

# STATE OF NEW YORK

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563

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

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Introduced by Sens. HOYLMAN, BIAGGI, COMRIE, JACKSON -- 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 providing for absence from school for the mental or behavioral health of the minor

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

1 Section 1. Section 3210 of the education law, subdivision 1 as amended  
2 by chapter 821 of the laws of 1947, paragraph b of subdivision 1 as  
3 amended by chapter 491 of the laws of 2014 and paragraph c of subdivi-  
4 sion 1 as added by chapter 549 of the laws of 1986, is amended to read  
5 as follows:

6 § 3210. Amount and character of required attendance. 1. Regularity and  
7 conduct. a. A minor required by the provisions of this part [~~one of this~~  
8 ~~article~~] to attend upon instruction shall attend regularly as prescribed  
9 where he resides or is employed, for the entire time the appropriate  
10 public schools or classes are in session and shall be subordinate and  
11 orderly while so attending.

12 b. (i) Absence for religious observance and education shall be permit-  
13 ted under rules that the commissioner shall establish.

14 (ii) In addition, the board of education or trustees shall determine  
15 whether school session should not be held at an individual public  
16 school, or district-wide, on a day where, if school were in session,  
17 absenteeism may result in the waste of educational resources because a  
18 considerable proportion of the student population is unlikely to attend  
19 because of a religious or cultural day of observance.

20 (iii) Absence due to the mental or behavioral health of the minor  
21 shall be permitted under rules that the commissioner shall establish.

22 c. In the event that a person requests the release of a minor required  
23 by the provisions of this part [~~one of this article~~] to attend upon

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

LBD02633-01-1

1 instruction, the identity of such person shall be verified against a  
2 list of names provided by the person or persons in parental relation to  
3 the minor, as defined in section two of this chapter, at the time of  
4 such minor's enrollment. The school district may adopt appropriate  
5 procedures for the purpose of submitting a list of names at a later date  
6 or updating the list of names provided by the person or persons in  
7 parental relation. If such person is identified as one of those persons  
8 included on such list, such minor may be released from attendance. If  
9 such person is identified as a person not included on such list, such  
10 minor may not be released except in the event of an emergency as deter-  
11 mined in the sole discretion of the principal of the school, or his  
12 designee, provided that the person or persons in parental relation to  
13 the minor have been contacted and have agreed to such release. A school  
14 district may presume that either parent of the student has authority to  
15 obtain the release of said minor unless the school district has been  
16 provided with a certified copy of the legally binding instrument such as  
17 the court order or decree of divorce, separation or custody which  
18 provides evidence to the contrary. No situation shall be deemed an emer-  
19 gency until the facts of such situation have been verified by such prin-  
20 cipal or his designee. No civil or criminal liability shall arise or  
21 attach to any school district or employee thereof for any act or omis-  
22 sion to act as a result of, or in connection with, the duties or activ-  
23 ities authorized or directed by this paragraph. The foregoing procedure  
24 shall not apply to release of a minor pursuant to the protective custody  
25 provisions of the social services law and the family court act.

26 2. Attendance elsewhere than at a public school. a. Hours of attend-  
27 ance. If a minor included by the provisions of this part [~~one of this~~  
28 ~~article~~] attends upon instruction elsewhere than at a public school, he  
29 shall attend for at least as many hours, and within the hours specified  
30 therefor.

31 b. Absence. Absence from required attendance shall be permitted only  
32 for causes allowed by the general rules and practices of the public  
33 schools. Absence for religious observance and education shall be  
34 permitted under rules that the commissioner shall establish. Absence  
35 due to the mental or behavioral health of the minor shall be permitted  
36 under rules that the commissioner shall establish.

37 c. Holidays and vacations. Holidays and vacations shall not exceed in  
38 total amount and number those allowed by the public schools.

39 d. Exception. In applying the foregoing requirements a minor required  
40 to attend upon full time day instruction by the provisions of this part  
41 [~~one of this article~~] may be permitted to attend for a shorter school  
42 day or for a shorter school year or for both, provided, in accordance  
43 with the regulations of the state education department, the instruction  
44 he receives has been approved by the school authorities as being  
45 substantially equivalent in amount and quality to that required by the  
46 provisions of this part [~~one of this article~~].

47 § 2. This act shall take effect on the first of July next succeeding  
48 the date on which it shall have become a law. Effective immediately the  
49 addition, amendment and/or repeal of any rule or regulation necessary  
50 for the implementation of this act on its effective date are authorized  
51 to be made on or before such date.