

Category: **STUDENTS**

Issued:

Number: **A-832**Subject: STUDENT-TO-STUDENT DISCRIMINATION, HARASSMENT,  
INTIMIDATION, AND/OR BULLYING

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## **SUMMARY OF CHANGES**

This Regulation supersedes Chancellor's Regulation A-832, dated October 12, 2011. It establishes a procedure for the filing, investigation, and resolution of complaints of student-to-student bias-based harassment, intimidation, and/or bullying.

### Changes

- Expands the regulation to prohibit discrimination and all bullying, harassment and intimidation (p.1, § I)
- Clarifies that actions taken on account of a student's actual or perceived protected class status are prohibited (p.1, § I)
- Clarifies the definition of prohibited harassment, bullying and intimidation (p.1, § I.C)
- Clarifies the types of information technology that can be used to engage in prohibited behaviors (p.2, §§ I.D, E)
- Sets forth requirements for replacing RFAs who vacate their positions or are temporarily unable to perform their positions (p.2, § II.A)
- Requires that staff who witness or are provided with information regarding student to student discrimination, harassment, intimidation, and /or bullying report the allegation within one school day and file a written report within 2 school days of oral report. (p.3, § II.D)
- Clarifies how the results of investigated complaints of discrimination and harassment, bullying and/or intimidation are reported to the subject of the complaint (p.4, § III.E)
- Expands the type of training that must be provided to staff and clarifies that staff, includes non-instructional staff (p.6, §§ V.D,E )
- Attachments have been revised to reflect changes to the Regulation.

**ABSTRACT**

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 harassment, intimidation and/or bullying committed by students against other students and discrimination by students against other students on account of actual or perceived race, color, creed, ethnicity, national origin, citizenship/immigration status, religion, gender, gender identity, gender expression, sexual orientation, disability or weight. Such discrimination, harassment, intimidation and/or bullying is prohibited and will not be tolerated 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 such behavior disrupts or would foreseeably disrupt the educational process or endangers or would foreseeably endanger the health, safety, morals or welfare of the school community. Students found guilty of violating this Regulation will be subject to appropriate disciplinary action consistent with the Discipline Code and Chancellor's Regulation A-443. For complaints of peer sexual harassment, please refer to Chancellor's Regulation A-831.

**I. POLICY**

- A. 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 harassment, intimidation, and/or bullying committed by students against other students and free from discrimination committed by students against other students on account of actual or perceived race, color, creed, ethnicity, national origin, citizenship/immigration status, religion, gender, gender identity, gender expression, sexual orientation, disability, or weight. [The definitions of protected classes are found in Attachment No. 1.] Discrimination, harassment, intimidation and/or bullying is prohibited in school, during school hours, before or after school, while traveling in vehicles funded by the DOE and on other than school property when such behavior disrupts or would foreseeably disrupt the educational process or endangers or would foreseeably endanger the health, safety, morality, or welfare of the school community.
- B. It is the policy of the New York City Department of Education to prohibit retaliation against any student, teacher or school employee who reports an incident of alleged student-to-student discrimination, harassment, intimidation and/or bullying or who participates or assists in an investigation relating to such behavior.
- C. It is a violation of this policy for any student to create a hostile school environment for another student by conduct and/or verbal or written acts (including cyberbullying) that;
  - 1. have or would have the effect of unreasonably and substantially interfering with a student's educational performance or ability to participate in or benefit from an educational program, school sponsored activity or any other aspect of a student's education; or
  - 2. have or would have the effect of unreasonably and substantially interfering with a student's mental, emotional, or physical well-being; or
  - 3. reasonably cause or would reasonably be expected to cause a student to fear for his/her physical safety; or
  - 4. reasonably causes or would reasonably be expected to cause physical injury or emotional harm to a student.

Prohibited behavior includes but is not limited to discrimination, harassment, intimidation, and/or bullying on account of actual or perceived race, color, creed, ethnicity, national origin, citizenship/immigration status, religion, gender, gender identity, gender expression,

sexual orientation, disability or weight.

- D. Discrimination, harassment, intimidation and/or bullying may take many forms and can be physical, verbal or written. Written discrimination, harassment, intimidation and/or bullying includes electronically transmitted communications, (cyberbullying) e.g., via information technology including, but not limited, to: Internet, cell phone, email, personal digital assistant wireless handheld device, social media, blogs, chat rooms, and gaming systems.
- E. Such behavior includes, but is not limited, to:
- Physical violence
  - Stalking;
  - Threats, taunts, teasing;
  - Aggressive or menacing gestures;
  - Exclusion from peer groups designed to humiliate or isolate;
  - Using derogatory language;
  - Making derogatory jokes or name calling or slurs;
  - Written or graphic material, including graffiti, photographs, drawings, or videos, containing comments or stereotypes that are electronically circulated or are written or printed.

