

Emergency Rule Abstract

1. **Agency:** Public Education Department (PED)
2. **Rule citation:** 6.41.4 NMAC
3. **Rulemaking Action:** Amend
4. **Effective date:** 9/29/17
5. **Specific Legal Authority:** Sections 22-2-1, 22-2-2, 22-8-26, 22-10A-5, 22-10-2, and 22-16-4 NMSA 1978
6. **Purpose of Rule:** Establish standards for the safe use of sport utility vehicles (SUVs) for to-and-from school transportation
7. **Finding of Emergency:** Peril to the public health, safety, and welfare; no detailed justification included
8. **Rulemaking Information Contact:** Jamie Gonzalez, 505-827-7889
9. **Notice and hearing (if any):** To be held within 180 days of effective date

Summary of Rule

On September 29, 2017, the Public Education Department (PED) gave notice that it had adopted emergency rules for using sport utility vehicles (SUVs) to transport certain students to-and-from school. The adopted emergency rule establishes general requirements for the use of SUVs for school transportation, including: requirements for drivers, such as background checks and training; vehicle inspections, both daily and biennially; procedures to establish routes; vehicle standards, including labeling and safety equipment requirements; route requirements; loading and unloading procedures; interstate highway operations; and drivers' records. The notice indicates the rule is adopted to bring PED in conformity with Section 22-16-4 NMSA 1978, as amended by Laws 2017, Chapter 94 (see **Attachment 1, Senate Bill 381**), which directs PED to "adopt rules to provide for the safety of students transported in a sport utility vehicle pursuant to this section." (Section 22-16-4(D) NMSA 1978). (See Attachment 2, **Notice of Emergency Rulemaking and Emergency Rule 6.41.4.14 NMAC, Using SUVs For To-and-From Transportation.**)

Justification for Emergency Rule

PED found that the normal rulemaking process in this instance would cause delay that would imperil the public health, safety, and welfare. However, in apparent contravention of, Subsection B of Section 14-4-5.6 NMSA 1978 of the State Rules Act, which reads, "[PED] shall provide to the public a record of any finding pursuant to Subsection A of this section and a *detailed justification* for that finding *before* issuing

an emergency rule.” PED did not offer a detailed justification for this finding of emergency. Further, this finding and its justification are required to be “provided to the public” before an agency issues a rule, yet in this instance, the finding was released at the same time as the issuance of the rule, September 29, 2017.

Analysis

The rulemaking adds a new Section 14 to Part 4 of 6.41 NMAC, “Using Sport Utility Vehicles (SUVs) for To-and-From Transportation.” The new section is subdivided to address particular issues now required by statute that detail the transportation of students, as amended by Laws 2017, Chapter 94.

Subsection A, “General requirements,” addresses the actual qualifications of an SUV-driver, including a physical examination and background check. The driver must attend preservice training and be certified by PED. The driver may not use alcohol, or illegal or legal drugs prior to or during duty hours. Drivers must inspect the vehicle and its safety equipment daily and have the vehicle inspected by an authorized dealer every two years, and report any faulty equipment in writing to the school administrator.

Subsection C, “Construction standards,” is concerned with the characteristics of the SUVs to be used for to-and-from transportation. These vehicles must be district-owned, accommodate at least six but no more than nine passengers, and may not be vans or minivans. All vehicles under the rule must comply with all pertinent federal and state safety standards, be marked as a school vehicle, and be properly equipped with flasher lights, electronic and child-safety locks, a rear-view back-up camera for when the vehicle is in reverse, and a speed limiter set at 75 mph.

Subsection D, “Safety equipment,” mandates that any SUVs used to transport students under the provisions of the rule must be equipped with certain safety features, including a first aid kit, a seat belt cutter, a two-way radio, a recording video camera, an interior-mounted fire extinguisher, warning reflectors, a safety vest, and a cargo net.

Subsection E, “Route requirements,” establishes procedures for all drivers to adhere to when transporting students, such as stopping only in appropriate places, following certain traffic procedures, and reporting roadway hazards.

Subsection F, “Loading and unloading [en] route,” includes requirements for signaling when stopping, and stopping at all route stops whether or not there are waiting students.

Subsection G, “Loading and unloading at schools,” directs drivers to load and unload students in the same designated areas that normal school buses do, and generally prohibits backing up while on school grounds.

