



TO: The Honorable Members of the Board of Regents

FROM: Angelique Johnson-Dingle *Angelique Johnson-Dingle*

SUBJECT: Proposed Amendment of Section 155.17 of the Regulations of the Commissioner of Education Relating to School Safety Plan Requirements

DATE: July 11, 2024

AUTHORIZATION(S): *Betty M. ...*

SUMMARY

Issue for Decisions (Consent)

Should the Board of Regents adopt the proposed amendment of section 155.17 of the Commissioner's Regulations relating to school safety plan requirements?

Reason for Consideration

Review of policy.

Proposed Handling

The proposed amendment is submitted to the Full Board for adoption as a permanent rule at the July 2024 Regents meeting. A copy of the proposed rule (Attachment A) is attached.

Procedural History

The proposed amendment was presented to the P-12 Education Committee for discussion at the April 2024 Board of Regents meeting. A Notice of Proposed Rule Making was published in the State Register on May 1, 2024, for a 60-day public comment period. Following publication in the State Register, the Department received comments on the proposed rule. An Assessment of Public Comment (Attachment B) is attached. In response to public comment, the Department has made non-substantial revisions to the proposed rule as outlined below. Supporting materials are available upon request to the Secretary of the Board of Regents.

Background Information

Tragically, the occurrence of violence in schools continues to be a significant concern for parents, students, educators, and the public as well as first responders and other emergency personnel. The safety of New York's schools is of paramount importance to the Board of Regents, the Department, and our State's elected officials. To inform policy decisions related to school safety, in 1999 the Board of Regents created the New York State Safe Schools Task Force (Task Force) following the horrific shooting and loss of 13 lives at Columbine High School. In January 2013, the Board reconvened the Task Force following the horrendous school shooting at Sandy Hook Elementary School that resulted in the death of 20 students and 6 educators in Newtown, CT in December 2012. The focus of the Task Force is to make recommendations to the Department and Board of Regents related to school safety.

Additionally, in 2013, the NYS SAFE Act amended the Education Law to require the creation of a School Safety Improvement Team (SSIT), comprised of representatives from the following four agencies and the Governor's Office: New York State Education Department, New York State Police, New York State Division of Homeland Security and Emergency Services and the New York State Division of Criminal Justice Services. The SSIT is tasked with making recommendations regarding issues related to school safety.

It remains essential to have a plan in place for how the school and community will respond in an emergency. Education Law §2801-a and Commissioner's regulation §155.17 require that each public school,¹ Board of Cooperative Educational Services (BOCES), and the county Vocational Education and Extension Board (VEEB) develop and annually update, a confidential building-level Emergency Response Plan (ERP) that details how school personnel and students would respond to different types of emergency situations that may occur in their school. In addition, each public school, BOCES, and VEEB must also develop, and annually update, a district-wide school safety plan that provides critical information to parents, educators, and the school community about the policies and procedures that are in place related to school safety. Students and staff must receive annual training on the emergency response procedures detailed in the plans.

In addition, Education Law §807 requires that schools conduct at least eight evacuation and four lockdown drills each school year so that students and staff may practice the emergency procedures in the building-level ERP. The development of school and district plans, providing training to staff and students on emergency procedures, and practicing them are critical components of emergency preparedness and school safety.

In recent years, concerns have been raised nationwide about the unintended trauma or harm to students, staff, and/or families that may result from drills that are not communicated as being practice rather than an actual emergency. This is pronounced when a drill is conducted that includes elements to simulate a possible emergency.

¹ While Education Law §2801-a and section 155.17 of the Commissioner's regulations do not explicitly reference charter schools, charter schools are public schools and are subject to these provisions as charter schools must meet the same safety requirements applicable to other public schools pursuant to Education Law §2854(1)(b).

Proposed Amendment

In June 2023 and December 2023, members of the Safe Schools Task Force and the School Safety Improvement Team each recommended certain changes to the Commissioner's regulations. Therefore, consistent with such recommendations, the Department proposes the following amendments to section 155.17 of the regulations.

Definitions:

- The proposed rule defines the terms "trauma," "trauma-informed," and "trauma-informed drills."

District-wide School Safety Plans. The proposed rule amends the district-wide school safety plan provisions of section 155.17 to:

- Explicitly reference bus drivers and monitors for the purpose of inclusion in the district-wide school safety team and certain policies and procedures in the district-wide plan.
- Where applicable, require that district-wide school safety plans include information regarding school or district-level behavioral assessment teams or county or regional threat assessment teams.
- Require schools to establish procedures regarding notification of parents or persons in parental relations regarding drills.
- Require that: (1) drills and training be conducted in a trauma-informed, developmentally and age-appropriate manner; (2) drills and training not include props, actors, simulations, or other tactics intended to mimic a school shooting, incident of violence, or other emergency; and (3) students and staff be informed when a school is conducting a drill.
- Provide requirements for schools and districts that opt to participate in full-scale exercises in conjunction with local and county emergency responders and preparedness officials. Exercises that include props, actors, simulations, or other tactics intended to mimic a school shooting or other act of violence or emergency may not be conducted on a regular school day and when school activities such as athletics are occurring on school grounds. In addition, such exercises cannot include students without written consent from parents or persons in parental relations.
- Identify the district's policy for communicating potentially violent incidents to parents.

