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Chancellor

Public Comment Analysis

Date: September 13, 2011

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

Date of Panel Vote: September 14, 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.

- 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.

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

Comments received are summarized as follows:

- 1) The dating abuse definition should be expanded to include technological abuse and to include abuse by a person to harm, threaten, intimidate, control or attempt to control another person in a relationship of a romantic or intimate nature or a romantic interest, regardless of whether that relationship is continuing or has concluded or the number of interactions between the individuals involved.
- 2) The Regulation should require training for the Sexual Harassment liaisons on the dynamics and warning signs of dating abuse and what is a healthy relationship and provide that these liaisons be in charge of ensuring ongoing prevention education for students, teachers/staff and parents.
- 3) The Regulation should mandate age-appropriate prevention education for students in grades K-12, staff and parents/caregivers.
- 4) The Regulation should provide that when a report of sexual harassment is received, if the alleged victim informs the principal/designee of safety concerns in regard to notifying his/her parents, the principal/designee shall decide whether to inform the alleged victim's parents following consideration of privacy and safety concerns. The principal/designee may consult with the Office of the General Counsel in making this decision.
- 5) The Regulation should create the following new Discipline Code infraction to track dating abuse: using abusive language, intimidation, coercion, physical and/or sexual aggression/assault and/or stalking (including electronic media) to control or attempt to control a dating partner or romantic interest.
- 6) The Regulation should expand upon the type of follow up action schools should take to include such accommodations as creating a change of class seat, locker assignment or class schedule; early or late dismissal, excused absences and makeup work. The Regulation should also provide that student victims be given a list of referrals that includes supportive assistance outside the school (including a referral to an outside organization focused on the legal needs of young domestic violence victims).
- 7) The Regulation should provide that a parent or other person with authority to act on behalf of a student who has been the victim of a sexual assault by another student assigned to the same campus, may request a transfer of the parent/guardian's child or the student assailant.
- 8) The Regulation should require that the following information be included in the Consolidated School and Youth Development Plan:
 - (a) Certification that at least one liaison has already attended or will attend the school year training on sexual harassment and dating abuse.

- (b) A plan for preventing and addressing sexual harassment and dating abuse.
- 9) The fourth paragraph of the sexual harassment brochure, Attachment B to the Regulation, should be updated to provide that the prohibition against sexual harassment applies to behavior that occurs “before or after school or while traveling and on other than school property...”

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

- 1) With regard to the first comment, the proposed amendments to the Regulation explicitly address dating abuse and include examples of behavior which constitute such abuse.
- 2) With respect to comments 2, 3 and 8, the proposed amendments to the Regulation ensure that students, staff and parents understand the DOE’s policy regarding student-to-student sexual harassment by requiring that:
- (a) The policies and procedures set forth in the Regulation, which address dating abuse, are discussed with students and staff members by October 31st each year;
 - (b) A copy of the sexual harassment brochure must be distributed annually to students and parents and that parents and students entering the school during the school year must receive a copy upon registration;
 - (c) A copy of the Regulation must be made available to parents, students, and school staff upon request; and
 - (d) The following information must be included in each school’s Consolidated School and Youth Development Plan: 1) name(s) of the staff members who are designated to receive reports of peer sexual harassment; and 2) certification that the policies and procedures in the Regulation have been discussed with students and staff members by October 31st of each year.
- 3) With regard to comment 5, a new infraction code to the Discipline Code cannot be created pursuant to Chancellor’s Regulation. There is a statutory process for amending the DOE Discipline Code, which includes a public hearing, which took place on June 21, 2011. A new Discipline Code was adopted thereafter and contains several infractions which address the behaviors associated with dating abuse.
- 4) With regard to comment 6, the type of follow up action a school takes following an investigation of peer sexual harassment is developed on a case by case basis and is a matter of school level implementation. The language suggested is not appropriate for inclusion in this Regulation nor is it necessarily specific to the issue of sexual harassment.
- 5) With regard to comment 7, the procedures for a parent to request a safety transfer are set forth in Chancellor’s Regulation A-449. The decision to involuntarily transfer is made by the principal in accordance with the procedures in Chancellor’s Regulation A-450.
- 6) With regard to comment 9, the DOE’s Discipline Code provides that prohibited behavior, including behavior associated with dating abuse, applies to behavior which occurs 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 DOE and on other than school property when such behavior can be demonstrated to negatively affect the educational process or to endanger the health, safety, morality or welfare of the school community.

7) While it is not a significant change, the DOE accepted comment 4 and has added the suggested language to the Regulation, which mirrors existing language in A-832.

A copy of the proposed amended Regulation can be obtained at <http://schools.nyc.gov/NR/rdonlyres/677619F4-CA6A-4793-AC86-74073D2FEFA4/110167/A831Redlined91412.pdf>.