



Dennis M. Walcott
Chancellor

Public Comment Analysis¹

Date: October 11, 2011

Topic: Proposed Amendments to Chancellor's Regulation A-832

Date of Panel Vote: October 12, 2011

Summary of Proposed Amendments to Chancellor's Regulation A-832

Chancellor's Regulation A-832 establishes a procedure for the filing, investigation and resolution of complaints of student-to-student biased-based harassment, intimidation and/or bullying.

The proposed amendments to the Regulation provide as follows:

- Bias-based harassment, intimidation and/or bullying includes acts committed by students against other students on account of weight.
- Bias-based harassment includes harassment that substantially interferes with a student's mental, emotional or physical well-being.
- Staff members who are designated to receive reports of bias-based harassment (referred to as RFA liaison(s)) serve as a resource for the school on this issue and may receive reports from students or staff.
- The Regulation has been clarified to provide that an anonymous report alleging bias-based harassment, intimidation and/or bullying may be made and will be investigated in light of the information provided by the anonymous reporter.
- Parents may report student-to-student bias-based harassment, intimidation, and/or bullying to the principal or the principal's designee or by e-mailing RespectforAll@schools.nyc.gov. Such reports must be handled pursuant to the procedures in this Regulation.
- Where the principal/designee believes that alleged bias-based harassment, intimidation or bullying constitutes criminal conduct, he/she may consult with the Office of Legal Services and/or the CFN Network Leader.
- The school must notify the parents of the alleged victim and the parents of the accused

¹ This summary and analysis of comments supercedes the prior Public Comment Analyses dated September 13 and 14, 2011.

student of the results of an investigation of a report of bias-based bullying, intimidation and/or harassment, except when a decision has been made not to notify the parents of the alleged victim of the allegation as set forth in the Regulation.

- A copy of the school's report of an allegation of bias-based harassment must be sent to the CFN Network Leader.
- Each school must post Respect for All posters in locations deemed highly visible to students, parents and staff
- Each principal/designee must ensure that students and staff have been provided with information and training on the policy and procedures in this Regulation by October 31 of each year.
- Each school must submit the following information in its annual Consolidated School & Youth Development Plan by October 31: (1) the name of the RFA liaison(s); (2) certification that at least one RFA liaison has already attended or will attend within the school year OSYD training on human relations in the areas of race, color, creed, ethnicity, national origin, citizenship/immigration status, religion, gender, gender identity, gender expression, sexual orientation, disability and weight; (3) certification that students and staff members have been provided with information and training on the policy and procedures in this Regulation; and (4) a plan for preventing and addressing bias-based harassment, intimidation, and/or bullying.
- The following attachments to the Regulation have been revised to include "weight" as a prohibited basis for bias-based harassment, intimidation and/or bullying: the summary of prohibited bias-based harassment, intimidation, and/or bullying (attachment 1); the complaint form (attachment 2); the Respect for All poster (attachment 3); and the Respect for All brochure (attachment 4).

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

Comments received are summarized as follows:

- 1) The Regulation should be revised to include dating abuse.
- 2) The Regulation should continue to require that the school submit a plan for providing information and training on the Regulation and Respect For All to students and staff annually as part of its Consolidated School and Youth Development Plan.
- 3) The Regulation should require that the principal of each school establish a Respect For All Team which must include the designated RFA Liaison and other staff members who have knowledge of the issues addressed in this Regulation. The Regulation should require the RFA Team to: develop a Respect For All Plan; conduct an orientation session for school personnel and community members within the first two months of the beginning of school each year; facilitate or conduct teacher training/professional development for all school community members on reporting, investigating and responding to student-to-student bias-based harassment, intimidation and/or bullying; and should provide a variety of developmentally appropriate student awareness activities for all students throughout the school year.

- 4) The Regulation should be revised to include the capacity to file reports anonymously.
- 5) The Regulation should require the principal/designee to post the name of the RFA Liaison and the School Safety Plan on the school website by October 31st of each year.
- 6) The Regulation should require that the school certify that all school staff have been provided with the opportunity within the school year to attend the OSYD training on human relations in the areas of race, color, creed, ethnicity, national origin, citizenship/immigration status, religion, gender, gender identity, gender expression, sexual orientation, disability and weight.
- 7) The Regulation should require that each school have a plan for providing information and training on the Regulation and Respect For All to all students and staff, annually, including the information covered in the OSYD training.
- 8) The Regulation should be revised to require that a copy of the results of the investigation must be sent to the parents and/or guardians of involved students where appropriate.
- 9) The Regulation should require the principal/designee to work with Facebook and/or Youtube.com to remove messages that are associated with bias-based harassment, intimidation and/or bullying.
- 10) The Regulation should require that the Respect For All posters are posted in locations that are deemed highly visible to students, parents and staff.
- 11) The Regulation should provide that parents may report allegations of bias-based harassment, intimidation and/or bullying to the RFA Liaison.
- 12) The DOE should not curtail students' First Amendment Rights based on off-premises conduct, including electronic communications.
- 13) The Regulation does not prohibit all types of discrimination prohibited by the Dignity for All Students Act.
- 14) 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 harassment.
- 15) The parents of the alleged victim and the parents of the accused student must be informed of the results of an investigation of a report of bias-based harassment, intimidation and/or bullying, unless there are safety concerns with regard to notification of the alleged victim's parents.
- 16) The Regulation should provide that RFA posters be posted in areas deemed highly visible to students, parents and staff.

