



Start a School

AN EDUCATION FREEDOM FOUNDATION INITIATIVE

New York

Private School

New Religious and Independent Schools

To be recognized as a school in New York State, new religious and independent schools must obtain incorporation, verify that they are located in a safe, educationally appropriate environment, and have their local public school district certify that they are educationally equivalent to a public school.

Please read the [Manual for New Administrators](#) of Religious and Independent Schools.

Steps to Start a Private School

1. Select a name for your school. Retain this name throughout the duration of the school's operation.
2. Designate a Chief Administrative Officer. Select a title, such as Director, Principal, Superintendent, etc.
3. Register as a corporation. This is usually a for-profit LLC. Register with your state's Division of Corporations. See limitations below.
4. Things to consider
 - 4.1. Accreditation: is optional. OptimaEd has been accredited by Cognia.
 - 4.2. Teacher Certification: See statutes.
 - 4.3. Registration: Is optional.
 - 4.4. Licensing: Business licensing may be required by local government.
 - 4.5. Recognition: Is optional
 - 4.6. Length of School Year and Days: See statutes.
 - 4.7. Curriculum: See statutes below for requirements.
 - 4.8. State Testing: See statutes.
 - 4.9. Health and Safety: Immunizations are required. Other requirements exist. See statutes below.
 - 4.10. Nursing and Health: Upon request, local school districts must provide all health and welfare services and facilities that are available to public school students to students attending schools other than public ones.

Religious and Independent schools must incorporate in one of the three following ways. See the diagram below for an illustration of the process.

Religious and Independent Schools:	Religious	Independent	
		Not-for-Profit	For-Profit
Incorporation type	Via affiliated religious institution e.g. church, synagogue, mosque, temple—by county or NYS DOS (link is external)	Educational Corporation= NYS Board of Regents Charter	Limited Liability Corporation (LLC) via NYS Dept. of State (link is external) (DOS); Need New York State Education Department (NYSED) Commissioner’s Consent, to file with NYS DOS
Initial incorporation process	Religious institution incorporates by filing with county or NYS DOS (link is external)	<ol style="list-style-type: none"> 1. School sends Petition + fee to NYSED Office of Counsel. 21 Items may be sent with petition & fee to Office of Counsel, or separately to NYSED Office of Religious and Independent School Support (“Program Office”) 2. Office of Counsel sends petition & 21 Items to NYSED Office of Religious and Independent School Support (Program Office) 3. When petition & 21 Items approved, Board of Regents votes to approve provisional charter, usually 3-year term, & charter is sent to school 4. When provisional charter expires, school must extend charter, by filing petition & fee with NYSED Office of Counsel 	
		3. When Petition & 21 Items approved, Consent is issued by NYSED Office of Counsel	4. Incorporation & Commissioner’s Consent filed with NYS DOS (link is external)

Religious and Independent Schools:	Religious	Independent	
		5. After at least 1 extension, school may apply for absolute charter: file petition & fee with NYSED Office of Counsel, changes in 21 Items with NYSED Office of Religious and Independent School Support	
Changes, e.g. name, address, grade level, additional buildings		Charter amendment: 1. File petition & fee with NYSED Office of Counsel, 2. Changes in 21 Items to Office of Religious and Independent School Support 3. Once petition, fee, & 21 Items approved, Board of Regents votes to grant charter amendment	Amend Commissioner's Consent: 1. File petition & fee with NYSED Office of Counsel, 2. Changes in 21 Items to Office of Religious and Independent School Support 3. Once petition, fee, & 21 Items approved, amended Consent issued 4. Amended Consent filed with NYS DOS (link is external)

Types of Religious and Independent Schools:

1. Religious schools: Schools affiliated with a specific religious institution, e.g. church, mosque, synagogue, temple, or other religious institution are considered incorporated under the auspices of their religious institutions. Religious institutions may be incorporated by their county or the New York State Department of State.

If a religious school wishes to be independent, it may obtain a charter and have separate incorporation as an educational corporation, but this is not required.

2. Independent schools: Independent schools may be either not-for-profit or for-profit.
 - a. Not-for-profit: A not-for-profit independent school must obtain a provisional charter from the New York State Board of Regents, which serves as incorporation as an education corporation. See section below on Forming an Educational Corporation.
 - b. For-profit: A for-profit must incorporate with the [New York State Department of State \(link is external\)](#) (NYS DOS) as a limited liability company (LLC). A NYSED Commissioner's Consent is needed for the incorporation. See section below on Commissioner's Consents.

