



TO: The Honorable the Members of the Board of Regents

FROM: Kimberly Young Wilkins *Kimberly Young Wilkins*

SUBJECT: Proposed Amendment to Section 100.2(c) of the Regulations of the Commissioner of Education to Implement Erin's Law

DATE: April 8, 2021

AUTHORIZATION(S): *Dom N. B.* *John L. D'Agati* *Betty M.*

SUMMARY

Issue for Decision (Consent)

Should the Board of Regents amend section 100.2(c) of the Regulations of the Commissioner of Education to implement Erin's Law?

Reason(s) for Consideration

Required by State statute (L. 187 of 2019).

Proposed Handling

The proposed amendment is being presented to the Full Board for adoption as a permanent rule at its April 2021 meeting. A copy of the proposed rule is attached (Attachment A). Supporting materials are available upon request to the Secretary of the Board of Regents.

Procedural History

The proposed amendment was presented to the P-12 Education Committee for recommendation to the Full Board for adoption as an emergency rule at its December 2020 meeting, effective December 15, 2020. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on December 30, 2020 for a 60-day public comment period. Because the emergency action taken at the December meeting was set to expire on March 14, 2021, it was necessary to adopt a second emergency action at the February 2021 Regents meeting, effective March 15, 2021, to ensure that the emergency rule remained continuously in effect until it could be permanently adopted at the April 2021 Regents meeting. A Notice of Emergency Adoption was published in the State Register on March 31, 2021.

Following the 60-day public comment period required under the State Administrative Procedure Act, the Department received a comment on the proposed amendment. The Department has made a technical revision to the proposed rule in response to the public comment. An Assessment of Public Comment is included as Attachment B.

Background Information

On August 29, 2019, Governor Andrew M. Cuomo signed legislation adding a new section 803-b to the Education Law [[Chapter 187 of the Laws of 2019](https://legislation.nysenate.gov/pdf/bills/2019/A2577B)] - known as Erin's Law. Erin's Law is named for Erin Merryn, an abuse survivor and activist against child sexual abuse and exploitation who has advocated for similar laws nationwide for over a decade. Erin's Law requires that all students in kindergarten through grade 8 receive instruction designed to prevent child sexual exploitation and child sexual abuse. Such program of instruction must be designed to educate students, parents, and school personnel about the prevention of child sexual exploitation and child sexual abuse. The law is intended to help children, teachers, and parents in New York State identify sexual abuse, and to provide awareness, assistance, referral, and resource information for children and families who are victims of child sexual abuse.

The Department has worked with key partners over the past year to develop guidance and resources to support this law. The New York State Education Department (NYSED) has created an [Erin's Law website](http://www.nysed.gov/curriculum-instruction/erins-law) (<http://www.nysed.gov/curriculum-instruction/erins-law>) with curriculum resources to support this endeavor and to provide assistance to schools, families, and educators. The website and resources have been developed with the input, review, and help of partners such as the New York State Department of Health, NYS Office of Children and Family Services (OCFS), and New York State Center for School Health. These tools and resources can be used in schools to ensure students in kindergarten through grade 8 have the instruction, support, and knowledge needed to protect themselves, as well as how to seek help when needed.

NYSED recommends that educators create their own Erin's Law curriculum to best fit within their school and programs, in accordance with the existing New York State Standards in Health Education, to fully comply with the intent of Erin's Law. Although curriculum remains a local decision in New York State, the resources provided on the website can serve as a foundation in local curriculum development and instruction. As more resources are available, the Department will review and share them on the Erin's Law website. NYSED's Erin's Law website includes the following:

- Background on Erin's Law and school district responsibilities;
- Grade band (K-2; 3-4; 5-6; and 6-8) curriculum benchmark guidance; and
- Links to resources or programs that could be used to support local curriculum decisions and instruction.

NYSED also encourages local school districts to partner with families and communities to make decisions about sexual abuse education that are developmentally appropriate and consistent with community values.

Proposed Amendment

The proposed amendment to section 100.2(c) of the Commissioner's regulations implements the provisions of Erin's Law by adding the requirement that all public school students in kindergarten through grade 8 receive instruction designated to educate students, parents, teachers, and other school personnel about the prevention of child sexual exploitation and child sexual abuse. The proposed amendment provides that such instruction may be included as part of a school's health education program and should be developed in consultation with school counselors, school social workers, parents, and community members. Additionally, the proposed amendment provides that such instruction shall be designed to: (1) assist children, parents, teachers, and other school personnel in identifying child sexual abuse and child sexual exploitation; (2) provide awareness, assistance, referral, and resource information for children and families who are victims of child sexual abuse and/or child sexual exploitation; and (3) be aligned to the grade band objectives prescribed by the Commissioner in guidance.

Revision to the Proposed Amendment

In response to public comment, the proposed amendment has been revised to clarify that school psychologists should also be consulted in the development of the instruction designed to educate students, parents, teachers, and other school personnel about the prevention of child sexual exploitation and child sexual abuse, along with school counselors, school social workers, parents, and community members. School psychologists were inadvertently omitted in the proposed amendment.

Related Regents Items

December 2020: [Proposed Amendment to Section 100.2\(c\) of the Regulations of the Commissioner of Education to Implement Erin's Law](https://www.regents.nysed.gov/common/regents/files/1220p12a1.pdf)
(<https://www.regents.nysed.gov/common/regents/files/1220p12a1.pdf>)

February 2020: [Proposed Amendment to Section 100.2\(c\) of the Regulations of the Commissioner of Education to Implement Erin's Law](https://www.regents.nysed.gov/common/regents/files/221brca4.pdf)
(<https://www.regents.nysed.gov/common/regents/files/221brca4.pdf>)

Recommendation

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

VOTED: That Section 100.2(c) be amended, as submitted, effective April 28, 2021.

Timetable for Implementation

If adopted at the April 2021 meeting, the proposed rule will become effective as a permanent rule on April 28, 2021.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to section 107, 207, 305, 308, and 803-b of the Education Law as added by Chapter 187 of the Laws of 2019.

1. Subdivision (c) of section 100.2 of the Regulations of the Commissioner of Education is amended by adding a new paragraph (12) to read as follows:

(12) for all public school students in grades kindergarten through 8, instruction designed to educate students, parents, teachers, and other school personnel about the prevention of child sexual exploitation and child sexual abuse in accordance with section 803-b of the Education Law. Such instruction may be included as part of a school's health education program pursuant to section 135.3 of this Title. Curriculum addressing this topic should be developed in consultation with school counselors, school social workers, school psychologists, parents and community members and shall be designed to:

(i) assist children, parents, teachers, and other school personnel in identifying child sexual abuse and child sexual exploitation;

(ii) provide awareness, assistance, referral, and resource information for children and families who are victims of child sexual abuse and/or child sexual exploitation; and

(ii) be aligned to grade band objectives prescribed by the commissioner in guidance.

ASSESSMENT OF PUBLIC COMMENT

Following publication of a Notice of Emergency Adoption and Proposed Rule Making in the State Register on December 30, 2020, the State Education Department received the following comment:

1. COMMENT:

A commenter noted that school psychologists play a vital role in the prevention, intervention and treatment related to child sexual exploitation and child sexual abuse; therefore, the comment suggested that the proposed amendment be amended to include school psychologists in the list of who districts should consult in developing the curriculum addressing this topic.

DEPARTMENT RESPONSE:

The Department agrees that school psychologists should be included; the proposed amendment has been revised to address this inadvertent omission of school psychologists.