

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2016**

No. 2

Introduced by Council Members Greenfield, Eugene, Koo, Lancman, Levine, Palma, Rose, Vallone, Rodriguez, Deutsch, Maisel, Richards, Cohen, Levin, Treyger, Garodnick, Cabrera, Chin, Constantinides, Cornegy, Crowley, Cumbo, Dickens, Espinal, Ferreras-Copeland, Gentile, Kallos, King, Koslowitz, Lander, Mealy, Miller, Reynoso, Torres, Vacca, Van Bramer, Williams, Wills, Menchaca, Gibson, Grodenchik, Matteo, Ulrich, Borelli, and The Public Advocate (Ms. James).

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to a program to reimburse nonpublic schools for the cost of security guard services.

Be it enacted by the Council as follows:

Section 1. The administrative code of the city of New York is amended by adding a new section 10-172 to read as follows:

§10-172. Security guards in nonpublic schools.

a. Definitions. For the purposes of this section, the following terms shall have the following meanings:

“Administering agency” means one or more agencies designated by the mayor to administer the program or components thereof established by this section. The department of education, with its concurrence, may be designated as an administering agency. The city and such department may enter into an agreement in furtherance of the implementation of this section.

“Allowable costs” means (i) security guard wages equal to the prevailing wage and supplements, subject to provisions of this section governing the reimbursement of such costs, and (ii) reasonable costs, as established by rules promulgated by the administering agency, paid by

qualifying nonpublic schools to security guard companies. “Allowable costs” shall include the cost of training that may be required pursuant to this section, but only to the extent that such training is not otherwise required by article 7-A of the general business law or any other federal, state, or local law or regulation, and shall not include any costs for overtime that are greater than fifteen percent of the non-overtime security wages reimbursed to a qualifying nonpublic school.

“City” means the city of New York.

“Prevailing wage and supplements” means the rate of wage and supplemental benefits per hour paid in the city to unarmed security guards as determined by the comptroller in accordance with section 234 of the labor law.

“Qualifying nonpublic school” means any nonprofit elementary or secondary school in the city, other than a public school, which is providing instruction in accordance with the education law, has been assigned a Basic Educational Data System (BEDS) code by the New York state department of education, or a similar successor identifier, and is serving students in any combination of grades pre-kindergarten through twelve.

“Qualified provider list” means a list of security guard companies that meet standards established by the administering agency to provide security services to nonpublic schools, which may include, but shall not be limited to, performance, training and other qualification standards.

“Security guard” means an unarmed individual with a current and valid registration card issued in accordance with article 7-A of the general business law, authorizing such individual to perform security services in New York.

“Security guard company” means a company licensed to provide security guards under contract to other entities pursuant to article 7 of the general business law.

“Security services” means the unarmed protection of individuals and/or property from harm or other unlawful activity, as well as, prevention, deterrence, observation, detection and/or reporting to government agencies of unlawful activity or conditions that present a risk to the safety of students, staff or the public.

b. Nonpublic school security guard reimbursement program. The mayor may authorize a program to reimburse qualifying nonpublic schools for the cost of security services as set forth in this section upon determining that such program would enhance public safety, in which case the remaining provisions of this section shall be applicable.

c. The mayor shall designate an administering agency to administer the program.

d. The administering agency shall establish a qualified provider list. Such list may be developed based upon standards to be promulgated by rule, or may be developed through a procurement to be conducted by such agency.

e. Upon request of a qualifying nonpublic school, the administering agency shall reimburse such qualifying nonpublic school for the allowable costs of a security guard to provide security services at such school at all times that such school is open for school-related instruction or school-related events, including, but not limited to, school-related after school programs and athletic events.

f. Except as set forth in subdivision g of this section, the administering agency shall provide reimbursement of the allowable costs for:

1. one security guard at a qualifying nonpublic school that enrolls from 300 to 499 students;

2. two security guards at a qualifying nonpublic school that enrolls at least 500 students;
and

3. *an additional security guard at a qualifying nonpublic school for each additional 500 students enrolled.*

For purposes of this subdivision, students with respect to whom the city separately provides assistance that includes funding for security shall not be included in the reimbursement determination, and reimbursement for the services of one security guard during periods of school-related instruction or school-related events may include the costs of different individuals providing security services at different times. Further, the term “student” shall be deemed to refer to the full-time equivalent thereof, based upon a six hour and twenty-minute school day for a student.

g. Notwithstanding the provisions of subdivisions e and f, a qualifying nonpublic school shall not be eligible to receive reimbursement from the administering agency unless:

- 1. such request is made in a form and manner prescribed by the administering agency;*
- 2. each such security guard is employed by a security guard company on the qualified provider list, provided that if such list has not been established by the administering agency or the list contains fewer than three security guard companies, then each such security guard must be employed by a security guard company;*
- 3. each such security guard is paid no less than the prevailing wage and supplements;*
- 4. each such security guard provides security services and no other services;*
- 5. each such security guard and security guard company has been employed or retained in compliance with applicable labor and employment laws;*
- 6. the nonpublic school, acting in coordination with the security guard or security guard company, reports criminal and other significant public safety-related incidents to the police*

department or other appropriate government agency promptly after such incidents occur and in annual summary reports, in accordance with rules promulgated by the administering agency; and

7. the nonpublic school complies with rules promulgated by the administering agency.

h. The administering agency shall provide reimbursement of allowable costs on a quarterly basis after receiving satisfactory proof from the qualified nonpublic school of compliance with the requirements for reimbursement set forth in this section.

i. The reimbursement authorized by this section shall not interfere with any rights a security guard has pursuant to any collective bargaining agreement.

j. Notwithstanding any provision to the contrary in this local law, the total annual amount of reimbursements authorized by this section shall be a maximum of \$19,800,000 dollars per school year, which shall be adjusted annually by the administering agency, if such agency anticipates that such maximum will be reached in the subsequent one-year period, to reflect changes in the prevailing wage and supplements, the number of students attending qualifying nonpublic schools, or the number of qualifying nonpublic schools, provided that such reimbursements shall in no event exceed the amounts appropriated for implementation of this section. To the extent the administering agency anticipates that the amount requested for reimbursement will exceed the funds available, the administering agency shall reimburse for allowable costs on an equitable basis until such funds are exhausted.

k. Nothing in this section shall prohibit a qualifying nonpublic school from paying a wage to a security guard greater than that for which it receives reimbursement pursuant to this section.

l. The provision of reimbursement to a qualifying nonpublic school for allowable costs of a security guard pursuant to this section shall not make the city of New York or any administering agency the employer of such security guard, and such school shall be solely responsible for

withholding and payment of any taxes and other government required payments. Further, nothing in this section shall be construed to relieve any qualifying nonpublic school of responsibility for all other elements of security that may be required or appropriate and are not funded pursuant to this section.

m. The administering agency may promulgate any rules as may be necessary for the purposes of carrying out the provisions of this section, including, but not limited to, rules (i) relating to the training of security guards, (ii) ensuring that security guards and security guard companies are appropriately qualified to provide security services to qualifying nonpublic schools, and (iii) providing for prompt reporting of criminal and other significant public safety-related incidents to the police department or other appropriate government agency as well as annual summary reports of such incidents.

§ 2. This local law shall take effect on April 1, 2016, provided, however, that the mayor and the administering agency may take all actions necessary for its implementation, including the promulgation of rules, prior to such effective date; and provided further that a pro-rated amount of \$19,800,000 shall be available for reimbursement should the program be authorized for the 2015-2016 school year.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on December 7, 2015 and approved by the Mayor on January 5, 2016.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 2 of 2016, Council Int. No. 65-A of 2014) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.