

This is an emergency amendment to 6.41.4 NMAC, Section 9, effective 8/4/2023.

**6.41.4.9 RESPONSIBILITIES OF THE LEA:**

**A. General requirements:**

- (1) The LEA shall designate a transportation administrator.
- (2) The LEA shall observe all federal and state laws, department regulations, and local board of education policies and procedures. The LEA shall follow the New Mexico guide for school vehicle maintenance and safety audit program.
- (3) Prior to providing services, the LEA shall ensure that each transportation service provider has a properly executed contract on a form approved by the department.
- (4) The LEA shall direct drivers, school bus assistants, and substitute school bus assistants on meeting all transportation requirements of students' IEPs.
- (5) The LEA shall, in accordance with applicable federal and state law and department regulation:
  - (a) verify qualifications which include fingerprint-based background checks and reference checks made and completed for the following positions:
    - (i) school bus driver;
    - (ii) substitute school bus driver;
    - (iii) activity school bus driver;
    - (iv) school-owned activity vehicle driver;
    - (v) SUV driver;
    - (vi) school bus assistant; and
    - (vii) substitute school bus assistant;
  - (b) ensure proper training is provided by a qualified trainer and documented on the applicable pre-service training record as provided by the department. The training shall be completed prior to the drivers, school bus assistants, and substitute school bus assistants performing assigned duties; and
  - (c) ensure ongoing training is provided and continuing requirements for drivers, school bus assistants, and substitute school bus assistants are met pursuant to 6.41.4.13 NMAC.
- (6) The LEA shall establish and provide to all drivers written procedures to be followed:
  - (a) for immediate replacement of a vehicle when a vehicle fails pre-trip inspection;
  - (b) during inclement weather; and
  - (c) during school bus evacuation drills.
- (7) The LEA shall provide to transportation service providers and drivers vital emergency information for all students with an IEP or special medical conditions. All vital emergency information shall be treated as a confidential record as provided by law.
- (8) The LEA, shall be available until all school bus drivers have completed their trips and all students have been properly delivered.
- (9) The LEA shall develop and implement a school transportation safety curriculum for students who ride school buses to and from planned LEA-sponsored activity trips.
- (10) The LEA shall review for safety each student walk zone for each school on an LEA approved cycle. The review cycle shall not exceed five years.
- (11) The LEA shall ensure that school bus evacuation drills are performed and documented once per semester.
- (12) All school buses, activity school buses, and school-owned activity vehicles shall be alcohol, drug, and tobacco free areas. The LEA shall ensure that, prior to or during work periods, all drivers, school bus assistants, and substitute school bus assistants shall not use alcoholic beverages, illegal substances, or legal substances which would impair the driver's or the assistant's ability to perform required duties.
- (13) The transportation administrator shall ensure compliance with 49 CFR Part 382 by maintaining documentation including proof of contract and pools of driver names. Drivers who possess a CDL shall constitute a pool of names and the school-owned activity vehicle drivers shall constitute a separate pool of names for random drug and alcohol testing.
- (14) The LEA shall arrange for and document in-service training that meets the department's required hours for applicable staff.

**B. Accidents:** In the event of a school bus accident or emergency, the LEA shall:

- (1) promptly notify the department by telephone if a school bus is involved in an accident that results in the death, serious injury or hospitalization of any occupant of the school bus or other motor vehicle or a pedestrian;
- (2) promptly notify the department if a school bus is involved in an accident in which possible mechanical failure may have been a contributing factor; and
- (3) submit the uniform school bus accident and adjudication report to the department within seven calendar days of any accident.

**C. Plan of action for emergencies:**

(1) The LEA or the transportation service provider shall provide to each driver a written plan of action in case of an emergency covering:

- (a) vehicle trouble requiring evacuation;
- (b) vehicle trouble not requiring evacuation;
- (c) passenger trouble requiring transportation personnel intervention;
- (d) passenger trouble requiring police intervention; and
- (e) passenger trouble requiring medical intervention.

(2) Student evacuation drills or adequate alternate instruction as provided in Paragraph (4) of Subsection C of 6.41.4.9 NMAC for to-and-from transportation services in a school bus shall:

- (a) be documented;
- (b) be conducted once per semester;
- (c) include all school bus drivers and substitute school bus drivers;
- (d) include all school bus assistants and substitute school bus assistants;
- (e) exempt students when they are limited in their capability to participate; and
- (f) include the following types of evacuation drills:
  - (i) occupants exit through the rear emergency door;
  - (ii) occupants exit through the front service door;
  - (iii) occupants in the front half of the school bus exit through the front service door and occupants in the back half of the school bus exit through the rear emergency door. If any emergency door is located mid-bus, it shall be considered the rear emergency door; and
  - (iv) occupants receive instructions on the proper use of roof hatches.

