

7142

I N S E N A T E

March 31, 2016

Introduced by Sen. MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to requiring school districts to establish a medical hardship waiver policy to grant or deny permission to certain students to use established pick-up and drop-off points on established bus routes

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 3635 of the education law is
2 amended by adding a new paragraph h to read as follows:

3 H. (I) THE BOARD OF EDUCATION OR TRUSTEES OF EACH SCHOOL DISTRICT AND
4 THE CITY SCHOOL DISTRICT OF NEW YORK SHALL DEVELOP A MEDICAL HARDSHIP
5 WAIVER POLICY TO GRANT OR DENY PERMISSION TO CHILDREN ATTENDING GRADES
6 KINDERGARTEN THROUGH EIGHT WHO LIVE WITHIN TWO MILES FROM THE SCHOOL
7 WHICH THEY LEGALLY ATTEND AND FOR CHILDREN ATTENDING GRADES NINE THROUGH
8 TWELVE WHO LIVE WITHIN THREE MILES FROM THE SCHOOL WHICH THEY LEGALLY
9 ATTEND TO USE ALREADY ESTABLISHED PICK-UP AND/OR DROP-OFF POINTS ON
10 ALREADY ESTABLISHED BUS ROUTES.

11 (II) THE MEDICAL HARDSHIP WAIVER POLICY ESTABLISHED PURSUANT TO
12 SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE:

13 (1) A FORMAL REQUEST PROCEDURE FOR A PARENT OR GUARDIAN TO REQUEST A
14 MEDICAL HARDSHIP WAIVER BASED UPON A SERIOUS MEDICAL CONDITION SUFFERED
15 BY THE CHILD, PARENT OR GUARDIAN AND THE RESULTING HARDSHIP IN TRANS-
16 PORTING THE CHILD TO AND/OR FROM SCHOOL;

17 (2) A REQUIREMENT FOR SUBMISSION OF MEDICAL DOCUMENTATION, CERTIFIED
18 BY A PHYSICIAN OR OTHER DULY AUTHORIZED HEALTH CARE PROVIDER, OF A DIAG-
19 NOSIS OF A SERIOUS MEDICAL CONDITION WITH A DESCRIPTION OF THE LIMITA-
20 TIONS RESULTING FROM SUCH DIAGNOSIS AND THE APPROXIMATE DURATION THAT
21 SUCH LIMITATIONS WILL BE SUFFERED BY THE CHILD, PARENT OR GUARDIAN;

22 (3) A REQUIREMENT FOR SUBMISSION OF DOCUMENTATION OF THE NATURE OF THE
23 HARDSHIP INCLUDING THE INABILITY OF THE CHILD TO SAFELY TRAVEL TO AND/OR
24 FROM SCHOOL WITHOUT THE REQUESTED MEDICAL HARDSHIP WAIVER OR OF THE
25 INABILITY OF THE PARENT OR GUARDIAN TO SAFELY TRANSPORT THE CHILD TO

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 AND/OR FROM SCHOOL DUE TO THE PARENT OR GUARDIAN SUFFERING A SERIOUS
2 MEDICAL CONDITION;

3 (4) CONSIDERATION OF THE COST, IF ANY, THAT WOULD BE INCURRED BY A
4 SCHOOL DISTRICT IN GRANTING THE MEDICAL HARDSHIP REQUEST FOR SUCH TRANS-
5 PORTATION;

6 (5) A REQUIREMENT OF A WRITTEN ACCEPTANCE OR DENIAL OF THE MEDICAL
7 HARDSHIP REQUEST UPON A VOTE OF THE SCHOOL BOARD AND THAT SUCH WRITTEN
8 ACCEPTANCE OR DENIAL SHALL BE PROVIDED TO THE REQUESTING PARENT OR GUAR-
9 DIAN WITHIN ONE HUNDRED EIGHTY DAYS OF THE SUBMISSION OF THE REQUEST;
10 AND

11 (6) ANY OTHER PROVISIONS OR CONSIDERATIONS DEEMED APPROPRIATE BY THE
12 SCHOOL DISTRICT.

13 (III) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO REQUIRE SCHOOL
14 DISTRICTS TO CREATE NEW BUS STOPS OR ROUTES TO ACCOMMODATE SUCH REQUEST.

