



New York State
EDUCATION DEPARTMENT

Knowledge > Skill > Opportunity

Determining Substantial Equivalence of Instruction
for Nonpublic School Students in New York State:
A Summary of Stakeholder Feedback

May 2021

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Executive Summary

New York State values diversity. We are known throughout the world as a beacon of welcome, and we celebrate the diversity across racial, linguistic, cultural, and religious backgrounds that our reputation brings us. It is part of the fabric of our state. As this wonderful variety of residents raise their families, they seek out opportunities for their children to learn in settings consistent with their beliefs and values. This may be why New York State's religious and independent school sector (also referred to as nonpublic schools) is one of the largest and most vibrant in the country. We are proud of the dynamism of our religious and independent school community – and we are eager to sustain it. It is a key part of the texture of our state, and its welcome to the world.

We seek to protect these freedoms, but we must also address the concerns expressed by families and former students who feel they were not given the education to which they are entitled while enrolled in their nonpublic schools. Students are entitled to an education that enables them to fulfill their potential and be a contributing member of society and participate in civic life. We have an obligation to make sure every child receives this education, no matter where they attend school.

Education Law §3204(2) requires that instruction for students in nonpublic schools “shall be at least substantially equivalent to the instruction given to minors of like age and attainments at the public schools of the city or district where the minor resides.” After updating the guidance for this topic and, subsequently, proposing regulations regarding substantially equivalent instruction in nonpublic schools in July 2019, the New York State Education Department (NYSED) received an overwhelming number of public comments. It was clear that the nonpublic school community needed to be heard.

In an effort to engage and gather input to inform policy decisions related to substantial equivalence, NYSED held six regional meetings in November and December 2020 with stakeholder's representative of the racial, linguistic, cultural and religious identities encompassed in New York's more than 1,800 religious and independent schools, as well as public school leaders from around the state. Each meeting centered on breakout group discussions to gather stakeholders' suggestions for criteria and systems to ensure that schools are fulfilling their educational obligations under the law.

Participants in the breakout group sessions began by describing the educational approaches and program components that they consider relevant to substantial equivalence determinations. Participants shared that nonpublic schools' approaches to education are informed by the unique needs of the communities they serve and they rely heavily on parent input and feedback about program effectiveness. They may combine academic components with religious and/or cultural components, both being considered important to their students' education and development. Often, nonpublic schools focus on individualized learning to meet the diverse needs of their students and



many parents opt for nonpublic schools for this reason. Some nonpublic schools find it valuable to use a variety of approaches to assess student learning.

Meeting participants also shared the concerns they have regarding substantial equivalence requirements. In particular, the role of public schools in determining substantial equivalence of nonpublic school programs was discussed, including public schools' authority, expertise, and capacity to take on the role of program reviews. Nonpublic school representatives wondered whether public school personnel would sufficiently understand schools' religious and cultural backgrounds and how those inform a school's program. Participants also expressed concerns over whether the requirements might conflict with a school's belief systems; for example, state standards may be deemed inappropriate in some religious schools.

Stakeholders who attended the meetings identified a number of elements they thought should be included in regulations and policy, and others that should be avoided. The stakeholders are looking for regulations that are flexible and would accommodate a variety of routes to determining substantial equivalence. Nonpublic school representatives recommended that policies not impose on an individual school's beliefs and values, such as those about gender and the theory of evolution. Nonpublic schools may have particular populations with certain needs or cultural backgrounds, and the characteristics of those groups, such as English language learners and students with special needs, should be considered in any process for evaluating an educational program. One important component of nonpublic schools is that parents who choose to enroll their children expect that the program will meet their specific priorities (such as religious education or a particular style of pedagogy) and hold schools accountable.

Stakeholders largely agreed that the process for determining substantial equivalence should be efficient, effective, and not redundant. The measures used to determine equivalence might align with systems already use, such as curriculum, in-house assessments, accreditation, standardized test scores, self-evaluation results and staff qualifications. In order for the process to operate effectively, reviewers will need to be carefully trained.

Much of the discussion about the process for determining substantial equivalence centered on who should serve in the role of reviewer. In general, participants agreed that reviewers should have a range of expertise, particularly experience with nonpublic school programming. Many participants recommended the formation of an external, independent review board, overseen by statewide agencies such as NYSED's State Office of Religious and Independent Schools (SORIS) and the Boards of Cooperative Educational Services (BOCES).

The information gathered in these meetings will serve to inform NYSED staff as the Department develops a process to determine substantially equivalent instruction for nonpublic school students that is fair, objective, and accomplishes the task. The Department continues to gather information to assist it in the development of proposed regulations.



Introduction

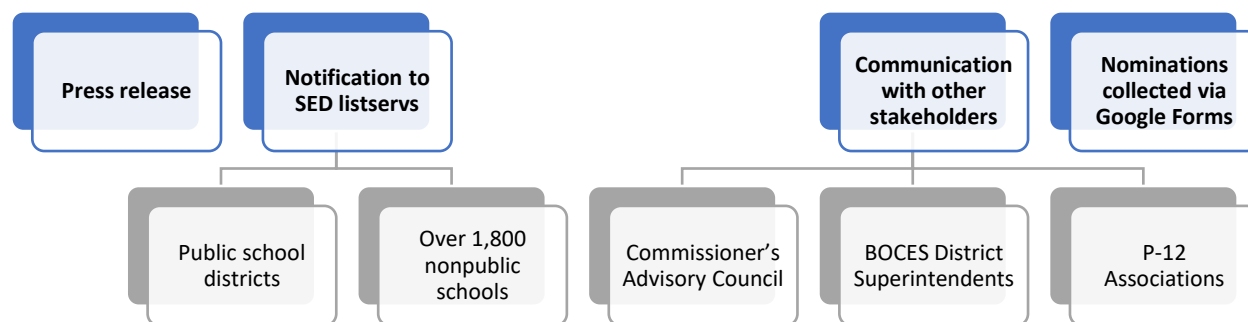
On October 27, 2020, the New York State Education Department (NYSED) announced it would hold a series of regional meetings to engage and gather input from stakeholders in religious and independent school communities, as well as their counterparts in public schools, to inform policy decisions related to determining the substantial equivalence of instruction in nonpublic schools, as required by Education Law §3204(2).

These meetings were held in response to direction from the New York Board of Regents to re-engage stakeholders following the July 2019 release of proposed regulations on substantially equivalent instruction for nonpublic school students and ensuing feedback from the public, which included more than 140,000 public comments. The purpose of the regional meetings was to listen to stakeholders' suggestions for criteria and systems to ensure that schools are fulfilling their educational obligations under the law and to learn more about the diverse missions of the state's religious and independent schools.

NYSED held five regional stakeholder engagement meetings virtually. A sixth virtual meeting was a statewide meeting held to engage students, parents, and alumni affiliated with nonpublic schools from across the state. This report is a summary of the information gained from stakeholders during the six virtual meetings.

The Board of Regents and NYSED sought to engage stakeholders across racial, linguistic, cultural, and religious identities to represent the more than 1,800 religious and independent schools recognized by NYSED. To recruit participants for the stakeholder meetings, [NYSED notified nonpublic and public schools of the participation opportunity via news release](#), posting on NYSED listservs and social media channels, communicating with Boards of Cooperative Educational Services (BOCES) district superintendents, and corresponding with the Commissioner's Advisory Council for Religious and Independent Schools. NYSED requested that individuals be nominated for participation. An online form was used for gathering nominations.

Figure 1. Outreach



To ensure balanced representation for each meeting, NYSED chose representatives from public schools in urban, suburban, and rural districts (where applicable) and from nonpublic schools of varying instructional approaches and religious affiliations. For the final statewide meeting, students, parents, and alumni with varying perspectives on the topic of substantial equivalence were selected.

Each meeting centered on breakout group discussions, as participants were assigned to breakout groups based on grade bands:

- elementary (grades K–5),
- middle (grades 6–8), or
- high school (grades 9–12).

To the extent possible, NYSED tried to balance the representation, as previously described, within each breakout group. Selected participants were sent an email notification prior to their corresponding meeting, with an individualized Zoom invitation the day before the meeting, indicating their assigned breakout group.

In total, approximately 500 individuals participated in the stakeholder meetings, representing roughly 230 religious and independent schools, 65 public schools/districts, and 18 BOCES. Other entities represented by participants included state-level organizations of public and nonpublic education leaders, advocacy organizations, accrediting organizations, individual school leaders, and community-based organizations. Additionally, members of the Board of Regents, legislators and their staff members, and many NYSED staff attended the virtual meetings as observers.

