Draft Substantial Equivalence Regulation

March 2022
“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.
Values-Driven Process

Respect

Appreciate

Recognize

Cultural and Religious Values, Sensibilities, and Differences Represented in our Nonpublic Schools
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.

Dozens of in-person meetings: with a diverse group of stakeholders, some who could not attend virtual meetings.

Commissioner’s Advisory Council on Nonpublic Schools: regular consultation with a broad spectrum of the nonpublic schools in New York State.
Key Features of the Draft Regulations

- Respect for Different Instructional Models
- Multiple Pathways to Demonstrate Equivalence
- 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
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**
- **Before Dec. 1, 2023:** Nonpublic school chooses and demonstrates it meets one of the SE pathways.
- **After Showing Pathway is Met:** Nonpublic school is deemed to have substantially equivalent instruction.

**Local Review Option**
- **Before Dec. 1, 2023:** Nonpublic school chooses one of the SE pathways or local school authority review option.
- **Through End of SY 2024-25:** Nonpublic school participates in initial review for existing schools.
- **After Reviews are Complete:** If a nonpublic school needs more time to demonstrate SE, does so within a reasonable timeline.
- **After Implementing Timeline:** Nonpublic school is deemed to have substantially equivalent instruction.
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 are Complete: School board votes on SE determinations for nonpublic schools requiring LSA review.

After Reviews are Complete: If a nonpublic school needs more time to demonstrate SE, it has a reasonable timeline for doing so.
Anticipated Regulatory Timeline

March 2022:
Draft regulations presented to the Board

March 30 – May 30, 2022:
60-day public comment period

Summer 2022:
NYSED reviews public comments

Fall 2022:
NYSED presents regulations for adoption to Board
Anticipated Implementation Timeline

Fall 2022:
Board approves regulations

Winter 2022-23:
NYSED develops guidance and process for implementing the regulations

Ongoing in 2023:
NYSED holds trainings on the guidance and LSAs identify nonpublic schools within their boundaries

End of SY 2024-25:
LSAs submit SE determinations and recommendation s to NYSED
Thank you!