

THE DIGNITY FOR ALL STUDENTS ACT (“DASA”)

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WHAT IS DASA?

- The Dignity For All Students Act (“DASA”) is a New York State Law that seeks to provide elementary and high school students with a safe and supportive school environment that is free from harassment, bullying and discrimination.
- The original version of DASA was signed into law on September 13, 2010 and became effective on July 1, 2012. On July 9, 2012, DASA was amended to incorporate cyberbullying and other elements which became effective on July 1, 2013.

**Family of bullied suicide teen Joel Morales
suing New York City, Board of Education and
the bullies who tormented him**

After two years of torment and multiple complaints to authorities, the 'small-framed, fragile boy,' says the girl, 'rangged himself.'



**Phoebe Prince, South Hadley High School's
'new girl,' driven to suicide by teenage cyber
bullies**



Phoebe Prince

STUDENTS WHO ARE BULLIED:

1. May have a higher risk of depression and anxiety, including the following symptoms, that may persist into adulthood:
 - a) Increased feelings of sadness and loneliness;
 - b) Changes in sleep and eating patterns; and
 - c) Loss of interest in activities they used to enjoy.
2. May be at risk of suicide.
3. May be more likely to have health complaints.
4. May have decreased academic achievement and school participation.
5. May be more likely to miss, skip or drop out of school.
6. May be more likely to retaliate through extremely violent measures.

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.

N.Y. Educ. Law § 10

DASA DEFINITIONS

SCHOOL PROPERTY

in or within any:

- Building
- Structure
- Athletic playing field
- Playground
- Parking Lot
- Land within the school's real property boundary line
- or school bus

SCHOOL FUNCTION

- School-sponsored extra-curricular event
- School-sponsored activity

SEXUAL ORIENTATION

- Actual or perceived heterosexuality, homosexuality or bisexuality

GENDER

- Actual or perceived sex
- Actual or perceived gender identity or expression

BULLYING

- Means the intentional and aggressive behavior that involves an actual or apparent imbalance of power or strength and is usually repeated over time.
- Bullying may present itself in many forms including, but not limited to:

a) Physical-hitting, kicking, spitting, pushing, pulling, taking and/or damaging personal belongings or extorting money, blocking or impeding student movement, or unwelcome physical contact.

b) Verbal (oral or written) – taunting, malicious teasing, insulting, name calling, making threats, or engaging in sexual, religious or racial harassment.

c) Electronically transmitted – cyberbullying (Internet, email, instant messages, chat rooms, cell phones, gaming systems, social media websites, etc.)

d) Psychological or Emotional – spreading rumors, manipulating social relationships, peer pressuring or coercion, engaging in social exclusion/shunning, extortion or intimidation, dehumanizing gestures, or public humiliation.

HARASSMENT

- The creation of a hostile environment by conduct, threats, intimidation or abuse, including cyberbullying, that

(a) Has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities, benefits, mental, emotional or physical well-being,

(b) Reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety,

(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 such conduct, threats, intimidation or abuse might reach school property.

Acts of harassment and bullying include, but are not limited to, acts based on a person's actual or perceived

- Race
- Color
- Weight
- National Origin
- Ethnic Group
- Religion
- Religious practice
- Disability
- Sexual Orientation
- Gender
- Sex

Threats, intimidation or abuse include verbal and non-verbal actions.

CYBERBULLYING

- Harassment or bullying that occurs through any form of electronic communication.

MANDATORY TRAINING FOR SCHOOL PROFESSIONAL LICENSES

- School professionals applying after June 30, 2012 for a certificate or license must complete training on the:
 - a) Social patterns of harassment, bullying and discrimination.
 - b) Identification and mitigation of harassment, bullying and discrimination.
 - c) Strategies for effectively addressing problems of exclusion, bias and aggression in educational settings.

SUCH SCHOOL PROFESSIONALS
INCLUDE, BUT ARE NOT LIMITED TO,
CLASSROOM TEACHERS, SCHOOL
COUNSELORS, SCHOOL
PSYCHOLOGIST, SCHOOL SOCIAL
WORKER, SCHOOL ADMINISTRATORS
OR SUPERVISORS OR
SUPERINTENDENTS

POLICIES, PROCEDURES AND GUIDELINES

A school district's DASA policy must be adopted by the board of education and included in the code of conduct.

SCHOOL BUILDING DASA COORDINATOR

- At least one staff member in every school building.
- Trained to handle human relations regarding race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity or expression) and sex.
- Point person for DASA in their school.
- When designated by the principal or superintendent, receives oral or written reports of harassment, bullying or discrimination from students, parents and employees.
- When designated by the principal or superintendent, lead investigation of reports of harassment, bullying or discrimination after receiving written reports.
- When an investigation reveals verified harassment, bullying or discrimination, take prompt actions to end that behavior and ensure the safety of the targeted student(s).

