



NEW YORK CITY YELLOW BUS SERVICE

RESEARCH BRIEFING
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NewYorkAppleseed^ℓ

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Introduction:

As New York Appleseed's advocacy for school integration increasingly grows to encompass integration planning for entire community school districts in New York City, the issue of transportation has become increasingly salient. Not all school districts are alike, and several that wish to implement a diversity plan also must address the question of access for students who reside in transportation deserts or need extra assistance to attend an inclusive school setting. When made available, data on yellow bus service and student transit can offer important insight into the access, or lack thereof, all students, particularly our most marginalized students, have to quality schooling due to transport options.

In seeking research on yellow bus service in NYC, we also aim to steer the conversation of transportation during integration planning away from detrimental coded language and fearmongering tactics. Unfortunately, many opponents of integration employ the term "busing" to elicit harmful narratives weaponized by white parents to prevent integration in the 1960s and 1970s. Despite opponents' best efforts to paint integration as artificial, forced, and burdensome—the reality is that many families (nearly 15% of all students) today use yellow-bus transportation to schools for a large variety of purposes - including several that contribute to school segregation.

The issues pertaining to yellow-bus service are complicated—not only due to lack of data but also due to a long and fraught history between the New York City Department of Education and its reliance on private contractors. Inevitably, the rocky relationship with contractors and their drivers, and city officials over the last decade have affected families' access to putting their children on a bus to get to school each day. This briefing has been broken into six sections: [Section I](#) provides a detailed overview of the legal history of yellow-bus service to answer how the relationship between contractors, drivers, and city officials has evolved over time; [section II](#) provides an overview of controversies and developments right before the Covid-19 pandemic; [section III](#) provides an overview of what has transpired throughout the pandemic; [section IV](#) analyzes the most recent and made available data and usage of yellow bus service for NYC, [section V](#) is a brief outline of procurement and eligibility for students; and lastly [section VI](#) concludes our report with insights and recommendations we garnered due to our research.

Transparency and accountability regarding student access to transportation are crucial to further a key tenet of Real Integration—resource equity. This report and its included recommendations are to place us in a better position for discussions on the ways we can more equitably allocate this important resource.

Executive Summary:

The New York City Department of Education provides yellow bus transportation for students through private bus contractors. This creates a unique and complex relationship between the department, the drivers, and the transportation vendors. Under this system, the Department of Education must work to meet the often-competing demands of the unions and vendors while satisfying the community, students, and families.

There have been several disputes over the years, including two strikes by bus drivers' unions in 1979 and 2013. The first strike originated from a dispute over the inclusion of Employee Protection Provisions in yellow bus contracts. The provisions granted, among other things, hiring priority to employees of private bus companies who lost their jobs due to a change in the contractor. After a three-month strike in 1979, the Board of Education agreed to include the provisions in contracts. A dispute arose again in 2006 when the Department of Transportation transferred certain contracts without the provisions to the Department of Education. This time, vendors commenced a legal proceeding challenging the provisions. The New York Supreme Court declared the provisions unlawful, and the Court of Appeals affirmed, stating the EPPs had anticompetitive features and invited cost-inflating effects. The Department of Education attempted to include the provisions again in 2017, and again, the courts struck the provisions down after challenges from vendors.

The City faces rising costs, and, in recent years, vendors have been struggling with school buses breaking down and delays. Additionally, vendor adherence to regulations requiring certain safeguards, such as background checks for bus drivers, have sometimes gone unenforced. In response, the Chancellor of the Department of Education replaced multiple personnel at the Office of Pupil Transportation.

The COVID-19 pandemic has further complicated busing issues (and access to education in general), as New York City schools shuttered and bus service came to a screeching halt in March 2020. Certain initiatives that were underway prior to the pandemic fell by the wayside as the City grappled with the pandemic generally and looked for a path forward under pandemic conditions. As the City continues to adjust to a "new normal" in the nearly two years since the pandemic began, there have nevertheless been some noteworthy developments with respect to yellow school bus service. Such developments that warrant continued monitoring include the Department of Education's rollout of GPS monitoring for school buses, the creation of NYC School Bus Umbrella Services, Inc.—a city-owned non-profit that is now responsible for 900 bus routes for children with disabilities previously overseen by a private bus company—and the introduction of electric school buses to New York City's fleet. All these events either have or will impact the more than 100,000 students that rely on yellow bus transportation each day.

I. Recent History of Yellow Bus Service: 1979-2020:

1979 Strike and the Birth of EPPs

Prior to 1979, the Board of Education of the City of New York (the “Board”) administered “Special Education” and “General Education” contracts with private bus companies for the transport of children to schools.¹ Contracts were awarded pursuant to bidding procedures under Education Law § 305 (14), which included a provision requiring “replacement” contractors to give hiring priority to employees of private bus companies who lost their jobs as a result of the change in contractor.² When the Board attempted to exclude this provision from certain bid solicitations, members of Local 1181-1061, Amalgamated Transit Union, AFL-CIO (“Local 1181”) went on strike in January 1979.³

The strike lasted for three months and inflicted extreme difficulty on schoolchildren and their families. Frank J. Macchiarola, the Schools Chancellor at the time, approached then-Mayor Edward I. Koch seeking a way out.⁴ Following a court-ordered arbitration, the Board, Local 1181, and major bus companies entered a settlement requiring the 1979 contracts to include certain Employee Protection Provisions (“EPPs”) in the specifications.⁵ Specifically, the EPPs established a master seniority list, which required contractors with the Board to give hiring priority to employees when employees became unemployed as a result of reassignment of busing contracts.⁶ At the same time, however, the New York City Department of Transportation (the “DOT”) was administering transportation contracts for young children in Pre-K and Early Intervention Programs through competitive, sealed bidding and without such EPPs.⁷

L & M Bus Corp. v. New York City Dept. of Education – Part One

In 2006, the DOT transferred its Pre-K and Early Intervention contracts to the New York City Department of Education (the “DOE”).⁸ Local 1181—which represented approximately 325 drivers and escorts who worked for Pre-K and Early Intervention bus companies—requested that the DOE include EPPs in its solicitation for contract bids.⁹ The DOE agreed and included language in its bid solicitations requiring that “any new contractors...give priority in employment in July, 2008 or thereafter on the basis of seniority to every operator (driver), mechanic, dispatcher and attendant (escort-matron) performing service pursuant to such

¹ See *In re L&M Bus Corp. v. New York City Dept. of Educ.*, 17 N.Y.3d 149, 153 (2011).

² See *id.*

³ See *id.*

⁴ See A. Baker, *School Bus Drivers End Strike, in Win for New York Mayor*, N.Y. TIMES (Feb. 15, 2013) available at <https://www.nytimes.com/2013/02/16/nyregion/school-bus-drivers-union-in-new-york-considers-ending-strike.html> (last visited Nov. 18, 2021).

⁵ See *In re L&M Bus Corp. v. New York City Dept. of Educ.*, 17 N.Y.3d 149, 153, 154 (2011).

⁶ See *id.*

⁷ See *id.*

⁸ See *id.*

⁹ See *id.*

contract starting from the first employee from the [master seniority list] until such [master seniority list] is exhausted.”¹⁰

In response to the solicitations, 23 transportation vendors commenced a proceeding under Article 78 of the CPLR to prevent the DOE from implementing the bid solicitations, which they claimed were illegal.¹¹ Among other things, the vendors claimed that the EPPs would cause bidders to inflate their bids to protect against unknown costs of giving priority to whichever employees from the master seniority list were unemployed after the DOE awarded the contracts.¹² Local 1181 was granted leave to intervene (meaning they received the court’s permission to file a complaint in the lawsuit that had already begun) and moved to dismiss the case for failure to state a cause of action with respect to the vendors’ attempts to bar inclusion of the EPPs.¹³

The Supreme Court declared the EPPs unlawful.¹⁴ The Appellate Division affirmed, reasoning that “the anticompetitive impact resulting from the restriction of the vendors’ autonomy to hire nonunion workers subjects these arrangements to the same scrutiny applied to [project labor agreements].”¹⁵ The Court of Appeals granted leave to appeal (meaning they received permission to try to reverse the decision from a lower court).¹⁶

The DOE argued that the Appellate Division had erred by subjecting EPPs to the heightened standard of review used to evaluate Project Labor Agreements (PLAs), which are “pre-bid contract[s] between a construction project owner and a labor union (or unions) establishing the union as the collective bargaining representative for all persons who will perform work on the project” and typically “provide[] that only contractors and subcontractors who sign a pre-negotiated agreement with the union can perform project work.”¹⁷ The Court of Appeals had previously held that, because PLAs have an anticompetitive effect on the bidding process, they can only be justified by proof that they are designed to save the public money by causing contracts to be performed at smaller cost or without disruption.¹⁸ Reasoning that “EPPs are precisely the sort of atypical, restrictive, and comprehensive pre-bid specification that invoke the heightened scrutiny standard set forth in *New York State Chapter and Council v. Bloomberg*,” the Court of Appeals applied “the more stringent [standard of] review” in assessing the EPPs.¹⁹

¹⁰ *Id.*

¹¹ *See id.* at 154–55.

¹² *See id.* at 155.

¹³ *See id.*

¹⁴ *See id.*

¹⁵ *Id.* at 156.

¹⁶ *See id.*

¹⁷ *See id.* (citing *In re New York State Ch., Inc., Associated Gen. Contrs. of Am. v. New York State Thruway Auth.*, 88 N.Y.2d 56, 65 (1996)).

¹⁸ *See id.* at 156–57 (citing *In re Council of City of New York v. Bloomberg*, 6 N.Y.3d 380, 385 (2006)).

¹⁹ *See id.* at 157–58.

The Court noted:

A brief look at the history of New York City’s public busing contracts since 1979 suggests that, in practice, the EPPs have had anticompetitive and cost-inflating effects. The existence of EPPs has resulted in the School-Age transportation contracts being performed by the same companies with roughly the same employees, year after year. By contrast, Pre-K/EI transportation, which lacks EPPs, has proceeded with competitive bidding by a variety of small-scale companies, without serious reports of corruption or labor disruption, and without threats from the unions to strike or pressure to introduce EPPs. In short, the introduction of EPPs to the Pre-K/EI bid specifications might eliminate the cost-saving, pro-competition advantages Pre-K/EI busing has enjoyed and would likely introduce the same problems of favoritism and monopolization of the market by large contractors that has beset the School-Age contracts.²⁰

The Court of Appeals thus affirmed the judgment of the Appellate Division, finding that the DOE had “fail[ed] to refute the facially anticompetitive features of the EPPs, which tend to invite cost-inflation and discourage new bidders from attempting to compete with the long-term contract holders.”²¹

Bidding Out Busing Contracts to Offset Increased Transportation Costs

From 1979 to 2011, the cost for busing skyrocketed from \$100 million to \$1.1 billion per year, or an average of \$6900 per student.²² Mayor Michael Bloomberg—who served as Mayor of New York from January 2002 through December 2013—pointed out that this figure is “far more than any other school system in our country,” with Los Angeles paying just over \$3,100 per student.²³ Accordingly, and following the *L & M* decisions, Mayor Bloomberg bid out contracts for pre-school bus routes—a move which he claimed would save taxpayers \$95 million over five years.²⁴ He argued that opening the contracts to new bidders would reduce the cost and transfer savings to the classrooms.²⁵ Again in January 2013, he announced plans “to save more money, [by] bidding out contracts for another 1,100 bus routes.”²⁶

²⁰ *Id.* at 159.

²¹ *See id.* at 157–58.

²² *See Mayor Bloomberg Updates New Yorkers on Potential School Bus Strike*, CITY OF N.Y. (Jan. 14, 2013) available at <https://www1.nyc.gov/office-of-the-mayor/news/020-13/mayor-bloomberg-new-yorkers-potential-school-bus-strike#/1> (last visited Nov. 18, 2021); *see also* B. Fertig, *Why New York City School Busing Is So Expensive*, WNYC (Jan. 22, 2013) available at <https://www.wnyc.org/story/284319-why-new-york-city-school-busing-is-so-expensive/> (last visited Nov. 18, 2021).

²³ *Mayor Bloomberg Updates New Yorkers on Potential School Bus Strike*, CITY OF N.Y. (Jan. 14, 2013) available at <https://www1.nyc.gov/office-of-the-mayor/news/020-13/mayor-bloomberg-new-yorkers-potential-school-bus-strike#/1> (last visited Nov. 18, 2021).

²⁴ *See id.*

²⁵ *See id.*

²⁶ *See id.*

The 2013 Strike

On January 16, 2013, Local 1181 went on strike for the first time since 1979 over the new bidding contracts and the elimination of EPPs.²⁷ Mayor Bloomberg denounced the strike, positing that the union workers were “seeking protections that aren’t provided in any other school districts in the nation” and that members want “job guarantees that they just can’t have.”²⁸ Mayor Bloomberg invoked the New York Court of Appeals’ 2011 decision in *L & M*, noting that the Court had deemed the union workers’ requests illegal.²⁹ Local 1181 President, Michael Cordiello, responded that the *L & M* decision did not actually render EPPs illegal, and also that it was “unfortunate that those that are hurt most by the mayor’s actions and the chancellor’s actions are the city’s most vulnerable schoolchildren and their parents.”³⁰ The city made contingency plans for the strike, as schools provided transit cards to parents and students and reimbursed them for personal vehicle use and car service expenses.³¹

Unlike the strike in 1979, the 2013 strike ended after one month with a poor result for Local 1181.³² As the Bloomberg Administration did not waver from its position and the workers had lost four weeks’ pay and benefits (while picketing in freezing weather), the union said they would try their luck with the next mayor, particularly as many Democratic mayoral candidates indicated that they would favor job protections.³³ Indeed, several Democratic mayoral candidates signed a letter on February 14, 2013—the night before the strike ended—siding with Local 1181 and urging an end to the strike.³⁴ Mr. Cordiello issued a statement following the strike reflecting Local 1181’s “great confidence that the next mayor of [New York] will be far more sympathetic to the working conditions of the drivers, matrons and mechanics that make up Local 1181.”³⁵

Ultimately, the strike affected more than 100,000 students, including tens of thousands of students with disabilities, and 5,000 of the city’s 7,700 routes (with the other routes being staffed by non-union drivers or drivers from unions other than Local 1181).³⁶

²⁷ See P. Kim, *School Bus Drivers Strike in NYC*, CNN (Jan. 16, 2013) available at <https://www.cnn.com/2013/01/16/us/new-york-school-bus-strike/index.html> (last visited Nov. 18, 2021).

