

**ATTACHMENT #11**

**EXCERPTS FROM NEW JERSEY STATUTE 18A  
EDUCATION**

**(34 Pages)**

## **CHAPTER 25. OFFICERS AND EMPLOYEES PERFORMING EDUCATIONAL FUNCTIONS**

### **18A:25-2. Authority over pupils**

A teacher or other person in authority over such pupil shall hold every pupil accountable for disorderly conduct in school and during recess and on the playgrounds of the school and on the way to and from school.

The driver shall be in full charge of the school bus at all times and shall be responsible for order; he shall never exclude a pupil from the bus, but, if unable to manage any pupil, shall report the unmanageable pupil to the principal of the school which he attends.

A pupil may be excluded from the bus for disciplinary reasons by the principal and his parents shall provide for his transportation to and from school during the period of such exclusion.

## **CHAPTER 36A. CHARTER SCHOOLS**

### **18A:36A-13. Transportation for students**

The students who reside in the school district in which the charter school is located shall be provided transportation to the charter school on the same terms and conditions as transportation is provided to students attending the schools of the district. Non-resident students shall receive transportation services pursuant to regulations established by the State board.

## **CHAPTER 36B. INTERDISTRICT PUBLIC SCHOOL CHOICE PROGRAM**

### **18A:36B-22 Provision of transportation, aid in-lieu-of transportation.**

9. a. Transportation, or aid in-lieu-of transportation, shall be provided to an elementary school pupil who lives more than two miles from the choice district school of attendance and to a secondary school pupil who lives more than two and one-half miles from the choice district school of attendance, provided the choice district school is not more than 20 miles from the residence of the pupil. Transportation, or aid in-lieu-of transportation, shall be the responsibility of the sending district. The choice district and the sending district may enter into a shared service agreement in accordance with the "Uniform Shared Services and Consolidation Act," sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35).

b. Notwithstanding the provisions of section 20 of P.L.2007, c.260 (C.18A:7F-62) to the contrary, the sending district shall receive State aid for transportation calculated pursuant to section 15 of P.L.2007, c.260 (C.18A:7F-57) for a student transported or receiving aid-in-lieu-of transportation pursuant to subsection a. of this section.

## **CHAPTER 39. TRANSPORTATION TO AND FROM SCHOOLS**

### **18A:39-1.     Transportation of pupils remote from school**

Whenever in any district there are elementary school pupils who live more than two miles from their public school of attendance or secondary school pupils who live more than 2½ miles from their public school of attendance, the district shall provide transportation to and from school for these pupils.

When any school district provides any transportation for public school pupils to and from school pursuant to this section, transportation shall be supplied to school pupils residing in such school district in going to and from any remote school other than a public school, not operated for profit in whole or in part, located within the State not more than 20 miles from the residence of the pupil; except that if the district is located in a county of the third class with a population of not less than 80,000 and not more than 120,000 transportation shall be provided to a nonpublic school located outside the State not more than 20 miles from the residence of the pupil, if there is no appropriate nonpublic school within the State located closer to the residence of the pupil; provided the per pupil cost of the lowest bid received does not exceed \$675 for 1992-93 school year or the amount determined for subsequent years pursuant to section 2 of P.L. 1981, c. 57 (C. 18A:39-1a), and if such bid shall exceed that cost then the parent, guardian or other person having legal custody of the pupil shall be eligible to receive \$675 for the 1992-93 school year or the amount determined pursuant to section 2 of P.L. 1981, c. 57 (C. 18A:39-1a) for subsequent years toward the cost of his transportation to a qualified school other than a public school, regardless of whether such transportation is along established public school routes. It shall be the obligation of the parent, guardian or other person having legal custody of the pupil attending a remote school, other than a public school, not operating for profit in whole or in part, to register said pupil with the office of the secretary of the board of education at the time and in the manner specified by rules and regulations of the State board in order to be eligible for the transportation provided by this section. If the registration of any such pupil is not completed by September 1 of the school year and if it is necessary for the board of education to enter into a contract establishing a new route in order to provide such transportation, then the board shall not be required to provide it, but in lieu thereof the parent, guardian or other person having legal custody of the pupil shall be eligible to receive \$675 or the amount determined pursuant to section 2 of P.L. 1981, c.57 (C. 18A:39-1a), or an amount computed by multiplying 1/180 times the number of school days remaining in the school year at the time of registration, times \$675 for the 1992-93 school year or the amount determined pursuant to section 2 of P.L. 1981, c. 57 (C. 18A:39-1a) for subsequent years, whichever is the smaller amount. Whenever any regional school district provides any transportation for pupils attending schools other than public schools pursuant to this section, said regional district shall assume responsibility for the transportation of all such pupils, and the cost of such transportation for pupils below the grade level for which the regional district was organized shall be prorated by the regional district among the constituent districts on a per pupil basis, after approval of such costs by the county superintendent. This section shall not require school districts to provide any transportation for pupils attending a

school other than a public school, where the only transportation presently provided by said district is for school children transported pursuant to chapter 46 of Title 18A of the New Jersey Statutes or for pupils transported to a vocational, technical or other public school offering a specialized program. Any transportation to a school, other than a public school, shall be pursuant to the same rules and regulations promulgated by the State board as governs transportation to any public school.

The board of education may make rules and contracts for the pupil transportation provided pursuant to this section.

Nothing in this section shall be so construed as to prohibit a board of education from making contracts for the transportation of pupils to a school in an adjoining district, when such pupils are transferred to the district by order of the county superintendent, or when any pupils shall attend school in a district other than that in which they shall reside by virtue of an agreement made by the respective boards of education.

Nothing herein contained shall limit or diminish in any way any of the provisions for transportation for children pursuant to chapter 46 of this Title.

**18A:39-1a Adjustment of non-public school transportation costs.**

2. For the 2002-2003 school year, the maximum amount of nonpublic school transportation costs per pupil provided for in N.J.S.18A:39-1 shall equal \$735 and this amount shall be increased in each subsequent year in direct proportion to the increase in the State transportation aid per pupil in the year prior to the prebudget year compared to the amount for the prebudget year or by the CPI, whichever is greater.

As used in this section, State transportation aid per pupil shall equal the total State transportation aid payments made pursuant to section 15 of P.L.2007, c.260 (C.18A:7F-57) divided by the number of pupils eligible for transportation. "CPI" means the average annual increase, expressed as a decimal, in the consumer price index for the New York City and Philadelphia areas during the fiscal year preceding the prebudget year as reported by the United States Department of Labor.

In the 2002-2003 school year and thereafter, any additional costs incurred by a school district due to the increase in the maximum amount of nonpublic school transportation costs per pupil pursuant to this section shall be borne by the State.

**18A:39-1b. Furnishing of district information**

Each school district shall furnish to the Department of Education the information necessary for the department to complete a comparison of transportation costs, so that equitable adjustments may be made in the amount of the payments in lieu of transportation required pursuant to N.J.S. 18A:39-1.

### **18A:39-1.1. Transportation of other pupils by board**

In addition to the provision of transportation for pupils pursuant to N.J.S. 18A:39-1 and N.J.S. 18A:46-23, the board of education of any district may provide, by contract or otherwise, in accordance with law and the rules and regulations of the State board, for the transportation of other pupils to and from school.

Districts shall not receive State transportation aid pursuant to section 15 of P.L. 2007, c. 260 (C. 18A:7F-57) for the transportation of pupils pursuant to this section.

