

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 42 TRANSPORTATION - SCHOOL ATTENDANCE AND SERVICE AREAS
PART 2 TEMPORARY BOUNDARY AGREEMENTS

6.42.2.1 ISSUING AGENCY: Public Education Department
[12-31-98, 07-30-99; 6.42.2.1 NMAC - Rn, 6 NMAC 9.3.1.1, 05-31-01; A, 11-13-09]

6.42.2.2 SCOPE: Provisions of this rule apply to public school districts where temporary transportation boundaries are established to transport students from an adjoining districts within a specified geographic area where it is impractical to transport such students to school within the district where they live.
[12-31-98; 6.42.2.2 NMAC - Rn, 6 NMAC 9.3.1.2, 05-31-01; A, 11-13-09]

6.42.2.3 STATUTORY AUTHORITY: This rule is adopted by the public education department pursuant to Section 22-2-1, 22-2-2, 22-16-2 and Section 22-8-26, NMSA, 1978, which stipulates that money in the transportation distribution of the public school fund shall be used only for the purpose of making payments to each school district for the to-and-from transportation of eligible students. Eligible students are those who live within the legal boundaries of the school district, who meet the statutory requirements for eligibility, and who utilize the transportation services on a regular basis. Only eligible students shall be counted for purposes of funding.
[12-31-98; 6.42.2.3 NMAC - Rn, 6 NMAC 9.3.1.3, 05-31-01; A, 11-13-09]

6.42.2.4 DURATION: Permanent.
[12-31-98; 6.42.2.4 NMAC - Rn, 6 NMAC 9.3.1.4, 05-31-01]

6.42.2.5 EFFECTIVE DATE: December 31, 1998, unless a later date is cited at the end of a section.
[12-31-98; 6.42.2.5 NMAC - Rn, 6 NMAC 9.3.1.5, 05-31-01]

6.42.2.6 OBJECTIVE: To establish requirements related to the provision of transportation services to students who attend school in a district other than the district in which they live and to establish procedures pertaining to the resolution of transportation issues in areas where local school districts are engaged in school district boundary disputes.
[12-31-98; 6.42.2.6 NMAC - Rn, 6 NMAC 9.3.1.6, 05-31-01]

6.42.2.7 DEFINITIONS: [Reserved]

6.42.2.8 TRANSPORTATION BOUNDARY AGREEMENTS

A. Districts are authorized to enter into transportation boundary agreements with an adjoining district or adjoining districts regarding students living within a specified geographic area where geographical conditions would otherwise make it impractical to transport such students to school within the district where they live.

B. A transportation boundary agreement must be approved by both local boards of education prior to a district crossing boundary lines to transport students.

C. A transportation boundary agreement shall not duplicate transportation services that are not required to effectuate the provision of this rule. If duplicate transportation services are so required, specific justification shall be provided within the agreement that the requirements of efficiency and economy are met.

D. Transportation boundary agreements are not authorized to provide services to students who attend school out-of-district as a matter of choice.

[12-31-98; 6.42.2.8 NMAC - Rn, 6 NMAC 9.3.1.8, 05-31-01; A, 11-13-09]

6.42.2.9 PROCEDURES AND CRITERIA FOR TEMPORARY TRANSPORTATION BOUNDARY AGREEMENTS

A. A transportation boundary agreement must be approved by the local board of education representing the district in which the student(s) lives and the proposed attendance district.

B. The agreement shall include a legal description of the adjoining area outside the district's boundaries that transportation services will be provided under the terms of the agreement.

C. The temporary transportation boundary line(s) and the existing school district boundary line(s) must be shown and highlighted on U.S. geological survey maps (or their equivalent) which are attached to the agreement.

- D. Both local boards of education must agree to the conditions, which are specified in the agreement.
 - E. The duration of the agreement is determined by both local boards of education based on the length of time that it is needed.
 - F. Both local school board presidents must sign the initial agreement and submit the original agreement to the state transportation director for approval.
 - G. Upon review and findings that the conditions of this rule and other applicable regulations and state and federal laws have been complied with, the state transportation director and the secretary of public education will approve the agreement.
 - H. The local boards of education must review the agreement annually. Any revisions in the terms of the agreement require approval by both local boards. The revised agreement must be submitted to the public education department for approval prior to the initiation of service. If no changes occur, the existing agreement may be continued.
 - I. The extended area of transportation service added to a district boundary through the agreement shall be counted in the square miles per student for purposes of funding.
 - J. Students who receive transportation services within the area approved through the agreement shall be counted for transportation funding by the district in which they attend school.
 - K. One or both districts can accomplish termination of the agreement. The public education department must be notified by both school districts when the agreement is terminated.
- [12-31-98; 6.42.2.9 NMAC - Rn, 6 NMAC 9.3.1.9, 05-31-01; A, 11-13-09]

6.42.2.10 NON-REIMBURSABLE TRANSPORTATION SERVICES

- A. Students who attend an out-of-district school as a matter of choice are not eligible to be counted for the transportation distribution of the public school fund. Such students shall be counted on the fortieth day as non-eligible riders.
 - B. Districts shall establish local policies governing the transportation of non-eligible students who live outside the district boundaries. Any such policies shall be in accordance with applicable state and federal law and regulations.
 - C. Districts who, by local policy, elect to provide transportation services to ineligible students who live outside the district's boundaries, shall do so at no additional cost to the school transportation fund. Such students may board the bus at the last legal stop on an approved route if space is available. Additional services or equipment shall not be added to accommodate non-eligible students. Non-eligible students will not generate funding through the transportation formula.
- [12-31-98; 6.42.2.10 NMAC - Rn, 6 NMAC 9.3.1.10, 05-31-01]

6.42.2.11 TRANSPORTATION OF STUDENTS RESIDING ON RESERVATIONS

- A. District administrators shall communicate with tribal leaders relative to transportation services.
 - B. Before the local boards of education enter into a transportation boundary agreement involving Native American students, district administrators shall consult with tribal representatives and shall review concerns or issues raised by representatives of the tribe when negotiating the terms of the agreement.
- [12-31-98; 6.42.2.11 NMAC - Rn, 6 NMAC 9.3.1.11, 05-31-01]

6.42.2.12 RESOLUTION PROCESS

- A. When boundary disputes arise between local boards, which cannot be resolved, a resolution process is available through the public education department.
- B. Local boards may request that public education department conduct a study of the issues relating to the boundary dispute and provide written recommendations for resolving the disputes.
- C. A local board may file a written complaint with the public education department after all efforts to negotiate a resolution to the boundary dispute have failed.
- D. The public education department, following a complete review of the issues related to a transportation boundary complaint, shall render an opinion in writing to the local boards of education. The opinion shall specify whether conditions exist which require a transportation boundary agreement based on the criteria set forth in this rule.
- E. If local boards of education are unwilling or unable to negotiate a transportation boundary agreement consistent with the opinion of the public education department, the public education department shall develop a temporary transportation boundary amendment. The local boards of education shall comply with the requirements set forth in the temporary transportation boundary amendment. The temporary transportation boundary

amendment shall be reviewed annually by the public education department. The temporary transportation boundary amendment shall be rescinded when the public education department determines that the conditions requiring the amendment no longer exist.

F. The decision of public education department shall be final.
[12-31-98; 6.42.2.12 NMAC - Rn, 6 NMAC 9.3.1.12, 05-31-01; A, 11-13-09]

HISTORY OF 6.42.2 NMAC:

PRE-NMAC HISTORY: The material in this regulation was derived from that previously filed with the State Records Center and Archives under State Board of Education Regulation 95-9, Temporary Transportation Boundary Agreements, filed September 18, 1995.