

May 17, 2019

Chancellor Betty Rosa
Regents Office
State Education Building
89 Washington Avenue
Albany, NY 12234

Commissioner MaryEllen Elia
NYS Education Commissioner
State Education Building
89 Washington Avenue
Albany, NY 12234

Dear Chancellor Rosa and Commissioner Elia,

Tens of thousands of children attending non-public schools in New York State are receiving little or no instruction in basic subjects. We are calling for action from the NY State Education Department.

Section 3204 of NY Education law provides that "Instruction given to a minor elsewhere than at a public school 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."

Local School Authorities have been tasked with enforcing this law, but many have ignored their duty. Complaints from parents have not resulted in enforcement action. Some non-public schools refuse to even allow local school officials to enter.

In response to complaints, The New York State Department of Education updated their guidelines for Local School Authorities. However, Justice Christina L. Ryba of the State Supreme Court in Albany County has ruled that the content of the guidelines constitute "regulations", because they mandate school visits and dictate when such visits are to begin, and the procedures for new regulations must be followed.

Because the procedure for new regulations under the State Administrative Procedures Act can be very lengthy, there is a provision for "Emergency Adoption" when necessary for the "preservation of the ... general welfare" and when delaying action would be "contrary to the public interest". The public comment period and other regulatory requirements still proceed, but do not delay the urgent and essential emergency action necessary to protect children and the public interest.

We believe that the continuing extreme and flagrant violation of Section 3204 constitutes just such an emergency. We agree with Thomas Jefferson, who said that the education "of the whole mass of the people" is "the only sure reliance for the preservation of our liberty." Too many children have already been harmed by the failure of government agencies to protect their rights. The buck has been passed for long enough.

We call on the New York State Department of Education to file a Notice of Emergency Adoption with the Division of Administrative Rules, using the updated educational guidelines as the basis for new regulations.

Signed:

NAACP (Spring Valley)
Orangetown Democratic Committee
Power of Ten
Rockland Citizens Action Network
Rockland Coalition to End the New Jim Crow
Rockland United