



# REPORT FINDINGS FROM STAKEHOLDER ENGAGEMENT SESSIONS ON SUBSTANTIAL EQUIVALENCE OF INSTRUCTION IN NONPUBLIC SCHOOLS

May 2021



New York State  
EDUCATION DEPARTMENT  
Knowledge > Skill > Opportunity

“AT LEAST  
SUBSTANTIALLY  
EQUIVALENT”

Education Law 3204(2) states that:  
“[i]nstruction given to a minor elsewhere than 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.”

# STAKEHOLDER ENGAGEMENT SESSIONS

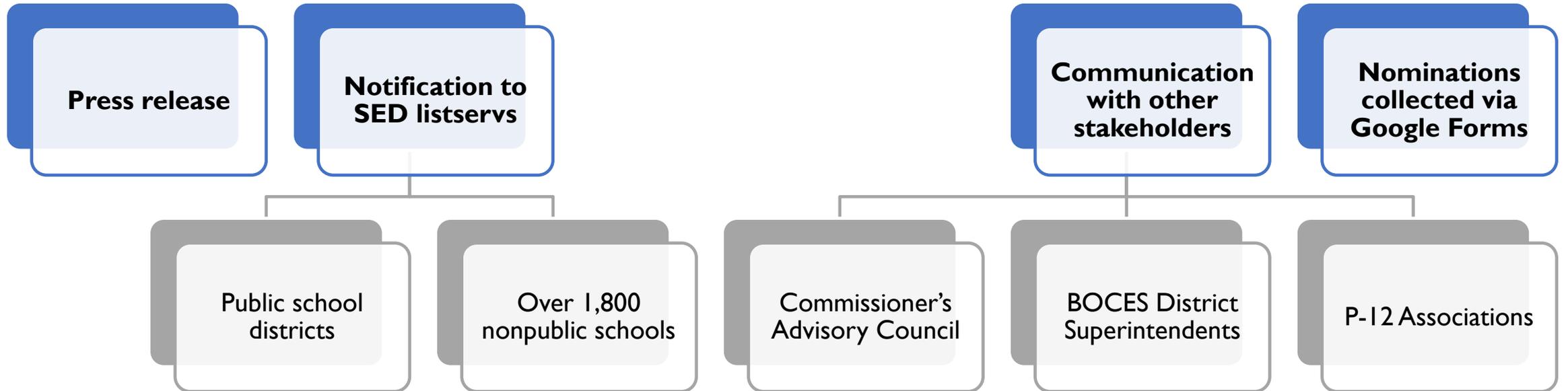
## 5 Regional Meetings

- Rest of State
- Manhattan, Staten Island, & Bronx
- Long Island & Queens
- Hudson Valley
- Brooklyn

Parent/Student/Alumni Forum



# OUTREACH



# PARTICIPANT INFORMATION

Approximately 500 participants

- 230 religious and independent schools
- 65 public school districts
- 18 BOCES
- State-level organizations
- Advocacy organizations
- Community-based organizations
- 32 parents
- 26 students
- 21 alumni

Observers

- Board of Regents members
- Legislators and staff
- Department staff



# RELIGIOUS AND INDEPENDENT SCHOOL REPRESENTATION

## Grades K-12

Co-educational and single sex

Independent Schools

- Montessori
- Preparatory
- Waldorf
- Other

## Religious Schools

- Christian, various denominations
- Islamic
- Jewish, various denominations

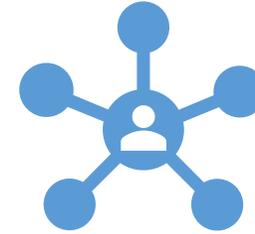


## **Based on grade band:**

Elementary: Grades K-5

Middle: Grades 6-8

High School: Grades 9-12



## **Facilitated by staff from NYSED and BOCES:**

Facilitators

Notetakers

Reporters

Chat Monitors

Observers

**BREAKOUT GROUP FORMAT**



# BREAKOUT GROUP FORMAT

Participants were asked about their perspectives on two primary questions:

**Question 1:** What components of your school's mission and/or program are important to consider as we create a framework for the substantial equivalence determination process? How would you recommend to demonstrate and/or recognize substantial equivalence?

**Question 2:** How do you suggest the Department move forward to develop a framework for the substantial equivalence determination process? Please tell us how we can make that process as inclusive as possible.

