Office of the Registrar of Regulations,
Legislative Council,
State of Delaware

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))
14 **DE Admin. Code** 1105

PROPOSED

PUBLIC NOTICE

Education Impact Analysis Pursuant To 14 Del.C. Section 122(d)

1105 School Transportation

A. Type of Regulatory Action Required
Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation
The Secretary of Education intends to amend 14 **DE Admin. Code** 1105 School Transportation. This regulation is being amended to align with changes in Title 14 of the **Delaware Code**, including, but not limited to the maximum age of a school bus for use on a regular route, criminal background checks, and the process for training school bus drivers. Additionally, it will establish a mandatory in-service training program for school bus drivers and aides, it will require an annual physical for school bus aides and will direct districts to make disbursements on a prorated basis when they fund a portion of the transportation costs.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before **May 5, 2015** to Tina Shockley, Education Associate, Department of Education, Regulatory Review, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed or obtained at the Department of Education, Finance Office located at the address listed above.

C. Impact Criteria
1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation is not intended to improve student achievement as measured against state achievement standards.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation helps ensure that students receive an equitable education.
3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amendments specifically address students' health and safety as it relates to school bus transportation.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to ensure that all student's legal rights are respected.
5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulations does not change the decision making at the local board and school level.
6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place any unnecessary reporting or administrative requirements on decision makers.
7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated does not change because of the amendment.
8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amendment is consistent with and not an impediment to the implementation of other state educational policies.
9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a less burdensome method for addressing the purpose of the regulation.
10. What is the cost to the State and to the local school boards of compliance with the regulation? There is no expected cost to implementing this amended regulation.

1105 School Transportation

1.0 Definitions:

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

"**504 Plan**" means a plan developed pursuant to requirements Section 504 of the Rehabilitation Act of 1973 to ensure that pupils with disabilities may receive accommodations and modifications as well as supplementary aids and services to ensure that their individual educational needs are met as defined in 14 **DE Admin. Code** 922.

"**Administrative Head of School**" means the chief or head individual in charge of the school.

"**Aide**" means a person assigned to assist one or more individual pupil(s) with special needs on a school bus; also known as "attendant"

"**Certified Delaware School Bus Driver (CDSBD) Trainer**" means a person certified by DOE who is qualified to instruct the minimum six (6) hour behind-the-wheel school bus training program.

"**Certified Delaware School Bus Driver (CDSBD) Training**" means a course of instruction as specified herein in which a school bus driver or applicant under the supervision of a CDSBD Trainer: 1) observes the CDSBD Trainer driving with pupils on board for a minimum of two hours, 2) drives a school bus without pupils for a minimum of two hours, and 3) drives a school bus with pupils for a minimum of two hours (after obtaining a Commercial Driver's License with a school bus "S" endorsement).

"**Charter School Heads of School**" means the Administrative Head of School or equivalent.

"**Commercial Drivers License or CDL**" means a license issued by the Division of Motor Vehicles in accordance with the requirements of 21 **Del.C.** Chapter 26, which authorizes an individual to drive a certain class of commercial motor vehicle.

"**Contractor**" means an individual or entity that enters into a contract with a district to provide school transportation services.

"**DelDOT**" means the Delaware Department of Transportation.

"**District**" means a local school district or School.

"**DMV**" means the Department of Motor Vehicles.

"**DOE**" means the Department of Education.

"**Guardian**" or "**Legal Guardian**" means an individual who legally has responsibility for the care and management of the student during the student's minority. The relationship is a legal one and shall be created by a court order signed by a judge, commissioner, or master of a court of competent jurisdiction.

"**Individualized Education Program**" or "**IEP**" means a written statement or plan developed by an assessment team for a child with a disability as defined in 14 **DE Admin. Code** 922.

"**Principal**" or "**Headmaster**" means the Administrative Head of School and includes but is not limited to Head of School, Administrator, Executive Director, or Charter Head.

"**Pupil**" means any child who attends a school; also known as student.

"**Relative Caregiver**" shall have the same meaning as used in 14 **Del.C.** §202.

"**School**" means public or nonpublic primary or secondary educational program, excluding homeschool.

"**School bus driver classroom training**" means the minimum 12-hour classroom training provided by DOE.

"**School Plant**" means all buildings and facilities located in the area of a school that are used by students or used to directly support the school.

"**State Board**" or "**SBE**" means the State Board of Education of the State pursuant to 14 **Del.C.** §104.

"**State Bureau of Identification**" or "**SBI**" means the State Police office which processes background investigations.

"**Superintendent**" means the administrative head of the school district.

"**Transportation Supervisor**" means the person within the school district or charter school who is designated by the school district superintendent or charter school head of school to oversee school transportation operations.

12 DE Reg. 1086 (02/01/09)

2.0 Responsibilities of School District Superintendents/Charter School Heads of School

2.1 Local School District Superintendents' and Charter School Heads of School or their designated school transportation supervisors' responsibilities concerning the transportation of pupils shall include but are not limited to the following:

2.1.1 Implement state school transportation laws and regulations.

2.1.2 Define and coordinate changes to school transportation operations impacting local district budget allocations with the Department of Education.

2.1.3 Provide resource material and encourage teachers to include instruction in school bus passenger safety in the school curriculum.

2.1.4 Provide for close and continuous supervision of the unloading and loading zones on or near the school plant grounds, and during all emergency drills.

2.1.5 Provide supervision for those pupils whose bus schedules require them to arrive at school before classes begin and remain after classes terminate.

2.1.6 Promote public understanding of, and support for the district's transportation program.

2.1.7 Assume ~~prime~~ primary responsibility for pupil conduct and ensure that requirements for pupil behavior ~~and discipline~~ on the school bus and disciplinary consequences for failure to comply with those requirements are included in district disciplinary policies.

2.1.8 Promote well trained and informed drivers and aides by sharing information regarding law, regulation or operational changes. ~~and establishing an annual refresher/training program. Such a program may be limited to written updates and notices. When applicable and available, d~~Districts shall ensure that each school bus driver and aide who performs their duties at any time during a school year in their district completes an annual in-service training program as provided by the district and maintain documentation of completion ~~at their districts~~ in individual training records.

2.1.9 Attend State school transportation supervisor meetings and professional development programs.

2.1.10 Submit DOE-required transportation reports in a timely manner.

2.1.11 Inform contractors, school bus drivers and aides of district/school policies.

2.1.12 Monitor and ensure compliance with all DOE approved transportation contracts.

2.1.13 Ensure that all drivers and aides within their district have successfully completed the required criminal background checks and met all the qualifications requirements contained within this regulation.

2.1.14 Provide evacuation instruction to all school bus riders and conduct two (2) evacuation drills for them, one prior to October 31 and another before March 31 each year. ~~A report shall be submitted to DOE certifying the dates the drills were held.~~

2.1.15 Ensure that prior to each departure, each pupil transported on an activity or field trip in a school bus be instructed in safe riding practices and on the location and operation of emergency exits.

2.1.16 Complete reports of investigations of school bus accidents. Notify DOE School Transportation of significant school bus accidents/incidents.

2.1.17 Develop requirements and guidance for use of other vehicles the district uses for student transportation.

12 DE Reg. 1086 (02/01/09)

3.0 Conditions for School Bus Contractors

3.1 School Bus Contractors shall agree to the following conditions in their contracts:

3.1.1 Follow all applicable federal, state, and local school bus laws, regulations and policies.

3.1.2 Communicate effectively with the ~~district t~~Transportation ~~s~~Supervisor.

3.1.3 Dismiss a school bus driver or aide from performing duties on a contracted school bus route when it can be shown that the driver or aide is not satisfactorily performing driver or aide tasks. ~~District t~~Transportation ~~s~~Supervisors may restrict a driver or aide from operating in their school system.

3.1.4 Pay drivers and aides and provide substitute drivers and aides.

3.1.5 Supervise all employees to ensure they are in compliance with all school and transportation laws, regulations, and contractual obligations.

3.1.6 Ensure that all employees have completed the necessary State Bureau of Investigation fingerprinting and qualify under the laws and regulations for their respective positions as either a driver or an aide.

12 DE Reg. 1086 (02/01/09)

4.0 School Bus Training Courses

4.1 Driver Training Course

4.1.1 Pursuant to 21 **Del.C.** §2708, the Department of Education shall develop and provide a Driver Training Course for applicants to gain the necessary knowledge and skills for a school bus driver. Nothing contained herein shall prevent DOE from contracting outside services to provide the required training.

