



Regulation of the Chancellor

Number: **C-100**

Subject: **DISCIPLINARY CONFERENCE FOR CERTAIN SCHOOL BUS DRIVERS AND ESCORTS**

Category: **ADMINISTRATIVE PERSONNEL**

Issued: **June 25, 2009**

SUMMARY OF CHANGES

This regulation supersedes Chancellor's Regulation C-100 dated September 5, 2000.

It covers the procedures to be used when the Office of Pupil Transportation ("OPT") receives a complaint about the conduct and/or performance of a school bus driver, escort and/or attendant. Based upon the results of an OPT investigation, the regulation continues with procedures to be used when OPT revokes or suspends the certification of approval of a school bus driver, escort or attendant, where a union contract provides that the worker is entitled to contest his/her termination or suspension.

Significant Provisions:

- It provides procedures for the investigation of allegations by the OPT Labor Investigation & Disciplinary Action Section ("LIDAS"), with an opportunity for the school bus contractor's employee to offer evidence to OPT to be considered by an investigator before making a disciplinary recommendation to the OPT Director regarding revocation or suspension of the New York City Department of Education's certification of approval for school bus service.
- It also allows for a Disciplinary Appeal Conference conducted by the Chancellor's staff if a school bus worker contests the OPT findings and disciplinary actions.

Changes:

- It has been updated and modified substantially to reflect current OPT and Office of Appeals & Reviews practices and procedures.
- It reflects Federal, State, City of New York and DOE statutory and regulatory requirements.



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ABSTRACT

Unions representing school bus drivers, escorts and attendants have collective bargaining agreements with companies that provide most of the school bus services and other transportation services for students of the New York City Department of Education. These collective bargaining agreements establish procedures when school bus companies (or other transportation providers) seek to take action terminating or suspending the services of their employees. Some non-union bus companies have policies mandating that an employee may be suspended or terminated for disciplinary reasons only for good cause. The following procedures are to be used when the Office of Pupil Transportation seeks to revoke or suspend the NYCDOE certification of approval of a school bus driver, escort, or attendant who is entitled to contest or otherwise be heard if the NYCDOE action would result in the termination or suspension of his/her employment with a transportation contractor or other provider.

I. OFFICE OF PUPIL TRANSPORTATION INVESTIGATION OF COMPLAINTS

- A. When the Office of Pupil Transportation ("OPT") receives a complaint or information upon which it may act to revoke or suspend NYC Department of Education ("NYCDOE") certification of approval for a school bus¹ driver, escort, or attendant working for a company transporting students under OPT's jurisdiction, the OPT Executive Director or his/her designee(s) shall refer the matter promptly to the OPT Investigation Unit's ("IU") manager. In turn, the IU manager shall assign the complaint to an IU investigator who shall commence an investigation of the matter. The initiation of such an investigation shall not preclude OPT from reporting allegations it receives to the New York City Police Department ("NYPD"), any other law enforcement authority(ies), the Special Commissioner of Investigation for the

¹ In this regulation, the term "school bus" includes any and all types of vehicles used to transport pupils, pre-school and early intervention children, and other authorized passengers such as, but not limited to, ambulances, coach buses and car services.

New York City School District ("SCI"), or the NYCDOE Office of Special Investigations ("OSI").

- B. In reviewing and investigating a complaint or information, the IU shall consider first whether the school bus worker's alleged conduct, if true, would pose a threat to the health, safety and/or welfare of students and/or others who may come into contact with the worker in the course of his/her continued school bus service. If a reasonable likelihood exists that safety, health and/or welfare concerns might be impacted, IU shall communicate such an interim finding to the Chancellor's designee(s), namely, one or both of the Chief Executive for School Support Services and the OPT Executive Director. Immediately, the Chancellor's designee(s) may suspend the NYCDOE certification of approval of the affected driver, escort, or attendant to work on NYCDOE contract school buses or other vehicles during the period of inquiry and review (see Paragraphs I.D through I.H and II, *infra*.)

