

PROPOSED RESOLUTION RE MODIFICATION OF CHILD SAFETY ZONE
STATUTE OR REGULATIONS

RESOLVED, that the New York State School Boards Association supports revision of the Child Safety Zone statute [Education Law §3635-b] and implementing regulations of the State Education Department to establish a more flexible and meaningful set of criteria for the determination of a Child Safety Zone for which a school district may provide student transportation as an ordinary contingent expense.

RATIONALE

The Education Law establishes statutory mileage limits for transportation of students (a distance of 2 miles from school for elementary school students, and 3 miles from school for middle and high school students), and authorizes school districts, upon voter approval in a referendum, to establish mileage limits that are lower than the statutory limits. These mileage limits are administered and interpreted solely by measuring the distance from the student's home to a designated place on the grounds of the school by the most direct vehicle route, without regard to the route a child would need to traverse as a pedestrian or bicyclist to travel to and from school. School district provided transportation that does not fall within the mileage limits is not eligible for State transportation aid unless a Child Safety Zone is created.

Education Law §3635-b(1) authorizes boards of education, as an exception to the stated mileage limits, to adopt a resolution establishing a Child Safety Zone—an area that would be too close to the school to be eligible for transportation but for which students' most direct walking route to school will traverse a hazardous zone. However, the State Education Department regulations implementing this statute [17 N.Y.C.R.R. Part 191], unchanged since 1993, mandate that a school district can only establish a Child Safety Zone using a complex and inflexible "point system" to determine whether student pedestrians are placed in sufficient danger that a Child Safety Zone can be established. Application of this "point system" requires school districts in each instance in which a district desires to establish a Child Safety Zone, to conduct an extensive traffic study, analyzing numerous variables and assigning points to them. Only if the number of points meet or exceed a numerical threshold may a school district choose to create a Child Safety Zone.

These inflexible statute and regulations fail to take into account the assessment by a school district of local conditions that are unsafe for its students, particularly at the earlier grades, and leads to the perverse result that school districts establish lower mileage limits than necessary or desired to ensure that those students who face significant danger in walking to school will be provided transportation. As one example, in the Croton-Harmon school district, a state route, used by commuters and commercial vehicles, is located 3/10 miles from the K-4 elementary school. Traffic control measures that are referenced in the regulations are unavailable or would

be inadequate to enable small children to cross the state route safely, particularly in the morning when commuters and operators of commercial vehicles are rushing to their destinations. Applying the “point system”, the portion of the community across the state route from the elementary school would not accrue enough points to meet the criteria of a hazardous zone. To ensure student safety, the school district has established the mileage limit for transport of all elementary school students at 3/10 miles. Consequently, the school district incurs significant expenses for providing transportation to elementary students who do not require busing for safety reasons and discourages students from the healthy exercise of walking or biking to and from school each day.

Many school districts throughout the State face similar perverse consequences because of the inflexible “point system” set forth in SED regulations. In 2019, NYSSBA recognized the illogic of the current Child Safety Zone provisions when the delegates adopted a resolution supporting legislation to expand the definition of Child Safety Zones to include neighborhoods with high crime rates or with deteriorating vacant buildings that create safety hazards. (As of June 2021, the Legislature has approved such legislation [S.5719/A.7242] that, if signed by the Governor, would add violent crime rates and the density of vacant properties as conditions that can be used to justify the creation of a Child Safety Zone.)

Rather than a piecemeal approach to revision of availability of Child Safety Zones, NYSSBA should support a comprehensive review and revision of the Child Safety Zone statute and regulations to empower school districts to make their own reasonable determinations as to when deviations from mileage limits are necessary for safety of their students, without jeopardizing a district’s State transportation aid.