

PROPOSED AMENDMENTS TO
COMMISSIONER'S REGULATION §100.2(KK)
RE: REPORTS OF INCIDENTS OF HARASSMENT,
BULLYING AND/OR DISCRIMINATION PURSUANT
TO THE DIGNITY FOR ALL STUDENTS ACT

New York State Board of Regents
May 7, 2018

AGENDA

- Dignity for All Students Act (DASA) Overview and Implementation Timeline
- Statistics related to Bullying, Harassment, and Discrimination of Students in New York State schools
- Recent Changes in Federal Requirements and Guidance
- NYSED Partnership with the New York State Office of the Attorney General including Joint Memos to the Field
- Proposed Amendments to Commissioner's Regulation §100.2(kk) related to Reports of Incidents of Bullying, Harassment, and/or Discrimination Pursuant to the Dignity for All Students Act

NEW YORK STATE'S DIGNITY FOR ALL STUDENTS ACT (THE DIGNITY ACT OR DASA)

The Dignity Act seeks to **provide** the State's public elementary and secondary school **students** with a **safe and supportive environment free from bullying, harassment and discrimination** on school property, a school bus and/or at a school function.

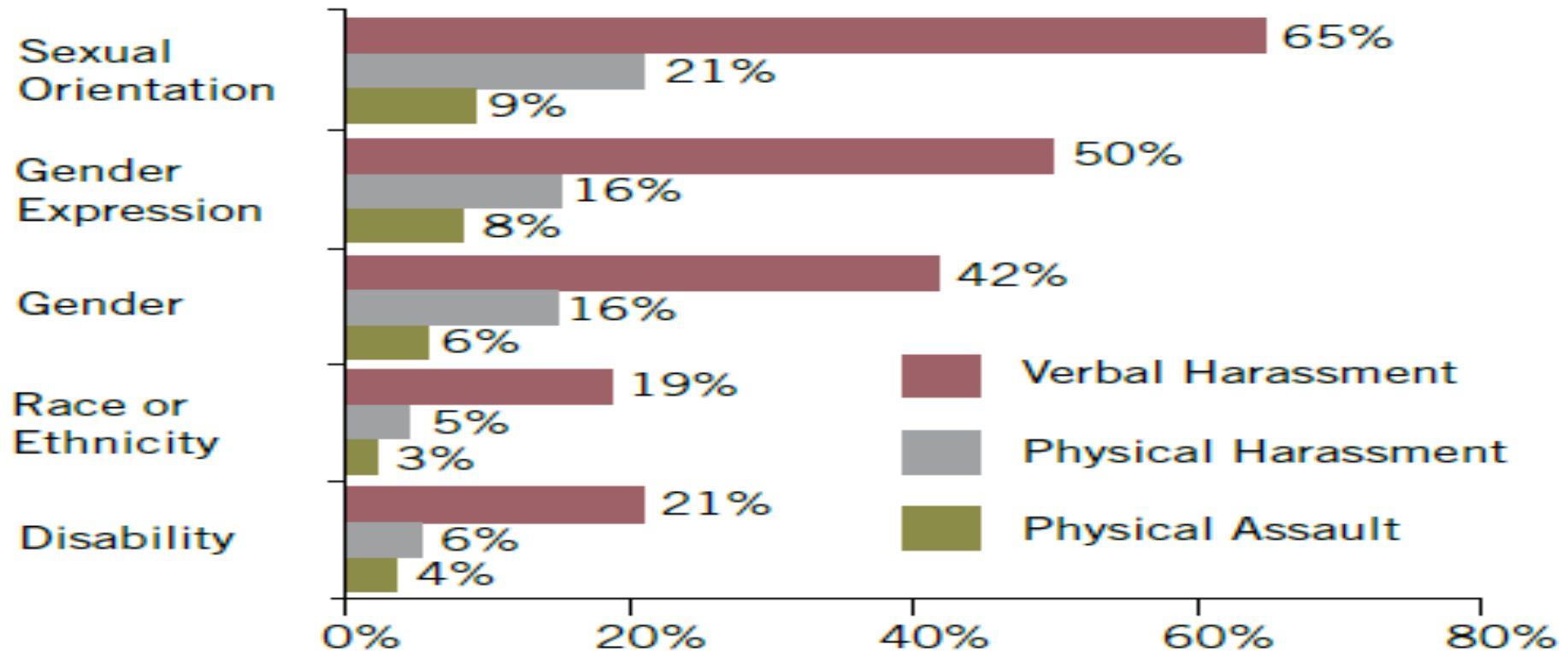
- Boards of Education must include language addressing The Dignity Act in their codes of conduct, and identify at least one employee in each school as the Dignity Act Coordinator.
- School employees who witness bullying, harassment, and/or discrimination or receive a report of such conduct must notify the principal, superintendent, or their designee of such report. Upon receipt of a report of bullying, harassment, and/or discrimination, the principal, superintendent, or their designee must conduct a thorough investigation.
- Schools must collect and report data regarding material incidents of bullying, harassment, and discrimination.
- Dignity Act Categories: actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex.

