

STATE OF NEW YORK

4663--B

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 -- 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.

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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
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.