

3661

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I N A S S E M B L Y

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Introduced by M. of A. O'DONNELL, GLICK, NOLAN, GREENE, LIFTON, BENJAMIN, BRADLEY, FIELDS, McENENY, CLARK, EDDINGTON, PAULIN, ROSENTHAL, JOHN, GALEF, HEVESI, ESPAILLAT, ENGLEBRIGHT, KAVANAGH, POWELL, N. RIVERA, LANCMAN, PERALTA, STIRPE, HOYT, DINOWITZ, JAFFEE, SCHIMEL -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, BING, BRENNAN, DIAZ, FARRELL, GIANARIS, GOTTFRIED, JACOBS, JEFFRIES, KELLNER, KOON, LUPARDO, MARKEY, MILLMAN, PEOPLES, PERRY, PHEFFER, SWEENEY, WALKER, WEISENBERG, WRIGHT -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to enacting the dignity for all students act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "dignity for all students act".

3 S 2. The education law is amended by adding a new article 2 to read as
4 follows:

5 ARTICLE 2

6 DIGNITY FOR ALL STUDENTS

7 SECTION 10. LEGISLATIVE INTENT.

8 11. DEFINITIONS.

9 12. DISCRIMINATION AND HARASSMENT PROHIBITED.

10 13. POLICIES AND GUIDELINES.

11 14. COMMISSIONER'S RESPONSIBILITIES.

12 15. REPORTING BY COMMISSIONER.

13 16. PROTECTION OF PEOPLE WHO REPORT DISCRIMINATION OR HARASS-
14 MENT.

15 17. APPLICATION.

16 18. SEVERABILITY AND CONSTRUCTION.

17 S 10. LEGISLATIVE INTENT. THE LEGISLATURE FINDS THAT STUDENTS' ABILITY
18 TO LEARN AND TO MEET HIGH ACADEMIC STANDARDS, AND A SCHOOL'S ABILITY TO
19 EDUCATE ITS STUDENTS, ARE COMPROMISED BY INCIDENTS OF DISCRIMINATION OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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HARASSMENT INCLUDING BULLYING, TAUNTING OR INTIMIDATION. IT IS HEREBY DECLARED TO BE THE POLICY OF THE STATE TO AFFORD ALL STUDENTS IN PUBLIC SCHOOLS AN ENVIRONMENT FREE OF DISCRIMINATION AND HARASSMENT BASED ON ACTUAL OR PERCEIVED RACE, COLOR, NATIONAL ORIGIN, ETHNIC GROUP, RELIGION, RELIGIOUS PRACTICE, DISABILITY, SEXUAL ORIENTATION, GENDER, OR SEX. THE PURPOSE OF THIS ARTICLE IS TO FOSTER CIVILITY IN PUBLIC SCHOOLS AND TO PREVENT AND PROHIBIT CONDUCT WHICH IS INCONSISTENT WITH A SCHOOL'S EDUCATIONAL MISSION.

S 11. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "SCHOOL PROPERTY" SHALL MEAN 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; OR IN OR ON A SCHOOL BUS, AS DEFINED IN SECTION ONE HUNDRED FORTY-TWO OF THE VEHICLE AND TRAFFIC LAW.

2. "SCHOOL FUNCTION" SHALL MEAN A SCHOOL-SPONSORED EXTRA-CURRICULAR EVENT OR ACTIVITY.

3. "DISABILITY" SHALL MEAN DISABILITY AS DEFINED IN SUBDIVISION TWENTY-ONE OF SECTION TWO HUNDRED NINETY-TWO OF THE EXECUTIVE LAW.

4. "EMPLOYEE" SHALL MEAN EMPLOYEE AS DEFINED IN SUBDIVISION THREE OF SECTION ELEVEN HUNDRED TWENTY-FIVE OF THIS TITLE.

5. "SEXUAL ORIENTATION" SHALL MEAN ACTUAL OR PERCEIVED HETEROSEXUALITY, HOMOSEXUALITY OR BISEXUALITY.

6. "GENDER" SHALL MEAN ACTUAL OR PERCEIVED SEX AND SHALL INCLUDE A PERSON'S GENDER IDENTITY OR EXPRESSION.

