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**TO:** BOCES District Superintendents
Superintendents of Public School Districts
Principals of Public Schools

**FROM:** Renée L. Rider, Assistant Commissioner

**SUBJECT:** Recent Legislative Changes Related to School Emergency Response Planning

**DATE:** May 19, 2016

Over the past few decades, threats to schools have evolved and recent events have demonstrated that there are people who seek to commit violent acts in schools. Whether this threat is posed by a member of the school community or an outside individual or group, school staff must be prepared to take immediate protective action in the event of such an incident. Historically, school emergency planning focused on fire safety through regular fire drills in schools. As a result of good planning and modern safety systems such as fire alarms and sprinklers, fire-related fatalities in public schools are now nearly nonexistent in the United States. However, it has become clear that for schools to be equally as prepared for a possible occurrence of violence, expanded emergency response drills, including lock-down drills, are essential.

Due to the importance of school preparedness in an emergency, the New York State School Safety Improvement Team—which is composed of staff from the Governor's Office of Public Safety, 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—recommended statutory amendments to improve the scope of school emergency response planning. These changes included reducing the required number of annual fire drills as well as adding a new requirement that schools conduct four annual lock-down drills. As such, the 2016-17 Enacted State Budget included amendments to Education Law Sections 2801-a and 807 (Chapter 54 of the Laws of 2016). These amendments will take effect on July 1, 2016. Highlights of these changes are below.

## Amendments to Education Law § 2801-a: School Safety Plans

1. In addition to the existing notification requirements in the event of a violent incident, the statute now requires that each district develop policies and procedures for contacting parents, guardians, or persons in a parental relation to a student in the event of an implied or direct threat of violence by a student against themselves, including threat of suicide.

2. The statute includes a new requirement that each district submit certification to NYSED that all district and school staff have undergone annual training on the emergency response plan, and that the school safety training include components on violence prevention and mental health. New employees hired after the start of the school year must receive training within 30 days of hire. The Department will require schools to certify that all school staff received this training by September 15th of each school year, or within 30 days of hire, whichever is sooner. [1]

3. The amendments require district-wide safety plans to include the designation of a chief emergency officer who is responsible for coordinating communication between staff and law enforcement and first responders and for ensuring staff understanding of the district-level safety plan. The chief emergency officer shall also be responsible for ensuring completion and yearly update of building-level emergency response plans. The building-level emergency response plan shall be kept confidential and shall not be disclosed except to authorized department staff and law enforcement officers.[2]

4. The amendments require that building-level emergency response plans include policies and procedures for response to emergency situations such as those requiring evacuation, sheltering and lock-down (evacuation routes, shelter sites, procedures for addressing medical needs, transportation and emergency notification of parents and guardians). The building-level emergency response team is now expanded to include fire officials, and at the discretion of the board, a student may be permitted to participate in the school safety team, but may not have access to confidential building-level emergency response plans or be present where confidential building-level emergency response plans are being discussed.

5. The statute eliminated the provision allowing single building districts to create a building-level emergency response plan that contains all aspects of the district plan. However, the statute now authorizes the Commissioner, in consultation with the Superintendent of State Police, to develop an appeals process from duplicative requirements of district-wide school safety plans for districts with only one school building.

6. The amendments require the district-wide safety plans to be made available for public comment, however, to comply with the confidentiality provisions of this section, public comment is no longer required for the summary of the building-level emergency response plan.

7. Additional technical amendments were made to the statute to eliminate certain expired provisions relating to Project SAVE Legislation, making the language throughout more consistent and easier to understand.

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[1] Certification that staff has received training as indicated in #2 will be collected as part of the Basic Educational Data System (BEDS) collection beginning in October 2016.

[2] Chief Information Officer will be collected as part of BEDS beginning in October 2016.

8. 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.

**Amendments to Education Law § 807(1-a), (b): Fire and Emergency Drills**

1. The amendments expanded fire drill requirements to also include emergency drills to prepare students to be able to respond appropriately in the event of a sudden emergency.
2. The statute now requires twelve drills be conducted each school year, four of which must be lock-down drills, the remaining eight are required to be evacuation drills.
3. There is still a requirement that eight of the required twelve drills must be completed in the first half of the school year. However, the date of completion has been changed from December 1 to December 31 of each school year.

The statute now explicitly requires schools to conduct lock-down drills, which are essential, because they prepare students and staff to respond to the highest level of threat with the most urgent action and the least margin for error. The goal is to have schools conduct drills where they immediately clear hallways, lock doors and take positions out of sight to practice their ability to put the building into a protective posture as quickly as possible. These emergency measures allow time for responding law enforcement to arrive on scene and neutralize the threat. If possible, law enforcement should be involved in the drills to help prepare students and staff for their interactions and release from lock-down by uniformed officers. However, law enforcement involvement is not required by the new legislative mandate. Other protective actions such as lock-out or shelter in place are emergency actions that are usually preceded by some degree of warning time and do not require the immediate response necessary for a lock-down. While the school should be well versed in their lock-out and shelter in place protocols, lock-down is the only type of protective action that is specifically required by the statute.

In the coming months, New York State Education Department and School Safety Improvement Team staff will be amending Commissioner's Regulations § 155.17 to conform to the statute and will be working to provide expanded guidance on these important sections of Education Law and how schools can best meet these new requirements. For additional information, please visit our website at: http://www.p12.nysed.gov/sss/ssae/schoolsafety/ or contact us at: info@safeschools.ny.gov or StudentSupportServices@nysed.gov. As always, thank you for your continued dedication to keeping our children and schools safe.