



# THE ADVOCATE

CAYUGA-ONONDAGA BOCES  
OFFICE OF PERSONNEL RELATIONS  
1879 WEST GENESEE STREET ROAD  
AUBURN, NEW YORK 13021-9430

**VOLUME XXXII**  
**JULY 2013**

## Office of Personnel Relations

**Matthew R. Fletcher**  
Assistant Superintendent for  
Personnel Relations

**Randy J. Ray**  
Director of Personnel Relations

**Brent D. Cooley**  
Senior Labor Relations Specialist

**Michaela Perrotto**  
**Quinn Marie Morris**  
Labor Relations Specialists

**Mark W. Snyder**  
Safety Coordinator

**Diane B. Dougherty**  
**Linda M. Brown**  
Administrative Support

Telephone: (315) 255-7683 or (315) 253-0361  
FAX (315) 255-7625  
Email: [lbrown@cayboces.org](mailto:lbrown@cayboces.org)

---

*Providing comprehensive  
employment and personnel  
relations services to local  
school districts for over  
40 years.*

## IN THIS ISSUE ...

- **AMENDMENTS TO  
DASA TAKE EFFECT  
THIS SCHOOL YEAR**
- **WORKERS'  
COMPENSATION AND  
CIVIL SERVICE LAW  
NOTIFICATIONS**
- **RECENT TEACHER  
SETTLEMENTS**
- **AREA  
UNEMPLOYMENT  
RATES FOR MAY 2013**
- **CPI FOR JUNE 2013**



# AMENDMENTS TO DASA TAKE EFFECT THIS SCHOOL YEAR

*contributed by Quinn M. Morris*

The Dignity for All Students Act (DASA) has been in effect for over a year. However, amendments to DASA became effective on July 1, 2013. These amendments include the addition of the terms “bullying” and “cyberbullying” as prohibited activity under the law, as well as some procedural changes.

DASA’s original language prohibited only “harassment” but now uses “harassment/bullying” as equivalents for the purposes of the Act. In addition, “cyberbullying” is now included within the definition. The new DASA definition language reads as follows:

“Harassment/bullying” means the creation of a hostile environment by conduct or by threats, intimidation or abuse, including cyberbullying as defined in Education Law §11(8), that:

- a) 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; or
- b) reasonably causes or would reasonably

be expected to cause a student to fear for his or her physical safety; or

- c) reasonably causes or would reasonably be expected to cause physical injury or emotional harm to a student; or
- d) occurs off school property and creates or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property.

For purposes of this definition, the term “threats, intimidation or abuse” shall include verbal and non-verbal actions. (Education Law §11[7])

“Cyberbullying” means harassment/bullying, as defined above, through any form of electronic communication.

While the legal issues surrounding cyberbullying are continuing to evolve, it is important to understand that the scope of cyberbullying may include, among other things, the use, both on and off school property, of electronic technology. Cyberbullying may include, but is not limited to, the use of e-mail, instant messaging, blogs, chat rooms, pagers, cell phones, gaming systems and social media websites when used to deliberately harass or threaten others.

Also, under the amendments, districts must incorporate policies and procedures intended to create a school environment that is free from harassment, bullying or discrimination. Within these policies and procedures, the district must enable students and parents to make an oral or written report to school staff. The law imposes a duty on all school employees who witness or receive a report of harassment, bullying or discrimination, to promptly notify the principal, superintendent or designee. This report must be made orally, not later than one school day after such event. The school employee must also file a written report not later than two school days after making the oral report. It is important to note that this is a not discretionary, every member of the staff must report any incidence of

harassment, bullying or discrimination under DASA or the district will be liable.

An investigation of all harassment, bullying or discrimination must be completed promptly after receipt of any written reports. The principal, superintendent or designee shall lead or supervise the investigation of all reports of harassment, bullying or discrimination. Upon verification of a report, the district must take prompt action, reasonably calculated to end the harassment, bullying or discrimination. The district must eliminate any hostile environment, create a more positive school culture and climate, prevent recurrence of the behavior, and ensure the safety of the student(s) whom such behavior was directed. Appropriate local law enforcement must be notified if the action constitutes criminal conduct. The principal is required to provide a report to the superintendent at least once each school year relating to data and trends of harassment, bullying or discrimination.