### **18A:39-1.2 Provision of transportation for certain pupils; contracts; charges, method of collection.**

Whenever the governing body of a municipality finds that for safety reasons it is desirable to provide transportation to and from a school for pupils living within the municipality, other than those living remote from the school or those physically handicapped or with an intellectual disability, the governing body and the board of education of the district are authorized to enter into a contract pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.), under the terms of which the board shall provide such transportation. Any funds required to be paid by the municipality to the board of education under such a contract shall be appropriated by the governing body and paid to the secretary or treasurer of school moneys, as appropriate, of the district. The governing body of the municipality may charge the parents or guardians of children who are transported for safety reasons in order to help defray expenses, provided that no charge shall be imposed on the parent or guardian of any child who meets the Statewide eligibility standards established by the State Board of Education for free and reduced price meals under the State school lunch program. The amount of any charges and the method of collection shall be specified in the contract between the municipal governing body and the board of education. Nothing in this section shall prevent a board of education from providing transportation at its own expense.

### **18A:39-1.3. Contract for transportation of certain pupils; costs**

Any board of education which transports pupils to and from school pursuant to N.J.S. 18A:39-1 or a cooperative transportation services agency may enter into a contract for the transportation of public school pupils who are not eligible for transportation services pursuant to N.J.S. 18A:39-1 or any other law, and may require that if the parent, guardian or other person having legal custody of the child elects to have the pupil transported pursuant to the contract, then the parent, guardian or other person having legal custody of the child shall pay all or a part of the costs of that transportation, including, but not limited to, the cost of fuel, driver salaries and insurance. A board of education or a cooperative transportation services agency may also enter into a contract for the transportation of pupils who attend not for profit nonpublic schools and who are not eligible for transportation services pursuant to N.J.S. 18A:39-1 or any other law or who receive in-lieu-of transportation payments, and may require that if the parent, guardian or other person having legal custody of the child elects to have the pupil transported pursuant to the contract, then the parent, guardian or other person having legal custody of the child shall pay all or a part

of the costs of that transportation, including, but not limited to, the cost of fuel, driver salaries and insurance.

The costs of the transportation shall be paid at the time and in the manner determined by the board of education or the cooperative transportation services agency, provided that the parent, guardian or other person having legal custody of the pupil attending the public or nonpublic school shall pay no more than the per pupil cost of the route for the transportation provided pursuant to this section.

Boards of education shall not receive State transportation aid pursuant to section 15 of P.L.2007, c. 260 (C.18A:7F-57) for the transportation of pupils pursuant to this section; however, the pupils shall be included in the calculation of the district's regular vehicle capacity utilization for purposes of the application of the incentive factor pursuant to that section.

A board of education shall notify the Department of Education when it elects to provide transportation for pupils under the provisions of this act.

#### **18A:39-1.4. Determination of financial hardship**

A board of education which enters into a contract for the transportation of pupils pursuant to section 1 of this act<sup>1</sup> may not exclude from this transportation any pupil whose parent, legal guardian or other person having legal custody of the child is unable to pay the cost of that transportation because of financial hardship. In determining financial hardship, the criteria shall be the same as the Statewide eligibility standards established by the State Board of Education for free and reduced price meals under the State school lunch program.

#### **18A:39-1.5. Adoption of policy regarding transportation of students who walk along hazardous routes**

a. A school district that provides courtesy busing services shall adopt a policy regarding the transportation of students who must walk to and from school along hazardous routes. The policy shall include a list of hazardous routes in the district requiring the courtesy busing of students and the criteria used in designating the hazardous routes. In adopting its policy, the school district may consider, but shall not be limited to, the following criteria:

- (1) Population density;
- (2) Traffic volume;
- (3) Average vehicle velocity;
- (4) Existence or absence of sufficient sidewalk space;
- (5) Roads and highways that are winding or have blind curves;
- (6) Roads and highways with steep inclines and declines;
- (7) Drop-offs that are in close proximity to a sidewalk;
- (8) Bridges or overpasses that must be crossed to reach the school;
- (9) Train tracks or trestles that must be crossed to reach the school; and

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<sup>1</sup> N.J.S.A. 18A:39-1.3

(10) Busy roads or highways that must be crossed to reach the school.

b. A school district shall work in conjunction with municipal officials in determining the criteria necessary for the designation of a hazardous route.

**18A:39-1.6. Transportation of nonpublic school students, remote, certain**

As used in this section, "regional district" means a regional school district composed of only two constituent municipalities or a consolidated school district composed of only two municipalities.

Notwithstanding any provision of N.J.S.18A:39-1 to the contrary, if a school district provides transportation to and from school to a school pupil who resides remote from school and attends a nonpublic school located within the State not more than 20 miles from the residence of the pupil, or in the case of a regional district provides transportation or an in-lieu-of-payment to such pupil, the school district or regional district shall provide transportation, when seats are available on existing routes, or an in-lieu-of-payment to all nonpublic school pupils who reside within the municipality of that pupil or in the case of a regional district reside within the district, attend that school, and reside more than 20 miles from that school. The school district may require all nonpublic school pupils in the municipality or regional district to use the bus stops which serve the pupils whose residences are not more than 20 miles from the nonpublic school. Any cost incurred by a school district or a regional district in providing transportation or an in-lieu-of-payment to a pupil who is eligible for the transportation or an in-lieu-of payment under the provisions of this section shall not exceed the maximum cost per pupil established pursuant to section 2 of P.L.1981, c.57 (C.18A:39-1a), and shall be paid by the State.

**18A:39-1.7. Purchase of transportation by nonpublic school pupils; conditions**

A board of education responsible for the transportation of public school pupils to and from school pursuant to N.J.S. 18A:39-1 or a cooperative transportation services agency as identified by the Commissioner of Education may permit nonpublic school pupils who live in or outside of the district and who are not eligible for pupil transportation pursuant to N.J.S. 18A:39-1 because the distance from the pupil's residence to the nonpublic school is greater than the mileage limit established pursuant to N.J.S. 18A:39-1 or any other law to purchase transportation to the nonpublic school from the board of education or the cooperative transportation services agency provided that:

- a. there is available space on the appropriate bus route; and
- b. the parent, guardian or other person having legal custody of the pupil attending the nonpublic school agrees to transport the pupil to an existing bus stop as determined by the board of education or the cooperative transportation services agency.

The parent, guardian or other person having legal custody of the pupil attending the nonpublic school shall pay no more than the per pupil cost of the route for the transportation provided



pursuant to this section. The costs of the transportation shall be paid at the time and in the manner determined by the board of education or cooperative transportation services agency.

A board of education or the cooperative transportation services agency shall notify the Department of Education when it elects to provide transportation for pupils under the provisions of this section.

Boards of education shall not receive State transportation aid pursuant to section 25 of P.L. 1996, c.138 (C.18A:7F-25) for the transportation of pupils pursuant to this section; however these pupils shall be included in the calculation of the district's regular vehicle capacity utilization for purposes of the application of the incentive factor pursuant to that section.

Prior to providing transportation pursuant to this section to a nonpublic school pupil who lives within the district, a board of education shall determine if the pupil is eligible for transportation or an in-lieu-of payment pursuant to section 1 of P.L.1999, c.350 (C.18A:39-1.6). If the board of education determines that the pupil is eligible for transportation or an in-lieu-of payment pursuant to section 1 of P.L.1999, c. 350 (C.18A:39-1.6), then that provision of law shall govern the transportation services provided to the pupil by the board of education.

#### **18A:39-1.8 Payment by parents for transportation of certain pupils**

Any board of education which transports pupils to and from school pursuant to N.J.S.18A:39-1 may provide, on a space-available basis, for the transportation of elementary school pupils who live less than two miles from school and secondary school pupils who live less than two and a half miles from school along an established school bus route, and may require that if the parent, guardian or other person having legal custody of the child elects to have the pupil transported, the parent, guardian or other person having legal custody of the child shall pay all or a part of the costs of that transportation. A board of education may also provide, on a space-available basis, for the transportation of elementary school pupils who live less than two miles and secondary school pupils who live less than two and a half miles from any not for profit nonpublic school which satisfies the maximum distance requirements set forth in N.J.S.18A:39-1 along an established school bus route, and may require that if the parent, guardian or other person having legal custody of the child elects to have the pupil transported, the parent, guardian or other person having legal custody of the child shall pay all or a part of the costs of that transportation. The costs of the transportation shall be paid at the time and in the manner determined by the board of education, provided that the costs shall be equitable for both public and nonpublic pupils.

