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Title: A Local Law to amend the administrative code of the city of New York, in relation to prohibiting acts of harassment at schools.

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Attachments: 1. Committee Report 10/7/03, 2. Hearing Transcript 10/7/03

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Int. No.418

By Council Members Gerson, Avella, Barron, Boyland, Brewer, Clarke, Dilan, Fidler, Jackson, Koppell, Liu, Lopez, Martinez, McMahon, Quinn, Nelson, Perkins, Recchia, Reed, Rivera, Seabrook, Sears, Serrano, Vann, Yassky, Baez, Comrie, DeBlasio, Felder, Foster, Gonzalez, Jennings, Monserrate, Reyna, Stewart, Weprin and Moskowitz

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting acts of harassment at schools.

Be it enacted by the Council as follows:

Section 1. Legislative findings: The Council finds that many students, teachers, administrators and others in the New York city school communities are plagued by harassing behavior which interferes with students' educational performance, opportunities and emotional or physical well-being and the well-being of

the entire school community. Accordingly, the Council finds that it is necessary to establish strong policies in our City's schools prohibiting harassment for any reason including reasons based on, but not limited to, a person's actual or perceived race, color, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, sex, family composition or circumstance, economic circumstance, physical appearance, mannerisms, bearing, school performance or any other characteristic or reason that may not be apparent.

§ 2. Chapter 1 of title 10 of the administrative code of the city of New York is hereby amended by adding a new section 137 to read as follows:

§10-137. Prevention of harassment on school premises.

a. Definitions. For the purposes of this

section, the following terms shall have the following meanings:

1. "Gender" shall mean actual or perceived sex

and shall also include a person's gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth.

2. "Harassment" shall mean the creation of a

hostile environment by conduct or by verbal threats, taunting, intimidation or abuse, including conduct, verbal threats, intimidation or abuse for any reason, including any reason based on, but not limited to, a person's actual or perceived race, color, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, sex, family composition or circumstance, economic circumstance, physical appearance, mannerisms, bearing, school performance or any other characteristic or reason that may not be apparent that has or would reasonably have the effect of substantially interfering with a student's educational performance, opportunities or benefits, mental, emotional or physical well-being, or that reasonably causes or would reasonably be expected to cause a student or other person to fear for his or her physical safety.

3. “Retaliatory action” shall mean, but not be limited to, dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, compensation or other benefit, failure to hire, failure to appoint, failure to promote, or transfer or assignment or failure to transfer or assign against the wishes of the affected person.

4. “School” shall mean a public or private institution established and operating for the primary purpose of providing educational instruction to students at or below the twelfth grade level, provided, however, that such term shall not include parochial institutions.

5. “School function” shall mean a school-sponsored extra-curricular event or activity or any event that takes place on school premises.

6. “School premises” shall mean the buildings, grounds or facilities, or any portion thereof, owned, occupied by, or under the custody or control of public or private institutions, excluding parochial institutions, for the primary purpose of providing educational instruction to students at or below the twelfth grade level, and any vehicles owned, operated or leased by or on behalf of such institutions that are used to transport such students or the personnel of such institutions.

b. Prohibition of harassment. No person shall subject another person to harassment on school premises or at a school function.

c. Policies and guidelines. (i) The chancellor of the city public school system shall create policies and guidelines, in accordance with the procedures set forth in subdivision three of section 2801 of the education law, intended to create a school environment that is free from harassment. Such policies and guidelines shall include, but not be limited to, penalties or disciplinary measures for those found to have violated such policies and guidelines, and shall indicate when incidents of harassment must be reported to law enforcement authorities.

(ii) Such policies and guidelines required by paragraph 1 of this subdivision shall also include guidelines to be used in employee training programs to

discourage the development of harassment and that are designed to (a) raise the awareness and sensitivity of school employees to potential discrimination or harassment, and (b) enable employees to prevent and respond to harassment.

(iii) Such policies and guidelines required

by paragraph 1 of this subdivision shall also include guidelines to be used in presentations given to students about conduct and harassment issues. Such guidelines shall be designed to discourage the development of harassment by (a) raising the awareness and sensitivity of pupils regarding potential harassment and (b) fostering empathy and empathetic conduct among students.

(iv) Such policies and guidelines

required by paragraph 1 of this subdivision shall be included in the code of conduct which the chancellor is required to disseminate pursuant to subdivision four of section 2801 of the education law.

(v) The chancellor of the city public

school system shall designate the principal of each school within his or her jurisdiction as the person responsible for ensuring the dissemination of and training on the anti-harassment policies and guidelines to all staff of each school. The chancellor shall also designate each such principal to be responsible for ensuring dissemination of the anti-harassment policies and guidelines to students and their parents or guardians. Such principals shall ensure that the name and contact information of a school employee who can provide copies of such policies and guidelines is made available to all students, parents, guardians, all staff and the school safety committee.

(vi) Such policies and guidelines

required by paragraph 1 of this subdivision shall also be included in mail to parents or guardians of students at the beginning of each school year and shall be posted in prominent places in multiple languages, including, but not limited to, English, Spanish, Chinese, Russian, Yiddish, Korean, and Haitian-Creole.

d. Reporting. The chancellor of the city public school system shall designate the principal as the person

at each school responsible for ensuring the enforcement of the anti-harassment policies and guidelines established pursuant to subdivision c of this section and to whom reports of incidents of harassment on school premises or at a school function shall be made. The chancellor of the city public school system shall create procedures under which such incidents of harassment are tracked for record keeping purposes and procedures under which such incidents of harassment are reported promptly to the principal, or his or her designee, who must complete, for each such incident, an incident report indicating information about the incident, including, but not limited to, the parties and type of harassment involved.

e. Protection of people who report incidents of harassment. Any person subjected to harassment or having reasonable cause to suspect that another person has been subjected to harassment on school premises or at a school function, who either reports such information to appropriate school officials or to law enforcement authorities, or otherwise initiates, testifies, participates or assists in any formal or informal proceedings pursuant to this section or any other relevant law, rule or regulation, 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 official 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 proceeding.

§3. If any subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this section, which remaining portions shall remain in full force and effect.

Effective date.

§4. This local law shall take effect one hundred and eighty days after its enactment.

GRS
LS # 1614

3/24/03