

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 43 TRANSPORTATION - OPERATIONS AND FUNDING
PART 2 REQUIREMENTS FOR SCHOOL BUS CONTRACTS AND PER CAPITA
FEEDER AGREEMENTS

6.43.2.1 ISSUING AGENCY: Public Education Department
[12-31-98, 07-30-99; 6.43.2.1 NMAC - Rn, 6 NMAC 9.4.1.1, 10-15-01; A, 11-13-09]

6.43.2.2 SCOPE: Provisions of this rule apply to public school districts where school bus services are provided by private school bus operations.
[12-31-98; 6.43.2.2 NMAC - Rn, 6 NMAC 9.4.1.2, 10-15-01]

6.43.2.3 STATUTORY AUTHORITY: Sections 22-2-1, 22-16-2, 22-16-3, 22-16-6 and 22-8-27, NMSA 1978.
[12-31-98; 6.43.2.3 NMAC - Rn, 6 NMAC 9.4.1.3, 10-15-01]

6.43.2.4 DURATION: Permanent
[12-31-98; 6.43.2.4 NMAC - Rn, 6 NMAC 9.4.1.4, 10-15-01]

6.43.2.5 EFFECTIVE DATE: December 31, 1998, unless a later date is cited at the end of a section.
[12-31-98; 6.43.2.5 NMAC - Rn, 6 NMAC 9.4.1.5 & A, 10-15-01]

6.43.2.6 OBJECTIVE: To establish the parameters of school bus service contracts and to establish requirements for negotiating and awarding bus contracts and per capita feeder agreements.
[12-31-98; 6.43.2.6 NMAC - Rn, 6 NMAC 9.4.1.6, 10-15-01]

6.43.2.7 DEFINITIONS: [Reserved]

6.43.2.8 SCHOOL BUS SERVICE CONTRACTS

A. A local board may provide transportation services to students through the use of school bus service contracts.

B. Local boards may enter into school bus service contracts with individual school bus owner-operators or with fleet owners or with both. A local board may not enter into any school bus fleet service contract with any person who is simultaneously employed by that local board as an individual one-bus owner/operator.

C. All individual owner operator equipment contracts and fleet service contracts shall be in writing on forms approved by the public education department.

D. For fleet contractors, the amount of the contract shall include recognition of fuel costs, operation and maintenance costs, and salary and benefits costs. For individual owner operator equipment contracts, the amount of the contract shall include recognition of fuel and operations and maintenance costs.

E. Local boards may request assistance from the public education department regarding contracts; however, the public education department shall not be a party to the contract and shall not participate in the negotiations.

F. The local board shall give preference to in-state providers and the use of multiple providers when awarding contracts.

G. The local board may agree to a five-year contract period. Any changes in the terms of the contract require that the contract be renegotiated/amended. At the end of the contract period the contract may be renewed annually on the same terms and conditions at the option of the local board.

H. The local board may terminate a school bus service contract in accordance with the provisions of state law and the school bus contract.

I. The contractor, may with the approval of the local school board, terminate a contract in accordance with state law and the school bus contract.

J. The contractor shall comply with the terms and conditions set forth in the public education department contract form. The contractor shall be subject to all federal and state laws and regulations, which govern school transportation.

K. The local board shall comply with the procedures established by the secretary of public education for the purchase and replacement of school buses.

L. The local board shall comply with all state laws and regulations governing school transportation. The local board shall negotiate contracts for the required services at a fair and reasonable price.

M. The school district shall ensure that a lien is filed in its name on every contractor-owned school bus under the contract. The school district shall also ensure that a lien is perfected in its name on each contractor-owned school bus with the motor vehicle division of the taxation and revenue department. The lien shall be recorded on the title of the school bus. The school district shall provide documentation to the state transportation director that the school district has filed a lien on each school bus authorized under contract with the school district. A school bus contractor shall not refinance or use a school bus on which a school district has a lien as collateral for any other loan without prior written permission of the public education department. The school district shall release its lien on a school bus when:

- (1) the public education department authorizes a replacement of the school bus; or
- (2) the contractor has reimbursed the school district the amount calculated by the public education department; if the school district fails to take action to collect money owed to it when a school bus contract is terminated or not renewed, the public education department may deduct the amount from the school district's transportation distribution.

[12-31-98; 6.43.2.8 NMAC - Rn, 6 NMAC 9.4.1.8, 10-15-01; A, 11-13-09]

6.43.2.9 INDIVIDUAL OWNER OPERATOR

A. An individual who owns only one bus and drives the bus on a full time basis is, as a driver, considered an employee of the district. The local board shall enter into an employment contract with the driver. The driver's salary shall be calculated on the local board's established salary schedule for bus drivers. Benefits shall be calculated on the salary amount according to the established benefit rates.