Material incidents must be reported using the on-line form on NYSED's website. Material incidents include those which are the result of the investigation of a written or oral complaint made to the principal, DASA coordinator or other school employee; or are otherwise directly observed by such principal, DASA coordinator or other school employee, regardless of whether or not a complaint is made. For the 2012-2013 school year, these reports must be filed between August 19, 2013 and September 27, 2013.

The current practice of allowing a teacher assistant or a non-instructional employee to serve as the Dignity Act Coordinator is no longer permitted. The Dignity Act Coordinator must be licensed and/or certified as a classroom teacher, school counselor, psychologist, nurse, social workers, administrator/supervisor or Superintendent of Schools. Additionally, under the amendments to DASA, school professionals who apply on or after July 1, 2103, for a certificate or license are required to have completed training on social patterns of harassment, bullying and discrimination.

# Workers Compensation and Civil Service Law Notifications

*contributed by Randy J. Ray*

Civil Service Law §71 entitles permanent civil service employees to a minimum one-year leave of absence for a work-related illness or injury. An employer has the right to commence a proceeding to terminate an individual's employment after the employee has exhausted his/her cumulative leave total of one year. In order to effectuate this termination, an employee must be given notice of his/her rights under the law and afforded a hearing to contest their ability to return to work and/or the amount of leave previously taken.

An appellate decision appears to require public employers to notify employees, at the inception of a workers' compensation leave, that they can be terminated if they fail to return within one year. *LaJoie v. County of Niagara*, 239 A.D.2d 908, 659 N.Y.S.2d 622 (4th Dept. 1997).

In *LaJoie*, the employee was terminated in accordance with Civil Service Law §71. That is, the employee was provided with notice of the pre-termination hearing. The hearing was held, and it was determined that the employee had been absent in excess of one year due to a work related illness or injury, and that she was not physically able to return to work. The employee appealed Niagara County's decision to terminate her employment and argued that the County did not notify her at the commencement of her workers' compensation leave that she could be terminated if she did not return within one year.

The Appellate Division, Fourth Department, agreed with Ms. LaJoie and upheld a lower court's order to reinstate her. The Court found

that the Civil Service Rules and Regulations obligated the County of Niagara to notify Ms. LaJoie, at the inception of her workers' compensation leave, that she could be terminated from her position if she failed to return from her leave within one year. See 4 N.Y.C.R.R. §5.9(b). In particular, 4 N.Y.C.R.R. §5.9(b) specifically provides that not later than the 21st day of absence due to an occupational injury or disease, the appointing authority must notify the employee in writing of:

1. the effective date of that leave;
2. the right to leave of absence from the position during continued disability for one year unless extended;
3. the right to apply to the appointing authority to return to duty at any time during the leave;
4. the right to a hearing to contest a finding of unfitness for restoration to duty;
5. the termination of employment as a matter of law at the expiration of the workers' compensation leave; and
6. the right thereafter to apply to the Civil Service Department within one year of the end of disability for reinstatement to the position if vacant, to a similar position, or to a preferred list pursuant to section 71 of the Civil Service Law and subdivision (e) of this section.

The Court found that the County of Niagara failed to provide this written notification within the first twenty-one (21) days of Ms. LaJoie's workers' compensation leave and directed her reinstatement.

There are arguments that 4 N.Y.C.R.R. §5.9(b) is not applicable to school districts and other local municipalities since the regulation applies to the New York State Civil Service Department and school districts are, for the most part, governed by the county civil service rules. Nonetheless, school districts and other public employers should take heed from the LaJoie decision and issue the appropriate written notification within the twenty-one (21)

days after an employee commences a workers' compensation leave.

