

ASSEMBLY, No. 2545

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Assemblyman JON M. BRAMNICK

District 21 (Morris, Somerset and Union)

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Mandates additional requirements for anti-bullying policies of public schools, expands information provided in DOE guidance document on bullying, and requires parents be provided clear explanation of student rights in school bullying investigations.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning incidents of harassment, intimidation, or
 2 bullying at public schools and amending P.L.2002, c.83 and
 3 P.L.2010, c.122.

4
 5 **BE IT ENACTED** by the Senate and General Assembly of the State
 6 of New Jersey:

7
 8 1. Section 3 of P.L.2002, c.83 (C.18A:37-15) is amended to
 9 read as follows:

10 3. a. Each school district shall adopt a policy prohibiting
 11 harassment, intimidation or bullying on school property, at a
 12 school-sponsored function or on a school bus. The school district
 13 shall adopt the policy through a process that includes representation
 14 of parents or guardians, school employees, volunteers, students,
 15 administrators, and community representatives.

16 b. A school district shall have local control over the content of
 17 the policy, except that the policy shall contain, at a minimum, the
 18 following components:

19 (1) a statement prohibiting harassment, intimidation or bullying
 20 of a student;

21 (2) a definition of harassment, intimidation or bullying no less
 22 inclusive than that set forth in section 2 of
 23 P.L.2002, c.83 (C.18A:37-14);

24 (3) a description of the type of behavior expected from each
 25 student;

26 (4) consequences and appropriate remedial action for a person
 27 who commits an act of harassment, intimidation or bullying;

28 (5) a procedure for reporting an act of harassment, intimidation
 29 or bullying, including a provision that permits a person to report an
 30 act of harassment, intimidation or bullying anonymously; however,
 31 this shall not be construed to permit formal disciplinary action
 32 solely on the basis of an anonymous report.

33 All acts of harassment, intimidation, or bullying shall be reported
 34 verbally to the school principal on the same day when the school
 35 employee or contracted service provider witnessed or received
 36 reliable information regarding any such incident. The principal
 37 shall inform the parents or guardians of all students involved in the
 38 alleged incident, and may discuss, as appropriate, the availability of
 39 counseling and other intervention services. A student involved in
 40 the alleged incident shall not be interviewed by any school
 41 personnel without the parent or guardian being provided the
 42 opportunity to be present at the interview. The principal shall use
 43 conflict resolution techniques with the students involved in the
 44 alleged incident to address and resolve the matter. If the conflict
 45 resolution techniques are deemed unsuccessful by the principal, he

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 or his designee, in consultation with the anti-bullying specialist,
2 shall make a preliminary determination as to whether a reported
3 incident or complaint is a report of an act of harassment,
4 intimidation, or bullying pursuant to section 2 of P.L.2002, c.83
5 (C.18A:37-14) prior to initiating an investigation. All acts of
6 harassment, intimidation, or bullying shall be reported in writing to
7 the school principal within two school days of when the school
8 employee or contracted service provider witnessed or received
9 reliable information that a student had been subject to harassment,
10 intimidation, or bullying;

11 (6) a procedure for prompt investigation of reports of violations
12 and complaints, which procedure shall at a minimum provide that:

13 (a) the investigation shall be initiated by the principal or the
14 principal's designee **【within one school day of the report of the**
15 **incident】** and shall be conducted by a school anti-bullying
16 specialist. The principal may appoint additional personnel who are
17 not school anti-bullying specialists to assist in the investigation.
18 The investigation shall be completed as soon as possible, but not
19 later than **【10】 30** school days from the date of the written report of
20 the incident of harassment, intimidation, or bullying. In the event
21 that there is information relative to the investigation that is
22 anticipated but not yet received by the end of the **【10-day】 30-day**
23 period, the school anti-bullying specialist may amend the original
24 report of the results of the investigation to reflect the information;

25 (b) the results of the investigation shall be reported to the
26 superintendent of schools within two school days of the completion
27 of the investigation, and in accordance with regulations
28 promulgated by the State Board of Education pursuant to the
29 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
30 seq.), the superintendent may decide to provide intervention
31 services, establish training programs to reduce harassment,
32 intimidation, or bullying and enhance school climate, impose
33 discipline, order counseling as a result of the findings of the
34 investigation, or take or recommend other appropriate action;

35 (c) the results of each investigation shall be reported to the
36 board of education no later than the date of the board of education
37 meeting next following the completion of the investigation, along
38 with information on any services provided, training established,
39 discipline imposed, or other action taken or recommended by the
40 superintendent;