B. The local board shall negotiate an individual owner/operator equipment contract for the use of the bus to provide transportation services consistent with provisions of state law and public education department rules.

C. The local board shall ensure that the owner/operator meets training and drug testing requirements in compliance with federal and state laws and public education department rules.

D. The individual owner/operator shall have no ownership interest of any type or degree in any fleet service contract with the local board, including without limitation, an interest in the nature of legal or rightful title, possessory interest, or a beneficial, equitable, or pecuniary interest.

[12-31-98; 6.43.2.9 NMAC - Rn, 6 NMAC 9.4.1.9, 10-15-01; A, 11-13-09]

6.43.2.10 FLEET SERVICE CONTRACT

A. The local board may contract with a person who owns one or more buses and who hires drivers to drive the bus. Such a person is considered self-employed and shall be contracted as a fleet operator.

B. The local board shall negotiate fleet service contracts consistent with the provisions of state law and public education department rules.

[12-31-98; 6.43.2.10 NMAC - Rn, 6 NMAC 9.4.1.10, 10-15-01; A, 11-13-09]

6.43.2.11 PROCEDURES FOR AWARDING NEW CONTRACTS

A. A new contract shall be awarded because of:

- (1) the retirement, resignation, or death of a current contractor;
- (2) the determination by the local board to change from a school owned operation to a contract operation;
- (3) the addition of a bus or buses to provide transportation services; unless, the local board elects to amend an existing contract in accordance with the provision of Section 22-16-3, NMSA, 1978;
- (4) unsatisfactory services by the contractor;
- (5) termination of an existing contract.

B. The local board shall publish notice of a request for proposal (RFP) for procurement of transportation services not less than ten calendar days prior to the date set for the receipt of the proposals. The RFP shall be published at least once in a newspaper of general circulation in the area in which the local board is located. If there is no newspaper of general circulation in the area, such other notice may be given as is reasonable.

C. A copy of the RFP and notice shall be available for public inspection at the district administration office.

D. The local board shall develop proposal criteria by which all offers shall be evaluated. The proposal criteria shall include:

- (1) a current financial statement;

- (2) if a corporation, the names, addresses, dates of birth, and social security numbers of all stockholders and officers;
- (3) a minimum of three business or professional references;
- (4) a proposal for the acquisition of buses and other equipment; the proposal shall indicate the year of manufacture and size of buses to serve each route and necessary spare equipment to provide uninterrupted service;
- (5) a description of the proposed fleet maintenance program, garage or maintenance facilities, bus parking, mechanics, parts, and supplies; in the case of a one bus or small fleet operation, a description shall be submitted relative to garage services planned by the owner with an established automotive repair facility;
- (6) the proposal shall indicate the method, in conformance with state and federal laws and regulations, by which drivers will be selected, trained and supervised;
- (7) an amount for which the services will be rendered based on the length of the route(s), road conditions, number of buses and drivers, fuel, operation and maintenance requirements, and, for fleet contractor salaries and benefits;
- (8) any other information that the local board may require.

E. The local board shall provide each proposed offerer with the following information:

- (1) the proposal criteria;
- (2) route information which includes the approximate distance, types of roadways, number of students to be transported, and the size of the buses required;
- (3) a copy of the contract form approved by the public education department;
- (4) a copy of, or access to, all public education department rules, and local board compliance manuals and policies, which govern the operation of school transportation services;
- (5) a description of the insurance coverage that will be provided by the local board for buses to be operated under contract.

F. The local board shall consider all proposals submitted by the deadline recorded in the notice. The local board shall award the contract to the offerer whose proposal provides the most efficient, economical, and safe transportation services to meet the needs of the district. The negotiated amount shall not exceed available resources.

G. The local board may reserve the right to reject all proposals.

H. The local board shall provide notice of the award to the state transportation director on forms provided by the public education department. All proposals, including the established criteria for awarding the contract, copies of advertisements, copies of all proposals and the proposal evaluations shall be subject to audit by the public education department, the state auditor, or an independent auditor. Records shall be retained for a minimum of five years.

I. The local board shall conduct a background check on proposed contractors prior to approval of the contract.

[12-31-98; 6.43.2.11 NMAC - Rn, 6 NMAC 9.4.1.11, 10-15-01; A, 11-13-09]

6.43.2.12 PROCEDURES FOR RENEWING EXISTING CONTRACTS: Prior to the contract renewal, the district shall request the following information from a current contractor:

A. A current financial statement.

B. If a corporation, the names, addresses, dates of birth, and social security numbers of all stockholders or partnerships.

