=The%202023%20Ford%20Transit%20XL,4G%20LTE%20in%2Dcar%20Wifi; https://www.kbb.com/ford/transit-350-passenger-van/2023/xl-w-low-roof/; https://www.edmunds.com/ford/transit-passenger-van/2023/st-401944335/features-specs/#:~:text=Transit%20Passenger%20Van-,More%20about%20the%202023%20Transit%20Passenger%20Van,Cargo%20Capacity.
[7] https://www.ramtrucks.com/2024/ram-promaster.html.
[8] https://www.ramtrucks.com/2024/ram-promaster/crew-van.html.

leads to the potential for aftermarket modifications. At least one private dealer is advertising this vehicle as a 9-passenger van.[9] On the other hand, another private dealer is advertising a modified 2024 Ram ProMaster 2500 as a 15-passenger van.[10] According to Ram, these vehicles come standard with an 8 foot by 6-foot, 3-inch width cargo area and different heights.[11]

It has also been reported that other dealers are now offering what they are labelling as"nine-passenger" vans. From what has been reported, these vans are fifteen-passenger vans purchased from Ford before they come off the assembly line. The Wisconsin dealer then installs eight passenger seats, bolted to the floor and with seat belts. Therefore, the dealer's stance is that these vans are not "designed" as a fifteen-passenger van. When the vans are completed, the VIN reflects that they are multi-purpose vans, not a bus or a fifteen-passenger van.

One can reasonably argue that these altered multi-purpose vans are not in violation of Federal law. However, that conclusion has not been reached in any published court decision that we are aware of or set forth in any governmental publications or guidance materials. And, even if these vans are not in violation of federal law, they should still raise concerns for school districts in regard to student safety. To our knowledge, these vans are built on a chassis and body from a van that was designed to carry a driver and more than 10 passengers, i.e., a fifteen-passenger van. There is no reason to suggest that this altered van is not still highly prone to roll over in off-the road single vehicle crashes as well as head-on crashes. Likewise, there is no reason to believe that this van has addressed or modified the lower structural integrity of the roof supports which makes occupants at high risk of serious or fatal injury in a crash of this vehicle. The only safety improvement we have been advised of is that the seats are bolted to the floor and they have seat belts. We have not seen any studies indicating the crashworthiness of these vans. Thus, while potentially a "legally" compliant van, a school district should consider whether these vans are safe for its students.

C. Conclusion

As we previously opined, it is our opinion that school districts would be in violation of federal law if they purchase and operate a van designed to seat ten to fifteen passengers unless those vans meet all the required safety equipment requirements for a school bus. We also indicated that we do not believe that a school district can avoid this result by creating a self-imposed passenger limit of nine passengers or less in these fifteen-passenger vans.

---

[9] https://buspro1.com/2024-ram-promaster-2500-9-passenger-van-%7C-alliance-ohio-%7C-western-reserve-coach-sales-alliance-oh-ohio-44601/7316963.

[10] https://kunescountrychryslerdodgejeepram.com/inventory/New-2024-Ram-ProMaster_2500_Window_Van-High_Roof-3C6LRVPG7RE103673-72.

[11] https://www.ramtrucks.com/2024/ram-promaster/cargo.html.

We hold the opinion that it is the design of the vehicle that is regulated, not merely the subsequent use of the vehicle. School districts are facing the issue where manufacturers or dealers are selling vehicles that are designed for 10 to 15 passenger seats, i.e., a fifteen-passenger van, but are sold to the district with only nine or less seats. Again, it is the overall design of the vehicle not the number of seats actually installed which should be the focal point. Support for this view can be seen from the common definition of the key term used in regulatory laws. The term "design" is utilized in the law and the common definition of "design" is "to create, fashion, execute, or construct according to a plan."[12] We believe that if a vehicle is constructed to have the capability to carry more than 9 passengers, then in all likelihood it would fall within the definition of "designed to carry a driver and more than 10 passengers." *See Stroede v. Soc'y Ins. & R.R. Station, LLC*, 2021 WI 43, ¶ 30, 397 Wis. 2d 17, 959 N.W.2d 305 ("Words are to be understood in their ordinary, everyday meanings[.]"). The interpretation of design to include the passenger capacity is also supported by the National Highway Traffic Safety Administration's definition of "bus" under federal law to include the number of passengers: "A bus is a motor vehicle that has capacity of 11 or more people (including the driver)."[13]

While we do not have data regarding enforcement, penalties, or state or federal agencies' treatment of school districts utilizing vehicles that are sold with nine passenger seats but can accommodate more, we can still foresee that if a school district utilizes a passenger van that can accommodate more than nine passenger seats and there is an accident that results in bodily injury, a plaintiff could argue, and we think successfully, that the school district was negligent per se. The doctrine of negligence per se is a legal theory that holds a defendant accountable for damages if they violated legislation or regulation meant to safeguard the public's safety and that a breach resulted in harm to the plaintiff. The concept presumes that the defendant was negligent merely by breaching the legislation or regulation without requiring particular actions of carelessness or recklessness to be shown. Such actions could also be argued to have created a "known present danger" which is an exception to governmental immunity that would otherwise be available under Wis. Stat. § 893.80.

We believe that school districts looking to purchase vans to transport students, need to look at the overall dimensions and structural makeup of these vehicles and review whether the same vehicle can accommodate more than nine passenger seats without changes to the foundation of the vehicle. For example, and as described with some of the examples above, if a vehicle is being publicly marketed or sold with a nine-seat configuration but also allows a 10 to 15 seat configuration, it is our opinion that than van likely violates federal law if it used to transport students for school purposes. We hold the same opinion for a van that is purchased off the assembly line by a dealer and has 9 passenger seats bolted to the floor.

---

[12] https://www.merriam-webster.com/dictionary/design.
[13] https://www.nhtsa.gov/school-bus-regulations-faqs#:~:text=Federal%20regulations%20do%20not%20prohibit,standards%20applicable%20to%20school%20buses
.

School districts should not rely on blanket statements from a dealer that a vehicle complies with federal law if the vehicle can also be sold with more than nine seats or was purchased off the assembly line with the capacity for more than nine seats. We recommend that school district purchase, lease or use vans only if they are designed for a seating capacity of nine passengers or less. And even then, we would encourage school districts to explore the safety features and crashworthiness of any van that it intends to purchase, lease or use.

If you have any questions or wish to discuss the above analysis and opinions, please feel free to contact me.

Very truly yours,

STADLER SACKS LLC

/s/ Ronald S. Stadler

Ronald S. Stadler