

STATE OF NEW YORK

7030

2017-2018 Regular Sessions

IN ASSEMBLY

March 29, 2017

Introduced by M. of A. TITONE, ARROYO, COOK, GOTTFRIED, MAYER, SIMON, McDONOUGH, SANTABARBARA -- read once and referred to the Committee on Education

AN ACT to amend the education law and the vehicle and traffic law, in relation to requiring comprehensive training for school bus drivers and school bus attendants for safe and appropriate transportation of children with disabilities; and to amend the family court act and the education law, in relation to school district contracts for transportation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 2 of section 3650 of the education law, as amended by section 5 of part E of chapter 501 of the laws of 2012, is amended to read as follows:

2. (a) The commissioner, in consultation with the justice center for the protection of people with special needs, shall promulgate rules and regulations requiring every school bus driver operating a school bus which has or will have one or more students with a disability as passengers to receive comprehensive training and instruction relating to the understanding of, and attention to, the special needs of such students.

~~[Such training and instruction may be included with the training and instruction required pursuant to paragraph a of subdivision one of this section and shall be provided at least once per year or more frequently as determined by the commissioner in consultation with the state comprehensive school bus driver safety training council.]~~ Training will provide school bus drivers and school bus attendants with the knowledge, skills, and attitudes necessary to safely and appropriately transport and supervise a child with a disability as defined by the federal Individuals With Disabilities Education Act. This training will include, at a minimum, an introduction to the characteristics and needs of children and youth with disabilities including disabilities affecting intellectu-

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

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1 al, communication, social/emotional, sensory processing abilities, motor
2 skills, and medical/health needs. In addition, training developed by
3 independent disability specialists will include modules on disability
4 awareness and sensitivity, effective strategies to promote positive
5 behavior, and communication with parents. For the purposes of this
6 subdivision, the term "student with a disability" shall have the same
7 meaning as such term is defined in subdivision one of section forty-four
8 hundred one of this chapter. ~~[Any person employed as a school bus driver~~
9 ~~on January first, two thousand nine who is subject to the provisions of~~
10 ~~this subdivision shall comply with the requirements of this subdivision~~
11 ~~by July first, two thousand nine. Any school bus driver hired after~~
12 ~~January first, two thousand nine who is subject to the requirements of~~
13 ~~this subdivision shall complete such training and instruction prior to~~
14 ~~assuming his or her duties.]~~ The training and instruction required by
15 this subdivision may be included with the training and instruction
16 required pursuant to paragraph a of subdivision one of this section and
17 this subdivision and shall be provided at least once per year or more
18 frequently as determined by the commissioner in consultation with the
19 state comprehensive school bus driver safety training council.

20 (b) Any person employed as a school bus driver or school bus attendant
21 shall receive not less than ten hours of training to equip them to safe-
22 ly and appropriately transport and supervise children with disabilities.
23 Included in this ten hours will be not fewer than two hours of training
24 in positive behavior support, including prevention of bullying. Annual-
25 ly, such personnel will receive four hours of inservice training which
26 will include at least one hour on positive behavioral interventions
27 support.

28 § 2. Section 3650 of the education law is amended by adding a new
29 subdivision 3 to read as follows:

30 3. Any person, firm or corporation who employs a school bus driver,
31 who fails to complete the training requirements set forth in this
32 section shall be subject to a fine of five thousand dollars for a first
33 violation and ten thousand dollars for a second violation. A third
34 violation of failing to complete the training requirements of this
35 section shall be deemed a material breach of any contract for transpor-
36 tation services and such contract shall be deemed null and void. A
37 school district may not enter into a contract, or extend an existing
38 contract, for transportation services until the training requirements of
39 this section have been met.