Forming an Educational Corporation (Commonly referred to as Provisional and Absolute Charters)

The New York State Education Department, under the Board of Regents, has oversight for incorporating religious and independent not-for-profit schools as Education Corporations. A not-for-profit school must first obtain a provisional charter, usually for 3 years. It should then be extended for 3 more years. Typically, after one or more extensions, the charter will be converted to an absolute, or permanent, charter, if the school meets the requirements for an absolute charter. (See section on Absolute Charters below.)

To obtain a provisional charter, a petition and the required fee must first be submitted to the NYSED Office of Counsel. These will be processed by the Office of Counsel, then sent to the NYSED Office of Religious and Independent School Support (the "program office"). The "[21 Item Checklist](#)" will need to be sent with the petition, or under separate cover, to the Office of Religious and Independent School Support, which reviews them and the petition. An [Initial Fire Inspection Report](#) (item #4 from checklist) is required. The inspection must be performed by a local government official, be dated within 12 months of submission date, show that escape routes are clear and adequate and all alarm systems are working. In some jurisdictions, the current Certificate of Occupancy and initial fire inspection may be issued as one document. Once the 21 Items are complete and have been approved, the petition is sent back to the Office of Counsel with a recommendation to approve it. The recommendation is then scheduled for a vote at the next Regents meeting with available time. After the vote, the school will receive the charter document.

Please note: Education Law 807-A requires **annual** inspection of all grade 1-12 schools with at least 25 students and all nurseries and kindergartens with at least 6 students outside of New York City. Initial fire inspections performed **on or after** July 1st can be used to meet this annual requirement. Initial fire inspections performed **before** July 1st will not meet this annual requirement.

[Fire Safety Inspection Report](#)

It is important to specifically describe the purpose for the incorporation in the petition. The petition should include the age of the students to be served, grades to be operated, the physical address of the school, and the type of education that will be provided, i.e. education for typically developing students or education for students with special needs, etc.,

Information on submitting a petition for a Provisional Charter or Absolute Charter, amendments to both types of Charters, and other related information can be found on the [NYS Education Department's Office of Counsel's](#) website.

While all the information is important and those interested are encouraged to read information connected to each link, [Sample Forms](#), provides petition prototypes for submitting Provisional and Absolute Charters, Charter amendments, Provisional Charter extension, and related issues. Petitions must follow the format(s) provided.

Please consult the [Questions and Answers](#) document which explains where to send petitions, costs, and additional important information.

Extension of Provisional Charter

Typically, Provisional Charters are issued for a three year period but may range for one year to a maximum (by law) of five years. To obtain an extension of a provisional charter, a nonpublic school must submit a petition and fee to the NYSED Office of Counsel. Please see the website of the [Office of Counsel](#) for information and sample forms.

As with a new Provisional Charter, once the Office of Counsel has processed the petition and fee, the petition is sent to the Office of Religious and Independent School Support (the "program office"). If there are no changes to the most recently issued Provisional Charter, program office requirements for recommending an extension include:

- Current Fire Inspection Report by the Code Enforcement Official - municipality in which the nonpublic school is located, showing that the premises are safe; If the school is outside of New York City, the fire inspection must be on the form used by the Office of Facilities Planning. The form and instructions are at the following links:

[Fire Inspection Report](#)

- a list of the number of students at each grade level the corporation is authorized to operate;
- current staff and their qualifications; and
- the most current audited financial statement for the corporation
- any changes to the [21 Items](#) since the charter or last extension was granted, e.g. new curriculum, new calendar and schedule, or changes in enrollment, tuition.

When the program office has received these items and approved the petition, it is returned to the Office of Counsel for a final check and placed on the agenda for the next available meeting of the Board of Regents. After the Regents vote, the school will be notified of the approval and receive documentation.

Absolute Charter

Program Requirements for Religious and Independent Schools Seeking an Absolute Charter

A religious or independent school which is incorporated under the Board of Regents as an Education Corporation with a Provisional Charter, and, typically, has extended its Provisional Charter at least once, and can document that it operates a sound educational program, has class enrollment at every grade level that it is authorized to operate, and can demonstrate fiscal solvency, may wish to be considered for the Absolute Charter. An Absolute Charter is an Education Corporation in its final stage and does not need to be extended. Details on the program requirements required for recommending that an [Absolute Charter](#) be granted by the Board of Regents.

