

REGULATION

Students

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

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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.

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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.

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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.

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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.