

ARKANSAS REGISTER

Transmittal Sheet

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Secretary of State

Mark Martin

State Capitol, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-3527

www.sos.arkansas.gov



For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Commission for Arkansas Public School Academic Facilities and Transportation

Department Division of Arkansas Public School Academic Facilities and Transportation

Contact Mark White E-mail Mark.White@Arkansas.gov Phone 501-682-4227

Statutory Authority for Promulgating Rules Ark. Code Ann. §§ 6-19-101 et seq., 6-21-114, and 25-15-201 et seq.

Rule Title: Rules Governing Maint. and Operations of Pub. Sch. Buses and Phys. Exam. of School Bus Drivers

Intended Effective Date

(Check One)

Emergency (ACA 25-15-204)

30 Days After Filing (ACA 25-15-204)

Other _____
(Must be more than 30 days after filing date.)

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

04/19/2012

05/21/2012

11/05/2012

09/07/2012

Electronic Copy of Rule submitted under ACA 25-15-218 by:

Mark White

Mark.White@Arkansas.gov

11/21/2012

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 the Arkansas Administrative Procedures Act. (ACA 25-15-201 et. seq.)

Signature

501-682-4227

Mark.White@Arkansas.gov

Phone Number

E-mail Address

Staff Attorney

Title

11/21/2012

Date

**Commission For Arkansas Public School Academic Facilities
and Transportation Rules Governing Maintenance and Operations of Public School
Buses and Physical Examinations of School Bus Drivers
December 21, 2012**

1.0 Regulatory Authority

1.01 The Commission for Arkansas Public School Academic Facilities and Transportation enacts these Rules pursuant to its authority as set forth in Ark. Code Ann. §§ 6-19-101 et seq., 6-21-114, and 25-15-201 et seq.

2.0 Purpose of Regulations

2.01 The purpose of this Rule is to ensure the safe and efficient operation of public school buses in Arkansas and to prescribe the requirements for the physical examination of school bus drivers.

3.0 Definitions

3.01 Advanced practice nurse - An APN is a registered nurse who is licensed by the state as an advanced practice nurse. An APN has advanced education at least at the Masters level as well as a national certification from a certifying body recognized by the Arkansas State Board of Nursing (i.e., ANCC, NAPNAP).

3.02 Commission – The Commission for Arkansas Public School Academic Facilities and Transportation.

3.03 Division – The Division of Public School Academic Facilities and Transportation.

3.04 Licensed physician - A person licensed to practice medicine pursuant to state law.

3.05 Out of Service - A school bus which is out of compliance with the safety requirements of this Rule and the Arkansas School Bus Inspection Handbook.

3.06 School Bus Driver – Any person transporting students in any vehicle meeting the definition of a school bus that requires the person to hold a commercial drivers license. A school bus driver will be deemed qualified if they posses a valid commercial drivers license, a current certificate of completed in-service training, current physical examination and additional qualifications as required by the school district board of directors.

- 3.07 School bus – A motor vehicle designed to carry ten (10) or more passengers that is:
 - 3.07.1 Owned by a public or governmental agency or a private school and operated for the transportation of students to or from school or school-sponsored activities; or
 - 3.07.2 Privately owned and operated for compensation for the transportation of students to or from school or school-sponsored activities.
- 3.08 School District – Every reference to “school district” shall include any open-enrollment public charter school that operates a school bus, except as waived by the State Board of Education pursuant to Ark. Code Ann. § 6-23-301 et seq.

4.0 Written Policies

- 4.01 All public school districts shall establish written policies concerning transportation by school districts, including, but not limited to:
 - 4.01.1 Transportation eligibility;
 - 4.01.2 Student behavior while being transported; and
 - 4.01.3 Emergency procedures while being transported.
 - 4.01.4 All students who are transported in a school bus shall be instructed in safe riding practices and shall participate in emergency evacuation drills at least twice each school year. Each evacuation drill shall be documented and kept on file.