Program Requirements for Religious and Independent Schools Seeking an Absolute Charter
In addition to the documentation required in the Absolute Charter document, please also submit:

- Documentation of the items delineated on the "21 Item Checklist."

[21 Item Checklist in Word](#)

[21 Item Checklist in PDF](#)

- A fire inspection report from within the last 12 months by the local fire department, showing that escape routes are clear and adequate, and all alarm systems working. In some jurisdictions, the Certificate of Occupancy and fire inspection may be issued as one document. Education Law 807-A requires annual inspection of all grade 1-12 schools with at least 25 students and all nurseries and kindergartens with at least 6 students outside of New York City. Please see the links below for the Instructions and Form for the Inspection Report.

[Fire Inspection Report](#)

The process is the same as the initial application for a provisional charter. The petition and fee should be sent to the NYSED Office of Counsel, where they are processed. The petition is then sent to the Office of Religious and Independent School Support, where the information from the 21 Item Checklist is reviewed. Once that information has been approved, the materials are sent to the Office of Counsel for a final review. When approved, the matter is placed on the next available agenda for the meeting of the Board of Regents, and the school receives notice of the vote and the charter document after the meeting.

Amendment to Provisional and Absolute Charters

A petition to amend a Charter must be submitted to the Office of Counsel if the Education Corporation seeks to modify its Charter. Information and sample forms can be found under "Forming an Education Corporation" discussed above. A change in the location of the school or a change in the grade levels to be offered, including the addition of prekindergarten or after-school programming, etc., are the most common types of amendments.

Again, the petition must be submitted to the [NYSED Office of Counsel](#) with the required fee. Once Office of Counsel has processed these, the petition is sent to the program office (Office of Religious and Independent School Support).

Program office requirements for recommending that an amendment be adopted by the Board of Regents are:

- Change of location – Certificate of Occupancy, showing that the premises are zoned and approved for use as a school, and a current Fire Inspection Report, showing that escape routes are clear and adequate and all alarm systems are working, by Code Enforcement Officials of the municipality in which the nonpublic school is located. Usually, this will entail both the Buildings and Fire Departments, although in some jurisdictions, a combined certificate may be issued by Code Enforcement. If the school is outside of New York City, the fire inspection must be on the form used by the Office of Facilities Planning. The form and instructions are at the following links:
[Fire Inspection Report](#)
- Addition of grades – Curriculum guidelines for proposed additional grades; qualifications of additional staff; description of floor plans to serve additional students; and any other items from the “[21 Item Checklist](#)” that are pertinent.
- Other amendments – Program-related materials from the “[21 Item Checklist](#)” that are applicable to the changes noted in the amendment.

The process is the same as the initial application for a provisional charter. Once that information listed above has been approved, the program office returns the petition to the Office of Counsel for a final review. If everything is approved, the matter is placed on the next available agenda for the meeting of the Board of Regents, and the school receives notice of the vote after the meeting and documentation.

Commissioner’s Consent to Independent and Religious Schools, Nursery Schools, Preschools, and Related Entities Seeking Incorporations under the Department of State

To incorporate as a for-profit by the New York State Department of State, schools must seek and obtain the Commissioner’s Consent from the State Education Department when the proposed corporation has educational purposes and/or uses terms associated with education in its name, such as school, academy, nursery school, preschool, etc. Similarly, schools seeking to file amendments, e.g. adding grades or changing address, if incorporated by the Department of State, must also obtain Commissioner’s Consent.

To obtain Commissioner’s Consent, a petition and fee should be submitted to the NYSED Office of Counsel, 89 Washington Ave., Room 146 EB, Albany, NY 12234. Information, including sample forms and associated fees, can be obtained on the [New York State Education Department’s Office of Counsel’s](#) website.

Once the Office of Counsel has processed the petition and fee, the petition is forwarded to the NYSED Office of Religious and Independent School Support (the “program office”). The program office requires documentation from the [21 Item Checklist](#) which will need to be sent

with the application, or under separate cover, to the Office of Religious and Independent School Support, which reviews them and the application. An [Initial Fire Inspection Report](#) (item #4 from checklist) is required. The inspection must be performed by a local government official, be dated within 12 months of submission date, show that escape routes are clear and adequate and all alarm systems are working. In some jurisdictions, the current Certificate of Occupancy and initial fire inspection may be issued as one document. Once the 21 Items are complete and have been approved, a recommendation to approve the petition is sent to the Office of Counsel. Consent is then granted after further Office of Counsel review and approval. The Consent must then be filed with the NYS Department of State to complete the incorporation process.

