

An Overview of Amendments to Laws on Harassment, Intimidation and Bullying



STATE OF NEW JERSEY
DEPARTMENT OF EDUCATION

The New Law

- Intent is to strengthen standards for preventing, reporting, investigating, and responding to incidents of bullying and reduce the risk of suicide among students
- Effective September 2011
- Changes 13 statutes
- Affects districts and a number of state agencies, including NJDOE

Context

- Legislation enacted September 2002 required each school to adopt an HIB policy
- Commission on Bullying in Schools established in January 2008, and submitted its recommendations to the Governor in December 2009
- The new law was introduced in October 2010
- Approved by the Legislature in November 2010
- Signed by the Governor in January 2011
- Primarily adds requirements

Major Changes

- Definition of HIB
- District Staff Functions
- Policy and Procedures
- Programs
- Training Requirements
- Public Reporting

Note:

Underline = New text.

Brackets = Removed text.

New HIB Definition

"Harassment, intimidation or bullying" means any gesture, any written, verbal or physical act, or any electronic communication, whether it be a single incident or a series of incidents, that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory [handicap] disability, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function [or], on a school bus, or off school grounds as provided for in section 16 of P.L.2010, CHAPTER 122, that substantially disrupts or interferes with the orderly operation of the school or the rights of other students and that:

New HIB Definition

- a) a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or damaging the student's property, or placing a student in reasonable fear of physical or emotional harm to his person or damage to his property; [or]
- b) has the effect of insulting or demeaning any student or group of students [in such a way as to cause substantial disruption in, or substantial interference with, the orderly operation of the school]; or
- c) creates a hostile educational environment for the student by interfering with a student's education or by severely or pervasively causing physical or emotional harm to the student.

New School District Staff Functions

- Anti-Bullying Coordinator (District)
- Anti-Bullying Specialist (School)
- School Safety Team (School)

Anti-Bullying Coordinator (District)

- Appointed by Superintendent
 - ✓ Supt. must make every effort to appoint an employee of the school district as the anti-bullying coordinator
- Coordinates and strengthens district HIB policy to prevent, identify, and address HIB
 - ✓ Collaborates with anti-bullying specialists, board of education and supt.
 - ✓ Meets at least twice a school year with the anti-bullying specialists
- Provides data, in collaboration with the supt. to the NJDOE
- Performs other related duties

Anti-bullying Specialist (School)

- Appointed by the principal from currently employed staff
 - ✓ Guidance counselor, school psychologist, or other school staff trained as an anti-bullying specialist
- Chairs the school safety team
- Leads the investigation of reported HIB incidents
- Acts as the primary school official responsible for preventing, identifying, and addressing incidents of HIB in the school
- Assists the principal in implementing the range of ways for responding to HIB established by the school board
- Provides input to local school board on annual re-evaluation, reassessment, and review of policy

School Safety Team (School)

- Formed to develop, foster, and maintain a positive school climate, including HIB issues
- Meets at least 2 times per school year
- Consists of the principal (*or designee, preferably a senior administrator*) **and** principal appointees:
 - a teacher in the school,
 - the school anti-bullying specialist (serves as chair),
 - a parent (as defined in *N.J.A.C. 6A:16-1.3*) of a student in the school, **and**
 - other members determined by the principal

School Safety Team (cont.)

- Receive any HIB complaints reported to principal*
- Receive copies of any HIB investigation reports*
- Identify and address patterns of HIB in the school*
- Review and strengthen school climate and policies in order to prevent and address HIB

* Parent team members may only participate in activities that do not compromise student confidentiality.

School Safety Team (cont.)

- Educate the community (i.e., students, teachers, administrators, parents) to prevent and address HIB
- Participate in training (both required and requested)
- Collaborate with anti-bullying coordinator in data collection and development of policies to prevent and address HIB
- Other duties related to HIB requested by principal or anti-bullying coordinator

NJDOE Model HIB Policy

April 2011 Revision

<http://www.state.nj.us/education/parents/bully.htm>

- Background
- Format
- Content

Note: Underlines below indicate new language.
Brackets below indicate removed language.

Requirements

Each school district shall adopt a policy prohibiting HIB. The school district shall [attempt to] adopt the policy through a process that includes representation of parents*, school employees, volunteers, students, administrators, and community representatives.