4.1.2 The Driver Training Course shall include a minimum of twelve (12) hours of school bus driver classroom training and six (6) hours of training aboard a school bus with a CDSBD Trainer.

4.1.2.1 The Driver Training Course shall include instruction and a test covering at a minimum the following topics:

4.1.2.1.1 Motor Vehicle Laws;

4.1.2.1.2 Department of Education and State Board Regulations;

4.1.2.1.3 School Bus Driver Responsibilities; and

4.1.2.1.4 School Bus Operating Procedures:

4.1.2.1.4.1 Loading and unloading children, including the safe operation of stop signal devices, external mirror systems, flashing lights and other warning and passenger safety devices required for school buses by State or Federal law or regulation;

4.1.2.1.4.2 Emergency exits and procedures for safely evacuating passengers in an emergency;

4.1.2.1.4.3 State and Federal laws and regulations related to safely traversing highway rail grade crossings;

4.1.2.1.4.4 Vehicle Control;

4.1.2.1.5 School Bus Aide Responsibilities;

4.1.2.1.6 Defensive Driving and Accidents;

4.1.2.1.7 School Bus Emergencies;

4.1.2.1.8 First Aid;

4.1.2.1.9 Child Behavior and Pupil Management;

4.1.2.1.10 Transporting Exceptional Children.

4.2 CDSBD Trainer Instructor Course

4.2.1 Pursuant to 21 **Del.C.** §2708, the Department of Education shall develop and provide a Certified Delaware School Bus Driver Trainer Instructor Course for applicants to gain the necessary knowledge and skills and establish competence to be a CDSBD Trainer to instruct the CDSBD Training. The course areas covered shall include, at a minimum, techniques for instruction and those topics covered in the driver training course.

12 DE Reg. 1086 (02/01/09)

5.0 Qualifications and Responsibilities of Certified Delaware School Bus Driver Trainers (CDSBD Trainers)

5.1 The Department of Education shall have the authority pursuant to this regulation to oversee the CDSBD Trainer program, certify the CDSBD Trainers, and determine additional requirements, if needed.

5.2 General Prerequisites

5.2.1 Certified Delaware School Bus Driver Trainers (CDSBD Trainers) shall be leaders who display and demonstrate good school bus driving techniques.

5.2.2 CDSBD trainers shall display the ability to maintain good pupil conduct on their bus

5.2.3 CDSBD trainers shall maintain a good working rapport with fellow drivers, school staff, parents and students.

5.3 Initial Requirements/Qualifications

5.3.1 CDSBD trainers shall have a current and valid CDL with "S" endorsement. CDSBD trainers shall have held such license for the past 3 years and shall have actively driven a school bus during this period.

5.3.2 CDSBD trainers shall not have more ~~that~~ <u>than</u> three (3) points in the past three years on their driving record at the time of application.

5.3.3 CDSBD trainers shall have had experience operating at least a sixty-six (66) passenger school bus.

5.3.4 Prior to obtaining certification or recertification, a CDSBD trainer shall be recommended for certification by the employer and ~~district~~ Transportation Supervisor as follows:

5.3.4.1 Public School

5.3.4.1.1 Contractor employee - recommended by the contractor and ~~district~~ Transportation Supervisor that has the candidate's records.

5.3.4.1.2 Owner/Operator - recommended by ~~district~~ Transportation Supervisor having the candidate's driving records.

5.3.4.1.3 District employed driver - recommended by the ~~district~~ Transportation Supervisor.

5.3.4.2 Nonpublic School, excluding homeschools

5.3.4.2.1 Contractor employee - recommended by the contractor and nonpublic school administrator.

5.3.4.2.2 School employee - recommended by the nonpublic school administrator.

5.3.5 <u>CDSBD trainers</u> ~~S~~<u>s</u>hall satisfactorily complete a course of instruction provided by the Department of Education.

5.4 Duties and Responsibilities:

5.4.1 CDSBD trainers shall follow all regulations that pertain to school transportation including but not limited to properly driving a school bus and properly loading and unloading students.

5.4.2 CDSBD trainers shall be available at scheduled times to work with driver applicants.

5.4.3 CDSBD trainers shall assume the responsibility for covering the material required in CDSBD Training.

5.4.4 CDSBD trainers shall exercise good judgment and patience with the driver applicants.

5.4.5 CDSBD trainers shall be fair and reasonable in judging a person's ability to develop into a safe school bus driver.

5.4.6 CDSBD trainers shall work with the driver applicants to ensure that the training evaluation forms are completed properly by the trainer and applicant prior to submittal to the Transportation Supervisor.

5.4.7 CDSBD trainers shall certify to the ~~district~~ Transportation Supervisor that the applicant has met the requirements that have been established to comply with the CDSBD Training.

5.4.8 CDSBD trainers shall agree to assist ~~district~~ Transportation Supervisor in reevaluation of drivers.

5.4.9 CDSBD trainers shall inform ~~district~~ Transportation Supervisor of any observed changes in traffic patterns of routing locations that may pose a safety hazard.

5.4.10 CDSBD trainers shall attend and successfully complete any additional training required by DOE.

5.4.11 Failure to comply with any of the duties and responsibilities above may result in a Certified Delaware School Bus Driver Trainer not being certified or recertified.

5.5 Annual Recertification

5.5.1 All Certified Delaware School Bus Driver Trainers (CDSBD Trainers) shall attend an annual recertification class (minimum 4-hours) to maintain their qualifications to train driver applicants.

5.5.2 At the time of submittal of applications for recertification, the CDSBD Trainer shall not have had a chargeable school bus accident in the past year and have no more than three (3) points on their driving record.

5.5.3 A Certified Delaware School Bus Driver Trainer (CDSBD Trainer), who was not able to recertify for the current year, may apply and be reinstated upon DOE approval and attending the annual recertification class for the upcoming year effective July 1 of that year.

5.6 Denial of CDSBD Trainer Certificate

5.6.1 The DOE may refuse to issue the CDSBD Trainer certificate if the applicant does not meet the requirements of this regulation or would otherwise be unable to complete the duties required.

5.7 Revocation

5.7.1 The DOE may revoke a CDSBD Trainer certificate under the following circumstances:

5.7.1.1 ~~if~~ the CDSBD Trainer fails to meet any requirements of this regulation or the DMV regulations regarding "S" endorsements or school transportation;

5.7.1.2 the CDSBD Trainer has violated any of the regulations regarding student transportation;

5.7.1.3 the CDSBD Trainer fails to deliver the training as specified by DOE;

5.7.1.4 the CDSBD Trainer fails to maintain a valid license and "S" endorsement;

5.7.1.5 the CDSBD Trainer is terminated from employment from the district or contractor for cause or had their contract terminated for cause;

5.7.1.6 any other action by the CDSBD Trainer that would not be in the best interest of student transportation.

5.8 Right to Hearing

5.8.1 If the application is denied or the CDSBD Trainer certificate is revoked, the individual shall have the right of appeal to the Secretary ~~but in such appeal shall be required to submit necessary evidence to show cause why approval should be granted~~.

5.8.2 The Department shall give written notice to the applicant of the denial or revocation and the reasons therefore. The notice of denial or revocation shall be sent by certified mail and shall give notice that a full and fair hearing may be requested before the Secretary or designee within twenty (20) calendar days.

5.8.3 Hearings shall be conducted in accordance with the DOE's Hearing Procedures and Rules. The burden of proof shall be upon the applicant in a denial hearing and upon the DOE in a revocation proceeding using the preponderance of evidence standard.

12 DE Reg. 1086 (02/01/09)

6.0 Qualifications and Responsibilities of School Bus Drivers

6.1 School bus drivers shall meet the qualification requirements of all applicable laws including 49 CFR Part 383.123, Title 21 of the Delaware Code, Division of Motor Vehicles Regulations including 2 **DE Admin. Code** 2222, and this regulation.

6.2 Initial qualification.

An applicant shall satisfactorily complete the School bus driver classroom training. The School bus driver classroom training shall remain valid toward initial qualification for a period of one year. Additional requirements shall include:

6.2.1 Pre-employment drug test;

6.2.2 Child protective registry check;

6.2.3 Criminal background affidavit;

6.2.4 State Bureau of Investigation fingerprinting for state and Federal Bureau of Investigation criminal background checks;

6.2.5 Delaware school bus driver physical with TB screening; and

6.2.6 CDSBD Training. A school bus driver with a Commercial Learner's Permit (CLP) is prohibited from operating a school bus with passengers other than as permitted by 49 CFR Part 383.25.