Please note: Education Law 807-A requires **annual** inspection of all grade 1-12 schools with at least 25 students and all nurseries and kindergartens with at least 6 students outside of New York City. Initial fire inspections performed **on or after** July 1st can be used to meet this annual requirement. Initial fire inspections performed **before** July 1st will not meet this annual requirement.

[Fire Inspection Report](#)

BEDS Codes

For information on applying for a Basic Educational Data System (BEDS) code; or changing the address, name, or contact information associated with a BEDS code, please visit the [BEDS Code Information](#) webpage.

State Education Department Reference File (SEDREF)

The [SEDREF Portal](#) provides a great deal of information about different types of schools in New York State. To access information about a school, follow the directions of placing a "percentage, i.e., %, sign" after the name of the school (do not leave any spaces between the words). You may also search by address or SED (BEDS) code.

Private School Statutes & Rules

The Education Freedom Foundation has relied on the [U.S. Department of Education's State Regulation of Private and Home Schools Map](#) for relevant statutes. Over time, the state pages on this map have been updated since their initial creation. In some cases, states have changed their laws without these updates being reflected on the map. Given the various methods each state uses to publicize changes to its laws, the most recent information for the Start-A-School project was often obtained directly from the U.S. Department of Education website. Users are encouraged to verify any information before making decisions based on it.

Accreditation, Registration, Licensing, and Approval

- Accreditation: no requirements
- Registration: optional

- The commissioner of education governs the registration of nonpublic high schools. [8 Codes, Rules, and Regulations of the State of New York \(CRR-NY\) §13.1.](#)
- Nonpublic schools are permitted to register. Only registered nonpublic high schools may issue diplomas and administer Regents Examinations. [8 CRR-NY 100.2\(p\).](#)
- A nonpublic school may be registered as a nursery school and/or kindergarten. Change in ownership nullifies the registration. [8 CRR-NY 125.10.](#) Requirements for those schools are found in [8 CRR-NY Part 125.](#)
- Registration may be placed under review when students in a registered nonpublic school scores are below the criteria list in [8 CRR-NY 100.2\(p\)\(13\).](#)
- A nonpublic school must submit information and allow an on-site visit to the school by a staff member in the New York State Education Department’s Bureau of School Registration in order to register with the Board of Regents per [New York State Education Department Manual for New Administrators of Nonpublic Schools, State Requirements and Programs.](#)
- Licensing: no requirements
- Recognition: optional
 - An entity seeking authorization or approval to operate a nonpublic school in New York State must incorporate in the following manner, depending on school type. A religious nonpublic school that is affiliated with a religious institution is considered incorporated under the auspices of the religious institution; a religious school that wishes to become independent may obtain a charter and have separate incorporation as an educational corporation, but this is not required. An independent school may be either not-for-profit or for-profit. An independent not-for-profit school must obtain a provisional charter from the Board of Regents, which serves as incorporation as an education corporation. An independent for-profit entity must incorporate with the New York State Department of State after being approved by the education department through a commissioner’s consent [per New York State Education Department’s website.](#)

Curriculum

- Instruction given to a minor elsewhere than in a public school must be substantially equivalent to the instruction given at the local public school. [N.Y. Edn. Law §3204.2.](#)
- The course of study for the first eight years of public school must include arithmetic, reading, spelling, writing, the English language, geography, United States history, civics, hygiene, physical training, the history of New York state, and science. Beyond the first eight years, instruction must include the English language and its use, civics, hygiene, physical training, American history including the Declaration of Independence and the Constitution of the United States, and may include a course in communism and its methods and its destructive effects. [N.Y. Edn. Law §3204.3.](#)
- English is the language of instruction, and textbooks used must be written in English, except for a limited time (3 to 6 years) for students with limited English proficiency. [N.Y. Edn. Law §3204.2.](#)

