



Office of Religious & Independent School Support (ORISS)

New York State Education Department (NYSED)

**Substantial Equivalency (SE) Frequently Asked Questions
as of November 14, 2024**

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Section I - General SE Questions

1. Where can the guidance on implementation of SE requirements be found?

The Substantial Equivalency Implementation Guidance can be found on the ORISS website on the [Substantial Equivalency Resources](#) webpage.

2. How does a local school authority (LSA) report the religious and independent schools (R/I) within their geographic boundaries?

The survey to complete the reporting is called the “Local School Authority (LSA) Substantial Equivalency Reporting” (LSA Survey). This can be found within the [NYSED Business Portal](#). Once the user has accessed the Business Portal, under “My Applications,” select “SED Monitoring and Vendor Performance System,” then select “ORISS,” and then “Local School Authority (LSA) Substantial Equivalency Reporting”.

3. Who completes the LSA survey?

After collaboration with R/Is within its geographic boundaries, the LSA must complete and submit the LSA survey (8 NYCRR 130.7). R/Is should be responsive to requests from the LSA for information needed for their survey responses.

4. How does the R/I identify the individual representing the LSA for a particular school?

R/Is should contact their local LSA. Schools located within NYC school district boundaries should contact NYC DOE’s Office of Nonpublic Schools (ONPS) at onpssubstantialequivalence@schools.nyc.gov.

5. How does an R/I report their pathway selection to the LSA?

The LSA will notify the R/I of the form in which the information is to be provided to the LSA. The R/I should make every effort to comply with the form of the request by the LSA to allow the LSA to timely report the pathway selection on the NYSED survey. The R/I will annually provide documentation to the LSA that it meets the criteria for the pathway selected. Note that some pathways may not require the submission of documentation. See the Substantial Equivalency Implementation Guidance found on the [Substantial Equivalency Resources](#) webpage for more detailed submission requirements.

6. If the R/I has selected Pathway 1 through 6, will the LSAs still potentially visit the school(s) or are they now only visiting schools that selected Pathway 7?

Pathways 1-6 are an efficient means for the R/I to demonstrate a presumption of substantial equivalence as an alternative to an LSA review through Pathway 7, which requires a school visit. Although a visit is not required for Pathways 1-6, an LSA or another authority, which may include a BOCES, may choose to visit a R/I pursuant to 130.11 or to verify pathway or survey information

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regardless of the selected pathway. Such arrangements should be made collaboratively between an LSA and R/I.

7. When do LSAs report R/I pathway selection?

LSAs must report all R/I information in accordance with 8 NYCRR 130.4 and 130.7 and as outlined on pages 23-26 of the Substantial Equivalency Implementation Guidance found on the [Substantial Equivalency Resources](#) webpage.

8. Which R/Is are subject to SE requirements?

All R/Is located in New York State that provide elementary and/or secondary education (any grades 1 through 12) and such education is intended to fulfill the compulsory education requirements of Article 65 of the Education Law for the students that attend such school are subject to SE requirements.

9. Once deemed SE, does an R/I receive a license or certification?

There is no license or certification an R/I receives when they are deemed to be SE by the LSA or Commissioner of Education. In the spirit of collaboration, it is considered best practice for LSAs to communicate in writing with the R/I regarding their SE status.

10. How long is a positive SE determination or verified pathway selection valid for?

For schools deemed SE by virtue of Pathways 1 through 6, LSAs should verify that the R/I meets the requirements of the selected pathway annually. If the R/I is no longer eligible for the pathway selected in a previous reporting cycle, (e.g. the accreditation expired, or the school is no longer registered, or no longer administers approved assessments), a new pathway should be selected by the R/I and verified by the LSA. For Pathway 7 schools, a positive SE determination is valid for 7 years (8 NYCRR 130.4).

