

STATUS:**S1571 DUANE**

Education Law

TITLE....Enacts the "dignity for all students act" to prevent harassment and discrimination

01/23/07 REFERRED TO EDUCATION

SUMMARY:

DUANE, ADAMS, BRESLIN, CONNOR, HASSELL-THOMPSON, KRUEGER, MONTGOMERY, PARKER, SABINI, SAMPSON, SAVINO, SCHNEIDERMAN, STAVISKY

Add Art 2 SS10 - 18, amd SS801-a & 2801, Ed L

Enacts the "Dignity For All Students Act"; authorizes the commissioner of education to establish policies and procedures affording all students in public schools an environment free of harassment and discrimination based on actual or perceived race, national origin, ethnic group, religion, disability, sexual orientation, gender or sex; requires reporting harassment and discrimination to such commission; makes exemptions.

BILL TEXT:

STATE OF NEW YORK

1571

2007-2008 Regular Sessions

IN SENATE

January 23, 2007

Introduced by Sens. DUANE, ADAMS, BRESLIN, CONNOR, HASSELL-THOMPSON, KRUEGER, MONTGOMERY, PARKER, SABINI, SAMPSON, SCHNEIDERMAN, STAVISKY
 -- 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 § 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 § 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 based on
23 actual or perceived race, color, national origin, ethnic group, reli-

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

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1 gion, religious practice, disability, sexual orientation, gender, or
2 sex. The purpose of this article is to foster civility in public schools
3 and to prevent and prohibit conduct which is inconsistent with a
4 school's educational mission.

5 § 11. 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 public elementary or secondary
10 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 school-sponsored extra-curricular
13 event or activity.

14 3. "Disability" shall mean disability as defined in subdivision twen-
15 ty-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 title.

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" shall mean the creation of a hostile environment by
23 conduct or by verbal threats, intimidation or abuse, including conduct,
24 verbal threats, intimidation or abuse based on a person's actual or
25 perceived race, color, national origin, ethnic group, religion, reli-
26 gious practice, disability, sexual orientation, gender or sex, that has
27 or would have the effect of unreasonably and substantially interfering
28 with a student's educational performance, opportunities or benefits, or
29 mental, emotional or physical well-being; or conduct, verbal threats,
30 intimidation or abuse that reasonably causes or would reasonably be
31 expected to cause a student to fear for his or her physical safety.

32 § 12. Discrimination and harassment prohibited. 1. No student shall
33 be subjected to harassment by employees or students on school property
34 or at a school function; nor shall any student be subjected to discrimi-
35 nation based on a person's actual or perceived race, color, national
36 origin, ethnic group, religion, religious practice, disability, sexual
37 orientation, gender, or sex by school employees or students on school
38 property or at a school function.

39 2. An age-appropriate version of the policy outlined in subdivision
40 one of this section, written in plain-language, shall be included in the
41 code of conduct adopted by boards of education and the trustees or sole
42 trustee pursuant to section twenty-eight hundred one of this chapter and
43 a summary of such policy shall be included in any summaries required by
44 such section twenty-eight hundred one.

45 § 13. Policies and guidelines. The board of education and the trus-
46 tees or sole trustee of every school district shall create policies and
47 guidelines that shall include, but not be limited to:

48 1. Policies intended to create a school environment that is free from
49 discrimination or harassment;

50 2. Guidelines to be used in school training programs to discourage the
51 development of discrimination or harassment and that are designed:

52 a. to raise the awareness and sensitivity of school employees to
53 potential discrimination or harassment, and

54 b. to enable employees to prevent and respond to discrimination or
55 harassment; and

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1 3. Guidelines relating to the development of nondiscriminatory
2 instructional and counseling methods, and requiring that at least one
3 staff member at every school be thoroughly trained to handle human
4 relations in the areas of race, color, national origin, ethnic group,
5 religion, religious practice, disability, sexual orientation, gender,
6 and sex.

7 § 14. Commissioner's responsibilities. The commissioner shall:

8 1. Provide direction, which may include development of model policies
9 and, to the extent possible, direct services, to school districts
10 related to preventing discrimination and harassment and to fostering an
11 environment in every school where all children can learn free of
12 manifestations of bias;

13 2. Provide grants, from funds appropriated for such purpose, to local
14 school districts to assist them in implementing the guidelines set forth
15 in this section; and

16 3. Promulgate regulations to assist school districts in implementing
17 this article including, but not limited to, regulations to assist school
18 districts in developing measured, balanced, and age-appropriate
19 responses to violations of this policy, with remedies and procedures
20 focusing on intervention and education.

21 § 15. Reporting by commissioner. The commissioner shall create a
22 procedure under which material incidents of discrimination and harass-
23 ment on school grounds or at a school function are reported to the
24 department at least on an annual basis. Such procedure shall provide
25 that such reports shall, wherever possible, also delineate the specific
26 nature of such incidents of discrimination or harassment. In addition
27 the department may conduct research or undertake studies to determine
28 compliance throughout the state with the provisions of this article.

