

June 22, 2020

The Honorable Roger F. Wicker
Chairman, U.S. Senate Committee on Commerce, Science, and Transportation
United States Senate
555 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Maria Cantwell
Ranking Member, U.S. Senate Committee on Commerce, Science, and Transportation
United States Senate
511 Hart Senate Office Building
Washington, DC 20510

Dear Senators,

Thank you for the opportunity to comment on the challenges National School Transportation Association (NSTA) members and private school transportation contractors are facing in response to the COVID-19 health crisis. Overall, student transportation is responsible for the safe and efficient transporting of nearly 26 million student per day to-and-from school. Continued maintenance of this vital transportation system, the largest in the country, should remain a paramount concern to lawmakers in the U.S. Congress.

Below, please find answers to the questions posed in your June 2, 2020, letter to passenger transportation stakeholders. Thank you for the chance to outline how COVID-19 has impacted school transportation operations, and the steps taken by school transportation operators to combat customer concerns and school transportation passenger safety.

I appreciate your consideration of school transportation when examining COVID-19 impacts on passenger transportation. If you need anything further, please do not hesitate to contact me at 703-684-3200, or via email at cmacysyn@yellowbuses.org.

Sincerely,



Curt Macysyn
NSTA Executive Director

1. What impacts have you seen from COVID-19 on passenger transportation operations and how have you responded to these impacts?

As with many sectors of the economy, the health crisis surrounding the COVID-19 pandemic has had devastating effects on the student transportation system. For the 26 million students who are transported on a yellow bus each day, a school day begins and ends in the hands of a student transportation professional. A child's bus driver is the first friendly face school children see when they get on the bus in the morning, and the last they see when they get off in the afternoon. This sense of security was completely removed for student in the wake of the pandemic, and by many accounts, the transition to distance learning, while necessary, was unable to provide students with the same level of personal and educational development that can only be attained through continued interaction with one's peers.

From the contractors' standpoint, an independent survey recently conducted by NSTA, indicated that 100% of school bus contractors who responded to the survey, lost significant revenue during the coronavirus outbreak— due to school building closures that at this point have lasted more than 14 weeks. In addition to the loss of revenue, school bus contractors need to adhere to increased cleaning and sanitation measures, as well as outfitting employees with Personal Protective Equipment (PPE). In addition, every survey respondent (100%) also indicated that these new protocols had/will increase expenses – as the industry faces an unknown future. In short, private school bus contractors are being asked to maintain a turnkey student transportation system, despite the fact that in some cases, these contractors have not been paid in accordance with their contracts.

At the present time, reimbursement for extraordinary cleaning and sanitizing has not be articulated, raising concerns within the industry that school bus contractors will be asked to bear the costs of these measures, during a period of time when respondents cited that they are facing millions in lost revenue due to school closures. A clear majority (80%) indicated that they have had to lay off drivers and staff, due to cutbacks in payments from schools.

In terms of context, please note that 41 states mandated closures for the remainder of the 2019-2020 academic year, while seven states recommended closures for the remainder of the academic year, and two states have expired closures.¹ In the wake of these nationwide closures, contractors are struggling to collect their contractually obligated payments with school districts, despite State and Federal legislative intervention. Additionally, it should be noted that funds dedicated for student transportation in the 2019-20 school year had already been allocated. Unfortunately, the NSTA survey highlighted that only 14% of respondents have recovered 100% of 2019-20 contracted payments with school districts.

In fact, one of the largest school bus contractors providing services on Long Island, New York, had declared bankruptcy and shuttered its doors due to lack of payment from school district customers. New York State has been particularly difficult in terms of contractors collecting continuing payments from school districts. The labor union representing the school bus drivers in the company's employment cited that the closure stems from a lack of clarity or guidance from the New York State Education Department regarding this issue, resulting in most school districts not paying their school transportation contractor companies.²

Overall, our members' experience has been a patchwork across the country, with some contractors finding as few as 20% of their school districts are paying contracts, while others are finding as much as 65% of school districts have followed through to fully pay school bus contractors through school closures. In contrast, virtually all school districts are paying their public employees, including school bus employees. This creates an inequitable position for private school bus companies and their employees. Our school bus contractor members want to continue to retain and pay employees, continue to maintain their fleets, and stay operationally ready to go for whenever school resumes, but this will not be possible without financial support from the federal government.

2. What are your expectations for continued impacts on the passenger transportation system in the near future and its response to a reopening of the economy? What impacts do you anticipate for the passenger transportation system in the long term?

NSTA contractor members remain focused on back to school start-up, and have begun preparations for the 2020-21 school year. While NSTA supported the decision to close schools this past March in order to mitigate the spread of coronavirus, we remain concerned about the viability of the private school transportation contractor industry if school does not resume in the classroom this fall, or if a second wave forces another shutdown this fall or winter.

