

# STATE OF NEW YORK

4020--A

2017-2018 Regular Sessions

## IN SENATE

February 1, 2017

Introduced by Sens. BROOKS, AVELLA, HAMILTON -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

h. (i) The board of education or trustees of each school district and the city school district of New York shall develop a medical hardship waiver policy to grant or deny permission to children attending grades kindergarten through eight who live within two miles from the school which they legally attend and for children attending grades nine through twelve who live within three miles from the school which they legally attend to use already established pick-up and/or drop-off points on already established bus routes.

(ii) The medical hardship waiver policy established pursuant to subparagraph (i) of this paragraph shall include:

(1) a formal request procedure for a parent or guardian to request a medical hardship waiver based upon a serious medical condition suffered by the child, parent or guardian and the resulting hardship in transporting the child to and/or from school;

(2) a requirement for submission of medical documentation, certified by a physician or other duly authorized health care provider, of a diagnosis of a serious medical condition with a description of the limita-

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

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1 tions resulting from such diagnosis and the approximate duration that  
2 such limitations will be suffered by the child, parent or guardian;

3 (3) a requirement for submission of documentation of the nature of the  
4 hardship including the inability of the child to safely travel to and/or  
5 from school without the requested medical hardship waiver or of the  
6 inability of the parent or guardian to safely transport the child to  
7 and/or from school due to the parent or guardian suffering a serious  
8 medical condition;

9 (4) consideration of the cost, if any, that would be incurred by a  
10 school district in granting the medical hardship request for such trans-  
11 portation;

12 (5) a requirement of a written acceptance or denial of the medical  
13 hardship request upon a vote of the school board and that such written  
14 acceptance or denial shall be provided to the requesting parent or guar-  
15 dian within one hundred eighty days of the submission of the request;  
16 and

17 (6) any other provisions or considerations deemed appropriate by the  
18 school district.

19 (iii) Nothing in this paragraph shall be construed to require school  
20 districts to create new bus stops or routes to accommodate such request.

21 (iv) Transportation for a lesser distance than two miles in the case  
22 of children attending grades kindergarten through eight or three miles  
23 in the case of children attending grades nine through twelve may be  
24 provided through an approved medical hardship waiver pursuant to this  
25 paragraph without the approval of qualified voters and without any  
26 requirement to offer such transportation equally to all children in like  
27 circumstances residing in the district.

28 (v) The cost of providing such transportation shall be a charge upon  
29 the district and for the purposes of subdivision seven of section thir-  
30 ty-six hundred two of this article, such pupils shall be considered  
31 nonallowable pupils and the costs of their transportation shall not be  
32 aidable.

33 § 2. Paragraph a of subdivision 1 of section 3635 of the education  
34 law, as amended by section 11 of part A of chapter 97 of the laws of  
35 2011, is amended to read as follows:

36 a. Sufficient transportation facilities (including the operation and  
37 maintenance of motor vehicles) shall be provided by the school district  
38 for all the children residing within the school district to and from the  
39 school they legally attend, who are in need of such transportation  
40 because of the remoteness of the school to the child or for the  
41 promotion of the best interest of such children. Such transportation  
42 shall be provided for all children attending grades kindergarten through  
43 eight who live more than two miles from the school which they legally  
44 attend or who are granted a waiver pursuant to paragraph h of this  
45 subdivision and for all children attending grades nine through twelve  
46 who live more than three miles from the school which they legally attend  
47 or who are granted a waiver pursuant to paragraph h of this subdivision  
48 and shall be provided for each such child up to a distance of fifteen  
49 miles, the distances in each case being measured by the nearest avail-  
50 able route from home to school. The cost of providing such transporta-  
51 tion between two or three miles or pursuant to such a waiver, as the  
52 case may be, and fifteen miles shall be considered for the purposes of  
53 this chapter to be a charge upon the district and an ordinary contingent  
54 expense of the district. Transportation for a lesser distance than two  
55 miles in the case of children attending grades kindergarten through  
56 eight or three miles in the case of children attending grades nine

1 through twelve and for a greater distance than fifteen miles may be  
2 provided by the district with the approval of the qualified voters, and,  
3 if provided, shall be offered equally to all children in like circum-  
4 stances residing in the district; provided, however, that this require-  
5 ment shall not apply to transportation offered pursuant to section thirty-  
6 ty-six hundred thirty-five-b of this article or pursuant to paragraph h  
7 of this subdivision.