6.3 Out-of-state licensed school bus drivers shall meet the same requirements for qualification for an "S" endorsement as a driver with a Delaware license listed in 21 **Del.C.** §2708(b)(7) regarding criminal convictions and complete and provide to the ~~district t~~Transportation ~~s~~Supervisor:

6.3.1 Pre-employment drug test;

6.3.2 Child protective registry check

6.3.3 Criminal background affidavit;

6.3.4 State Bureau of Investigation fingerprinting for state and Federal Bureau of Investigation criminal background checks;

6.3.5 Delaware school bus driver physical with TB screening;

6.3.6 School bus driver classroom training;

6.3.7 CDSBD Training. A school bus driver with a Commercial Learner's Permit (CLP) is prohibited from operating a school bus with passengers other than as permitted by 49 CFR Part 383.25; and

6.3.8 Past five years driving record from the state where licensed and provide annual updates.

6.4 Reinstatement of school bus drivers

6.4.1 Drivers with an "S" endorsement who have not actively driven for two or more years shall complete the following requirements:

6.4.1.1 Pre-employment drug test (see paragraph 24.5 below);

6.4.1.2 Child protective registry check;

6.4.1.3 Criminal background affidavit;

6.4.1.4 State Bureau of Investigation fingerprinting for state and Federal Bureau of Investigation criminal background checks;

6.4.1.5 Delaware school bus driver physical with TB screening (if needed);

6.4.1.6 School bus driver classroom training; and

6.4.1.7 CDSBD Training.

6.4.2 Drivers with an "S" endorsement who have not actively driven for a period more than one and less than 2 years shall complete the following requirements:

6.4.2.1 Transportation Supervisor shall review the driver's records and a CDSBD Trainer shall evaluate the driver for two hours without pupils on board (using the CDSBD Training checklist) to determine what, if any, additional training is needed. The Transportation Supervisor shall note completion of the training required in the driver's records;

6.4.2.2 Pre-employment drug test; and

6.4.2.3 Delaware school bus driver physical with TB screening (if needed).

6.4.3 Drivers requesting reinstatement of their "S" endorsement following mandatory suspension or revocation of over one year shall complete the following requirements:

6.4.3.1 Pre-employment drug test;

6.4.3.2 Child protective registry check;

6.4.3.3 Criminal background affidavit;

6.4.3.4 State Bureau of Investigation fingerprinting for state and Federal Bureau of Investigation criminal background checks;

6.4.3.5 Delaware school bus driver physical with TB screening (if needed);

6.4.3.6 School bus driver classroom training;

6.4.3.7 CDSBD Training;

6.4.3.8 Successful~~ly~~ retake of required written tests for CDL and "S" endorsement with DMV;

6.4.3.9 Successful~~ly~~ retake of Skills test with DMV; and

6.4.3.10 Successful~~ly~~ retake of Road test with DMV

6.5 ~~When applicable and available, school bus drivers may be required to complete annual district-provided in-service training programs.~~ School bus drivers shall complete an annual district/school-provided in-service training program of at least four (4) hours during each fiscal year (July 1 to June 30) beginning in fiscal year 2016. Those not completing an initial or annual in-service training program shall not be permitted to perform their duties in the following school year until completing a four (4) hour in-service training program. Based on funding available from the General Assembly, a stipend may be paid to each driver.

6.6 Districts shall have a policy concerning the responsibilities of school bus drivers which, at a minimum, includes the following:

6.6.1 A statement that the school bus driver is in full charge of the bus and pupils, has the authority of a classroom teacher and is responsible for the health, safety, and welfare of each passenger.

6.6.2 Statements listing at a minimum the following specific responsibilities of the bus driver:

6.6.2.1 Operate the school bus in a safe and efficient manner at all times.

6.6.2.2 Conduct thorough pre-trip and post-trip checks on the vehicle to ensure that the vehicle and safety equipment is operational, that no child is left on board the bus and that the vehicle is clean and secure.

6.6.2.3 Establish and maintain rapport with passengers.

6.6.2.4 Maintain discipline among passengers.

6.6.2.5 Meet emergency situations effectively.

6.6.2.6 Communicate effectively with district and school staff, parents and students.

6.6.2.7 Maintain effective contact with the public.

6.6.2.8 Complete reports as required by the state or District.

6.6.2.9 Complete required training programs satisfactorily.

6.6.2.10 Refrain from using profanity, indecent language or tobacco while on duty.

6.6.2.11 Dress appropriately, as defined by District policy.

6.6.2.12 Pick up and drop off pupils only at designated stops.

6.6.2.13 Submit to periodic random drug and alcohol testing and be subject to actions specified in the Delaware Code and in federal requirements.

6.6.2.14 Report suspected cases of child abuse to the school principal or designated official.

6.6.2.15 Immediately notify the Transportation Supervisor of any school bus accident after ensuring the safety of the pupils.

6.6.2.16 Prior to each departure, instruct each pupil transported on an activity or field trip in a school bus in safe riding practices and on the location and operation of emergency exits.

6.7 Perform other duties as assigned by the Transportation Supervisor or designee.

6.8 Criminal Background Checks

6.8.1 The drivers shall present themselves to ~~the State Bureau of Identification~~ SBI personnel at one of the Delaware State Police Troops that processes such criminal background checks ~~or State Bureau of Investigation~~ and follow these procedures:

6.8.2 For application of an S-endorsement or public school related employment or as part of the contract for services, the applicant driver shall sign a Release for Criminal Background Check Information form approved by ~~the~~ DelDOT and DOE. The release shall allow ~~the DOE~~ DelDOT to share the information received with the DMV.

6.8.3 The driver shall cooperate in all respects with this criminal background check process. ~~On completion of the procedure, the driver will be given a Verification Form of Processing by the State Bureau of Identification, which shall be shown to the District where the driver is seeking employment or contracted services.~~

6.8.4 The driver shall request ~~the State Bureau of Identification~~ that SBI send an original version of the criminal background check to ~~the DOE~~ DelDOT, and shall obtain a receipt ~~to return~~ indicating the criminal background check is in process to return to the district where seeking employment or contracted services.

6.8.5 ~~DOE~~ The DelDOT authorized person shall review the criminal background reports received and ~~perform a preliminary review to determine the reports that have no state or federal criminal history record. DOE~~ shall forward ~~all other reports to DMV~~ criminal background check issuance recommendation to DMV for determination of eligibility for a "S" endorsement pursuant to ~~Title 21 (2708)~~ 21 **Del.C.** §2708.

6.8.6 On completion of the procedure, the driver will be sent a clearance letter or denial of clearance letter by DMV, which shall be shown to the District where the driver is seeking employment or contracted services.

6.8.7 For out-of-state drivers, federal and criminal background checks need to be requested in the driver's state and the reports need to be sent to the district for determination.

12 DE Reg. 1086 (02/01/09)

7.0 Qualifications and Responsibilities of School Bus Aides

7.1 Qualifications for School Bus Aides include the following and shall apply to all new applicants and for any person whose employment as an aide has lapsed for a period of over one year. All requirements shall be met before serving as an aide on a school bus.

7.1.1 Be at least 18 years of age.

7.1.2 Be fingerprinted to allow a criminal background check at both state and federal level and meet the same requirements (pre licensing) specified for school bus drivers in the **Delaware Code.**

7.1.2.1 The aides shall present themselves to the ~~State Bureau of Investigation (~~SBI~~)~~ personnel at one of the Delaware State Police Troops that ~~possesses~~ processes such criminal background checks ~~or State Bureau of Investigation~~.

7.1.2.2 ~~The aide shall request the original completed background check be sent to the DOE and upon completion, obtain a receipt to return to the district where seeking employment or contracted services.~~ The aide shall sign a Release for Criminal background Check Information form approved by SBI and request that SBI send the original version of the criminal background check be sent to the district where employment or contracted services is being sought for eligibility determination. Upon completion, the aide will obtain a receipt from SBI to return to the district where employment or contracted services is being sought.

~~7.1.2.3 The candidate for aide shall sign a Release for Criminal Background Check Information form approved by the DOE. The release shall allow the DOE to share the information received with the district where seeking employment or contracted services.~~

~~7.1.2.4 DOE shall forward the background reports to the districts for determinations of eligibility.~~

7.1.3 File with the district transportation supervisor a notarized affidavit (the same as the school bus driver affidavit) attesting to acceptable criminal history pending an official state and federal criminal record report.