1. The Chancellor's designee(s) shall provide prompt written notice of the interim suspension to the affected school bus worker to the worker's union representative, if any, and to the affected school bus company. The notice of suspension shall contain a brief, clear description of the allegation(s), the reason(s) for the interim suspension based upon Paragraph I.B, *supra*, and a clear concise statement of the worker's right for an opportunity to be heard regarding the interim suspension. The interim suspension notice to the worker shall include a copy of these regulations.
2. If an affected school bus worker wants to be heard on the question whether an immediate, interim suspension is just and/or warranted, he/she may submit a detailed written statement to the OPT Executive Director at the address listed in Paragraph II.C, *infra*, for review, **except** when a criminal or other investigation is pending by a law enforcement authority such as, but not limited to, the NYPD, SCI, or OSI.

The school bus worker shall have eleven (11) NYCDOE business days from the date on which Chancellor's designee(s) shall have sent the interim suspension notice letter (as evinced by the U.S.P.S. postmark date or similar official mark), to make a written statement of the facts and reasons why he/she feels that the interim suspension is unjust and/or unwarranted. Upon receipt, the OPT Executive Director shall review the school bus worker's written statement. Within fifteen (15) days after transmittal of the school bus worker's written statement (as evinced by the U.S.P.S. postmark date or similar official mark), the OPT Director shall furnish a written reply containing a clear concise statement of the reasons for his/her decision with respect to grounds stated in the school bus worker's written statement. The OPT Executive Director's written response shall constitute final agency action by the NYCDOE regarding such interim suspensions.

- C. If OPT suspends the NYCDOE certification of approval for a driver, escort, or attendant pending the outcome of an investigation, OPT shall not request the contractor to refrain from employing the school bus worker in non-NYCDOE work. To the extent that the school bus worker cannot find substitute work, the NYCDOE may assume responsibility for the worker's loss of income **but only** under the circumstances and to the extent described in Paragraph I.F, *infra*.
- D. OPT/IU investigations shall be prompt and, when reasonably possible, completed within sixty (60) school days or one hundred twenty (120) calendar days, whichever is shorter.
- E. During the course of OPT's investigation, the worker shall participate in an interview with an IU or OSI investigator, unless it is determined that such an interview would be inappropriate due to pending criminal charges or a pending investigation by a non-NYCDOE governmental agency such as, but not limited to, the NYPD, SCI, or other law enforcement agency. In the case of immediate, interim suspensions under Paragraph I.B, *supra*, this interview shall be held within a reasonable period of time after the suspension begins. The school bus worker may have a union representative and/or attorney present during this interview.
- F. If, after an interim suspension under Paragraph I.B, *supra*, the Chancellor or his/her designee(s) shall find insufficient evidence to determine the school bus worker engaged in conduct and/or performance warranting an interim suspension, and the worker shall have been unable to secure non-NYCDOE work from his/her school bus company or elsewhere, OPT shall provide back pay for the interim suspension period. Such back pay shall consist of the difference between the amount of wages and benefits that the worker shall have earned from non-NYCDOE sources, if any, and the amount of wages and benefits that the worker would have earned from NYCDOE work. Each worker who seeks back pay must submit to OPT a Back Pay Application Form as appended to this regulation² (see Attachment No. 1). Except for rulings to the contrary under Paragraph II.U, *infra*, OPT shall **not** pay any portion of a school bus worker's salary if (1) the allegations involve a criminal investigation or prosecution for which the person shall have been arrested; (2) an investigation by a non-NYCDOE governmental agency such as, but not limited to, the NYPD, SCI, or another law enforcement agency shall be pending; or (3) the allegations involve a positive test result for the consumption of a controlled substance and/or alcohol.

² In assessing the amount of back pay due to a given worker, OPT shall consult with the worker's employer (e.g., school bus contractor) to ascertain the amount of the back pay and whether there shall have been any periods during the suspension when the worker would not have been entitled to regular payment of wages and benefits, e.g., holiday and/or summer periods when the worker would not have been working even if not suspended.