²⁸ See *id.*

²⁹ See *id.*

³⁰ See *id.*

³¹ See *id.*

³² See A. Baker, *School Bus Drivers End Strike, in Win for New York Mayor*, N.Y. TIMES (Feb. 15, 2013), available at <https://www.nytimes.com/2013/02/16/nyregion/school-bus-drivers-union-in-new-york-considers-ending-strike.html> (last visited Nov. 18, 2021).

³³ See *id.*

³⁴ See *id.*

³⁵ *Id.*

³⁶ See *id.*

Following the strike, Mayor Bloomberg opened additional busing contracts for public bid in the spring of 2013 and awarded such contracts that May.³⁷ In November 2013, shortly before the end of his mayoral term, Mayor Bloomberg announced that those contracts would save New York City an estimated \$210 million over the next five years, in addition to the \$100 million saved from bids awarded the previous winter and the \$95 million saved from pre-K contracts that were bid in 2011.³⁸ Mayor Bloomberg said that, by releasing the bids for new busing contracts, his Administration had “broke[n] a three-decade stranglehold that exploited taxpayers and took money out of the classroom, where it belongs.”³⁹ He likewise announced plans to place expiring contracts for an additional 4,100 bus routes—serving about 39,000 students with disabilities and 96,000 general education students—up for bidding, with the expectation that such action would save hundreds of millions of dollars.⁴⁰

Post-Strike: Continued Push for Employee Protections

In November 2013, New York City elected Bill de Blasio its 109th mayor.⁴¹ The following summer, in an attempt to circumvent the *L & M* decision but still provide protections to employees, Mayor de Blasio signed legislation that granted up to \$42 million to school bus drivers represented by Local 1181.⁴² The Mayor’s office explained that the bill would establish a one-year grant program (the “Grant Program”) designed to “reverse significant cuts enacted under Mayor Michael Bloomberg, to the wages of school bus drivers, attendants, dispatchers and mechanics[.]”⁴³ Almost immediately, the bill was criticized by the New York City’s Citizens Budget Commission, among others, who feared the bill would “undermine the integrity of the city’s regular bidding and contracting process and set a troublesome precedent for other vendors that provide services to the city to seek similar de facto enhancements to their contracts.”⁴⁴ The Commission further stated that the bill “mixes competitive contracts and grants in a way that’s not supportive of the efficiency goals of competitive bidding” and that the bill “should be” illegal.⁴⁵

³⁷ See T. McMahon, *NYC: New School Bus Contracts to Save \$210 Million*, SCHOOLBUSFLEET (Nov. 12, 2013), available at <https://www.schoolbusfleet.com/news/684828/nyc-new-school-bus-contracts-to-save-210-million> (last visited Nov. 18, 2021).

³⁸ See *id.*

³⁹ *Id.*

⁴⁰ See *id.*

⁴¹ See, e.g., M. Barbaro & D.W. Chen, *De Blasio Is Elected New York City Mayor in Landslide*, N.Y. TIMES (Nov. 5, 2013), available at <https://www.nytimes.com/2013/11/06/nyregion/de-blasio-is-elected-new-york-city-mayor.html> (last visited Nov. 18, 2021).

⁴² See P. Brush, *NYC Kicks \$42M to School Bus Drivers*, LAW360 (Aug. 28, 2014), available at <https://www.law360.com/articles/572224> (last visited Nov. 18, 2021).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ P. Brush, *\$42M Payday for NYC School Bus Drivers Ripe for Challenge*, LAW360 (Aug. 29, 2014), available at <https://www.law360.com/articles/572490> (last visited Nov. 18, 2021).

Despite criticism from City Council members and budget experts, the City implemented the Grant Program, with only one Council member voting against it.⁴⁶ The de Blasio Administration made clear its intention that the Grant Program would simply be a “stopgap measure,” as it still hoped the state would pass legislation allowing the City to reinsert EPPs into the contracts, thereby requiring bidders to hire employees by seniority and to maintain their wages.⁴⁷ Consistent therewith, following the 2013 strike, the DOE halted all open solicitations without EPPs and sought legislation that would have required the inclusion of EPPs in bid solicitations of the DOE’s school-age bus contracts—but such efforts were unsuccessful.⁴⁸

L & M Bus Corp. v. New York City Dept. of Education – Part Two

On December 29, 2017, the DOE issued a Request for Bids (“RFB”) for contracts for bus transportation for school-age children which included EPPs.⁴⁹ On March 26, 2018, 17 bus companies—many of whom had been petitioners in the original *L&M* proceeding years earlier—commenced a proceeding challenging the RFB as unlawful, violative of the public bidding statutes, and insufficient to satisfy the heightened scrutiny standard set forth by the Court of Appeals in *L & M v. New York City Dep’t of Educ.*, 17 N.Y.3d 149 (2011).⁵⁰ The DOE argued that the RFB was supported by “a thorough precedential analysis of the particular challenges now facing the school-age bus sector” and would pass the heightened scrutiny standard articulated by the Court of Appeals.⁵¹

Specifically, the DOE reasoned that the EPPs would (i) increase labor stability and prevent future strikes, (ii) promote the development and retention of a skilled workforce, allow for competition, bringing in improved, modernized contract terms and associated cost savings, and (iii) potentially remove threats of contractors incurring pension withdrawal liability and eliminate the adverse impact of such threats on contractor-union CBA negotiations, further reducing strike risk.⁵²

The Supreme Court of New York was not persuaded by the DOE’s arguments, however, concluding that the record contained no proof that the EPPs in the RFB were designed to save the public money, as required by the Court of Appeals in its 2011 *L & M* decision.⁵³ Moreover,

⁴⁶ See *Some N.Y. School Bus Drivers May Get More Pay*, SCHOOLBUSFLEET (Aug. 20, 2014), available at <https://www.schoolbusfleet.com/news/685397/new-york-school-bus-drivers-may-get-more-pay> (last visited Nov. 18, 2021).

⁴⁷ See E. Durkin, *Council Debates de Blasio’s \$42 Million Funding Boost for School Bus Companies*, N.Y. DAILY NEWS (Aug. 19, 2014), available at <http://www.nydailynews.com/new-york/de-blasio-42m-school-bus-company-grants-debated-article-1.1909553> (last visited Nov. 18, 2021).

⁴⁸ See *L & M Bus Corp. v. New York City Dep’t of Educ.*, 2018 WL 2984973, at *3 (N.Y. Sup. Ct. June 14, 2018).

⁴⁹ See *id.* at *1.

⁵⁰ See *id.*

⁵¹ *Id.*

⁵² See *id.* at *6.

⁵³ See *id.*

although the DOE claimed there were new circumstances justifying inclusion of the EPPs, the Court found that these same reasons had previously been considered by the Court of Appeals and had already been found not to meet the heightened scrutiny standard.⁵⁴

The Appellate Division affirmed the Supreme Court's decision in December 2018.⁵⁵ The DOE moved for leave to appeal, but the Court of Appeals denied the DOE's motion in April 2019.⁵⁶ Local 1181 considered another strike during this time but did not follow through on the threat.⁵⁷

⁵⁴ *See id.*

⁵⁵ *See L. & M. Bus Corp. v. New York City Dep't of Educ.*, 167 A.D.3d 454 (1st Dep't 2018).

⁵⁶ *See L. & M. Bus Corp. v. New York City Dep't of Educ.*, 33 N.Y.3d 901 (2019).

⁵⁷ *See* J. Valasquez, *Strike Looms for Some New York City Yellow School Bus Drivers*, CHALKBEAT (Apr. 29, 2019), *available at* <https://www.chalkbeat.org/posts/ny/2019/04/29/some-new-york-city-yellow-school-bus-drivers-threaten-to-strike/> (last visited Nov. 18, 2021).

II. Pre-Pandemic Controversies and Developments: 2018-2019

Over the last several years, school buses have been regularly breaking down and running late.⁵⁸ The number of breakdowns and delays increased by 73% between 2015 and 2019, from 63,184 in 2015-2016 to 109,058 in 2018-2019.⁵⁹ Breaking this statistic down even further, there were 6,988 breakdowns in 2015-2016 and 9,488 in the 2018-2019 school year—a 36% increase—and delays also increased 77% during that time.⁶⁰ “[H]eavy traffic” caused by congestion and clogged

Students with disabilities bore the brunt of these difficulties, with data showing that 72% of all 344,818 breakdowns and delays from 2015-2019 involved buses carrying children in special education programs.

streets were blamed for 66% of them.

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The beginning of the 2018-2019 school year proved especially troubling for New York City yellow bus service. Parents made nearly 130,000 complaint calls to agency help lines in the month of September alone—an increase of about 20,000 calls from the same period in 2017—in response to massive delays and no shows.⁶³ For example, one parent in Astoria, Queens reported that during the first two weeks of school, the bus came exactly once and that she had had to drive her children to school every day from the bus stop.⁶⁴ In another case, a 5-year-old girl endured a four-hour bus ride throughout Queens before ultimately being dropped off at the wrong bus stop in the dark, despite living four miles from her school.⁶⁵ Reports also surfaced during the same period

⁵⁸ See A. Sanders, *NYC School Bus Delays and Breakdowns Increased 73% in Four Years, with Special Education Kids Most Impacted*, N.Y. DAILY NEWS (Aug. 25, 2019) available at <http://www.nydailynews.com/news/politics/ny-nyc-school-bus-delays-breakdowns-increase-special-education-student-20190825-zvvx47czbngejlkqw7va2binga-story.html> (last visited Nov. 18, 2021).

⁵⁹ See *id.*

⁶⁰ See *id.*

⁶¹ See *id.*

⁶² See *id.*

⁶³ See B. Chapman, *Exclusive: New Laws to Prevent NYC School Bus Abuses Seen in 2018 Crisis*, N.Y. DAILY NEWS (Jan. 8, 2019), available at <https://www.nydailynews.com/new-york/education/ny-metro-laws-to-prevent-school-bus-abuses-20190108-story.html> (last visited Nov. 18, 2021).

⁶⁴ See *Spotty School Bus Service Leaves Parents Frustrated in Queens*, CBS N.Y. (Sept. 17, 2018), available at <https://newyork.cbslocal.com/2018/09/17/grandpas-bus-company-queens/> (last visited Nov. 18, 2021).

⁶⁵ See S. Edelman, *5-Year-Old Girl Was Stuck on School Bus Ride from Hell*, N.Y. POST (Sept. 15, 2018), available at <https://nypost.com/2018/09/15/5-year-old-girl-was-stuck-on-school-bus-ride-from-hell/> (last visited Nov. 18, 2021).

indicating that more than 100 school bus drivers had not received background checks, and that six actually had criminal convictions.⁶⁶

In response to the mounting complaints and errors, Schools Chancellor Richard Carranza fired the head of the Office of Pupil Transportation, Eric Goldstein, almost immediately and replaced him with Kevin Moran, who had been the executive director of the DOE's field support services in Staten Island.⁶⁷ The City reported that it was revamping the vetting process for bus drivers and would require all 9,000 drivers to be fingerprinted, complete detailed background questionnaires, and subject themselves to a nationwide search for criminal arrests and convictions.⁶⁸ The City ultimately paid \$1.2 million—or \$135 per driver—to send mobile fingerprinting units to all bus depots in the fall of 2018.⁶⁹

By the end of September 2018, Mayor de Blasio had enlisted Ernst & Young to conduct an audit of the contracts governing the bus network, as well as an inquiry into the accusations of wrongdoing to be handled by the City's Special Commissioner of Investigation.⁷⁰ In November, the FBI also began to investigate the busing contracts and subpoenaed records linked to high-ranking employees in the contracts division at the DOE's Office of Pupil Transportation.⁷¹ The reason for the probe was unclear at the time, and it does not appear that the de Blasio Administration, Ernst & Young, or the FBI ever publicly reported any findings from either investigation.

⁶⁶ See *NYC Embarks On New Vetting Process for School Bus Drivers*, CBS N.Y. (Sept. 20, 2018), available at <https://newyork.cbslocal.com/2018/09/20/nyc-school-bus-driver-vetting-background-checks-mayor-de-blasio/> (last visited Nov. 18, 2021).

⁶⁷ See *Exclusive: NYC Schools Chancellor Fires Head of Pupil Transportation Over Bus Mishaps*, CBS N.Y. (Sept. 21, 2018), available at <https://newyork.cbslocal.com/2018/09/21/exclusive-nyc-school-bus-chief-fired/> (last visited Nov. 18, 2021).

⁶⁸ See *NYC Embarks on New Vetting Process for School Bus Drivers*, CBS N.Y. (Sept. 20, 2018), available at <https://newyork.cbslocal.com/2018/09/20/nyc-school-bus-driver-vetting-background-checks-mayor-de-blasio/> (last visited Nov. 18, 2021); see also *NYC Raises Standards on Screening for School Bus Drivers*, CBS N.Y. (Sept. 19, 2018), available at <https://newyork.cbslocal.com/2018/09/19/nyc-raises-standards-on-screening-for-school-bus-drivers/> (last visited Nov. 18, 2021).

⁶⁹ See *NYC Embarks on New Vetting Process for School Bus Drivers*, CBS N.Y. (Sept. 20, 2018), available at <https://newyork.cbslocal.com/2018/09/20/nyc-school-bus-driver-vetting-background-checks-mayor-de-blasio/> (last visited Nov. 18, 2021).

⁷⁰ See B. Chapman & G. Rayman, *Exclusive: City to Investigate Controversial Yellow Bus Contracts*, N.Y. DAILY NEWS (Sept. 29, 2018), available at <https://www.nydailynews.com/new-york/education/ny-metro-city-set-to-extend-controversial-yellow-bus-contracts-20180927-story.html> (last visited Nov. 18, 2021).

⁷¹ See Spectrum News Staff, *Report: FBI Probing City's Yellow School Bus Contracts*, SPECTRUM NEWS N.Y. 1 (Nov. 13, 2018), available at <https://www.ny1.com/nyc/all-boroughs/news/2018/11/13/fbi-probing-city-s-yellow-school-bus-contracts-> (last visited Nov. 18, 2021).