A sample letter is provided, and we strongly encourage every school district to forward this letter immediately to every employee who is on or goes on a workers compensation leave. We also encourage each employer to check with its workers' compensation carrier to determine if the requisite notification is already being issued.

(Employer Letterhead)

Employee Name  
Employee Address

Re: Civil Service Law Section 71

Dear \_\_\_\_\_:

It has come to my attention that you are on workers' compensation leave as a result of a work-related illness or injury. Your workers' compensation leave is effective \_\_\_\_\_. Pursuant to Civil Service Law §71, you have the right to leave of absence from the position during continued disability for not more than one year, unless extended. You also have the right to apply to the board of education to return to duty at any time during your leave.

If you do not return from your leave within one year, you have the right to a hearing to contest a finding of unfitness for restoration to duty. If you are found unfit to return to duty, your employment may be terminated in accordance with Civil Service Law §71. If you are terminated, you have the right to apply to the County Civil Service Department within one year after the end of your disability for reinstatement to your position if it is vacant, to a similar position, or to a preferred eligible list pursuant to Civil Service Law §71 and 4 N.Y.C.R.R. 5.9(e).

I encourage you to contact your local union representative for advice. However, if you should have any questions regarding this letter, please do not hesitate to contact me.

Very truly yours,

\_\_\_\_\_



**RECENT AREA TEACHER CONTRACT SETTLEMENTS (shaded areas = contract term)**

**CAYUGA-ONONDAGA BOCES**

	Date Settled	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	AVG.
BOCES	<b>6-08</b>	4.50	4.50	open						4.50
Auburn	<b>6-12</b>	3.45	3.00	3.00	0.00	2.25	2.25			2.33
Cato-Meridian	<b>11-12</b>	3.80	3.80	3.80	2.00	2.00	2.00			2.90
Jordan-Elbridge *	<b>1-12</b>	3.85	3.90	0.50	2.01	2.18				2.49
Moravia	<b>6-13</b>	4.00	4.00	2.00	2.00	0.00	2.00	2.50	2.50	2.38
Port Byron	<b>6-13</b>	4.25	3.70	2.00	2.00	2.00	2.00			2.66
Skaneateles		3.75	3.75	1.50	1.50	1.50				2.40
So. Cayuga	<b>4-13</b>	4.00	2.00	2.00	2.00	2.00	2.25	2.25		2.36
Union Springs	<b>1-11</b>	4.25	4.25	2.00	2.00					3.13
Weedsport	<b>7-13</b>	4.35	4.50	0.00	2.00	2.00	2.00			2.48
	<b>Average</b>	<b>4.02</b>	<b>3.74</b>	<b>1.87</b>	<b>1.72</b>	<b>1.74</b>	<b>2.08</b>	<b>2.38</b>	<b>2.50</b>	

\* Jordan-Elbridge figures for 2012-13 and 2013-14 are calculated at step + 55% of average of Feb CPI figures

**BROOME-TIOGA BOCES**

	Date Settled	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	AVG.
Chenango Vall.	4-11	4.10	2.50	2.75	2.75	2.75				2.97
Deposit	<b>1-08</b>	4.25	open							4.25
Maine-Endwell	<b>5-08</b>	4.50	4.50	4.50	4.50					4.50
Owego-Apal.	<b>1-13</b>	4.35	2.95	2.95	2.95	2.00	2.00			2.87
Union-Endicott	<b>11-10</b>	4.00	\$2,253 cash	2.70	2.70	2.70	2.70			2.96
Whitney Point	<b>6-13</b>	3.00	3.30	3.50	0.00	2.20	2.20			2.37
	<b>Average</b>	<b>4.03</b>	<b>3.58</b>	<b>3.28</b>	<b>2.58</b>	<b>2.41</b>	<b>2.30</b>			

**GENESEEE VALLEY BOCES**

	Date Settled	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	AVG.
Geneseo	<b>6-12</b>	4.20	4.20	2.00	2.00	2.00				2.88

