





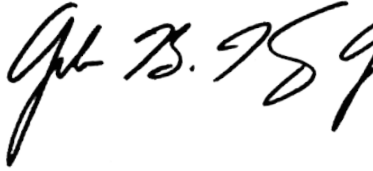
THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

TO: P-12 Education Committee

FROM: Ken Slentz 

SUBJECT: Amendment of sections 100.2(c), 100.2(l) & 119.6, and 100.2(kk) of the Commissioner's Regulations, Relating to the Dignity for All Students Act

DATE: January 7, 2013

AUTHORIZATION(S):  

SUMMARY

Issue for Discussion

Should the Board of Regents adopt the proposed amendments of sections 100.2(c), 100.2(l) and 119.6, and 100.2(kk) of the Commissioner's Regulations, to implement the 2012 statutory amendments to the Dignity for All Students Act (Dignity Act)?

Reason(s) for Consideration

Required by statute (L. 2012, Ch. 102).

Proposed Handling

The proposed amendments are being presented to the P-12 Education Committee for discussion at the January 2013 Regents meeting.

Background Information

Chapter 102 of the Laws of 2012 amends Article 2 of State Education Law (Ed.L. sections 10 through 18) and Education Law section 801-a to significantly expand the scope and intent of the Dignity Act to include provisions on bullying and cyberbullying and to make the Act applicable in certain instances to conduct occurring off school

property. The statute addresses provisions relating to: (1) instructional requirements (2) codes of conduct; (3) reporting; and (4) policies, guidelines and training.

1. 100.2(c) Instructional requirements

The proposed amendment to section 100.2(c) of the Commissioner's Regulations implements instructional requirements consistent with Chapter 102. As amended, section 100.2(c) extends the required instruction for all public school students to explicitly include bullying and cyberbullying. In addition, the regulation would require, for all public school students including charter school students, that required instruction supporting development of a school environment free of harassment, bullying and/or discrimination have an emphasis on discouraging acts of harassment, bullying (including cyberbullying) and discrimination and include instruction in the safe, responsible use of the Internet and electronic communications.

2. 100.2(l) and 119.6 Code of Conduct

The proposed amendment to sections 100.2(l) and 119.6 of the Commissioner's Regulations revises the regulations to conform to and implement the code of conduct provisions of Chapter 102 by including:

- provisions prohibiting harassment, bullying (including cyberbullying) and discrimination against any student by employees or students, that creates a hostile environment by conduct or by threats, intimidation or abuse that either: (1) has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional and/or physical well-being, including conduct, threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause emotional harm; or (2) reasonably causes or would reasonably be expected to cause physical injury to a student or to cause a student to fear for his or her physical safety. Such conduct shall include acts of harassment and/or bullying that occur (i) on school property; or (ii) at a school function or (iii) off school property where such acts create or would foreseeably create a risk of substantial disruption within the school, environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property;
- provisions for responding to acts of harassment, bullying/cyberbullying, which incorporate a progressive model of student discipline that includes measured, balanced and age-appropriate remedies and procedures that make appropriate use of prevention, education, intervention and discipline, and considers among other things, the nature and severity of the offending student's behavior(s), the developmental age of the student, the previous disciplinary record of the student and other extenuating circumstances, and the impact the student's behaviors had on the individual(s) who was physically injured and/or emotionally harmed. Responses shall be

reasonably calculated to end the harassment, bullying, and/or discrimination, prevent recurrence, and eliminate the hostile environment; and

- provisions requiring that charter schools include in their disciplinary rules and procedures pursuant to Education Law section 2851(2)(h) or, if applicable, in their codes of conduct, similar provisions prohibiting harassment, bullying/cyberbullying and discrimination.