The STOP Package and GPS Tracking

In addition to the problems suffered in September 2018, an unexpected snowstorm in mid-November wreaked havoc on the city streets—causing gridlock that delayed roughly 700 bus routes and stranded thousands of students on freezing roads.⁷² Following this event, the City Council called for increased safety measures and, in particular, proposed a slate of eight safety measures known as the Student Transportation Oversight Package, or STOP.⁷³ STOP would require (i) that each bus be outfitted with GPS trackers and a cellphone or two-way radio, (ii) that the DOE report on several bus-related topics such as average transportation times, the number of vehicles, staff, routes, and delays, and the number of complaints and investigations into drivers each quarter, and (iii) that the DOE make bus routes public at least a month before school starts and distribute a “school bus bill of rights” to students.⁷⁴ The bills under the STOP package were ultimately passed in January 2019.⁷⁵

Consistent with the requirement under the STOP package, on June 20, 2019, the DOE issued Regulation of the Chancellor of the New York City Board A-802 (“Regulation A-802”), which “set[s] forth the provisions that govern mandatory installation and use of equipment and/or devices for the purpose of recording, reporting or transmitting information regarding the location of vehicles and/or students, training in the use of such equipment and devices, and completion of bus route dry-runs.”⁷⁶ In other words, Regulation A-802 required all bus companies with Board pupil transportation contracts effective after June 30, 2018 to accept installation of GPS equipment and related software to track and report school bus locations and student ridership in real-time.⁷⁷ The regulation further required that the tracking system be operated on all school days when students are being transported.⁷⁸ Additionally, Regulation A-802 provided that all bus companies must implement training days for bus drivers,

⁷² See B. Chapman, *Exclusive: New Laws to Prevent NYC School Bus Abuses Seen in 2018 Crisis*, N.Y. DAILY NEWS (Jan. 8, 2019), available at

<https://www.nydailynews.com/new-york/education/ny-metro-laws-to-prevent-school-bus-abuses-20190108-story.html> (last visited Nov. 18, 2021); see also A. Gainer, *‘It Was a Hot Mess’: City Council Grills Agencies Over Response to November Snowstorm*, CBS N.Y. (Nov. 29, 2019), available at <https://newyork.cbslocal.com/2018/11/29/it-was-a-hot-mess-city-council-grills-agencies-after-response-to-november-snowstorm/> (last visited Nov. 18, 2021).

⁷³ See N. Manskar, *NYC School Bus Mess Leads to Scrutiny from City Council*, PATCH (Oct. 16, 2018), available at <https://patch.com/new-york/new-york-city/nyc-school-bus-mess-leads-scrutiny-city-council> (last visited Nov. 18, 2021).

⁷⁴ See *id.*

⁷⁵ See J. Gould, *School Bus Companies Face New Rules to Improve Service*, WNYC (Jan. 9, 2019), available at <https://www.wnyc.org/story/school-bus-new-rules-improve-service/> (last visited Nov. 18, 2021).

⁷⁶ Regulation of the Chancellor A-802 re: GPS Equipment Installation and Training and Dry-Runs of Bus Routes, available at <https://www.schools.nyc.gov/docs/default-source/default-document-library/a-802-6-20-2019-final-remediated-wcag2-0> (last visited Nov. 18, 2021).

⁷⁷ See *id.* § I.A.

⁷⁸ See *id.* § I.B.

employees, and/or attendants (escorts) for the purposes of bus route dry-runs and/or use of the GPS tracking system.⁷⁹

As of late August 2019, all New York City yellow school buses were on track to have GPS by the September 5, 2019 deadline.⁸⁰ Around the same time, the DOE selected Via, the transportation software provider, to offer “Via for Schools”—a “revolutionary school bus management system for the nation’s largest school district,” and the “first integrated, automated school bus routing, tracking, and communication platform in the world,” according to a press release.⁸¹ The release further explained that the service would give “parents and students the ability to track, in real-time, their bus’ [sic] whereabouts and receive frequent and reliable communications in the event of service changes, improving safety and bringing important peace of mind to all users of the system.”⁸² The project with Via targets five areas, designed to provide greater transparency for student transportation and more efficient busing operations (see side panel for further details).⁸³

Although the Via technology will allow parents to track buses in real-time, the technology was not compatible with the original GPS trackers installed on the school buses—thus requiring the original GPSes to be exchanged for the new Via technology and incurring duplicate costs.⁸⁴ Education officials

The project with Via seeks to target five areas, designed to provide greater transparency with respect to student transportation and more efficient busing operations, as follows:

- **Routing:** Upgrade route design and management systems to be more efficient
- **Fleet:** Update the DOE’s vehicle tracking and management systems
- **Automatic Vehicle Location (AVL):** Provide location data about buses while they take children to and from school
- **Ridership:** Verify when and where a student boards and exits a school bus
- **Real-time Communications:** Provide information to bus staff, schools and families about student transportation to and from school
 - Families can receive notifications about their child
 - Seamless communication between families, bus companies and schools

⁷⁹ See *id.* § II.A.

⁸⁰ See M. Elsen-Rooney, *All NYC School Buses Equipped with GPS, but New Technology Is Around the Corner*, N.Y. DAILY NEWS (Aug. 21, 2019), available at <https://www.nydailynews.com/new-york/education/ny-school-bus-tracking-gps-20190821-cvpngvtsl2balxjm44sx7qbe7ei-story.html> (last visited Nov. 18, 2021).

⁸¹ See J. Chung, *Parents Will Be Able to Track NYC School Buses With an App*, GOTHAMIST (Aug. 23, 2019), available at <https://gothamist.com/news/parents-will-be-able-to-track-nyc-school-buses-with-an-app> (last visited Nov. 18, 2021).

⁸² *Id.*

⁸³ See NYC Student Transportation Modernization Plan, available at <https://www.schools.nyc.gov/school-life/transportation/transportation-overview/whats-new/nyc-student-transportation-modernization-plan> (last visited Dec. 20, 2021).

⁸⁴ See M. Elsen-Rooney, *All NYC School Buses Equipped with GPS, but New Technology Is Around the Corner*, N.Y. DAILY NEWS (Aug. 21, 2019), available at <https://www.nydailynews.com/new-york/education/ny-school-bus-tracking-gps-20190821-cvpngvtsl2balxjm44sx7qbe7ei-story.html> (last visited Nov. 18, 2021).

said these duplicate costs were unavoidable because the Via app was not ready in time to meet the council's September 5th deadline for GPS.⁸⁵ Officials initially said that they would start piloting the Via technology in January 2020 and that it would be rolled out for the 2020–2021 school year.⁸⁶

By November 2019, however, the DOE still had not complied with the GPS requirement, prompting almost two dozen City Council members to send a letter to Schools Chancellor Richard Carranza demanding answers.⁸⁷ Although DOE officials had promised that parents would be able to call a central city hotline to get real-time updates on their children's bus locations while the Via technology continued to be developed, operators later told families that the GPS devices installed on the buses were not active or that the locations were not available.⁸⁸

The project was officially put on pause in 2020 due to the impact of the COVID-19 pandemic⁸⁹ but, more recently, has advanced. The DOE has provided the following updates regarding the rollout of the system:

- The Driver App will be released to all school bus drivers by the end of the 2021-2022 school year.
- In the 2020-2021 school year, the DOE began a pilot program with two bus vendors to install and train drivers on the Driver App, focused on ensuring drivers logged into the system and followed the assigned routing on every trip.
- All school buses will be installed with hardware to accommodate the Via system.
- Over the course of the 2021-2022 school year, the NYC School Bus App will be released to a subset of families.
- The DOE will continue to work with schools and families to gather feedback and make improvements to the NYC School Bus App.
- The DOE will build an awareness and marketing campaign for the citywide release of the NYC School Bus App.⁹⁰

⁸⁵ See *id.*

⁸⁶ See M. Elsen-Rooney, *City Lawmakers Demand Answers from Education Dept. on Delayed School Bus GPS Tech*, N.Y. DAILY NEWS (Nov. 18, 2019), available at <https://www.nydailynews.com/new-york/education/ny-school-bus-gps-20191118-n4rrle23ffbn3iwy3vmrp2mcua-story.html> (last visited Nov. 18, 2021).

⁸⁷ See *id.*

⁸⁸ See *id.*

⁸⁹ See NYC Student Transportation Modernization Plan, available at

<https://www.schools.nyc.gov/school-life/transportation/transportation-overview/whats-new/nyc-student-transportation-modernization-plan> (last visited Dec. 20, 2021).

⁹⁰ See *id.*

A December 2021 article likewise indicates that Via's efforts have resumed, however, aside from this one article and the updates on the DOE's website, there has been little other public coverage regarding the Via technology since late 2019.⁹¹

Executive Order No. 53 and Initial Electrification Plans

Another noteworthy development for the future of yellow school buses came in early February 2020 with Executive Order 53. Citing "a clear global climate emergency, caused primarily by the burning of fossil fuels" and "a moral, economic, public health, and security imperative to act to protect our planet, fellow human beings and future generations," the Order mandated that all 30,000 of the City's non-emergency fleet vehicles—including school buses—be electric vehicles by 2040.⁹² It further provided that the Department of Citywide Administrative Services and the fleet would issue, implement and update a Clean Fleet Transition Plan to be updated at least every two years.⁹³ The Order stated that the first plan aimed at both public and private fleets would be published by January 1, 2021.⁹⁴ Although it is unclear if such a plan was ultimately published as Executive Order 53 was issued on the brink of the COVID-19 pandemic, there have nevertheless been additional developments pertaining to the electrification of school buses.

In April 2021, Mayor de Blasio announced that New York City has begun phasing in electric school buses on the way toward a complete zero-emissions fleet.⁹⁵ Through a partnership with NYCSBUS, the City was accelerating its initial timeline, with the goal of having an all-electric school bus fleet by 2030 and becoming a model for electrified urban pupil transportation.⁹⁶ Through such partnership with NYCSBUS and in pursuit of this goal, the City will buy 75 accessible electric school buses in the next two years.⁹⁷ Mayor de Blasio also added that his office was working with the City Council to install electric chargers in all parking lots and garages.⁹⁸

Electrification efforts continued in June 2021, when local elected officials and project partners gathered to celebrate the deployment of the first Type C electric school bus in New York City, to

⁹¹ J. Kingson, *School Buses that Track Your Child's Location*, AXIOS (Dec. 8, 2021), *available at* <https://www.axios.com/school-buses-that-track-your-childs-location-f41ffe8f-3148-4ff0-85ed-5ed13f6318cb.html> (last visited Dec. 13, 2021).

⁹² Executive Order No. 53, *An All-Electric and Safe New York City Fleet* (Feb. 6, 2020), *available at* <https://www1.nyc.gov/assets/dcas/downloads/pdf/fleet/NYC-Mayoral-Executive-Order-EO-53-All-Electric-and-Safe-Fleets-of-the-Future.pdf> (last visited Nov. 18, 2021).

⁹³ *See id.*

⁹⁴ *See id.*

⁹⁵ *See* R. Gray, *NYC Aims for Fleet of All-Electric School Buses by 2035*, SCHOOL TRANSP. NEWS (Apr. 22, 2021), *available at* <https://stnonline.com/news/nyc-aims-for-fleet-of-all-electric-school-buses-by-2035/> (last visited Nov. 22, 2021).

⁹⁶ *See New York City Mayor Vows to Have All-Electric City School Bus Fleet by 2035*, AM. SCHOOL & UNIV. (Apr. 23, 2021), *available at* <https://www.asumag.com/facilities-management/transportation-parking/article/21162185/new-york-city-mayor-vows-to-have-allelectric-city-school-bus-fleet-by-2035> (last visited Nov. 22, 2021).

⁹⁷ *See id.*

⁹⁸ *See* R. Gray, *NYC Aims for Fleet of All-Electric School Buses by 2035*, SCHOOL TRANSP. NEWS (Apr. 22, 2021), *available at* <https://stnonline.com/news/nyc-aims-for-fleet-of-all-electric-school-buses-by-2035/> (last visited Nov. 22, 2021).

be run by Logan Bus Co.⁹⁹ That bus is part of a larger repowering project, which is a collaborative effort between Logan Bus, Amply Power and Unique Electric Solutions (UES).¹⁰⁰

Additionally, in October 2021, the City Council passed a bill mandating that the school bus fleet be fully electric by 2035, with 44 votes in favor and one in opposition.¹⁰¹ However, the bill has an important qualifier that the replacement of school buses is subject to the commercial availability and reliability of all-electric school buses, as well as the technical and physical availability of related planned infrastructure, including but not limited to charging stations and bus depots for all-electric school buses.¹⁰²

⁹⁹ See N. Schlosser, *New York Contractor Unveils its First Repowered, Road-Ready Electric School Bus*, SCHOOLBUSFLEET (June 4, 2021), available at <https://www.schoolbusfleet.com/10144945/new-york-contractor-unveils-first-repowered-road-ready-electric-school-bus> (last visited Nov. 22, 2021).

¹⁰⁰ See *id.*

¹⁰¹ See *New York City Council Passes Bill Mandating All City School Buses Be Electric by 2035*, GREEN CAR CONG. (Oct. 10, 2021), available at <https://www.greencarcongress.com/2021/10/20211010-nyc.html> (last visited Nov. 22, 2021).

¹⁰² See *id.*

III. Yellow Bus Service During the COVID-19 Pandemic

Inevitably, the City's patchwork of private bus contractors was idle after schools closed in March 2020 due to the global health crisis, and officials stopped paying out bus contracts in late April 2020 amid impending budget concerns, forcing the furloughs of roughly 14,000 bus company workers.¹⁰³ Various developments occurred throughout the summer and ahead of the 2020-2021 school year. First, in July 2020, a DOE spokeswoman said that the agency planned to prioritize busing in the fall for students with disabilities and that the agency was exploring partnerships with the Metropolitan Transit Authority and with the Taxi and Limousine Commission to offer more options.¹⁰⁴ Additionally, in early August reports surfaced that the City was exploring options to buy out three school bus companies and to operate their 1300 vehicles itself.¹⁰⁵ By mid-September 2020, Mayor de Blasio announced that yellow school buses would be operating when New York City schools reopened, with about 100,000 school bus seats expected to be available for students with disabilities plus thousands of other students who live further away from their schools.¹⁰⁶ Proposed safety measures included a 25% capacity limit to maintain social distancing, a requirement that all onboard wear masks, and "electrostatic sprayers" that could be used to help clean the buses overnight.¹⁰⁷

Another development came in December 2020, when the City's Panel for Education Policy approved an \$890 million contract for school bus services to be run by a city-owned nonprofit.¹⁰⁸ More specifically, the deal created NYC School Bus Umbrella Services, Inc. ("NYCSBUS") to take over Reliant Transportation and the 900 routes it was overseeing for students with disabilities.¹⁰⁹ The five-year contract passed with eight affirmative votes and five abstentions—an unusually high number for the Panel.¹¹⁰ While opponents of the deal were quick to criticize the City's potential exposure to Reliant's pension obligations, which totaled approximately \$142 million, the DOE argued that the takeover would improve services for 10% of all student bus riders.¹¹¹ Schools Chancellor Richard Carranza similarly defended the arrangement, saying it was "a long-term investment that will gradually phase in and provide

¹⁰³ See M. Elsen-Rooney, *150,000 NYC Families Who Rely on Yellow Buses Wait for Answers on Transportation Plans*, N.Y. DAILY NEWS (July 12, 2020), available at <https://www.nydailynews.com/new-york/education/ny-school-bus-families-await-answers-20200712-bqujzn2cczfjrl7xfu mjww3r3q-story.html> (last visited Nov. 22, 2021).

