

Book Ready for Board

Section 8000 Operations

Title Copy of BUS OPERATOR CERTIFICATION

Number po8600.04

Status

Legal WV Code 17C-14-12, 18A-4-8e, 18A-4-\*e(k)  
 WV State Board policy 1340  
 WV State Board policy 4336  
 West Virginia Board of Education policy 5902  
 WV Code 17C-4-1, 17C-5-3  
 WV Code 61-5-17

Adopted January 22, 2015

#### 8600.04 - BUS OPERATOR CERTIFICATION

It is the policy of the Board of Education that all bus operators hold proper certification under standards for school bus operators established within the West Virginia State Code and West Virginia Board of Education policy, which include attainment of the age of twenty-one (21), good moral character, proper training and experience, demonstrated competency, physical and mental/emotional capabilities, and passing physical examination. It is also the purpose of this Board to protect its students from drivers whose certification is invalidated in the State of West Virginia.

The State Superintendent may, after ten days' notice and upon proper evidence, revoke the certificate of any bus operator for any of the following causes:

- A. intemperance, untruthfulness, cruelty or immorality
- B. conviction of or guilty plea or plea of no contest to a felony charge
- C. conviction of or guilty plea or plea of no contest to any charge involving sexual misconduct with a minor or a student
- D. just and sufficient cause for revocation as specified by State Board rule, and
- E. using fraudulent, unapproved or insufficient credit to obtain the certificates

Of the causes for certificate revocation listed above, the following causes constitute grounds for revocation only if there is a rational nexus between the conduct of the bus operator and the performance of the job:

- 1. intemperance, untruthfulness, cruelty or immorality
- 2. just and sufficient cause for revocation as specified by State Board rule, and
- 3. using fraudulent, unapproved or insufficient credit to obtain the certificate

~~The certificate of a bus operator may not be revoked for either of the following unless it can be proven by clear and convincing evidence that the bus operator has committed one of the following offenses and his or her actions render him or her unfit to operate a school bus:~~

- ~~A. any matter for which the bus operator was disciplined, less than dismissal, by the employing County Board~~
- ~~B. any matter for which the bus operator is meeting or has met an improvement plan determined by the County Board~~

The State Superintendent shall designate a School Bus Operator Review Panel review-panel to conduct hearings on certificate revocations or denials and make recommendations for action by the State Superintendent.

It is the duty of the County Superintendent who knows of any acts on the part of a bus operator for which a certificate may be revoked in accordance with this policy, WV Code or WV Board of Education policy to report the same, together with all the facts and evidence, to the State Superintendent for such action as in the State Superintendent's judgment may be proper.

If a certificate has been granted through an error, oversight or misinformation, the State Superintendent may recall the certificate and make such corrections as will conform to the requirements of law and State Board rules.

Per State Board policy 4336, a bus operator may be suspended, have their certification revoked, or their certification non-renewed due to:

- A. failure to meet the physical and mental/emotional requirements as indicated from the results of any physical or psychological examination

The Superintendent shall have the right to require a physical and/or psychological examination from a designated health care provider when s/he has any reasonable questions regarding the ability of a school bus operator and the safety of students or the sufficiency of an annual physical examination.

- B. failure to pass the online examination developed by the State Department

- C. failure to complete the annual minimum ~~twelve (12)~~ eighteen (18) hours of transportation related professional development

- D. ~~failure of any drug or alcohol test administered by the Board or submission of an adulterated specimen~~  
~~The school bus operator shall not be certified to operate a school bus for at least two (2) years subsequent to a positive or adulterated test result. For a second positive test result or adulteration, certification shall be revoked and refused permanently.~~ accumulation of ten (10) or more points on Department of Motor Vehicles (DMV) driving record or conviction of reckless driving, as defined by WV Code 17C-5-3 or conviction for leaving the scene of an accident involving physical injury, or death, as defined by WV Code 17C-4-1, or conviction for obstructing an officer or fleeing an officer as defined by WV Code 61-5-17 while an employee. Points that have been removed by the operation of law shall not be considered.

- E. ~~accumulating ten (10) or more points on Department of Motor Vehicles (DMV) driving record or conviction of reckless driving, as defined by WV Code 17C-5-3 or conviction for leaving the scene of an accident involving physical injury or death, as defined by WV Code 17C-4-1, or conviction for obstructing an officer or fleeing an officer as defined by WV Code 61-5-17 while an employee~~ conviction of a felony.

