

**A RESOLUTION TO BE SUBMITTED BY
LEGISLATORS BOVE, MILLER-WILLIAMS, WHYTE, KOZUB, WHALEN,
GRANT, MAZUR, MARINELLI, DIXON & LOUGHRAN**

RE: Encouraging New York State to Address the Issue of Cyber-Bullying

WHEREAS, the issue of bullying and particularly cyber-bullying, on the Internet and through cell phones and other electronic devices, has gained increased attention recently with the suicide of a Williamsville teenager due to the bullying he was subjected to both at school and at home through the Internet; and

WHEREAS, the New York State Senate and Assembly last year passed a law entitled the "Dignity for All Students" Act that increases the accountability of school systems for acts of bullying that occur in school; and

WHEREAS, the legislation, as passed, did not address the issue of cyber-bullying or bullying that occurred outside of school; and

WHEREAS, cyber-bullying has a significant impact on students who are not able to escape their tormentors outside of the school and it thereby affects their lives and performance in school; and

WHEREAS, the additional pressure of cyber-bullying, it has been shown, increasingly leads young people to take drastic actions, such as suicide, to escape the pain they feel from the continual bullying both in school and at home; and

WHEREAS, school districts, parents and law enforcement are in need of guidance and tools to combat this problem and to prevent tragic suicides due to the effects of bullying.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature strongly encourages the New York State Legislature and Governor Cuomo to approve legislation that would address the issue of bullying, particularly cyber-bullying that occurs outside of the school setting; and be it further

RESOLVED, that copies of this certified resolution be sent to Governor Andrew Cuomo and all the Members of the Western New York State Legislative Delegation.

FISCAL IMPACT: None for the Resolution

* ARTICLE 2

DIGNITY FOR ALL STUDENTS

Section 10. Legislative intent.

11. Definitions.

12. Discrimination and harassment prohibited.

13. Policies and guidelines.

14. Commissioner's responsibilities.

15. Reporting by commissioner.

16. Protection of people who report discrimination or harassment.

17. Application.

18. Severability and construction.

* NB Effective July 1, 2012

* § 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.

* NB Effective July 1, 2012

* § 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" shall mean the creation of a hostile environment by conduct or by verbal threats, intimidation or abuse that 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 conduct, verbal threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; such conduct, verbal threats, intimidation or abuse includes but is not limited to conduct, verbal threats, intimidation or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

* NB Effective July 1, 2012

* § 12. Discrimination and harassment prohibited. 1. No student shall be subjected to harassment 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 exclusion from, a course of instruction based on a person's gender that would be permissible under section thirty-two hundred one-a or paragraph (a) of subdivision two of section twenty-eight hundred fifty-four of this chapter and title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et. seq.), or to prohibit, as discrimination based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973.

2. An age-appropriate version of the policy outlined in subdivision one of this section, written in plain-language, shall be included in the code of conduct adopted by boards of education and the trustees or sole trustee pursuant to section twenty-eight hundred one of this chapter and a summary of such policy shall be included in any summaries required by such section twenty-eight hundred one.

* NB Effective July 1, 2012

* § 13. Policies and guidelines. The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

1. Policies intended to create a school environment that is free from discrimination or harassment;

2. Guidelines to be used in school training programs to discourage the development of discrimination or harassment and that are designed:

a. to raise the awareness and sensitivity of school employees to potential discrimination or harassment, and

b. to enable employees to prevent and respond to discrimination or harassment; and

3. Guidelines relating to the development of nondiscriminatory instructional and counseling methods, and requiring that at least one staff member at every school be thoroughly trained to handle human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, and sex.

* NB Effective July 1, 2012

* § 14. Commissioner's responsibilities. The commissioner shall:

1. Provide direction, which may include development of model policies and, to the extent possible, direct services, to school districts related to preventing discrimination and harassment and to fostering an environment in every school where all children can learn free of manifestations of bias;

2. Provide grants, from funds appropriated for such purpose, to local school districts to assist them in implementing the guidelines set forth in this section; and

3. Promulgate regulations to assist school districts in implementing

this article including, but not limited to, regulations to assist school districts in developing measured, balanced, and age-appropriate responses to violations of this policy, with remedies and procedures focusing on intervention and education.

* NB Effective July 1, 2012

* § 15. Reporting by commissioner. The commissioner shall create a procedure under which material incidents of discrimination and harassment on school grounds or at a school function are reported to the department at least on an annual basis. Such procedure shall provide that such reports shall, wherever possible, also delineate the specific nature of such incidents of discrimination or harassment, provided that the commissioner may comply with the requirements of this section through use of the existing uniform violent incident reporting system. In addition the department may conduct research or undertake studies to determine compliance throughout the state with the provisions of this article.

* NB Effective July 1, 2012

* § 16. Protection of people who report discrimination or harassment. Any person having reasonable cause to suspect that a student has been subjected to discrimination or harassment by an employee or student, on school grounds or at a school function, who, acting reasonably and in good faith, either reports such information to school officials, to the commissioner, or to law enforcement authorities 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.

* NB Effective July 1, 2012

* § 17. Application. Nothing in this article shall:

1. Apply to private, religious or denominational educational institutions; or

2. Preclude or limit any right or cause of action provided under any local, state or federal ordinance, law or regulation including but not limited to any remedies or rights available under the Individuals With Disabilities Education Act, Title VII of the Civil Rights Law of 1964, section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990.

* NB Effective July 1, 2012

* § 18. Severability and construction. The provisions of this article shall be severable, and if any court of competent jurisdiction declares any phrase, clause, sentence or provision of this article to be invalid, or its applicability to any government agency, person or circumstance is declared invalid, the remainder of this article and its relevant applicability shall not be affected. The provisions of this article

shall be liberally construed to give effect to the purposes thereof.
* NB Effective July 1, 2012