

STATE BOARD OF EDUCATION
Consent Item
October 26, 2016

SUBJECT: Approval of Amendment to Rule 6A-3.0141, Employment of School Bus Operators

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Section 1001.02(1), Florida Statutes

EXECUTIVE SUMMARY

Amendment will remove the requirement for the Commissioner of Education to provide a certification of school bus operator training that occurs at the local school district for which the school district determines compliance and retains the training documentation. The requirement for the Commissioner to provide a certification is unnecessary, because school bus operator training occurs at the local, not state, level.

The current rule requires school bus operators to pass a physical examination and does not authorize medical exemptions for vision, loss of limb or diabetes. Stakeholders have requested that medical exemptions be recognized for persons with disabilities who are able to demonstrate that they can safely operate a school bus. School bus operators with certain disabilities will be able to demonstrate that they can safely operate a school bus notwithstanding their disability by obtaining a federal exemption issued by the Federal Motor Carrier Safety Administration (FMCSA). Rule 6A-3.0151 previously authorized the Deputy Commissioner for Finance and Operations to issue medical waivers applying federal medical standards; however, the department has no process, funding or expertise to review applications for medical waivers. In addition, the department was unaware of any requests for medical waivers that had been submitted under that rule. In March 2016, rule 6A-3.0151 was repealed and rule 6A-3.0141 was revised to require that school bus operators pass the physical examination without recognizing any exemptions. Stakeholders have raised the concern that certain individuals with disabilities (such as individuals with diabetes who are insulin dependent and individuals missing a limb) may be able to demonstrate that they can safely operate a school bus, and that they should have the opportunity to do so. Through research, the department determined that the FMCSA has a robust process for reviewing requests for medical exemptions that would afford a school bus operator the opportunity to obtain a variance, exemption or waiver while also ensuring public safety.

Supporting Documentation Included: Proposed Rule 6A-3.0141, F.A.C.

Facilitator: Linda Champion, Deputy Commissioner, Finance and Operations

6A-3.0141 Employment of School Bus Operators.

(1) School bus operators are defined as any persons employed or contracted to the school district to transport prekindergarten through grade 12 students in school buses as defined in Section 1006.25, F.S.

(2) No change.

(3) Prior to transporting students on a school bus each operator shall meet the following requirements:

(a) through (c) No change.

(d) Be physically capable of operating the vehicle as determined by physical examination, in accordance with 49 C.F.R. s. 391.41(b), as evidenced by the Medical Examiner's Certificate (Form MCSA-5876) and given by a certified medical examiner, registered with the National Registry of Certified Medical Examiners, pursuant to 49 C.F.R. s. 391.43 and as determined by a dexterity test administered by the school district. Form MCSA-5876 (effective March, 2016) is incorporated by reference (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06476>) and may be obtained from the School Transportation Management Section, Florida Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399. The school district shall report dexterity results on Form ESE 480, Dexterity Test for School Bus Driver (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06477>) (effective March, 2016), which is incorporated in this rule by reference. The medical examiner may not specify any waiver or exemption from the medical examination requirements; however, a person with a medical variance, exemption, or waiver from the physical qualification standards in 49 C.F.R. s. 391.41(b), issued by the Federal Motor Carrier Safety Administration who has complied with the medical examination requirements pursuant to 49 C.F.R. s. 391.41 and the dexterity requirements pursuant to Form ESE 480, Dexterity Test for School Bus Driver, is recognized as physically capable of operating the vehicle and no alternative physical qualification standards are recognized. Compliance with 49 C.F.R. Part 391 is required under Section 1012.45, F.S. Form ESE 480 ~~This document~~ may be obtained from the School Transportation Management Section, Florida Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(e) No change.

~~(4) A certification of training provided by the Commissioner shall be issued by the district to each operator successfully completing the forty (40) hours of preservice training.~~

~~(4)~~ (5) Each district school board shall obtain a driver's history record from the Department of Highway Safety and Motor Vehicles for each regular school bus operator, substitute operator, or any other individual certified to

drive a school bus by the district. The schedule for reviewing these records shall be:

(a) through (c) No change.

(5) ~~(6)~~ Driver history records shall be requested in a manner prescribed by the Department of Highway Safety and Motor Vehicles using the Automated School Bus Driver's License Record Check System through the Department's data base. All school districts shall obtain and review records for school bus operators using the automated data base system. For any operator licensed in another state, the district shall obtain and review the driver's history record from the appropriate state.

(6) ~~(7)~~ Each school district shall establish a school board policy that specifies which infractions of the traffic code deem an applicant unqualified for employment and which causes any employee to be subject to a prescribed follow-up action. At a minimum, this policy shall state that any district school bus operator or contracted operator who should have known that his or her license has expired or has been suspended or revoked shall be subject to prescribed disciplinary measures up to and including dismissal by the school board.

(7) ~~(8)~~ At least annually, the school district shall assure that the operator of a school bus meets the following requirements:

(a) through (c) No change.

(8) ~~(9)~~ At the time of reemployment, the school board shall assure that each school bus operator meets all of the requirements of subsection (2) and paragraphs (3)(a) and (d) of this rule. If not more than a twelve continuous calendar month break in service has occurred, an operator shall be required to complete eight (8) hours of inservice training related to their responsibilities for transporting students prior to driving a school bus with students. If a period exceeding twelve (12) calendar months has occurred, the operator shall be required to successfully complete all of the requirements of subsections (2) through (6) of this rule.

(9) ~~(10)~~ All school bus operators shall be subject to the Federal requirements of 49 C.F.R., Parts 382 and 391 related to the substance abuse testing and alcohol detection program.

(10) Notwithstanding the requirements of paragraph (3)(d) of this rule, a school district may accept a Medical Examiner's Certificate that specifies a medical variance, waiver or exemption for a condition existing prior to March 23, 2016, if the school bus operator:

(a) Was employed by a school district on or before March 23, 2016;

(b) Was deemed physically capable of operating the vehicle under a prior version of this rule; and

(c) Has demonstrated to the satisfaction of the school district that he or she is physically capable of operating the vehicle.

Rulemaking Authority 316.615(3), 1001.02(1), 1006.22, 1012.45 FS. Law Implemented 316.615, 1006.22, 1012.32(2)(a), 1012.45 FS. History—New 8-1-86, Amended 7-5-89, 11-15-94, 4-18-96, 6-24-03, 11-26-06, 4-25-07, 3-23-16.