

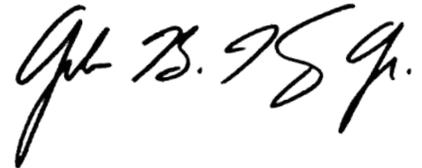


THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

TO: P-12 Education Committee
FROM: Ken Slentz 
SUBJECT: Amendment of section 100.2(c) of the Commissioner's Regulations, Relating to Instruction in Civility, Citizenship and Character Education

DATE: March 12, 2012

AUTHORIZATION(S):



SUMMARY

Issue for Decision

Should the Board of Regents adopt the proposed amendment of section 100.2(c) of the Commissioner's Regulations, relating to instruction in civility, citizenship and character education, to implement the Dignity for All Students Act ("Dignity Act")?

Reason(s) for Consideration

Required by Statute (L. 2010, Ch. 482).

Proposed Handling

The proposed amendment is being presented to the P-12 Education Committee for recommendation and to the Full Board for adoption at the March Regents meeting.

Procedural History

The proposed amendment was discussed by the P-12 Education Committee at the January Regents meeting. A Notice of Proposed Rule Making was published in the State Register on January 25, 2012. A copy of the proposed amendment and an Assessment of Public Comment are attached. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

The Dignity Act adds a new Article 2 to the Education Law (Ed.L. §§10 through 18), relating to Dignity for All Students, and amends Education Law §§801-a and 2801. The statute's provisions take effect on July 1, 2012.

The proposed amendment revises provisions relating to courses of instruction in civility, citizenship and character education, pursuant to § 801-a to ensure compliance with the Dignity Act, which provides that instruction on "tolerance", "respect for others" and "dignity" shall include 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. Since its enactment in 2000, § 801-a on civility, citizenship and character education has been interpreted by the Department to be inapplicable to charter schools. Accordingly, while the provisions of the Dignity Act relating to codes of conduct and prevention of harassment and discrimination apply to charter schools, § 801-a does not and the proposed amendment so provides.

Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: that subdivision (c) of section 100.2 of the Regulations of the Commissioner of Education be amended, as submitted, effective July 1, 2012.

Timetable for Implementation

The statute provides that any rules or regulations necessary for the timely implementation of the Dignity Act shall be promulgated on or before July 1, 2012. If adopted at the March Regents meeting, the proposed rule would take effect on July 1, 2012.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 305 and 801-a and Chapter 482 of the Laws of 2010.

Subdivision (c) of section 100.2 of the Regulations of the Commissioner of Education is amended, effective July 1, 2012, as follows:

(c) Instruction in certain subjects. Pursuant to articles 17 and 65 of the Education Law, instruction in certain subjects in elementary and secondary school shall be provided as follows:

(1) for all students, instruction in patriotism and citizenship, as required by section 801 of the Education Law;

(2) 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;

[(2)] (3) for all students in the eighth and higher grades, instruction in the history, meaning, significance and effect of the provisions of the Constitution of the United States and the amendments thereto, the Declaration of Independence, the Constitution of the State of New York and the amendments thereto, as required by section 801 of the Education Law;

[(3)] (4) for all students, health education regarding alcohol, drugs and tobacco abuse, as required by section 804 of the Education Law;

[(4)] (5) for all students, instruction in highway safety and traffic regulation, as required by section 806 of the Education Law;

[(5)] (6) for all students, instruction in fire drills and in fire and arson prevention, injury prevention and life safety education, as required by sections 807 and 808 of the Education Law. Such course of instruction shall include materials to educate children on the dangers of falsely reporting a criminal incident or impending explosion or fire emergency involving danger to life or property or impending catastrophe, or a life safety emergency;

[(6)] (7) for all students in grades one through eight, instruction in New York State history and civics as required by section 3204(3) of the Education Law;

[(7)] (8) for public school students, instruction relating to the flag and certain legal holidays, as required by section 802 of the Education Law;

[(8)] (9) for all public elementary school students, instruction in the humane treatment of animals and birds, as required by section 809 of the Education Law; and

[(9)] (10) for all public school students, instruction relating to the conservation of the natural resources of the State, as required by section 810 of the Education Law.

PROPOSED AMENDMENT OF SECTION 100.2(c) OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION PURSUANT TO EDUCATION LAW SECTIONS 101, 207, 305 AND 801-a, AND CHAPTER 482 OF THE LAWS OF 2010, RELATING TO INSTRUCTION IN CIVILITY, CITIZENSHIP AND CHARACTER EDUCATION AND THE DIGNITY FOR ALL STUDENTS ACT

ASSESSMENT OF PUBLIC COMMENT

Since publication of a Notice of Proposed Rule Making in the State Register on January 25, 2012, the State Education Department received the following comments.

COMMENT:

Four comments were received, including a comment from the Assembly sponsor of the Dignity for All Students Act (L. 2012, Ch. 482). Each comment objected to the proposed rule's exclusion of charter schools, contending that the proposed rule implements the Dignity for All Students Act, which is a civil rights statute, and therefore the proposed rule should be made applicable to charter schools as a civil rights requirement applicable to other public schools, pursuant to Education Law section 2854(1)(b).

DEPARTMENT RESPONSE:

The Department agrees that the provisions of Education Law Article 2, as added by the Dignity Act, are intended to apply to all public school students and we accordingly have interpreted those provisions to apply to all public schools, including charter schools as well as school districts and boards of cooperative educational

services, and the Department has proposed rules, applicable to such entities, to implement such provisions.

On January 18, 2012, the proposed rule to implement the code of conduct provisions of the Dignity Act (Education Law §12) was published in the State Register (EDU-03-12-00003-P) and on February 15, 2012, the proposed rule to implement the policies, guidelines and training provisions of the Act (Education Law §13) was published in the State Register (EDU-07-12-00011-P). In addition, the Department is also preparing and expects to soon publish in the State Register a proposed rule making to implement the reporting provisions of the Dignity Act (Education Law §15).

All of the foregoing proposed rule makings relate to the new Article 2 of the Education Law, entitled "Dignity for All Students", which establishes a civil rights requirement (prohibiting discrimination and harassment of students by students and school employees on school property or at school functions, on the basis of the student's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex). Consequently, pursuant to Education Law section 2854(1)(b), the provisions of Education Law Article 2, and the foregoing proposed rule makings associated with Article 2, are made applicable to charter schools as a civil rights requirement applicable to public schools.

The Department also acknowledges that the Dignity Act made conforming amendments to Education Law section 801-a to expand the scope of the civility, citizenship and character education curriculum to provide that the course of instruction in grades kindergarten through twelve regarding "tolerance", "respect for others" and "dignity" shall include 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. However, since its enactment in 2000, Education Law section 801-a on civility, citizenship and character education has been interpreted by the Department to be inapplicable to charter schools. Accordingly, while the provisions of the Dignity Act relating to codes of conduct, policies, guidelines, training and reporting apply to charter schools, neither the instruction requirements in section 801-a nor the Dignity Act amendments to them apply to charter schools. To make the expanded curriculum requirements of section 801-a applicable to charter schools, the legislation would need to specifically require charter schools to provide instruction separate from civility, citizenship and character education or require charter schools to provide civility, citizenship and character education generally. Neither was done, so the proposed rule properly excludes charter schools from the curriculum requirements of Education Law section 801-a only.

Nevertheless, the Department does recognize the importance of fostering in our schools an 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, and urges and encourages charter schools to provide such instruction to the extent possible.