40 § 3. Subdivision 4 of section 1229-d of the vehicle and traffic law,
41 as amended by section 6 of part E of chapter 501 of the laws of 2012, is
42 amended to read as follows:

43 (4) (a) The commissioner of education, in consultation with the
44 justice center for the protection of people with special needs, shall
45 promulgate rules and regulations requiring that every school bus attend-
46 ant serving a student or students with a disability receive comprehen-
47 sive training and instruction relating to the understanding of and
48 attention to the special needs of such students. ~~[Such training and~~
49 ~~instruction may be included with the training and instruction required~~
50 ~~pursuant to subdivision three of this section and shall be provided at~~
51 ~~least once per year or more frequently as determined by the commissioner~~
52 ~~of education in consultation with the state comprehensive school bus~~
53 ~~driver safety training council.]~~ Training will provide school bus driv-
54 ers and school bus attendants with the knowledge, skills, and attitudes
55 necessary to safely and appropriately transport and supervise a child
56 with a disability as defined by the federal Individuals With Disabili-

ties Education Act. This training will include, at a minimum, an introduction to the characteristics and needs of children and youth with disabilities including disabilities affecting intellectual, communication, social/emotional, sensory processing abilities, motor skills, and medical/health needs. In addition, training developed by independent disability specialists will include modules on disability awareness and sensitivity, effective strategies to promote positive behavior, and communication with parents. For the purposes of this subdivision, the term "student with a disability" shall have the same meaning as such term is defined in subdivision one of section forty-four hundred one of the education law. ~~[Any person employed as a school bus attendant serving a student or students with a disability on January first, two thousand nine shall comply with the requirements of this subdivision by July first, two thousand nine. Any person hired after January first, two thousand nine shall complete such training, instruction and testing prior to assuming his or her duties as a school bus attendant serving a student or students with a disability.]~~ The training and instruction required by this subdivision may be included with the training and instruction required pursuant to subdivision three of this section and shall be provided at least once per year or more frequently as determined by the commissioner in consultation with the state comprehensive school bus driver safety training council.

(b) Any person employed as a school bus driver or school bus attendant shall receive not less than ten hours of training to equip them to safely and appropriately transport and supervise children with disabilities. Included in this ten hours will be not fewer than two hours of training in positive behavior support, including prevention of bullying. Annually, such personnel will receive four hours of inservice training which will include at least one hour on positive behavioral interventions support.

§ 4. Section 1229-d of the vehicle and traffic law is amended by adding a new subdivision 5 to read as follows:

(5) Any person, firm or corporation who employs a school bus attendant, who fails to complete the training requirements set forth in this section shall be subject to a fine of five thousand dollars for a first violation and ten thousand dollars for a second violation. A third violation of failing to complete the training requirements of this section shall be deemed a material breach of any contract for transportation services and such contract shall be deemed null and void. A school district may not enter into a contract, or extend an existing contract, for transportation services until the training requirements of this section have been met.

§ 5. Section 3635 of the education law is amended by adding a new subdivision 9 to read as follows:

9. Any student with a disability who requires an independent education program which requires specialized transportation shall be separately transported.

§ 6. Paragraph (b) of subdivision 3 of section 236 of the family court act, as amended by chapter 424 of the laws of 2012, is amended to read as follows:

(b) Such order shall further require that such transportation shall be provided within thirty days of the issuance of such order, and, shall be provided as part of a municipal cooperation agreement, as part of a contract awarded to the lowest responsible bidder in accordance with the provisions of section one hundred three of the general municipal law, or as part of a contract awarded pursuant to an evaluation of proposals to

1 the extent authorized by paragraphs e and f of subdivision fourteen of
2 section three hundred five of the education law and otherwise consistent
3 with the provisions of this subdivision, and that buses and vehicles
4 utilized in the performance of such contract shall meet the minimum
5 requirements for school age children as established by the commissioner
6 of transportation. When, in the city of New York, the board of education
7 or the city school district awards a contract or contracts for transpor-
8 tation, the board or city school district shall include employee
9 protection provisions rationally relating to the promotion of a pool of
10 qualified workers and the avoidance of labor disputes, including but not
11 limited to provisions for the preference in hiring of employees perform-
12 ing work for employers under contracts with the board of education or
13 the city school district, the preservation of wages, benefits and
14 seniority for such employees, and other provisions relating to the
15 hiring, compensation, and retention of employees.

