

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 41 TRANSPORTATION - SCHOOL BUS SAFETY
PART 3 STANDARDS FOR DETERMINING HAZARDOUS WALKING CONDITIONS

6.41.3.1 ISSUING AGENCY: Public Education Department
[12-31-98, 07-30-99; 6.41.3.1 NMAC - Rn, 6 NMAC 9.5.2.1, 05-31-01; A, 11-13-09]

6.41.3.2 SCOPE: Provisions of this rule apply to public school districts to provide general standards pursuant to statute to allow for exceptions to subsection B of Section 22-16-4 NMSA 1978, which establishes the distance from the attendance center that a school bus route may be approved or maintained.
[12-31-98, 6.41.3.2 NMAC - Rn, 6 NMAC 9.5.2.2, 05-31-01; A, 11-13-09]

6.41.3.3 STATUTORY AUTHORITY: This rule is adopted by the department pursuant to Section 22-16-2, NMSA 1978 which stipulates that the state transportation division shall enforce those rules adopted by the department relating to school bus transportation and subsection B of Section 22-16-4, NMSA 1978 which stipulates that no school bus route shall be maintained for lesser distance than: (1) one mile one way for students in grades kindergarten through six; (2) one and one-half miles one way for students in grades seven through nine; and (3) two miles one way for students in grades ten through twelve.
[12-31-98; 6.41.3.3 NMAC - Rn, 6 NMAC 9.5.2.3, 05-31-01; A, 11-13-09]

6.41.3.4 DURATION: Permanent
[12-31-98; 6.41.3.4 NMAC - Rn, 6 NMAC 9.5.2.4, 05-31-01]

6.41.3.5 EFFECTIVE DATE: December 31, 1998, unless a later date is cited at the end of a section.
[12-31-98; 6.41.3.5 NMAC - Rn, 6 NMAC 9.5.2.5 & A, 05-31-01]

6.41.3.6 OBJECTIVE: In school districts having hazardous walking conditions as determined by the local school board and confirmed by the state transportation director, students of any grade may be transported a lesser distance than that provided in subsection B of Section 22-16-4, NMSA 1978. The standards shall be flexible and not rigidly applied by the local school board and the state transportation director to prevent accidents and help ensure student safety.
[12-31-98; 6.41.3.6 NMAC - Rn, 6 NMAC 9.5.2.6 & A, 05-31-01]

6.41.3.7 DEFINITIONS:

A. Regulated - A crossing site where, for the street or roadway being crossed, a crossing guard, traffic enforcement officer, stop sign, or traffic control signal is present or the crossing site is designated and marked as a reduced speed school crossing zone.

B. Unregulated - A crossing site where, for the street or roadway being crossed, no crossing guard, traffic enforcement officer, stop sign, or traffic control signal is present, or the crossing site is not designated or marked as a reduced speed school crossing zone.

C. High speed - 40 miles per hour (MPH) or higher posted speed limit.

D. Department - The public education department.

E. State transportation division - The program support and student transportation division.

[12-31-98; 6.41.3.7 NMAC - Rn, 6 NMAC 9.5.2.7 & A, 05-31-01; A, 11-13-09]

6.41.3.8 REQUIREMENTS: In school districts having hazardous walking conditions, as determined by the local school board and confirmed by the state transportation director, students of any grade may be transported a lesser distance than that provided by law.

A. The local board of education and the state transportation director must approve any costs incurred for implementing transportation due to the qualification of the hazardous walking standards prior to implementation. The costs must be within the available resources of the categorical transportation appropriation.

B. The school district shall justify that an attempt has been made to improve or eliminate hazardous walking conditions and/or establish properly posted signs or supervised school crossings in those cases where such crossings would eliminate hazardous walking conditions.

C. The district must also show effort to utilize the existence of available pedestrian crossings at controlled intersections within the statutory walking distance to the specific attendance center, which may require students to walk an increased distance before crossing the street.

D. Traffic volume shall be determined by the most current traffic engineering study conducted by a state or local agency.

[12-31-98; 6.41.3.8 NMAC - Rn, 6 NMAC 9.5.2.8, 05-31-01]

6.41.3.9 STANDARDS FOR HAZARDOUS WALKING CONDITIONS: Transportation may be provided for students in grades K through 12 who reside within the statutory walking distance from their attendance center pursuant to Section 22-16-4 NMSA 1978 supra, if the following criteria are met:

A. Walking parallel to (along side of) roadway. If the total volume on roads exceeds a rate of 120 vehicles per hour or on roads with little or no walking space is available (shoulder or path) and the traffic volume exceeds sixty (60) vehicles per hour during the times when children are en route to or from school and at least one of the following exists:

(1) less than four (4) feet of walking space outside of a curbed roadway for a continuous distance of 75 feet or more on at least one side of the roadway;

(2) less than five (5) feet of walking space outside of the traveled portion of an uncurbed roadway for a continuous distance of 75 feet or more on at least one side of the roadway;

(3) a physical or visual obstruction on the walking space that obstructs for a distance of 75 feet or more.

B. Walking across roadway and/or intersection.

(1) If the traffic volume of the street or roadway being crossed exceeds a rate of 180 vehicles per hour through an unregulated crossing site, which exceeds forty (40) feet in width during the times when children are en route to or from school.

