



New York State
EDUCATION DEPARTMENT

Knowledge > Skill > Opportunity

FINAL SUBSTANTIAL EQUIVALENCE REGULATION

September 2022

COMPULSORY EDUCATION LAW



Education Law §3204(2) requires that instruction for students in nonpublic schools “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.”

LOCAL PUBLIC & NONPUBLIC SCHOOLS' RESPONSIBILITIES UNDER COMPULSORY EDUCATION LAW

Public School District:

Ensure resident students receive instruction to which they are entitled under the law.

Public School District:

Confirm that the education provided in nonpublic schools is substantially equivalent to that of local public schools.

Nonpublic School:

Demonstrate that instruction provided in their school is substantially equivalent.

INCLUSIVE STAKEHOLDER OUTREACH



6 Virtual Stakeholder Meetings: with a diverse group of more than 500 individuals representing nonpublic school communities, public schools, and other stakeholders.



Numerous in-person meetings: with a diverse group of stakeholders facilitated by Members of the Board of Regents as well as NYSED staff.



Commissioner's Advisory Council on Nonpublic Schools: regular consultation with a broad spectrum of the nonpublic schools in New York State.

PUBLIC COMMENTS & RESPONSE TO COMMENTS

- Approximately 350,000 comments received and reviewed
- All comments have been reviewed and responded to in the Assessment of Public Comment



The definition of LSA for the New York City school district

LSA must notify the nonpublic school when they have been deemed substantially equivalent via a pathway

The Commissioner may extend the timelines for a nonpublic school to demonstrate SE upon a showing of good faith progress toward achieving SE

A Commissioner's determination cannot be appealed to the Commissioner

The Commissioner may direct another authority, which may include a BOCES, to investigate a complaint

The Commissioner is not obligated to direct an investigation of a nonpublic school where a complaint does not have merit

Section 130.9(b) and (c)'s references to the Education Law

PROPOSED NON-SUBSTANTIAL REVISIONS-Clarified

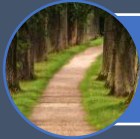
KEY FEATURES OF THE FINAL REGULATION



Values-driven Collaborative Process



Respect for Different Instructional Models and Values



Multiple Pathways to Demonstrate Equivalence



Collaborative Focus on Core Instruction



Expectations for School Districts



Provide for a Complaint and Review Process

MULTIPLE PATHWAYS FOR NONPUBLIC SCHOOLS

- Accreditation by a recognized accreditor
- Approved Private Special Education School ('853'), State-Operated, and State-Supported School ('4201')
- International Baccalaureate & U.S. Government-Approved Instruction
- Registered high schools (and their same-organization grade 1-8 programs)
- Demonstrate grade-level progress on approved assessments

Instruction is given only by a competent teacher

English is the language of instruction for common branch subjects

Students who have limited English proficiency are provided with instructional programs enabling them to make progress toward English language proficiency

Materials from other accreditation reviews that did not meet the criteria for a pathway determination from the last five years

Instructional programs incorporate mathematics, science, English language arts, and social studies that is substantially equivalent to what is required in public schools

Similar courses of instruction in all other areas as required by law in public schools

For nonpublic schools to meet the criteria for Commissioner's final substantial equivalency determinations as stated in Education Law §3204(2)(ii)-(iii)



CRITERIA FOR REVIEWS

ADDRESSING POSSIBLE MISCONCEPTIONS

The regulation does:

NOT Impose a new obligation on LSAs to ensure substantial equivalency in nonpublic schools

