

SECOND ADDENDUM

THIS ADDENDUM, made and entered into as of the ____ day of March, 2021, by and between the **WARREN COUNT SCHOOL DISTRICT** (hereinafter referred to as the “District”) and **LEWIS BUSING** (hereinafter referred to as the “Contractor”).

WHEREAS, the Parties hereto previously entered into a Transportation Services Agreement and an Early Intervention Transportation Services Agreement. Both agreements are dated July 1, 2019, and are collectively referred to hereinafter as the “Transportation Agreements”; and

WHEREAS, on June 8, 2020, the Parties hereto previously entered into an Addendum to the Transportation Agreements (hereinafter referred to as the “First Addendum”); and

WHEREAS, Section 6 of the First Addendum provides that, “for the 2020/2021 academic year (which commenced on September 1, 2020), the compensation amount and other pertinent terms of the Transportation Agreements shall be renegotiated if.....there is an additional closure that prohibits in person instruction in school buildings due to COVID-19 or a similar pandemic”; and

WHEREAS, additional closures have already occurred, and also may later occur, during the 2020/2021 academic year (which commenced on September 1, 2020, and is scheduled to conclude on June 11, 2021); and

WHEREAS, 24 P.S. §15-1501.8(m.1)(1) & (2) provide as follows:

(1) The following apply to the 2020-2021 school year as a result of the COVID-19 disaster emergency:

(i) Notwithstanding the provisions of this act, a school entity shall receive a pupil transportation subsidy payment equal to the greater of the amount calculated for reimbursement or the amount allocated to the school entity for the prior school year.

(ii) To receive a pupil transportation subsidy payment equal to the amount allocated to the school entity for the prior school year, a school entity that contracts for school bus transportation services shall pay the school bus transportation contractor for the school year in an amount that the school bus transportation contractor would have received from the school entity had school bus transportation services not been so affected by the COVID-19 disaster emergency minus the amount of any variable costs provided the school bus transportation contractor certifies the variable costs to the school district.

(iii) The Department of Education shall develop and publish guidelines on variable costs in consultation with the Pennsylvania Association of School Business Officials, the Pennsylvania School Boards Association and the

Pennsylvania School Bus Association within thirty (30) days of the effective date of this paragraph.

(2) For the purposes of this subsection, the term “variable costs” means the difference between costs for labor, fuel, tolls, maintenance and other expenses as determined by the department during normal operations of school bus transportation and those same costs during the COVID-19 disaster emergency.

and:

WHEREAS, the Department of Education has published guidelines which are attached hereto as Exhibit A; and

WHEREAS, in order to receive a 2021-2022 fiscal year Pupil Transportation Subsidy equal to the greater of the amount allocated for the 2020-2021 fiscal year or the amount calculated for payment in the 2021-2022 fiscal year, the District has elected to pay the Contractor for the 2020/2021 academic year as if the COVID-19 response did not impact transportation services, minus the variable costs certified to the school district by the Contractor, subject to the terms and conditions stated herein.

NOW THEREFORE, intending to be legally bound thereby, the Parties hereto agree as follows:

1. The Contractor, based on a review of its financial records and the PDE guidelines attached hereto as Exhibit A, has calculated the difference in its variable costs and submitted the information to the District through the use of the form attached hereto as Exhibit B (the form is hereinafter referred to as the Variable Cost Certification Form). As necessary, the Contractor agrees to submit additional Variable Cost Certification Forms and to continue to adhere to the PDE guidelines, and any subsequent changes thereto, in doing so. The Contractor agrees to provide any supporting documentation that is requested by PDE, any governmental agency, or an auditor.
2. The District, in reliance on the Variable Cost Certification Forms provided by the Contractor, will pay the Contractor for the 2020/2021 academic year as if the COVID-19 response did not impact transportation services, minus the variable costs certified to the school district by the Contractor, and certify said payment to PDE through the use of the certification form created by PDE.
3. If it is ever determined that a Variable Cost Certification Form is inaccurate for any reason, in addition to any other remedies available to the District, the District reserves the right to recoup any overpayment that is associated with the error through a credit to the District on a future invoice, or otherwise. If the Contractor ever discovers an error on a Variable Cost Certification Form that has been submitted to the District, the Contractor shall notify the District’s Transportation Manager within 24 hours of discovering the error.