As intended, the nonpublic school participants represented a wide range of instructional approaches and religious affiliations including:

- Montessori schools, Waldorf schools, and a large number of other independent schools;
- religious schools of various Christian, Islamic, and Jewish denominations, ranging from Mennonite to Catholic to yeshivas; and
- both coeducational and single-sex schools.

In addition to teachers and school leaders, participants affiliated with nonpublic schools included approximately 32 parents, 26 students, and 21 alumni.



Figure 2. Key Terms Used to Describe Stakeholder Participant Groups

Independent private school — A nonpublic school that is independent in philosophy, management, and financing.

Nonpublic school — Any private school, which may be a religious school or an independent school; although distinctions could be made between “private” and “nonpublic,” here the terms are used interchangeably.

Other organization, or state-level organization — A public or private entity, usually a state-level organization, that is not a school or district and that had one or more participants in the stakeholder meetings.

Private religious school — A nonpublic school that prioritizes religious identity and that is affiliated with a religion.

Although this report focuses primarily on the input gathered through the series of six virtual meetings for stakeholder engagement from the end of 2020, NYSED has pursued other forms of outreach as well, including holding in-person meetings with communities that do not utilize the internet. NYSED plans to hold further in-person meetings, but those plans have been delayed due to increased COVID-19 cases across the state.

NYSED also offered religious and independent school leaders an opportunity to complete a survey through the NYSED Business Portal to share the ways they monitor students’ progress through their school programs. Of the approximately 1,800 schools that received the notification, NYSED received 157 responses. The small number of responses does not provide a comprehensive understanding of schools’ programming, but pertinent data from the survey responses have been included in [Appendix A](#) of this report. Some school groups chose not to complete the survey and instead sent letters explaining their perspectives and recommendations. Information from these letters is not included in this report.

Throughout all of NYSED’s careful and deliberate engagement process, the goal has been to help NYSED staff develop guidance and regulations that align with the state’s requirement to ensure substantially equivalent instruction, while also respecting parents’ choices regarding their children’s education and protecting the cultural and religious diversity of nonpublic school communities.

Format of Breakout Group Discussions

Within the stakeholder feedback meetings, breakout groups were facilitated by NYSED staff and BOCES staff (see [Appendix B](#) for the protocol used for facilitating the breakout groups). Facilitators were instructed to ensure that everyone had opportunities for joining the discussion and to encourage participants to use the virtual chat to make additional contributions. Participants in each breakout group were asked about their perspectives on two primary questions:

Question 1: What components of your school's mission and/or program are important to consider as we create a framework for the substantial equivalence determination process? How would you recommend substantial equivalence be demonstrated and/or recognized?

Question 2: How do you suggest the Department move forward to develop a framework for the substantial equivalence determination process? Please tell us how we can make that process as inclusive as possible.

In addition to having a facilitator, each breakout group included a notetaker and a chat monitor to ensure all information was captured. Notetakers recorded the discussion points as well as the affiliation of each speaker: independent private school, religious school, public school, or state-level education organization such as the Catholic Conference or the New York School Boards Association. (see the “Key Terms” box on the previous page for descriptions of the speaker affiliation categories).



Explanation of Notes Summary

Most of the remainder of this report summarizes the notes from all of the breakout group meetings, which were combined from across the various breakout groups and then organized into themes for this report. The comments included in this report are based on the notes taken during the meetings and are not verbatim quotes, except as indicated by quotation marks.

The notetaking process captured three types of input from the stakeholder participants:

- a) information that participants know about their own school or district,
- b) what they personally value, and
- c) what they think may be true about other schools, districts, or stakeholders.



Notes Summary Section 1: Educational Approaches and Program Components

When asked what components of their schools' programs should be considered in developing New York State's process for determining substantial equivalence, stakeholders discussed a variety of factors that informed their schools' approaches to education. These influential factors included unique needs of their communities and feedback from parents. Stakeholders also highlighted the intertwinement of religious/cultural and academic curricula, the prioritization of individualized learning, and the use of a variety of assessment metrics.

Nonpublic schools' approaches to education are informed by unique needs of their communities.

Several participants representing nonpublic and public schools mentioned there are a wide variety of approaches to education because of the differences in the communities served by nonpublic schools. Even across schools that share the same religion, participants mentioned differences in approaches.

- Participants highlighted differences in viewpoints/missions, governance models, and curricula as unique aspects of their educational approaches.
- An educator from a nonpublic high school mentioned that the school's curriculum must be adapted to different countries, states, and boards of education because the school is part of an international education system with multiple campuses.
- An educator from a religious elementary school stated to think that yeshivas are focused on religious activities over academic curricula would be a misunderstanding.

Across all types of schools, educators agreed that schools' unique needs should be considered when creating policy to determine substantial equivalence of instruction in nonpublic schools.

- An educator from a nonpublic high school asked the state to recognize that each school serves a unique community.
- An educator from a public middle school noted that conversations around substantial equivalence should focus on how missions across nonpublic schools may differ, but that all such schools have the same academic goals.
- An educator from a religious high school echoed this sentiment in stating that even though every school is different, all share the goal of educating every student.



Nonpublic schools rely on parent input and feedback.

Educators, mainly from religious schools, discussed how parents play a large role in schools' decision-making processes. Many stakeholders felt that because parents pay tuition for their children to attend nonpublic schools, these schools must meet parents' expectations in order to retain their students. Some educators from religious schools believed that parent input and feedback should be a key factor in schools' accountability systems.

- A nonpublic high school educator stated that nonpublic schools will go out of business if they do not deliver or perform.
- A religious school educator stated that the responsibility of holding schools accountable should fall primarily on the parents, rather than the government or the state.
- An educator from a religious middle school stated that parent choice should carry great weight in determining whether schools are providing quality education.
- Other educators mentioned that religious education is a choice and is something that parents value.

Nonpublic schools combine academic and religious/cultural components into their programs.

Many participants from religious schools discussed how academic and religious components are woven together throughout their curricula. To a lesser extent, some nonreligious private school representatives discussed the integration of academic and cultural components.

- One participant stated that religious and academic studies are not mutually exclusive.
- Several participants from Jewish schools explicitly mentioned how their programs included both academic and religious curricula that allowed students to apply skills such as critical thinking to both academic subjects and the Talmud. They emphasized that academics are central to Jewish education.
- Other educators at Jewish schools discussed how dual curriculum programs resulted in 11-hour school days for students to ensure that all material was covered.
- Multiple parents whose children attend religious schools echoed these comments. One parent stated the schedule of most yeshivas is highly academic while also incorporating religious studies.
- Another parent mentioned their child's school not only provides an academic education above the standards of the public school system but also prepares its students, through the Christian faith, to be contributing and successful members of society.
- One middle school educator from a nonpublic school mentioned the combination of core and noncore subjects at their school prepares students for post-graduation life.



Stakeholders did not always agree on how well some religious schools are balancing academic and religious components of their programs. In particular, some participants did not think religious schools balanced academic and religious components well, and some alumni of religious schools felt that they had not received an education that prepared them for success after graduation. However, other students and alumni noted different experiences with religious schools.

- One participant felt that some religious schools could not be considered substantially equivalent to public schools because students could not learn academic topics in any substantive way through Talmud studies.
- A representative from a state-level organization stated that some schools provide less than two hours of academic instruction out of an eleven-hour day.
- An alumnus of a religious school described having attended yeshivas and said that they, along with their family and friends, had been unaware of the Regents exams.
- Another alumnus of a religious school expressed a similar sentiment and argued that their school had ignored academic subjects completely.
- Another alumnus of a religious school stated that students had been well prepared because half the school day was secular.
- A current student said, “I actually attend a Hasidic school and we do take the Regents exams.”

Nonpublic school stakeholders view individualized learning as valuable.

Educators from nonpublic schools, both religious and nonreligious, conveyed that individualized learning (sometimes called personalized learning) is a hallmark of their schools, allowing them to meet the diverse needs of their students and drawing parents to choose nonpublic schools over public schools. Students at some nonpublic schools also indicated that they appreciate the opportunity to have learning plans that are more individualized.

- One elementary educator at a religious school noted how the school built learning profiles for each child, to ensure that no student falls through the cracks.
- Another religious school educator described how their school was able to vary the rate at which they teach, to best match student needs. However, this educator also noted that their school has a smaller student body than most other schools.
- One nonpublic high school educator stated that parents choose nonpublic schools because these schools can meet the various learning styles and abilities of students.
- One student at a nonpublic school described the International Baccalaureate program as providing the opportunity to pursue individual interests along with learning core knowledge.