Subsection H, “Operating on the interstate highway,” bars drivers from stopping and loading or unloading students on the highway and from driving the SUV onto an

opposing roadway except at appropriate interchanges while following appropriate procedures.

Subsection I, "Railroad crossings," requires the exercise of extreme caution at such crossings, while Subsection J, "Driver files," requires school districts to maintain records on SUV drivers that include annual driver's license checks, a copy of the driver's physical certification, and the driver's current, valid license and preservice training record.

Finally, Subsection B of Section 14 of 6.41.4 NMSA 1978 includes several amendments that include requirements. The directive of Subsection D of Section 22-16-4 NMSA 1978 permits school districts to transport students using SUVs if:

- the district enrolls between one to six students who live within the boundaries of the district;
- those students live five or more miles from their school;
- the district uses a district-owned, full-size, extended length SUV;
- the SUV is driven by a school district employee who is certified as an activity driver;
- the driver and the vehicle are both insured by the public schools insurance authority; and
- the local superintendent is able to demonstrate a need; although the statute does not clarify to whom this need must be demonstrated, it is reasonable to expect that PED would be the appropriate entity.

However, in addition to these statutory requirements, Subsection B also mandates:

- students being transported by SUV must be annually approved by the local school board;
- the superintendent must submit a form signed by the school board president to PED that includes the students' residences highlighted on a geological survey map; and
- local school districts are barred from counting any students who receive transportation services through the use of an SUV for transportation funding.

These additional requirements are problematic. The requirement that pertinent students not be counted for transportation funding has no basis in law; Section 22-16-4 NMSA 1978 allows local school districts to be able to transport these students without including any limitations on funding; the directive to PED to promulgate rules for the safety of students riding in an SUV seems divorced from the issue of transportation funding. Further, the requirements that that local school boards annually approve the list of SUV-served students and that a geological survey map be included on a form that must be signed by the local school board president, also appear to be requirements imposed by PED that fall outside the mandate of the statute. It is unclear why the local school board should be involved in or have to certify these alternative transportation measures; this would seem to fall within the day-to-day operations of the school district, to be overseen by the local superintendent in their capacity as Chief Executive Officer of the school district. Additionally, Subsection B of Section 22-16-4 NMSA 1978 establishes walk zones near

schools, based on student grade level, wherein no school buses will be used to transport students, yet school districts are not required to certify the addresses of students living within those zones. Finally, school districts are not required to certify any other students with a geological survey map to count them for transportation funding, yet that requirement is also added to the emergency rule.

Technical Issues

The emergency rule was accepted for publication in the *Register* and adoption into the NMAC without all statutory requirements being fulfilled. As noted above, PED failed to offer any detailed justification for the finding of emergency, and this requisite finding and accompanying justification were not provided to the public *before* issuing and adopting the emergency rule, as required by Section 14-4-5.6 NMSA 1978. Laws 2017, Chapter 137, which substantially amended the State Rules Act, has only been effective for a few months, so errors are likely to occur as parties become accustomed to the new requirements.

While mistakes may occur, however, there is currently no monitoring or enforcement mechanism for many of the provisions of the State Rules Act, including the section on emergency rules. Soon after Chapter 137 became effective, on July 1 of this year, the Commission of Public Records (CPR) promulgated rules barring it from accepting either adopted rules or notices of rulemaking for publication in the New Mexico Administrative Code or the *Register* that do not adhere to the minimum required time periods and deadlines for notice and public participation, but there are no similar requirements for other rulemaking deficiencies. Without any requirement that an executive or regulatory body act, monitor, or enforce the new requirements of the State Rules Act, emergency rules may be issued and adopted that may procedurally violate statute.

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AN ACT

RELATING TO PUBLIC SCHOOL TRANSPORTATION; AMENDING THE PUBLIC SCHOOL CODE TO ALLOW CERTAIN SCHOOL DISTRICTS TO TRANSPORT CERTAIN STUDENTS BY ALTERNATIVE MEANS OF TRANSPORTATION; MAKING CONFORMING CHANGES TO THE DEFINITION OF "SCHOOL BUS" IN THE MOTOR VEHICLE CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 22-16-4 NMSA 1978 (being Laws 1967, Chapter 16, Section 222, as amended) is amended to read:

"22-16-4. SCHOOL BUS ROUTES--LIMITATIONS--EXCEPTIONS--MINIMUM REQUIREMENTS.--

A. Bus routes shall be established by the local school district.

B. Except as provided in Subsections C and E of this section, no school bus route shall be maintained for distances less than:

(1) one mile one way for students in grades kindergarten through six;

(2) one and one-half miles one way for students in grades seven through nine; and

(3) two miles one way for students in grades ten through twelve.

