

Reject Duplicative Division of Human Rights Oversight

THE COUNCIL urges the Legislature to reject expanding the Division of Human Rights jurisdiction over students at public schools and BOCES

The Executive Budget contains an Article VII proposal which would expand the jurisdiction of the Division of Human Rights (DHR) relating to unlawful discriminatory practices against students in public school districts and BOCES. This proposal arose out of a Court of Appeals decision that held students attending these public institutions are not subject to DHR oversight and jurisdiction pursuant to the Human Rights Law.

If students lacked remedies against civil rights and discriminatory actions by school districts and this bill sought to establish a remedy otherwise unavailable, THE COUNCIL could not object. However, students do not lack remedies or protections under state and federal law.

Public school students are protected against various forms of discrimination under numerous federal laws. These include Title VI of the Civil Rights Act of 1964, Title IX, the Americans with Disabilities Act, and the Individuals with Disabilities Act. Students are further protected under the state Dignity for All Students Act. These federal and state laws are important and appropriate statutes designed to hold school districts accountable for their treatment of all students.

The DHR's main purpose is to prevent and remediate workplace discrimination. This quasi-judicial agency is charged with enforcing workplace discrimination issues and ensuring that employers remedy discrimination or be subject to financial penalties. When an employee is discriminating against another employee, after an investigation, the employer can simply terminate the employee. That is not the case when students are discriminating against other students. In that scenario the district can and certainly should take corrective actions and may suspend the offending student. But eventually that student will return to school and, no matter the good faith efforts of the district, the malfeasant student may discriminate again. Punitive damages do nothing to remedy this issue and take district resources away from programs that can be used to prevent future discrimination.

Expanding the jurisdiction of DHR will only lead to financial awards to parents' and plaintiff's attorney, with no improvement to student safety. Financial penalties are not the appropriate tool to address discriminatory violations in schools. Education, district and community leadership, and a school setting that promotes inclusiveness are the appropriate remedy to prevent and address misconduct.

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Our members, district leaders serving students of all backgrounds throughout the state, take their responsibility of ensuring a safe and prosperous learning environment seriously. They work tirelessly to establish a school climate that protects students against discriminatory actions. Whether the proposal is enacted or not, district leaders will continue to treat student safety as a priority. If enacted, the only difference is school districts would be subject to financial harm with no added benefit to the students that were discriminated against.

The Council strongly opposes this proposal and urges its rejection.