

SAMS Contract Penalty Forgiveness

Section 10 of part A of chapter 56 of the laws of 2022 adds new subdivision 5 to §3625 of education law. This amendment relates to transportation aid penalties due to late filed or late executed contracts, and the failure to advertise for contracts for transportation after July 1, 2012. The law provides the Commissioner the authority to consider these expenses as valid and eligible for aid under certain conditions.

Under this provision, for such expenses to be considered valid, such penalties must meet the following criteria:

- (1) such school district submitted the contract to the commissioner and such contract is for services in the two thousand twelve--two thousand thirteen school year or thereafter;
- (2) such contract is approved by the Commissioner;
- (3) all state funds expended by the school district were properly expended for such transportation as approved by the commissioner; and
- (4) the failure to execute or file such contract in a timely manner and/or meet such advertisement requirements was an inadvertent administrative or ministerial oversight by the school district or due to extenuating circumstances, and there is no evidence of any fraudulent or other improper intent by such district, as determined by the commissioner.

The Department maintains records of the approved contracts that led to the relevant aid impacted. To consider such contract expenses as valid, the superintendent of each school district must submit and certify a transportation forgiveness form in SED Monitoring and Vendor Performance System (SEDMON) for each penalty district receive in the specified SAMS Claim Year. The form will include a certification that: (1) all state funds were properly expended for such transportation as approved by the commissioner, and (2) the failure to execute and/or file contracts in a timely manner was an inadvertent administrative or ministerial oversight by the school district or due to extenuating circumstances.

A flat assertion of compliance is not sufficient, each district must diligently review the facts and circumstances of each penalty. The district should provide a substantive response explaining the process used to perform such review, the relevant facts uncovered, and the conclusion of the district about this matter. The Department will utilize the information provided, in conjunction with existing information, to determine whether the penalty created by the late filing(s) is eligible for forgiveness under this provision of law.

Responses should include evidence of a specific rationale of an inadvertent administrative or ministerial oversight that led to the late filing, execution, or failure to comply with advertising requirements. If such evidence or rationale cannot be uncovered, responses should explain district policies and procedures at the time of the contract that serve as internal controls to protect against potential for improper intent. If the Department finds the response is inadequate, the district will be notified and may re-apply should further information be uncovered.

Considering the process to receive forgiveness, please note that NYSED PTU is unable respond to requests for information or details around a district's failure to file or execute transportation contracts timely in a given year. It is considered the district's responsibility to provide such evidence from its own records as part of a request for forgiveness.

Thank you