(3) Student evacuation drills or adequate alternate instruction as provided in Paragraph (4) of Subsection C of 6.41.4.9 NMAC for to-and-from transportation services in an SUV shall:

- (a) be documented;
- (b) be conducted once per semester;
- (c) include all SUV drivers and assistants;
- (d) exempt students when they are limited in their capability to participate; and
- (e) include the following types of evacuation drills:
  - (i) occupants exit through the nearest door;
  - (ii) occupants exit through driver-side doors only; and
  - (iii) occupants exit through passenger-side doors only.

(4) Adequate alternate instruction shall be verbal instruction on the location and operation of emergency exits and shall be presented by the driver to all vehicle occupants.

**D. School bus routes:** The LEA shall follow department regulations and procedures for the establishment and monitoring of school bus routes.

(1) Loading and unloading shall occur, whenever possible, off the roadway and so that students do not have to cross the roadway. When it is impossible for a school bus to completely pull off the roadway, the driver shall remain on the roadway and use procedures provided in Subsection D of 6.41.4.11 NMAC.

(2) LEAs shall establish written procedures regarding adherence to school bus route pick-up and delivery times by both drivers and students. This information shall be available to parents and guardians of the students.

(3) The LEA shall review each school bus route on a district- approved cycle for safety and economy. The review cycle shall not exceed five years.

(4) The LEA shall comply with local board of education policy regarding the number of days allowed to re-configure a school bus route when a student's IEP has been modified and requires an adjustment to the student's transportation.

(5) The LEA shall establish a policy for the minimum time required for the school bus driver to wait for a student with an IEP who is receiving transportation as a related service to arrive at the school bus stop to be picked up. The policy shall also include information regarding the unloading of that student when returning the student to their school bus stop when a parent or guardian is not present to receive the student.

**E. Loading and unloading students at schools:**

(1) All school bus loading and unloading zones shall be properly marked by use of signs and pavement markings.

(2) The school bus loading and unloading zones shall be adequately staffed with designated personnel to monitor the loading and unloading of students.

(3) When loading and unloading, school buses shall be parked in a single file as close as possible to avoid students and other people from going between the school buses.

(4) Whenever possible, loading and unloading shall be done on school premises and separated from general vehicular traffic areas and playground areas.

(5) If loading or unloading must occur on the roadway, the school bus shall be stopped on the side of the roadway nearest the school. Alternating red flasher lights shall be activated when the school bus is stopped on the roadway.

(6) When loading, school buses shall be parked prior to dismissal time, if possible. School buses shall be parked in the order in which they arrive at the school.

(7) When loading or unloading students, the school bus parking brake shall be activated, the transmission shall be in neutral or in park, if equipped, and the engine off. ~~[Should the driver be required to leave the driver's seat, the keys shall be removed from the ignition switch. Exceptions to removing the key from the ignition switch include:]~~

(8) For LEA's in counties where a heat advisory or excessive heat warning issued by the National Weather Service is in effect, the LEA may elect to review the circumstances and make their own determination as to whether a bus equipped with air conditioning shall remain on for the duration of the heat advisory or excessive heat warning when loading or unloading students. The LEA shall first consider alternatives that may be available taking into consideration best practices and implementing those other alternatives if practicable. The LEA may also reference any guidance or resource documents issued by the department involving best practices for maintaining student safety during heat advisories or excessive heat warnings.

(9) When loading and unloading students, if the driver is required to leave the driver's seat, the keys shall be removed from the ignition switch. Exceptions to removing the key from the ignition switch include:

(a) school buses built after July 1, 2003 that are equipped with an interlock for wheel chair lifts; and

(b) school buses equipped with a child check safety system. In buses equipped with this system, the service door shall be closed when the driver leaves the driver's seat.

~~(8)~~ (10) The LEA shall review each school bus loading and unloading area at each school for safety on an LEA-approved cycle. The review cycle shall not exceed five years.

**F. School bus stops:** LEAs shall establish all school bus stops and, when appropriate, include involvement from a student's IEP team. The local public safety organization having jurisdiction shall also be included whenever necessary. Services shall be designed that safely, efficiently, and economically transport students.