- Prohibit retaliation against those who report harassment, bullying or discrimination.
- Work on school strategies to prevent harassment, bullying and discrimination.
- Work with the principal to make regular reports on data and trends related to harassment to the superintendent.
- Promptly notify the appropriate local law enforcement agency when there is a belief that any harassment, bullying or discrimination constitutes criminal conduct.

SCHOOL EMPLOYEES' RESPONSIBILITIES

- Become familiar with the District's DASA policy.
- Know the DASA Coordinator in your building.
- Be able to recognize harassment, bullying and discrimination.
- When you witness harassment, bullying or discrimination or if you receive an oral or written report of such behavior, orally notify the DASA Coordinator in your building within one school day.

- File a written report with your building's DASA Coordinator within two school days after making the initial oral report.
- Look for opportunities to incorporate DASA instruction in your classroom. There are resources available at:

www.p12.nysed.gov/dignityact

and on the DASA Facebook page at

www.facebook.com/dignityact

RESPONSES TO INSTANCES OF HARASSMENT, BULLYING OR DISCRIMINATION MUST:

- a) Follow a progressive model.
- b) Make appropriate use of intervention, discipline and education.
- c) Vary in method according to the nature of the behavior, the student's developmental age and the student's history of problem behaviors.
- d) Be consistent with the district's code of conduct.

POTENTIAL CONSEQUENCES OF SCHOOL DISTRICT
OFFICIALS FAILING TO RESPOND TO A STUDENT'S
(OR A PARENT'S) REPORT OF HARASSMENT,
DISCRIMINATION OR BULLYING

- Students and parents may appeal to the New York State Commissioner of Education. Education Law § 306 allows the Commissioner of Education to remove a trustee, member of a board of education and certain other school officers for willful misconduct or neglect of duty.

CASE LAW

PARADISO v. PATCHOGUE – MEDFORD, 2009 N.Y. Misc. Lexis 6004 (S. Ct. Suffolk Cty. 2009)

Facts: The Plaintiff was waiting in line for lunch when he was pushed by another student which caused him to lose his balance, and caused his middle finger and index finger of his hand to be closed in a door when another student closed the door. The Plaintiffs alleged that the school was negligent in its supervision of the students.

- Outcome: The court found that the injury was caused by the impulsive, unanticipated act of a fellow student. Even the most intense supervision could not have prevented this act. The school had no prior knowledge or notice of the dangerous conduct which caused the injury.

Galloway, et. al. v. Chesapeake Bd.Of Educ., 112 LRP 52949 (S.D. Ohio, Oct. 23, 2012)

Joseph, a victim of school bullying and a disabled student diagnosed with Asperger's Disorder, ADHD, seizure disorder, and specific learning disability filed a complaint against various defendants, including his school district's board of education and various teachers and had informed administrators in their individual and/or official capacities. After each incident of bullying, his parents informed school officials what happened and asked for help, but at each step the school officials did nothing to stop the constant bullying, and failed to reign in the teachers who were perpetrating the bullying and/or encouraging it.

Plaintiffs' claims against teachers in their individual (not official) capacities:

Ms. Williams:

- a. “During a Project Lead-the-Way class in [the student’s] tenth grade year, two other students told Joseph they wanted him to “hang himself, let us watch, we will tighten the noose, dig your grave, cut the rope after you’re dead and cover you up with dirt.” Ms. Williams refused to move him out of the group. The principal told the student he needed to “learn to work it out”,
- b. Ms. Williams signed a petition along with several students that stated they wanted the student “out of there.”
- c. **Finding:** Plaintiffs alleged facts that Ms. Williams treated Joseph differently than other similarly situated non-disabled children.

Mrs. Harmon:

- a. Asked him “in front of the entire class, if he really had seizures and questioned what the seizures looked like because ‘I have never seen you have a seizure.’ [He] was so embarrassed he came home crying that day.”
- b. During a parent-teacher conference, Mrs. Harmon told his parents that it was a “nuisance to teach [him],’ that he was ‘lazy,’ not disabled, and that his parents were ‘enabling’ him to feel like a victim.”
- c. “Throughout his sixth grade year, Mrs. Harmon continued to quiz [him] in front of the entire class about the validity of his seizure disorder.”
- d. “During a seizure, Joseph often became incontinent, and other children in his class mimicked him by throwing water on their pants and shaking themselves violently, and calling Joseph ‘seizure boy,’ all with the knowledge and approval of Mrs. Harmon.”
- e. **Finding:** Plaintiffs alleged facts indicating disparate treatment by Mrs. Harmon based on Joseph’s disability.

THIS PRESENTATION IS MEANT TO ASSIST IN GENERAL UNDERSTANDING OF THE CURRENT LAW AND MAY CONSTITUTE ATTORNEY ADVERTISING. IT IS NOT TO BE REGARDED AS LEGAL ADVICE. THOSE WITH PARTICULAR QUESTIONS SHOULD SEEK THE ADVICE OF COUNSEL.

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