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

From: Kathleen DeCataldo

Subject: Recent Legislative and Regulatory Changes

In the 2019 legislative session, there were new laws passed related to school safety. Districts and schools should consult with their school attorney regarding implementation of these new requirements. A brief overview is provided below.

Chapter 138 of the Laws of 2019, effective June 5, 2019, amends §265.01-a of the Penal Law to prohibit any educational institution as defined in Education Law §1125(10) from issuing written authorization to carry a firearm to any teacher, administrator or other person employed at the school who is not primarily employed as a school resource officer, police officer, peace officer, or a security guard who has been issued a special armed guard registration card as defined in the General Business Law. The prohibition applies regardless of whether the person is employed by the school or a third party.

Chapter 19 of the Laws of 2019, otherwise known as the “Red Flag” Law, effective August 24, 2019, established extreme risk protection orders (ERPOs) as a court-issued order of protection prohibiting a person from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun, directs surrender and seizure of firearms, rifles or shotguns in a respondent’s possession and authorizes searches permitted by law.

The law permits family and household members, law enforcement, and school administrators or a school administrator’s designee to petition a court to suspend access to guns of a person in crisis and provides the individual in crisis due process, through the court system. School officials who may file a petition include a school administrator as defined in Education Law §1125, or designee, of any school in which the person against whom the order is sought is currently enrolled or has been enrolled in the six months immediately preceding the filing of the petition. A school administrator may in writing appoint a designee to file such petition. The designee must be employed at the same school as the school administrator and may be any of the following: a school teacher, school guidance counselor, school psychologist, school social worker, school nurse, or other school personnel required to hold a teaching or administrative license or certificate, and full

or part-time compensated school employee required to hold a temporary coaching license or professional coaching certificate.

A temporary ERPO will be issued if the court finds probable cause to believe that a respondent will engage in conduct that would result in serious harm to themselves or others. A hearing will be scheduled within 3 to 6 business days at which the petitioner must prove by clear and convincing evidence that a respondent is likely to engage in conduct that would result in serious harm to themselves or others for the ERPO to become final and in effect for up to one year from the date of issuance. Application forms for such an order, and detailed directions for filing the application, are available through the State Court System at [ERPO Forms](#). If an application is an emergency and must be filed outside of normal business hours, the Unified Court System has also established an emergency phone number and email address to reach a Supreme Court judge when the court is closed.

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