(1) The LEA shall review each school bus stop for safety on an LEA approved cycle. The review cycle shall not exceed five years.

(2) School bus stops shall not be established where the view is obstructed to motorists for 500 feet in either direction. If, because of natural conditions, a stop must be established with a view of less than 500 feet, the LEA shall contact the state highway department or other agency having jurisdiction and request the installation of highway signage.

(3) School bus stops shall not be established on any interstate highway. If necessary, school bus stops shall be established on service or frontage roads adjacent to the interstate highway.

(4) School bus stops shall, whenever possible, be established so that students do not have to cross the roadway.

(5) School bus stops shall not be made:

(a) within 25 feet of any intersection.

(b) at a railroad grade crossing where a stop-and-go traffic light controls movement of traffic;

(c) at an abandoned railroad grade crossing which is marked with a sign indicating that the railroad is abandoned;

(d) at an industrial or spur line railroad grade crossing marked with a sign reading "EXEMPT CROSSING"; or

(e) at a railroad grade crossing used exclusively for industrial switching purposes within a business district or a streetcar crossing.

**G. Identification of transportation needs for students with disabilities:**

(1) Transportation needs for students with an IEP who require transportation as a related service is determined by each student's IEP team and shall be included in the IEP.

(2) When modifications to standard transportation are necessary, transportation personnel shall be afforded the opportunity to participate in the development of the IEP. The IEP document shall clearly state the transportation needs or modification or both identified by the IEP team and, if applicable, transportation personnel. If circumstances require changes in services, any team member may request that the team reconvene to consider the student's transportation needs.

**H. Provisions for transportation of students with disabilities:**

(1) In providing transportation as a related service to a student with an IEP, the LEA shall ensure:

(a) all alternatives are considered if, due to serious health or safety considerations, an IEP team determines that a student with an IEP cannot be transported with neighborhood peers who are not disabled;

(b) time transporting a student with an IEP is comparable to that provided for non-disabled neighborhood peers, unless otherwise specified in the student's IEP;

(c) access to and from the designated pickup and drop-off point; and

(d) access to other educational and related services specified in the student's IEP.

(2) Confidentiality of IEP and student medical information shall apply when transportation as a related service is provided to a student with an IEP.

**I. Provisions of transportation for children and youth in foster care:**

(1) The LEA shall develop and implement clear written procedures governing how transportation to maintain children in foster care in their school of origin when in their best interest will be provided, arranged, and funded for the duration of the time in foster care. The procedures shall:

(a) ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with Section 475(4)(A) of the Social Security Act;

(b) ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their school of origin, the LEA will provide transportation to the school of origin if:

(i) the local child welfare agency agrees to reimburse the LEA for the cost of such transportation;

(ii) the LEA agrees to pay for the cost of such transportation; or

(iii) the LEA and the local child welfare agency agree to share the cost of such transportation; and

(c) include, in addition to state and local funds that may be available for transportation, certain federal funds, if allowable under the grants, may be available to cover additional transportation costs to maintain children in foster care in their schools of origin.

(2) LEAs shall provide transportation to maintain children in foster care in their school of origin even if it does not provide transportation for children that are not in foster care.

(3) LEAs shall provide or arrange for adequate and appropriate transportation of children in foster care to and from the school of origin while any disputes are being resolved.

**J. Provisions of transportation for homeless children and youth:**

(1) LEAs are responsible for reviewing and revising transportation policies that may act as barriers to the identification, enrollment, attendance or success in schools of homeless children and youth.

(2) McKinney-Vento Act requires homeless children and youth to receive transportation that is comparable to what is available to non-homeless students.

(3) LEAs shall adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian or in the case of the unaccompanied youth, the liaison, to and from the school of origin in accordance with the following requirements.

(a) If the child or youth continues to live in the area served by the LEA in which the school of origin is located, that LEA shall provide or arrange for the child's or youth's transportation to and from the school of origin.

(b) If the child or youth continues their education in the school of origin but begins living in an area served by another LEA, the LEA of origin and the LEA in which the homeless child or youth is living must agree upon a method to apportion the responsibility and costs for providing the child or youth with transportation to and from the school of origin. If the LEAs cannot agree upon a method, the responsibility and costs for transportation are to be shared equally, pursuant to 6.42.2 NMAC.

(4) LEAs may use McKinney-Vento subgrant funds or Title I funds to defray the excess costs of transporting homeless children and youth to and from their school of origin.

(5) LEAs are required to provide adequate and appropriate transportation for homeless children and youth to and from the school of origin while enrollment disputes are being resolved.

