



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

TO: P-12 Education Committee
FROM: Ken Slentz
SUBJECT: Addition of section 100.2(jj) of the Commissioner's Regulations, Relating to School Employee Training
DATE: January 30, 2012
AUTHORIZATION(S):

SUMMARY

Issue for Discussion

Should the Board of Regents adopt the proposed addition of a new section 100.2(jj), relating to school employee training 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 rule is being presented to the P-12 Education Committee for discussion at the February 2012 Regents meeting.

Background Information

Chapter 482 of the Laws of 2010 added a new Article 2 to the Education Law (Ed.L. §§10 through 18), relating to the Dignity for All Students Act. The statute's provisions take effect on July 1, 2012.

The proposed rule establishes standards for a program to train school employees and administrators to promote a positive school environment that is free from discrimination and harassment; and to discourage and respond to incidents of discrimination and/or harassment on school property or at a school function.

Specifically, the proposed rule requires each school district, BOCES and charter school to create guidelines to provide:

- On or before July 1, 2012, for schools to implement school employee training programs to promote a positive school environment that is free from discrimination and harassment and to discourage and respond to incidents of discrimination and/or harassment on school property or at a school function. These employee training guidelines shall be developed within the district and shall be approved by the board of education of the school district (or by the chancellor of the city school district in the case of the City School District of the City of New York) and by the board of trustees of the charter school;
- Training for employees, including school and district administrators:
 - (i) to raise awareness and understanding of the school district's Code of Conduct pursuant to section 100.2(l) of this Title or, in the case of a charter school, the school's disciplinary rules and procedures pursuant to Education Law section 2851(2)(h) or, if applicable, the charter school's code of conduct;
 - (ii) to raise awareness and sensitivity to potential acts of discrimination or harassment directed at students that are committed by students or school employees on school property or at school functions; including, but not limited to, discrimination or harassment based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practices, disability, sexual orientation, gender identity or sex; and
 - (iii) to enable employees to prevent and respond to incidents of harassment and discrimination.

Training may be implemented and conducted in conjunction with existing professional development training pursuant to 100.2(dd)(2)(ii) of this Title and/or with any other training for school employees.

- At least one employee in every school shall be designated as a Dignity Act Coordinator and instructed in the provisions of the proposed rule and thoroughly trained in methods to respond to human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender and sex.
 - (i) The designation of each Dignity Act Coordinator shall be approved by the board of education, trustees or sole trustee of the school district (or in the case of the City School District of the City of New York, by the

principal of the school in which the designated employee is employed) and, in the case of a charter school, by the board of trustees.

(ii) The name(s) and contact information for the Dignity Act Coordinator(s) shall be shared with all school personnel, students, and persons in parental relation.

(iii) In the event a Dignity Act Coordinator vacates his or her position, another school employee shall be immediately designated for an interim appointment as Coordinator, pending approval of a successor Coordinator by the applicable governing body within 30 days of the date the position was vacated. In the event a Coordinator is unable to perform the duties of his or her position for an extended period of time, another school employee shall be immediately designated for an interim appointment as Coordinator, pending return of the previous Coordinator to his or her duties as Coordinator.

A copy of the proposed rule is attached. A Notice of Proposed Rule Making will be published in the State Register on February 15, 2012. Supporting materials are available upon request from the Secretary to the Board of Regents.

Recommendation

It is recommended that the Regents P-12 Education Committee reach consensus on the intent of the proposed rule prior to taking action at the April 2012 Regents meeting.

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. It is anticipated that the proposed rule will be presented for action at the April Regents meeting, after publication of a Notice of Proposed Rule Making in the State Register and expiration of the 45-day public comment period prescribed in the State Administrative Procedure Act. If adopted at the April 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 11, 12, 13, 14, 101, 207, 305 and 2854(1)(b) and Chapter 482 of the Laws of 2010.

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

(jj) Dignity For All Students School Employee Training Program.

(1) Definitions. As used in this subdivision:

(i) School employee means an employee as defined in subdivision 3 of section 1125 of the Education Law, or an employee of a charter school.

(ii) School property means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school, including a charter school; or in or on a school bus, as defined in section 142 of the Vehicle and Traffic Law; or at a school function.

(iii) School function means a school-sponsored extracurricular event or activity.

(iv) Discrimination and harassment means an intentional act 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, of such a severe nature that:

(a) 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

(b) 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 practice, disability, sexual orientation, gender or sex; provided that nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under Education Law sections 3201-a or 2854(2)(a) and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et seq.), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973.

(v) Disability means a disability as defined in subdivision 21 of section 292 of the Executive Law.

(vi) Sexual orientation means actual or perceived heterosexuality, homosexuality or bisexuality.

(vii) Gender means actual or perceived sex and shall include a person's gender identity or expression.

(2) On or before July 1, 2012, each school district and each charter school shall establish guidelines for its school or schools to implement, commencing with the 2012-2013 school year and continuing in each school year thereafter, Dignity for All Students school employee training programs to promote a positive school environment that is free from discrimination and harassment; and to discourage and respond to incidents of discrimination and/or harassment on school property or at a school function. Such guidelines shall be approved by the board of education, trustees or sole trustee of the school district (or by the chancellor of the city school district, in the case of the City

School District of the City of New York) or by the board of trustees of the charter school.

(3) The guidelines shall include, but not be limited to, providing employees, including school and district administrators, with:

(i) training to raise awareness and sensitivity to potential acts of discrimination or harassment directed at students that are committed by students or school employees on school property or at school functions; including, but not limited to, discrimination or harassment based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practices, disability, sexual orientation, gender identity or sex;

(ii) training to enable employees to prevent and respond to incidents of harassment and discrimination;

(iii) training which may be implemented and conducted in conjunction with existing professional development training pursuant to subparagraph 100.2(dd)(2)(ii) of this Title and/or with any other training for school employees

(4) At least one employee in every school shall be designated as a Dignity Act Coordinator and instructed in the provisions of this subdivision and thoroughly trained in methods to respond to human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender and sex.

(i) The designation of each Dignity Act Coordinator shall be approved by the board of education, trustees or sole trustee of the school district (or in the case of the City School District of the City of New York, by the principal of the school in which the

designated employee is employed) or, in the case of a charter school, by the board of trustees.

(ii) The name(s) and contact information for the Dignity Act Coordinator(s) shall be shared with all school personnel, students, and persons in parental relation.

(iii) In the event a Dignity Act Coordinator vacates his or her position, another school employee shall be immediately designated for an interim appointment as Coordinator, pending approval of a successor Coordinator by the applicable governing body as set forth in subparagraph (i) of this paragraph within 30 days of the date the position was vacated. In the event a Coordinator is unable to perform the duties of his or her position for an extended period of time, another school employee shall be immediately designated for an interim appointment as Coordinator, pending return of the previous Coordinator to his or her duties as Coordinator.