

# **NYSED—Pupil Transportation Piggyback Contract Guidance**

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Under Education Law §305(14)(g), a Board of Education may enter into a piggyback contract, whereby a school district may use the same contract terms as another school district that transports students by means of a contract with a private transportation contractor, provided that the Board finds that the contract cost is appropriate and will result in a cost savings to the school district. Under Education Law §305(14)(g), an eligible piggyback contract is a contract for the transportation of students that:

- (1) provides transportation to a location outside the students' school district of residence to which another school district is already providing transportation to its own students through an existing contract with a private transportation contractor, other than a cooperatively bid contract;
- (2) is entered into by the private transportation contractor and each school district involved; and
- (3) provides for transportation in accordance with the terms and conditions of such existing transportation contract.

For the purpose of this guidance document, the district holding the original contract containing a piggybacking provision will be referred to as the "originating district," and its contract will be referred to as the "originating contract." The district wishing to piggyback on an existing contract will be referred to as the "piggybacking district." A valid originating contract is one that meets the conditions set forth in statute and has already been approved by NYSED.

## **What Changes:**

- The following conditions must be met in order for NYSED to approve of a piggybacking contract:
  1. Comply with the criteria set forth in Educ. Law §305(14)(g).
  2. A piggybacking district must adopt a Board Resolution indicating it will leverage the terms and conditions in a valid existing transportation contract indicating that the contract cost is appropriate and will result in cost savings. If districts wish to allow the same contracted bus to transport students from multiple school districts to a single destination outside the school district, each district must adopt a resolution to allow such practice, indicating the specific contract and private contractor.
  3. The valid, originating contract cannot be a cooperatively bid contract.
  4. The piggybacking district must enter into a contract (form TC/ TCS/ CE/ CES) with the private transportation contractor.

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5. The contractor must provide transportation according to the terms and conditions of the originating contract.
- A piggyback contract differs in that it is not subject to the \$20,000 aggregate threshold or bidding requirements pursuant to General Municipal Law §103.
  - To receive piggybacking contract approval from NYSED, a form TC/TCS/CE/CES must be submitted to SED by the piggybacking district, clearly indicating a piggyback service (*add link to updated forms*). In addition, the following must be submitted with the form:
    - A copy of the piggybacking district's Board Resolution verifying cost savings to the school district.
    - A copy of the originating district's valid, executed contract containing a provision to allow piggybacking on the contract's terms.
    - A copy of the originating district's valid contract specifications.
  - Each participating district must pay the contractor directly. Piggybacking will always result in each public district having a separate and distinct contract with the transportation vendor.

### **What remains the same:**

- Contracts (form TC/CE) for the transportation of pupils cannot cover the full school fiscal year (July 1 to June 30). Separate contracts must be awarded for the summer (TCS/CES) and for the regular school year (TC/CE). If the originating contract does not cover summer service, the piggybacking district cannot add this service to the piggybacking contract.
- Contract Agreement Date completion. This is the date on which the Trustee/ President of the Board of Education and the private contractor sign the contract. NOTE: A late execution State Aid deduction will be taken for each school day that the agreement is signed subsequent to the first day of service.
- Contract must be approved by the Superintendents of Schools. The date of the Superintendent's Approval must be on or after the Agreement Date and prior to filing with NYSED.
- All signatures must be original (blue ink).
- Contracts must be filed to NYSED within 120 calendar days after the first day of service; a late file State Aid deduction will be taken for each school day that a contract is late.

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- All required documents must be submitted for NYSED approval and State Aid reimbursement.
- The Department will notify the district via email of all contract approvals or disapprovals. Retain a copy of all your records.
- Unless expressly written otherwise, all other laws, regulations and guidance apply in providing for the transportation of students.

### **FAQs:**

Q1: The Board must find that the “contract cost is appropriate.” How is “appropriate” determined?

A: The Board of the piggybacking district must review the originating contract costs and determine if these costs are appropriate. (See CRR-NY 156.11 for further information on determining appropriate costs.)

Q2: The contract must result in “cost savings”. Must the cost savings apply to all districts or only the piggybacking district?

A: Educ. Law § 305(14)(g) requires that the piggybacking district must realize “cost savings” by entering into a piggyback contract, as compared to competitively bidding such contract.

Q3: How are “savings” determined?

A: Cost savings are determined by estimating the cost to go out to bid for a new, individual route, versus the cost of piggybacking on an originating contract.

Q4: How would a district document “cost savings?”

A: Once costs are determined, cost savings would then be documented through a Board Resolution. Supporting documentation may include the estimate of soliciting competitive bids for a new route as compared to the cost of piggybacking on an originating contract.

Q5: Must the originating contract contain language permitting piggybacking?

A: Yes. In general, the contract should contain language permitting piggybacking. Otherwise, the governmental entity should take steps to make its contract available for New York local governments.

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Q7: Must the originating district be informed of the piggyback contract? Is there a formal notification process?

A: Not necessarily. If the piggybacking district does not intend to share the same bus as the originating district, no notice is needed. However, if neighboring districts agree to send students residing in multiple districts to the same destination outside of the district of residence, all districts sharing the same bus or buses must adopt a resolution to allow such sharing.

Q8: Does the originating district have the right to make a determination on piggybacking and the use of the contract?

A: No. If the originating contract contains a provision to allow piggybacking, no additional determination on the matter is necessary.

Q9: May a school district enter into a piggybacking contract if the term of the originating contract is more than one year?

A: Yes.

Q10: Must the contractor comply with all terms and conditions of the originating contract specifications for the piggybacking district (equipment mandates, access to technology, reporting, training, etc.)?

A: Yes, the contractor would provide transportation in accordance with the terms and conditions of the originating contract. Otherwise, a separate contract would need to be competitively bid.

Q11: What if the piggybacking district requires an aide or nurse and the originating contract does not have this mandate?

A: If services are required that are above what is included in the originating contract and there is no provision to add these services, then the originating contract cannot be used to piggyback. A new competitively bid contract is required.

Q12: Is an intermunicipal agreement required between the districts sharing the same bus or buses so all parties acknowledge acceptance of the arrangement?

A: An intermunicipal agreement is recommended. This agreement could contain valuable information, such as pass-through costs, safety requirements, insurance, student disciplinary responsibilities, etc.

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Q13: If an originating district enters into renewal negotiations with the contractor, must the same financial terms apply to the piggybacking district?

A: No. Each district will have a separate contract with the transportation vendor and may negotiate renewal terms independently.

Q14: Can a contractor refuse to enter into a piggybacking contract?

A: Yes. If a contractor does not have the capacity to fulfil the needs of a district wishing to enter into a piggyback contract, the vendor is not compelled to contract with a piggybacking district.

### **Education Law**

§ 305. General powers and duties. The commissioner of education is hereby charged with the following powers and duties:

14. g. Notwithstanding the provisions of this subdivision, section one hundred three of the general municipal law, or any other provision of law to the contrary, the board of education shall be authorized to enter into a piggyback contract with another school district that transports students pursuant to a contract with a private transportation contractor, provided that the board finds that the contract cost is appropriate and entry into a piggyback contract will result in a cost savings to the school district. For purposes of this paragraph, a "piggyback contract" means a contract for the transportation of students that: (1) provides transportation to a location outside the students' school district of residence to which another school district is already providing transportation to its own students through an existing contract with a private transportation contractor, other than a cooperatively bid contract; (2) is entered into by the private transportation contractor and each school district involved; and (3) provides for transportation in accordance with the terms and conditions of such existing transportation contract.