(6) LEAs shall continue to provide transportation to and from the school of origin to formerly homeless children and youth who have become permanently housed for the remainder of the academic year during which the child or youth becomes permanently housed.

**K. Dispute resolution regarding the transportation of children in foster care and homeless children and youth:**

(1) To the extent feasible and appropriate, LEAs must ensure children in foster care remain in their school of origin while disputes are being resolved to minimize disruptions and reduce the number of moves between schools.

(2) Homeless children and youth shall be provided adequate and appropriate transportation to and from the school of origin while disputes are being resolved.

(3) LEAs shall work with child welfare agencies, unaccompanied youth liaisons, and parents and guardians to resolve disputes at the lowest level possible.

(4) If disputes are unable to be resolved at the local level, applicable parties may access dispute resolution procedures available at the department including those pursuant to 6.10.3 NMAC.

**L. Student behavior:**

(1) When a student's behavior on a school bus or at a designated school bus stop endangers the safety of others, the student shall be suspended from being transported according to LEA policies and department regulations.

(2) If an incident or behavior occurs involving a student with an IEP, the driver shall report each incident or behavior to the transportation administrator within 24 hours of the incident. Provisions for removal and reinstatement of transportation services for students with disabilities shall be specified in the LEA's policies and in the student's IEP. Any change in transportation as a related service must be made through the IEP process, and the procedural safeguards specified in department regulations shall apply. The transportation administrator shall report each incident or behavior within 24 hours of receiving the driver's report to the LEA's special education director or appropriate administrator. The incident or behavior shall be addressed by the student's IEP team.

**M. Process for pre-employment screening of initial commercial driver's license (CDL) driver applicants:** The employer shall adhere to all applicable federal, state, and department employment requirements.

(1) The employer shall verify the following documentation is in each driver applicant's file:  
(a) a complete LEA-approved application form that meets or exceeds federal, state and department requirements;

(b) a copy of the driver applicant's current and valid driver's license, verified by the employer;

(c) a fingerprint-based background check. Effective January 1, 2006, a person applying for full or part-time employment with an LEA or transportation service provider to operate a vehicle for the purpose of transporting students shall, at the person's own expense, submit to a fingerprint-based background check pursuant to Section 22-10A-5 NMSA 1978;

(i) the finger-print based background check shall be conducted prior to employment;

(ii) the applicant shall not qualify if there is a conviction of any violation of the Controlled Substances Act;

(iii) the applicant shall not qualify if there is a conviction of child abuse pursuant to Section 30-6, NMSA 1978, Crimes Against Children and Dependents;

(iv) the applicant shall not qualify if there is a conviction of any other criminal offense in which a child was a victim as defined or prescribed by the offense;

(v) the employer shall maintain on file an agreement, authorization, and waiver and release form in addition to a criminal history affidavit on any newly-hired employee employed to operate a vehicle for the purpose of transporting students; and

(vi) the fingerprint-based background check requirement does not apply to any person who, as of January 1, 2006 was already engaged in full or part-time employment to operate a vehicle used to transport students, unless the employer's policies require it;

(d) a department of transportation (DOT) medical examiner's certificate indicating that a DOT physical examination was passed in accordance with DOT and federal motor carrier safety administration requirements. The DOT physical examination form that is current on the date of the examination must be used. The transportation administrator or the department may require a DOT physical examination be performed at any time, and the medical examiner's certificate shall be provided to all appropriate parties;

(e) a completed New Mexico school bus driver pre-service training record per the current SBDI manual provided by the department;

(i) an SBDI certified by the department shall conduct instruction using the current SBDI manual provided by the department;

(ii) all pre-service training shall be documented on the appropriate pre-service training record as per the SBDI manual provided by the department;

(iii) pre-service training shall be administered in a 65-71 passenger type C school bus. When the driver applicant is expected to operate more than one size and type of school bus, training shall be given on the specific handling characteristics of each size and type of school bus the driver applicant may be assigned to drive once all pre-service training has been completed;

(iv) all behind the wheel instruction shall be administered under the supervision of an SBDI and without student passengers or other persons on board except other school bus driver applicants;

(v) observation time shall include riding in a school bus with a licensed school bus driver driving on a school bus route or in observation of other school bus driver applicants driving under the supervision of an SBDI. Observation time shall also include actual school bus route orientation with a licensed school bus driver; and

