



Safe Routes to School – Liability

March 12, 2014



Learn it. Do it. Live it!



Speakers

**Becky Short, SRTS Division Coordinator,
Prince William County**

Jim Elliot, LTAC, Piedmont Region

Bryan Barnett-Woods, LTAC, Blue Ridge Region



Learn it. Do it. Live it!



Agenda

- Introduction
- Disclaimer
- What is liability?
- Why are we talking about it?
- Maryland study
- Virginia liability example
- Liability tips
- Resources
- Conclusion



Centerville Elementary School, Centerville



Learn it. Do it. Live it!



Disclaimer

This webinar has been prepared by VDOT Safe Routes to School to present a key issue regarding SRTS liability and potential strategies to address that issue. It has not been prepared by a lawyer and thus should not be construed as legal advice.

We will not discuss school division policies and liabilities for any specific school division, school, or school-related incident.

We highly recommend that anyone concerned with liability seek the advice of their school division or agency's legal counsel for information specific to your situation.



Learn it. Do it. Live it!



What is liability?

- A legal responsibility for one's negligent actions or omissions.
- Liability for negligence usually requires:
 - Evidence that the school had a legal duty of care.
 - Evidence that the school breached that duty.
 - Evidence that the breach caused the damages or injury.



10 Tips for Safe Routes to School Programs and Liability,
National Center for Safe Routes to School.



Learn it. Do it. Live it!



What is a duty of care?

- **A requirement that a person act toward others with the watchfulness, attention, caution and prudence that a reasonable person in the circumstances would use.**

<http://dictionary.law.com/>

- **Duty of care depends on:**
 - The degree to which the school controls or directs the activity that results in injury,
 - The extent to which the school's actions conformed to applicable rules, regulations, policies, or procedures,
 - The extent to which the school knew or should have known of a particular hazard and failed to correct or warn against it.

10 Tips for Safe Routes to School Programs and Liability,
National Center for Safe Routes to School.



Learn it. Do it. Live it!



Why are we talking about it?

- Liability concerns are sometimes given as reason not to encourage or remain neutral on walking and biking to school.
- Liability concerns are often based on incomplete information.
- Bike to School Day is May 7.



Jeannie Dean Elementary School, Manassas

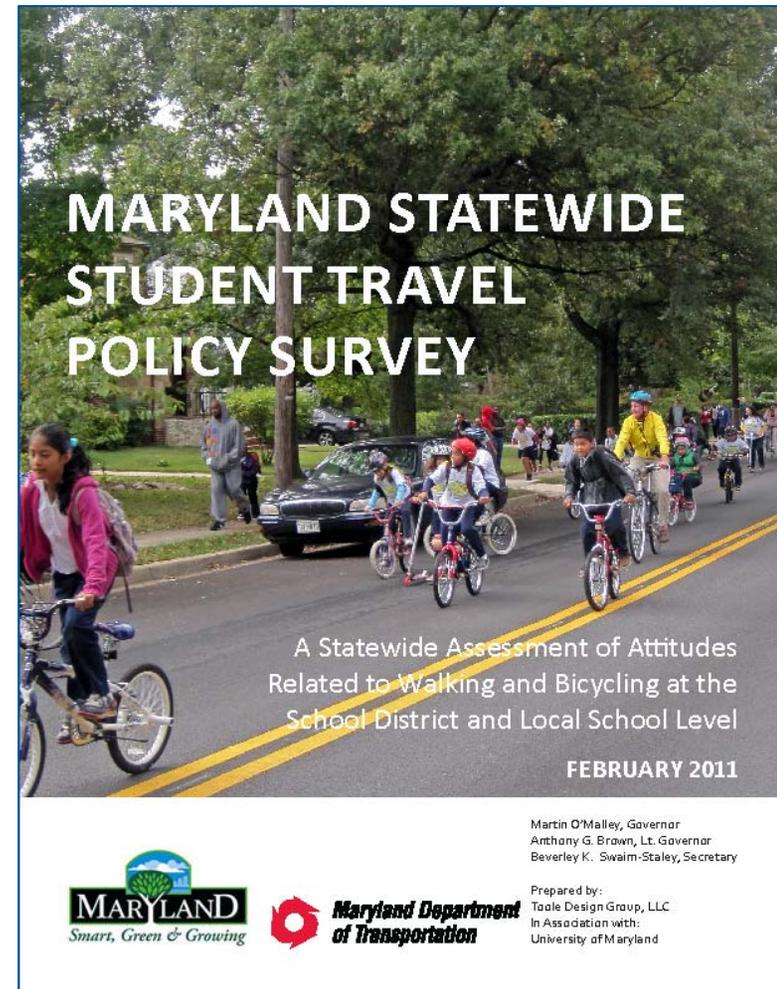


Learn it. Do it. Live it!



