

This memorandum of opposition is aimed at preventing introduction of bill language currently in discussion to be included in final State Budget bills

MEMORANDUM OF OPPOSITION

YAFFED respectfully opposes any change to New York State Education law §3204, New York State Commissioner of Education Rule Part 130, and any bill language that would impair, change or subvert the enforcement of substantial equivalency standards at nonpublic schools.

Every child in New York State has a constitutionally protected right to a sound basic education; that is to say an education that is at least substantially equivalent to that provided by public schools in their jurisdiction.

1. The bill language would eliminate a parent’s right to demand their child receive an education.

- Currently: Under current regulations, the parent of a child attending a private school that is not educating their child can file a complaint with NYSED through the Education Law 310 process and demand their child receive a sound basic education.
- As Proposed: The proposed language deprives parents of this right by requiring NYSED to conclusively deem schools compliant with the substantial equivalency requirement if they meet weaker, ill-defined requirements.

2. The bill language would weaken current academic standards.

- Currently: Private schools are required to provide an education “substantially equivalent” to that offered by their public school peers. Substantial equivalency does not mean exactly the same, but rather that private schools must meet minimum educational standards of quality in certain core subjects like English, mathematics, science, and social studies. Current regulations require local school agencies to systematically review private schools in their jurisdiction for compliance with the law. Private schools can demonstrate compliance through one of seven “pathways.” Subsequent findings are presumptions that can be challenged. If a school is erroneously determined to be compliant, concerned parents can demand NYSED re-review the determination.
- As Proposed: The bill language would make final presumptions legally binding, restricting the right of NYSED or parents to require changes prior to the next investigation cycle if there’s an issue. The language makes schools exempt from

substantial equivalency review if just one-third of students meet proficiency standards on a test the school itself chooses. Thus, there would be a financial incentive for schools to administer the least challenging tests. For comparison, New York City Public Schools reached 50% grade level proficiency on state administered exams and neither the City nor State financially benefit from the tests and New York City cannot choose simpler tests to artificially raise their scores.

3. The bill language exempts many schools from any effective oversight.

- Currently: Private elementary schools may demonstrate substantial equivalency by showing they are affiliated with High Schools registered with the Board of Regents. The idea is that such schools feed into the High School, over which the State has some degree of oversight. Schools are held to objective, measurable standards of quality.
- As Proposed: This bill would require any school claiming affiliation with any school that satisfies one or more of the weakened pathways in the statute to be deemed substantially equivalent without any oversight. Combined with the language depriving parents and NYSED of the power to review determinations, this language puts those schools out of reach of any oversight. Moreover, schools can choose which metrics they are measured against, further reducing standards, and simply occupying the same building as a satisfactory school or having similar leadership would force NYSED to find a school compliant without any objective evidence of educational quality.

4. The bill language lets private schools skip legally required instruction.

- Currently: Private schools must provide certain instruction in civics, history, and social studies.
- As Proposed: The bill would allow schools to ignore these requirements as it does not require such instruction and would exempt schools meeting its weakened requirements from any oversight review.

5. The bill would delay even minimum enforcement until 2032-2033.

- Currently: NYSED is requiring all local school agencies to review the schools in their jurisdiction for compliance with the substantial equivalency law and report their findings by June 30, 2025.
- As Proposed: The bill language exempts certain private schools using assessments to prove compliance from having to administer yearly assessments for up to 7 years, only having to fully implement such assessments for the 2032-2033 school year.