NOT Require all nonpublic schools to have an LSA review if they choose a pathway

NOT Single out any one group or groups

NOT Mandate specific curriculum or courses other than those required by statute

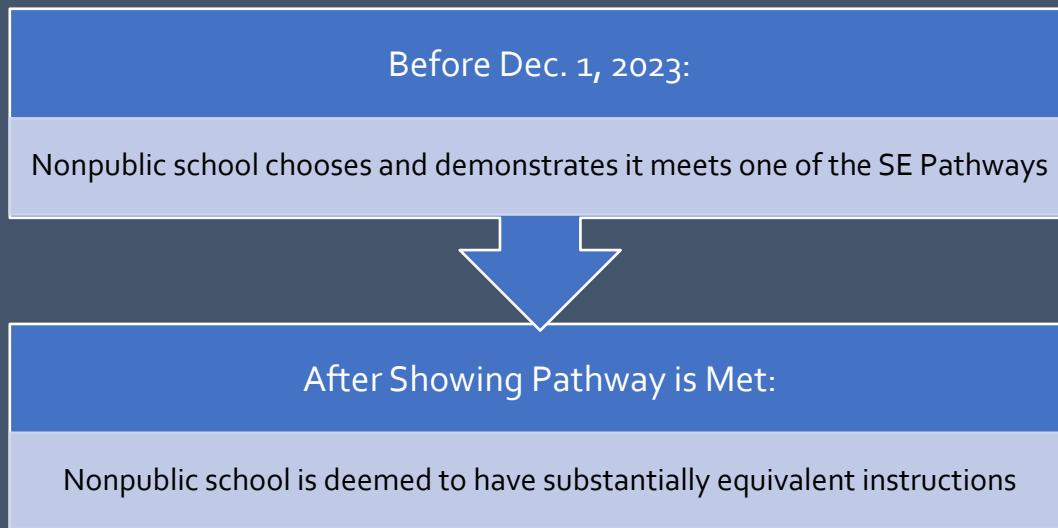
NOT Allow anyone to file an appeal to the Commissioner. Only aggrieved parties may file such an appeal