A board of education shall notify the Department of Education when it elects to provide transportation for pupils under the provisions of this act.

#### **18A:39-1.9 Payment not required based on financial hardship**

A board of education which provides for the transportation of pupils pursuant to section 1 of this act may not exclude from this transportation any pupil whose parent, legal guardian or other person having legal custody of the child is unable to pay the costs of that transportation because

of financial hardship. In determining financial hardship, the criteria shall be the same as the Statewide eligibility standards established by the State Board of Education for free and reduced price meals under the State school lunch program.

**18A:39-2. Methods of providing transportation**

Any board of education having power to provide for the transportation of school pupils in its district to and from school may provide such transportation by a bus or buses owned by it or may enter into contract for such transportation, approved by the county superintendent, for a term not exceeding four years.

All multiyear contracts made pursuant to the above taking effect subsequent to September 1, 1975 may, at the discretion of the local board of education, and subject to approval by the county superintendent, be increased not to exceed  $7\frac{1}{2}$  percent annually of the original yearly contract cost beginning with the second year of the contract.

**18A:39-2.1. Interdistrict transportation bidding procedure**

Any board of education of a school district providing transportation for any child pursuant to N.J.S. 18A:46-23 to and from any other school district, may solicit any bid therefor, on a per pupil, per vehicle or per mileage basis, whichever is least costly to the school district of the board. The board may award any contract therefor pursuant to the provisions of chapter 39 of Title 18A of the New Jersey Statutes. Any adjustment in price authorized under the contract may be made on a per pupil, per vehicle or per mileage basis, whichever is least costly to the school district.

**18A:39-2.2 Determination of cost efficiencies by combining public, nonpublic school bus routes**

A county superintendent of schools, during the approval process of pupil transportation contracts conducted pursuant to N.J.S.18A:39-2, shall examine the contract to determine whether cost efficiencies could be realized by combining public and nonpublic school pupils on the same school bus routes.

**18A:39-3. Pupil transportation contracts**

a. No contract for the transportation of pupils to and from school shall be made, when the amount to be paid during the school year for such transportation shall exceed \$7,500.00 or the amount determined pursuant to subsection b. of this section, and have the approval of the county superintendent of schools, unless the board of education making such contract shall have first publicly advertised for bids therefor in a newspaper published in the district or, if no newspaper is published therein, in a newspaper circulating in the district, once, at least 10 days prior to the date fixed for receiving proposals for such transportation, and shall have awarded the contract to the lowest responsible bidder.

Nothing in this chapter shall require the advertisement and letting on proposals or bids of annual extensions, approved by the county superintendent, of any contract for transportation entered into through competitive bidding when -

(1) Such annual extensions impose no additional cost upon the board of education, regardless of the fact that the route description has changed; or

(2) The increase in the contractual amount as a result of such extensions does not exceed the rise in the Consumer Price Index as defined in section 3 of P.L.2007, c.260 (C.18A:7F-45) for that school year, regardless of the fact that the route description has changed or an aide has been added or removed; or

(3) (Deleted by amendment, P.L. 1982, c. 74.)

(4) The increase in the contractual amount as a result of an extension exceeds the rise in the Consumer Price Index as defined in section 3 of P.L.2007, c.260 (C.18A:7F-45) for that school year, but the following apply to the extensions:

(a) The increase is directly attributable to a route change to accommodate new student riders or safety concerns as provided for in the original bid, or the increase is directly attributable to the addition of an aide as provided for in the original bid; and

(b) The school destination remains unchanged from the original contract.

Any such extension as described in this paragraph shall require the approval of the county superintendent of schools.

Nothing in this chapter shall require the immediate bid of any contract renewal for the remainder of a school year in which the only change, in addition to route description, is the bus type. However, any such extension shall be approved by the county superintendent of schools and shall be bid for the next school year.

b. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in subsection a. of this section, or subsequent to 1985 the threshold amount resulting from any adjustment under this subsection or section 17 of P.L. 1985, c. 469, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall, no later than June 1 of each odd-numbered year, notify all local school districts of the adjustment. The adjustment shall become effective on July 1 of each odd-numbered year.

### **18A:39-3.1 Consultation for transportation of nonpublic school pupils**

A board of education shall consult with the appropriate nonpublic school administrators seeking such consultation prior to preparing bus routes for the transportation of nonpublic school pupils for the school year and in a timely manner that allows sufficient time to publicly advertise for bids.

### **18A:39-3.2 Rules, regulations**

The State Board of Education shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this act.

### **18A:39-4. Form of bid; deposit; forfeiture or return of deposit**

Each transportation bid shall be accompanied by information required on a standard form of questionnaire approved by the state board and by a cashier's or certified check for 5% of the annual amount of the contract, which deposit shall be forfeited upon the refusal of a bidder to execute a contract; otherwise, checks shall be returned when the contract is executed and a bond filed.

### **18A:39-5. Opening of bids; rejection, etc.**

At the time and place fixed in such advertisement for the submission of proposals the board of education, or any committee thereof authorized so to do, or any officer or employee of such board designated therefor, shall receive such proposals and immediately proceed to unseal the same and publicly announce the contents in the presence of the parties bidding or their agents, if such parties choose to be then and there present. Such board shall have the right to reject any and all bids. No proposals shall be opened previous to the hour designated in the advertisement and none shall be received thereafter.

### **18A:39-6. Liability insurance, etc., to be furnished**

Liability insurance covering the operation of every bus transporting pupils to and from schools and the drivers thereof or other appropriate similar coverage shall be furnished by each contractor or, in the case of any bus owned and operated by a board of education, by the board of education, in such amounts, with such indemnity, with such coverage, and in such manner, as shall be prescribed by rule of the State board.

#### **18A:39-6.1 Liability insurance; rates**

In every contract for the transportation of pupils to and from school entered into by a board of education, the costs of furnishing the liability insurance coverage required under N.J.S. 18A:39-6 shall be based on the insurance rate applicable only to such transportation.

**18A:39-7 to 18A:39-9. Blank****18A:39-10. Expenditures by contractor in compliance with law or rules, after contract made**

Notwithstanding the terms of any contract for transportation of pupils to and from school, or renewal thereof, entered into pursuant to this chapter, any board of education, in its discretion, with the approval of the county superintendent, may compensate any transportation contractor, in whole or in part, for any necessary expenditure made to comply with the provisions of any law enacted, or any rules and regulations promulgated pursuant to any law, after said contract was entered into.

**18A:39-11. Joint transportation authorized**

The boards of education of two or more school districts may provide jointly for the transportation of pupils to and from any school or schools within or outside the districts.

Whenever in the judgment of the county superintendent of schools transportation of pupils to any qualified school other than a public school could be more economically accomplished by joint transportation with two or more school districts, he may order such joint transportation, assign the administration to one board of education and prorate the cost on a per pupil mileage basis to the other boards of education involved.

**18A:39-11.1 List of agencies providing cooperative transportation services; provision of transportation for certain pupils**

a. The Commissioner of Education shall identify and publish a list of local school boards of education, educational services commissions, county special services school districts, and any other established agencies providing cooperative transportation services.

b. Any school district responsible for the transportation of pupils to and from a school, other than a local district school, pursuant to N.J.S. 18A:39-1 which transports pupils to a county vocational school and pupils classified pursuant to chapter 46 of Title 18A of the New Jersey Statutes shall utilize one of the agencies identified by the commissioner for the transportation of the pupils. Transportation by one of the agencies shall not be required when the local district can provide transportation at a lower cost than those agencies, or the transportation to be provided by one of the agencies does not fall within the policies of the resident school district regarding length of ride and assignment of students to a route based on student age or classification.

c. (1) A board of education shall bid or coordinate nonpublic school transportation services with another school district or a cooperative transportation services agency in accordance with criteria established by the commissioner.