3. 100.2(kk) Reporting¹

The proposed amendment to section 100.2(kk) of the Commissioner's Regulations revises the regulation to conform to and implement the reporting requirements of Chapter 102 by adding provisions for reporting of incidents of harassment, bullying/cyberbullying and discrimination to the superintendent, principal, or their designee, including requirements that:

- School employees who witness harassment, bullying, and/or discrimination or receive an oral or written report of such acts shall promptly orally notify the principal, superintendent, or their designee not later than one school day after such employee witnesses or receives a report of such acts, and shall also file a written report with the principal, superintendent, or their designee no later than two school days after making an oral report.
- The principal, superintendent or the principal's or superintendent's designee shall lead or supervise the thorough investigation of all reports of harassment, bullying and/or discrimination, and ensure that such investigation is completed promptly after receipt of any written reports.
- When an investigation verifies a material incident of harassment, bullying, and/or discrimination, the superintendent, principal, or designee shall take prompt action, reasonably calculated to end the harassment, bullying, and/or discrimination, eliminate any hostile environment, create a more positive school culture and climate, prevent recurrence of the behavior, and ensure the safety of the student or students against whom such behavior was directed.
- The principal, superintendent, or their designee shall notify promptly the appropriate local law enforcement agency when it is believed that any harassment, bullying or discrimination constitutes criminal conduct.

¹ The definitions of "school property" and "school employee" are inclusive of facilities and employees of charter schools.

- The principal shall provide a regular report, at least once during each school year, on data and trends related to harassment, bullying, and/or discrimination to the superintendent.
- Pursuant to Education Law section 13, retaliation by any school employee or student shall be prohibited against any individual who, in good faith, reports or assists in the investigation of harassment, bullying, and/or discrimination.

Notices of Proposed Rule Making for each proposed regulation will be published in the State Register no later than February 13, 2013. Copies of the proposed amendments are attached. Supporting materials are available upon request from the Secretary to the Board of Regents.

Recommendation

It is recommended that the Regents P-12 Education Committee reach consensus on the intent of the proposed amendments prior to taking action at the April 2013 Regents meeting.

Timetable for Implementation

The provisions of Chapter 102 of the Laws of 2012 become effective on July 1, 2013. It is anticipated that the proposed amendments will be presented for action at the April Regents meeting, after publication of a Notice of Proposed Rule Making in the State Register and expiration of the 45-day public comment period prescribed in the State Administrative Procedure Act.

It is anticipated that a proposed amendment to section 100.2(jj) of the Commissioner's Regulations, to conform and implement the policies, guidelines and training provisions of Chapter 102, will be presented in a separate Regents Item for discussion at the February 2013 Regents meeting and action at the May 2013 Regents meeting.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 305, 801-a and 2854, and Chapter 102 of the Laws of 2012.

Paragraph (2) of subdivision (c) of section 100.2 of the Regulations of the Commissioner of Education is amended, effective July 1, 2013, as follows:

(2) for all public school students, instruction that supports development of a school environment free of [discrimination and] harassment, bullying and/or discrimination as required by the Dignity For All Students Act (article 2 of the Education Law), with an emphasis on discouraging acts of harassment, bullying and/or discrimination, including but not limited to instruction that raises students' awareness and sensitivity to [discrimination or] harassment, bullying and/or 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, and instruction in the safe, responsible use of the Internet and electronic communications; provided that in public schools other than charter schools, such instruction shall be provided as part of a component on civility, citizenship and character education in accordance with section 801-a of the Education Law;

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 11, 12, 13, 14, 207, 305, 2801 and 2854(1)(b), and Chapter 102 of the Laws of 2013.

1. Paragraph (2) of subdivision (l) of section 100.2 of the Regulations of the Commissioner of Education is amended, effective July 1, 2013, as follows:

(2) Code of Conduct

(i) . . .

