STATE OF NEW YORK

1869

2021-2022 Regular Sessions

IN ASSEMBLY

January 11, 2021

Introduced by M. of A. FERNANDEZ, SIMON, WEPRIN, CRUZ, DE LA ROSA, BARRON, FRONTUS, GOTTFRIED -- read once and referred 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:

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

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

b. (i) Absence for religious observance and education shall be permitted under rules that the commissioner shall establish.

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

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

c. In the event that a person requests the release of a minor required by the provisions of **this** part [~~**one of this article**~~] to attend upon instruction, the identity of such person shall be verified against a

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

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list of names provided by the person or persons in parental relation to the minor, as defined in section two of this chapter, at the time of such minor's enrollment. The school district may adopt appropriate procedures for the purpose of submitting a list of names at a later date or updating the list of names provided by the person or persons in parental relation. If such person is identified as one of those persons included on such list, such minor may be released from attendance. If such person is identified as a person not included on such list, such minor may not be released except in the event of an emergency as determined in the sole discretion of the principal of the school, or his designee, provided that the person or persons in parental relation to the minor have been contacted and have agreed to such release. A school district may presume that either parent of the student has authority to obtain the release of said minor unless the school district has been provided with a certified copy of the legally binding instrument such as the court order or decree of divorce, separation or custody which provides evidence to the contrary. No situation shall be deemed an emergency until the facts of such situation have been verified by such principal or his designee. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph. The foregoing procedure shall not apply to release of a minor pursuant to the protective custody provisions of the social services law and the family court act.

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

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

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

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

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