

DEPARTMENT OF EDUCATION

Amendment and Compilation of Chapter 8-27  
Hawaii Administrative Rules

September 16, 2020

SUMMARY

1. §8-27-1 through §8-27-6 are amended.
2. §8-27-9 is amended.
3. Chapter 8-27 is compiled.

HAWAII ADMINISTRATIVE RULES

TITLE 8

DEPARTMENT OF EDUCATION

SUBTITLE 2

EDUCATION

PART 1

PUBLIC SCHOOL

CHAPTER 27

TRANSPORTATION OF STUDENTS

§8-27-1 Statement of purpose

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§8-27-10 Appeals

Historical Note: This chapter is based substantially upon Department of Education "Rule 1, Relating to the Transportation of Students". [Eff 10/29/62; am 8/25/67; am 8/17/68; am 9/6/69; am 9/24/70; am 3/31/72; am 10/1/73; R 3/3/84]

**§8-27-1 Statement of purpose.** The purpose of this chapter is to facilitate compliance with the State compulsory attendance law, and to comply with section 302A-406, Hawaii Revised Statutes, and Federal law relating to the provision for a free appropriate

public education, specifically the provision of transportation services to students with disabilities and to provide access to equal educational opportunity without undue transportation hardships. [Eff 3/3/84; comp 9/5/95; am and comp 3/29/03; comp 8/23/19 am and comp ] (Auth: HRS §302A-1112) (Imp: Hawaii Const. Art. X, §3; HRS §§302A-406, 302A-1101, 302A-1112, 302A-1132) comp JUN 07 2021 ]

**§8-27-2 Definitions.** As used in this chapter, unless the context indicates otherwise:

"A mile or more" or any other term of distance shall be measured by the shortest walking distance between the closest public access to the student's residence to the closest accessible area of the school or the student's bus stop, as measured by the department.

"Assistant superintendent" means the assistant superintendent of the office of facilities and operations.

"A student with physical and/or health problems" means a student with a temporary (ten or more school days) condition who, because of the condition, is unable to walk to school as determined by the department;

"Board" means the board of education.

"Bus pass" means a current pass used by all bus riders when riding the school bus.

"Charter school" means a public school holding a charter to operate as a charter school under chapter 302D, Hawaii Revised Statutes, including start-up and conversion charter schools, that have the flexibility to implement alternative frameworks with regard to curriculum, facilities management, instructional approach, length of the school day, week, or year, and personnel management.

"Curb-to-curb transportation" means transportation services provided to students who are not able to utilize regular modes of transportation whose pick-up shall be from the closest public access to the student's residence.

"Department" means the department of education.

"Elementary" means grades kindergarten through 5.

"Family" means a unit living together under one roof including the father, mother, brothers, or sisters, adopted siblings, either legally or by custom, and the grandparents of the student.

"Fare" means the amount the student pays to ride the school bus each way between home and school.

"Geographic exception" has the same meaning as defined in section 8-13-2.

"Homeless" means a student who is eligible under the "McKinney-Vento Homeless Education Assistance Improvements Act of 2001".

"Home school" has the same meaning as defined in section 8-13-2.

"Individualized Education Program" or "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with sections 8-60-44 through 8-60-48.

"Mileage transportation reimbursement" means payment which may be made by the department to reimburse parents, guardians, or designees for mileage costs of providing transportation for students who qualify for fixed route transportation or to parents, guardians, or designees of students with disabilities who are eligible for transportation as a related service.

"Public school attendance area" means the area encompassed by boundaries established by the department within which the public school is situated, and is the designated school that students residing in that area must attend.

"Redistricting" means a redefining of a school attendance area.

"Related service" or "related aids and service" means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education and the general education curriculum.

"School of origin" means the school that a student eligible under the "McKinney-Vento Homeless Education Assistance Improvements Act of 2001" was attending when permanently housed, or the school in which a student eligible under the "McKinney-Vento Homeless Education Assistance Improvements Act of 2001" was last enrolled.

"Secondary" means grades 6 through 12.

"Section 504" means Section 504 of the Rehabilitation Act of 1973, as amended. [Eff 08/20/09] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

"Student" means any student who is attending public school classes in grades kindergarten to twelve, operated by the department.