Building-level Emergency Response Plans. The proposed rule amends the building-level emergency response plan provisions of section 155.17 to:

- Require that floor plans and area maps that are submitted as part of every school's annual building-level emergency response plan submission to state

and local law enforcement include the identification of certain critical information that would be needed by emergency responders in an emergency.

- Require that drills: (1) be conducted in a trauma-informed, developmentally and age-appropriate manner; not include props, actors, simulations, or other tactics intended to mimic a school shooting, incident of violence, or other emergency; and that students and staff be informed when a school is conducting a drill; (2) occur after annual training in emergency procedures has been provided to students and staff; and (3) be completed on different days of the week and during different times of the school day.

Reporting:

- The proposed regulation clarifies that in school districts with a supervisory district, the superintendent must provide timely notification to the BOCES district superintendent whenever the building-level emergency response plan is activated and results in the closing of a school building.

Evacuation and Lockdown Drills:

- The proposed regulation sets forth evacuation and lockdown drill requirements as provided in Education Law §807 and requires that one emergency dismissal drill be conducted to test emergency response procedures that require early dismissal.

The amendments would take effect beginning with the 2024-25 school year.

Non-substantial Revisions to the Proposed Rule

The Department has made non-substantial revisions to the proposed rule since publication of the Notice of Proposed Rule Making in the State Register by clarifying the following:

- for evacuation drills, students and staff do not need to be informed that the activities being conducted are a drill. This is consistent with the requirements in the New York State Fire Code;
- information that must be included in the district-wide school safety plan about a multi-disciplinary behavioral assessment team, behavioral assessment team, or a county or regional threat assessment team is only required if district staff are participating in such a team. It does not require that a district or school adopt such a team;
- drills must be conducted on different dates as well as days of the week, and times of day;
- notice to parents and those in parental relations regarding drills must be made within one week before each drill; and
- the term “school health personnel” is replaced with the term “school health professionals” as defined in Education Law §902.

Related Regents Items

April 2024: [Proposed Amendment of Section 155.17 of the Regulations of the Commissioner of Education Relating to School Safety Plan Requirements](https://www.regents.nysed.gov/sites/regents/files/424p12d1.pdf)
(<https://www.regents.nysed.gov/sites/regents/files/424p12d1.pdf>)

June 2016: [Proposed Amendment of Sections 155.17 of the Commissioner's Regulations relating to School Safety Plans and Fire and Emergency Drills](https://www.regents.nysed.gov/sites/regents/files/616p12a3.pdf)
(<https://www.regents.nysed.gov/sites/regents/files/616p12a3.pdf>)

September 2016: [Proposed Amendment of Section 155.17 of the Commissioner's Regulations relating to School Safety Plans and Fire and Emergency Drills](https://www.regents.nysed.gov/sites/regents/files/916brca15.pdf)
(<https://www.regents.nysed.gov/sites/regents/files/916brca15.pdf>)

July 2019: [Proposed Amendment to §155.17 of the Regulations of the Commissioner of Education Relating to School Safety Plans:](https://www.regents.nysed.gov/sites/regents/files/719p12a2.pdf)
(<https://www.regents.nysed.gov/sites/regents/files/719p12a2.pdf>)

Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: That section 155.17 of the Regulations of the Commissioner of Education be amended, as submitted, effective July 31, 2024.

Timetable for Implementation

If adopted at the July 2024 meeting, the proposed amendment will become effective as a permanent rule on July 31, 2024.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 207, 305, and 2801-a of the Education Law.

1. Subdivision (a) of section 155.17 of the Regulations of the Commissioner of Education is amended to read as follows:

(a) Development of school safety plans. [Every] By September first of each school year, every board of education of a school district, every board of cooperative educational services and county vocational education and extension board, and the chancellor of the City School District of the City of New York shall adopt [by July 1, 2001, and shall update by July 1st for the 2002-2003 through the 2015-2016 school years and shall update and adopt by September 1st for the 2016-2017 school year and each subsequent September 1st thereafter,] a comprehensive district-wide school safety plan and building-level emergency response plans regarding crisis intervention and emergency response and management, and commencing with the 2023-2024 school year district-wide school safety plans shall include plans for the provision of remote instruction during any emergency school closure, provided that in the City School District of the City of New York, such plans shall be adopted by the chancellor of the city school district. Such plans shall be developed by a district-wide school safety team and a building-level emergency response team, as such terms are defined in subdivision (b) of this section and shall be in a form developed by the commissioner in consultation with the Division of Criminal Justice Services, the superintendent of the State Police and any other appropriate State agencies. Each district-wide school safety plan and building-level emergency response plan shall be reviewed by the appropriate school safety team on at least an annual basis and updated as needed.