- Other nonpublic school students conveyed that their teachers encouraged personal growth, enabling the students to go into depth on subjects that interested them.

Nonpublic schools use a variety of approaches to assess student learning.

Participants from nonpublic schools mentioned a wide variety of assessment approaches. Students at both religious and nonreligious schools also described being assessed in many different ways.

- Some educators from religious schools mentioned the use of Regents exams and Northwest Evaluation Association (NWEA) assessments.
- Other religious school educators said their schools use formative assessment to identify students' opportunities for growth.
- Some religious schools also measure success by graduation rates, college acceptance rates, and/or SAT scores.
- One educator at a nonpublic school conveyed that their students' participation in Advanced Placement exams was an indicator of the school's quality.
- Students mentioned assessment methods that included grades, homework, standardized tests, exams, papers, and discussions.
- Some students also mentioned that their academic progress was communicated to their parents through ongoing communication and meetings with teachers.

Notes Summary Section 2: Concerns About Substantial Equivalence Requirements

Participants expressed a variety of concerns about substantial equivalence requirements. The most prevalent concern across all types of participants (as documented by notetakers) was about who should play a role in determining substantial equivalence. [Notes Summary Section 4](#) contains participants' suggestions for addressing that concern. Many participants conveyed hesitancy about the local public school district's role in reviewing nonpublic schools. Participants also worried that the process of determining substantial equivalence would not adequately value schools' religious or cultural backgrounds or would directly conflict with schools' belief systems. A small number of participants also expressed concerns about substantially equivalent education for students with disabilities and for students who are English language learners.

There were concerns about the role of public school districts in determining substantial equivalence.

Many participants expressed concern about having local public school districts serve as the authority in determining the substantial equivalence of nonpublic schools. Several notetakers commented that their entire group agreed that local public school districts should *not* be given that responsibility. Participants stated a variety of reasons why public school districts should not be responsible for determining substantial equivalence, but generally the reasons were: public school districts are perceived to lack the authority and expertise to regulate nonpublic schools; public school districts may have insufficient capacity to support such a process; having public school districts make substantial equivalence determinations about nonpublic schools would expose conflicts of interest; and tasking public school districts with determining substantial equivalence could negatively affect existing cooperative partnerships between public and nonpublic schools.

Perceived lack of legitimate authority and expertise

Several participants raised questions about the authority that a public school district would have in determining substantial equivalence. Participants asserted that public school districts did not have the jurisdictional or statutory authority to review nonpublic schools.¹ Also, a few participants noted that situations could arise whereby

¹ New York statute provides that 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]). The term “school authorities” is defined as the board of education of a school district (Education Law §2[12]). Therefore, with certain exceptions, it is the **statutory responsibility of local boards of education** to enforce and determine whether nonpublic schools attended by their resident students are providing “substantially equivalent” instruction to that provided in the district’s public schools.



underperforming public school districts are tasked with determining equivalence of local nonpublic schools.

- An educator from a religious high school expressed concern about poorly performing public school districts being tasked with providing supervision or measurement of nonpublic schools.
- Others also noted that putting public school districts in the position of determining substantial equivalence would be awkward — for example, an educator from a public elementary school worried that the public school district would be perceived as judging a nonpublic school.
- An educator from a religious elementary school expressed concern about their school being subordinate to a local district or school board.

Insufficient capacity (financial, personnel)

Some participants cited concern that nonpublic schools and public school districts would not have the capacity — in terms of funding, as well as staffing — to perform, or even participate in, an extensive determination process.

- Several high school educators noted that accreditation is an extensive, time-consuming process and a drain on finances and other resources.
- There is concern that any entity conducting reviews needs adequate budget and personnel resources to do so.
- A middle school educator noted that such a process could be especially troublesome when assumed by an economically disadvantaged district.
- An educator from a nonpublic middle school worried that the burden of determining substantial equivalence would drain from public schools the resources that they need for educating their own students.
- Many participants questioned the financial implications of the regulations proposed in July 2019, and whether the legislature would provide funding equitably across public school districts if those districts were tasked with carrying out substantial equivalence reviews.

Participants also cited current strains on public school district staff, which would be exacerbated if these staff were tasked with determining substantial equivalence.

- As one public high school educator noted, with nine schools in their district, their administrators do not have time to supervise additional principals.
- Participants wondered whether local public school superintendents would want to assume such a responsibility.
- An educator from a nonpublic elementary school was unconvinced that local public educators had the resources to conduct an adequate level of review.
- A public middle school educator stated that New York City public school district staff would find it difficult to visit all of the city's nonpublic schools, especially if it would take days to really make a determination for each.
- An educator from a public middle school worried that determining substantial equivalence would detract from the public schools' attention to mission.



- Several participants shared that asking public school districts to do the determinations would be a burden imposed on public school districts. For example, an educator from a religious middle school pleaded with the Regents and NYSED to not do so, stating that asking public school districts to do the determinations would be unfair.

Potential conflicts of interest

A number of participants warned of potential conflicts of interest in having public school districts determine substantial equivalence. Although many made this comment, only a few offered specific reasons about why they thought there might be conflicts of interest. Financial conflicts were mentioned most often.

- In districts with large concentrations of nonpublic school attendees, there is a concern that those families will vote *en masse* against the public school budget if they are unhappy with substantial equivalency policy or implementation.
- One high school educator noted that local districts are not far enough removed from the community to make fair determinations within their boundaries.
- An educator from a nonpublic high school expressed concern that local public education institutions would not want nonpublic schools drawing money away from the public system.
- Another nonpublic high school educator worried about competition between public and nonpublic schools.
- A high school educator was concerned about parents of nonpublic school students running for school board seats in order to make substantial equivalence decisions on behalf of the district.
- An educator from a nonpublic elementary school warned that public school officials should not be put in the role of pushing their values onto nonpublic schools.
- An educator from a public middle school worried that having public school districts monitoring nonpublic schools could lead to lawsuits.

Negative effects on existing public/nonpublic partnerships

Participants described existing positive relationships between public and nonpublic schools, often noting successful collaboration between them. Concerns were raised, such as one from a public middle school educator, that asking public school districts to be responsible for determining substantial equivalence would negatively affect these relationships.

- An educator from a religious high school used the term “invasive” to describe the arrangement of having public school districts determine the substantial equivalence of nonpublic schools.
- Another middle school educator warned that placing public school districts in an evaluative position would threaten collaboration that has been nurtured over time.



- An educator from a public elementary school noted that public schools were supposed to be partners with nonpublic schools, and that putting the public school district or the BOCES in an unequal position would affect a collegial, collaborative relationship.
- A notetaker in a middle school group summarized that participants felt that monitoring by local public districts would be counterproductive, create competition, and strain the relationship between public and nonpublic schools.
- One public high school educator suggested that the BOCES could play an intermediary role between public and nonpublic schools, although others worried about the effect of such an arrangement on existing relationships.

Those making substantial equivalence determinations may not understand or consider schools’ religious or cultural backgrounds.

Across participants from different types of nonpublic schools and from other organizations, there was broad consensus that a deep understanding of a school’s traditions, values, and culture is necessary in order to make a determination of substantial equivalence. Educators from nonpublic schools also expressed concerns that determinations about substantial equivalence would not be fair if those who make the determinations lacked understanding of the mission and culture of the school they were reviewing.

- Some educators expressed skepticism that an external person could acquire a deep understanding of a school’s culture solely through training and guidance.
- Some nonpublic school educators voiced concerns about external reviewers. One of these educators noted that it would be hard for those who are not familiar with Waldorf education to adequately make a determination about the educational program of a Waldorf school.

Substantial equivalence requirements may conflict with schools’ belief systems.

Participants across all types of nonpublic schools noted that schools’ missions, pedagogies, and means for assessment are informed by the schools’ belief systems. Many participants expressed concern that new substantial equivalence requirements may conflict with their schools’ belief systems.

- One nonpublic middle school educator noted that the ability to determine the scope and sequence of their program was critical to their school’s mission.
- Another nonpublic school educator feared that nonpublic schools may lose their unique identity if they are required to conform to public school norms.
- A religious school educator said that a commitment to faith permeates their school’s curriculum and expressed concerns about requirements that might impose changes to curriculum.
- Another religious school educator noted that their school cannot override Rabbinical Union rules.



Religious school participants expressed reluctance to adopt new substantial equivalence requirements.

- An educator at a religious high school noted that the more conservative values of ultra-orthodox communities do not align with some of the state's policies and regulations.
- Another religious school educator agreed that some state standards are deemed inappropriate in some religious schools.
- Parents of students attending religious schools also voiced concerns about how requirements may infringe on their religious rights.
- One parent noted that their school is not interested in making changes to a religious curriculum that has been used for many years.

