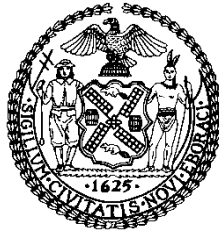


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## **THE COUNCIL**

### **Committee Report of the Governmental Affairs Division**

Robert Newman, Legislative Director  
Alix Pustilnik, Deputy Director, Governmental Affairs Division

#### COMMITTEE ON CIVIL RIGHTS

Hon. Deborah Rose, Chair

**Wednesday, May 25, 2011**

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<b><u>Proposed Int. No. 363-A:</u></b>	By Council Members Fidler, Weprin, Arroyo, Brewer, Chin, Comrie, Dickens, Dromm, Ferreras, Gennaro, Gentile, Gonzalez, James, Koppell, Koslowitz, Lander, Mealy, Palma, Recchia, Rodriguez, Rose, Sanders Jr., Van Bramer, Williams, Mendez, Crowley, Nelson, Mark-Viverito, Jackson and Vacca
<b><u>Title:</u></b>	A Local Law to amend the administrative code of the city of New York, in relation to requiring the commission on human rights to educate the public on various types of bias-related harassment.
<b><u>Administrative Code:</u></b>	Amends section 8-102 and subdivision one of section 8-105.

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## **I. Introduction**

On Wednesday, May 25, 2011, the Committee on Civil Rights, chaired by Council Member Deborah Rose, will vote on Proposed Introduction Number 363-A (“Proposed Int. No. 363-A”), a Local Law to amend the administrative code of the city of New York, in relation to requiring the commission on human rights to educate the public on various types of bias-related harassment. The Committee previously held a hearing, with the Committee on Youth Services, on Introduction Number 363 (“Int. No. 363”) on May 9, 2011.

## **II. Overview of the Commission on Human Rights**

New York City’s Human Rights Law (“Human Rights Law”) prohibits discrimination in employment, housing, and public accommodations on the basis of age, race, creed, color, national origin, gender, disability, marital status, partnership status, and sexual orientation.<sup>1</sup> The Human Rights Law also prohibits retaliation and bias related harassment.<sup>2</sup> The New York City Commission on Human Rights (“Commission”) was established to enforce the Human Rights Law.<sup>3</sup>

The Commission’s purpose is to foster mutual understanding and respect among New Yorkers, as well as to encourage equality and prevent discrimination against any group.<sup>4</sup> The New York City Charter (“Charter”) requires the Commission to work with Federal, State and City agencies in order to develop programs that will allow for “harmonious intergroup relations within the city of New York, and engage in other anti-discrimination activities.”<sup>5</sup> The

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<sup>1</sup> See Administrative Code of the City of New York §8-107(1)-(5).

<sup>2</sup> New York City Commission on Human Rights, *2010 Annual Report*, 3, available at <http://www.nyc.gov/html/cchr/pdf/annual10.pdf> (last visited May 6, 2011).

<sup>3</sup> NYC Charter § 902(b).

<sup>4</sup> NYC Charter §904(a), (b).

<sup>5</sup> NYC Charter §905(a).

Commission is further required to work with organizations in “programs and campaigns devoted to eliminating group prejudice, intolerance, hate crimes, bigotry and discrimination.”<sup>6</sup>

The Commission currently offers educational, training and advocacy services in each of the five boroughs.<sup>7</sup> The Commission also works in schools to educate students on conflict resolution, sexual harassment and the Human Rights Law.<sup>8</sup> The Commission investigates incidents of bias related harassment or conduct that is motivated by a victim’s age, race, creed, color, national origin, gender, disability, marital status, partnership status, and sexual orientation.<sup>9</sup> Harassment or conduct motivated by bias includes “a pattern of threatening verbal harassment, the use of force, intimidation or coercion, or defacing or damaging real or personal property.”<sup>10</sup>

### **III. Cyberbullying**

Usage of online technologies is high among youth, with approximately 93 percent of people between the ages 12 to 17 using the internet and approximately three-quarters possessing their own mobile phone.<sup>11</sup> The increased access to online technologies has ushered into the digital age a new form of technologically-enhanced bullying, known as cyberbullying. Cyberbullying is defined by the Cyberbullying Research Center as “willful and repeated harm inflicted through the use of computers, cell phones, and other electronic devices.”<sup>12</sup> According

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<sup>6</sup> NYC Charter §905(b).