2. Paragraphs (3), (12), (14), (15), (16), (17), and (18) of subdivision (b) of section 155.17 of the Regulations of the Commissioner of Education are amended to read as follows:

(3) *Disaster* means the occurrence or imminent threat of widespread or severe damage, illness, injury, or loss of life or property resulting from any [natural or manmade causes] incident, such as fire, flood, earthquake, hurricane, tornado, high water, landslide, mudslide, windstorm, wave action, epidemic, air contamination, drought, explosion, water contamination, chemical accident, communicable disease outbreak, war or civil disturbance.

(12) *Building-level emergency response planning team* means a building-specific team appointed by the building principal, in accordance with regulations or guidelines prescribed by the board of education, the chancellor in the case of New York City, or other governing body. The building-level emergency response planning team is responsible for the designation of the emergency response team and the development of the building-level emergency response plan and its required components. The building-level emergency response team shall include, but not be limited to, representatives of teacher, administrator, and parent organizations, school safety personnel, other school personnel including bus drivers and monitors, community members, local law enforcement officials, local ambulance, fire officials or other emergency response agencies, and any other representatives the school board, chancellor or other governing body deems appropriate.

(14) *District-wide school safety team* means a district-wide team appointed by the board of education, the chancellor in the case of New York City, or another governing board. The district-wide team shall include, but not be limited to, representatives of the school board, teacher, administrator, parent organizations, school safety personnel, and

other school personnel including bus drivers and monitors. At the discretion of the board of education, or the chancellor in the case of the City of New York, a student may be allowed to participate on the safety team, provided however, that no portion of a confidential building-level emergency response plan shall be shared with such student nor shall such student be present when details of a confidential building-level emergency response plan or confidential portions of a district-wide emergency response strategy are discussed.

(15) Emergency response team means a building-specific team designated by the building-level emergency response planning team that is comprised of school personnel, law enforcement officials, fire officials, and representatives from local, regional, and/or State emergency response agencies and assists the school community in responding to a violent incident or emergency. In a school district in a city having a population of more than one million inhabitants, such emergency response team may be created on the district level with building-level participation, and such district shall not be required to establish a unique team for each of its schools.

(16) *Post-incident response team* means a building-specific team designated by the building-level emergency response planning team that includes appropriate school personnel, medical personnel, school health professionals as defined in section 902 of the Education Law, mental health counselors, and others who can assist the school community in coping with the aftermath of a violent incident or emergency. In a school district in a city having a population of more than one million inhabitants, such a post-incident response team may be created on the district level with building-level participation, and such district shall not be required to establish a unique team for each of its schools.

(17) *School safety plan* means a district-wide school safety plan or a building-level [school safety] emergency response plan.

(18) *Serious violent incident* means an incident of violent criminal conduct that is or appears to be, life-threatening and warrants the [evacuation of] immediate response by students and/or staff because of an imminent threat to their safety or health, including, but not limited to riot, hostage-taking kidnapping and/or the use or threatened use of a firearm, explosive, bomb, incendiary device, chemical or biological weapon, knife or other dangerous instrument capable of causing death or serious injury.

3. Subdivision (b) of section 155.17 of the Regulations of the Commissioner of Education is amended by adding three new paragraphs (20), (21) and (22) to read as follows:

(20) *Trauma* means an emotional response to a deeply distressing or disturbing experience such as, but not limited to, an act of violence, natural disaster, abuse, neglect, or loss.

(21) *Trauma-informed* means an understanding of trauma and how it affects the physical, emotional, and mental health of students and adults.

(22) *Trauma-informed drills* mean avoiding tactics in training or drills that may introduce or activate trauma, such as the use of props, actors, simulations, or other tactics intended to mimic a school shooting, incident of violence, or other emergency, or inclusion of developmentally or age-inappropriate content. Drills may inadvertently prompt a negative emotional or psychological response in staff or students because of previous exposure(s) to trauma.

4. Subdivision (c) of section 155.17 of the Regulations of the Commissioner of Education is amended to read as follows:

(c) District-wide school safety plans and building-level emergency response plans. District-wide school safety plans and building-level emergency response plans shall be designed to prevent or minimize the effects of violent incidents, declared state disaster emergency involving a communicable disease or local public health emergency declaration and other emergencies and to facilitate the coordination of schools and school districts with local and county resources in the event of such incidents or emergencies.

(1) District-wide school safety plans. A district-wide school safety plan shall be developed by the district-wide school safety team and shall include, but not be limited to:

(i) policies and procedures for responding to implied or direct threats of violence by students, teachers, other school personnel including bus drivers and monitors, and visitors to the school, including threats by students against themselves, which for this subdivision shall include suicide;

(ii) policies and procedures for responding to acts of violence by students, teachers, other school personnel, bus drivers and monitors, and visitors to the school, including consideration of zero-tolerance policies for school violence; ...

