



Certification Page Regular and Emergency Rules

Revised July 2019

Emergency Rules (Complete Sections 1-3 and 5-6)

Regular Rules

1. General Information

a. Agency/Board Name Education, Department of			
b. Agency/Board Address 122 West 25th Street, Suite E200		c. City Cheyenne	d. Zip Code 82002
e. Name of Agency Liaison Justin Arnold		f. Agency Liaison Telephone Number 307.777.6984	
g. Agency Liaison Email Address justin.arnold@wyo.gov		h. Adoption Date 7/1/2020	
i. Program General Agency, Board or Commission Rules			

2. Legislative Enactment For purposes of this Section 2, "new" only applies to regular (non-emergency) rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these non-emergency or regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. **Yes.** If the rules are new, please provide the Chapter Numbers and Years Enacted (e.g. 2015 Session Laws Chapter 154):

3. Rule Type and Information For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.

a. Provide the Chapter Number, Title* and Proposed Action for Each Chapter. Please use the "Additional Rule Information" form to identify additional rule chapters.

Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
20	Rules for the Student Transportation Component Within the Education Resource Block Grant Model	
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
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		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

* If the name of a chapter of rules is changing, please only provide the NEW chapter name on this rules certification form.

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. No. Yes. N/A

b. A public hearing was held on the proposed rules. No. Yes. Please complete the boxes below.


Date:	Time:	City:	Location:

5. Checklist

- a. For regular rules, the Statement of Principal Reasons is attached to this Certification and, in compliance with Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule
- b. For emergency rules, the Memorandum to the Governor documenting the emergency, which requires promulgation of these rules without providing notice or an opportunity for a public hearing, is attached to this Certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct. By electronically submitting the emergency or regular rules into the Wyoming Administrative Rules System, the undersigned acknowledges that the Registrar of Rules will review the rules as to form and, if approved, the electronic filing system will electronically notify the Governor's Office, Attorney General's Office, and Legislative Service Office of the approval and electronically provide them with a copy of the complete rule packet on the date approved by the Registrar of Rules. The complete rules packet includes this signed certification page; the Statement of Principal Reasons or, if emergency rules, the Memorandum to the Governor documenting the emergency; and a strike and underscore copy and clean copy of each chapter of rules.

<i>Signature of Authorized Individual</i>	
<i>Printed Name of Signatory</i>	Jillian Balow
<i>Signatory Title</i>	State Superintendent of Public Instruction
<i>Date of Signature</i>	July 1, 2020

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

<i>Governor's Signature</i>	
<i>Date of Signature</i>	

June 30, 2020

TO: Honorable Mark Gordon, Governor State of Wyoming

FROM: Trent Carroll, Chief Operations Officer

SUBJECT: *Emergency Rules: Chapter 20 – Rules for the Student Transportation Component Within the Education Resource Block Grant Model*

Dear Governor Gordon:

The Department of Education is submitting this letter with regard to the necessity of amending our current rules regarding pupil transportation during the pandemic brought on by COVID-19. This is the second continuation of the Chapter 20 Emergency Rules currently in place. Our current rules stipulate school districts may only be reimbursed by the state for miles traveled in fleet vehicles transporting pupils to and from school or for field trips/activities defined under the aforementioned rules.

The Department of Education has been approached by a number of districts who would like to utilize transportation staff to deliver critical meals to those pupils who are unable to obtain those resources on their own accord. Districts have also expressed interest in delivering instructional materials to those students who may not have access from where they reside.

The Department of Education requests that you review the proposed changes to the rules and approve based on the critical need for the state to support districts providing essential services to students through this crisis.

CHAPTER 20

STUDENT TRANSPORTATION COMPONENT WITHIN THE EDUCATION RESOURCE BLOCK GRANT MODEL

Emergency rules are no longer in effect 120 days after filing with the Secretary of State.

Section 1. Authority. The State Superintendent of Public Instruction, pursuant to Wyoming Statute 31-5-118, W.S. 21-13-320, and W.S. 21-4-401, promulgates these rules.

Section 2. Definitions.

(a) “Activity trip” means travel for activities sanctioned by the Wyoming High School Activities Association (WHSAA) or middle/junior high school-sponsored activities that directly correspond to high school activities sanctioned by the WHSAA.

(b) “Administrative” means activities of personnel and services directly concerned with transporting students.

(c) “Advertising” means expenses associated with employment ads, advertising surplus student transportation vehicle sales, bid notifications for equipment and supplies, beginning of year route announcements, route change notifications, school bus safety week awareness activities, and any other advertising directly related to student transportation.

(d) “Benefits” mean amounts paid by the school district for student transportation employees including but not limited to the employer's share of insurance, retirement programs, social security programs, and workers’ compensation programs.

(e) “Communication services and equipment” means services and equipment to assist in transmitting and receiving student transportation messages or information including but not limited to telephone, communication radios and equipment, cell phones, wireless data plans, monthly internet service, and postage.

(f) “Computer expenses” means hardware, software, and training for:

(i) Global Positioning System receivers;

(ii) Telematics;

(iii) Routing;

- (iv) Activity trips;
- (v) Field trips;
- (vi) Fuel maintenance systems; Maintenance records; and
- (vii) Student tracking/management systems.