## II. **REPORTING PROCEDURES**

- A. Each principal must designate at least one staff member (hereinafter referred to as RFA liaison(s)) to whom reports by students or staff members of student-on-student discrimination, harassment, intimidation and/or bullying can be made and who serves as a resource for students and staff on this issue..
1. There must be at least one RFA liaison in the school who has received the training set forth in Sections V.D and E at all times (hereinafter referred to as a certified RFA liaison). In the event a certified RFA liaison vacates his/her appointment, the principal must ensure that a certified RFA liaison has been appointed within 30 days. In the interim, the principal must immediately designate an interim RFA liaison.
  2. In the event a certified RFA liaison is temporarily unable to perform his/her duties in the school for an extended period of time, and there is no other certified RFA liaison, the principal must designate another person to serve on an interim basis until the RFA liaison returns.
- B. Any student who believes that he/she has been the victim of discrimination, harassment, intimidation and/or bullying by another student should report the incident to the RFA liaison(s) or to any other school employee. Students who witness or have information of such incidents may report them to the RFA liaison(s) or to any other school employee. Student complaints may be made verbally or in writing (see Attachment No. 2).
- C. If a student feels uncomfortable making a report to a school staff member, a student may contact the Office of School and Youth Development (OSYD) by e-mailing the report to [RespectforAll@schools.nyc.gov](mailto:RespectforAll@schools.nyc.gov). Examples of circumstances where this might be appropriate include: if the student is not sure the behavior is covered by the regulation; if a student previously made a report and the behavior has continued; or if the student is concerned about coming forward. In such circumstances, OSYD will determine the appropriate follow-up action. An anonymous report alleging harassment, intimidation and/or bullying may be made and will be investigated in light of the information provided by the anonymous reporter.
- D. Any staff member who witnesses student-to-student discrimination, harassment, intimidation and/or bullying or who has knowledge or information or receives notice that a student may have been the victim of such behavior by another student is required to

promptly orally report the alleged act to the RFA liaison(s) or to the principal/designee within one school day and file a written report with RFA liaison or to the principal/designee no later than two school days after making the oral report. (See Attachment No. 2). Schools shall keep all written reports on file.

- E. Parents may report student-to student discrimination, harassment, intimidation, and/or bullying verbally or in writing to the principal/designee or the RFA liaison or by e-mailing [RespectforAll@schools.nyc.gov](mailto:RespectforAll@schools.nyc.gov). Such reports must be handled pursuant to the procedures in this Regulation.
- F. Where the principal/designee believes that the alleged conduct constitutes criminal activity, he/she must contact the police. The principal/designee may consult with the Office of Legal Services and/or the CFN Network Leader.
- G. If the complaint cannot be investigated at the school level due to the nature and seriousness of the allegation(s), the principal/designee should consult with the OSYD.

### III. INVESTIGATION

- A. Complaints of discrimination, harassment, intimidation, and/or bullying must be entered into the DOE's Online Occurrence Reporting System (OORS) within 24 hours and promptly investigated.
- B. The principal/designee must take the following investigative steps, as soon as practicable, but in any event, not later than five days after receipt of the complaint:
  - 1. interview the alleged victim and document the conversation;
  - 2. ask the alleged victim to prepare a written statement which includes as much detail as possible, including a description of the behavior, when it took place and who may have witnessed it;
  - 3. interview the accused student and advise him/her that if the conduct has occurred, it must cease immediately;
  - 4. ask the accused student to prepare a written statement; and
  - 5. interview any witnesses and obtain their written statements.
- C. The principal/designee must advise the parent(s) of the accused student of the allegations. The principal/designee must also advise the parent(s) of the alleged victim of the allegations, unless the alleged victim informs the principal/designee of safety concerns in regard to such notification. In such case, the principal/designee shall decide whether to inform the alleged victim's parents following consideration of privacy and safety concerns. The principal may consult with the Office of Legal Services in making this decision.
- D. In determining whether the alleged conduct constitutes a violation of this regulation, it is necessary to evaluate the totality of the circumstances surrounding the conduct. The following facts should be considered:
  - the ages of the parties involved;
  - the nature, severity and scope of the behavior;
  - the frequency and duration of the behavior;
  - the number of persons involved in the behavior;
  - the context in which the conduct occurred;
  - where the conduct occurred;
  - whether there have been other incidents in the school involving the same students;
  - whether the conduct adversely affected the student's education.

