



**TO:** The Honorable the Members of the Board of Regents

**FROM:** William P. Murphy *William Murphy*

**SUBJECT:** Proposed Amendment of Sections 52.21, 57-4.5, and 80-1.13 of the Regulations of the Commissioner of Education Relating to Removing the Face-to-Face Instruction Requirement for the Dignity for All Students Act (DASA) Training

**DATE:** February 3, 2022

**AUTHORIZATION(S):** *Dom N. P.* *Bell...*

#### **SUMMARY**

#### **Issue for Decision (Consent)**

Should the Board of Regents adopt the proposed amendment of sections 52.21, 57-4.5, and 80-1.13 of the Regulations of the Commissioner of Education relating to removing the face-to-face instruction requirement for the Dignity for All Students Act (DASA) training?

#### **Reason(s) for Consideration**

Review of Policy.

#### **Proposed Handling**

The proposed amendment is submitted to the Full Board for adoption as a permanent rule at its February 2022 meeting. A copy of the proposed amendment is included as Attachment A.

#### **Procedural History**

The proposed amendment was presented to the Higher Education Committee for recommendation to the Full Board for adoption as an emergency rule at its October 2021 meeting. A Notice of Proposed Rule Making was published in the State Register on November 3, 2021 for a 60-day public comment period and a Notice of Emergency Adoption was published in the State Register on January 19, 2022. Following the 60-day public comment period required under the State Administrative Procedure Act, the

Department received one comment on the proposed amendment. An Assessment of Public Comment is included (Attachment B). No changes to the proposed amendment are recommended at this time. A Notice of Adoption will be published in the State Register on March 2, 2022. Supporting materials are available upon request to the Secretary of the Board of Regents.

### **Background Information**

Education Law §14, also known as the Dignity for All Students Act (DASA), requires prospective school professionals who apply for a certificate or license to complete training on the social patterns of harassment, bullying (including cyberbullying), and discrimination, including, but not limited to, those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex; the identification and mitigation of harassment, bullying and discrimination; and strategies for effectively addressing problems of exclusion, bias, and aggression in educational settings.

For certification, candidates can complete the DASA training as part of a New York State registered educator preparation program or through a workshop offered by a provider approved by the Department. At its February 2021 meeting, the Board of Regents took emergency action to amend the Commissioner's regulations to permit the six-clock-hour DASA training to be conducted entirely online, and no longer include at least three clock hours through face-to-face instruction, during the time period of the State of Emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis.

At the time of the June 2021 Board of Regents meeting, it was unclear exactly how long the Executive Order declaring the State of Emergency would remain in effect. Therefore, to provide some certainty in this regard, the Board of Regents took emergency action to adopt revised proposed amendments to the Commissioner's regulations to continue permitting the six-clock-hour DASA training to be conducted entirely online through December 31, 2021. As of June 25, 2021, the State of Emergency was no longer in effect. These amendments were permanently adopted by the Board of Regents at their September 2021 meeting.

Educator preparation program instructors have expressed an interest in the DASA training being able to be conducted entirely online on a permanent basis, citing candidates' greater accessibility to the training. During the COVID-19 pandemic, educator preparation programs and other approved DASA training providers successfully offered the training entirely online. The technology available for offering training online has improved significantly since the DASA training requirement for certification went into effect on December 31, 2013, eliminating the need for at least three of the six clock hours for the training to be delivered face-to-face.

Given the new online technologies and successful offering of DASA training entirely online, the Department now proposes to remove the DASA training requirement that at

least three hours must be conducted through face-to-face instruction. Removing this requirement will provide candidates and approved DASA training providers with more flexibility to complete and offer the training, respectively. The DASA training would continue to be 6 clock hours.