¹⁰⁴ See *id.*

¹⁰⁵ See S. Edelman, *NYC In Secret Talks to Buy Out Three School Bus Companies: Sources*, N.Y. POST (Aug. 1, 2020), available at <https://nypost.com/2020/08/01/nyc-in-secret-talks-to-buy-out-three-school-bus-companies-sources/> (last visited Nov. 22, 2021).

¹⁰⁶ See A. Zimmerman, *De Blasio Says School Buses Will Be in Place by the Start of School. Some Students With Disabilities Have Already Started Without Them.*, PATCH (Sept. 10, 2020), available at <https://patch.com/new-york/new-york-city/de-blasio-says-school-buses-will-be-place-start-school-some-students>.

¹⁰⁷ See *id.*

¹⁰⁸ See S. Algar, *City Approved Controversial \$890 Million School Bus Deal*, N.Y. POST (Dec. 15, 2020), available at <https://nypost.com/2020/12/15/city-approves-controversial-890-million-school-bus-deal/> (last visited Nov. 22, 2021).

¹⁰⁹ See *id.*

¹¹⁰ See *id.*

¹¹¹ See *id.*

greater stability and oversight in school bus service in the years ahead.”¹¹² In the meantime, the City would continue to contract with private companies to serve the remaining 90 percent of students that relied on yellow school buses.¹¹³ According to NYCSBUS’s apparent website, the nonprofit has a five-person board of directors including a Chancellor designee, an Office of Management and Budget Director’s designee, and a parent representative director. Their latest board meeting to date was on February 9th of this year.¹¹⁴

General Problems in the 2021-2022 School Year

As New York City schools have reopened more broadly and students and teachers have had to adjust to schooling in the midst of a pandemic, school bus operations have also resumed on a more widespread level. However, this adjustment has not been without challenges and, unfortunately, riders are experiencing a continuation of many of the same woes that plagued them during the 2018-2019 school year.

In September 2021, a spokesperson for the New York City School Bus Coalition reported that the nation—including New York City—was experiencing severe driver shortages.¹¹⁵ Michael Cordiello, the President of Local 1181, echoed these sentiments, noting that they were about 200 workers short.¹¹⁶ While the City insisted that staffing was sufficient—though it conceded that there “are always a few problems in the very beginning [of the school year],” —some families of students complained that the 2021-2022 start of bus service was even worse than normal, with many disruptions of service further exacerbated by last-minute changes and staffing shortages.¹¹⁷ Indeed, a representative for the bus companies said that some were receiving a higher volume of complaint calls than in previous years.¹¹⁸

The situation had not improved by October when scores of students were left without buses for days or weeks, and some families still had not received their first pickup.¹¹⁹ Some students legally entitled to school buses because of disabilities still did not have a route, whereas others

¹¹² *NYC to Buy City’s Largest School Bus Contractor*, BUS & MOTORCOACH NEWS (Oct. 21, 2020), available at busandmotorcoachnews.com/nyc-to-buy-citys-largest-school-bus-contractor/ (last visited Nov. 22, 2021).

¹¹³ *See id.*

¹¹⁴ NYCSBUS board of directors, upcoming board meetings, and previous board meeting agendas, resolutions and minutes are available on their website <https://sites.google.com/nycsbus.com/nycsbus/home?authuser=0> (last visited Apr. 11, 2022).

¹¹⁵ *See* M. Elsen-Rooney, *NYC Officials Deny School Bus Driver Shortage, but Bus Companies Say Otherwise as Transportation Woes Mount*, N.Y. DAILY NEWS (Sept. 14, 2021), available at <https://www.nydailynews.com/new-york/education/ny-school-bus-driver-shortage-transportation-woes-20210914-scxz-etu5grexxbco6m65twolwm-story.html> (last visited Nov. 22, 2021).

¹¹⁶ *See id.*

¹¹⁷ *See id.*

¹¹⁸ *See id.*

¹¹⁹ *See* M. Elsen-Rooney, *NYC Students Struggle with Ongoing School Bus Woes More than One Month into the School Year*, N.Y. DAILY NEWS (Oct. 24, 2021), available at <https://www.nydailynews.com/new-york/education/ny-nyc-parents-struggle-ongoing-school-bus-woes-20211025-xxchp-blporba3p74se6ixhusyi-story.html> (last visited Nov. 22, 2021).

had a route with no drivers, and others faced erratic pickups or hours-long rides.¹²⁰ The DOE continued to downplay these issues, saying that drivers have the ability to double up on routes to provide more flexible service and citing 60% fewer complaint calls in the first 20 days of the school year as compared to 2019.¹²¹ But some parents have said that this statistic is meaningless, as they either cannot get through on the hotline or are advised to contact the schools or bus companies directly.¹²² State and federal officials have made some efforts to address these ongoing problems, with New York State Governor Kathy Hochul implementing a program to improve recruitment and licensing for drivers, and Senator Kirsten Gillibrand asking federal Education Secretary Miguel Cardona to give districts more guidance on how to use federal relief funds to hire drivers.¹²³ Still, Michael Cordiello said that hiring is occurring at “a snail’s pace,” and that Local 1181 has only signed up approximately 12 new members against its 200-member shortage.¹²⁴

In addition to problems with the number of available drivers, there have also been issues reported with the quality of transit. More specifically, an investigation issued in October 2021 found that approximately 65% of the City’s school buses have been issued at least one speeding or red light camera ticket since 2014, with tickets issued to 6,895 of the 10,497 buses registered in the City to transport schoolchildren.¹²⁵ Moreover, 86 school buses amassed 20 or more speeding or right light camera tickets during this time period, with all speeding tickets issued within the 750 school zones where the City has installed speed cameras.¹²⁶ Unsurprisingly, a majority of the violations have occurred since 2019—the year that state lawmakers approved legislation allowing the City to install hundreds of new red light and speed cameras in school zones.¹²⁷ City Education Department spokeswoman Katie O’Hanlon commented that safety remains the “top priority” and that “no bus drivers should be driving above the speed limit.”¹²⁸ She explained that “[a]ll bus vendors and their drivers complete rigorous safety training [and] have clean driving records before being hired,” further noting that “for context, we complete over

¹²⁰ See *id.*

¹²¹ See N. Duddridge, *Some Parents Say NYC Department of Education Still Doesn’t Have Reliable School Bus Service* CBSNewYork (Oct. 26, 2021), available at <https://newyork.cbslocal.com/2021/10/26/new-york-city-public-schools-school-buses-department-of-education/> (last visited Nov. 22, 2021).

¹²² See M. Elsen-Rooney, *NYC Students Struggle with Ongoing School Bus Woes More than One Month into the School Year*, N.Y. DAILY NEWS (Oct. 24, 2021), available at <https://www.nydailynews.com/new-york/education/ny-nyc-parents-struggle-ongoing-school-bus-woes-20211025-xxchpblporba3p74se6ixhusyi-story.html> (last visited Nov. 22, 2021).

¹²³ See *id.*

¹²⁴ See *id.*

¹²⁵ See L. Quigley, M. Elsen-Rooney, & C. Guse, *Two-Thirds of NYC School Buses Have Speeding, Red Light Camera Tickets – Including Thousands Issued in School Zones*, N.Y. DAILY NEWS (Oct. 11, 2021), available at <https://www.nydailynews.com/new-york/education/ny-school-bus-speeding-violations-red-light-cameras-20211012-ywkt76prvbodadedauco5rmje-story.html> (last visited Nov. 22, 2021).

¹²⁶ See *id.*

¹²⁷ See *id.*

¹²⁸ *Id.*

9,000 routes a day.”¹²⁹ Still, it is clear that both the number of available drivers and the quality of transit services provided continue to cause parents concern and that there is much room (and need) for improvement.

¹²⁹ *Id.*

IV. Data and Usage Rates of Yellow Bus Service

Despite providing transportation to all eligible New York City students in public, charter, and non-public schools, the DOE website contains almost no data or statistics on yellow bus ridership—past or present. One of the only pieces of statistical data from the website is that, as of August 2019, “every day the NYC Department of Education (DOE) safely transports approximately 150,000 students on 9,000 bus routes to and from schools across the city.”¹³⁰ A 2014 article highlights the dearth of metrics on school bus ridership generally:

The thousands [of] “yellow buses” are buried without a mention in the most important tables of the US Department of Transportation’s National Transportation Statistics. Neither the terms “school” nor “school bus” appear in tables summarizing the number of vehicles (Table 1-11), vehicle travel (Table 1-35), passenger travel (Table 1-40) and others. At the same time, there is far more complete information on virtually every other transportation mode. This would not be surprising if the school bus system was small or insignificant. It is anything but.¹³¹

Analyzing (though not citing) data allegedly reported by *SchoolBusFleet*, the same article reports that the New York City school district carries more passengers than any other, with nearly 310,000 daily trips in 2011–2012.¹³² It also reports that New York has the highest ridership of any state, at nearly 4,000,000 students—though this encompasses all of New York state, so it is difficult to draw any conclusions from it with respect to New York City.¹³³

Despite providing transportation to all eligible New York City students in public, charter, and non-public schools, the DOE website contains almost no data or statistics on yellow bus ridership—past or present.

The seemingly sole source of public data concerning yellow bus ridership in New York City stems from a long-outdated analysis (the “IBO Report”) completed by the New York City

¹³⁰ Chancellor Carranza Announces Partnerships With Via to Launch VIA FOR SCHOOLS GPS and Parent App for All School Buses, N.Y. CITY DEP’T OF EDUC. (Aug. 21, 2019), available at <https://www.schools.nyc.gov/about-us/news/announcements/contentdetails/2019/08/21/chancellor-carranza-announces-partnerships-with-via-to-launch-via-for-schools-gps-and-parent-app-for-all-school-buses> (last visited Nov. 22, 2021).

¹³¹ W. Cox, *School Buses: America’s Largest Transit System*, NEW GEOGRAPHY (Dec. 18, 2014), available at <http://www.newgeography.com/content/004801-school-buses-americas-largest-transit-system> (last visited Nov. 22, 2021).

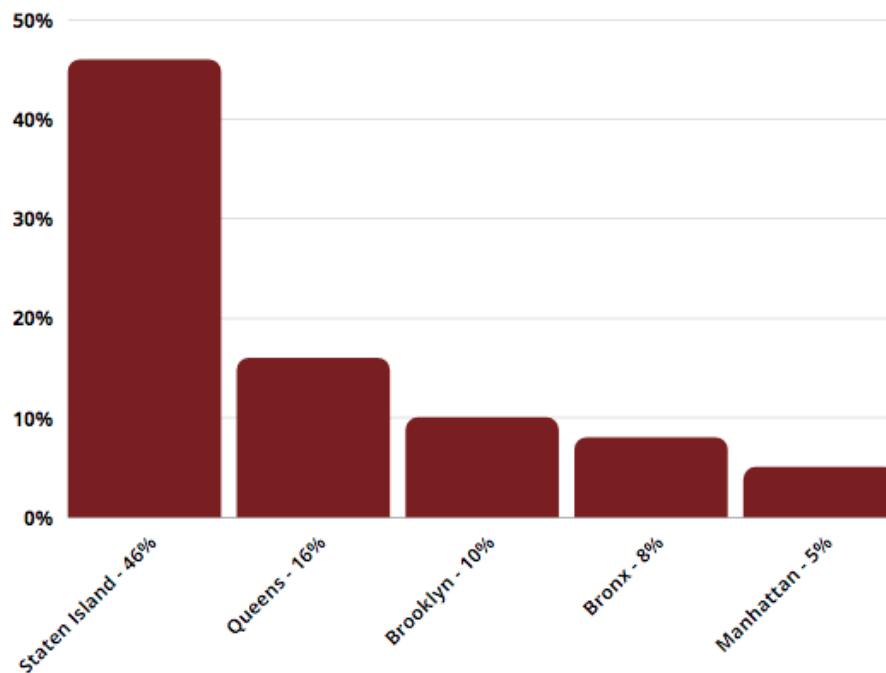
¹³² See *id.*

¹³³ See *id.*

Independent Budget Office (the “IBO”) in September 2000.¹³⁴ In addition to being more than twenty-two years old, this data reflects students in Grades K–8—not K–12.

According to the IBO Report, the proportion of general education pupils in Grades K–8 in public and private schools who rode yellow buses at the time the report was written varied considerably across boroughs (see fig. 1).¹³⁵

Figure 1: Bus Ridership Percentages of K-8 General Education Students by Borough.¹³⁶



These percentages closely mirror the range of residential densities of the boroughs.

The IBO Report attributes Staten Island’s high rate of yellow bus usage to three factors: the borough has the greatest average distance that students live from school, the lowest availability of public transportation, and the largest number of variances granted to students facing hazardous walking conditions.¹³⁷

The IBO Report also states that everywhere in the city except Staten Island, greater proportions of private than public school students use yellow buses.¹³⁸ This reflects the smaller number of private schools, each of which typically draws students from a wider geographic area than

¹³⁴ *Expanding Yellow Bus Service: Fiscal Impact of Three Proposed Policy Changes*, N.Y. CITY INDEP. BUDGET OFFICE (Sept. 2000), available at <https://ibo.nyc.ny.us/iboreports/schoolbus.pdf> (last visited Nov. 22, 2021).

¹³⁵ *See id.* at 2.