11. Can an R/I change a pathway selection?

Yes, but subject to limitations to ensure compliance and timely reporting. Although there may be circumstances in which changing to another Pathway 1-6 is justified, the pathway selection and verification for a school year reporting cycle must be considered final by December 1 each year. Once an R/I has selected a pathway for an annual reporting cycle, the R/I will be responsive to requests for information needed to verify applicability of the pathway and the LSA will determine if the R/I meets the criteria for the selected pathway. If the LSA determines that the R/I does not meet the criteria for the selected pathway, the R/I generally defaults to Pathway 7. If the LSA reported an R/I's pathway incorrectly on the survey, the R/I should immediately notify the LSA of the error within a reasonable time of its selection. Repeated selection of inapplicable pathways should not be accepted. If an R/I has been the subject of a negative substantial equivalency determination, it may not choose a pathway until the plan for attaining substantial equivalency has been agreed to and effectuated and a favorable substantial equivalency determination has been made.

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12. How should we determine “the end of the next academic year” in reference to the LSA and R/I collaboratively developing a timeline and plan for the R/I to attain substantial equivalency?

The end of the next academic year would be the next June 30. See Education Law § 2(15). (“The term ‘school year’ means the period commencing on the first day of July in each year and ending on the thirtieth day of June next following.”)

13. Do LSAs need to provide SE related data annually?

Yes, LSAs are required to collaborate with R/I to submit the LSA Survey annually. Please refer to pages 25-26 of the Substantial Equivalency Implementation Guidance found on the [Substantial Equivalency Resources](#) webpage regarding the regulation implementation timeline. R/Is demonstrating SE through certain pathways (i.e. Pathway 6) may also need to provide additional information to the LSA annually to ensure continued compliance with the applicable pathway.

14. Can schools use Title IV funds to purchase curriculum development for SE?

Title funds cannot be used to purchase curriculum development solely to comply with the SE requirement. Federal funds must be used to supplement, not supplant, non-Federal funding a school would use towards compulsory education requirements.

15. Can schools use Title III funds to provide professional development related to SE for teachers providing programs for English learners and immigrant children?

Title III funds cannot be used to provide programs for English language learners and immigrant children and youth solely in fulfillment of SE requirements, but it can be used to provide additional supplemental services and supports. Federal funds must be used to supplement the level of Federal, State, and local public funds that, in the absence of such availability, would have been expended for programs for English language learners and immigrant children and youth but not to supplant such Federal, State, and local public funds.

16. Can an entire school opt out of instruction in health and hygiene or does that only apply to individual students?

No, an entire school may not opt out of instruction in health and hygiene. Only individual students may seek an exemption from the part(s) of health instruction and hygiene that conflicts with the tenets of their religious group. A process for an individual to seek a religious exemption to health instruction is codified in Education Law § 3204(5) and Regents Rule 16.2. The religious exemption belongs to the student as it conflicts with the religion of the student’s parent or guardian, provided that such conflict must be certified by a proper representative of their religion.

17. How should an LSA review an R/I that only serves, or predominately serves, students with disabilities and chooses Pathway 7?

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The LSA should review such schools through the lens of developmentally appropriate practices. Care should also be taken to review such schools through the lens of what would be provided to similar students attending schools either in the LSA or through placements provided by the LSA. When conducting school review visits, the LSA should ensure that staff with special education experience are part of the school visit team. NYSED expects that students with disabilities will have meaningful access to general education curriculum with appropriate supports, services and accommodations to address any disabilities in consideration of the content of the curriculum, instructional materials, how the curriculum is taught, the physical environment, and how student learning is measured.

18. What happens if the LSA has received a complaint about the instruction provided in an R/I?

An LSA that receives a complaint about the substantial equivalency of instruction at an R/I within its geographical boundaries may use its discretion to determine whether the complaint has merit and whether an investigation is warranted. The scope of an investigation should be tailored to the nature of the concern about the instruction provided at the R/I. LSAs may contact ORISS for technical assistance in handling complaints. NYSED will investigate complaints about registered nonpublic schools. If an LSA receives a complaint about a registered nonpublic school, it should forward such complaint to ORISS for processing. The complaint process, including the Commissioner's ability to direct an investigation, is further outlined in the Substantial Equivalency Implementation Guidance found on the [Substantial Equivalency Resources](#) webpage beginning on page 27.