(ii) The code of conduct shall include, but is not limited to:

(a) provisions regarding conduct, dress and language deemed appropriate and acceptable on school property and at school functions, and provisions regarding acceptable civil and respectful treatment of teachers, school administrators, other school personnel, students, and visitors on school property and at school functions, including the appropriate range of disciplinary measures which may be imposed for violation of such code, and the roles of teachers, administrators, other school personnel, the board of education, and parents or persons in parental relation;

(b) provisions prohibiting [discrimination and] harassment, bullying, and/or discrimination against any student, by employees or students [on school property or at a school function,] that creates a hostile environment by conduct [, with or without physical contact and/or by verbal] or by threats, intimidation or abuse, including cyberbullying as defined in Education Law section 11(8), [of such a severe nature] that either:

(1) has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional

and/or physical well-being, including conduct, threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause emotional harm; or

(2) reasonably causes or would reasonably be expected to cause physical injury to a student or to cause a student to fear for his or her physical safety,

(3) Such conduct shall include acts of harassment and/or bullying that occur:

(i) on school property, as defined in section 100.2(kk)(1)(i) of this Part; and/or

(ii) at a school function, as defined in section 100.2(kk)(1) of this Part; or

(iii) off school property where such acts create or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property.

(4) For purposes of this paragraph, the term "threats, intimidation or abuse" shall include verbal and non-verbal actions.

(5) For purposes of this paragraph, "emotional harm" that takes place in the context of "harassment or bullying" means harm to a student's emotional well-being through creation of a hostile school environment that is so severe or pervasive as to unreasonably and substantially interfere with a student's education.

(6) Such conduct shall include, but is not limited to [, threats, intimidation, or abuse] acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practices, disability, sexual orientation, gender as defined in Education Law §11(6), or sex; provided that 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;

(c) standards and procedures to assure the security and safety of all students and school personnel;

(d) provisions for the removal from the classroom, school property and school functions of students and other persons who violate the code;

(e) provisions prescribing the period for which a disruptive pupil may be removed from the classroom for each incident, provided that no such pupil shall return to the classroom until the principal makes a final determination pursuant to Education Law section 3214(3-a)(c), or the period of removal expires, whichever is less;

(f) disciplinary measures to be taken in incidents on school property or at school functions involving the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights[, harassment,] and threats of violence;

(g) disciplinary measures to be taken for incidents on school property or at school functions involving harassment or bullying;

(h) provisions for responding to acts of [discrimination, and] harassment, bullying, and/or discrimination against students by employees or students pursuant to clause (b) of this subparagraph, which incorporate a progressive model of student discipline that includes measured, balanced and age-appropriate remedies and procedures that make appropriate use of prevention, education, intervention and discipline, and considers among other things, the nature and severity of the offending student's behavior(s), the developmental age of the student, the previous disciplinary

record of the student and other extenuating circumstances, and the impact the student's behaviors had on the individual(s) who was physically injured and/or emotionally harmed. Responses shall be reasonably calculated to end the harassment, bullying, and/or discrimination, prevent recurrence, and eliminate the hostile environment. This progressive model of student discipline shall be consistent with the other provisions of the code of conduct;

[(h)] (i) provisions for detention, suspension and removal from the classroom of students, consistent with Education Law section 3214 and other applicable federal, state, and local laws including provisions for the school authorities to establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom, placed in detention, or suspended from school, which shall include alternative educational programs appropriate to individual student needs;

[(i)] (j) procedures by which violations are reported, determined, discipline measures imposed, and discipline measures carried out;

[(j)] (k) provisions ensuring that such code and the enforcement thereof are in compliance with State and Federal laws relating to students with disabilities;

[(k)] (l) provisions setting forth the procedures by which local law enforcement agencies shall be notified promptly of code violations, including but not limited to incidents of harassment, bullying, and/or discrimination, which may constitute a crime.