7.1.4 Submit to the federal drug and alcohol testing procedures established for school bus drivers.

7.1.5 Complete an annual DOE physical for aides. New aides shall complete the physical satisfactorily before beginning their duties. Current aides shall complete their physicals before January 1, 2016. Districts shall issue a DOE physical card to aides establishing valid completion of the DOE physical and aides shall carry it with them while on duty.

7.1.~~5~~6 Complete the school bus driver classroom training and other district required training programs satisfactorily.

7.2 ~~When applicable and available, school bus aides may be required to complete annual district-provided in-service training programs.~~ School bus aides shall complete an annual district-provided in-service training program of at least 4 hours during each fiscal year (July 1 to June 30) beginning in fiscal year 2016. Those not completing an initial or annual in-service training program shall not be permitted to perform their duties in the following school year until completing a 4-hour in-service training program. Based on funding available from the General Assembly, a stipend may be paid to each aide.

7.3 Local school districts shall have a policy concerning school bus aides which, at a minimum, lists the following responsibilities:

7.3.1 Assist in loading and unloading of pupils, including lift operation.

7.3.2 Ensure that pupils and equipment are properly secured to ensure safe transport. Adjust, fasten, and release restraint devices for pupils and equipment, as required. Continually, monitor overall safety of pupils and equipment.

7.3.3 Ensure that all pupils remain seated at all times when riding the school bus.

7.3.4 Assist the driver during unusual traffic conditions; act as a lookout when the driver is backing the bus.

7.3.5 Assist the driver in the enforcement of all state and school district bus safety regulations.

7.3.6 Perform record keeping tasks related to pupil attendance and bus assignment.

7.3.7 Monitor and report pupil misbehavior according to established procedure.

7.3.8 Assist the driver in keeping the interior of the bus clean.

7.3.9 Assist the driver with the post-trip inspection to ensure no pupil is left on board the bus.

7.3.10 Assist pupils with disabilities as prescribed in the pupil's IEP and with personal needs associated with their disabilities.

7.3.11 Assist in bus evacuation drills.

7.3.12 Work cooperatively with all school personnel and parents, guardians and Relative Caregivers.

7.3.13 Perform other duties as assigned by the ~~district t~~Transportation ~~s~~Supervisor or designee.

6 DE Reg. 643 (11/1/02)
9 DE Reg. 404 (9/1/05)
12 DE Reg. 1086 (02/01/09)

8.0 Pupil Conduct on School Buses

8.1 Districts shall have a policy concerning the behavior of pupils on school buses that shall, at a minimum, contain the following rules which if not followed may result in the suspension or denial of bus riding privileges:

8.1.1 Obey the driver promptly, and be courteous to the driver and to fellow pupils. Pupils are to conduct themselves while on the bus in such a way that they shall not distract the driver from driving tasks.

8.1.2 Be at their bus stop on time or as required by their District for pickup.

8.1.3 Wait in a safe manner for the bus on the sidewalk or shoulder, not the roadway.

8.1.4 Keep a safe distance from the bus while it is in motion.

8.1.5 Enter the bus when verbally directed to by the bus driver or aide without crowding or disturbing others and occupy their seats immediately.

8.1.6 Get on or off the bus only when it is stopped.

8.1.7 Remain seated and facing forward.

8.1.8 No student shall occupy a position in the driver area in front of a barrier or white floor line that may distract the driver's attention or interfere with the driver's vision.

8.1.9 Stay out of the driver's seat. Also, unnecessary conversation with the driver is prohibited while the bus is in motion.

8.1.10 Follow highway safety practices in accordance with the Motor Vehicle Laws of the State of Delaware by walking on the side of the road facing traffic when going to or from the bus or bus stop along the highway.

8.1.11 Before crossing the road to board the bus cross only upon an audible clearance signal from the driver/aide.

8.1.12 Do not cross the road until it is clear of all traffic or when all traffic has come to a complete stop and then walk in front of the bus beyond the crossing control arm and far enough to be seen by the driver at all times.

8.1.13 For unloading, walk at least 10 feet away from the side of the bus and remain in view of the driver. For those crossing the road, walk to a position at least 10 feet in front of the right corner of the bumper and away from the bus. After looking in all directions and being told to begin crossing by the driver or aide, walk to the left edge of the school bus, look for traffic again in all directions, and wait to be told to cross by the driver/aide.

8.1.14 Observe classroom conduct when on the bus.

8.1.15 Do not open the bus windows without permission from the driver, extend any body part out of the windows or call out to passers-by.

8.1.16 Do not leave the bus without the driver's consent, except on arrival at their regular bus stop or at school.

8.1.17 Keep the bus clean, sanitary, and orderly and do not damage or abuse the equipment.

8.1.18 Do not smoke, use profanity, eat or drink on the bus.

8.1.19 Do not throw articles of any kind inside, around the bus or out of the bus windows.

8.1.20 Other forms of misconduct that shall not be tolerated on the bus and at bus stops are acts such as, but not limited to, bullying, indecent exposure, obscene gestures, spitting, and other actions that may be addressed in the ~~d~~District code of conduct.

12 DE Reg. 1086 (02/01/09)

9.0 Procedures for Operating Buses

9.1 Each District shall establish procedures that adopt at a minimum the procedures in this section for the operation of their school buses:

9.2 No person other than a pupil, teacher, school official, aide, driver in training or substitute driver shall be permitted to ride on a school bus while transporting pupils. Exceptions may be made for parents, guardians and Relative Caregivers involved in Department of Education educational programs that provide for transportation and others approved by the Transportation Supervisor.

9.3 The driver shall maintain a schedule in the bus and shall at all times adhere to it. Drivers shall not be required to wait for pupils unless they can be seen making an effort to reach the bus stop.

9.4 The driver shall maintain discipline on the bus, and shall report cases of disobedience or misconduct to the designated school officials. No pupils may be discharged from the bus for disciplinary reasons except at the home or school. The principal or designated school official shall be notified of such action immediately. Any change to the action taken by the driver or any further disciplinary action to be taken is the responsibility of the principal or designated school official.

9.5 Pupils shall have definite places to board and exit the bus. Pupils should not be allowed to leave the bus at any place other than the regular stop without written permission from their parents, guardians or Relative Caregiver and approval by the principal or designated school official. Districts or schools may adopt a more restrictive policy.

9.6 Buses shall be brought to a full stop and properly positioned before pupils are allowed to board and exit the bus. Pupils are not permitted to ride outside or in any hazardous location in the bus including the area ahead of the barriers or white floor line designating the driver area.

9.7 Buses shall not stop near the crest of hills, on curves, or on upgrades or downgrades of severe inclination. When stopped for the purpose of receiving or discharging pupils, the bus shall always be stopped on the right side of the road and as far off the paved or main traveled portion of the highway as the condition of the shoulder permits and parallel to the main traveled portion of the highway.

9.8 Pupils who must cross the road to board the bus or after leaving the bus shall cross at a distance in front of the bus and beyond the crossing control arms so as to be clearly seen by the driver and only upon an audible clearance by the driver. The driver shall signal pupils to cross by instructions through the external speaker of the public address system.

9.9 All loading and unloading of pupils shall be made from the service door. The rear exit door is not to be used except in cases of emergency or emergency drills. No object shall be placed in the bus that restricts the passage to the emergency door or other exits.

9.10 No one but the driver shall occupy the driver's seat.

9.11 Pupils shall be assigned to seats by the driver, subject to the approval of the Transportation Supervisor.

9.12 The doors of the bus shall be kept closed and in the latched position while the bus is in motion.

9.13 When the bus is stopped on school grounds, pupils are aboard, and the motor is running, the transmission shall be in neutral (clutch disengaged) and the parking brake set. While on school grounds, drivers shall not leave their seat while the motor is running or leave the key in the ignition switch.

9.14 Fuel tanks shall not be filled while the engine is running or while anyone is in the bus.

9.15 Weapons of any kind are not permitted on a school bus.

9.16 Animals are not permitted on school buses; however, a service animal is permitted if a physician certifies that it is required or it is part of the pupil's IEP or 504 Plan.

9.17 A school bus shall not be used for hauling anything that would make it objectionable for school use or unsafe for passengers.

9.18 Band instruments, shop projects and other school projects shall not be permitted on the bus if they interfere with the driver or other passengers. The aisle, exits, and driver's vision shall not be blocked.

9.19 Bus stops on roadways with three or more lanes (with oncoming traffic) must be made on the right side of the road. Pupils shall not be required to cross more than two lanes of traffic when entering or leaving the bus.

