

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 **bullying, discrimination and/or harassment** and will foster civility in the schools to prevent and prohibit conduct which is inconsistent with the District's educational mission. **Since cyberbullying is a form of bullying, the term "bullying" as used in this policy will implicitly include cyberbullying even if it is not explicitly stated.**

The District condemns and prohibits all forms of **bullying, discrimination and/or 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 **bullying, discrimination and/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, **which shall include, but is not limited to, providing the name, designated school and contact information by:**

- a) **Listing such information in the Code of Conduct and updates posted on the Internet website, if available;**
- b) **Including such information in the plain language summary of the Code of Conduct provided to all persons in parental relation to students before the beginning of each school year;**
- c) **Providing such information to parents and persons of parental relation in at least one district or school mailing or other method of distribution including, but not limited to, sending such information home with each student and, if such information changes, in at least one subsequent district or school mailing or other such method of distribution as soon as practicable thereafter;**

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

- d) Posting such information in highly visible areas of school buildings;
- e) Making such information available at the district and school-level administrative offices.

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 and Awareness

Each District and Charter School shall establish guidelines for training which shall be approved by the Board of Education. 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 bullying, discrimination and/or harassment 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 bullying, discrimination and/or harassment, emphasize positive relationships, and demonstrate prevention and intervention techniques to assist employees in recognizing and responding to bullying, discrimination and/or harassment and discrimination, as well as ensuring the safety of the victims.

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 bullying, discrimination and/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 bullying, discrimination and/or 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 Bullying, Discrimination and/or Harassment

The District will investigate all complaints of harassment and bullying, discrimination and/or harassment, 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

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

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 **bullying, discrimination and/or harassment which occurred during the school year** to the State Education Department ~~as part of the Uniform Violent and Disruptive Incident Reporting System (VADIR).~~ Such report shall be submitted in a manner prescribed by the Commissioner, on or before the basic educational data system (BEDS) reporting deadline or such other date as determined by the Commissioner.

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 **bullying, discrimination and/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 **bullying, discrimination and/or harassment**.

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

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

DIGNITY FOR ALL STUDENTS ACT – A CONTINUATION

In April 2012, our Policy Update focused on the Dignity for All Students Act. Policy Services provided Districts with a sample Dignity Policy, as well as recommended revisions to existing Policy #3410 -- Code of Conduct on School Property and existing Policy #8242 -- Civility, Citizenship and Character Education/Interpersonal Violence Prevention Education. In May 2012, we provided Districts with sample language to the *Code of Conduct* template that Districts could adopt in order to be in compliance with the Dignity for All Students Act provisions. At those times, there were still several unanswered questions pending the final Commissioner's Regulations.

Governor David Paterson originally signed into law the Dignity for All Students Act on September 13, 2010, which became 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/or harassment are now required of all staff on an annual basis.

On July 9th, 2012, Governor Andrew Cuomo signed a new cyberbullying measure that expands the Dignity for All Students Act (DASA) and places additional responsibilities on School Districts. The law expands the definition of harassment and bullying to include cyberbullying as well as actions that occur off school property that create or foreseeably create a risk of substantial disruption within the school environment. We will refer to this change in legislation as the "***Dignity Act 2013***" as it does not take effect until July 1, 2013. Given the recent amendments regarding cyberbullying, we anticipate further updates and guidance from NYSED in the year ahead.

The "Dignity Act 2012" was limited to harassment and/or discrimination taking place on school property or at a school function, with no guidance related to actions that might occur off-campus. This left school districts questioning how and to what extent they could deal with off-campus situations such as cyberbullying. The "Dignity Act 2013" explicitly discusses off-campus conduct and cyberbullying, as well as further defining "harassment" and "bullying". School Districts have been dealing with the issues of bullying and cyberbullying for numerous years and many have adopted Policies and/or Administrative Regulations in this regard. However, in an effort to help School Districts prepare for the requirements in the 2013-2014 school year, we have added the term "bullying" to the revisions in the current Dignity Act Policy.