19. Can anyone file an SE related complaint?

Yes. Members of the public have an absolute right to contact all branches of local and State government, including NYSED. However, safeguards will alleviate the burden of complaints on LSAs and R/Is. Per section 130.11 of the regulations, "The Commissioner will not direct an investigation of a nonpublic school where the Commissioner determines, in his or her discretion, that a complaint does not have merit or that investigation is otherwise not warranted."

Section II – Pathway Questions

20. What are the pathways a school can use to demonstrate SE?

There are seven pathways set forth in regulation that an R/I can utilize to demonstrate SE. Pathways 1 through 6 are efficient ways to demonstrate a presumption of SE as an alternative to a Pathway 7 review. These pathways are explained on pages 7–23 of the Substantial Equivalency Implementation Guidance found on the [Substantial Equivalency Resources](#) webpage.

- *Pathway 1: Registered High Schools*
- *Pathway 2: State Approved Private Special Education Schools, State-Operated or State-Supported School*
- *Pathway 3: Accreditation*
- *Pathway 4: International Baccalaureate (IB) Programs*
- *Pathway 5: Federally Approved Schools*

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- *Pathway 6: Assessments*
- *Pathway 7: Local Reviews*

21. How is a pathway selected?

Unless there has been a complaint about an R/I or a prior negative SE determination, it is up to the R/I to determine which pathway they are using to demonstrate SE and to share its selection and any supporting documentation with the LSA. If an R/I meets multiple pathways, it should select the one pathway it deems most appropriate. The LSA will then verify the validity of the supporting information provided by the school and determine whether it meets the requirements of the pathway. It is up to the LSA to determine if the R/I meets the regulatory requirements of that pathway and to complete the survey to report such selection to NYSED. If such information is not promptly provided by the R/I, or the LSA determines the R/I does not meet the criteria for the pathway, the LSA should proceed to a local review (Pathway 7).

22. Will online only schools be considered for SE using any of the seven pathways?

No. Online only instruction is not regularly permitted in NYS public schools at this time and, thus, cannot be considered substantially equivalent if it relies only on this modality. Should this position change, NYSED will update its guidance.

23. What is the SE determination date as reported on the LSA Survey?

The SE determination date for Pathways 1 through 6 is the date the LSA has annually verified the R/I fulfills the regulatory requirements of the appropriate pathway as outlined in the Substantial Equivalency Implementation Guidance (see table below).

For Pathway 7, the SE determination date is the date the LSA made its final determination pursuant to 8 NYCRR 130.6(b), or the date the LSA forwarded an SE recommendation to the Commissioner for schools subject to a final determination by the Commissioner pursuant to 8 NYCRR 130.8(a).

The SE determination date is not the date the school was registered, became accredited, selected a pathway, or obtained a charter or Commissioner’s consent.

<i>Pathway Selected</i>	<i>SE Determination Date</i>
Pathway 1	Date LSA verified that R/I high school has full registration status, and related elementary and middle school(s) fit(s) the criteria as outlined in the Substantial Equivalency Implementation Guidance found on the Substantial Equivalency Resources webpage
Pathway 2	Date LSA verified the status that R/I is a State-Approved Private Special Education School, State Operated, or State-Supported School through NYSED’s

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	SEDREF Database and/or on the Approved Private, Special Act, State-Operated and State-Supported Schools in New York State webpage on the Office of Special Education website
Pathway 3	Date LSA verified that R/I is actively accredited by a NYSED-approved accreditor (see Approved Accreditors List on the Substantial Equivalency Resources webpage)
Pathway 4	Date LSA verified that R/I participates in International Baccalaureate (IB) program by reviewing the IB Program website
Pathway 5	Date LSA verified the school is a Federally Approved School (currently the only designated school is West Point Middle School)
Pathway 6	Date the LSA has both (1) verified R/I has selected NYSED-approved assessments (Approved Assessments List) and (2) verified evidence presented by R/I that the assessments are being offered in accordance with 130.3(a)(6) (demonstrates student progress as they move from grade to grade, regularly used by the nonpublic as part of its instruction program, and a participation rate as outlined in 130.3[a][6])
Pathway 7 – LSA Determination	Date the LSA made its final determination pursuant to 8 NYCRR 130.6(b)
Pathway 7 – Commissioner Determination	Date the LSA forwarded an SE recommendation to the Commissioner for schools subject to a final determination by the Commissioner pursuant to 8 NYCRR 130.8(a)

