

September 16, 2019

TO: Board of Directors
FROM: Heller An Shapiro
RE: Driving Policy Proposal

Background:

ArtStream continues to work toward the Maryland Nonprofit Standards of Excellence certification and to manage risk within the organization.

ArtStream employees, contractors and volunteers often use their personal vehicles or rental trucks to transport students, teaching artists, employees, or materials (theatre sets, props, concessions, etc.).

At the June 17, 2019 Board Meeting, a recommendation was made to revise the proposed policy (attached) based on legal/insurance company review. Questions included: Are we taking on too big a responsibility? Will screening who drives allow our insurance policy to cover legal fees? Will this policy cover us in each state that we operate in? How do we ensure that our current policy will be the secondary one?

The policy was revised based on the recommendations of an advisor from HUB international insurance company, who provided a draft policy and a white paper (attached) recommending:

(1) [A Nonowned Auto Use Agreement between the employee / volunteer and the organization](#). This covenant affixes individual responsibility for (1) maintaining specific insurance limits, (2) maintaining current state vehicle inspections, (3) maintaining one's vehicle in safe operating condition when used for organization business, (4) furnishing proof of acceptable insurance and notifying the organization of material changes, (5) ensuring that any ancillary equipment, such as a trailer, be designed/rated for its use on the company's behalf, (6) an acceptable motor vehicle report (MVR) meeting the organization's policy, and (7) no 'business use' exclusion in personal auto insurance policy. The Agreement clarifies that the individual's insurance is meant to be primary and that the individual is responsible for liability arising from operation of his/her vehicle.

(2) [An Organizational Vehicle Use Policy](#) addressing (1) vehicle use rules, (2) distracted driving, (3) driver selection criteria, including points system for moving violations, (4) rental vehicle policy, and (5) post-accident investigation guidelines.

(3) [An "Employees and Volunteers as Insureds" endorsement](#) to the organization's Nonowned Auto Liability insurance policy. This simple rider extends the organization's liability protection to the individual driver, excess of any valid and collectible personal insurance, minimizing the risk of inadequate insurance. Although not typically included in the off-the-shelf auto policy, this broadening feature is often available at nominal additional cost.

(4) [Umbrella/Excess Liability insurance](#) augmenting the organization's primary Nonowned Auto Liability limits. This safety net increases the total amount of protection available for any one occurrence.

Proposal:

Review and approve the Driving Policy and Questionnaire.

Employees/contractors/volunteers would be required to complete the annual survey assessing their driving record.

The policy meets the 4 recommendations. ArtStream's current insurance policy already covers recommendations 4 and 5.

Rationale:

Employees/contractors often transport students for planned and unplanned activities. Having this in place in advance allows us to manage insurance issues and risk. It may also limit driving by those who are not authorized.

In the event of a student needing a ride home from an ArtStream activity, this clarifies who is authorized to drive them, safe driving rules, and how any problems that occur should be handled.

Staff regularly rent trucks to transport performance materials to and from the Costume Shop to the theatre and back. Occasionally a contracted set designer will need to rent a truck to transport sets.

ArtStream Driving Policy

2019-2020

Proposed 9/16/19

The purpose of this policy is to promote the safety of students, employees/contractors/volunteers using personal vehicles or rental vehicles for ArtStream activities. All employees/contractors/volunteers driving a vehicle for ArtStream activities shall maintain a valid driver's license, must always operate the vehicle in a safe manner, and shall have the insurance coverage required by ArtStream.

Upon first participating in ArtStream activities and thereafter at the start of each fiscal year (September), every employee/contractor/volunteer who may be driving any vehicle for ArtStream activities will be asked to sign the Vehicle Use Agreement. The Executive Director or his/her designee will determine eligibility for driving for ArtStream activities.

Vehicle Use Agreement - to be signed annually

An employee/contractor/volunteer using a personal vehicle for the purpose of ArtStream activities must act with utmost care to protect ArtStream, the driver, and passengers (students/contractors/employees/volunteers). This certification is intended to establish whether or not an employee/contractor/volunteer may drive a personal or rental vehicle for ArtStream activities and to assure that any employee/contractor/volunteer understands ArtStream policies related to the use of a personal or rental vehicle for ArtStream activities.