In preparation for the 2020-21 school year, NSTA joined with the National Association for Pupil Transportation (NAPT) and the National Association of State Directors of Pupil Transportation Services (NASDPTS) in forming the Student Transportation Aligned for the Return To School (STARTS) Task Force. The task force is currently reviewing a myriad of issues facing the student transportation system upon return to classroom learning. This is no small task given the fact that school transportation will look vastly different this fall than it did when schools closed in the spring. Decisions about student transportation will have to be made with strong consideration of a multitude of factors, including, but not limited to: social distancing on school buses, staggered start times, split schedules, health measures (temperature screenings), reduction of health risk to students, drivers and aides, and availability of buses and trained and licensed school bus drivers.

Enactment of the CARES Act was seen as a beacon of hope for school bus contractors, however the reality is that CARES has provided a mixed bag for contractors. For example, the \$600 increased unemployment insurance bonus provided a clear disincentive for drivers to remain on company payrolls, and comes at a time when the industry was already facing a driver shortage. Highlighting this provision of the CARES Act is important for several reasons that may exist after the pandemic is over.

They are:

1. Training and licensing prospective school bus drivers is a long process, in many cases 12 weeks or more to complete (when State Drivers Licensing Agencies are open); 2. The vast majority of SDLAs (DMVs) are closed or operating on reduced hours of service. Licensing new drivers during this "backlog" period will be difficult at best; 3. Further extending the \$600 unemployment Insurance bonus until January 2021, as some in Congress have proposed, will undoubtedly cause a severe school bus driver shortage; 4. School bus driver demographics also lead us to believe that a subset of drivers will not return to work when school buildings reopen; 4. Split schedules, staggered start times, and social distancing edicts will likely require that bus routes be added,

not subtracted, thus causing real concern that the system will have the capacity (drivers and buses) to take more than 26 million students to school this fall.

In addition, NSTA has contacted the Center for Disease Control and Prevention (CDC) to carry on a dialogue about reasonable standards that will foster a feasible pupil transportation system upon return to the classroom. Student transportation needs the CDC to be aware of the nuances of the student transportation system, versus the public transit system (where guidance has already been offered). To date, it does not appear that CDC will be providing prescriptive guidelines for use by school transportation systems, however, which could cause confusion for administrators, educators, and parents.

In addition to our outreach to the CDC, we are aware of 20 states that have released best practices and guidelines to prepare for back to school.³ Most of the guidance echoes the similar requirement to minimize the number of students on a bus to accommodate social distancing guidelines, staggering school start times, or split scheduling. As mentioned previously, these recommendations have both short and long-term effects, as they place an increased burden on school transportation contractors to train and hire drivers to cover additional routes to make up for the minimized students able to ride a bus a single time, as well as bearing the cost of purchasing additional sanitation products, and provide extra wages to workers in charge of sanitizing the buses on a daily basis.

NSTA contractor members remain concerned about the strong potential for the above outlined factors to severely impact capacity at the return to school period. To recap: the industry will need more drivers to cover additional routes; increased sanitation measures will be implemented at a greater cost to contractors; the purchase of personal protective equipment (PPE) will be mandated at a cost to contractors; and other potential protocols and mandates may be thrust upon the industry (i.e.- student temperature taking by driver or bus monitor). School bus contractors must also monitor any lapses in driver credentials, as a result of the lengthy downtime between school years; as well as required medical, physical, or drug/alcohol monitoring or testing.

3. How have critical infrastructure employees been affected during the COVID-19 crisis while performing their duties, and what steps have been taken to protect them?

Many of the current school bus driver pool falls into the “at-risk” category if they were to contract COVID-19. As such, contractors are cognizant that they needed to take extra precautions to ensure those on the front lines were protected. As a result, contractors offered school bus drivers personal protective equipment, and school bus depots increased sanitation of school buses using products proven to eliminate the novel coronavirus. Contractors have advised their employees of new protocols adopted or highlighted in the wake of the coronavirus outbreak. Included in the measures are requirements to wash hands frequently, as well as placement of hand sanitizing stations. As the return to school protocols continue to progress, school bus contractors will have to continually engage their employees and advise them of the latest standards and requirements.

Throughout the early stages of the pandemic, school bus contractors continued to provide transportation service for the delivery of nutrition program meals to student, where bus drivers and aides had to be adequately protected. By all accounts, we were able to provide this service

while protecting both employees and students from COVID-19. As we continue to progress, contractors are reviewing protocols that may allow them to outfit buses with materials and construction of plexiglass shields for drivers, although existing administrative rules and regulations may make this idea illegal in several jurisdictions.

As mentioned earlier, the lengthy downtime between when school initially closed, and when school is slated to resume, may mean the loss of many drivers in the student transportation realm for several reasons. For example, the increased exposure to risk for a group of individuals that are considered to be “at-risk” if they were to catch the virus, means that drivers are highly likely to seek other, less risky employment during and after this crisis. Also as highlighted above, there is currently an industry-wide driver shortage, which may only become exacerbated as a result of the pandemic. Further extension of the \$600 unemployment insurance bonus creates a further disincentive to return to work. All of these factors, and others, have to be considered carefully, so that well intended solutions don’t become unintended consequences.