"Student with a disability" has the same definition as "student with a disability" under §8-60-2.

"Subsidy" means a sum of money granted by the department to assist parents and guardians with the student fare portion of the price of home-school-home transportation services.

[Eff 3/3/84; comp 9/5/95; am and comp 3/29/03; am and comp 6/15/09; am and comp 8/23/19] (Auth: HRS §302A-1112) (Imp: Hawaii Const. Art. X, §3; HRS §§302A-406, 302A-1110, 302A-1112)  
comp JUN 07 2021 ]

**§8-27-3 Fare.** (a) The fare is \$1.25 per ride. The State shall pay for any cost in excess of the student fare. The department may increase or decrease the fare, through rulemaking, provided the fare does not exceed 50% of the cost to provide transportation services (not including the cost of curb-to-curb, mid-day, and after-school transportation services for students with disabilities), rounded to the nearest 5 cents.

(b) When fares are pre-paid, the fare for a period greater than a school academic quarter shall be the number of trips for the period multiplied by the fare less five percent of the cost. The department may provide reimbursement to schools for the cost to schools of the school bus program. Funds to provide reimbursement to schools shall come from collection of fares.

[Eff 3/3/84; am and comp 9/5/95; am and comp 3/29/03; am and comp 6/15/09; comp 8/23/19] (Auth: HRS §302A-1112) (Imp: Hawaii Const. Art. X, §3; HRS §§302A-406, 302A-1101, 302A-1112)  
comp JUN 07 2021 ]

**§8-27-4 Limitations.** (a) This chapter is conditioned upon the amount of funds made available to the department to provide transportation to students.

(b) Transportation shall be limited to transportation of students from the home to school and return. Transportation from home to school and return shall be from a designated school bus stop unless curb-to-curb transportation services, travel to and from school and between schools, travel in and around school buildings, and specialized equipment (such as special or adapted buses, lifts, and ramps), are required to provide special transportation for a student with a disability pursuant to a student's IEP or Section 504.

(c) When transportation other than to and from school and a location other than a student's home is requested, it shall be referred to the department. The department may provide transportation if there are no additional costs involved.

(d) The transportation may be provided to students during the school year, as determined by the department.

(e) Any elementary student capable of walking may be required to walk or provide the student's own transportation to and from school or to and from a bus stop located more than one mile from the nearest public access to the student's residence. Any secondary student capable of walking may be required to walk or provide the student's own transportation to and from school or to and from a bus stop located more than 1.5 miles from the nearest public access to the student's residence.

(f) Elementary students who are required by the department to attend a school out of their public school attendance area shall not be eligible for transportation if their school is less than one mile from their residence and provided that they are capable of walking. Secondary students who are required by the department to attend a school out of their public school attendance area shall not be eligible for transportation if their school is less than 1.5 miles from their residence and provided that they are capable of walking.

(g) Students who attend charter schools, learning centers, or schools outside of their public school attendance area, as determined by the students' legal residence, shall not be eligible for transportation or transportation subsidy. This subsection does not apply to:

- (1) Students with disabilities who attend a public school, which includes charter schools, if transportation is required as a related service pursuant to the students' IEP or Section 504;
- (2) Students with disabilities who are programmatically placed by the IEP team at a public school, which includes charter schools, private school, or facility outside of the student's home school attendance area, as determined by the student's legal residence, if transportation is required as a related service pursuant to the student's IEP or Section 504; and
- (3) Students who are homeless and are attending their school of origin based upon a feasibility determination made by a school administrator, or are awaiting the outcome of the department's dispute resolution process for McKinney-Vento eligible students.

