



OFFICE OF SPECIAL EDUCATION  
ASSISTANT COMMISSIONER  
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October 2018

TO: Executive Directors of Approved Private In-State Residential Schools  
Superintendents, Special Act School Districts  
Superintendents, State-Operated Schools  
Superintendents, State-Supported Schools with a Residential Component

FROM: Christopher Suriano 

SUBJECT: Chapter 422 of the Laws of 2017 - New Requirements Relating to Chapter 501 of the Laws of 2012 ("Protection of People with Special Needs Act")

The purpose of this memorandum is to inform you that, at its September 2018 meeting, the Board of Regents proposed regulations to conform section 200.15 of the Regulations of the Commissioner of Education with Chapter 422 of the Laws of 2017 (Chapter 422). Chapter 422 amended section 491 of Social Services Law to require that every facility or program under the jurisdiction of the Justice Center must have policies and procedures in place to identify and report possible crimes against a student by a custodian to local law enforcement. For purposes of Chapter 422, custodian means a director, operator, employee, or volunteer of a residential school; or a consultant, employee, or volunteer of a corporation, partnership, organization, or governmental entity which provides goods or services to a residential school pursuant to contract or other arrangement that permits such person to have regular and substantial contact with individuals who are cared for by the residential school.

Consistent with the provisions of Chapter 422, the proposed amendment to the Commissioner's Regulations would require in-State residential schools to have policies and procedures in place to identify and report possible crimes against a student by a custodian, as defined in Social Services Law, to local law enforcement officials. Although the regulations are currently proposed, this requirement has been in effect since the Governor signed Chapter 422 into law on November 29, 2017. A copy of the full text of the proposed regulations, developed consistent with the requirements of Chapter 422, can be found at the [Board of Regents website](http://www.regents.nysed.gov/common/regents/files/918p12d1.pdf) (<http://www.regents.nysed.gov/common/regents/files/918p12d1.pdf>). For your reference, a copy of the full text of Chapter 422 of the Laws of 2017 is attached.

All private in-State residential schools, special act school districts, State-operated schools and State-supported schools which have a residential component should carefully review the requirements of Chapter 422 and take steps to ensure that they have policies and procedures that align with the requirements for the reporting of possible crimes against a student by a custodian. Nothing in Chapter 422, the proposed regulations, or this memorandum affects the requirement for residential schools to ensure that allegations of reportable incidents, including any death for which there is any reason to believe that abuse

or neglect may be involved, be identified and immediately reported to the Justice Center upon discovery by a mandated reporter<sup>1</sup>.

The Department is accepting public comment on the proposed amendment. Written comment may be submitted on or before December 3, 2018 to: Christopher Suriano, Assistant Commissioner, Office of Special Education, 89 Washington Avenue, Room 309 EB, Albany, NY 12234, Attention: Public Comment - Proposed Amendment Chapter 422. Comments may also be faxed to (518) 473-5387 or e-mailed to [spedpubliccomment@nysed.gov](mailto:spedpubliccomment@nysed.gov).

Questions regarding the proposed regulations may be directed to the Office of Special Education Policy Unit at (518) 473-2878. If you have questions regarding Chapter 422 and/or need assistance with developing policies and procedures consistent with the requirements of Chapter 422, please contact the Office of Special Education Quality Assurance Nondistrict Unit at (518) 473-1185.

Thank you for your attention to this important matter.

Attachment - Chapter 422 of the Laws of 2017

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<sup>1</sup> June 2014 Special Education Field Advisory [Requirements relating to Chapter 501 of the Laws of 2012 \(“Protection of People with Special Needs Act”\)](http://www.p12.nysed.gov/specialed/justicecenter/Sec20015-chap501-June2014.pdf) (<http://www.p12.nysed.gov/specialed/justicecenter/Sec20015-chap501-June2014.pdf>)