



RENÉE L. RIDER, ASSISTANT COMMISSIONER
OFFICE OF STUDENT SUPPORT SERVICES
89 Washington Avenue, Room 319-M EB
Phone: (518) 474-4817; Fax: (518) 474-7758
E-mail: renee.rider@nysed.gov; Web: www.p12.nysed.gov/sss/

***Questions and Answers Regarding Recent
Statutory and Regulatory Changes
Related to School Emergency Response Planning
August 10, 2016
Revised August 29, 2016***

The 2016-17 enacted State budget included amendments to Education Law Sections 2801-a and 807 (Chapter 54 of the Laws of 2016) related to school emergency response planning. The changes to legislation summarized in the May 19 memorandum from Assistant Commissioner Renee Rider became effective on July 1, 2016 (http://www.p12.nysed.gov/sss/documents/NewSafetyLegis_FieldMemoFINAL.pdf).

Accordingly, the Board of Regents adopted at the June 2016 meeting, amendments to Commissioner's regulation §155.17 as an emergency measure to conform to the legislative changes to Education Law §§2801-a and 807 which included:

- revisions to make the language of the regulation consistent with the amended statute;
- the date by which the board of education must adopt or amend district-wide school safety plans and Building-Level Emergency Response Plans each school year was delayed from July 1 to September 1, beginning with the 2016-17 school year;
- the date by which the Building-Level Emergency Response Plan must be submitted to the New York State Police and local law enforcement is still within 30 days of adoption. However, such submission must occur no later than October 15;
- the date by which staff must receive annual school safety and school violence prevention training, which must include components of mental health, is September 15.

The amended regulation became effective on July 1, 2016. It is anticipated that the emergency regulation will be presented to the Board of Regents for permanent adoption at the September 2016 meeting (<http://www.regents.nysed.gov/common/regents/files/616p12a3.pdf>).

Questions and Answers are provided below for your information.

1. *What is the deadline for submitting Safety Plans and annual revisions?*

District-wide school safety plans and building-level emergency response plans must be adopted or amended by September 1st of each school year. The Building-Level Emergency Response Plan is secure and must be submitted to the New York State Police and local law enforcement within 30 days of adoption, but no later than October 15. The district-wide school safety plan must be posted on the district website and must not contain confidential information.

2. *Has the Building-Level Emergency Response Plan template been mandated yet?*

In the 2016-17 school year, schools are required to use the Building-Level Emergency Response Plan Template which was developed and distributed by the New York State School Safety Improvement Team.¹ The template was shared with districts during statewide regional meetings that occurred during the past two school years. The template requires that schools provide essential information, in a standard predefined format. The use of a standardized format for collecting this information is the best way to ensure that police and other first responders have immediate access to this information if an emergency situation does occur in a school. The template is available to school staff at: <https://safeschools.ny.gov/>. Please note that when districts request the State template, the template they will receive is dated February 2015. This template should be used for the 2016-2017 school year. Schools may include supplemental information beyond what is required by the template as an attachment to the copy of the plan that is kept in the school.

3. *My school submitted our Building-Level Emergency Response Plan in June 2016; must we submit the plan again in September 2016?*

For the 2016-17 school year, all schools must submit their plan using the State-approved Building-Level Emergency Response Plan template. This template includes school year specific information such as the location of students and staff in each building. Plans previously submitted meet the requirement for 2016-17 submission only if the plan is in the required template format (described in #2) and it contains information specifically for students and staff present in the school for the 2016-17 school year.

4. *Can my district adopt different functional annexes than are in the template developed by the New York State School Safety Improvement Team?*

New York State has adopted standardized Federal Emergency Management Agency (FEMA) language, which includes specific definitions of vital emergency terms. Using

¹ The New York State School Safety Improvement Team included staff from the New York State Police, the New York State Education Department, the New York State Division of Homeland Security and Emergency Services, and the New York State Division of Criminal Justice Services.

the standardized terms and definitions for Shelter-In-Place, Hold-In-Place, Evacuate, Lock-Out, and Lock-Down will improve and streamline how emergencies are communicated to staff, students, and parents so they can react appropriately, and in a timely fashion. The terminology used in the Building-Level Emergency Response Plan Template must be used by all schools in the 2016-17 school year. The Building-Level Emergency Response Plan Template is available at <https://safeschools.ny.gov/>.