24. How is a pathway selection or SE determination reported on December 1 each year?

An LSA will report verified pathway selections and SE determination to NYSED on the LSA Survey through the [NYSED Business Portal](#). Once the user has accessed the Business Portal, under “My Applications,” select “SED Monitoring and Vendor Performance System,” then select “ORISS,” and then “Local School Authority (LSA) Substantial Equivalency Reporting”.

25. What proof should the LSA obtain from the R/I to demonstrate that it meets the chosen pathway?

R/Is must submit proof that they meet the requirements of their selected pathway as specified in the FAQs and the SE Guidance for each pathway. LSAs and R/Is should engage in a meaningful and ongoing dialogue to determine how the R/I will demonstrate SE pursuant to the requirements of the law and regulation.

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26. What should an LSA do if an R/I fails to give the LSA requested information to verify that the R/I meets the requirements for the selected pathway?

The LSA will proceed with a local school review (Pathway 7).

27. If an R/I does not select a pathway at all, what happens?

The R/I would default to Pathway 7. The LSA would then proceed to the review process.

28. What happens if an R/I is not responsive to an LSA during the SE review process?

The LSA should give the R/I ample opportunity to respond and engage in meaningful conversation regarding the SE process. The LSA should document its outreach to the R/I using means such as emails, letters, certified mail, phone calls, and potentially in-person visits. In the event of continued non-responsiveness, the LSA should contact ORISS at SESupport@nysed.gov regarding the school's refusal to work collaboratively with the LSA. The Commissioner may request that the LSA provide records and/or documentation that an R/I has intentionally prohibited the LSA from conducting a review, and records and/or documentation of the LSA's good faith efforts to review such R/I (see Commissioner's Regulation § 130.13[a][2]). The LSA shall provide such records and/or documentation to the Commissioner within 10 days of the request and NYSED will determine whether to commence a review proceeding pursuant to Commissioner's Regulation §§ 130.13(b) and 130.14.

29. Are schools that obtained a charter through the Board of Regents or a Commissioner's consent through NYSED considered to be SE by virtue of those legal documents?

No. Schools that obtain a charter or Commissioner's consent are not considered to be SE through the chartering or consent process. R/Is should still select a pathway and report it to their LSA.

PATHWAY 1: REGISTERED SCHOOLS

30. How can an R/I become registered?

High school registration is a voluntary process that eligible high schools complete through NYSED's Office of Religious and Independent School Support (ORISS). Schools are registered through the University of the State of New York and must be approved by the Board of Regents. Details on the process can be found on [ORISS's Religious and Independent High School Registration](#) webpage.

31. I know that we are a registered high school. Where do I find the certificate of registration?

R/Is were provided a certificate of high school registration when they became registered. However, in the event that a school cannot locate their certificate, high school registration status can be verified in the NYSED [SEDREF database](#). An R/I that is classified as a registered high school is also prepopulated on the LSA survey in the [NYSED Business Portal](#). If a duplicate certificate is needed, a request may be submitted to ORISS at ORISS@nysed.gov.

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32. If my school wants to follow Pathway 1, but will not have the required graduating class to be able to become a registered high school, what do we have to provide the LSA?

Only R/Is with registered high schools and their related elementary and middle schools may choose Pathway 1. You will have the option to choose Pathway 1 if/when the R/I becomes a registered high school.

