




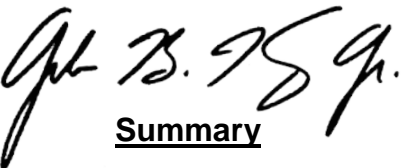
THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

TO: P-12 Education Committee

FROM: Ken Slentz 

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

DATE: April 11, 2013

AUTHORIZATION(S): 
Summary

Issue for Discussion

Planning for the implementation of the Chapter 501 of the Laws of 2012 ("Protection of People with Special Needs Act").

Reason for Consideration

Compliance with and implementation of Chapter 501 of the Laws of 2012.

Proposed Handling

This issue will come before the P-12 Education Committee for discussion in April 2013.

Procedural History

On December 17, 2012, Governor Cuomo signed Chapter 501 of the Laws of 2012. Chapter 501 enacts into law various provisions of legislation for the protection of people with special needs, including revisions to sections 4212, 4314, 4358, and 4403 of Education Law.

Background Information

Chapter 501, which becomes effective June 30, 2013, establishes a new Justice Center for the Protection of People with Special Needs and creates uniform safeguards

for vulnerable persons in facilities or provider agencies that are operated, certified, or licensed by State 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. The law also establishes requirements for the notification and investigation of allegations of abuse and neglect of individuals placed in residential schools or facilities located outside of New York State.

Under the legislation, the Justice Center will assume the functions and responsibilities of the former Commission on Quality of Care and Advocacy for Persons with Disabilities; be responsible for investigating allegations of serious abuse and neglect of vulnerable persons in State-operated and licensed facilities, including residential schools under the Department's oversight; ensure that individuals who are responsible for abuse and neglect of people with special needs are held accountable; and maintain a register of individuals who have committed serious acts of abuse to ensure they are on a list of individuals who are prohibited from future employment where they would work with people with special needs.

The Justice Center will establish codes of conduct of ethical standards to which all individuals who have regular contact with people with special needs would be held accountable and will oversee implementation of the procedures of State oversight agencies for tracking, investigating and monitoring corrective actions of allegations of abuse, neglect and significant incidents. A significant incident is defined as "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".

Chapter 501 also establishes the Protection and Advocacy Agency to help individuals with disabilities and their families obtain support services, legal assistance and respond to concerns relating to their quality of care and creates an Advisory Council of at least 15 members, including the Commissioner of Education, to provide guidance to the Justice Center in the development of policies, regulations, plans and programs.

Implications for SED

Many of the provisions of Chapter 501 will require substantial implementation efforts and additional resources from a number of program offices in SED. To comply with the new requirements of the law, specific regulatory, policy, and internal procedures, including investigation, reporting and monitoring procedures, must be developed, promulgated, and enacted by the Department. SED will have a new role in tracking and monitoring corrective actions of allegations of abuse, neglect and significant incidents and will have primary responsibility for the investigation of significant incidents in residential schools (i.e., State-operated schools, State-supported schools, special act school districts, and approved private residential schools, with

respect to both their day and residential components). The Department will also have responsibility for developing and delivering legislatively required training to mandated reporters, residential schools and other stakeholders.

Implications for Residential Schools

Chapter 501 also has significant implications for residential schools under the Department's oversight. Consistent with the requirements of the law and the Department's revised regulations, residential schools will need 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 to assist in reducing reportable incidents, and review patterns and trends concerning reportable incidents;
- when directed, conduct investigations of certain significant incidents;
- revise hiring and employee termination procedures; and
- provide training to staff on the requirements of Chapter 501.

Next Steps:

To ensure full implementation with Chapter 501 by the June 30, 2013 effective date, in the upcoming months, Department staff will:

1. Continue to meet regularly with the Justice Center regarding the Department's responsibilities under Chapter 501;
2. Participate in meetings of the Agency Implementation Network, comprised of teams from each State oversight agency, to support the implementation of Chapter 501;
3. In consultation with the Justice Center, revise sections 200.7 and 200.15 of the Regulations of the Commissioner of Education to include incident management procedures that comply with the requirements of the Chapter 501 and guidelines and standards developed by the Justice Center;
4. Propose regulations for adoption as an emergency action by the Board at their June 2013 meeting; and
5. Establish internal capacity, which will require additional resources, to fulfill the Department's new investigation, monitoring and reporting requirements.

Recommendations

It is recommended that proposed amendments to the Regulations of the Commissioner of Education be presented to the Board for adoption as an emergency action at their June 2013 meeting.