(iii) appropriate prevention and intervention strategies, [such as] which may include:

(a) collaborative arrangements with State and local law enforcement officials, designed to ensure that school safety officers and other security personnel are adequately trained, including being trained to de-escalate potentially violent situations, and are effectively and fairly recruited;

(b) where applicable, the establishment and/or participation of, school or district staff in a multi-disciplinary behavioral assessment team to assess whether certain

exhibited behaviors or actions need intervention or other support, including a school or district-level behavioral assessment team or, if available, a county or regional threat assessment team. Where such teams are utilized, the district-wide school safety plan shall describe the school, district, or county team and its purpose, and annual staff training on safety and emergency procedures shall include information regarding the purpose and procedures of such team.

(c) nonviolent conflict resolution training programs;

[(c)] (d) peer mediation programs and youth courts; and

[(d)] (e) extended day and other school safety programs;

(iv) ...

(v) ...

(vi) ...

(vii) ...

(viii) ...

(ix) ...

(x) ...

(xi) ...:

(xii) policies and procedures for the dissemination of informative materials regarding the early detection of potentially violent behaviors, including but not limited to the identification of family, community, and environmental factors to teachers, administrators, school personnel including bus drivers and monitors, parents [and] or other persons in parental relation to students of the school district or board, students and other persons deemed appropriate to receive such information;

(xiii) ...

(xiv) procedures for review and the conduct of drills, [and other exercises to test components of the emergency response plan, including the use of] tabletop exercises, and information about emergency procedures and drills, including information about procedures and timeframes for notification of parents or persons in parental relation regarding drills and other emergency response training(s) that include students. At their discretion, schools and districts may participate in full-scale exercises in coordination with local and county emergency responders and preparedness officials[;]. Such procedures shall ensure that:

(1) Drills conducted during the school day with students present shall be conducted in a trauma-informed, developmentally, and age-appropriate manner and shall not include props, actors, simulations, or other tactics intended to mimic a school shooting or other act of violence or emergency.

(2) At the time that drills are conducted, students and staff shall be informed that the activities being conducted are a drill. Provided, however, that students and staff shall not be informed in advance of evacuation drills.

(3) Tabletop exercises may be utilized by school and district safety teams as a training resource and may include a discussion-based activity for staff in an informal classroom or meeting-type setting to discuss their roles during an emergency and their responses to a sample emergency situation.

(4) Schools and districts that opt to participate in full-scale exercises in conjunction with local and county emergency responders and preparedness officials that include props, actors, simulations, or other tactics intended to mimic a school shooting or other act of violence or emergency shall not conduct such exercises on a regular school day or when school activities such as athletics are occurring on school

grounds. Such exercises may not include students without written consent from parents or persons in parental relations.

(xv) ...

(xvi) strategies for improving communication among students, [and] between students and staff and between administration and parents or persons in parental relation regarding reporting of potentially violent incidents, such as the establishment of youth-run programs, peer mediation, conflict resolution, creating a forum or designating a mentor for students concerned with bullying or violence and establishing anonymous reporting mechanisms for school violence;

(xvii) ...

(xviii) ...

(xix) the designation of the superintendent, or superintendent's designee, as the district chief emergency officer whose duties shall include, but not be limited to:

(a) ...

(b) ...

(c) ...

(d) ...

(e) ...

(f) coordinate appropriate safety, security, and emergency training for district and school staff, including required training in the district-wide school safety plan and building-level emergency response [plan] plan(s);

(g) ensure the conduct of required evacuation and lock-down drills in a trauma-informed, developmentally, and age-appropriate manner that does not include props, actors, simulations, or other tactics intended to mimic a school shooting or other act of

violence or emergency in all district buildings as required by section 807 of the Education Law [section 807]; and

(h) ...

(xx) ...

(xxi) ...

(2) Building-level emergency response plan. A building-level emergency response plan shall be developed by the building-level emergency response planning team, shall be kept confidential, including but not limited to the floor plans, blueprints, schematics, or other maps of the immediate surrounding area, and shall not be disclosed except to authorized department or school staff, and law enforcement officers, and shall include the following elements:

(i) ...

(ii) ...

(iii) floor plans, blueprints, schematics, or other maps of the school interior, school grounds, and road maps of the immediate surrounding area that are clearly labeled and readily understandable to first responders navigating the building and grounds. At a minimum;

(a) floor plans shall include the school name and address; a key to define any symbols used; a compass indicating North as well as labels indicating building entrances/exits with alphabetic or numeric identifiers assigned (e.g. "Door A" or "Entrance 2"); windows, interior doors, room numbers, common areas and administrative offices labeled by use; location of water, gas and electrical shutoffs; location of fire alarm panels, fire sprinkler control valves, and if applicable fire department key boxes; and location of emergency and security equipment; and

(b) area maps shall include the school name and address; a key to define any symbols used; a compass indicating North as well as labeled buildings, outbuildings, fields, parking lots, building entrances/exits with alphabetic or numeric identifiers assigned (e.g. "Door A" or "Entrance 2"); parking area and property entrances/exits; designated fire lanes and fire apparatus access roads, evacuation routes; street names; and emergency response areas.