1. If the Chancellor or his/her designee(s) finds that the school bus worker did engage in misconduct and/or poor performance but that the suspension already served is excessive, the Chancellor may, in his/her discretion, impose a penalty less than the suspension already served by the worker. Whereupon, the Chancellor or his/her designee(s) shall direct OPT to provide back pay, if the worker shall have been unable to secure non-NYCDOE work during the suspension period and the Chancellor or his/her designee(s) finds that a back pay award is otherwise appropriate. For the amount of back pay, see Paragraph I.F, *supra*. Each worker who seeks back pay must submit to OPT a Back Pay Application Form as appended to this regulation (see Attachment No. 1).
 2. A school bus worker shall not be given back pay for any period of suspension of certification during which a criminal prosecution or investigation by a non-NYCDOE governmental agency, as described in Paragraphs I.B and I.F, *supra*, shall have been pending, prior to the worker's submittal of proof that the charges have been dismissed or the investigation has been closed.
- G. For each OPT investigation leading to a finding of a school bus worker's culpability—whether negligent or intentional and to any extent—for conduct and/or performance violating Federal, State of New York, City of New York and/or NYCDOE laws, rules, regulations, policies, training programs, and/or contractual provisions, OPT shall undertake the following procedures:
1. When each inquiry is complete, the IU investigator shall issue promptly a written report of the investigative findings, which report shall include a recommended penalty, if and to the extent appropriate. The IU investigator shall attach to each such report photocopies of each witness statement and all other documentary evidence. If photocopies or photographs cannot practicably be made for any items of physical evidence, the IU investigator shall indicate in the report the existence and nature of each piece of such evidence and its location and availability for inspection.
 2. The IU investigator shall transmit his/her report to the IU manager. For each IU report, the IU manager shall review the findings of fact and recommendations for penalty with the investigator who conducted the inquiry. The IU manager may instruct an investigator to inquire into additional aspects of a given case or re-investigate aspects of a given case, if the IU manager discerns that such steps are needed to reach reasonably definitive findings and recommendations.
 3. Based upon the IU investigator's findings of fact, the IU manager shall make a determination regarding an appropriate disciplinary action to recommend to the Chancellor's designee(s), namely, one or both of the Chief Executive for School Support Services and/or the OPT Executive Director. On an OPT form prescribed by the Chancellor's designee(s), the IU manager shall communicate his/her

recommendation, together with a copy of the IU investigative report, to the Chancellor's designee(s).

4. The Chancellor's designee(s) shall review the IU's factual findings and the IU manager's recommendation and shall issue a written decision letter to the affected school bus worker with copies to the worker's legal representative(s), if any, the worker's union representative(s), if any, and the school bus company employing the worker. Together with the Chancellor's designee's letter, OPT shall send the worker, his/her legal representative(s), if any, and his/her union representative(s), if any, a copy of this Regulation C-100.
- H. In each case of a positive result arising from a test for controlled substances and/or alcohol, the NYCDOE relies solely upon the test result notice produced by an official Medical Review Officer as the basis for findings of fact. Under the NYCDOE contract school bus transportation system, each school bus company subcontracts with a professional controlled substances and alcohol consultant for, among other services, the collection, conveyance, processing, analysis and evaluation of test specimens and the preparation and transmittal of legally necessary reports based thereupon. The foregoing conforms to applicable Federal, City of New York, and NYCDOE laws, rules, regulations and contracts.
 - I. The school bus worker may contest the OPT factual findings and/or disciplinary action by filing a request for a Chancellor's disciplinary appeal conference, as detailed in Paragraph II, *infra*, **but only** if the affected worker is (i) represented by a union with a collective bargaining agreement containing a right to contest company actions resulting in termination or suspension, (ii) employed by a non-union company that nevertheless has a written and posted policy providing that a worker may not be suspended or terminated from employment without just cause and an opportunity to be heard, and (iii) actually suspended or terminated from his/her job because the transportation contractor has no other work with equivalent pay for the person.
 - J. In the event that no request for a Chancellor's disciplinary appeal conference shall be filed by an otherwise eligible school bus worker within eleven (11) NYCDOE business days from the date when a copy of OPT's decision letter shall have been transmitted to the school bus worker and his/her union and/or legal representative(s) (as evinced by the U.S.P.S. postmark date or similar official mark), OPT's findings of fact and disciplinary action shall be deemed the New York City Department of Education's final agency action regarding the subject complaint or other unprofessional conduct and/or performance.

II. OFFICE OF APPEALS AND REVIEWS DISCIPLINARY APPEAL CONFERENCES

- A. The school bus worker shall have eleven (11) NYCDOE business days from the date on which OPT shall have transmitted the decision letter by the Chancellor's

designee(s) (as evinced by the U.S.P.S. postmark date or similar official mark), to make a written request (“petition”) to the NYCDOE Office of Appeals and Reviews (“OAR”) for a Chancellor’s Disciplinary Appeal Conference concerning OPT’s factual findings and disciplinary action.