### **Related Regents Items**

October 2021: [Proposed Amendment to Sections 52.21, 57-4.5, and 80-1.13 of the Regulations of the Commissioner of Education Relating to Removing the Face-to-Face Instruction Requirement for the Dignity for All Students Act \(DASA\) Training \(nysed.gov\)](https://www.regents.nysed.gov/common/regents/files/1021hea1.pdf) (https://www.regents.nysed.gov/common/regents/files/1021hea1.pdf)

September 2021: [Proposed Amendment to Sections 52.21, 57-4.5, and 80- 1.13 of the Regulations of the Commissioner of Education Relating to Permitting the Dignity for All Students Act \(DASA\) Training to Be Provided Entirely Online Due to the COVID-19 Crisis](https://www.regents.nysed.gov/common/regents/files/921brca4.pdf) (https://www.regents.nysed.gov/common/regents/files/921brca4.pdf)

June 2021: [Proposed Amendment to Sections 52.21, 57-4.5, and 80- 1.13 of the Regulations of the Commissioner of Education Relating to Permitting the Dignity for All Students Act \(DASA\) Training to Be Provided Entirely Online Due to the COVID-19 Crisis](https://www.regents.nysed.gov/common/regents/files/621hea1.pdf) (https://www.regents.nysed.gov/common/regents/files/621hea1.pdf)

February 2021: [Proposed Amendments to Sections 52.3, 52.21, 57-4.5, 70.4, 74.6, 75.2, 75.5, 76.2, 79-9.3, 79-10.3, 79-11.3, 79-12.3, 801.13, 80-1.5, 80-3.15, 80-4.3, 83.5, 87.2, 87.5, 100.2, 100.4, 100.5, 100.6, 100.10, 100.21, 119.1, 119.5, 125.1, 151-1.4, 1542.3, 175.5, 200.4, 200.5, 200.7, 200.20 and 275.8 and Addition of Section 279.15 to the Regulations of the Commissioner of Education Relating to Addressing the COVID-19 Crisis](https://www.regents.nysed.gov/common/regents/files/221brca6.pdf) (https://www.regents.nysed.gov/common/regents/files/221brca6.pdf)

### **Recommendation**

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

VOTED: That the Board of Regents adopt the proposed amendments of Sections 52.21, 57-4.5, and 80-1.13 of the Regulations of the Commissioner of Education, as submitted, effective March 2, 2022.

### **Timetable for Implementation**

If adopted at the February 2022 meeting, the proposed amendments will become effective as a permanent rule on March 2, 2022.

**Attachment A**

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 14, 101, 207, 208, 305, 308, 3001, 3004 and 3009 of the Education Law.

1. Paragraph (5) of subdivision (a) of section 52.21 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(5) All registered teacher education programs leading to certification in the classroom teaching service, school service, or administrative and supervisory service shall provide six clock hours[, of which at least three hours must be conducted through face-to-face instruction,] of coursework or training in the prevention and intervention of harassment, bullying and discrimination[, except that the six clock hours of coursework or training may be provided entirely online through December 31, 2021 in response to the State of emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis]. Such coursework or training shall include training on the social patterns of harassment, bullying and discrimination, as defined in section 11 of the Education Law, including but not limited to those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex; the identification and mitigation of harassment, bullying and discrimination; and strategies for effectively addressing problems of exclusion, bias and aggression in educational settings.

2. Item (xiii) of subclause (1) of clause (c) of subparagraph (ii) of paragraph (2) of subdivision (b) of section 52.21 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(xiii) means for the prevention of and intervention in harassment, bullying and discrimination in accordance with section 14 of the Education Law. Such study shall include six clock hours[, of which at least three hours must be conducted through face-to-face instruction,] of course work or training on the social patterns of harassment, bullying and discrimination; as defined in section 11 of the Education Law, including but not limited to those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex; the identification and mitigation of harassment, bullying and discrimination; and strategies for effectively addressing problems of exclusion, bias and aggression in educational settings[, except that the six clock hours of coursework or training may be provided entirely online through December 31, 2021 in response to the State of emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis].

