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I N S E N A T E

May 4, 2010

Introduced by Sen. DUANE -- read twice and ordered printed, and when printed to be committed 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  
20 HARASSMENT INCLUDING BULLYING, TAUNTING OR INTIMIDATION. IT IS HEREBY  
21 DECLARED TO BE THE POLICY OF THE STATE TO AFFORD ALL STUDENTS IN PUBLIC  
22 SCHOOLS AN ENVIRONMENT FREE OF DISCRIMINATION AND HARASSMENT. THE  
23 PURPOSE OF THIS ARTICLE IS TO FOSTER CIVILITY IN PUBLIC SCHOOLS AND TO  
24 PREVENT AND PROHIBIT CONDUCT WHICH IS INCONSISTENT WITH A SCHOOL'S  
25 EDUCATIONAL MISSION.

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

28 1. "SCHOOL PROPERTY" SHALL MEAN IN OR WITHIN ANY BUILDING, STRUCTURE,  
29 ATHLETIC PLAYING FIELD, PLAYGROUND, PARKING LOT, OR LAND CONTAINED WITH-  
30 IN THE REAL PROPERTY BOUNDARY LINE OF A PUBLIC ELEMENTARY OR SECONDARY

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

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

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

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

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

9 5. "SEXUAL ORIENTATION" SHALL MEAN ACTUAL OR PERCEIVED HETEROSEXUALI-  
10 TY, HOMOSEXUALITY OR BISEXUALITY.

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

13 7. "SOCIAL NETWORKING WEBSITE" SHALL MEAN A WEBSITE OFFERED BY A  
14 COMMERCIAL ENTITY THAT PERMITS REGISTERED USERS TO CREATE AN ONLINE  
15 PROFILE THAT INCLUDES DETAILED PERSONAL INFORMATION, PERMITS REGISTERED  
16 USERS TO CREATE AN ON-LINE JOURNAL AND SHARE SUCH A JOURNAL WITH OTHERS,  
17 ELICITS HIGHLY-PERSONALIZED INFORMATION FROM USERS AND ENABLES COMMUNI-  
18 CATION AMONG USERS.

19 8. "HARASSMENT" SHALL MEAN THE CREATION OF A HOSTILE ENVIRONMENT BY  
20 CONDUCT OR BY VERBAL THREATS, INTIMIDATION OR ABUSE THAT HAS OR WOULD  
21 HAVE THE EFFECT OF UNREASONABLY AND SUBSTANTIALLY INTERFERING WITH A  
22 STUDENT'S EDUCATIONAL PERFORMANCE, OPPORTUNITIES OR BENEFITS, OR MENTAL,  
23 EMOTIONAL OR PHYSICAL WELL-BEING; OR CONDUCT, VERBAL THREATS, INTIM-  
24 IDATION OR ABUSE THAT REASONABLY CAUSES OR WOULD REASONABLY BE EXPECTED  
25 TO CAUSE A STUDENT TO FEAR FOR HIS OR HER PHYSICAL SAFETY; SUCH CONDUCT,  
26 VERBAL THREATS, INTIMIDATION OR ABUSE INCLUDES BUT IS NOT LIMITED TO  
27 CONDUCT, VERBAL OR WRITTEN THREATS THROUGH AN INTERNET SERVICE SUCH AS  
28 E-MAIL, CHAT ROOM, DISCUSSION GROUP, INSTANT MESSAGING OR SOCIAL  
29 NETWORKING SITES, EITHER ON OR OFF SCHOOL PROPERTY, INTIMIDATION OR  
30 ABUSE BASED ON A PERSON'S ACTUAL OR PERCEIVED RACE, COLOR, WEIGHT,  
31 NATIONAL ORIGIN, ETHNIC GROUP, RELIGION, RELIGIOUS PRACTICE, DISABILITY,  
32 SEXUAL ORIENTATION, GENDER OR SEX.

33 S 12. DISCRIMINATION AND HARASSMENT PROHIBITED. 1. NO STUDENT SHALL  
34 BE SUBJECTED TO HARASSMENT BY EMPLOYEES OR STUDENTS ON SCHOOL PROPERTY  
35 OR AT A SCHOOL FUNCTION NOR SHALL ANY STUDENT BE SUBJECTED TO HARASSMENT  
36 BY EMPLOYEES OR STUDENTS THROUGH VERBAL OR WRITTEN THREATS THROUGH AN  
37 INTERNET SERVICE SUCH AS E-MAIL, CHAT ROOM, DISCUSSION GROUP, INSTANT  
38 MESSAGING, OR SOCIAL NETWORKING SITES ON OR OFF SCHOOL PROPERTY OR FUNC-  
39 TION; NOR SHALL ANY STUDENT BE SUBJECTED TO DISCRIMINATION BASED ON A  
40 PERSON'S ACTUAL OR PERCEIVED RACE, COLOR, WEIGHT, NATIONAL ORIGIN,  
41 ETHNIC GROUP, RELIGION, RELIGIOUS PRACTICE, DISABILITY, SEXUAL ORIEN-  
42 TATION, GENDER, OR SEX BY SCHOOL EMPLOYEES OR STUDENTS ON SCHOOL PROPER-  
43 TY OR AT A SCHOOL FUNCTION. NOTHING IN THIS SUBDIVISION SHALL BE  
44 CONSTRUED TO PROHIBIT A DENIAL OF ADMISSION INTO, OR EXCLUSION FROM, A  
45 COURSE OF INSTRUCTION BASED ON A PERSON'S GENDER THAT WOULD BE PERMISSI-  
46 BLE UNDER SECTION THIRTY-TWO HUNDRED ONE-A OR PARAGRAPH (A) OF SUBDIVI-  
47 SION TWO OF SECTION TWENTY-EIGHT HUNDRED FIFTY-FOUR OF THIS CHAPTER AND  
48 TITLE IX OF THE EDUCATION AMENDMENTS OF 1972 (20 U.S.C. SECTION 1681,  
49 ET. SEQ.), OR TO PROHIBIT, AS DISCRIMINATION BASED ON DISABILITY,  
50 ACTIONS THAT WOULD BE PERMISSIBLE UNDER SECTION 504 OF THE REHABILI-  
51 TATION ACT OF 1973.

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

1 A SUMMARY OF SUCH POLICY SHALL BE INCLUDED IN ANY SUMMARIES REQUIRED BY  
2 SUCH SECTION TWENTY-EIGHT HUNDRED ONE.

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

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

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

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

12 B. TO ENABLE EMPLOYEES TO PREVENT AND RESPOND TO DISCRIMINATION OR  
13 HARASSMENT; AND

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

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

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

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

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

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

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

1 FAITH, EITHER MAKES SUCH A REPORT OR INITIATES, TESTIFIES, PARTICIPATES  
2 OR ASSISTS IN SUCH FORMAL OR INFORMAL PROCEEDINGS.

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

4 1. APPLY TO PRIVATE, RELIGIOUS OR DENOMINATIONAL EDUCATIONAL INSTI-  
5 TUTIONS; OR

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

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

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

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

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

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

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

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

54 S 5. This act shall take effect July 1, 2012, except that any rules or  
55 regulations necessary for the timely implementation of this act on its  
56 effective date shall be promulgated on or before such date.