**GREATER SO. TIER BOCES**

	Date Settled	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	AVG.
Hornell	<b>1-12</b>	4.40	4.00	2.20						3.53

**OSWEGO BOCES**

	Date Settled	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	AVG.
Hannibal	<b>9-09</b>	3.50	3.50	0.00						2.33
Oswego	<b>3-11</b>	4.00	4.00	0.00						2.67
	<b>Average</b>	<b>3.75</b>	<b>3.75</b>	<b>0.00</b>						

**TOMPKINS-SENECA-TIOGA BOCES**

	Date Settled	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	AVG.
BOCES		4.00	4.00	4.00						4.00
Candor	<b>4-09</b>	3.00	3.00							3.00

**RECENT AREA TEACHER CONTRACT SETTLEMENTS (shaded areas = contract term)**

**TOMPKINS-SENECA-TIOGA BOCES continued**

	Date Settled	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	AVG.
Dryden	7-12	4.20	2.60	2.60	3.00	3.00				3.08
George Jr. Rep.	9-08	3.26								3.26
Groton	3-13	3.50	3.50	3.50	3.50	2.50	2.60	2.70	2.70	3.06
Ithaca	6-11	2.20	2.00	2.00	2.00	2.00	2.00			2.03
Lansing	9-12	3.40	3.50	3.50	2.70	2.70	3.00	3.00		3.11
Newfield	8-12	3.50	2.50	2.00	2.00	3.00				2.60
South Seneca	6-12	4.00	4.00	1.50	1.50					2.75
Trumansburg	1-13	4.00	4.20	2.70	2.70	3.00	3.00			3.27
	<b>Average</b>	<b>3.51</b>	<b>3.26</b>	<b>2.73</b>	<b>2.49</b>	<b>2.70</b>	<b>2.65</b>	<b>2.85</b>	<b>2.70</b>	

**WAYNE - FINGER LAKES BOCES**

	Date Settled	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	AVG.
BOCES **	9-11	3.00	2.50	1.90	1.90					2.33
Bloomfield		3.90	3.85	3.60	3.35					3.68
Canandaigua		4.20	4.10	3.85						4.05
Clyde-Savan.	6-12	5.00	5.00	5.00	2.25	2.25	2.25			3.63
Dundee	1-12	4.00	4.00	2.60	2.50	2.50				3.12
Gananda		4.00	2.75	2.75						3.17
Geneva	6-12	4.58	4.22	4.15	2.00	2.00				3.39
Gorham-M'sex	6-11	3.50	3.50	2.25	2.25	2.50				2.80
Honeoye	2-12	4.00	2.60	2.50	2.50					2.90
Lyons	6-10	4.25	4.66	3.37	3.88					4.04
Man-S'ville	5-11	4.00	4.00	1.80						3.27
Marion		4.50	3.50	2.80	2.00	2.00				2.96
Naples	9-11	4.00	4.00	2.25	2.25	2.25				2.95
Newark	9-11	4.00	2.50	2.50	1.25					2.56
N Rose-Wolcott	4-12	4.32	4.27	1.00	2.47	1.90				2.79
Pal-Mac ***	6-09	3.20	3.90	3.90	2.48	3.90				3.48
Penn Yan	6-11	4.00	4.00	2.29	2.29					3.15
Phelps-CI Spr.	9-10	4.00	2.89	2.89	2.89					3.17
Red Creek	12-10	4.50	4.50	2.75	2.75					3.63
Romulus ****	10-10	3.33	3.33	3.50	3.50					3.42
Seneca Falls	6-12	3.67	3.91	3.50	3.45	2.00	2.00			3.09
Sodus		4.15	3.80							3.98
Victor		4.30	4.30	4.00						4.20
Waterloo	5-13	4.05	3.89	3.72	2.00	1.50	1.75	1.95		2.69
Wayne	11-12	4.25	4.00	3.00	2.00	3.00	2.00			3.04
Williamson		4.00	3.00	3.00	2.00	2.25	2.50			2.79
	<b>Average</b>	<b>4.03</b>	<b>3.73</b>	<b>2.99</b>	<b>2.47</b>	<b>2.34</b>	<b>2.10</b>	<b>1.95</b>		