*** As defined in *N.J.A.C. 6A:16-1.3***

Requirements

- #1 The policy shall contain a statement prohibiting HIB of a student.**

Related NJ Administrative Code

- 6A:16-7.1, Code of Student Conduct, and
 - 6A:16-7.9, Intimidation, Harassment and Bullying
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- ✓ These regulations sunset in 2011
 - ✓ Readoption and amendments are on hold, per Executive Order #58, creating the Education Transformation Task Force
 - ✓ Districts should refer to the new law to meet the new HIB requirements, and should continue to refer to *N.J.A.C. 6A:16-7.1* regarding the code of student conduct

Requirements

- #2 The policy shall contain a definition of HIB no less inclusive than the statutory definition.**

Requirements

- #3 The policy shall include a description of the type of behavior expected from each student.**

Requirements

- #4 The policy shall include the consequences and appropriate remedial actions for a person who commits an act of HIB.**

Suspension or Expulsion

- HIB has been added to the statute (*N.J.S.A. 18A:37-2*) listing the conduct that may constitute good cause for suspension or expulsion.

Requirements

- #5 The policy shall include a procedure for reporting an act of HIB, including a provision that permits a person to report act of HIB anonymously; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.**

New: Reporting Procedures

- All acts of HIB must be reported verbally to the principal on the same day when the school employee or contracted service provider witnessed or received reliable information regarding any such incident
- Principal must inform parents of all students involved in the alleged incident
 - ✓ May discuss the availability of counseling and other intervention services
- All acts of HIB also must be reported in writing to the principal within 2 school days of when the school employee or contracted service provider witnessed or received reliable information

New: Reporting Expectations

A member of a board of education, school employee, contracted service provider, student or volunteer who has witnessed, or has reliable information that a student has been subject to, harassment, intimidation or bullying shall report the incident to the appropriate school official designated by the school district's policy, or to any school administrator or safe schools resource officer, who shall immediately initiate the school district's procedures concerning school bullying.

New: Reporting Expectations (cont.)

A member of a board of education or a school employee who promptly reports an incident of harassment, intimidation or bullying, to the appropriate school official designated by the school district's policy, or to any school administrator or safe schools resource officer, and who makes this report in compliance with the procedures in the district's policy, is immune from a cause of action for damages arising from any failure to remedy the reported incident.

Requirements

- #6 The policy shall include a procedure for prompt investigation of reports of violations and complaints, [identifying either the principal or the principal's designee as the person responsible for the investigation.] which procedure shall at a minimum provide that:**

New: Investigation Procedures

- Initiated by the principal or designee within 1 school day of the verbal report
- Conducted by the anti-bullying specialist in consultation with the principal
- Principal may appoint additional personnel to assist with investigation
- Investigation shall be completed as soon as possible, but not later than 10 days from date of written report
- If additional, anticipated information relevant to the investigation is not received within 10 days, anti-bullying specialist may amend original report to reflect the information

New: Investigation Expectations

- A school administrator who receives a report of HIB from a district employee, and fails to initiate or conduct an investigation, or who should have known of an incident of HIB and fails to take sufficient action to minimize or eliminate the HIB, may be subject to disciplinary action.

New: Results of Investigation

- Results shall be reported to the superintendent within 2 days of completing the investigation
- Superintendent may decide to:
 - Provide intervention services
 - Establish training programs to reduce HIB and enhance school climate
 - Impose discipline
 - Order counseling
 - Take or recommend other appropriate action
- Results reported to the board of education (BOE) no later than the date of the next board meeting following the completion of the investigation, along with information on action taken or recommended by superintendent

New: Results of Investigation (cont.)

- Parents of the students who are parties to the investigation are entitled to receive information about the investigation
 - In accordance with Federal and State law and regulation
 - Including the nature of the investigation and whether evidence of HIB was found
 - Whether discipline was imposed or services provided
 - Provided in writing within 5 school days after results are reported to the BOE
- A parent may request a hearing before the BOE
 - Must be held within 10 days of request
 - BOE shall meet in executive session for the hearing
 - BOE may hear from school anti-bullying specialist about the incident, recommendations for discipline or services, or programs instituted

New: Results of Investigation (cont.)

- At the next BOE meeting following its receipt of the report the board shall issue a decision, in writing, to affirm, reject or modify the superintendent's decision.
- The BOE's decision may be appealed to the Commissioner of Education, no later than 90 days after the issuance of the board's decision
- A parent, student, guardian, or organization may file a complaint with the Division on Civil Rights (DCR) within 180 days of the occurrence of any incident of HIB

New: Investigation Complaints

- NJDOE, in consultation with DCR, shall develop a guidance document for use by parents or guardians, students, and school districts, to assist in resolving complaints concerning student HIB
- The Commissioner of Education shall establish a formal protocol to which the office of the executive county superintendent of schools shall investigate a complaint
 - ✓ NJDOE is revising the protocol, which was developed prior to the law in August 2010.

