

UNIT TWO – LEGISLATIVE GUIDELINES

COLORADO DEPARTMENT OF EDUCATION RULES

1 CCR 301-25, Colorado Minimum Standards Governing School Transportation Vehicles

2251-R-1.00 Statement of Basis and Purpose

The statutory authority for the Amendments to the Colorado Minimum Standards Governing School Transportation Vehicles (hereinafter "these rules"), adopted by the State Board of Education on May 10, 2007, is found in sections 22-51-108 and 42-4-1903 (1) (2) (3), C.R.S.

The purpose of these amendments is to upgrade the rules for Colorado minimum standards governing school transportation vehicles. The amendments will improve the safety of the students riding the school bus and the mechanical efficiency of the school bus. They are designed to meet or exceed changing needs of operation, the national recommended minimum standards, new federal safety and emission standards and utilize state-of-the-art industry advances.

1 CCR 301-26. Rules for the Operation of School Transportation Vehicles

4204-R-200.00 Statement of Basis and Purpose

200.01 Colorado law provides for the State Board of Education to adopt and enforce regulations governing the safe operation of school buses used for the transportation of students pursuant to 42-4-1904 and 22-51-108, C.R.S.

200.02 The purpose of these amendments is to reflect recommendations from the National School Transportation Specifications and Procedures, Colorado State Patrol's Motor Carrier Safety Regulations, and other input from the School Transportation Unit and school districts/service provider transportation professionals.

200.03 Pursuant to 22-32-113, C.R.S., the board of education of a school district is authorized but is not required to furnish student transportation home to school, school to school, school to home, and on school sponsored activities. Public school districts may be subject to federal and state requirements relating to transportation for eligible students with disabilities and students meeting the definition of homeless.

200.04 These rules shall become effective July 1, 2009, for all student transportation.

1 CCR 301-29, Rules for the Annual Inspection and Preventative Maintenance of School Transportation Vehicles

2251-R-I.00 Statement of Basis and Purpose

The statutory authority for these rules and regulations adopted by the State Board of Education is found in 22-2-107(l)(c), 22-51-108, and 42-4-1904, C.R.S.

The purpose of this rule is to establish annual inspection and preventative maintenance criteria to insure that Colorado school transportation vehicles are regularly maintained and inspected in the interest of the safety of the students transported in these vehicles.

1.01 Effective date: These rules shall become effective June 1, 2010.

These rules are issued under the authority of 42-4-1904(1) C.R.S.

FEDERAL STANDARDS

The National Highway Traffic Safety Administration (NHTSA) has minimum design and construction standards for many aspects of all vehicles, especially school buses, called Federal Motor Vehicle Safety Standards (FMVSS). Starting July 1, 1977, these standards were expanded to encompass the concept of compartmentalization. Distance between seats is now less, seat backs are higher, and the metal framework is covered with foam padding. Also, the roof, sides, and floor are heavily reinforced to stay intact. In an accident, the student(s) would remain in their seating compartment. The padded seat back in front of them provides a large area to spread the energy of their body, thus increasing the safety factor in the passenger compartment.

LOCAL POLICIES

The Local Board of Education may adopt and enforce policies consistent with existing statutes, state rules and regulations governing school transportation.

HOURS OF SERVICE

301-26, 4204-R-229.00 Hours of Service for School Transportation Vehicle Operators

- 229.01 The school transportation vehicle operator, including small vehicle operators, shall not drive nor shall the school district/service provider permit or require an operator to drive:
- 229.01 (a) In excess of 10 hours or after being on-duty 14 hours until completing 10 hours off duty. This would include on-duty time for all employers. Ten hours off duty may be consecutive or accumulated in two or more periods of off duty time with one period having a minimum of 6 consecutive hours off duty.
 - 229.01 (b) After being on-duty for more than 70 hours in any seven consecutive days.
- 229.02 A school district/service provider may comply with part 395 of the Federal Motor Carrier Safety Regulations (FMCSR) in place of this section.
- 229.03 Definitions:
- 229.03 (a) Adverse driving conditions - In case of emergency, an operator may complete the trip without being in violation if such trip reasonably could have been completed absent the emergency.
 - 229.03 (b) Day - Means any 24-consecutive hour period beginning at the time designated by the school district/service provider.
 - 229.03 (c) On-duty time - Includes all time worked for any and all employers, including all driving and non-driving duties.
 - 229.03 (d) Off-duty time - School transportation vehicle operators may consider waiting time at special events, meal stops, or activity trips as off-duty if the following criteria is met: (compensated waiting time does not necessitate on-duty time)
 - (1) The operator shall be relieved of all duty and responsibility for the care and custody of the vehicle, its accessories, and students, and
 - (2) The operator shall be at liberty to pursue activities of his/her choice including leaving the premises on which the bus is located.
- 229.04 All school transportation vehicle operators shall document that they are in compliance with this section, hours of service.