(2) Any school district which has in the prior year provided payments in lieu of transportation for any nonpublic school pupil pursuant to N.J.S. 18A:39-1, or which cannot provide

transportation in the ensuing school year in accordance with the commissioner's criteria, shall attempt to provide transportation through an agency identified by the commissioner prior to determining to pay aid in lieu of transportation. The school district shall provide to the agency any unique limitations or restrictions of the required transportation. If the costs to provide transportation by the agency identified by the commissioner are less than the in-lieu-of payments, the agency shall provide transportation. The school district shall make the determination on the manner in which transportation services shall be provided and shall notify the nonpublic school and the parent or guardian of the nonpublic school pupil by August 1 prior to the beginning of the school year. For the purposes of this subsection, "costs to provide transportation" shall not include any administrative fee charged by the agency. If the sum of the costs to provide transportation plus any administrative fee charged by the agency exceeds on a per pupil basis the maximum amount for nonpublic school transportation established pursuant to section 2 of P.L. 1981, c.57 (C.18A:39-1a), the board of education may apply to the commissioner for that portion which exceeds the maximum amount.

d. The county superintendents shall:

(1) assist local boards of education and the chief school administrators of nonpublic schools in coordinating the calendars and schedules of the public and nonpublic schools to facilitate the coordination of transportation of pupils to and from school in their respective county;

(2) arbitrate any disputes between local boards of education and the chief school administrators of nonpublic schools regarding pupil transportation; and

(3) convene a meeting, at least once a year, of representatives of all public and nonpublic schools in the county to discuss issues related to pupil transportation.

#### **18A:39-11.2 Bidding requirements for certain pupil transportation contracts.**

a. Except as provided in subsection g. of this section, the provision of transportation services to a local school district by a cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity, other than a local school district using school buses it owns or leases, shall be subject to the bidding requirements and requirements concerning the renewal of transportation contracts set forth in chapter 39 of Title 18A of the New Jersey Statutes, including the requirements concerning the advertisement for bids, the submission of quotations and the renewal of contracts.

b. The cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district shall adhere to every substantial bid specification for a pupil transportation contract, including bonding requirements.

c. The cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district that is intending to bid for transportation services shall be precluded from preparing specifications. Specifications shall be prepared by the local school district seeking transportation services or by any

other cooperative transportation services agency, as designated by the Commissioner of Education, that is not bidding.

d. The cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district shall not charge any fee above the bid price.

e. A local school district may negotiate and award a contract for transportation services with a cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district if the provisions of subsection c. of N.J.S. 18A:18A-5 have been met.

f. The following forms, prescribed by the Commissioner of Education, shall be included in any bid submitted by a cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district to provide transportation services:

(1) if applicable, a membership form for the cooperative transportation services agency, educational services commission, county special services school district or jointure commission indicating each member school district and the name of each member school district's superintendent;

(2) a form indicating the transportation experience of the bidder;

(3) a non-collusion form indicating that the bidder has not drafted specifications or route descriptions for the local board of education that is seeking transportation services;

(4) an affirmative action statement; and

(5) a bidder's guarantee in an amount required pursuant to statute and regulation.

g. The provisions of this section shall not apply to:

(1) an educational services commission or a jointure commission for the provision of transportation services to pupils who reside in school districts which, as of January 1, 2004, are members of the educational services commission or jointure commission, if, as of that date, the commission owns or leases school buses and is providing pupil transportation;

(2) an educational services commission or jointure commission for the provision of transportation services to pupils who reside in school districts which are located in a county of the first class and which are not members of the educational services commission or jointure commission and which, as of January 1, 1999, have been receiving pupil transportation from that commission with buses the commission owns or leases;

(3) a county special services school district for the provision of transportation services to pupils who are enrolled in the county special services school district or pupils enrolled in nonpublic schools who reside within the county, if, as of January 1, 2004, the district owns or leases school buses and is providing pupil transportation; and

(2) a county special services school district for the provision of special education transportation for pupils residing within that county or within a contiguous county, if, as of January 1, 2004, the county special services school district is located in a county of the fifth class, and has been providing special education transportation with buses it owns or leases.

**18A:39-11.3 Disqualification of bidder; "prior negative experience" defined.**

a. A board of education may, by resolution approved by a majority of the board of education and subject to the provisions of subsection b. of this section, disqualify a bidder who would otherwise be determined to be the lowest responsible bidder for a pupil transportation contract, if the board of education finds that it has had prior negative experience with the bidder. The disqualification shall be for a reasonable, defined period of time which shall not exceed three years.

b. As used in this section, "prior negative experience" means any of the following:

(1) the bidder has been determined to be "nonperforming" under a pupil transportation contract after a hearing which shall include the bidder, the superintendent of schools, and the county superintendent of schools. The county superintendent of schools shall make the determination as to nonperformance and this determination may be appealed to Commissioner of Education and the State Board of Education, as provided by law;

(2) the bidder defaulted on a transportation contract thereby requiring the board of education to utilize the services of another contractor to complete the contract;

(3) the bidder defaulted on a transportation contract thereby requiring the board of education to look to the bidder's surety for completion of the contract or tender of the costs of completion; or

(4) the bidder has at least a 10% ownership in any contractor that had prior negative experience with the board of education as described in paragraphs (1) through (3) of this subsection.

**18A:39-11.4 Continuation of prior agreement in violation of act.**

3. A joint transportation agreement entered into by a local school district and a cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity prior to the effective date of P.L. 2005, c. 84 (C.18A:39-11.2 et seq.) which violates the provisions of this act may continue in effect for the remainder of the school year in which the agreement was made.



**18A:39-12. Agreement for joint transportation**

Any such joint transportation shall be provided under the terms of an agreement adopted by resolution of each of the boards of education concerned wherein shall be set forth the essential information concerning the transportation to be provided, the method of computing the proportion of the cost each party to the agreement shall assume, and the proportion of the state aid to which each district shall be entitled, and any other matters deemed necessary to carry out the purposes of the agreement.

**18A:39-13. Joint transportation; laws and rules governing**

Any such joint transportation shall be subject to all the provisions of law and rules of the state board governing the transportation of school pupils.

**18A:39-14. Joint transportation; expenses; payment**

Each district's proportionate share of the cost of such joint transportation shall be paid in the manner set forth in the agreement and in the same manner as other expenses of the district are paid.

**18A:39-15. State aid for joint transportation**

If the county superintendent of the county in which the districts are situate shall approve the necessity, the cost, and the method of providing joint transportation and the agreement whereby the same is to be provided, each board of education providing joint transportation shall be entitled to State transportation aid pursuant to section 15 of P.L. 2007, c.260 (C. 18A:7F-57).

**18A:39-16. Disputes; determination; appeal**

In the event that any controversy or dispute shall arise among the parties to any such agreement for joint transportation, the same shall be referred to the county superintendent of the county in which the districts are situate for determination and his determination thereon shall be binding, subject to appeal to the commissioner. In the event that the districts are in more than one county, the controversy or dispute shall be referred to the county superintendents of the counties for joint determination, and if they shall be unable to agree upon a joint determination within 30 days, the controversy or dispute shall be referred to the commissioner for determination.

**18A:39-17. Names, certain information relative to bus drivers to be filed by secretary of board of education**

In each school year, prior to the assignment of any driver or substitute driver to any vehicle operated by the board of education of any district as a school bus, there shall be filed by the secretary of such board with the county superintendent the name and social security number of each such driver or substitute driver and certification of a valid school bus driver's license,

criminal background check, and evidence of a check for the driver's record of alcohol and drug-related motor vehicle violations pursuant to section 6 of P.L. 1989, c.104 (C.18A:39-19.1).