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

With respect to comment 1, the proposed amendments to Chancellor's Regulation A-831, student-on-student sexual harassment, explicitly address dating abuse and include examples of

behavior which constitute such abuse. Chancellor's Regulation A-831 is the appropriate Regulation to address this issue.

With respect to comment 2, the proposed amendments to the Regulation address training for staff and students by requiring that each school include the following in its Consolidated School & Youth Development Plan:

- A. Certification that at least one RFA liaison has already attended or will attend within the school year OSYD training on human relations in the areas of race, color, creed, ethnicity, national origin, citizenship/immigration status, religion, gender, gender identity, gender expression, sexual orientation, disability and weight;
- B. Certification that staff and students have been provided with training and information regarding the policy and procedures in the Regulation; and
- C. A plan for preventing and addressing bias-based harassment, intimidation, and /or bullying.

With respect to comment 3, the proposed amendments to the Regulation provide that:

- A. Each school has a School Safety Team, pursuant to Chancellor's Regulation A-414 and Education Law 2801(2)(b). As a matter of practice, the RFA Liaison is a required member of the School Safety Team.
- B. Each school must develop an annual RFA plan and submit it as part of its Consolidated School & Youth Development Plan. The method for developing the plan is determined by each school, depending upon its particular circumstances. Furthermore, the Department provides multiple resources that schools may use in developing their plan including guidelines, standards-based, age appropriate curricular resources, information about special programs and opportunities, professional development resources and multiple resources for student centered projects and initiatives.
- C. Staff and students are provided with information and training on the policy and procedures in this Regulation each year and that principals certify that this discussion has taken place by October 31st of each school year.

With respect to comment 4, the ability to report incidents anonymously is already in the Regulation (Section II, C). For clarification purposes, the Regulation will be amended to explicitly state that: an anonymous report alleging bias-based harassment, intimidation and/or bullying may be made and will be investigated in light of the information provided by the anonymous reporter.

With respect to comment 5, the Regulation provides that the names of the RFA liaison(s) are listed on the Respect For All posters which must be conspicuously posted in locations accessible to students, parents and staff. State education law requires that certain components of the School Safety Plan remain confidential. The PTA Presidents/designee serves as a member of the School Safety Team and a parent version of the annual safety plan, after it has been certified as outlined in the Chancellor's Regulation A-414, is available to parents upon request to the principal.

With respect to comments 6 and 7, the Regulation ensures that students and staff understand the DOE's policies and procedures regarding bias-based harassment, intimidation and/or bullying by requiring that students and staff are provided with training and information about the policy and procedures in the Regulation annually and by requiring that such training be certified in the Consolidated School & Youth Development Plan.

With respect to comment 8, the Regulation provides for the appropriate notification of the results of an investigation of a report of alleged bias-based harassment, intimidation and/or bullying and is consistent with existing DOE practices and procedures.

With respect to comment 9, the suggested language regarding electronic communications is not unique to the issue of bias-based harassment, intimidation and/or bullying. The Regulation requires that each school take appropriate follow-up action regarding a complaint of bias-based harassment, intimidation and/or bullying. Follow-up for these types of incidents is done at the school level on a case by case basis consistent with existing DOE practices and procedures.

With respect to comment 10, the Regulation requires that each school must conspicuously post Respect For All Posters in locations accessible to students, parents and staff.

With respect to comment 11, the Regulation provides that a parent who wishes to report an incident of bias-based harassment can make a report to the principal or his/her designee, or can make a report online by sending an email to: RespectForAll@schools.nyc.gov.

With respect to comment 12, the comment does not relate to any of the proposed amendments to the Regulation and therefore will not be addressed here.

As to comment 13, the Discipline Code prohibits all types of harassment. Regulation A-832 is intended to address only student-to-student bias-based harassment.

With respect to comment 14, 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.

Although not a significant change, the DOE accepted comment 15 and revised the Regulation to provide that schools notify the parents of the alleged victim and the parents of the accused of the results of an investigation of a report of bias-based bullying, intimidation and/or harassment, unless a decision was made not to notify the parents of the alleged victim of the allegation as set forth in the Regulation.

While not a significant change, the DOE accepted comment 16 and revised the Regulation accordingly.

A copy of the proposed amended Regulation can be obtained at http://schools.nyc.gov/NR/rdonlyres/677619F4-CA6A-4793-AC86-74073D2FEFA4/112072/A832Regulation_10112011Final.pdf