7. "HARASSMENT" SHALL MEAN THE CREATION OF A HOSTILE ENVIRONMENT BY CONDUCT OR BY VERBAL THREATS, INTIMIDATION OR ABUSE, INCLUDING CONDUCT, VERBAL THREATS, INTIMIDATION OR ABUSE BASED ON A PERSON'S ACTUAL OR PERCEIVED RACE, COLOR, NATIONAL ORIGIN, ETHNIC GROUP, RELIGION, RELIGIOUS PRACTICE, DISABILITY, SEXUAL ORIENTATION, GENDER OR SEX, THAT HAS OR WOULD HAVE THE EFFECT OF UNREASONABLY AND SUBSTANTIALLY INTERFERING WITH A STUDENT'S EDUCATIONAL PERFORMANCE, OPPORTUNITIES OR BENEFITS, OR MENTAL, EMOTIONAL OR PHYSICAL WELL-BEING; OR CONDUCT, VERBAL THREATS, INTIMIDATION OR ABUSE THAT REASONABLY CAUSES OR WOULD REASONABLY BE EXPECTED TO CAUSE A STUDENT TO FEAR FOR HIS OR HER PHYSICAL SAFETY.

S 12. DISCRIMINATION AND HARASSMENT PROHIBITED. 1. NO STUDENT SHALL BE SUBJECTED TO HARASSMENT BY EMPLOYEES OR STUDENTS ON SCHOOL PROPERTY OR AT A SCHOOL FUNCTION; NOR SHALL ANY STUDENT BE SUBJECTED TO DISCRIMINATION BASED ON A PERSON'S ACTUAL OR PERCEIVED RACE, COLOR, NATIONAL ORIGIN, ETHNIC GROUP, RELIGION, RELIGIOUS PRACTICE, DISABILITY, SEXUAL ORIENTATION, GENDER, OR SEX BY SCHOOL EMPLOYEES OR STUDENTS ON SCHOOL PROPERTY OR AT A SCHOOL FUNCTION. 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 SECTION THIRTY-TWO HUNDRED ONE-A OR PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION TWENTY-EIGHT HUNDRED FIFTY-FOUR OF THIS CHAPTER 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.

2. AN AGE-APPROPRIATE VERSION OF THE POLICY OUTLINED IN SUBDIVISION ONE OF THIS SECTION, WRITTEN IN PLAIN-LANGUAGE, SHALL BE INCLUDED IN THE CODE OF CONDUCT ADOPTED BY BOARDS OF EDUCATION AND THE TRUSTEES OR SOLE TRUSTEE PURSUANT TO SECTION TWENTY-EIGHT HUNDRED ONE OF THIS CHAPTER AND A SUMMARY OF SUCH POLICY SHALL BE INCLUDED IN ANY SUMMARIES REQUIRED BY SUCH SECTION TWENTY-EIGHT HUNDRED ONE.

1 S 13. POLICIES AND GUIDELINES. THE BOARD OF EDUCATION AND THE TRUS-
2 TEES OR SOLE TRUSTEE OF EVERY SCHOOL DISTRICT SHALL CREATE POLICIES AND
3 GUIDELINES THAT SHALL INCLUDE, BUT NOT BE LIMITED TO:

4 1. POLICIES INTENDED TO CREATE A SCHOOL ENVIRONMENT THAT IS FREE FROM
5 DISCRIMINATION OR HARASSMENT;

6 2. GUIDELINES TO BE USED IN SCHOOL TRAINING PROGRAMS TO DISCOURAGE THE
7 DEVELOPMENT OF DISCRIMINATION OR HARASSMENT AND THAT ARE DESIGNED:

8 A. TO RAISE THE AWARENESS AND SENSITIVITY OF SCHOOL EMPLOYEES TO
9 POTENTIAL DISCRIMINATION OR HARASSMENT, AND

10 B. TO ENABLE EMPLOYEES TO PREVENT AND RESPOND TO DISCRIMINATION OR
11 HARASSMENT; AND

12 3. GUIDELINES RELATING TO THE DEVELOPMENT OF NONDISCRIMINATORY
13 INSTRUCTIONAL AND COUNSELING METHODS, AND REQUIRING THAT AT LEAST ONE
14 STAFF MEMBER AT EVERY SCHOOL BE THOROUGHLY TRAINED TO HANDLE HUMAN
15 RELATIONS IN THE AREAS OF RACE, COLOR, NATIONAL ORIGIN, ETHNIC GROUP,
16 RELIGION, RELIGIOUS PRACTICE, DISABILITY, SEXUAL ORIENTATION, GENDER,
17 AND SEX.