## FEEDBACK ON FORMAT OF STAKEHOLDER ENGAGEMENT SESSIONS

### Strengths

Responses to post-event feedback survey:

- Sessions were well designed: ~95%
- Opportunities for active engagement: ~96%

Share perspectives with other stakeholders, NYSED, and Board of Regents

### Concerns

Not all breakout groups were balanced

Participants did not always hear their perspectives in the report-out process



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**Determining Substantial Equivalence of Instruction  
for Nonpublic School Students in New York State:  
A Summary of Stakeholder Feedback**

May 2021

**REPORT  
FINDINGS**

**STAKEHOLDER  
FEEDBACK**

REPORT  
FINDINGS –  
DIVERSE  
VIEWPOINTS

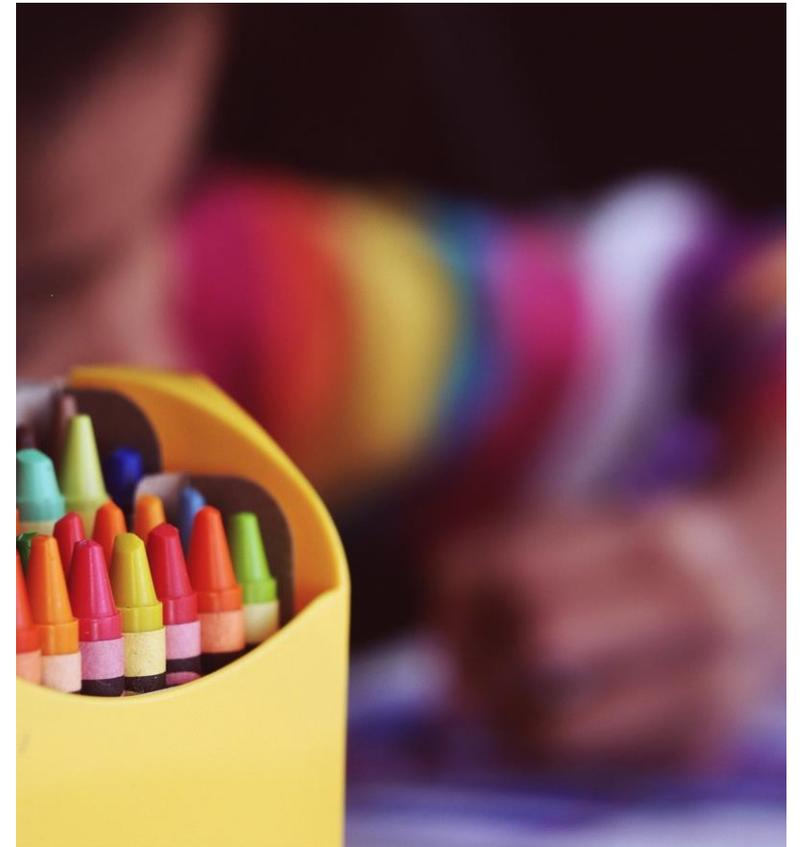
In several breakout groups, participants expressed conflicting viewpoints and strong emotions.

The challenge: How do we ensure children receive a substantially equivalent education while respecting the cultures of nonpublic school communities?

# REPORT FINDINGS – STAKEHOLDER FEEDBACK: DIVERSE EDUCATIONAL APPROACHES

## Parent Choice in Nonpublic Schools

- Families choose a nonpublic school over others because they value different educational approaches.
- Nonpublic schools are responsive to parent and community input.
- Nonpublic schools must deliver results to retain students.



