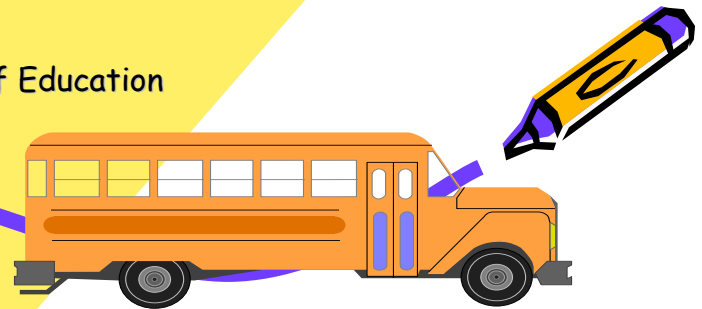
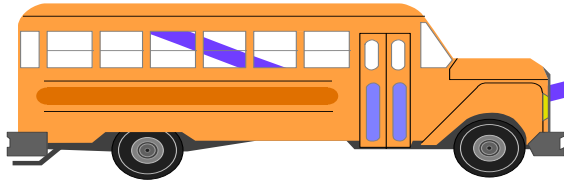




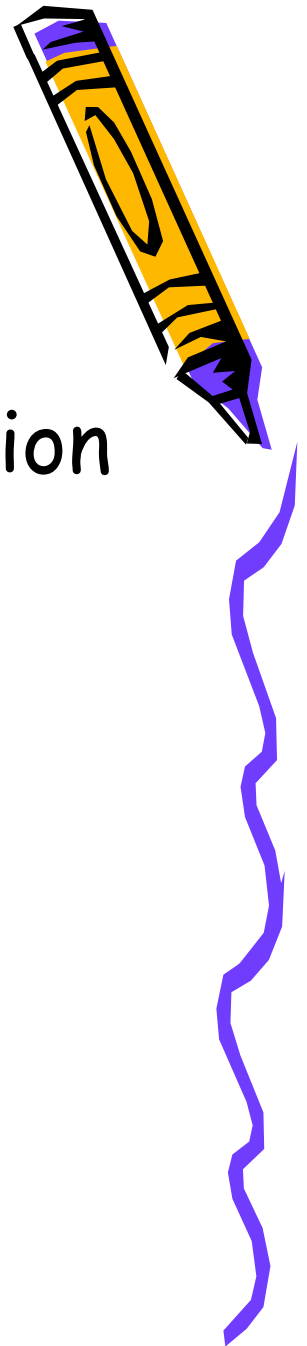
# School Bus Safety TIMS Conference March 16, 2009

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# NC Public School Laws



- Regulate public school transportation
  - N.C.G.S. § 115C-12(17)
- Tort Liability
  - N.C.G.S. § 115C-42
- School Bus Routes
  - N.C.G.S. § 115C-246(a)(b)(c)



# Tort Liability



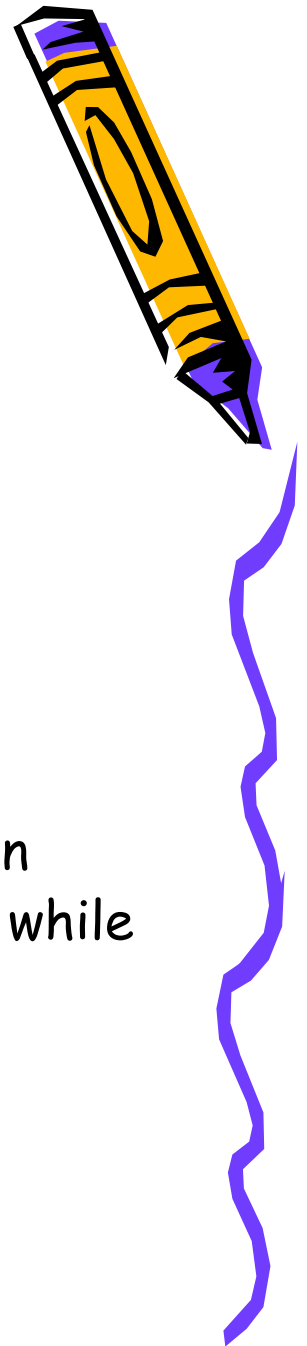
- What is a Tort?

A civil wrong, other than a breach of contract, for which the court will provide a remedy in the form of an action for damages .