15 (IV) TRANSPORTATION FOR A LESSER DISTANCE THAN TWO MILES IN THE CASE
16 OF CHILDREN ATTENDING GRADES KINDERGARTEN THROUGH EIGHT OR THREE MILES
17 IN THE CASE OF CHILDREN ATTENDING GRADES NINE THROUGH TWELVE MAY BE
18 PROVIDED THROUGH AN APPROVED MEDICAL HARDSHIP WAIVER PURSUANT TO THIS
19 PARAGRAPH WITHOUT THE APPROVAL OF QUALIFIED VOTERS AND WITHOUT ANY
20 REQUIREMENT TO OFFER SUCH TRANSPORTATION EQUALLY TO ALL CHILDREN IN LIKE
21 CIRCUMSTANCES RESIDING IN THE DISTRICT.

22 S 2. Paragraph a of subdivision 1 of section 3635 of the education
23 law, as amended by section 11 of part A of chapter 97 of the laws of
24 2011, is amended to read as follows:

25 a. Sufficient transportation facilities (including the operation and
26 maintenance of motor vehicles) shall be provided by the school district
27 for all the children residing within the school district to and from the
28 school they legally attend, who are in need of such transportation
29 because of the remoteness of the school to the child or for the
30 promotion of the best interest of such children. Such transportation
31 shall be provided for all children attending grades kindergarten through
32 eight who live more than two miles from the school which they legally
33 attend OR WHO ARE GRANTED A WAIVER PURSUANT TO PARAGRAPH H OF THIS
34 SUBDIVISION and for all children attending grades nine through twelve
35 who live more than three miles from the school which they legally attend
36 OR WHO ARE GRANTED A WAIVER PURSUANT TO PARAGRAPH H OF THIS SUBDIVISION
37 and shall be provided for each such child up to a distance of fifteen
38 miles, the distances in each case being measured by the nearest avail-
39 able route from home to school. The cost of providing such transporta-
40 tion between two or three miles OR PURSUANT TO SUCH A WAIVER, as the
41 case may be, and fifteen miles shall be considered for the purposes of
42 this chapter to be a charge upon the district and an ordinary contingent
43 expense of the district. Transportation for a lesser distance than two
44 miles in the case of children attending grades kindergarten through
45 eight or three miles in the case of children attending grades nine
46 through twelve and for a greater distance than fifteen miles may be
47 provided by the district with the approval of the qualified voters, and,
48 if provided, shall be offered equally to all children in like circum-
49 stances residing in the district; provided, however, that this require-
50 ment shall not apply to transportation offered pursuant to section thir-
51 ty-six hundred thirty-five-b of this article OR PURSUANT TO PARAGRAPH H
52 OF THIS SUBDIVISION.

53 S 3. Paragraph a of subdivision 1 of section 3635 of the education
54 law, as amended by chapter 69 of the laws of 1992, is amended to read as
55 follows:

1 a. Sufficient transportation facilities (including the operation and
2 maintenance of motor vehicles) shall be provided by the school district
3 for all the children residing within the school district to and from the
4 school they legally attend, who are in need of such transportation
5 because of the remoteness of the school to the child or for the
6 promotion of the best interest of such children. Such transportation
7 shall be provided for all children attending grades kindergarten through
8 eight who live more than two miles from the school which they legally
9 attend OR WHO ARE GRANTED A WAIVER PURSUANT TO PARAGRAPH H OF THIS
10 SUBDIVISION and for all children attending grades nine through twelve
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14 miles, the distances in each case being measured by the nearest avail-
15 able route from home to school. The cost of providing such transporta-
16 tion between two or three miles OR PURSUANT TO SUCH A WAIVER, as the
17 case may be, and fifteen miles shall be considered for the purposes of
18 this chapter to be a charge upon the district and an ordinary contingent
19 expense of the district. Transportation for a lesser distance than two
20 miles in the case of children attending grades kindergarten through
21 eight or three miles in the case of children attending grades nine
22 through twelve and for a greater distance than fifteen miles may be
23 provided by the district, and, if provided, shall be offered equally to
24 all children in like circumstances residing in the district; provided,
25 however, that this requirement shall not apply to transportation offered
26 pursuant to section thirty-six hundred thirty-five-b of this article OR
27 PURSUANT TO PARAGRAPH H OF THIS SUBDIVISION.

28 S 4. This act shall take effect immediately; provided, however, that
29 the amendments to paragraph a of subdivision 1 of section 3635 of the
30 education law made by section two of this act shall be subject to the
31 expiration and reversion of such paragraph pursuant to section 13 of
32 part A of chapter 97 of the laws of 2011, as amended, when upon such
33 date the provisions of section three of this act shall take effect.