_____ I understand that I am not an "authorized driver" for ArtStream and as such am not permitted to operate rental vehicles or my own vehicle on ArtStream activities under any circumstances.

An unauthorized driver is:

- a. any driver with one major motor vehicle violation.
- b. any driver having 3 or more minor motor vehicle violations.
- c. any driver having a total accumulation of 10 points on his/her driver's license.
- d. any driver under the age of 21
- e. any driver who has not agreed to ArtStream's Driving Policy and signed below

_____ I may drive a personal or rental vehicle for ArtStream activities and have met or will meet the requirements of this policy prior to driving for ArtStream activities, including:

- Maintaining auto liability insurance with minimum limits of \$_____ for bodily injury and \$_____ for property damage or combined single limit of \$_____.
- Maintaining current state vehicle inspections.
- Maintaining my vehicle in a safe operating condition when driving for ArtStream activities.
- Proof of insurance (copy of declaration page, certificate of insurance) will be provided to ArtStream. I agree to submit information concerning any changes or cancellations of that insurance and to provide updated evidence of insurance at any future renewal of my policy within three days of the change or update.

- The personal vehicle used to transport students must be properly maintained and in good working condition.
- Consistent with ArtStream’s No-Smoking Policy Statement in the Employee Handbook, there shall be no smoking in personal vehicles while transporting students.
- Transportation of students should be documented on the mileage reimbursement form, and/or reported in the class/workshop/rehearsal report, as appropriate.
- The driver must comply with the Distracted Driving Policy (below)

Distracted Driving Policy

General Procedures

- Use of hand-held cell phones while driving is strictly prohibited – this includes all functions of the cell phone including, but not limited to, phone calls, text messaging/SMS, e-mail, MMS, Internet use, camera use, etc.
- Use of electronic devices – including laptops, PDAs, cameras and pagers – while driving is strictly prohibited.

Headset/Hands-Free Use

- The use of headsets or hands-free devices while driving is permissible IF
 - Any dialing or use of the handset is handled while stopped or pulled to the side of the road
 - Conversations do not interfere with the driver’s ability to drive safely
 - Road conditions are generally good and do not threaten your safety

Rental Vehicles:

You may drive and rent a vehicle to transport ArtStream materials such as props, costumes, or other performance materials. These rentals often involve driving in unfamiliar areas and vehicles that are quite different than you are used to. To reduce the risk to both you and ArtStream, we have implemented the following rules:

- All vehicles must be from a national vendor.
- Prior to leaving the rental lot a walk-around inspection of the vehicle must be completed to identify any pre-existing damage and/or issues with critical components.
- Rental vehicles are only to be used for ArtStream activities. The vehicle may only be used to go to and from the load-in/load-out locations only.
- The driver must comply with **Vehicle Use Rules** at all times.

All drivers of rental vehicles must submit their personal insurance information to the rental agency. *The rental company insurance must also be purchased.*

- Take all necessary steps to assure no ‘business use’ exclusion or other language in my automobile insurance policy excludes coverage when I am driving for ArtStream activities.
- I understand that my automobile liability insurance policy is the primary coverage in the event I am involved in a vehicle accident occurring while I am operating my personal vehicle in connection with ArtStream activities and that I am responsible for liability arising out of the operation of my vehicle.
- *For employees/contractors renting trucks, it is the employee/contractor’s responsibility to verify that rental company insurance is also purchased.*

Signature_____

Name_____Date_____

(print)

Vehicle Use Rules:

We consider accident prevention to be most important.

- The driver and all passengers must wear seat belts at all times. No vehicle should be operated when the number of occupants exceeds the number of passenger restraints available.
- Maintain reasonable distance, allow for speed, road and weather conditions.
- Obey all traffic signs and signals with a full and complete stop.
- Drivers will follow all applicable State and Federal regulations.
- Driving for ArtStream activities while under the influence of drugs or alcohol is strictly prohibited.
- The use of radar detectors is prohibited while driving for ArtStream activities.
- Accidents are to be reported IMMEDIATELY to the Programs or Theatre and Events Manager (add phone numbers).