**18A:39-18. Information relative to bus drivers furnished by contractors**

In each school year, prior to the beginning of transportation of school pupils under a contract awarded by a board of education, the contractor shall furnish to the county superintendent the name, social security number, and certification of a valid school bus driver's license and criminal background check, and evidence of a check for the driver's record of alcohol and drug-related motor vehicle violations pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1) of each driver or substitute driver to be assigned to any vehicle in the performance of his contract.

**18A:39-19. Repealed by L.1989, c. 104, section 7, effective July 1, 1989**

**18A:39-19.1. Bus drivers required to submit certain information to commissioner; notice of pending charges**

a. Prior to employment as a school bus driver, and upon application for renewal of a school bus driver's license, a bus driver shall submit to the Commissioner of Education his or her name, address and fingerprints in accordance with procedures established by the commissioner. No criminal history record check or check for alcohol and drug-related motor vehicle violations shall be furnished without his or her written consent to such a check. The applicant shall bear the cost for the checks, including all costs for administering and processing the checks.

Upon receipt of the criminal history record information for an applicant from the Federal Bureau of Investigation and the Division of State Police, and information on the check for alcohol and drug-related motor vehicle violations from the Division of Motor Vehicle Services, the Commissioner of Education shall notify the applicant, in writing, of the applicant's qualification or disqualification as a school bus driver. If the applicant is disqualified, the convictions which constitute the basis for the disqualification shall be identified in the written notice to the applicant. A school bus driver, except as provided in subsection e. of this section, shall be permanently disqualified from employment or service if the individual's criminal history record reveals a record of conviction for which public school employment candidates are disqualified pursuant to section 1 of P.L. 1986, c. 116 (C. 18A:6-7.1) or if the driver has been convicted at least two times within the last 10 years for a violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), section 5 of P.L.1990, c.103 (C.39:3-10.13), or section 16 of P.L. 1990, c.103 (C.39:3-10.24); or once for a violation of section 5 of P.L.1990, c.103 (C.39:3-10.13) or section 16 of P.L.1990, c.103 (C.39:3-10.24) while transporting school children.

Following qualification for employment as a school bus driver pursuant to this section, the State Bureau of Identification shall immediately forward to the Commissioner of Education any information which the bureau receives on a charge pending against the school bus driver. If the charge is for one of the crimes or offenses enumerated in section 1 of P.L. 1986, c.116 (C.18A:6-7.1), the commissioner shall notify the employing board of education or contractor, and the board

or contractor shall take appropriate action. If the pending charge results in conviction, the school bus driver shall not be eligible for continued employment.

A school bus driver shall not be eligible to operate a school bus if the individual's bus driver's license is currently revoked or suspended by the Division of Motor Vehicle Services in accordance with R.S. 39:3-10.1.

Following qualification for employment as a school bus driver, the Division of Motor Vehicle Services shall immediately forward to the Commissioner of Education any information which the division receives on a conviction for an alcohol or drug-related motor vehicle violation that would disqualify the driver from employment pursuant to the provisions of this subsection. The commissioner shall notify the employing board of education or contractor that the driver is no longer eligible for employment.

b. Notwithstanding the provisions of this section, an individual shall not be disqualified from employment or service under this act on the basis of any conviction disclosed by a criminal history record check or a check for alcohol and drug-related motor vehicle violations performed pursuant to this section without an opportunity to challenge the accuracy of the disqualifying records.

c. When charges are pending for a crime or any other offense enumerated in section 1 of P.L. 1986, c. 116 (C. 18A:6-7.1), the employing board of education or contractor shall be notified that the candidate shall not be eligible for employment until the commissioner has made a determination regarding qualification or disqualification upon adjudication of the pending charges.

d. The applicant shall have 30 days from the date of the written notice of disqualification to challenge the accuracy of the criminal history record information or the record of convictions for alcohol or drug-related motor vehicle violation. If no challenge is filed or if the determination of the accuracy of the criminal history record information or the record of convictions for an alcohol or drug-related motor vehicle violation upholds the disqualification, notification of the applicant's disqualification for employment shall be forwarded to the Division of Motor Vehicle Services. The local board of education or the school bus contractor and the County Superintendent of Schools shall also be notified of the disqualification. Notwithstanding the provisions of any law to the contrary, the Director of the Division of Motor Vehicle Services shall, upon notice of disqualification from the Commissioner of Education, immediately revoke the applicant's special license issued pursuant to R.S. 39:3-10.1 without necessity of a further hearing. Candidates' records shall be maintained in accordance with the provisions of section 4 of P.L. 1986, c. 116 (C. 18A:6-7.4).

e. This section shall first apply to criminal history record checks conducted on or after the effective date of P.L. 1998, c. 31 (C. 18A:6-7.1c et al.); except that in the case of a school bus driver employed by a board of education or a contracted service provider who is required to undergo a check upon application for renewal of a school bus driver's license, the individual shall be disqualified only for the following offenses:

(1) any offense enumerated in this section prior to the effective date of P.L. 1998, c.31 (C.18A:6-7.1c et al.); and

(2) any offense enumerated in this section which had not been enumerated in this section prior to the effective date of P.L. 1998, c.31 (C. 18A:6-7.1c et al.), if the person was convicted of that offense on or after the effective date of that act.

f. (1) Notwithstanding any provision of this section to the contrary, the check for alcohol and drug-related motor vehicle violations shall be conducted in accordance with the provisions of this section prior to initial employment as a school bus driver and upon application for renewal of a school bus driver's license until such time as the provisions of the "Motor Carrier Safety Improvement Act of 1999," Pub. L. 106-159, are effective and implemented by the State.

(2) Notwithstanding any provision of this section to the contrary, upon the implementation by the State of the "Motor Carrier Safety Improvement Act of 1999," Pub. L. 106-159, a check for alcohol and drug-related motor vehicle violations shall be conducted in accordance with the provisions of this section prior to initial employment as a school bus driver. A check for alcohol and drug-related motor vehicle violations conducted for any subsequent renewal of a school bus driver's license shall be subject to the provisions of the "Motor Carrier Safety Improvement Act of 1999," Pub. L. 106-159.

(3) Upon the implementation by the State of the "Motor Carrier Safety Improvement Act of 1999," Pub. L. 106-159, following qualification for employment as a school bus driver, the Division of Motor Vehicle Services shall immediately notify the Commissioner of Education of the suspension or revocation of a school bus driver's commercial driver's license. The commissioner shall notify the employing board of education or contractor of the suspension or revocation, and the employment of the school bus driver shall be immediately terminated. In the case of a school bus driver whose commercial driver's license has been suspended, the driver may apply for re-employment at the end of the period of suspension.

**18A:39-20. Compliance required for assigning bus driver; violations; fine**

No board of education or contractor shall knowingly approve or knowingly assign an individual, as a driver or substitute driver of a school bus, without first complying with the provisions of this chapter, and any person violating, or failing to comply with such provisions shall be subject to a fine of not more than \$5000 for each driver unlawfully approved or assigned.

**18A:39-20.1. Transportation to and from related school activities in private vehicle with capacity of eight or less; authorization of qualified school personnel, state employees or parents**

Notwithstanding any statute or regulation to the contrary, any board of education, governing body of a nonpublic school or State agency may authorize qualified school personnel, State employees or parents, to transport school children to and from related school activities in a private vehicle

with a capacity of eight or less. Any person authorized by a board, body or agency to provide such transportation services shall not be required to be licensed or regulated as a school bus driver. Such transportation shall be exempt from all registration, equipment, inspection and maintenance requirements imposed on the transportation of pupils by school bus.

**18A:39-21. Rules governing pupil transportation by state board**

The state board shall make rules governing the transportation of pupils to and from school to carry out the provisions of this chapter.