(vi) if the school bus driver applicant has completed a department-approved first aid and cardiopulmonary resuscitation (CPR) course taught by a certified instructor and the certificate is current, the certificate shall be provided to the transportation administrator. This shall satisfy the requirement for first aid and CPR training on the school bus driver pre-service training record. On-line courses are not acceptable;

(f) a printout of the driver applicant's current driving record through the New Mexico motor vehicle division or the national driver register or other states' motor vehicle divisions. Verification includes the driver applicant's eligibility to be a driver. The driver applicant shall not be eligible if their driving record shows the driver applicant has:

(i) been convicted of driving while intoxicated (DWI) or driving under the influence (DUI) of intoxicating liquor or drugs within three years of the date of application for employment;

(ii) been convicted of a DWI or DUI between three years and 20 years prior to the date of application for employment unless the person provides written verification from a licensed counselor or physician that the person has successfully completed an alcohol or drug abuse program. On-line programs are not acceptable;

(iii) been convicted two or more times for DWI or DUI;

(iv) had their driver's license suspended or revoked within five years of the date of application for employment for any serious traffic offense;

(v) been convicted of more than three serious traffic offenses within three years of the date of application for employment; or

(vi) been convicted of any felony within the previous 10 years, or there exist other reasonable grounds related to the services of transporting students rendering the applicant ineligible;

(g) a copy of the CDL test results, if available.

(2) The employer shall make available to each driver applicant at the time of hiring a current copy of 6.41.4 NMAC and any applicable LEA handbooks.

**N. Process for pre-employment screening of returning CDL driver applicants:** The employer shall adhere to all applicable federal, state and department employment requirements.

(1) A returning CDL driver applicant shall:

(a) provide a completed New Mexico school bus driver pre-service training record provided by the department or certificates of training conducted by the department prior to 2000; and

(b) complete the training as outlined on the New Mexico returning school bus driver pre-service training record per the current SBDI manual provided by the department.

(2) A returning CDL driver applicant that cannot provide either a New Mexico school bus driver pre-service training record provided by the department or certificates of training conducted by the department prior to 2000 must complete the process for pre-employment screening of initial commercial driver's license (CDL) driver applicants pursuant to Subsection M of 6.41.4.9 NMAC.

(3) The employer shall verify that the following is completed and in each returning driver applicant's file:

(a) documentation pursuant to the requirements listed in Paragraph (1) of Subsection M of 6.41.4.9 NMAC; and

(b) a completed New Mexico returning school bus driver pre-service training record.

(4) The employer shall make available documents pursuant to Paragraph (2) of Subsection M of 6.41.4.9 NMAC.

**O. Process for pre-employment screening of school-owned activity vehicle driver applicants:** The LEA shall adhere to all federal, state and department employment requirements when employing a school-owned activity vehicle driver.

(1) The LEA shall verify the following documentation is in each driver applicant's file:

(a) a completed employment application form that meets or exceeds federal, state and department requirements unless the applicant is currently employed by the LEA;

(b) documentation pursuant to requirements listed in Subparagraphs (b), (c) and (f) of Paragraph (1) of Subsection M of 6.41.4.9 NMAC;

(c) a current medical examiner's certificate indicating that a physical examination was passed using the DOT physical examination form that is current as of the date of the examination. The transportation administrator or the department may require a physical examination be performed at any time. The medical examiner's certificate shall be provided to all appropriate parties;

(d) a completed New Mexico school-owned activity vehicle driver pre-service training record per the current SBDI manual provided by the department;

(i) training shall be provided by an SBDI with activity vehicle (AV) certification by the department or an activity vehicle instructor (AVI) certified by the department using the current SBDI manual provided by the department;

(ii) as part of the pre-service training, the driver applicant must complete a defensive driving course (DDC) that is nationally recognized and approved by the department. In lieu of AV-certified SBDI or AVI DDC training, a certificate of completion of a DDC course that is approved by the department may be accepted. The certificate of completion shall be dated within four years of the driver applicant's date of application; and

(iii) as part of the pre-service training, the driver applicant must complete a department-approved first aid and CPR course taught by a certified instructor. A certificate from the completed course shall be provided to the transportation administrator. If the driver applicant has a current certificate from a department-approved complete first aid and CPR course, this shall satisfy the requirement. On-line courses are not acceptable.

(2) The employer shall make available documents pursuant to Paragraph (2) of Subsection M of 6.41.4.9 NMAC.

**P. Process for pre-employment screening of school bus assistant and substitute school bus assistant applicants:** The employer shall adhere to all applicable federal, state, and department employment requirements.