- F. ~~conviction of a felony~~ conviction of and/or DMV suspension or revocation of license, on a charge of operating a motor vehicle while under the influence of alcohol, or controlled substances, or preponderance of evidence presented, such as positive breath or blood test, of operating a motor vehicle under the influence of same.  
The applicant/employee shall not be certified to operate a school bus for at least two (2) years subsequent to a first conviction, license suspension/revocation or WVDE certification suspension/revocation. For a second offense, license suspension/revocation or WVDE certification suspension/revocation, certification shall be revoked and refused permanently.

- G. ~~conviction of and/or DMV suspension or revocation of license, on a charge of operating a motor vehicle while under the influence of alcohol, or controlled substances, or preponderance of evidence presented, such as positive breath or blood test, of operating a motor vehicle under the influence of same~~  
~~The applicant/employee shall not be certified to operate a school bus for at least two (2) years subsequent to a first offense for such conviction or suspension/revocation. For a second offense certification shall be withdrawn and refused permanently.~~ failure of any drug or alcohol test administered by the Board or submission of an adulterated specimen.

The school bus operator shall not be certified to operate a school bus for at least two (2) years subsequent to a positive or adulterated test result. For a second positive test result or adulteration, certification shall be revoked and refused permanently.

- H. ~~conviction on a charge of possession or sale of a controlled substance~~ intentional disengagement of school bus safety equipment, including bus cameras, without prior authorization of district directors or supervisors of transportation

- I. ~~Demonstration of a preponderance of evidence or by conviction that the school bus operator is an abuser of alcohol, or lawfully prescribed controlled substances or a user of illegal controlled substances or controlled substances not lawfully prescribed~~

- J. ~~conviction of any sexual assault or abuse charge~~ conviction of any charge involving sexual misconduct with a minor or student.

The school bus operator may also have certification renewal refused or certification suspended or revoked when it is shown by a preponderance of evidence that s/he has ~~sexually assaulted or sexually abused any person, or engaged in a consensual sexual or amorous relationship with a student.~~ a consensual sexual or amorous relationship with a student irrespective of any criminal prosecution.

- K. demonstrations by a preponderance of evidence of frequent violations of traffic laws, sound safety practices, regulations, or ordinances, or any single violation that threatened the safety of student passengers, or other users of streets or highways, .Violations of W. Va. Code 17E-1-14a, which makes texting while driving a commercial motor vehicle a misdemeanor crime will be deemed a single violation that threatened the safety of student passengers and/or other users of streets or highways, regardless of whether a school bus operator is prosecuted, if proven by a preponderance of evidence.

Violations of W. Va. Code 17C-14-15, which makes talking on a cell phone while driving any vehicle, deemed a single violation while operating a school bus that threatened the safety of student passengers and/or other users of streets or highways, given surrounding circumstances, regardless of whether a school bus operator is issued a traffic ticket, if proven by a preponderance of evidence.

- L. violation of West Virginia Board of Education policy 5902 - Employee Code of Conduct that has a rational nexus or relationship to the performance of a school bus operator's duties

The above violations, misconduct, etc., shall not be confined to the time the school bus operator is driving the school vehicle.

Bus operators are on further notice that when the State Superintendent receives information concerning any of the violations set forth above, or any other conduct that would justify the recall, refusal, or suspension or the imposition of any condition upon the certification of any school bus operator, the bus operator is notified of the pending action against him/her and afforded the opportunity for a hearing in accordance with West Virginia Board of Education policy 1340 - Rules of Procedure for Administrative Hearings and Appeals.

With respect to conduct for which a school bus operator has been disciplined by the employing county board with less than termination or has been placed upon an improvement plan that he or she is meeting or has met as determined by the county board, the school bus operator's certificate may not be revoked unless it can be proven by clear and convincing evidence that the bus operator has committed one of the offenses listed above.

A driver involved in a preventable school bus accident, or judged guilty of a minor traffic violation, shall be subject to the disciplinary action established in the Superintendent's administrative guidelines.

Additionally, any school bus operator under contract with the Board who fails to comply with any of the aforementioned rules is guilty of breach of contract and the employee may be subject to discipline up to and including termination after notice and, if requested or required, hearing by the Board.

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