**18A:39-22. Permission to use school buses for transporting senior citizens, handicapped citizens, children and adults in recreation or other programs**

The board of education of any district may, pursuant to rules adopted by it, permit the use of school buses owned or leased by the school district for the purpose of transporting senior citizens' groups to and from events within its district or in any contiguous district, for transporting handicapped citizens in any district, and for transporting children and adults participating in a recreation or other program operated by the municipality or municipalities in which the district is located or the municipality in which any constituent district of a regional school district is located; provided that each use of school buses for these purposes is approved by the board; provided that such use of school buses shall not interfere with the transportation of school pupils; and provided that school buses so used shall be operated only by persons licensed as bus drivers. The board shall require groups seeking such use of school buses to pay all or part of any costs incurred by the district in permitting such use, including but not limited to the costs of fuel, driver salaries, insurance and depreciation.

**18A:39-22.1. School bus used to transport Developmental Disabilities client; permitted**

The board of education of a school district may, pursuant to rules adopted by it, permit the use of school buses owned, leased or contracted by the school district for the purpose of transporting a handicapped adult who is a client of the Division of Developmental Disabilities in the Department of Human Services and who is continuing his education and training following graduation from secondary school. Transportation pursuant to this section will be limited to space availability on vehicles engaged in the transportation of school-age pupils along established routes. The board shall require that the individual transported, or his parent or guardian, pay all or part of any costs incurred by the district in providing the transportation, including but not limited to, the costs of fuel, driver salaries, insurance and depreciation.

**18A:39-23. No fee registration continued**

The use of school buses as herein provided shall not be construed as use for hire and shall in no way affect the no fee registration of such vehicles as provided in R.S. 39:3-27.

**18A:39-24. Rules and regulations**

The State Board of Education shall develop rules and regulations governing the use of school buses pursuant to section 1 of this act.<sup>1</sup>

**18A:39-25. Board of public utility commissioners; regulation or jurisdiction of school buses used under this act.**

Notwithstanding the provisions of any law, rule or regulation of this State to the contrary, the use of school buses or the recovery of costs as herein authorized, shall not subject such school buses to regulation by or the jurisdiction of the Board of Public Utilities Commissioners.

**18A:39-26. Short title**

This act shall be known and may be cited as the "School Bus Safety Act."

**18A:39-27. Bus driver required to be on bus when pupil present, exceptions**

a. Notwithstanding the provisions of any other law, rule or regulation to the contrary, no school pupil shall be allowed on board a school bus unless the bus driver or other employee of the school board or school bus contractor is also on board the bus.

b. The provisions of subsection a. of this section shall not apply when a bus driver leaves the bus to assist in the boarding or exiting of a disabled pupil or in the case of an emergency.

**18A:39-28. Inspection of school bus for pupils by driver at end of transportation route**

A school bus driver shall visually inspect the school bus to which he is assigned at the end of the transportation route to determine that no pupil has been left on the bus. For the purposes of this act, "school bus" means every motor vehicle operated by, or under contract with, a public or governmental agency, or religious or other charitable organization or corporation, or privately operated for compensation for the transportation of children to or from school for secular or religious education, which complies with the regulations of the Department of Education affecting school buses, including "School Vehicle Type I" and "School Vehicle Type II" as defined pursuant to R.S.39:1-1.

**18A:39-29. Violation, suspension, revocation of school bus endorsement.**

In the event that, after notice and opportunity to be heard, a school bus driver is found to have left a pupil on the school bus at the end of his route, his school bus endorsement shall be:

- a. suspended for six months, for a first offense; or
- b. permanently revoked, for a second offense.

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<sup>1</sup> N.J.S.A. 18A:39-22

### **18A:39-30 Permanent revocation for gross negligence**

In the event that a pupil, who was left on a bus by a school bus driver at the end of the route, is harmed as a result of foreseeable danger and the driver is found, after notice and opportunity to be heard, to have acted with gross negligence, his school bus endorsement shall be permanently revoked.

### **18A:39-31 Contract for sale of advertising space on school buses, use of revenue.**

1. a. The board of education of any school district may enter into a contract for the sale of advertising space on the exterior sides of school buses owned or leased by the school district, subject to the limitations set forth in this section. Advertisements for tobacco or alcohol products or for political advocacy shall be prohibited, in addition to any other advertisements for products or services or by sponsors that the Commissioner of Education deems inappropriate. All advertisements shall require prior approval by the local board of education.

b. In the event that a board of education enters into a contract for the sale of advertising space on the exterior sides of school buses pursuant to subsection a. of this section, 50% of any revenue generated by the sale shall be used by the board to offset the fuel costs of providing pupil transportation services, and the remaining 50% of the revenue shall be used to support any programs and services the board may deem appropriate.

c. The provisions of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., shall apply to any contract entered into by a board of education pursuant to this act.

### **18A:39-32 Report to Governor, Legislature.**

2. The commissioner shall evaluate the impact of school bus advertising and report on the evaluation to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), no later than one year following the effective date of this act and annually thereafter. The report shall include the number of school districts which permit the advertising and the fiscal benefits derived therefrom.

### **18A:39-33 Rules, regulations.**

4. In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the State Board of Education shall promulgate rules and regulations necessary to effectuate the purposes of this act including, but not limited to, the permissible size of the advertising and the criteria for determining the age-appropriateness of the advertising and the suitability of the message.

**CHAPTER 46. CLASSES AND FACILITIES FOR HANDICAPPED CHILDREN****18A:46-23. Transportation of pupils; special classes; handicapped children; state aid**

The board of education shall furnish transportation to all children found under this chapter to be handicapped who shall qualify therefor pursuant to law and it shall furnish the transportation for a lesser distance also to any handicapped child, if it finds upon the advice of the examiner, the handicap to be such as to make transportation necessary or advisable.

The board of education shall furnish transportation to all children being sent by local boards of education to an approved 12-month program pursuant to N.J.S. 18A:46-14, or any other program approved pursuant to N.J.S. 18A:46-14 and who qualify therefor pursuant to law, during the entire time the child is attending the program. The board shall furnish transportation for a lesser distance also to a handicapped child, if it finds upon the advice of the examiner, his handicap to be such as to make the transportation necessary or advisable.

The school district shall be entitled to State aid for the transportation pursuant to section 15 of P.L. 2007, c.260 (C. 18A:7F-57) when the necessity for the transportation and the cost and method thereof have been approved by the county superintendent of the county in which the district paying the cost of the transportation is situated.



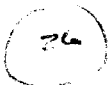
**NEW JERSEY STATUTES**  
**52**  
**STATE GOVERNMENT, DEPARTMENTS AND OFFICERS**

**52:25-24.2 Bidders to supply public agencies; statement of ownership of 10% interest in corporation or partnership**

No corporation or partnership shall be awarded any contract nor shall any agreement be entered into for the performance of any work or the furnishing of any materials or supplies, the cost of which is to be paid with or out of any public funds, by the State, or any county, municipality or school district, or any subsidiary or agency of the State, or of any county, municipality or school district, or by any authority, board, or commission which exercises governmental functions, unless prior to the receipt of the bid or accompanying the bid, of said corporation or said partnership, there is submitted a statement setting forth the names and addresses of all stockholders in the corporation or partnership who own 10% or more of its stock, of any class or of all individual partners in the partnership who own a 10% or greater interest therein, as the case may be. If one or more such stockholder or partner is itself a corporation or partnership, the stockholders holding 10% or more of that corporation's stock, or the individual partners owning 10% or greater interest in that partnership, as the case may be, shall also be listed. The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, exceeding the 10% ownership criteria established in this act, has been listed.

