

HAWAII ADMINISTRATIVE RULES

TITLE 8 DEPARTMENT OF EDUCATION

SUBTITLE 2 EDUCATION

PART I PUBLIC SCHOOLS

CHAPTER 28

TRANSPORTATION SAFETY

Historical Note: This chapter is based substantially upon Department of Education "Section 48.14, Rule 48, Relating to Pupil Transportation Safety." [Eff. 10/1/73; am 10/5/78; R NOV 15, 1984]

§8-28-1 Purpose. The purpose of this chapter is to provide safe transportation of students by setting safety regulations relating to passenger conduct, passenger safety instructions, disciplinary procedures, and school bus driver's responsibility and authority. [Eff. NOV 15, 1984] (Auth: HRS §302A-1112) (Imp: HRS §§286-181, 302A-1112)

§8-28-2 Definitions. As used in this chapter:

"*Department*" means the department of education.

"*Parent*" means the natural or legal parent, guardian or other legal custodian of the student.

"*Principal*" means the principal of the school the student attends or the principal's designee.

"*School bus*" means any publicly or privately owned motor vehicle used to transport pupils to and from a school as defined in section 298-41, Hawaii Revised Statutes, or school functions or school related events except:

(1) A motor vehicle used for transportation of students attending schools above the twelfth grade or pupils over eighteen years of age;

(2) A privately owned passenger vehicle when the transportation is provided without compensation of any kind; or

(3) A motor vehicle used for transportation of pupils together with other passengers as a part of the regularly scheduled operation of a mass transit system.

"*Student*" means students in grades kindergarten through twelve and in special education classes who are passengers in a school bus that is under contract with or operated by the State. [Eff. NOV 15, 1984] (Auth: HRS §302A-1112) (Imp: HRS §§286-181, 302A-1112).

§8-28-3 School bus driver's responsibility and authority. Students being transported in a school bus under contract with or operated by the State shall be under the authority of and directly responsible to the driver of the bus. The driver of a school bus shall permit rides only to students assigned or eligible to ride a school bus as determined by the department and may assign students to sit in specific seats on the school bus. The driver of the school bus shall make reasonable efforts to insure that student riders observe the passenger safety code. However, drivers shall not refuse rides to eligible riders or eject students en route unless it is an emergency. In an emergency, the emergency procedure in paragraph (2) of this section shall apply. Drivers shall observe the following procedures:

(1) In reporting infractions of the safety code, the driver shall submit a written report to the principal not later than two school days after the incident occurs on the form provided by the department. If the report is not submitted within two school days after the incident occurs, the principal may refuse to consider the case. Whenever possible, the driver shall inform the student that the student is being reported.

(2) In an emergency in which a student attacks or otherwise endangers other students or the driver, the driver shall stop at the nearest safe location to make reasonable efforts for self-protection and protection of other students. In the event the driver cannot make the protective efforts, the driver shall set the brakes and gear to secure the bus, remove the ignition keys, evacuate noninvolved students from the bus and call for

police assistance. If there is no telephone nearby, the driver may obtain the assistance of other motorists or pedestrians to call the police. The driver shall verbally inform the school of the action taken immediately after completing the run and submit a written report not later than two school days after the incident occurs. The driver may refuse to transport a student if the student's behavior would jeopardize the safety of other passengers or the driver. Before that action is taken, the driver shall inform the driver's supervisor, parent, and school principal. The driver shall not continue to refuse transportation if the school principal notifies the driver that the student can be transported.

(3) If the driver suspects or observes use of drugs on the bus, the driver shall radio in the information to the company, request police assistance and give the approximate time of arrival at the school, or if it is an afternoon run, the approximate time of arrival at the suspect's or violator's bus stop. The dispatcher shall request the district police to meet the bus at the school or at the bus stop. If the bus has no radio, the driver shall report the incident to the principal and the bus company supervisor after the driver has discharged all students. The bus company supervisor and principal shall notify the police of the incident. The driver shall not threaten nor order students off the bus en route. In the event an emergency where a student endangers other students or the driver, the emergency procedure in paragraph (2) of this section shall apply. The driver shall not search students nor detain students by force on the bus. If the police or school officials are not at the loading area or bus stop, students shall be permitted to leave. [Eff. NOV 5, 1984] (Auth: HRS §302A-1112) (Imp: HRS §§286-181, 302A-1112)

§8-28-4 Responsibility and authority of department personnel.

(a) Upon receipt of a driver's written report, the school principal shall conduct an investigation of the incident. The principal shall give the student oral or written notice of the report against the student. If the student denies the charge, the student shall be given an opportunity to present the student's version of the incident.

(b) If the principal finds that the charges are sustained, the student may be precluded from riding the bus, or given a warning. The bus driver and parent shall be sent a copy of the report and the

results of the investigation. If the preclusion is necessary, the principal shall give notice of any preclusion regardless of its length to the student, parent and bus driver. The notice shall state:

- (1) The specific acts allegedly committed by the student which form the basis of the action;
- (2) The rule allegedly violated;
- (3) The length of the preclusion; and
- (4) That the parent may request a conference with the principal or request a hearing before the district superintendent if the preclusion exceeds ten days.