Maryland Study

- 2011 survey of 350 principals
- Asked about attitudes relative to walking and bicycling
 - 19% encouraged
 - 19% discouraged/prohibited
 - 62% neither encouraged nor discouraged

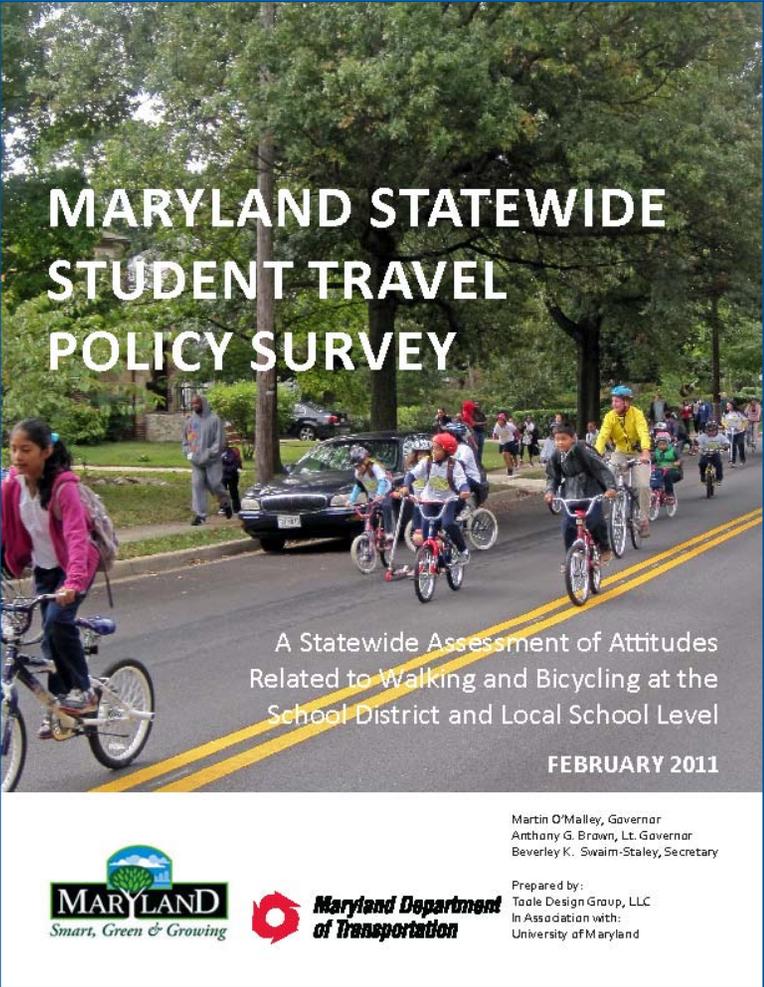


Learn it. Do it. Live it!



Maryland Study

- 73% of principals who discouraged/prohibited walking/biking said liability concerns influenced their decision.
- None of these principals reported consulting an attorney or risk assessment officer.



**MARYLAND STATEWIDE
STUDENT TRAVEL
POLICY SURVEY**

A Statewide Assessment of Attitudes
Related to Walking and Bicycling at the
School District and Local School Level

FEBRUARY 2011

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor
Beverly K. Swaim-Staley, Secretary

Prepared by:
Toale Design Group, LLC
In Association with:
University of Maryland

 **MARYLAND**
Smart, Green & Growing

 **Maryland Department
of Transportation**



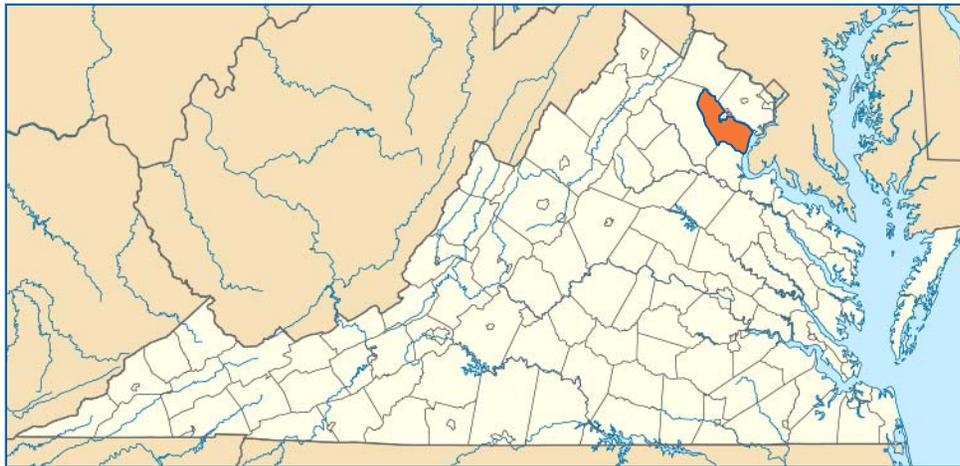
Learn it. Do it. Live it!