School Employee Training Program

On June 6, 2012, the New York State Education Department adopted an emergency/revised rule regarding the policy and guidelines prohibiting discrimination and/or harassment of students under the Dignity for All Students Act by adding subdivision (jj) to Section 100.2 of the Regulations of the Commissioner of Education. This section now requires each school district and each Charter School to implement, commencing with the 2012-2013 school year and continuing in each school year thereafter, Dignity for All Students school employee training programs to promote a positive school environment that is free from discrimination and/or harassment; and to discourage and respond to incidents of discrimination and/or harassment on school property or at a school function. The addition of section 100.2(jj) of the Commissioner's Regulation, Relating to School Employee Training to implement the Dignity for All Students Act can be viewed at:

<http://www.regents.nysed.gov/meetings/2012Meetings/July2012/712brca10.pdf>

Dignity Act Reporting Requirements

On July 18, 2012, the New York State Education Department adopted an emergency/revised rule regarding the reporting requirements under the Dignity for All Students Act by adding subdivision (kk) to Section 100.2 of the Regulations of the Commissioner of Education. Effective July 1, 2012, this section now requires school districts to submit to the Commissioner an annual report of material incidents of discrimination and/or harassment that occurred during the school year. It was previously believed that the reporting obligations would be made a part of a district's VADIR reporting system; however, the new regulations establish different obligations. The addition of section 100.2(kk) of the Commissioner's Regulations, Relating to Reporting Requirements under the Dignity for All Students Act can be viewed at:

<http://www.regents.nysed.gov/meetings/2012Meetings/June2012/612bra3.pdf>

The reporting requirements under the revised Regulations are to include all "material incidents of discrimination and/or harassment" that are the result of the investigation of a written or oral complaint made to the principal, a school administrator or any school employee; or are otherwise directly observed by such principal, administrator or any other employee, even if a complaint is not made. The report shall also include information describing the specific nature of the incident including, but not limited to, the type(s) of bias involved (protected category or other); whether the incident resulted from student and/or employee conduct; whether the incident involved physical contact and/or verbal threats, intimidation or abuse; and the location where the incident occurred.

Distribution of Information to Parents

On August 1, 2012, the New York State Education Department again adopted an emergency/revised rule regarding the policy and guidelines prohibiting discrimination and harassment of students under the Dignity for All Students Act by adding subdivision (jj) to Section 100.2 of the Regulations of the Commissioner of Education. Section 100.2(jj)(4)(ii)(c) was revised to permit school districts and schools, in lieu of a mailing, to provide parents and persons in parental relation with the name and contact information of designated Dignity Act Coordinators by other methods of distribution, such as sending the information home with students.

The emergency adoption of the above three amendments to Commissioner's Regulations led us to revise the previously developed sample Policy on the Dignity for All Students Act (#7550). While, the previous Dignity Policy addressed the Dignity Act Coordinator, Training and Reports and Investigations of Discrimination and Harassment, the addition of the amendments of sections 100.2(jj) and 100.2(kk) of the Commissioner's Regulation further outlines requirements relating to the sharing of information about how to contact the Dignity Act Coordinator in each school building. Revisions to Policy #7550 now include details outlining the requirements for disseminating this information on the District's Internet website, providing a plain-language summary, providing a district-mailing or other method of distribution, posting the information in highly visible areas of school buildings, and making the information available in the District and school-level administrative offices.

As previously mentioned, it had been anticipated that the annual reporting of material incidents of discrimination and/or harassment would be tied to the Uniform Violent and Disruptive Incident Reporting System (VADIR). Further guidelines indicate that such data reporting may become part of the basic educational data system (BEDS). We anticipate further regulations or guidance regarding the form and deadline for reporting because, pursuant to the emergency rule, the report is to be submitted in a manner "prescribed by the Commissioner," on or before the basic education data system (BEDS) reporting deadline or such other date as determined by the Commissioner.

Notice of Emergency Adoption of Commissioner's Regulations

Both Section 100.2(jj) regarding "School Employee Training Programs" and Section 100.2(kk) regarding "Dignity Act Reporting Requirements" have been emergency adopted in the NYS Register following public comment and additional revisions. Pursuant to the State Administrative Procedure Act (SAPA), the revised proposed rules cannot be adopted as permanent rules until after their publication in the State Register and expiration of a 30-day public comment period. It is anticipated that both of these proposed rules will be presented for adoption as permanent rules at the September 2012 Board of Regents meeting, which is the first meeting scheduled after publication of the proposed rules in the State Register and expiration of the 30-day public comment period for revised rule makings. However, since the Dignity Act became effective on July 1, 2012 an emergency action is necessary to adopt the revised proposed rule so that the Dignity Act reporting requirements may be implemented in a timely manner pursuant to the statute's requirements.

Therefore, although it is still possible that there will be additional revisions to Commissioner's Regulations Sections 100.2(jj) and 100.2(kk) following the 30-day comment period, Policy Services is recommending these additional revisions to enable School Districts to implement the regulations for the start of 2012-2013 school year. We believe this is a matter of timing and the final Regulations will be made permanent at the September meeting. As always, if there are significant further revisions, we will address them appropriately and provide further clarifications to the affected Policies and/or Regulations.