<sup>7</sup> See generally, *supra* note 2, at 8.

<sup>8</sup> *Id.*

<sup>9</sup> New York City Commission on Human Rights, *Bias-Related Harassment*, at <http://www.nyc.gov/html/cchr/html/bias.html> (last visited May 5, 2011).

<sup>10</sup> *Id.*

<sup>11</sup> Kristen Purcell and Kimberlee Salmond, *Trends in Teen Communication and Social Media Use: What’s Really Going on Here?*, Girl Scout Research Institute/Pew Research Center’s Internet & American Life Project, Presentation, Feb. 9, 2011, at [http://www.pewinternet.org/Presentations/2011/Feb/~media/Files/Presentations/2011/Feb/Pew%20Internet\\_Girl%20Scout%20Webinar%20PDF.pdf](http://www.pewinternet.org/Presentations/2011/Feb/~media/Files/Presentations/2011/Feb/Pew%20Internet_Girl%20Scout%20Webinar%20PDF.pdf) (last visited May 6, 2011).

<sup>12</sup> Sameer Hinduja and Justin W. Patchin, *Cyberbullying – Identification, Prevention and Response*, Cyberbullying Research Center, available at

to the United State Department of Health and Human Services, “electronic aggression” can take place through such mediums as “email, a chat room, instant messaging, a website (including blogs), text messaging, or videos or pictures posted on websites or sent through phones” and can include “teasing, telling lies, making fun of someone, making rude or mean comments, spreading rumors, or making threatening or aggressive comments.”<sup>13</sup> Though the intent behind all forms of bullying may be the same, cyberbullying can be especially harmful to the mental well-being of the victim because the anonymous nature of the internet cloaks both the identity of the aggressor and the number of aggressors, and allows multiple parties to witness the harassment as the episode is spread virally online.<sup>14</sup>

While all adolescents are at risk of cyberbullying, mental health professionals believe that certain characteristics make individuals more vulnerable to such harassment than others. The American Psychological Association has stated that “children and youth with disabilities and children and youth who are lesbian, gay or trans-gender, or who are perceived to be so may be at particularly high risk of being bullied by their peers.”<sup>15</sup> Studies have shown that special education students,<sup>16</sup> LGBTQ students, and LGBTQ allies report high rates of cyberbullying.<sup>17</sup>

A considerable body of research has been conducted on traditional bullying<sup>18</sup> and public education campaigns have long informed parents and children of the negative effects of such

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[http://www.cyberbullying.us/Cyberbullying\\_Identification\\_Prevention\\_Response\\_Fact\\_Sheet.pdf](http://www.cyberbullying.us/Cyberbullying_Identification_Prevention_Response_Fact_Sheet.pdf) (last visited May 6, 2011).

<sup>13</sup> U.S. Dep’t of Health and Human Services, Centers for Disease Control and Prevention, *Electronic Media and Youth Violence: A CDC Issue Brief for Researchers*, 3 (2009).

<sup>14</sup> *Supra* note 12.

<sup>15</sup> American Psychological Association, *Resolution on Bullying Among Children and Youth*, July 2004, at <http://www.apa.org/about/governance/council/policy/bullying.pdf> (last visited May 2, 2011).

<sup>16</sup> R. Didden et al., *Cyberbullying among students with intellectual and developmental disability in special education settings*, June 2009, <http://www.ncbi.nlm.nih.gov/pubmed/19466622> (last visited May 3, 2011).

<sup>17</sup> Iowa State University, *ISU researchers public national study on cyberbullying of LGBY and allied youths*, <http://www.news.iastate.edu/news/2010/mar/cyberbullying> (last visited May 3, 2011).

<sup>18</sup> Sameer Hinduja & Justin W. Patchin, *Bullying, Cyberbullying, and Suicide*, (2010) Vol. 14 Issue 3, Archives of Suicide Research, 206, [http://www.touro.edu/EDGRAD/EAC/docs/Hinduja\\_Article\\_2010.pdf](http://www.touro.edu/EDGRAD/EAC/docs/Hinduja_Article_2010.pdf) (last visited May 2,

bullying. It is only recently that cyberbullying began to receive attention due, in part, to several high-profile suicides in 2010 that followed such harassment.<sup>19</sup> Int. No. 363 would require the Commission to educate the public on various types of bias-related harassment including cyberbullying.

