

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 May 22, 2012, as follows:

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

(1) Definitions. As used in this subdivision:

(i) "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.

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

(iii) "Disability" means disability as defined in Executive Law section 292(21).

(iv) "Employee" means an employee as defined in Education Law section 1125(3), or an employee of a charter school.

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

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

(vii) "Discrimination" means discrimination against any student by a student or students and/or an employee or employees on school property or at a school function including, but not limited to, discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability,

sexual orientation, gender or sex.

(viii) "Harassment" means the creation of a hostile environment by conduct or by verbal threats, intimidation or abuse 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; such conduct, verbal threats, intimidation or abuse includes but is not limited to conduct, verbal 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.

(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 and instructional and non-instructional staff, with:

(i) training to:

(a) raise awareness and sensitivity to potential acts of discrimination and/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 and/or harassment based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice[s], disability, sexual orientation, gender or sex; and

(b) training to enable employees to prevent and respond to incidents of discrimination and/or harassment;

(c) such training 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; and

(ii) guidelines relating to the development of nondiscriminatory instructional and counseling methods.

(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 to handle 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, which shall include, but is not limited to, providing the name, designated school and contact information of each Dignity Act Coordinator by:

(a) listing such information in the code of conduct and updates posted on the Internet web site, if available, of the school or school district, or of the board of cooperative educational services, pursuant to subclause 100.2(l)(2)(iii)(b)(1) of this Part;

(b) including such information in the plain language summary of the code of conduct provided to all persons in parental relation to students before the beginning of each school year, pursuant to subclause 100.2(l)(2)(iii)(b)(3);

(c) include such information in at least one district or school mailing per school year to parents and persons of parental relation and, if such information changes, in at least one subsequent district or school mailing as soon as practicable thereafter;

(d) posting such information in highly-visible areas of school buildings; and

(e) making such information available at the district and school-level administrative offices.

(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.

(5) 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.