(iv)...

(v) ...

(vi) ...

(vii) procedures for an annual review of the building-level emergency response plan and the conduct of drills and other exercises to test components of the building-level emergency response plan, including the use of tabletop exercises, in coordination with local, county, and state law enforcement and emergency responders and preparedness officials. The purpose of the drills is to practice staff and student actions during an emergency. Except for evacuation drills, at the time that drills are conducted, students and staff shall be informed it is a drill. All drills shall:

(a) be conducted in a trauma-informed, developmentally, and age-appropriate manner and shall not include props, actors, simulations, or other tactics intended to mimic a school shooting, incident of violence, or other emergency;

(b) occur after annual training in emergency procedures has been provided to students and staff;

(c) be completed on different dates, days of the week, and during different times of the school day; and

(d) parents or persons in parental relations shall be given advance notice of each drill being conducted within one week preceding any such drill.

(viii) ...

(ix) ...

(3)

(i) ...

(ii) Each board of education, chancellor, or other governing body or officer shall ensure that each building-level emergency response plan and any amendments thereto, is submitted to the appropriate local law enforcement agency and the State Police within 30 days of its adoption, but no later than October [15th for the 2016-2017, 2017-2018, 2018-2019 and 2019-2020 school years and] 1 for the 2020-2021 school year [and thereafter, such building-level emergency response plans must be submitted no later than October 1, 2020,] and each [subsequent] October 1st thereafter. Building-level emergency response plans shall be confidential and shall not be subject to disclosure under Article Six of the Public Officers Law or any other provision of law.

5. Subdivisions (f) and (h) of section 155.17 of the Regulations of the Commissioner of Education are amended to read as follows:

(f) *Reporting.*

(1) [Each superintendent] Whenever the building-level emergency response plan is activated and results in the closing of a school building, the superintendent or their designee shall notify the commissioner as soon as possible [whenever the emergency plan or building-level school safety plan is activated and results in the closing of a school building in the district,] and shall provide such information as the commissioner may require in a manner prescribed by the commissioner. In addition, school districts within a supervisory district [may] shall provide [such] timely notification [through] to the BOCES district superintendent [, who shall be responsible for notifying the commissioner]. Such information need not be provided for routine snow emergency

days. [Provided, however, that for the 2020-21 and 2021-22 school years, districts shall provide such notification for snow emergency days, including those days converted to remote instruction under the 2020-21 and 2021-22 snow day pilot in accordance with the provisions of this subdivision.]

(2) Beginning in the 2022-2023 school year, each chief executive officer shall report to the Commissioner, no later than June 30 of each school year, on a form and format prescribed by the Commissioner, the results of the survey on student access to computing devices and access to internet connectivity required pursuant to subparagraph (xxi) of paragraph (1) of subdivision (c) of this section.

(h) [~~Fire and~~] Evacuation, Lockdown, and Emergency Dismissal Drills. (1) Each school district and board of cooperative educational services shall practice emergency response procedures under its district-wide school safety plan and each of its building-level emergency response plans,[at least once every school year, and] where possible in cooperation with local [county] law enforcement, emergency preparedness plan officials, [conduct one test of its emergency response procedures under each of its building-level emergency response plans, including sheltering, lock-down, or early dismissal, at a time not to occur more than 15 minutes earlier than the normal dismissal time.] and other first responders as follows:

i) Evacuation drills shall be conducted with students at least eight times in each school year, six of which shall be held between September 1 and December 31 of each such year. Four drills shall be through the use of the fire escapes on buildings where fire escapes are provided or through the use of identified secondary means of egress, such as through different corridors, hallways, stairways, and exit doors. Drills shall be conducted at different times of the school day. Students shall be instructed in the procedure to be followed if a fire occurs during the lunch period or assembly, provided,

however, that such additional instruction may be waived where a drill is held during the regular school lunch period or assembly. Four additional drills shall be held in each school year during the hours after sunset and before sunrise in school buildings in which students are provided with sleeping accommodations. At least two additional drills shall be held during summer school in buildings where summer school is conducted, and one such drill shall be held during the first week of summer school.

(ii) Lockdown drills shall be conducted with students at least four times in each school year, two of which shall be held between September 1 and December 31 of each such year. Lockdown drills shall be conducted at different times of the school day.

Pupils shall be instructed in the procedure to be followed if an emergency occurs during a lunch period or assembly, provided however, that such additional instruction may be waived where a drill is held during the regular school lunch period or assembly.

