



OFFICE OF P-12 EDUCATION: Office of Special Education  
ASSISTANT COMMISSIONER  
Room 301M EB, 89 Washington Avenue • Albany, NY 12234  
[www.p12.nysed.gov/specialed/](http://www.p12.nysed.gov/specialed/)

Telephone (518) 402-3353  
Fax: (518) 402-3534

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## SPECIAL EDUCATION FIELD ADVISORY

**TO:** Executive Directors of Approved Private Residential Schools  
Superintendents, Special Act School Districts  
Superintendents, State-Operated Schools  
Superintendents, State-Supported Schools  
Out-of-State Approved Residential Schools

**FROM:** James P. DeLorenzo 

**SUBJECT:** Chapter 501 of the Laws of 2012: "Protection of People with Special Needs Act"

The purpose of this memorandum is to provide information regarding Chapter 501 of the Laws of 2012: "Protection of People with Special Needs Act" and changes to the requirements for the standards for the protection of day and residential students who attend a residential school (i.e., the New York State School for the Blind, the New York State School for the Deaf, a State-supported school which has a residential component, a special act school district, or an approved private residential school). Chapter 501 of the Laws of 2012 is effective on June 30, 2013. The new law includes provisions to:

- Create uniform safeguards for vulnerable persons in facilities or provider agencies that are operated, certified, or licensed by State oversight agencies (i.e., Office of Mental Health, Department of Health, Office for People With Developmental Disabilities, Office of Children and Family Services, Office of Alcoholism and Substance Abuse Services, and the State Education Department (SED)) to protect them against abuse, neglect and other conduct that may jeopardize their health, safety and welfare.
- Standardize the definitions of abuse, neglect and significant incidents in covered facilities and programs and establish notification and investigation requirements for allegations of abuse and neglect of individuals and other significant incidents that affect individuals placed in facilities or provider agencies. A significant incident is an incident, other than abuse or neglect, which because of its severity or sensitivity of the situation, may result in, or has the reasonably foreseeable potential to result in, harm to the health, safety or welfare of a student.

- Establish the Justice Center for the Protection of People with Special Needs, which will assume the functions and responsibilities of the former Commission on Quality of Care and Advocacy for Persons with Disabilities. The Justice Center will be responsible for investigations of allegations of serious abuse and neglect of vulnerable persons in State-operated and licensed facilities, including residential schools under SED's oversight; overseeing implementation of the procedures of State oversight agencies for tracking, investigating and monitoring corrective actions of allegations of abuse, neglect and significant incidents; maintaining a register of individuals who have committed serious acts of abuse (Staff Exclusion List); and establishing codes of conduct of ethical standards to which all individuals who have regular contact with people with special needs would be held accountable.

In coordination with the Justice Center, SED and other State oversight agencies will be assigned to investigate significant incidents that occur in residential schools and monitor corrective action plans. In-State residential schools will be required to:

- establish incident management procedures to ensure the timely reporting of and appropriate response to allegations of abuse, neglect and significant incidents;
- establish an incident review committee to review the school's response to reportable incidents, make recommendations for opportunities for improvement and assist in reducing reportable incidents, review patterns and trends concerning reportable incidents, and make recommendations to the director of the facility or provider agency to assist in reducing reportable incidents;
- conduct investigations of certain significant incidents when so directed by SED or another State oversight agency;
- revise hiring and employee termination procedures to ensure that the applicant is not listed on the Staff Exclusion List; and
- ensure training is provided to staff on the requirements of Chapter 501, including appropriate reporting responsibilities.

Out-of-State residential schools will be required to:

- immediately notify the Justice Center, SED and any local social services district and/or school district who placed the student or the state agency funding the placement when there is an allegation of abuse or neglect of a New York State student;
- comply with the procedures for the protection of students and cooperate with any investigation conducted by the Justice Center; and
- if the investigation is not conducted by the Justice Center, forward any investigation findings to the Justice Center, SED, the Committee on Special Education and the social services district in New York State within 90 days of receiving the findings.

SED will propose an amendment to Part 200 of the Regulations of the Commissioner of Education to implement the new requirements of Chapter 501 and guidelines and standards developed by the Justice Center, including requirements relating to incident management procedures. Information on the proposed regulations will be discussed at the June Board of Regents Meeting. Following adoption of the regulations, SED will issue guidance to all schools affected by these new requirements.

Additional information regarding Chapter 501 and the Justice Center is available at <http://www.governor.ny.gov/Justice4SpecialNeeds/home>. A copy of the full text of the law can be viewed at <http://www.governor.ny.gov/assets/justice4specialneeds/LBDCinfo.htm>.

I ask each residential school administrator to share this memorandum with all school staff. Questions regarding this change in legislation may be directed to the Special Education Policy Unit at [speced@mail.nysed.gov](mailto:speced@mail.nysed.gov) or (518) 473-2878.