5.0 School Bus Drivers

- 5.01 Each school district shall establish a training program for school bus drivers. The training program must be developed and administered to assure that each driver attains a high degree of competence in and knowledge of his or her duties and responsibilities as a school bus driver.
- 5.02 Every newly hired school bus driver shall receive a minimum of twenty-four (24) hours of pre-service training for the type or types of school buses that he or she will be driving prior to driving any school bus.
- 5.03 Every school bus driver shall receive an additional three (3) hours of in-service training annually provided by the Division.

- 5.04 Each driver shall be issued a school bus driver certificate, valid for one (1) year, upon documentation that he/she has successfully completed his or her pre-service driver training. Certification shall be renewed upon completion of the annual three (3) hour in-service.
 - 5.05 A school district board of directors may provide a substitute driver to operate a school bus on a temporary basis without a certificate until the next regularly scheduled school bus drivers examination is held in the locality if (1) a qualified bus driver is not available to operate a school bus due to death, resignation, disability, illness or other cause and (2) the school district board of directors is not able to obtain a qualified bus driver with a certificate. The file of the substitute driver will be annotated to reflect the cause and facts of his/her temporary designation as a driver. Extra curricular trips shall be made by certified drivers only
 - 5.06 School bus driver files shall contain at a minimum:
 - 5.06.1 Copy of current Commercial Driver's License;
 - 5.06.2 Physical Examination;
 - 5.06.3 Proof of state and federal background check clearance;
 - 5.06.4 Semi-annual driver record check;
 - 5.06.5 Proof of negative tuberculosis skin test;
 - 5.06.6 Documentation of pre-employment and random drug and alcohol testing.
 - 5.07 If the Division gives a school district written notice of any deficiency in the files required by Section 5.06, and the school district fails to remedy the deficiency within thirty (30) days of receiving notice, any culpable officer or employee of the district may be subject to the sanction of Ark. Code Ann. § 6-19-111(d).
- 6.0 Physical Examinations for Bus Drivers
- 6.01 Physical examinations as required by law and rule for school bus drivers may be given by either a licensed physician or an advanced practice nurse only.
 - 6.02 Each school district shall require all school bus drivers to undergo a physical examination by a licensed physician or an advanced practice nurse upon a conditional offer of employment and before they are allowed to drive a school bus. The purpose of such physical examination is to

ensure that the employee can perform the job-related duties of a bus driver and to determine if any reasonable accommodations are required. The results of the physical examination shall be reported on a U.S. Department of Transportation Form (DOT) or the “School Bus Driver Physical Examination Form” (Form) promulgated by the Division as evidenced by Exhibit A to these rules and which is hereby incorporated by reference into these rules as if fully set forth herein. The results of all physical examinations shall be used in compliance with the Americans with Disabilities Act.

- 6.03 Each school district shall require all currently employed school bus drivers to undergo and pass a physical examination by a licensed physician or an advanced practice nurse at least every two (2) years.
- 6.04 A school bus driver who seeks a renewal of his or her driver certificate shall provide proof that he or she has satisfactorily;
 - 6.04.1 Passed a physical examination given by a licensed physician or advanced practice nurse within the previous two (2) years; and
 - 6.04.2 Completed in-service training for bus drivers as prescribed by the Division.
- 6.05 The physical examination described in §§ 6.02 and 6.03 of these rules, above, shall require the licensed physician performing the examination to make the following determinations:
 - 6.05.1 The visual acuity of each eye (must be at least 20/40 with or without corrective lenses);
 - 6.05.2 The fit of the driver’s glasses, if applicable;
 - 6.05.3 The percentage of field of vision possessed by the driver (with a minimum of 70% necessary to qualify as a “yes” response on the Form);
 - 6.05.4 Absence of color blindness, with the specific colors to be tested being red, green and amber;
 - 6.05.5 Hearing (with a demonstrated ability to perceive a forced whispered voice from at least five (5) feet away with or without the use of a hearing aid, or average hearing loss in the better ear of less than or equal to forty (40) decibels needed to successfully pass this portion of the physical examination;

