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Chancellor

Additional Public Comment Analysis¹

Date: October 11, 2011

Topic: Proposed Amendments to Chancellor's Regulation A-831

Date of Panel Vote: October 12, 2011

Summary of Proposed Amendments to Chancellor's Regulation A-831

Chancellor's Regulation A-831 provides that it is the policy of the New York City Department of Education to maintain a safe and supportive learning and educational environment that is free from sexual harassment committed by students against other students. The proposed amendments to the Regulation:

- Provide that student-to-student sexual harassment is prohibited in school, during school hours, before or after school, while on school property, at school sponsored events or while traveling on vehicles funded by the Department of Education and on other than school property, when it can be demonstrated to negatively affect the educational process or to endanger the health, safety, morality or welfare of the school community.
- Provide that written harassment include electronically transmitted activities.
- Provide that prohibited harassment includes dating abuse.
- Provide that non-party students may report allegations of student-to-student harassment.
- Clarify how parents may report student-to-student sexual harassment.
- Provide that complaints of sexual harassment must be entered into OORS within 24 hours.
- Provide that each principal/designee must ensure that the policy and procedures set forth in the Regulation are discussed with students and staff members by October 31st of each year.
- Provide that each principal must submit the following information by October 31st, in its annual Consolidated School & Youth Development Plan: (1) the name(s) of the staff member(s) who are designated to receive reports of peer sexual harassment; and (2) certification that the policies and procedures set forth in the Regulation have been discussed with students and staff.

¹ This summary and analysis of comments supercedes the Additional Public Comment Analysis dated September 14, 2011. The Public Comment Analysis dated September 13, 2011 remains in effect.

- Revise the sexual harassment brochure to address dating abuse as an example of prohibited behavior.
- Revise the Notice of Discrimination that is posted in each school to clarify that prohibited harassment includes harassment that occurs off school premises.

Summary of Issues Raised in Written and Oral Comments and Significant Alternatives Suggested

Additional comments received are summarized as follows:

- 1) The staff member who receives reports of student-to-student sexual harassment should be called the Title IX Coordinator and should also serve as a resource to students and staff.
- 2) Annual training should be mandated for the person who receives complaints at the school.
- 3) The School Youth and Development Plan should contain a separate plan for preventing and addressing sexual harassment.
- 4) Victims' safety should be considered when notifying parents of complaints of sexual harassment.
- 5) The Regulation should contain a separate counseling requirement for the complaining student and/or the accused student.
- 6) The name of the Title IX Coordinator should be posted on the school's website.
- 7) The parents of the alleged victim and the parents of the accused student must be informed of the results of an investigation of an allegation of student-to-student sexual harassment, except when safety concerns warrant not notifying the alleged victim's parents.
- 8) Various follow-up procedures should be implemented such as developing an individual safety plan and providing accommodations for a student who is the victim of sexual harassment.
- 9) Schools should respect and help enforce orders of protection.
- 10) The DOE should not curtail students' First Amendment Rights based on off-premises conduct, including electronic communications.
- 11) Parents should be provided opportunities to learn how to speak to their children about healthy relationships and dating abuse before they start dating.

Analysis of Issues Raised, Significant Alternatives Proposed, and Changes Made to the Proposal

- 1) With respect to comment 1, the DOE has already designated staff in the Office of Equal Opportunity to serve as the Title IX Coordinator, and therefore declines to give this title to the person in the school who receives sexual harassment complaints. However, the DOE will amend the Regulation to include that the person in the school who receives reports of sexual harassment will also serve as a resource for students and staff on this issue.
- 2) As to comment 2, the DOE regularly provides schools with resources and provides opportunities for training on sexual harassment.

3) In response to comment 3, schools are required to submit a Respect For All Plan as part of their School Youth and Development Plans. These plans are the vehicle for addressing all forms of harassment, including those based on gender, gender identify, gender expression, and sexual orientation.

4) Regarding comment 4, the Regulation has already been amended to provide that schools should consider safety issues when making parental notification.

5) Regarding comment 5, the Discipline Code addresses counseling for Youth Relationship Abuse and Sexual Violence and Bias-Based Bullying, Intimidation or Harassment, and specifies that mediation and conflict resolution are not appropriate interventions in these situations.

6) In response to comment 6, the Regulation requires that the notice posted in the school must contain the name of the staff member designated to receive reports of sexual harassment and must indicate where in the school copies of the Regulation and the complaint form may be obtained. The Regulation provides a sample notice in Attachment 2.

7) While it is not a significant change, the DOE accepted comment 7 and amended the Regulation to provide that the parents of the alleged victim and the parents of the accused be notified of the results of an investigation of an allegation of student-to-student sexual harassment, except when a decision was made not to notify the parents of the alleged victim of the allegation as set forth in the Regulation.

8) As to comment 8, the DOE's Discipline Code already provides a range of follow-up actions which can be implemented on a case-by-case basis, depending on the unique circumstances of each case. In addition, schools may make other accommodations such as changing class schedules and locker assignments.

9) Regarding comment 9 schools make accommodations to promote the well-being of students. Such accommodations may include changing class, workgroup or seat assignments, class schedules and offering safety transfers.

10) Comment 10 does not relate to any of the proposed amendments to the Regulation and therefore will not be addressed here.

11) As to comment 11, the Regulation addresses school-based procedures for preventing, investigating and following up on instances of student-to-student sexual harassment, and is not the appropriate vehicle for addressing training of parents. However, parents who have concerns in this area may reach out to the Office for Family Information and Action for assistance and support.

A copy of the proposed amended Regulation can be obtained at http://schools.nyc.gov/NR/rdonlyres/677619F4-CA6A-4793-AC86-74073D2FEFA4/112061/A831Reg_101111final.pdf.