

# STATE OF NEW YORK

3857

2023-2024 Regular Sessions

## IN ASSEMBLY

February 8, 2023

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

AN ACT to amend the education law, in relation to requiring dental health certificates to be furnished by a student at the same time that health certificates are required

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

1 Section 1. Subdivisions 2, 3 and 4 of section 903 of the education  
2 law, subdivision 2 as amended by section 1 of part S of chapter 57 of  
3 the laws of 2013, subdivisions 3 and 4 as amended by chapter 281 of the  
4 laws of 2007, and paragraph a of subdivision 3 as amended by section 28  
5 of part A of chapter 58 of the laws of 2008, are amended to read as  
6 follows:  
7 2. a. A dental health certificate shall be [~~requested from~~ **furnished**  
8 **by** each student[~~-. Each student is requested to furnish a dental health~~  
9 ~~certificate~~] at the same time that health certificates are required. An  
10 assessment and dental health history of any child may be requested by  
11 the local school authorities at any time in their discretion to promote  
12 the educational interests of such child. Each certificate shall be  
13 signed by a duly licensed dentist, or a registered dental hygienist who  
14 is authorized by law to practice in this state, and consistent with any  
15 applicable written practice agreement, or by a duly licensed dentist or  
16 registered dental hygienist who is authorized to practice in the juris-  
17 diction in which the assessment was given, provided that the commission-  
18 er has determined that such jurisdiction has standards of licensure and  
19 practice comparable to those of New York. Each such certificate shall  
20 describe the dental health condition of the student when the assessment  
21 was made, which shall not be more than twelve months prior to the  
22 commencement of the school year in which the assessment is requested,  
23 and shall state whether such student is in fit condition of dental  
24 health to permit his or her attendance at the public schools.

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

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1 b. A notice of [~~request for~~] dental health [~~certificates~~] certificate  
2 requirements shall be distributed at the same time that parents or  
3 person in parental relationship to students are notified of health exam-  
4 ination requirements and shall state that a list of dental practices,  
5 dentists and registered dental hygienists to which children may be  
6 referred for dental services on a free or reduced cost basis is avail-  
7 able upon request at the child's school. The department shall, in  
8 collaboration with the department of health, compile and maintain a list  
9 of dental practices, dentists and registered dental hygienists to which  
10 children may be referred for dental services on a free or reduced cost  
11 basis. Such list shall be made available to all public schools and be  
12 made available to parents or person in parental relationship upon  
13 request. The department shall promulgate regulations to ensure the gath-  
14 ering and dissemination of the proper information to interested parties.

15 3. [~~a.~~] Within thirty days after the student's entrance in such  
16 schools or grades, the health certificate and dental health certificate  
17 shall be submitted to the principal or his or her designee and shall be  
18 filed in the student's cumulative health record. If such student does  
19 not present a health certificate or dental health certificate as  
20 required in this section, unless he or she has been accommodated on  
21 religious grounds, the principal or the principal's designee shall cause  
22 a notice to be sent to the parents or person in parental relationship to  
23 such student that if the required health certificate is not furnished  
24 within thirty days from the date of such notice, an examination will be  
25 made of such student, as provided in this article. Each school and  
26 school district chosen as part of an appropriate sampling methodology  
27 shall participate in surveys directed by the commissioner of health  
28 pursuant to the public health law in relation to students' BMI and  
29 weight status categories as reported on the school health certificate  
30 and which shall be subject to audit by the commissioner of health. Such  
31 surveys shall contain the information required pursuant to subdivision  
32 one of this section in relation to students' BMI and weight status cate-  
33 gories in aggregate. Parents or other persons in parental relation to a  
34 student may refuse to have the student's BMI and weight status category  
35 included in such survey. Each school and school district shall provide  
36 the commissioner of health with any information, records and reports he  
37 or she may require for the purpose of such audit. The BMI and weight  
38 status survey and audit as described in this subdivision shall be  
39 conducted consistent with confidentiality requirements imposed by feder-  
40 al law.

41 [~~b. Within thirty days after the student's entrance in such schools or~~  
42 ~~grades, the dental health certificate, if obtained, shall be filed in~~  
43 ~~the student's cumulative health record.~~]

44 4. Notwithstanding the provisions of subdivisions one, two and three  
45 of this section[~~r~~]:

46 a. no examinations for a health certificate [~~or~~], health history or  
47 dental health certificate shall be required [~~or dental certificate~~  
48 ~~requested~~], and no screening examinations for sickle cell anemia shall  
49 be required where a student or the parent or person in parental relation  
50 to such student objects thereto on the grounds that such examinations or  
51 health history conflict with their genuine and sincere religious  
52 beliefs; and

53 b. no dental certificate shall be required if a school district  
54 received an exemption, pursuant to paragraph b of subdivision two of  
55 section nine hundred four of this article, and the department has not

1 identified a free or reduced cost dental provider in the student's coun-  
2 ty, pursuant to subdivision two of this section.