# REPORT FINDINGS – STAKEHOLDER FEEDBACK: DIVERSE EDUCATIONAL APPROACHES

## Unique Needs of Communities

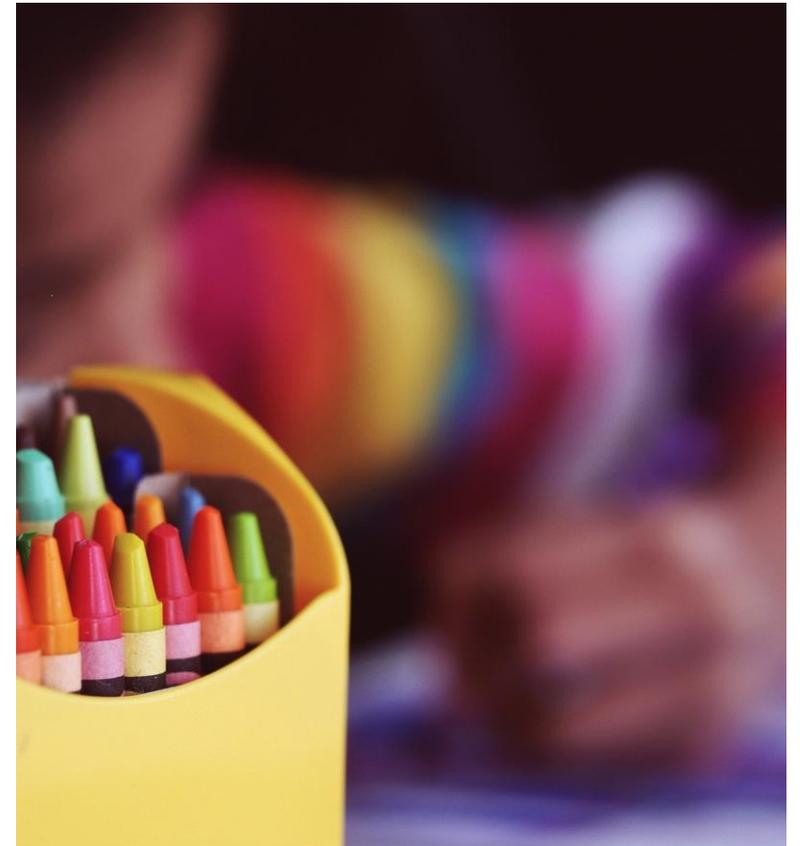
- Schools' missions are diverse; educating students is the common goal.
- Various governance models, teaching methodologies, and missions.



# REPORT FINDINGS – STAKEHOLDER FEEDBACK: DIVERSE EDUCATIONAL APPROACHES

## Academic and Religious/Cultural Components

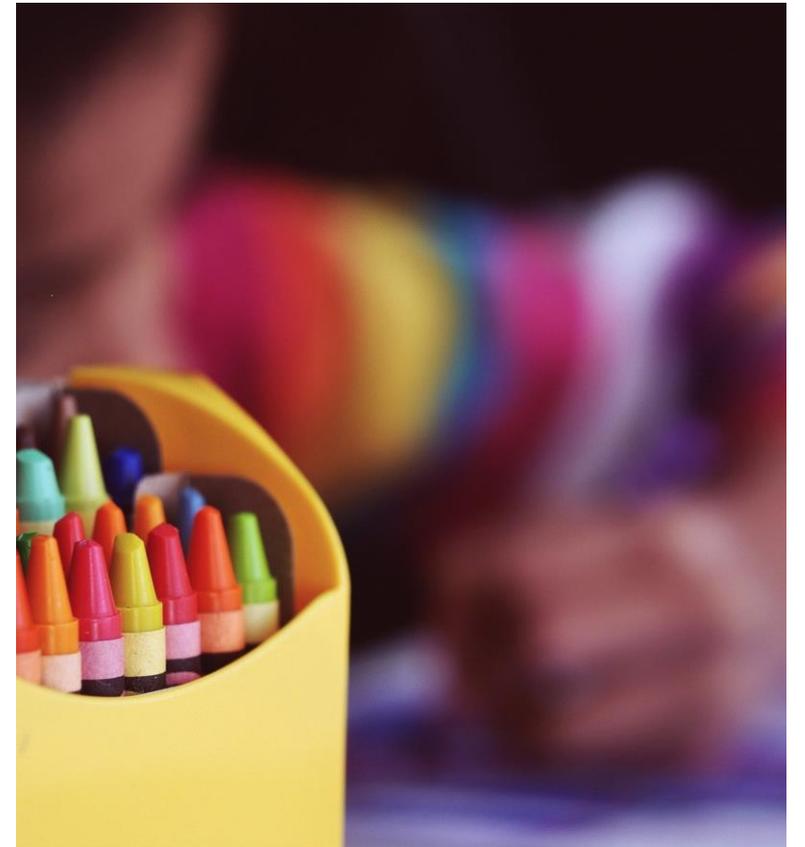
- Programs that include both academic and religious curricula promote critical thinking skills and produce successful members of society.
- Religious and academic studies are not mutually exclusive.
- Some nonpublic schools did not balance academic and religious instruction, prioritizing religious instruction.