229.04 (a) An operator's daily log, or equivalent, shall be completed for the trip in the operator's own handwriting, when the trip requires a scheduled or unscheduled overnight stay away from the work reporting location.

229.05 The school transportation vehicle operator shall not transport students, nor shall the school district/service provider require the operator to transport students, while the operator's ability or alertness is so impaired, through fatigue, illness or any other cause, as to make it unsafe for the operator to transport students.

DRUG AND ALCOHOL

Drug and alcohol testing requirements

When a person has a CDL or works in a safety-sensitive position, that person is subject to DOT drug & alcohol testing. FMCSR (Federal Motor Carrier Safety Regulations) 49 CFR, Part 382. The tasks actually performed qualify a person as a safety-sensitive employee, not the job title. All employees who will be subject to testing under DOT drug & alcohol testing will be provided training when they are hired. The training must be documented as part of pre-service training and maintained in the driver qualification file.

What conduct is prohibited

An individual must not do any of the following when reporting for duty in a safety sensitive position.

- While assigned, the individual must not use or possess any illegal drug
- The driver must not possess alcohol
- The driver must not report for duty, nor remain on duty if:
 - Under the influence or impaired by alcohol
 - Have a blood alcohol concentration above .02
 - Have used illegal drugs
- Must not use alcohol within four hours of reporting for duty

What does DOT test for

- **DRUGS**
 - Marijuana metabolites/THC
 - Cocaine metabolites
 - Amphetamines (including methamphetamine)
 - Opiates (including codeine, heroin, morphine)
 - Phencyclidine (PCP)
 - Heroin (6MAM)
 - Ecstasy (MDMA)
- **ALCOHOL**

Types of testing

The following are circumstances which a person is subject to testing for drugs and/or alcohol.

- Pre-employment
- Reasonable Suspicion/Cause
- Random
- Post-accident
- Return-to-duty
- Follow-up

Pre-employment (Sec. 382.301)

When hired, a new driver is required to submit to a drug test. Employers may, but are not required to, conduct alcohol testing. A new hire may not perform safety-sensitive duties until the employer has received a negative result from the testing.

Reasonable Suspicion (Sec. 382.307)

An employee is required to submit to any test (whether drug, alcohol, or both) that a supervisor requests based on reasonable suspicion. The reasonable suspicion testing is based on one or more supervisors who believe or suspect that an employee is under the influence of drugs or alcohol. A supervisor cannot require testing based on a hunch or guess. The suspicion must be based on observations concerning appearance, behavior, speech, and body odor which can be associated with drug or alcohol use.

A supervisor must have received the two required 60- minute sessions of training in order to send an individual for testing. (Sec 382.603) A supervisor must document the employee's conduct and sign the statement within 24 hours of the observed behavior or before the results of the test are released.

Testing for alcohol should be accomplished within two hours following the observation. If it cannot be accomplished within two hours, a written statement must be prepared and maintained stating the reasons the test was not completed in a timely manner. If the test is not completed within eight hours, all attempts to complete the testing shall cease. If there is reasonable suspicion, but no test has been given, the employee shall not perform safety-sensitive duties for 24 hours.

Random (Sec. 382.305)

Employees in safety sensitive duties are subject to unannounced random drug & alcohol testing. Alcohol testing is administered just prior to, during, or just after performing safety-sensitive functions. Selection for random testing must use a truly random selection process that is something more than drawing a name out of a hat. The selection shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator. When selected for a random test, the employee must proceed immediately to the testing site.

Post-accident (Sec. 382.303)

Post-accident testing is required when any of the following events occur.

- The accident involved a fatality
- The driver receives a citation or moving violation arising from an accident that involved:
 - Injury requiring medical treatment away from the scene or
 - One or more vehicles incur disabling damage and must be towed from the scene

“Disabling damage” is damage that prevents a motor vehicle from leaving the scene of the accident in its usual manner. This includes motor vehicles that could be driven but would be damaged further if driven. It does not include:

- Damage that can be remedied temporarily at the scene of the accident without special tools
- Tire disablement without other damage, even if no spare tire is available.
- Headlight or taillight damage
- Damage to turn signals, horn, or windshield wipers that makes them inoperative

Return to Duty and Follow-up

These tests are given after an employee has had a positive test for either drugs or alcohol. Normally, district policy does not allow retention of an employee after a positive test. Drug testing under these two categories requires them to be conducted under direct supervision.

