

STATE OF NEW YORK

8924

IN SENATE

August 19, 2020

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

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

providing that the Board of Regents, the Commissioner of Education, and the Education Department shall have the responsibility to respond to the current COVID-19 pandemic, terminating certain Executive Orders issued by the Governor pursuant to section 29-a of the Executive Law, and providing for the procedure to be followed regarding future Executive Orders regarding elementary, secondary, post-secondary schools, State Universities, and other educational entities

1 WHEREAS, the New York State Board of Regents is responsible for the
2 general supervision of all educational activities in the State of New
3 York including all elementary, secondary, and post-secondary schools
4 pursuant to Article XI, Section 2 of the New York State Constitution;
5 and

6 WHEREAS, the New York State Board of Regents appoints the Commissioner
7 of Education to be the chief administrative officer of the Department of
8 Education pursuant to Article V, Section 4 of the New York State Consti-
9 tution; and

10 WHEREAS, the Commissioner of Education is the "chief executive officer
11 of the state system of education," has "general supervision of all
12 schools and institutions ... related to education," and has the respon-
13 sibility to "advise and guide the school officers of all districts and
14 cities of the State in relation to their duties and the general manage-
15 ment of the schools under their control" pursuant to section 305 of the
16 Education Law; and

17 WHEREAS, elected local school boards throughout New York State and the
18 Mayor in the City of New York are charged with the administrative
19 responsibility for managing and operating individual school districts
20 consistent with the guidance and direction provided by the Board of
21 Regents, the Commissioner of Education, and the Education Department;
22 and

23 WHEREAS, the Governor was given the authority pursuant to Executive
24 Law section 29-a by Executive Order to temporarily suspend any laws,
25 ordinances, rules or regulations during a State disaster emergency,

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

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1 provided that any such action by subject to the State Constitution, and
2 further subject to the requirement that "when practicable, specialists
3 shall be assigned to assist with the related emergency actions to avoid
4 needless adverse effects resulting from such suspensions,"; and

5 WHEREAS, the Board of Regents, the Commissioner of Education, and the
6 Education Department, consistent with their independent role under the
7 State Constitution and their cadre of specialists, should assert primary
8 responsibility, subject to duly enacted legislation, for responding to
9 the current COVID-19 pandemic, including deciding when and under what
10 conditions local schools should reopen; and

11 WHEREAS, the State Legislature has the authority to terminate by
12 concurrent resolution Executive Orders issued under section 29-a of the
13 Executive Law; now, therefore, be it

14 RESOLVED, (if the Assembly concur) that the Board of Regents, the
15 Commissioner of Education, and the Education Department shall have the
16 responsibility, subject to duly enacted legislation, to respond to the
17 current COVID-19 pandemic, including deciding when and under what condi-
18 tions elementary, secondary, post-secondary schools, State Universities,
19 and other educational entities subject to their jurisdiction should
20 reopen and operate; and be it further

21 RESOLVED, (if the Assembly concur) that any Executive Orders issued by
22 the Governor that are inconsistent in any manner with the decisions of
23 the Board of Regents, the Commissioner of Education, and the Education
24 Department regarding elementary, secondary, post-secondary schools,
25 State Universities, and other educational entities subject to their
26 jurisdiction are hereby terminated; and be it further

27 RESOLVED, (if the Assembly concur) that the Governor shall retain the
28 authority to issue Executive Orders regarding elementary, secondary,
29 post-secondary schools, State Universities, and other educational enti-
30 ties subject to the jurisdiction of the Board of Regents, the Commis-
31 sioner of Education, and the Education Department to the extent that the
32 Governor is requested in writing by the Board of Regents to exercise the
33 authority to suspend temporarily specific laws, rules, or regulations
34 during a declared state of emergency for a period not to exceed 30 days;
35 and be it further

36 RESOLVED, (if the Assembly concur) that a copy of any request by the
37 Board of Regents to the Governor to exercise any emergency authority
38 shall be simultaneously sent to the temporary President of the Senate,
39 the Minority Leader of the Senate, the Speaker of the Assembly, the
40 Minority Leader of the Assembly, and the chairs and ranking members of
41 the Senate and Assembly education committees.