



Advocates for Children of New York

Protecting every child's right to learn

July 1, 2024

Judy Nathan
Office of the General Counsel
52 Chambers Street, Room 308
New York, NY 10007
Via email: regulationa-411@schools.nyc.gov

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Re: Proposed Amendments to Chancellor's Regulation A-411

Dear Ms. Nathan,

Advocates for Children of New York (AFC) appreciates the opportunity to submit comments regarding the proposed amendments to Chancellor's Regulation A-411 (CR A-411). For over 50 years, AFC has worked to ensure a high-quality education for New York students who face barriers to academic success, focusing on students from low-income backgrounds. We speak out for students whose needs are often overlooked, such as students with disabilities, students with mental health needs, students involved in the juvenile or criminal legal system, students from immigrant families, and students who are homeless or in foster care.

In June 2021, we published a report, *Police Response to Students in Emotional Crisis*, analyzing NYPD data over four school years (July 2016 to July 2020) and finding that NYPD officers, including precinct officers and school safety agents, responded to a total of 12,050 incidents in which a student in emotional distress was removed from class and transported to the hospital for psychological evaluation—what the NYPD terms a “child in crisis” intervention.¹ Almost half of these interventions (5,831, or 48.4%) involved children between the ages of 4 and 12. In nearly one out of every ten interventions, the NYPD's response to an apparent school-based mental health crisis involved putting handcuffs (i.e., metal or Velcro restraints) on the child. In addition, a disproportionate number of these child in crisis interventions involved Black students, students with disabilities in District 75 special education schools, and students attending schools located in low-income communities of color. Unfortunately, the Student Safety Act data in the most recent school year continues to demonstrate these trends.

¹ Advocates for Children, *Police Response to Students in Emotional Crisis*, June 2021, https://advocatesforchildren.org/wp-content/uploads/2024/03/police_response_students_in_crisis.pdf.



Our report highlighted the need to clarify school staff roles and responsibilities related to students in emotional crisis by revising and monitoring implementation of CR A-411. As such, we are pleased with many of the proposed amendments to the regulation, which are a significant change to the existing regulation and emphasize that schools must support students and not use punitive measures, such as calling 911, to respond to students in emotional crisis. With proper implementation, we believe these changes have the potential to decrease the number of students who are unnecessarily handcuffed and/or transported to a hospital emergency room due to a behavioral crisis.

At the same time, based on our experience advocating for students in behavioral crises in schools, we have a number of recommendations to further strengthen CR A-411:

Introduction (Section I)

We appreciate the changes and additions to this section that clarify the purpose of the regulation and make it clear that staff must be supporting students by helping to de-escalate behavior. To make this language stronger, we suggest changing the language in Section I.A. and Section I.B to add prevention of behavioral crises as a goal for the School Crisis Team and the Crisis De-Escalation Plan. In our experience, schools are often aware of students who are at-risk for experiencing behavioral crises in schools. The regulation should make clear that schools should be taking proactive steps to identify and support these students with the goal of preventing behavioral crises in the first place. The School Crisis Team is best suited to help support this work and to support school staff struggling to address student behavior in schools. We recommend the following changes to Sections A and B as outlined below:

- A. This regulation sets forth the Department of Education's ("DOE") policy and procedures regarding prevention, intervention and de-escalation when students experience behavioral crises

- B. The goal of crisis intervention is to support a student in crisis or a student at-risk for crisis by helping to prevent and de-escalate behavior. When a student is at-risk for or engages in behavior that poses a substantial risk of serious injury to the student or others and significantly disrupts the educational process, schools must determine the appropriate way to address the behavior proactively, and consider whether the situation can be safely de-escalated by school staff as set forth below, and utilize all available resources to de-escalate student behavior prior to calling 911.

In addition, we want to make sure that schools are aware of and using all available resources within New York City Public Schools (NYCPS) and other city agencies including the Department of Health and Mental Hygiene (DOHMH) and recommend including language in this section to emphasize that schools should be using these resources, including the City's 988 mental health support hotline, prior to calling 911. To that end, we recommend amending Section I.C. as outlined below:



C. When efforts to de-escalate consistent with this Regulation and the school's Crisis De-escalation Plan have not been successful, the school has contacted 988 or NYC Well and has determined that a non-police response to the student in crisis is not available, and the child continues to pose a substantial risk of serious injury to the student or others, the principal/designee will determine whether 911 should be called.