(2) If the total traffic volume of the intersection in all directions exceeds the following vehicle rates as applicable:

(a) secondary school children - a rate of 70 vehicles per minute;

(b) elementary school children - a rate of 55 vehicles per minute through a regulated intersection during the times when children are en route to or from school, unless crossing guards or other traffic enforcement officers are present.

(3) If roadways that students must cross are major traffic arteries for high volume movement of traffic with five lanes or greater, high speed and high accident frequency, during the times when children are en route to or from school, and where it is determined that traffic lights and traffic guards are not adequate. If a turn bay is present at a traffic control signal, it is not considered a lane. High speed is 40 M.P.H. or higher posted speed limit.

C. Railroad crossings. Hazardous walking conditions shall automatically apply to students required to walk across a main lane, at grade, railroad crossing. (This does not include industrial, spur or exempt railroad crossings.)

[12-31-98; 6.41.3.9 NMAC - Rn, 6 NMAC 9.5.2.9 & A, 05-31-01]

6.41.3.10 TEMPORARY HAZARDOUS WALKING CONDITIONS: Temporary transportation service may be provided in cases involving conditions such as construction, dams, drainage ditches, etc., which have been determined to be hazardous by the local board of education. The superintendent of the local district must provide justification to the state transportation director to show that efforts have been made with local government entities to eliminate the hazardous conditions or show that efforts are underway to eliminate the conditions.

[12-31-98; 6.41.3.10 NMAC - Rn, 6 NMAC 9.5.2.10, 05-31-01]

6.41.3.11 APPLICATION FOR TRANSPORTATION DUE TO HAZARDOUS WALKING CONDITIONS: The determination of hazardous walking conditions shall be made on a case by case basis by a local board of education and approved by the state transportation director in accordance with the application format. Where additional transportation services are requested by official action of the local board of education due to the determination of hazardous walking conditions, the request shall have the recommendation of the police agency having jurisdiction and shall have the necessary back-up data, cost impact and method for implementation submitted by the administration of the local public school prior to approval.

[12-31-98; 6.41.3.11 NMAC - Rn, 6 NMAC 9.5.2.11, 05-31-01]

6.41.3.12 DISCONTINUANCE OF TRANSPORTATION: In the event that transportation is approved under any of the foregoing exceptions, such transportation will be discontinued immediately upon the improvement of the conditions for which the transportation has been provided. It shall be the responsibility of the local school district administration to notify the state transportation director and all affected parties as soon as walking conditions are improved and temporary transportation is terminated.
[12-31-98; 6.41.3.12 NMAC - Rn, 6 NMAC 9.5.2.12, 05-31-01]

6.41.3.13 APPEAL: If a local board of education does not agree with the final determination of the state transportation director, the board may appeal to the department.
[12-31-98; 6.41.3.13 NMAC - Rn, 6 NMAC 9.5.2.13, 05-31-01; A, 11-13-09]

6.41.3.14 FLEXIBLE APPLICATION OF THIS RULE: In accordance with subsection C of Section 22-16-4 NMSA 1978, supra, the local school board and the state transportation director to prevent accidents and help ensure student safety shall flexibly and not rigidly apply the standards for hazardous walking conditions. Local boards of education therefore, may choose to adopt hazardous walking standards that exceed those outlined under Section 6.41.3.10 NMAC. The requirements for the application of the hazardous walking standards that exceed Section 6.41.3.9 NMAC are:

- A. the local board of education shall adopt a written policy which includes the standards for hazardous walking within the local district that exceed those outlined in Section 6.41.3.9 NMAC; and
 - B. any additional costs incurred due to the local school district's policy which exceed the standards established in Section 6.41.3.9 NMAC shall be the responsibility of the local district unless a legislative appropriation has been approved for this purpose.
- [12-31-98; 6.41.3.14 NMAC - Rn, 6 NMAC 9.5.2.14, 05-31-01; A, 11-13-09]

6.41.3.15 CLARIFYING THE LIMITATION ON QUALIFICATION FOR TRANSPORTATION: Where the educational program of a school district is structured on a basis other than grades one through six, seven through nine, and ten through twelve, the highest limitations of Section 22-16-4, NMSA 1978, shall be applied for all students attending each attendance center served by the school bus route. The walking distance for each attendance center is based on the highest-grade level served.
[12-31-98; 6.41.3.15 NMAC - Rn, 6 NMAC 9.5.2.15, 05-31-01]

HISTORY OF 6.41.3 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 73-3 Clarifying the Limitation on Qualification for Transportation, filed January 22, 1973;
Amendment #1 State Board of Education Regulation 73-3 Clarifying the Limitation on Qualification for Transportation, filed June 27, 1988;
State Board of Education Regulation 93-22 General Standards for Determining Hazardous Walking Conditions, filed December 20, 1993;
State Board of Education Regulation 84-5 Standards and Criteria for Determining Extremely Hazardous Walking Conditions, filed July 11, 1984;
State Board of Education Regulation 80-9 Hazardous Walking Conditions Criteria, filed December 1, 1980;
State Board of Education Regulation 79-5 Hazardous Walking Conditions Criteria, filed May 14, 1979;
State Board of Education Regulation 78-7 Hazardous Walking Conditions Criteria, filed July 7, 1978.