5. How do I submit my school Building-Level Emergency Response Plan to the State Police and to Local Police?

NYSED is getting ready to launch a new application that allows schools to use the State Education Department Business Portal to electronically submit Building-Level Emergency Response Plans to the New York State Police. We expect the new automated system to be ready later this year. Once the automated system for collecting Building-Level Emergency Response Plans from schools is fully operational, it will allow the New York State Police to distribute the plans to troopers and other law enforcement in a consistent and comprehensive manner statewide. When the new, automated system is available, we encourage schools to use this new system for the 2016-17 school year. However, all districts will be required to use the new, automated system to submit their plans for the 2017-18 school year. Until the new automated system is operational, schools must continue to submit the Building-Level Emergency Response Plans via <https://safeschools.ny.gov/> and share their Building-Level Emergency Response Plans with local law enforcement in the 2016-17 school year.

6. Is it a new requirement that my school must submit a copy of our school Building-Level Emergency Response Plan to the New York State Police? Do I need to submit my Plan to BOCES?

Education Law §2801-a continues to require districts to share a copy of the Building-Level Emergency Response Plan with local law enforcement and the New York State Police, a requirement that has been in the statute since 2000. There is nothing in statute or regulation requiring a school to submit their emergency response plan to BOCES.

7. Where do I send my District-Wide School Safety Plan?

Education Law §2801-a and Commissioner's regulation §155.17 require each district to file a copy of its District-Wide School Safety plan with the Commissioner. To comply with this requirement, each district must post their District-Wide School Safety Plan on the district website. Districts will be required to submit the web address/URL of the District-Wide School Safety Plan as part of the Basic Educational Data System (BEDS) collection beginning in October 2016.

8. Is the requirement now that in lieu of 12 fire drills, we have 12 overall drills (4 lock down, and 8 evacuation)? Does this mean that the fire alarm does not need pulled 8 times?

To comply with Education law §807, each school must conduct 4 lock-down and 8 evacuation drills (12 drills total) each year.² While not required by this statute, it is also recommended that schools review lock-out and shelter-in place procedures.

Annual drills should include practice and use of the alert and warning procedures, including fire alarms when appropriate, as well as communication systems and protocols, staff responsibilities, early dismissal, evacuation and sheltering procedures and other procedures appropriate to the type of drill being performed.

9. What amendments took place July 1, 2016? What action will the Board of Regents take in September 2016? Will these changes be in effect 2016-17 or 2017-18?

The Board of Regents approved emergency changes to Commissioner’s regulation §155.17 in June 2016 to conform to the legislative changes to Education Law §§2801-a and 807, which became effective on July 1, 2016 and are in effect for the 2016-17 school year. It is anticipated that the Board of Regents will adopt these changes permanently at the September 2016 meeting. You can find more information about the legislative changes at: <http://www.regents.nysed.gov/common/regents/files/616p12a3.pdf>.

10. How do I certify that my school district has completed the annual school safety training?

Certification that all staff received training, the name and contact information for the District Chief Emergency Officer, and the web address/URL for the District-Wide Safety Plan will be collected as part of the Basic Educational Data System (BEDS) collection beginning in October 2016. The public school **district** BEDS collection will include the following questions:

i. *Have all district and school staff received the required annual training on the building-level emergency response plan and school safety (including violence prevention and mental health components)?*

Yes _____
No _____

ii. *Chief Emergency Officer Contact Information:*

Name: _____
E-Mail Address: _____
Telephone Number: _____

iii. *Provide the web address (URL) of the District-Wide Safety Plan below.*

² For more specific information please see the May 19 memorandum from Assistant Commissioner Renee Rider, became effective on July 1, 2016 (http://www.p12.nysed.gov/sss/documents/NewSafetyLegis_FieldMemoFINAL.pdf).

11. Are there resources to help develop a "suicide crisis handling" section in my plan?

Education Law §2801-a now requires the district-wide school safety plan to include policies and procedures for responding to implied or direct threats of violence by students, teachers, other school personnel and visitors to the school, including threats by students against themselves, which includes suicide. In addition, the district-wide safety plan should include standards and procedures relating to assistance from external resources and crisis response teams in such a situation, including when they should be utilized. Additional resources are provided in our mental health resources for educators. available here: <http://www.p12.nysed.gov/sss/documents/MentalHealthResourcesforEducators.pdf>.

12. Could you clarify point #8 from the May 19, 2016 memo which indicated that, "The amendments removed the Commissioner's authority to provide a waiver from the requirements of this section for a two-year period for schools that had plans in substantial compliance prior to the effective date of this section?"

