



NDE GUIDANCE DOCUMENT: PUPIL TRANSPORTATION & SUMMER SCHOOL

Issued March 2, 2021

Question: Is transportation or in-lieu of payments required for eligible students that attend summer school as with the regular school year?

Answer: Yes

Neb. Rev. Stat. §79-611 provides:

(1) The school board of any school district shall provide free transportation, partially provide free transportation, or pay an allowance for transportation in lieu of free transportation as follows:

(a) When a student attends an elementary school in his or her own district and lives more than four miles from the public schoolhouse in such district as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student's residence;

(b) When a student is required to attend an elementary school outside of his or her own district and lives more than four miles from such elementary school as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student's residence;

(c) When a student attends a secondary school in his or her own Class III school district and lives more than four miles from the public schoolhouse as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student's residence. This subdivision does not apply to any elementary-only school district that merged with a high-school-only school district to form a new Class III school district on or after January 1, 1997, and before June 16, 2006; and

(d) When a student, other than a student in grades ten through twelve in a Class V district, attends an elementary or junior high school in his or her own Class V district and lives more than four miles from the public schoolhouse in such district as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student's residence.

(2)(a) For school years prior to school year 2017-18 and as required pursuant to subsection (3) of section 79-241, the school board of any school district that is a member of a learning community shall provide free transportation for a student who resides in such learning community and attends school in such school district if (i) the student is transferring pursuant to the open enrollment provisions of section 79-2110, qualifies for free or reduced-price lunches, lives more than one mile from the school to which he or she transfers, and is not otherwise disqualified under subdivision (2)(c) of this section, (ii) the student is transferring pursuant to the open enrollment provisions of section 79-2110, is a student who contributes to the socioeconomic diversity of enrollment at the school building he or she attends, lives more than one mile from the school to which he or she transfers, and is not otherwise disqualified under subdivision (2)(c) of this section, (iii) the student is attending a focus school or program and lives more than one mile from the school building housing the focus school or program, or (iv) the student is attending a magnet school or program and lives more than one mile from the magnet school or the school housing the magnet program.

(b) For purposes of this subsection, student who contributes to the socioeconomic diversity of enrollment at the school building he or she attends has the definition found in section 79-2110. This subsection does not prohibit a school district that is a member of a learning community from providing transportation to any intradistrict student.

(c) For any student who resides within a learning community and transfers to another school building pursuant to the open enrollment provisions of section 79-2110 and who had not been accepted for open enrollment into any school building within such district prior to September 6, 2013, the school board is exempt from the requirement of subdivision (2)(a) of this section if (i) the student is transferring to another school building within his or her home school district or (ii) the student is transferring to a school building in a school district that does not share a common border with his or her home school district.

(3) The transportation allowance which may be paid to the parent, custodial parent, or guardian of students qualifying for free transportation pursuant to subsection (1) or (2) of this section shall equal two hundred eighty-five percent of the mileage rate provided in section 81-1176, multiplied by each mile actually and necessarily traveled, on each day of attendance, beyond which the one-way distance from the residence of the

student to the schoolhouse exceeds three miles. Such transportation allowance does not apply to students residing in a learning community who qualify for free or reduced-price lunches.

(4) Whenever students from more than one family travel to school in the same vehicle, the transportation allowance prescribed in subsection (3) of this section shall be payable as follows:

(a) To the parent, custodial parent, or guardian providing transportation for students from other families, one hundred percent of the amount prescribed in subsection (3) of this section for the transportation of students of such parent's, custodial parent's, or guardian's own family and an additional five percent for students of each other family not to exceed a maximum of one hundred twenty-five percent of the amount determined pursuant to subsection (3) of this section; and

(b) To the parent, custodial parent, or guardian not providing transportation for students of other families, two hundred eighty-five percent of the mileage rate provided in section 81-1176 multiplied by each mile actually and necessarily traveled, on each day of attendance, from the residence of the student to the pick-up point at which students transfer to the vehicle of a parent, custodial parent, or guardian described in subdivision (a) of this subsection.

(5) When a student who qualifies under the mileage requirements of subsection (1) of this section lives more than three miles from the location where the student must be picked up and dropped off in order to access school-provided free transportation, as measured by the shortest route that must actually and necessarily be traveled by motor vehicle between his or her residence and such location, such school-provided transportation shall be deemed partially provided free transportation. School districts partially providing free transportation shall pay an allowance to the student's parent or guardian equal to two hundred eighty-five percent of the mileage rate provided in section 81-1176 multiplied by each mile actually and necessarily traveled, on each day of attendance, beyond which the one-way distance from the residence of the student to the location where the student must be picked up and dropped off exceeds three miles.

(6) The board may authorize school-provided transportation to any student who does not qualify under the mileage requirements of subsection (1) of this section and may charge a fee to the parent or guardian of the student for such service. No transportation payments shall be made to a family for mileage not actually traveled by such family. The number of days the student has attended school shall be reported monthly by the teacher to the board of such public school district.

(7) No more than one allowance shall be made to a family irrespective of the number of students in a family being transported to school.

(8) No student shall be exempt from school attendance on account of distance from the public schoolhouse

Neb. Rev. Stat. §79-536 provides:

(1) Summer school means educational opportunities that, except as otherwise provided in this section, are undertaken on a voluntary basis by students who will be entering any of grades one through twelve in the next school year and are offered during the period of time between two consecutive school years.

(2) Summer school may be offered by any school district.

(3) The board of education of any school district may require children between and including the ages of six and fifteen years, regularly enrolled within the system and deemed by the school administration to be making unsatisfactory progress, to attend summer school for up to one-half of a regular school day if in the opinion of the administration they would benefit from the experience. Chief emphasis in such summer classes shall be on reading, language arts, and arithmetic and those areas of personality development especially in need of development. Teachers shall be encouraged to design new and imaginative techniques and curricula not usually used during the regular school year which in the opinion of such teachers will offer new incentives towards learning, with special emphasis on those techniques that seek to develop the students' personalities in a wholesome manner, especially developing pride, self-confidence, and self-control. Teachers of such classes shall not be assigned more than fifteen students, or more than twenty-five students if assisted full time by an aide or paraprofessional. Such students shall be graded at the end of the course upon their relative degree of striving to improve their skills, attitudes, and personalities.

CONCLUSION: There is no "summer school exception" present in *Neb. Rev. Stat. §79-610*. If a school district elects to offer summer school, a student that enrolls in it "attends" the district. This is the case no matter if the district has required that a student attend summer school under *Neb. Rev. Stat. §79-536(3)* or if the student's attendance is voluntary under *Neb. Rev.*

Stat. §79-536(1). In addition, transportation for attendance at summer school or during the summer may be a result of being a "related service" required to assist a child with a disability to benefit from special education under *Neb. Rev. Stat. §§79-1121, 79-1127, 79-1129(1), and 79-1130*, in which case the requirements of these and other Special Education laws and regulations apply to transportation obligations, including those in Section 014 of NDE Rule 51 (92 NAC 51).