(g) “Field trip” means a school district-approved student activity outside the classroom during the school session or during a district approved summer session.

- (i) The trip must be an extension of classroom instruction.
- (ii) The trip must be tied to curriculum.
- (iii) Travel must be in a transportation fleet vehicle.

(h) “Indirect cost” means a cost typically incurred as part of the general operating activities of the school district and is not directly identifiable with providing transportation services alone.

(i) “Insurance” means costs paid to insure transportation facilities or vehicles used primarily for student transportation against loss or damage.

(j) “Low-bid base price” means a baseline amount for each vehicle type established through a competitive bid process, excluding options.

(k) “Non-conforming vehicle” means a vehicle that does not comply with Chapter 2, Department of Education Rules for Minimum Standards for Wyoming Student Transportation Vehicles.

(l) “Operation” means the daily activities involved in directing, managing, and supervising the transportation system.

(m) “Purchased services” means services that are professional and technical in nature and not provided by school personnel. Examples include first aid training, defensive driving courses, CPR training, transportation workshops, support for school transportation software, and drug and alcohol testing.

(n) “Repair and maintenance” means the upkeep and repair services provided for student transportation vehicles and equipment.

(o) "Route" means the path followed by a vehicle for student transportation to and from school from the time the vehicle leaves the point of storage until it returns to the point of storage.

(p) "School session" means the official school calendar defining student-teacher contact days as required by W.S. 21-4-301.

(q) "Supplies" means expendable material items that may be consumed, worn out, or deteriorate with use, or items that lose their identity through fabrication or incorporation into different or more complex units or substances.

(r) "Trade-in value" means the value of the student transportation vehicle applied during the purchase of a new vehicle.

(s) "Transportation facility" means permanent structure owned by the school district for the purpose of operating and maintaining student transportation vehicles.

(t) "Transportation staff" means employees of the school district who work primarily in the transportation of students. Examples include:

(i) Bus aides;

(ii) Clerical support;

(iii) Crossing guards that assist students crossing streets at key locations or walking to and from school as determined by each school district;

(iv) Bus drivers;

(v) Loading zone aides;

(vi) Mechanics who maintain student transportation-related vehicles and equipment; and

(vii) Supervisor.

(u) "Travel costs" means expenditures related to transportation, meals, hotel, and expenses associated with traveling on student transportation business for the school district, including workshops, meetings, picking up student transportation vehicles if not included in the bid price, parts running, route checking, and taking vehicles to vendor facilities for service.

(v) "Vehicle" means any school bus or multipurpose vehicle (MPV) that complies with the requirements set forth in Chapter 2.

Section 3. Reimbursable Expenses.

(a) Reimbursable transportation expenses are those amounts for the operation and maintenance of vehicles for the transportation of students to and from school, field trips, and activity trips.

(b) Reimbursable transportation expenses include:

(i) Activity trip expenses (may include the driver's room and meal costs, but do not include student and/or sponsor's expenses);

(ii) Advertising;

(iii) Administrative costs;

(iv) Allowable reimbursement for vehicle purchases that meet the requirements in Chapter 2 and Section 5 below;

(v) Communication services and equipment;

(vi) Computer expenses;

(vii) Equipment shall be kept in the transportation facility and used to support student transportation. Examples include:

(A) A service truck with a Gross Vehicle Weight Rating under 19,500 pounds and a minimum life cycle of fifteen (15) years or 200,000 miles;

(B) A snowplow mounted on the service truck;

(C) Tire changing equipment;

(D) Brake repair equipment; and

(E) Diagnostic equipment.

(viii) Field trip expenses;

(ix) Insurance for student transportation vehicles, transportation service trucks and transportation facility;

(x) Lease fees, if applicable, shall be reimbursed over a period of no more than five years;

(xi) Purchased services;

(xii) Repair and maintenance;

(xiii) Salary and benefits for transportation staff;

(A) Pro rata reimbursement for personnel not devoting one hundred percent (100%) of their time to student transportation issues and operations shall be supported by clear and continuous documentation.

(B) Personnel dealing with student transportation issues and operations on a full-time basis shall be subject to one hundred percent (100%) reimbursement provided that an appropriate position description exists and an affidavit specific to the year for which reimbursement is expected, signed by the employee and the school district superintendent or school district superintendent designee, attesting to full-time involvement, is on file at the school district office. The affidavit shall be renewed annually and clearly reference the school year for which reimbursement is claimed.

(xiv) Student transportation-related memberships and subscriptions;

(xv) Supplies;

(xvi) Training or professional development expenses - food is only reimbursable when used during full-day transportation training sessions or exercises;

(xvii) Transportation facility utilities;

(xviii) Travel Costs;

(xix) U.S. Department of Transportation driver testing and examinations; and

(xx) Transportation services related to student needs including delivering meals or instructional materials during emergency situations.