Requirements

- #7 The policy shall contain the range of ways in which a school will respond once an incident of HIB is identified, which shall be defined by the principal in conjunction with the anti-bullying specialist, but shall include an appropriate combination of counseling, support services, intervention services, and other programs...**

Responses to HIB Off School Grounds

New Law: The policy adopted by each school district shall include provisions for appropriate responses to HIB that occurs off school grounds in cases in which a school employee is made aware of such actions. The responses to HIB that occurs off school grounds shall be consistent with the board of education's code of student conduct and other provisions of the board's policy on HIB.

Requirements

- #8 The policy shall contain a statement that prohibits reprisal or retaliation against any person who reports an act of HIB and the consequences and appropriate remedial actions for a person who engages in reprisal or retaliation.**

Requirements

- #9 The policy shall contain the consequences and appropriate remedial action for a person found to have falsely accused another as a means of HIB.**

Reprisal, Retaliation, and False Accusation Prohibited

New Law: A member of a board of education, school employee, student or volunteer shall not engage in reprisal, retaliation or false accusation against a victim, witness or one with reliable information about an act of harassment, intimidation or bullying.

Requirements

#10 The policy shall contain a statement of how the policy is to be publicized.

- Including notice that the policy applies to school- sponsored functions
- CSA shall ensure that notice of the policy appears in any publication of the school district that sets forth comprehensive rules, procedures, and standards, and in any student handbook

Requirements

- #11 The policy shall contain a requirement that a link to the policy be prominently posted on the homepage of the district's website and distributed annually to parents and guardians.**

Requirements

- #12 The policy shall contain a requirement that contact information for the district anti-bullying coordinator be listed on the school district's homepage and that contact information for the school anti-bullying specialist and anti-bullying coordinator be listed on each school's homepage**

Requirements

New Law:

- Revised HIB policy to Executive County Supt. (ECS) by 9/1/11
- Annual re-evaluation of HIB policy, making any necessary revisions & additions
- Input from anti-bullying specialists
- Transmit all subsequent policy revisions to ECS, within 30 school days

Bullying Prevention Programs

Prior Law: Schools and school districts were *encouraged* to annually establish, implement, document, and assess bullying prevention programs or approaches, and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement and community members.

New Law: Schools and school districts must annually establish, implement, document, and assess these approaches.

- ✓ The approaches must be designed to create school-wide conditions to prevent and address HIB.

Bullying Prevention Programs (cont.)

New Law: A “Bullying Prevention Fund,” is to be created in the NJDOE, to offer grants to school districts to provide training on HIB and on the effective creation of positive school climates

- **No funding has been appropriated or donated at this time**

Bullying Prevention Programs (cont.)

New Law: Instruction and the Week of Respect

- The week beginning with the first Monday in October of each year is designated as a “Week of Respect” in the State of New Jersey
- School districts must observe the week by providing age-appropriate instruction focusing on preventing HIB
- Throughout the school year the school district must provide ongoing age-appropriate instruction on preventing HIB in accordance with the core curriculum content standards

Bullying Prevention Programs (cont.)

Discussions with Students

- Schools must develop a process for *discussing* the district's HIB policy with students.

New Law: Training – Anti-Bullying Coordinators and Specialists

- The Commissioner, in consultation with recognized experts in school bullying must establish in-service workshops and training programs to train selected public school employees to act in these roles
- The Commissioner must seek to make the workshops and training programs available and administered online
- Each board of education must provide time for the in-service training during the usual school schedule in order to ensure that appropriate personnel are prepared to act in these roles
- Upon completion of the initial in-service training program programs and workshops that reflect the most current information on HIB in schools shall be made available to district anti-bullying coordinators and school anti-bullying specialists at regular intervals

Training - Staff

Prior Law: School districts were required to provide training on the school district's HIB policy as part of the school employee's training program

New Law Adds: The training must –

- ✓ Include instruction on preventing bullying on the basis of the protected categories and other distinguishing characteristics that may incite incidents of discrimination, or HIB, and
- ✓ Be provided to full- and part-time staff, volunteers who have significant contact with students and those persons contracted by the district to provide services to students

Training - Teachers

Prior Law: Each public school teaching staff member was required to complete at least 2 hours of instruction in suicide prevention

New Law Adds: The training must include information on the relationship between the risk of suicide and incidents of HIB and information on reducing the risk of suicide in students who are members of communities identified as having members at high risk of suicide

Training – Teachers (cont.)