- 6.05.6 Indications of cardiovascular disease of such a nature that would interfere with driving a school bus;
 - 6.05.7 Abnormalities of the lung that would interfere with driving a school bus;
 - 6.05.8 Blood pressure (within normal limits);
 - 6.05.9 Amputation of member (arm, hand, leg, or foot)
 - 6.05.10 Evidence of epilepsy or seizures;
 - 6.05.11 Use of drugs other than those prescribed by a physician; and
 - 6.05.12 Diabetes (insulin dependent).
- 6.06 Upon conclusion of the physical examination, the licensed physician or advanced practice nurse shall indicate on the Form, based upon the determinations made on the areas listed in § 6.03 above and the guidelines listed on the Form, whether the driver is physically qualified to drive a school bus. The examining official shall date and sign his or her name to the Form.
- 6.07 Results of physical examinations shall be maintained under strict confidentiality by each district's central administrative office. Only the following persons shall be allowed access to the results of these physical examinations: supervisors and managers to determine necessary restrictions and accommodations in an employee's job duties; first aid and safety personnel should an employee's disability require emergency treatment; and government officials upon request who are investigating compliance with the Americans with Disabilities Act.

7.0 Preventive Maintenance Inspections

- 7.01 The Preventive Maintenance Inspection (PMI) control system is designed to give shop management an improved method for scheduling and controlling the necessary cycles of maintenance inspection performed in local school districts.
- 7.02 Using the PMI control system will enable the school system to certify, at least once each month, that each school bus used during that month has received the proper safety inspection. Preventive maintenance inspections will be scheduled as follows:
- 7.02.1 Inspection A - Safety Equipment Inspection with Air Brake Adjustment 1,000 miles or monthly.

- 7.02.2 Inspection B - Inspection A plus Oil Change - Gasoline (3,000 miles) or Diesel (6,000 miles or service manual recommendation)
- 7.02.3 Inspection C - Inspection A plus B plus Tune-up (gasoline only) 12,000 miles.
- 7.02.4 Inspection D - Inspection A, B, and C plus Transmission 24,000 miles.
- 7.03 Completed inspection results shall be kept on file by the school district as long as the district owns the bus.
- 7.04 Repair Procedure. Each day, the bus driver will complete a Driver Inspection Report to be turned in to the director or designee at the end of each day so that a work order can be generated if necessary. All repairs will be performed and documented by the signature of the mechanic completing the repair. After repairs are completed, a copy of the work order will be furnished to the driver for verification and a copy will be filed in the individual vehicle file folder.
- 7.05 Each school district shall maintain a maintenance file on all school buses owned or operated.
 - 7.05.1 Maintenance files shall contain a written record of all mechanical work, service performed, and all parts (which are removed or replaced at periodic preventive maintenance intervals or for any emergency service). Maintenance shall meet or exceed manufacturer's recommended service interval for each body or chassis component and for all repairs.
 - 7.05.2 A maintenance record shall also contain at a minimum the year, make, model, vehicle identification number, mileage, bus number and district, nature and due date of the various inspection and maintenance operations to be performed, a record of all inspections, repairs and maintenance including date and nature.
- 7.06 The individual school bus files shall be readily accessible to the Arkansas Department of Education, the Division, and the authorized inspector.
- 8.0 Annual School Bus Inspections by the Division
 - 8.01 Division inspectors shall inspect all buses and audit school district transportation systems annually, in compliance with the criteria contained

in the “Arkansas School Bus Inspection Handbook” (Handbook), as evidenced by Exhibit B to these rules and which is hereby incorporated by reference into these rules as if fully set forth herein.