[(l)] (m) provisions setting forth the circumstances under and procedures by which persons in parental relation to the student shall be notified of code violations;

[(m)] (n) provisions setting forth the circumstances under and procedures by which a complaint in criminal court, a juvenile delinquency petition or person in need of supervision petition as defined in articles three and seven of the Family Court Act will be filed;

[(n)] (o) circumstances under and procedures by which referral to appropriate human service agencies shall be made, as needed;

[(o)] (p) a minimum suspension period, for a student who is repeatedly substantially disruptive of the educational process or substantially interferes with a teacher's authority over the classroom, provided that the suspending authority may reduce such period on a case-by-case basis to be consistent with any other state or federal law. For purposes of this requirement, " is repeatedly substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom" shall mean engaging in conduct which results in the removal of the student from the classroom by teacher(s) pursuant to the provisions of Education Law section 3214(3-a) and the provisions set forth in the code of conduct on four or more occasions during a semester, or three or more occasions during a trimester, as applicable; and

[(p)] (q) a minimum suspension period for acts that would qualify the pupil to be defined as a violent pupil pursuant to Education Law section 3214(2-a)(a), provided that the suspending authority may reduce such period on a case- by-case basis to be consistent with any other state or federal law;

(iii) Additional responsibilities.

(a) Each board of education and, in the case of the City School District of the City of New York, the chancellor of such city school district, and each board of

cooperative educational services shall annually review and update as necessary its code of conduct, taking into consideration the effectiveness of code provisions and the fairness and consistency of its administration. A school district may establish a committee pursuant to Education Law section 2801(5) (a) to facilitate the review of its code of conduct and the district's response to code of conduct violations. A board of education or board of cooperative educational services may adopt any revision to the code of conduct only after at least one public hearing that provides for the participation of school personnel, parents, students, and any other interested party. Each district shall file a copy of its code of conduct and any amendments with the commissioner, in a manner prescribed by the commissioner, no later than 30 days after their respective adoptions.

(b) Each board of education and board of cooperative educational services shall ensure community awareness of its code of conduct by:

(1) posting the complete code of conduct, respectively, on the internet web site, if any, of the school or school district, or of the board of cooperative educational services, including any annual updates to the code made pursuant to clause (a) of this subparagraph and any other amendments to the code;

(2) providing copies of a summary of the code of conduct to all students, in an age-appropriate version, written in plain-language, at a school assembly to be held at the beginning of each school year;

(3) providing a plain language summary of the code of conduct to all persons in parental relation to students before the beginning of each school year and making such summary available thereafter upon request;

(4) providing each [existing] teacher with a copy of the complete code of conduct and a copy of any amendments to the code as soon as practicable following initial adoption or amendment of the code, and providing new teachers with a complete copy of the current code upon their employment; and

(5) making complete copies available for review by students, parents or persons in parental relation to students, other school staff and other community members.

2. Section 119.6 of the Regulations of the Commissioner of Education is amended, effective July 1, 2013, as follows:

§119.6 Policies against [discrimination and] harassment, bullying, and discrimination.

Each charter school shall include in its disciplinary rules and procedures pursuant to Education Law section 2851(2)(h) or, if applicable, in its code of conduct:

(a) provisions, in an age-appropriate version and written in plain-language, prohibiting [discrimination and] harassment, bullying, and/or discrimination against any student, by employees or students [on school property or at a school function,] that creates a hostile environment by conduct [, with or without physical contact and/or by verbal] or by threats, intimidation or abuse, including cyberbullying as defined in Education Law section 11(8), [of such a severe nature] that either:

(1) has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional and/or physical well-being, including conduct, threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause emotional harm; or

(2) reasonably causes or would reasonably be expected to cause physical injury to a student or to cause a student to fear for his or her physical safety.

(3) Such conduct shall include acts of harassment and/or bullying that occur:

- (i) on school property, as defined in section 100.2(kk)(1)(i) of this Part; and/or
- (ii) at a school function, as defined in section 100.2(kk)(1) of this Part; or
- (iii) off school property where such acts create or would foreseeably create a risk

of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property.

(4) For purposes of this section, the term “threats, intimidation or abuse” shall include verbal and non-verbal actions.