**TITLE 2C. CRIMINAL JUSTICE CODE OF NEW JERSEY****2C:33-13. Smoking in public**

- a. Any person who smokes or carries lighted tobacco in or upon any bus or other public conveyance, except group charter buses, specially marked railroad smoking cars, limousines or livery services, and, when the driver is the only person in the vehicle, autocabs, is a petty disorderly person. For the purposes of this section, "bus" includes school buses and other vehicles owned or contracted for by the governing body, board or individual of a nonpublic school, a public or private college, university, or professional training school, or a board of education of a school district, that are used to transport students to and from school and school-related activities; and the prohibition on smoking or carrying lighted tobacco shall apply even if students are not present in the vehicle.
- b. Any person who smokes or carries lighted tobacco in any public place, including but not limited to places of public accommodation, where such smoking is prohibited by municipal ordinance under authority of R.S. 40:48-1 and 40:48-2 or by the owner or person responsible for the operation of the public place, and when adequate notice of such prohibition has been conspicuously posted, is guilty of a petty disorderly persons offense. Notwithstanding the provisions of 2C:43-3, the maximum fine which can be imposed for violation of this section is \$200.00.
- c. The provisions of this section shall supersede any other statute and any rule or regulation adopted pursuant to law.



**MOTOR VEHICLE AND TRAFFIC LAWS  
OF NEW JERSEY  
TITLE 39**

**39:3B-1.1. School buses to be equipped with crossing control arms**

Every school bus as defined under R.S. 39:1-1, which was originally designed to carry 10 or more passengers and which is in operation on August 6, 1996, transporting public and nonpublic school pupils and every new or used such school bus purchased on or after that date to transport public and nonpublic school pupils shall be equipped with a crossing control arm at the right front corner of the bus. In each year subsequent to August 6, 1996, 50 percent of all school bus fleets in operation on that date owned by any agency, a board of education, a nonpublic school or a school bus contractor not already equipped with a crossing control arm shall be so equipped, provided that each vehicle used to transport elementary school students shall be given priority to be equipped with a crossing control arm in the first year following August 6, 1996. The arm shall open and extend out from the front of the bus at least 5½ feet each time the bus door is opened.

**39:3B-1.2. Reimbursement for retrofitting school buses with crossing control arm**

Each agency, school district and nonpublic school that owns and operates its own school buses and each school bus contractor that operates school buses, as defined in section 1 of P.L. 1996, c. 96 (C. 39:3B-1.1), shall receive reimbursement from the Department of Education in an amount up to, but not to exceed, \$300 per bus for retrofitting those school buses in operation on August 6, 1996, and an amount up to, but not to exceed, \$200 per bus for buses put into operation after that date for the cost of including the crossing control arm on those buses. If any agency, school district, nonpublic school or school bus contractor chooses to equip more than 50 percent of its school buses in any one year, it shall receive a maximum reimbursement for 50 percent of its school buses for that year. Reimbursement for retrofitting more than 50 percent of its school buses will be paid in the subsequent year based on a schedule to be determined by the commissioner, not to exceed two years.

**39:3B-1.3 Submission of list of vehicles, application for reimbursement**

No later than 60 days after the effective date of P.L. 1998, c.80 (C. 39:3B-1.1 et seq.), each agency, board of education, nonpublic school and school bus contractor shall submit to the Commissioner of Education a list of all vehicles, as defined in section 1 of P.L. 1996, c. 96 (C. 39:3B-1.1), that are used to transport students on August 6, 1996, including: the vehicle serial number; the year, make and license plate number as noted on the vehicle registration; and an indication as to whether the vehicle is currently equipped with a crossing control arm.

The owners of such vehicles may apply for reimbursement through the Department of Education in accordance with section 2 of P.L. 1996, c. 96 (C. 39:3B-1.2) on an application form as the Commissioner of Education shall prescribe. The application shall be accompanied by a receipt for the purchase of the crossing control arm through an authorized dealer.

### **39:3B-10. School bus seats, seat belts, child restraint systems, regulations**

In addition to the requirements in Federal Motor Vehicle Safety Standard No. 222 (49 CFR s.571.222) concerning school bus passenger seating and crash protection, each school bus as defined in R.S. 39:1-1 shall be equipped with seats of a minimum seat back height of 28 inches, or 24 inches as measured from the seating reference point, and seat belts of the lap belt type for each seating position on the bus or other child restraint systems that are in conformity with applicable federal standards. The design and installation of seat belts or other child restraint systems that are in conformity with applicable federal standards shall conform to the regulations promulgated by the State Board of Education, in consultation with the Director of the Division of Motor Vehicles in the Department of Law and Public Safety. The State Board shall promulgate regulations, pursuant to the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.), for the design and installation of seat belts or other child restraint systems that are in conformity with applicable federal standards.

As used in this section, "seating reference point" shall be defined as the term is defined in 49 CFR s.571.3.

### **39:3B-11. Seat belts, child restraint systems, use required, liability**

Beginning on September 1 of the second year next following the year of enactment of P.L. 1992, c. 92, (C. 39:3B-10 et seq.), each passenger on a school bus which is equipped with seat belts shall wear a properly adjusted and fastened seat belt or other child restraint system that is in conformity with applicable federal standards at all times while the bus is in operation. Nothing in this section shall make the owner or operator of a school bus liable for failure to properly adjust and fasten a seat belt or other child restraint system that is in conformity with applicable federal standards for a passenger who sustains injury as a direct result of the passenger's failure to comply with the requirement established by this section.

This act shall take effect immediately, but section 1 shall apply only to school buses and equipment for which, on or after the effective date of this act, a bid is submitted or an order for purchase placed.

### **39:3B-12. School bus emergency exits**

A type I school bus when used to transport children to and from school, or to and from school-related activities, shall be equipped with emergency exits to conform with emergency evacuation standards to be prescribed by rule or regulation of the State Board of Education. The emergency exits shall at a minimum consist of a rear emergency door and two roof hatches.

### **39:3B-25 Use of cell phone prohibited while driving school bus, exception; fines**

a. It shall be unlawful for the driver of a school bus, as defined in R.S. 39:1-1, to use a cellular or other wireless telephone while operating the school bus.

b. The prohibition contained in subsection a. of this section shall not apply:

(1) when the school bus is parked in a safe area off of a highway; or

(2) in an emergency situation.

c. A person who violates this section shall be fined not less than \$250 or more than \$500.

d. No motor vehicle points or automobile insurance eligibility points pursuant to section 26 of P.L. 1990, c.8 (C.17:33B-14) shall be assessed for this offense.

## CHAPTER 6. PROVISIONS RELATING TO EDUCATIONAL INSTITUTIONS AND SYSTEM

### 18A: 6-7.1 Criminal record check in public school employment, volunteer service.

1. A facility, center, school, or school system under the supervision of the Department of Education and board of education which cares for, or is involved in the education of children under the age of 18 shall not employ for pay or contract for the paid services of any teaching staff member or substitute teacher, teacher aide, child study team member, school physician, school nurse, custodian, school maintenance worker, cafeteria worker, school law enforcement officer, school secretary or clerical worker or any other person serving in a position which involves regular contact with pupils unless the employer has first determined consistent with the requirements and standards of this act, that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or the State Bureau of Identification which would disqualify that individual from being employed or utilized in such capacity or position. An individual employed by a board of education or a school bus contractor holding a contract with a board of education, in the capacity of a school bus driver, shall be required to meet the criminal history record requirements pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1). A facility, center, school, or school system under the supervision of the Department of Education and board of education which cares for, or is involved in the education of children under the age of 18 may require criminal history record checks for individuals who, on an unpaid voluntary basis, provide services that involve regular contact with pupils. In the case of school districts involved in a sending-receiving relationship, the decision to require criminal history record checks for volunteers shall be made jointly by the boards of education of the sending and receiving districts.