# REPORT FINDINGS – STAKEHOLDER FEEDBACK: DIVERSE EDUCATIONAL APPROACHES

## Focus on Individualized Learning

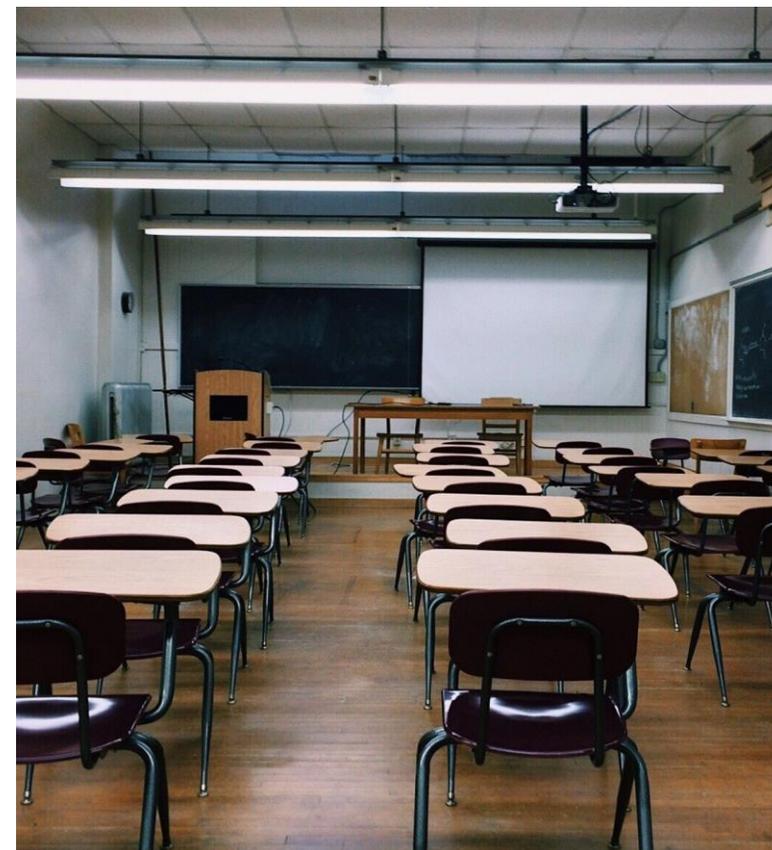
- Religious and independent schools noted their ability to provide individualized learning.
- Flexibility in instructional programming afforded to nonpublic schools ensures all students are successful.



# REPORT FINDINGS – STAKEHOLDER FEEDBACK: LOCAL DETERMINATIONS

The most prevalent concern across participants was about local determinations.

- Students who attend nonpublic schools may be permitted to attend for a shorter school day or shorter school year (or both) than the public schools where “the instruction he receives has been **approved by the school authorities** as being substantially equivalent” to that provided in the public schools (Education Law §3210[2][d]).
- The term “school authorities” is defined as the board of education of a school district (Education Law §2[12]).

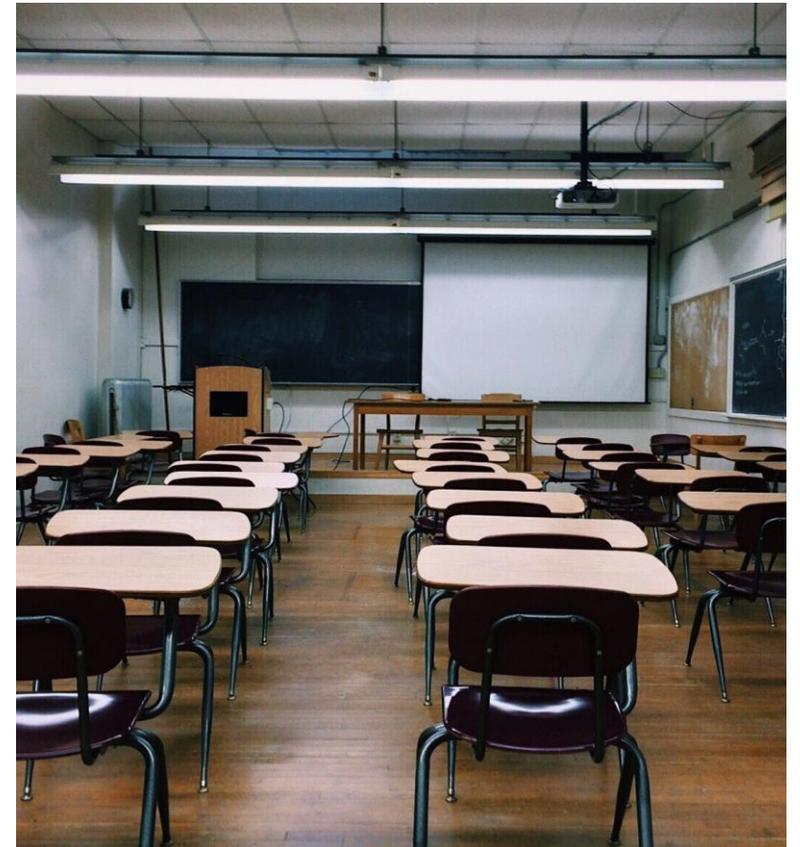


# REPORT FINDINGS – STAKEHOLDER FEEDBACK: LOCAL DETERMINATIONS

Therefore, with certain exceptions, it is the **statutory responsibility of local boards of education** to enforce and determine whether nonpublic schools attended by their resident students are providing “substantially equivalent” instruction to that provided in the district’s public schools.