(5) For purposes of this section, "emotional harm" that takes place in the context of "harassment or bullying" means harm to a student's emotional well-being through creation of a hostile school environment that is so severe or pervasive as to unreasonably and substantially interfere with a student's education.

(6) Such conduct shall include, but is not limited to [, threats, intimidation, or abuse] acts based on a person’s actual or perceived race, color, weight, national origin, ethnic group, religion, religious practices, disability, sexual orientation, gender as defined in Education Law §11(6), or sex; provided that 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;

(b) provisions for responding to acts of [discrimination and] harassment, bullying, and/or discrimination against students by employees or students on school property or

at a school function as defined in Education Law sections 11(1) and (2), pursuant to subdivision (a) of this section, including but not limited to disciplinary measures to be taken;

(c) guidelines on promoting a safe and supportive school climate while discouraging, among other things, [discrimination or] harassment, bullying, and/or discrimination against students by students and/or school employees; and including safe and supportive school climate concepts in the curriculum and classroom management;

(d) provisions which enable students, parents and persons in parental relation to make an oral or written report of harassment, bullying, and/or discrimination to teachers, administrators, and other school personnel that the school district deems appropriate;
and

(e) a provision prohibiting retaliation against any individual who, in good faith, reports or assists in the investigation of harassment, bullying, and/or discrimination, .

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 11, 15, 16, 101, 207, 215, 305 and 2854(1)(b) and Chapter 102 of the Laws of 2012.

Subdivision (kk) of section 100.2 of the Regulations of the Commissioner of Education is amended, effective July 1, 2013, as follows:

(kk) Dignity Act reporting requirements.

(1) Definitions. For purposes of 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 Vehicle and Traffic Law section 142.

(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 employee as defined in Education Law section 1125(3), including 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 or bullying" means the creation of a hostile environment by conduct or by [verbal] threats, intimidation or abuse, including cyberbullying as defined in Education Law section 11(8), that either:

(a) has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional [or] and/or physical well-being [; or], including conduct, [verbal] threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause emotional harm; or

(b) reasonably causes or would reasonably be expected to cause physical injury to a student or 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]

(c) Such definition shall include acts of harassment or bullying that occur:

(i) on school property, as defined in section 100.2(kk)(1)(i) of this Part; and/or

(ii) at a school function, as defined in section 100.2(kk)(1) of this Part; or

(iii) off school property where such acts create or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property.

(d) For purposes of this subdivision, the term "threats, intimidation or abuse" shall include verbal and non-verbal actions. Acts of harassment and bullying shall include, but not be limited to, acts based on a person's actual or perceived race, color,

weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex.

(e) "Emotional harm" that takes place in the context of "harassment or bullying" means harm to a student's emotional well-being through creation of a hostile school environment that is so severe or pervasive as to unreasonably and substantially interfere with a student's education.

(ix) "Material Incident of [Discrimination and/or] Harassment, Bullying, and/or Discrimination" means a single verified incident or a series of related verified incidents where a student is subjected to [discrimination and/or] harassment, bullying and/or discrimination by a student and/or employee on school property or at a school function [that creates a hostile environment by conduct, with or without physical contact and/or by verbal threats, intimidation or abuse, of such severe or pervasive nature that:

(a) has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional and/or physical well-being; or

(b) reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety]. In addition, such term shall include a verified incident or series of related incidents of harassment or bullying that occur off school property, meets the definition in subclause (1)(viii)(c)(iii) of this subdivision, and is the subject of a written or oral complaint to the superintendent, principal, or their designee, or other school employee. Such conduct shall include, but is not limited to, 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;

provided that 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.

(2) Reporting of incidents to the superintendent, principal, or designee.

(i) School employees who witness harassment, bullying, and/or discrimination or receive an oral or written report of harassment, bullying, and/or discrimination shall promptly orally notify the principal, superintendent, or their designee not later than one school day after such employee witnesses or receives a report of harassment, bullying, and/or discrimination, and.

