

## **New York State Education Department**

### **Further Interim directions to Local School Authorities (LSA) and nonpublic schools concerning Substantial Equivalency pathway selections and LSA survey reporting in light of the 2025 budget amendments to the Compulsory Education Law**

**DECEMBER 1, 2025**

The New York State Education Department (NYSED or Department) hereby provides the following further interim directions to Local School Authorities (LSA) and nonpublic schools concerning [Substantial Equivalency](#) pathway selections and LSA survey reporting requirements in light of the 2025 budget amendments to the Compulsory Education Law:

1. The Department's May 20, 2025 Statement and Interim directions remain in effect, except as indicated below.
2. The Department's [Substantial Equivalency Implementation Guidance](#) (Summer 2023) and [Frequently Asked Questions](#) (November 2024) remain in effect, except as indicated below.
3. Since reporting for the 2024-25 school year was completed, and the upcoming annual survey is due December 1, 2025, per 8 NYCRR 130.7, the September 1, 2025 annual report will not be required separately this year. Instead, it will be consolidated into the December 1, 2025 survey.

In this regard:

- a. The December 1, 2025 survey will be due February 1, 2026;
- b. Nonpublic schools and LSAs should coordinate in advance of the deadline to report any new or closed schools and to complete the annual information required by regulation, namely:
  - i. A list of all nonpublic schools in the LSA's boundaries that meet one of the Substantial Equivalency pathways prescribed in section 130.3.
  - ii. A list of all nonpublic schools in the LSA's boundaries that opt in to amended assessment pathway pursuant to Education Law 3204(6) (described as Pathways "6b" and "6c", below).
  - iii. A list of all nonpublic schools in the LSA's boundaries that do not meet one of the Substantial Equivalency pathways prescribed in section 130.3 and amended assessment pathway pursuant to Education Law 3204(6) – i.e., are subject to a Pathway 7 LSA review, indicating whether such schools are:
    - a. subject to a Commissioner's final determination; or

- b. are schools in the LSA's boundaries for which the LSA is responsible for making the final Substantial Equivalency determinations.
  - c. LSAs with nonpublic schools which administered assessments for the first time in Spring 2025 should plan to complete and enter positive Substantial Equivalency pathway verification or positive determination responses into the survey. Nonpublic schools selecting one of the Pathway 6 (assessment) options afforded by Education Law 3204(6) should notify their LSA that they are opting in to the expanded assessment pathway. Per the 2025 Budget amendments, during the phase-in period, a nonpublic school electing to use qualifying assessments under 3204(6) shall be deemed Substantially Equivalent.
  - d. LSAs may proceed with issuing and reporting any negative Substantial Equivalency determination or negative recommendation to the Commissioner into the survey, provided the LSA has offered the nonpublic school the opportunity to elect to pursue the expanded assessment Pathway 6 under the new legislation.
4. For nonpublic schools electing to demonstrate Substantial Equivalency through Pathway 6 (use of assessments), the schools will need to provide, and the LSA will need to collect and enter into the December 2025 survey, applicable information. This will include which of the assessment pathways, Pathway 6a, or Pathways 6b and 6c as defined below, is being utilized.
- a. For nonpublic schools who elect to remain in Pathway 6 as originally defined in Commissioner's regulation 130.3(a)(6), (**Pathway 6a**), the LSA should verify testing from Spring 2025 and should remove the "still under review" status if verified.

For information on nonpublic schools selecting **Pathway 6a**, stakeholders may refer to [New York State Education Department's Substantial Equivalency \(SE\) Pathway 6](#) for Department-approved assessments (including the NYS 3-8 Mathematics and ELA Assessments and Grades 5 and 8 Science Assessments).

- b. Any nonpublic school that wishes to avail itself of the expanded assessments pathways, as modified by the budgetary amendments as Education Law §§3204(6)(a)(vi) and (vii), including any nonpublic school which was the subject of a preliminary (but not final) negative Substantial Equivalency determination, must communicate such election to the LSA. All that is presently required is such an opt-in and election of Pathway 6b/c.

- c. In subsequent surveys, nonpublic schools opting into the 2025 assessment legislation and LSA's will be required to obtain certain information, including:
- i. Whether such nonpublic school is electing the proficiency metric (Pathway 6b) in Education Law §3204(6)(a)(vi) (note this still includes the participation rate set forth in Education Law §3204(6)(b)(ii)) or the participation metric (Pathway 6c) in Education Law §3204(6)(a)(vii);
  - ii. The year end summative or cumulative assessment(s) to be administered in the 2025-2026 school year;
  - iii. The grade levels and subjects the assessments will be administered in for the 2025-2026 school year.

For the benefit of the field, the Department's [Office of State Assessment](#) website also has information on the subjects and grades tested in the annual NY State Testing program to comply with the federal Every Student Succeeds Act (ESSA). This generally requires assessments in reading/language arts and math for grades 3-8 and once in high school; science assessments at least once in each grade span (elementary, middle, and high school), and the NYSESLAT exam as detailed on the [English Language Proficiency Assessments](#) webpage for English language learners.

5. If any nonpublic school with a remedial plan resulting from a preliminary negative determination chooses to avail itself of the expanded assessments pathway, as modified by the budgetary amendments to Education Law § 3204(6), the LSA should enter such nonpublic school in the survey as outlined above and disregard the remedial plan during the phase-in period.

If any nonpublic school with a remedial plan resulting from a preliminary negative determination chooses not to pursue the expanded assessment pathways, they must continue to follow their existing remedial timeline and plan. In light of the new legislation, NYSED is extending the deadline for completing these remedial plans to the end of the 2025–2026 school year. During this remedial period, these schools may continue to operate as nonpublic schools.

Questions or requests for technical assistance may be directed to Office of Religious and Independent School Support (ORISS) by emailing [SESupport@nysed.gov](mailto:SESupport@nysed.gov).