



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

EMERGENCY EXECUTIVE ORDER NO. 538

December 27, 2023

WHEREAS, over the past several months, thousands of asylum seekers have been arriving in New York City, from the Southern border, without having any immediate plans for shelter;

WHEREAS, the City now faces an unprecedented humanitarian crisis that requires it to take extraordinary measures to meet the immediate needs of the asylum seekers while continuing to serve the tens of thousands of people who are currently using the Department of Homeless Services' Shelter System;

WHEREAS, additional reasons for requiring the measures continued in this Order are set forth in Emergency Executive Order No. 224, dated October 7, 2022;

WHEREAS, the state of emergency based on the arrival of thousands of individuals and families seeking asylum, first declared in Emergency Executive Order No. 224, dated October 7, 2022, and extended by subsequent orders, remains in effect;

WHEREAS, other states, municipalities, and non-governmental organizations have sent charter buses to the City containing passengers who such entities know or should know to be individuals who have arrived in the United States from other nations since March 2022;

WHEREAS, a great many passengers on such charter buses have sought emergency shelter and other immediate services from the City;

WHEREAS, the entities sending such charter buses know or should know that the passengers on such buses are likely to seek emergency shelter and other immediate services from the City upon or soon after arrival in the City;

WHEREAS, dozens of charter buses arrive in the City each week, and such charter buses often arrive at night or over the weekend when the City's asylum-seeker operations have the least staff available to receive new arrivals;

WHEREAS, such charter buses often drop off passengers at random locations in the City in a manner that is interfering with and hampering the City's ability to manage this humanitarian crisis, including efforts to meet buses and provide emergency services as needed;

WHEREAS, the entities sending such charter buses to the City often fail to provide sufficient advance notice, or any advance notice, to the City of the arrival of such buses and often fail to provide any information about the number, household size, language needs, and other potential needs of the passengers; and

WHEREAS, the arrival of such charter buses in the City, containing large numbers of individuals who have recently arrived in the United States from other nations and who are likely to seek emergency shelter and other immediate services, without advance notice of the timing of arrival and location where such buses will disembark and without any information about the passengers on such buses, significantly impairs the City's ability to effectively and efficiently manage the ongoing state of emergency;

NOW, THEREFORE, pursuant to the powers vested in me by the laws of the State of New York and the City of New York, including but not limited to the New York Executive Law, the New York City Charter and the Administrative Code of the City of New York, and the common law authority to protect the public in the event of an emergency:

Section 1. I hereby order that section 1 of Emergency Executive Order No. 536, dated December 26, 2023, is extended for five (5) days.

§ 2. I hereby direct that an operator of any charter bus who knows or reasonably should know that such charter bus will be transporting ten or more passengers who are likely to seek emergency shelter and other immediate services in New York City must comply with the requirements set forth in this section. There shall be a presumption that passengers who have arrived recently in the United States are likely to seek emergency shelter and other immediate services. The determination that an operator knows or reasonably should know that they are providing transportation that makes them subject to this Order will be based on the totality of the circumstances, including but not limited to: whether the passengers' fares were paid for by a third party; the identity of such third party; any conditions that such third party paying for transportation imposed on the operator or bus driver; whether the passengers' travel arrangements included return travel; whether the bus is coming from a state from which a substantial number of charter buses have arrived carrying people seeking emergency shelter and other immediate services in New York City in the last 60 days; and any other indicia that the passengers are likely to seek emergency shelter and other immediate services in New York City.

(a) **Notification.** Any such operator must provide notice of the anticipated date and time of arrival of their charter bus in New York City and the information required by paragraph (b) of this section to the Commissioner of Emergency Management or their designee ("the Commissioner") by emailing busnotices@oem.nyc.gov at least 32 hours in advance of such anticipated date and time of arrival, except as provided in paragraph (e) of this section.

