

July 27, 2020,

Director of the Strategic Collections and Clearance Governance and Strategy Division  
U.S. Department of Education  
400 Maryland Ave. SW  
LBJ, Room 6W-208D  
Washington, DC 20202-4537

**RE: Docket Number: ED-2020-SCC-0074**  
**Agency Information Collection Activities; Comment Request**  
**Governor's Emergency Education Relief Fund Application**  
**Written Comment from the National School Transportation Association to the Office of**  
**Elementary and Secondary Education (OESE), Department of Education (USDOE)**

Dear Sir or Madam:

The National School Transportation Association (NSTA) is pleased to offer comments to the U.S. Department of Education (USDOE) information collection request (ICR) notice and open submission period for comments related to Governor's Emergency Education Relief (GEER) Fund Application, as published in Volume 85, Number 102, of the Federal Register on May 27, 2020.

NSTA is the leading resource for school bus transportation solutions and the voice for private contractors for over 55 years. We are a membership organization for school bus contract-operators engaged primarily in transporting students to and from school and school-related activities. Members range from small family businesses serving one school district, to large corporations operating tens of thousands of buses across multiple states. Regardless of size, our operators are staunchly committed to the safe and efficient transportation of our nation's school children. Private school bus contractors account for 38 percent of the nation's pupil transportation services and employ more than 250,000 individuals as bus drivers, mechanics, maintenance workers, dispatch, and office workers.

As with many sectors of the economy, the health crisis surrounding COVID-19 has had devastating effect on the student transportation system. For the nearly 26 million students who are transported on a yellow bus each day, a school day begins and ends in the hands of a student transportation professional. A child's bus driver is the first friendly face school children see when they get on the bus in the morning, and the last one they see when they get off in the afternoon.

NSTA supports this OESE ICR proposal relating to the Governor's Emergency Education Relief (GEER) Fund Application, and applauds the USDOE for their efforts to quickly assimilate to the requirements of the recently passed CARES Act. NSTA also supports the requirement for States to first certify that they are in full compliance with the CARES Act - Section 18006, as a condition to receive funding.

The GEER certification states:

"The State, and each LEA, IHE, and other education-related entity that receives GEER funds will, to the greatest extent practicable, continue to pay its employees and contractors during the period of any disruptions or closures related to COVID-19 in compliance with Section 18006 of Division B of the CARES Act."<sup>i</sup>

The GEER certification itself is an acknowledgement that the CARES Act and more specifically, Section 18006, clearly outlines that unless school districts have outlined and proven that there are extenuating fiscal circumstances, they are required to continue to pay their contractors despite school closures due to the COVID-19 pandemic. In reality, you should know that, in many situations, this has not been the case. In fact, in some circumstances, Section 18006 has been deployed erroneously, and sometimes based on questionable legal guidance, in an effort to actually avoid payment to school contractors.

As such, NSTA remains concerned over the frequency in which school districts are invoking Section 18006 of the CARES Act, to nullify their obligation to pay school bus contractors. As you already know, the CARES Act provided \$30.75 billion in its “Education Stabilization Fund” to reimburse states, school districts, and institutions of higher education for costs related to coronavirus. Of that total, \$13.5 billion is allocated for elementary and secondary education schools, with monies flowing through States. The bill included a condition upon receipt of funding as follows: “A local educational agency, State, institution of higher education, or other entity that receives funds under the “Education Stabilization Fund” shall to the greatest extent practicable, continue to pay its employees and contractors during the period of any disruptions or closures related to coronavirus”. (Section 18006)

The overriding intent in the CARES Act, is to ensure that educational entities negatively impacted by COVID-19 continue to pay their employees, and continue to pay their contractors. Therefore, both employees working for the district, and the employees working for the multiple contractors serving school districts remained employed. The “employer-employee relationships” are preserved, and entities can seamlessly resume operations when school resumes.

As you are also fully aware, the USDOE has made recipients of the funding in the Education Stabilization Fund certify that they are in compliance with 18006. Unfortunately, our members’ experience has been a patchwork across the country, with some contractors finding as few as 20 percent of their school districts are paying contracts, while others are finding as much 65 percent of school districts have followed through to fully pay school bus contractors through school closures. In contrast, virtually all school districts are paying their public employees, including school bus employees. This creates an inequitable position for private school bus companies and their employees. Private school bus contractors cannot continue to pay their employees, without the continuity of payments by their customers - school districts. In addition, private contractors still have ongoing costs to maintain their fleets, continue to make bus purchase payments, facility and utility costs, and other fixed costs. It is in the best interest of school districts, and the students and families they serve, to maintain their relationships with their school bus contractors during this crisis.

The clause, “to the greatest extent practicable” was included in the CARES Act to be exercised rarely, and only in an extreme hardship cases. It is, however, being utilized by a significant number of the nation’s school districts unfortunately, who may view it as a way to accumulate funding and not pay for contracted services. These actions caused companies to lay off drivers, to seek relief from federal loan programs to keep their companies afloat, and make the availability of school bus service when school resumes dangerously uncertain. By doing so, these districts risk the availability of the safest way to transport their students to and from school as schools reopen. These outcomes are not in the best interest of the nation’s schoolchildren, schools, or our local communities. Respectfully, we ask for greater enforcement of Section 18006 to ensure that school districts pay contractors, except in the case of extenuating circumstances that have been outlined in detail by the school district.

On behalf of more than 25 million children who ride the school bus every day, NSTA thanks you for the opportunity to offer comments to the OESE, Docket Number ED-2020-SCC-0074. We look forward to continuing to work with the OESE and the USDOE. If you require further information, please feel free to contact me at (703) 684-3200, ext. 700, or via email at [cmacysyn@yellowbuses.org](mailto:cmacysyn@yellowbuses.org)

Sincerely,

Curt Macysyn  
NSTA Executive Director

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<sup>i</sup> U.S. Department of Education, Office of Elementary and Secondary Education, "Certification and Agreement for Funding under the Education Stabilization Fund Program Governor's Emergency Education Relief Fund CFDA Numbers: 84, 425C" <https://oese.ed.gov/files/2020/04/GEER-Certification-and-Agreement.pdf>