[Eff 3/3/84; comp 9/5/95; am and comp 3/29/03; am and comp 6/15/09; am and comp 8/23/19] (Auth: HRS §302A-1112) (Imp: Hawaii Const. Art. X, §3; HRS §§302A-406, 302A-1101, 302A-1112)  
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§8-27-5 Eligibility. (a) Fare free riders shall include:

- (1) Students who receive transportation under the provisions of Hawaii administrative rules for students with disabilities;
- (2) Students who have been identified on their application for transportation services as homeless;
- (3) Students who have been identified on their application for transportation services as a foster child. The foster parent shall provide a copy of a family court order or a letter from a case worker on official department of human services letterhead for verification purposes; or
- (4) Elementary students who reside a mile or more from school, and secondary students who reside 1.5 miles or more from school, attend the school in their public school attendance area, and are:
  - (A) A member of a family receiving financial assistance pursuant to department of human services administrative rules; or
  - (B) A member of a family which meets current income poverty guidelines of the United States Department of Agriculture criteria to receive free school lunch, or for schools that participate in the federal Community Eligibility Provision program or other program that provides all students with free lunch regardless of each individual family's income, a family which has been certified eligible by the department of human services to participate in the Supplemental Nutrition Assistance Program;
  - (C) The fourth or more student of a family and the first three students are paying the fare to and from school;
  - (D) Transferred to another school because of a grade transfer from one school to another, but the student shall receive transportation only for the time that the student would have been in the grade which was transferred;

- (E) Transferred to another school because the school was consolidated, but the student shall receive transportation only for the remaining number of years that the student would have been in attendance at the school which was consolidated;
- (F) Required by the department to attend a school other than the school in the student's public school attendance area; or
- (G) Directed by the district to attend another school because the student's public school attendance area was redefined (redistricted), but the student shall be eligible to receive fare free transportation for only the time the student would have been attending the school that was redistricted.

(b) Fare riders shall include:

- (1) Elementary students who reside a mile or more from school, and secondary students who reside 1.5 miles or more from school in their public school attendance area; or
- (2) Elementary students not eligible for transportation because they reside less than one mile from school or are on geographic exception and secondary students not eligible for transportation because they reside less than 1.5 miles from school or are on geographic exception; provided there are unused seats on the bus and accommodation will not result in additional cost to the State as determined by the department.

(c) A mileage transportation reimbursement may be made available to parents, guardians, or designees at the Internal Revenue Service's (IRS) standard mileage reimbursement rate for Hawaii used in computing the value of business use of an automobile. Future increases or decreases in the mileage reimbursement amount shall be effective the first day of January after an IRS rate change. Procedures relating to mileage transportation reimbursement have been developed by the department. [Eff 3/3/84; am and comp 9/5/95; am and comp 3/29/03; am and comp 6/15/09; am and comp 8/23/19] (Auth: HRS §302A-1112) (Imp: Hawaii Const. Art. X, §3; HRS §§302A-406, 302A-1101, 302A-1112)

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**§8-27-6 Application procedures.** Any parent, legal guardian, or adult person with whom the student resides, or any student eighteen years or older may apply for transportation in accordance with the following procedures:

- (1) Application forms for transportation shall be available from the bus company or the school the student attends. The application must be completed and returned to the student's school;
- (2) Application for alternate drop off and/or pick up to or from locations other than the student's home under section 8-27-4(b) shall be communicated to the school by the parent, guardian, or person authorized by a student's IEP or Section 504. The school shall, under procedures established by the department, initiate the process to request such transportation; and
- (3) Application for elementary students who reside less than one mile from school, secondary students who reside less than 1.5 miles from school, students with physical and/or health problems, or students who are on geographic exception under section 8-27-5(b) (2) shall be made by submitting a written request to the school the student attends. [Eff 3/3/84; comp 9/5/95; am and comp 3/29/03; am and comp 6/15/09; am and comp 8/23/19] (Auth: HRS §302A-1112) (Imp: Hawaii Const. Art. X, §3; HRS §§302A-406, 302A-1101, 302A-1112)

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**§8-27-7 Curb-to-curb transportation procedures.** Students and parents or guardians who do not comply with the procedures in this section may be denied transportation. For students receiving curb-to-curb transportation, parents or guardians shall:

- (1) Provide emergency information pertaining to the safety of the child prior to receiving transportation;
- (2) Provide supervision or designate a responsible alternate to provide supervision during the time the bus arrives to pick up and drop off the child. Any exception to this requirement shall be made only with the written consent of the principal; and
- (3) Observe procedures relating to student absences, disaster, illness, and carrying of articles on the bus. [Eff 3/3/84; comp 9/5/95; am and comp 3/29/03; am and comp 6/15/09; comp 8/23/19] (Auth: HRS §302A-1112)

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(Imp: Hawaii Const. Art. X, §3; HRS §§302A-406, 302A-1101, 302A-1112)

**§8-27-8 Exemption from the one-mile and 1.5-mile qualifying distances.** (a) An exemption from the one-mile and 1.5-mile distances required under section 8-27-5 may be granted by the assistant superintendent on a year to year basis if an exemption is necessary for the health and safety of students if other options that will mitigate hazards are not available or are not cost effective.

