STATE OF NEW YORK

1317

2021-2022 Regular Sessions

IN ASSEMBLY

January 8, 2021

Introduced by M. of A. ZEBROWSKI, GLICK -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to required instruction in non-public schools

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

Section 1. Paragraph (i) of subdivision 2 of section 3204 of the education law, as amended by section 1 of part SSS of chapter 59 of the laws of 2018, is amended to read as follows:

(i) Instruction may be given only by a competent teacher. In the teaching of the subjects of instruction prescribed by this section, English shall be the language of instruction, and text-books used shall be written in English, except that for a period of three years, which period may be extended by the commissioner with respect to individual pupils, upon application therefor by the appropriate school authorities, to a period not in excess of six years, from the date of enrollment in school, pupils who, by reason of foreign birth or ancestry have limited English proficiency, shall be provided with instructional programs as specified in subdivision two-a of this section and the regulations of the commissioner. The purpose of providing such pupils with instruction shall be to enable them to develop academically while achieving competence in the English language. Instruction given to a minor elsewhere than at a public school shall be at least substantially equivalent to the instruction given to minors of like age and attainments at the public schools of the city or district where the **school is located or if home-schooled, where the** minor resides.

§ 2. The education law is amended by adding a new section 3204-a to read as follows:

§ 3204-a. Instruction required in non-public schools. 1. All students attending a non-public school shall be given instruction that is substantially equivalent to the instruction that is given to students of

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

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similar age and attainment in the district in which the school is located. A non-public school is not required to use the curriculum of the school district in which they are located but must provide students with instruction that is similar in rigor, allotted time, and subject.

2. If there is an allegation that a non-public school's instruction is not substantially equivalent to the instruction of the public school district, a written complaint may be filed with the commissioner by a current or former student, parent of a current or former student, current or former teacher, administrator or employee of a non-public school or a resident of the school district that such non-public school is located. The complaint must include the complainant's name, address, non-public school name, non-public school's address, relationship to the non-public school, description of the non-public school's failure to provide appropriate education, and evidence of the curriculum, content of instruction or any other documentation or proof that the school failed to provide substantially equivalent instruction.

3. Upon receipt of a complaint pursuant to this section, the commissioner shall substantiate such complaint to determine whether a valid claim exists. The commissioner shall notify the district superintendent and non-public school administrator, and request documentation pertaining to the school's instruction, including but not limited to, description of curriculum, class instruction materials, testing program, and schedule of classes. The non-public school administrator must respond to the request for documentation in a time period specified by the commissioner. In the course of the investigation, the department may, during any reasonable hour, conduct unannounced school visits at the non-public school to observe instruction. The visitations shall include observation of classrooms, discussions with school staff and students, and review of curriculum documents. The non-public school authorities shall not refuse access to the department for the purpose of a visitation pursuant to this section.

4. The commissioner may consult with the district superintendent during the investigation and may request documents needed as part of such investigation.

5. Following an investigation, the commissioner shall issue a report on their findings of whether the non-public school is providing instruction that is substantially equivalent to the school district in which it is located. The report shall include all documentation submitted by the non-public school and if school visitations were made, all observations and notes from such visits.

6. If the commissioner determines that a non-public school has failed to provide substantially equivalent instruction to the public school pursuant to this section, the commissioner shall take any of the following actions, either individually or in combination:

(a) The commissioner may issue an order that provides the non-public school with a corrective action plan. The corrective action plan shall compel the non-public school to take immediate steps to implement an appropriate curriculum that provides students with substantially equivalent instruction pursuant to this section.

(b) The commissioner may place a temporary education observer at the non-public school to ensure that appropriate instruction is provided to students.

(c) The commissioner may, if applicable, place the non-public school's registration on probation until the non-public school demonstrates that their instruction and curriculum is substantially equivalent to the school district which they are located in.

(d) The commissioner may withhold any apportionment or grant of mandated services aid until any actions or orders are satisfied.

(e) The commissioner may permanently revoke the non-public school's registration or if not registered, prohibit the school from operating.

§ 3. This act shall take effect immediately.