

POLICY

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SUBJECT: DIGNITY FOR ALL STUDENTS ACT

The Board of Education recognizes that learning environments that are safe and supportive can increase student attendance and improve academic achievement. A student's ability to learn and achieve high academic standards, and a school's ability to educate students, is compromised by incidents of discrimination or harassment, including but not limited to bullying, taunting and intimidation. Therefore, in accordance with the Dignity for All Students Act, Education Law, Article 2, the District will strive to create an environment free of discrimination and harassment and will foster civility in the schools to prevent and prohibit conduct which is inconsistent with the District's educational mission.

The District condemns and prohibits all forms of discrimination and harassment of students based on actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex by school employees or students on school property and at school-sponsored activities and events that take place at locations off school property. In addition, any act of discrimination or harassment, outside of school sponsored events, which can reasonably be expected to materially and substantially disrupt the education process may be subject to discipline.

Dignity Act Coordinator

At least one (1) employee at every school shall be designated as the Dignity Act Coordinator(s). The Dignity Act Coordinator(s) will be thoroughly trained to handle human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (identity or expression) and sex. The Board of Education shall appoint the Dignity Act Coordinator(s) and share the name(s) and contact information with all school personnel, students, and parents/persons in parental relation.

If a Dignity Act Coordinator vacates his/her position, another school employee shall immediately be designated for an interim appointment as Coordinator, pending approval from the Board of Education, within thirty (30) days of the date the position was vacated. In the event a Coordinator is unable to perform the duties of the position for an extended period of time, another school employee shall immediately be designated for an interim appointment as Coordinator, pending return of the previous Coordinator to the position.

Training

Training will be provided each school year for all District employees in conjunction with existing professional development training to raise staff awareness and sensitivity of harassment and discrimination directed at students that are committed by students or school employees on school property or at a school function. Training will include ways to promote a supportive school environment that is free from discrimination and harassment, emphasize positive relationships, and demonstrate prevention and intervention techniques to assist employees in recognizing and responding to harassment and discrimination, as well as ensuring the safety of the victims.

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SUBJECT: DIGNITY FOR ALL STUDENTS ACT (Cont'd.)

Instruction in grades Kindergarten through 12 shall include a component on civility, citizenship and character education. Such component shall instruct students on the principles of honesty, tolerance, personal responsibility, respect for others, observance of laws and rules, courtesy, dignity and other traits which will enhance the quality of their experiences in, and contributions to, the community. For the purposes of this policy, "tolerance," "respect for others" and "dignity" shall include awareness and sensitivity to discrimination or harassment and civility in the relations of people of different races, weights, national origins, ethnic groups, religions, religious practices, mental or physical abilities, sexual orientations, genders and sexes.

Rules against discrimination and harassment will be included in the Code of Conduct, publicized District-wide and disseminated to all staff and parents. An age-appropriate summary shall be distributed to all students at a school assembly at the beginning of each school year.

Reports and Investigations of Discrimination and Harassment

The District will investigate all complaints of harassment and discrimination, either formal or informal, and take prompt corrective measures, as necessary. Complaints will be investigated in accordance with applicable policies and regulations. If, after an appropriate investigation, the District finds that this policy has been violated, corrective action will be taken in accordance with District policies and regulations, the Code of Conduct, and all appropriate federal or state laws.

The District will annually report material incidents of discrimination and harassment to the State Education Department as part of the Uniform Violent and Disruptive Incident Reporting System (VADIR).

Prohibition of Retaliatory Behavior (Commonly Known as "Whistle-Blower" Protection)

Any person who has reasonable cause to suspect that a student has been subjected to discrimination or harassment by an employee or student, on school grounds or at a school function, who acts reasonably and in good faith and reports such information to school officials or law enforcement authorities, shall have immunity from any civil liability that may arise from making such report. The Board prohibits any retaliatory behavior directed at complainants, victims, witnesses and/or any other individuals who participated in the investigation of a complaint of discrimination or harassment.

Education Law Sections 10-18 and 801-a
8 New York Code of Rules and Regulations (NYCRR) Section 100.2(1)(2)

(Continued)

***REQUIRED POLICY**

POLICY

2012

7550

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Students

SUBJECT: DIGNITY FOR ALL STUDENTS ACT (Cont'd.)

