

Dignity Act Basics

1. What is the Dignity for All Students Act?

The Dignity for All Students Act (Dignity Act) was signed into law by Governor David A. Paterson on September 13, 2010. This legislation amended New York State Education Law by creating a new Article 2 – *Dignity for All Students*. The intent of the Dignity Act is to provide all public school students with an environment free from discrimination and harassment, including bullying, taunting or intimidation, as well as to foster civility in public schools.

As a result of the Dignity Act, the Board of Regents amended 8 NYCRR 100.2(c) to include classroom instruction that supports the development of a school environment free of discrimination and harassment, including but not limited to, instruction that raises awareness and sensitivity to discrimination and harassment based on a person's actual or perceived races, color, weight, national origin, ethnic group, religion, religious practice, disability,, sexual orientation, gender (including gender identity or expression), and sex.

The Dignity Act further amended Education Law §2801 to require school districts and boards of cooperative educational services (BOCES) to include in their codes of conduct language that complies with Article 2. Charter schools are also required to include in their disciplinary rules and procedures, pursuant to Education Law §2851(2)(h), or, if applicable, in their codes of conduct, language that complies with Article 2.

2. When does the Dignity Act take effect?

The Dignity Act takes effect on July 1, 2012.

3. How does the Dignity Act relate to the teacher annual professional performance review (APPR) process?

As part of a teacher's annual professional performance review (APPR), all teaching standards must be assessed at least once a year. One of these teaching standards is New York State Teaching Standard #4 (Standard #4): The Learning Environment, which addresses the critical importance of creating a respectful, safe and supportive environment; creating an intellectually stimulating environment; managing the learning environment; and organizing and utilizing available resources. These tenets are also key to the effective implementation of the Dignity Act.

Performance indicators associated with Standard #4 include, but are not limited to,

- Teachers are caring and respectful in their interactions with students.
- Teachers embrace student diversity as an asset in the classroom.
- Students exhibit respectful classroom interactions.
- Teachers know and implement policies and procedures to ensure student safety.

<http://engageny.org/resource/new-york-state-teaching-standards>

4. How does the Dignity Act relate to the Interstate School Leaders Licensure Consortium (ISLLC) Standards for School Leaders and effective principal practice?

The six ISLLC Standards include:

- I. Setting a widely shared vision for learning;
- II. Developing a school culture and instructional program conducive to student learning and staff professional growth;
- III. Ensuring effective management of the organization, operation, and resources for a safe, efficient, and effective learning environment;
- IV. Collaborating with faculty and community members, responding to diverse community interests and needs, and mobilizing community resources;
- V. Acting with integrity, fairness, and in an ethical manner; and
- VI. Understanding, responding to, and influencing the political, social, legal, and cultural contexts.

These ISLLC standards are also key to the implementation of the Dignity Act's intent to provide all public elementary and secondary school students with a safe and supportive learning environment free from discrimination, harassment, bullying, taunting or intimidation and fostering civility in public schools.

http://engageny.org/wp-content/uploads/2012/02/ISLLC-Standards_2008.pdf

5. What kind of conduct or behavior is prohibited by the Dignity Act?

The Dignity Act prohibits harassment against students by students and/or employees on school property, as defined by Education Law §11(1), or at a school function, as defined by Education Law §11(2). For purposes of the Dignity Act, 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, 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 (defined to include gender identity or expression) or sex.

The Dignity Act further prohibits discrimination against students by students and/or employees on school property or at a school function based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice,

disability, sexual orientation, gender (defined to include gender identity or expression), or sex.

However, the Dignity Act does not prohibit the denial of admission into, or exclusion from, a course of instruction based on a person's gender (including gender identity or expression) that would be permissible under Education Law §§2854(2)(a) and 3201-a and Title IX of the Education Amendments of 1972 (20 USC §1681, et. seq.), or prohibit, as discrimination based on disability, actions that would be permissible under §504 of the Rehabilitation Act of 1973.

The Dignity Act also creates a framework for promoting a more positive school climate through, among other things, training/professional development and classroom curricula.

6. Who is protected under the Dignity Act?

The Dignity Act protects **all** New York State public school students from discrimination and harassment by students and/or employees on school property or at a school function, not just students who are the subject of discrimination or harassment based on their actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity or expression), or sex.

7. Does the Dignity Act apply to Summer School?

Yes. The Dignity Act applies to Summer School and prohibits the discrimination and harassment of students by students and/or employees on school property or at a school function.

8. What is the relationship between bullying and harassment?

Bullying is a form of harassment.