\*\* BOCES settlement also included a 3.10% for 2008-09

\*\*\* Pal-Mac re-opened and settled at 2.48% for 2012-13 and will take original 3.90% in 2013-14 instead

\*\*\*\* Romulus figures for 2009-10 and 2010-11 are approximate

# AREA UNEMPLOYMENT RATES

## New York State Rate

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Ann. Avg.
2013	9.3%	8.8%	8.0%	7.3%	7.4%								
2012	9.1%	9.1%	8.7%	8.1%	8.4%	8.7%	8.9%	8.5%	8.1%	8.1%	7.9%	8.2%	8.5%

## Syracuse, NY Metropolitan Statistical Area

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Ann. Avg.
2013	9.7%	9.3%	8.5%	7.6%	7.4%								
2012	9.5%	9.5%	9.0%	8.2%	8.5%	8.8%	8.9%	8.3%	8.2%	8.0%	7.8%	8.5%	8.6%

## Auburn, NY Micropolitan Statistical Area

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Ann. Avg.
2013	9.8%	9.7%	8.7%	7.6%	6.9%								
2012	9.4%	9.5%	8.8%	7.9%	7.9%	8.1%	8.1%	7.6%	7.3%	7.4%	7.4%	8.3%	8.1%

## Cayuga County Statistical Area

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Ann. Avg.
2013	9.8%	9.7%	8.7%	7.6%	6.9%								
2012	9.4%	9.5%	8.8%	7.9%	7.9%	8.1%	8.1%	7.6%	7.3%	7.4%	7.4%	8.3%	8.1%

## Broome County Statistical Area

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Ann. Avg.
2013	10.1%	9.5%	8.7%	7.8%	7.5%								
2012	9.8%	9.6%	9.1%	8.3%	8.6%	9.0%	9.3%	8.7%	8.4%	8.3%	8.1%	8.9%	8.8%

## Ithaca, NY Metropolitan Statistical Area

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Ann. Avg.
2013	6.7%	5.8%	5.3%	4.8%	5.1%								
2012	6.6%	6.2%	5.7%	5.4%	6.0%	7.0%	6.9%	6.4%	5.6%	5.5%	5.3%	5.5%	6.0%

## Ontario/Seneca/Wayne/Yates Statistical Area

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Ann. Avg.
2013	9.6%	9.4%	8.5%	7.5%	6.7%								
2012	9.2%	9.3%	8.9%	7.6%	7.9%	7.9%	7.7%	7.2%	7.0%	7.0%	7.1%	8.0%	7.9%

## Rochester, NY Metropolitan Statistical Area

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Ann. Avg.
2013	9.1%	8.7%	7.9%	7.3%	7.0%								
2012	9.5%	9.5%	9.0%	8.2%	8.5%	8.8%	8.9%	8.3%	8.2%	8.0%	7.8%	8.5%	8.6%

*Source: New York State Department of Labor  
Labor Statistics  
[www.labor.state.ny.us](http://www.labor.state.ny.us)*

# CONSUMER PRICE INDEX

## June 2013

	INDEX 1982-84 BASE YEAR=100	% INCREASE FROM 2012	% INCREASE FROM PRIOR MONTH
NY-Northeastern New Jersey Area			
1. All Urban Consumers	256.911	1.8	0.3
2. Urban Wage Earners & Clerical Workers	252.862	1.8	0.2
U.S. City Average			
1. All Urban Consumers	233.504	1.8	0.2
2. Urban Wage Earners & Clerical Workers	230.002	1.8	0.3



