



Book	Draft Policies from NYSSBA
Section	1000
Title	RELATIONSHIP WITH NONPUBLIC SCHOOLS
Code	1740
Status	First Reading
Last Revised	May 14, 2024

☐ Required

☐ Local

☒ **Notice**

NOTE: We have provided this policy to update and expand the Board's current policy 8340, Textbooks/Workbooks, the portion addressing loan to students attending nonpublic schools in the district. This policy has been updated to summarize all the programs and services that districts are required to provide to nonpublic school students. In addition, the State Education Department's guidance advises that the Board of Education may adopt a policy to permit nonpublic school students to participate in the district's school-sponsored club activities. If the Board wishes to do this, we have included a section below that addresses extracurricular activities. See additional bold text below.

In recognition of its responsibility under state law and regulation, the Board of Education will make available required public school materials, equipment, and services to resident students who attend nonpublic schools.

For purposes of this policy, the term parent includes parent, guardian or person in parental relation.

Textbook Loan

The Board is required to purchase and to loan, upon individual request, textbooks to all children residing in the district who are attending grades kindergarten through twelve in any public or nonpublic school which complies with the compulsory education law.

It is also understood that the textbooks must be loaned free to the children, but Boards may make reasonable rules and regulations regarding such loan(s).

Therefore, the following rules and regulations govern the loan of textbooks to residents of the district attending nonpublic schools:

1. The textbooks remain the property of the district.
2. The textbooks are returned at the end of the nonpublic school year.
3. If lost or destroyed, the textbooks are paid for in the same fashion as the students attending district schools.

Any such textbook must be designated for use in a public school of the state or approved by a board of education or other school authority. The district may require parents or nonpublic schools to submit evidence of this, which may be in the form of a verifiable authenticated list of school districts using the textbooks from the publisher. Textbooks must be nonsectarian in nature and may not carry the endorsement of a religious authority.

The district is not required to spend more than the total amount of textbook aid it receives, although it may provide for additional funds as part of its annual budget. If funding is inadequate to purchase all the books required, to ensure equitable distribution, the district will determine which categories of textbooks (e.g., type (such as consumable workbooks), subject areas, grade levels) may be loaned to both public and nonpublic students within the resources available.

The Superintendent will specify the date by which requests for textbooks must be received by the district and provide notice to all parents of resident students and administrators of those nonpublic schools attended by resident students (where known) of that date. This date must not be earlier than June 1st; however, requests made within 30 days of enrollment in the nonpublic school, or those made after the deadline will not be denied if a reasonable explanation for the delay is given. Requests may be submitted directly by the parent, or via a combined request from the nonpublic school.

Instructional Computer Hardware and Software Loan

The Board is required to loan instructional computer hardware and software, upon request, to all pupils legally attending nonpublic elementary or secondary schools located in the school district. The district will loan instructional computer hardware and software on an equitable basis, however software and hardware purchased with any local, federal or state funds, other than Instructional Computer Hardware or Software Aid funds, are not required to be loaned to nonpublic school students.

In addition, the district will only purchase and loan software programs that do not contain material of a religious nature.

The Superintendent will specify the date by which requests for instructional computer hardware and software must be received by the district and provide notice to all nonpublic schools located within the district of that date. This date must not be earlier than June 1st; however, requests made within 30 days of enrollment in the nonpublic school, or those made after the deadline will not be denied if a reasonable explanation for the delay is given.

Library Materials

NOTE: This section summarizes the requirements of Education Law 712 and 8 NYCRR 21.4 regarding library materials. The district can require requests be made directly with the district rather than through an official of the nonpublic school, or can designate a particular nonpublic school official. The district may attach specific lending procedures to this policy.

Library materials owned or acquired by the district are required to be made available on an equitable basis to students in grades K-12 attending nonpublic schools located within the district, where the materials are required for use as a learning aid in a particular class or program, and loaned for individual student use only, upon the individual request of a student or group of students. The request may be presented either directly to the district or via the administrator of the nonpublic school. Parents must guarantee the return of the materials, and must pay for the value of any loss and/or damages.