4. Because the District receives no transportation reimbursement for extracurricular runs, the Contractor shall only be compensated for extracurricular runs that are actually performed by the Contractor during the 2020/2021 academic year.
5. For the time period of June 12, 2021, through and including the day immediately prior to the start of the 2021/2022 academic year for students, the Contractor shall only be compensated for runs that are actually performed by the Contractor because the District receives no transportation reimbursement for such runs.
6. The payment mechanism and payment amount specified in this Addendum shall not apply to the 2021/2022 academic year or any other period of time thereafter.
7. This Addendum is binding upon the Parties hereto and their successors and assigns.

IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound hereby, have caused the foregoing Agreement to be executed the day and year first above written.

ATTEST:

WARREN COUNTY SCHOOL DISTRICT

Secretary, Board of School Directors

President, Board of School Directors

LEWIS BUSING

Member/Authorized Agent

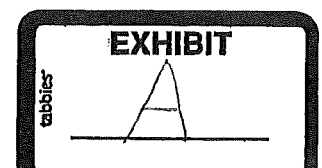
COVID-19-Related Pupil Transportation Subsidy Changes for School Year 2020-2021 School Code Section 1501.8(m.1)

On November 25, 2020, Governor Wolf signed Senate Bill 1216 (Act 136 of 2020). This legislation included the new sub-section m.1 within Section 1501.8, which created a modified calculation of the Pupil Transportation Subsidy for school year 2020-2021, payable in the 2021-2022 fiscal year. Pursuant to this amendment of the School Code, the Pennsylvania Department of Education (PDE) must publish guidelines describing variable costs, in consultation with Pennsylvania Association of School Business Officials, Pennsylvania School Boards Association, and Pennsylvania School Bus Association. These guidelines include the following information:

- a. Clarification of statutory requirements
- b. Definition of the term 'variable costs'
- c. List of variable costs eligible to be included in the process outlined in School Code Section 1501.8(m.1)

School District-Owned Transportation Services

Those school districts that do not contract for any portion of transportation services and that own all the vehicles used for the transportation of students to and from school will



receive the greater of the formula calculated for transportation provided in the 2020-2021 school year, payable in the 2021-2022 fiscal year, or what was allocated for the 2020-2021 fiscal year, based on data from the 2019-2020 school year.

Contracted Transportation Services

Please note: School districts that split their transportation services between school district owned vehicles and contracted services should follow the process below for the portion of their operations that are contracted.

Option 1: Pursuant to this amendment to the School Code, if a school district wants to receive the same Pupil Transportation Subsidy calculated for the 2020-2021 fiscal year (based on school year 2019-2020 data), it must certify to PDE that all transportation contractors were paid as if the COVID-19 response did not impact transportation services, minus the variable costs certified to the school district by its transportation contractors. A school district's certification to PDE enables it to receive a 2021-2022 fiscal year Pupil Transportation Subsidy equal to the greater of the amount allocated for the 2020-2021 fiscal year or the amount calculated for payment in the 2021-2022 fiscal year (based on school year 2020-2021 data). School districts must still submit their 2020-2021 school year transportation data in eTran.

Option 2: Pursuant to this amendment to the School Code, if a school district wants to receive the funding based on the amount calculated for payment for the 2021-2022 fiscal year (based on school year 2020-2021 data), it should simply submit its transportation data in eTran and their Pupil Transportation Subsidy will be calculated accordingly.

If Option 1 is selected, the amendment to Section 1501.8(m.1) requires the following actions:

1. Vehicle contractors must certify to each school district the total amount of variable costs incurred for the 2020-2021 school year. PDE has provided a sample certification form that school districts can choose to use in the certification process. However, contractors can use any clear certification as PDE does not require this specific form.
2. School districts that contracted for services must certify to PDE that contractors were paid as if the pandemic did not impact services, minus the variable costs certified by its contractor(s).

To certify the amount of variable costs from their contractors, school districts should ask the contractor to compare the variable costs for a day, week, or month impacted by COVID-19 in the 2020-2021 school year to the amount paid for variable costs in the

most recent similar period of normal operations.

