



MADLINE SINGAS
ACTING DISTRICT ATTORNEY

OFFICE OF
THE DISTRICT ATTORNEY
NASSAU COUNTY

June 30, 2015

Senator Carl L. Marcellino
Chair, New York State Senate Education Committee
Legislative Office Building Room 811
Albany, NY 12247

Assemblymember Catherine T. Nolan
Chair, New York State Assembly Education Committee
Legislative Office Building Room 836
Albany, NY 12248

Dear Senator Marcellino and Assemblymember Nolan:

As the mother of two public school students, if a school administrator told me that there was not a single noteworthy incident of cyberbullying, bullying, harassment, or intimidation on the basis of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex during the school year, I'd be thrilled, but skeptical. So when a review by my office found **that more than 58% of schools in New York report not even one incident under the Dignity for All Students Act (Dignity Act), and 82% of New York schools report no incidents of cyberbullying,**¹ I concluded that there are serious problems with the implementation and compliance with this important law, which exists to make our schools safer.

Without a safe learning environment, our children cannot reach their potential. We know that bullying, harassment, intimidation, and discrimination in schools can lead victims to hurt themselves or others, and it's critical that lawmakers, law enforcement, school administrators, teachers, and parents work collaboratively to ensure our kids have safe schools in which to learn and grow.

Research is clear that school violence, bullying, and harassment are best addressed with prevention—taking every step to *prevent* unnecessary law enforcement engagement. My office has a long history of proactively tackling school violence with the goal of minimizing students' contact with the criminal justice system. My predecessor highlighted many problems with the State Education Department's (NYSED) Violent and Disruptive Incident Reporting System (VADIR) in 2012—the overwhelming majority of which remain unaddressed.²

¹ Analysis based on 2013-2014 data reported by the New York State Department of Education available at http://www.p12.nysed.gov/irs/school_safety/school_safety_data_reporting.html. Outside New York City, 1752 schools reported one or more incidents of harassment or discrimination, while 1161 reported none. In New York City, 535 schools reported one or more incidents of discrimination or harassment, while 1257 reported none. Outside New York City, 721 schools reported one or more incidents of cyberbullying and 2193 schools reported no incidents. In New York City, 111 schools reported one or more incidents of cyberbullying and 1681 did not.

² In a November 2012 letter to then-State Education Commissioner John King, District Attorney Kathleen Rice highlighted serious flaws with the state's Violent and Disruptive Incident Reporting System. Responding months later following repeated media requests, King replied, noting that that the Pataki-era Safe Schools Task Force would be re-established, and would address the issues Rice raised, among others. Two and a half years later, despite a

Now, with two years of data from the Dignity Act, it has become clear that **legislative action is needed not only to modernize and improve New York's Safe Schools Against Violence in Education (SAVE) law, but to update the Dignity Act as well.** And with more than nine years passing since a Comptroller's audit first revealed many of these problems,³ it is clear that the State Education Dept. alone will not do enough to help our schools comply with current school safety laws. It will require the commitment of state and local leaders, community partners, and parents too.

Statewide data shows that the implementation of the Dignity Act has been a disaster. An analysis by my office found the following:

- **More than 50% of schools in Nassau County** reported no incidents of harassment, bullying, discrimination, or violence against student on the race, ethnic group, national origin, religion, religious practice, disability, gender, sexual orientation, sex, weight, or other Dignity Act-protected factor.⁴
- In New York City, **more than 70%** of schools reported no Dignity Act incidents.
- Reports of discrimination, bullying, and harassment vary wildly between schools, sometimes even in the same district.⁵
- **More than 80% of schools statewide** report no incidents of cyberbullying.
- School leaders have reported frustration and confusion over what some perceive as a duplicative reporting obligation, in addition to their required reporting of school violence and disruptive incidents through VADIR.
- NYSED does not publicly post data for months after it is collected and offers no publicly-available analysis.
- NYSED provides schools with inadequate tools to streamline reporting obligations, and no tools to help parents and policymakers utilize incident data to improve school safety.
- Many schools fail to make contact information regarding Dignity Act coordinators-- specially trained staff members appointed to help address bullying and school violence-- readily available to parents and students who may need their assistance.⁶
- Some school administrators worry about the reputation of their districts if it is perceived that they report too many incidents, and exposure of a problem with school climate comes with no promise of resources or assistance to remedy the problem, but instead the risk of stigma and punitive measures such as designation as a "Persistently Dangerous School."
- Some school administrators, teachers, and staff reasonably see incident reporting as an onerous administrative burden that compromises the more important work of working with students to address the underlying problems.