(b) **Information Required.** An operator of such charter bus must provide a manifest of its passengers to the Commissioner at least 32 hours in advance of the anticipated date and time of arrival of the charter bus in New York City or upon departure from the charter bus's point of origin, whichever is later. Unless prior approval has been requested and obtained through the exemption process set forth in paragraph (e) of this section, the manifest shall include:

(i) The number of passengers on such bus who arrived in the United States within the previous 90 days and, if the operator has relevant information, the number of such passengers that are likely to seek emergency shelter and other immediate services in New York City;

(ii) The number of such passengers who are single adults traveling alone, and the number of such passengers who are members of a family, including specifying separately the numbers of families with children;

(iii) The number of such passengers who are children;

(iv) The bus driver's name; and

(v) A description of the charter bus, including color, license plate number, and any logo or other information printed on the bus exterior that could assist City employees with identifying the bus.

(c) Timing of Drop-offs. An operator of such a charter bus must direct the bus driver to drop off passengers in New York City only between the hours of 8:30 a.m. to 12:00 p.m., Monday through Friday, unless prior approval for drop off at a different time has been requested and obtained through the exemption process set forth in paragraph (e) of this section. Drop off during official holidays observed in New York City is prohibited subject to the exemption process set forth in paragraph (e) of this section.

(d) Location of Drop-offs. Unless prior approval for drop off at a different location has been requested and obtained through the exemption process set forth in paragraph (e) of this section, an operator of such a charter bus must direct the bus driver to drop off passengers in New York City only at:

(i) the loading zones on 41st Street between 8th and 9th Avenues in Manhattan; or

(ii) another location designated by the Commissioner that has been prominently posted on the website of the New York City Department of Emergency Management.

(e) Request for Exemption. (i) An exemption to the requirements set forth in paragraphs (a), (b), (c) or (d) of this section may be granted in accordance with this paragraph. To request an exemption, an operator must email the Commissioner at busnotices@oem.nyc.gov no later than 72 hours prior to the anticipated date and time of arrival in New York City. Such request for an exemption must set forth: the reasons the exemption is needed; where applicable, a list of any type of manifest information listed in paragraph (b) that such operator is unable to provide; where applicable, the requested date and time of arrival that is outside the allowable hours set forth in paragraph (c); and where applicable, the proposed alternate location other than the location designated in paragraph (d).

(ii) Any such request for an exemption shall be granted where the Commissioner determines, in the Commissioner's discretion, either: (A) that granting such exemption would not

substantially impair the City's ability to manage the ongoing emergency effectively and efficiently; or (B) that, based upon the particular and unusual circumstances presented, there is no other reasonable available alternative, with respect to the details of arrival in the City, to the actions proposed to be taken by the operator. Where appropriate, the Commissioner may grant or deny an exemption in part, and, consistent with the standard set forth in the preceding sentence, may obtain the agreement of the operator to alternative requirements, in lieu of those being waived, as conditions to the exemption where such requirements further public health and safety.

(iii) The Commissioner shall accept, and may approve, applications for exemptions upon less than 72 hours' notice consistent with the standards in this paragraph where such applications additionally demonstrate exigent circumstances that prevent providing the full notice, and that the maximum feasible notice has been provided consistent with such circumstances.

§ 3. For purposes of this Order, "operator" means each owner, lessee or person in control of a vehicle, who contracts or otherwise accepts payment to transport passengers to the City of New York, and any agent acting at their direction. In addition, "operator" shall be deemed to include any intermediary or federally authorized motor carrier facilitating the transportation of passengers to the City.

§ 4. Pursuant to New York Executive Law § 24(5), any person who knowingly violates this order is guilty of a class B misdemeanor.

§ 5. This Executive Emergency Order shall take effect immediately. It shall remain in effect for 5 days and may be renewed for additional periods of 5 days while the State of Emergency is in effect.

A handwritten signature in black ink, appearing to read "Eric Adams", is written over a horizontal line.

Eric Adams
Mayor