18 S 14. COMMISSIONER'S RESPONSIBILITIES. THE COMMISSIONER SHALL:

19 1. PROVIDE DIRECTION, WHICH MAY INCLUDE DEVELOPMENT OF MODEL POLICIES
20 AND, TO THE EXTENT POSSIBLE, DIRECT SERVICES, TO SCHOOL DISTRICTS
21 RELATED TO PREVENTING DISCRIMINATION AND HARASSMENT AND TO FOSTERING AN
22 ENVIRONMENT IN EVERY SCHOOL WHERE ALL CHILDREN CAN LEARN FREE OF
23 MANIFESTATIONS OF BIAS;

24 2. PROVIDE GRANTS, FROM FUNDS APPROPRIATED FOR SUCH PURPOSE, TO LOCAL
25 SCHOOL DISTRICTS TO ASSIST THEM IN IMPLEMENTING THE GUIDELINES SET FORTH
26 IN THIS SECTION; AND

27 3. PROMULGATE REGULATIONS TO ASSIST SCHOOL DISTRICTS IN IMPLEMENTING
28 THIS ARTICLE INCLUDING, BUT NOT LIMITED TO, REGULATIONS TO ASSIST SCHOOL
29 DISTRICTS IN DEVELOPING MEASURED, BALANCED, AND AGE-APPROPRIATE
30 RESPONSES TO VIOLATIONS OF THIS POLICY, WITH REMEDIES AND PROCEDURES
31 FOCUSING ON INTERVENTION AND EDUCATION.

32 S 15. REPORTING BY COMMISSIONER. THE COMMISSIONER SHALL CREATE A
33 PROCEDURE UNDER WHICH MATERIAL INCIDENTS OF DISCRIMINATION AND HARASS-
34 MENT ON SCHOOL GROUNDS OR AT A SCHOOL FUNCTION ARE REPORTED TO THE
35 DEPARTMENT AT LEAST ON AN ANNUAL BASIS. SUCH PROCEDURE SHALL PROVIDE
36 THAT SUCH REPORTS SHALL, WHEREVER POSSIBLE, ALSO DELINEATE THE SPECIFIC
37 NATURE OF SUCH INCIDENTS OF DISCRIMINATION OR HARASSMENT, PROVIDED THAT
38 THE COMMISSIONER MAY COMPLY WITH THE REQUIREMENTS OF THIS SECTION
39 THROUGH USE OF THE EXISTING UNIFORM VIOLENT INCIDENT REPORTING SYSTEM.
40 IN ADDITION THE DEPARTMENT MAY CONDUCT RESEARCH OR UNDERTAKE STUDIES TO
41 DETERMINE COMPLIANCE THROUGHOUT THE STATE WITH THE PROVISIONS OF THIS
42 ARTICLE.

43 S 16. PROTECTION OF PEOPLE WHO REPORT DISCRIMINATION OR HARASSMENT.
44 ANY PERSON HAVING REASONABLE CAUSE TO SUSPECT THAT A STUDENT HAS BEEN
45 SUBJECTED TO DISCRIMINATION OR HARASSMENT BY AN EMPLOYEE OR STUDENT, ON
46 SCHOOL GROUNDS OR AT A SCHOOL FUNCTION, WHO, ACTING REASONABLY AND IN
47 GOOD FAITH, EITHER REPORTS SUCH INFORMATION TO SCHOOL OFFICIALS, TO THE
48 COMMISSIONER, OR TO LAW ENFORCEMENT AUTHORITIES OR OTHERWISE INITIATES,
49 TESTIFIES, PARTICIPATES OR ASSISTS IN ANY FORMAL OR INFORMAL PROCEEDINGS
50 UNDER THIS ARTICLE, SHALL HAVE IMMUNITY FROM ANY CIVIL LIABILITY THAT
51 MAY ARISE FROM THE MAKING OF SUCH REPORT OR FROM INITIATING, TESTIFYING,
52 PARTICIPATING OR ASSISTING IN SUCH FORMAL OR INFORMAL PROCEEDINGS, AND
53 NO SCHOOL DISTRICT OR EMPLOYEE SHALL TAKE, REQUEST OR CAUSE A RETALIATO-
54 RY ACTION AGAINST ANY SUCH PERSON WHO, ACTING REASONABLY AND IN GOOD
55 FAITH, EITHER MAKES SUCH A REPORT OR INITIATES, TESTIFIES, PARTICIPATES
56 OR ASSISTS IN SUCH FORMAL OR INFORMAL PROCEEDINGS.

