

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]