Further Resources

The Dignity for All Students Main Home page from NYSED:

<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 **required** Policy #7550 -- Dignity for All Students Act with revisions based on the emergency adoption of Commissioner's Regulations to further assist districts in complying with the Dignity for All Students Act provisions. We recommend that your current policies be reviewed and revised/replaced as needed. The additions to the original policy #7550 are highlighted for ease of review.

Those School Districts that also subscribe to our Administrative Update service will also find attached: Regulation #7550R -- Dignity for All Students Act and Form #7550F -- Sample Dignity Complaint Form to aid in implementation of the Dignity Act requirements. The Regulation outlines pertinent definitions relating to the Dignity Act and further details regarding the implementation of the school employee training program and the reporting of incidents. The form may be used to aid in the tracking of material incidents of bullying, discrimination and/or harassment for the purposes of the annual reporting to SED.

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

Erie 1 BOCES
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NOTE: It is important to note the Sample Policy and/or Administrative Update is not to be interpreted as the rendering of legal advice. You may wish to add or delete text in the enclosed policy and/or regulation documents, in accordance with law and after consultation with your administrators/school attorney, to better reflect your District's needs and practices.

ELMIRA HEIGHTS
SCHOOL DISTRICT
SAMPLE DIGNITY COMPLAINT FORM

7552F

Name of complainant: _____ Date submitted: _____

Address: _____

Home phone: _____ Cell: _____ Work: _____
(please circle the preferred number)

The complainant is: (check all that apply):

_____ an employee, holding the position of _____ at _____ (location)
_____ a student, grade _____ at _____ (school or location)
_____ a parent or community member
_____ other (please specify your relationship with or association to the District) _____

Basis of this complaint/grievance:

_____ Race	_____ Religious Practice
_____ Color	_____ Disability
_____ Weight	_____ Gender
_____ National Origin	_____ Sex
_____ Ethnic Group	_____ Sexual orientation
_____ Religion	
_____ Other/Not sure (Please briefly explain): _____	

Name and/or description of accused person(s): _____

Description of Alleged Harassment/Bullying/Discrimination/Incident: _____

Incident is a result of _____ student and/or _____ employee conduct.

Incident involved _____ physical contact and/or _____ verbal threats, intimidation or abuse.

Date, Time and Place of Violation(s): _____

Witnesses, if any, or others who should be contacted with knowledge important to this investigation, including contact information for each: _____

Others you may have discussed this complaint/grievance/incident with, including contact information for each: _____

Has this incident/discrimination been previously reported? []Y []N If yes, when and to whom?

Describe the remedy, outcome or resolution: _____

Remedy Sought by Complainant: _____

_____ Date

_____ Signature of Complainant

This form is to be used for complaints based on the Dignity for All Students Act – 8 NYCRR 100.2(kk)

SUBJECT: DIGNITY FOR ALL STUDENTS ACT

The Board of Education is committed to creating a learning environment that is safe and supportive of every student. The District condemns and prohibits all forms of bullying, discrimination and/or harassment of students on school property, at school-sponsored activities and events that take place at locations off school property, including any electronic format. In addition, any act of bullying, discrimination and/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. The prohibition of bullying, discrimination and/or harassment along with sanctions for such misconduct will be included in the *District Code of Conduct* for all grade levels. Any student who is in violation of District policy and/or regulation will be subject to disciplinary measures in accordance with applicable laws and/or regulations, District Policy and Administrative Regulations and the *District Code of Conduct*.

Definitions

For purposes of this regulation, the following definitions shall apply:

- 1) "School property" means in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of a public elementary or secondary school: or in or on a school bus as defined in Vehicle and Traffic Law Section 142 (Every motor vehicle owned by a public or governmental agency or private school and operated for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity, to or from school or school activities or privately owned and operated for compensation for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity to or from school or school activities);
- 2) "School function" means a school-sponsored extra-curricular event or activity;
- 3) "Disability" means (a) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or (b) a record of such an impairment or (c) a condition regarded by others as such an impairment, provided, however, that in all provisions of this article dealing with employment, the term shall be limited to disabilities which, upon the provision of reasonable accommodations, do not prevent the complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held;
- 4) "Employee" shall mean any person receiving compensation from a school district or charter school or employee of a contracted service provider or worker placed within the school under a public assistance employment program, pursuant to Title 9-B of Article 5 of the

(Continued)

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

Social Services Law, and consistent with the provisions of such title for the provision of services to such district, its students or employees, directly or through contract, whereby such services performed by such person involve direct student contact;