- B. The petition for a Chancellor’s Disciplinary Appeal Conference must be in writing (see Attachment No. 2 for Sample Petition Letter) and shall be addressed as follows:

N.Y.C. Department of Education
Office of Appeals and Reviews
65 Court Street - Room 717
Brooklyn, New York 11201-4954
Attention: Director
Phone: 718-935-2991
Fax: 718-935-2983

- C. At the same time, the school bus worker or his/her union and/or legal representative(s) shall send a copy of the appeal petition to OPT addressed as follows:

N.Y.C. Department of Education
Office of Pupil Transportation
44-36 Vernon Boulevard, Sixth Floor
Long Island City, New York 11101
Attention: Executive Director
Phone: 718-392-8855
Fax: 718-482-3702

- D. Every petition to OAR for a Chancellor’s Disciplinary Appeal Conference must include a copy of the OPT decision letter. Every petition must specify with particularity those findings of fact and/or that portion of the penalty expressed in the OPT decision letter that the school bus worker disputes. Every petition must indicate what exhibits and witnesses the worker proposes to present at the Chancellor’s Disciplinary Appeal Conference in his/her defense. If a school bus worker or his/her union or legal representative(s) does not attach copies of the exhibits to the petition, the worker or his/her representative(s) must submit copies to OAR not less than three (3) NYCDOE business days before the conference date. In addition, every petition must show the full name of the union and/or attorney representing the

school bus worker and, if the worker is a member of a union, must indicate the written approval of the petition by an authorized union representative.

- E. The NYCDOE has a Zero Tolerance Policy regarding the effects of controlled substances and/or alcohol upon each school bus worker's performance of safety sensitive school bus functions as defined by applicable Federal, City of New York, and NYCDOE laws, rules and regulations. Under the Zero Tolerance Policy, a positive test result for a controlled substance(s) and/or alcohol shall result in the revocation of NYCDOE certification of approval for school bus service upon the first instance of such a test result, i.e., regardless of a worker's length of service and/or the quality of his/her work record. (Federal, City of New York, and NYCDOE laws, rules and regulations mandate the removal of a school bus worker with a positive test result for alcohol and/or a controlled substance(s) from all "safety sensitive functions.") Therefore, OAR shall entertain only those petitions that expressly challenge some material aspect(s) of an affected test's administration such as, but not limited to, testing methodology, chain-of-custody, or notice to the worker of the test. Every petition to OAR for a Chancellor's Disciplinary Appeal Conference arising from an alcohol and/or controlled substance test result must specify with particularity the material aspect(s) of the test administration that the school bus worker disputes.
- F. Upon receipt of each petition for a Chancellor's Disciplinary Appeal Conference, OAR shall appoint a conference officer from a rotating list of such officers maintained for the purpose of conducting such Conferences. The conference officer shall coordinate promptly with IU for the issuance by IU of a Notification of Complaint and Summons to Appear Before a Disciplinary Appeal Conference Form and a Notification and Summons Response Form (see Attachments Nos. 3 and 4). Upon receipt of a copy of each petition from OAR, IU shall transmit the said forms (Attachments Nos. 3 and 4) within seven (7) NYCDOE business days to the affected school bus driver and his/her union and/or legal representative(s) via First Class Mail and Certified Mail—Return Receipt Requested.
- G. If reasonably feasible, OAR and IU shall schedule each Chancellor's Disciplinary Appeal Conference to be conducted and completed within sixty (60) days after receipt of the appeal petition from the affected school bus worker.
- H. Every school bus worker may be represented at OAR proceedings by an attorney and/or his/her union representative(s). OPT may also be represented by an attorney, representative and/or advocate. The school bus company (or other contractor or subcontractor) that employs the school bus worker must send an authorized, knowledgeable representative(s) together with the company's complete personnel file on the subject school bus worker.
- I. So long as the initial submittal of a petition by a given school bus worker complies with Paragraphs II.A-B, *supra*, OAR shall have latitude to permit the school bus worker or his/her legal and/or union representative(s) to submit an amended,

