

December 3, 2020

To: District Superintendents of BOCES  
Superintendents of Public School Districts  
Principals of Public Schools  
Charter School Leaders

From: Kathleen R. DeCataldo

Subject: Recent Amendments to Education Law §2801-a Regarding Pandemic Planning

On September 7, 2020, Governor Cuomo signed into law Chapter 168 of the Laws of 2020 that requires public employers, including public school districts, to adopt a continuation of operations plan in the event that the governor declares a public health emergency involving communicable disease. The legislation (S.8617 -B/ A.10832) amends subdivision 2 of section [2801-a of New York Education Law](#) to require that District Safety Plans include protocols for responding to a declared public health emergency involving a communicable disease that are “substantially consistent” with the provisions of section 27-c of the Labor Law.

The effective date of the law is September 7, 2020, with operation plans required to be established and functional within 30 days of that date. However, the Governor’s Approval Memo indicates there will be a technical chapter amendment to this bill which will push out the date the plans are due to April 1, 2021. Note that there may be additional changes added to the language at that time.

For your information, a summary of the requirements is provided below. District officials may include any relevant content developed for the District Re-Opening Plan in the Public Health Emergency Continuation of Operations Plan. District officials should consult with their school attorney regarding the best strategy for amending the current board - approved District Safety Plan and adopting an amended plan that includes the additional required information.

As per section [27-c of the Labor Law](#), the operations plan must include, but is not limited to:

- a. A list and description of positions and titles considered essential in the event of a state-ordered reduction of in-person workforce, as well as a justification for such consideration for each position and title. Note that per [NYS Department of Health COVID-19 toolkit guidance](#), school staff are not essential workers. However, as you are developing the list of essential and non-essential staff functions, you should

anticipate how certain positions/titles may be

