

STATE OF NEW YORK

323--D

2025-2026 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by M. of A. PAULIN, McDONOUGH, SHRESTHA -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the compulsory age for full time instruction and certain related exceptions; and requires kindergarten in certain school districts

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

1 Section 1. Subdivision 11 of section 2 of the education law, as
2 amended by chapter 363 of the laws of 1990, is amended to read as
3 follows:

4 11. Compulsory school ages. The term "child of compulsory school age"
5 means any child [~~between six and sixteen years of age~~] lawfully required
6 to attend upon instruction pursuant to section thirty-two hundred five
7 of this chapter.

8 § 2. Section 3205 of the education law, subdivision 1 as amended by
9 chapter 262 of the laws of 1959, paragraphs a and b of subdivision 1 as
10 amended by chapter 296 of the laws of 1969, paragraph c of subdivision 1
11 as amended by chapter 518 of the laws of 1993, paragraph b of subdivi-
12 sion 2 as amended by chapter 975 of the laws of 1966, paragraph c of
13 subdivision 2 as amended by chapter 703 of the laws of 2019 and subdivi-
14 sion 3 as amended by chapter 183 of the laws of 2004, is amended to read
15 as follows:

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

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§ 3205. Attendance of minors upon full time day instruction. 1. a. In each school district of the state, each minor from ~~[six]~~ five to sixteen years of age shall attend upon full time instruction.

b. Each minor from ~~[six]~~ five to sixteen years of age on an Indian reservation shall attend upon full time day instruction.

c. For purposes of this article, a minor who becomes ~~[six]~~ five years of age on or before the first of December in any school year or on or before a later date in such school year, not later than December thirty-first, established by the trustees or board of education for admission to the public schools in such minor's school district of residence shall be required to attend upon full time instruction from the first day that the appropriate public schools are in session in September of such school year, and a minor who becomes ~~[six]~~ five years of age after the first of December in any school year or a later date in such school year, not later than December thirty-first, established by the trustees or board of education for admission to the public schools in such minor's school district of residence shall be required to attend upon full time instruction from the first day of session in the following September; and, except as otherwise provided in subdivision three of this section, shall be required to remain in attendance until the last day of session in the school year in which the minor becomes sixteen years of age.

2. Exceptions. a. A minor who has completed a four-year high school course of study shall not be subject to the provisions of part one of this article in respect to required attendance upon instruction.

b. A minor for whom application for a full-time employment certificate has been made and who is eligible therefor may, though unemployed, be permitted to attend part time school not less than twenty hours per week instead of full time school.

~~c. [The board of education of every school district within the state is hereby authorized to require minors who are five years of age on or before December first to attend kindergarten instruction. However, the provisions of this paragraph shall not apply to:~~

~~(i) Minors whose parents elect not to enroll their children in school until the following September.~~

~~(ii) Students enrolled in non-public schools or in home instruction.]~~
A minor whose parent, or person in parental relationship, has elected to not enroll such minor in the year in which the minor is required to attend upon full time instruction pursuant to subdivision one of this section. Provided, however, that such minor shall be enrolled the following school year.

3. In each school district, the board of education shall have power to require minors from sixteen to seventeen years of age who are not employed to attend upon full time day instruction until the last day of session in the school year in which the student becomes seventeen years of age.

§ 3. Subdivision 1 of section 4105 of the education law is amended to read as follows:

1. Every Indian child between ~~[six]~~ five and sixteen years of age, in proper physical and mental condition to attend school, shall regularly attend upon instruction at a school in which at least the common school branches of reading, spelling, writing, arithmetic, English grammar and geography are taught in English, or upon equivalent instruction by a competent teacher elsewhere than at such school as follows: Every Indian child between fourteen and sixteen years of age not regularly and lawfully engaged in any useful employment or service, and every such

1 child between [~~six~~] five and fourteen years of age, shall so attend upon
2 instruction as many days annually during the period between the first
3 days of September and the following July as a public school of the
4 community or district of the reservation, in which such child resides,
5 shall be in session during the same period.

6 § 4. Section 4106 of the education law is amended to read as follows:

7 § 4106. Duties of persons in parental relation to Indian children. Any
8 person in parental relation to an Indian child between [~~six~~] five and
9 sixteen years of age in proper physical and mental condition to attend
10 school, shall cause such child to attend upon instruction as provided in
11 this article.