(iii) One Emergency Dismissal drill shall be conducted to test emergency response procedures that require early dismissal, at a time not to occur more than 15 minutes earlier than the normal dismissal time.

[(1)] (2) Parents or persons in parental relations shall be notified at least one week prior to the Emergency Dismissal drill.

[(2)] (3) Emergency Dismissal drills shall test the usefulness of the communications and transportation system during emergencies.

[(3)] (4) The provisions of section 175.5(a) of this Title regarding the length of school day for State aid purposes shall not apply to school days in which less than the minimum number of hours is conducted because of an early dismissal drill pursuant to this subdivision.

ASSESSMENT OF PUBLIC COMMENT

Following the publication of a Notice of Emergency Adoption and Proposed Rule Making in the State Register on May 1, 2024, the State Education Department received the following comments on the proposed regulation:

1. COMMENT:

Several commenters noted it would be preferable if the proposed change to the “Building Level Emergency Response Planning Team” removed the term “Response” from the name and changed the term to “Building Level Emergency Planning Team” rather than “Building Level Emergency Response Planning Team.”

DEPARTMENT RESPONSE:

Amendments to Education Law §2801-a in 2016 included designating the Building-Level Emergency Response Team, identifying required members of the team, and assigning the team responsibility for developing the building-level emergency response plan. The proposed amendment clarifies the team function with the addition of “planning” to the name as is set forth in Education Law §2801-a. Since the term “Response” is in statute, the Department has maintained this term in the name of the team. No change is necessary.

2. COMMENT:

Several commenters expressed support for the new requirement that drills be trauma-informed but questioned the required parameters for notification regarding drills, expressing concern that drill efficacy may be compromised by providing specific details about when a drill is scheduled to occur. Several commenters asked for clarification regarding timelines for notification to parents and persons in parental relations regarding drills and other emergency response training that includes students.

DEPARTMENT RESPONSE:

The proposed amendment requires that each district establish procedures regarding notification of parents regarding drills and emergency procedures as part of their District-Wide School Safety Plan. This requirement is not meant to make districts provide a schedule of drills or specific details about the days and times that drills will occur, but rather to require districts to develop and implement a communication protocol with parents and persons in parental relation regarding safety procedures, including how and when safety and emergency procedures are practiced in school. To clarify this intent, the Department has made a non-substantial revision to the proposed rule language to require that parents or persons in parental relations receive advance notice of each drill being conducted the week preceding any such drill.

3. COMMENT:

A commenter expressed concern about the requirement to include bus drivers and monitors as part of the district-wide school safety team because of staff shortages and limited availability of staff.

DEPARTMENT RESPONSE:

Education Law §2801-a was amended to explicitly include bus drivers and monitors as required members of the district-wide school safety team. The changes to Commissioner's regulation §155.17 were made to align the regulation with the statutory requirements. Including staff that serve in a variety of different roles on the district-wide school safety team is an important part of ensuring the safety of students and staff in all settings and at all times of the school day. No change is necessary.

4. COMMENT:

A commenter argued that scenario-based active-shooter response training that includes props is not traumatizing.

DEPARTMENT RESPONSE:

Emerging research has demonstrated that “active shooter” trainings increase anxiety and stress among students, teachers, and parents. Training and drills intend to prepare and train, not to scare. While the proposed amendments prohibit the use of props, actors, simulations, or other tactics intended to mimic a school shooting or other act of violence or emergency during training and drills, the proposed amendments would permit such training to staff during school conference days when students are not present. In addition, the proposed amendments allow schools and districts to conduct exercises on days when students are not present and give parents the option to include their children in such exercises with written parental consent. No revision is necessary.

5. COMMENT:

Several commenters asked for clarification about what staff are included in school health personnel and medical personnel.

DEPARTMENT RESPONSE:

As defined in Education Law §902, “School health professional” means a school or district employee who is “duly licensed or otherwise authorized to practice a health profession pursuant to applicable law, including, but not limited to, physicians, registered professional nurse, nurse practitioners, physicians assistants, optometrists, dentists, dental hygienists, dietitians and nutritionists, and audiologists.” “Medical personnel” refers to physicians and physician assistants employed in other settings, such as urgent care clinics and hospitals, and could include nurse practitioners. The Department has made a non-substantial revision to the proposed rule to replace the term “school health personnel” with “school health professional” as defined in Education Law §902.

6. COMMENT:

Several commenters asked whether a Behavioral Assessment Team is required, and, if such a team exists, whether training must be provided to staff annually.

DEPARTMENT RESPONSE:

The proposed rule does not require that a district create or utilize a Behavioral Assessment Team. However, if a Behavioral Assessment Team exists, the proposed rule requires that the district include information about the team in the district-wide plan and provide annual training to staff regarding the purpose and procedures of such a team. The Department made a non-substantial revision to the proposed rule to clarify this intent.