- As part of health education, all schools must provide instruction to discourage the misuse and abuse of alcohol, tobacco, and other drugs; and promote attitudes and behavior that enhance health, well-being, and human dignity. [N.Y. Edn. Law §804.](#)
- Students may be excused from health and hygiene if it conflicts with their parent or guardian's religion and is certified by a representative of their religion. [N.Y. Edn. Law §3204.5.](#)
- Private schools offering instruction deemed substantially equivalent to public schools must offer courses of instruction in patriotism, citizenship, and human rights issues (with particular attention to the study of the inhumanity of genocide, slavery, and the Holocaust) for students over 8 years old, and instruction in the Constitution of the United States and New York and the Declaration of Independence for students in grades eight through 12. [N.Y. Edn. Law §801.1, 2.](#)
- Similar physical education courses to those required of public schools shall be prescribed and maintained in private schools in the state, and all pupils in grades kindergarten through 12 shall attend such courses. [8 CRR-NY 135.4.](#)
- Private and parochial schools must provide instruction in fire and arson prevention as prescribed by the commissioner of education. Instruction must be given at least 45 minutes every month while school is in session. [N.Y. Edn. Law §808.](#)
- Private schools offering instruction deemed substantially equivalent to public schools must offer instruction in highway safety and traffic regulations, including bicycle safety. [N.Y. Edn. Law §806.1.](#)
- A registered nonpublic school operating prekindergarten and/or kindergarten programs must adopt and implement curricula aligned with the state learning standards that provides continuity to the instruction of early elementary grades and through grade 12. Information on the standards to be included can be found in [8 CRR-NY 100.3.](#)

Health and Safety Requirements

- Students attending private schools must have certificates of immunization unless a physician certifies that the immunization is detrimental or if immunization is contrary to the genuine and sincere religious beliefs of the parents or guardians. School principals may not admit students in excess of 14 days who do not have a certificate. (The period may be extended to 30 days if plans for the immunization are in progress.) School principals have a duty to inform parents or guardians of the necessity of immunization and the availability of free immunizations through the local health officer. If students are excluded from school for lack of immunization, principals must notify the local health authority and the parents or guardians and provide an opportunity for immunization through the local health authority if the parent consents. [New York Public Health Law \(N.Y. Pub. Health Law\) §2164.](#)
- Smoking is prohibited in all private schools and on school grounds, with an exception for adult faculty and staff members, who may be permitted to smoke in designated areas during non-school hours. (School hours include periods when any student activity or any officially sanctioned school event is supervised by faculty or staff.) [N.Y. Pub. Health Law §1399-o.](#)
- Private school authorities may ask students to be examined for drug abuse and submit to a urine analysis upon written consent of the parents. [N.Y. Edn. Law §912-a.](#)

- Private school administrators have a duty to train pupils to exit the building in a sudden emergency. Fire drills must be conducted at least 12 times each school year; eight of the drills must be held between September 1 and December 1; one-third of the drills should use fire escapes on buildings if provided; and at least one drill should instruct students how to leave the building during lunch period. With regard to boarding schools and summer programs, additional drills are prescribed in [N.Y. Edn. Law §807](#). An administrator failing to comply with this provision is guilty of a misdemeanor. [N.Y. Edn. Law §807](#).
- Private schools must submit the most current plan and specification of their school building to the local fire and law enforcement officials. [N.Y. Edn. Law §408-b](#).
- Administrators of private schools (i.e. those with a kindergarten with six or more pupils and establishments other than public schools with 25 or more pupils) must have the school buildings inspected annually for fire hazards. Inspections must be conducted prior to December 1, and a report must be filed with the state fire administrator on forms provided by the commissioner of education. The provision is inapplicable for school authorities in New York City, Buffalo, Rochester, Syracuse, and Yonkers. [N.Y. Edn. Law §807-a](#).
- Private schools located in areas with local fire departments unequipped with electronically operated fire alarm reporting systems may have their internal school fire alarms interconnected with the fire alarm reporting location or system. Installation and maintenance costs must be apportioned to the school authorities. [N.Y. Edn. Law §807-c](#). Private schools having a central annunciator panel identifying activated alarms must locate the panel so it can be read without entering the building. [N.Y. Edn. Law §807-d](#).
- Private and parochial schools must have a pesticide notification procedure for staff and parents or guardians if pesticide application occurs on school grounds. If parents or guardians wish, they can register with the school to receive notification 48 hours prior to application. The schools must also provide the staff and parents or guardians an accounting of pesticide applications during the year within 10 days of the end of the school year and within two days of the end of winter and spring recess. [N.Y. Edn. Law §409-h](#).
- The commissioner of general services in consultation with others must establish and amend guidelines of what environmentally sensitive cleaning and maintenance products should be used in elementary and secondary schools, including private and parochial schools. [N.Y. Edn. Law §409-i](#).
- The Division of Criminal Justice Services must disseminate a missing children's bulletin to the state education department for public and private school use. The division will help the private schools develop education and prevention programs concerning child safety. [N.Y. Exc. Law §837-f](#).
- New York restricts retail liquor licenses for on-premises consumption within 200 feet of a building used exclusively as a school. [N.Y. Alco. Bev. Cont. Law §64.7](#).
- Administrators of private schools must arrange for every participant in shop or laboratory classes involving dangerous activities, as specified, to wear eye safety devices in accordance with state regulations. [N.Y. Edn. Law §409-a](#).
- Nonpublic school administrators must require that batboys and bat girls participating in baseball and softball competitions wear protective headgear when on the field and the game is in play. [N.Y. Edn. Law §409-c](#).