9. What are the differences between sex, gender, gender identity and expression, and sexual orientation?

Although sex is not specifically defined in the Dignity Act, the World Health Organization has stated that sex refers to the biological and physiological characteristics that define men and women.⁵

The Dignity Act defines gender as a person's actual or perceived sex and includes a person's gender identity or expression (Education Law §11[6]). Also, it should be noted, for reference purposes only, that the World Health Organization refers to gender as socially

⁵ See, www.who.int/gender/whatisgender/en

constructed roles, behaviors, activities, and attributes that a given society considers appropriate for men and women.⁶

Gender identity and expression are not specifically defined in the Dignity Act. However, gender identity and expression has been described by the Empire State Pride Agenda as the way in which people self-identify and present their masculinity and femininity to the world. Gender identity is an individual's internal sense of being a man, a woman, a boy, a girl, or something outside of these binaries. Since gender identity is internal, it is not necessarily visible to others. Some ways in which people may express or represent their gender include dress, hair style, mannerisms, body characteristics, name and pronouns.⁷

The Dignity Act defines sexual orientation as a person's actual or perceived heterosexuality, homosexuality, or bisexuality (Education Law §11[5]). It should further be noted, for reference purposes only, that the Empire State Pride Agenda refers to sexual orientation as one's romantic and sexual attraction. Gender expression is not in itself any indicator of sexual orientation. Moreover, according to the Empire State Pride Agenda, just like everyone else, gender non-conforming and transgender people may be straight, lesbian, gay, bisexual or asexual.⁸

10. Does the Dignity Act address issues related to cyberbullying and/or conduct that occurs off school property?

The Dignity Act prohibits discrimination and harassment of students on school property, including at school functions, by any student and/or employee. However, harassment may include, among other things, the use, both on and off school property, of information technology, including, but not limited to, e-mail, instant messaging, blogs, chat rooms, pagers, cell phones, gaming systems and social media websites, to deliberately harass or threaten others. This type of harassment is generally referred to as cyberbullying.

Although the Dignity Act does not specifically address cyberbullying, it, like bullying is considered a form of harassment.

For further information, please refer to the Department's Guidance on Bullying and Cyberbullying, at: www.p12.nysed.gov/technology/internet_safety/documents/cyberbullying.html

Districts, BOCES and charter schools, in consultation with their attorneys, can also consider non-punitive options when addressing problematic off-campus behavior. Additionally, districts, BOCES and charter schools should not fail to prevent or address in-school

⁶ See, www.who.int/gender/whatisgender/en/

⁷ See, www.prideagenda.org/Issues-Explained/Transgender-Equality-and-Justice/Quick-Facts.aspx

⁸ See, www.prideagenda.org/Issues-Explained/Transgender-Equality-and-Justice/Quick-Facts.aspx

harassment simply because the involved students are also experiencing harassment outside of school.

11. How does the Dignity Act relate to federal Civil Rights Laws?

From a practical standpoint, in addition to the Dignity Act requirements, districts, BOCES and charter schools should consult with their attorneys to ensure that they are in compliance with federal civil rights laws and regulations enforced by the U.S. Department of Education Office for Civil Rights (OCR), including Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex; and Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, both of which prohibit discrimination on the basis of disability. Although the intent of these federal civil rights statutes and the Dignity Act are related to each other in some ways, their requirements and definitions are separate and distinct from one another. Thus, the Department recommends that districts and BOCES, as well as charter schools, consult with their attorneys in developing their policies to make sure that they align with both state and federal laws and regulatory requirements regarding discrimination and harassment.

The Department further recommends that districts, BOCES and charter schools review federal guidance on discrimination and harassment, including, but not limited to OCR's [Dear Colleague Letter regarding harassment and bullying](http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html) (October 26, 2010), which can be found at: www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html

12. What types of schools must comply with the Dignity Act?

Title I, Article 2 of the Education Law (the Dignity Act) applies to districts, BOCES and charter schools. As a result of the Dignity Act, the Board of Regents amended 8 NYCRR 100.2(c) to include classroom instruction that supports the development of a school environment free of discrimination and harassment, including but not limited to, instruction that raises awareness and sensitivity to discrimination and harassment based on a person's actual or perceived races, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity or expression), and sex.

Board of Education, Trustees or Sole Trustee Dignity Act Responsibilities

1. What are the Board of Education's, Trustees' or Sole Trustee's of every school district responsibilities to ensure compliance with the Dignity Act?

Dignity Act Code of Conduct Requirements - Education Law §12(2), requires the board of education and the trustee or sole trustee of every school district to include an age-appropriate version, written in plain-language, of Education Law §12(1)'s policy prohibiting