8 § 3. Paragraph a of subdivision 1 of section 3635 of the education  
9 law, as amended by chapter 69 of the laws of 1992, is amended to read as  
10 follows:

11 a. Sufficient transportation facilities (including the operation and  
12 maintenance of motor vehicles) shall be provided by the school district  
13 for all the children residing within the school district to and from the  
14 school they legally attend, who are in need of such transportation  
15 because of the remoteness of the school to the child or for the  
16 promotion of the best interest of such children. Such transportation  
17 shall be provided for all children attending grades kindergarten through  
18 eight who live more than two miles from the school which they legally  
19 attend or who are granted a waiver pursuant to paragraph h of this  
20 subdivision and for all children attending grades nine through twelve  
21 who live more than three miles from the school which they legally attend  
22 or who are granted a waiver pursuant to paragraph h of this subdivision  
23 and shall be provided for each such child up to a distance of fifteen  
24 miles, the distances in each case being measured by the nearest avail-  
25 able route from home to school. The cost of providing such transporta-  
26 tion between two or three miles or pursuant to such a waiver, as the  
27 case may be, and fifteen miles shall be considered for the purposes of  
28 this chapter to be a charge upon the district and an ordinary contingent  
29 expense of the district. Transportation for a lesser distance than two  
30 miles in the case of children attending grades kindergarten through  
31 eight or three miles in the case of children attending grades nine  
32 through twelve and for a greater distance than fifteen miles may be  
33 provided by the district, and, if provided, shall be offered equally to  
34 all children in like circumstances residing in the district; provided,  
35 however, that this requirement shall not apply to transportation offered  
36 pursuant to section thirty-six hundred thirty-five-b of this article or  
37 pursuant to paragraph h of this subdivision.

38 § 4. Paragraph d of subdivision 7 of section 3602 of the education  
39 law, as amended by section 22 of part C of chapter 57 of the laws of  
40 2004, is amended to read as follows:

41 d. In determining approved transportation operating expense for  
42 district-owned transportation and approved transportation capital, debt  
43 service and lease expense pursuant to paragraphs b, c and e of this  
44 subdivision and part two of this article, the commissioner shall make a  
45 deduction from the total transportation expense for the transportation  
46 of nonallowable pupils, and for that portion of the total annual mileage  
47 of district-owned school buses that is not aidable because it is not  
48 included in the total annual allowable mileage as defined in section  
49 thirty-six hundred twenty-one of this article, provided that such calcu-  
50 lations shall be made pursuant to regulations of the commissioner, and  
51 further provided that such regulations shall provide for an exclusion of  
52 pupil miles for transportation provided on a space-available basis to  
53 pupils attending an approved universal prekindergarten program pursuant  
54 to section thirty-six hundred two-e of this ~~article~~ part as well as  
55 pupils transported under a medical hardship waiver pursuant to paragraph

1 h of subdivision one of section thirty-six hundred thirty-five of this  
2 article that [~~does~~] do not result in additional transportation costs.

3 § 5. The commissioner of education may promulgate such rules and regu-  
4 lations as he or she deems necessary to carry out the purposes of this  
5 act.

6 § 6. This act shall take effect immediately; provided, however, that  
7 the amendments to paragraph a of subdivision 1 of section 3635 of the  
8 education law made by section two of this act shall be subject to the  
9 expiration and reversion of such paragraph pursuant to section 13 of  
10 part A of chapter 97 of the laws of 2011, as amended, when upon such  
11 date the provisions of section three of this act shall take effect.