



Resolution 2024-2025-1 End Discriminatory Eligibility Policy for Students with Disabilities in Accessing Student OMNY Cards for Transportation

Whereas, the NYC Department of Education is responsible for the education of approximately one million students per New York City Public Schools (NYCPS) "Data at a Glance" website.¹

Whereas, approximately 21% of these students are classified as having a disability, representing approximately 220,000 students.

Whereas, this data fails to include disabled students attending state-approved non-public schools, private, charter, and home school, for which the NYCPS is also responsible for service provisions in an Individualized Education Program (IEP) which may include specialized busing.

Whereas, many of these disabled students receive Specialized Busing as a part of their IEP to access their educational program.

Whereas, New York State Education law Title 6, Article 89, Section 4401 (4) states "the school district is responsible to provide suitable transportation, as specified in the child's IEP, to and from special classes and programs."²

Whereas, on July 23, 2024, the MTA announced a partnership with NYCPS to provide public school students with a Student OMNY card to access public transportation.³

Whereas, in previous school years, student Metrocards provided 3 rides a day and only worked until 8PM on school days.⁴

Whereas, the new Student OMNY card will provide 4 rides a day, 24 hours a day, every day of the year, including weekends, school holidays and breaks such as summer break.

Whereas on July 25, 2024, at a press conference Mayor Adams touted "A real huge win for all those who are going to receive this [Student OMNY card]" and that the Student OMNY card is, "away to put money back into the pockets of everyday New Yorkers."⁵

¹ <https://www.schools.nyc.gov/about-us/reports/doe-data-at-a-glance#:~:text=In%202022%2D23%2C%20there%20were,Of%20those%20students:>

² <http://public.leginfo.state.ny.us/lawsrch.cgi?NVLWO:>

³ <https://new.mta.info/press-release/mta-mayor-adams-and-chancellor-banks-announce-new-student-omny-cards-have-expanded>

⁴ <https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:7251e6c9-2d29-422b-8db1-7b60db2313db>

⁵ <https://www.nyc.gov/office-of-the-mayor/news/585-24/transcript-mayor-adams-chancellor-banks-mta-chair-ceo-lieber-launch-expanded-student-omny-cards>

Whereas City Council Member Selvena Brooks-Powers states that, “all New Yorkers deserve reliable, high quality transit options that [sic] at rates everyone can afford.”⁶

Whereas City Council Member Harvey Epstein states, “Twenty-four hours a day, seven days a week, four swipes is going to be game-changing for our students. It’s game-changing for the city.”⁷

Whereas, at the CCSE’s 2023 Townhall with the Chancellor, Chancellor Banks stated, “your education simply doesn’t exist within the 4 walls of your building, and there’s no better place to learn than New York City, there’s so many things that happen, the whole world lives here, we should be taking advantage of that, and all of our kids should be provided with opportunities.”

Whereas, the Chancellor’s Regulation A-801 Section 4.2.4 states, “If a pupil has a MetroCard for public transportation, the pupil is not eligible to ride a contract bus.”⁸

Whereas, NYCPS’s guidance on Transportation Resources for Schools, Managing Student OMNY Cards and Metrocards states, “You may not give an OMNY card to any student using yellow bus transportation, and the OMNY card must match a student’s level of eligibility.”⁹

Whereas, the Citywide Council on Special Education (CCSE) inquired about the eligibility of students with disabilities to receive Student OMNY cards, and was informed by the Special Education Office, “Grade/distance eligibility rules still apply for OMNY cards. Students may not have two forms of transportation per Chancellor’s Regulations. Students who are eligible for both OMNY and yellow bus, have the option of choosing either/or, as was the case with Metro Cards.”

Whereas, the Chancellor’s regulations in A-801 have not been updated since the year 2000 and include outdated procedures, outdated contact information for OPT, and outdated references to bus companies that are now consolidated under the Metropolitan Transportation Authority (MTA).

Whereas, the Chancellor’s Regulation A-801 makes no mention of Student OMNY cards which are vastly different from the previous student Metrocards.

Whereas, the CCSE contacted the MTA accessibility office and was informed, “The guidelines for student MetroCards are established by NYC Public Schools, and the MTA doesn’t have jurisdiction over these rules.”

Whereas, school busing is not an equitable service comparable to the Student OMNY card as school busing is only offered on school days within established contractual operation times.

⁶ <https://www.nyc.gov/office-of-the-mayor/news/585-24/transcript-mayor-adams-chancellor-banks-mta-chair-ceo-lieber-launch-expanded-student-omny-cards>

⁷ <https://www.nyc.gov/office-of-the-mayor/news/585-24/transcript-mayor-adams-chancellor-banks-mta-chair-ceo-lieber-launch-expanded-student-omny-cards>

⁸ https://cdn-blob-prd.azureedge.net/prd-pws/docs/default-source/default-document-library/a-801-9-5-2000-final-combined-remediated-wcag2-0.pdf?sfvrsn=cb0ffe8d_84

⁹ <https://infohub.nyced.org/in-our-schools/operations/transportation-resources-for-schools>

Whereas, currently and historically it is documented that NYCPS and Office of Pupil Transit (OPT) fails to provide adequate busing services to Students with Disabilities with specialized busing. ^{10 11}

Whereas, the Mayor describes the Student OMNY card as means to alleviate economic stress on New York City families. ¹²

Whereas, parents of disabled students can wait over a year to be reimbursed for out-of-pocket costs of transporting their children to school when NYCPS fails to provide adequate busing. ¹³

Whereas, NYCPS and OPT have already proven to discriminate against students with disabilities by failing to honor busing accommodations protected under section 504 of the Rehabilitation Act of 1971 and the ADA such as nursing services, air conditioning, and limited time travel. ^{14 15}

Whereas, many disabled students consistently miss instruction time and related services due to inadequate busing. ^{16 17}

Whereas, NYCPS's own data shows consistent daily busing delays affecting students with disabilities. ¹⁸

Whereas, a bus delay is only required to be reported if it is delayed 15 minutes for heavy traffic or a bus breakdown and 30 minutes for an accident.