#### **IV. Testimony on Int. No. 363**

On May 9, 2011, the Committee on Civil Rights and the Committee on Youth Services held a joint hearing on Int. No. 363. In its testimony, the Commission expressed concern over Int. No. 363, saying that, “mandating the particular topics the Commission must cover in [its] education programs would have the unintended consequence of limiting the operational flexibility and timeliness of the Commission’s responsibility to monitor and address issues as they present themselves.”<sup>20</sup> The Commission also said that its flexibility to address new issues “would be hampered by [the] proposed legislation.”<sup>21</sup> The amended version of the legislation takes the Commission’s concerns into account by only amending the Administrative Code, thereby ensuring that the Commission has the room to educate the public on new issues as they arise.

Parry Aftab, an expert on cyberbullying, testified in favor of the bill, but recommended that it include a definition of the term “cyberbullying” in order to provide guidance on how the

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2011). (Traditional bullying can include physical violence, verbal violence, and subtle manipulative acts by one person or groups carried out repeatedly and involving a power differential.).

<sup>19</sup> Christine S. Moyer, *Cyberbullying a high-tech health risk for young patients*, American Medical News, Nov. 15, 2010, at <http://www.ama-assn.org/amednews/2010/11/15/prl21115.htm>.

<sup>20</sup> Written testimony of Lee Hudson, Deputy Commissioner for Public Affairs, New York City Commission on Human Rights, before the Committees on Civil Rights and Youth Services, 3 (May 9, 2011) (on file with Committee on Civil Rights).

<sup>21</sup> *Id.*

word should be used.<sup>22</sup> In response to this recommendation, the amended bill includes a definition of cyberbullying.

#### **IV. Analysis**

If enacted, Proposed Int. No. 363-A would require the Commission to work together with federal, state, and city agencies in developing courses of instruction for presentation to city employees, and for presentation in public and private schools, public libraries, museums and other suitable places, on types of bias related harassment and repeated hostile behavior including conduct or verbal threats, taunting, intimidation, abuse, and cyberbullying.

#### **V. Effective Date**

This local law would take effect sixty days after enactment into law.

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<sup>22</sup> *Int. No. 363, A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to requiring the commission on human rights to educate the public on various types of bias-related harassment, before the Committees on Civil Rights and Youth Services, 73-74 (May 9, 2011) (testimony of Parry Aftab, Esq., Executive Director and Founder of WiredSafety, Teenangels and StopCyberbullying.org).*

Proposed Int. No. 363-A

By Council Members Fidler, Weprin, Arroyo, Brewer, Chin, Comrie, Dickens, Dromm, Ferreras, Gennaro, Gentile, Gonzalez, James, Koppell, Koslowitz, Lander, Mealy, Palma, Recchia, Rodriguez, Rose, Sanders Jr., Van Bramer, Williams, Mendez, Crowley, Nelson, Mark-Viverito, Jackson and Vacca

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to requiring the commission on human rights to educate the public on various types of bias-related harassment.

Be it enacted by the Council as follows:

Section 1. Section 8-102 of the administrative code of the city of New York, as amended by local law 10 of 2008, is amended by adding a new subdivision 26 to read as follows:

(26) The term “cyberbullying” means willful and repeated harm inflicted through the use of computers, cell phones, and other electronic devices that is intended to frighten, harass, cause harm to, extort, or otherwise target another.

§2. Subdivision one of section 8-105 of the administrative code of the city of New York, as amended by local law 39 of 1991, is amended to read as follows:

(1) To work together with federal, state, and city agencies in developing courses of instruction, for presentation to city employees and in public and private schools, public libraries, museums and other suitable places, on techniques for achieving harmonious intergroup relations within the city of New York, on types of bias-related harassment and repeated hostile behavior including conduct or verbal threats, taunting, intimidation, abuse, and cyberbullying, and to engage in other anti-discrimination activities.

§3. This local law shall take effect sixty days after its enactment into law.

LS# 1416  
5/13/11  
JW