- written petition in case the initially submittal petition does not comply fully with Paragraphs II.C-E, *supra*. (Failure to comply with Paragraph II.C, *supra*, alone shall not constitute grounds for OAR to reject a petition as defective.) To be effective, a school bus worker or his/her legal and/or union representative(s) must submit an amended, written petition compliant with Paragraphs II.A-E, *supra*, within fifteen (15) NYCDOE business days after OAR's receipt of the original petition. If a school bus worker's petition for a Chancellor's Disciplinary Appeal Conference fails materially to comply with Paragraphs II.A-E, *supra*, and shall not have been amended in a timely manner to comply with the said provisions, such failure shall constitute grounds for OAR to reject the petition as defective. OAR may not proceed with a Chancellor's Disciplinary Appeal Conference, if the petition fails to comply with Paragraphs II.D and/or II.E, *supra*, i.e., an initial and/or amended petition materially failing to comply with these provisions is deemed to be substantively defective and must be rejected as such.
- J. To prepare for his/her Chancellor's Disciplinary Appeal Conference, each school bus worker or his/her legal and/or union representative(s) may submit a written request to OAR for a list of witnesses and copies of all documentary evidence OPT plans to present at the conference. Within two (2) NYCDOE business days after receipt of each such request, OAR shall transmit a photocopy of the same to IU. Within five (5) NYCDOE business days from receipt of each such request from OAR, IU shall transmit the requested information in writing to the worker, his/her legal and/or union representative(s), and his/her employer with all documents and witness statements redacted as to the identity of witnesses to the extent required by Regulation of the Chancellor A-820,³ e.g., all personally identifying information about pupils. If there is non-documentary physical evidence photocopies or photographs of which cannot practicably be appended to the IU report, OPT shall afford the school bus worker and his/her legal and/or union representative an opportunity to inspect at OPT's offices any such physical evidence obtained pursuant to the investigation.
- K. Each OAR conference officer shall have discretion to determine the scope of the Chancellor's Disciplinary Appeal Conference and the admissibility of all evidence and testimony including, but not limited to, whether oral testimony is necessary.
- L. Where the OPT disciplinary action is a suspension of certification of thirty (30) days or less, oral testimony by persons other than the driver or escort shall not be taken under any circumstances absent a written application, submitted to the OAR conference officer not less than three (3) NYCDOE business days before the Chancellor's Disciplinary Appeal Conference. The request shall explain the reasons such testimony is necessary. Where the OPT penalty is a suspension of certification

³ Regulation of the Chancellor A-820 is attendant to, and compliant with, the Family and Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g, as amended.

- of more than thirty (30) days or revocation of certification, oral testimony, including cross-examination, shall be allowed unless the conference officer determines that such testimony is one or more of the following: (1) irrelevant to a determination of whether the worker engaged in the alleged misconduct; (2) cumulative; and/or, (3) otherwise unnecessary or inadmissible. Oral testimony by persons other than the worker concerning a worker's character or work history shall not be allowed.
- M. Where an OAR conference officer limits or denies oral testimony under Paragraph II.L, *supra*, the conference officer shall state on the record the reason(s) for this determination.
- N. Notwithstanding anything to the contrary in Paragraphs II.K and II.L, *supra*, the accused worker may submit any written documentation including, but not limited to, sworn witness statements and the worker's OPT and/or school bus company personnel file. In addition, the accused worker and his/her representative(s) shall be permitted to make oral presentations to the conference officer.
- O. At the Chancellor's Disciplinary Appeal Conference, OPT may rely upon its report (as described in Paragraph I.G, *supra*) and any witness statements or other evidence used to prepare the report. However, OPT shall not be precluded from presenting appropriate evidence and oral testimony.
- P. The NYCDOE shall designate the location where each Chancellor's Disciplinary Appeal Conference shall be conducted. For good cause such as, but not limited to, the taking of student testimony, either party may request that the affected portion of the conference be convened at a remote location such as, but not limited to, a school. Each Chancellor's Disciplinary Appeal Conference shall be transcribed. A copy of the transcript will be provided without cost to the school bus worker and/or his/her representative(s) upon request.
- Q. When the conference officer determines that student testimony is required, such testimony shall be taken as follows: each student shall give his/her testimony outside the presence of the accused school bus worker but with the worker's attorney/representative present. Before cross-examination, the attorney/representative for the school bus worker shall be afforded an opportunity to consult with his/her client via telephone or email.
- R. Within fifteen (15) NYCDOE business days of the receipt of a copy of the transcript of the Disciplinary Appeal Conference, but not later than thirty (30) days after the conclusion of the Disciplinary Appeal Conference, the conference officer shall provide his/her determination to the Office of the Chancellor, which shall include findings of fact and, if any, a penalty recommendation. If the conference officer finds that the worker engaged in the alleged misconduct or poor performance but recommends a penalty different than that imposed by OPT, the conference officer shall state the reason(s) for a different penalty recommendation.