An individual, except as provided in subsection g. of this section, shall be permanently disqualified from employment or service under this act if the individual's criminal history record check reveals a record of conviction for any crime of the first or second degree; or

a. An offense as set forth in chapter 14 of Title 2C of the New Jersey Statutes, or as set forth in N.J.S.2C:24-4 and 2C:24-7, or as set forth in R.S.9:6-1 et seq., or as set forth in N.J.S.2C:29-2; or

b. An offense involving the manufacture, transportation, sale, possession, distribution or habitual use of a "controlled dangerous substance" as defined in the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al. or "drug paraphernalia" as defined pursuant to N.J.S.2C:36-1 et seq.; or

c. (1) A crime involving the use of force or the threat of force to or upon a person or property including, but not limited to, robbery, aggravated assault, stalking, kidnapping, arson, manslaughter and murder; or

(2) A crime as set forth in chapter 39 of Title 2C of the New Jersey Statutes, a third degree crime as set forth in chapter 20 of Title 2C of the New Jersey Statutes, or a crime as listed below:

Recklessly endangering another person	N.J.S.2C:12-2
Terroristic threats	N.J.S.2C:12-3
Criminal restraint	N.J.S.2C:13-2
Luring, enticing child into motor vehicle, structure or isolated area	P.L.1993, c.291 (C.2C:13-6)
Causing or risking widespread injury or damage	N.J.S.2C:17-2
Criminal mischief	N.J.S.2C:17-3
Burglary	N.J.S.2C:18-2
Usury	N.J.S.2C:21-19
Threats and other improper influence	N.J.S.2C:27-3
Perjury and false swearing	N.J.S.2C:28-3
Resisting arrest	N.J.S.2C:29-2
Escape	N.J.S.2C:29-5
Bias intimidation	N.J.S.2C:16-1;

or

(3) Conspiracy to commit or an attempt to commit any of the crimes described in this act.

d. For the purposes of this section, a conviction exists if the individual has at any time been convicted under the laws of this State or under any similar statutes of the United States or any other state for a substantially equivalent crime or other offense.

e. Notwithstanding the provisions of this section, an individual shall not be disqualified from employment or service under this act on the basis of any conviction disclosed by a criminal record check performed pursuant to this act without an opportunity to challenge the accuracy of the disqualifying criminal history record.

f. When charges are pending for a crime or any other offense enumerated in this section, the employing board of education shall be notified that the candidate shall not be eligible for employment until the commissioner has made a determination regarding qualification or disqualification upon adjudication of the pending charges.

g. This section shall first apply to criminal history record checks conducted on or after the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); except that in the case of an individual employed by a board of education or a contracted service provider who is required to undergo a check upon employment with another board of education or contracted service provider, the individual shall be disqualified only for the following offenses:

(1) any offense enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); and

(2) any offense enumerated in this section which had not been enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.), if the person was convicted of that offense on or after the effective date of that act.

**18A:6-7.1a. Repealed by P.L.1998, c. 31, section 14, effective June 30, 1998**

**18A:6-7.1b. Initial criminal history check for substitutes**

An individual employed by a board of education in any substitute capacity or position, who is rehired annually by that board, shall only be required to undergo a criminal history record check as required pursuant to P.L. 1986, c. 116 (C.18A:6-7.1 et seq.) upon initial employment, provided the substitute continues in the employ of at least one of the districts at which the substitute was employed within one year of the approval of the criminal history record check.

**18A:6-7.1c. Employment of applicant on emergent basis, conditions**

A board of education or contracted service provider may employ an applicant on an emergent basis for a period not to exceed three months, pending completion of a criminal history records check and, with respect to a bus driver applicant, a check for the driver's record of alcohol and drug-related motor vehicle violations pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1), if the board or service provider demonstrates to the Commissioner of Education that special circumstances exist which justify the emergent employment. The board's or service provider's request to the commissioner shall include: (1) a description of the vacant position that needs to be filled; (2) a statement describing the board's or contract provider's good faith efforts to fill the position on a timely basis or a statement describing the unanticipated need for the applicant's employment; and (3) a sworn statement submitted by the applicant attesting that the applicant has not been convicted or does not have a charge pending for a crime or any other offense enumerated in section 1 of P.L. 1986, c. 116 (C. 18A:6-7.1) or a record of alcohol and drug-related motor vehicle violations pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1).

In the event that the background check is not completed within three months, the board or contracted service provider may petition the commissioner for an extension of time, not to exceed two months, in order to retain the employee.



**18A:6-7.2. Finger printing**

2. An applicant for employment or service in any of the positions covered by this act shall submit to the Commissioner of Education his or her name, address and fingerprints taken in accordance with procedures established by the commissioner. The Commissioner of Education is hereby authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required by this act. No criminal history record check shall be performed pursuant to this act unless the applicant shall have furnished his or her written consent to such a check. The applicant shall bear the cost for the criminal history record check, including all costs for administering and processing the check.

If a facility, center, school, or school system under the supervision of the Department of Education or board of education requires a criminal history record check for an unpaid volunteer, the facility, center, school, or school system under the supervision of the Department of Education or school board shall reimburse the applicant for the cost of the check. A facility, center, school, or school system under the supervision of the Department of Education or board of education may reimburse an applicant serving in a paid position for the cost of the check.

**18A:6-7.2a. Authority of commissioner**

The Commissioner of Education is authorized to:

- a. receive all criminal history data necessary to complete the criminal history records check as required pursuant to P.L. 1986, c. 116 (C. 18A:6-7.1 et seq.) and section 6 of P.L. 1989, c. 104 (C. 18A:39-19.1), or as permitted pursuant to P.L. 1989, c. 229 (C. 18A:6-4.13 et seq.);
- b. receive all data in accordance with section 3 of P.L. 1986, c. 116 (C. 18A:6-7.3), section 6 of P.L. 1989, c. 104 (C. 18A:39-19.1) and section 3 of P.L. 1989, c. 229 (C. 18A:6-4.15) on charges pending against an employee or school bus driver who has previously undergone a criminal history records check; and
- c. adjust the fees set by the Department of Education for the criminal history records checks.

**18A:6-7.3. Notice to applicant; notice of pending charges**

Upon receipt of the criminal history record information for an applicant from the Federal Bureau of Investigation and the Division of State Police, the Commissioner of Education shall notify the applicant, in writing, of the applicant's qualification or disqualification for employment or service under this act. If the applicant is disqualified, the convictions which constitute the basis for the disqualification shall be identified in the written notice to the applicant. The applicant shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the criminal history record information. If no challenge is filed or if the determination of the accuracy of the criminal history record information upholds the

disqualification, the commissioner shall notify the employing board of education that the applicant has been disqualified from employment, and a copy of the written notice of disqualification for applicants who hold a certificate issued by the State Board of Examiners shall be forwarded to that board.

The commissioner is authorized to share all criminal history record information regarding teaching staff members with the State Board of Examiners. In addition, the commissioner is authorized to share criminal history record information of an applicant from the Federal Bureau of Investigation or the State Bureau of Identification with the appropriate court in order to obtain copies of the judgement of conviction and such other documents as the commissioner deems necessary to confirm the completeness and accuracy of the record.

Following qualification for employment pursuant to this section, the State Bureau of Identification shall immediately forward to the Commissioner of Education any information which the bureau receives on a charge pending against an employee. If the charge is for one of the crimes or offenses enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the commissioner shall notify the employing board of education or contractor, and the board or contractor shall take appropriate action. If the pending charge results in conviction, the employee shall not be eligible for continued employment.

#### **18A:6-7.4. Three-year limitation; exceptions**

The Commissioner of Education may maintain the criminal record and application documents on a candidate for no longer than three years from the date of determination as to the candidate's qualification or disqualification for employment with an employer. The three-year retention limitation shall not apply to statistical data on crimes and any other offenses or an ongoing list of candidates who are qualified or disqualified. All documents submitted by a candidate and all criminal history record information shall be maintained by the commissioner in a confidential manner.

#### **18A:6-7.5. Fine for noncompliance**

Any employer who fails to comply with the provisions of this act shall be subject to a fine of not more than \$500.00.