

# STATE OF NEW YORK

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4663--B

2019-2020 Regular Sessions

## IN SENATE

March 20, 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to fire inspections of public and private schools

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

1 Section 1. Section 807-a of the education law, as added by chapter 871  
2 of the laws of 1955, subdivision 1 as amended and subdivision 10 as  
3 added by chapter 981 of the laws of 1963, subdivisions 2 and 3 as  
4 amended by chapter 607 of the laws of 1964, subparagraphs 4 and 5 of  
5 paragraph a of subdivision 3 and paragraph a of subdivision 10 as  
6 amended by chapter 284 of the laws of 1971, paragraph b of subdivision 3  
7 as amended by chapter 511 of the laws of 1974, subdivision 4 as amended  
8 by chapter 225 of the laws of 1979, subdivision 5 as amended by chapter  
9 700 of the laws of 1971, paragraph a of subdivision 5 as amended by  
10 chapter 464 of the laws of 1975, subdivision 6 as amended by chapter 165  
11 of the laws of 2006, subdivision 7 as amended by chapter 536 of the laws  
12 of 1981, and subdivision 11 as amended by chapter 380 of the laws of  
13 1976, is amended to read as follows:

14 § 807-a. Fire inspections. 1. It shall be the duty of the school  
15 authorities in general charge of the operation of any public or private  
16 school to cause the buildings of such school containing classroom,  
17 dormitory, laboratory, physical education, dining or recreational facil-  
18 ities for student use to be inspected at least annually for fire hazards  
19 which might endanger the lives of students, teachers and employees ther-  
20 ein.

21 2. The annual fire inspection shall be made prior to the first day of  
22 December of every school year and the report thereof shall be filed by

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

LBD01579-06-9

1 the school authorities in the places required by subdivision five of  
2 this section no later than the sixteenth day of December of every such  
3 year.

4 3. a. The school authorities shall cause any fire inspection pursuant  
5 to this section to be made by one of the following methods, or any  
6 combination of such methods:

7 (1) ~~[Employing, either regularly or specially, persons who, in the~~  
8 ~~judgment of the school authorities, are qualified to make such an~~  
9 ~~inspection, or any phase thereof.~~

10 ~~(2) Contracting for the making of such inspections, or any phase ther-~~  
11 ~~eof, by persons who, in the judgment of the school authorities, are~~  
12 ~~qualified.~~

13 ~~(3)]~~ Requesting inspection by the fire department of any city, town,  
14 village or fire district in which the building is located.

15 ~~[(4)]~~ (2) Requesting inspection by a fire corporation which is subject  
16 to the provisions of section fourteen hundred two of the not-for-profit  
17 corporation law, if such building is located within the area described  
18 in the certificate of incorporation of any such corporation.

19 ~~[(5)]~~ (3) Requesting inspection by the county fire coordinator, or the  
20 officer performing the powers and duties of a county fire coordinator  
21 pursuant to a local law, of the county in which the building is located,  
22 or by any deputy county fire coordinator or deputy of such other officer  
23 so performing the powers and duties of a county fire coordinator desig-  
24 nated to make the inspection by the county fire coordinator or such  
25 other officer so performing the powers and duties of a county fire coor-  
26 dinator, if the building is located outside a city, town, village, or  
27 fire district, which has its own fire department and outside the area  
28 described in the certificate of incorporation of any fire corporation  
29 which is subject to the provisions of section fourteen hundred two of  
30 the not-for-profit corporation law.

31 (4) Requesting inspection by a fire inspector, who holds a valid  
32 certification.

33 b. ~~[If any such inspection, or phase thereof, is to be made by either~~  
34 ~~of the methods specified in subparagraphs (1) and (2) of paragraph a of~~  
35 ~~this subdivision, the school authorities shall give reasonable notice of~~  
36 ~~the date and time such inspection is to be made to the chief, or other~~  
37 ~~comparable officer, of any fire department, or fire corporation, which~~  
38 ~~has the regular duty of fighting fire in the building to be inspected.~~  
39 ~~Such officer, or any subordinate designated by him, may be present~~  
40 ~~during the inspection and may also file a report of inspection in the~~  
41 ~~manner provided in this section.~~

42 ~~e-]~~ If any fire department, certified fire inspector or fire corpo-  
43 ration described in subparagraphs ~~[(3) and (4)]~~ one, two, and four of  
44 paragraph a of this subdivision shall fail or refuse to make a fire  
45 inspection promptly after having been requested to do so by the school  
46 authorities, the request shall be denied in writing to the school  
47 authorities ~~[may request the county fire coordinator, or the officer~~  
48 ~~performing the powers and duties of a county fire coordinator pursuant~~  
49 ~~to a local law, of the county in which the building is located to make~~  
50 ~~such inspection. It shall be the duty of the county fire coordinator, or~~  
51 ~~such other officer so performing the powers and duties of a county fire~~  
52 ~~coordinator, in such case to make such inspection or cause it to be made~~  
53 ~~by a deputy whom he shall designate]~~ with an explanation of why such  
54 request was denied. In no event may an authority who is otherwise  
55 required by law to conduct fire inspections in such municipality or a

1 county fire coordinator refuse a request by a school authority for such  
2 inspection.