¹³⁶ *See id.*

¹³⁷ *See id.*

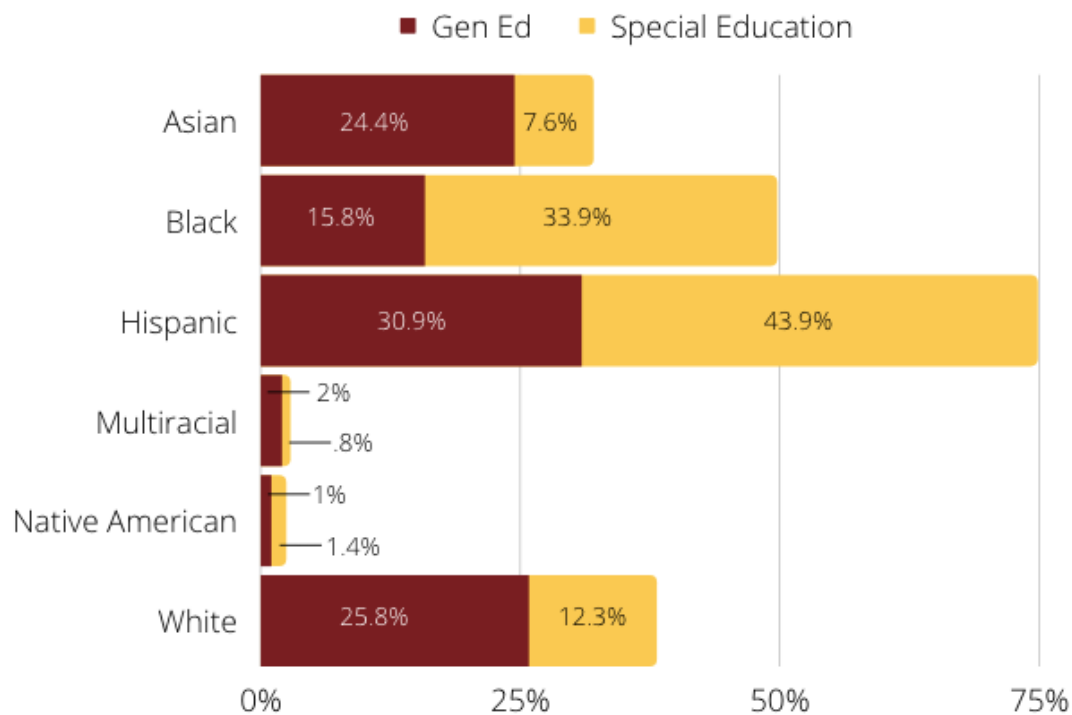
¹³⁸ *See id.*

public schools.¹³⁹ Private schools often request bus service because free transportation makes their school a more attractive option for students who live beyond walking distance.¹⁴⁰ However, these schools do not always have sufficient student concentrations in particular geographic areas to make it feasible for the Board to provide the service.¹⁴¹

We contacted the IBO to see if they could provide an update of the data from 2000. Although their revised data focuses on slightly different metrics, we believe that the information may provide important background data for integration planning.

First, the IBO provided a breakdown of students by ethnicity in Grades K–12 who rode yellow school buses to public schools and schools in New York City’s Citywide District for Special Education during the 2018-2019 school year and 2019–2020 school year (their most recent year of data), as follows:

Figure 2: Yellow Bus Students 2018–19: General Education vs. Special Education.*



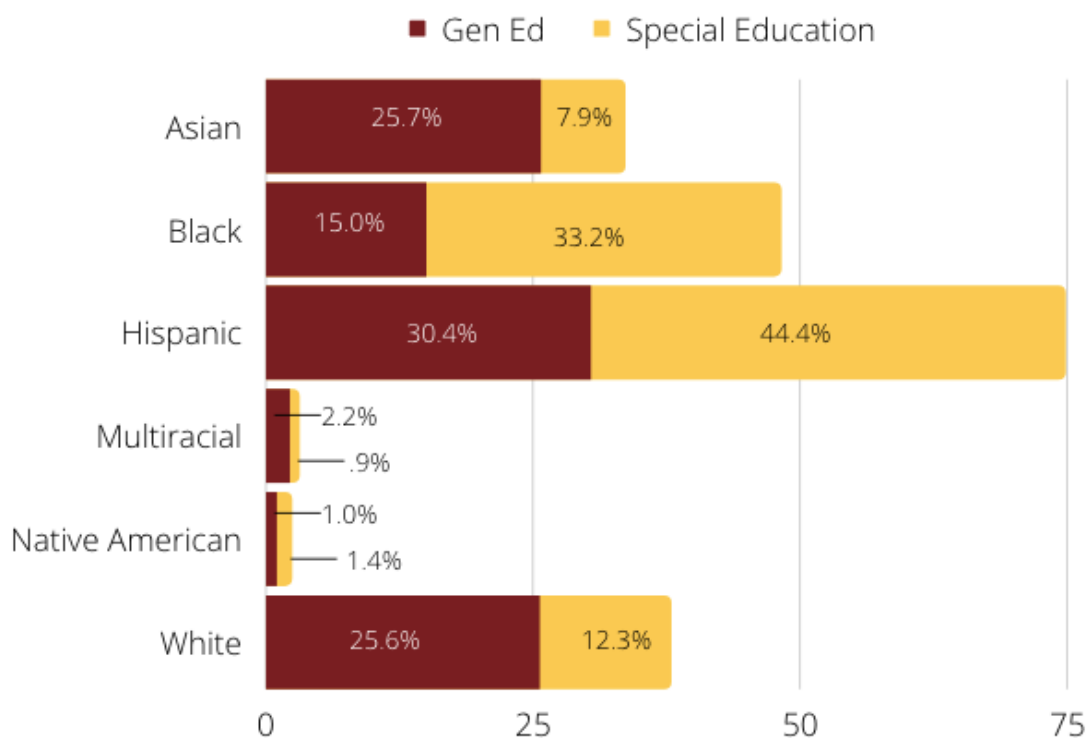
*49 students with missing ethnicities not reported

¹³⁹ See *id.*

¹⁴⁰ See *id.*

¹⁴¹ See *id.*

Figure 3: Yellow Bus Students 2019–20: General Education vs. Special Education.*



*93 students with missing ethnicities not reported

We then compared this data and identified the changes in ridership by ethnicity across the two school years, as seen in Table 1:

Table 1: Yellow Bus Students: Change in General Education and Special Education Ridership by Ethnicity Between 2018-2019 and 2019-2020.

Ethnicity	General Ed Busing	Special Ed Busing	Total
<i>Asian</i>	+355	+181	+536
<i>Black</i>	-675	-101	-776
<i>Hispanic</i>	-740	+444	-296
<i>Multi-Racial</i>	+87	+40	+127
<i>Native American</i>	-25	-19	-44
<i>White</i>	-539	+80	-459
<i>Total</i>	-1,537	+625	-912

We note that the total number of students in the IBO's data – approximately 99,000 – varies considerably from the estimated 150,000 cited in the article on the DOE's website. However, the

IBO's data does not capture student ridership in charter schools or private schools, which could account for this large discrepancy.

Second, the IBO further broke down the above data by borough:

Table 2: Yellow Bus Students 2018–19: Student's Borough.**

Ethnicity	Brooklyn	Manhattan	Queens	Staten Island	Bronx	Total
<i>Asian</i>	3,683	656	10,619	1,727	776	17,461
<i>Black</i>	7,669	1,727	5,876	1,984	5,874	23,130
<i>Hispanic</i>	5,794	3,083	11,715	4,539	10,971	36,102
<i>Multi-Racial</i>	312	251	518	320	126	1,527
<i>Native American</i>	229	47	656	68	201	1,201
<i>White</i>	4,759	1,383	4,834	8,288	966	20,230
<i>Total</i>	22,446	7,147	34,218	16,926	18,914	99,651

***58 students with missing ethnicities and/or boroughs missing or outside NYC not reported*

Table 3: Yellow Bus Students 2019–20: Student's Borough.**

Ethnicity	Brooklyn	Manhattan	Queens	Staten Island	Bronx	Total
<i>Asian</i>	3,705	709	10,911	1,865	810	18,000
<i>Black</i>	7,264	1,598	5,814	2,002	5,678	22,356
<i>Hispanic</i>	5,578	2,947	11,593	4,711	10,981	35,810
<i>Multi-Racial</i>	340	267	572	346	129	1,654
<i>Native American</i>	228	39	619	72	199	1,157
<i>White</i>	4,771	1,361	4,791	7,901	947	19,771
<i>Total</i>	21,886	6,921	34,300	16,897	18,744	98,748

***93 students with missing ethnicities and/or boroughs missing or outside NYC not reported*

As with the general ridership data, we then compared this data and identified the changes in ridership by ethnicity in each borough across the two school years, as follows:

Table 4: Yellow Bus Students: Change in Ridership by Ethnicity Within Each Borough Between 2018-2019 and 2019-2020.

Ethnicity	Brooklyn	Manhattan	Queens	Staten Island	Bronx	Total
<i>Asian</i>	+22	+53	+292	+138	+34	+539
<i>Black</i>	-405	-129	-62	+18	-196	-774
<i>Hispanic</i>	-216	-136	-122	+172	+10	-292
<i>Multi-Racial</i>	+28	+16	+54	+26	+3	+127

<i>Native American</i>	-1	-8	-37	+4	-2	-44
<i>White</i>	+12	-22	-43	-387	-19	-459
<i>Total</i>	-560	-226	+82	-29	-170	-903

Third, the IBO consolidated the above data and provided a breakdown of students by ethnicity in Grades K–12 who rode yellow school buses to general education schools and special education schools within each borough:

Table 5: Yellow Bus Students 2018–19: General Education vs. Special Education by Borough.***

Ethnicity	Brooklyn		Manhattan		Queens		Staten Island		Bronx		Total	
	GenEd	SpecEd	GenEd	SpecEd	GenEd	SpecEd	GenEd	SpecEd	GenEd	SpecEd	GenEd	SpecEd
<i>Asian</i>	2,859	824	526	130	8,944	1,675	1,524	203	520	256	14,373	3,088
<i>Black</i>	2,642	5,027	488	1,239	2,837	3,039	1,237	747	2,084	3,790	9,288	13,842
<i>Hispanic</i>	2,343	3,451	1,007	2,076	7,731	3,984	3,289	1,250	3,793	7,178	18,163	17,939
<i>Multi-Racial</i>	228	84	219	32	424	94	246	74	73	53	1,190	337
<i>Native American</i>	77	152	18	29	404	252	46	22	71	130	616	585
<i>White</i>	3,248	1,511	1,087	296	3,341	1,493	6,969	1,319	557	409	15,202	5,028
<i>Total</i>	11,397	11,049	3,345	3,802	23,681	10,537	13,311	3,615	7,098	11,816	58,832	40,819

***58 students with missing ethnicities and/or boroughs missing or outside NYC not reported

Table 6: Yellow Bus Students 2019–20: General Education vs. Special Education by Borough***

Ethnicity	Brooklyn		Manhattan		Queens		Staten Island		Bronx		Total	
	GenEd	SpecEd	GenEd	SpecEd	GenEd	SpecEd	GenEd	SpecEd	GenEd	SpecEd	GenEd	SpecEd
<i>Asian</i>	2,858	847	581	128	9,131	1,780	1,649	216	509	301	14,728	3,272
<i>Black</i>	2,507	4,757	321	1,277	2,700	3,114	1,229	773	1,856	3,822	8,613	13,743
<i>Hispanic</i>	2,186	3,392	857	2,090	7,413	4,180	3,359	1,352	3,611	7,370	17,426	18,384
<i>Multi-Racial</i>	249	91	232	35	466	106	254	92	76	53	1,277	377
<i>Native American</i>	78	150	18	23	388	231	49	23	60	139	591	566
<i>White</i>	3,257	1,514	1,071	290	3,254	1,537	6,545	1,356	536	411	14,663	5,108
<i>Total</i>	11,135	10,751	3,078	3,843	23,352	10,948	13,085	3,812	6,648	12,096	57,298	41,450

***93 students with missing ethnicities and/or boroughs missing or outside NYC not reported

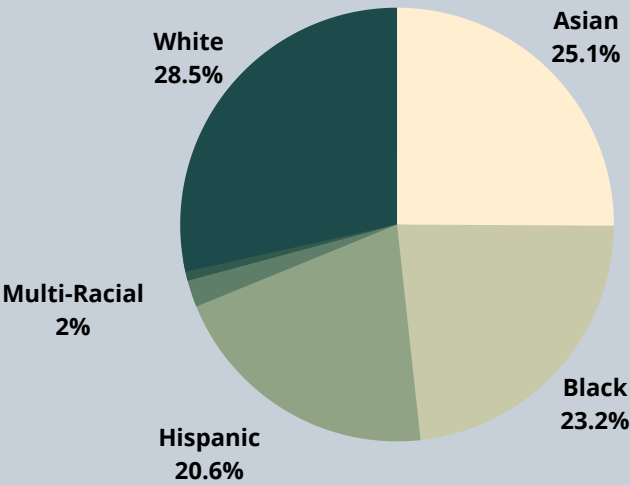
For ease of comparison, we have also converted Table 5 and 6 into graphs:¹⁴²

¹⁴² Please note: ethnic groups that make up less than 1% of the total are often too small to be properly labeled and reflected in the graphs. For the exact number of students in those categories please refer to tables 5 and 6.

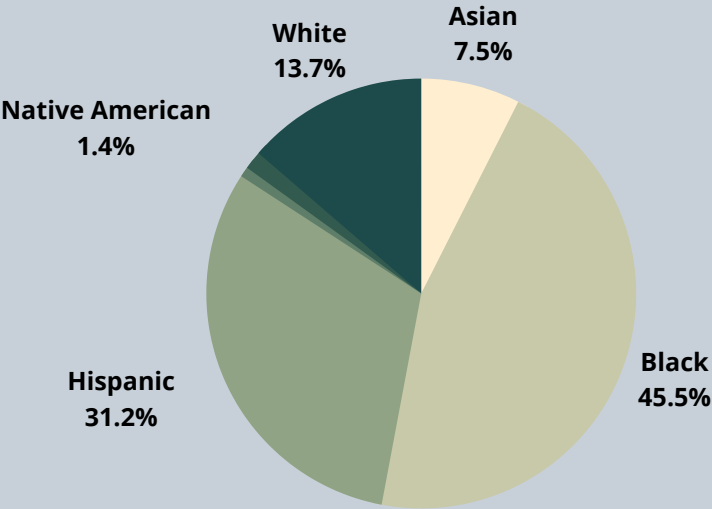
Yellow Bus Students 2018–19: General Education vs. Special Education by Borough