Section 4. Non-reimbursable Expenses. Non-reimbursable expenses include:

(a) Expenses incurred as a result of busing students from a large attendance center to a small attendance center in an effort to keep the smaller attendance center open or increase its average daily membership (ADM);

- (b) High school activities that do not align with the WHSAA calendar/schedule of events;
- (c) Indirect costs;
- (d) Maintenance of the transportation facility or site repairs;
- (e) Purchase, maintenance, repair, and supplies of non-student transportation and non-conforming vehicles, and non-approved options; and
- (f) Transportation expenses for activity trips or field trips in excess of one hundred fifty (150) miles from the Wyoming border into another state.

Section 5. Vehicles.

- (a) School districts shall submit a student transportation vehicle form and receive approval from the Department before disposing of or purchasing a vehicle.
- (b) No later than two weeks after the new vehicle is delivered, school districts shall submit a student transportation vehicle form along with a notarized statement from the selling dealer listing each item installed on or delivered with the vehicle and its value.
- (c) For vehicles purchased outright or purchased via a lease-purchase option, the Department shall reimburse the low bid base price minus the trade-in value.
- (d) When a vehicle is replaced it shall be immediately removed from the student transportation fleet. The vehicle shall be traded in or sold at fair market value.

Section 6. Transportation Fleet Requirements.

- (a) The number of student transportation vehicles in a school district’s fleet shall not be increased above the fleet size existing as of February 1, 2019. The size of a school district’s fleet shall be reviewed and adjusted if necessary, if the school district’s ADM changes by five percent (5%) or more over a three-year period or a special circumstance necessitates a change. Justification for a change must be provided to the Department for consideration.
- (b) School district fleet vehicles reaching the replacement life cycle in years or miles, shall be subject to replacement. The following life cycles shall apply to all student transportation vehicles:

Bus Type	Years	Miles
A	15	215,000

Bus Type	Years	Miles
C	17	240,000
D	17	240,000
MPV	15	200,000

- (c) School districts may replace a vehicle before the replacement life cycle if:
- (i) The vehicle is a total loss as a result of an accident; or
 - (ii) The vehicle is considered in severe service and is not cost effective to keep in the fleet.
 - (A) Severe service is determined by appropriate documentation showing estimated repairs or actual repairs during a three-year period total more than 30% of the base price of a replacement vehicle.
 - (B) The condition must substantially impair the vehicle's use or produce a serious safety hazard.
 - (C) Routine maintenance, warranty work, and school district labor costs shall not be included in the cost of repairs.
- (d) A school district may keep a vehicle in the fleet and continue to claim reimbursement after its replacement life cycle use limit if it is still considered safe, cost effective, and in adequate condition to transport students.
- (e) Vehicles shall be replaced with a like type and size. A school district may request a different type or size of vehicle and options to be considered during the approval process.

Section 7. Operations.

- (a) Each school district shall report the actual number of fleet miles traveled.
- (b) Transportation expenses shall not be reimbursed within the no transportation zone. The no transportation zone is the area encompassed by a 1.0 mile radius from school for elementary students and 2.0 miles from school for secondary students, as determined by the school district.
 - (i) A school board may, by official action each year, transport students within the no transportation zone if there is a barrier that prevents a student from walking to school or a safety hazard exists that could harm the student.

(ii) Examples include: rivers, railroad tracks, multi-lane roads with inadequate pedestrian crossings, or the lack of adequate walkways or pathways.

(c) Vehicles shall travel on city, county, state, and federally maintained streets and roads. County roads shall be designated as high priority maintained roads. The local school board may take official action each year to allow for travel on other roads or to not operate on unsafe roads.

(d) Routing shall be developed by each school district taking into consideration student safety and efficiency. Multiple tier routing shall be considered the norm, rather than the exception.

(e) If an MPV is used for dual purposes (student and staff travel), the school district shall declare the percentage of anticipated use for student transportation. The vehicle purchase price shall be reimbursed at that percentage of student use only.

(i) Mileage shall be recorded for the vehicle each year. A complete mileage log showing the use and number of students transported along with the beginning and ending mileage for every trip must be kept.

(ii) At the end of each year for a period of five years, a school district shall make necessary adjustments in the data submitted to the Department to reflect the actual percentage used for student transportation of the vehicle.

(f) Any non-school district group using a student transportation vehicle shall reimburse the school district for the cost of driver wages and benefits, fuel, and a cost per mile fee, as determined by the Department.

(g) Special transportation accommodations that modify Section 7(a) - (g) of these rules may be designed to meet the unique needs of a child and must be documented. Examples include: documentation in an Individualized Education Plan or a 504 plan.

Section 8. State Vehicle Bid Process. The specifications, pursuant to Chapter 2, for each type and size of vehicle will be used in a public procurement of student transportation vehicles. The bids received will be analyzed to determine which bids meet the specifications at the lowest responsible price.

Section 9. Isolation and Maintenance Payments (W.S. 21-4-401).

(a) All applicants for isolation or maintenance payments shall be a resident of the school district.

(b) No applicant is eligible for isolation or maintenance payments unless they demonstrate to the local school board that their residence in the isolated location is

necessary for their financial well-being. Documents that may be used for this purpose include federal income tax returns or other income verification. The final decision shall be made by the local school board and properly documented for eligibility.

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