



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

TO: The Honorable Members of the Board of Regents

FROM: John L. D'Agati *John L. D'Agati*

SUBJECT: Proposed Amendments to Part 80 of the Regulations of the Commissioner of Education Relating to Coursework or Training in Harassment, Bullying and Discrimination Prevention and Intervention

DATE: September 9, 2013

AUTHORIZATION(S): *Richard A. Trentaciani* *John B. G. G.*

SUMMARY

Issue for Decision (Consent Agenda)

Should the Board of Regents amend Part 80 of the Regulations of the Commissioner of Education relating to requirements for coursework or training in harassment, bullying and discrimination prevention and intervention as prescribed in the Dignity for All Students Act ("Dignity Act")?

Reason(s) for Consideration

Required by State statute.

Proposed Handling

This item will come before the Full Board for adoption as an emergency rule at its September 2013 meeting. A copy of the proposed amendment and a Statement of Emergency Facts and Circumstances is attached. Supporting materials are available upon request to the Secretary of the Board of Regents.

Procedural History

A Notice of Proposed Rule Making concerning the proposed amendment was published in the State Register on August 7, 2013. A copy of the proposed amendment is attached.

Background Information

The Dignity for All Students Act (DASA) added Article 2 to the Education Law (Education Law §§10 through 18), to require, among other things, school districts to create policies and guidelines to be used in school training programs to discourage the development of discrimination or harassment and to enable employees to prevent and respond to discrimination or harassment. These provisions took effect on July 1, 2012.

Thereafter, in June 2012, the Legislature enacted Chapter 102 of the Laws of 2012, which amended the Dignity Act to include a requirement that school professionals applying for a certificate or license on or after July 1, 2013 complete training on the social patterns of harassment, bullying and discrimination.

In response to the new law, the Department consulted with a work group, which was comprised of representatives of teachers, administrators, school social workers, school counselors, school guidance counselors, school psychologists, superintendents, school boards, teacher education program faculty, GLESN and Empire Pride Agenda to seek recommendations on how many hours and the types of training needed to ensure that school personnel have adequate training in harassment, bullying and discrimination. The work group recommended that the following actions be taken:

- Part 52 of the Commissioner's Regulations be amended to require teacher and school leadership preparation programs to include at least six hours of training in Harassment, Bullying and Discrimination Prevention and Intervention.
- A new Subpart 57-4 of the Commissioner's Regulations shall be added to establish standards under which the Department will approve providers of this training.
- Part 80 of the Commissioner's Regulations be amended to require that anyone applying for an administrative or supervisory service, classroom teaching service or school service certificate or license on or after July 1, 2013, shall have completed at least six clock hours of coursework or training in Harassment, Bullying and Discrimination Prevention and Intervention.

At its May meeting, the Board of Regents adopted regulations to implement these recommendations. However, since the Department was consulting with the Work Group for several months to develop a syllabus for the 6-hour training course and the syllabus and provider applications only recently became available, there was not sufficient access to the training before the July 1 deadline. As a result, on June 30, 2013, the Governor signed Chapter 90 of the Laws of 2013, extending the timeframe for school professionals to complete the training until December 31, 2013. The proposed amendment implements the new law, by extending the timeframe to complete the training from July 1, 2013 to December 31, 2013.

Recommendation

VOTED: That Part 80 of the Commissioner's Regulations be amended, as submitted, effective October 21, 2013, as an emergency action upon a finding by the Board of Regents that such action is necessary for preservation of the general welfare to immediately implement the new law, and to ensure that applicants for certification are notified that the deadline for the training requirements has been extended from July 1, 2013 to December 31, 2013; and to ensure that the emergency rule adopted at the July Regents meeting remains continuously in effect until it can be adopted as a permanent rule.

Timetable for Implementation

If the proposed amendment is adopted by the Board of Regents as an emergency rule at its September 2013 meeting, the proposed amendment will become effective on October 21 2013 and candidates seeking certification or a license on or after December 31, 2013 will be required to have such coursework or training. It is anticipated that the proposed amendment will be adopted by the Board of Regents as a permanent rule at its October meeting.