Brooklyn

General Education

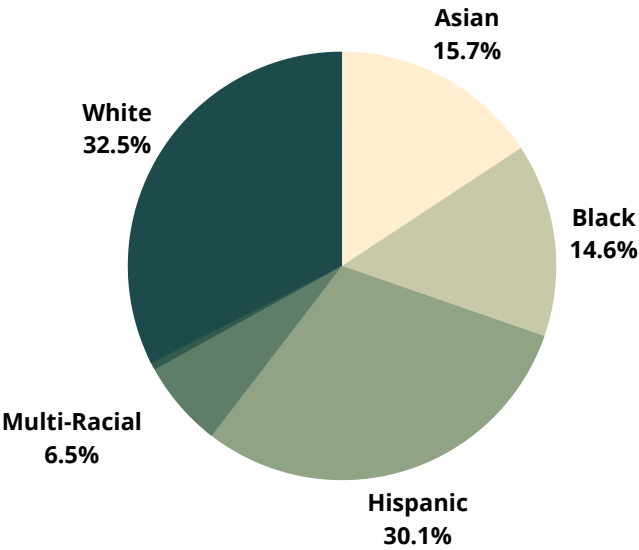


Special Education

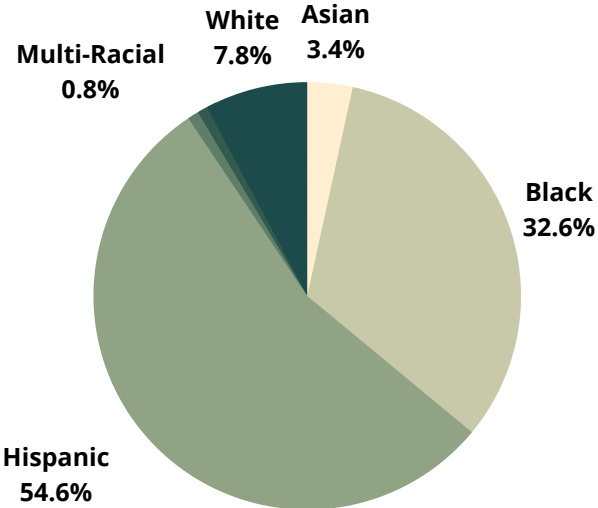


Manhattan

General Education

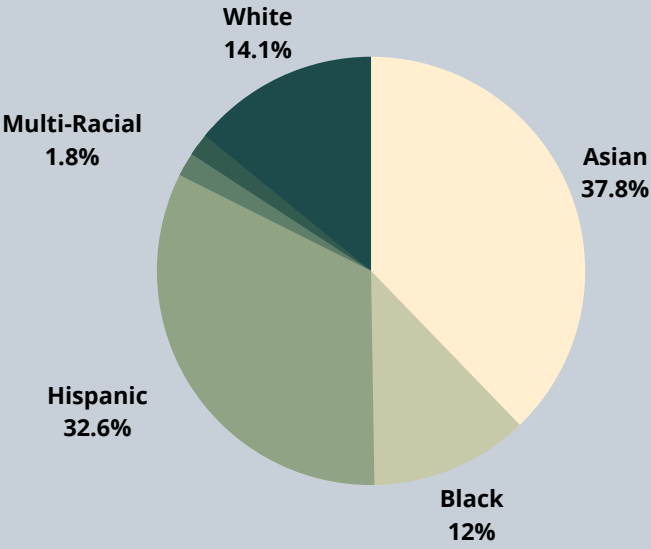


Special Education

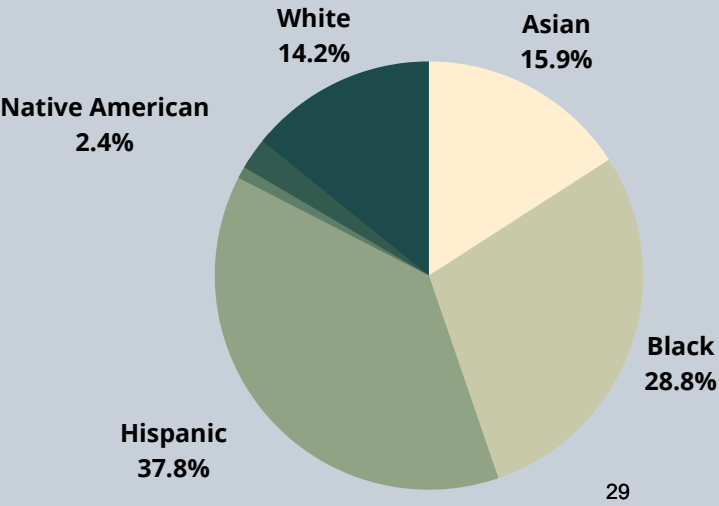


Queens

General Education

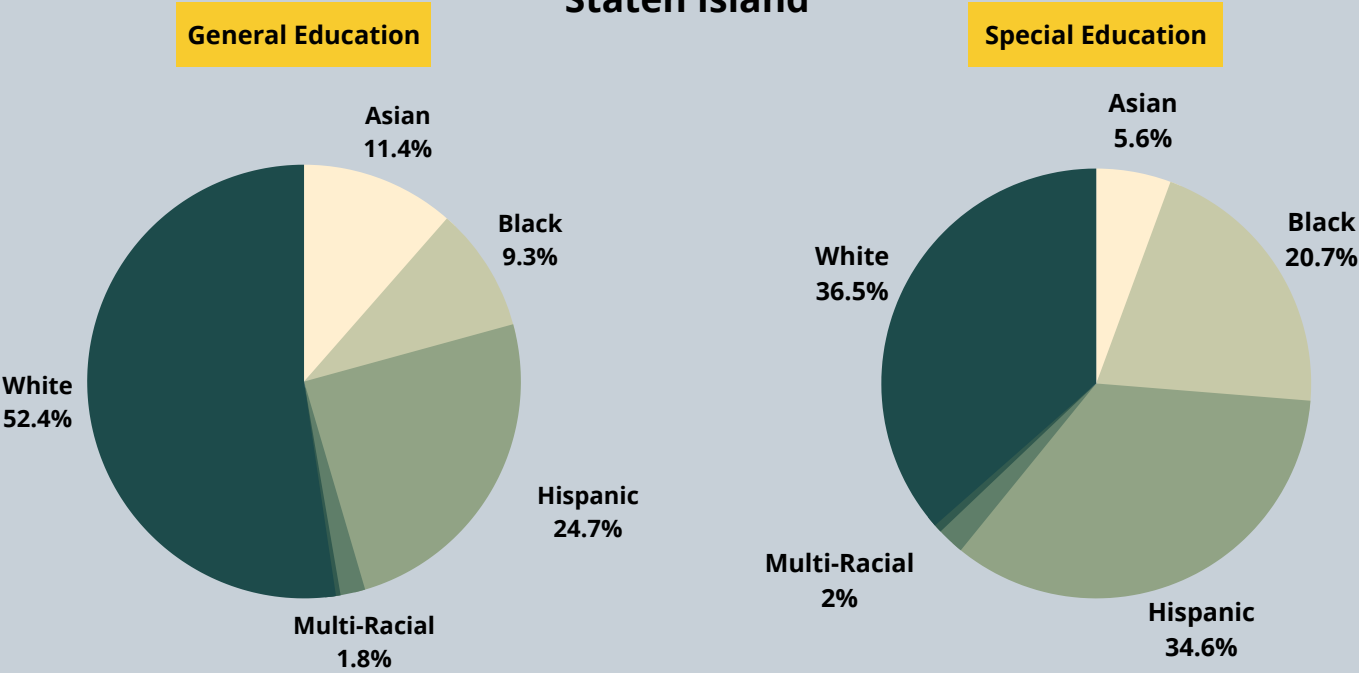


Special Education

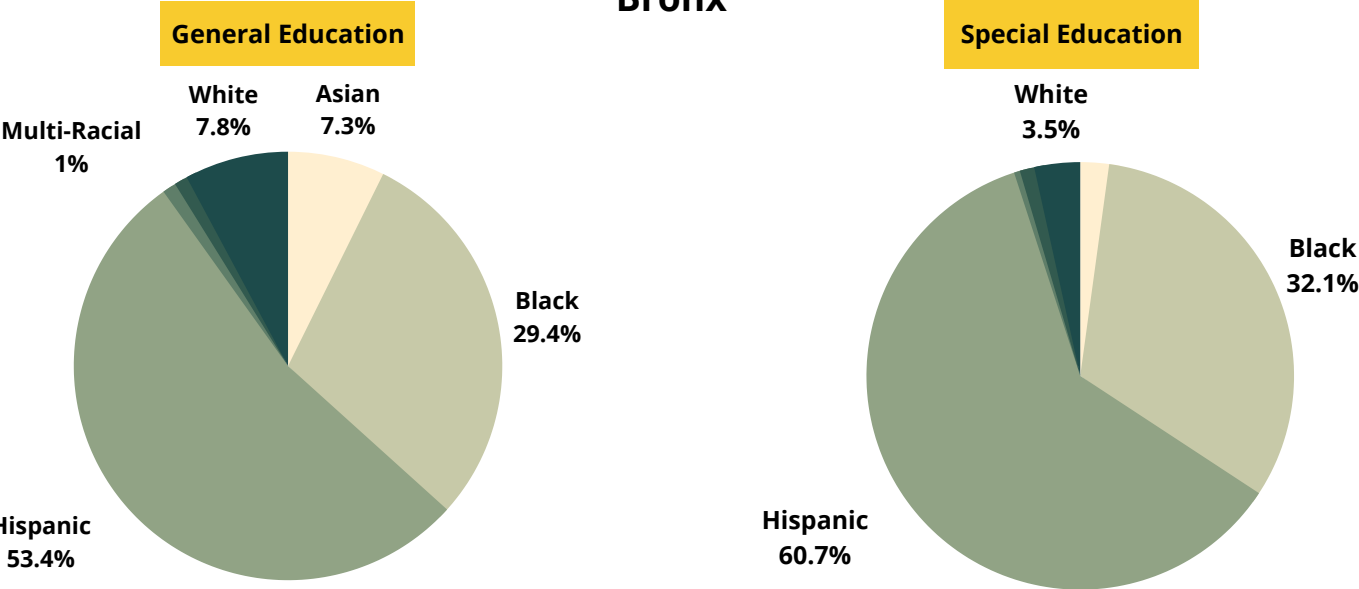


Yellow Bus Students 2018–19: General Education vs. Special Education by Borough

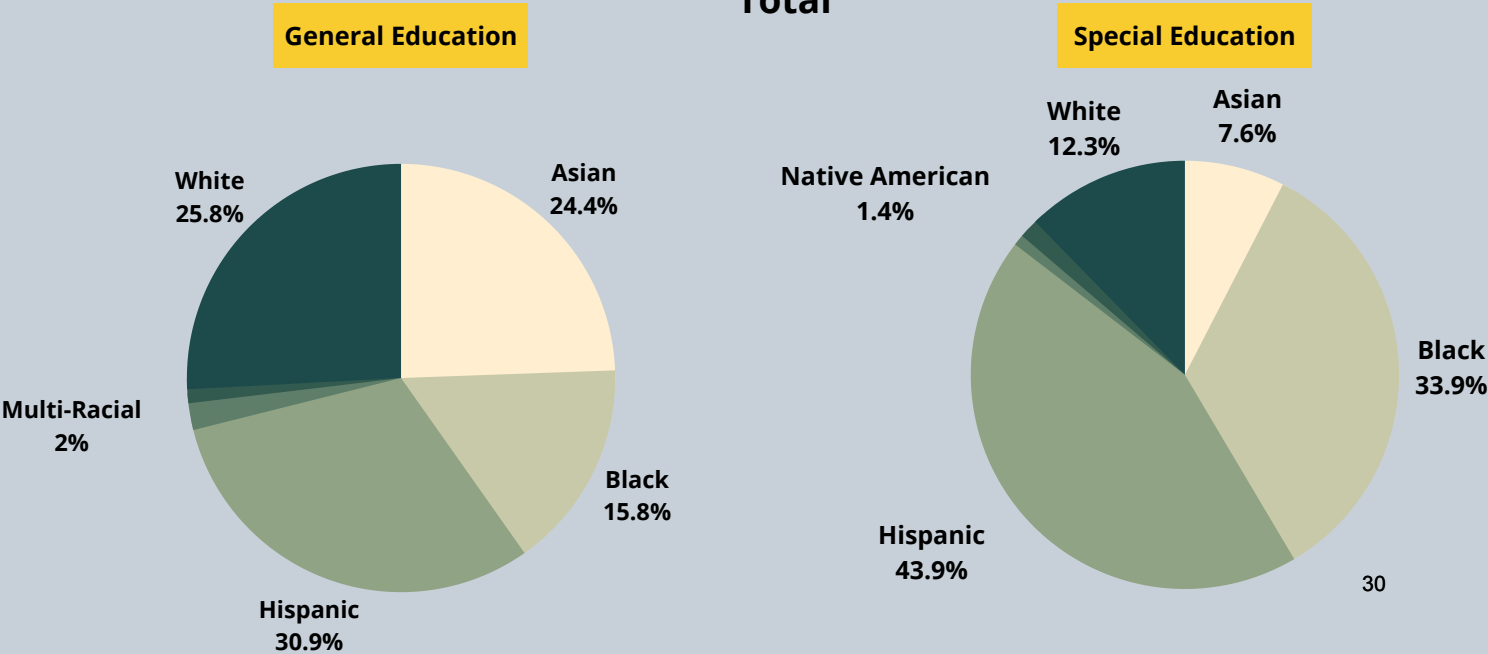
Staten Island



Bronx



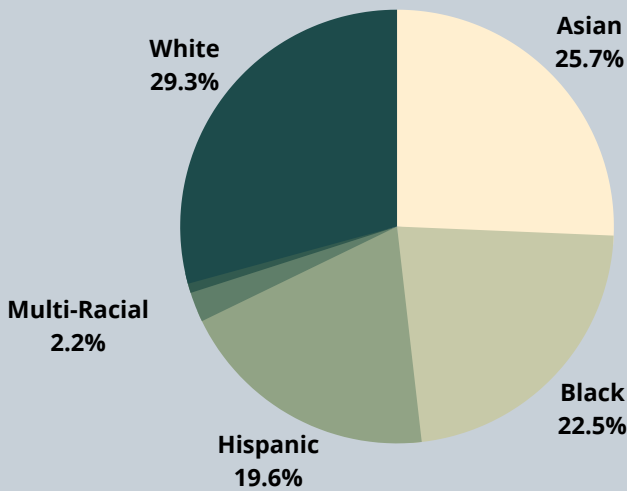
Total



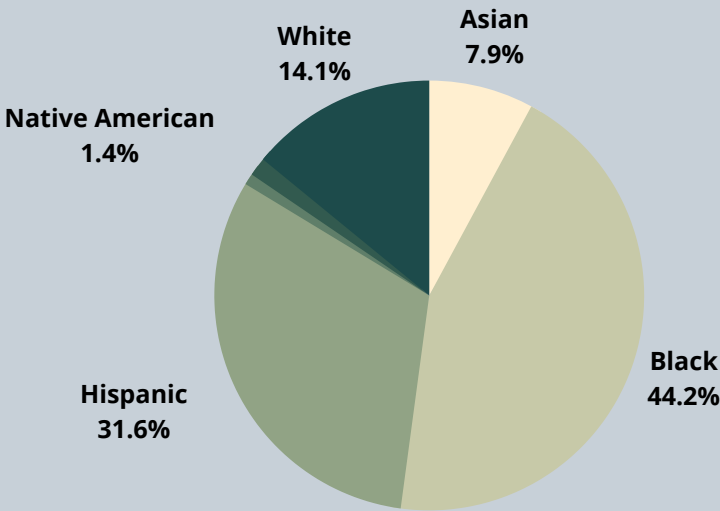
Yellow Bus Students 2019–20: General Education vs. Special Education by Borough

