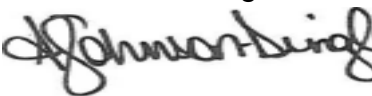




THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

TO: The Honorable Members of the Board of Regents
FROM: Angelique Johnson-Dingle 
SUBJECT: Proposed Amendment to Section 155.17
of the Regulations of the Commissioner of Education
Relating to School Safety Plans

DATE: November 3, 2022

AUTHORIZATION(S):



SUMMARY

Issue for Decision (Consent)

Should the Board of Regents adopt the proposed amendment to §155.17 of Commissioner's Regulations relating to school safety plans?

Reason(s) for Consideration

Required by State statute.

Proposed Handling

The proposed amendment is presented to the Full Board for adoption as an emergency action at the November 2022 Board of Regents meeting. A copy of the proposed rule is included (Attachment A) and a statement of facts and circumstances which necessitate emergency action is included (Attachment B).

Procedural History

The proposed amendment was presented to the P-12 Education Committee for discussion and recommendation to the Full Board for adoption as an emergency rule at the September 2022 meeting of the Board of Regents. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on September 28, 2022, for a 60-day public comment period.

Because the September 2022 emergency action will expire on December 11, 2022, a second emergency action is necessary to ensure the emergency rule

remains continuously in effect until it can be permanently adopted at the January 2023 Regents meeting. A Notice of Emergency Adoption will be published in the State Register on December 28, 2022. A copy of the proposed rule is attached. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

Over the past few decades, threats to schools have evolved and recent events nationwide have reinforced that school staff must be prepared to take immediate protective action in the event of such an incident.

In February 2019, Alyssa Alhadeff was killed in a mass shooting at the Marjorie Stoneman Douglass High School in Parkland, Florida. Alyssa's parents established a foundation in her memory and have advocated for the adoption of silent panic alarm systems in school buildings. The implementation of an alert directly to all law enforcement in the area of a school can save precious minutes in an active shooter situation and allow for immediate police response, which may save lives.

On June 23, 2022, [Governor Hochul signed Alyssa's Law](#), Chapter 227 of the Laws of 2022 (Chapter 227) which became effective immediately. Chapter 227 amends Education Law §2801-a to require that district-wide school safety teams of public schools, boards of cooperative educational services, and county vocational education extension boards consider the usefulness of silent panic alarm systems when reviewing and amending district-wide safety plans. Additionally, Chapter 227 expressly authorizes the inclusion of panic alarm systems in building-level emergency response plans and adds a definition for "panic alarm systems." The proposed amendments to Commissioner's regulation §155.17 conforms such section to the amendments made to Education Law §2801-a by Chapter 227.

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 December 12, 2022, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the public health and general welfare to immediately conform section 155.17 of the Commissioner's regulations with the amendments made to Education Law §2801-a by Chapter 227 of the Laws of 2022, which became effective on June 23, 2022, and to ensure the emergency action taken at the September 2022 meeting remains continuously in effect.

Timetable for Implementation

If adopted as an emergency rule at the November 2022 Regents meeting, the

emergency rule will become effective on December 12, 2022. It is anticipated that the proposed rule will be presented to the Board of Regents for permanent adoption at the January 2023 Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act. If adopted at the January 2023 meeting, the proposed amendment will become effective on January 25, 2023.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 207, 305, 2801-a of the Education Law and Chapter 227 of the Laws of 2022.

1. Subdivision (b) of section 155.17 of the Regulations of the Commissioner of Education is amended by adding a new paragraph (19) to read as follows:

(19) Panic alarm system means a silent security system signal generated by the manual activation of a device intended to signal a life-threatening or emergency situation requiring a response from local law enforcement or, in the case of a school building located in a municipality in which there is no municipal police department, a location designated by the superintendent of state police and may include one or more of the following: wired panic button or buttons, wireless panic button or buttons or a mobile or computer application.

2. Clause (b) of subparagraph (xi) paragraph (1) of subdivision (c) of section 155.17 of the Regulations of the Commissioner of Education is amended to read as follows:

(b) security devices or procedures. District-wide school safety teams shall consider, as part of their review of the comprehensive district-wide safety plan, the installation of a panic alarm system;

3. Subparagraph (iv) of paragraph (2) of subdivision (c) of section 155.17 of the Regulations of the Commissioner of Education is amended to read as follows:

(iv) establishment of internal and external communication systems in emergencies which may include the installation of a panic alarm system;

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE
EMERGENCY ACTION

On June 23, 2022, [Governor Hochul signed Alyssa's Law](#), Chapter 227 of the Laws of 2022 (Chapter 227) which became effective immediately. Chapter 227 amends Education Law §2801-a to require that district-wide school safety teams of public schools, boards of cooperative educational services, and county vocational education extension boards consider the usefulness of silent panic alarm systems when reviewing and amending district-wide safety plans. Additionally, Chapter 227 expressly authorizes the inclusion of panic alarm systems in building-level emergency response plans and adds a definition for “panic alarm systems.” The proposed amendments to Commissioner’s regulation §155.17 conform such section to the amendments made to Education Law §2801-a by Chapter 227.

The proposed amendment was presented to the P-12 Education Committee for recommendation to the Full Board for adoption as an emergency rule at the September 2022 meeting of the Board of Regents, effective September 13, 2022. Since the Board of Regents meets at scheduled intervals, the earliest the proposed amendment could be presented for regular (non-emergency) adoption, after publication in the State Register and expiration of the 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) Sections 202(1) and (5), is the January 2023 Regents meeting. Furthermore, pursuant to SAPA Section 203(1), the earliest effective date of the proposed amendment, if adopted at the January 2023 Regents meeting, is January 25, 2023, the date a Notice of Adoption would be published in the State Register.

However, the emergency rule will expire on December 11, 2022. Therefore, because Chapter 227 of the Laws of 2022 became effective on June 23, 2022, emergency

action is necessary at the November 2022 Regents meeting for the preservation of the general welfare in order to immediately conform section 155.17 of the Commissioner's regulations with the amendments made to Education Law §2801-a by Chapter 227 of the Laws of 2022 and to ensure the emergency action taken at the September meeting remains continuously in effect until the rule can be permanently adopted.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at the January 2023 meeting, which is the first scheduled meeting after expiration of the 60-day public comment period mandated by SAPA for state agency rulemaking.