When determining the appropriate amount to pay contractors, school districts should subtract costs for the items defined as variable costs in this guidance from the "total paid to the contractor as if the pandemic had not occurred." The contractors' certification of variable costs should include the total amount of reduced variable costs for the period invoiced and a signed statement attesting to the accuracy of that information. School districts do not have to request any supporting documentation from their contractor to certify to PDE that the contractor was paid as though the pandemic did not occur.

School districts must submit their certification to PDE to be eligible to receive a subsidy equal to the amount received in the 2020-2021 fiscal year. Please note that due to the variety of remote, hybrid/blended, and fully in-person instructional models being used in the 2020-2021 school year, it is very likely that the fiscal year 2021-2022 Pupil Transportation Subsidy will show a decrease (based on Centers for Disease Control guidance for social distancing on school vehicles and other variable factors).

[Sample Certification to School District by Contractor \(PDF\)](#)

[Certification to PDE by School District \(PDF\)](#)

Variable Cost Definitions

Act 136 defines "variable costs" as the difference between costs during normal operations and those same costs during the COVID-19 response. Wages are not considered a variable cost if they continued to be paid during the 2020-2021 school year, regardless of the disruption in services caused by the COVID-19 response.

The contractors' variable cost certifications should reflect the actual cost reductions of the contractor during the COVID-19 response. If the contractors reduced their wage costs because employees received unemployment compensation, then the contractors should reflect that reduction in their variable cost certifications.

For the purposes of applying the requirements of School Code Section 1501.8(m.1), the following categories are determined to be variable costs.

1. **Labor:** Labor costs could include salary and/or wage payments for those individuals directly impacted by vehicles not running.
 - bus drivers
 - traffic control (crossing guards)
 - aides to assist students on the vehicle (if provided for in the contract)
2. **Other:** Additional costs that could be identified as variable depending on the circumstances of the contract, include
 - fuel

- maintenance
- tolls
- other costs not incurred for transportation in school year 2020-2021

**Certification of Variable Costs by Transportation Contractor to School District
As Required by School Code Section 1501.8(m.1)(2)**

This certification of variable costs is made by _____ (Contractor) for the Warren County School District for the time period from _____, 20____ to _____, 20____ (*Certification Period*) pursuant to 24 P.S. §15-1501.8(m.1)(1)(ii) certifying the difference between its variable costs during normal operations and those same costs during the COVID-19 response.

Pursuant to the School Code amendment in Act 136 of 2020 (24 P.S. §15-1501.8(m.1)), if a school district wants to receive the same Pupil Transportation Subsidy calculated during the 2020-2021 fiscal year (based on school year 2019-2020 data), it must certify to the Pennsylvania Department of Education (PDE) that it paid all transportation contractors as if the COVID-19 emergency response did not impact their services, minus variable costs certified to them by their transportation contractors.

For the 2020-2021 school year, the contractor should compare the amount of variable costs incurred for the above-listed school district during COVID-19 operations in the Certification Period, to the amount paid for variable costs in the most recent similar period during normal operations.

As defined by 24 P.S. §15-1501.9 (m.1)(2), the term "variable costs" means the difference between the costs for labor, fuel, tolls, maintenance and other expenses as determined by the department during normal operations of school bus transportation and those same costs during the COVID-19 disaster emergency.

PDE has issued guidance entitled "COVID-19-Related Pupil Transportation Subsidy Changes for School Year 2020-2021."

The person signing below on behalf of the contractor acknowledges that the Warren County School District will rely on this form in determining the amount to be paid to the contractor and in certifying said payment to PDE and is hereby certifying to the Warren County School District that:

1. He/she has reviewed the definition of "variable costs";
2. He/she has reviewed 24 P.S. §15-1501.8(m.1)(1) & (2) and the PDE guidance entitled "COVID-19-Related Pupil Transportation Subsidy Changes for School Year 2020-2021;" and
3. The total difference in the contractor's "variable costs" in the most recent similar period of normal operations vs. the certification period identified in the first paragraph above, as calculated by him/her based upon a review of the contractor's financial records, is \$_____.

Certification Statement

I, _____ (*name*) hereby certify on behalf of the above-named Contractor that the statements contained herein are true and accurate to the best of my personal knowledge or information and belief. This statement and certification are made subject to the penalties of 18 P.S. §4904 relating to unsworn falsification to authorities, which provides that if I make knowingly false statements, I may be subject to criminal penalties.

(Signature - Title)