# COST OF LIVING UPDATE

## ALL CITIES

## NY - NORTHEASTERN NEW JERSEY

Month	Revised Wage Earner Index	%	All Urban Consumers Index	%	Revised Wage Earner Index	%	All Urban Consumers Index	%
Jan-11	216.4	1.8	220.2	1.6	238.4	1.8	242.6	1.5
Feb-11	217.5	2.3	221.3	2.1	239.8	2.4	243.8	2.1
Mar-11	220.0	3.0	223.5	2.7	241.7	2.7	245.6	2.3
Apr-11	221.7	3.6	224.9	3.2	242.7	2.9	246.5	2.5
May-11	223.0	4.1	226.0	3.6	244.3	3.5	248.1	2.9
Jun-11	222.5	4.1	225.7	3.6	244.6	3.7	248.5	3.2
Jul-11	222.7	4.1	225.9	3.6	245.3	3.8	249.2	3.3
Aug-11	223.3	4.3	226.5	3.8	246.0	3.9	250.1	3.5
Sep-11	223.7	4.4	226.9	3.9	246.9	4.3	250.6	3.8
Oct-11	223.0	3.9	226.4	3.5	246.3	3.7	250.1	3.3
Nov-11	222.8	3.8	226.2	3.4	245.5	3.3	249.3	3.0
Dec-11	222.2	3.2	225.7	3.0	244.6	3.0	248.3	2.7
Jan-12	223.2	3.1	226.7	2.9	245.5	3.0	249.3	2.8
Feb-12	224.3	3.1	227.7	2.9	246.5	2.8	250.3	2.6
Mar-12	226.3	2.9	229.4	2.7	248.2	2.7	245.1	2.5
Apr-12	227.0	2.4	230.1	2.3	248.7	2.5	245.9	2.3
May-12	226.6	1.6	229.8	1.7	249.0	1.9	252.7	1.8
Jun-12	226.0	1.6	229.5	1.7	248.5	1.6	252.4	1.6
Jul-12	225.6	1.3	229.1	1.4	248.2	1.2	252.0	1.1
Aug-12	227.1	1.7	230.4	1.7	249.7	1.5	253.5	1.4
Sep-12	228.2	2.0	231.4	2.0	251.0	1.7	254.6	1.6
Oct-12	228.0	2.2	231.3	2.2	250.5	1.7	254.3	1.7
Nov-12	226.6	1.7	230.2	1.8	250.6	2.1	254.3	2.0
Dec-12	225.9	1.7	229.6	1.7	249.5	2.0	253.6	2.1
Jan-13	226.5	1.5	230.3	1.6	250.8	2.2	254.8	2.2
Feb-13	228.7	1.9	232.2	2.0	252.3	2.3	256.2	2.4
Mar-13	229.3	1.3	232.8	1.5	252.7	1.8	256.6	1.9
Apr-13	228.9	0.9	232.5	1.1	252.0	1.3	256.0	1.4
May-13	229.4	1.2	232.9	1.4	252.3	1.3	256.3	1.4
Jun-13	230.0	1.8	233.5	1.8	252.9	1.8	256.9	1.8
Jul-13								
Aug-13								
Sep-13								
Oct-13								
Nov-13								
Dec-13								

# THE ADVOCATE STAFF

## Editor:

Michaela Perrotto

## Editorial Assistant &

## Desktop Publisher:

Linda M. Brown

## Contributors:

Matthew R. Fletcher

Randy J. Ray

Brent D. Cooley

Quinn Marie Morris

Mark W. Snyder

Linda M. Brown

## Published by:

Cayuga-Onondaga BOCES  
Office of Personnel Relations  
1879 West Genesee Street Road  
Auburn, NY 13021-9430  
Telephone: (315) 255-7683  
Fax: (315) 255-7625

\* All Rights Reserved

## PAST ISSUES OF “THE ADVOCATE”

Past issues of “The Advocate” can be read and/or downloaded for your reference at your convenience.

Simply go to our website at [www.cayboces.org](http://www.cayboces.org), navigate through Administrative Services, Negotiations and Safety Services, Personnel Relations Service, and then click the button for OPR Publications.