9.20 Headlights or daytime running lights shall be on at all times when the bus is in motion.

9.21 On the bus route every effort should be made to load children before ~~turn arounds are~~ a turnaround is made and unload them after the ~~turn around~~ turnaround is made.

9.22 Backing of school buses is prohibited, except in unusual circumstances:

9.22.1 A school bus shall not be driven backwards on school grounds unless an adult is posted outside the bus to guard the rear of the bus. The driver and adult shall agree on signals to be used for backing.

9.22.2 When backing is unavoidable at other locations, extreme caution shall be exercised by the bus driver and an outside adult observer outside the bus shall be used if available. The driver and observer shall agree on signals to be used for backing.

9.23 If loading or unloading pupils off the road or on school grounds, do not activate the flashing lamps.

3 DE Reg. 942 (1/1/00)

9 DE Reg. 404 (9/1/05)
12 DE Reg. 1086 (02/01/09)

10.0 Accident Reports

10.1 All drivers or contractors shall complete accident reports and submit them to the Transportation Supervisor in order to assure accurate information pertaining to school bus accidents.

10.2 The following information shall be included on all school bus accident reports and be maintained in the District transportation files:

10.2.1 A description, preferably using diagrams, of the damage to each vehicle in addition to estimates of damage costs.

10.2.2 A description of all personal injuries.

10.2.3 A list of passengers and witnesses.

10.2.4 Name, address and telephone number of the driver.

10.2.5 If available, the school bus seating chart.

10.2.6 Follow up information, such as the actual cost of repairs, should be added to the accident report wherever it is filed; i.e., in federal, state or local offices, so that the record of the accident is completed. Other pertinent information relating to the accident that should be added later, if the information is readily available, includes:

10.2.6.1 Disposition of any litigation.

10.2.6.2 Disposition of any summonses.

10.2.6.3 Net effects of all personal injuries sustained, including medical care given, physician's fees, hospital expenses, etc.

10.2.6.4 Amount of property damage other than to vehicles involved.

10.2.6.5 Any corrective actions taken against the school bus driver, e.g., training, suspension, or dismissal.

10.2.6.6 A summation of the driver's total accident record so that each completed report form contain a listing of the total number of accidents that the driver has had.

3 DE Reg. 942 (1/1/00)
12 DE Reg. 1086 (02/01/09)

11.0 Transportation Benefits

11.1 Transportation benefits shall be provided for pupils in grades K to 6 whose legal residences are one (1) mile or more from the public schools to which they would normally be assigned by the District administrations and for pupils in grades 7 to 12 whose legal residences are two (2) miles or more from the public schools to which they would normally be assigned by the District administrations. Requests for otherwise ineligible transportation benefits due to unique hazards shall be processed according to this regulation.

11.2 For the purpose of these regulations, the "legal residence" of the pupil is deemed to be the legal residence of the parent(s), legal guardian(s), or Relative Caregiver as described in 14 **Del.C.** §202(e)(3). Daycare facilities may be designated as a pupil's residence for pickup and drop off.

11.3 To determine pupil eligibility for transportation benefits, measurement shall be by the most direct route provided by a public road or public walkway. The measurement shall be from the nearest point where a private road or walkway connects the legal residence of the pupil with the nearest public entrance of the school building to which the pupil is normally assigned by the District administration.

11.4 All school bus routes shall be measured from the first pickup point to the respective schools served in the approved sequence, and then by the most direct route back to the first pick up point.

11.5 Additional bus routes required after the opening of school shall be approved by the Department of Education and supported by evidence of need to include: enrollment number changes, descriptions of existing routes in the area of proposed additional service, the run times, and actual loads. A description of the proposed route shall also accompany the request.

11.6 Transportation for eligible pupils may be provided from locations other than their legal residence provided that:

11.6.1 Such pickup and discharge points as approved by the District administration are in excess of the relevant one and two mile limits from the school to be attended, and such transportation to be provided will be to the public school to which the pupil is assigned by the District administration.

11.6.2 Such transportation to be provided be on the same bus and route to and from the school attended by the pupil (i.e. each pupil is entitled to one seat on one bus) except that permission may be granted on a year by year basis by the District administration for eligible pupils to ride other buses if seats are available and does not create additional expense to the State.

11.6.3 The limitation pertaining to “same bus and route” indicated above is not applicable to pupils attending vocational technical schools or kindergartens operating one half day sessions.

11.7 A spur to a bus route (where a bus leaves a main route) shall not be scheduled unless the one way distance is greater than ½ mile.

11.8 Pupils otherwise ineligible to ride a bus may ride if a physician certifies that a pupil is unable or should not walk from home to school and return.

11.9. Unless permitted as an exception by the General Assembly and in vocational technical school districts, each school in a local school district shall have a defined attendance area (not overlapping) for transportation. Charter schools shall provide the same level of transportation service as the school district in which it is located. Area bus stops may be used outside of the school district in which the charter school is located.

8 DE Reg. 541 (10/1/04)
12 DE Reg. 1086 (02/01/09)

12.0 Unique Hazards

12.1 Individuals who desire to submit a request for exception to the transportation benefit criteria above because of a unique traffic hazard shall follow the procedures below. Unique hazards are considered to be conditions or situations that expose the pedestrian to rare or uncommon traffic dangers. This definition is not intended to include hazards representative of situations which may exist throughout the State.

12.2 Procedures for handling Unique Hazards requests.

12.2.1 When the request for relief originates with parents, guardians or Relative Caregivers of pupils affected or vested officials, such as State and local police representatives, Safety Council representatives, and legislators, it shall be presented in writing to the local school authorities.

12.2.1.1 The local school administration or charter school shall make every effort to resolve problems identified by the parents, guardians and Relative Caregivers vested officials, or by the local district staff.

12.2.1.2 If the problem cannot be resolved by the local school administration or charter school administration, the request shall be forwarded to the district board of education or charter school board of directors for appropriate action. If the district board of education or charter school board of directors has explored all of the local alternatives to resolve the problem without success, a request by board action shall be made to the Chairman of the Unique Hazards Committee (Education Associate for School Transportation).

12.3 The request to the Unique Hazards Committee shall include:

12.3.1 The original request from the parents, guardians or Relative Caregivers, vested officials, or the district staff.

12.3.2 A statement of the specific hazard and area involved including maps showing the specific location, points of concern and schools attended.

12.3.3 Number and grades of children involved.

12.3.4 School schedule and the time children would normally be walking to and from school in the area of concern.

12.3.5 List <u>of</u> any actions to resolve the problem taken by the district school administration or charter school administration.

12.3.6 List <u>of</u> any actions to resolve the problem taken by the local district board of education or charter school board of directors.

12.3.7 List <u>of</u> any actions to resolve the problem taken by the town, the city or county.

12.4 The Unique Hazards Committee shall process the request and report its findings and recommendations to the Department of Education for ~~their~~ consideration and action. A copy of the report shall also be forwarded to the district board of education or charter school board of directors involved.

12.5 The Unique Hazards Committee consists of representatives from the Department of Transportation; the New Castle County Crossing Guard Division; Delaware Safety Council; Traffic Control Section, the Delaware State Police; and the Department of Education Education Associate for Pupil Transportation (Chairperson).

12.6 Unique Hazards Committee Recommendations Appeal Process

12.6.1 Appeals of the Unique Hazards Committee recommendations approved by the Department of Education shall be in writing and from the district board of education.

12.6.2 The district <u>or charter</u> school board shall, before making an appeal, make every effort to resolve the problem. If, in the opinion of the district <u>or charter</u> board ~~of education~~, reconsideration is needed by the

Unique Hazards Committee, the appeal, along with pertinent information, should be forwarded to the Chairperson of the Unique Hazards Committee.

12.6.3 The Unique Hazards Committee shall submit to the State Board of Education its recommendations regarding the appeal for reconsideration by the district board of education or charter school board of directors. A copy of the report will also be forwarded to the district board of education or charter school board of directors involved.

9 DE Reg. 404 (9/1/05)
12 DE Reg. 1086 (02/01/09)

13.0 Bus Capacities

13.1 Bus capacities for children in Grades K to 6 shall be established on the basis of 13 inches per child, and for Grades 7 to 12, the capacity shall be established on the basis of 15 inches per child.

13.2 A mixture of the criteria shall be used to plan loads when pupils come from both of the above groups.

13.3 Actual bus loads may not exceed this guidance. Standees shall not be permitted under normal circumstances; however, exceptions may be made in emergency situations on a temporary basis.