Special Education Services

NOTE: The section below addresses 3602-c of Education Law (also known as the dual enrollment law), which requires school districts, upon parental request, to provide students attending nonpublic schools with education for students with disabilities.

The district must provide education for students with disabilities enrolled in nonpublic schools located within the district, regardless of whether such students are residents of the district, upon written request by the parent.

Such services will be provided in regular classes of the district, not separately from district students. See board policy 4321.10, Programs and Services for Parentally-Placed Nonpublic School Students with Disabilities, for additional information.

Career Education and Services for Gifted Students

NOTE: The section below summarizes the requirements of Education Law 3602-c regarding dual-enrollment services for career education and gifted students.

If the district provides career education and programs for gifted students, the district is required to provide the same for students enrolled in nonpublic schools located within the district, upon written request by the parent. Such services will be provided in regular classes of the district, not separately from district students.

Written requests for career education or services to gifted students must be filed with the school district where the parent resides by June 1st of the year prior to the school year for which the request is made. The home school district will contract with the district for such services. Transportation will be provided between the nonpublic school and the site where the program is offered if that distance is more than a quarter of a mile. Transportation for students with disabilities will be provided in accordance with their needs.

Health and Welfare Services

NOTE: The section below reflects the requirements of Education Law 912.

The district is required to provide, upon request of a nonpublic school, health and welfare services which are equivalent to those available to resident students attending the district's schools, to nonpublic school students who are district residents. For resident students attending a nonpublic school located outside the district's boundaries, the district will contract with the district where the nonpublic school is located to provide such services.

Transportation

NOTE: The section below reflects the requirements of Education Law 3635.

The district will provide transportation to resident students attending nonpublic schools as required by law and outlined in policy 8413, Transportation for Nonpublic School Students.

Participation in Extracurricular Activities

NOTE: Boards may permit nonpublic school students to participate in the district's school-sponsored club activities. However, SED guidance, while in the context of home-instructed students, advises that the Board of Education may permit students educated at other than the public school to participate in the district's non-credit bearing school-sponsored, extracurricular activities. If the Board wishes to do this, adopt policy language such as that in the paragraph below. The SED guidance does not specify whether such students would be those who reside in the district or attend a nonpublic school located in the district.

The Board recognizes that students attending nonpublic schools are not entitled to participate in interscholastic or intramural sports. However, the Board will permit such students to participate in certain other school-sponsored extracurricular activities if they are residents of the district. The district may request certification from the nonpublic school that all immunization requirements have been met. Specifically, the Board will permit nonpublic students to participate in non-credit-bearing organized school activities such as clubs that are not open to the general public.

Regulations

The Board authorizes the Superintendent of Schools to establish any and all rules, regulations, and procedures necessary to implement and maintain this policy.

Cross-ref:

1741, Home-Schooled Students

4321.10, Programs and Services for Parentally-Placed Nonpublic School Students with Disabilities

8413, Transportation to Nonpublic School Students

Ref:

Education Law 701 (textbooks); 712 (library materials); 751-754 (computer hardware and software); 912 (health services); 1709; 3204; 3602-c (special education); 3635 (career education and gifted services)

8 NYCRR 21.2; 21.3; 21.4; 175.25

Mitchell v. Helms, 530 U.S. 793 (2000)

Russman v. Sobol, 85 F.3d 1050 (2d Cir. 1996)

Zobrest v. Catalina Foothills Sch. Dist., 509 U.S. 1 (1993)

Aguilar v. Felton, 473 U.S. 402 (1985)

Board of Educ. v. Allen, 392 U.S. 236 (1968)

Formal Opinion of Counsel No. 181, 5 EDR 258 (1966)

Appeal of Beyda, 58 Ed Dept Rep, Dec. No. 17,540 (2018)

Appeal of McLoughlin and Wood, 55 EDR Dec. No. 16,886 (2016)

Appeal of Hoerter, 48 EDR 373 (2009)

Appeal of Bruning, 48 EDR 84 (2008)

Adoption date: