

Executive Order No. 103 Notices

Education

Commissioner of Education

Notice of Rule Waiver/Modification/Suspension Pursuant to Executive Order No. 103 (2020)

COVID-19 State of Emergency

Payments Made in Lieu of School Transportation Aid

N.J.A.C. 6A:27-2.1 and 3.4

Authorized: June 17, 2020, by Lamont O. Repollet, Ed.D, Commissioner, Department of Education.

Authority: N.J.S.A. App.A:9-45 and App.A:9-47; and Executive Order No. 103 (2020).

Effective Date: June 17, 2020.

Expiration Date: Upon the Termination of the Emergency Declaration Made Pursuant to Executive Order No. 103 (2020).

This is an emergency adoption of a temporary rule modification of the rules governing payments made in lieu of school transportation aid at N.J.A.C. 6A:27-2.1 and -3.4. Section 6 of EO 103, as modified by EO 117, issued in response to the COVID-19 pandemic, authorizes agency heads to waive/suspend/modify any existing rule, where the enforcement of the rule would be detrimental to the public welfare during the emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. Pursuant to that authority, and with the approval of the Governor and in consultation with the State Director of Emergency Management and the Commissioner of the Department of Health, the Department of Education is modifying its rules as follows:

N.J.S.A. 18A:39-1 requires that, under certain conditions, school districts must provide transportation services to students who reside in the school district and attend a nonpublic school

located in the State. In the event that a school district is unable to transport a nonpublic school student between home and school within a maximum expenditure per pupil amount (\$1,000 per pupil in the 2019-2020 school year), then the district is required to provide the student's parent or guardian with an aid in lieu of transportation (AIL) payment equal to that maximum. State Board of Education regulations provide for a similar payment to certain students enrolled in charter schools or in the interdistrict public school choice program. N.J.A.C. 6A:27-2.1 and -3.4 provide the standards for AIL payments and allows for the adjustment of AIL payments under certain circumstances. This modification would also allow an adjustment for any school year for which transportation was unnecessary due to the closure of school buildings resulting from COVID-19-related concerns.

Full text of the modified rule text follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

Subchapter 2. Nonpublic School Transportation

6A:27-2.1 General provisions

(a) – (g) (No change.)

(h) The payment of aid in lieu of transportation may be adjusted, as determined by the Commissioner, for any school year for which transportation was unnecessary due to the closure of school buildings resulting from COVID-19-related concerns.

Subchapter 3. Charter or Renaissance School Transportation

6A:27-3.4 Transportation outside the school district or region of residence

(a) Eligible charter or renaissance school students who reside outside of the charter or renaissance school's school district or region of residence shall be provided transportation services within

the annual nonpublic school maximum statutorily established expenditure per student in accordance with N.J.S.A. 18A:39-1.

1.-2. (No change.)

3. The payment of aid in lieu of transportation may be adjusted when the request for transportation is received after the start of the charter or renaissance school's year or when the student withdraws from the charter or renaissance school before the close of the charter or renaissance school's year. **The payment of aid in lieu of transportation may also be adjusted, as determined by the Commissioner, for any school year for which transportation was unnecessary due to the closure of school buildings resulting from COVID-19-related concerns.**

4. (No change.)

(b) (No change.)