§ 3635. Transportation. 1. 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 and for all children attending grades nine through twelve who live more than three miles from the school which they legally attend 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, 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 requirement shall not apply to transportation offered pursuant to section thirty-six hundred thirty-five-b of this article.

b. (i) School districts providing transportation to a nonpublic school for pupils living within a specified distance from such school shall designate one or more public schools as centralized pick-up points and shall provide transportation between such points and such nonpublic schools for students residing in the district who live too far from such nonpublic schools to qualify for transportation between home and school. The district shall not be responsible for the provision of transportation for pupils between their home and such pick-up points. The district may provide school bus transportation to a pupil if the residence of the pupil is located on an established route for the transportation of pupils to the centralized pick-up point provided such

transportation does not result in additional costs to the district. The cost of providing transportation between such pick-up points and such nonpublic schools shall be an ordinary contingent expense.

(ii) A board of education may, at its discretion, provide transportation for pupils residing within the district to a nonpublic school located more than fifteen miles from the home of any such pupil provided that such transportation has been provided to such nonpublic school pursuant to this subdivision in at least one of the immediately preceding three school years and such transportation is provided from one or more centralized pick-up points designated pursuant to this paragraph and that the distance from such pick-up points to the nonpublic school is not more than fifteen miles. The district shall not be responsible for the provision of transportation for pupils between pupils homes and such pick-up points. The cost of providing transportation between such pick-up points and such nonpublic schools shall be an ordinary contingent expense.

c. The foregoing provisions of this subdivision shall not require transportation to be provided for children residing within a city school district, but if provided by such district pursuant to other provisions of this chapter, such transportation shall be offered equally to all such children in like circumstances; provided further that in city school districts in cities having a population of one hundred twenty-five thousand inhabitants or less such transportation, if provided, shall be subject to the mileage limitations prescribed in paragraph a of this subdivision or such greater or lesser limitations as are approved by the board of education prior to July first, nineteen hundred ninety-six or as otherwise authorized in subdivision twelve of section twenty-five hundred three of this chapter. City school districts with a population of more than two hundred twenty-five thousand and less than three hundred thousand, according to the nineteen hundred eighty federal census, which elect to provide transportation shall do so in accord with the grade and distance provisions of this subdivision including transportation outside the city limits.

d. Nothing contained in this subdivision, however, shall be deemed to require a school district to furnish transportation to a child directly

to or from his or her home.

e. In lieu of the transportation provided pursuant to the foregoing provisions of this subdivision, a board of education may, at its discretion, provide transportation to any child attending grades kindergarten through eight between the school such child legally attends and before-and/or-after-school child care locations. For the purposes of this subdivision, a before-and/or-after-school child care location shall mean a place, other than the child's home, where care for less than twenty-four hours a day is provided on a regular basis for a child who attends school within the school district, provided that such place is situated within the school district. This definition includes, but is not limited to, a variety of child care services such as day care centers, family day care homes and in-home care by non-relatives. Such transportation may be provided for children attending grades kindergarten through eight where the distance between the school they legally attend and before-and/or-after-school child care locations is more than two miles, and may be provided for up to a distance of fifteen miles, the distance in each case being measured by the nearest available route from before-and/or-after-school child care locations to the school they legally attend, except that transportation for a lesser distance than two miles or a greater distance than fifteen miles may be provided if transportation for such distances is provided to students between home and school. Where a child receives transportation from a before-school child care location to the school he or she legally attends, such child shall be entitled to receive transportation from the school he or she legally attends to his or her home or to an after-school child care location in accordance with this subdivision. Where a child receives transportation from the school he or she legally attends to an after-school child care location, such child shall be entitled to receive transportation from home to the school he or she legally attends in accordance with this subdivision. Transportation may be provided to any child attending grades kindergarten through eight between the school the child legally attends and before-and/or-after-school child care locations upon written request of the parent or legal guardian submitted not later than the first day of April preceding the next school year, provided, however, a parent or