12 DE Reg. 1086 (02/01/09)

14.0 Loading and Unloading

Each school shall have a loading and unloading area, rather than load or discharge passengers onto the street. On school grounds all other traffic is prohibited in the loading and unloading area during school bus loading and unloading operations.

12 DE Reg. 1086 (02/01/09)

15.0 Contingency Plans

15.1 Each District shall have contingency plans for inclement weather, accidents, bomb threats, hostages, civil emergencies, natural disasters, and facility failures (environmental and water, etc.). These plans shall be developed in cooperation with all those whose services would be required in the event of various types of emergencies.

15.2 The Transportation Supervisor, school administrators, teachers, drivers, maintenance and service personnel, pupils, and others shall be instructed in the procedure to be followed in the event of the contingencies provided for in the plans.

12 DE Reg. 1086 (02/01/09)

16.0 Reimbursements for Transportation

16.1 For purposes of reimbursements under this section, school buses may be either state owned and local school district operated, charter school owned and operated, or contractor owned and operated under contract with the local school district or charter school.

16.2 Reimbursement to the local school district for contracts or for school district owned or leased buses shall be made on the basis of a Department of Education formula approved by the State Board of Education. This formula shall take into consideration school bus cost and depreciation, fixed charges, operations, maintenance, driver and aide wages. Reimbursement shall be made only for transportation of eligible pupils and exceptions approved by the Department of Education and the State Board of Education.

16.2.1 Drivers employed by the local school district shall be paid on the regular payroll of the local school district. When drivers are employed in a dual capacity there shall be strict accounting for salary division.

16.3 Reimbursement for buses operated on contract shall be on the basis of the approved formula or of a bid if the amount is less.

16.3.1 Contractors shall be paid regularly at the end of the month. The total contract shall be paid in ten (10) installments, with the first payment at the end of September or twenty (20) installments with the first payment on or about September 15th. For those school districts opening before September 1 and making ten (10) installments, payments may be made as early as thirty (30) days following the start of the school year with follow up monthly payments to be made no earlier than the date used for the first payment. For those school districts opening before September 1st and making twenty (20) payments, payments may be made as early as fifteen (15) days following the start of the school year with follow up monthly payments to be made no earlier than the dates used for the first two payments.

16.4 Any transportation costs caused by grade reorganizations or pupil reassignments during the school term after October 1, other than the occupancy of a new school building, shall be at the expense of the local school district unless approved by the Department of Education.

16.5 Bills unpaid from Transportation funding lines that have not been encumbered as of June 30, shall be the responsibility of the local school district.

16.6 Contract allowances for buses when there are Emergency Days (forgiven by the Department of Education with the consent of the State Board of Education), Specially Declared Holidays or Strikes by Teachers.

16.6.1 School bus contractors and school districts shall be paid the normal rate of pay as provided for in their contract, less the allowance for fuel, maintenance and administration. Driver (including layover allowance) and aide allowances shall be paid.

16.6.2 School bus contractors and school districts with buses assigned to midday kindergarten shall be paid the normal rate of pay as provided for in their contract, less the allowance for fuel.

16.6.3 The additional mileage allowance for contractor and school district buses shall not include fuel and maintenance allowances.

16.7 The Delmar School District shall be reimbursed on the basis of the additional days necessary to operate as a result of the agreement with the Wicomico County Board of Education for the Delmar, Maryland elementary schools.

16.8 Fuel adjustments for local school districts shall be made in accordance with the State Budget Bill. When fuel adjustment additions are made, the school districts shall pay a lump sum for the number of days driven up to the date of the adjustment and the remainder shall be paid equally over the remaining months of the school year. For contract reductions, the adjustments shall be spread equally over the remaining months of the school year. Fuel adjustments for charter schools shall be made if provisions which are in accordance with the State Budget Bill are made. Additional funds shall only be provided up to the maximum allowance permitted to the charter school for that school year.

16.9 School transportation funding is contingent on school buses meeting State School Bus Standards and being operated in accordance with State and Federal laws and regulations.

16.10 When directed by the General Assembly to fund a portion of school transportation costs, districts shall make disbursements using state and non-state funds on a prorated basis.

7 DE Reg. 1546 (5/1/04)
8 DE Reg. 541 (10/1/04)
9 DE Reg. 404 (9/1/05)
12 DE Reg. 1086 (02/01/09)

17.0 Transportation Formulas for Local School Districts Operating District, Lease, or Lease Purchase Buses

17.1 A District shall not use transportation funds for items which are not on the following list without approval by the DOE. Any purchase, commitment, or obligation exceeding the transportation allocation to the District is the responsibility of the District. The following items may be used for the purpose of providing pupil transportation in accordance with the regulations of the Department of Education.

17.1.1 Advertising including equipment, routes, supplies, and employment.

17.1.2 Communication systems including two way radios, cellular phones, and AM-FM radio.

17.1.3 Fuel including gasoline, diesel, propane, kerosene, storage tanks, pumps, additives, and oil.

17.1.4 Leasing and rental including tools, equipment, storage facilities, buses, garage space, and office space.

17.1.5 Office supplies and materials including computer hardware, computer software, data processing, maps, postage, printing, subscription, and measuring devices.

17.1.6 Safety materials including audio visual aids, restraining vests, belts, safety awards, pins, patches, certificates, wheelchair ramps, wheelchair retainers, printing, handout materials, pamphlets, training materials, subscriptions, and bus seats.

17.1.7 Salary and wages including attendants (aide) as approved by the Department of Education when required in a pupil's IEP, dispatchers, drivers, maintenance helpers, mechanics, mechanics helpers, office workers, secretarial, substitute drivers, supervisory (other than State supported supervisor or manager), and State provided employee benefits.

17.1.8 Shop facilities including heat, electric, water, sewer, security, fences, lights, locks, guards, bus storage, janitorial supplies, brushes, mops, buckets, soap, tools, maintenance vehicles, grease, service vehicles, and work uniforms for maintenance staff.

17.1.9 Sidewalks including construction of sidewalks, footbridges, etc. that would be offset in reduced busing costs in 5 years or less, with prior approval of Supervisors of Transportation and School Plant Planning.

17.2 Special 01-60 state funds are provided to local school districts for training supplies. This account may also be used for reimbursements for state provided equipment and services.

17.3 Examples of Programs Excluded from State Reimbursement:

17.3.1 Extracurricular Field trips

17.3.2 Transportation of pupils from one school to another for special programs (e.g., music festivals, - Holiday programs, etc.)

17.3.3 Transportation of pupils to and from athletic contests, practices, tutoring, band events, etc.

17.3.4 Post secondary classes

17.3.5 Federal programs

17.3.6 Alternative school transportation when using a direct to and from school route that is less efficient than a shuttle concept. A shuttle concept means transporting students to one school and then to the alternative school.

17.3.7 Choice school transportation outside of the local school district or outside of the attendance area of school that the bus normally serves.

17.3.8 Charter school transportation (if being provided by a local school district) outside of the local school district.

12 DE Reg. 1086 (02/01/09)

18.0 Transportation Allowances for Individuals

18.1 Requests for transportation allowances shall be made in writing to the Department of Education by local school districts with justification. This information is necessary in order for the Department to determine a pupil's eligibility. The responsibility for establishing a claim for transportation allowances rests upon the district and claimant.

18.2 All requests shall be signed by the parent, guardian or Relative Caregiver and certified by the superintendent, principal or the principal teacher of the school to be attended. In case of a car pool, only the driver shall be paid.

18.3 Payments or reimbursements for transportation by private means shall be on the following basis:

18.3.1 When adequate public services are available, the public service rates shall be used.

18.3.2 When public service is not available and it is necessary to provide transportation by private conveyance, the allowance shall be calculated at the prevailing state rate per mile for the distance from the home to the school or school bus and return twice a day, or for the actual distance traveled.

18.3.3 Local School districts shall maintain a monthly record of mileage travelled on a form provided by the Department of Education.

18.3.4 Any exception or variation must be approved by the Department of Education.

9 DE Reg. 404 (9/1/05)
12 DE Reg. 1086 (02/01/09)

19.0 Cost Records

19.1 Cost Records shall include the following costs directly attributable to the transportation of eligible pupils on local school district school buses:

19.1.1 Total expenditures by funding code.

19.1.2 Wages of the Drivers.

19.1.3 Bus maintenance costs (expenditure for all bus supplies, repairs and routine service).

19.1.4 Cost of accidents, including bus repairs.

19.1.5 Indirect costs (all those costs not included in above categories and all costs associated with those who supervise the school transportation operation).