33. How is a school determined to be related to a registered high school for the purposes of Pathway 1?

Criteria for determining if a school is related to a registered high school for the purposes of Pathway 1 can be found on pages 8-9 of the Substantial Equivalency Implementation Guidance found on the [Substantial Equivalency Resources](#) webpage.

34. If multiple R/Is are united under the same ORISS code, do each of the R/Is need to choose the same pathway?

No. R/Is should select a pathway for each individual BEDS code. When R/Is have more than one BEDS code and share an ORISS code, they may, but they are not required to, choose the same pathway. See the ORISS [BEDS Code Information](#) webpage for more information on which schools require a separate BEDS code.

PATHWAY 2: STATE-APPROVED PRIVATE SPECIAL EDUCATION SCHOOLS, STATE OPERATED OR STATE-SUPPORTED SCHOOLS STATE-APPROVED PRIVATE SPECIAL EDUCATION SCHOOL

35. How does an LSA verify that an R/I is an 853 or 4201 school?

An LSA should confirm that the R/I is an 853 or 4201 school on NYSED's [SEDREF database](#) and/or on the [Approved Private, Special Act, State-Operated and State-Supported Schools in New York State](#) webpage on the Office of Special Education website.

PATHWAY 3: ACCREDITED SCHOOLS

36. Where can I find the approved accreditors list?

This information is posted on ORISS's [Substantial Equivalency Resources](#) webpage. The list will be updated on an ongoing basis. Schools or accrediting agencies can request that accreditors be considered for approval by completing the [Substantial Equivalence Accreditors Application](#). More information on the criteria used to review and approve accreditors for Pathway 3 can be found on pages 11-12 of the Substantial Equivalency Implementation Guidance.

37. If our high school is fully accredited, can our elementary/middle school be considered approved under the Pathway 3 (Accreditation)?

No. Assuming that the high school is accredited by a NYSED-approved accreditor, only the grade levels accredited by such accreditor would be deemed SE pursuant to 8 NYCRR 130.3(a)(3).

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Only Pathway 1 (registered high schools) permits elementary and middle schools associated with a registered school to be considered SE by virtue of the high school's registration.

38. Should an LSA request proof from each school for accreditation?

If the R/I selects Pathway 3, we suggest the LSA request proof from the R/I that they are accredited. This may include a letter on the accreditor's letterhead, a certificate of accreditation, or other similar documentation from the NYSED-approved accreditor stating the name of the school, its address, grade levels accredited, and duration of accreditation.

39. If an R/I has multiple high schools, but only one is accredited, can the other high school(s) select Pathway 3?

No. Each high school must have their own accreditation to claim Pathway 3.

PATHWAY 4: INTERNATIONAL BACCALAUREATE (IB) PROGRAM

40. What is the IB Program?

The International Baccalaureate® (IB) offers a continuum of international education through four high quality educational programs. For more information on a school's approved participation in an IB program, please consult the [IB program website listing](#).

PATHWAY 5: FEDERALLY APPROVED SCHOOLS

41. What schools are considered Federally Approved Schools?

There is currently one federally approved school: [West Point Middle School](#). The list is posted and maintained on the [Substantial Equivalency Resources](#) webpage and will be updated on an ongoing basis.

PATHWAY 6: ASSESSMENTS

42. Where can I find the list of approved assessments?

The list of approved assessments is posted on ORISS's [Substantial Equivalency Resources](#) webpage. The list will be updated on an ongoing basis. Schools or testing publishers can request that assessments be considered for approval by completing the [Substantial Equivalence New Assessment Consideration Application](#). More information on the criteria used to review and approve assessments for use in Pathway 6 can be found on pages 15-18 of the Substantial Equivalency Implementation Guidance.

43. Can R/Is use previously administered NYS 3-8 or Regents exams to meet Pathway 6 requirements?

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No. Answers for some older assessments have been disclosed and therefore would not be appropriate to re-use. R/Is should administer current-year NYS assessments in accordance with the NYSED-approved [testing calendar](#).

44. If we are administering the New York State English as a Second Language Achievement Test (NYSESLAT) assessments for our ELLs in grades 3-8, will this alone satisfy the assessment pathway?

