



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK /
ALBANY, NY 12234



Dignity for All Students Act Student Discrimination, Harassment, and Bullying Prevention and Intervention

WNYMCS Local Policy Guideline

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INTRODUCTION

The Board of Trustees of the WNYMCS (hereinafter the term “Board” will be used to refer to the Board of Trustees) is committed to providing an educational environment that promotes respect, dignity, and equality. The Board recognizes that acts of discrimination and harassment, including bullying, taunting, or intimidation, are detrimental to student learning and achievement. These behaviors interfere with the mission of the WNYMCS to educate its students and disrupt the operation of the school. Such behavior affects not only the students who are its targets, but also those individuals who participate in, and witness such acts.

To this end, the Board condemns and strictly prohibits all forms of discrimination and harassment, including bullying, taunting or intimidation, against students by students and/or employees on school property, which includes (among other things) school buses, and at school functions, which means school-sponsored, extra-curricular events or activities.

NOTE: The Dignity Act prohibits discrimination and/or harassment of students on school property and at school functions by students and/or employees. However, harassment can include, among other things, the use, both on and off school property, of information technology, including, but not limited to, email, instant messaging, blogs, chat rooms, pagers, cell phones, gaming systems and social media websites, to deliberately harass or threaten others. This type of harassment is generally referred to as cyberbullying. The WNYMCS addresses cyberbullying in its discipline policy.

DEFINITIONS

Harassment

Harassment has been defined in various ways in state and federal law and regulation. The Board recognizes that these definitions are important standards and it will develop its policy to comply with them. It is also the Board's goal, in developing its policy, to prevent incidents of misbehavior from occurring and/or escalating, to promote a positive school environment, and to limit liability.

The Dignity Act (Education Law §11[7]) defines harassment as 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
- sex
- sexual orientation
- gender (which includes a person's actual or perceived sex, as well as gender identity and expression).

In addition to the Dignity Act requirements, the WNYMCS complies with federal civil rights laws and regulations enforced by USDE's OCR, including Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex; and Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, both of which prohibit discrimination on the basis of disability.

Bullying

Bullying has been described by the USDE as unwanted, aggressive behavior among school-aged children that involves a real or perceived power imbalance. The behavior is repeated, or has the potential to be repeated, over time. Bullying can occur before and after school hours, in a school building or places like a playground or bus, while a child is traveling to or from school or on the Internet. Children who are bullied and those who bully others could have serious, lasting problems. Additionally, according to the USDE, bullying generally involves the following characteristics:

- An Imbalance of Power: Children who bully use their power, such as physical strength, access to embarrassing information, or popularity, to control or harm others. Power imbalances can change over time and in different situations, even if they involve the same people.
- The Intent to Cause Harm: The person bullying has a goal of causing harm.
- Repetition: Bullying behaviors generally happen more than once or have the potential to happen more than once.

Examples of bullying include, but are not limited to:

- Verbal: Name-calling, teasing, inappropriate sexual comments, taunting, and threatening to cause harm.
- Social: Spreading rumors about someone, excluding others on purpose, telling other children not to be friends with someone, and embarrassing someone in public.
- Physical: Hitting, punching, shoving, kicking, pinching, spitting, tripping, pushing, taking or breaking someone's things, and making mean or rude hand gestures.

<http://www.stopbullying.gov/what-is-bullying/definition/index.html>

Hazing

The Penal Law defines hazing as a person intentionally or recklessly engaging in conduct during the course of another person's initiation into or affiliation with any organization, which creates a substantial risk of physical injury to such other person or a third person and thereby causes such injury (Penal Law §120.16).

Under the Penal Law, it is also considered hazing, even when physical injury does not occur, if a person intentionally or recklessly engaged in conduct during the course of another person's initiation into or affiliation with any organization, which created a substantial risk of physical injury to such other person or a third person (Penal Law §120.17).

Discrimination

Discrimination is not specifically defined in the Dignity Act. Discrimination generally means discrimination against any student by a student or students and/or employee or employees on school property or at a school function, including, but not limited 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. It can include, for example, denial of equal treatment, admission or access to programs, facilities and services based on one of these characteristics. Education Law §§3201 and 3201-a prohibit discrimination in the form of denial of admission into or exclusion from any public school on the basis of race, creed, color, national origin, or and gender.