16 § 7. Paragraph a of subdivision 14 of section 305 of the education
17 law, as amended by chapter 273 of the laws of 1999, is amended to read
18 as follows:

19 a. All contracts for the transportation of school children, all
20 contracts to maintain school buses owned or leased by a school district
21 that are used for the transportation of school children, all contracts
22 for mobile instructional units, and all contracts to provide, maintain
23 and operate cafeteria or restaurant service by a private food service
24 management company shall be subject to the approval of the commissioner,
25 who may disapprove a proposed contract if, in his opinion, the best
26 interests of the district will be promoted thereby. Except as provided
27 in paragraph e of this subdivision, all such contracts involving an
28 annual expenditure in excess of the amount specified for purchase
29 contracts in the bidding requirements of the general municipal law shall
30 be awarded to the lowest responsible bidder, which responsibility shall
31 be determined by the board of education or the trustee of a district,
32 with power hereby vested in the commissioner to reject any or all bids
33 if, in his opinion, the best interests of the district will be promoted
34 thereby and, upon such rejection of all bids, the commissioner shall
35 order the board of education or trustee of the district to seek, obtain
36 and consider new proposals. Provided, further, that all contracts for
37 cities with a population of one million or more shall include employee
38 protection provisions rationally relating to the promotion of a pool of
39 qualified workers and the avoidance of labor disputes, including but not
40 limited to provisions for the preference in hiring of employees perform-
41 ing work for employers under contracts with the board of education or
42 the city school district, the preservation of wages, benefits and
43 seniority for such employees, and other provisions relating to the
44 hiring, compensation, and retention of employees. All proposals for such
45 transportation, maintenance, mobile instructional units, or cafeteria
46 and restaurant service shall be in such form as the commissioner may
47 prescribe. Advertisement for bids shall be published in a newspaper or
48 newspapers designated by the board of education or trustee of the
49 district having general circulation within the district for such
50 purpose. Such advertisement shall contain a statement of the time when
51 and place where all bids received pursuant to such advertisement will be
52 publicly opened and read either by the school authorities or by a person
53 or persons designated by them. All bids received shall be publicly
54 opened and read at the time and place so specified. At least five days
55 shall elapse between the first publication of such advertisement and the
56 date so specified for the opening and reading of bids. The requirement

1 for competitive bidding shall not apply to an award of a contract for
2 the transportation of pupils or a contract for mobile instructional
3 units, if such award is based on an evaluation of proposals in response
4 to a request for proposals pursuant to paragraph e of this subdivision.
5 The requirement for competitive bidding shall not apply to annual, bien-
6 nial, or triennial extensions of a contract nor shall the requirement
7 for competitive bidding apply to quadrennial or quinquennial year exten-
8 sions of a contract involving transportation of pupils, maintenance of
9 school buses or mobile instructional units secured either through
10 competitive bidding or through evaluation of proposals in response to a
11 request for proposals pursuant to paragraph e of this subdivision, when
12 such extensions (1) are made by the board of education or the trustee of
13 a district, under rules and regulations prescribed by the commissioner,
14 and, (2) do not extend the original contract period beyond five years
15 from the date cafeteria and restaurant service commenced thereunder and
16 in the case of contracts for the transportation of pupils, for the main-
17 tenance of school buses or for mobile instructional units, that such
18 contracts may be extended, except that power is hereby vested in the
19 commissioner, in addition to his existing statutory authority to approve
20 or disapprove transportation or maintenance contracts, (i) to reject any
21 extension of a contract beyond the initial term thereof if he finds that
22 amount to be paid by the district to the contractor in any year of such
23 proposed extension fails to reflect any decrease in the regional consum-
24 er price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon
25 the index for all urban consumers (CPI-U) during the preceding twelve
26 month period; and (ii) to reject any extension of a contract after ten
27 years from the date transportation or maintenance service commenced
28 thereunder, or mobile instructional units were first provided, if in his
29 opinion, the best interests of the district will be promoted thereby.
30 Upon such rejection of any proposed extension, the commissioner may
31 order the board of education or trustee of the district to seek, obtain
32 and consider bids pursuant to the provisions of this section. The board
33 of education or the trustee of a school district electing to extend a
34 contract as provided herein, may, in its discretion, increase the amount
35 to be paid in each year of the contract extension by an amount not to
36 exceed the regional consumer price index increase for the N.Y.,
37 N.Y.-Northeastern, N.J. area, based upon the index for all urban consum-
38 ers (CPI-U), during the preceding twelve month period, provided it has
39 been satisfactorily established by the contractor that there has been at
40 least an equivalent increase in the amount of his cost of operation,
41 during the period of the contract.

42 § 8. This act shall take effect immediately, provided, however, that
43 any rules and regulations necessary for the implementation of this act
44 shall be promulgated within ninety days.