C. The local board shall evaluate the services that have been rendered by the contractor on the basis of the terms of the contract. The local board shall determine whether the terms of the contract have been met and whether the contract shall be considered for renewal.

D. The contractor shall be apprised of the results of the evaluation and the determination of the board regarding renewal of the contract. If the contract is recommended for renewal, the terms of the contract shall ensure that any deficiencies identified in the evaluation are corrected.

E. The board shall provide the contractor with any proposed or anticipated changes in the school transportation program relative to boundary changes, route changes attendance center designations, or any other proposed or anticipated changes.

F. The local board shall not negotiate a contract award for transportation services, which exceeds available resources.

G. The local board shall provide notice of the contract renewal to the state transportation director on forms provided by the public education department.

[12-31-98; 6.43.2.12 NMAC - Rn, 6 NMAC 9.4.1.12, 10-15-01; A, 11-13-09]

6.43.2.13 FLEET SERVICE CONTRACT (FORM): THIS AGREEMENT is made and entered into as this _____ day of _____, 20____, by and between _____ (local board of education) hereinafter called "BOARD" and _____ (contractor) herein after referred to as "CONTRACTOR." WITNESETH: WHEREAS, BOARD has engaged CONTRACTOR to provide the pupil transportation services described herein; and WHEREAS, CONTRACTOR desires to provide such transportation services; NOW, THEREFORE, in consideration of the covenants hereinafter contained, the parties agree as follows:

A. TERM: The term of this agreement shall commence _____, 20____ and shall continue through _____, 20____. This contract may be renewed annually thereafter on the same terms and conditions at the option of the BOARD.

B. SCOPE OF SERVICES

(1) CONTRACTOR shall, during the term of the agreement supply the buses listed on Appendix A incorporated herein by reference and shall maintain such number of school buses specified to provide transportation services to the BOARD consistent with the terms of this contract.

(2) CONTRACTOR shall, provide for the efficient management of the transportation services as set forth herein. CONTRACTOR shall advise the BOARD of the name(s), address(s), and phone number(s) of individual(s) designated as responsible for the management of services.

(3) CONTRACTOR shall provide for the to-and-from transportation of students in grades kindergarten through twelve who attend school within the school district, of three and four year old children who meet the public education department approved criteria and definition of developmentally disabled, and for the transportation of students to and from their regular attendance centers and vocational programs approved by the public education department.

(4) Transportation services shall be provided for _____ school days in accordance with bus routes and schedules agreed to under the terms of this contract. For each day that a bus is not operated, the compensation paid the CONTRACTOR shall be decreased by 1/____th of the total compensation for services provided in Subsection C, Paragraph (1) of this contract.

(5) CONTRACTOR shall comply with all federal and state laws, regulations, policies and directives of the BOARD.

C. COMPENSATION

(1) The BOARD shall pay CONTRACTOR all sums due and calculated in accordance with the conditions of this contract. The BOARD agrees to pay the CONTRACTOR \$ _____ for purchase allowance/rental fees, and \$ _____ for services herein for a total of \$ _____ to be paid in consecutive monthly installments as follows: _____ equal installments of \$ _____ each, and a final installment of \$ _____, commencing on the _____ day of _____, 20____.

(2) The compensation payable pursuant to this contract is subject to adjustment by the BOARD for route changes, the addition of to-and-from buses approved by the public education department, or changes in the provision of services. Contract amendments required; as a result of such adjustments shall be approved by the BOARD.

(3) This contract may be further adjusted or payments withheld where audits or investigations by the BOARD or public education department verify overpayments, underpayment, or expenditures in violation of state laws or rules or the terms of this contract.

(4) The terms of this contract are contingent upon sufficient legislative appropriations for to-and-from transportation and authorization of the appropriation.

D. FUEL: CONTRACTOR shall furnish all fuel to be used in its performance of this agreement.

E. OPERATION AND MAINTENANCE

(1) CONTRACTOR shall furnish buses of a type and with the equipment required by federal and state law and regulations, including applicable public education department rules.

(2) CONTRACTOR shall provide for all operation and maintenance of buses utilized for service under the terms of this agreement.

(3) CONTRACTOR shall ensure that buses operating under this contract meet established public education department safety inspection requirements.

F. SALARIES: CONTRACTOR shall provide for salaries and benefits of all employees providing service under the terms of this agreement.

G. ROUTES AND SCHEDULES

(1) CONTRACTOR shall operate the buses according to the routes approved by the BOARD. The BOARD on the basis of safety, efficiency and economy shall approve such routes.