In April 2018, the Legislature amended the Education Law §3204(2)(ii) to create an exception for certain schools (commonly known as the Felder Amendment). For those particular schools:

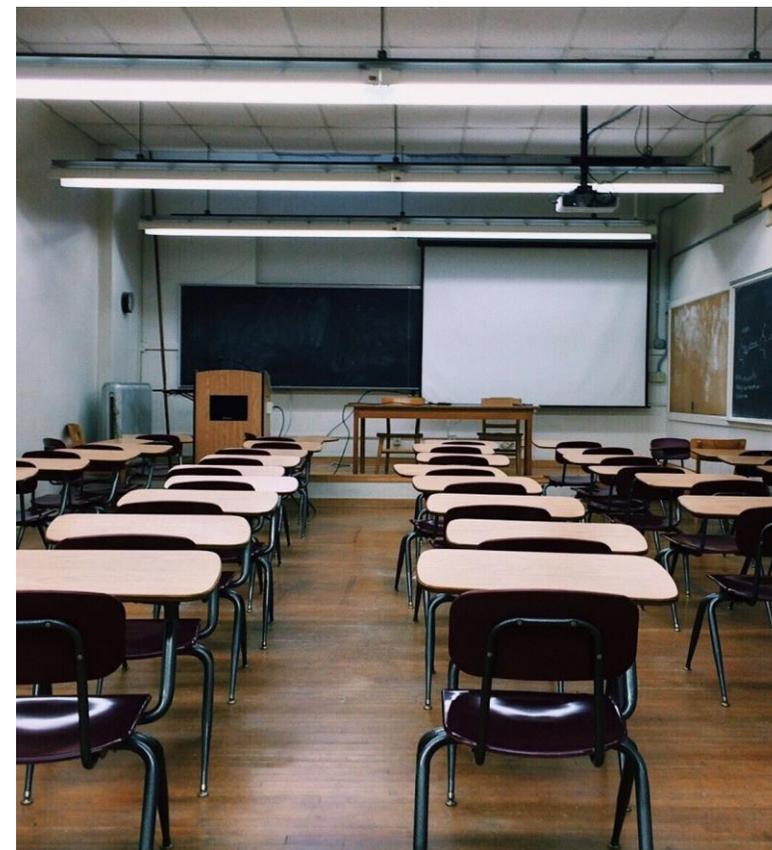
- Ultimate responsibility for making final substantial equivalence determination is shifted from local school districts to the Commissioner; and
- The Commissioner must consider certain enumerated factors in making the substantial equivalence determination.



# REPORT FINDINGS – STAKEHOLDER FEEDBACK: LOCAL DETERMINATIONS

## Local Determinations May Strain Public and Nonpublic School Relationships

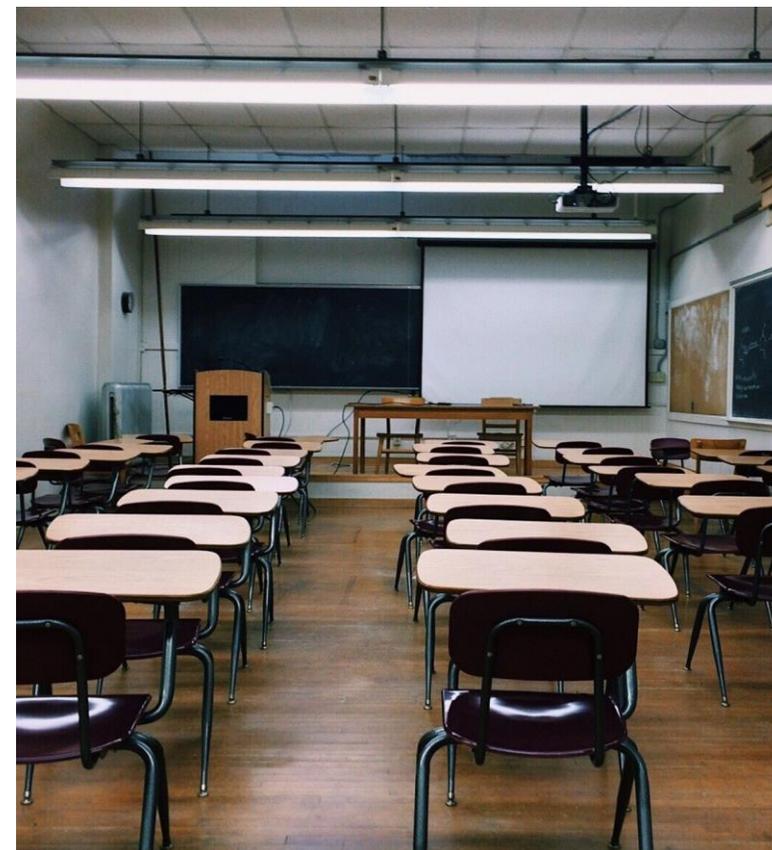
- Existing positive relationships between public and nonpublic schools could be strained.
- Concern about the perception of nonpublic schools being subordinate to the public school district.
- Potential for conflicts of interest, such as competition for enrollment and associated funding.



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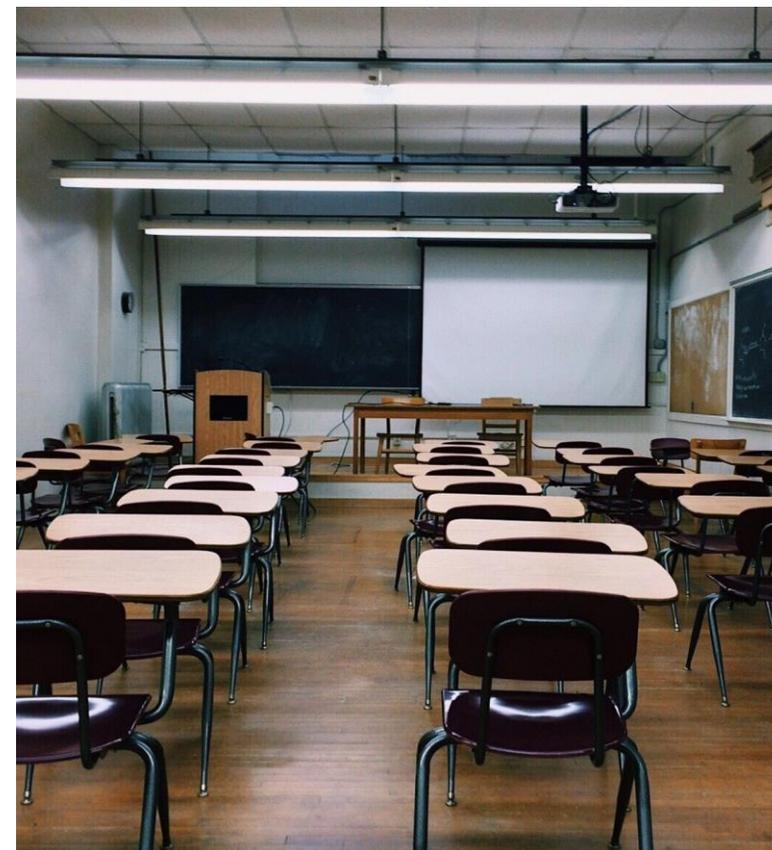
- Some districts are concerned that negative determinations could lead to lawsuits or influence budget approvals.



# REPORT FINDINGS – STAKEHOLDER FEEDBACK: INSUFFICIENT CAPACITY

## Insufficient Capacity to Support a Review Process

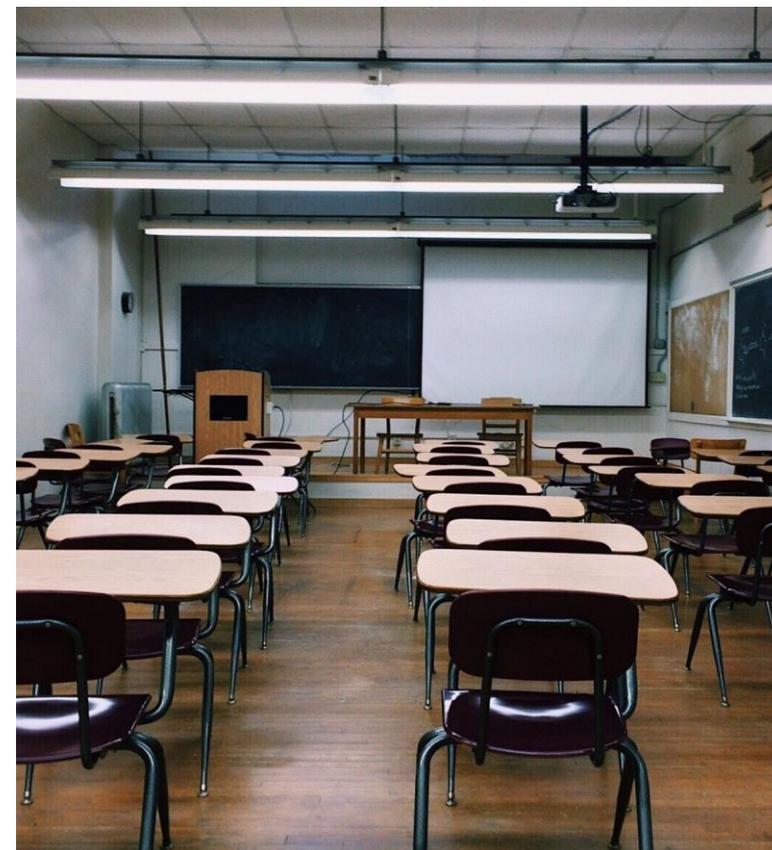
- Public school district and nonpublic stakeholders worry about lack of finances and personnel to dedicate to a review process.
- Some nonpublic schools use resources for accreditation processes and feel another review would be duplicative.
- Concern state doesn't have resources to conduct reviews.



# REPORT FINDINGS – STAKEHOLDER FEEDBACK: CULTURAL DIFFERENCES

## Reviewers May Lack a Deep Understanding of Culture

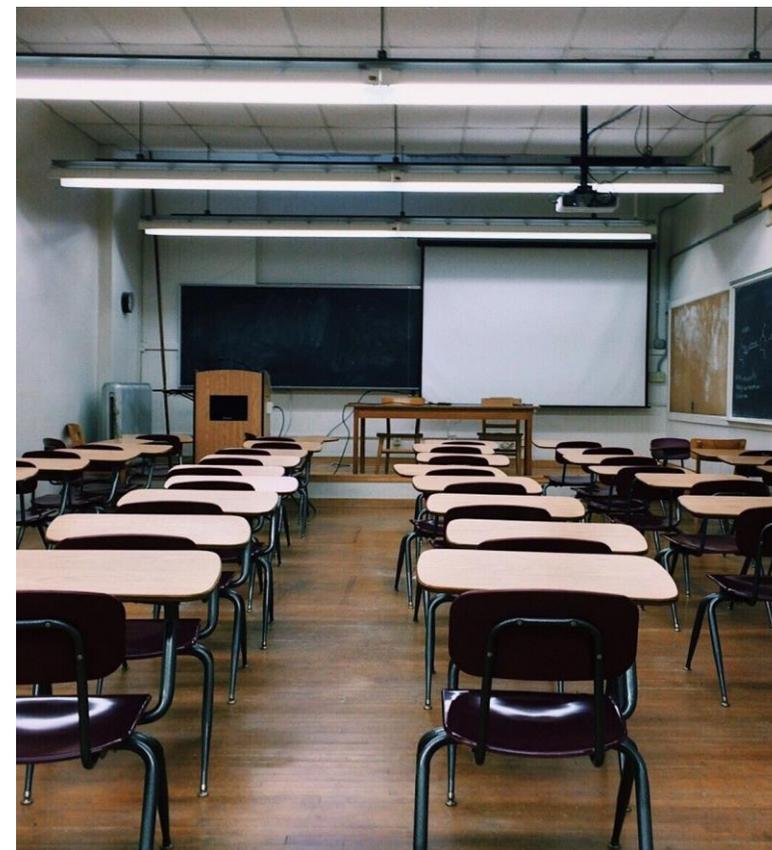
- Necessary to have a deep understanding of the nonpublic school community's traditions, values, and culture.
- Reviews would not be fair if the reviewer lacked this understanding.
- It could be difficult for an external person to acquire a deep understanding through training.



# REPORT FINDINGS – STAKEHOLDER FEEDBACK: CONFLICTS WITH BELIEFS

## Requirements May Conflict with Beliefs

- Across all types of nonpublic schools, programs are informed by belief systems.
- Substantial equivalence requirements, if prescriptive, may conflict with belief systems.
- Excessive requirements may infringe on religious rights.



