

## Alert

### New York State Education Department Releases Guidance to Help Schools Comply with the Dignity Act

May 16, 2012

In November 2010, we alerted you to the passage of the Dignity for All Students Act (the “Dignity Act”), an act amending the New York State Education Law to provide that no student shall be subjected to “harassment” by employees or students on school property or at a school function. The Dignity Act, which takes effect on July 1, 2012, requires school districts to, in part, revise their codes of conduct and adopt policies intended to create a school environment free from harassment and discrimination.

The Dignity Act, and the implementing regulations of the Commissioner of Education, do not apply to private, religious or denominational institutions. Nonetheless, we advise such schools to review the Dignity Act, the regulations and the Guidance (described below) in addressing bullying and cyberbullying, and in crafting policies and codes of conduct.

In order to implement the Dignity Act, the Board of Regents, on March 12, 2012, approved amendments to the Commissioner of Education’s Regulations. Section 100.2(l)<sup>1</sup> is amended to require school district codes of conduct to include:

- Provisions prohibiting discrimination and harassment against any student by employees or students 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, or such a severe nature that: (1) has or would have the effect of unreasonably and substantially interfering with a student’s educational performance, opportunities or benefits, or mental, emotional and/or physical well-being; or (2) reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety. 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 practices, disability, sexual orientation, gender or sex;
- Provisions for responding to such acts of discrimination or harassment against students by employees or students on school property or at a school function;
- A bill of rights and responsibilities of students which focuses upon positive student behavior and a safe and supportive school climate, which shall be written in plain language, publicized and explained in an age-appropriate manner to all students on an annual basis; and

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<sup>1</sup> Additionally section 119.6 is added to the Commissioner of Education’s regulations to address similar requirements for disciplinary procedures and codes of conduct for charter schools.

- Guidelines and programs for in-service education programs for all district staff members to ensure effective implementation of school policy on school conduct and discipline, including but not limited to, guidelines on promoting a safe and supporting school climate while discouraging, among other things, discrimination or harassment against students by students and/or school employees, and including safe and supportive school-climate concepts in the curriculum and classroom.

The Board of Regents also approved an amendment of section 100.2(c) of the Commissioner's Regulations to require "for all public school students, other than students in charter schools, instruction in civility, citizenship and character education as required by section 801-a of the Education Law, including, but not limited to, 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."

On April 10, 2012, the New York State Education Department and the Dignity Act Local Policy and Implementation Task Force released Dignity Act Guidance (the "Guidance") to help school districts in updating their codes of conducts in accordance with the Act and its implementing regulations described above. The Guidance, among other things, sets forth statutory definitions that should be included in updated codes of conduct, provides information on a Dignity Act Coordinator and reporting mechanisms, and suggests individual remedial measures and school-wide or environmental remediation strategies that may be included in a code of conduct.

A copy of the Guidance is available at:

<http://www.p12.nysed.gov/dignityact/documents/DASACodeofConductFinal44-1.pdf>.

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