- E. The school must advise the parents of the alleged victim and the parents of the accused student whether or not the allegation are substantiated, consistent with state and federal laws regarding student records privacy, except where a decision was made not to notify the parents of the alleged victim of the allegation as set forth in Section III.C.

**IV. FOLLOW-UP ACTION**

- A. Where appropriate, the complaining student and the accused student should be referred to the guidance counselor, school social worker, psychologist or other appropriate school staff for separate counseling.
- B. Where appropriate, the principal/designee should utilize intervention methods, including sensitivity training, counseling, and/or referral to a community-based agency for counseling, support and education.
- C. Students who have been found to have violated this regulation will be subject to appropriate disciplinary action pursuant to the Department of Education's Discipline Code and Chancellor's Regulation A-443.
- D. The principal/designee must follow up to ensure that the conduct has stopped.

**V. NOTIFICATION**

- A. Each school must conspicuously post "Respect for All" posters in locations deemed highly visible to students, parents<sup>1</sup> and staff. The posters must contain the name of the RFA liaison(s) (see Attachment No. 3).
- B. Each school must distribute a copy of the "Respect for All" brochure annually to parents and students (see Attachment No. 4). Parents/students entering the school during the school year must receive a copy upon registration.
- C. Each principal/designee must ensure that students have been provided with information and training on the policy and procedures in this Regulation by October 31 of each year.
- D. Each principal must ensure that all staff members, including non-instructional staff, are provided with training on the policy and procedures in this regulation by October 31 of each year. Such training must address:
  - 1. Raising awareness and sensitivity to potential acts of discrimination, harassment and bullying directed at students, including, but not limited to, those acts based on a student's actual or perceived race, color, creed, ethnicity, national origin, citizenship/immigration status, religion, gender, gender interests, gender expression, sexual orientation, disability, or weight;
  - 2. The identification and mitigation of harassment, bullying and discrimination;
  - 3. The social patterns of harassment, bullying, and discrimination;
  - 4. Preventing and responding to incidents of discrimination, harassment or bullying;
  - 5. Understanding the effects of harassment, bullying and discrimination; and Strategies for effectively addressing problems of exclusion, bias, and aggression in educational settings; and
  - 6. Promoting a safe and supportive school climate, including incorporating these concepts into classroom activities.
- E. Each principal must ensure that, in addition to the school training set forth above at least one RFA liaison is completes the RFA mandated training developed by OSYD which addresses: 1) human relations in the areas of race, color, creed, ethnicity, national origin, citizenship/immigration status, religion, gender, gender identity, gender expression, sexual

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<sup>1</sup> The term "parent," whenever used in this Regulation, means the student's parent(s) or guardian(s), or any person(s) in a parental or custodial relationship to the student, or the student, if he/she is an emancipated minor or has reached 18 years of age.

orientation, disability and weight and 2) the issues set forth in Section V.D 1-6 above).

- F. A copy of this regulation should be made available to parents, school staff and students upon request.

**VI. CONSOLIDATED SCHOOL AND YOUTH DEVELOPMENT PLAN**

Each school must submit the following information in its annual Consolidated School and Youth Development Plan by October 31:

1. The name of the RFA liaison(s).
2. Certification that at least one RFA liaison has or will receive the training set forth in section V.E above.
3. Certification that students have been provided with information and training on the policy and procedures in this Regulation.
4. Certification that staff members, including non-instructional staff, have been provided with the information and training set forth in section V.D above.
5. A plan for preventing and addressing harassment, intimidation, and/or bullying.

**VII. CONFIDENTIALITY**

It is Department of Education policy to respect the privacy of all parties and witnesses to complaints brought under this regulation. However, the need for confidentiality must be balanced against the obligation to cooperate with police investigations, to provide due process to the accused, and/or to take necessary action to investigate or resolve the complaint. Therefore, information regarding the complaint may be disclosed in appropriate circumstances.

**VIII. RETALIATION**

Students may not retaliate against another student, teacher or school employee who reports an incident of alleged student-to-student discrimination, harassment, intimidation and/or bullying or who participates or assists in an investigation relating to such behavior. Retaliation will be investigated and subject to appropriate disciplinary action.

**IX. INQUIRIES**

Inquiries pertaining to this regulation should be addressed to:

<u>Telephone:</u> 212-374-6834	<i>Office of School and Youth Development</i> N.Y.C. Department of Education 52 Chambers Street, Room 218 New York, NY 10007	<u>Fax:</u> 212 374-5751
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