- 8.02 School districts shall self-inspect all of their buses on a semi-annual basis, utilizing the criteria found in the Handbook.
 - 8.03 Division inspectors shall have the authority to take any school bus out of service that is determined to be out of compliance with established safety criteria, and to issue an “Out of Service” notice.
 - 8.04 Each bus shall be issued an inspection sticker upon successfully passing inspection.
 - 8.05 No school district shall operate any school bus declared “Out of Service” until all repairs required by the out of service notice has been completed and the bus is re-inspected by a Division school bus inspector.
 - 8.06 If a school district operates any school bus in violation of Section 8.05, any culpable officer or employee of the district may be subject to the sanction of Ark. Code Ann. § 6-19-111(d).
- 9.0 Parental Monitors on School Buses
- 9.01 A school district board of directors may create and implement a program to authorize a parent of a child enrolled in the school district to act as a monitor in a school bus transporting students to and from school.
 - 9.01.1 A parental monitor under this section is a qualified volunteer under the Arkansas Volunteer Immunity Act, § 16-6-101 et seq.
 - 9.01.2 The board of directors of a local school district implementing a program under § 9.01 shall require, as a condition for initial employment or non-continuous reemployment as a parental monitor, any person making application to apply to the Identification Bureau of the Department of Arkansas State Police for statewide and nationwide criminal records checks, the latter to be conducted by the Federal Bureau of Investigation.
 - 9.02 Nothing in this § 9.0 shall be construed to override or supersede any local school district policy regarding the use of adult volunteers as monitors or chaperones on a school bus transporting students to and from school-sponsored activities.

Exhibit A

**Arkansas Division of Academic Facilities & Transportation
SCHOOL BUS DRIVER PHYSICAL EXAMINATION FORM**

NAME OF DRIVER _____

ADDRESS _____

PHYSICAL FITNESS:

1. EYES:

VISUAL ACUITY _____ RIGHT _____ LEFT _____

GLASSES PROPERLY FITTED: YES _____ NO _____

FIELD OF VISION: (Minimum of 70%) YES _____ NO _____

COLOR BLIND (RED-GREEN-AMBER) PASS _____ FAIL _____

2. HEARING:

PASS _____ FAIL _____

(Must perceive forced whispered voice \geq 5ft. with or without hearing aid, or average hearing loss in better ear \leq 40db.)

3. INDICATIONS OF CARDIOVASCULAR DISEASE THAT WOULD INTERFERE WITH DRIVING A SCHOOL BUS: YES _____ NO _____

4. ABNORMALITIES OF THE LUNGS THAT WOULD INTERFERE WITH DRIVING A SCHOOL BUS: YES _____ NO _____

5. BLOOD PRESSURE: (WITHIN NORMAL LIMITS) YES _____ NO _____

6. AMPUTATION OF MEMBER: ARM _____ HAND _____ LEG _____ FOOT _____

7. EVIDENCE OF EPILEPSY OR SEIZURES: YES _____ NO _____

8. CLINICAL DIAGNOSIS OF ALCOHOLISM: YES _____ NO _____

9. USE OF DRUGS OTHER THAN THOSE PRESCRIBED BY A PHYSICIAN: YES _____ NO _____

10. DIABETIES (INSULIN DEPENDENT): YES _____ NO _____

11. ELIGIBILITY TO DRIVE A BUS: QUALIFIED _____

DISQUALIFIED _____

SIGNED: LICENSED PHYSICIAN/
ADVANCED PRACTICE NURSE

DATE

Exhibit A

The following is intended to provide guidelines that will assist the physician in determining whether the driver is physically qualified to drive a school bus.