Tickets and moving motor vehicle violations that occur while driving for ArtStream activities are to be reported to the Programs or Theatre and Events Manager within 24 hours. Drivers are responsible for all fines incurred due to traffic and parking violations while driving for ArtStream activities (e.g., violation tickets, red light camera violations, speed camera violations, EZ Pass violations). Violations may affect an employee/contractor/volunteer’s eligibility for driving students or rental vehicles (see vehicle use agreement for violations that prohibit driving).

“But We Don’t Own Any Vehicles”

Four Simple Steps to Surmount Nonowned Auto Risk



White Paper
Provided by HUB International
Published June 2016

In just the past month, two different nonprofit organizations – not our clients – called for advice in dealing with their insurance companies, which insisted they enact policies on employee and volunteer vehicle use. “But we don’t own any vehicles,” the one executive asserted. “Do we have to do this?” the other asked. “Can’t we just find a different insurance company?”

Today’s Tougher Underwriting Mindset

Switching insurers is just a Band-Aid solution to a bigger problem, and it may not be as easy as it sounds. The commercial auto line has been unprofitable for insurers in recent years, for a variety of reasons ranging from weather-related accidents to an exponential increase in distracted driving. So underwriters are getting tougher in selecting, pricing, and retaining their business, including new requirements for management of nonowned auto risk – that is, the risk presented by employees and volunteers who use their personal vehicles for organization business.

Who’s On First

Under the common law doctrine of respondeat superior, an individual serving an organization, whether as an employee or volunteer, can create liability for that “master” through his/her own negligence. Owning, maintaining, and driving a vehicle involves plenty of risk – and an unintentional act behind the wheel can have catastrophic consequences for all parties: driver, passenger(s), other driver(s), passenger(s), pedestrian(s)... and employer.

When an accident occurs, the driver’s own personal insurance covers his/her liability to the affected parties, while the organization’s Nonowned Auto Liability insurance (if purchased) addresses its vicarious liability for the individual’s actions. The acid test question, especially in a catastrophic circumstance, is whether either party has enough protection – and all too often, the individual’s falls short, placing his/her insurer, the organization’s insurer, and the plaintiffs in direct conflict.

Nonowned auto liability ranks among the top five risks for any nonprofit organization, yet it’s one of the most neglected and underestimated. Surprisingly, it’s also one of the easiest to manage.

Four Practical Steps

We recommend a multi-pronged approach to address nonowned auto risk:

(1) A NONOWNED AUTO USE AGREEMENT BETWEEN THE EMPLOYEE / VOLUNTEER AND THE ORGANIZATION. This covenant affixes individual responsibility for (1) maintaining specific insurance limits, (2) maintaining current state vehicle inspections, (3) maintaining one’s vehicle in safe operating condition when used for organization business, (4) furnishing proof of acceptable insurance and notifying the organization of material changes, (5) ensuring that any ancillary equipment, such as a trailer, be designed/rated for its use on the company’s behalf, (6) an acceptable motor vehicle report (MVR) meeting the organization’s policy, and (7) no ‘business use’ exclusion in personal auto insurance policy. The Agreement clarifies that the individual’s

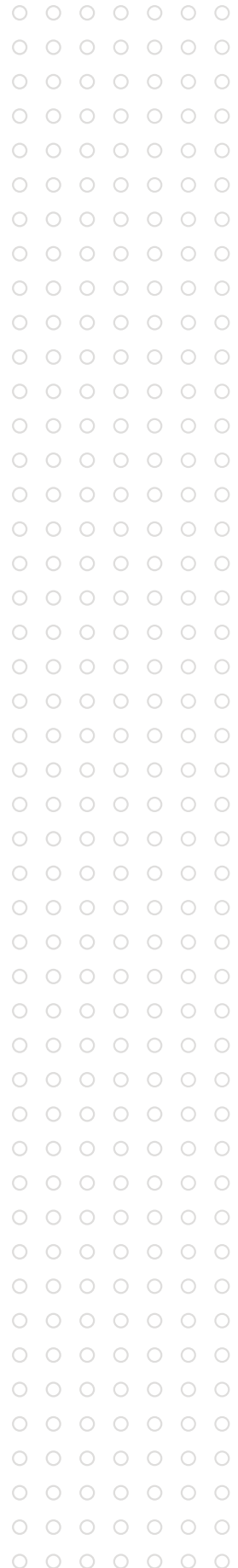
insurance is meant to be primary and that the individual is responsible for liability arising from operation of his/her vehicle.

