

Fall 2011 Update on the District's plan to prevent and address harassment, discrimination and bullying in compliance with the Dignity for All Students Act (DASA).

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The following article provides a summary of the Dignity for all Students Act as well as a summary of what the Shenendehowa Central School District is doing so far and what still needs to be done in order to meet our legal obligations under the new legislation.

The Dignity For All Students Act (DASA)

The Dignity for All Students Act, "DASA", enacted by the New York State Assembly in 2009, and which goes into effect on July 1, 2012 protects students in New York public schools from harassment, discrimination and bullying by other students or school employees.³ It provides that no student shall be subjected to discrimination based on his or her actual or perceived race, color, national origin, ethnic group, religion, religious practice, disability, weight, sexual orientation, sexual identity, or sex. DASA explicitly states that bullying, taunting and intimidation on these protected grounds are all forms of harassment.

In upcoming months school districts across the state will need to demonstrate compliance with DASA and the regulations that are issued by the Board of Regents and State Department of Education. A district's ignorance of either the federal or state civil rights implications of certain types of harassment or its failure to act in the face of such harassment makes it vulnerable to federal and state civil rights law suits. School Districts may violate Federal civil rights statutes and U.S. Department of Education regulations when peer harassment based on race, color, national origin, sex or disability is "sufficiently serious that it creates a hostile environment and such harassment is encouraged, tolerated, not adequately addressed, or ignored by school staff".⁴ It is important to note that unlike bullying, for misconduct to meet the definition of harassment there is no requirement that it be directed at a specific target, nor is there a requirement of intent to harm, or the necessity of repeated actions. Harassment creates a

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³ *Dignity for All Students Act*, SO1987, Enacted February 10, 2009 (takes effect July 1, 2012).

⁴ The statutes enforced by the Office for Civil Rights of the Department of Education include Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d *et seq.* (prohibits discrimination on the basis of race, color or national origin); Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 *et seq.* (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. §794; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42. U.S.C. §12131 *et seq.* (Section 504 and Title II prohibit discrimination on the basis of disability).

hostile environment when the conduct is sufficiently severe, pervasive, or persistent so as to interfere with a student's ability to participate in, or benefit from the services, activities and opportunities offered by a school.⁵

In addition, the failure of a community to both identify and address issues of harassment, discrimination and bullying increases the likelihood of students who are victims of such treatment becoming isolated and even committing suicide as has happened in many communities across the country and even in New York State. A recent example is the suicide of Elijah Mendez, a twelve-year old boy in New York City who hung himself in 2010 after suffering torment and extreme bullying by students who thought he was gay.⁶ In July 2011, the boy's mother filed a law suit against the City's Department of Education, contending that he was subjected to "repeated and frequent taunting, ridicule, menacing, threatening abuse and bullying." It also claims he was harassed due to his "perceived sexual orientation." The boy's mother says she complained to the school more than 10 times over a two year period about the taunting, which began when her son was in the fifth grade. The boy suffered "physical and psychological injuries, distress, pain, suffering, anguish, grief [and] mental and emotional suffering," the lawsuit states. The mother is seeking funeral expenses and damages from the city.

The need for the protections of DASA in NY State

The Dignity for All Students Act provides a response to the large number of harassed and stigmatized students including those who are bullied and as a result skip school and engage in high risk behaviors, by prohibiting discrimination in public schools and establishing the basis for protective measures such as training and model policies. The DASA takes a major step in creating a safe environment in all our schools and promotes civility. It provides a response to students who are harassed and bullied at school.⁷

Harassment under DASA

Harassment under DASA is the creation of a hostile environment by:

- (1) conduct or verbal threats;
- (2) 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;
- (3) conduct, verbal threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause a student to fear for their physical safety;

Note that under DASA, conduct, verbal threats, intimidation or abuse includes but is not limited to that based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

What the District is doing so far

⁵ United States Department of Education, Office for Civil Rights, *Dear Colleague letter: Harassment and Bullying*, October 26, 2010, p. 2 <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html>

⁶ See <http://newyorkpersonalinjurylegalblog.com/2011/07/mom-sues-school-over-students-bullying-suicide.html>

⁷ *New York State Dignity for All Students Act (DASA): An Overview for Administrators and Personnel*, New York Education Law Article 2 (effective July 1, 2012), New York State Department of Education

The District is putting some good things into place at different levels and in different buildings but there are other things we need to do this year in order to meet our legal obligations under new legislation. The primary district-wide action that will take place this school year is data collection to determine where and what the issues are. Only then can we as a District assess and evaluate in an informed manner what needs to be done and take action accordingly.

Our District is in the forefront of proactively putting into place pieces of the legislation prior to the effective date. Rebecca Carman is representing the District on the state-wide DASA Task Force. At the January 2011 Board of Regents meeting staff recommended the formation of a task force comprised of key stakeholder groups, advocates and staff from State Department of Education to guide the implementation process. In addition, the District's Character Education Committee will play a vital role. The charge of the committee is to

“Develop and support ways to incorporate character building activities in classroom and school programs. Character will be instilled in the fabric of the school culture, climate, and curriculum by cultivating respect and responsibility through investment, empowerment and leadership. Celebrate the already existing and ongoing efforts to promote good character among students, faculty, staff and the community at large.”

In the upcoming school year, its members will serve as liaisons between the District Committee and all the units within the District to facilitate the District's goals.

2011-2012 Initiatives at different levels/buildings within District

Two elementary schools (Okte and Orenda) will be implementing the **OLWEUS Bullying Prevention Program**. It is the most researched and best known bullying prevention program known today, entailing a school-wide systems change that has been proven to prevent or reduce rates of bullying throughout a school setting.

Three elementary schools (Arongen, Shatekon, Orenda) will be implementing the **Peaceful School Bus Program**, a school wide program whose purpose is to create a climate of cooperation and respect on the school bus and to decrease inappropriate behavior that occurs in this context. It is designed to change the social dynamics on the bus by building strong relationships among students and the bus driver. (The main goal is to develop a positive and safe environment on the school bus for all students)

The Middle Schools are implementing **CAPE** (Coalition for Achieving a Positive Environment) This committee has shown an overwhelming commitment to making the middle school a safer, more positive place to learn and work. The success of the CAPE initiative hinges on the continued participation of all stake holders (faculty, staff, administrators, bus drivers parents and students).

The High School- **PBIS** (Positive Behavioral Interventions and Supports. It is a systems approach to preventing and responding to school and classroom discipline problems. It supports staff in teaching and promoting positive behavior. It aims to reduce behavioral

problems to create and maintain safe learning environments.) **NOTE:** This is a worthwhile program which serves important functions but does not address the issues of harassment and discrimination. Its focus is on discipline and the reduction of behavioral problems. For this coming school year the High School will continue to provide the students with motivational stories and vignettes during the homeroom period that focus on character education and building a positive school culture and climate.