- S. Within fifteen (15) NYCDOE business days after receipt of the conference officer's findings and recommendation, the Chancellor (or designee) shall issue his/her final determination on the matter. If the Chancellor (or designee) disagrees with the conference officer's findings and/or penalty recommendation, the Chancellor (or designee) shall state his/her reasons therefor. The Chancellor's determination shall constitute final agency action.
- T. Immediately upon receipt of a copy of the Chancellor's final determination in each case, OPT shall implement the Chancellor's decision.
- U. If the Chancellor's decision shall result in an award of back pay to the school bus worker, the said worker must submit to OPT a Back Pay Application Form as appended to this regulation (see Attachment No. 1).

III. INQUIRIES

Inquiries pertaining to this regulation should be addressed to:

Office of Legal Services

N.Y.C. Department of Education

52 Chambers Street - Room 308

New York, NY 10007-1222

Telephone: 212-374-6888

Fax: 212-374-5596

NEW YORK CITY DEPARTMENT OF EDUCATION—OFFICE OF PUPIL TRANSPORTATION

SCHOOL BUS WORKER BACK PAY APPLICATION FORM

(All information is required for payment. Please print or type all required information.)

*School Bus Worker's Full Name:	
*Home Street Address with Apartment Number, if any:	
*Home City, State & Zip Code	
*Home Telephone Number:	
Home Email Address, if any:	
*Social Security Number:	
*Employer's Name:	
Employer's Street Address:	
Employer's City, State & Zip Code:	
Employer's telephone:	
*School Bus/Vehicle Run Number:	
*Special Education Vehicle?	Yes <input type="checkbox"/> No <input type="checkbox"/> (circle one choice)
*General Education Vehicle?	Yes <input type="checkbox"/> No <input type="checkbox"/> (circle one choice)
*Suspension/Revocation Start Date:	_____/_____/20____
*Return to Work Date:	_____/_____/20____
Amount Actually Earned during Suspension/Revocation Period:	\$_____ (Include all sources of income such as non-NYCDOE full-time work, non-NYCDOE part-time work, unemployment insurance. * Attach copies of all pay stubs received.)
Amount Worker Would Have Earned on NYCDOE School Bus Work during Suspension/Revocation Period:	\$_____ (Exclude amounts that worker would not have earned during school holidays and summer periods, if worker would not have worked at such times.)

All boxes and other information marked with an asterisk (*) are required to be completed and/or supplied. Failure to supply information marked with an asterisk (*) may result in a delay or a denial of back pay to the school bus worker.

*School Bus Worker's Certification:	I hereby swear or affirm that all of the information supplied on this form is true and accurate to the best of my personal knowledge.
*School Bus Worker's Signature:	
*Date of Worker's Signature:	_____ / _____ /20_____

***Notary Public or Commissioner of Deeds**

Sworn to and subscribed before me this	_____ day of _____, 20_____
Signature:	
Apply stamp and/or impression seal below	



SAMPLE PETITION LETTER FOR DISCIPLINARY APPEAL CONFERENCE

[DATE]

New York City Department of Education
Office of Appeals and Review
65 Court Street, Room 717
Brooklyn, New York 11201-4954
Attention: Director

RE: Petition for Disciplinary Appeal Conference Pursuant to Regulation of the Chancellor C-100

Dear Sir or Madam:

This is a petition for a Chancellor’s Disciplinary Appeal Conference to review, in accordance with the cited Chancellor’s Regulation, the findings of fact and disciplinary penalty by the Office of Pupil Transportation (“OPT”) affecting me, a school bus [driver or escort] for [bus company name], represented by [name of union]. On (date), OPT issued a disciplinary action letter to me making factual findings and determining that my Department of Education certification of approval to work on a school bus contracted by the Department of Education had been [revoked/suspended] for [indicate period].

OPT’s disciplinary action letter found that I engaged in the following unprofessional conduct and/or performance: [specify OPT findings such as but not limited to, positive result for a controlled substance or alcohol arising from test performed on (date), an incident of corporal punishment, an incident of poor driving performance, etc.]. I do hereby contest the OPT findings and disciplinary action as follows: [(i) specify which findings of fact are alleged to be incorrect and, particularly, why they are alleged to be wrong, and/or (ii) specify in detail why OPT’s disciplinary action is inappropriate and/or disproportionate to the offense].