guardian of a child not residing in the district on such date shall submit a written request within thirty days after establishing residence in the district and provided further that in order to be considered eligible for such transportation in the nineteen hundred eighty-seven--eighty-eight school year, such request must be submitted by August first, nineteen hundred eighty-seven. The provision of transportation to or from before-and/or-after-school child care locations, if provided, shall be offered equally to all children in like circumstances residing in the district, provided that a board of education furnishing transportation pursuant to this paragraph may limit the provision of such transportation to child care locations located within the attendance zone of the school the child attends, and to child day care centers and school age child care programs licensed or registered pursuant to section three hundred ninety of the social services law located anywhere within the school district. The cost of providing such transportation between two or three miles, as the case may be, and fifteen miles shall be considered for the purposes of this chapter to be a charge upon the district. Such substitute transportation expense shall be eligible for state aid in accordance with clause one of paragraph b of subdivision seven of section thirty-six hundred two of this chapter. Nothing in this subdivision shall be construed to impose a duty upon boards of education to provide transportation to or from before-and/or-after-school child care locations. Nothing in this subdivision shall be construed to authorize boards of education to provide to any child transportation between a before-and/or-after-school day care location and that child's home.

f. A board of education may, in its discretion, provide transportation pursuant to this subdivision to a child of less than school age residing within the school district to and from the school which his or her parent legally attends; provided that such child is accompanied by such parent, that such parent is under twenty-one years of age and has not received a high school diploma, and that such transportation is furnished for the purpose of allowing the child to receive child care services and/or attend a nursery school, pre-school, or parenting program. For all purposes under this chapter, a child receiving such transportation shall be deemed a pupil legally attending the school

which his or her parent legally attends. The cost of providing such transportation shall be considered for the purposes of this chapter to be a charge upon the district and an ordinary contingent expense of the district. Such transportation expense shall be eligible for state aid in accordance with subparagraph (i) of paragraph b of subdivision seven of section thirty-six hundred two of this article.

g. Notwithstanding any other provision of law to the contrary, the trustees or board of education of any school district may, in its discretion, provide transportation for students attending a universal pre-kindergarten program in addition to transportation funded by such program or transportation for students attending another district sponsored or district-run pre-kindergarten program, within mileage limits established by the school district; if provided such transportation shall be offered equally to all children in like circumstances residing in the district. The cost of providing such transportation shall be a charge upon the district and for purposes of subdivision seven of section thirty-six hundred two of this chapter, such pupils shall be considered non allowable pupils and the costs of their transportation shall not be aidable.

2. A parent or guardian of a child residing in any school district, or any representative authorized by such parent or guardian, who desires for a child during the next school year any transportation authorized or directed by this chapter shall submit a written request therefor to the school trustees or board of education of such district not later than the first day of April preceding the next school year, provided, however, that a parent or guardian of a child not residing in the district on such date shall submit a written request within thirty days after establishing residence in the district. No late request of a parent or guardian for transportation shall be denied where a reasonable explanation is provided for the delay. If the voters, school trustees, or board of education fail to provide the transportation authorized or directed by this chapter after receiving such a request, such parent, guardian or representative, or any taxpayer residing in the district, may appeal to the commissioner of education, as provided in section three hundred ten of this chapter. Except as hereinbefore provided, the

commissioner of education shall not require that such parent, guardian or representative present a request for such transportation to any meeting of the voters, school trustees or board of education in order to appeal. Upon such appeal, the commissioner of education shall make such order as is required to effect compliance with the provisions of this chapter and this section.