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE
EMERGENCY ACTION

The Dignity for All Students Act (DASA) added Article 2 to the Education Law (Education Law §§10 through 18), to require, among other things, school districts to create policies and guidelines to be used in school training programs to discourage the development of discrimination or harassment and to enable employees to prevent and respond to discrimination or harassment. These provisions took effect on July 1, 2012.

Thereafter, in June 2012, the Legislature enacted Chapter 102 of the Laws of 2012, which amended the Dignity Act to include a requirement that school professionals applying for a certificate or license on or after July 1, 2013 complete training on the social patterns of harassment, bullying and discrimination.

In response to the new law, the Department consulted with a work group, which was comprised of representatives of teachers, administrators, school social workers, school counselors, school guidance counselors, school psychologists, superintendents, school boards, teacher education program faculty, GLESN and Empire Pride Agenda to seek recommendations on how many hours and the types of training needed to ensure that school personnel have adequate training in harassment, bullying and discrimination. The work group recommended that the following actions be taken:

- Part 52 of the Commissioner's Regulations be amended to require teacher and school leadership preparation programs to include at least six hours of training in Harassment, Bullying and Discrimination Prevention and Intervention.

- A new Subpart 57-4 of the Commissioner's Regulations shall be added to establish standards under which the Department will approve providers of this training.
- Part 80 of the Commissioner's Regulations be amended to require that anyone applying for an administrative or supervisory service, classroom teaching service or school service certificate or license on or after July 1, 2013, shall have completed at least six clock hours of coursework or training in Harassment, Bullying and Discrimination Prevention and Intervention.

At its May meeting, the Board of Regents adopted regulations to implement the recommendations of the Work Group. However, since the Department was consulting with Work Group for the last several months to develop a syllabus for the 6-hour training course and the syllabus and provider applications only became available in the last couple of months, there was not sufficient access to the training before the July 1 deadline. As a result, on June 30, 2013, the Governor signed Chapter 90 of the Laws of 2013, extending the timeframe for school professionals to complete the training until December 31, 2013. The proposed amendment implements the new law, by extending the timeframe to complete the training from July 1 to December 31, 2013.

Emergency action is necessary for preservation of the general welfare to immediately implement the new law and to ensure that applicants for certification are notified that that the deadline for the training requirements has been extended from July 1, 2013 to December 31, 2013.

Emergency action is also necessary for the preservation of the general welfare to immediately implement the new law and to ensure that the emergency rule adopted at the July Regents meeting remains continuously in effect until it can be adopted as a

permanent rule. The proposed amendment was adopted as an emergency rule at the July Regents meeting and became effective on July 23, 2013. A Notice of Proposed Rule Making was published in the State Register on August 7, 2013. Because the Board of Regents meets at scheduled intervals, the earliest the proposed amendment can be presented for permanent adoption, after publication of a Notice of Proposed Rule Making in the State Register and expiration of the 45-day public comment period required under the State Administrative Procedure Act §202(4-a) is the October Regents meeting. However, the July emergency rule will expire on October 20, 2013 and the proposed amendment will not be effective as a permanent rule until November 6, 2013. An emergency rule otherwise ensure that the emergency rule adopted at the April Regents meeting, as so revised, remains continuously in effect until it can be presented and made effective as a permanent rule on November 6, 2013.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 212, 208, 305, 308, 3001, 3004, 3006 and 3009 of the Education Law and Chapter 90 of the Laws of 2013.

1. Section 80-1.13 of the Regulations of the Commissioner of Education is amended, effective October 21, 2013, as follows:

80-1.13 Required study in harassment, bullying and discrimination prevention and intervention.

All candidates for a certificate or license valid for an administrative or supervisory service, classroom teaching service or school service who apply for a certificate or license on or after [July 1, 2013] December 31, 2013, shall have completed at least six clock hours, of which at least three hours must be conducted through face-to-face instruction, of course work or training in harassment, bullying and discrimination prevention and intervention, as required by section 14 the Education Law, which is provided by a registered program leading to certification pursuant to section 52.21 of this Title or other approved provider pursuant to Subpart 57-4 of this Title.

