

CHAPTER 307
(CORRECTED COPY)

AN ACT concerning bidding on pupil transportation contracts, amending N.J.S.18A:39-3 and P.L.2005, c.84, and supplementing chapter 39 of Title 18A of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.18A:39-3 is amended to read as follows:

Pupil transportation contracts.

18A:39-3. 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 executive 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 executive 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 executive 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 executive county superintendent of schools and shall be bid for the next school year.

No annual extension shall be granted pursuant to this subsection to a person who has been debarred from bidding on a pupil transportation contract pursuant to the provisions of section 3 of P.L.2021, c.307 (C.18A:39-11.5).

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.

c. A bid for a pupil transportation contract shall identify each person who has any ownership interest in the company submitting a bid for the pupil transportation contract.

d. Prior to awarding any pupil transportation contract, a board of education shall review the debarment list maintained pursuant to section 3 of P.L.2021, c.307 (C.18A:39-11.5). No pupil transportation contract shall be awarded to any person who is debarred from bidding pursuant to the provisions of section 3 of P.L.2021, c.307 (C.18A:39-11.5).

e. As used in this section, "person" means an individual and any business, including any corporation, partnership, association, or proprietorship in which such individual is a principal, or with respect to which the individual owns, directly or indirectly, or controls any of the stock or other equity interest of such business.

2. Section 2 of P.L.2005, c.84 (C.18A:39-11.3) is amended to read as follows:

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

2. 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 the 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 any ownership interest in any contractor that had prior negative experience with the board of education as described in paragraphs (1) through (3) of this subsection or in any contractor that is debarred from bidding on a pupil transportation contract pursuant to the provisions of section 3 of P.L.2021, c.307 (C.18A:39-11.5).

C.18A:39-11.5 Debarment from bidding on pupil transportation contract.

3. a. The Department of Education shall provide for the debarment from bidding on any pupil transportation contract of a person for causes that include, but are not limited to:

(1) the employment or assignment of an individual as a school bus driver who has been disqualified to serve as a school bus driver or determined ineligible to operate a school bus pursuant to the provisions of section 6 of P.L.1989, c.104 (C.18A:39-19.1);

(2) failure to comply with the provisions of section 1 of P.L.2018, c.152 (C.18A:39-19.6);

(3) failure to comply with the provisions of the "School Bus Enhanced Safety Inspection Act," P.L.1999, c.5 (C.39:3B-18 et seq.), or any rules or regulations promulgated thereunder;

(4) commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract;

(5) commission of a criminal offense that includes child abuse or sexual misconduct involving a child;

(6) a record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more pupil transportation contracts, provided that such failure or unsatisfactory performance has occurred within a reasonable time preceding the determination to debar and was caused by acts within the control of the person debarred;

(7) knowingly submitting a bid for a pupil transportation contract that fails to contain the information required pursuant to subsection c. of N.J.S.18A:39-3 that would have included a person debarred from bidding on a pupil transportation contract pursuant to the provisions of this section; or

(8) debarment by some other department or agency in the Executive Branch of the New Jersey State government.

b. The debarment shall be for a reasonable, defined period of time not less than one year and not to exceed five years.

c. The existence of any of the causes set forth in subsection a. of this section shall not necessarily require that a person be debarred from bidding on a pupil transportation contract. In each instance, the decision to debar shall be made within the discretion of the Commissioner of Education or the School Bus Safety Ombudsman, unless otherwise required by law, and shall be rendered in the best interest of the State.

d. The Department of Education shall provide written notice to any person subject to debarment pursuant to the provisions of this section. A person subject to debarment may, within 30 days beginning from the date upon which the person receives written notice of the debarment, file a challenge of the cause for debarment to the Commissioner of Education. If no challenge is filed or if the determination of debarment is upheld, notification of the debarment shall be forwarded to the New Jersey Motor Vehicle Commission, each executive county superintendent in the State, and each board of education in the State. Notification of the debarment shall be posted on the Department of Education's Internet website pursuant to the provisions of subsection e. of this section.

e. A list of persons debarred from bidding on a pupil transportation contract shall be maintained on the Department of Education's Internet website and shall be distributed to each school district and board of education in the State by March 1 of each year. The Commissioner of Education or School Bus Safety Ombudsman may determine to keep the names of such persons debarred pursuant to the provisions of this section on the list beyond completion of any debarment period instituted pursuant to the provisions of this section.

f. As used in this section:

“Child abuse” means any conduct that falls under the purview and reporting requirements of P.L.1971, c.437 (C.9:6-8.8 et seq.) and is directed toward or against a child or student, regardless of the age of the child or student.

“Person” means an individual and any business, including any corporation, partnership, association, or proprietorship in which such individual is a principal, or with respect to which the individual owns, directly or indirectly, or controls any of the stock or other equity interest of such business.

“Sexual misconduct” means any verbal, nonverbal, written, or electronic communication, or any other act directed toward or with a child or student that is designed to establish a sexual relationship with the child or student, including a sexual invitation, dating or soliciting a date,

engaging in sexual dialogue, making sexually suggestive comments, self-disclosure or physical exposure of a sexual or erotic nature, and any other sexual, indecent, or erotic contact with a child or student.

4. The State Board of Education shall adopt in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as may be necessary to implement the provisions of this act.

5. This act shall take effect upon the enactment of P.L.2021, c.471 (C.18A:39-34 et seq.) and shall apply to any pupil transportation contract entered into or renewed on or after the effective date of this act.

Approved November 8, 2021.