C. In school districts having hazardous walking conditions as determined by the local school board and

1 confirmed by the state transportation director, students of
2 any grade may be transported a lesser distance than that
3 provided in Subsection B of this section. General standards
4 for determining hazardous walking conditions shall be
5 established by the state transportation division of the
6 department with the approval of the department, but the
7 standards shall be flexibly and not rigidly applied by the
8 local school board and the state transportation director to
9 prevent accidents and help ensure student safety.

10 D. A school district with from one to six students
11 enrolled in the school district whose residence, within the
12 boundaries of the school district, is five or more miles from
13 the student's or students' school or schools shall be able to
14 provide transportation to and from school by means of a
15 school-district-owned, minimum six-passenger, full-size,
16 extended-length, sport utility vehicle driven by a school
17 district employee certified as an activity driver by the
18 district with both the vehicle and driver insured by the
19 public school insurance authority; provided that the local
20 superintendent is able to demonstrate a need. The department
21 shall adopt rules to provide for the safety of students
22 transported in a sport utility vehicle pursuant to this
23 section.

24 E. Exceptional children whose handicaps require
25 transportation and three- and four-year-old children who meet

1 the department-approved criteria and definition of
2 developmentally disabled may be transported a lesser distance
3 than that provided in Subsection B of this section."

4 SECTION 2. Section 66-1-4.16 NMSA 1978 (being Laws
5 1990, Chapter 120, Section 17, as amended) is amended to
6 read:

7 "66-1-4.16. DEFINITIONS.--As used in the Motor Vehicle
8 Code:

9 A. "safety glazing materials" means glazing
10 materials constructed, treated or combined with other
11 materials to reduce substantially, in comparison with
12 ordinary sheet glass or plate glass, the likelihood of injury
13 to persons by objects from exterior sources or by these
14 safety glazing materials when they are cracked and broken;

15 B. "safety zone" means the area or space that is
16 officially set apart within a highway for the exclusive use
17 of pedestrians and that is protected or is so marked or
18 indicated by adequate signs as to be plainly visible at all
19 times while set apart as a safety zone;

20 C. "salvage vehicle" means a vehicle:

21 (1) other than a nonrepairable vehicle, of a
22 type subject to registration that has been wrecked, destroyed
23 or damaged excluding, pursuant to rules issued by the
24 department, hail damage, to the extent that the owner,
25 leasing company, financial institution or the insurance

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1 company that insured or is responsible for repair of the
2 vehicle considers it uneconomical to repair the vehicle and
3 that is subsequently not repaired by or for the person who
4 owned the vehicle at the time of the event resulting in
5 damage; or

6 (2) that was determined to be uneconomical
7 to repair and for which a total loss payment is made by an
8 insurer, whether or not the vehicle is subsequently repaired,
9 if, prior to or upon making payment to the claimant, the
10 insurer obtained the agreement of the claimant to the amount
11 of the total loss settlement and informed the claimant that,
12 pursuant to rules of the department, the title must be
13 branded and submitted to the department for issuance of a
14 salvage certificate of title for the vehicle;

15 D. "school bus" means a commercial motor vehicle
16 used to transport preprimary, primary or secondary school
17 students from home to school, from school to home or to and
18 from school-sponsored events, but not including a vehicle:

19 (1) operated by a common carrier, subject to
20 and meeting all requirements of the public regulation
21 commission but not used exclusively for the transportation of
22 students;

23 (2) operated solely by a government-owned
24 transit authority, if the transit authority meets all safety
25 requirements of the public regulation commission but is not

1 used exclusively for the transportation of students;

2 (3) operated as a per capita feeder as
3 provided in Section 22-16-6 NMSA 1978; or

4 (4) that is a minimum six-passenger,
5 full-size, extended-length, sport utility vehicle operated by
6 a school district employee pursuant to Subsection D of
7 Section 22-16-4 NMSA 1978;