(2) AN ORGANIZATIONAL VEHICLE USE POLICY addressing (1) vehicle use rules, (2) distracted driving, (3) driver selection criteria, including points system for moving violations, (4) rental vehicle policy, and (5) post-accident investigation guidelines.

(3) AN “EMPLOYEES AND VOLUNTEERS AS INSUREDS” ENDORSEMENT to the organization’s Nonowned Auto Liability insurance policy. This simple rider extends the organization’s liability protection to the individual driver, excess of any valid and collectible personal insurance, minimizing the risk of inadequate insurance. Although not typically included in the off-the-shelf auto policy, this broadening feature is often available at nominal additional cost.

(4) UMBRELLA/EXCESS LIABILITY INSURANCE augmenting the organization’s primary Nonowned Auto Liability limits. This safety net increases the total amount of protection available for any one occurrence.

These safeguards will not only satisfy the most persnickety insurance underwriters, but will help conserve your resources for mission rather than settlements, judgments or protecting your reputation.



Driving for ArtStream Business

Proposed and recommended for revision 6/17/19

Examples of driving for ArtStream business may include, but not be limited to, driving your personal vehicle or a rental truck with or without a student, employee or contractor:

Transferring materials or supplies to or from the ArtStream office or performance venues

Bringing a student to or from a class, rehearsal, workshop or performance location

Bringing a student to their home from a class, rehearsal, workshop or performance location

First Name *

Your answer

Last Name *

Your answer

PURPOSES FOR DRIVING FOR ArtStream

Check any and all types of driving you ARE WILLING to do for ArtStream business:

Driving my car without passengers

Driving my car with employees/contractors

Driving my car with students

Driving a rental truck without passengers

Driving a rental truck with employees/contractors

I am NOT ABLE OR WILLING to drive any vehicle for ArtStream business purposes

DRIVER'S LICENSE *

I possess a valid driver's license

I DO NOT possess a valid driver's license and am aware that I am not eligible to drive for ArtStream

MOVING TRAFFIC VIOLATIONS *

I have not received any moving traffic violations in the past year.

In the past year, I have incurred at least one moving traffic violation.

If you had a moving violation in the past year, provide violation, date, state in which it occurred, and number of points, if any (you do not need to include camera violations).

Your answer

INSURED PERSONAL VEHICLE *

I have at least the minimum liability insurance required by the state in which my vehicle is registered AND have provided a copy of my insurance information.

(Without this information, I will not be eligible to drive for ArtStream.)

I DO NOT have a vehicle that I will drive for ArtStream purposes.

I acknowledge that:

* I have reviewed the "Driving for ArtStream Purposes" policy in the Staff Handbook and available at this link

_____.

* I understand it is my responsibility to be aware of my auto insurance carrier's coverage when my vehicle is used for work and/or used to transport students.

* I will promptly report to the ArtStream Executive Director any moving violation, arrest, or conviction for a driving offense which I incur, and

* ArtStream may check my driving records in the jurisdictions in which I reside or work at any time while employed with ArtStream.

Typing your name serves as a signature of acknowledgement *

Your answer

SUBMIT

Never submit passwords through Google Forms.

ArtStream Driving Policy

Proposed and recommended for revision 6/17/19

The purpose of this policy is to promote the safety of students and employees/contractors using personal vehicles or rental trucks for ArtStream activities. All employees/contractors driving a vehicle for ArtStream shall maintain a valid driver's license, must always operate the vehicle in a safe manner, and shall have appropriate insurance coverage.

Upon hiring and at the start of each fiscal year, every employee/contractor who may be driving any vehicle for ArtStream activities will be asked to disclose any history of moving violations and sign a statement that he or she possesses a valid local license and agrees to a driving record check by ArtStream with the jurisdictions in which the employee/contractor resides or works. The Executive Director or his/her designee will review the records to determine eligibility for driving for ArtStream.

