

Assignment 1: N.Y.S. Education Law

ARTICLE 2 DIGNITY FOR ALL STUDENTS

Section

- 10. Legislative intent.
- 11. Definitions.
- 12. Discrimination and harassment prohibited.
- 13. Policies and guidelines.
- 16. Protection of people who report discrimination or harassment.

§ 10. Legislative intent. The legislature finds that students' ability to learn and to meet high academic standards, and a school's ability to educate its students, are compromised by incidents of discrimination or harassment including bullying, taunting or intimidation. It is hereby declared to be the policy of the state to afford all students in public schools an environment free of discrimination and harassment. The purpose of this article is to foster civility in public schools and to prevent and prohibit conduct which is inconsistent with a school's educational mission.

1) What is the main premise that makes this primarily an educational law issue and not a criminal law issue? Explain how this relates to all school mission statements.

§ 11. Definitions. For the purposes of this article, the following terms shall have the following meanings: 1. "School property" shall mean in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus, as defined in section one hundred forty-two of the vehicle and traffic law. 2. "School function" shall mean a school-sponsored extra-curricular event or activity. 3. "Disability" shall mean disability as defined in subdivision twenty-one of section two hundred ninety-two of the executive law. 4. "Employee" shall mean employee as defined in subdivision three of section eleven hundred twenty-five of this title. 5. "Sexual orientation" shall mean actual or perceived heterosexuality, homosexuality or bisexuality. 6. "Gender" shall mean actual or perceived sex and shall include a person's gender identity or expression. 7. "Harassment" and "bullying" shall mean the creation of a hostile environment by conduct or by threats, intimidation or abuse, including cyber bullying, that (a) 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 (b) reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; or (c) reasonably causes or would reasonably be expected to cause physical injury or emotional harm to a student; or (d) occurs off school property and creates or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property. Acts of harassment and bullying shall include, but not be limited to, those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex. For the purposes of this definition the term "threats, intimidation or abuse" shall include verbal and non-verbal actions. 8. "Cyber bullying" shall mean harassment or bullying as defined in subdivision seven of this section, including paragraphs (a), (b), (c) and (d) of such subdivision, where such harassment or bullying occurs through any form of electronic communication.

2) In the case of gender or sexuality, why is the perception of gender or sexuality indicated as well as the actual gender or sexuality of the student?

3) How does the law expand the schools ability to address cyber bullying when it happens in the privacy of a student's home?

4) If a teacher became aware of harassment based on an issue not specifically enumerated in the law, would they have to report it? Explain why.

§ 12. Discrimination and harassment prohibited. 1. No student shall be subjected to harassment or bullying by employees or students on school property or at a school function; nor shall any student be subjected to discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex by school employees or students on school property or at a school function. Nothing in this subdivision shall be construed to prohibit a denial of admission into, or

person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex, the identification and mitigation of harassment, bullying and discrimination, and strategies for effectively addressing problems of exclusion, bias and aggression in educational settings.

6) What are the specific time frames for the two types of reports that must be filed under this law?

7) Why are the time frames set to cause reporting as soon as the problem is identified? Indicate at least 3 possible negative outcomes for students if the reporting was not filed in a timely fashion.

8) Give two examples of what the school might do in response to the report that would indicate they are in compliance with the word and spirit of this law?

9) When does the school have a duty to report the incident to local police agencies?

§ 16. Protection of people who report harassment, bullying or discrimination. Any person having reasonable cause to suspect that a student has been subjected to harassment, bullying or discrimination, by an employee or student, on school grounds or at a school function, who, acting reasonably and in good faith, reports such information to school officials, to the commissioner or to law enforcement authorities, acts in compliance with paragraph e or i of subdivision one of section thirteen of this article, or otherwise initiates, testifies, participates or assists in any formal or informal proceedings under this article, shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating or assisting in such formal or informal proceedings, and no school district or employee shall take, request or cause a retaliatory action against any such person who, acting reasonably and in good faith, either makes such a report or initiates, testifies, participates or assists in such formal or informal proceedings.

10) Indicate at least three similarities/differences when comparing NYS Child Abuse Requirements and the mandates of the D.A.S.A law.