Prevention

The school setting provides an opportunity to teach children, and emphasize among staff, that cooperation with and respect for others is a key value of all charter schools. A program geared to prevention is designed to not only decrease incidents of discrimination, harassment, bullying, taunting or intimidation, but to help students build more supportive relationships with one another by integrating the prevention and intervention program into classroom instruction. Staff members and students will be sensitized, through charter school-wide professional development and instruction, to the warning signs of discrimination, harassment, bullying, taunting or intimidation, as well as to their responsibility to become actively involved in the prevention of such acts before they occur. The components of such an effort involve the following:

- Following the voluntary principles and practices of “Educating the Whole Child Engaging the Whole School: Guidelines and Resources for Social and Emotional Development and Learning (SEDL) in New York State,”² district curriculum will emphasize empathy, tolerance, and respect for others. These guidelines can be found at: www.p12.nysed.gov/sss/sedl/SEDLguidelines.pdf.
- Learning about and identifying the early warning signs and precursor behaviors that can lead to discrimination, harassment, bullying, taunting or intimidation. (JROTC)
- Gathering information about discrimination, harassment, bullying, taunting or intimidation on school property or at school functions directly from students (through surveys and other mechanisms); analyzing and using the data gathered to assist in decision-making about programming and resource allocation. (DAC)
- Establishing clear school-wide and classroom rules about discrimination, harassment, bullying, taunting or intimidation through establishing such rules in our discipline policy, pursuant to Education Law §2851(2)(h) and 8 NYCRR §119.6, and in our code of conduct, that comply with the Dignity Act requirements. (DFAS/Dean of Students)
- Training adults in the school community to respond sensitively and consistently to discrimination, harassment, bullying, taunting or intimidation. (HR Contractor)
- Raising awareness among school staff, through training, of the school experiences

of student populations specified in the Dignity for All Students Act, including but not limited to; students of different races, weights, national origins, ethnic groups, religions, religious practices, mental or physical abilities, sexual orientations, gender or gender expression, and sex; social stigma in the school environment, gender norms in the school environment, and strategies for preventing and responding to discrimination, harassment, bullying, taunting or intimidation and/or other forms of anti-social and/or violent behavior. (HR Contractor)

- Providing adequate supervision, particularly in less structured areas, including, but not limited to, hallways, cafeterias, school buses and playgrounds. (Commandant)
- Raising parental awareness and involvement in discrimination, harassment, bullying, taunting or intimidation prevention and intervention. (Vice Commandant)
- Providing examples of positive behaviors that are age appropriate. (All)
- Instituting policies and practices that create a positive school climate. (Commandant)
- Using educational opportunities or curricula, including, if applicable, the Individual Educational Program (IEP), to address the underlying causes and effects of discrimination, harassment, bullying, taunting or intimidation. (DAC)
- Educating students regarding safe and appropriate use of the internet and social media. (Director of IT, JROTC, DAC)

Note: guideline responsibilities are noted as applicable in parentheses after each

In order to implement this program and conduct annual reviews, the Commandant has created a Dignity Act Committee on Discrimination, Harassment and Bullying Prevention and Intervention consisting of the Dignity Act Coordinator, the Director for Administrative Services, the Dean of Students, the Senior Naval Science Instructor and the Vice Commandant for Academics. From time to time, the Committee may choose to include representatives from staff, students, and/or parents. The committee will assist the Commandant in developing and implementing specific procedures on early identification of discrimination, harassment and bullying, as well as taunting or intimidation, and other preventative strategies.

Intervention

Intervention by adults and bystanders with proper training can be an important step in preventing escalation and resolving issues at the earliest stages.

Remedial responses to discrimination or harassment, including bullying, taunting, or intimidation, could be associated with staff intervention. This might include measures designed to correct the problem behavior, prevent another occurrence of the problem behavior, and protect the targeted student. Remediation can be targeted to the individual(s) involved in the aforementioned behavioral approaches or targeted to the school as a whole. **Remedial response is a DAC responsibility in coordination with the Dean of Students and the Senior Naval Science Instructor as applicable.**

In addition, intervention will focus upon the safety of the targeted student. When aware of incidents of discrimination, harassment or bullying, as well as intimidation or taunting, staff are expected to refer the targeted student to the Dean of Students, in order to uphold the relevant provisions of our discipline policy, or, if applicable, in our code of conduct.

Provisions for Students Who Do Not Feel Safe at School

The Board acknowledges that, notwithstanding actions taken by the school staff, intervention might require a specific, coordinated approach, if a student does not feel safe at school. Students who do not feel safe at school are limited in their capacity to learn and reach their academic potential. Staff, when aware of incidents of discrimination, harassment, bullying, taunting or intimidation should determine if accommodations are needed in order to help ensure the safety of the student and bring this to the attention of the DAC, who in turn keeps the Commandant and Dean of Students informed. The DAC (in coordination with the Dean of Students), the student and the student's parent/guardian will work together to define and implement any needed accommodations.

WNYMCS recognizes that there is a need to balance accommodations that enhance student safety against the potential of further stigmatizing the targeted student. Therefore, each case will be handled individually, and the student, parent/guardian, and school administration will collaborate to establish safety provisions that best meet the needs of the targeted student. Follow-up discussion and/or meetings will be scheduled, as needed, to ensure that safety concerns have been adequately addressed and to determine when and if accommodations need to be changed or discontinued.