41 (d) parents or guardians of the students who are parties to the
42 investigation shall be entitled to receive information about the
43 investigation in writing, in accordance with federal and State law
44 and regulation, including the nature of the investigation, whether
45 the district found evidence of harassment, intimidation, or bullying,
46 or whether discipline was imposed or services provided to address
47 the incident of harassment, intimidation, or bullying. The
48 information shall also include copies of all written records produced

1 in regard to the investigation, including emails, letters, and text
2 messages. This information shall be provided **【in writing】** within 5
3 school days after the results of the investigation are reported to the
4 board. A parent or guardian may request a hearing before the board
5 after receiving the information, and the hearing shall be held within
6 10 days of the request. The board shall meet in executive session
7 for the hearing to protect the confidentiality of the students. At the
8 hearing the board may hear from the school anti-bullying specialist
9 about the incident, recommendations for discipline or services, and
10 any programs instituted to reduce such incidents;

11 (e) at the next board of education meeting following its receipt
12 of the report, the board shall issue a decision, in writing, to affirm,
13 reject, or modify the superintendent's decision. The board's
14 decision may be appealed to the Commissioner of Education, in
15 accordance with the procedures set forth in law and regulation, no
16 later than 90 days after the issuance of the board's decision; and

17 (f) a parent, student, guardian, or organization may file a
18 complaint with the Division on Civil Rights within 180 days of the
19 occurrence of any incident of harassment, intimidation, or bullying
20 based on membership in a protected group as enumerated in the
21 "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.);

22 (7) the range of ways in which a school will respond once an
23 incident of harassment, intimidation or bullying is identified, which
24 shall be defined by the principal in conjunction with the school anti-
25 bullying specialist, but shall include an appropriate combination of
26 services that are available within the district such as counseling,
27 support services, intervention services, and other programs, as
28 defined by the commissioner. In the event that the necessary
29 programs and services are not available within the district, the
30 district may apply to the Department of Education for a grant from
31 the "Bullying Prevention Fund" established pursuant to section 25
32 of P.L.2010, c.122 (C.18A:37-28) to support the provision of out-
33 of-district programs and services;

34 (8) a statement that prohibits reprisal or retaliation against any
35 person who reports an act of harassment, intimidation or bullying
36 and the consequence and appropriate remedial action for a person
37 who engages in reprisal or retaliation;

38 (9) consequences and appropriate remedial action for a person
39 found to have falsely accused another as a means of retaliation or as
40 a means of harassment, intimidation or bullying;

41 (10) a statement of how the policy is to be publicized, including
42 notice that the policy applies to participation in school-sponsored
43 functions;

44 (11) a requirement that a link to the policy be prominently
45 posted on the home page of the school district's website and
46 distributed annually to parents and guardians who have children
47 enrolled in a school in the school district; and

1 (12) a requirement that the name, school phone number, school
2 address and school email address of the district anti-bullying
3 coordinator be listed on the home page of the school district's
4 website and that on the home page of each school's website the
5 name, school phone number, school address and school email
6 address of the school anti-bullying specialist and the district anti-
7 bullying coordinator be listed. The information concerning the
8 district anti-bullying coordinator and the school anti-bullying
9 specialists shall also be maintained on the department's website.

10 c. A school district shall adopt a policy and transmit a copy of
11 its policy to the appropriate executive county superintendent of
12 schools by September 1, 2003. A school district shall annually
13 conduct a re-evaluation, reassessment, and review of its policy,
14 making any necessary revisions and additions. The board shall
15 include input from the school anti-bullying specialists in conducting
16 its re-evaluation, reassessment, and review. The district shall
17 transmit a copy of the revised policy to the appropriate executive
18 county superintendent of schools within 30 school days of the
19 revision. The first revised policy following the effective date of
20 P.L.2010, c.122 (C.18A:37-13.1 et al.) shall be transmitted to the
21 executive county superintendent of schools by September 1, 2011.

22 d. (1) To assist school districts in developing policies for the
23 prevention of harassment, intimidation, or bullying, the
24 Commissioner of Education shall develop a model policy applicable
25 to grades kindergarten through 12. This model policy shall be
26 issued no later than December 1, 2002.

27 (2) The commissioner shall adopt amendments to the model
28 policy which reflect the provisions of P.L.2010, c.122 (C.18A:37-
29 13.1 et al.) no later than 90 days after the effective date of that act
30 and shall subsequently update the model policy as the commissioner
31 deems necessary.

32 e. Notice of the school district's policy shall appear in any
33 publication of the school district that sets forth the comprehensive
34 rules, procedures and standards of conduct for schools within the
35 school district, and in any student handbook.