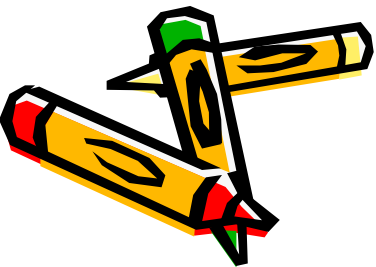
- Negligence is one type of tort from which liability may arise. Negligence is conduct that falls below the acceptable standard established by law for protecting others against unreasonable risk of harm. The elements of negligence are:
  - Duty
  - Breach
  - Proximate Causation
  - Injury (Foreseeability)



# Tort Liability



- What areas constitute negligence in school transportation?
  - Failure to repair a bus known to be unsafe
  - Failure to follow traffic regulations
  - Failure to adopt and enforce safety regulations
  - Failure to hire competent, responsible drivers
  - Negligently placing a bus stop in a dangerous location
  - Failure to provide adequate supervision of students while boarding a bus on school grounds.



# Tort Liability



Common tort claims arising from school transportation.

- (1) Driver Negligence
  - (a) failure to follow traffic laws and safety regulations
  - (b) failure to report known mechanical problems
  - (c) failure to exercise proper care under the circumstances.
- (2) Faulty Equipment
  - Not keeping buses in safe condition.
  - Liability may also result if faulty equipment sets in motion a series of events that leads to the injury of a student.
- (3) Inadequate Supervision on the Bus
  - Liability will depend on whether the court believes that the accident could have been prevented through adequate supervision.
- (4) Negligence in creating school bus routes, assigning school bus stops and responding to student conduct.



# School Bus Routes

N.C.G.S. § 115C-246(a)(b)(c)



- (1) Routes to be prepared prior to the commencement of each school year.
- (2) Routes to include the following :
  - (a) definite path of travel
  - (b) Stops for receiving and discharging students
  - (c) Buses are to operate on the established route and not otherwise
- (3) Unless road or other conditions shall make it inadvisable to do so, public school buses shall be so routed on state-maintained highways.
- (4) All changes to school bus routes are to be updated within 10 days of the change.



# NC State Board Policy

## LOCAL RULES AND REGULATIONS

16 NCAC 6B .0103

LEAs shall adopt and keep on file in the office of the superintendent rules, regulations and policies to assure the safe, orderly and efficient operation of school buses, including:

- (1) the use of school buses under *G.S. 115C-242(5)*;
- (2) a uniform system of discipline on school buses;
- (3) a uniform procedure for the recruitment and selection of school bus drivers;
- (4) procedures for relieving a driver of driving duties;
- (5) passenger safety rules;
- (6) responsibilities of school bus monitors; and
- (7) duties of school personnel in the administration of the school transportation program.



# NC State Board Policy BUS ROUTES

16 NCAC 6B .0104

- (a) Superintendents shall plan bus routes in a way designed to conserve fuel and to use buses efficiently.
- (b) A route may not deviate from a general path of direction for a distance of less than one-half mile and then return to the original path except for groups of 10 or more pupils, unescorted pupils in grades K-3 or special education pupils.
- (c) Unless safety factors require otherwise, superintendents may not plan bus stops closer together than 0.2 miles. Each student must be at the designated stop at the time of the bus's arrival.



## NC State Board Policy BUS ROUTES

16 NCAC 6B .0104 (continued)

- (d) Except in an emergency, regular and substitute drivers will transfer a bus at the school.
- (e) Drivers shall park buses at night and on weekends in locations which lessen opportunities for persons to steal fuel and commit vandalism.
- (f) Service personnel shall maintain buses to ensure greatest fuel economy.
- (g) Each LEA will establish the time required for each bus route and certify this time. The LEA will use this certified time to contract with the driver for each route operated. The LEA will determine the hourly rate of pay by a salary schedule adopted by the SBE.



# North Carolina Cases



## *Sparrow v. Forsyth County Board of Education (BOE)*

Driver found not negligent for injuries sustained by student when driver was forced to slam on breaks after being hit by a snowball.

## *Smith v. Cumberland County BOE*

Driver found not negligent when a girl at the back of the bus was assaulted by another student while bus in motion ran to the front of the bus, jerked the door open and jumped out of the bus to her death. There was no evidence that the girl had cried out or spoken to anyone before she jumped.

## *Huff v. Northampton County BOE*

Driver not negligent because no previous knowledge of misconduct when students sustained injuries from knife fight on school bus.



# North Carolina Cases



## *Mitchell v. Guilford County BOE*

Driver held negligent when he continued to drive the bus as students were walking alongside to board it. One child fell on the icy sidewalk and slid under the bus. The court held the driver had a duty to not move the bus or (in exercising a high degree of caution) to determine students beside the bus would not be placed in danger by moving the bus.

## *Stacy v. Merrill*

Governmental immunity for driver negligence. Plaintiff's claim was dismissed by the courts where while leaving school, the student lost control of his bicycle and fell into the path of a school bus, where he was struck by the bus and killed.



# Questions?

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