(2) On the 40th day of the school year, CONTRACTOR shall furnish BOARD a complete route map and roster of eligible students who are transported. Additional reports shall be submitted as follows: _____

(3) The BOARD reserves the right to modify the routes consistent with the terms of this contract, should circumstances require such modifications. The superintendent or designee may modify stops and time schedules as required. The CONTRACTOR shall be notified in writing by the BOARD's superintendent or designee when changes are necessary, and CONTRACTOR shall adjust its operations to incorporate such changes.

H. RECORDS AND REPORTS

(1) All records required by state law or rules shall be subject to inspections and audits by the public education department, the office of the state auditor, and any auditor designated to conduct such inspections or audits. The public education department and the state auditor shall have the right to audit both before and after payment, and payment under this contract shall not foreclose the right of the BOARD to recover excessive or illegal payments.

(2) The CONTRACTOR shall complete appendix B, incorporated herein by reference, and shall submit annually a final expenditure report for fuel, operation and maintenance, and salary and benefits on forms provided by the public education department.

(3) The CONTRACTOR shall make such reports as may be required by the BOARD or the public education department. Failure to make required reports on time and with accuracy shall be considered a breach of contract and shall be cause to adjust payments or withhold payments until reporting requirements are met.

(4) The CONTRACTOR shall not refinance or use a school bus on which a school district has a lien as collateral for any other loan without prior written permission of the public education department.

I. INDEMNIFICATION: CONTRACTOR shall hold BOARD, its officers and employees harmless and does hereby indemnify the BOARD, its officers and employees from and against every claim or demand which may be made by any person, firm or corporation, or other entity arising from or caused by any act, neglect, default or omission of CONTRACTOR in the performance of this agreement, except to the extent that such claim or demand arises from or is caused by the negligence or willful misconduct of BOARD, its agents or employees.

J. INSURANCE

(1) The BOARD shall provide automobile liability coverage to the CONTRACTOR, which includes bodily injury, property damage, and physical damage for all buses under contract to the BOARD. The terms, conditions and limits of coverage shall be in accordance with that provided by the New Mexico public schools insurance authority or any other coverage provided by the local BOARD and allowed by statute.

(2) The CONTRACTOR shall carry worker's compensation insurance as statutorily required by the state of New Mexico and shall provide evidence of insurance to the BOARD.

K. INCLEMENT WEATHER AND SCHOOL CLOSINGS: In the event of inclement weather or impassability of roads or whenever school is canceled, delayed or is dismissed early, BOARD shall notify CONTRACTOR not later than _____ hours before service.

L. SAFETY: CONTRACTOR shall be responsible for meeting all safety requirements established by local, state, or federal laws or regulations. A record of training and other safety reporting requirements shall be provided to the BOARD upon request.

M. OPERATION/PERSONNEL/DRIVER QUALIFICATIONS

(1) CONTRACTOR shall employ a sufficient number of drivers and support personnel to carry out the terms of this contract.

(2) CONTRACTOR shall ensure that employees meet training requirements set forth by federal and state law, public education department rules and BOARD policies and shall assume the cost of training for drivers and bus assistants.

(3) CONTRACTOR shall establish rules, which prohibit the driver from smoking on the bus or driving under the influence of drugs or alcohol while operating any bus.

(4) CONTRACTOR shall comply with federal laws and regulations for drug and alcohol testing and shall provide to the BOARD verification of compliance.

(5) CONTRACTOR shall be responsible for hiring and discharging personnel employed by CONTRACTOR to perform its obligations hereunder; provided, however, that the BOARD shall have the right to require CONTRACTOR to remove from service under this agreement any employee whose performance is, in good faith, deemed by the BOARD unsuitable to the provision of transportation services for BOARD; and provided further that BOARD shall provide the CONTRACTOR such notification in writing and provide justification for its determination.

(6) CONTRACTOR shall provide qualified drivers, trained and licensed in accordance with the laws of this state and the rules and regulations of BOARD.

N. TERMINATION OF CONTRACT BY BOARD: Subject to procedures hereinafter set forth, the BOARD may terminate this contract before its expiration date for violation of law, terms of the contract, or rules and policies of the public education department or BOARD. The procedures for termination of this contract are as follows:

(1) The BOARD shall serve notice upon the CONTRACTOR in person, or by registered or certified mail, specifying the charges against the CONTRACTOR under which the contract is sought to be terminated, with a copy of such notice provided to the state transportation director.

(2) The notice shall also specify a time and place at which the BOARD will hold a hearing on the charges made against the CONTRACTOR which hearing shall not be more than ten (10) calendar days after service of the notice upon the CONTRACTOR.

(3) The CONTRACTOR shall have the right to appear and be represented by legal counsel, to be heard, and to call witnesses in his/her own behalf.