36 f. Nothing in this section shall prohibit a school district from
37 adopting a policy that includes components that are more stringent
38 than the components set forth in this section.

39 (cf: P.L.2012, c.1, s.1)

40

41 2. Section 21 of P.L.2010, c.122 (C.18A:37-24) is amended to
42 read as follows:

43 21. a. The Department of Education, in consultation with the
44 Division on Civil Rights in the Department of Law and Public
45 Safety shall develop a guidance document for use by parents or
46 guardians, students, and school districts to assist in resolving
47 complaints concerning student harassment, intimidation, or bullying

behaviors and the implementation of P.L.2002, c.83 (C.18A:37-13 et seq.) by school districts. The document shall include:

(1) a school district's obligations under P.L.2002, c.83 (C.18A:37-13 et seq.);

(2) best practices for the prevention, intervention, and remediation of harassment, intimidation, or bullying in schools, including methods to identify and assist student populations at high risk for harassment, intimidation, or bullying;

(3) a clear explanation of the procedures for petitioning the Commissioner of Education to hear and decide disputes concerning P.L.2002, c.83 (C.18A:37-13 et seq.);

(4) a clear explanation of the Division on Civil Rights' jurisdiction and services in regard to specific types of harassment, intimidation, or bullying; **[and]**

(5) a clear explanation of the process for appealing final agency determinations to the Appellate Division of the Superior Court;

(6) clarification of ways in which harassment, intimidation, or bullying may substantially disrupt or interfere with the orderly operation of the school or the rights of other students; and

(7) a clear explanation of the rights of students who are the alleged victims of harassment, intimidation, or bullying or who are accused of harassment, intimidation, or bullying.

b. The guidance document shall be available on the Department of Education's and the Division on Civil Rights' Internet sites and on every school district's Internet site at an easily accessible location.

c. A school district shall distribute annually to parents and guardians who have children enrolled in the school district a copy of the explanation of student rights, which has been included in the guidance document pursuant to paragraph (7) of subsection a. of this section.

(cf: P.L.2010, c.122, s.21)

3. This act shall take effect immediately.

STATEMENT

Current law requires each school district to adopt a policy prohibiting harassment, intimidation or bullying. The law also specifies the various provisions which the policy must, at a minimum, contain. This bill requires certain additional provisions be included in the anti-bullying policy. Pursuant to the bill, the policy must include a provision stating that students involved in an alleged incident of harassment, intimidation, or bullying will not be interviewed by any school personnel without the parent or guardian having been provided an opportunity to be present. The policy must also provide that after having been informed of the bullying

1 incident and having notified the parents or guardians, the principal
2 must use conflict resolution techniques with the students involved
3 in the incident in order to resolve the matter. If the conflict
4 resolution techniques are unsuccessful, the next step in the process
5 requires the principal to make a preliminary determination as to
6 whether a reported incident or complaint is a report of an act of
7 harassment, intimidation, or bullying as those terms are defined by
8 law, prior to initiating an investigation.

9 The bill provides that the investigation of the alleged harassment,
10 intimidation, or bullying incident must be completed no later than
11 30 days from the date the written report of the incident is provided
12 to the principal. Current law requires the investigation to be
13 completed no later than 10 days from the date the written report is
14 provided. This bill extends the time frame to allow a sufficient time
15 period for the principal to implement conflict resolution techniques
16 and make a preliminary determination regarding the alleged
17 incident.

18 Under current law, once the investigation is completed, parents
19 or guardians are provided information in writing regarding the
20 investigation, including the nature of the investigation, whether the
21 district found evidence of harassment, intimidation, or bullying, or
22 whether discipline was imposed or services provided to address the
23 incident of harassment, intimidation, or bullying. The bill requires
24 that the information provided to the parents or guardians must also
25 include copies of all written records produced in regard to the
26 investigation, including emails, letters, and text messages.

27 The Department of Education, in consultation with the Division
28 on Civil Rights in the Department of Law and Public Safety, is
29 required by law to develop a guidance document for use by parents
30 or guardians, students, and school districts to assist in resolving
31 complaints concerning harassment, intimidation, or bullying. This
32 bill requires additional items to be included in the guidance
33 document: a clarification of the ways in which harassment,
34 intimidation, or bullying may be deemed to have substantially
35 disrupted or interfered with the orderly operation of the school or
36 the rights of other students; and a clear explanation of the rights of
37 the students who are the alleged victims or the alleged perpetrators
38 of incidents of harassment, intimidation, or bullying. A copy of the
39 explanation of the students' rights is required to be provided by the
40 district to the parents and guardians of students enrolled in the
41 district.