

**COMMISSION FOR ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES AND
TRANSPORTATION RULES GOVERNING ADVERTISING ON SCHOOL BUSES**

**PUBLIC COMMENTS AND RESPONSES OF THE DIVISION OF PUBLIC SCHOOL
ACADEMIC FACILITIES AND TRANSPORTATION**

Commenter Name: Boyce Watkins, Arkansas School Boards Assn. (5/12/15)

Comment: One of ASBA's concerns in addition to safety is lack of guidance regarding legal and appropriate content of ads. The proposed rules give no guidance regarding ad content, but rather simply stipulate that if the district chooses to allow advertisement on its buses the district will develop policy governing the advertising. The sponsor of the bill and House Education Committee members were concerned (as is ASBA) about advertising content. "We were under the impression, along with Rep. D. Douglas and House Education Committee members, that "the Commission—Arkansas Education Commission" would write rules giving guidance, including for First Amendment issues, on the allowable content of those ads."

Division Response: **Comment considered.** Act 941 of 2015 contained no language addressing advertising content. Regulating content should be left to the discretion of the school district boards of directors that choose to advertise in accordance with Act 941 of 2015. Under the proposed rules, any school district board of directors that chooses to advertise must enact a policy to govern the scope of that advertising. *No changes made.*

Commenter Name: Mike Mertens, Arkansas Assn. of Educational Administrators (5/20/15).

Comment: AAEA proposes an additional section to the draft rules that would provide guidance to school districts regarding the content of bus ads. During legislative committee deliberation of Act 941, several legislators raised concerns regarding advertising content. Following are cautions or prohibitions that AAEA would offer for consideration if additional guidelines regarding ad content are developed:

- Are false, misleading, fraudulent, or libelous;
- Contain language that is obscene, vulgar, or reasonably determined not to be in good taste;
- Promote unlawful or illegal goods, services or activities;
- Promote gambling, tobacco, or alcohol;
- Promote any business or activity that may be inappropriate for minors, such as a tattoo parlor;
- Depict or glamorize violent or antisocial behavior;
- Resemble a traffic control device;
- Declare or imply an endorsement by the district and/or board of education;
- Are political in nature.

Division Response: **Comment considered.** See Division's Response to Watkins's 5/12/15 comment. *No changes made.*

Commenter Name: Joy Rothenbach, Arkansas Coalition for Obesity Prevention (Public Comment Hearing, 5/26/15)

Comment: Rules do not comment on what would be suitable or not suitable advertising. National Association of State Directors of Pupil Transportation Services is not in favor and does not support school bus advertising, as it creates a safety problem, and may be difficult, impossible, or legally expensive to control the types of advertising that can appear on school buses. Other states allow such advertising; research revealed no significant funds schools received (and some incurred legal costs). Also, visually distracted drivers are cause for most all or a lot of accidents. Not in favor of having school bus advertising in the first place. But with no guidelines, what is to prevent tobacco or alcohol industries from advertising. We are one of the most obese states in the nation, so what is to prevent advertising of foods that cannot even be sold in schools. Coalition is not in favor of ads at all, but because it is law, there need to be guidelines on what can and cannot be advertised.

Department Response: **Comment considered.** Regarding content, see Division's Response to Watkins's 5/12/15 comment. Although commenter is not in favor of school bus advertising, she correctly recognizes that it is permitted under Act 941 or 2015. *No changes made.*

Commenter Name: Carol Gardner, Arkansas Academy of Nutrition and Dietetics (Public Comment Period, 5/12/15).

Comment: There is current USDA rulemaking regarding all advertising in schools, specifically looking at food and beverage. Advertising must meet federal "Smart Snack" criteria; reduced sugar, reduced fat. We are one of the "fattest" states in the U.S. This is a tacit endorsement to advertise foods that are not healthy. Regarding lawsuits, a California group studied First Amendment implications and one finding was that a school could ban what is not sold in schools.

Division Response: **Comment considered.** See Division's Response to Watkins's 5/12/15 comment. *No changes made.*

Commenter Name: Carol Gardner, Arkansas Academy of Nutrition and Dietetics (5/29/15).

Comment: Academy recommends no advertising on buses at all, due to distraction of drivers and implied support for items advertised. Recommends size of ads be greatly reduced. Recent

surveys show only small amounts of revenue are generated from the advertising; not worth a child being injured or litigation. Recommends that proposed rules address content of ads. Any advertising should be limited to foods consistent with the USDA Smart Snack standards. First Amendment likely would allow a ban of foods/beverages not allowed on campus. Other states regulate content. Arkansas has obesity problem with both adults and children, and research has found that food marketing influences food preferences, choice, and overall health. Food and beverage marketing is currently prevalent in schools and around campus, and these items generally are high in sugar and fat and low in nutritional value. Community looks to schools as role models. School administrators need to be aware of the tacit endorsement they provide through bus advertising.

Division Response: **Comment considered.** See Division's Response to Watkins's 5/12/15 comment. *No changes made.*

Commenter Name: Barbara Kumpe, Arkansas Government Relations Director, American Heart/Stroke Association (6/5/15).

Comment: Association is concerned with potential for marketing foods of poor nutritional value on buses; recommends proposed rule ensures any food marketed on buses meetings USDA Smart Snacks nutritional standards. Arkansas ranks 2nd among states in obesity rates for high school students; this obesity increases risk of serious health problems in adulthood that will cost individuals, families, and taxpayers.

Division Response: **Comment considered.** See Division's Response to Watkins's 5/12/15 comment. *No changes made.*

COMMISSION FOR ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES AND TRANSPORTATION RULES GOVERNING ADVERTISING ON SCHOOL BUSES

1.00 REGULATORY AUTHORITY

1.01 These rules shall be known as the Commission for Arkansas Public School Academic Facilities and Transportation Rules Governing Advertising on School Buses.

1.02 The Rules are enacted pursuant to the Commission's authority under Ark. Code Ann. §§ 6-19-101 and 25-15-201 et seq., and Act 941 of 2015.

2.00 PURPOSE

The purpose of these Rules is to set forth requirements for those school districts that choose to allow advertising on its school buses.

3.00 ADVERTISING REVENUE AND POLICY

3.01 A school district board of directors may elect to allow advertising on school buses.

3.02 Any revenue generated from advertisements on school buses shall be used for school transportation purposes only, as determined by the school district board of directors.

3.03 If a school district board of directors elects to allow advertising on school buses, it shall enact policy governing such advertising.

4.00 LOCATION

4.01 Advertisements shall be limited to the exterior of the bus on the rear quarter-panels, beginning at least three inches behind the rear wheel and not closer than four inches from the lower edge of the window line.

4.02 The maximum covered area allowed for advertising on each rear quarter-panel shall be contained within a block 30 inches in height and 60 inches in length.

4.03 Advertisements shall be at least three inches from any required letter, lamp, wheel well, reflector, or emergency exit location.

4.04 Any reflective tape between the floorline and beltline of the bus that is covered by an advertisement should be replaced above or below the advertisement.

5.00 MATERIAL AND ATTACHMENT

5.01 Advertisements must be of a durable printed material.

5.02 The advertisement shall not extend from the body intentionally or due to damage so as to allow a handhold or present a danger to pedestrians. No brackets or hardware shall be applied to the bus to hold advertisements.

DRAFT