(ii) such school employee shall also file a written report in a manner prescribed by, as applicable, the school district, board of cooperative educational services (BOCES) or charter school with the principal, superintendent, or their designee no later than two school days after making an oral report.

(iii) the principal, superintendent or the principal's or superintendent's designee shall lead or supervise the thorough investigation of all reports of harassment, bullying and/or discrimination, and ensure that such investigation is completed promptly after receipt of any written reports made under Education Law section 13.

(iii) When an investigation verifies a material incident of harassment, bullying, and/or discrimination, the superintendent, principal, or designee shall take prompt action, consistent with the district's code of conduct including but not limited to the

provisions of section 100.2(l)(2)(ii)(h), reasonably calculated to end the harassment, bullying, and/or discrimination, eliminate any hostile environment, create a more positive school culture and climate, prevent recurrence of the behavior, and ensure the safety of the student or students against whom such behavior was directed.

(iv) The principal, superintendent, or their designee shall notify promptly the appropriate local law enforcement agency when it is believed that any harassment, bullying or discrimination constitutes criminal conduct.

(v) The principal shall provide a regular report on data and trends related to harassment, bullying, and/or discrimination to the superintendent. For the purpose of this subdivision, the term "regular report" shall mean at least once during each school year, and in a manner prescribed by, as applicable, the school district, BOCES or charter school.

(3) Reporting of material incidents to the commissioner.

(i) For the [2012-2013] 2013-2014 school year and for each succeeding school year thereafter, each school district, board of cooperative educational services (BOCES) and charter school shall submit to the commissioner an annual report of material incidents of [discrimination and/or] harassment, bullying, and/or discrimination, that occurred in such school year, in accordance with Education Law section 15 and this subdivision. Such report shall be submitted in a manner prescribed by the commissioner, on or before the basic educational data system (BEDS) reporting deadline or such other date as determined by the commissioner.

(ii) For purposes of reporting pursuant to this subdivision, a school district, BOCES or charter school shall include in its annual report all material incidents of [discrimination and/or] harassment, bullying, and/or discrimination that:

(a) are the result of the investigation of a written or oral complaint made to the superintendent, [school] principal or their designee, [or other school administrator responsible for school discipline,] or to any other employee; or

(b) are otherwise directly observed by such superintendent, principal or [administrator,] their designee, or by any other employee regardless of whether a complaint is made.

(iii) Such report shall include information describing the specific nature of the incident, including, but not limited to:

(a) the type(s) of bias involved (actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, sex, or other). Where multiple types of bias are involved, they shall all be reported;

(b) whether the incident resulted from student and/or employee conduct;

(c) whether the incident involved physical contact and/or verbal threats, intimidation or abuse, including cyberbullying as defined in Education Law section 11(8);

(d) the location where the incident occurred (on school property or at a school function, or off school property, where applicable).

[(3)] (4) Protection of people who report discrimination and/or harassment.

(i) Pursuant to Education Law section 16, any person having reasonable cause to suspect that a student has been subjected to [discrimination and/or] harassment, bullying, and/or discrimination by an employee or student, on school grounds or at a

school function, who acting reasonably and in good faith, either reports such information to school officials, to the commissioner, or to law enforcement authorities or otherwise initiates, testifies, participates or assists in any formal or informal proceedings under this subdivision, shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating or assisting in such formal or informal proceedings.

(ii) No school district, BOCES or charter school, or an employee thereof, shall take, request or cause a retaliatory action against any such person who, acting reasonably and in good faith, either makes such a report or initiates, testifies, participates or assists in such formal or informal proceedings.

(iii) Pursuant to Education Law section 13, retaliation by any school employee or student shall be prohibited against any individual who, in good faith, reports or assists in the investigation of harassment, bullying, and/or discrimination.