To establish my points and arguments, my union/legal representative(s) shall seek to introduce the following documentary and/or testimonial evidence: [(i) list witness names and connection to incident and/or school bus worker, and (ii) list and attach documents or other evidence to be presented].

Very truly yours,

[full name and title of school bus worker]
[school bus worker’s full home address with street address (including apartment number, if applicable), city, state, zip code and home telephone number]

APPROVED BY:

[name and title of union representative]
[full name of union representing school bus worker]

c: New York City Department of Education
Office of Pupil Transportation
44-36 Vernon Boulevard, 6th Floor
Long Island City, NY 11101
Attention: Executive Director



NOTIFICATION OF COMPLAINT AND SUMMONS TO APPEAR BEFORE A DISCIPLINARY APPEAL CONFERENCE REGARDING REVOCATION OF APPROVAL

NAME: _____

ADDRESS: _____ CITY/STATE/ZIP: _____

SOCIAL SECURITY NUMBER: _____ OPT CERTIFICATION TYPE: _____

OPT CERTIFICATION DATE: _____ BUS COMPANY: _____

CHARGE: _____

UNION: _____

_____, YOU ARE HEREBY NOTIFIED that you are the subject of an investigation due to allegations that you have violated certain laws, rules and/or procedures of performance and/or conduct required of all drivers, escorts and attendants who work in the New York City Department of Education's school bus service.

YOU ARE HEREBY SUMMONED to appear before the Office of Appeals & Reviews, 65 Court Street, Room 717, Brooklyn, New York 11201-4954, 718-935-2991, for a Disciplinary Appeal Conference, THURSDAY, JUNE 11, 2009, at 10:00 AM at which time evidence and testimony will be received to establish whether the allegations have merit and, if so, to determine whether, and to what extent, disciplinary action is warranted. YOU ARE HEREBY NOTIFIED that, if the allegations are substantiated, your certification of approval for New York City Department of Education school bus service may be suspended or permanently revoked, thus affecting your employment.

**** DATE OF DEADLINE FOR RESPONSE TO THIS NOTIFICATION AND SUMMONS ****

JUNE 1, 2009 - BY THREE O'CLOCK (3:00) PM

****IMPORTANT NOTICE****

If you do not appear at the Disciplinary Appeal Conference, you will be deemed to have WAIVED AND FORFEITED your administrative rights. You will be deemed to have CONSENTED TO, AND APPROVED, any disciplinary action by OPT including the possible revocation or suspension of your Certification of Approval for New York City Department of Education service as a school bus driver, escort and/or attendant.

**NOTIFICATION OF COMPLAINT AND SUMMONS TO APPEAR BEFORE A
DISCIPLINARY APPEAL CONFERENCE**

You are entitled to Administrative Rights: (1) union representation by an official union delegate; (2) you may have an attorney to represent your interests; (3) to prepare your defense, you may examine any physical and/or documentary evidence to be presented by the Department of Education; (4) you may request additional information to defend yourself; (5) you and/or your representative will have an opportunity to present testimony and evidence on your own behalf; and, (6) you may examine and cross examine any witnesses produced by the Department of Education.

GENERAL INSTRUCTIONS FOR RESPONSE TO THIS NOTIFICATION AND SUMMONS

1. An Office of Pupil Transportation ("OPT") Notification and Summons Response Form is enclosed for your use to respond to this notification and summons. IF THE RESPONSE FORM IS MISSING FROM THE NOTIFICATION PACKET MAILED TO YOU, OR IF YOU LOSE, MISPLACE, OR DESTROY THE RESPONSE FORM, CALL THE OPT LABOR INVESTIGATION AND DISCIPLINARY ACTION SECTION ("LIDAS") IMMEDIATELY TO REQUEST A NEW RESPONSE FORM AS WELL AS AN EXTENSION OF THE DEADLINE FOR RESPONSE, IF NECESSARY.

CLAIMS OF MISSING, LOST, MISPLACED OR DESTROYED "NOTIFICATION AND SUMMONS RESPONSE FORMS" WILL NOT BE ACCEPTED AS GROUNDS TO EXCUSE A LATE RESPONSE WHERE THE RESPONDENT HAS FAILED TO NOTIFY LIDAS IN ADVANCE OF THE DEADLINE DATE AND HAS FAILED TO REQUEST AN EXTENSION OF THE DEADLINE DATE.

