

# STATE OF NEW YORK

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142

2019-2020 Regular Sessions

## IN SENATE

(Prefiled)

January 9, 2019

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Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to required instruction in non-public schools

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (i) of subdivision 2 of section 3204 of the  
2 education law, as amended by section 1 of part SSS of chapter 59 of the  
3 laws of 2018, is amended to read as follows:

4 (i) Instruction may be given only by a competent teacher. In the  
5 teaching of the subjects of instruction prescribed by this section,  
6 English shall be the language of instruction, and text-books used shall  
7 be written in English, except that for a period of three years, which  
8 period may be extended by the commissioner with respect to individual  
9 pupils, upon application therefor by the appropriate school authorities,  
10 to a period not in excess of six years, from the date of enrollment in  
11 school, pupils who, by reason of foreign birth or ancestry have limited  
12 English proficiency, shall be provided with instructional programs as  
13 specified in subdivision two-a of this section and the regulations of  
14 the commissioner. The purpose of providing such pupils with instruction  
15 shall be to enable them to develop academically while achieving compe-  
16 tence in the English language. Instruction given to a minor elsewhere  
17 than at a public school shall be at least substantially equivalent to  
18 the instruction given to minors of like age and attainments at the  
19 public schools of the city or district where the school is located or if  
20 home-schooled, where the minor resides.

21 § 2. The education law is amended by adding a new section 3204-a to  
22 read as follows:

23 § 3204-a. Instruction required in non-public schools. 1. All students  
24 attending a non-public school shall be given instruction that is

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 substantially equivalent to the instruction that is given to students of  
2 similar age and attainment in the district in which the school is  
3 located. A non-public school is not required to use the curriculum of  
4 the school district in which they are located but must provide students  
5 with instruction that is similar in rigor, allotted time, and subject.

6 2. If there is an allegation that a non-public school's instruction is  
7 not substantially equivalent to the instruction of the public school  
8 district, a written complaint may be filed with the commissioner by a  
9 current or former student, parent of a current or former student,  
10 current or former teacher, administrator or employee of a non-public  
11 school or a resident of the school district that such non-public school  
12 is located. The complaint must include the complainant's name, address,  
13 non-public school name, non-public school's address, relationship to the  
14 non-public school, description of the non-public school's failure to  
15 provide appropriate education, and evidence of the curriculum, content  
16 of instruction or any other documentation or proof that the school  
17 failed to provide substantially equivalent instruction.

18 3. Upon receipt of a complaint pursuant to this section, the commis-  
19 sioner shall substantiate such complaint to determine whether a valid  
20 claim exists. The commissioner shall notify the district superintendent  
21 and non-public school administrator, and request documentation pertain-  
22 ing to the school's instruction, including but not limited to,  
23 description of curriculum, class instruction materials, testing program,  
24 and schedule of classes. The non-public school administrator must  
25 respond to the request for documentation in a time period specified by  
26 the commissioner. In the course of the investigation, the department  
27 may, during any reasonable hour, conduct unannounced school visits at  
28 the non-public school to observe instruction. The visitations shall  
29 include observation of classrooms, discussions with school staff and  
30 students, and review of curriculum documents. The non-public school  
31 authorities shall not refuse access to the department for the purpose of  
32 a visitation pursuant to this section.

33 4. The commissioner may consult with the district superintendent  
34 during the investigation and may request documents needed as part of  
35 such investigation.

36 5. Following an investigation, the commissioner shall issue a report  
37 on their findings of whether the non-public school is providing instruc-  
38 tion that is substantially equivalent to the school district in which it  
39 is located. The report shall include all documentation submitted by the  
40 non-public school and if school visitations were made, all observations  
41 and notes from such visits.

42 6. If the commissioner determines that a non-public school has failed  
43 to provide substantially equivalent instruction to the public school  
44 pursuant to this section, the commissioner shall take any of the follow-  
45 ing actions, either individually or in combination:

46 (a) The commissioner may issue an order that provides the non-public  
47 school with a corrective action plan. The corrective action plan shall  
48 compel the non-public school to take immediate steps to implement an  
49 appropriate curriculum that provides students with substantially equiv-  
50 alent instruction pursuant to this section.

51 (b) The commissioner may place a temporary education observer at the  
52 non-public school to ensure that appropriate instruction is provided to  
53 students.

54 (c) The commissioner may, if applicable, place the non-public school's  
55 registration on probation until the non-public school demonstrates that

1 their instruction and curriculum is substantially equivalent to the  
2 school district which they are located in.

3 (d) The commissioner may withhold any apportionment or grant of  
4 mandated services aid until any actions or orders are satisfied.

5 (e) The commissioner may permanently revoke the non-public school's  
6 registration or if not registered, prohibit the school from operating.

7 § 3. This act shall take effect immediately.