1 S 17. APPLICATION. NOTHING IN THIS ARTICLE SHALL:

2 1. APPLY TO PRIVATE, RELIGIOUS OR DENOMINATIONAL EDUCATIONAL INSTI-
3 TUTIONS; OR

4 2. PRECLUDE OR LIMIT ANY RIGHT OR CAUSE OF ACTION PROVIDED UNDER ANY
5 LOCAL, STATE OR FEDERAL ORDINANCE, LAW OR REGULATION INCLUDING BUT NOT
6 LIMITED TO ANY REMEDIES OR RIGHTS AVAILABLE UNDER THE INDIVIDUALS WITH
7 DISABILITIES EDUCATION ACT, TITLE VII OF THE CIVIL RIGHTS LAW OF 1964,
8 SECTION 504 OF THE REHABILITATION ACT OF 1973 OR THE AMERICANS WITH
9 DISABILITIES ACT OF 1990.

10 S 18. SEVERABILITY AND CONSTRUCTION. THE PROVISIONS OF THIS ARTICLE
11 SHALL BE SEVERABLE, AND IF ANY COURT OF COMPETENT JURISDICTION DECLARES
12 ANY PHRASE, CLAUSE, SENTENCE OR PROVISION OF THIS ARTICLE TO BE INVALID,
13 OR ITS APPLICABILITY TO ANY GOVERNMENT AGENCY, PERSON OR CIRCUMSTANCE IS
14 DECLARED INVALID, THE REMAINDER OF THIS ARTICLE AND ITS RELEVANT APPLI-
15 CABILITY SHALL NOT BE AFFECTED. THE PROVISIONS OF THIS ARTICLE SHALL BE
16 LIBERALLY CONSTRUED TO GIVE EFFECT TO THE PURPOSES THEREOF.

17 S 3. Section 801-a of the education law, as added by chapter 181 of
18 the laws of 2000, is amended to read as follows:

19 S 801-a. Instruction in civility, citizenship and character education.
20 The regents shall ensure that the course of instruction in grades
21 kindergarten through twelve includes a component on civility, citizen-
22 ship and character education. Such component shall instruct students on
23 the principles of honesty, tolerance, personal responsibility, respect
24 for others, observance of laws and rules, courtesy, dignity and other
25 traits which will enhance the quality of their experiences in, and
26 contributions to, the community. The regents shall determine how to
27 incorporate such component in existing curricula and the commissioner
28 shall promulgate any regulations needed to carry out such determination
29 of the regents. FOR THE PURPOSES OF THIS SECTION, "TOLERANCE," "RESPECT
30 FOR OTHERS" AND "DIGNITY" SHALL INCLUDE AWARENESS AND SENSITIVITY TO
31 DISCRIMINATION OR HARASSMENT AND CIVILITY IN THE RELATIONS OF PEOPLE OF
32 DIFFERENT RACES, NATIONAL ORIGINS, ETHNIC GROUPS, RELIGIONS, RELIGIOUS
33 PRACTICES, MENTAL OR PHYSICAL ABILITIES, SEXUAL ORIENTATIONS, GENDERS,
34 AND SEXES.

35 S 4. Paragraphs l and m of subdivision 2 of section 2801 of the educa-
36 tion law, as added by chapter 181 of the laws of 2000, are amended and a
37 new paragraph n is added to read as follows:

38 1. a minimum suspension period, for students who repeatedly are
39 substantially disruptive of the educational process or substantially
40 interfere with the teacher's authority over the classroom, provided that
41 the suspending authority may reduce such period on a case by case basis
42 to be consistent with any other state and federal law. For purposes of
43 this section, the definition of "repeatedly are substantially disrupt-
44 tive" shall be determined in accordance with the regulations of the
45 commissioner; [and]

46 m. a minimum suspension period for acts that would qualify the pupil
47 to be defined as a violent pupil pursuant to paragraph a of subdivision
48 two-a of section thirty-two hundred fourteen of this chapter, provided
49 that the suspending authority may reduce such period on a case by case
50 basis to be consistent with any other state and federal law[.]; AND

51 N. PROVISIONS TO COMPLY WITH ARTICLE TWO OF THIS CHAPTER.

52 S 5. This act shall take effect on the one hundred twentieth day after
53 it shall have become a law, except that any rules or regulations neces-
54 sary for the timely implementation of this act on its effective date
55 shall be promulgated on or before such date.