



Date: January 2017

From: Jennifer Okes, School Finance Executive Director
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Re: Clarifications of laws and regulations

In our continued efforts to provide districts with clear guidance and direction regarding transportation of students in the State of Colorado, we would like to bring to your attention the following clarifications of laws, rules and regulations in response to recent inquiries from the field.

Question 1: Statute (Section 42-1-102, C.R.S.) and rule (1 CCR 301-25-5.04 and 1 CCR 301-26-2.02) include references to “informal or intermittent arrangements”. If a coach uses his personal vehicle to take students to an athletic event, is this an informal or intermittent arrangement? In other words, is the coach and his vehicle exempt from school transportation regulations? For example, is the coach exempt from regulations, including driver qualifications as a small vehicle operator and small vehicle requirements for an annual inspection?

Response: No. This scenario does not appear to qualify as an informal or intermittent arrangement. The language “informal or intermittent arrangements” implies the arrangement is made outside of the district, such as two families making an arrangement to share gas expenses or car pool. Given the coach is a representative of the district, this scenario would appear to be authorized by the district. Therefore, the coach and his vehicle must comply with school transportation regulations.

There could be an argument that this was an informal or intermittent arrangement if this scenario was a unique occurrence, the coach is not compensated and the district/local board is unaware or has not approved the transportation. However, given the potential perception that the transportation was authorized by the district, it still may be advisable to ensure that the coach and his vehicle comply with the regulations.

Question 2: If a private individual purchases an activity vehicle for the baseball team at a school and the district will not own these vehicles, are the driver of this vehicle and the vehicle subject to our rules?

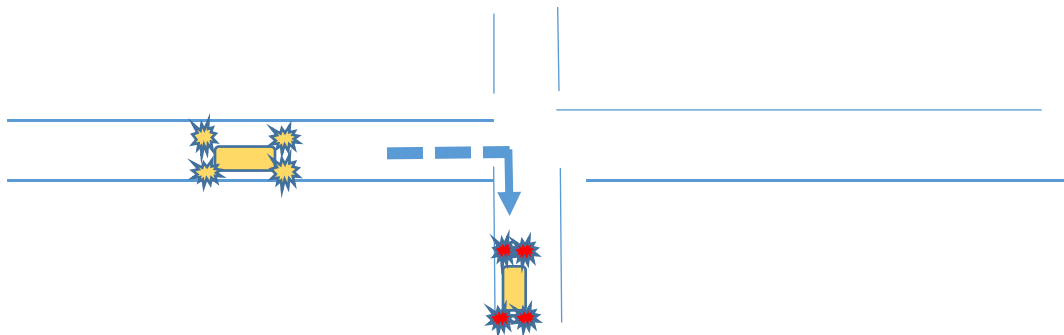
Response: Yes. School transportation regulations apply to vehicles that are privately owned and operated if the transportation service is sponsored and approved by the local board. It would appear to parents of the baseball team that the transportation is provided for or arranged by the district. Therefore, the parents have a reasonable expectation that the transportation is handled like all other district transportation. Therefore, the drivers of this vehicle and this vehicle must comply with school transportation regulations.

There could be an argument that this is more of a carpool if the district/local board was in no way involved in the arrangement and is unaware or has not approved the transportation. However, even in this situation, given the potential perception that the transportation was authorized by the district, it still may be advisable to ensure that the coach and his vehicle comply with the regulations.

Question 3: Do the requirements of Section 42-4-1901, C.R.S. apply to both school buses and multifunction buses?

Response: Yes. The statutory definition applies to motor vehicles that are designed and used specifically for the transportation of school children to and from school and motor vehicles that are designed and used specifically for the transportation of school children to and from school-related activities. Therefore, the requirements of Section 42-4-1901, C.R.S., related to the use of supplementary brake retarders on mountainous terrain, apply to both school buses and multifunction buses, as defined by 1 CCR 301-25.

Question 4: Is a bus driver in compliance with the 200 feet requirement in Section 42-4-1903, C.R.S. if the alternating flashing yellow lights were actuated for at least 200 feet, but the lights are actuated on roadway #1, then the bus turns onto roadway #2 and activates the red alternating lights and performs the student pick-up? (See diagram below.)



Response: No. In this case, the bus would not have had the lights actuated on the same roadway of the bus stop for the full 200 feet, therefore, traffic on this roadway would not have ample warning of the stop which may contribute to an accident. The intent of the law is to provide warning for other cars and traffic. Thus, the lights must be actuated for at least 200 feet on the same roadway prior to the bus stop.

Question 5: Do private independent schools fall under the jurisdiction of CDE School Transportation Unit and associated SBE Rules?

Response: No. Pursuant to state law (Section 42-1-102, C.R.S.) school buses at both public and private schools need to follow the Uniform Motor Vehicle Law (Articles 1 to 4 of Title 42). The Department of

Revenue Division of Motor Vehicles has promulgated rules (1 CCR 204-30: Driver's License – Driver Control) that requires and Commercial Driver's License (CDL) with an "S" endorsement to operate a school bus as defined in Section 42-1-102(88), C.R.S. The Colorado Commercial Driver License Manual outlines the requirements for a CDL.