- 5) "Sexual orientation" means actual or perceived heterosexuality, homosexuality or bisexuality;
- 6) "Gender" means actual or perceived sex and shall include a person's gender identity or expression;
- 7) "Discrimination" means discrimination against any student by a student or students and/or an employee or employees on school property or at a school function including, but not limited to, discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex;
- 8) "Harassment" and "bullying" mean the creation of a hostile environment by conduct or by verbal threats, intimidation or abuse, including cyberbullying, 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; such conduct, verbal threats, intimidation or abuse includes but is not limited to conduct, verbal threats, intimidation or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex;
- 9) "Material Incident of Discrimination and/or Harassment" means a single incident or a series of related incidents where a student is subjected to discrimination and/or harassment by a student and/or employee on school property or at a school function that creates a hostile environment by conduct, with or without physical contact and/or by verbal threats, intimidation or abuse, of such severe or pervasive nature that:
 - a. Has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities, or benefits, or mental or emotional and/or physical well-being; or
 - b. Reasonably causes or would reasonably be expected to cause a student to fear for his/her physical safety.

(Continued)

REGULATION

2012

7552R
3 of 5

Students

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

Such conduct shall include but is not limited to, threats, intimidation or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex; provided that nothing in Education Law Section 100.2(kk) shall be construed to prohibit a denial of admission into, or exclusion from, a course or instruction based on a person's gender that would be permissible under Education Law Sections 3201-a or 2854(a) and Title IX of the Education Amendments of 1972 (20 USC Section 1681, et seq.) or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973.

School Employee Training

Commencing with the 2012-2013 school year and continuing each school year thereafter, school districts and charter schools shall establish guidelines to implement Dignity For All Students school employee training programs to promote a positive school environment that is free from discrimination and/or harassment; and to discourage and respond to incidents of discrimination and/or harassment on school property or at a school function. The guidelines shall be approved by the Board of Education or by the Board of Trustees of the charter school.

The guidelines shall include, but not be limited to, providing employees, including school district administrators and instructional and non-instructional staff with:

- 1) Training to:
 - a. Raise awareness and sensitivity to potential acts of discrimination and/or harassment directed at students that are committed by students and/or school employees on school property or at a school function; including but not limited to, discrimination and/or harassment based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex;
 - b. Enable employees to prevent and respond to incidents of discrimination and/or harassment;
 - c. Be implemented and conducted in conjunction with existing professional development training and/or with any other training for school employees.
- 2) Guidelines relating to the development of nondiscriminatory instructional and counseling methods.

(Continued)

SUBJECT: DIGNITY FOR ALL STUDENTS ACT (Cont'd.)**Reporting of Incidents**

For the 2012-2013 school year and for each succeeding school year thereafter, each school district, BOCES and charter school shall submit to the Commissioner an annual report of material incidents of discrimination and/or harassment that occurred in such school year, in accordance with Education Law Section 15. Such report shall be submitted in a manner prescribed by the Commissioner, on or before the basic educational data system (BEDS) reporting deadline or such other date as determined by the Commissioner.

For purposes of reporting, a school district, BOCES or charter school shall include in its annual report all material incidents of discrimination and/or harassment that:

- 1) Are the result of the investigation of a written or oral complaint made to the School Principal or other school administrator responsible for school discipline, or to any other school employee; or
- 2) Are otherwise directly observed by such principal or administrator, or by any other employee regardless of whether a complaint is made.

Such report shall include information describing the specific nature of the incident, including, but not limited to:

- 1) The type(s) of bias involved (actual or perceived race, color, weight, national origin, ethnic group, religion, religious practices, disability, sexual orientation, gender, sex, or other). Where multiple types of bias are involved, they shall all be reported;
- 2) Whether the incident resulted from student and/or employee conduct;
- 3) Whether the incident involved physical contact and/or verbal threats, intimidation or abuse; and
- 4) The location where the incident occurred (on school property and/or at a school function).

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

Pursuant to Education Law Section 16, any person having reasonable cause to suspect that a student has been subjected to discrimination and/or harassment by an employee or student, on school grounds or at a school function, who acting reasonably and in good faith, either reports such information to school officials, to the Commissioner, or to law enforcement authorities or otherwise initiates, testifies, participates or assists in any formal or informal proceedings shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating or assisting in such formal or informal proceedings.

(Continued)

REGULATION

2012

7552R
5 of 5

Students

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

No school district, BOCES or charter school, or an employee thereof, shall take, request or cause a retaliatory action against any such person who, acting reasonably and in good faith, either makes such a report or initiates, testifies, participates or assists in such formal or informal proceedings.