

ASSEMBLY, No. 5321

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 29, 2021

Sponsored by:

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District 38 (Bergen and Passaic)

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SYNOPSIS

Modifies statutory definition of “harassment, intimidation, or bullying”; requires school districts to factor certain student characteristics when making certain decisions concerning harassment, intimidation, or bullying.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/17/2021)

1 AN ACT concerning harassment, intimidation, and bullying and
2 amending P.L.2002, c.83.

3

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

6

7 1. Section 2 of P.L.2002, c.83 (C.18A:37-14) is amended to
8 read as follows:

9 2. As used in this act:

10 "Electronic communication" means a communication transmitted
11 by means of an electronic device, including, but not limited to, a
12 telephone, cellular phone, computer, or pager;

13 "Harassment, intimidation or bullying" means any gesture, any
14 written, verbal or physical act, or any electronic communication,
15 whether it be a single incident or a series of incidents, that involves
16 a real or perceived imbalance in physical, social, intellectual, or
17 psychological power or is reasonably perceived as being motivated
18 either by any actual or perceived characteristic, such as race, color,
19 religion, ancestry, national origin, gender, sexual orientation,
20 gender identity and expression, age, or a mental, physical or
21 sensory disability, or by any other distinguishing characteristic, that
22 takes place on school property, at any school-sponsored function,
23 on a school bus, or off school grounds as provided for in section 16
24 of P.L.2010, c.122 (C.18A:37-15.3), that substantially disrupts or
25 interferes with the orderly operation of the school or the rights of
26 other students and that:

27 a. a reasonable person should know, under the circumstances,
28 will have the effect of physically or emotionally harming a student
29 or damaging the student's property, or placing a student in
30 reasonable fear of physical or emotional harm to his person or
31 damage to his property;

32 b. has the effect of insulting or demeaning any student or group
33 of students; or

34 c. creates a hostile educational environment for the student by
35 interfering with a student's education or by severely or pervasively
36 causing physical or emotional harm to the student.

37 (cf: P.L.2010, c.122, s.11)

38

39 2. Section 3 of P.L.2002, c.83 (C.18A:37-15) is amended to
40 read as follows:

41 3. a. Each school district shall adopt a policy prohibiting
42 harassment, intimidation or bullying on school property, at a
43 school-sponsored function or on a school bus. The school district
44 shall adopt the policy through a process that includes representation
45 of parents or guardians, school employees, volunteers, students,
46 administrators, and community representatives.

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

4 (1) a statement prohibiting harassment, intimidation or bullying
5 of a student;

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

9 (3) a description of the type of behavior expected from each
10 student;

11 (4) consequences and appropriate remedial action for a person
12 who commits an act of harassment, intimidation or bullying. In the
13 case of a student who commits an act of harassment, intimidation,
14 or bullying, the consequences and appropriate remedial actions shall
15 take into account the nature of the student's behavior, the
16 developmental age of the student, the student's history of problem
17 behaviors and performance, and the nature of the student's
18 disability, as applicable;

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

24 All acts of harassment, intimidation, or bullying shall be reported
25 verbally to the school principal on the same day when the school
26 employee or contracted service provider witnessed or received
27 reliable information regarding any such incident. The principal
28 shall inform the parents or guardians of all students involved in the
29 alleged incident, and may discuss, as appropriate, the availability of
30 counseling and other intervention services. All acts of harassment,
31 intimidation, or bullying shall be reported in writing to the school
32 principal within two school days of when the school employee or
33 contracted service provider witnessed or received reliable
34 information that a student had been subject to harassment,
35 intimidation, or bullying;

36 (6) a procedure for prompt investigation of reports of violations
37 and complaints, which procedure **【shall】** may include a process by
38 which the principal, in consultation with the anti-bullying specialist,
39 makes an initial determination as to whether a reported violation or
40 complaint is an act of harassment, intimidation, or bullying. If a
41 reported violation or complaint is determined as being an act of
42 harassment, intimidation, or bullying, the principal and anti-
43 bullying specialist shall assess the level of involvement that an
44 investigation would require by factoring the nature of the behavior,
45 the developmental age of the student, the student's history of
46 problem behaviors and performance, and the nature of the student's
47 disability, as applicable. The procedure for investigating reports of
48 violation and complaints shall at a minimum provide that:

1 (a) the investigation shall be initiated by the principal or the
2 principal's designee within one school day of the report of the
3 incident and shall be conducted by a school anti-bullying specialist.
4 The principal may appoint additional personnel who are not school
5 anti-bullying specialists to assist in the investigation. The
6 investigation shall be completed as soon as possible, but not later
7 than 10 school days from the date of the written report of the
8 incident of harassment, intimidation, or bullying. In the event that
9 there is information relative to the investigation that is anticipated
10 but not yet received by the end of the 10-day period, the school
11 anti-bullying specialist may amend the original report of the results
12 of the investigation to reflect the information;