In addition to these requirements, the State Board of Education has promulgated rules (1 CCR 301-25: the Colorado Minimum Standards Governing School Transportation Vehicles and 1 CCR 301-26: the Colorado Rules for the Operation, Maintenance and Inspection of School Transportation Vehicles) for all public school transportation vehicles. Private schools may use these rules as guidance or reference for development of policies and procedures for their transportation operations.

Question 6: When do the regulations issued by the State Board of Education (1 CCR 301-25 and 1 CCR 301-26) apply to school transportation and when do the regulations issued by the Federal Motor Carrier Safety Administration (FMCSA) apply?

Response: If transportation is conducted by a school district or charter school, the transportation is subject to the State Board of Education regulations. Additionally, the transportation is also subject to the FMCSA safety regulations that prohibit drivers from texting and using a hand-held mobile telephone while driving, except when necessary to communicate with law enforcement officials or other emergency services and regulations for CDL drivers when applicable based upon the vehicle (in other words, not for small vehicles). This is true for route transportation (home to school, school to school, school to home) and for activity trips (school related events). Further, this is true for transportation within the state or interstate transportation.

If the transportation is conducted by a company hired by a district or charter school, the regulatory authority is dependent upon the type of transportation provided by the company:

- Buses¹:
 - Route transportation (home to school, school to school, school to home) by a company is subject to the State Board of Education regulations. Additionally, the transportation is also subject to the FMCSA safety regulations that prohibit drivers from texting and using a hand-held mobile telephone while driving, except when necessary to communicate with law enforcement officials or other emergency services and regulations for CDL drivers when applicable based upon the vehicle. This is true for transportation within the state or interstate transportation.
 - Activity trips (school related events) performed by a company is subject to the regulations of the Federal Motor Carrier Safety Administration. This is true for transportation within the state or interstate transportation.
- Taxi Cab/Uber/Lyft Services:
 - Taxi cab, Uber, and Lyft services are not subject to the State Board of Education regulations. 1 CCR 301-26-2.01 states that these rules apply to the operation, maintenance and inspection of school transportation vehicles as defined in 1 CCR 301-25-5.00. Rule 1 CCR 301-25-5.04(b) exempts vehicles under the jurisdiction of the Public Utilities Commission. Taxi cab, Uber, and Lyft services are under the jurisdiction of the Public Utilities Commission. School districts may

¹ For this purpose, a bus is defined as a vehicle designed to carry more than 10 passengers in addition to the driver.

choose to require compliance with these rules through district policies in the event that Taxi cab, Uber, and Lyft services are utilized by the district.

Question 7: When is it necessary to have a local board of education resolution pursuant to 1 CCR 301-25-R-4.01(a) related to the use of over-the-road motor coach buses?

Response: A local board of education resolution is required when a district purchases a used over-the-road motor coach bus.

Additionally, a local board of education resolution is required when a district attains a short-term rental of a motor coach bus from a contract carrier for the transportation of students to school related events. The phrase “attain a short-term rental of a motor coach bus from a contract carrier for the transportation of students to school related events” is intended to cover short-term rentals or leases for an athletic event or activity trip (e.g., taking the football team to the state tournament or taking the 4th graders to the zoo).

A local board of education resolution is not necessary for transporting students on common carriers. The sentence “A board resolution is not necessary for transporting students on common carriers” is intended to address the purchase of tickets for students (e.g. RTD tickets/passes, or purchasing “Greyhound” tickets for the band to play at the Macy’s Thanksgiving Parade).

In other words, if individual tickets are purchased on an established trip/route, this would be a common carrier arrangement and no resolution is needed. If an agreement or contract to transport just district personnel and students on an itinerary dictated by the agreement/contract (pick-up and drop off locations and times), this would be a contract carrier arrangement and a resolution would be needed.

Question 7: What vehicle standards apply to over-the-road motor coach buses which are purchased by a school district?

Response: Consistent with other school transportation vehicles, the minimum standards that a motor coach bus must comply with is based on the year of manufacture of the bus that is purchased. Therefore, there are four sets of minimum standard rules on the School Transportation Unit website (<http://www.cde.state.co.us/transportation/transregulations.htm>), each of which are still applicable depending on when buses operating within districts were manufactured.

A primary requirement are that the used motor coach must meet and continue to meet all applicable FMVSS in effect on the date of manufacture, pursuant to the date listed on the certification plate. Additionally, the motor coach bus must have been manufactured, pursuant to the date listed on the certification plate, within the previous 20 years. Additionally, the motor coach bus must be equipped with a fire extinguisher, first aid kit, 3 emergency reflectors, and webbing cutter. Additionally, the manufacturer’s original rated capacity of the vehicle must be printed to the left of the entrance door, only signs and lettering specifically permitted by state law or regulation can be on the outside of the bus, the exterior of the Battery compartment must be labeled, and the identification of fuel type must be located outside and adjacent to the fuel filler opening.

In addition to the minimum standards which outline the vehicle requirements, the Annual Inspection Rules requires recently purchased school transportation vehicles must have an annual inspection before they are placed in service. (1 CCR 301-26-3.01) This annual inspection must be completed by a qualified Annual Inspector at a certified inspection site. The requirements for both the inspector and the site are listed in more detail in these rules.