2-a. The superintendent of each city school district, in a city having a population in excess of one million, shall prepare a public school calendar and shall notify officials of nonpublic schools to which transportation has been requested not later than the first day of June in each year, of the days on which the public schools will be in session in the following school year. Such school district which provides transportation to nonpublic schools shall provide such transportation for the same number of days as the public schools are open but shall not provide transportation services for more than one hundred eighty days. Officials of each nonpublic school to which transportation is provided by a city school district of a city having a population in excess of one million may notify such district, not later than the first day of July of each school year, of a maximum of five days, exclusive of Saturdays, Sundays or legal holidays upon which public schools are required to be closed, on which the public schools are scheduled to be closed, except that in any year in which the first or last day of Passover and Easter Sunday are separated by more than seven days, such officials may notify the district of a maximum of ten days, but such school district will be required to provide for transportation to such nonpublic school provided that such five or ten additional days, whichever is applicable, are limited to the following: the Tuesday, Wednesday, Thursday and Friday after Labor Day, Rosh Hashanah, Yom Kippur, the week in which public schools are closed for spring recess, December twenty-fourth and the week between Christmas day and New Year's day, the Tuesday, Wednesday, Thursday and Friday after the observance of Washington's birthday, the first day of the second lunar month after the winter solstice in the preceding calendar year, known as Asian Lunar New Year, the fifteenth day of the eighth month of the Indian calendar in each year, known as Diwali, and, in the boroughs of Brooklyn and Queens only, Anniversary Day as designated in section twenty-five hundred eighty-six of this

chapter.

3. Notwithstanding any other provision of law, rule or regulation to the contrary, in cities with a population of one million or more, the requirement of paragraph c of subdivision one of this section, requiring that a city school district providing transportation for children residing within such district offer such transportation equally to all such children in like circumstances, shall not apply to the use of existing contract bus service provided for children in elementary grades by pupils in grades seven and eight, but only where such use is a reinstatement of a service provided in the school year beginning in September, two thousand nine and ending in June two thousand ten.

5. For the purpose of affording the greatest possible protection to school children, drive-off places on public highways may be designated by the appropriate board of education or district superintendent to permit school busses to be driven off the highway to receive or discharge school children, and the state or municipality having jurisdiction of such highway, is authorized to provide construction and maintenance of such designated drive-offs.

6. In the event that the expenses entailed by the phase-out of omnibuses required by paragraph (k) of subdivision twenty of section three hundred seventy-five of the vehicle and traffic law are not otherwise provided for, such expenses shall be an ordinary contingent expense of a school district.

7. Notwithstanding any other provision of law, rule or regulation, where a child is permitted by a school district or board of education to attend a public school other than the school to which they would normally be assigned, a parent of such child may agree to waive provision of transportation which would otherwise be required under this section and no such transportation shall be required. Any agreement to waive transportation must be renewed annually in writing.

* 8. a. The trustees or board of education of a school district may, at its discretion, provide student transportation based upon patterns of actual ridership. The actual ridership shall be determined by a school

district based upon documented history and experience that yields a consistent pattern of eligible pupils not using district transportation; or modeling of future ridership; or the sharing of transportation regionally; or other criteria approved by the commissioner; provided however that any methodology shall require an additional ten percent in seating capacity above the number of seats derived using such methodology which shall be available in case of unanticipated riders.

Nothing in this subdivision shall be construed to reduce or relieve school districts from the responsibility of providing transportation to students otherwise eligible for such transportation. Nothing in this subdivision shall be construed to authorize a school district to have standing passengers in violation of section thirty-six hundred thirty-five-c of this article, and unanticipated ridership shall not be deemed an unforeseen occurrence for purposes of subdivision two of such section after the first day in which such unanticipated ridership occurs.

Any school district that, at its discretion, has elected to provide student transportation based upon patterns of actual ridership shall place such plans on the school district's website, if one exists, on or before August fifteenth of the school year in which the transportation plan will be implemented and shall be required to have a back up plan as part of their emergency management practices for pupil transportation in the event that a bus is filled beyond capacity.

b. The commissioner shall evaluate the effectiveness of this subdivision including the methodologies used by school districts to determine the patterns of actual ridership and whether such methodologies ensure that all students otherwise eligible receive transportation and that student safety is assured.

* NB Repealed June 30, 2029