2. In ink only, print the information required on the "Notification and Summons Response Form." Your required signature also must be written in ink only.
3. You may either deliver the "Notification and Summons Response Form" in person or mail it to OPT. However, if you mail the Response Form, be sure to address the envelope in the manner prescribed on the Response Form. It is recommended that you have a record of delivery to OPT in advance of the deadline.
4. The "Notification and Summons Response Form" must be received by OPT no later than the deadline specified.

Enc.



Department of Education

OFFICE OF PUPIL TRANSPORTATION
44-36 VERNON BOULEVARD - 6TH FLOOR
LONG ISLAND CITY, NY 11101

NOTIFICATION AND SUMMONS RESPONSE FORM

NAME: _____

ADDRESS: _____

CITY/STATE/ZIP: _____

TELEPHONE NUMBER: _____ DATE: _____

(SEE INSTRUCTIONS ON PAGE 2 BEFORE YOU COMPLETE THIS FORM)

I, _____, HEREBY GIVE NOTICE to the New York City Department of Education, Office of Pupil Transportation ("OPT") that I have received a NOTIFICATION OF COMPLAINT AND SUMMONS TO APPEAR pertaining to a scheduled Disciplinary Appeal Conference concerning one _____, a school bus _____, approved for school bus service by OPT. By my signature below, I hereby acknowledge and attest that I have read and understand the information and notices contained in the notification and summons; and I HEREBY VOLUNTARILY EXERCISE one of the options below that I have marked with an "X".

- () I will appear at the appointed time and place before the Disciplinary Appeal Conference prepared and am ready to proceed with my defense.
() I elect not to appear before the Disciplinary Appeal Conference and I hereby waive and surrender my administrative and legal rights to a hearing, and consent to and approve any disciplinary action by the Office of Pupil Transportation.
() I wish to appear before the Disciplinary Appeal Conference, but cannot do so on the appointed day at the appointed time as a result of the following reasons(s):

IMPORTANT NOTICE

If you have chosen the third option, OPT will evaluate the reason(s) you have stated. If, in the sole discretion of OPT, the Office determines that your reason(s) present(s) a bona fide undue hardship, OPT will attempt to provide the following alternative: to reschedule the Disciplinary Appeal Conference for another date and/or time. If you have chosen the third option, OPT will notify you in writing of any alternate arrangements.

INSTRUCTIONS

1. See the NOTIFICATION OF COMPLAINT AND SUMMONS TO APPEAR form you have received or important information and notices concerning your response.
2. IN INK ONLY, mark "X" or print your responses to the information required on this form. Your required signature below must be written in INK ONLY.
3. Print your address, telephone number, and date in the spaces provided.
4. Choose only one (1) option in response to the NOTIFICATION AND SUMMONS TO APPEAR and mark "X" in the space provided. If the option you choose requires that you state further information, print that information in the space provided. If there is insufficient room on the form for your answer, attach to this form an additional sheet of paper with the continuation of the answer. YOU MUST SIGN AND DATE THE ADDITIONAL SHEET YOU ATTACH.
5. After you have completed this form, place your signature and the date of completion on the spaces provided below.
6. If you wish, you may either deliver this form in person or mail it to the OFFICE OF PUPIL TRANSPORTATION at the address below. If you mail the form, it is recommended that you use either CERTIFIED or REGISTERED MAIL, RETURN RECEIPT REQUESTED to assure that you have a record of timely delivery to OPT.

ADDRESS YOUR ENVELOPE AND MAIL THIS FORM TO:

OFFICE OF PUPIL TRANSPORTATION
44-36 VERNON BOULEVARD
LONG ISLAND CITY, NY 11101
ATTENTION: SUSAN SMITH – 6TH FLOOR

ACKNOWLEDGEMENT AND ATTESTATION OF RESPONSE

I, _____ (PRINT NAME), DO HEREBY ACKNOWLEDGE AND ATTEST that I have read and understood the NOTIFICATION OF COMPLAINT OR SUMMONS TO APPEAR form I received from the OFFICE OF PUPIL TRANSPORTATION as well as this form and I have voluntarily chosen the option I have marked on Page 1 of this form.

Signature: _____ Date: _____