3 § 2. Section 904 of the education law, as amended by chapter 477 of  
4 the laws of 2004, subdivision 1 as amended by section 12 of part B of  
5 chapter 58 of the laws of 2007, is amended to read as follows:

6 § 904. Examinations by health appraisal. 1. Each principal of a public  
7 school, or his or her designee, shall report to the director of school  
8 health services having jurisdiction over such school, the names of all  
9 students who have not furnished health certificates or dental certif-  
10 icates as provided in section nine hundred three of this article, or who  
11 are children with disabilities, as defined by article eighty-nine of  
12 this chapter[~~, and the~~].

13 a. The director of school health services shall cause such students to  
14 be separately and carefully examined and tested to ascertain whether any  
15 student has defective sight or hearing, or any other physical disability  
16 which may tend to prevent him or her from receiving the full benefit of  
17 school work, or from requiring a modification of such work to prevent  
18 injury to the student or from receiving the best educational results.  
19 Each examination shall also include a calculation of the student's body  
20 mass index (BMI) and weight status category. For purposes of this  
21 section, BMI is computed as the weight in kilograms divided by the  
22 square of height in meters or the weight in pounds divided by the square  
23 of height in inches multiplied by a conversion factor of 703. Weight  
24 status categories for children and adolescents shall be as defined by  
25 the commissioner of health. In all school districts, such physician,  
26 physician assistant or nurse practitioner shall determine whether a  
27 one-time test for sickle cell anemia is necessary or desirable and he or  
28 she shall conduct such tests and the certificate shall state the  
29 results. If it should be ascertained, upon such test or examination,  
30 that any of such students have defective sight or hearing, or other  
31 physical disability, including sickle cell anemia, as above described,  
32 the principal or his or her designee shall notify the parents of, or  
33 other persons in parental relation to, the child as to the existence of  
34 such disability. If the parents or other persons in parental relation  
35 are unable or unwilling to provide the necessary relief and treatment  
36 for such students, such fact shall be reported by the principal or his  
37 or her designee to the director of school health services, whose duty it  
38 shall be to provide relief for such students. Each school and school  
39 district chosen as part of an appropriate sampling methodology shall  
40 participate in surveys directed by the commissioner of health pursuant  
41 to the public health law in relation to students' BMI and weight status  
42 categories as determined by the examination conducted pursuant to this  
43 section and which shall be subject to audit by the commissioner of  
44 health. Such surveys shall contain the information required pursuant to  
45 this subdivision in relation to students' BMI and weight status catego-  
46 ries in aggregate. Parents or other persons in parental relation to a  
47 student may refuse to have the student's BMI and weight status category  
48 included in such survey. Each school and school district shall provide  
49 the commissioner of health with any information, records and reports he  
50 or she may require for the purpose of such audit. The BMI and weight  
51 status survey and audit as described in this section shall be conducted  
52 consistent with confidentiality requirements imposed by federal law.  
53 Data collection for such surveys shall commence on a voluntary basis at  
54 the beginning of the two thousand seven academic school year, and by all  
55 schools chosen as part of the sampling methodology at the beginning of  
56 the two thousand eight academic school year. The department shall also

1 utilize the collected data to develop a report of child obesity and  
2 obesity related diseases.

3 b. The director of school health services shall cause such students to  
4 be separately and carefully examined and tested by a duly licensed  
5 dentist or registered dental hygienist to ascertain whether they are in  
6 fit condition of dental health to permit his or her attendance at  
7 school. Each examination shall also note whether the student has ever  
8 had a cavity, whether untreated cavities are present, whether dental  
9 sealants are present, and any recommended treatment options.

10 2. Notwithstanding the provisions of subdivision one of this  
11 section[7]:

12 a. no examinations shall be required pursuant to this section where a  
13 student or the parent or person in parental relation to such student  
14 objects thereto on the grounds that such examinations conflict with  
15 their genuine and sincere religious beliefs; and

16 b. no examination shall be required pursuant to paragraph b of subdi-  
17 vision one of this section if the district has received an exemption  
18 from the commissioner or the district's local county board of cooper-  
19 ative educational services.

20 § 3. Subdivision 4 of section 1950 of the education law is amended by  
21 adding a new paragraph pp to read as follows:

22 pp. A board of cooperative educational services is authorized to  
23 provide to a school district an exemption from the provisions of para-  
24 graph b of subdivision one of section nine hundred four of this chapter.  
25 Requirements for such exemption shall be promulgated by rules and regu-  
26 lations by the commissioner in accordance with subdivision sixty of  
27 section three hundred five of this chapter.

28 § 4. Section 305 of the education law is amended by adding a new  
29 subdivision 60 to read as follows:

30 60. The commissioner is authorized to provide to a school district an  
31 exemption from the provisions of paragraph b of subdivision one of  
32 section nine hundred four of this chapter. The commissioner shall  
33 promulgate rules and regulations to establish criteria for such  
34 exemption that shall include, but not be limited to, evidence that the  
35 school district has made a good faith effort to hire or contract with a  
36 duly licensed dentist or registered dental hygienist to provide the  
37 required examination and was unable to do so.

38 § 5. This act shall take effect on the first of July, 2024.