7. COMMENT:

Several Commenters asked for clarification regarding record retention requirements of notifications to parents.

DEPARTMENT RESPONSE:

The proposed rule requires that procedures for review and conduct of drills included in the District-Wide School Safety Plan include information about emergency procedures and drills, including procedures and timeframes for notification of parents or persons in parental relation regarding drills and other emergency response training(s) that include students. Per the [Records Retention Schedule for School Districts and BOCES](#), the District-Wide School Safety Plan and Building-Level Emergency Response Plans are to be retained permanently, and records related to plan development, adoption, and related records, including records of school safety teams, must be retained a minimum of 6 years.

8. COMMENT:

Several commenters requested additional information on trauma-informed drills and clarification of which drills must be trauma-informed.

DEPARTMENT RESPONSE:

The proposed amendments include definitions for trauma, trauma-informed, and trauma-informed drills. To support schools in implementing this requirement, the Department and the New York State Center for School Safety are providing training to schools and districts on conducting trauma-informed drills this summer. The proposed amendment requires that all drills, even those that are not required by regulation, be trauma-informed. The definition of trauma, trauma-informed, and trauma-informed drill should be applied to any drill, not just those that are required. Trauma-informed policies and practices are comprehensive and focused on preventing, mitigating, and addressing stressful and adverse events that may inadvertently be harmful to some. No change is necessary.

9. COMMENT:

Several comments were received regarding NYS Fire Code Requirement § 403.5.2, which requires that drills be conducted at different times of day to “avoid distinction between drills and actual fires.” Commenters questioned if the portion of the proposed amendment regarding the announcement of evacuation drills in advance was contrary to the Fire Code requirement. In addition, commenters asked if a fire alarm is considered a “prop” and one commenter generally expressed concern about the announcement requirement.

DEPARTMENT RESPONSE:

Consistent with the New York State Fire Code, the Department has made a non-substantial revision to the proposed amendment to clarify that evacuation drills need not be announced in advance. The New York State Fire Code requires that the fire alarm be used in an evacuation drill, and it is not considered a prop.

10. COMMENT:

A number of commenters asked if a reunification drill is considered a full-scale exercise.

DEPARTMENT RESPONSE:

Determining if an event that includes practicing emergency procedures and/or protocols is a drill, or a functional exercise is a fact-specific determination. The proposed amendments specify parameters for both drills and full-scale exercises. Drills must be trauma-informed and may not include props, actors, simulations, or other tactics intended to mimic a school shooting or other act of violence or emergency. A functional exercise includes props, actors, simulations, or other tactics intended to mimic a school shooting or other act of violence or emergency. No change is necessary.

11. COMMENT:

Several commenters submitted concerns regarding the proposed requirements for additional content on area maps and floor plans that are required components of the building-level emergency response plan, and the time necessary to implement these changes.

DEPARTMENT RESPONSE:

Maps and floor plans provide detailed information about the school building, campus, and surrounding areas to law enforcement and other first responders as part of the building-level emergency response plan for use in emergency response. The information provided to first responders is critical to ensure responders can move quickly to any part of the building, determine alternative egress, and move students to safety during an emergency. The Department has developed and posted a [resource](#) to assist schools in updating their floor plans and area maps with the information that law enforcement and other first responders have indicated is essential in responding to a variety of emergency situations. The time and effort required to implement this

requirement is worth spending given the importance of accurate and complete information about the building and grounds in an emergency. Thus, no revision is necessary.

12. COMMENT:

Several commenters expressed concern about differences between the required electronic format for submitting building-level emergency response plans that were adopted by the School Safety Improvement Team and in use since the 2017-18 school year that provides access to plans by law enforcement statewide and an earlier “stand-alone” template that was distributed by the School Safety Improvement Team.

DEPARTMENT RESPONSE:

The submitted comments are outside the scope of the proposed rule. Therefore, no revisions are necessary.

13. COMMENT:

Several commenters requested recommendations for emergency response procedures for transportation settings.

DEPARTMENT RESPONSE:

The submitted comments are outside the scope of the proposed rule. Therefore, no revisions are necessary.

14. COMMENT:

Commenters had concerns about the effective date of the proposed regulations (July 31, 2024) if permanently adopted. Commenters requested an extension of the implementation date given districts’ need to meet required deadlines for updating the plan, 30-day public comment period, public meeting, and board adoption by September 1.

RESPONSE:

While the effective date of the proposed amendments is July 31, 2024, in order to be in effect for the 2024-25 school year, the Department has taken steps to provide advance notification to schools and districts by distributing the proposed amendments to districts and schools in April and June 2024 and recommending that the changes be incorporated in plans as district and school safety teams are making annual plan revisions and updates in anticipation of permanent adoption. The notification to school and district leaders regarding the amendments is posted at <https://www.nysed.gov/memo/student-support-services/recent-amendments-commissioners-regulations-ss15517>.