Training

The Board recognizes that professional development is needed in order to implement an effective discrimination, harassment, and bullying prevention and intervention program. The Commandant will incorporate training to support this program in new teacher orientation and the annual professional development plan, as needed, as well as ensure provision of additional training when necessary. Training opportunities will be provided for all staff, including, but not limited to, custodians, cafeteria staff and hall monitors, and all staff who have contact with students. This training will be conducted by the school's HR contractor and be integrated into the school's annual staff training.

In compliance with Education Law §13(3), at least one staff member at every school must be thoroughly trained in human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (which includes a person's actual or perceived sex, and gender identity and expression), and sex. This staff member is known as the Dignity Act Coordinator (DAC). The DAC will conduct at a minimum the web-based training available from the NYSED website.

Reporting and Investigation

Students who have been subjected to discrimination or harassment, parents whose children have been subjected to such behavior, or other students or staff who observe such behavior, are encouraged and expected to make verbal and/or written complaints to the Dean of Students. At all times, complaints will be documented, tracked and

handled in accordance with the regulations and procedures accompanying this policy and the code of conduct. If a staff person is unsure of the reporting procedure, he or she is expected to inquire about how to proceed by speaking with his or her supervisor.

There shall be a duty for all school personnel to report incidents of student-to-student discrimination, harassment and bullying that they observe on school property or at school functions to the Dean of Students. In cases of staff-student discrimination, harassment and bullying that they observe on school property or at school functions it is the duty of all school personnel to report incidents that they observe to the Commandant. In addition, there shall be a further duty for all school personnel to report any incidents of student-to-student and/or staff-to-student discrimination, harassment and bullying of which they are made aware by students, staff, or persons in parental relation to the Dean of Students or Commandant as per the above guideline.

The results of any such investigation shall be reported to both the targeted student and the alleged offender, as well as their respective parents or guardians, in accordance with the WNYMCS discipline policy and code of conduct. Local policies should be followed regarding communicating the results of the investigation. If either party and/or their respective parents or guardians disagrees with the results of the investigation, that party should be advised of any local policies regarding how to proceed in such instances.

Student Disciplinary Consequences/Remediation

While the primary focus of this policy is on prevention, acts of discrimination, harassment and bullying may still occur. When such acts occur, student offenders will be given the clear message that their actions are inappropriate and will not be tolerated because they are inconsistent with the concepts of tolerance and respect for others and the fostering of civility in public schools in order to provide a safe and supportive school environment for all students. Student offenders must further be advised that their behavior must improve. Student offenders will receive in-school guidance on making positive choices in their relationships with others given by the DAC. If appropriate, disciplinary action will be taken by the administration in accordance with the WNYMCS discipline policy and the code of conduct. **If the behavior rises to the level of criminal activity, law enforcement will be contacted.**

This policy is meant to promote progressive discipline and intervention, as opposed to a “zero tolerance” approach. Responses to students’ violations of the policy shall be age-appropriate and include both consequences and appropriate remedial responses to a student who commits one or more acts of discrimination, harassment and/or bullying. Consequences for a student who commits an act or acts of discrimination, harassment and/or bullying shall be unique to the individual incident and will vary in method and severity according to the nature of the behavior, the developmental age of the student, the student’s history of problem behaviors, and must be consistent with the WNYMCS discipline policy and the code of conduct.

Investigating and Responding to Allegations of Staff-to-Student Harassment and/or Discrimination

In the case of a report of alleged staff-to-student harassment and/or discrimination, reporting, investigation, and response must follow all applicable school policies and procedures, including contractual provisions and due process obligations related to staff-to-student misconduct in accordance with the Staff Handbook and WNYMCS Code of Conduct.

Non-Retaliation

Any person having reasonable cause to suspect that a student has been subjected to discrimination or harassment by a student and/or an employee, on school grounds or at school functions, 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, will have immunity from any civil liability that may arise from the making of such a report or from initiating, testifying, participating or assisting in such formal or informal proceedings. WNYMCS and its respective employees are prohibited from taking, requesting or causing 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 (Education Law §16).

Dissemination, Monitoring, Review, and Reporting

This policy shall be posted on the school's website. A plain-language, age-appropriate summary of the policy will be provided to all students at an assembly at the beginning of each school year. And, a plain language summary will be provided to all parents and guardians of students at the beginning of each school year. All teachers will receive a complete copy of the Code of Conduct. Copies of the Code of Conduct will also be made available for review by other school staff and community members.

Each year, as a part of the required annual review of the code of conduct, this policy may be reviewed to assess its effectiveness and compliance with state and federal law. If changes are needed, the proposed policy revisions could be recommended to the Board for its consideration.

In addition, the Board will receive the annual VADIR report, as well as other relevant data, with particular attention to the trends in incidents of discrimination, harassment and bullying. Based on the review of the data, the Board may consider further action, including but not limited to modification of this policy and additional training. The school will ensure that it reports such information to the public in a manner that complies with student privacy rights under the Family Educational Rights and Privacy Act (FERPA).



