



Our Students. Their Moment.

## **Nonpublic Schools in NYS: An Overview**

**December 14, 2015**

# Constitutional Considerations

- **NYS Constitution Article XI, §1:**
  - “The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated.”
- **Pierce v. Society of Sisters:**
  - In 1925, the US Supreme Court struck down as unconstitutional an Oregon statute requiring that students attend public schools. The Court ruled that by denying parents’ the right to have their children attend a nonpublic school, the statute infringed upon the parents’ liberty interest in directing the upbringing and education of their children.

# Compulsory Attendance in NYS

- Students from 6 to 16 years of age must attend upon full-time instruction (Education Law §3205[1]).
- Such instruction must be provided by a competent teacher in a public school or elsewhere (Education Law §3204[1], [2]).
- Instruction provided other than at a public school must be at least “substantially equivalent” to the instruction given in the public schools of the district of residence (Education Law §3204[1], [2]).

# Compulsory Attendance in NYS

- **Students who attend nonpublic schools must attend for at least as many hours as students in the public schools (Education Law §3210[2][a]).**
- **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]).**

# “Substantially Equivalent”

- The term “school authorities” is defined as the board of education of a school district (Education Law §2[12]).
- Therefore, by law, it is the responsibility of local boards of education to enforce the State’s Compulsory Attendance Law and to determine whether the nonpublic schools attended by their resident students are providing “substantially equivalent” instruction to that provided in the district’s public schools.
- The superintendent of schools, as the chief executive officer of the district and the educational system, normally supervises enforcement of the “substantially equivalent” requirement (see Education Law §§1711[2][b] and [f]; 2508[2] and [6]; 2566[2] and [7]).
- A board’s determination regarding substantial equivalence, or its failure to make such a determination, may be appealed to the Commissioner pursuant to Education Law §310.

# **“Substantially Equivalent” and Voluntary High School Registration**

- **Nonpublic schools are not required to meet the same educational standards as public schools.**
- **Nonpublic schools may, but are not required, to be registered by the Board of Regents. Registered nonpublic schools must meet the same educational standards as public schools and only registered nonpublic high schools may award diplomas and administer Regents examinations.**
- **NYSED recommends in guidance that, if a nonpublic school is registered, the board of education of the district in which it is located accept the registration as evidence of a “substantially equivalent” program of instruction.**

# Course of Study

- The course of study in the first 8 years must provide instruction in at least the following:

Arithmetic

Reading

Spelling

Writing

The English language

Geography

US History

Civics

Hygiene

Physical training

History of NYS

Science

(Education Law §3204[3][a][1])

# Course of Study

- **The course of study beyond the first 8 years must provide instruction in at least the following:**
  - The English language and its use**
  - Civics**
  - Hygiene**
  - Physical training**
  - American history (principles of government proclaimed in the Declaration of Independence and established by the US Constitution)**
  - (Education Law §3204[3][a][2])**
- **Education Law, Article 17 prescribes additional requirements for all schools (e.g., patriotism, citizenship and human rights issues; highway safety and traffic regulation).**



engage<sup>ny</sup>

Our Students. Their Moment.

**Thank You.**