Education Law §2801-a previously contained a provision permitting the Commissioner to waive the school safety plan requirements for schools that had a plan in place prior to the original enactment in 2000. That provision was only to be in place for two years. While the provision remained in the statute, it was no longer operational because more than two years have passed since the enactment.

13. Is public comment required on the summary of the Building-Level Emergency Response Plans whenever a change is made requiring approval by our board of education? Does this also mean that there is no longer a requirement to have a public hearing on the plan prior to board approval?

The amendments to the statute clarified who may have access to a Building-Level Emergency Response Plan, and explicitly provide that Building-Level Emergency Response Plans are confidential and should only be shared with members of the Building-Level Emergency Response Planning Team, authorized Department or school staff, and law enforcement. As a result, school districts are no longer required to provide a summary of the Building-Level Emergency Response Plan to the public.

14. Is a board of education required to formally approve the building level emergency response plans? There is some confusion in the field relating to the provisions in the statutory language and implementing regulations which require that a board of education adopt the about Building-Level Emergency Response Plan while at the same time maintaining its confidentiality.

Education Law 2801-a(1) specifically requires that a board of education adopt a district-wide school safety and a building level emergency response plan. Education Law 2801-a(3) requires all building level emergency response plans to be kept confidential and not disclosed except to authorized individuals. In addition, Education Law 2801-a(7) requires the building level emergency response plans to be kept confidential and shall not be subject to disclosure under Article 6 of the Public Officers

Law or any other provision of law. The proposed amendment implements these statutory requirements and therefore no revisions are needed.

Districts should consult with their local attorneys as to how to comply with the new law and regulations. However, please note that Public Officers Law, Article 7, Section 105(a) (Open Meetings Law) provides that matters which will imperil the public safety if disclosed are allowed to be approved through Executive Session. Given that revealing the contents of building level safety plans could imperil the safety of staff and students, a board of education may be able to approve these plans in Executive Session in order to maintain their confidentiality and meet the requirements of the new law.

15. Is "Chief Emergency Officer" in addition to a District Safety Officer and must the School Board appoint that person?

The Chief Emergency Officer, now required by Education Law §2801-a, is defined by both the statute and the implementing regulation, §155.17(a) as either the superintendent or the superintendent's designee. Furthermore, pursuant to the Education Law §2801-a, and the implementing regulations, the appointment of the Chief Emergency Officer is a required component of the District-Wide School Safety Plan. As such, it is a local decision whether this role will be filled by the superintendent or his/her designee. Likewise, it is a local decision whether to delegate the responsibility to an existing staff person or to add an additional staff position to meet the requirement.

Additionally, pursuant to Education Law §2801-a the board of education is responsible for ensuring the elements of District-Wide School Safety Plan and Building-Level Emergency Response Plans are implemented, which now includes the designation of a Chief Emergency Officer. Education Law §2801-a and the implementing regulations, require the Chief Emergency Officer to coordinate appropriate safety, security, and emergency training for district and school staff, annually update all Building-Level Emergency Response Plans, assist with decisions related to security related technology and development of policies for the use of such technology, and to ensure that required evacuation and lock-down drills are conducted in accordance with the requirements of Education Law §807.

16. Will the Department make available training materials regarding the required annual School Violence Prevention and Mental Health training?

A list of the required components of school violence prevention training is available on our website at:

<http://www.p12.nysed.gov/sss/documents/SVPIRequiredComponents.pdf>.

Additional resources are provided in our mental health guidance for educators available here:

<http://www.p12.nysed.gov/sss/documents/MentalHealthResourcesforEducators.pdf>.

17. May we offer school violence prevention and mental health training to staff as an online course?

The manner and method of providing the training is a decision to be made at the local level, based on the unique needs of each school district.

18. How is “all” defined with regard to the multi-hazard school safety training of staff and the certification required by the district?

Prior to July 1, 2016, it was required that staff and students receive annual multi-hazard school safety training. The amended statute now requires schools to additionally include mental health in staff training, and certify that all staff has undergone this training.

19. Must BOCES-operated programs that are not located in school buildings develop and submit Building-Level Emergency Response Plans?

Yes, BOCES-operated programs that are in locations other than school buildings must develop Building-Level Emergency Response Plans. The Department is designing the new, automated system for collecting plans to ensure that all BOCES-operated programs are able to submit building level emergency plans to the State.