NOT Regulate religious instruction

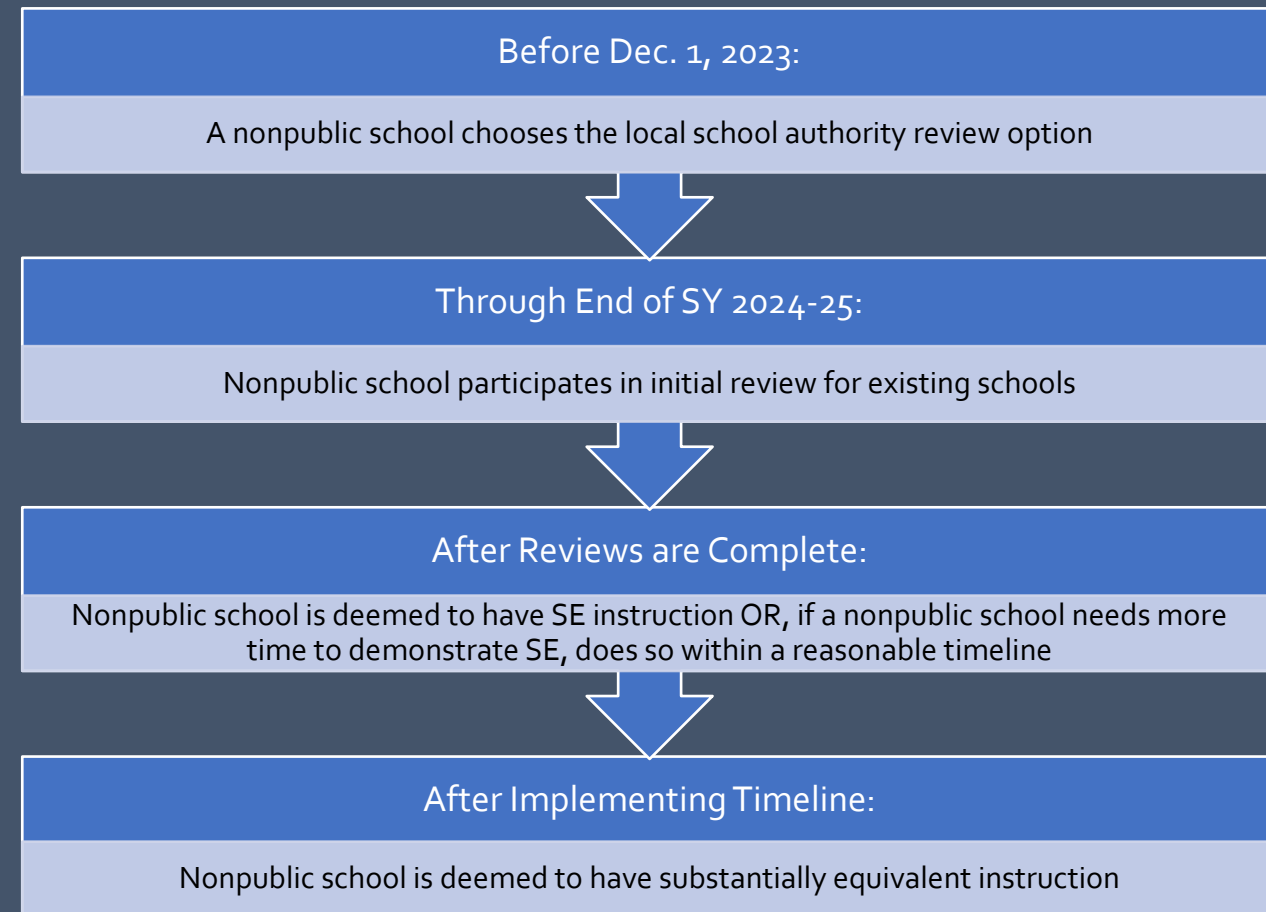
EXPECTATIONS FOR NONPUBLIC SCHOOLS

Nonpublic schools may choose 1) a pathway or 2) to participate in a review by the local school district to demonstrate substantial equivalency (SE) of instruction

Pathway Option



Local Review Option



EXPECTATIONS FOR DISTRICTS

By Sept. 1, 2023

Local School Authority (LSA) identifies nonpublic schools in their boundaries.

Dec. 1, 2023

LSA receives notice / evidence of pathway or selection of LSA review option.

End of SY 2024-25

LSA completes initial reviews for existing schools & within two years after a new school opens.

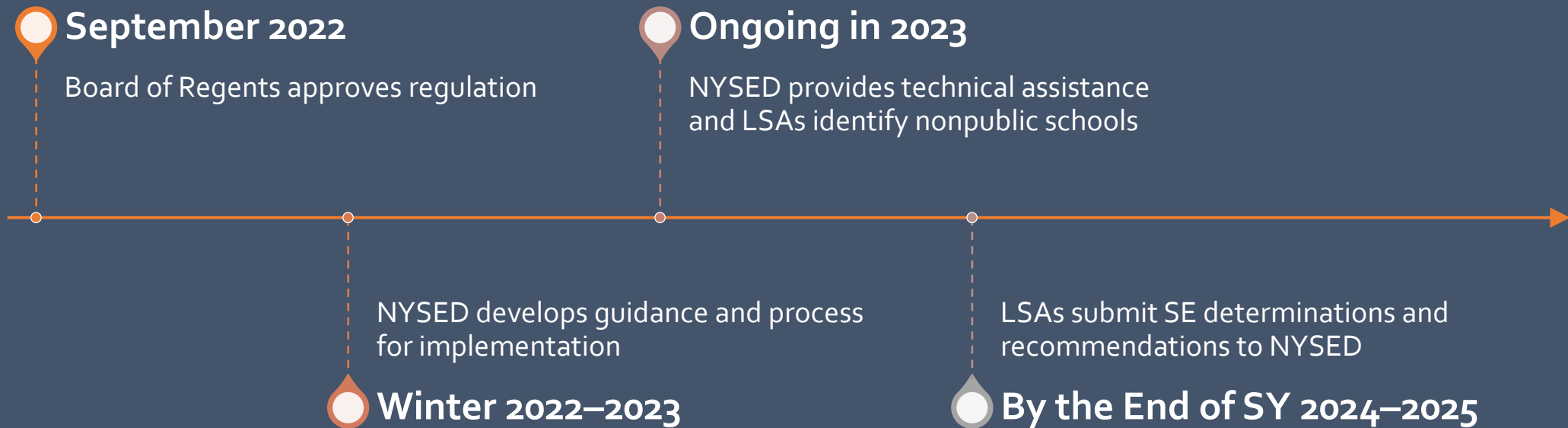
After Reviews Complete

School board votes on SE determinations for nonpublic schools requiring LSA review.

Additional Time for SE Determination

If a nonpublic school needs more time to demonstrate SE, it has a reasonable timeline for doing so the Commissioner can grant additional time.

ANTICIPATED IMPLEMENTATION TIMELINE



QUESTIONS



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