2. Subparagraph (i) of paragraph (1) of subdivision (b) of section 80-3.5 of the Regulations of the Commissioner of Education is amended, effective October 21, 2013, as follows:

(i) Education. The candidate shall complete at least two clock hours of course work or training regarding the identification and reporting suspected child abuse or maltreatment, in accordance with requirements of section 3004 of the Education Law. In addition, the candidate who applies for the certificate on or after February 2, 2001, shall complete at least two clock hours of coursework or training in school violence

prevention and intervention, as required by section 3004 of the Education Law, which is provided by a provider approved or deemed approved by the department pursuant to Subpart 57-2 of this Title. A candidate who applies for the certificate on or after [July 1, 2013] December 31, 2013, shall also complete at least six clock hours, of which at least three hours must be conducted through face-to-face instruction, of coursework or training in harassment, bullying and discrimination prevention and intervention, as required by section 14 the Education Law.

3. Subparagraph (i) of paragraph (2) of subdivision (b) of section 80-3.5 of the Regulations of the Commissioner of Education is amended, effective October 21, 2013, as follows:

(i) Education. The candidate shall complete at least two clock hours of course work or training regarding the identification and reporting suspected child abuse or maltreatment, in accordance with requirements of section 3004 of the Education Law. In addition, the candidate who applies for the certificate on or after February 2, 2001, shall complete at least two clock hours of coursework or training in school violence prevention and intervention, as required by section 3004 of the Education Law, which is provided by a provider approved or deemed approved by the department pursuant to Subpart 57-2 of this Title. A candidate who applies for the certificate on or after [July 1, 2013] December 31, 2013, shall also complete at least six clock hours, of which at least three hours must be conducted through face-to-face instruction, of coursework or training in harassment, bullying and discrimination prevention and intervention, as required by section 14 the Education Law.

4. Paragraph (1) of subdivision (b) of section 80-5.14 of the Regulations of the Commissioner of Education is amended, effective October 21, 2013, to read as follows:

(1) Education. A candidate shall hold a graduate academic or graduate professional degree from a regionally accredited institution of higher education or from an institution authorized by the Board of Regents to confer degrees. A candidate shall complete study in the means for identifying and reporting suspected child abuse and maltreatment, which shall include at least two clock hours of coursework or training in the identification and reporting of suspected child abuse or maltreatment in accordance with the requirements of section 3004 of the Education Law. In addition, the candidate who applies for the certificate on or after February 2, 2001, shall complete at least two clock hours of coursework or training in school violence prevention and intervention, as required by section 3004 of the Education Law, which is provided by a provider approved or deemed approved by the department pursuant to Subpart 57-2 of this Title. A candidate who applies for the certificate on or after [July 1, 2013] December 31, 2013, shall also complete at least six clock hours, of which at least three hours must be conducted through face-to-face instruction, of coursework or training in harassment, bullying and discrimination prevention and intervention, as required by section 14 the Education Law.

5. Subparagraph (i) of paragraph (2) of subdivision (a) of section 80-5.22 of the Regulations of the Commissioner of Education is amended, effective October 21, 2013, as follows:

(i) Education. A candidate shall hold a graduate degree in science, technology, engineering or mathematics from a regionally or nationally accredited institution of higher education, a higher education institution that the commissioner deems substantially equivalent, or from an institution authorized by the Board of Regents to confer degrees. A candidate shall complete study in the means for identifying and

reporting suspected child abuse and maltreatment, which shall include at least two clock hours of coursework or training in the identification and reporting of suspected child abuse or maltreatment in accordance with the requirements of section 3004 of the Education Law. In addition, the candidate shall complete at least two clock hours of coursework or training in school violence prevention and intervention, as required by section 3004 of the Education Law, which is provided by a provider approved or deemed approved by the department pursuant to Subpart 57-2 of this Title. A candidate who applies for the certificate on or after [July 1, 2013] December 31, 2013, shall also complete at least six clock hours, of which at least three hours must be conducted through face-to-face instruction, of coursework or training in harassment, bullying and discrimination prevention and intervention, as required by section 14 the Education Law.