No, the NYSESLAT is an exam testing only competency in English. The assessments used for purposes of Pathway 6 must cover core subjects (that is, at least mathematics and English language arts in the elementary grades; and additionally, science in the intermediate and secondary school, and social studies in secondary school) and be administered in intervals comparable to, but not necessarily identical to, State assessments. Therefore, other assessments must be used in addition to NYSESLAT for a school to meet the requirements of Pathway 6. Any school seeking to follow Pathway 6, the assessment pathway, would need to administer a NYSED-approved assessment as listed on the [Substantial Equivalency Resources](#) webpage and comply with the regulatory requirements for Pathway 6.

45. Do the approved assessments need to be conducted at each grade level?

The assessments should be administered at intervals comparable to, but not necessarily identical to, State assessments and include the core subjects. For example:

- Elementary- and intermediate-level students: New York State provides the Grades 3-8 English Language Arts and Mathematics Tests, and Grades 5 and 8 Elementary and Intermediate-Level Science Tests;
- High School Students: New York State provides Regents examinations in ELA, Mathematics, Science, and Social Studies; and
- English language learners (all grades): New York State provides the NYSESLAT, which is composed of four sections, speaking, listening, reading, and writing.

The LSA would still need to review additional information, including: participation rate, regular use in instructional program, academic progress, etc. See pages 15-18 of the Substantial Equivalency Implementation Guidance found on the [Substantial Equivalency Resources](#) webpage.

46. What year's testing data and related documentation should an R/I submit to support its selection of Pathway 6? What should an LSA verify to ensure an R/I meets the criteria for Pathway 6?

Usually, an LSA would look at the previous year's assessment data to verify the R/I is fulfilling the regulatory requirements for Pathway 6 by December 1 each year (130.7). However, an LSA through its consultation with the R/I, may determine what testing documentation and data is appropriate to analyze based on the utilization of a NYSED-approved assessment. As further outlined on page 15 of the Substantial Equivalency Implementation Guidance (see Substantial Equivalency Implementation Guidance found on the [Substantial Equivalency Resources](#) webpage), the assessments must (1)

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demonstrate student academic progress as they move from grade to grade, (2) be regularly used by the R/I as part of its instructional program, and (3) have the required participation rate (130.3[a][6]).

For the 2024-2025 school year only, if data from the 2023-2024 school year is not available, then evidence from the R/I that it has made firm arrangements to administer NYSED-approved assessments designed to demonstrate student academic progress as they move from grade to grade, which are regularly used by the R/I as part of its instructional program, and anticipate meeting the required participation rate, may suffice to meet Pathway 6. Once participation rates are available, they should be made available to the LSA. The LSA has discretion, after an examination of the documentation submitted by an R/I, to determine that the R/I does not meet the regulatory criteria for Pathway 6. In such a case, the R/I would default to Pathway 7.

47. Will there be assessments approved for schools that provide instruction specifically and solely to students with severe disabilities?

The NYS Alternative Assessment (NYSAA) (eligibility and participation as determined by the CSE) is approved for purposes of Part 130. Additionally, the list of approved assessments is posted on ORISS's [Substantial Equivalency Resources](#) webpage. This list will be updated on an ongoing basis.

48. The Substantial Equivalency Guidance (page 17) states that the assessments should cover the core subjects (that is, at least mathematics and English language arts in the elementary grades; and additionally, science in intermediate and secondary school, and social studies in secondary school). Do we still need to provide instruction in all other statutory and regulatory instructional requirements listed in 8 NYCRR 130.9?

Yes, R/Is that meet the requirements for Pathways 1 through 6 are still required to provide the minimum instruction required by law as enumerated in 130.9. The pathways are an efficient means for demonstrating a presumption of substantial equivalence as an alternative to a local review through Pathway 7. Bona-fide complaints still need to be investigated and the presumption created by a pathway may be overcome.