8 E. "seal" means the official seal of the taxation
9 and revenue department as designated by the secretary;

10 F. "secretary" means the secretary of taxation and
11 revenue, and, except for the purposes of Sections 66-2-3
12 and 66-2-12 NMSA 1978, also includes the deputy secretary and
13 any division director delegated by the secretary;

14 G. "semitrailer" means a vehicle without motive
15 power, other than a pole trailer, designed for carrying
16 persons or property and for being drawn by a motor vehicle
17 and so constructed that some significant part of its weight
18 and that of its load rests upon or is carried by another
19 vehicle;

20 H. "sidewalk" means a portion of street between
21 the curb lines, or the lateral lines of a roadway, and the
22 adjacent property lines, intended for the use of pedestrians;

23 I. "slow-moving vehicle" means a vehicle that is
24 ordinarily moved, operated or driven at a speed less than
25 twenty-five miles per hour;

1 J. "solid tire" means every tire of rubber or
2 other resilient material that does not depend upon compressed
3 air for the support of the load;

4 K. "special mobile equipment" means a vehicle not
5 designed or used primarily for the transportation of persons
6 or property and incidentally operated or moved over the
7 highways, including but not limited to farm tractors, road
8 construction or maintenance machinery, ditch-digging
9 apparatus, well-boring apparatus and concrete mixers;

10 L. "specially constructed vehicle" means a vehicle
11 of a type required to be registered under the Motor Vehicle
12 Code not originally constructed under a distinctive name,
13 make, model or type by a generally recognized manufacturer of
14 vehicles and not materially altered from its original
15 construction;

16 M. "state" means a state, territory or possession
17 of the United States, the District of Columbia or any state
18 of the Republic of Mexico or the Federal District of Mexico
19 or a province of the Dominion of Canada;

20 N. "state highway" means a public highway that has
21 been designated as a state highway by the legislature, the
22 state transportation commission or the secretary of
23 transportation;

24 O. "stop", when required, means complete cessation
25 from movement;

1 P. "stop, stopping or standing", when prohibited,
2 means any stopping or standing of a vehicle, whether occupied
3 or not, except when necessary to avoid conflict with other
4 traffic or in compliance with the directions of a police
5 officer or traffic-control sign or signal;

6 Q. "street" or "highway" means a way or place
7 generally open to the use of the public as a matter of right
8 for the purpose of vehicular travel, even though it may be
9 temporarily closed or restricted for the purpose of
10 construction, maintenance, repair or reconstruction;

11 R. "subsequent offender" means a person who was
12 previously a first offender and who again, under state law,
13 federal law or a municipal ordinance or a tribal law, has
14 been adjudicated guilty of the charge of driving a motor
15 vehicle while under the influence of intoxicating liquor or
16 any drug that rendered the person incapable of safely driving
17 a motor vehicle, regardless of whether the person's sentence
18 was suspended or deferred; and

19 S. "suspension" means that a person's driver's
20 license and privilege to drive a motor vehicle on the public
21 highways are temporarily withdrawn."

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NEW MEXICO PUBLIC EDUCATION DEPARTMENT
NOTICE OF EMERGENCY RULEMAKING

Public Notice. The New Mexico Public Education Department (PED) gives notice that on 9/29/2017 it adopted 6.41.4.14 NMAC, USING SPORT UTILITY VEHICLES (SUVS) FOR TO-AND-FROM TRANSPORTATION as an emergency rule adoption. The amendment to 6.41.4 NMAC is in response to new statute, Section 22-16-4 NMSA, School bus routes; limitations; exceptions; and minimum requirements. The amendment to 6.41.4 NMAC is implemented as an emergency rule. The Department finds that following the non-emergency rulemaking procedures in enacting regulation of SUVs for to-and-from transportation causes imminent peril to the public health, safety, and welfare, pursuant to Section 14-4-5.6 NMSA 1978, State Rules Act, Emergency rule.

Rule Information. The purpose of this rule is to establish standards for the safe use of SUVs for to-and-from transportation.

The statutory authorizations include the following:

Section 22-2-1 NMSA 1978 grants the authority of the secretary to adopt, promulgate, and enforce rules.

Section 22-2-2 NMSA 1978 grants the Public Education Department the authority to properly and uniformly enforce the provisions of the Public School Code.

Section 22-8-26 NMSA 1978 grants the authority to use money in the transportation distribution of the public school fund to make payments to each school or district or state-chartered charter school for the to-and-from transportation costs of students.