NOTE: Refer also to Policies #1330 -- Appointments and Designations by the Board of Education
#3410 -- Code of Conduct on School Property
#3420 -- Non-Discrimination and Anti-Harassment in the School District
#3430 -- Uniform Violent and Disruptive Incident Reporting System (VADIR)
#7551 -- Sexual Harassment of Students
#7552 -- Bullying in the Schools
#7553 -- Hazing of Students
#8130 -- Equal Educational Opportunities
#8242 -- Civility, Citizenship and Character Education/Interpersonal Violence Prevention Education

Adoption Date

From: VForcucci@e1b.org
Sent: Thursday, April 05, 2012 12:45 PM
Subject: PU Apr 12 - Dignity for all Students Act
Attachments: PU Apr 12 - Dignity for all Students Act.doc; PU Apr 12 - Code of Conduct on School Property.doc; PU Apr 12 - Civility, Citizenship and Character Education-Interpersonal Violence Prevention Education.doc

***Required Policy**

April 2012

DIGNITY FOR ALL STUDENTS ACT

Research has demonstrated that students who suffer from real or perceived harassment and discrimination have greater incidents of truancy, poor academic performance, and suffer from depression. This can also lead to high-risk behaviors, such as alcohol and drug use. As a result of the increased negative behaviors of students and a spate of well-publicized suicides resulting from harassment, Governor David Paterson signed into law the Dignity for All Students Act on September 13, 2010, which becomes effective July 1, 2012. This legislation amended State Education Law by creating a new Article 2 – Dignity for All Students Act. The goal of the Dignity Act is to provide students a school environment that is safe, supportive and free from discrimination, taunting, and harassment (i.e., bullying) on school property, on a school bus, or at a school function.

The Dignity Act also amended Section 801-a of New York State Education Law regarding instruction in civility, citizenship, and character education by expanding the concepts of tolerance, respect for others and dignity to include: an awareness and sensitivity in the relations of people, including but not limited to, actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, and sex. Implementation of training programs that include recognizing, preventing and responding to discrimination and harassment will be required of all staff on an annual basis.

Since the passage of the Dignity for All Students Act (DASA), Policy Services has received numerous requests for a DASA Policy. We intentionally delayed the development of a DASA Policy while we awaited further clarification and finalization of the Commissioner's Regulations. After much anticipation, this Month's Policy Update addresses the Dignity for All Students Act. Although not all of the Commissioner's Regulations have been finalized as of this writing, we are providing a new required Policy based on Education Law Article 2 to address DASA. Section 13 of the Dignity for All Students Act states that the Board of Education of every school district shall develop Policies intended to create a school environment that is free from discrimination and harassment. Based on this portion of the law and information from SED, this suggests that DASA is a **required** Policy. This sample Policy includes components for the designation of the Dignity Act Coordinator, the training that is required for all district staff, the reporting, and Protection against Retaliatory Behavior based on the law and the **proposed** Commissioner's Regulations.

Since not all of the Commissioner's Regulations have been finalized, Policy Services has elected to hold off on the revisions to Administrative Regulations. Therefore, both Policy and Administrative Update subscribers will receive **three (3)** sample Policies as opposed to the traditional Policy and Regulation for this month. In addition to the new DASA Policy, this Update also provides revisions to existing **required** Policy #3410 -- Code of Conduct on School Property and revisions to existing Policy #8242 -- Civility, Citizenship and Character Education/Interpersonal Violence Prevention Education based on amendments to the Commissioner's Regulations as they relate to these topics. These two (2) amendments were adopted by the Board of Regents at their March 2012 meeting.

The Board of Regents voted to amend subdivision (c) of Section 100.2 of the Regulations of the Commissioner of Education relating to instruction in civility, citizenship, and character education, to implement the Dignity for All Students Act ("Dignity Act"), effective July 1, 2012. See the Regents item on the Amendment of Section 100.2(c) of

[the Commissioner's Regulations, Relating to Instruction in Civility, Citizenship, and Character Education](#) for more information. The Board also voted to amend paragraph (2) of subdivision (l) of Section 100.2 of the Regulations of the Commissioner of Education relating to codes of conduct, to implement the Dignity for All Students Act ("Dignity Act"); and to add Section 119.6, effective July 1, 2012. See the [Regents item on the Amendment of Section 100.2\(l\) and Addition of Section 119.6 of the Commissioner's Regulations, Relating to Codes of Conduct](#) for more information.

Background Information on DASA

The New York State Dignity Act (DASA) defines harassment as, "creation of a hostile environment by conduct or by verbal threats, intimidation or abuse that has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; or conduct, verbal threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety." Districts could also be in violation of Federal civil rights statutes and United States Education Department regulations if peer harassment creates a hostile environment and is not adequately addressed or is ignored by school staff. Schools are responsible for investigating any harassment incidents which it knows about or reasonably should have known about.

Studies conducted by the Gay, Lesbian and Straight Education Network (GLSEN) have found that more than one-third (39%) of New York State students reported that bullying and harassment is a serious problem at school. [From *Teasing to Torment: A Report on School Climate in New York*. Gay, Lesbian, and Straight Education Network (GLSEN), 2008.] The most common perception of harassment was based on a student's physical appearance, with actual or perceived sexual orientation the second most common. The new legislation expressly prohibits harassment of students with respect to their actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (identity or expression) or sex. It should be noted that the Dignity for All Students Act does not alter existing non-discrimination and anti-harassment obligations as required under federal law (Titles II, VI, IX, Section 504, etc.).