Finally, we want to ensure that when school staff are de-escalating crises, they are all using an approach that is evidence-based, trauma-informed, and culturally responsive and that does not involve physical intervention. To this end, we recommend the following addition to Section I.:

G. For the purposes of this regulation, de-escalation techniques used must be trauma-informed, culturally responsive strategies and interventions that do not include physical intervention or verbal threats.

Crisis Intervention Plans (Section III)

We have several recommendations for the section on Crisis Intervention Plans to ensure that there is transparency around how schools will de-escalate a student experiencing a behavioral crisis and that an evidence-based and trauma-informed approach is used in all schools. We also recommend making Crisis Intervention Plans available to all parents once developed by posting them on the school's website under Mental Health and Wellness.

We recommend the following additions to Section III.A.:

A. Each school's Crisis Team must complete a Crisis Intervention Plan containing a section outlining a Behavioral Crisis De-escalation Plan as part of its Consolidated School and Youth Development Plan. A copy of the Crisis Intervention Plan and the Behavioral Crisis De-escalation Plan must be linked to on the school's website under the Mental Health and Wellness tab. See Chancellor's Regulation A-755 for a description of other sections to be included in the Crisis Intervention Plan. The Behavioral Crisis De-escalation Plan section must:

1. include strategies for behavior management designed to minimize crisis situations and de-escalate behavioral crises, including information on the impact of trauma and how it affects student behavior;
2. identify locations in the school building to be used as safe locations for students experiencing crisis;
3. identify any school staff recently trained in trauma-informed and culturally responsive de-escalation techniques;
4. identify available in-school and community resources and services (e.g., mental health clinics, mobile crisis teams, the 988 or NYC Well hotline,



facilities that provide urgent/same-day mental health assessments), including specific contact information and eligibility criteria for those resources; and 5. describe how crisis de-escalation and response protocols are communicated to school staff.

Restrictions on Physical Restraint and Timeout (Section IV)

We are pleased that a section restricting physical restraints was added to the regulations and that there is specific language that a principal/designee must be contacted before the use of restraints is considered. However, we find that school staff will call in School Safety Agents or SSAs to assist with physical restraint of students in crisis, without first contacting the principal/designee. To this end, we request the following language be added to Section V.B.:

B. If a crisis situation cannot be resolved in accordance with the crisis intervention plan and this regulation and it appears that restraints may be needed, the principal/designee must be contacted to determine next steps. School staff may not request that non-school staff, such as School Safety Agents (SSAs), restrain a student in crisis before the principal/designee is contacted.

School Staff Professional Development (Section V)

It is imperative that school staff on the School Crisis Team receive regular and comprehensive training by experts that will provide them with an array of strategies to identify, prevent and intervene when a student is in crisis. We recommend adding more specific training requirements and guidance to this section to help ensure that Crisis Team members are using evidence-based strategies and approaching students in crisis from a trauma-informed and culturally responsive lens. We recommend adding:

D. Crisis Team members must receive, at a minimum, ongoing yearly professional development on crisis related topics including, but not limited to, promoting student well-being, the impact of trauma on behavior, culturally relevant responses to students in crisis, preventing behavioral crisis before they occur, Collaborative Problem Solving, and behavioral crisis de-escalation. See Chancellor's Regulation A-755 for additional training topics for Crisis Team members.

Responding to a Behavioral Crisis Situation (Section VI)

It is crucial that principals use all available resources, outside of law enforcement, to de-escalate a crisis situation and support students in crisis. To this end, we recommend making the language in



Section VII.E. stronger to indicate that these efforts must be made when the School Crisis Team is unavailable or unsuccessful in de-escalating a crisis:

E. The principal/designee ~~may also~~ must also seek assistance from other appropriate staff, such as a school staff member with whom the student has a trusting relationship, a school counselor, or personnel in the School-Based Mental Health Clinic (SBMHC). The principal ~~may~~ must also seek assistance from a School-Based Health Center with mental health services (SBHC) if there is one on-site, a CBO at the school, the 988 hotline or NYC Well, or the Children's Mobile Crisis Team.

In addition, we hear from families who receive calls from schools threatening to call 911 or EMS if a parent does not pick a child in crisis up from school. To prevent this inappropriate response to a student in crisis, we recommend adding the following to Section VII:

I. School staff are not permitted to use the threat of calling 911 or Emergency Medical Services (EMS) to direct or pressure a parent to take their child out of school.

Thank you for the opportunity to comment on the proposed amendments to CR A-411. Please do not hesitate to contact us if you have any questions.

Respectfully,

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