In general, the Executive Director will follow these guidelines for determining eligibility.

An employee/contractor may **NOT BE CONSIDERED ELIGIBLE TO** drive for ArtStream if he or she:

- Has more than one moving violation in the past year (not including camera violations);
- Has more than two moving violations in the past 5 years (not including camera violations);
- Has had any driving accident or incident in the past 5 years, which, in the judgment of the Executive Director, raises questions about the safety record of the driver; or
- Is 21 years or younger.

The following are standards for driving for ArtStream:

- Only authorized employees/contractors may transport students in personal vehicles.
- Only authorized employees/contractors may transport materials or employees/contractors in rental trucks.
- To qualify to transport students in a personal vehicle or materials in a rental truck, the employee/contractor must have an acceptable driving record based on ArtStream's insurance carrier's guidelines and submit documentation of a current insurance policy. Driving records must remain within the insurance carrier's guidelines for continued employment or assignment in positions with driving duties. Employees/contractors who do not maintain acceptable records will not be allowed to transport students or materials and may be disqualified for an assigned position.
- All employees/contractors driving for ArtStream must maintain a valid driver's license and insurance on all personally owned vehicles they drive for ArtStream. Any change in the status of their driver's license or insurance must be reported to the Executive Director prior to driving for ArtStream.
- Employees/contractors driving for ArtStream may have their driving records checked at any time at the Executive Director's discretion.
- The personal vehicle used to transport students must be properly maintained and in good working condition.
- The driver and all passengers must wear seat belts at all times. No vehicle should be

operated when the number of occupants exceeds the number of passenger restraints available.

- The driver must use hands free equipment when necessary to talk on a cell phone when driving. In no event shall the driver text message or operate any other electronic equipment while driving the vehicle. It is always preferred that the driver park in a safe location to use a cell phone.
- Consistent with ArtStream's No-Smoking Policy Statement in the Employee Handbook, there shall be no smoking in personal vehicles while transporting students.
- Transportation of students should be documented on the mileage reimbursement form, and/or reported in the class/workshop/rehearsal report, as appropriate.

AUTOMOBILE LIABILITY

Non-owned and hired automobile liability coverage is provided to protect ArtStream from claims brought forth as a result of any vehicle not owned by the organization (such as vehicles used in the course of business owned by employees/contractors).

For employees/contractors using their own vehicles, in the event of an accident, they must rely on their own insurance policy to be primary. It is the employee/contractor's responsibility to verify that the insurance carrier covers driving and/or transporting students for work purposes. If the liability limits of the employee/contractor have been exhausted, the insurance coverage provided by and for ArtStream would be excess liability coverage to the employee. This applies to liability claims.

For employees/contractors renting trucks, it is the employee/contractor's responsibility to verify that rental company insurance is purchased. If the liability limits of the employee/contractor and rental company have been exhausted, the insurance coverage provided by and for ArtStream would be excess liability coverage to the employee/contractor and rental company. This applies to liability claims.

The physical damage to the employee/contractor's vehicle would always be covered by the employee/contractor's personal insurance policy.

The physical damage to the rental truck would always be covered by the rental company's insurance policy and then the employee/contractor's personal insurance policy.

AUTO ACCIDENTS

All automobile accidents occurring while on ArtStream business must be reported to the immediate Supervisor and/or Executive Director as soon as possible.

If involved in an accident while driving his or her own vehicle or rental truck while on ArtStream business, the employee/contractor must report Workers Comp information to the Director of Finance and Administration whether or not injury is evident. The Director of Finance and Administration will make a report to the ArtStream insurance carrier.

TRAFFIC AND PARKING VIOLATIONS

Drivers are responsible for all fines incurred due to traffic and parking violations while driving for ArtStream business (e.g., violation tickets, red light camera violations, speed camera violations, EZ Pass violations). Violations may affect an employee/contractor's eligibility for driving students or rental trucks.

PARKING

Free or low-cost parking facilities are available to employees/contractors. Employees/contractors should be aware of and adhere to parking procedures at each site. ArtStream is not responsible for loss, damage or theft of a vehicle. Therefore, we suggest that everyone locks their car doors.