49. How may an R/I demonstrate its participation rate for purposes of Pathway 6?

R/Is may demonstrate a student participation rate by providing its total enrollment by grade level and verifiable documentation of the number of students who took each assessment at each grade level (i.e., from test vendor and NYSED, as applicable). For your reference, ORISS provides information regarding State assessments taken by R/Is on the [Substantial Equivalency Resources](#) webpage.

PATHWAY 7: LOCAL (LSA) REVIEWS

50. Are there resources and guidelines on conducting the LSA review?

The information on conducting the LSA review starts on page 19 of the Substantial Equivalency Implementation Guidance found on the [Substantial Equivalency Resources](#) webpage. LSAs may also contact BOCES for additional guidance.

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51. For schools that have a preliminary finding of not meeting SE requirements, is there a template that should be followed for the structure of a timeline and plan to attain SE following a preliminary determination?

While there is no specific template, we recommend that plans should be meaningful and include the following information:

- **What** are the action steps needed for the R/I to attain SE?
- **When** will these steps be taken?
- **Who** at the R/I will be responsible for carrying out these actions, what will their role be, and what is their contact information?
- The **resources needed** by the R/I to attain SE.
- The **support system** needed to implement the plan.
- **How** will the LSA monitor that these steps are taken within the timeframe specified, including when check-ins will occur, and who from the LSA will conduct this monitoring?

52. What should be included in the plan or timeline and what is the time period for implementing the plan?

Other than the information listed in question 51 above, the SE implementation plan should contain sufficient detail to demonstrate specific steps will be taken by the R/I and monitored by the LSA, to attain SE with the timeframe allotted by the plan and regulations. This should include goals that are:

- **Specific:** Clearly define what you want to achieve.
- **Measurable:** Determine how you will measure progress and know when the goal has been achieved.
- **Achievable:** Ensure the goal is realistic given your resources and constraints.
- **Relevant:** Ensure the goal aligns with your broader objectives and values.
- **Time-bound:** Set a deadline for achieving the goal.

53. Can R/Is use only religious texts in instruction (for example, only using the Torah, Talmud, and/or Mishna to teach specific content in science, American History, etc.)?

At the outset, common branch subjects and textbooks must be in English, with limited exceptions. In compliance with Education Law § 3204(2), reviews shall be informed by 8 NYCRR 130.10(d). The purview of the LSA is only to review the secular components of an R/I academic program in the first instance. However, an R/I may choose whether to integrate required instruction into religious classes either in whole or part for purposes of consideration by the LSA. Some R/Is have intellectually rigorous religious education programs that develop close reading, textual analysis, and other cognitive skills. If the R/I so chooses, these aspects of the school's program may be considered and included in the overall review as demonstrating that instructional requirements are met through the entire curriculum. The R/I should advise the LSA or otherwise map out which components of the 130.9 requirements it believes are satisfied through what aspect of religious instruction.

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NYSED is unaware of any religious texts which alone, or in combination, would provide sufficient depth and breadth across grade levels to demonstrate substantial equivalence to the instruction in public schools in the required courses of study per Education Law § 3204(3) and 130.9 of the regulations. Instruction must be provided in every grade level serving students of compulsory education age in mathematics, social studies, science, and English language arts. For example, as to English language arts, the Commissioner has explained in a prior decision that a range of fiction and nonfiction texts is critical to English instruction; and is designed to create opportunities for children to engage with a variety of topics and texts and support language development. Along the same lines, for schools subject to Education Law § 3204(2)(ii), the criteria includes “instruction in English that will prepare pupils to read *fiction* and *nonfiction* text for information and to use that information to construct written essays that state a point of view or support an argument” (emphasis added).

Additional instructional requirements include: Patriotism and citizenship; History, meaning, significance, and effect of the provisions of the Constitution of the United States and the amendments thereto, the Declaration of Independence, the Constitution of the State of New York, and the amendments; New York State history and civics; Physical education and kindred subjects and instruction in health education regarding alcohol, drugs, and tobacco abuse; Highway safety and traffic regulation; Fire drills and in fire and arson prevention, injury prevention, and life safety education; and use of an automated external defibrillator and in hands-only cardiopulmonary resuscitation.