Whereas, even a 30-minute delay can impact a disabled student's access to their mandated special education program and related services.

¹⁰ <https://www.nydailynews.com/2021/10/24/nyc-students-struggle-with-ongoing-school-bus-woes-more-than-one-month-into-the-school-year/>

¹¹ <https://www.silive.com/news/2019/08/nyc-school-bus-delays-breakdowns-increased-over-70-in-4-years-says-report.html>

¹² <https://www.nyc.gov/office-of-the-mayor/news/585-24/transcript-mayor-adams-chancellor-banks-mta-chair-ceo-lieber-launch-expanded-student-omny-cards>

¹³ <https://www.chalkbeat.org/newyork/2024/08/09/nyc-school-bus-transit-reimbursement-delays-rideshare/>

¹⁴ <https://www.the74million.org/article/the-first-day-of-school-came-and-went-for-nyc-special-needs-students-stranded-without-a-nurse-or-other-adult-required-to-ride-the-bus-with-them/>

¹⁵ <https://www.the74million.org/article/the-first-day-of-school-came-and-went-for-nyc-special-needs-students-stranded-without-a-nurse-or-other-adult-required-to-ride-the-bus-with-them/>

¹⁶ <https://www.politico.com/states/new-york/city-hall/story/2019/09/18/despite-reforms-students-with-disabilities-experience-school-bus-delays-and-communication-failures-1199213>

¹⁷ <https://nypost.com/2022/04/28/brooklyn-kids-with-disabilities-miss-classes-as-school-buses-show-up-at-late-or-not-at-all/>

¹⁸ https://data.cityofnewyork.us/Transportation/Bus-Breakdown-and-Delays/ez4e-fazm/about_data

Whereas, it has been documented that school bus delays are a factor in absenteeism for students with disabilities.¹⁹

Whereas, the CCSE has documented complaints of children as young as 3 and 4 years old on a bus for 3 hours or more one way to school.

Whereas, students with disabilities have been unable to participate in afterschool programs, after school sports, school sponsored extracurricular activities and Summer Rising due to OPT and NYCPS not providing busing past regular 2-3PM dismissal time.²⁰

Whereas, a Federal Education Department Office of Civil Rights complaint has been filed by education attorneys, families and advocates due to the failure of NYCPS to meet its obligations to provide busing to students with disabilities.²¹

Whereas, the educational impact of a disability is what qualifies a student for an IEP under the Individuals with Disabilities in Education Act (IDEA).

Whereas, an IEP qualifies a student with disability status.

Whereas, disability is a protected class under the Americans with Disabilities Act.

Whereas, denying a student with disabilities a Student OMNY card denies them the same access to public transportation as their non-disabled peers who will receive a Student OMNY card which grants 4 daily rides on public transit 365 days year.

Whereas, denying disabled students' equitable access to a Student OMNY Card is a violation of their civil rights under the Americans with Disabilities Act.

Whereas, the Americans with Disabilities Act in Title II, Subtitle A sec 12132 states, "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."²²

Whereas, the Chancellor's Regulation A-801 allows NYCPS to discriminate against students with disabilities by denying them a Student OMNY card, as their contracted bus route is mandated by their IEP.

Whereas in the American with Disabilities Act (ADA) Title II, Subtitle A section 121131 (1)(b) defines a public entity as, "any department, agency, special purpose district, or other instrumentality of a State or States or local government."²³

¹⁹ <https://www.chalkbeat.org/newyork/2023/3/15/23630378/nyc-schools-students-with-disabilities-bus-delays-chronic-absenteeism/>

²⁰ <https://www.chalkbeat.org/newyork/2021/6/7/22523429/summer-rising-bus-disability-homeless/>

²¹ <https://nylag.org/wp-content/uploads/2023/10/OCR-Complaint-Busing-for-Students-with-Disabilities-in-NYC.pdf>

²² <https://www.ada.gov/>

²³ <https://www.ada.gov/>

Whereas, Public Education is considered an activity of state and local government and is therefore covered by the definition of a public entity under the ADA.

Therefore be it resolved, that the CEC4 demands that New York City Public Schools cease their discrimination of disabled students and provide equitable access to public transit as non-disabled students in receipt of a Student OMNY card.

Therefore be it resolved, that the CEC4 demands that the Panel for Education Policy review Chancellor's Regulation A-801 and amend the regulation to remove discriminatory policy and provide revision that ensures equity and reflects the current state of transportation for all students.

Therefore be it resolved, that the CEC4 demands that the Special Education Office, Chancellor's Office and OPT collaborate with the MTA to provide equitable access to Student OMNY cards for ALL New York City students including any student with an IEP serviced by NYCPS and regardless of residential distance from their school.

This Resolution was approved at D4 CEC Calendar Meeting held on November 13th, 2024, by 09 votes.

Council members as follows:

Elizabeth Soto-Cardona, Mario Medina, Lacey Jordan, Johanna Dominguez, Evelis Galarza-Serrano, Gloria Flaherty, Jasmin Benitez, Rafael Lima, and Rosa G. Diaz (Zoom).

YES- 09

NO- 0

ABSTAIN- 0

ABSENT- 01