

# STATE OF NEW YORK

1829--B

2023-2024 Regular Sessions

## IN ASSEMBLY

January 23, 2023

Introduced by M. of A. JEAN-PIERRE, PAULIN, L. ROSENTHAL, BRONSON, KIM, SIMON, PHEFFER AMATO, SEAWRIGHT, GIBBS, BICHOTTE HERMELYN, ARDILA, BORES, WEPRIN, HEVESI, JACKSON, SAYEGH, CONRAD, TAYLOR, GLICK, LAVINE, REYES, DeSTEFANO, McDONOUGH, SIMONE, RAGA, HYNDMAN, WALSH -- Multi-Sponsored by -- M. of A. DAVILA -- read once and referred to the Committee on Education -- recommitted to the Committee on Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to enacting the "nonpublic 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. The education law is amended by adding a new article 2-A to  
2 read as follows:

3 ARTICLE 2-A

4 NONPUBLIC DIGNITY FOR ALL STUDENTS ACT

5 Section 19. Legislative intent.

6 20. Definitions.

7 21. Discrimination and harassment prohibited.

8 22. Protection of people who report harassment, bullying or  
9 discrimination.

10 23. Severability and construction.

11 24. Constitutionality.

12 § 19. Legislative intent. The legislature finds that students' ability  
13 to learn and to meet high academic standards, and a school's ability to  
14 educate its students, are compromised by incidents of discrimination or  
15 harassment including bullying, taunting or intimidation. It is hereby  
16 declared to be the policy of the state to afford all students in nonpub-

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

A

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1 lic schools an environment free of discrimination and harassment. The  
2 purpose of this article is to foster civility in nonpublic schools and  
3 to prevent and prohibit conduct which is inconsistent with a school's  
4 educational mission.

5 § 20. Definitions. For the purposes of this article, the following  
6 terms shall have the following meanings:

7 1. "School property" shall mean in or within any building, structure,  
8 athletic playing field, playground, parking lot, or land contained with-  
9 in the real property boundary line of a nonpublic elementary or second-  
10 ary school; or in or on a school bus, as defined in section one hundred  
11 forty-two of the vehicle and traffic law.

12 2. "School function" shall mean a nonpublic school-sponsored extra-  
13 curricular event or activity.

14 3. "Disability" shall mean disability as defined in subdivision twenty-  
15 one of section two hundred ninety-two of the executive law.

16 4. "Employee" shall mean employee as defined in subdivision three of  
17 section eleven hundred twenty-five of this chapter.

18 5. "Sexual orientation" shall mean actual or perceived heterosexuali-  
19 ty, homosexuality or bisexuality.

20 6. "Gender" shall mean actual or perceived sex and shall include a  
21 person's gender identity or expression.

22 7. "Harassment" and "bullying" shall mean the creation of a hostile  
23 environment by conduct or by threats, intimidation or abuse, including  
24 cyberbullying, that (a) has or would have the effect of unreasonably and  
25 substantially interfering with a student's educational performance,  
26 opportunities or benefits, or mental, emotional or physical well-being;  
27 (b) reasonably causes or would reasonably be expected to cause a student  
28 to fear for their physical safety; (c) reasonably causes or would  
29 reasonably be expected to cause physical injury or emotional harm to a  
30 student; or (d) occurs off school property and creates, or would fore-  
31 seeably create, a risk of substantial disruption within the school envi-  
32 ronment, where it is foreseeable that the conduct, threats, intimidation  
33 or abuse might reach school property. Acts of harassment and bullying  
34 shall include, but not be limited to, those acts based on a person's  
35 actual or perceived race, color, weight, national origin, ethnic group,  
36 religion, religious practice, disability, sexual orientation, gender or  
37 sex. For the purposes of this definition the term "threats, intimidation  
38 or abuse" shall include verbal and non-verbal actions. This subdivision  
39 shall not apply to any course of instruction provided by a nonpublic  
40 school.

41 8. "Cyberbullying" shall mean harassment or bullying as defined in  
42 subdivision seven of this section, where such harassment or bullying  
43 occurs through any form of electronic communication.

44 9. "Race" shall include traits historically associated with race,  
45 including but not limited to, hair texture and protective hairstyles.

46 10. "Protective hairstyles" shall include, but not be limited to, such  
47 hairstyles as braids, locks, and twists.

48 § 21. Discrimination and harassment prohibited. No student shall be  
49 subjected to harassment or bullying by employees or students on school  
50 property or at a school function; nor shall any student be subjected to  
51 discrimination based on a person's actual or perceived race, color,  
52 weight, national origin, ethnic group, religion, religious practice,  
53 disability, sexual orientation, gender, or sex by school employees or  
54 students on school property or at a school function. Nothing in this  
55 section shall be construed to prohibit a denial of admission into, or  
56 exclusion from, a course of instruction based on a person's gender that

1 would be permissible under title IX of the Education Amendments of 1972  
2 (20 U.S.C. section 1681, et. seq.), or to prohibit, as discrimination  
3 based on disability, actions that would be permissible under section 504  
4 of the Rehabilitation Act of 1973. This section shall not apply to any  
5 course of instruction provided by a nonpublic school.

6 § 22. Protection of people who report harassment, bullying or discrim-  
7 ination. Any person having reasonable cause to suspect that a student  
8 has been subjected to harassment, bullying or discrimination, by an  
9 employee or student, on school grounds or at a school function, who,  
10 acting reasonably and in good faith, reports such information to school  
11 officials or to law enforcement authorities, or otherwise initiates,  
12 testifies, participates or assists in any formal or informal proceedings  
13 under this article, shall have immunity from any civil liability that  
14 may arise from the making of such report or from initiating, testifying,  
15 participating or assisting in such formal or informal proceedings, and  
16 no nonpublic school or employee shall take, request or cause a retali-  
17 atory action against any such person who, acting reasonably and in good  
18 faith, either makes such a report or initiates, testifies, participates  
19 or assists in such formal or informal proceedings.

20 § 23. Severability and construction. The provisions of this article  
21 shall be severable, and if any court of competent jurisdiction declares  
22 any phrase, clause, sentence or provision of this article to be invalid,  
23 or its applicability to any government agency, person or circumstance is  
24 declared invalid, the remainder of this article and its relevant appli-  
25 cability shall not be affected. The provisions of this article shall be  
26 liberally construed to give effect to the purposes thereof.

27 § 24. Constitutionality. Nothing in this article shall be construed to  
28 abridge the rights of nonpublic school students or employees that are  
29 protected by the first amendment to the constitution of the United  
30 States.

31 § 2. This act shall take effect on the first of July next succeeding  
32 the date on which it shall have become a law.