13 (b) the results of the investigation shall be reported to the
14 superintendent of schools within two school days of the completion
15 of the investigation, and in accordance with regulations
16 promulgated by the State Board of Education pursuant to the
17 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
18 seq.), the superintendent may decide to provide intervention
19 services, establish training programs to reduce harassment,
20 intimidation, or bullying and enhance school climate, impose
21 discipline consistent with the provisions of paragraph (4) of this
22 subsection, order counseling as a result of the findings of the
23 investigation, or take or recommend other appropriate action;

24 (c) the results of each investigation shall be reported to the
25 board of education no later than the date of the board of education
26 meeting next following the completion of the investigation, along
27 with information on any services provided, training established,
28 discipline imposed, or other action taken or recommended by the
29 superintendent;

30 (d) parents or guardians of the students who are parties to the
31 investigation shall be entitled to receive information about the
32 investigation, in accordance with federal and State law and
33 regulation, including the nature of the investigation, whether the
34 district found evidence of harassment, intimidation, or bullying, or
35 whether discipline was imposed or services provided to address the
36 incident of harassment, intimidation, or bullying. This information
37 shall be provided in writing within 5 school days after the results of
38 the investigation are reported to the board. A parent or guardian
39 may request a hearing before the board after receiving the
40 information, and the hearing shall be held within 10 days of the
41 request. The board shall meet in executive session for the hearing
42 to protect the confidentiality of the students. At the hearing the
43 board may hear from the school anti-bullying specialist about the
44 incident, recommendations for discipline or services, and any
45 programs instituted to reduce such incidents;

46 (e) at the next board of education meeting following its receipt
47 of the report, the board shall issue a decision, in writing, to affirm,
48 reject, or modify the superintendent's decision. The board's

1 decision may be appealed to the Commissioner of Education, in
2 accordance with the procedures set forth in law and regulation, no
3 later than 90 days after the issuance of the board's decision; and

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

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

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

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

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

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

35 (12) a requirement that the name, school phone number, school
36 address and school email address of the district anti-bullying
37 coordinator be listed on the home page of the school district's
38 website and that on the home page of each school's website the
39 name, school phone number, school address and school email
40 address of the school anti-bullying specialist and the district anti-
41 bullying coordinator be listed. The information concerning the
42 district anti-bullying coordinator and the school anti-bullying
43 specialists shall also be maintained on the department's website.

44 c. A school district shall adopt a policy and transmit a copy of
45 its policy to the appropriate executive county superintendent of
46 schools by September 1, 2003. A school district shall annually
47 conduct a re-evaluation, reassessment, and review of its policy,
48 making any necessary revisions and additions. The board shall

1 include input from the school anti-bullying specialists in conducting
2 its re-evaluation, reassessment, and review. The district shall
3 transmit a copy of the revised policy to the appropriate executive
4 county superintendent of schools within 30 school days of the
5 revision. The first revised policy following the effective date of
6 P.L.2010, c.122 (C.18A:37-13.1 et al.) shall be transmitted to the
7 executive county superintendent of schools by September 1, 2011.

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

13 (2) The commissioner shall adopt amendments to the model
14 policy which reflect the provisions of P.L.2010, c.122 (C.18A:37-
15 13.1 et al.) no later than 90 days after the effective date of that act
16 and shall subsequently update the model policy as the commissioner
17 deems necessary.

18 e. Notice of the school district's policy shall appear in any
19 publication of the school district that sets forth the comprehensive
20 rules, procedures and standards of conduct for schools within the
21 school district, and in any student handbook.

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

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

26
27 3. This act shall take effect immediately and shall first apply to
28 the first full school year following the date of enactment.
29
30

31 STATEMENT

32
33 This bill modifies certain provisions under the "Anti-Bullying
34 Bill of Rights Act," P.L.2002, c.83 (C.18A:37-13 et seq.).
35 Specifically, the bill amends the law's definition of "harassment,
36 intimidation, or bullying" (HIB) to include incidents that involve a
37 real or perceived imbalance in physical, social, intellectual, or
38 psychological power.

39 The bill also amends current law to require school districts to
40 provide in their policies against HIB that consequences and
41 appropriate remedial actions for a student who commits an act of
42 HIB will take into account the nature of the student's behavior, the
43 developmental age of the student, the student's history of problem
44 behaviors and performance, and the nature of the student's
45 disability, as applicable.

46 Lastly, the bill provides that the procedures for investigating
47 reported violations and complaints under the board of education's
48 policy against HIB may include a process by which the principal, in

1 consultation with the anti-bullying specialist, makes an initial
2 determination as to whether a reported violation or complaint is an
3 act of HIB. If a reported violation or complaint is determined as
4 being an act of HIB, the principal and anti-bullying specialist may
5 assess the level of involvement that an investigation would require
6 by factoring the nature of the behavior, the developmental age of
7 the student, the student's history of problem behaviors and
8 performance, and the nature of the student's disability, as
9 applicable.

10 Lastly, the bill amends current law to require the superintendent
11 of schools to take into account the nature of the student's behavior,
12 the developmental age of the student, the student's history of
13 problem behaviors and performance, and the nature of the student's
14 disability, as applicable, when deciding whether to impose
15 discipline following receipt of the results of an HIB investigation.