1. Eyes –
 - Visual Acuity – must be at least 20/40 with or without corrective lenses.
 - Glasses – must be properly fitted.
 - Field of Vision – if answer is no, then not qualified to drive a school bus.
 - Color Blind – if answer is fail, then not qualified to drive a school bus.
2. Hearing – if answer is fail, then not qualified to drive a school bus.
3. Cardiovascular Disease – if answer is yes, then not qualified to drive a school bus.
4. Lung Abnormalities – if answer is yes, then not qualified to drive a school bus.
5. Blood Pressure – must be within normal limits.
6. Amputation – if answer is yes to any, the examining official may approve the examinee if the amputation does not effect their ability to drive a school bus.
7. Epilepsy/Seizures – if answer is yes, then not qualified to drive a school bus.
8. Alcoholism – if answer is yes, then not qualified to drive a school bus.
9. Drug Use – if answer is yes, then not qualified to drive a school bus.
10. Diabetes – if insulin dependent, then not qualified to drive a school bus.

(Exception: If physician has controlled diabetes for a minimum of six (6) months with the use of insulin, the driver may be approved to drive.)

Exhibit B

INTRODUCTION

This school bus inspection handbook is a guide for local systems to use when inspecting their buses semi-annually. The guidelines are minimal conditions for the safe operation of school buses. If the buses do not meet these conditions then the vehicle is considered unsafe and will not be operated.

The yearly inspection conducted by the AR Division of Academic Facilities and Transportation uses these same guidelines to determine the condition of each bus. You are encouraged to make copies of the SDOE Inspection Form and use it for your semi-annual inspection form.

Special attention at the local level should be placed on:

1. Preventive maintenance program
2. Bus driver daily inspections
3. Documentation of gas, oil, daily and monthly inspections, etc.
4. Communication between parents, students, bus driver, transportation supervisors, principals, superintendents and local board members on local board policies concerning transportation.

There may be other circumstances which may arise to cause a bus to be taken off the road until repaired.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Commission for Arkansas Public School Academic Facilities and Transportation

DIVISION Division of Public School Academic Facilities and Transportation

PERSON COMPLETING THIS STATEMENT Mark White

TELEPHONE NO. (501) 682-4227 **FAX NO.** (501) 682-4249 **EMAIL:** Mark.White@Arkansas.gov

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE: Rules Governing Maintenance and Operation of Public School Buses and Physical Examinations of School Bus Drivers

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes _____ No X

2. Does this proposed, amended, or repealed rule affect small businesses?
Yes _____ No X

If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain. **N/A**

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program. **N/A**

Current Fiscal Year

Next Fiscal Year

General Revenue _____

General Revenue _____

Federal Funds _____

Federal Funds _____

Cash Funds _____

Cash Funds _____

Special Revenue _____

Special Revenue _____

Other (Identify) _____

Other (Identify) _____

Total _____

Total _____

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ **-0-**

\$ **-0-**

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

Current Fiscal Year

Next Fiscal Year

\$ **-0-**

\$ **-0-**

DEPARTMENT OF EDUCATION
FISCAL IMPACT STATEMENT OF PROPOSED REGULATION
(In compliance with Ark. Code Ann. §§ 10-3-309 and 25-15-204)

Regulation Title: **Rules Governing Maintenance and Operation of Public School Buses and Physical Examinations of School Bus Drivers**

Summary Description of Regulatory Proposal: **To establish maintenance and operations requirements for public school buses as mandated by statute**

Cite Statutory Authority for this Regulatory Proposal: **Ark. Code Ann. §§ 6-19-101 et seq., 6-21-114, & 25-15-201 et seq.**

- I. Fiscal Impact on the Department: (include whether impacts are non-recurring or recurring)
 - A. Resources Required - Personnel, equipment, office space. **None additional.**
 - B. Time Required for Implementation. **None additional.**
 - C. Procedural Changes. **None additional.**
 - D. Other. **None additional.**

- II. Fiscal Impact on Local School District or Others? (Include whether impacts are non-recurring or recurring)
 - A. Resources Required - Personnel, equipment, office space. **None additional.**
 - B. Time Required for Implementation. **None additional.**
 - C. Procedural Changes. **None additional.**
 - D. Other. **None additional.**

- III. Additional Comments.

Prepared by: Mark White
Staff Attorney
September 30, 2011