12 DE Reg. 1086 (02/01/09)

20.0 Bus Replacement Schedules

20.1 The time begins for a new bus when it is placed in service. A bus shall have the required mileage prior to the start of the school year. Once a bus is placed in service for the school year, it will not be replaced unless it is unable to continue service due to mechanical failure. <u>Requests for early replacement due to mechanical failure shall be accompanied by a mechanic's analysis of the problem(s), and repair and maintenance histories for the last three years.</u>

20.2 The following age and mileage requirements apply:

20.2.1 14th year shall be replaced (it may then be used as a spare); or

20.2.2 At least 190,000 miles no matter age of bus may be replaced; or

20.2.3 At least 9 years and 130,000 miles may be replaced; or

20.2.4 May be replaced after 10 years.

20.3 Contractors shall be reimbursed for their eligible school buses for the annual allowances permitted by the Formula. New (unused) buses placed in service in a year following their manufacture shall begin their 7 years of capital allowances with the rate specified for the year of manufacture and continue in year increments until completed.

20.4 School buses purchased with state allocated transportation funds may be used by the school districts for purposes other than transportation of pupils to and from school. This type of use shall be at the district's expense and shall occur only during a time when the bus is not making its normal school run.

20.5 In accordance with the Attorney General's opinion of June 18, 1974, regarding the use of buses purchased from State allocated transportation funds for purposes other than the regular transportation of pupils to and from school, the provisions of Title 14, Section 1056, School Property, Use, Control and Management, shall apply.

12 DE Reg. 1086 (02/01/09)
13 DE Reg. 845 (12/01/09)

21.0 School Bus Inspections

School buses shall be inspected by the Division of Motor Vehicles bi-annually. The first inspection period is ~~during January or February~~ from July 1 through August 31 (black sticker), and the second inspection period is ~~during June, July, or August~~ from the beginning of a District's Christmas vacation period through February 28/29 (gold sticker).

12 DE Reg. 1086 (02/01/09)

22.0 Transportation for Pupils with Disabilities

~~22.1 Transportation or a reimbursement for transportation expenses actually incurred shall be provided by the State for eligible persons with disabilities by the most economically feasible means compatible with the person's disability subject to the limitations in the following regulations:~~

~~22.2 When the legal residence of a person receiving tuition assistance for private placement is within sixty (60) miles (one way) of the school or institution to be attended, the person shall be eligible for round trip reimbursement for transportation on a daily basis at the per mile rate allowed by the Internal Revenue Service for business use of a private vehicle, or for transportation at State expense which may be provided in lieu of the per mile reimbursement. (Round trip mileage is considered to be from the person's legal residence to the school or institution and return twice a day, or for actual mileage traveled, whichever is less.)~~

~~22.3 When the legal residence of a person receiving tuition assistance for private placement is in excess of sixty (60) miles (one way) but less than one hundred (100) miles (one way) from the school or institution to be attended, the person shall be eligible for round trip transportation reimbursement at the per mile rate allowed by the Internal Revenue Service for business use of a private vehicle, or for transportation at State expense which may be provided in lieu of the per mile reimbursement on a weekly basis and on such other occasions as may be required when the school is not in session due to scheduled vacations or holidays of the school or institution. (Round trip mileage is considered to be from the person's legal residence to the school or institution and return twice a week. The weekly basis is to be determined by the calendar of the school or institution to be attended.)~~

~~22.4 When the legal residence of a person receiving tuition assistance for private placement is in excess of one hundred (100) miles (one way) of the school or institution to be attended, the person shall be eligible for round trip reimbursement on the basis of one round trip per year from the person's legal residence to the school or institution and return, and at such other times when care and maintenance of the person is unavailable due to the closing of the residential facility provided in conjunction with the school or institution. (Round trip is considered to be from the person's legal residence to the school or institution to be attended and from the school or institution to the legal residence of the person on an annual basis or at such times as indicated above.)~~

~~22.5 Reimbursement shall be computed on the per mile rate allowed by the Internal Revenue Service for business use of a private vehicle from the legal residence to the point of embarkation and return to the legal residence and for the actual fares based on the most economical means of transportation from the point of embarkation to the school or institution to be attended; the return trip shall be computed on the same basis.~~

~~22.6 Transportation at State expense may be provided from the legal residence to the point of embarkation in lieu of the per mile reimbursement when it is determined by the local district to be more economically feasible.~~

~~22.7 The local district of residence shall be responsible for payment of all such transportation reimbursement when it is determined by the local district to be more economically feasible.~~

~~22.8 All requests for payment shall be made by parent, guardian or Relative Caregiver to the transportation supervisor responsible for transportation in the district of residence at a time determined by the district but prior to June 5 of any year.~~

~~22.9 When reimbursements are made they shall be based on required documentation to support such payment.~~

~~22.10 The legal residence for the purpose of these regulations is defined as the residence of the parent, guardian or Relative Caregiver of the child with disabilities and with whom the child actually resides.~~

22.1 Private placement with financial aid may be sought when an Individual Education Program (IEP) team finds that an eligible child with a disability cannot benefit from the regularly offered free appropriate public educational programs which include regular classes, special classes or special schools. The determination shall be made by the IEP team and by the Department of Education that no school district or other state agency has a suitable free and appropriate program of education for the particular child with a disability. Such private placement shall be in a school or institution approved by the Department of Education in keeping with its oversight responsibilities.

22.2 Financial aid shall include tuition for special education and related services as defined in the Individuals with Disabilities Education Act (IDEA) [20 U.S.C. § 1400, et seq.] to include daily transportation for a private day program and room and board for a residential program.

22.3 Transportation for a residential program will include, at a minimum, transportation to and from the facility at the start and end of each school term and when the school is officially closed to students. Reimbursement for other trips home or for the parents' travel costs to accompany the child or to attend conferences at the facility shall be determined on a case-by-case basis.

22.~~11~~4 School Transportation Aides: With the approval of the Department of Education, a state funded school bus aide may be provided on school buses serving special schools or programs for children with disabilities and when required in a student's Individualized Education Program.

3 DE Reg. 1548 (5/1/00)
9 DE Reg. 404 (9/1/05)
12 DE Reg. 1086 (02/01/09)

23.0 Transportation for Alternative Programs

Costs for transportation shall be paid by the state from funds appropriated for pupil transportation if transportation is provided by extending already existing routes. Shuttle services that extend existing routes will be allowed. Additional routes established to transport pupils to and from the Alternative Programs or other special transportation designs shall not be paid by the state from the school transportation appropriation and shall be included in the Alternative Program budget and be paid from the state allocation for alternative programs and the local school district's 30% share. Planning committees for these programs shall include the ~~t~~Transportation ~~s~~Supervisors who will be providing services. In addition, those supervisors shall coordinate planning with and submit their transportation plans to the Education Associate for Pupil Transportation at the Department of Education.

12 DE Reg. 1086 (02/01/09)

24.0 Drugs and Alcohol Testing

24.1 Content:

24.1.1 Pursuant to 14 **Del.C.** §2910, this regulation shall apply to the contracting for a program of drug and alcohol testing services necessary to enable local school districts, charter schools, and any person or entity that contracts with a local school district or charter school to provide transportation for State public school pupils, to comply with such drug and alcohol testing requirements applicable to Delaware public school bus drivers as are now, or may hereafter be, imposed by federal law.

24.1.2 School bus aides shall be subject to the same federal and state drug and alcohol testing requirements as school bus drivers. They shall use non DOT forms, and the employer shall follow the same procedures set forth herein.

24.2 Definitions: The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

"Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols, including methyl or isopropyl alcohol.

"Department" means the Delaware Department of Education.

"DOT" means the United States Department of Transportation.

"Drug" means the controlled substances for which tests are required under the provisions of 49 U.S.C. §31306, 49 CFR Part 382 and 49 CFR Part 40, and include marijuana, cocaine, amphetamines, phencyclidine (PCP), and opiates.

"Employer" means school bus contractors or school districts and charter schools when they directly employ school bus drivers.

"Negative Result" means a verified negative drug test result or an alcohol test result lower than the Federal standard as defined by the provisions of 49 U.S.C. §31306, 49 CFR Part 382 and 49 CFR Part 40.

"Positive Result" means a verified positive, adulterated, or substituted drug test result, an alcohol test result equal to or greater than the Federal standard or a refusal to take a drug or alcohol test as defined by the provisions of 49 U.S.C. §31306, 49 CFR Part 382 and 49 CFR Part 40.

