

New York State Department of Education
Statement regarding 2025 budget amendments to the Compulsory Education Law
&
Interim directions to Local School Authorities (LSA) and nonpublic schools concerning pathway
selections and LSA survey reporting

The New York State Education Department (NYSED) and the Board of Regents are profoundly disappointed with the addition of new Section 3204(6) of the Education Law via State budget negotiations. This provision, which was not vetted by the Department or key stakeholders, unnecessarily complicates the collective work in which we have engaged to ensure that all children receive the instruction to which they are entitled. Prior to this amendment, nearly two-thirds of religious and independent schools across the state thus far were able to demonstrate, under NYSED's regulations, that they already provide substantially equivalent instruction.

NYSED cannot offer detailed guidance on the new legislative provision at this time as it only took effect on May 9, 2025, and NYSED was excluded from its negotiation. Additionally, it is impossible to ascertain the intent behind this provision because it was included in the State budget. As such, it lacks a sponsor and is unaccompanied by any statement of legislative intent.

NYSED is actively reviewing the new law and will offer additional guidance in the future. For now, nonpublic schools and LSAs are advised as follows:

1. The June 30, 2025, reporting timeline pursuant to 8 NYCRR 130.4 remains in place. LSAs with additional reporting requirements should continue to enter positive substantial equivalency pathway verification or determination responses into the LSA survey via the NYSED Business Portal.
2. Schools previously deemed or determined to be providing substantially equivalent instruction are not immediately impacted by the new legislation.
3. With the exception noted in the next paragraphs, any nonpublic school that wishes to avail itself of the assessments pathway, as modified by the budgetary amendments to Education Law § 3604(6)(a)(vi) and (vii), should immediately advise the LSA of such election. The LSA should record the nonpublic school as "still under review due to extenuating circumstances" status in the NYSED Business Portal by June 30, 2025 (this is the same designation as schools that require additional pathway verification).
4. Any nonpublic schools that received a final negative substantial equivalency determination in February or March of 2025 are ineligible to demonstrate substantial equivalency under any amended pathways. These schools were determined to no longer be "nonpublic schools" for purposes of the Compulsory Education Law prior to the effective date of the

new legislation. The Legislature could have, but did not, indicate that this amendment had retroactive effect.

5. Nonpublic schools which were the subject of a preliminary negative substantial equivalency determination and are working collaboratively under remedial plans (8 NYCRR 130.6 and 130.8), may, if they elect, amend plans to attain substantial equivalency through the expanded assessments pathways under 3204(6)(a)(vi) or (vii). To effectuate this, NYSED hereby extends and revises the next deadline for this cohort of nonpublic schools to September 1, 2025 (the beginning of the school year). By that date, the nonpublic school may elect the assessment pathway and provide the LSA with details on how the nonpublic school intends to phase-in assessments across all grade levels in a revised timeline and plan. NYSED will provide additional guidance and instructions for submission of this information to the Department at a later date. If any of the nonpublic schools with remedial plans decline to pursue the assessment pathway, they shall complete their remedial timeline and plan as currently constructed. NYSED hereby extends the deadline for satisfaction of these remedial plans by six months in light of the new legislation. During the remedial timeframe, these nonpublic schools under remedial plans may continue to operate as nonpublic schools.
6. As concerns the accreditation pathway, to date, no accreditor has been approved for “provisional accreditation” purposes by the Commissioner, as such terminology is used in new Section 3204(6)(a)(iii). Therefore, there are no current nonpublic schools that can utilize phase-in applicable to provisional accreditation. Any applications for such approval may be submitted to the Office of Religious and Independent Schools (ORISS). Schools or accrediting agencies can request that accreditors be considered for approval by completing the Substantial Equivalence Accreditors Application.
7. Until notified otherwise, LSAs should not issue or report in the NYSED Business Portal any negative substantial equivalency determination or recommendation to Commissioner without (a) offering nonpublic school expanded pathway 6 under the new legislation, and (b) consulting with NYSED.

NYSED is grateful to the schools and LSAs who have participated in this process. We recognize that these amendments to the Education Law introduce uncertainty and new complexities for parents, communities, LSAs, and nonpublic schools. We will provide further information as we can.

For instructions on how to complete the NYSED Business Portal survey, LSAs may visit <https://www.nysed.gov/nonpublic-schools/substantial-equivalency>.

Questions or requests for technical assistance may be directed to ORISS by emailing SESupport@nysed.gov.

Sincerely,

Daniel Morton-Bentley

New York State Education Department Counsel and Deputy Commissioner for Legal Affairs