3 ~~[d.]~~ c. Regardless of the method or methods used to accomplish the  
4 inspection required by this section, the ~~[person]~~ authority making the  
5 inspection shall file the report thereof with the school authorities no  
6 later than the first day of December.

7 4. The state fire administrator shall prescribe the form of the fire  
8 inspection report and the commissioner ~~[of education]~~ shall furnish a  
9 supply of such form to school authorities annually, either by mail or  
10 electronically. In prescribing such form the state fire administrator  
11 shall consider standards for fire safety set forth in the state building  
12 construction code, the state building conservation and fire prevention  
13 code, the regulations of the commissioner ~~[of education]~~ and other safe-  
14 ty standards.

15 5. a. The report of any fire inspection shall be filed in the office  
16 of the school authorities and with the commissioner ~~[of education]~~. All  
17 such reports ~~[so]~~ filed in any public office shall be kept as public  
18 records for at least three years after which period they may be  
19 destroyed.

20 b. Within twenty days after the ~~[filing of the]~~ report is filed with  
21 the school authorities, the school authorities shall cause public notice  
22 of the filing of such report to be given in substantially the following  
23 form: "Notice is hereby given that the annual inspection for  
24 (year) of

25 the school building (or of the  
26 and school buildings) of (name of school district or private  
27 school) for fire hazards which might endanger the lives of students,  
28 teachers and employees therein, has been completed and the report there-  
29 of is available at the office of (school district or private school)  
30 at for inspection by all interested persons". If the inspection  
31 was not made for the school authorities by the fire department or fire  
32 company responsible for fire protection of the building, such authori-  
33 ties shall cause a copy of such notice to be mailed or electronically  
34 transmitted to the chief of such fire department or company.

35 c. The school authorities of public schools shall cause such notice to  
36 be published on the school's website or at least once in the official  
37 newspaper, or if there is no official newspaper, in a newspaper having  
38 general circulation in the school district, and if there is no newspaper  
39 having general circulation in the district, shall cause such notice to  
40 be posted in ten conspicuous places in the district. Proof of publica-  
41 tion or posting of such notice and of the mailing of a copy of such  
42 notice to the fire chief shall be filed in the office of the district.

43 d. The school authorities of private schools shall cause such notice  
44 to be published on the school's website or at least once in a newspaper  
45 having general circulation in the postal area in which the school build-  
46 ing is located, and if there is no newspaper having general circulation  
47 in such postal area, shall cause such notice to be posted in ten  
48 conspicuous places in such postal area. Proof of posting or publication  
49 of such notice and of the mailing of a copy of such notice to the fire  
50 chief shall be filed in the school office.

51 e. If the report shows any alleged deficiencies, the school authori-  
52 ties shall ~~[give at least five days notice by mail to the chief of the~~  
53 ~~fire department or fire company responsible for fire protection of the~~  
54 ~~school building of the date and place of a meeting of the trustees,~~  
55 ~~board of education, or corresponding officers by whatever name known, to~~  
56 ~~be held within thirty days following the publication or posting required~~

1 ~~by this section, and shall at such meeting confer with the fire chief~~  
2 ~~concerning the alleged deficiencies appearing on the inspection report~~  
3 ~~and the measures proposed to be taken by the school authorities to~~  
4 ~~correct such deficiencies.~~

5 ~~f. In each such school district subject to the jurisdiction of a~~  
6 ~~district superintendent under the provisions of article forty five of~~  
7 ~~the education law, such district superintendent shall ascertain that the~~  
8 ~~notices required by this subdivision have been published or posted, and~~  
9 ~~mailed, and any conference with the fire chief required by this subdivi-~~  
10 ~~sion has been had] provide the details of such deficiencies and the~~  
11 proposed actions to be taken to correct such deficiencies to the local  
12 government that administers and enforces the uniform fire prevention and  
13 building code for the municipality in which the building is located.

14 6. a. It shall be the duty of the commissioner to ascertain annually  
15 whether the inspections of school buildings required by this section  
16 have been made and the reports of the inspection have been filed in  
17 their respective offices. The commissioner shall review the reports of  
18 inspection filed pursuant to this section and may make recommendations  
19 to the school authorities with respect to any problems relating to  
20 school fire safety noted in such reports. The commissioner shall require  
21 a re-inspection of school buildings where a report of inspection identi-  
22 fied violations [~~that, if uncorrected, would cause the department to~~  
23 until it is demonstrated to the satisfaction of the commissioner that  
24 said violations have been corrected. In the event that a public school  
25 fails to correct violations following a re-inspection, the commissioner  
26 may deny an annual certificate of occupancy to such school building[  
27 ~~and shall require additional re-inspections until it is demonstrated to~~  
28 ~~the satisfaction of the commissioner that said violations have been~~  
29 ~~corrected]~~. The commissioner may inspect or cause to be inspected at any  
30 reasonable time for fire prevention and fire protection purposes the  
31 school buildings required to be inspected by this section.

