



September 9, 2020

To: District Superintendents, School Building Leaders, Nonpublic School Leaders,
Charter School Leaders, Transportation Professionals

From: Betty A. Rosa, Interim Commissioner

**Re: Guidance on Pupil Transportation for Resident Students Attending Non-District
Instruction During Periods of Remote Instruction for District Students**

All students are entitled to transportation by school districts to the extent required by law.

Due to variations in local circumstances during the COVID-19 emergency, New York State (NYS) school districts have been granted significant flexibility to structure their instruction during the 2020-21 school year. They can select remote, in-person or hybrid models for instruction. School districts have been permitted to structure their programs to suit their local needs. However, it was not the intent that this flexibility in fulfilling the districts' own instructional needs would allow them to reduce the instructional options available to resident students by reducing the levels of transportation provided to district resident students who participate in programs not operated by the school district (special education, nonpublic school, charter school, or BOCES/other-operated CTE, etc.). NYS has made transportation a core component of the access it provides to a diverse range of educational opportunities, and districts must continue to fulfill their responsibilities to their residents of school age. As per NYSED's Reopening Guidance:

Each school and/or district reopening plan requires that if the school district is in session remotely or otherwise, pupil transportation must be provided to students attending religious and independent schools, charter schools or students whose individualized education program (IEP) have placed them out of district.

Thus, in response to the COVID-19 emergency, while any school district is in session, which includes any days to be claimed for State Aid purposes, whether remotely or otherwise, pupil transportation must be provided to the following groups of students whose schools or programs are meeting in-person. This would require transportation to:

- Religious and Independent Schools;
- Charter Schools;
- BOCES or other approved Career & Technical Education (CTE) Programs;
and
- Placements for Students with Disabilities*

* The Individuals with Disabilities Education Act (IDEA) defines transportation as a related service (34 CFR §300.34(c)(16)) and pursuant to New York State Education Law sections 4401, 4402 and 4410, students with disabilities are entitled to suitable transportation as specified in the student's IEP. Upon a Committee on Special Education/Committee on Preschool Special Education determination that an approved placement for students with disabilities is appropriate to meet the student's individual needs, transportation for students with disabilities begins with the start of in-person instruction provided by that program, regardless of whether the school district of residence has begun its school year. Transportation must never be a determinative factor in the development of a student's IEP.

In addition, districts are obligated to continue to provide transportation to students who are in foster care or are homeless (McKinney-Vento).

During these unprecedented times, it is important that students continue to have consistency and stability in their educational programs. Ensuring that they have the necessary transportation is critical to their success.

Should you have any questions about this matter, please contact the Office of Pupil Transportation at 518-474-6541, or transportation@nysed.gov.