(4) The BOARD shall have the power to suspend the CONTRACTOR pending a hearing on the charges.

(5) The decision of the BOARD shall be final and conclusive, subject only to the approval of the state transportation director.

(6) In the event that this contract is terminated or not renewed, the secretary of public education shall calculate the remaining number of years that the bus could be used based on a twelve-year replacement cycle and calculate a value reflecting that use. The DISTRICT shall deduct an amount equal to that value from any remaining amount due on the contract. If no balance remains on the contract, the CONTRACTOR shall reimburse the DISTRICT an amount equal to the value calculated.

(7) In the event that this contract is terminated, the buses owned by the CONTRACTOR and used pursuant to the terms of this contract as set forth in appendix A herein shall be appraised by three qualified appraisers appointed by the BOARD and approved by the state transportation director. The operator succeeding to the contract shall purchase, with the approval of the CONTRACTOR, all said buses at their appraised value.

O. TERMINATION OF CONTRACT BY CONTRACTOR: Subject to procedures hereinafter set forth, the CONTRACTOR may cancel this contract before its expiration by the following procedures:

(1) The CONTRACTOR shall serve a written notice upon the BOARD in person or by registered or certified mail, with a copy of such notice provided to the state transportation director, specifying the reason for cancellation.

(2) The notice shall also specify the date at which such cancellation shall be effective, but not less than sixty (60) calendar days after the service of notice.

(3) Cancellation of the contract shall be effective only after the BOARD grants written consent and notice provided to the state transportation director.

(4) This contract shall not be assigned to another individual or corporation.

(5) In the event that this contract is terminated or not renewed, the secretary of public education shall calculate the remaining number of years that the bus could be used based on a twelve-year replacement cycle and calculate a value reflecting that use. The DISTRICT shall deduct an amount equal to that value from any remaining amount due on the contract. If no balance remains on the contract, the CONTRACTOR shall reimburse the DISTRICT an amount equal to the value calculated.

(6) In the event that this contract is terminated or not renewed, the buses owned by the CONTRACTOR and used pursuant to the terms of this contract as set forth in appendix A herein shall be appraised by three qualified appraisers appointed by the BOARD and approved by the state transportation director. The operator succeeding to the contract shall purchase with the approval of the CONTRACTOR all said buses at their appraised value.

IN WITNESS WHEREOF we have set our hands and seals. _____

BOARD OF EDUCATION BY: _____ PRESIDENT ATTEST:

_____ SECRETARY _____ CONTRACTOR

P. Appendix A (Part I)

FLEET CONTRACT

Bus #	Owner Code	Year	Model	Seating	Lift	Vehicle Identification	License Plate	Rental Fee

Q. Appendix A (Part II)

FLEET CONTRACT

Bus#	Route Mileage	Route Description (area served)

R. APPENDIX B: FLEET CONTRACT PAYMENT SCHEDULE, 20____ 20____ SCHOOL YEAR This contract approved by the _____ (BOARD) on _____/_____/_____ for _____ (CONTRACTOR) to operate _____ buses/routes set forth in appendix A to provide school transportation services includes the following amounts deemed necessary for CONTRACTOR to carry out the terms of the contract safely, efficiently, and economically:

- (1) BUS PURCHASE/RENTAL FEE: \$ _____
- (2) TRANSPORTATION SERVICES: (estimated budget)
 - (a) fuel \$ _____
 - (b) operation & maintenance and all other expenses \$ _____
 - (c) salary and benefits _____
- (3) total transportation services \$ _____
- (4) total estimated budget \$ _____

[12-31-98; 6.43.2.13 NMAC - Rn, 6 NMAC 9.4.1.13 & A, 10-15-01; A, 11-13-09]

6.43.2.14 INDIVIDUAL OWNER OPERATOR EQUIPMENT CONTRACT (Form): THIS

AGREEMENT is made and entered into as this ____ day of _____, 20____, by and between _____ (local board of education) hereinafter called "BOARD" and _____ (owner/operator) herein after referred to as "OWNER/OPERATOR." WHEREAS, OWNER/OPERATOR desires to provide such transportation equipment, fuel, and operation and maintenance associated with the use of the equipment under the terms of this contract; NOW, THEREFORE, in consideration of the covenants hereinafter contained, the parties agree as follows:

A. TERM: The term of this agreement shall commence _____, 20____ and shall continue through _____, 20____; This contract may be renewed annually thereafter on the same terms and conditions at the option of the BOARD.

B. SCOPE OF SERVICES

(1) OWNER/OPERATOR shall, during the term of the agreement supply and maintain the bus listed on Appendix A herein to provide transportation equipment to the BOARD consistent with the terms of this contract.