(1) The employer shall maintain the following documentation in each school bus assistant and substitute school bus assistant's file:

(a) a completed employment application form that meets or exceeds federal, state and department requirements unless the applicant is currently employed by the LEA;

(b) a fingerprint-based background check pursuant to the requirements listed in Subparagraph (c) of Paragraph (1) of Subsection M of 6.41.4.9 NMAC;

(c) a physical examination record;

performing duties; and

- (i) the physical examination shall be completed before the assistant begins
- (ii) the transportation administrator or the department may require a new physical examination be performed at any time;
- (d) a completed New Mexico school bus assistant pre-service training record in accordance with the SBDI manual as provided by the department; and
- (e) a current first aid and CPR certificate. On-line first aid and CPR courses are not acceptable.

(2) The applicant shall not qualify if they have:

- (a) been convicted of any felony within the previous 10 years, or there exist other reasonable grounds related to the services of transporting students rendering the applicant ineligible;
- (b) a conviction for any violation of the Controlled Substances Act;
- (c) been convicted of child abuse pursuant to Section 30-6, NMSA 1978, Crimes Against Children and Dependents; or
- (d) been convicted of any other criminal offense in which a child was a victim as defined or prescribed by the offense.

(3) The employer shall make available documents pursuant to Paragraph (2) of Subsection M of 6.41.4.9 NMAC.

**Q. Continuing standards for drivers:** Any individual who currently drives a vehicle transporting students shall no longer be eligible to transport students:

- (1) for three years if they receive a conviction for DWI or DUI. They may requalify if a written verification from a licensed counselor or physician is provided that the person has successfully completed an alcohol or drug abuse program. On-line programs are not acceptable. They are permanently ineligible if they have two or more DWI or DUI convictions;
- (2) for five years if they receive a suspension or revocation of driver's license for any serious traffic offense;
- (3) for three years if they receive convictions for more than three serious traffic offenses; or
- (4) if they receive any convictions pursuant to Paragraph (2) of Subsection P of 6.41.4.9 NMAC.

**R. Background check requirements for drivers, school bus assistants, and substitute school bus assistants:** The background check requirements pursuant to 6.41.4.9 NMAC, shall not apply to anyone who, as of January 1, 2006 was already engaged in full or part time employment to operate a vehicle to transport students. LEAs may require additional background check information.

**S. Required documentation for files:** In addition to the required pre-employment screening documentation pursuant to 6.41.4.9 NMAC, the documentation below shall be maintained in the employee's file.

- (1) Employee files for school bus drivers, substitute school bus drivers and activity bus drivers shall include:
  - (a) a copy of current CDL;
  - (b) a current medical examiner's certificate for a DOT physical examination;
    - (i) a DOT physical examination shall be renewed every 24 months from the date of the last examination, or earlier as requested by a licensed medical professional;
    - (ii) the current DOT physical examination form must be used; and
    - (iii) additional DOT physical examinations may be requested by the employer or the department;
  - (c) a driving record printed annually then verified for eligibility. The driver's current driving record shall be obtained through the New Mexico motor vehicle division or the national driver register or other states' motor vehicle division. The driver shall no longer be eligible:
    - (i) for three years if they receive a conviction for DWI or DUI. They may requalify if a written verification from a licensed counselor or physician is provided that the person has successfully completed an alcohol or drug abuse program. On-line programs are not acceptable. They are permanently ineligible if they have two or more DWI or DUI convictions;
    - (ii) for five years if they receive a suspension or revocation of their driver's license for any serious traffic offense;
    - (iii) for three years if they receive convictions for more than three serious traffic offenses; or



(iv) for 10 years if they receive a conviction for any felony or there exist other reasonable grounds related to the services of transporting students rendering the applicant ineligible;

(d) documented in-service training as per the department's requirements;

(i) in-service training shall be pro-rated for newly-hired school bus drivers, substitute school bus drivers, and activity bus drivers for their first year of employment for the number of quarters employed. Quarters during the calendar year are as follows: January 1 to March 31; April 1 to June 30; July 1 to September 30; and October 1 to December 31;

(ii) to remain qualified, school bus drivers, substitute school bus drivers, and activity bus drivers shall complete a total of eight hours in-service training per semester. Semesters during the calendar year are as follows: January 1 to June 30 and July 1 to December 31;

(iii) in-service training shall be documented by the transportation administrator or designee with the date of training, hours trained, trainer's name, printed and signed name of attendees, and topic or topics discussed. Such documents shall be stored in files maintained by the employer,

(iv) drivers who do not complete the required hours of in-service training per semester are disqualified from duty until those hours of in-service training are completed. The department may determine the in-service training topics.