Access to nonpublic schools and higher-quality education may not be equitable.

A small subset of participants, mainly those representing state-level organizations, expressed concerns about equitable access to nonpublic schools, especially for students with disabilities and for English language learners.

- One participant from a state-level organization suggested that there be a process for ensuring that all students, including English language learners and those enrolled in special education programs, are receiving substantially equivalent instruction.
- Another participant from a public high school voiced concerns about how substantial equivalence policy will affect special education funding.



Notes Summary Section 3: Suggestions for Substantial Equivalence Regulations and Policy

Participants in the breakout groups identified elements that they thought should be contained in regulations and policy, and elements that should be avoided. Overall, participants across groups emphasized that any criteria for determining equivalence should not be subjective, overly prescriptive, or inconsistent, and that the process of determining equivalence should serve to ensure that all students gain the knowledge and skills they need to pursue unlimited opportunities after high school and should not interfere with the mission or values of any school communities.

Be flexible and accommodate a variety of routes to determining substantial equivalence.

Given the variety of unique education programs employed by nonpublic schools, and these schools' diverse missions, participants in all groups called for flexibility around requirements and suggested there be a menu of options that any school might choose from to demonstrate how their school program is meeting student needs.

- A participant from a public high school explained that because schools have different interpretations of substantial equivalence, there is a need for a broad, general framework that supports different sets of values and desired outcomes.
- A religious elementary school participant said that an expansive list of options is needed to provide different ways to demonstrate equivalence that are relevant to various schools' missions; this participant recommended creating multiple pathways and letting schools choose which they would like to do.
- A participant from a state-level organization considered the possible need for two separate processes: one for ultra-orthodox or more insular communities and one for communities that are more integrated with the general public.
- An educator from a nonpublic high school described the need for a framework so that schools can map their curriculum to the substantial equivalence criteria.
- An educator from a religious elementary school suggested that the state consider flexibility in measuring benchmarks — for example, by designing benchmarks for grade bands, such as P–2, 3–5, and so on — because curriculum topics might be introduced in a different order in nonpublic schools than in the public system.
- An educator from a public middle school suggested that any framework might need to pose a series of questions for schools to answer about how they meet substantial equivalence regulations, instead of telling the schools what they need to do.
- A student from a religious high school observed that each school is unique and stressed the need to look at school programs holistically.



Create policy that considers schools' beliefs and values.

Nonpublic schools are often designed to instill in students a particular set of beliefs and values that may be different from those in most public schools. These beliefs and values impact both the curriculum content and the pedagogical techniques employed.

- An educator from a nonpublic elementary school described how some of the typical measures, such as standardized assessments, would not be appropriate for their program, explaining that because their teaching is very fluid and organically evolving, and because they do not have lesson plans, testing before grade 8 would be detrimental to their students.
- An educator from a nonpublic high school shared a concern about required exam scores driving content and assessment, which would be at odds with the holistic mission of the school.
- Some of the participants from religious schools talked about the need for criteria that are broad enough that they do not impose on religious beliefs, such as those about gender and the theory of evolution.

Account for the various populations in schools.

Stakeholders indicated that schools may also have particular populations with certain needs and/or cultural backgrounds that should be considered when creating substantial equivalence criteria.

- An educator from a religious elementary school described some of the challenges of meeting the needs of English language learners and students with disabilities.
- Another elementary participant mentioned that although learning standards are needed, some of their students live in homes in which English is not spoken or valued and so those standards may be difficult for all students to meet.
- An educator from a nonpublic elementary school mentioned that 90 percent of their school population is eligible for special needs services, which would make standardized testing an inappropriate means for assessing the school's effectiveness.
- An educator from a nonpublic middle school talked of their school's international education system with multiple campuses, and the diversity of populations and programs, depending on the location.
- An educator at the high school level acknowledged the differences between public and private institutions, such as size and tuition, that might impact a school's program.

Take parents' priorities into account.

As previously noted, participants pointed out that parents who choose to send their students to a nonpublic school have done so because they have particular goals for their child's education that they believe public schools cannot meet.



- Participants from nonpublic schools emphasized the importance of parents' aspirations and expectations and suggested that the extent to which a school meets parents' aspirations and expectations might be used as an indicator in determining substantial equivalence.
- An educator from a religious elementary school talked about the meaningful involvement of parents in their school's decision-making and suggested that parents should be involved in determining whether their school meets substantial equivalence requirements.

Create an efficient, effective process for determining substantial equivalence.

Participants expressed a range of ideas about how the substantial equivalence determination process should proceed.

- An elementary school representative described the importance of first determining what measures are already in place.
- An educator from a public high school recommended a three-pronged approach: ask whether a school is meeting regulations/policies and using standards as a guide; ensure that this school is focusing on equity, so that all students' needs are met; and establish metrics to measure outcomes.
- An educator from a public middle school expressed a belief that the substantial equivalence determination process should be more qualitative than quantitative, looking at program components and teacher quality instead of test scores.

A point that came up across several groups is the process of determining substantial equivalence is sometimes redundant with what schools are already doing to evaluate their own educational programs.

- An educator from a nonpublic middle school said they believed that a system of accountability already exists and that nonpublic schools are evaluated by a regulatory body that complies with Education Law§3204.
- An educator from a public high school listed the BOCES policies, New York State regulations, and Title I regulations as existing measures to ensure substantial equivalence.

Allow a variety of measures to determine substantial equivalence.

Participants noted the difficulty of measuring the academic achievement of nonpublic schools if those schools do not administer state assessments, and they suggested many potential alternatives, as detailed in the following subsections.



Curriculum

- Participants in multiple stakeholder groups discussed the validity of factoring in a school's curriculum as part of determining substantial equivalence, and whether doing so would yield accurate information.
- An educator from an elementary Montessori organization mentioned that their organization maps its curriculum to various standards.
- An educator from a religious elementary school pointed out that curriculum can be designed and measured in different ways, including through project-based learning.
- Participants from nonpublic schools explained that, although their curricula may not appear to match the state standards, their schools were still providing students with important academic knowledge and skills.
- An educator from a religious middle school suggested that the state provide a curriculum scope and sequence as a guide, not a mandate, which would allow schools some freedom to meet substantial equivalence criteria.

Other standards

Many participants expressed a preference for looking beyond curriculum when determining substantial equivalence and that a broad range of criteria should be used to determine academic rigor.

- A participant mentioned that some schools have their own standards and measures in place, and that those measures should be sufficient to demonstrate substantial equivalence.
- An educator from a nonpublic elementary school explained their school has measures in place, and that, although the school's curriculum and instructional methodologies are different from those of public schools, the school achieves the same outcomes.
- An educator from a religious middle school pointed out there are different ways to measure success and skill sets being taught should be considered.
- An educator from a religious high school explained their school receives feedback from secular professionals regarding the employability of the students graduating from their school.
- An educator from a nonpublic middle school believed that membership in the New York State Association of Independent Schools (NYSAIS) should be enough for a school to be considered substantially equivalent.

In-house assessments

Some stakeholders indicated their schools are already using a variety of assessments to gauge student progress and that they would like those in-house assessments to be considered as measures of substantial equivalence.



- An educator from a nonpublic elementary school explained their school does not give grades but does have rubrics that articulate grade-level benchmarks. The school uses formative assessments to assess reading, starting in kindergarten. It does not have a rigid scope and sequence but does have a twice-yearly assessment against a rubric that is based on state or national standards.
- An educator from a religious elementary school pointed out that online portfolios could be used as part of determining substantial equivalence.
- An educator from a religious high school asserted performance assessments that demonstrate mastery, as opposed to tests which require recall of facts, are a valid measure of program quality.

Outcomes

Several participants suggested schools be judged by their program outcomes — that is, by their students’ skills, knowledge, and success in life after high school.

- An educator from a religious high school asked that NYSED define the skills that a student is expected to be able to perform as a result of being educated at a school.
- An educator from a public elementary school suggested that if the criteria were to focus on student outcomes, the school would be able to teach in concert with its values but still achieve the results expected of citizenry.
- An educator from a religious elementary school described some outcomes that could be considered, such as whether the system produces high-caliber students who are capable of working in any career field.
- An educator from a religious high school believed measuring outcomes, as opposed to looking at what schools are offering, would be variable, and suggested that a measure of quality should be how many graduates are productive citizens.
- A nonpublic elementary school participant mentioned a measure of their school’s success is the high number of students going on to high school, and an educator from a religious high school stated their students’ college admissions speak for themselves.
- An educator from a religious middle school noted many nonpublic schools can present data to NYSED to demonstrate that they are doing a good job getting students ready for college.
- A nonpublic school parent pointed out there is a base level of education that needs to be met and that college admission should not be the only measure of a system, as schools must provide academics and social-emotional learning supports, and students must be able to think critically.