The Substantial Equivalency Implementation Guidance found on the [Substantial Equivalency Resources](#) webpage provides some basic guidance to LSAs for how to proceed with the R/I visits for Pathway 7.

54. When should an LSA make a recommendation to the Commissioner for R/Is that qualify for a Commissioner’s determination following completion of the collaborative timeline and plan pursuant to 8 NYCRR 130.8(d)(4)?

NYSED expects such recommendations to be made within 60 days of the end of the collaborative timeline and plan.

Section III - Local School Authority (LSA) Survey Questions

55. What is the unique identifier that is requested in the LSA survey?

For the unique identifier, input the BEDS code of the LSA submitting the survey response.

56. If a K-12 R/I has two separate BEDS codes, does this mean they need to select a pathway for each code or just once as one K-12 school?

If two separate BEDS codes exist, the LSA will reach out to each R/I regarding selection of a pathway for each BEDS code. See applicable guidance regarding this on page 8 of the Substantial Equivalency Implementation Guidance found on the [Substantial Equivalency Resources](#) webpage.

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57. Does an LSA need to put data about the R/I into the LSA survey if it has been found to be substantially equivalent?

Yes. LSAs are required to obtain information on SE from R/Is annually and to input the date of the final SE determination, either made by the LSA or the Commissioner of Education.

58. What is the deadline to meet the SE reporting requirements?

By September 1 each year, LSAs must submit an accurate record of all R/Is in their geographical boundaries and the date of last SE determination made (“recording”). By December 1 each year, LSAs must submit an accurate record of the list of all the schools identified in their geographical boundaries and the pathway to be used for each school (“reporting”). For Pathway 7, the LSA must also report whether the R/Is are subject to an LSA or Commissioner’s determination. Also, by December 1 each year, LSAs must submit an attestation as to whether they have made or anticipate making final substantial equivalency determinations (or recommendations) for the R/Is within their geographical boundaries for which the LSA is responsible (or for which the Commissioner makes the final determinations).

59. As an LSA, how do I know if an R/I is located within the boundaries of my district?

The LSA should engage in outreach to their local community and work closely with stakeholders and R/Is to determine the complete list of R/Is within the district’s boundaries to the best of their ability. R/Is that have obtained a BEDS code and are listed in the [SEDREF database](#) are pre-populated in the LSA survey in the [NYSED Business Portal](#), but should be confirmed by the LSA when they submit the survey.

60. If an R/I does not have a BEDS Code or is not listed in [SEDREF](#) and not prepopulated in the LSA survey, is the LSA responsible for recording and reporting on it?

Yes, all R/Is located within the LSA’s geographical boundaries and their pathways must be reported (8 NYCRR 130.4, 130.7). For the purpose of attaining SE, R/Is are not required to obtain a BEDS code. Per page 23 of the Substantial Equivalency Implementation Guidance found on the [Substantial Equivalency Resources](#) webpage, LSAs will need to contact all R/Is to determine which pathway the schools will select to be deemed SE.

61. If an LSA does not have any R/Is within its geographical boundaries, will they need to do anything with the second section part of the survey (reporting of the pathways) that is due December 1st?

No. The LSA will however be required to certify the list of schools (or nonexistence of schools) within its geographical boundaries annually.

62. Who will be responsible for establishing contact between R/Is and LSAs?

NYSED encourages strong ongoing collaboration between an LSA and the R/I. The LSA is responsible for submitting the survey and reaching out to R/Is as necessary. R/Is should provide information as

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requested. All R/Is should be cooperative in these endeavors and may contact ORISS at SESupport@nysed.gov with any concerns.

63. What is the difference between an SE determination and pathway verification?

The term “SE determination” refers to R/Is who undergo a Pathway 7 local school review and receive a final determination by the LSA or the Commissioner.

The terms “pathway verification” and “verified pathway” refer to the process by which an LSA verifies that an R/I meets the regulatory requirements for any pathways 1-6.