

## Existing statute and rules related to transportation

9/15/24

Charter school Act

### **22-8B-4. Charter schools' rights and responsibilities; operation.**

I. A locally chartered charter school shall negotiate with a school district to provide transportation to students eligible for transportation under the provisions of the Public School Code [Chapter 22 NMSA 1978]. The school district, in conjunction with the charter school, may establish a limit for student transportation to and from the charter school site not to extend beyond the school district boundary.

R. A charter school is a public school that may contract with a school district or other party for provision of financial management, food services, transportation, facilities, education-related services or other services. The governing body shall not contract with a for-profit entity for the management of the charter school.

#### ***NOTE: Possibly change this rule or consider state charter***

*6.42.2.10.A: Has been used to deny charter funding into another school district. It does not consider the "charter district"*

*6.42.2.10.B. and C.: Schools have been able to pay for their own transportation under B. and C.*

*PED says that 71 students are on a bus. However, 55 kids is a full bus. This would also be difficult to have a full bus in a rural area since the kids would be on the bus for a long time.*

#### **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.

#### **PART 4: REQUIREMENTS FOR SCHOOL BUS SERVICE NEGOTIATIONS WITH CHARTER SCHOOLS**

##### **6.43.4.1 ISSUING AGENCY:**

Public Education Department.

[[6.43.4.1](#) NMAC - N, 10-15-01; A, 11-13-09]

##### **6.43.4.2 SCOPE:**

Provisions of this rule apply to public school districts and charter schools where to-and-from school bus services are negotiated.

[[6.43.4.2](#) NMAC - N, 10-15-01]

##### **6.43.4.3 STATUTORY AUTHORITY:**

Sections [22-2-1](#), [22-16-2](#), [22-16-4](#) and [22-8B-4](#), NMSA 1978.

[[6.43.4.3](#) NMAC - N, 10-15-01]

##### **6.43.4.4 DURATION:**

Permanent

[[6.43.4.4](#) NMAC - N, 10-15-01]

##### **6.43.4.5 EFFECTIVE DATE:**

October 15, 2001, unless a later date is cited at the end of a section.

[[6.43.4.5](#) NMAC - N, 10-15-01]

##### **6.43.4.6 OBJECTIVE:**

To establish the parameters of school bus service negotiations between school districts and charter schools.

[[6.43.4.6](#) NMAC - N, 10-15-01]

##### **6.43.4.7 DEFINITIONS:**

[RESERVED]

##### **6.43.4.8 LOCAL SCHOOL DISTRICT AND CHARTER SCHOOL RESPONSIBILITIES:**

A local school district shall negotiate with a charter school to provide transportation to eligible students. Transportation services are confined within the limits established by the public school district, in conjunction with the charter school. The transportation limits shall be within the school district boundary or as adjusted in accordance with an approved school district transportation boundary agreement.

- A.** Charter schools shall negotiate to-and-from transportation services for eligible students by means of a school bus or a per capita feeder agreement only. The charter school may elect not to provide transportation services.
- B.** If the to-and-from transportation for the charter school can be provided by utilizing the existing to-and-from services or resources, the cost to the charter school shall not exceed the amount generated by the eligible student allocation. Additional cost for to-and-from services beyond that level shall be paid by the charter school as negotiated with the school district, unless the services can be provided at no additional cost to the school district or the school district chooses to cover the additional cost from the transportation allocation.
- C.** Should a school district establish a separate to-and-from transportation system, where such services are exclusively for charter school students, the costs associated are not considered additional to the charter school. The charter school would not generate any additional allocation for the separate to-and-from services and the school district shall be responsible for those costs from the transportation allocation.
- D.** A copy of the negotiated to-and-from school transportation service agreement between the school district and charter school shall be maintained on file with the school district and the charter school.
- E.** A separate transportation budget for the charter school shall be submitted to the public education department for review or approval.
- F.** The school district shall determine the routes and stops in accordance with section [22-16-4 NMSA 1978](#). A request may be made to the state transportation director for new equipment based upon need identified by the school district.

**Other rules related to transportation**

**CHAPTER 42: TRANSPORTATION - SCHOOL ATTENDANCE AND SERVICE AREAS**

**PART 1: GENERAL PROVISIONS [RESERVED]**

**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]

**G.** The charter school shall provide information required by the school district to meet the reporting requirements of the state transportation director. The school district is responsible for reporting to the state transportation director the information collected on transportation from the charter school.

[[6.43.4.8](#) NMAC - N, 10-15-01; A, 11-13-09]

**6.43.4.9 PUBLIC EDUCATION DEPARTMENT RESPONSIBILITY:**

The state transportation director shall calculate and provide the operational amounts generated by formula for the charter school and the school district.