24.3 Federal Regulations

Employers shall comply with the drug and alcohol testing regulations issued by the Secretary of Transportation of the United States pursuant to 49 U.S.C. §31306 and located at 49 CFR Part 382 and 49 CFR Part 40.

24.4 Drug and Alcohol testing program requirements:

24.4.1 The employer shall:

24.4.1.1 Be responsible for compliance with all federal and state regulations;

24.4.1.2 Maintain drug and alcohol testing records for their school bus drivers and aides.

24.4.1.2.1 Documentation of drug and alcohol testing results shall flow directly from the Consortium or Third Party Administrator Medical Review Officer (C/ TPA/MRO), as defined by the provisions of 49 CFR Part 382 and 49 CFR Part 40, to the employer. Copies of positive results shall be sent to the transportation supervisor for the school district or charter school and the Department for accounting and audit purposes.

24.4.1.2.2 Documentation of results shall be addressed to the individual, or employer, and the transportation supervisors for the school district, charter school or Department so as to ensure confidentiality.

24.4.2 The Department shall:

24.4.2.1 Bid the contract for the drug and alcohol testing program;

24.4.2.2 Monitor the drug and alcohol testing program;

24.4.3 Any school bus driver or aide who is not in compliance with federal and state drug and alcohol testing requirements shall not perform driver or aide duties until they have satisfied the federal and state requirements.

24.4.3.1 Any school bus driver or aide who has a positive drug or alcohol test result shall comply with DOT regulations regarding a Substance Abuse Professional (SAP) evaluation, treatment and return to duty testing before another preemployment test is allowed.

24.4.3.2 An employer who hires a school bus driver or aide who has previously failed a drug or alcohol test shall ensure that all follow up drug and alcohol testing recommended by the SAP evaluation is implemented.

24.5 Preemployment Testing

24.5.1 School bus drivers with no CDL and aides with no prior experience shall have a negative preemployment drug test, and the employer shall receive a negative result before the prospective employee can operate a school bus or serve as an aide.

24.5.2 Bus drivers with a CDL and school bus aides with past experience shall follow DOT rules and regulations to determine the necessity for preemployment drug testing.

24.5.3 Employers shall provide Federal Drug Testing Custody and Control (CCF) forms to new school bus drivers and non DOT forms to school bus aides who shall take the forms to the appropriate collection facility where the driver or aide shall be administered a drug test. Forms shall note the employer and district or charter school.

24.5.4 Negative results shall be forwarded from the C/TPA/MRO to the employer.

24.5.5 Positive results shall be forwarded from the C/TPA/MRO to the employer. Copies of positive results shall be sent to the transportation supervisor for the school district or charter school and the Department for accounting and audit purposes.

24.5.6 Employers shall notify prospective school bus drivers and aides in writing of a positive result. Copies of this letter shall be sent to the transportation supervisor for the school district or charter school and the Department.

24.6 Random Testing

24.6.1 Employers shall provide the C/TPA/MRO a quarterly list of eligible drivers and aides to be drug and alcohol tested no later than one week before the testing quarter. The list shall note the primary district of the drivers and aides. Copies of the lists shall be provided to the school district or charter school transportation supervisors.

24.6.2 The C/TPA/MRO shall send the employer lists of drivers and aides to be tested by the end of the first week of the quarter.

24.6.3 Employers shall provide CCF and alcohol testing forms to the drivers and aides who shall take the forms and go immediately to the appropriate collection facility where the driver or aide shall be administered a drug test or a drug and alcohol test. Forms shall note the employer and the district.

24.6.4 Employers shall complete the required random tests before the end of the calendar quarter.

24.6.5 Negative results shall be forwarded from the C/TPA/MRO to the employer.

24.6.6 Positive results shall be forwarded from the C/TPA/MRO to the employer. Copies of the positive results forms shall be sent to the transportation supervisor for the district and the Department for accounting and audit purposes.

24.6.7 Employers shall notify school bus drivers and aides in writing of a positive result. Copies of this letter shall be sent to the transportation supervisor for the district and Department.

24.7 Post Accident and Reasonable Suspicion Testing

24.7.1 Employers shall provide CCF and alcohol testing forms to the school bus drivers and aides who shall take the forms and go immediately to the appropriate collection facility where the driver or aide shall be administered a drug and alcohol test. Forms shall note the employer and district.

24.7.2 Negative results shall be forwarded from the C/TPA/MRO to the employer.

24.7.3 Positive results shall be forwarded from the C/TPA/MRO to the employer. Copies of the positive result form shall be sent to the transportation supervisor for the local school district or charter school and the Department for accounting and audit purposes.

24.7.4 Employers shall notify school bus drivers and aides in writing of a positive result. Copies of this letter shall be sent to the transportation supervisor for the district and the Department.

3 DE Reg. 942 (1/1/00)
6 DE Reg. 643 (11/1/02)
12 DE Reg. 1086 (02/01/09)

25.0 Nonpublic, Nonprofit Schools

25.1 The nonpublic, nonprofit schools shall be responsible for the administration and supervision of the family transportation allowance provided by the State Department of Education. The program is contingent upon General Assembly funding.

25.2 The nonpublic, nonprofit, school shall act as the administrator and fiscal agent. If the nonpublic, nonprofit school chooses to use an agent to receive payment other than the nonpublic, nonprofit school, written authorization from the governing board of the nonpublic, nonprofit school, such as the board of trustees or the school board, specifying such agent shall be forwarded to the Education Associate for Pupil Transportation in the Department of Education. The use of an agent to accept payment shall not relieve the nonpublic, nonprofit school from its responsibility to administer and supervise the transportation program, to maintain records, or to submit such reports as may be required.

25.3 Those nonpublic, nonprofit schools with families requesting transportation allowances shall ~~have a Federal ID number~~ provide proof of nonprofit status to DOE.

25.4 Transportation allowances shall be made only for those eligible pupils (Delaware residents attending Delaware schools) who meet residence to school proximity guidance of one (1) mile or more for grades K to 6 and two (2) miles or more for grades 7 to 12 and who make application to the nonpublic, nonprofit school for such transportation allowances. These applications for transportation allowances shall be signed by the parent, guardian, or Relative Caregiver and certified by a school administrator. Families of a pupil who would not otherwise be eligible for the allowance may receive the allowance if a physician certifies that the pupil is unable to walk or should not walk from home to school and return. The responsibility for establishing a claim for transportation allowances rests upon the claimant, and all records of this request shall be kept on file in the nonpublic, nonprofit school office. Such records shall be made available for audit by a representative of the Department of Education or the State Auditors.

25.5 The State shall provide the transportation funds to the nonpublic, nonprofit school or designated agent for eligible families. The family shall direct the nonpublic, nonprofit school or designated agent how the funds are to be dispersed e.g., some or all of the funds to the parent, guardian or Relative Caregiver for tuition, for school provided transportation costs, for an allowance, etc. The nonpublic, nonprofit school shall ensure that its tuition, transportation fees, and other costs of attendance are independent of the allowances.

25.6 Payment shall be made only on the basis of one trip to and one trip from nonpublic, nonprofit school daily. Families who transport more than one child to the same school by private conveyance shall be reimbursed on the basis of the number of trips rather than on the number of children transported. No family shall qualify for more than one reimbursement for pupils it transports to a single school except for families with two or more children, one of whom is enrolled in a half day kindergarten program. In the event of car pools, each family is entitled to reimbursement, but a family shall not receive more than the annual allowance.

25.7 The nonpublic, nonprofit school shall submit a transportation form, provided by the Department of Education, indicating eligible reimbursements, no later than October 1st of each year. All information shall be based on September 30th enrollment and eligibility. After the submission of the final transportation form no further adjustments for eligibility shall be made for the remainder of the school year.

25.8 In September each year, the nonpublic, nonprofit schools shall receive an initial allocation based upon approximately 1/10 of the previous year's allowances. If the school did not participate the previous year, it should notify the DOE School Transportation Office by September 1 to establish an initial disbursement amount. Using the information on all of the DOE transportation forms, the Department shall calculate the statewide allowance for the current year and send remaining funds to the schools ~~in three equal amounts~~ at the end of October~~, January, and April~~. The school shall return funds not distributed to parents, guardians or Relative Caregivers to the State of Delaware.

8 DE Reg. 541 (10/1/04)
9 DE Reg. 404 (9/1/05)
12 DE Reg. 1086 (02/01/09)
18 DE Reg. 759 (04/01/15) (Prop.)