DIGNITY FOR ALL STUDENTS ACT (DASA) IMPLEMENTATION AND GUIDANCE

TIMELINE	ACTIONS
September 13, 2010	Dignity for All Students Act (DASA) Signed into Law
July 1, 2012	DASA Law Becomes Effective
December 2012	Guidance Document Released: <i>Promising Practices Guide for School Administrators and Faculty</i>
July 1, 2013	Effective Date of Amendment to DASA to Include Cyberbullying
December 2013	Guidance Document Released: <i>Promising Practices Guide for School Administrators and Faculty 2.0</i> ; updated again in December 2015 and December 2017
July 2015	Guidance Document Released: <i>Creating Safe and Supportive School Environments for Transgender Students</i>
May 2018	Proposed Amendments to Commissioner's Regulations on Reporting Incidents related to DASA

NYS SCHOOL CLIMATE SNAPSHOT GAY, LESBIAN AND STRAIGHT EDUCATION NETWORK (GLSEN) 2015 NATIONAL SURVEY

**Figure 2. Identity-based Harassment & Assault
in New York Schools**
(percentage of LGBTQ students harassed or assaulted)



RATES OF STUDENT SUICIDE

- **All Students:** More than one in every 10 high school students reported having attempted suicide; nearly 1 in 6 students between the ages of 12-17 have seriously considered it.
- **LGBTQ:** More than 30% of LGBTQ youth report at least one suicide attempt within the last year.
- **Transgender Students:** More than 50% of Transgender youth will have had at least one suicide attempt by their 20th birthday.

Source: National Suicide Statistics, Center for Disease Control and Prevention (2014)

FEDERAL GOVERNMENT RESCINDS PROTECTIONS TO TRANSGENDER AND GENDER NON-CONFORMING STUDENTS

- **February 2017** – US Departments of Education and Justice rescind guidance that clarified protections for transgender and gender non-conforming students under federal statutory law.
- **February 2018** – US Departments of Education and Justice confirmed that they would no longer investigate civil rights complaints from transgender and gender non-conforming students denied access to bathrooms consistent with their gender identity.

NYSED COLLABORATIVE PARTNERSHIP WITH THE NYS OFFICE OF ATTORNEY GENERAL

- **August 2015:** Joint Survey to School Districts to Understand Successes and Challenges of DASA Implementation
- **August 2016:** Joint memo with model materials to assist schools in training staff on DASA implementation.
- **February 2017:** Joint letter reminding schools of obligation to protect transgender students from bullying and harassment in response to federal guidance being rescinded.
- **February 2018:** Joint letter reminding school districts that despite the federal government's refusal to investigate civil rights facilities-access complaints from transgender students, NYS schools have independent state obligations to protect these students.

PROPOSED AMENDMENTS

- Amend Commissioner's regulations §100.2(kk)(1) to provide illustrative examples of types of incidents to be reported and investigated as possible violations of DASA:
 - A report regarding the denial of access to facilities
 - A report regarding application of a dress code
 - A report regarding the use of names and pronouns or the pronunciation of names
 - A report regarding any other form of harassment, bullying and/or discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (which includes gender identity and/or expression), or sex.

INITIAL STAKEHOLDER CONVERSATIONS

- Empire Justice Center
- New York Civil Liberties Union
- New York State Office of the Attorney General
- New York State School Boards Association
- New York State Council of School Superintendents
- New York State Association of School Attorneys
- New York State School Administrators Association
- BOCES District Superintendents Executive Team

RECOMMENDATIONS AND NEXT STEPS

- The Department recommends the Board of Regents approve amendments to Commissioner's Regulations 100.2 (kk) as an emergency rule.
- Next Steps:
 1. Adopt, as an emergency rule, amendments to Commissioner's Regulation §100.2 (kk) at the May 2018 meeting.
 2. A Notice of Proposed Rulemaking and Emergency Adoption will be published in the State Register on May 23, 2018. Following a 60-day public comment period, which will end on July 23, it is anticipated that the Board of Regents will approve the proposed amendment at the September 2018 meeting.
 3. If adopted at the September 2018 meeting, the proposed amendment will become effective as a permanent rule on October 3, 2018.

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NYS STUDENTS THANK YOU

For more information about DASA visit our website at:
<http://www.p12.nysed.gov/dignityact/>