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Section 3327.02 | Resolution declaring impracticality of transportation - offer of payment in lieu of transportation.

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Effective: September 30, 2021 **Latest Legislation:** House Bill 110 - 134th General Assembly **PDF:** [Download Authenticated PDF](#)

(A) After considering each of the following factors, the board of education of a city, exempted village, or local school district, or a community school governing authority providing transportation pursuant to section [3314.091](#) of the Revised Code, may determine that it is impractical to transport a pupil who is eligible for transportation to and from a school under section [3327.01](#) of the Revised Code:

- (1) The time and distance required to provide the transportation;
- (2) The number of pupils to be transported;
- (3) The cost of providing transportation in terms of equipment, maintenance, personnel, and administration;
- (4) Whether similar or equivalent service is provided to other pupils eligible for transportation;
- (5) Whether and to what extent the additional service unavoidably disrupts current transportation schedules;
- (6) Whether other reimbursable types of transportation are available.

(B) Based on its consideration of the factors established in division (A) of this section, the board or governing authority may pass a resolution declaring the impracticality of transportation. The resolution shall include each pupil's name and the reason for impracticality. Such determination shall be made not later than thirty calendar days prior to the district's or school's first day of instruction, or in the case of a student who enrolls within thirty calendar days prior to the first day of instruction or on or after the first day of instruction, not later than fourteen calendar days after the student's enrollment. The determination may be made by the superintendent and formalized at the next following meeting of the board or governing authority.

The board or governing authority shall report its determination to the state board of education in a manner determined by the state board.

In addition, the board or governing authority shall issue a letter to the pupil's parent, guardian, or other person in charge of the pupil, the nonpublic or community school in which the pupil is enrolled, and to the state board with a detailed description of the reasons for which such determination was made.

(C) After passing the resolution declaring the impracticality of transportation, the district board or governing authority shall offer to provide payment in lieu of transportation by doing the following:

- (1) In accordance with guidelines established by the department of education, informing the pupil's parent, guardian, or other person in charge of the pupil of both of the following:
 - (a) The resolution;
 - (b) The right of the pupil's parent, guardian, or other person in charge of the pupil to accept the offer of payment in lieu of transportation or to reject the offer and instead request the department to initiate mediation procedures.
- (2) Issuing the pupil's parent, guardian, or other person in charge of the pupil a contract or other form on which the parent, guardian, or other person in charge of the pupil is given the option to accept or reject the board's offer of payment in lieu of transportation.
- (D) If the parent, guardian, or other person in charge of the pupil accepts the offer of payment in lieu of providing transportation, the board or governing authority shall pay the parent, guardian, or other person in charge of the pupil an amount that shall be not less than fifty per cent, and not more than the amount determined by the department of education as the average cost of pupil transportation for the previous school year. Payment may be prorated if the time period involved is only a part of the school year.

(E)(1)(a) Upon the request of a parent, guardian, or other person in charge of the pupil who rejected the payment in lieu of transportation, the department shall conduct mediation procedures. A parent, guardian, or other person in charge of the pupil may authorize the nonpublic or community school in which the pupil is enrolled to act on the parent's, guardian's, or other person's behalf during the mediation proceedings.

(b) If the mediation does not resolve the dispute, the state board shall conduct a hearing in accordance with Chapter 119. of the Revised Code. The state board may approve the payment in lieu of transportation or may order the district board of education or governing authority to provide transportation. The decision of the state board is binding in subsequent years and on future parties in interest provided the facts of the determination remain comparable.

(2) The school district or governing authority shall provide transportation for the pupil from the time the parent, guardian, or other person in charge of the pupil requests mediation until the matter is resolved under division (E)(1)(a) or (b) of this section.

(F)(1) If the department determines that a school district board or governing authority has failed or is failing to provide transportation as required by division (E)(2) of this section or as ordered by the state board under division (E)(1)(b) of this section, the department shall order the school district board or governing authority to pay to the pupil's parent, guardian, or other person in charge of the pupil, an amount equal to fifty per cent of the cost of providing transportation as determined by the board or governing authority under division (A)(3) of this section, and not more than two thousand five hundred dollars. The school district board or governing authority shall make payments on a schedule ordered by the department.

(2) If the department subsequently finds that a school district board is not in compliance with an order issued under division (F)(1) of this section and the affected pupils are enrolled in a nonpublic or community school, the department shall deduct the amount that the board is required to pay under that order from any pupil transportation payments the department makes to the school district board under section [3317.0212](#) of the Revised Code or other provisions of law. The department shall use the moneys so deducted to make payments to the nonpublic or community school attended by the pupil. The department shall continue to make the deductions and payments required under this division until the school district board either complies with the department's order issued under division (F)(1) of this section or begins providing transportation.

(G) A nonpublic or community school that receives payments from the department under division (F)(2) of this section shall do either of the following:

- (1) Disburse the entire amount of the payments to the parent, guardian, or other person in charge of the pupil affected by the failure of the school district of residence to provide transportation;
- (2) Use the entire amount of the payments to provide acceptable transportation for the affected pupil.

(H) At any time after a parent, guardian, or other person in charge of a pupil requests transportation for a pupil, that parent, guardian, or other person may authorize the nonpublic or community school in which the pupil is enrolled to act on the parent's, guardian's, or other person's behalf for purposes of this section.

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Available Versions of this Section

- July 1, 2014 – House Bill 59, 130th General Assembly [[View July 1, 2014 Version](#)]
- September 29, 2015 – House Bill 64, 131st General Assembly [[View September 29, 2015 Version](#)]
- September 30, 2021 – Amended by House Bill 110, 134th General Assembly [[View September 30, 2021 Version](#)]

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