STATE OF NEW YORK

1377

2021-2022 Regular Sessions

IN SENATE

January 11, 2021

Introduced by Sen. BROOKS -- 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:

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

(3) a requirement for submission of documentation of the nature of the hardship including the inability of the child to safely travel to and/or

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

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from school without the requested medical hardship waiver or of the inability of the parent or guardian to safely transport the child to and/or from school due to the parent or guardian suffering a serious medical condition;

(4) consideration of the cost, if any, that would be incurred by a school district in granting the medical hardship request for such transportation;

(5) a requirement of a written acceptance or denial of the medical hardship request upon a vote of the school board and that such written acceptance or denial shall be provided to the requesting parent or guardian within one hundred eighty days of the submission of the request; and

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

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

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

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

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

a. Sufficient transportation facilities (including the operation and maintenance of motor vehicles) shall be provided by the school district for all the children residing within the school district to and from the school they legally attend, who are in need of such transportation because of the remoteness of the school to the child or for the promotion of the best interest of such children. Such transportation shall be provided for all children attending grades kindergarten through eight who live more than two miles from the school which they legally attend or who are granted a waiver pursuant to paragraph h of this subdivision and for all children attending grades nine through twelve who live more than three miles from the school which they legally attend or who are granted a waiver pursuant to paragraph h of this subdivision and shall be provided for each such child up to a distance of fifteen miles, the distances in each case being measured by the nearest available route from home to school. The cost of providing such transportation between two or three miles or pursuant to such a waiver, as the case may be, and fifteen miles shall be considered for the purposes of this chapter to be a charge upon the district and an ordinary contingent expense of the district. Transportation for a lesser distance than two miles in the case of children attending grades kindergarten through eight or three miles in the case of children attending grades nine through twelve and for a greater distance than fifteen miles may be provided by the district with the approval of the qualified voters, and, if provided, shall be offered equally to all children in like circumstances residing in the district; provided, however, that this require-

ment shall not apply to transportation offered pursuant to section thirty-six hundred thirty-five-b of this article **or pursuant to paragraph h of this subdivision**.

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

d. In determining approved transportation operating expense for district-owned transportation and approved transportation capital, debt service and lease expense pursuant to paragraphs b, c and e of this subdivision and part two of this article, the commissioner shall make a deduction from the total transportation expense for the transportation of nonallowable pupils, and for that portion of the total annual mileage of district-owned school buses that is not aidable because it is not included in the total annual allowable mileage as defined in section thirty-six hundred twenty-one of this article, provided that such calculations shall be made pursuant to regulations of the commissioner, and further provided that such regulations shall provide for an exclusion of pupil miles for transportation provided on a space-available basis to pupils attending an approved universal prekindergarten program pursuant to section thirty-six hundred two-e of this [~~article~~] **part as well as pupils transported under a medical hardship waiver pursuant to paragraph h of subdivision one of section thirty-six hundred thirty-five of this article** that [~~does~~] **do** not result in additional transportation costs.

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

§ 5. This act shall take effect immediately.