Self-Reporting

Employers are required to advise employees of resources available for appropriate treatment for alcohol and drug use. The employer does not have to pay for the treatment. Self-reporting when notified to report for drug testing does not release the employee from the responsibility to show up for testing.

Substance Abuse Professional (SAP)

SAPs play a vital role in the drug and alcohol testing program. If an individual tests positive, the employer must refer the individual to a SAP. The SAP will recommend appropriate education, treatment, and follow-up. This does not mean that an employer must retain an employee who has tested positive. Follow your district policy.

Alcohol

Alcohol is prohibited under the following conditions

- While performing a safety-sensitive function
- For four hours before performing a safety-sensitive function
- Reporting for duty or remaining on duty with an alcohol concentration of 0.02 or greater
- Use during eight hours following an accident, or until he/she undergoes a post-accident test
- Refusal to take a required test

An employee with an alcohol concentration greater than 0.02 but less than 0.04 shall not be permitted to perform safety-sensitive functions for 24 hours. The district may have stricter rules; however, they must be independent of FMCSR.

The effects of a hangover can adversely affect an individual's ability to drive.

Drugs

Prescription and over the counter drugs (OTC), that affect your job performance are prohibited.

Legal drugs that affect your job performance:

- **Alcohol** - The most abused drug! It depresses the central nervous system. Effects: Impairs judgment, gives a false sense of confidence, reduces vision, hearing is less acute, concentration is difficult, speech and balance are affected, and reactions are slowed.
- **Amphetamines** - Used primarily as a central nervous system stimulant. Example: Dexatrim (weight control). Effects: Changes in perception, over extension of the body's capabilities.
- **Antihistamines** - Found in allergy and cold medicines. Examples: Triaminic DH expectorant, Nyquil. Effects: Drowsiness, dizziness, slowed reflexes, impaired mental and physical abilities.
- **Barbiturates** - Acts on the nervous system. Example: Sleeping pills. Effects: Slowed reflexes.
- **Hallucinogens** - Drugs that produce hallucinations. Examples: Peyote and sometimes ethyl alcohol. Effects: Gives false perceptions, the mind wanders, an individual may be distraught.
- **Hypertension drugs** - Used to control blood pressure. Effects: May cause emotional instability at times.
- **Inhalants** - Produces a quick "high." Examples: Solvents (glue), aerosol sprays (Binaca), anesthetics (ether). Effects: Dulls judgment, slows reflexes, reduces vision, hinders muscle control, distorts perceptions, and may cause sudden unconsciousness.
- **Narcotics** - Depress the central nervous system, relieving pain and inducing sleep. Examples: Codeine, Morphine. Effects: Drowsiness, slowed reflexes, impaired judgment.
- **Tranquilizers** - Anti-anxiety for relaxation. Examples: Valium, Librium. Effects: Drowsiness, slowed reflexes, impaired judgment.
- **Prescription drugs or over the counter medications** – The driver should ask their doctor or pharmacist what side effects a drug may have. There are certain drugs that cannot be taken while performing safety sensitive employment.

Any illegal drug or drugs that have not been prescribed by a licensed doctor are prohibited.

Medical Marijuana

Medical use of marijuana is not protected by the federal Americans with Disabilities Act, because the federal government does not recognize medical marijuana. All school bus drivers with a CDL are subject to drug testing under federal law. A medical marijuana card holder who gets pulled over for suspicious driving will be ticketed with a DUI for being under the influence of marijuana. If a card holder shows up for work and appears to show signs of impairment, the employer has every right to have the employee tested for reasonable suspicion. If the employee tests positive, the driver is subject to the consequences of the district's workplace drug policy. If a card holder is selected for a random drug test and tests positive for THC, the card holder is subject to the district's policy concerning a positive drug test.

Marijuana, students, and school buses do not mix!

TIPS:

- Failure to submit to testing is considered a refusal to test.
- When your doctor is prescribing medication, let him/her know that you are a CDL driver and ask about any effects on ability to function properly.
- Notify your transportation supervisor when taking any prescription medication.
- When taking a drug test, neither you nor the tester should let the specimen out of your sight until it has been poured into two separate bottles and properly sealed.
- THC can be detected in your system for at least 30 days.

For additional guidance concerning the drug and alcohol testing program, contact your drug testing agency or refer to FMCSR 49 CFR 382.