

Community Education Council District 8

New York City Department of Education

PS 182, 601 Stickball Boulevard Rm 112, Bronx, NY 10473 | Telephone: (718) 239-5895 Fax: (718) 409-6967 |
Email: cec8@schools.nyc.gov

Council Members

Wanda Balines, D75 Seat, Cynthia Caldwell, Latoya Coleman IEP, Carmen Feliciano, Rosalia Fontanez, Elizabeth Garcia, Crystal Rodriguez, Aurora Ronda, Jasmine Ruiz, LaTicia Thompson

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

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

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

WHERE AS, 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 to service provisions in an Individualized Education Program (IEP) which may include specialized busing.

WHERE AS, many of these disabled students receive Specialized Busing as a part of their Individualized Education Program (IEP) to access their educational program.

WHERE AS, 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."

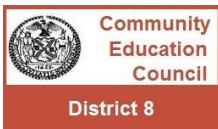
WHERE AS, on July 23, 2024 the MTA announced a partnership with New City Public Schools to provide public school students with a Student OMNY card to access public transportation.

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

WHERE AS, 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.

WHERE AS 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, "a way to put money back into the pockets of everyday New Yorkers."

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



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WHERE AS 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."

WHERE AS, at the Townhall with the Chancellor, Chancellor David C. 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. "

WHERE AS, the Chancellor's Regulations 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."

WHERE AS, CEC 8 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."

WHERE AS, the Chancellor's Regulations A-801 has not been updated since the year 2000, and is outdated, including outdated contact information for OPT outdated procedures, and outdated references to bus companies that are now consolidated under the MTA.

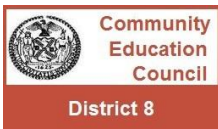
WHERE AS, the Chancellor's Regulations A-801 makes no mention of Student OMNY cards which are vastly different from the previous student Metrocards.

WHERE AS, the CEC8 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."

WHERE AS, 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.

WHERE AS, 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.

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



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WHERE AS, 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.

WHERE AS, NYCPS and OPT have already proven to discriminate against students with disabilities by failing to honor busing accommodations protected under section 504 of the ADA such as nursing services, air conditioning, and limited time travel.

WHERE AS, many disabled students consistently miss instruction time and related services due to inadequate busing.

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

WHERE AS, a bus delay is considered valid only if a bus arrives later than 30 minutes after the first bell.

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

WHERE AS, it has been documented that school bus delays are a factor in absenteeism for students with Disabilities.

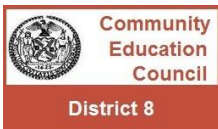
WHERE AS, the CEC8 has documented complaints of children as young as 3 and 4 years old on a bus for 3 hours or more one way to school.

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

WHERE AS, 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.

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

WHERE AS, an IEP qualifies a student with disability status.



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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.

WHERE AS, denying a disabled student equitable access to a Student OMNY Card, is a violation of their civil rights under the Americans with Disabilities Act.

WHERE AS, 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.”

WHERE AS, the Chancellor’s regulations 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 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.”

WHERE AS, 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 CEC8 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 CEC8 demands that the Panel for Education Policy review Chancellor’s Regulations A-801 and amend the regulations 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 CEC8 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.