(2) Employee files for school-owned activity vehicle drivers shall include:

(a) a copy of current driver's license;

(b) a current medical examiner's certificate indicating that a physical examination in accordance with DOT and federal motor carrier safety administration requirements was passed;

(i) the DOT physical examination form that is current on the date of the examination must be used; and

(ii) additional physical examinations on the DOT form may be requested by the employer or the department;

(c) a driving record printed annually then verified for eligibility pursuant to the requirements listed in Subparagraph (c) of Paragraph (1) of Subsection S of 6.41.4.9 NMAC.

(3) Employee files for school bus assistants and substitute school bus assistants shall include:

(a) a copy of current first aid and CPR certificate; and

(b) documented in-service training pursuant to the requirements listed in Subparagraph (d) of Paragraph (1) of Subsection S of 6.41.4.9 NMAC.

**T. Planned LEA-sponsored activity trips:** When a planned LEA-sponsored activity trip involves more than 18 people, including the drivers, or would require more than two school-owned activity vehicles to transport students during the same time frame to the same destination, the LEA shall use an activity school bus. Passenger management, as described in Paragraph (7) of Subsection T of 6.41.4.9 NMAC, shall not be an additional responsibility of the driver of the activity bus or a school bus assistant on a planned LEA-sponsored activity trip.

(1) When an activity bus is used for a planned LEA-sponsored activity trip:

(a) the activity bus shall meet the requirements pursuant to 6.40.2 NMAC;

(b) the activity bus shall not carry more than the manufacturer-rated seating capacity;

(c) the employer shall not use a school bus assigned to a school bus route to provide transportation for any planned LEA-sponsored activity trips if doing so will interfere with its operation on its assigned school bus route;

(d) the employer shall not temporarily reassign any students from one school bus route to another school bus route in order to free-up a school bus for a planned LEA-sponsored activity trip; and

(e) on an activity bus that includes transporting equipment:

(i) items shall not occupy needed seating space;

(ii) items shall not be placed in the driver's compartment;

(iii) all items shall be properly secured; and

(iv) aisle and exits shall not be blocked.

(2) When a school-owned activity vehicle is used on a planned LEA-sponsored activity trip:

(a) the school-owned activity vehicle shall meet applicable federal motor vehicle safety standards (FMVSS);

(b) the driver operating a school-owned activity vehicle shall meet all requirements for school-owned activity vehicle drivers, pursuant to Subsection O of 6.41.4.9 NMAC;

(c) the school-owned activity vehicle shall not carry more than the manufacturer-rated seating capacity;