Adaptations of existing state models and guidelines

Other measures that could be adapted to the purpose of determining substantial equivalence are already being used in New York.



- An educator from a nonpublic middle school pointed out NYSED and the New York State Office of Religious and Independent Schools (SORIS) have a long track record of evaluating schools through the high school registration process, which could provide a model for determining substantial equivalence.
- A middle school educator expressed the belief that a simple way to determine equivalence would be to rely on existing state learning standards.
- An educator from a public middle school suggested equivalence reviewers look at resource allocation and adherence to standards aligned with the Every Student Succeeds Act.
- An educator from a public middle school suggested the state consider implementing a modified version of the [Diagnostic Tool for School and District Effectiveness](#).
- An educator from a religious middle school pointed out NYSED's website already has guidelines for determining when to put homeschool programs on probation.
- A middle school participant recommended that to meet substantial equivalence, all schools follow the Part 100 regulations, which specify requirements for elementary, middle, and high school programs in New York State.
- An educator from a religious elementary school suggested the substantial equivalence determination process should be similar to the recent school reopening plans, whereby nonpublic schools submitted curriculum plans and other documents to reviewers.

Standardized test scores

Many participants asserted any standardized assessments that a school administers might be valid evidence of substantial equivalence.

- An educator from a religious elementary school said standardized tests could be used as reliable measures of literacy and math skills.
- A nonpublic school alumna mentioned they had been required to take the Regents exams when they were a private school student and added they did not think asking less of any school now would be fair.
- An educator from a religious middle school asked whether state testing is already a good measure. The participants noted there are some poor performing schools but there is no reason to create a government bureaucracy to find and punish those schools.
- A parent from a religious school mentioned their students take Educational Records Bureau tests.
- A nonpublic school parent explained students in their school are not required to take Regents exams, although they do take the SATs, ACTs, and subject tests that are required, and the students score at a high level, with 100 percent of graduates going on to attend college.

However, some school stakeholders expressed opposition to testing and said they would not want to be required to administer standardized tests.



- As an educator from a nonpublic high school explained, tests are not a good way to measure nonpublic academic/college prep schools, given the schools' progressive nature.
- An educator from a nonpublic middle school pointed out many people who go to independent schools are fleeing the tests administered in public schools.
- A parent with children in a nonpublic school asserted nonpublic school graduates are well prepared for their careers, even without standardized tests.

Accreditation

The most frequently mentioned idea was that accreditation could be acceptable proof of program quality.

- One educator from a nonpublic high school suggested schools that are accredited by NYS AIS should not need any further evidence of substantial equivalence.
- An educator from a nonpublic middle school believed accreditation provides a strong foundation for determining substantial equivalence, while allowing for the uniqueness of each school.
- An educator from a public elementary school explained their district goes through a Middle States Accreditation process every seven years, which they see as beneficial, and which involves looking at a set of standards, requires a self-reflection, and includes students in the process.

Participants had a number of suggestions about how and why to use accreditation to determine substantial equivalence.

- An educator from a nonpublic high school suggested the state should map its minimum requirements to an existing accreditation process, to avoid creating new burdens, and there could be a rubric developed to help with the assessment of schools that do not want to undergo the accreditation process.
- An educator from a middle school noted accrediting bodies give feedback on issues such as school governance, not only on teaching and learning.
- An educator from a public high school pointed out public school quality reviews and nonpublic school accreditations may have similar "audit" components and can therefore yield similar information about program quality.
- An educator from a nonpublic high school suggested the Regents should vet accrediting bodies and should align accreditation with the substantial equivalence criteria.
- An educator from a religious middle school suggested NYSED should develop a framework for determining which accreditors or structures (e.g., dioceses) would be acceptable as measures of substantial equivalence, and then the BOCES could run a process for schools that do not have those in place.
- An educator from a public middle school suggested that for nonpublic schools that are not interested in working with an accreditation organization, NYSED



could provide a list of data that schools could submit instead of undergoing accreditation.

- Other participants proposed a list of acceptable accreditations, such as the NYS AIS accreditation process and those of other, third-party accrediting agencies, be made available for schools to choose from.
- An educator from a nonpublic high school suggested schools be allowed to choose between district review and accreditation.
- An educator from a public high school stated using existing accrediting organizations to work with nonpublic schools would maintain positive relationships between public and nonpublic schools.
- An educator from a public high school wondered whether accreditation is the correct path to determining substantial equivalence for all schools. It is possible that these accreditation agencies would create an extra bureaucratic layer between the state and lower-performing schools and that it would be more efficient for the state to do a more direct job of inspection and verification.

[Notes Summary Section 4](#) includes more comments related to the role of accreditation processes in the determination of substantial equivalence and quality control for schools.

Nonacademic goals

Participants also suggested a number of other, nonacademic goals they valued and thought should be considered important in any process to determine substantial equivalence.

- An educator from a public high school asserted decreasing the focus on academic assessments could be useful, because these assessments do not tell the whole story of a quality education.
- An educator from a religious high school agreed incorporating broader parameters and metrics, beyond academics, is important, to be able to show a bigger picture of student learning.
- Several participants from religious communities emphasized the importance of preparing students to be self-sufficient and to have the skills they need into take care of their families and be productive members of society.

Other suggested criteria for substantial equivalence included critical thinking and independent learning; community values such as religious identity, godliness, continuation of a culture, community service, and social justice; and personal, social-emotional qualities such as respect and integrity. Also mentioned were nonacademic program components such as commitment to excellence, partnership with community, focusing on the whole child, and meeting the needs of individuals.



Self-evaluation results

A number of participants recommended self-evaluation be at least part of the process for determining substantial equivalence.

- An educator from a religious high school suggested each school could assess its own program in relation to substantial equivalence criteria, and another educator, from a religious elementary school, pointed out school staff could help reviewers by documenting their school's history and approach to education.
- An educator from a public school and an educator from an elementary religious school suggested NYSED develop standards and rubrics that can be used for self-evaluation or self-reflection.
- An educator from a nonpublic high school suggested self-study should be part of a longer-term process to allow for course correction and should be integrated into any determination of substantial equivalence.

Some participants expressed the opinion that self-evaluation alone would not be a sufficient measure to determine substantial equivalence.

- A middle school educator said the learning standards that exist are the basis of substantial equivalence determinations, and that self-policing is not enough.
- An alumnus from a religious school said for too many years, religious schools have proven they cannot self-regulate. This alumnus added the schools have misled politicians and the general public and squandered every opportunity to rectify the situation.

Staff qualifications

A number of participants suggested the qualifications of a school's staff should be considered as an important criterion for determining substantial equivalence.

- An educator from a public elementary school expressed the belief highly qualified teachers are the most important factor contributing to a quality education and the competence of the teachers in the classroom should be considered when determining substantial equivalence.
- Several educators from religious schools agreed, mentioning the certification status of their teachers and pointing out that nonpublic school leaders are held to the same standard as public school leaders.
- An alumnus from a nonpublic school advocated for rigorous faculty assessment as part of the determination process.

Provide professional development resources

A few participants in the breakout groups noted professional development would be needed for effective substantial equivalence determinations.



- Some participants stated enacting a program of substantial equivalence reviews could be an opportunity to provide additional professional development to nonpublic schools.
- One public school elementary educator noted, when Education Law §3204 was passed, there was a disregard for the professional development necessary for effective substantial equivalence determinations, leading to a lack of understanding of all schools' backgrounds and approaches.
- Another elementary educator suggested the determination process should make use of retired or distinguished educators from outside the district, providing a professional development opportunity for schools.
- One educator from a religious elementary school noted that with guidance, anyone could determine the caliber of education and skills that yeshivas have to offer.



Notes Summary Section 4: Who Should Be Involved in Determining Substantial Equivalence

Throughout most breakout groups, participants indicated the groups that determine substantial equivalence need to include experts with a broad range of educational experience. Many expressed reservations about having their schools reviewed by anyone who does not understand their particular school; instead, they wanted the evaluation team to include representation from someone who had attended, or had other deep experience with, a similar kind of school. Some participants stated reservations about granting authority both to the state and to local districts, for a variety of reasons. Many agreed existing accreditation mechanisms could play a substantial role (as also mentioned in [Notes Summary Section 3](#)). Each of these types of suggestions is discussed in more detail in this section.



Reviewers should represent a range of expertise.