Section 22-10A-5 NMSA 1978 grants the authority to conduct background checks on district employees.

Section 22-16-2 NMSA 1978 grants the authority to establish standards and procedures for school bus transportation.

Section 22-16-4 NMSA 1978 grants the authority to transport students to and from school using an SUV.

No technical information served as a basis for this proposed rule change.

A public comment period and a public hearing, pursuant to Section 14-4-5.3 NMSA 1978, State Rules Act, Public Participation, Comments, and Rule Hearings, will be held in order to adopt a permanent rule within 180 days of the effective date of 6.41.4.14 NMAC, pursuant to Section 14-4-5.6 NMSA 1978, State Rules Act, Emergency rule.

Copies of the rule may be accessed through the New Mexico Public Education Department's website under the "Public Notices" link at <http://ped.state.nm.us/ped/PublicNotices.html>, or may be obtained from Jamie Gonzales by contacting her at (505) 827-7889 during regular business hours.

Individuals with disabilities who require the above information in an alternative format are asked to contact Jamie Gonzales at (505) 827-7889.

2017 SEP 29 PM 2: 29

This is an emergency amendment to 6.41.4 NMAC, adding new Section 14, effective 9/29/2017.

6.41.4.14 USING SPORT UTILITY VEHICLES (SUVS) FOR TO-AND-FROM TRANSPORTATION

A. General requirements: A school district electing to transport public school students in an SUV on a to-and-from route shall:

- (1) be limited to transport up to six students who are enrolled in the school district;
- (2) only transport students whose residence is within the boundaries of the school district;
- (3) only transport students who live five or more miles from the student's or students' school;

(4) require that the driver be a school district employee certified as an activity vehicle driver;

(5) not allow an employee to operate an SUV for to-and-from transportation if the person has:

(a) been convicted for driving a vehicle while under the influence of intoxicating liquor or drugs (DWI) within the previous three years;

(b) been convicted for DWI beyond three years unless a written verification from a licensed counselor or physician has been provided that the person has successfully completed an alcohol or drug abuse program;

(c) been convicted two or more times for DWI;

(d) had their driver's license suspended or revoked within the previous five years for any serious traffic offense;

(e) been convicted of more than three serious traffic offenses within the previous three years;

(f) been convicted of any felony within the previous 10 years;

(g) a conviction for any violation of Sections 30-31-1 to 30-31-28, 30-31-30 to 30-31-40 NMSA 1978, of the Controlled Substances Act;

(h) been convicted of child abuse pursuant to Section 30-6-1 NMSA 1978;

(i) been convicted of any other criminal offense in which a child was a victim as required by the offense;

(6) require that the driver meet all federal, state, and department qualifications and licensing requirements. Driver shall:

(a) allow the district to obtain the driver's driving record through the New Mexico motor vehicle division, or the national driver register or other states' motor vehicle divisions;

(b) satisfactorily complete a physical examination using the current department of transportation form:

(i) physical shall be renewed every 24 months from the date of the last examination or before as specified by a licensed medical professional;

(ii) additional physical examinations shall be required at any other time at the request of the local school district or the department's transportation bureau;

(iii) all physical examinations shall be conducted by a licensed medical professional;

(c) meet the requirements of the Controlled Substances and Alcohol Use and Testing in accordance with 49 CFR Part 382;

(7) require that the driver complete pre-service training as outlined in department guidance. The pre-service training shall be provided only by a school bus driver instructor that has activity vehicle certification or an activity vehicle instructor that has been certified by the department;

(8) not allow the driver to use alcoholic beverages, illegal substances, or legal substances prior to or during duty hours;

(9) be required to insure both the vehicle and driver through the public school insurance authority;

(10) require the driver to conduct a daily, thorough pre-trip operational check of the vehicle and equipment; the pre-trip shall be documented and shall cover at a minimum:

(a) wheels, tires, lug bolts, and nuts for serviceability;

(b) all exterior lights for serviceability and operation;

(c) all glass, mirrors, windshields (clean, unbroken and mirrors adjusted for the driver);