4. What steps has your organization or have your members taken to protect the safety of the traveling public?

In the weeks leading up to the closures most contractors were already taking steps to clean and disinfect the buses, and protect their drivers and passengers. As mentioned earlier, many are still operating even with school closures, as some are utilizing their buses for distribution of school nutrition programs, delivery of supplies, as well as becoming mobile hotspots for Wi-Fi services. Contractors plan to permanently apply those same measures to their operations once school resumes in the fall. To be clear, providing nutrition services alone are not enough to keep the student transportation system intact, but were a method that allowed contractors to provide a community service and keep a small number of employees on the payroll.

In addition to enhanced cleaning and sanitizing, NSTA anticipates new equipment and operational procedures may be required to ensure the safety of schoolchildren and bus drivers. These include additional personal protection equipment for drivers and passengers, materials and construction of plexiglass shields for drivers, medical equipment such as thermometers and other equipment like hand sanitizers, as well as operational changes like split schedules, staggered seating, and minimizing bus passenger capacity.

5. What additional guidance or support would be useful from the U.S. Department of Transportation, other federal agencies, and from Congress as you move forward during the COVID-19 public health crisis?

Contractors have already begun to prepare their buses, facilities, and employees for a return to school, and thus far, are bearing the burden of these additional costs. School bus transportation is an extension of the education system and costs of keeping the buses clean and sanitary, as well as our drivers and students safely protected, should be included as an eligible use of funding provided to schools for addressing the coronavirus epidemic. Also, we ask that these costs should be made eligible to school bus contractors for Education Stabilization Funds direct relief, instead of having to petition or request that the school district provide reimbursement to school bus contractors.

Please note that the Education Stabilization Fund monies in the CARES Act are available for purchasing supplies and services to sanitize and clean the facilities of an eligible entity, including buildings operated by local educational agencies. However, the language does not include cleaning and sanitization of school transportation vehicles and use of contracted services for such operations. We therefore request that school transportation contractors be made eligible for Education Stabilization Funds, just as our public transportation counterparts are eligible. We also respectfully ask that reimbursement for these costs come through either through the U.S.D.O.T. or U.S.D.O.E. – directly to school bus contractors.

6. Please describe any ways that you or your members have been affected by the CARES Act and how it has affected your employees, operations, or other aspects of your business.

While we applaud Congress for recognizing the importance of maintaining student transportation and attempting to keep school bus employees employed through the enactment of the CARES Act, there are two areas where we believe Congress should continue to act.

First, the CARES Act provided \$30.75 billion in its “Education Stabilization Fund” to reimburse states, school districts, and institutions of higher education for costs related to coronavirus. Of that total, \$13.5 billion is allocated for elementary and secondary education schools, with monies flowing through states. The bill included a condition on receipt of that funding as follows: “A local educational agency, State, institution of higher education, or other entity that receives funds under the “Education Stabilization Fund” shall to the greatest extent practicable, continue to pay its employees and contractors during the period of any disruptions or closures related to coronavirus”(Section 18006).

You should know that many school districts around the country have invoked the “to the greatest extent practicable” clause in an arbitrary and capricious manner, and have chosen not to pay their school bus contractors since the schools were closed. School bus contractors build their entire financial structure (vehicle loan payments, leases, employee costs, bid prices) around a ten month school year, and over three of those months were removed through no fault of their own, and with no way to foresee such a devastating impact to their normal operating timeframe. We believe that the unsubstantiated invoking of the phrase “to the greatest extent practicable” has rendered the condition of funding largely ineffective as a tool to ensure that districts pay their contractors. To that end, NSTA believes that the phrase “to the greatest extent practicable” should be removed in the next coronavirus legislative package, so as to provide an absolute condition of funding that actually preserves the employer – employee relationship, as originally intended by the CARES Act. We also believe that distributing Education Stabilization Fund monies through the Title I funding formula, created a framework where a true certification of Section 18006 was not practicable or feasible.

Finally, and as mentioned previously, NSTA would wholeheartedly endorse incentives that encourage citizens to return to work, and conversely, we would steadfastly oppose an extension of the \$600. Unemployment Insurance bonus, set to expire this July. If Congress passes an extension, and it gets enacted, that would almost guarantee an insurmountable school bus driver shortage and would harm many children and families who rely upon the student transportation system each day.

¹ Education Week, “Map: Coronavirus and School Closures,”

<https://www.edweek.org/ew/section/multimedia/map-coronavirus-and-school-closures.html>.

² American Broadcasting Company, Eyewitness News, “Coronavirus News: One of largest school bus companies on Long Island goes out of business,” <https://abc7ny.com/baumann-bus-company-drivers-long-island-ronkonkoma/6136218/>.

³ School Transportation News, School Bus Safety Resources, “State Guidance on Reopening Schools Post-COVID-19,” <http://stnonline.com/safety-resources/#state-guidance>.