- New York State has a healthy and safe school environment grant available to nonpublic schools. [N.Y. Edn. Law §549.](#)
- Nonpublic schools are permitted to have licensed registered professional health care personnel train unlicensed personnel to inject prescribed glucagon or epinephrine auto injectors in emergency situations, where an appropriately licensed health professional is not available, when there is written permission of a physician and written parental consent. [N.Y. Edn. Law §921.](#)
- In New York City, smoking or using electronic cigarettes is prohibited on school grounds of private schools. [NYC Admin Code §17-503.](#)
- The commissioner must develop rules and regulations to require fingerprinting of prospective employees of nonpublic schools. The nonpublic schools that elect to fingerprint have the responsibility to inform the prospective employee of requirements for fingerprinting and a background check. [N.Y. Edn. Law §305.30.](#)

Length of School Year and Days

- Unless shorter instruction time has been approved by school authorities as substantially equivalent in amount and quality, students attending nonpublic schools must attend for at least as many hours as required in public schools. In addition, permitted absences must follow the general rules and practices of the public schools. Absence for religious observances and education are permitted under rules established by the commissioner. Holidays and vacations must not exceed the amount allowed by public schools. [N.Y. Edn. Law §3210.2.](#)
- A full-time day school must be in session for not less than 190 days each year, inclusive of legal holidays during the term and exclusive of Saturdays. Accounting for the 10 state public holidays, schools must be session 180 days. [8 CRR-NY 175.5](#)
- Nonpublic schools receiving state aid must have a minimum of 2½ instructional hours for half-day kindergarten, five instructional hours for full-day kindergarten and grades one through six, and 5½ instructional hours for grades seven through 12. [8 CRR-NY 175.5.](#)

Nursing and Health

- Upon request, local school districts must provide all health and welfare services and facilities that are available to public school students to students attending schools other than public ones. Services may include, but are not limited to, those performed by a physician, dentist, dental hygienist, nurse, school psychologist, social worker, or speech therapist; maintenance of health records; and emergency care programs for ill or injured pupils. [N.Y. Edn. Law §912.](#)
- Private schools are eligible to apply to the office of mental health for education grants for the identification and treatment of adolescents who are at high risk for suicide. N.Y. Mental Hyg. Law §41.49.
- Nonpublic secondary schools must have a guidance and counseling program for students in grades seven through 12. [8 CRR-NY 100.2 \(j\)\(2\).](#)

- In New York City, the department of education must provide at least one full-time nurse to a private primary or intermediate school with at least 200 students that submits a written request and has a suitable medical room. NYC Admin Code §17-187.

Professional Development

- No state policy currently exists.