(b) Applications for exemptions shall be submitted to the assistant superintendent and shall state the specific exemption requested, the reasons why the exemption should be granted, the duration of the exemption, and any other pertinent information.

(c) The assistant superintendent shall advise the applicant of the decision within thirty calendar days after receiving an application.

(d) Exemptions granted under this section shall terminate when the hazardous conditions are corrected or otherwise cease to exist. [Eff 3/3/84; comp 9/5/95; am and comp 3/29/03; am and comp 6/15/09; am and comp 8/23/19] (Auth: HRS §302A-1112) (Imp: Hawaii Const. Art. X, §3; HRS §§302A-406, 302A-1101, 302A-1112)

**§8-27-9 Transportation as "related service" or "related aids and service".** Students with disabilities who attend a public school, which includes charter schools, or are programmatically placed by the IEP team at a public school, which includes charter schools, private school, or facility outside of the student's home school attendance area as determined by the student's legal residence and require transportation as a related service shall be provided transportation in accordance with the student's IEP or Section 504. Parents, guardians, or designees of students receiving transportation services who do not comply with applicable procedural requirements as established by the department may have transportation services suspended or denied. Complex area superintendents shall review, approve, and be responsible for transportation requests other than home to school and return. [Eff 3/3/84; comp 9/5/95; am and comp 3/29/03; am and comp 6/15/09; am and comp 8/23/19] (Auth: HRS §§302A-406, 302A-1112) (Imp: 20 C.F.R. §§300.1(a), 300.4, 300.13(a), 300.13(b)(13), 300.550(b)(2), 300.522(d); HRS §§301A-22, 301-25, 302A-406)

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**§8-27-10 Appeals.** (a) Any person aggrieved by a decision made pursuant to this chapter may appeal that decision to the superintendent within thirty calendar days after that decision. The appeal shall be in writing and shall state the:

- (1) Pertinent facts of the case;
- (2) Decision of the department;
- (3) Reason or reasons why the person appealing feels that the decision was incorrect;
- (4) Reasons why the person is aggrieved; and
- (5) Remedy the person seeks.


(b) The written decision of the superintendent or the superintendent's designee shall be mailed by certified mail, return receipt requested, to the person appealing not later than thirty calendar days after receipt of the appeal. [Eff 3/3/84; comp 9/5/95; comp 3/29/03; am and comp 6/15/09; am and comp 8/23/19] (Auth: HRS §302A-1112) (Imp: Hawaii Const. Art. X, §3; HRS §§302A-406, 302A-1101, 302A-1112)

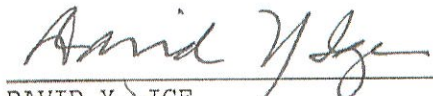
DEPARTMENT OF EDUCATION

The amendments to and compilation of Chapter 27, Hawaii Administrative Rules, on the Summary page September 16, 2020 following a public hearing held virtually on December 10, 2020, after public notice was given in the Maui News on October 31, 2020 and November 7, 2020, and in the Honolulu Star Advertiser, Hawaii Tribune Herald, West Hawaii Today, and The Garden Island newspapers on November 1, 2020 and November 8, 2020.

LIEUTENANT GOVERNOR'S OFFICE

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CATHERINE PAYNE  
Chairperson, Board of Education

  
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DAVID Y. IGE  
Governor, State of Hawaii

Dated: 5/28/21

APPROVED AS TO FORM:

**Melissa Kolonie**

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Date: 2021.04.09 13:51:30 -10'00'

Deputy Attorney General

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