- (d)** the school-owned activity vehicle shall meet the following criteria:
  - (i)** the school-owned activity vehicle shall not be vans or mini-vans;
  - (ii)** the school-owned activity vehicle shall not seat less than six and no more than nine people including the driver;
  - (iii)** the school-owned activity vehicle shall have seat belts available for all occupants, and all occupants are required to wear them while the vehicle is in motion;
  - (iv)** the school-owned activity vehicle shall have available a cargo net or other adequate tie-down for securing items in the vehicle; excluding hitched trailers;
  - (v)** trailers shall not be hitched to school-owned activity vehicles while the vehicle is transporting students;
  - (vi)** the school-owned activity vehicle shall not exceed the manufacturer's gross vehicle weight rating (GVWR) as specified on the vehicle license and registration form; the GVWR includes the weight of the passengers and luggage; and
  - (vii)** the school-owned activity vehicle shall be in compliance with all applicable federal, state, and department regulations, and with child restraint guidelines from the national highway traffic safety administration (NHTSA);
- (e)** on a school-owned activity vehicle that includes transporting equipment shall transport equipment pursuant to the requirements listed in items (i), (ii), and (iii) of Subparagraph (e) of Paragraph (1) of Subsection T of 6.41.4.9 NMAC;
- (f)** the school-owned activity vehicle shall be replaced in accordance with the LEA's policy which defines the replacement cycle for school-owned activity vehicles.
- (3)** The following time limits shall apply to drivers of planned LEA-sponsored activity trips.
  - (a)** A driver shall not have more than eight hours continuous driving time and no more than 10 hours total driving time.
  - (b)** A driver shall not be permitted to be on-duty more than 15 hours in a 24-hour period.
  - (c)** A driver shall have eight consecutive off-duty hours before resuming on-duty time.
  - (d)** A driver is considered off-duty if relieved of all duties and responsibilities for the care and custody of the vehicle, its accessories, cargo, and passengers.
- (4)** An activity trip ticket that documents and authorizes the activity trip shall be prepared, signed by the LEA, and provided to the driver if the planned LEA-sponsored activity trip requires travel outside of the LEA's geographic boundary.
- (5)** LEAs are not required to have an activity trip ticket if a commercial common carrier is used to transport students on a planned LEA-sponsored activity trip. However, the LEA shall maintain a copy of the contract for the transportation services for the planned LEA-sponsored activity trip.
- (6)** Drivers shall be informed of and responsible for the following while driving on planned LEA-sponsored activity trips in addition to the applicable responsibilities of drivers pursuant to 6.41.4.11 NMAC:
  - (a)** compliance with all federal, state, department and employer policies and regulations;
  - (b)** care of and safe and efficient operation of the school bus or school-owned activity vehicle at all times;
  - (c)** performance and documentation of a thorough pre-trip inspection of the vehicle and special equipment prior to departure, unless completed and documented by other qualified personnel;
  - (d)** conducting an emergency evacuation drill or providing adequate alternate instruction to all passengers prior to departure. An LEA-approved document shall be provided to the driver for the driver and the sponsor to sign in evidence that such has been completed before beginning each planned LEA-sponsored activity trip;
  - (e)** ensuring the safety of all passengers while they are in the school bus or school-owned activity vehicle;
  - (f)** ensuring all passengers are properly seated with seat belts in use when the driver is operating a school-owned activity vehicle;
  - (g)** maintaining an activity trip ticket when one is required. The driver shall, upon request, show the signed activity trip ticket to any state police officer or other law enforcement officer, DOT officer, or staff member of the department;

- (h) notifying the transportation administrator or designee and obtaining their approval prior to incorporating a change if there are any changes in the route or itinerary;
  - (i) notifying the transportation administrator or designee of all emergencies that arise;
  - (j) maintaining and submitting to designated employer personnel all records pertinent to the planned LEA-sponsored activity trip including signed documentation that adequate emergency evacuation instruction was conveyed to all passengers;
  - (k) ensuring that prior to departure and the return journey, the school bus or school-owned activity vehicle is clean, completely serviced, and inspected, noting the condition of the vehicle in writing on the appropriate form and signing the form;
  - (l) ensuring the school bus or school-owned activity vehicle shall not be fueled while passengers are on board unless there are exceptional circumstances when it is impractical to unload;
  - (m) ensuring that no students remain on the school bus or school-owned activity vehicle unless the driver or a school sponsor is on board. At the conclusion of the planned LEA-sponsored activity trip, ensure that no one is on the school bus or school-owned activity vehicle; and
  - (n) ensuring that the sponsors are actively supervising students on the bus.
- (7) School sponsors shall be notified of the following responsibilities for each planned LEA-sponsored activity trip:
- (a) preparing and submitting activity trip requests in accordance with federal, state and department regulations as well as the LEA's policies;
  - (b) ensuring there are an adequate number of disciplinary staff;
  - (c) notifying the transportation administrator or designee of any schedule changes;
  - (d) assuring that student(s) are at the departure point(s) at the appointed time;
  - (e) supervising the loading and unloading of the vehicle;
  - (f) maintaining a student roster and taking roll each time students load onto the vehicle;
  - (g) assuring the orderly conduct and discipline of students on and off the vehicle;
  - (h) supervising and maintaining control of student passengers in case of an emergency;
  - (i) providing for adequate rest stops;
  - (j) making all arrangements on overnight planned LEA-sponsored activity trips for meals and lodging, including the driver's meals and lodging.
- (8) Planned LEA-sponsored activity trips shall be paid from budgeted LEA-sponsored activity funds and not from current fiscal year to-and-from transportation funds.
- (9) The LEA shall adopt a policy that addresses out-of-state transportation for planned LEA-sponsored activity trips. LEAs shall use the guidelines for school-owned activity vehicles provided in 6.41.4 NMAC whenever possible
- U. Training:**
- (1) Transportation administrators shall provide training for other LEA employees who are responsible for supervision of the school transportation program and school employed drivers.
  - (2) A minimum of two hours of in-service training is required annually. The contents of the training will be determined by the department.
- [6.41.4.9 NMAC - Rp, 6.41.4.9 NMAC, 3/27/2018; A/E, 8/4/2023]