12 § 5. Section 4108 of the education law, as amended by chapter 387 of
13 the laws of 1954, is amended to read as follows:

14 § 4108. Persons employing Indian children unlawfully to be fined. A
15 person, firm, association or corporation shall not employ any Indian
16 child residing on any Indian reservation between [~~six~~] five and fourteen
17 years of age, in any business or service whatever during any part of the
18 term during which the school in the community or district in which such
19 child resides or the school where such child should attend is in
20 session, nor shall employ any Indian child residing on any reservation
21 between fourteen and sixteen years of age, who does not, at the time of
22 such employment present a consent in writing signed by the principal
23 teacher of the reservation or the principal of the district which
24 educates the children in the community in which such child resides to
25 the effect that such child may be employed, and specifying the nature of
26 the service and the duration of such service or employment. Any person,
27 firm, association or corporation who shall employ any Indian child
28 contrary to the provisions of this section shall for each offense
29 forfeit and pay to the principal teacher of the reservation or to the
30 commissioner [~~of education~~] the sum of twenty-five dollars to be sued
31 for in the name of the people of the state of New York by the attorney
32 general. Such penalty, when paid, shall be used for the support and
33 maintenance of the schools on said reservation or for said reservation.

34 § 6. Section 4109 of the education law, as amended by chapter 387 of
35 the laws of 1954, is amended to read as follows:

36 § 4109. Teachers' record of attendance. An accurate record of attend-
37 ance of all Indian children between [~~six~~] five and sixteen years of age
38 shall be kept by the teacher of every Indian school, showing each day,
39 by the year, month, day of the month and day of the week, such attend-
40 ance, and the number of hours in each day thereof; and each teacher upon
41 whose instruction such Indian child shall attend elsewhere than at the
42 school in the community or district of the reservation where [~~he~~] such
43 child resides, shall keep a like record of such attendance. Such records
44 shall at all times be open to the principal teacher of the reservation
45 and its attendance officers or to such person or persons as shall be
46 designated by the commissioner [~~of education~~] who may inspect and copy
47 the same and any teacher shall answer all lawful inquiries made by them.
48 A wilful neglect or refusal to keep such a record or answer such
49 inquiries shall be a misdemeanor.

50 § 7. Section 4111 of the education law, as amended by chapter 181 of
51 the laws of 2022, is amended to read as follows:

52 § 4111. Arrest of truants. Any attendance officer may arrest without
53 warrant anywhere within the state any Indian child between [~~six~~] five
54 and sixteen years of age, found away from [~~his~~] such child's home and
55 who is then a truant from instruction upon which [~~he~~] such child is
56 lawfully required to attend within the districts of which such attend-

1 ance officer has jurisdiction. [~~He~~] The officer shall forthwith deliver
2 a child so arrested either to the person in parental relation to the
3 child, or to the teacher of the school from which said child is then a
4 truant, or in case of habitual truants, shall bring them before a magis-
5 trate for commitment to a school for delinquents, as provided in section
6 forty-one hundred twelve of this article.

7 § 8. Subdivision 1 of section 1712 of the education law is amended to
8 read as follows:

9 1. The board of education of each school district [~~may~~] shall maintain
10 kindergartens which shall be free to resident children between the ages
11 of four and six years, provided, however, such board may fix a higher
12 minimum age for admission to such kindergartens.

13 § 9. Subdivision 1 of section 2514 of the education law, as added by
14 chapter 762 of the laws of 1950, is amended to read as follows:

15 1. The board of education of each city school district [~~may~~] shall
16 maintain kindergartens which shall be free to resident children between
17 the ages of four and six years, provided, however, such board may fix a
18 higher minimum age for admission to such kindergartens.

19 § 10. Subdivision 1 of section 2555 of the education law, as renum-
20 bered by chapter 762 of the laws of 1950, is amended to read as follows:

21 1. The board of education of each city [~~may~~] shall maintain kindergar-
22 tens which shall be free to resident children between the ages of four
23 and six years, provided, however, such board may fix a higher minimum
24 age for admission to such kindergartens.

25 § 11. This act shall take effect on the first of July next succeeding
26 the date on which it shall have become a law.