3. Item (X) of subitem (A) of item (i) of subclause (1) of clause (a) of subparagraph (xiii) of paragraph (3) of subdivision (b) of section 52.21 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(X) means for the prevention of and intervention harassment, bullying and discrimination in accordance with section 14 of the Education Law. Such study shall include six clock hours[, of which at least three hours must be conducted through face to-face instruction,] of course work or training on the social patterns of harassment, bullying and discrimination, as defined in section 11 of the Education Law, including but not limited to those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex; the identification and mitigation of harassment, bullying and discrimination; and strategies for

effectively addressing problems of exclusion, bias and aggression in educational settings[, except that the six clock hours of coursework or training may be provided entirely online through December 31, 2021 in response to the State of emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis], and

4. Subitem (J) of item (iv) of subclause (2) of clause (b) of subparagraph (xvii) of paragraph (3) of subdivision (b) of section 52.21 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(J) means for the prevention of and intervention in harassment, bullying and discrimination in accordance with section 14 of the Education Law. Such study shall include six clock hours[, of which at least three hours must be conducted through face to-face instruction,] of course work or training on the social patterns of harassment, bullying and discrimination, as defined in section 11 of the Education Law, including but not limited to those acts based on person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex; the identification and mitigation of harassment, bullying and discrimination; and strategies for effectively addressing problems of exclusion, bias and aggression in educational settings[, except that the six clock hours of coursework or training may be provided entirely online through December 31, 2021 in response to the State of emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis].

5. Clause (c) of subparagraph (iv) of paragraph (1) of subdivision (c) of section 52.21 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(c) Programs shall ensure that candidates complete six clock hours[, of which at least three hours must be conducted through face-to-face instruction,] of coursework or training on the social patterns of harassment, bullying and discrimination[, a], in accordance with the requirements of section 14 of the Education Law[, except that the six clock hours of coursework or training may be provided entirely online through December 31, 2021 in response to the State of emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis].

6. Clause (m) of subparagraph (v) of paragraph (7) of subdivision (c) of section 52.21 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(m) ensure that candidates complete six clock hours[, of which at least three hours must be conducted through face-to-face instruction,] of coursework or training on the social patterns of harassment, bullying and discrimination, in accordance with the requirements of section 14 of the Education Law[, except that the six clock hours of coursework or training may be provided entirely online through December 31, 2021 in response to the State of emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis];

7. Subdivision (a) of section 57-4.5 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(a) A provider, at a minimum, shall offer the syllabus prepared by the department [ and demonstrate that at least three of the six clock hours shall be conducted through face-to-face instruction, except that the six clock hours of coursework or training may be provided entirely online through December 31, 2021 in response to the State of emergency

declared by the Governor pursuant to an Executive Order for the COVID-19 crisis.

However], however, nothing in this section shall preclude providers from offering additional coursework or training which exceeds, or expands upon, the six hour syllabus prescribed by the department.

8. Section 80-1.13 of the Regulations of the Commissioner of Education shall be amended to read as follows:

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 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[, except that candidates may complete the minimum six clock hours of course work or training entirely online through December 31, 2021 in response to the State of emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis].

ASSESSMENT OF PUBLIC COMMENT

Since publication of the Notice of Proposed Rule Making in the State Register on November 3, 2021, the State Education Department (Department) received the following comment on the proposed amendment:

1. COMMENT: Commenter, who is a dean of a college, strongly endorses the proposal to permanently remove the face-to-face requirement for New York State's mandated DASA training for certification. During the COVID-19 pandemic, the State allowed for these trainings to take place remotely, and they found that this format increased access for their DASA training participants without any sacrifice of content or learning. Commenter hopes that the Board of Regents will adopt this important proposal to allow them to continue offering their DASA trainings in a variety of accessible formats.

DEPARTMENT RESPONSE: The comment is supportive of the proposed rule; therefore, no changes are necessary.