

FOR EDUCATIONAL USE ONLY
McKinney's Education Law § 3635

McKinney's Consolidated Laws of New York Annotated [Currentness](#)

Education Law ([Refs & Annos](#))

Chapter 16. Of the Consolidated Laws ([Refs & Annos](#))

Title V. Taxation and Financial Administration

▣ [Article 73](#). Apportionment of Public Moneys ([Refs & Annos](#))

▣ [Part III](#). **Transportation** Services

➔ **§ 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, 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.

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, and, in the boroughs of Brooklyn and Queens only, Anniversary Day as designated in [section twenty-five hundred eighty-six](#) of this chapter.

[3, 4. Repealed.]

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.

CREDIT(S)