Recordkeeping and Reports

- The commissioner of education is under a statutory duty to establish procedures for a statewide system of assigning unique student identification numbers for all students in public and nonpublic schools for student tracking and state reporting purposes. [N.Y. Edn. Law §305.22](#).
- Teachers are required to keep an accurate record of attendance as prescribed by the commissioner of education. Principals must ensure attendance records are maintained and produced if requested by school authorities. The principal must notify school authorities in writing of any student transfers or discharges. Additionally, the nonpublic school must have a comprehensive attendance policy as elaborated in 8 CRR-NY 104.1 (i). 8 CRR-NY §104.1 and [N.Y. Edn. Law §3211](#).
- Boards of Cooperative Educational Services of New York State are authorized to enter into contracts with nonpublic schools to provide data processing service for pupil personnel records and other administrative records of the nonpublic schools. [N.Y. Edn. Law §1950.4.h.4](#).
- Nonpublic schools that are members of the University of the State of New York must complete verified reports as prescribed by the regents or the commissioner of Education. [N.Y. Edn. Law §215](#). In addition, these schools must provide information to the regents for their annual report to the governor and the legislature concerning the schools of the state. [N.Y. Edn. Law §215-a](#).
- Nonpublic schools must maintain individual pupil records. If a nonpublic school discontinues operation, it must notify the commissioner and the chief school administrator in the district where the school is located. If the pupil academic records are not transferred to another school or agency, the nonpublic school that has discontinued its operation must transfer the records to the school district in which the school is located, and the chief school administrator will be responsible for permanently maintaining such records. [8 CRR-NY 104.2](#).
- Nonpublic schools may make purchases, except of printed material, through the State Division of Standards and Purchase, Office of General Services. Boards of education may permit nonpublic schools to make purchases through the local school district provided administrative costs are paid by the nonpublic schools. [N.Y. Gen. Mun. Law §109-a](#).
- The commissioner of education is under a statutory duty to give timely notice to nonpublic schools of alternate sources of funding, including competitive grants. [N.Y. Edn. Law §305.2](#).
- Nonpublic schools must provide a comprehensive assessment report for the three school years prior to the reporting school year. The report must include student test data, student enrollment, data on diplomas and certificates, information on the number

of students transferred to alternative high schools, high school equivalency preparation programs as described in [8 CRR-NY 100.7](#), and additional information the chief administrative office of the nonpublic school finds relevant or the commissioner requests. [8 CRR-NY 100.2 \(m\)\(5\)](#).

Reimbursement for Performing State and Local Functions

- The state commissioner of education annually apportions to qualifying schools (nonprofit, nonpublic schools providing instruction in accordance with [N.Y. Edn. Law §3204](#)) the actual cost incurred by each school for compliance with state requirements of the pupil evaluation program, basic educational data systems, Regents Examinations, the statewide evaluation plan, uniform procedures for pupil attendance reporting, and other similar state-prepared examinations and reporting procedures. 1974 N.Y. Laws, chapter 507, as amended by chapter 508. The current list of mandated actions that are eligible for reimbursement is found here.

Special Education

- Upon a parent or guardian's written request, nonpublic schools students may receive services for gifted pupils, occupational and vocational education, and education for students with disabling conditions and related services provided the instruction is given to public school students. Transportation is provided if the distance between the nonpublic school and the public school exceeds one-quarter mile, except students with disabilities receive transportation according to their needs. Students are considered dually enrolled for the purposes of receiving the services. [N.Y. Edn. Law §3602-c](#).
- School districts may provide students with disabilities special services or programs through contracts with private residential and nonresidential schools approved by the commissioner. [N.Y. Edn. Law §4401.2 \(e\), \(f\), and \(g\)](#).
- All professional instructional and supervisory personnel at private schools providing public placements for children with disabilities must be appropriately certified. [8 CRR-NY 200.7\(b\)\(6\)](#).
- School boards must provide suitable transportation up to a distance of 50 miles to and from a nonpublic school which a child with disabilities attends to receive special education services. [N.Y. Edn. Law §4402.4 \(d\)](#).
- The state department of education has a duty to audit nonpublic schools receiving public money for services to children with disabilities. [N.Y. Edn. Law §4403.5](#).
- A nonpublic school may issue a high school individualized diploma to a pupil with a disability as defined in [8 CRR-NY 200.1\(mm\)](#). [8 CRR-NY 100.9](#).

Teacher Certification

- Instruction may only be given by a competent teacher. [New York Education Law \(N.Y. Edn. Law\) §3204.2](#).
- All professional instructional and supervisory personnel at private schools providing public placements for children with disabilities must be appropriately certified. [8 CRR-NY 200.7\(b\)\(6\)](#).