15. COMMENT:

A number of comments were received from the same school district regarding the proposed requirement that all drills be trauma-informed and not include props, actors, simulations, or other tactics intended to mimic a school shooting or other act of violence or emergency. These commenters argue that the active shooter training provided to employees and students in grades 9-12 is essential to preparedness and request that training methods be left to local discretion.

DEPARTMENT RESPONSE:

See the Department's response to comment number 4 regarding the flexibility offered to local districts and schools.

16. COMMENT:

One commenter argued that additional requirements related to school and district safety plans and procedures should be implemented, including requiring annual multi-agency preparedness exercises with law enforcement, first responders, emergency management, and other municipal government agencies and school districts; requiring that law enforcement agencies develop memoranda of understanding to define a chain

of command in multi-agency response scenarios; requiring that schools install universal access boxes at building entrances that contain master keys for authorized emergency first responders and school district staff to gain access to the building in an emergency; and that the school maps are up to date and accessible electronically by first responders.

DEPARTMENT RESPONSE:

Most of the recommendations are outside the scope of the Department's authority or the proposed rule. The comment regarding maps is addressed in the Department's response to comment 11.

17. COMMENT:

Two commenters expressed support for the proposed amendment but stated that the amendment may be improved by adding additional requirements, including a requirement that school staff conduct an annual walk-through of the school building to ensure the accuracy of required maps and floor plans, and that required maps and floor plans be made available in an electronic format for law enforcement and other first responders.

DEPARTMENT RESPONSE:

While the proposed regulation does not explicitly require an annual walkthrough of the school building to ensure maps and floorplans are up-to-date, Education Law § 2801-a and the existing regulation do specifically require that the building-level emergency response plan be updated and submitted to state and local police annually. The annual electronic submission of building-level emergency response plans (ERPs) to state police requires that schools upload floor plans and area maps. State Police upload the electronic school ERPs including area maps and floor plans to New York's Integrated Justice Portal, eJusticeNY, a web-based platform that is accessible to all NY

law enforcement agencies. Because existing regulation requires plans to be updated annually and the plans, maps, and floor plans to be submitted electronically, no revision is necessary.

18. COMMENT:

One commenter expressed the opinion that training methods should be a local decision rather than limited by regulation.

DEPARTMENT RESPONSE:

In recent years, concerns have been raised nationwide about the unintended trauma or harm to students, staff, and/or families that may result from drills that include elements that simulate emergency conditions or from drills that are not communicated as being practiced rather than an actual emergency. See also the Department's response to comment number 4 regarding the flexibility offered to local districts and schools. No revision is necessary.

19. COMMENT:

Commenters expressed support for the proposed amendment but stated that the addition of a requirement that parents and persons in parental relations be expressly authorized to opt their child out from participating in drills is something the Department should consider by creating a workgroup to review the national legislative landscape on lockdown drill reform, including "opt-out" policies in other states, recommendations by the National Association of School Psychologists (NASP), the National Association of School Resource Officers, and Safe and Sound Schools (a non-profit school safety advocacy and resource center founded by parents who lost children in Sandy Hook Elementary School shooting).

DEPARTMENT RESPONSE:

Education Law § 807 requires that “[i]t shall be the duty of the principal or other person in charge of every public or private school or educational institution within the state... to instruct and train the pupils by means of drills, so that they may in a sudden emergency be able to respond appropriately in the shortest possible time and without confusion or panic.” As such, the Commissioner lacks the authority to implement the requested change.

20. COMMENT: One commenter questioned differences in the proposed amendments and a communication from the Department to school and district administrators regarding implementation of the new requirements (<https://www.nysed.gov/memo/student-support-services/recent-amendments-commissioners-regulations-ss15517>) regarding notification to parents and persons in parental relation a minimum of one week prior to a drill. The commenter questioned why this notification was omitted from the proposed rule

DEPARTMENT RESPONSE:

The Department has made a non-substantial revision to the proposed rule to clarify that notice to parents and those in parental relations regarding drills must be made within one week prior to each drill.

21. COMMENT:

Several commenters requested additional guidance on improving communication with parents and persons in parental relations.

DEPARTMENT RESPONSE:

The Department and the New York State Center for School Safety continue to develop guidance and resources for schools and districts, including parental communication resources. No revisions are necessary.

22. COMMENT:

One commenter referenced a requirement in New York City Chancellor's Regulation A-414 that School Safety Plan Committees conduct an annual meeting for parents and required committee members to include representatives beyond the minimum required by Education Law § 2801-a and Commissioner's Regulation § 155.17. The commenter also recommended alignment with the Commissioner's Regulation and the Chancellor's Regulation.

DEPARTMENT RESPONSE:

Education Law § 2801-a and Commissioner's Regulations set the minimum requirement for school district school safety requirements. School districts, such as New York City Public Schools, have the authority to establish additional requirements beyond the minimum established. No revision is necessary.