29 § 16. Protection of people who report discrimination or harassment.
30 Any person having reasonable cause to suspect that a student has been
31 subjected to discrimination or harassment by an employee or student, on
32 school grounds or at a school function, who, acting reasonably and in
33 good faith, either reports such information to school officials, to the
34 commissioner, or to law enforcement authorities or otherwise initiates,
35 testifies, participates or assists in any formal or informal proceedings
36 under this article, shall have immunity from any civil liability that
37 may arise from the making of such report or from initiating, testifying,
38 participating or assisting in such formal or informal proceedings, and
39 no school district or employee shall take, request or cause a retaliatory
40 action against any such person who, acting reasonably and in good
41 faith, either makes such a report or initiates, testifies, participates
42 or assists in such formal or informal proceedings.

43 § 17. Application. Nothing in this article shall:

44 1. Apply to private, religious or denominational educational insti-
45 tutions; or

46 2. Preclude or limit any right or cause of action provided under any
47 local, state or federal ordinance, law or regulation including but not
48 limited to any remedies or rights available under the Individuals With
49 Disabilities Education Act, Title VII of the Civil Rights Law of 1964,
50 section 504 of the Rehabilitation Act of 1973 or the Americans with
51 Disabilities Act of 1990.

52 § 18. Severability and construction. The provisions of this article
53 shall be severable, and if any court of competent jurisdiction declares
54 any phrase, clause, sentence or provision of this article to be invalid,
55 or its applicability to any government agency, person or circumstance is
56 declared invalid, the remainder of this article and its relevant appli-

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1 cability shall not be affected. The provisions of this article shall be
2 liberally construed to give effect to the purposes thereof.

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

5 § 801-a. Instruction in civility, citizenship and character education.
6 The regents shall ensure that the course of instruction in grades
7 kindergarten through twelve includes a component on civility, citizen-
8 ship and character education. Such component shall instruct students on
9 the principles of honesty, tolerance, personal responsibility, respect
10 for others, observance of laws and rules, courtesy, dignity and other
11 traits which will enhance the quality of their experiences in, and
12 contributions to, the community. The regents shall determine how to
13 incorporate such component in existing curricula and the commissioner
14 shall promulgate any regulations needed to carry out such determination
15 of the regents. For the purposes of this section, "tolerance," "respect
16 for others" and "dignity" shall include awareness and sensitivity to
17 discrimination or harassment and civility in the relations of people of
18 different races, national origins, ethnic groups, religions, religious
19 practices, mental or physical abilities, sexual orientations, genders,
20 and sexes.

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

24 l. a minimum suspension period, for students who repeatedly are
25 substantially disruptive of the educational process or substantially
26 interfere with the teacher's authority over the classroom, provided that
27 the suspending authority may reduce such period on a case by case basis
28 to be consistent with any other state and federal law. For purposes of
29 this section, the definition of "repeatedly are substantially disrupt-
30 tive" shall be determined in accordance with the regulations of the
31 commissioner; ~~and~~

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

37 n. provisions to comply with article two of this chapter.

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

SPONSORS MEMO:

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S1571

SPONSOR: DUANE

TITLE OF BILL: An act to amend the education law, in relation to

enacting the Dignity for all Students Act

PURPOSE OR GENERAL IDEA OF BILL:

The purpose of this bill is to foster civility in public schools and an environment for all students that is conducive to learning by being free of discrimination and free of harassment, bullying, taunting, or intimidation - including when such behaviors or acts are based on actual or perceived race, color, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex. Additionally, the bill provides for districts to be offered guidance by the Commissioner of Education on measures to combat harassment and discrimination - measures that focus on intervention and education.

SUMMARY OF SPECIFIC PROVISIONS:

This bill prohibits harassment against all students in public schools including harassment based on a person's actual or perceived race, color, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex and also prohibits discrimination based on a person's actual or perceived race, color, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex. In accordance with this bill, each school district shall:

- * Establish anti-harassment and discrimination policies;
- * Create school training programs in harassment and discrimination;
- * Raise staff sensitivity and awareness as well as enable staff to respond to harassment;
- * Develop nondiscrimination instruction and counseling methods.

The Commissioner of Education shall provide direction to school districts which may include model policies and direct services, as well as promulgate regulations to assist school districts in determining the proper response to violations of the Act, with an emphasis on intervention and education.

JUSTIFICATION:

All students need a safe, welcoming and affirming environment in school in order to concentrate on their academic and personal growth. They should never have to be preoccupied by the threat or actual occurrence of harassment or discrimination, be it verbal or physical, either from school employees or fellow students. The Dignity for All Students Act promotes civility among students and between students and teachers. It will also help create an atmosphere where learning is paramount and distractions to learning are minimized.

Moreover, the Act provides a response to the large numbers of harassed and stigmatized students skipping school and engaging in high-risk behaviors like drug use, alcohol abuse, and perhaps even suicide. No child or teen should ever be pushed to such extremes because of an intolerable environment in his or her school. By prohibiting harassment in public schools and establishing the aforementioned procedures, the

"Dignity for All Students Act" takes a major step in creating more nurturing environments in all our schools.

PRIOR LEGISLATIVE HISTORY:

2005-2006: S.1454 Died in Education

2003-2004: S.1925 Died in Education

2001-2002: S.1628-A died in Education. Same as A.2634-A passed Assembly.

1999-2000: S.5775-A died in Education.

FISCAL IMPLICATIONS:

To be determined.

EFFECTIVE DATE:

Ninety days after enactment.