- Coaches of high school extra-class nonpublic school athletic activities must meet and stay current in training requirements in first aid and adult cardiopulmonary resuscitation. [N.Y. Edn. Law §3001-c.](#)
- The department of education has established a teacher career recruitment clearinghouse, which provides nonpublic schools with (1) an applicant database; (2) information regarding financial assistance for students interested in careers in education or employment opportunities in education; and (3) information about certification and licensure requirements. [N.Y. Edn. Law §3034.](#)

Technology

- Upon request, local school districts will loan computer software to private school students free of charge. Software programs must be designated for use in any public school or approved by school authorities. [N.Y. Edn. Law §752.](#)
- Upon request from an individual or group of individual nonpublic school students, local school districts must loan smart schools classroom technology free of charge. [N.Y. Edn. Law §755.](#)
- Twenty-first century (public) schools cannot be exempted from the part of the state education regulation that requires teacher, staff, and parent participation and involvement; maintenance of effort; or equitable participation of students and staff in nonpublic schools. [N.Y. Edn. Law §309-a.](#)
- The commissioner of education may approve applications from school districts and boards of cooperative educational services for funding for approved learning technology programs, including services benefiting nonpublic school students pursuant to §550 of Chapter 170 of the N.Y. Laws of 1994. [§ CRR-NY 144.8\(a\).](#)

Testing

- Students at a registered nonpublic high school are eligible to receive a Regents Diploma or a local diploma if they complete the curriculum described in [§ CRR-NY 100.5.](#)
- Alternative testing can be used for students determined by the committee on special education as having a handicapping condition or students whose native language is other than English, with restrictions concerning the Regents Competency Tests in reading and writing. Nonpublic schools must report the use of alternative testing procedures to the New York State Department of Education. [§ CRR-NY 100.2 \(g\).](#)
- A nonpublic school, not including a registered high school, will be placed under department review when the school scores below one or more of the review criteria discussed in § CRR-NY 100.2(p). These criteria include results of assessments. [§ CRR-NY 100.2 \(z\).](#)

Textbooks

- Upon request, local school districts have the power and the duty to loan textbooks free of charge to children enrolled in nonpublic schools. Textbooks must be designated for use by public schools or approved by school authorities. School districts must loan textbooks to public and nonpublic schools on an equitable basis. [N.Y. Edn. Law §701.3,4.](#)

- The loan of free textbooks to parochial schools does not violate the New York Constitution. *Bd. of Education v. Allen*, 228 N.E.2d 791 (1967).
- School districts have the power and duty to loan school library materials to pupils attending private schools. The materials must be designated for use in any public elementary or secondary school of the state or approved by the board of education, trustees, or other school authorities. [N.Y. Edn. Law §712](#).

Transportation

- The New York Constitution allows the state legislature to provide transportation for students to and from private schools. New York Constitution Art. XI, Sec. 3.
- Non-city school districts are required to provide transportation for students living up to 15 miles from their school. Transportation is provided for all children residing within the school district who are in need (students in kindergarten through grade eight residing more than 2 miles from school and those in grades nine through 12 residing more than 3 miles from school. City school districts are not generally required to provide transportation; but if provided, transportation must be offered equally to all children in like circumstances. Transportation from centralized pickup points at public schools may be provided to pupils attending nonpublic schools under certain circumstances. Superintendents of cities in excess of 1 million must notify nonpublic school officials who have requested transportation of the school calendar for the following year by June 1. [N.Y. Edn. Law §3635.1.a-c; 2-a](#).
- The commissioner of transportation has authority to regulate for safety all motor vehicles transporting passengers to and from schools, for hire, or owned and/or operated by any private school. [N.Y. Transp. Law §140.2.a.\(i\)](#).
- Nonpublic school vehicle operators may apply for reimbursement of the motor vehicle tax expended exclusively in education-related activities. [N.Y. Tax Law §289-c.3.e](#).

Resources

Contact Information – State and Federal Departments of Education

- New York State Education Department
89 Washington Avenue
Albany, NY 12234
Phone: (518) 474-3852
Nonpublic and Private Schools: (518) 474-6541
Website: <http://www.nysed.gov/>
- U.S. Department of Education, [New York](#)

Information and Legislative

- [New York State Education Department: Nonpublic Schools](#)
- [New York State Education Department: Manual for New Administrators of Nonpublic Schools](#)

- [New York State Education Department: Policy & Guidance](#)
- [Code, Rules and Regulations of the State of New York](#)
- Part 100 Regulations of the Commissioner of Education
- Subchapter E. Elementary and Secondary Education

School Choice Programs

New York currently does not have an Education Savings Account (ESA) program.