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November 2, 2017

Update regarding the Ohio Pupil Transportation Rules

Recently the department of education sent out a communication and asked for comments on proposed updates to the pupil transportation rules. We have received a number of calls and emails asking about the proposal and the process.

The intent of this communication is to review the reason for rule changes, the process that is followed, and to consider some of the actual changes being proposed. At the very least, this is an outstanding opportunity for everyone involved in pupil transportation in Ohio to review the rules proposal and to consider the impact on the operation at your school district. For those enrolled in OSBA's MTA program, this will be a focus topic in the upcoming class at the end of this month. For those not enrolled in MTA, you are welcome to enroll in this class to join in the discussion. (Contact us at OSBA for enrollment details).

The process:

Each set of rules in administrative code belong to a particular agency in government. Typically, the rules process involves that agency convening a stakeholder's group and collaborating on proposed changes. Sometimes this process involves the stakeholders group at every step along the way, in others the agency acts upon an initial stakeholders meeting and prepares the proposal. The current proposal started with a broad-based stakeholders meeting, which was organized by ODE's legal office and held in their offices last school year. OSBA and other representatives of schools and associations were in attendance at that meeting.

The department has completed their work based upon that stakeholders meeting, and the proposal is posted on their web site for comment. This is the opportunity for all parties to review and comment on the changes, both pro and con. Following the comment period the department will determine if they want to further change the proposal or move it forward to the State Board of Education (SBOE). Following consideration by the SBOE, and contingent upon their approval, the rules proposal will be forwarded to the secretary of state for the Common Sense Initiative before being submitted to JCARR for the final step in the process. While there is opportunity for input and comment at nearly every step of the way, the best rules proposals accommodate all potential comment before they start down the official path of rule making.

Why the change:

Ohio Administrative Code must be reviewed every five years by the agency that promulgated it. Certain sections of the existing pupil transportation rules have exceeded this five-year period. Rules change is a regular event in governance, and is intended to reflect changes in practice and law. Ultimately the mission of administrative rule is to provide guidance that implements revised code. Administrative code cannot conflict with

revised code, and also must remain within the authorizing boundaries of the revised code that authorizes it. In our case, there is revised code in place that requires the SBOE to oversee the safety of transportation, as well as requiring the SBOE to adopt operation rules for transportation. The pupil transportation rules documented in sections 3301-83-03 through 3301-83-24 are intended to meet that purpose.

The specific changes:

A significant number of the changes proposed are intended to clean up language and to condense sections. Accompanying that is the proposal to remove some of the specificity from the existing rules. In essence, the requirement to establish local procedures and regulations will be strengthened and the detail of those rules and regulations will be removed from law and placed in a guidance document. This results in some significant changes in what many of us have used for a lot of years, and bears consideration.

We recently met with a group of district administrators and representatives from the three major state associations to review these changes. Overall, we believe the net effect is to provide more room for districts to customize their operations and to design transportation systems that work best for the local district. Of particular note is the change in the student management section. The existing rule has always stated that administrators and transportation personnel are required to develop pupil management policies. However, the existing language then went on to tell you exactly what your policy must say, removing any opportunity for you to develop the best policy for your district. Not all districts use the specific rules as printed in the existing rule, finding (especially with younger children) that it is better to consolidate and generalize rules that students understand and can follow. In the current rule, there is some liability for the district if you vary from the rules in code. In the proposal, the right to locally govern the appropriate management plan for your students is restored. This is not a bad change, in fact it helps us to take better ownership of our transportation best practices. Keep in mind that the requirement for student management rules is not being discarded, rather, it is still in administrative code with the caveat that each district must formulate their own rules. That has always been there--what we now have is the latitude to implement the requirement as it works best for each of us. For those who wish more guidance, the department has indicated that they will create a guidance document with much of the old language in it.

The notion of using a guidance document for specificity and keeping the rules a bit broader is not new. In fact, that is common practice in other educational specialties including special education and school nutrition.

To be clear, there are some other changes that our stakeholders group would like considered in addition to what was published by the department. We are submitting those through the forum that the department has offered to all of us.

To sum it up . . . change is the only constant! This is a great time to read the rules proposal, consider what the real impact is, and then consider if these will indeed make transportation in your district more customizable for your students. At the end of the day, that is who we serve.

Our collective consideration after looking at all of this line-by-line is that there is some great opportunity here for us to continue to do what we do best - transport students safely and efficiently.

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