

# STATE OF NEW YORK

4663

2019-2020 Regular Sessions

## IN SENATE

March 20, 2019

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 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  
23 the school authorities in the places required by subdivision five of  
24 this section no later than the sixteenth day of December of every such  
25 year.

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

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

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

7 (~~2) Contracting for the making of such inspections, or any phase ther-~~  
8 ~~eef, by persons who, in the judgment of the school authorities, are~~  
9 ~~qualified.~~

10 (~~3~~) Requesting inspection by the fire department of any city, town,  
11 village or fire district in which the building is located.

12 [~~4~~] (~~2~~) Requesting inspection by a fire corporation which is subject  
13 to the provisions of section fourteen hundred two of the not-for-profit  
14 corporation law, if such building is located within the area described  
15 in the certificate of incorporation of any such corporation.

16 [~~5~~] (~~3~~) Requesting inspection by the county fire coordinator, or the  
17 officer performing the powers and duties of a county fire coordinator  
18 pursuant to a local law, of the county in which the building is located,  
19 or by any deputy county fire coordinator or deputy of such other officer  
20 so performing the powers and duties of a county fire coordinator desig-  
21 nated to make the inspection by the county fire coordinator or such  
22 other officer so performing the powers and duties of a county fire coor-  
23 dinator, if the building is located outside a city, town, village, or  
24 fire district, which has its own fire department and outside the area  
25 described in the certificate of incorporation of any fire corporation  
26 which is subject to the provisions of section fourteen hundred two of  
27 the not-for-profit corporation law.

28 (4) Requesting inspection by a fire inspector, who holds a valid  
29 certification.

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

39 ~~e.~~] If any fire department, certified fire inspector or fire corpo-  
40 ration described in subparagraphs [~~3~~] (1), (2) and (4) of paragraph a  
41 of this subdivision shall fail or refuse to make a fire inspection  
42 promptly after having been requested to do so by the school authorities,  
43 the request shall be denied in writing to the school authorities [~~may~~  
44 ~~request the county fire coordinator, or the officer performing the~~  
45 ~~powers and duties of a county fire coordinator pursuant to a local law,~~  
46 ~~of the county in which the building is located to make such inspection.~~  
47 ~~It shall be the duty of the county fire coordinator, or such other offi-~~  
48 ~~cer so performing the powers and duties of a county fire coordinator, in~~  
49 ~~such case to make such inspection or cause it to be made by a deputy~~  
50 ~~whom he shall designate] with an explanation of why such request was  
51 denied. In no event may an authority who is otherwise required by law to  
52 conduct fire inspections in such municipality or a county fire coordina-  
53 tor refuse a request by a school authority for such inspection.~~

54 [~~d.~~] c. Regardless of the method or methods used to accomplish the  
55 inspection required by this section, the [~~person~~] authority making the

1 inspection shall file the report thereof with the school authorities no  
2 later than the first day of December.

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

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

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

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

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

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

47 e. If the report shows any alleged deficiencies, the school authori-  
48 ties shall [~~give at least five days notice by mail to the chief of the~~  
49 ~~fire department or fire company responsible for fire protection of the~~  
50 ~~school building of the date and place of a meeting of the trustees,~~  
51 ~~board of education, or corresponding officers by whatever name known, to~~  
52 ~~be held within thirty days following the publication or posting required~~  
53 ~~by this section, and shall at such meeting confer with the fire chief~~  
54 ~~concerning the alleged deficiencies appearing on the inspection report~~  
55 ~~and the measures proposed to be taken by the school authorities to~~  
56 ~~correct such deficiencies.~~

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

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

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

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

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

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

45 (3) the chief of the fire department or fire company affording fire  
46 protection to a fire district, fire protection district, or fire alarm  
47 district pursuant to a contract, if the school is located in any such  
48 district,

49 (4) the member of any fire department or fire company listed in  
50 subparagraph one, two or three of this paragraph assigned by the chief  
51 thereof the duty of inspecting school buildings[+],

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

54 (6) the county fire coordinator, or the officer performing the powers  
55 and duties of a county fire coordinator pursuant to a local law, of the  
56 county in which the building is located.

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

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

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

21 ~~[10.]~~ 9. The term "private school", as used in this section, means:

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

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

33 ~~[11.]~~ 10. This section shall not apply to the school authorities in  
34 the cities of New York, Buffalo, Rochester, Syracuse and Yonkers or to  
35 colleges and universities.

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

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

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