(c) If the preclusion exceeds ten days, the parent may request a hearing before the district superintendent within five school days from the date of receipt of the notice. Upon receipt of a request for a hearing, the district superintendent shall schedule a hearing within ten school days of receiving the request and shall notify all interested parties of its date, time and place. The student may be permitted to ride the bus after preclusion of ten days pending the results of the hearing unless the district superintendent finds that the student's continued presence on the bus will jeopardize the safety of other passengers or the driver. The hearing shall be conducted by the district superintendent or by an impartial person, designated by the district superintendent, who may be an official of the department. The hearing shall be conducted as follows:

- (1) It shall be private unless the student or parent requests that it be public;
- (2) All parties have the right to present evidence, cross-examine witnesses and submit rebuttal testimony;
- (3) The district superintendent or the district superintendent's designee need not follow the formal rules of evidence;
- (4) The district superintendent or the district superintendent's designee shall impartially weigh the evidence. The district superintendent may request and consider any records or information relevant to the charge or disposition, provided that the record of information shall be made available to the student and parent or their representative;

(5) Parties to the proceeding may make a transcript or recording of the hearing at their own expense;

(6) Not later than three school days after the close of the hearing, the district superintendent shall render a decision in writing stating clearly the action to be taken and the reasons therefore; the decision shall be mailed, certified mail, return receipt requested, or personally delivered to the student, parent, and driver;

(7) In the event the hearing is conducted by a person other than the district superintendent, the recommended decision and record shall be reviewed by the district superintendent who may accept, reject or modify the decision, provided that in the event any change is made, the district superintendent shall state reasons, therefor, in writing. In reviewing the recommended decision, the district superintendent shall not consider matters outside of the case record; and

(8) The decision of the district superintendent shall be final.

(d) The school principal shall observe the following procedures when a driver reports refusal of transportation for a student because of safety reasons:

(1) The principal shall conduct an immediate investigation of the incident upon receipt of the driver's report and provide measures to prevent recurrences of the incident in consultation with the parent, student, bus driver and school staff who are familiar with the student.

(2) If it appears that the continued presence of the student on the bus would jeopardize the safety of other passengers or the driver, the principal may preclude the student from riding the bus in accordance with subsection (b) of this section. If the transportation is provided to the student as a "related service" as defined in chapter 8-36, Administrative Rules, entitled, "Provision of a Free Appropriate Public Education For Exceptional Children Who Are Handicapped", the principal shall request the department of accounting and general services to provide alternate transportation. [Eff. NOV 15, 1984] (Auth: HRS §302A-1112) (Imp: HRS §§286-181, 302A-1112)

§8-28-5 Passenger safety instruction. At least once during each school year each school principal shall provide safety instructions to school bus riders in grades kindergarten through twelve. The instruction shall be appropriate to the type of transportation services that the student receives. [Eff. NOV 15, 1984] (Auth: HRS 302A-1112) (Imp: HRS §§286-181, 302A-1112)

§8-28-6 Passenger Safety code. All students riding school buses shall abide by the following requirements.

(1) At the designated school bus stop and while boarding, students shall:

(A) Not bring children who will not be passengers on the bus or animals to the bus stop;

(B) Be on time at the designated school bus stop to help keep the bus on schedule;

(C) Stay off the road while waiting for the bus and conduct themselves in a safe manner while waiting;

(D) Refrain from loud talking at bus stops which may disturb nearby residents;

(E) Refrain from littering or defacing property at bus stops;

(F) Line up in an orderly, single file and wait until the bus comes to a complete stop before attempting to board the bus;

(G) Walk on the side of the road facing traffic to get to the bus stop if there are no sidewalks;

(H) Not bring articles on the bus that may cause injury to passengers or carry on articles which cannot be stored safely;

(I) Use the handrail and watch their step when boarding the bus.

(2) While on the bus, students shall:

(A) Keep hands and heads inside the bus at all times;

(B) Refrain from loud talking and laughing which may divert the driver's attention and result in a serious accident;

(C) Treat bus equipment as valuable furniture. Damage to seats, windows, and other equipment shall be paid for by the offender or the offender's parent;

(D) Not eat or drink any beverages on a regular trip to and from school unless necessary for medical reasons;

(E) Refrain from tampering with the bus or any of its equipment;

(F) Keep books, packages, coats, and all other objects out of the aisle;

(G) Remain in the bus in case of a road emergency, unless directed to do otherwise by the bus driver;

(H) Refrain from throwing anything out of the bus window;

(I) Remain in their seat while the bus is in motion;

(J) Refrain from smoking, drinking, gambling, fighting, or any other behavior that will endanger health or morals; and

(K) Obey the driver.

(3) When leaving the bus and crossing streets, students shall observe the following procedures:

(A) Students shall not leave the bus at other than their regular bus stops unless proper authorization has been given in advance by the school principal;

(B) Use the handrail and watch their step when getting off the bus

(C) At bus stops where the activation of the four red alternating flashing lights on the bus is prohibited by State law, students shall cross at nearby crosswalks or intersections. If there are none nearby, students shall wait until the bus leaves the stop and look at both sides of the street to see that there are no vehicles approaching before crossing. Students shall avoid crossing at curves or hills or locations where visibility of oncoming vehicles is limited;

(D) At bus stops where the activation of the four alternating flashing lights on the bus is required by State law or county ordinance, students shall walk twelve feet in front of the bus and look to see if the alternating red lamps on the top portion of the school bus are flashing. If the lamps are flashing, they shall look at the driver and wait for the driver to give the signal to cross. If the red lamps are not flashing, students shall not cross the street and shall notify the driver that the red warning lamps are not working and ask the driver for assistance in crossing the street.

(4) Students shall ride designated buses at specified times and locations assigned. [Eff. 11/15/84; am JUL 20, 1989] (Auth: HRS §302A-1112) (Imp: HRS §§286-181, 302A-1112)