Many participants stated review teams should include experts with various types of educational experience, particularly educators with extensive nonpublic school experience (or who had attended nonpublic schools themselves).

- An educator from a religious elementary school stated true peer review would require someone with deep knowledge of how their school operates.
- Another elementary educator noted any review team should include someone who understands the dynamic of each particular type of school being reviewed, preferably someone who has attended that particular type of school.
- An elementary educator stated the review team should include someone from within the school who understands parental choice and the value of religious education.
- An educator from a religious middle school asserted an accrediting body could be successful in determining substantial equivalence of a Jewish school only if it had a subcommittee with an understanding of Judaic study, which could translate program aspects into substantial equivalence requirements.
- An educator from a religious middle school suggested a system in which trained administrators from nonpublic schools would assess other nonpublic schools.
- Another educator, from a religious high school, recommended those reviewing a nonpublic school should come from within the school's community.

Educators from religious schools called specifically for evaluators to take a school's cultural and religious views into account.

- A middle school teacher from a religious school suggested review teams should use liaisons with recognized credentials from the religious system and who are

vetted by NYSED, and another wondered whether any faith-based (specifically, Jewish) accrediting bodies already exist.

- An educator from a religious elementary school suggested review teams should listen to students, as students can tell the state how nonpublic schools should evaluate themselves.
- Another educator from a religious high school noted the Board of Regents should work with religious school communities to respect and support their missions.
- An educator from a religious high school suggested a committee including schools of different denominations should be formed, stating that by developing a deep understanding of curricular goals from a number of such religious schools, one could see how the goals match with the New York State curriculum.



There should be an external, independent review board.

Many participants, from all grade bands and types of schools, advocated for the creation of an external review board that would be independent from state agencies, citing potential conflicts of interest in having public schools or state agencies oversee the process of determining substantial equivalence of nonpublic schools. In one group representing elementary educators from all types of schools, all participants agreed that an external board should be designated.

- One elementary school educator stated such a board should consist of a core group of professionals with no conflicts of interest. This idea was echoed by educators from nonpublic middle and high schools.
- An educator from a religious high school stated the process would need a board that examines private schools.
- An educator from a religious high school wanted the state to build a transparent, communicative, well-informed, multifaceted team that includes NYSED staff, an accrediting body, and the local district (among others) to review schools holistically.
- A high school educator suggested that existing accrediting bodies could work with local education agencies to determine whether schools meet minimum standards for substantial equivalence.
- An educator from a religious high school suggested utilizing non-stakeholder reviewers and having a third party with understanding of a religious perspective make the determination of substantial equivalence.

Many participants specifically mentioned NYS AIS as an accrediting body that could be involved in substantial equivalence reviews. An educator from a nonpublic elementary school stated that the Board of Regents should approve NYS AIS to be the substantial equivalence review team. The National Association of Independent Schools (NAIS) was also mentioned as a possible reviewer.



Statewide agencies should oversee review.

A number of participants said existing state-level agencies — NYSED, the BOCES, and SORIS — should be responsible for oversight in determining substantial equivalence. Several participants noted these agencies already play a role in assisting or overseeing some nonpublic schools. While participants differed on the roles these agencies should play, most expressed belief in the importance of a state-level agency holding responsibility for determining substantial equivalence. (However, as noted in this section, not all participants agreed.)

Some suggestions from participants indicated state agencies should have a direct role in making the determinations.

- An alumnus from a religious school cautioned that without direct state oversight, there is no guarantee religious schools will deliver secular education as required.
- An educator from a public middle school explained the state needs a more centralized approach, through NYSED or the BOCES, rather than a local approach, and mentioned the New York City Department of Education (NYCDOE) is responsible for upholding law and ensuring funds are used appropriately.
- A parent from a nonpublic school suggested the state should directly inspect all schools and verify that the basics are being taught and should not be tasked with ensuring that nonpublic schools are offering additional programming that parents find valuable in those schools.
- An educator from a religious middle school suggested the state consider building a team of professionals from public and nonpublic school systems, and the team be overseen by a government entity.
- A middle school educator suggested the state expand the existing monitoring process used by the NYCDOE.

Some participants envisioned state agencies sharing the review process with accrediting agencies.

- An educator from a nonpublic middle school suggested SORIS should determine substantial equivalence for schools that are not already accredited.
- An educator from a religious elementary school agreed that for schools that are unwilling or unable to seek accreditation, the impartial reviewer should be SORIS, in order to remove the resource burden from the local districts, eliminate conflicts of interest, and make the process equitable across the state.
- An educator from a religious high school noted that New York's Office of Teaching Initiatives could provide an accreditation process that is based on the Continuing Teacher and Leader Education Requirements and is similar to what it provides for professional development organizations.

Along with suggesting that accreditation be considered as a measure of substantial equivalence, as noted in [Notes Summary Section 3](#), participants often stated a desire



for state agencies to oversee or accredit the independent, external accreditation agencies.

- An educator from a nonpublic high school suggested the state should accredit accreditors.
- An educator from a religious elementary school recommended the state designate an external accreditation agency approved by NYSED.
- A parent from a religious school warned such oversight needs to be robust to preclude bad actors who might defraud the state.



Feedback on the Virtual Meetings Process

NYSED received generally favorable feedback from stakeholders who participated in the virtual meetings, as detailed in [Appendix C](#). The majority of participants who submitted the post-event feedback survey thought the sessions were well designed (e.g., organization, format, pacing). Nearly all participants who submitted the survey agreed or strongly agreed that the event included opportunities for active engagement. Notably, participants appreciated having the opportunity to share perspectives with each other, NYSED staff, and the Board of Regents.

Some participants suggested the breakout groups were not balanced in terms of nonpublic school affiliation; the number of participants from schools, versus “listeners,” in the breakout groups (they believed there should have been more representation from schools); and geographical regions (e.g., they would have preferred that participants from Long Island not be grouped with participants from Queens). In some instances, NYSED had been limited in terms of the pool of nominations for participation.

Some participants were concerned their perspectives were not shared in the report-out process. Reporters were instructed to highlight big ideas from the breakout groups, and the report-out portion of each meeting was not meant to provide a comprehensive summary of the breakout group discussions. However, all discussion points have been reviewed and noted for the purpose of this report.



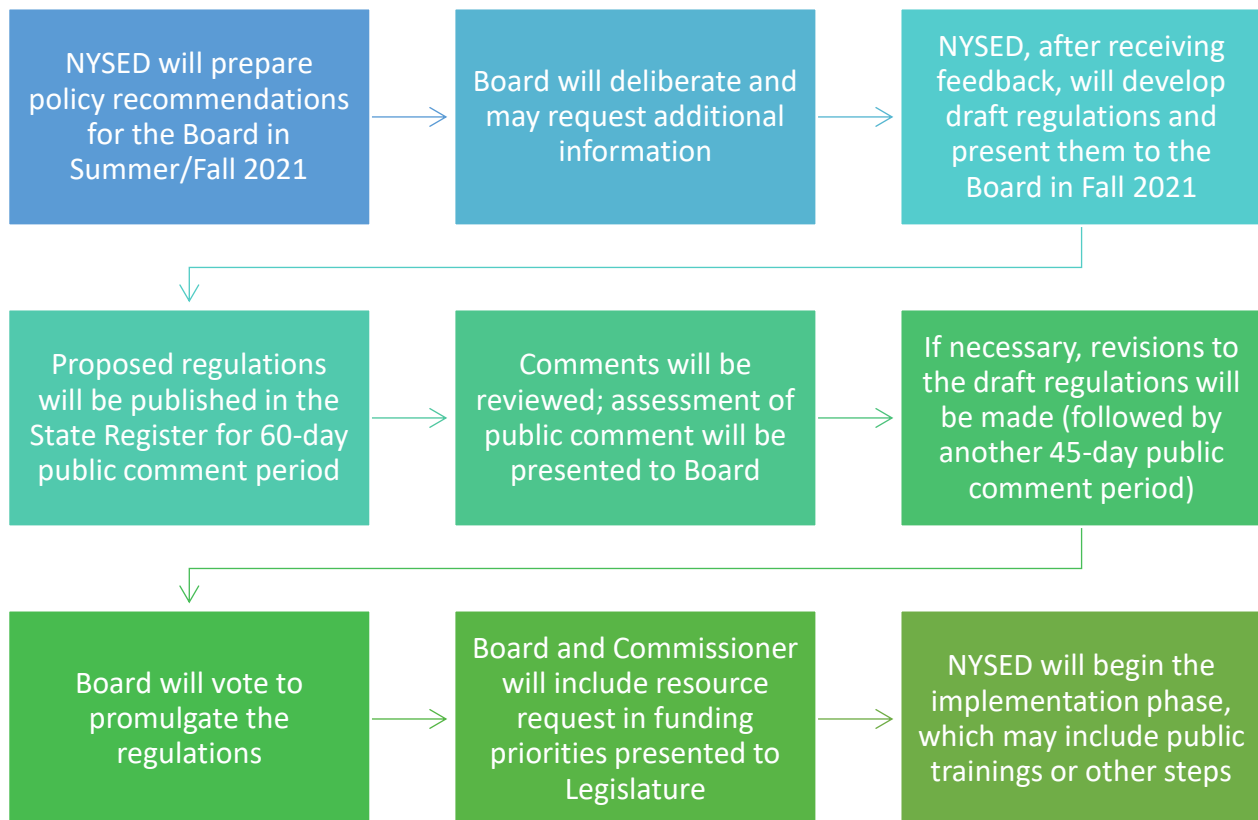
Next Steps

This process has highlighted some key areas for further consideration, including:

- How to define criteria for substantially equivalent instruction;
- How requirements of accrediting bodies may align with requirements for substantial equivalence;
- Assessments that may demonstrate nonpublic schools are providing substantially equivalent instruction; and
- Resources needed to implement the process and requirements.

NYSED staff will consider these key areas in light of the detailed comments which were reported out above, as well as the feedback from the in-person sessions and the survey. Based on this data, staff will prepare a series of recommendations to the Board of Regents in summer 2021. The Board of Regents will deliberate upon the recommendations, and it may request additional information before providing direction on whether to proceed on those recommendations.

Figure 3. Next Steps



After receiving feedback from the Board, the Department will develop draft regulations to be presented to the Board in Fall 2021. The proposed regulations will be published in

the State Register for a 60-day public comment period as required by the State Administrative Procedures Act (SAPA). Comments will be reviewed, and an assessment of public comment will be presented to the Board. If necessary, any further revisions to the draft regulation will be made. If revisions are made, SAPA provides for another, shorter, comment period of 45 days. The Department will present feedback on the proposed regulations. When the Board is satisfied with the content of the regulations, the Board will vote to promulgate the regulations.

After Board approval, Department staff will begin the implementation phase of the regulation. Certainly, public trainings will be necessary on the new regulation, and depending on its final form, other steps may also be taken.



Conclusion

As the wide array of comments from well-prepared and conscientious stakeholders cited above demonstrate, the issue of substantial equivalence poses a significant challenge to the Board of Regents, the Department and educators both public and private. The Board and Department must balance their duties to both ensure that children receive the education to which they are entitled and their duty to protect the constitutional rights of members of religious and cultural minorities to direct the upbringing of their children.

Many of the suggestions or comments described in this report conflict with one another or are outside of the Department's present capacity or authorization to implement. While the Department will attend carefully to all the views presented here, they cannot all be implemented. As it selects the path forward, the Board of Regents will carefully weigh the demands of its duty, attempt to chart a direction that is both respectful of the State's role as the greeter of immigrants and protector of many faiths, and ensure that our students are prepared for a meaningful future.

As the members of the Board contemplate these challenges, the active engagement of a number of elected officials and their staff in the process thus far provides some hope that, as opportunities to do this work in a way that minimizes the burden on local educators, public and private, are identified – the resources and necessary authority might be provided in support.



Appendix A: Nonpublic Schools Information Survey Data

NYSED offered religious and independent school leaders an opportunity to complete a survey through the NYSED Business Portal to share the ways they monitor students' progress through their school programs. Of the approximately 1,800 schools that received the notification, NYSED received 157 responses. Because the small number of responses does not provide a comprehensive understanding of schools' programming, the data below are not presented in terms of percentages.

Summary of Survey Responses

Substantial Equivalence Survey Results by Grade Level				
Affiliation	K–8	9–12	Both	Total
Baptist			4	4
Catholic	25	9	7	41
Christian Fundamentalist	6		9	15
Episcopal	1		2	3
Independent	26	5	35	66
Islamic	3		2	5
Jewish	12	6	2	20
Lutheran	1		1	2
Seventh-Day Adventist	1			1
Total	75	20	62	157

Source: Data extracted through Cognos, 1/8/21.

School Program

What components of your school program are important to highlight as we consider what substantially equivalent instruction means?

The responses to this survey question were broadly consistent with the findings described in the [Notes Summary Section 1](#) of the report. Schools described their varied approaches to assess student learning; specialized and individualized instruction, ranging from international programs to instructional approaches, such as



Montessori and Waldorf, to special education services for students with specific diagnoses; and combined religious and secular studies programs.

Schools also noted the successes of their students, including meeting expectations of rigorous curricula, graduation and college acceptance rates, performance on standardized testing, and entering society having completed school programs that focused on social-emotional well-being and the importance of community.

What knowledge, skills, and dispositions do you want students who complete your program to possess? Choose 3 and rank, with 1 being the most important.

Most Frequently Ranked #1	Most Frequently Ranked #2	Most Frequently Ranked #3
Academics	Social-Emotional Health	Care for Community & Environment
Religious Knowledge	Academics	Social-Emotional Health
Social-Emotional Health	Care for Community & Environment	Academics

Standardized Assessments

Do you use standardized assessments that compare students' progress at their grade level to other students' progress at the same grade? If so, which assessments? If other, please specify.

Options in Survey
Acuity College and Career Readiness Assessments
Advanced Placement (AP) Exams
aimswebPlus
California Achievement Test
earlyMath
earlyReading
Educational Records Bureau (ERB)
International Baccalaureate Assessments (IB)



Iowa Test of Basic Skills
iReady
MAP Growth (formerly known as Measures of Academic Progress or MAP)
NYS Grades 3–8 ELA and Math Assessments
NYS Regents Exams (High School)
Reading Inventory
Renaissance Star Assessments
SAT
SAT Subject Tests
TerraNova3
“Other” Specified
ACT/PreACT
Adaptive, Diagnostic Assessment of Mathematics (ADAM)
Avant Assessment for world languages
Basic Achievement Skills Inventory (BASl)
Brigance Skills Inventory
College and Work Readiness Assessment (CAE-CWRA)
College Board Accuplacer
Diagnostic Online Reading Assessment
FastBridge (aMath, aReading)
Fountas and Pinnell Benchmark System
Gallistel-Ellis Test of Coding Skills
Gates-MacGinitie Reading Tests
International examinations



IXL
National Latin Exam
National Math Exam
National Spanish Exam
Orton-Gillingham Reading Assessments
Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT)
Reading Plus
Scholastic Reading Inventory
Structure of Intellect (SOI) Learning Abilities Test

NOTE: Additional research is needed on the “Other” responses to determine whether they are standardized assessments.

Other Forms of Evaluation

What other mechanisms (forms of evaluation) do you use schoolwide to monitor student progress through your program and/or assess mastery of skills?

Options in Survey
Assessments that come with a purchased curriculum
School/teacher-developed formative assessments
School/teacher-developed interim assessments
School/teacher-developed rubrics
School/teacher-developed summative assessments
Student portfolios
Student projects/exhibitions
“Other” Specified
Guidelines established by accreditor
Lab assessments
LOTE Checkpoint Exams



Montessori specific assessments & records
Monthly curriculum mapping
Observation and oral assessment
Student interaction during class
Student interviews and reflections

Accrediting Agencies

Is your school accredited? If so, by which accrediting agency/agencies? If other, please specify.

Options in Survey
AdvancED (now Cognia)
Council of Islamic Schools in North America
Middle States Association
New York Association of Christian Schools
New York State Association of Independent Schools
"Other" Specified
Absolute Charter NYS*
Association of Christian Schools International (ACSI)
Association of Waldorf Schools in North America (AWSNA)
Council of International Schools (CIS)
International authorities (e.g., ministry of education and culture of a foreign country)
International Baccalaureate Organization (IB)
National Association of Independent Schools (NAIS)
National Catholic Educational Association (NCEA)
National Lutheran Schools Accreditation



New York State*
New York State Board of Regents*
North American Division Commission on Accreditation of the Accrediting Association of Seventh-day Adventist Schools, Colleges and Universities, Inc.
NYSED*
NYSED Registered School*
Torah Umesorah

*NOTE: "Other" included responses that are not accrediting agencies for nonpublic schools. These responses have been grayed in the table above. Additional research is needed on the remaining responses to determine whether they are recognized accrediting agencies.

Is your school’s academic program approved by the National Education Agency of another nation or by a unit of the U.S. federal or state government (for example, Japanese Ministry of Culture, Sports, Science and Technology or U.S. Department of Defense)?