(2) OWNER/OPERATOR shall, provide for the efficient maintenance and operation of the equipment as set forth herein.

(3) OWNER/OPERATOR shall provide for the to-and-from transportation of students in grades kindergarten through twelve who attend school within the school district, of three and four year old children who meet the public education department approved criteria and definition of developmentally disabled, and for the transportation of students to and from their regular attendance centers and vocational programs approved by the public education department.

(4) Transportation services shall be provided for _____ school days in accordance with bus routes and schedules agreed to under the terms of this contract. For each day that a bus is not operated, the compensation paid the OWNER/OPERATOR shall be decreased by 1/____th of the total compensation for services provided in Subsection C, Paragraph (1) of this contract.

(5) OWNER/OPERATOR shall comply with all federal and state laws, rules, policies and directives of the BOARD.

C. COMPENSATION

(1) The BOARD shall pay to OWNER/OPERATOR all sums due and calculated in accordance with the conditions of this contract. The BOARD agrees to pay the OWNER/OPERATOR \$_____ for purchase allowance/rental fees, and \$_____ for fuel, operation and maintenance for a total of \$_____ to be paid in consecutive monthly installments as follows: _____ equal installments of \$_____ each, and a final installment of \$_____, commencing on the _____ day of _____, 20_____.

(2) The operation and maintenance reimbursement payable pursuant to this contract is subject to adjustment by the BOARD for route changes, bus replacement approved by the public education department, or changes in the provision of services. Contract amendments required; as a result of such adjustments shall be approved by the BOARD.

(3) This contract may be further adjusted or payments withheld where audits or investigations by the district, hereinafter referred to as "DISTRICT" or public education department verify overpayments, underpayment, or expenditures in violation of state laws or rules or the terms of this contract.

(4) The terms of this contract are contingent upon sufficient legislative appropriations for to-and-from transportation and authorization of the appropriation.

D. FUEL: OWNER/OPERATOR shall furnish all fuel to be used in its performance of this agreement.

E. OPERATION AND MAINTENANCE

(1) The bus furnished and maintained by the OWNER/OPERATOR shall be of a type and with the equipment required by federal and state law and regulations, including applicable public education department rules.

(2) OWNER/OPERATOR shall provide for all operation and maintenance of buses utilized for service under the terms of this agreement.

(3) OWNER/OPERATOR shall ensure that buses operating under this contract meet established public education department safety inspection requirements.

F. ROUTES AND SCHEDULES

(1) OWNER/OPERATOR shall operate the bus according to the routes approved by the BOARD. The BOARD based on safety; efficiency and economy shall approve such routes.

(2) On the 40th day of the school year, OWNER/OPERATOR shall furnish BOARD a complete route map and roster of eligible students who are transported. Additional reports shall be submitted as follows: _____

(3) The BOARD reserves the right to modify the routes consistent with the terms of this contract, should circumstances require such modifications. The superintendent or designee may modify stops and time schedules as required. The OWNER/OPERATOR shall be notified in writing by the BOARD's superintendent or designee when changes are necessary, and OWNER/OPERATOR shall adjust its operations to incorporate such changes.

G. RECORDS AND REPORTS

(1) All records required by state law or rules shall be subject to inspections and audits by the public education department, the office of the state auditor, and any auditor designated to conduct such inspections or audits. The public education department and the state auditor shall have the right to audit both before and after payment, and payment under this contract shall not foreclose the right of the BOARD to recover excessive or illegal payments.

(2) The OWNER/OPERATOR shall complete appendix B, incorporated herein by reference, and shall submit annually a final expenditure report for fuel, operation and maintenance costs on forms provided by the public education department.

(3) The OWNER/OPERATOR shall make such reports as may be required by the BOARD or the public education department. Failure to make required reports on time and with accuracy shall be considered a breach of contract and shall be cause to adjust payments or withhold payments until reporting requirements are met.

(4) The CONTRACTOR shall not refinance or use a school bus on which a school district has a lien as collateral for any other loan without prior written permission of the public education department.

H. INSURANCE: The BOARD shall provide automobile liability coverage to the OWNER/OPERATOR, which includes bodily injury, property damage, and physical damage for the bus under contract to the BOARD. The terms, conditions and limits of coverage shall be in accordance with that provided by the New Mexico public schools insurance authority or any other coverage provided by the BOARD and allowed by statute.

I. INCLEMENT WEATHER AND SCHOOL CLOSINGS: In the event of inclement weather or impassability of roads or whenever school is canceled, delayed or is dismissed early, BOARD shall notify OWNER/OPERATOR not later than _____ hours before service.