- (d) exhaust system for leaks and looseness of connections;
- (e) fluid leaks under and in the front (oil, water, power steering, transmission, brakes) and in the rear (brakes and differential);
- (f) engine compartment for serviceability (battery, belts, wiring, hoses, fan);
- (g) engine compartment for fluid levels (oil, engine coolant, power steering, brake, windshield washer, transmission);
- (h) fuel filler cap;
- (i) all gauges, seats, and interior lights;
- (j) horn and windshield wipers;
- (k) emergency equipment;
- (l) cleanliness of vehicle;
- (m) electronic locks;
- (n) heaters and defrosters;
- (11) not allow the driver to operate the vehicle if it does not meet the pre-trip inspection requirements;
- (12) establish written procedures for immediate substitute vehicles should a vehicle fail to meet pre-trip inspection requirements; the substitute vehicle shall meet all pre-trip requirements;
- (13) require the driver to report in writing on the appropriate form(s) signed by the driver all faulty or improperly functioning equipment to the school district administrator or their designee;
- (14) require the driver to ensure that no student remains in the vehicle at the conclusion of the route;
- (15) be required to have the vehicle inspected bi-annually by an authorized dealer. An inspection shall not occur within six months from the prior inspection. All inspections shall occur during the school year. Any defects found by the dealer shall be repaired prior to the vehicle being used to transport students. The vehicle shall be considered out of service until all defects are repaired by the dealer. The bi-annual inspections shall be submitted to the department's transportation bureau along with the documentation of all repaired defects;
- (16) require all passengers to enter and exit on the passenger side of the vehicle; and
- (17) require the driver transporting students on to-and-from routes to obtain eight hours of in-service training per semester.

B. Procedures and criteria to establish routes: The local superintendent shall demonstrate a need before providing to-and-from transportation in an SUV.

- (1) Those students receiving to-and-from transportation through the use of an SUV must be approved by the local board of education. The local school board must approve annually.
- (2) On forms provided by the department, the local superintendent of the district shall submit the following information to the secretary of education or designee and to the department's transportation director or designee for approval before using an SUV to transport students on a to-and-from route:
 - (a) a description of the need to transport students in an SUV;
 - (b) a list of students to be transported in an SUV;
 - (c) the location of the school and location of the students' residence as shown and highlighted on a U.S. geological survey map or the equivalent thereof; and
 - (d) the local school board president must sign the form submitted to the department.
- (3) A revised request must be submitted to the department for approval if there are any changes to the initial request.
- (4) Written notification shall be given to the department's transportation director or designee when the district is no longer providing transportation in an SUV to the student or students who had been previously approved.
- (5) Local school districts shall not count the students for transportation funding who receive transportation services through the use of an SUV.
- (6) Students in foster care may be transported as otherwise prescribed and required by law or department rule.

C. Construction standards: To provide for the safety of students, all SUVs used to transport students on to-and-from routes shall:

- (1) be district owned;
- (2) be a minimum six-passenger, full-size, extended-length, sports utility vehicle;
- (3) not accommodate more than nine people including the driver;
- (4) not include vans or mini-vans;

(5) meet applicable United States department of transportation federal motor vehicle safety standards;

(6) comply with all applicable state statutes and comply with child restraint recommendations from the national highway traffic safety administration;

(7) have operable seat belts which all occupants are required to wear while the vehicle is in motion;

(8) bear the words "SCHOOL VEHICLE" in black letters at least eight inches high on both sides and rear of the vehicle;

(9) bear the name of the school district in black letters at least eight inches high on both sides and rear of the vehicle;

(10) be marked with reflective material that is national school bus yellow and is at least one and three-fourths inches in width, placed horizontal and centerline of the vehicle extending the length of both sides and rear of the vehicle;

(11) be equipped with colored LED wig wag flashers on the front and back of the vehicle that shall be used during loading and unloading;

(12) be equipped with electronic locks and child safety locks on all doors; all locks shall be engaged when the vehicle is in motion;

(13) be equipped with a maximum speed limiter and shall be set at 75 miles per hour; and

(14) be equipped with a back-up camera.