32 b. In the event a private school has failed to file an annual fire  
33 safety report with the department within ninety days of the sixteenth of  
34 December, the commissioner shall inspect or request an appropriate local  
35 authority, described in subdivision seven of this section, to inspect  
36 the school. If a private school either refuses access for an inspection  
37 pursuant to this paragraph, or does not correct violations identified in  
38 such report in a timely manner, the commissioner shall immediately noti-  
39 fy, in writing, the local government who issues the certificate of occu-  
40 pancy for the school of their failure to file a fire safety report.

41 7. a. Every public or private school required to be inspected as  
42 hereinabove provided may be inspected for fire prevention and fire  
43 protection purposes at any reasonable time by:

44 (1) the chief of the fire department of the city, town, village or  
45 fire district in which the school is located,

46 (2) the chief of a fire corporation having its headquarters outside a  
47 village or fire district, if the school is located in the area described  
48 in the certificate of incorporation of such company,

49 (3) the chief of the fire department or fire company affording fire  
50 protection to a fire district, fire protection district, or fire alarm  
51 district pursuant to a contract, if the school is located in any such  
52 district,

53 (4) the member of any fire department or fire company listed in  
54 subparagraph one, two or three of this paragraph assigned by the chief  
55 thereof the duty of inspecting school buildings[~~✓~~].

1 (5) the fire inspector, who holds a valid certification, of any city,  
2 town, village or fire district in which the building is located.

3 b. In no event shall the school authorities of any public or private  
4 school, required to be inspected as hereinabove provided, refuse access  
5 at any reasonable time to any person described in subparagraphs one,  
6 two, three ~~[and]~~, four or five of paragraph a of this subdivision, who  
7 appears for the purpose of conducting an inspection for fire prevention  
8 or fire protection purposes; provided, however, that the administrator  
9 or the designee of the administrator of the school to be inspected shall  
10 be given the opportunity to be present during the inspection.

11 8. ~~[Any person, or any public or other corporation for which any such~~  
12 ~~person acts, shall not be liable for any error, omission or lack of~~  
13 ~~thoroughness in the making of the inspection and report required or~~  
14 ~~permitted by this section.~~

15 ~~9.~~] The term "school authorities", as used in this section, means, in  
16 relation to public schools, the trustees, or board of education, or  
17 corresponding officers, whether one or more, and by whatever name known  
18 of a city school district, or other school district however created, or,  
19 in relation to private schools, the board of trustees, board of direc-  
20 tors, or other governing board in general charge of the operation of any  
21 such school.

22 ~~[10.]~~ 9. The term "private school", as used in this section, means:

23 a. Any nursery school or kindergarten attended by six or more pupils  
24 three years of age or older which may apply for registration by the New  
25 York state education department pursuant to part one hundred twenty-five  
26 of title eight of the official compilation of codes, rules and regu-  
27 lations of the state of New York; provided, however, that this section  
28 shall not apply to day care facilities possessing a valid permit as  
29 required by section three hundred ninety of the social services law; or

30 b. Any establishment, other than a public school, attended by twenty-  
31 five or more pupils for the purpose of receiving the instruction of  
32 academic grade at the elementary or secondary level required by part one  
33 of article sixty-five of this chapter.

34 ~~[11.]~~ 10. This section shall not apply to the school authorities in  
35 the cities of New York, Buffalo, Rochester, Syracuse and Yonkers or to  
36 colleges and universities.

37 § 2. Subdivision 1 of section 807-c of the education law, as amended  
38 by chapter 1015 of the laws of 1974, is amended to read as follows:

39 1. The school authorities designated in subdivision ~~[nine]~~ eight of  
40 section eight hundred seven-a of this ~~[chapter]~~ article in charge of the  
41 operation of any public school or of any private school designated in  
42 subdivision ~~[ten]~~ nine of such section, located in an area within which  
43 a fire department or fire company is responsible for fire protection and  
44 within which there is no electrically or electronically operated fire  
45 alarm reporting system provided for public use may cause the internal  
46 fire alarm, fire detection, or fire extinguishing system of each build-  
47 ing in which is contained classroom, dormitory, laboratory, physical  
48 education, dining or recreational facilities for student use to be  
49 interconnected with the fire alarm reporting location or system which is  
50 provided for such fire department or fire company to receive alarms from  
51 the public so that upon activation of such internal fire alarm, fire  
52 detection, or fire extinguishing system a signal will be automatically  
53 transmitted to such fire alarm reporting location or system.

54 § 3. This act shall take effect on the sixtieth day after it shall  
55 have become a law.