*** § 3208. Attendance; screening of new entrants; prohibition against mandatory medication.** 1. A person included by the provisions of this part shall be required to attend upon instruction only if in proper mental and physical condition.

2. A person whose mental or physical condition is such that his or her attendance upon instruction under the provisions of this part would endanger the health or safety of such person or of others shall not be permitted to attend, provided that nothing in this section shall be construed to authorize a denial of access to education based on disability in violation of state or federal law.

3. If a person's mental or physical condition, by virtue of which he or she is not required or permitted to attend upon instruction, is due to a mental or physical condition which may be remedied by the taking of reasonable measures, such mental or physical condition shall justify only the temporary failure of the person to attend.

4. The determination of mental or physical condition under the provisions of this part shall be based upon actual examination made by a person or persons qualified by appropriate training and experience, in accordance with regulations of the department. The department shall designate persons having the required qualifications to make such mental or physical examinations on behalf of any local school authorities, except that in a city having a population of one million or more the superintendent of schools shall designate such persons.

4-a. Officers or employees of the state, a school district, a board of cooperative educational services, a charter school, an approved private school for the education of students with disabilities approved pursuant to paragraph e, f, g or h of subdivision two of section forty-four hundred one of this chapter, an approved provider of preschool special education approved pursuant to section forty-four hundred ten of this chapter or a state-supported school operating pursuant to article forty-five of this chapter, shall be prohibited from requiring a child who is entitled to attend school pursuant to subdivision one of section thirty-two hundred two of this part to obtain a prescription for a

substance covered by the federal controlled substances act, section eight hundred one of title twenty-one of the United States code, et seq., as a condition of attending school, receiving an evaluation or reevaluation pursuant to article eighty-nine of this chapter or any other provision of law relating to students with disabilities or receiving special education programs or services.

5. a. Each board of education or trustees of each school district shall provide for the screening of every new entrant to school to determine which pupils are or may be children with disabilities or gifted children, as well as all pupils who score below level two on either the third grade English language arts or mathematics assessments for New York state elementary schools, in accordance with regulations of the commissioner to determine whether such pupils may have disabilities.

b. Such screening shall include, but not be limited to:

(1) A physical examination pursuant to the provisions of sections nine hundred one, nine hundred three and nine hundred four of this chapter, including proof of immunization as required by section twenty-one hundred sixty-four of the public health law.

(2) A language development assessment.

c. If such screening indicates a suspected disability, which may require the provision of special education services or programs, a referral shall be made to the committee on special education.

d. If such screening indicates a possibly gifted child, the name and finding shall be reported to the superintendent of schools of such district and to the parent or legal guardian of such child. Such notification shall not be construed as an entitlement for services for any such child identified as possibly gifted.

* NB Effective until June 30, 2027

* § 3208. Attendance; proper mental and physical condition. 1. A person included by the provisions of part one of this article shall be required to attend upon instruction only if in proper mental and physical condition.

2. A person whose mental or physical condition is such that his attendance upon instruction under the provisions of part one of this article would endanger the health or safety of himself or of others shall not be permitted to attend.

3. If a person's mental or physical condition, by virtue of which he is not required or permitted to attend upon instruction, is due to physical defects or to a physical condition which may be remedied by the taking of reasonable measures, such mental or physical condition shall justify only the temporary failure of the person to attend.

4. The determination of mental or physical condition under the provisions of part one of this article shall be based upon actual examination made by a person or persons qualified by appropriate training and experience, in accordance with regulations of the state education department. The state education department shall designate persons having the required qualifications to make such mental or physical examinations on behalf of any local school authorities, except that in a city having a population of one million or more the superintendent of schools shall designate such persons.

5. a. Each board of education or trustees of each school district shall provide for the screening of every new entrant to school to determine which pupils are or may be children with handicapping conditions or gifted, as well as all pupils who score below level two on either the third grade reading or mathematics tests for New York state elementary schools and all students who obtain a comparable percentile score on the regents preliminary competency test, in accordance with regulations of the commissioner to determine whether such pupils may have handicapping conditions.

b. Such screening shall include, but not be limited to:

(1) A physical examination pursuant to the provisions of sections nine hundred one, nine hundred three and nine hundred four of this chapter, including proof of immunization as required by section twenty-one hundred sixty-four of the public health law.

(2) A language development assessment.

c. If such screening indicates a suspected handicapping condition, which may require the provision of special education services or programs, a referral shall be made to the committee on special education.

d. If such screening indicates a possibly gifted child, the name and finding shall be reported to the superintendent of schools of such district and to the parent or legal guardian of such child. Such notification shall not be construed as an entitlement for services for any such child identified as possibly gifted.

* NB Effective June 30, 2027