Although the original intent of the Dignity Act was to protect all students from harassment and discrimination, it has been more widely associated with bullying and the resulting effects on the educational process. As bullying and cyberbullying have become more prevalent, these behaviors present additional challenges for school administrators to maintain a safe and supportive learning environment. Internet usage can now expose students "24/7" so that they no longer feel safe in the privacy of their own homes. Events that may occur off school grounds often filter into the schools and substantially disrupt the educational environment. The new DASA Policy provides for the coordination, training and responding to harassment and discrimination to prevent and intervene in promoting a safe and supportive environment.

The New York State Education Department shares the following information in its publication "Guidance on Bullying and Cyberbullying":

Students may be disciplined for conduct that occurred off-campus if it endangers the health or safety of students and adversely affects the educational system as evidenced by case law (Matter of Cooghan v. Board of Education of Liverpool Central School District, 262 AD2d 949, citing Pollnow v. Glennon, 594 F.Supp. 220, 224 affd 757 F.2d 496). The Commissioner's decisions have upheld the suspension of students for off-campus behavior by applying the Tinker standard where a student's off-campus "speech" may be subject to formal discipline by school officials when it is determined that the off-campus speech did cause a substantial disruption or threat thereof within the school setting [Tinker v. Des Moines Independent School District 393 U.S. 503 (1969)]. However, there are constitutional limitations on the ability of a school district to restrict forms of free speech and expression and to discipline students for engaging in them pursuant to the Tinker standard. Due to the evolving nature of constitutional law, District policies should periodically be reviewed by school attorneys to reflect current developments.

Since most students do not have access to their District's Policy Manual, the more relevant document for students is the *District Code of Conduct* which governs the maintenance of order on school property. The Dignity Act further amended Section 2801 of the Education Law by requiring Boards of Education to include language addressing The

Dignity Act in their Codes of Conduct. State law requires that the *District Code of Conduct* be reviewed annually (and amended or updated as necessary) per Education Law Section 2801(5) and 8 NYCRR Section 100.2(l)(iii)(a). The *Code of Conduct* is the tool that administrators use to implement and enforce the rules to promote a positive school climate.

The *Code of Conduct* should include provisions on discrimination, harassment, bullying, Internet and electronic safety issues such as cyberbullying and sexting, as well as anticipating future challenges as technology continues to rapidly evolve. The *Code of Conduct* must be communicated in an age-appropriate language, and be placed on the District website if the District maintains a website. Districts are also required to review the code at school-wide assemblies at the beginning of each school year. NYSED has indicated that a model sample *Code of Conduct* is in development. Again, once additional information is available, we will provide Districts with sample language to assist with this task. Policy Services also assists Districts with their annual *Code of Conduct* review process.

Additional information can be found at the following websites:

The Dignity for All Students Main Home page from NYSED.gov: <http://www.p12.nysed.gov/dignityact/>
Safe Schools and Alternative Education: <http://www.p12.nysed.gov/sss/ssae/schoolsafety/>

The New York Center for School Safety: <http://www.nyscenterforschoolsafety.org>
NYSED Internet Safety: http://www.p12.nysed.gov/technology/internet_safety/

In summary, enclosed for your review and consideration is a newly developed **required** Policy #7550 -- Dignity for All Students Act (based on the DASA legislation and the **proposed** Commissioner's Regulations), revised Policy #3410 -- Code of Conduct, and Policy #8242 -- Civility, Citizenship and Character Education/Interpersonal Violence Prevention Education (based on **approved** Commissioner's Regulations) to assist districts in complying with the Dignity for All Students Act provisions.

This sample Dignity for All Students Act Policy is intended to be used in conjunction with several Policies that districts should already have in place:

- Appointments and Designations by the Board of Education (#1330)
- Code of Conduct on School Property (#3410)
- Non-Discrimination and Anti-Harassment in the School District - updated in August 2011 (#3420)
- Uniform Violent and Disruptive Incident Reporting System (VADIR) (#3430)
- Sexual Harassment of Students (#7551)
- Bullying in the Schools – including Cyberbullying (#7552)
- Hazing of Students (#7553)
- Equal Educational Opportunities (#8130)
- Civility, Citizenship and Character Education/Interpersonal Violence Prevention Education (#8242)
- *District Code of Conduct*

Please note that the Policy Manual numbers correlate with the Erie 1 BOCES numbering system, and that your numbers may vary.

While the Dignity for All Students Act imposes some of the same obligations regarding training and reporting for districts as the Safe Schools Against Violence in Education Act (SAVE), the new law is meant to enhance and strengthen some of the existing protocols. There are still several unanswered questions and we will continue to monitor the development of the Dignity for All Students Act and amend the above policies and regulations, as necessary, once the final Commissioner's Regulations are adopted.

Policy Update Service

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