Prince William County

Becky Short

SRTS Division Coordinator



Learn it. Do it. Live it!



Virginia Liability Example--Prince William County

- How did you get involved with the Safe Routes to School liability Issue?
- What did you do once you discovered liability was an issue?
- Without going into specifics, generally what did the attorney say about liability?



Rockledge Elementary School Bike Rodeo, Woodbridge



Learn it. Do it. Live it!



Virginia Liability Example--Prince William County

- After speaking with the division's attorney, what did you do with the information?
- How have principals reacted?
- How do you plan to address liability in the future?



Prince William County Public Schools



Learn it. Do it. Live it!



Additional Tips for Addressing Liability

- Be aware of local laws, regulations and school policies.
- Provide safety education to students
- Provide safety information to parents
- Provide training to crossing guards and all school employees involved in traffic safety.



Parkview Elementary, Portsmouth



Learn it. Do it. Live it!



Additional Tips for Addressing Liability

- **Develop a plan to identify potential safety concerns and improvements.**
- **Document efforts to address known safety problems.**
- **Consider waivers as an approach to acknowledge risk**
- **Obtain adequate insurance to cover the program**



Spotswood Elementary, Harrisonburg



Learn it. Do it. Live it!



Lessons Learned

- **Liability is an important consideration for Safe Routes to School**
- **Decision makers are sometimes unclear about liability.**



Matthew Maury Elementary School, Alexandria



Learn it. Do it. Live it!



Lessons Learned

- The best approach is to speak with your school division's legal counsel or risk management officer to clarify liability.
- Share and remind school administrators about the division's liability policy, in advance of SRTS events.



Dumbarton Elementary School, Henrico



Learn it. Do it. Live it!



Resources

SRTS National Center

- Liability Tip Sheet
- Liability Issues Webinar

SafeRoutesInfo.org

10 TIPS FOR
Safe Routes to School Programs and Liability (continued)

1 Work with your school district's administrative and legal staff to understand the relevant liability issues and to develop appropriate policies.
Most likely, your school district already has a number of policies in place to help manage its liability for various school programs and activities. A SRTS program is no different. You should work closely with your school district's administrative and legal staff to identify any particular risk management and insurance needs based on your individual SRTS program and the relevant laws of your jurisdiction.

2 Be aware of local laws, regulations, and school policies.
Work with your school's legal counsel to identify the laws and regulations in your jurisdiction that are relevant to walking and bicycling. These may include laws regarding school safety patrols, the designation of school walking routes (some states require them), student bus transportation, and any bicycle safety requirements such as helmets, bells or lights. You should also review the state and local pedestrian laws and portions of the local development code regarding pedestrian safety and provision of pedestrian accommodations. Make sure you are following any applicable school policies, such as parental permission slips, waivers, or required supervision for school-sponsored activities. If appropriate, your school may consider making modifications or exceptions to any school policies that appear to be in conflict with your SRTS activities.

3 Take steps to fix problems.
If you are aware of unsafe walking and bicycling conditions, such as unsafe vehicle drop off and pick up conditions, take steps to fix them. Even if the problem is not subject to the school's control, such as a heavily trafficked local street, the school should warn parents of any known hazards, and take any prudent steps to address conditions under the school's control that might exacerbate the risk of injury.

4 Be proactive. Develop a plan.
Developing a SRTS Plan for an individual school is a great way to identify potential safety problems and prioritize needed improvements. If you identify problems, take steps to address the problems and inform the school community of possible hazards that cannot be or have not yet been corrected.

5 Document your efforts.
If you are aware of potential problems, document your efforts to fix them. For example, if you are made aware of problems with speeding vehicles in the school area, keep records of your communication with law enforcement officials to address the problem and your communications to parents warning them of any uncorrected problems.



Learn it. Do it. Live it!



Resources

SRTS National Partnership

- Webinar - Liability 201: Addressing Liability Concerns Related to Walking School Buses, Bike Trains, Remote Drop Off and More!

SafeRoutesPartnership.com

Liability 201



Sara Zimmerman, JD
Technical Assistance Director



ChangeLabSolutions



Liability 201:
Crossing Guards & Remote Drop Offs

Presented by
Benjamin D. Winig, JD, MPA
Senior Staff Attorney & Program Director



Learn it. Do it. Live it!



Local Technical Assistance Coordinators

VA SRTS Hotline
1-855-601-7787

Piedmont Region, Jim@VirginiaSRTS.org

Coastal Region, Katie@VirginiaSRTS.org

Blue Ridge Region, Bryan@VirginiaSRTS.org



Learn it. Do it. Live it!