D. Safety equipment: All SUVs used to transport students on to-and-from routes shall have:

(1) a first aid kit with contents pursuant to 6.40.2 NMAC, New Mexico School Bus Construction Standards;

(2) a seat belt cutter within the driver's reach while belted;

(3) operable seat belts available to all passengers;

(4) a two-way radio communication system;

(5) an operable recording video camera;

(6) the fire extinguisher mounted inside the vehicle;

(7) a minimum of three triangular warning reflectors, and the driver shall be knowledgeable as to their operation and proper placement. The reflectors shall be used in the event of prolonged stops on the roadway as follows:

(a) one at a distance of approximately 100 feet in front and one approximately 100 feet in back of the disabled vehicle in the center of the traffic lane occupied by the disabled vehicle;

(b) one at the traffic side of the disabled vehicle, not less than 10 feet from the front or rear;

(c) if the vehicle is disabled within 500 feet of a curve, crest of a hill, or other obstruction to view, the driver shall place the warning device in that direction to afford ample warning. The warning device must in no case be less than 100 feet or more than 500 feet from the disabled vehicle;

(8) a reflective safety vest that must be worn by the driver when exiting the vehicle; and

(9) a cargo net to secure all items not under students' control.

E. Route requirements: All to and from transportation shall adhere to route requirements.

(1) Loading and unloading shall occur, whenever possible, off of the roadway.

(2) Students shall not cross the roadway for loading or unloading purposes.

(3) The driver shall load and unload at established route stops only unless an emergency dictates otherwise.

(4) The student shall load or unload only at the student's designated route stop unless the driver has written approval from the school district administrator or designee.

(5) The driver shall ensure all doors are closed and locked before putting the vehicle in motion.

(6) The driver shall keep the vehicle clean, well ventilated, and properly heated when necessary.

(7) The driver shall obey all traffic laws, ordinances, and rules of the road.

(8) The driver shall report all hazards, whether potential or existing, on the route and all causes for failure to operate on schedule to the school district administrator or designee.

F. Loading and unloading on route: All to-and-from transportation shall adhere to loading and unloading requirements.

(1) The driver shall use mirrors to check traffic when approaching the stop.

- (2) The driver shall reduce the vehicle's speed.
- (3) The driver shall activate the wig wag lights not less than 100 feet nor more than 300 feet in urban areas and not less than 300 feet nor more than 1,000 feet in rural areas to warn motorists that the vehicle is about to stop.
- (4) On morning routes, a complete stop shall be made at all established route stops whether students are present or not, unless a parent or guardian or school district administrator has notified the driver that the student will be absent. The driver shall not wait for students unless they are observed making an effort to reach the route stop or unless otherwise specified in the student's IEP.
- (5) When loading students, the vehicle shall be brought to a complete stop, the transmission put in park and the emergency brake activated.
- (6) When unloading students, the vehicle shall be brought to a complete stop, the transmission put in park and the emergency brake activated.
- (7) When the driver leaves the driver's seat, the keys shall be removed from the ignition switch.
- (8) When all students have been completely and safely loaded or unloaded, the wig wag lights shall be turned off.
- (9) The driver shall check mirrors and make a thorough live sight inspection of all traffic before resuming travel.

G. Loading and unloading at schools: All to-and-from transportation shall adhere to requirements when loading and unloading at schools.

- (1) The driver shall load and unload public school students in the same location that loading and unloading of school buses occur. The vehicle shall be parked in place for loading prior to dismissal of school. If loading or unloading on the street, the vehicle shall be stopped parallel to the curb. Wig wag lights shall not be activated unless the vehicle is stopped on the traveled portion of the roadway.
- (2) The vehicle shall be brought to a complete stop, the transmission put in park, the emergency brake activated and keys removed from the ignition switch before loading or unloading students.
- (3) The driver shall not back up the vehicle on school grounds unless absolutely necessary.

H. Operating on interstate highways: All to-and-from transportation shall adhere to operating requirements on interstate highways.

- (1) SUVs shall not make any stop except in an emergency nor shall any pupil load or unload while the vehicle is on the interstate. All loading or unloading shall be done at points off the interstate.
- (2) The driver shall not drive the vehicle onto an opposite roadway or make any other similar maneuver except at interchanges and then only in a manner consistent with the proper procedures at any given interchange.

I. Railroad crossings: The driver shall use extreme caution when approaching and crossing highway-grade railroad crossings.

J. Driver files: Districts shall maintain driver files that include the following:

- (1) annual driver's license record check;
- (2) copy of current medical examiner's certificate from the physical;
- (3) copy of current and valid driver's license;
- (4) pre-service training record;
- (5) documentation of required in-service training;
- (6) proof that the driver is enrolled in a random drug and alcohol testing program.

[6.41.4.14 NMAC, A/E, 9/29/2017]