

New York State Education Department
State Office of Religious and Independent Schools
89 Washington Ave., EBA Room 1078
Albany, NY 12234

RE: Commentary on the New Substantial Equivalency Regulations

Dear New York State Education Department and members of the Board of Regents,

As an organization dedicated to the civil rights of children, CHILD USA commends the New York State Education Department's sincere efforts to ensure that students in nonpublic schools receive the education to which they are entitled under the law.

For far too long, private and religious schools have been able to avail themselves of public monies without being subject to the scrutiny of any tangible oversight. By establishing a system of transparency in the reporting processes and improving the compliance procedure, the new draft regulations represent a positive step in the right direction to ensuring that the right of every child to a basic education is protected. At the same time, the regulations contain gaps in oversight and accountability that we hope will be addressed before their adoption.

1. Establishing Minimum Proficiency Benchmarks

The proposed regulations allow nonpublic schools to use state approved assessments to establish compliance with the substantially equivalent standard, yet they do not set forth a minimum proficiency benchmark for performance outcomes. Without such a measurement, it will be impossible for the state to determine whether nonpublic school students are making academic progress in core subjects commensurate to that of their public-school peers. The regulations should also require a neutral party administer and score the tests to ensure legitimacy of their results.

2. Auditing By the State Education Department

At present, there are no restrictions on who can become an accreditor nor universally accepted accreditation standards, and thus no mechanism through which an accreditation agency is scrutinized or penalized in the event of non-compliance. To ensure complete transparency in the process, accreditation agencies should seek pre-approval from the state and be subject to routine auditing by the State Department of Education, the results of which should be made available to the public.

3. Managing Conflicts-of-Interest and Penalties for Non-Compliance

The State Education Department must have the authority to undertake review of a nonpublic school without involvement of the local school officials in the event of a real or perceived



conflict of interest. The regulations must clearly set forth the penalties to be imposed against local school authorities who fraudulently indicate compliance and should require, rather than allow, the Commissioner to withhold funds for those schools and districts whose officials continue to willfully refuse enforcement of the standards established by state law.

CHILD USA urges the Department to incorporate the above-mentioned changes prior to adopting these regulations. These reasonable educational regulations would effectively address the decades of educational neglect identified in New York's nonpublic schools, ensuring that all of New York's children receive the education to which they are entitled regardless of the type of school they attend.

Please do not hesitate to contact me with questions regarding these issues and/or any other children's rights issues.

Sincerely,

A handwritten signature in black ink that reads "Marci A. Hamilton". The signature is fluid and cursive, with a long horizontal line extending to the right.

Marci A. Hamilton, Esq.
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