Brooklyn

General Education

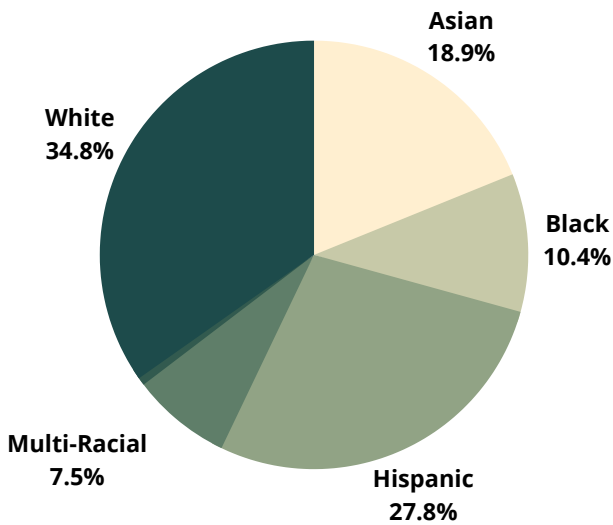


Special Education

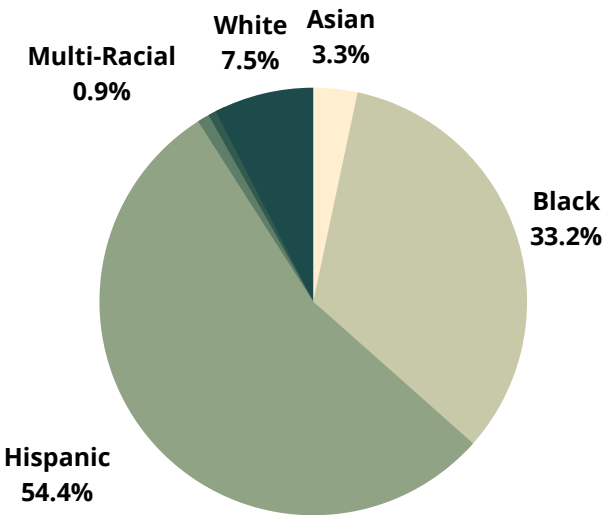


Manhattan

General Education

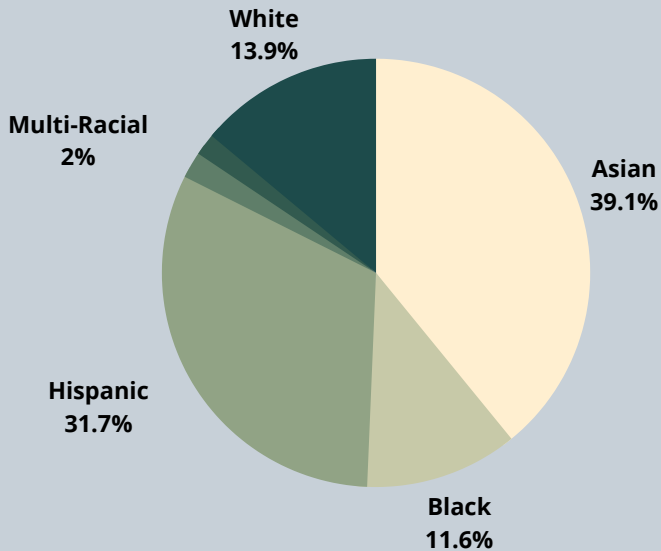


Special Education

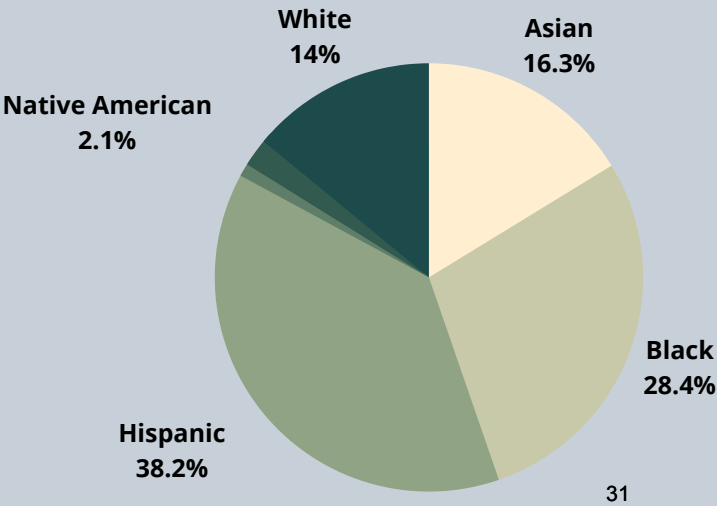


Queens

General Education

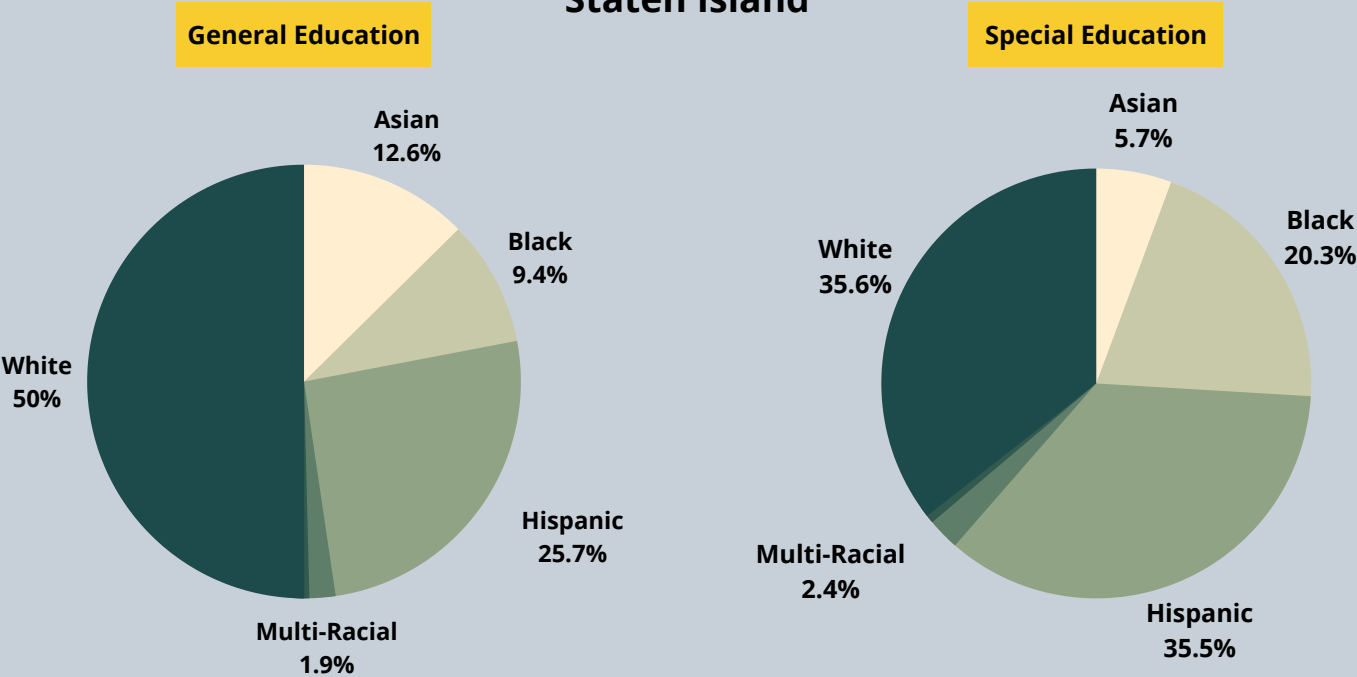


Special Education

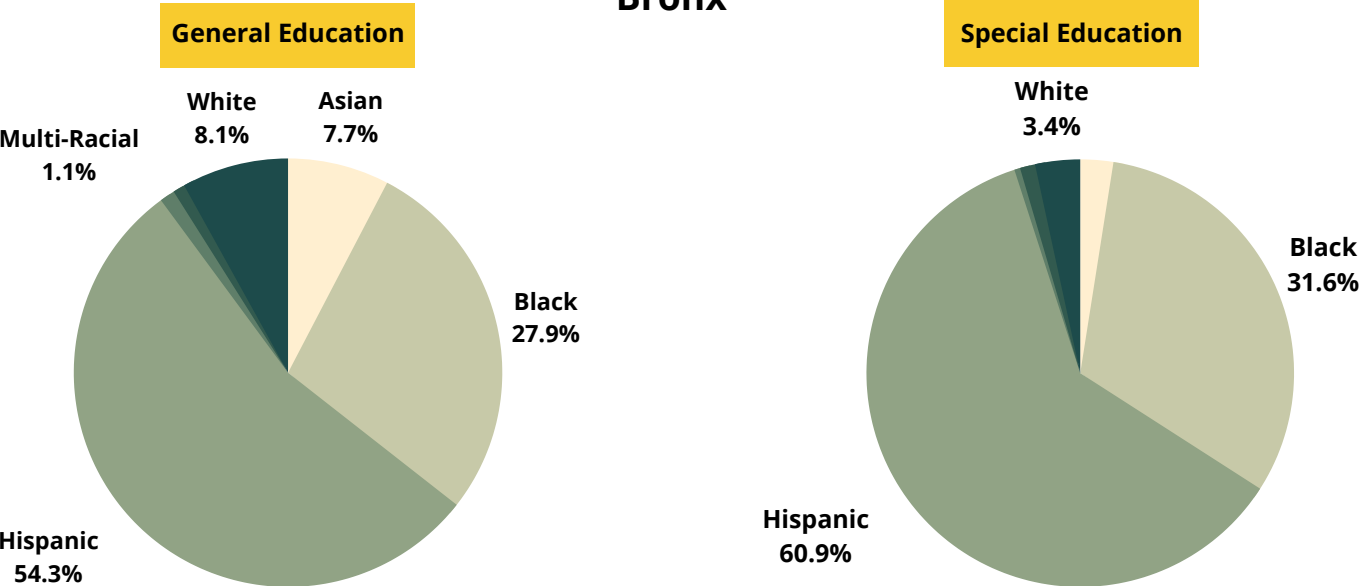


Yellow Bus Students 2019–20: General Education vs. Special Education by Borough

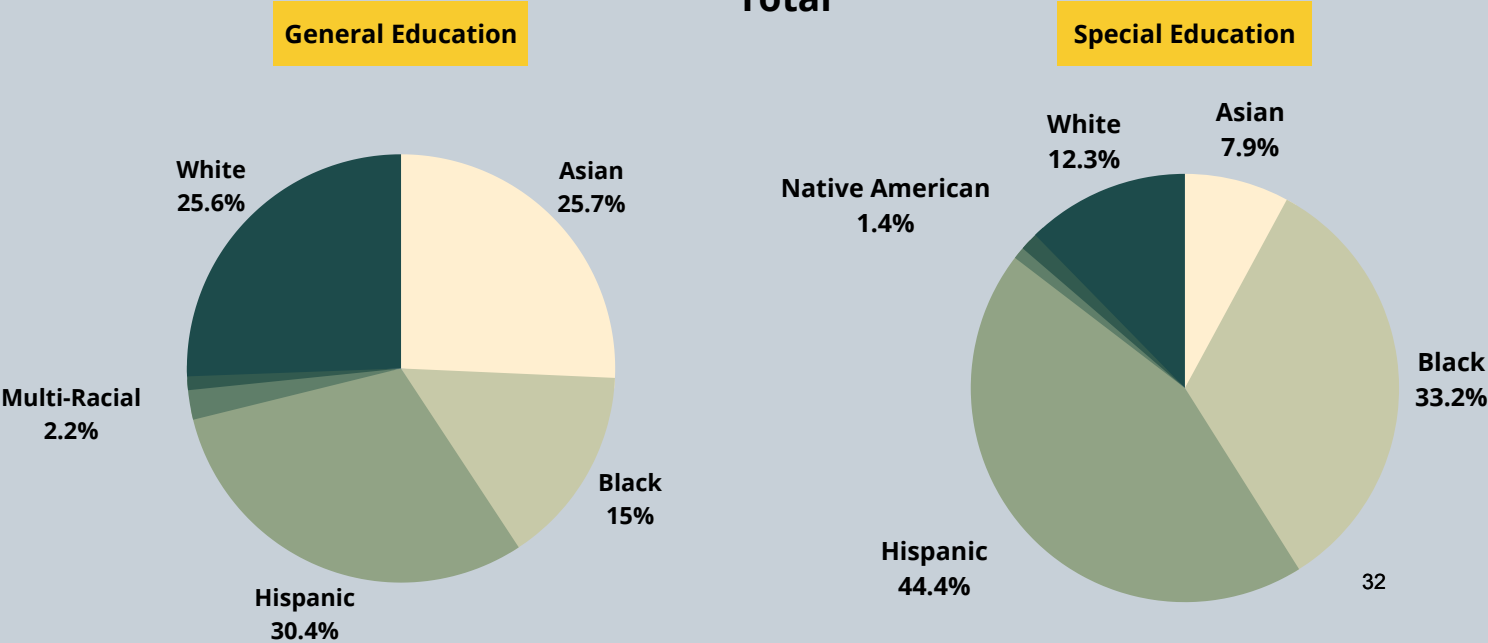
Staten Island



Bronx



Total



The following chart provides the most comprehensive breakdown of the data, offering a snapshot of the changes in ridership by ethnicity between the 2018-2019 and 2019-2020 school years, further broken down by borough and school type:

Table 7: Yellow Bus Students: Change in General Education and Special Education Ridership by Ethnicity Within Each Borough.

Ethnicity	Brooklyn		Manhattan		Queens		Staten Island		Bronx		Total	
	GenEd	SpecEd	GenEd	SpecEd	GenEd	SpecEd	GenEd	SpecEd	GenEd	SpecEd	GenEd	SpecEd
Asian	-1	+23	+55	-2	+187	+105	+125	+13	-11	+45	+355	+184
Black	-135	-270	-167	+38	-137	+75	-8	+26	-228	+32	-675	-99
Hispanic	-157	-59	-150	+14	-318	+196	+70	+102	-182	+192	-737	+445
Multi-Racial	+21	+7	+13	+3	+42	+12	+8	+18	+3	0	+87	+40
Native American	+1	-2	0	-6	-16	-21	+3	+1	-11	+9	-25	-19
White	+9	+3	-16	-6	-87	+44	-424	+37	-21	+2	-539	+80
Total	-262	-298	-267	+41	-329	+411	-226	+197	-450	+280	-1534	+631

Based on all of the above data, it appears that the majority of students riding yellow school buses are Hispanic, followed by Black and White students. Additionally, the boroughs with the greatest ridership are Queens and Brooklyn. Students of color represent the majority of students utilizing yellow bus service, which is likely a reflection of the demographics of our school system as a whole. In every borough except for Staten Island, Black and Hispanic students make up the majority of students using yellow bus services for their borough. The two boroughs with the greatest ridership, Queens and Brooklyn, also service overwhelmingly students of color. The majority of students riding buses in Queens are Hispanic (11,715 in 2018-19 and 11,593 in 2019-20) and Asian (10,619 in 2018-19 and 10,911 in 2019-20), and, in Brooklyn, are Black (7,669 in 2018-19 and 7,264 in 2019-20) and Hispanic (5,794 in 2018-19 and 5,578 in 2019-20).