New Law: Each public school teacher must complete at least two hours of instruction on HIB prevention in each professional development period

This is in addition to the two hours of instruction in suicide prevention

Training – Prospective Teachers

New Law:

- Beginning with the 2012-2013 school year, all candidates for teaching certification who have completed a teacher preparation program at a regionally-accredited institution of higher education shall have satisfactorily completed a program on HIB prevention
- Beginning with the 2011-2012 school year, any person seeking certification through the alternate route shall, within one year of being employed, satisfactorily complete a program on HIB

*Training - School Leaders**

Prior Law: School leaders must complete training on school ethics, law, and governance.

New Law Adds: The training must include information on the prevention of HIB

**School leader means a school district staff member requiring a chief school administrator, principal, or supervisor endorsement*

Training – Prospective School Leaders

New Law: Beginning with the 2012-2013 school year, all candidates for administrative and supervisory certification must satisfactorily complete a program on HIB prevention

Training – Board Members

New Law Adds:

- Completion of a training program on HIB in schools, including a school district's responsibilities within one year after being newly elected or appointed or being re-elected or re-appointed to the board of education (required only once)
- Provision of training on HIB in schools by the New Jersey School Boards Association in consultation with recognized experts in school bullying

Training – Safe Schools Resource Officers

Prior Law: The Police Training Commission has a training course for safe school resource officers and school employees serving as liaison's to law enforcement

New Law Adds: The course must include training in the protection of students from HIB, including incidents which occur through electronic communication

New Law: Training – Available to Anyone

- The Commissioner must develop, in consultation with the Division on Civil Rights, and make available on the NJDOE's Website, an online tutorial on HIB
 - ✓ The online tutorial must, at a minimum, include best practices in the prevention of HIB, and applicable laws.
 - ✓ The online tutorial must be accompanied by a test to assess a person's understanding of the information provided in the tutorial.

Public Reporting – School Report Cards

New Law Adds: School Report Card
must include data on the number and
nature of all reports of HIB

Public Reporting – Public Hearing

Prior Law: The superintendent was required to *annually* report to the board of education all acts of violence and vandalism, including HIB.

New Law Adds: The superintendent must report at two public hearings –

- One between 9/1 and 1/1; and
- One between 1/1 and 6/30

Public Reporting – Public Hearing (cont.)

New Law: Requires that HIB the data be disaggregated by the enumerated classes, and adds HIB information:

- ✓ the status of all investigations
- ✓ the nature of the bullying (based on the enumerated categories)
- ✓ the names of the investigators
- ✓ any other non-disciplinary measures imposed
- ✓ training conducted or programs implemented, to reduce HIB
- The district must put a link to the report on its Website

Public Reporting – Superintendent to NJDOE

Prior Law: The district was required to annually report violence, vandalism and substance abuse incidents on the EVVRS

New Law Adds:

- The information reported to the BOE must be reported once during each reporting period to the NJDOE
- Verification of the reports on violence, vandalism, and HIB must be part of the State's monitoring of the school district
- The report must be used to grade each school for the purpose of assessing its effort to implement policies and programs

Public Reporting – NJDOE to Senate and Assembly

Prior Law: The Commissioner was required to submit an *annual report* to the Education Committees of the Senate and General Assembly detailing the extent of violence, vandalism, and substance abuse in the public schools and making recommendations to alleviate the problems.

New Law: Highlights HIB and requires that the report be submitted *no later than October 1* each year, and must be posted on the department's Website.

- This will require timely verification by districts and EVVRS closure by mid-July each year.

District and School Grades

New Law: The Commissioner must establish guidelines for a program to grade each school to assess its efforts to implement policies and programs consistent with the law:

- District grade is determined by averaging the grades of all the schools in the district
- The school's and the district's grades must be posted on the homepage of the school's Website within 10 days of the assignment of the grade
- The grade for the district and each school shall be posted on the homepage of the district's Website

Resources

- For assistance, contact:
 - Bradford C. Lerman, Psy.D. (only through June 30, 2011)
Director, Rutgers SDFSC Project
848-932-5900 or blerman@rci.rutgers.edu
 - NJDOE, Office of Student Support Services, 609-292-5935
 - NJDOE, County Offices of Education
www.state.nj.us/education/counties
- The anti-bullying law (*P.L.2010, c.122*), can be found at
http://www.njleg.state.nj.us/2010/Bills/PL10/122_.PDF
- The *Model Policy and Guidance for Prohibiting Harassment, Intimidation and Bullying on School Property, at School-sponsored Functions and on School Buses* can be found at
<http://www.state.nj.us/education/parents/bully.pdf>
- Additional NJDOE resources on HIB can be found at
<http://www.state.nj.us/education/students/safety/behavior/hib>