# REPORT FINDINGS – STAKEHOLDER FEEDBACK: SUGGESTIONS FOR POLICY

Be flexible and create a menu of options for determining substantial equivalence.

Allow a variety of measures to determine substantial equivalence.

- Curriculum
- Other standards
- Standardized test scores
- Accreditation
- Nonacademic goals
- Self-evaluation results
- Staff qualifications

# REPORT FINDINGS – STAKEHOLDER FEEDBACK: SUGGESTIONS FOR POLICY

Create policies that:

- Consider schools' beliefs and values
- Account for the various populations in schools
- Provide professional development resources

REPORT FINDINGS –  
STAKEHOLDER  
FEEDBACK:  
SUGGESTIONS FOR  
WHO SHOULD BE  
INVOLVED IN  
DETERMINATIONS



Reviewers with a range of expertise



An external, independent review board  
(may include accrediting agencies)



Statewide agencies (NYSED or BOCES)



# OTHER FORMS OF NYSED STAKEHOLDER ENGAGEMENT

## In-person meetings

- Met with stakeholders who were unable to participate in virtual sessions

## Survey in the NYSED Business Portal

- 157 responses out of ~1,800 schools

# HIGHLIGHTS FROM NONPUBLIC SCHOOLS INFORMATION SURVEY

Data that will assist NYSED in making recommendations to the Board of Regents:

- Standardized assessments that are currently being used by nonpublic schools
- For schools that are accredited, the accrediting agencies
- Academic programs approved by another entity, such as another nation's education agency



## SUMMARY OF CONSIDERATIONS

The intent of the substantial equivalence process is to ensure that all students receive the education to which they are entitled to under the law.

In developing regulations, the Department and Board of Regents must recognize parents' rights to exercise their faith and to direct their children's education and religious upbringing as well as the State's interest in ensuring an informed citizenry that is self-sufficient and capable of participating in society.



# SUMMARY OF CONSIDERATIONS

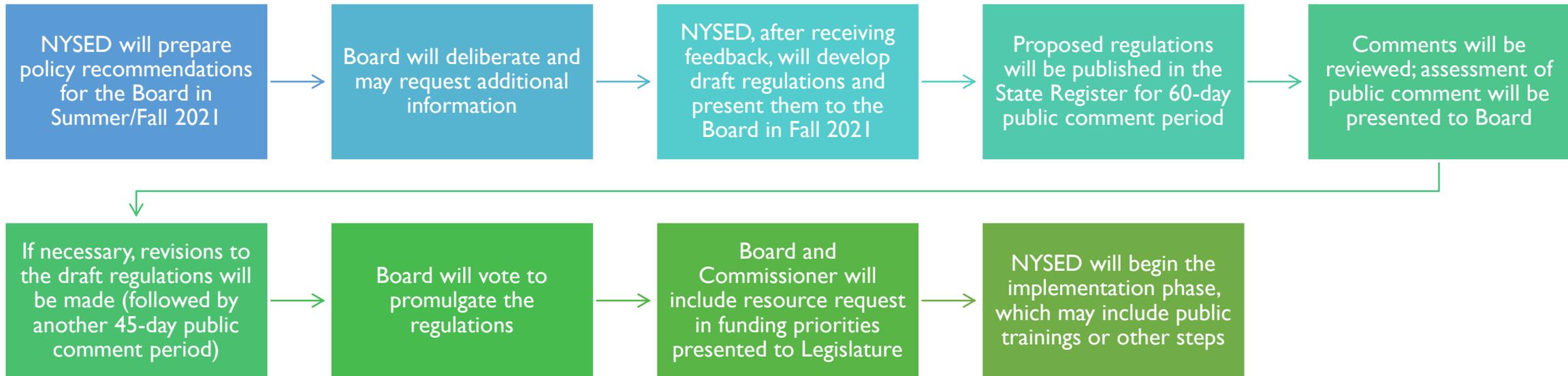
Thus, we must all be mindful that:

- Instruction in nonpublic schools need not look the same as instruction in public schools.
- This issue is as important to parents as it is to school leaders. Schools are responsive to parent and community input because parents have chosen this education for their children.
- The review process must consider the existing capacities of both parties. The goal is to be fair and objective, but this could require extensive training and professional development.

# NEXT STEPS

Key areas for further consideration:

- How to define criteria for substantially equivalent instruction
- How requirements of accrediting bodies may align with requirements for substantial equivalence
- Assessments that may demonstrate nonpublic schools are providing substantially equivalent instruction
- Resources needed to implement the process and requirements



## NEXT STEPS



## DISCUSSION AND QUESTIONS