According to the NYCDOE's website, there are **1,094,138** students in the NYC school system. **138,648** of those students are in charter schools.

13.3% are English Language Learners

20.8% are students with disabilities

73% are economically disadvantaged

Racial/Ethnic Breakdown:

40.8% Hispanic

24.7% Black

16.5% Asian

14.8% White

More glaring differences surface when analyzing ridership data for students with disabilities. Ridership to general education programs and special education programs is roughly equal in both Brooklyn and Manhattan, and yet it is key to note, upon further breaking it down by race, Black and Hispanic students make up an overwhelming majority of special education ridership

for each borough—approximately 76% in Brooklyn and 88% in Manhattan for school year 2019-2020. The number of students with disabilities riding in the Bronx—of which 93% of them are Black and Hispanic—exceeds the number of students in general education programs by almost twice as many. And while more than double the number of students in general education programs in Queens ride yellow school buses in comparison to students with disabilities, Black and Hispanic students account for approximately 67% of ridership to special education programs. These differences could indicate a lack of special education services and program seats made available in majority Black and Hispanic neighborhoods, forcing students and families to continue to seek services far outside their most convenient school, something that has recently been proven true for students with disabilities in preschool.¹⁴³

Ridership stayed generally consistent between the 2018-19 and 2019-20 school years—dropping only by approximately 900 total students, or 1%, during the two time periods. It appears that there was an overall increase in the population of Asian students riding yellow school buses. This was true for Asian students in both general education and special education programs (though there was a bigger increase in the general education programs), and across all five boroughs, with Queens and Staten Island seeing the biggest jumps in population. There were

In every borough except for Staten Island, Black and Hispanic students make up the majority of students using yellow bus services for their borough.

also general decreases in ridership among Black, White, and Hispanic students—particularly when looking at the numbers of students in general education programs compared to students in special education programs. It does not appear that these decreases are limited to one geographic area. Looking at the total numbers, Queens was the only borough that saw an overall increased ridership in the 2019-20 school year, and it was by less than 100 students.¹⁴⁴ Any further discernments or an establishment of trends on changes in ridership require far more data than that from only two years. A need for annual and publicly available ridership data is clear, which we elaborate on further in our later recommendations.

¹⁴³ *Not Yet for All, How the Next Administration Can Make Preschool Truly Universal*, ADVOCATES FOR CHILDREN OF NEW YORK (Jan. 2022), available at https://www.advocatesforchildren.org/sites/default/files/library/not_yet_for_all_psse_data_report.pdf?pt=1 (last visited Mar. 28, 2022).

¹⁴⁴ Although we obtained the 2019-2020 data from the IBO in November 2021, it is not clear at what point in the school year these numbers were collected. More specifically, it is not clear what role—if any—the COVID-19 pandemic played in affecting these numbers.

V. Overview of Current Policies for Students

Pursuant to Education Law § 3635(1)(c), city school districts are not required to provide transportation to students; however, if they choose to do so, they must provide equal transportation to all students in “like circumstances.” On September 5, 2000, the DOE issued Regulation of the Chancellor of the New York City Board A-801 (“Regulation A-801”), which “sets forth the provisions that govern the transportation of pupils who are New York City residents to and from school, by contract bus or common carrier service, according to grade, distance and program as well as limitations and implementation mechanisms.”¹⁴⁵ Regulation A-801, despite its importance in regulating quality transit services, has not been updated in over 20 years, despite past indications from the DOE it would do so in the 2019-2020 school year.¹⁴⁶

Modes of Transportation

Section 1.1 of Regulation A-801 sets forth the different modes of transportation and provides that the Director of the Office of Pupil Transportation (the “OPT”) will make the final determination as to the mode of transportation to be provided to each student. Specifically, the modes are:

MODE OF TRANSPORTATION	DESCRIPTION OF MODE OF TRANSPORTATION
COMMON CARRIER	Public transit bus or subway using a MetroCard between closest stop to home and closest stop to school.
CONTRACT CARRIER	Service by yellow school bus under contract to the Board, between stops designated by the OPT and the school.
FREE FARE	The student does not contribute to the cost of the fare.
HALF FARE	The student contributes half of the cost of the fare. The half fare MetroCard is good for surface transportation only and is entirely subsidized by New York City Transit (“NYCT”). It is an alternative for students when they are unable to walk (i.e., inclement weather) to school. This program is a benefit for students provided by the City of New York and is not a required service mandated by the State or Federal governments.
METRO CARD	Plastic laminate card with a ten-digit serial number imprinted on the reverse side of the pass near the magnetic tape. Swipe card will provide up to three trips per student per day; unless additional trips are authorized by the school principal, Executive Director of the OPT and NYCT. MetroCard will be issued as a free fare combination bus and subway pass (where the transfer from surface to rapid during one commute is considered one trip) and half fare surface (bus only) pass.

¹⁴⁵Regulation A-801 is available on the DOE’s website at schools.nyc.gov/docs/default-source/default-document-library/a-801-9-5-2000-final-combined-remediated-wcag2-0 (last visited Nov. 22, 2021). Although the DOE had previously indicated that it planned to update Regulation A-801 during the 2019–2020 School Year to include increased expectations for quality transportation services, expanded eligibility, and address new techniques used on school buses to provide for added safety for our students, it appears that there have been no updates of any kind—including updates that would address the challenging and ever-changing situation posed by the COVID-19 pandemic.

¹⁴⁶ See *Id*

Eligibility for Grades K-12

Section 2.1 of Regulation A-801 sets forth the eligibility criteria for pupils' transportation depending on their grade level, walking distance between home and school, and existing accommodations based on a medical condition, housing status, or safety assessment, as follows:

GRADE LEVEL	Distance Code A: Less than 0.5 mile	Distance Code B: 0.5 to 1 mile	Distance Code C: 1 to 1.5 miles	Distance Code D: 1.5 miles or more
GRADES K - 2	Half Fare	Free Fare	Free Fare	Free Fare
GRADES 3 - 6	Not eligible	Half Fare Surface Transportation	Free Fare	Free Fare
GRADES 7 - 9	Not eligible	Half Fare Surface Transportation	Half Fare Surface Transportation	Free Fare
Students Living in Temporary Housing	Pupils in grades K–12 who have been placed in temporary housing by public authorities are exempt from age and distance requirements if they live in temporary housing. At any time that a student is placed in temporary housing a request for emergency transportation can be placed immediately with the OPT.			
Students with Special Education Services	Students designated as Special Education by the Committee on Special Education are exempt from the minimum grade and distance requirement. Special Education students must also fall within the age guidelines stipulated in the most recent OPT General Education Transportation Manual.			

The DOE website likewise has a “Transportation Eligibility” page that discusses eligibility in some more detail, including whether and how a student is assigned to a yellow school bus instead of a MetroCard.¹⁴⁷

Grade Level	Distance Code A: Less than 0.5 mile	Distance Code B: 0.5 to 1 mile	Distance Code C: 1 to 1.5 miles	Distance Code D: 1.5 miles or more
Grades K–2	Not eligible	School bus or MetroCard	School bus or MetroCard	School bus or MetroCard
Grades 3–6	Not eligible	MetroCard only	School bus or MetroCard	School bus or MetroCard
Grades 7–12	Not eligible	MetroCard only	MetroCard only	MetroCard only

¹⁴⁷ *Transportation Eligibility*, N.Y. CITY DEP'T. OF EDUC., available at <https://www.schools.nyc.gov/school-life/transportation/bus-eligibility> (last visited Nov. 22, 2021).

Specifically, students will be assigned to a yellow school bus if:

- The student is in Grade K-6;
- The student lives in the same district as the school (if attending a public school) or the same borough (if attending a non-public or charter school, or a citywide Gifted & Talented program);
- The student's school has yellow bus service available for all eligible students; and
- A bus stop within the student's grade/distance eligibility exists or can be added to accommodate the student.

The page further provides that students who do not meet the aforementioned criteria will receive a MetroCard.

We note that there appear to be some discrepancies between the eligibility criteria set forth in Regulation A-801 and the chart available on the "Transportation Eligibility" page of the DOE website, and even within the "Transportation Eligibility" page itself. For example, Regulation A-801 provides that students in Grades K-2 are eligible for half fare transportation if they reside less than 0.5 miles from their school, whereas the chart provides that they are not eligible for transportation at all. Additionally, the "Transportation Eligibility" page states "MetroCards are distributed in all grades 7-12," but the chart suggests that there is no transportation available for students in grades 7-12 who reside less than 0.5 from their school.

Criteria and Procedures for Public Transit

Section 3.1 of Regulation A-801 sets forth specific criteria and procedures to be followed for students riding public transit, namely NYCT, Staten Island Rapid Transit, Command Bus Corp., Green Bus Lines, Jamaica Bus Co., Queens Surface Transit and Tri-boro Corp. Specifically:

- GRADES K-6: These students will receive from their school either a free or half fare general education or full fare special education MetroCard good for the fall or spring semesters.
- GRADES 7-12: These students will receive from their school either a free or half fare general education or full fare special education MetroCard good for the fall or spring semesters.
- GRADES K-12: Half Fare MetroCard: After contributing half of the cost, the half fare card will be good for free transfer privileges on franchise / NYCT buses.

Additionally, pursuant to Section 3.3 of Regulation A-801, students may appeal to the OPT when there is a legitimate question concerning student eligibility. That said, until the evaluation is completed, and a decision is reached, the student must abide by the original school decision concerning eligibility or by directives issued by the OPT.

Criteria and Procedures for Contract Bus

Section 4 of Regulation A-801 provides specific criteria and procedures to be followed for students riding contract buses, including specifics as to bus routes and capacity:

- Where contract school bus service is provided, no bus route shall exceed a total one-way route length of 5 miles through all stop points.
- No contract bus route will be established to serve less than the following minimums:
 - o Kindergarten students only: not less than 11 students
 - o Mixed grades: not less than 11 students
 - o No contract bus route shall operate across a borough or county lines
 - o If a student has a MetroCard for public transportation, the pupil is not eligible to ride a contract bus
- Contract bus service shall not be provided for special non-mandated programs which draw students from their regularly zoned schools except for students attending approved programs for the gifted and talented.
- Requests for transportation that require the installation of new bus routes must be submitted to the OPT before April 1, for service beginning the following September.
- The OPT is the only Board unit authorized to establish new bus stops and routes.

Specialized Transportation: Pre-K, Early Intervention, and Gifted & Talented Students

We note that the vast majority of resources surrounding student transportation pertains to students in grades K-12. However, the DOE does have some limited provisions that apply to other students, including Pre-K and Early Intervention students. Succinctly, Pre-K and Early Intervention students are eligible for curb-to-curb school bus service if their Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) recommend transportation as a related service.¹⁴⁸

The DOE does not guarantee school bus service to students in Gifted & Talented (G&T) programs. Although there are some special rules set forth on the DOE website depending on whether the student is enrolled in a district-based or citywide G&T program, transportation

¹⁴⁸ The New York State Early Intervention Program (EIP) is part of the national Early Intervention Program for infants and toddlers with disabilities and their families. First created by Congress in 1986 under the Individuals with Disabilities Education Act (IDEA), the EIP is administered by the New York State Department of Health through the Bureau of Early Intervention. In New York State, the Early Intervention Program is established in Article 25 of the Public Health Law and has been in effect since July 1, 1993. To be eligible for services, children must be under 3 years of age and have a confirmed disability or established developmental delay, as defined by the State, in one or more of the following areas of development: physical, cognitive, communication, social-emotional, and/or adaptive. The Individualized Education Program (IEP) is a written statement of the DOE's plan to provide a child with a Free and Appropriate Public Education (FAPE) in their Least Restrictive Environment (LRE). The Individualized Family Service Plan is a written plan for providing early intervention services to a child eligible for the EIP and the child's family. The IFSP must (1) be developed jointly by the family, appropriate qualified personnel, and the early intervention official; (2) be based on the early intervention evaluation and assessment; (3) include matters specified in the early intervention regulation; and (4) be implemented as soon as possible once written parental consent is obtained.

eligibility is still dependent on a student's grade level and walking distance between home and school (including, in some cases, whether home and school are in the same district or borough).

A. Exceptions to Policies

As noted above, city school districts that provide transportation to students must provide equal transportation to all students in "like circumstances." See Education Law § 3635(1)(c). Nevertheless, the DOE has occasionally deviated from their general transportation policies to achieve specific goals.

VI. Conclusion and Recommendations

Yellow bus service is a crucial component of ensuring that students across New York City can access public schools. Despite the common complaint against “busing” for matters of integration, school buses are already part of the daily lives of many students across New York City. Instead of manifesting fear for “busing” that doesn’t even exist, we should be more concerned with improving the services that do exist by equitably providing this resource for everyone who needs it to gain access to equitable and inclusive schooling.

New York Appleseed proposes the following as next steps to aid navigation of the complexities of yellow bus service more equitably:

The New York City Department of Education must provide easily accessible public data on yellow bus ridership. It is egregious that despite over 100,000 students utilizing yellow bus service, we have almost no data to hold leadership accountable. Ridership data should be provided on all aspects pertaining to student transport, including but not limited to ridership data broken down by borough, district, race, students in temporary housing, students with disabilities, students in special programs, and English Language Learners. This data provides insights into who needs, has access to, and utilizes this resource—all data points crucial to further understanding student transit patterns. This also has the potential to be influential on future integration planning initiatives that would benefit from further data analysis on student transit.

City leadership must require research on ways to better centralize responsibility for equitable dissemination and implementation of yellow bus service in New York City. Fragmented systems are often fueled by piecemeal policies that only serve a limited few. To break down the silos of operation between the many departments that oversee and facilitate student transportation, City leadership must engage in research to inform a better way to centralize yellow bus service responsibilities.

Facilitate comprehensive community engagement on the needs of students and families, particularly those from historically marginalized groups. What is made abundantly clear is students and families, particularly those from historically marginalized groups are going unheard in asking for quality transit on which they rely on. Most policies meant to improve transit have either been done haphazardly, been left unfulfilled, or in the case of Regulation A-801, have gone untouched for nearly 20 years. For our schools to truly be equitable, inclusive, and integrated and serve all students well, this resource and the policies and practices that regulate it need to be updated and most importantly, these updates must be informed by those closest to the problem.