



Anti-Bullying Bill of Rights (A-3466 / S-2392 (Vainieri Huttie / Buono)) Provisions Impacting Students & Schools

By law, New Jersey school districts are required to implement policies prohibiting harassment, intimidation and bullying (HIB). Recent legislation which passed the Assembly and Senate on November 22 (the Anti-Bullying Bill of Rights, [A-3466 / S-2392 \(Vainieri Huttie / Buono\)](#)): requires training for all school employees on school climate, harassment, bullying and intimidation; establishes stringent investigation and reporting guidelines for schools; and requires new school safety or climate teams. The bill is now on Gov. Chris Christie's desk for review. If the Governor signs the legislation into law, its provisions are effective the first school year following enactment. NJPSA has outlined the various provisions of the bill for your review:

School Climate & Culture

- **Establish bullying prevention strategies:** Requires school districts to establish bullying prevention programs or approaches;
- **Institute training:** Establishes HIB training requirements for: school leaders, teachers (as part of their two hour training requirement in suicide prevention); school board members; safe schools resource officers and public school liaisons to law enforcement; and individuals seeking certification in instruction or administration (beginning in 2012-2013);
- **Amend what constitutes bullying:** Amends the definition of HIB:
 - to provide that an incident, either on or off school grounds, must substantially disrupt or interfere with the orderly operation of the school or the rights of other students to be actionable; and
 - to add additional criteria to the definition - the creation of a "hostile school or 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;
- **Permit suspension / expulsion for HIB:** Includes HIB in the types of conduct that under current statute may constitute good cause for suspension or expulsion;
- **School safety team:** Requires school districts to form a school safety team to include: the principal, a teacher, the school anti-bullying specialist, a parent and other members as determined by the principal. All members of the team, other than the parent appointed, will receive copies of HIB complaints to inform decision making of the team. The anti-bullying specialist must serve as chair. The team is to foster and maintain a positive school climate within the school by: identifying and addressing patterns of HIB in the school; reviewing and strengthening school climate and the policies of the school in order to prevent and address HIB; and educating the community, including students, teachers, staff, and parents on HIB.
- **Anti-bullying coordinator:** The superintendent must appoint a district anti-bullying coordinator who is responsible for coordinating and strengthening the school district's policies to prevent, identify, and address HIB.
- **Employment disqualification:** Adds conviction of "bias intimidation" to the list of crimes for which a person may be disqualified for employment in a school.

Investigations

- **Anti-bullying specialist:** Requires the principal to appoint the currently employed school guidance counselor, school psychologist or another similarly trained individual as the school anti-bullying specialist. If there is no individual that meets these criteria employed in the school, the principal must appoint another currently employed individual in the school to the position of school anti-bullying specialist. The specialist leads the investigation of incidents of HIB in the school; and acts as the primary school official responsible for preventing, identifying, and addressing incidents of HIB in the school.

Based upon some imprecise language in the legislation, as well as testimony when the bill was heard in committee, it is unclear whether a principal could appoint him or herself as the anti-bullying specialist.

- **Investigations procedure:** Creates a detailed procedure that must be included in each district's policy concerning the investigation of incidents of HIB as follows:
 - **Initial verbal report:** Acts of HIB must verbally be reported to the school principal on the same day when the school employee, school board member or contracted service provider witnesses or receives reliable information regarding any such incident.
 - **Written report follow-up:** A school employee or contracted service provider must file a written report with the school principal within two (2) days of observing or being made aware of an act of HIB;
 - **Who investigates:** The investigation must be conducted by a school anti-bullying specialist, although the principal may appoint additional personnel who are not school anti-bullying specialists to assist in the investigation.
 - **Student / parent rights:** The principal must inform the parents or guardians of all students involved in an alleged incident, and may discuss, as appropriate, the availability of counseling and other intervention services. Parents or guardians of the students involved are entitled to receive information including the nature of the investigation, whether the district found evidence of HIB and whether discipline was imposed or services provided to address an incident of HIB. A parent or guardian may request a hearing before the board after receiving such information. If a parent requests a hearing before a board, the board must meet in executive session.
 - **Investigation timeframe:**
 - An investigation must be initiated by the principal or the principal's designee on the same day of a verbal report of an incident. A follow-up written report is required to be provided by the school employee or contracted service provider who witnessed or received reliable information of the HIB incident with two (2) school days.
 - The investigation must be completed within ten (10) days from the date of the written report. If, however, information relative to the investigation is anticipated but not yet received by the end of the 10-day period, the school anti-bullying specialist may amend the original report of the results of the investigation to reflect this information
 - The results of the investigation must be reported to the superintendent of schools within two (2) school days of the completion of the investigation. The superintendent can provide intervention services, establish training programs to reduce HIB and enhance school climate, impose discipline, order counseling, or take or recommend other appropriate action;
 - The superintendent must report the results to the local Board of Education (BOE) at the next meeting, including information on any services provided, training established, discipline imposed, or other action taken or recommended by the superintendent;
 - Parents of all parties involved must be provided notice in writing within five (5) school days after the results of the investigation are reported to the board.
 - A parent or guardian may request a hearing before the board after receiving the information, and the hearing must be held within 10 days of the request.
 - The BOE must issue a decision, in writing, affirming, rejecting, or modifying the superintendent's decision at the next board meeting following the superintendent's report. The board may hear from the school anti-bullying specialist about the incident, recommendations for discipline or services, and any programs instituted to reduce such incidents.

- The board’s decision may be appealed to the Commissioner of Education, within ninety (90) days after the board’s decision
- A parent, student, guardian, or organization may still file a complaint with the Division on Civil Rights within 180 days of the occurrence of any incident of HIB based on membership in a protected group as enumerated in the “Law Against Discrimination.”

Reporting / Grading

- The superintendent of schools must report to the BOE information on violence, vandalism and HIB twice a year, rather than annually. The report will be used by the Department of Education (DOE) to grade schools and districts in their efforts to implement policies and programs.
- Districts are also required to provide the name and contact information of the anti-bullying specialist for each school on the school’s webpage and anti-bully coordinator for the district on the district website.
- In addition, school districts must annually reevaluate/review the district HIB policy and transmit a copy of the revised policy to the executive county superintendent of schools (ECS) within 30 school days of the revision.
- Further, Data on HIB must also be included in the School Report Card and the violence, vandalism, and substance abuse report issued annually by the DOE.

Liability

- A school administrator who fails to initiate or conduct an investigation of an incident, or **who should have known of an incident** and fails to take action, may be subject to discipline;
- Members of the school board may not engage in reprisals against victims or witnesses of HIB or face legal consequences;

DOE Responsibilities

- The DOE, in consultation with the Division on Civil Rights in the Department of Law and Public Safety, must develop a guidance document for use by parents, students, and school districts to assist in resolving complaints regarding HIB;
- The DOE must also establish a formal protocol to be used by the offices of the executive county superintendent of schools in investigating complaints that school districts are not adhering to the provisions of law governing HIB in schools;
- Further, DOE must develop in-service workshops and training programs for anti-bullying coordinators and school anti-bullying specialists;
- Finally, the bill creates the “Bullying Prevention Fund” in the DOE to be used to fund grants to school districts to provide training on HIB prevention and on effective means to create a positive school climate;

Other

- The bill also includes a provision that requires all public institutions of higher education to include a policy on harassment, intimidation, or bullying as part of its student code of conduct.