STATE OF NEW YORK

6423

2021-2022 Regular Sessions

IN SENATE

April 27, 2021

Introduced by Sen. 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 compliance with substantially equivalent education by nonpublic schools

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

Section 1. 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:

2. Quality and language of instruction; text-books. (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 minor resides.

(ii) For purposes of [~~considering~~] **determining** substantial equivalence pursuant to this subdivision for nonpublic elementary and middle schools [~~that are: (1) non-profit corporations, (2) have a bi-lingual program, and (3) have an educational program that extends from no later than nine a.m. until no earlier than four p.m. for grades one through three, and~~

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

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~~no earlier than five thirty p.m. for grades four through eight, on the majority of weekdays~~], the department shall consider the following[~~, but not limited to: if the curriculum provides academically rigorous instruction that develops critical thinking skills in the school's students, taking into account the entirety of the curriculum, over the course of elementary and middle school, including instruction in English that will prepare pupils to read fiction and nonfiction text for information and to use that information to construct written essays that state a point of view or support an argument; instruction in mathematics that will prepare pupils to solve real world problems using both number sense and fluency with mathematical functions and operations; instruction in history by being able to interpret and analyze primary text to identify and explore important events in history, to construct written arguments using the supporting information they get from primary source material, demonstrate an understating of the role of geography and economics in the actions of world civilizations, and an understanding of civics and the responsibilities of citizens in world communities; and instruction in science by learning how to gather, analyze and interpret observable data to make informed decisions and solve problems mathematically, using deductive and inductive reasoning to support a hypothesis, and how to differentiate between correlational and causal relationships~~]: (1) for grades one through six: mathematics, including arithmetic, science, and technology (concepts of science, mathematics, social science, and language arts in a hands-on, systems-based approach to problem solving that guides students in the understanding, design, and development of systems, devices, and products to serve human needs and wants); English language arts, including reading, writing, listening, and speaking; social studies, including geography and United States history; the arts; career development and occupational studies; health education, physical education, and family and consumer sciences. Instruction in these subjects may be integrated or incorporated into the syllabus or syllabi of other courses; and,

(2) for grades seven and eight: mathematics (two units of study); English language arts (two units of study); social studies (two units of study); science (two units of study); career and technical education, wherein the unit of study requirement may be initiated in grade 5 (one and three-fourths units of study); physical education (similar courses of instruction to those required in public schools pursuant to section 135.4 of NYCRR); health education (one-half unit of study); visual arts (one-half unit of study); music (one-half unit of study); library and information skills, which may be incorporated or integrated into any other subjects (the equivalent of one period per week in grades seven and eight); career development and occupational studies, which may be incorporated or integrated into any other subjects.

(iii) For purposes of [~~considering~~] determining substantial equivalence pursuant to this subdivision for nonpublic high schools [~~that: (1) are established for pupils in high school who have graduated from an elementary school that provides instruction as described in this section, (2) are a non-profit corporation, (3) have a bi-lingual program, and (4) have an educational program that extends from no later than nine a.m. until no earlier than six p.m. on the majority of weekdays~~], the department shall consider the following [~~but not limited to~~]: [~~if the curriculum provides academically rigorous instruction that develops critical thinking skills in the school's students, the outcomes of which, taking into account the entirety of the curriculum, result in a sound basic education~~] for grades nine through twelve: instruction in

English (four units of study); social studies (four units of study); mathematics (three units of study); science (three units of study); health (one-half unit of study); physical education (two units of study); the arts (one unit of study).

(iii-a) For purposes of determining substantial equivalence pursuant to this subdivision for nonpublic schools, the department shall consider whether the nonpublic school meets other statutory instructional requirements, including:

(1) for all students over eight years of age, a similar course of instruction to the course of instruction in patriotism and citizenship required in public schools pursuant to subdivision one of section 801 of this chapter;

(2) for all students grades eight and higher, a similar course of instruction to the course of instruction in the history, meaning, significance, and effect of the provisions of the Constitution of the United States and the amendments thereto, the Declaration of Independence, and the Constitution of the State of New York and the amendments thereto required in public schools pursuant to subdivision two of section eight hundred one of this chapter;

(3) for all students over the age of eight, subject to subdivision five of this section, a similar course of instruction to the course of instruction in the development of character, citizenship, physical fitness, health, and the worthy use of leisure required in public schools pursuant to subdivision four of section eight hundred three of this chapter;

(4) for all students, subject to subdivision five of this section, instruction in health education relating to mental health, alcohol, drug, and tobacco abuse and the prevention and detection of certain cancers as required by section eight hundred four of this chapter;

(5) for all students, a similar course of instruction to the course of instruction in highway safety and traffic regulation required in public schools by section eight hundred six of this chapter;

(6) for all students in grades one through eight, instruction in New York state history and civics as required by subdivision three of this section;

(7) for all students, instruction in fire drills, fire and arson prevention, injury prevention and life safety education pursuant to sections eight hundred seven and eight hundred eight of this chapter; and,

(8) for students in senior high school, instruction in hands-only cardiopulmonary resuscitation and the use of an automated external defibrillator pursuant to subdivision fifty-two of section 305 of this chapter.

(iv) [~~Nothing herein shall be construed to entitle or permit any school to receive an increase in mandated services aid pursuant to 8 NYCRR 176 on account of providing a longer school day~~] Any nonpublic school that shall receive mandated services aid or other state funds must certify to the satisfaction of the commissioner that it provides instruction that is at least substantially equivalent to the instruction given to pupils of like age and attainments to the public schools of the city or district where the minor resides. Any nonpublic school that intentionally or negligently makes a false certification shall return any state funds received for the period to which such certification applies and shall be ineligible to receive any state funds for the applicable period, and shall further return and be ineligible to receive

any state funds for five years following the period for which the false certification was applicable.

(v) The commissioner shall be the entity that determines whether nonpublic elementary**, middle** and [~~**secondary**~~] **high** schools are in compliance with the academic requirements set forth in paragraphs (ii) [~~**and**~~]**,** (iii) **and (iii-a)** of this subdivision **and shall undertake regular reviews to ensure compliance with the substantial equivalence requirements provided pursuant to this subdivision**.

§ 2. This act shall take effect immediately.