series of recommendations from the Safe Schools Task Force (on which a representative from the DA's Office participated during Rice's tenure as President of the NYS District Attorney's Association), NYSED's policies and procedures have not substantially changed, the incident data Rice referenced is still outdated and apparently inaccurate, and NYSED has not sought much-needed statutory changes to remedy problems that have been repeatedly raised by other agencies and detailed in media reports.

³ Office of the Comptroller, Division of State Services, State Education Department Reporting of Violent and Disruptive Incidents by Public Schools, Report 2005-S-38. May 2006.

⁴ 162 of 310 (52%) schools in Nassau County reported no incidents of bullying or harassment under the Dignity Act, and 242 of 310 (78%) Nassau County schools reported no incidents of cyberbullying.

⁵ Outside New York City, one school reported 604 incidents of harassment and discrimination, nearly twice that of the next highest school, which reported 306. In New York City, the highest number of incidents reported was 203 incidents of harassment or discrimination, three times higher than the next highest number, 64. While these high numbers likely evidence a significant challenge that requires resources and support, they also make clear how widely disparate reporting practices are among even similarly situated schools.

⁶ Students addressing the Safe Schools Task Force highlighted the need for better access to Dignity Act coordinators. See <http://www.regents.nysed.gov/common/regents/files/SafeSchools.pdf>

As you may know, on Sunday, Governor Cuomo called on the State Education Dept. to investigate allegations of mistreatment of transgender and gender non-conforming students described in a troubling new NYCLU report.⁷ The Governor demanded a written plan to remedy reported problems.⁸ The Governor also requested a full report on the Department's enforcement of the Dignity Act. These exercises will hopefully shine light on past failings, with an eye toward reform.

But real reform requires the assistance and engagement of the State Legislature, and I call on your committees to:

- Review the State Education Department's implementation of the Dignity Act, and its efforts to oversee compliance.
- Provide a statutory framework, consistent with federal obligations, which permits administrators to report all school safety and incident information through a streamlined, real-time, integrated, online incident reporting system (eliminating the need for overlap between VADIR and Dignity Act duplication, and reducing data lag).
- Require the State Education Department to regularly and publicly analyze and report on school safety in every district, including, but not limited to, a data-driven assessment of violent and Dignity Act-reportable incidents assessment in NYSED school report cards.
- Provide for and fund programs to support schools with school safety, bullying, and violence problems, eliminating the current punitive impact of accurate incident reporting.

The Legislature passed the Dignity Act in the wake of tragic teen suicides and horrific school shootings; some perpetrated by young people who were victims of bullying. The law's objectives are noble, but its implementation has been inexcusably botched.

My office will work with local partners, including the Long Island LGBT Network, to help provide additional training to local school leaders to promote compliance with current law. But it's critical we do more.

I know you share my commitment to ensuring our children have a safe school environment in which to learn and grow. I hope you will take action quickly to address these serious issues.

My office stands ready to assist you in any way we can.

Sincerely,



Madeline Singas
Acting Nassau County District Attorney

⁷ Dignity for All? Discrimination Against Transgender and Gender Nonconforming Students in New York State, NYCLU, available at http://www.nyclu.org/files/releases/Dignity_for_All_Report.pdf

⁸ See Governor Cuomo's letter at <https://www.governor.ny.gov/news/governor-cuomo-sends-letter-state-education-commissioner-berlin-over-departments-reported>.