

**PROPOSED AMENDMENT TO ELIMINATE AGE
RESTRICTION OF SCHOOL BUS DRIVERS
(2 PAGES)**

July 30, 1985

PROPOSED AMENDMENT OF SUBDIVISION (b) OF SECTION 156.3 OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION PURSUANT TO SECTIONS 207 AND 3624 OF THE EDUCATION LAW RELATING TO THE QUALIFICATIONS OF SCHOOL BUS DRIVERS

To the Commissioner of Education:

Attached is a proposed amendment to the Regulations of the Commissioner concerning the qualifications of school bus drivers.

It is the purpose of the proposed amendment to eliminate the upper age limit of 65 for school bus drivers in New York State.

The maximum age limit for school bus drivers prior to September 1, 1971 was 70. Effective September 1, 1971, the maximum age was reduced to 65. Currently, subdivision (b) of section 156.3 of the Regulations of the Commissioner renders all school bus drivers of both district-owned and contracted school buses ineligible to drive a school bus after their 65th birthday.

Several recent court cases have challenged the validity of the age limitation upon school bus drivers. Most recently in TenHoeve v. Board of Education of the Dundee Central School District, the Court of Appeals has remanded the case to the Supreme Court, Albany County, to determine whether age is a bona fide occupational qualification for school bus drivers.

In prior court cases concerning age discrimination of school bus drivers, the State Education Department has relied upon a statistical report prepared by the Department of Motor Vehicles regarding accident rates in relation to the motor vehicle driver's age. The report indicated that drivers in excess of age 65 were more likely to become involved in an accident than younger drivers. In the course of litigation, arithmetic errors in this report were discovered which render its conclusions statistically invalid.

A review of the most recent accident statistics available from the National Safety Council, the New York State Department of Motor Vehicles, and other individual states indicates that, at this time, there is insufficient data to support the imposition of a maximum age limit for school bus drivers.

The 1984 Edition of Accident Facts published by the National Safety Council indicates that for all drivers in the nation in 1983, the incidence of accidents involving the over-65 age group is no worse than for other age groupings. The 65 to 69 age group constitutes 4.4 percent of all drivers and they are involved in 2.4 percent of the fatal accidents and 3.2 percent of all accidents. The 70 to 74 age group constitutes 3.1 percent of all drivers and they are involved in 1.9 percent of fatal accidents and 1.0 percent of all accidents.

Statistics supplied to the Education Department by the New York State Department of Motor Vehicles indicate that drivers in the age group 65 and over constitute 12.1 percent of the total number of drivers. This group is involved in 5.5 percent of all fatal and personal injury accidents. The Department of Motor Vehicles does not break out separate age groupings above age 65.

In May of 1985, the Bureau of Educational Management Services surveyed each state in attendance at the National Standards Conference in Missouri, concerning age as it related

to school bus drivers and the incidence of accidents. As of July 25, 1985, the Bureau has received responses from 16 states. Two states have established age 65 as the maximum age for school bus drivers, four states have established age 70, and the other ten states have not established any maximum age.

Only two of the states which responded have statistics which compare the age of school bus drivers with the number of accidents in which they are involved. In Pennsylvania, for the 1983-84 school year, 12.5 percent of the school bus drivers were over the age of 60 and they were involved in 11.2 percent of the total school bus accidents. In Maryland, for the five years from 1979-80 until 1983-84, school bus drivers over the age of 65 constituted an average of 3.8 percent of all school bus drivers and they were involved in an average of 3.4 percent of the total school bus accidents.

In sum, the statistics presently available do not indicate an increased incidence of accidents involving drivers in the 65 and over age group. We recommend that the maximum age limitation for school bus drivers be eliminated. At this time, there is insufficient data to support the establishment of any maximum age for school bus drivers.

Notice of Proposed Rule Making concerning the proposed amendment will be published in the State Register no later than August 14, 1985.

RECOMMENDATION: It is recommended that the Regulations of the Commissioner of Education be amended in accordance with the attached draft, and the Regents take the following action:

VOTED that subdivision (b) of section 156.3 of the Regulations of the Commissioner of Education be amended as submitted, effective October 23, 1985.

Respectfully submitted,

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Gerald L. Freeborne
Deputy Commissioner for Elementary,
Secondary and Continuing Education

Approved by Commissioner for
submission to Board of Regents:

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Commissioner of Education

July 5-85

Date

Approved:

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Counsel and Deputy Commissioner
for Legal Affairs

7-30-85

Date