If so, which one? (open response)
French Ministry of Education
Ministry of Education of the Federal Republic of Germany
National Society for Hebrew Day Schools
U.S. Immigration and Customs Enforcement Student and Exchange Visitor Program (SEVP)
United Kingdom

Is there another form of external certification or licensure held by your school program (for example, career or technical certification)?

If so, what certification or licensure? (open response)
Absolute Charter*
Article 47 — New York City Department of Health and Mental Hygiene (childcare permit)
International Baccalaureate



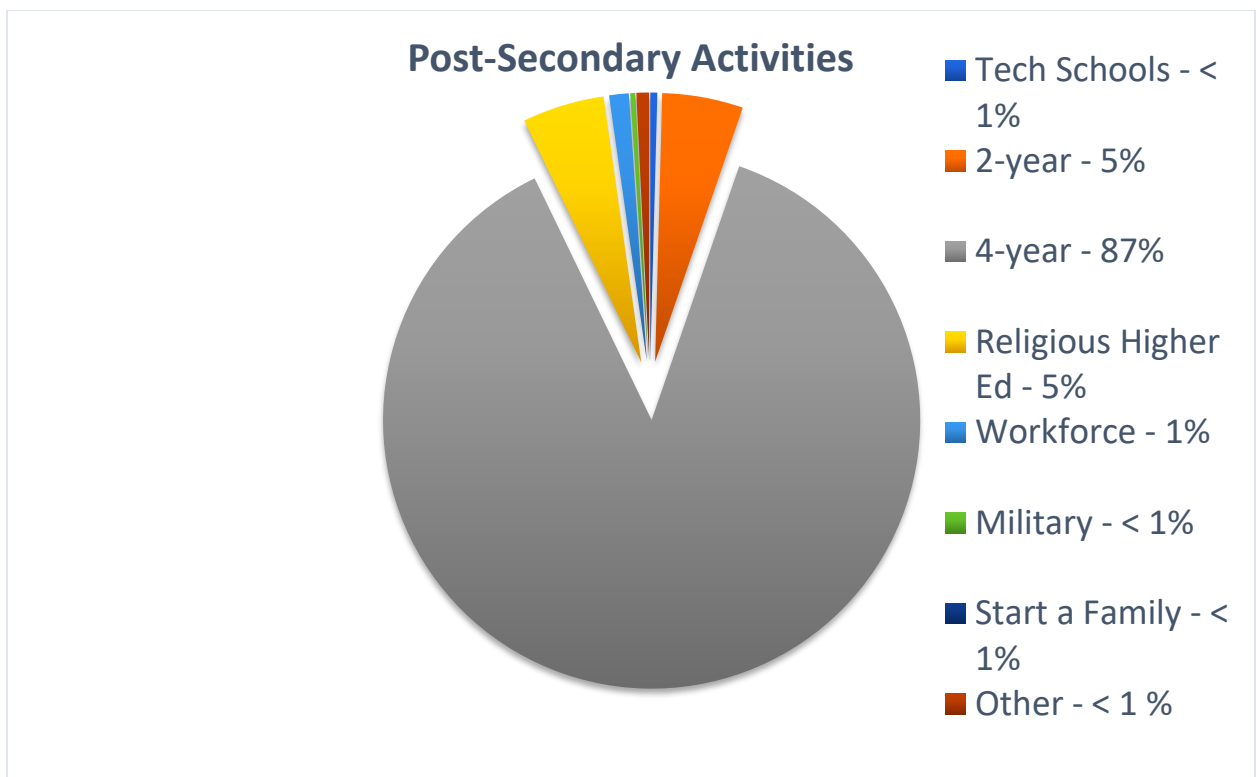
International Dyslexia Association
International Multi-Sensory Structured Language Education Council
Learning Disabilities Association
Microsoft IT Academy
Jesuit Province
Waldorf Early Childhood Association of North (WECAN)

*NOTE: Responses included an absolute charter, which is not a certification or licensure. This response has been grayed in the table above.



Postsecondary Activities

What postsecondary activities do your graduates pursue after they leave school?



Summary of Recommendations

Given that the Department is required to develop rules around substantial equivalence, and the Department wants these to be inclusive and address your needs, do you have recommendations for how the Department can best implement the requirement that students of compulsory education age must receive instruction that is at least substantially equivalent to that in the public school?

Process

- NYSED should offer a menu of options where a school can certify that it is offering substantially equivalent education.
- Require aggregate data, without prescribed subjects or content, keeping the review centered around outcomes.
- Accountability and measurement should be the standard of substantial equivalence. Religious schools have liberty to choose content and allotted instructional time. NYSED should facilitate getting to the end results and not

interfere with the means of getting there where it interferes and conflicts with religious freedoms.

- Review graduation rates by cohort, criteria for instruction in all core subject areas defined by NYSED, and whether the curriculum meets rigorous external measures for student success.
- Review the rate of college acceptance, and which colleges find students attractive candidates.
- Schools should be considered substantially equivalent if they:
 - Offer a general studies curriculum that is aligned to NYS and/or national learning standards;
 - Have obtained an accreditation from a third party that understands how to measure nonpublic schools against the standard;
 - Provide standardized testing, to include: NYS Grades 3–8 Assessments, NYS Regents Exams, Terra Nova, Iowa Tests, SAT, ACT, AP Exams, and IB;
 - Are chartered by the Board of Regents;
 - Are registered by the Board of Regents (if the school is registered, then the entire school [K–8] should be considered substantially equivalent); and
 - Are both chartered and registered by the Board of Regents.
- All nonpublic schools should regularly undergo an independent, outside review of their compliance with New York Education Law, including New York Education Law Section 3204 by: (1) accreditation; (2) State Office of Religious and Independent Schools (SORIS); or (3) registration, which would include all grades, K–12.
- Schools that do not have an accreditation body should be required to establish their own standard to provide measurement of growth being met.
- A process can be developed, with input from public and private schools, for a basic certification that is broad enough to encompass the individualized nature of each school, using a checklist for public view. Schools can choose a range of assessments, with a plan for how to inform instruction and promote rigor in the learning environment.
- Any requirements imposed on private schools should include training on supporting the schools, including mentoring on how to meet and monitor such requirements.
- Develop and allow for oversight and evaluation through nonpublic and faith-based consortiums that understand nonpublic schools and have an education background.
- Create BOCES substantial equivalence teams that are not composed of stakeholders (the public school LEA or the specific religious school within the LEA's district), but, rather, are composed of independent examiners who have been trained in what to look for when determining substantial equivalence.
- Incorporate a county or perhaps regional oversight board that includes members from all the various school organizations in that region.
- There should be annual visits from LEA superintendents and board of education members.



- Offer a voucher system.

School Program

- Look at a school's program holistically rather than piece by piece.
- Allow schools to use project-based learning and/or a portfolio to show examples of students' work, thus ensuring that schools have taught the key components of the curriculum.
- Find common ground between integrated courses, such as art, music, and physical education, and religious studies.
- Require that each school post its curriculum, assessment methods, etc., on their website.
- Students have received funding to provide them with equivalent instructional materials. Therefore, schools should provide a substantially equivalent education.
- Schools should be required to offer a minimum number of credits in core subjects to their students.
- Have a clear checklist of items that can be used to measure a school's educational program.
- Request a brief list of objectives, examples of documentation, and experience with NYS core curriculum.
- Review schoolwide grading policies that are fair and credible.
- Nonpublic schools could show teacher training and/or certification.



Appendix B: Substantial Equivalence Breakout Group Protocol for Facilitators

1. What components of your school's mission and/or program are important to consider as we create a framework for the substantial equivalence determination process? How would you recommend substantial equivalence be demonstrated and/or recognized?

The following optional sub-questions/prompts are suggested language you can use if you need to elicit more information and further discussion, particularly from those who are not as vocal in the discussion. You are not required to ask the sub-questions.

- *[Nonpublic school representative], would you be willing to start, and tell us about the mission of your school?*
 - *[Nonpublic school representative], tell us more about your school's instructional approach.*
 - *[Public school representative], if you have nonpublic schools in your boundaries, what kind of interaction do you have with the nonpublic school leaders? In what context? What have you learned from them?*
2. How do you suggest the Department move forward to develop a framework for the substantial equivalence determination process? Please tell us how we can make that process as inclusive as possible.

Optional Sub-question/Prompt for Facilitator

- *Before, we had proposed a school visit and review of the nonpublic school's instructional program. Can you suggest a better mechanism?*



Appendix C: Post-Event Feedback Survey Results