J. SAFETY: OWNER/OPERATOR shall be responsible for meeting all safety requirements established by local, state, or federal laws or regulations. A record of training and other safety reporting requirements shall be provided to the BOARD upon request.

K. TERMINATION OF CONTRACT BY BOARD: Subject to procedures hereinafter set forth, the BOARD may terminate this contract before its expiration date for violation of law, terms of the contract, or rules and policies of the public education department or BOARD. The procedures for termination of this contract are as follows:

(1) The BOARD shall serve notice upon the OWNER/OPERATOR in person, or by registered or certified mail, specifying the charges under which the contract is sought to be terminated, with a copy of such notice provided to the state transportation director.

(2) The notice shall also specify a time and place at which the BOARD will hold a hearing on the charges made against the OWNER/OPERATOR which hearing shall not be more than ten (10) calendar days after service of the notice.

(3) The OWNER/OPERATOR shall have the right to appear and be represented by legal counsel, to be heard, and to call witnesses in his/her own behalf.

(4) The BOARD shall have the power to suspend the OWNER/OPERATOR pending a hearing on the charges.

(5) The decision of the BOARD shall be final and conclusive, subject only to the approval of the state transportation director.

(6) In the event that this contract is terminated, the secretary of public education shall calculate the remaining number of years that the bus could be used based on a twelve-year replacement cycle and calculate a value reflecting that use. The DISTRICT shall deduct an amount equal to that value from any remaining amount due on the contract. If no balance remains on the contract, the OWNER/OPERATOR shall reimburse the DISTRICT an amount equal to the value calculated.

(7) In the event that this contract is terminated or not renewed, the buses owned by the OWNER/OPERATOR and used pursuant to this contract as set forth in appendix A herein shall be appraised by three qualified appraisers appointed by the BOARD and approved by the state transportation director. The operator succeeding to the contract shall purchase, with the approval of the OWNER/OPERATOR, all said bus at its appraised value.

L. TERMINATION OF CONTRACT BY OWNER/OPERATOR: Subject to procedures hereinafter set forth, the OWNER/OPERATOR may cancel this contract before its expiration by the following procedures:

(1) The OWNER/OPERATOR shall serve a written notice upon the BOARD in person or by registered or certified mail, with a copy of such notice provided to the state transportation director, specifying the reason for cancellation.

(2) The notice shall also specify the date at which such cancellation shall be effective, but not less than sixty (60) calendar days after the service of notice.

(3) Cancellation of the contract shall be effective only after the BOARD grants written consent and notice provided to the state transportation director.

(4) This contract shall not be assigned to another individual or corporation.

(5) In the event that this contract is terminated or not renewed, the secretary of public education shall calculate the remaining number of years that the bus could be used based on a twelve-year replacement cycle and calculate a value reflecting that use. The DISTRICT shall deduct an amount equal to that value from any remaining amount due on the contract. If no balance remains on the contract, the OWNER/OPERATOR shall reimburse the DISTRICT an amount equal to the value calculated.

(6) In the event that this contract is terminated or not renewed, the buses owned by the OWNER/OPERATOR and used pursuant to the terms of this contract as set forth in appendix A herein shall be appraised by three qualified appraisers appointed by the BOARD and approved by the state transportation director. The operator succeeding to the contract shall purchase with the approval of the OWNER/OPERATOR all said bus at its appraised value.

IN WITNESS WHEREOF we have set our hands and seals. _____

BOARD OF EDUCATION, BY: _____ PRESIDENT, ATTEST:
 _____ SECRETARY, DECLARATION OWNER/OPERATOR hereby declares that he/she has no ownership interest of any type or degree in any fleet service contract with the BOARD, including without limitation, an interest in the nature of legal or rightful title, possessory interest, or a beneficial, equitable or pecuniary interest.

_____ OWNER/OPERATOR DATE _____

M. Appendix A (Part I), INDIVIDUAL OWNER OPERATOR EQUIPMENT CONTRACT

Bus #	Owner Code	Year	Model	Seating	Lift	Vehicle Identification	License Plate	Rental Fee

N. Appendix A (Part II) INDIVIDUAL OWNER OPERATOR EQUIPMENT CONTRACT

Bus #	Route Mileage	Route Description (area served)

O. APPENDIX B INDIVIDUAL OWNER OPERATOR EQUIPMENT CONTRACT 20 _____
 20 _____ SCHOOL YEAR This contract approved by the _____ (BOARD) on
 _____ / _____ / _____ for _____ (OWNER/OPERATOR) to operate
 _____ buses/routes set forth in appendix A to provide school transportation services includes the following amounts deemed necessary for OWNER/OPERATOR to carry out the terms of the contract safely, efficiently, and economically:

- (1) BUS PURCHASE/RENTAL FEE: \$ _____
- (2) TRANSPORTATION SERVICES: (estimated budget)
 - (a) fuel \$ _____
 - (b) operation & maintenance and all other expenses \$ _____
- (3) total transportation services \$ _____
- (4) total estimated budget \$ _____

[12-31-98; 6.43.2.14 NMAC - Rn, 6 NMAC 9.4.1.14 & A, 10-15-01; A, 11-13-09]

6.43.2.15 PER CAPITA FEEDER REQUIREMENTS:

A. The local board may provide per capita or per mile reimbursement to a parent or guardian in cases where regular school bus transportation services are not available or impractical because of distance, road conditions or sparseness of population or in cases where the local board has authorized a parent to receive reimbursement for travel costs incurred by having a child attend a school outside the child's attendance zone.

B. When per capita feeder services are utilized, the local board must approve an agreement with the parent or guardian, which defines the terms of the agreement for service, the contract amount, and the responsibilities of the parent.

C. The parent or guardian must provide proof of insurance and shall maintain the insurance for the term of the agreement.

- D. The local board shall establish the mileage reimbursement rate.
- E. The local board is responsible for developing a system of accountability to ensure that services are rendered according to the terms of the agreement. The local board shall ensure that payment is not made until services have been rendered.
- F. The local board shall approve a per capita feeder policy which sets forth the terms and conditions under which per capita feeder agreements shall operate.
- G. The mileage reimbursement rate for charter schools shall be at least equal to the amount established by the local board. This reimbursement will apply where regular school bus transportation services are not available or impractical because of distance, road conditions, sparseness of population or other conditions negotiated by the school district and charter school. When per capita feeder services are utilized, the governing body of the charter school must approve an agreement with the parent or guardian, which defines the terms of the agreement for service, the contract amount, and the responsibilities of the parent. The parent or guardian must provide proof of insurance and shall maintain the insurance for the term of the agreement.
- H. The governing body of the charter school is responsible for developing a system of accountability to ensure that services are rendered according to the terms of the agreement. The governing body shall ensure that payment is not made until services have been rendered.
- [12-31-98; 6.43.2.15 NMAC - Rn, 6 NMAC 9.4.1.15 & A, 10-15-01]

HISTORY OF 6.43.2 NMAC:

PRE-NMAC HISTORY: The material in this regulation was derived from that previously filed with the State Records Center and Archives under State Board of Education Regulation 95-4 Fleet Service Contract, filed July 18, 1995;
State Board of Education Regulation 95-5 Individual Owner Operator Equipment Contract, filed July 18, 1995;
State Board of Education Regulation 81-5 School Bus Contracts, filed July 28, 1981;
Amendment #1, filed December 5, 1988;
Amendment #2, filed June 3, 1994;
State Board of Education Regulation 80-7 School Bus Contracts, filed October 10, 1980;
State Board of Education Regulation 79-8 School Bus Operator's Contracts, filed July 11, 1979;
State Board of Education Regulation 78-8 School Bus Operator's Contracts, filed July 24, 1978;
State Board of Education Regulation 77-5 School Bus Operator's Contracts, filed August 15, 1977;
State Board of Education Regulation 76-14 Supplement to School Bus Operator's Contract, filed July 30, 1976;
State Board of Education Regulation 75-4 Supplemental Contract (School Bus Operator) filed September 4, 1975;
State Board of Education Regulation 77-5 School Bus Operator's Contract, filed August 15, 1977;
State Board of Education Regulation 76-12 School Bus Operator's Contract (One Bus Owner Operator), filed July 30, 1976;
State Board of Education Regulation 75-2 School Bus Operator's Contract (One Bus Owner Operator), filed September 4, 1975;
State Board of Education Regulation 73-25 School Bus Operator's Contract (One Bus Owner Operator), filed July 30, 1973;
State Board of Education Regulation 72-9 School Bus Operator's Contract (One Bus Owner Operator), filed March 27, 1972;
State Board of Education Regulation 71-8 School Bus Operator's Contract (One Bus Owner Operator), filed August 31, 1971;
State Board of Education Regulation 95-6 Requirements for School Bus Contracts and Per Capita Feeder Agreements, filed July 18, 1995;
State Board of Education Regulation 87-2 Procedures for Negotiating and Awarding School Bus Contracts, filed March 13, 1987; and
State Board of Education Regulation 78-2 Procedures for Negotiating and Awarding School Bus Contracts, filed April 26, 1978.

HISTORY OF REPEALED MATERIAL: [RESERVED]