



THE ANTI-BULLYING BILL OF RIGHTS

*Focusing on the definition of HIB
and the investigation process.*

Presented at the Sayreville New Teachers' Orientation

Background

- On January 5, 2011, Governor Chris Christie signed into law P.L.2010, Chapter 122, an act concerning HIB in school settings that amended various parts of the statutory law.
- In particular for school policies and procedures, the act amended N.J.S.A. 18A:37-13 et seq., which include the requirements for the prevention and intervention of HIB on and off school grounds, at school-sponsored functions and on school buses.

Why is there a revised law?

- The Legislature specifically stated in *N.J.S.A. 18A:37-13.1* that the Anti-Bullying Bill of Rights is necessary for a number of reasons, including:
 - **32% of students aged 12 through 18 were bullied** in the previous school year.
 - Source: 2009 study by the US DOJ and DOE entitled “*Indicators of School Crime and Safety*”
 - **25% of the responding public schools** indicated that bullying was a **daily or weekly problem**;
 - Source: 2009 study by the US DOJ and DOE entitled “*Indicators of School Crime and Safety*”
 - The percentage of students bullied in New Jersey is **1 percentage point higher than the national median**.
 - Source: 2009 study by the US Centers for Disease Control and Prevention entitled “*Youth Risk Behavior Surveillance*”

What are the purposes and goals of the new law?

- School districts, students, parents, teachers, principals, other school staff and board members would **benefit** from the establishment of **clearer standards** on:
 - What constitutes HIB; and
 - How to prevent, report, investigate and respond to HIB.
- The Legislature intends to **strengthen** the standards and procedures for preventing, reporting, investigating and responding to incidents of HIB (on and off school premises).
- Strengthening standards for preventing, reporting, investigating, and responding to incidents of HIB will help to **reduce the risk of suicide** among students.

Things to Remember

- A main goal is the **prevention** of HIB, and the new law's procedures and policy requirements should assist with that goal.
- **Strictly following** the new law's procedures and related reporting requirements **should** mean that District's potential exposure to liability is **significantly reduced** if not eliminated.
- The distinction between **H**arassment, **I**ntimidation and **B**ullying within the meaning of the law, and harassment, intimidation and bullying that does not fall within the statutory definition.
 - Not every episode of "bullying" will fall under this law, but there are **disciplinary consequences nonetheless**.

HIB defined (breaking it down)

WHAT?

- There must be a **gesture, a written, verbal or physical act, or an electronic communication.**
 - “**Electronic communication**” means a communication transmitted by means of an electronic device, including, but not limited to, a telephone, cellular phone, computer, or pager.
 - This includes e-mail, text messages, *Facebook*, *Twitter*, *Tumblr*, other social networking sites and the like.
- It could be a **single incident or a series of incidents.**

HIB defined (breaking it down)

WHO AND WHY?

- The actions have to be 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 disability).

OR

- by any other distinguishing characteristic.

HIB defined (breaking it down)

WHERE AND WHEN?

- It must take place on school property, at any school-sponsored function, on a school bus,

OR

- Off school grounds as provided for in *N.J.S.A. 18A:37-15.3*, in cases in which a school employee is **made aware of such actions** and subject to the following restrictions:
 - Only when discipline is **reasonably necessary** for the student's physical or emotional safety, security and well-being or for reasons relating to the safety, security or well-being of other students, staff or school grounds, pursuant to *N.J.S.A. 18A:25-2* and *N.J.S.A. 18A:37-2*; and
 - Only when the conduct which is the subject of the proposed consequence **materially and substantially interferes with** the requirements of appropriate discipline in the operation of the school.

HIB defined (breaking it down)

HOW

- It must **substantially disrupt or interfere with** the orderly **operation of the school** or the **rights of other students**

—AND—

- It must meet at least **one** of the following **three additional criteria**:
 - If the actions are such that a reasonable person should know, under the circumstances, will either: (1) have the effect of **physically or emotionally harming** a student OR (2) **damaging the student's property**, OR (3) placing the student in *reasonable fear* of **physical or emotional** harm; OR
 - Has the effect of **insulting or demeaning** any student or group of students; OR
 - 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].

Interpreting the definition: Example No. 1

Kevin and a number of his high school friends are classmates with a new child in school, Oscar. Kevin and his classmates are all friends with Oscar on *Facebook*.

- About a month into the school year, Kevin discovers that Oscar is gay.
- As a result, he stops talking to Oscar, and then tells all of his friends to “de-friend” Oscar on *Facebook* because he is gay; most of them do it.
- When Oscar is trying to figure out why he’s been “de-friended,” a classmate that remained friends with him on *Facebook* explains why.
- Oscar is upset by this and texts Kevin, “Why?” Kevin responds, “don’t send me any more texts u fag.”
- Oscar tells his parents that he is too sick to go to school for two days thereafter. His parents eventually discover what happened, and report this incident to the school principal as an incident of HIB.

Question: Is this HIB?

Interpreting the definition: Example No. 1 (continued)

- Is this HIB? Answer: **Yes.**
 - There was at least one written act and/or gesture;
 - The acts were reasonably perceived as being motivated by an actual or perceived characteristic; and
 - It took place off school grounds, but meets the requirements of the statute.
 - It **substantially disrupted or interfered** with either the orderly operation of the school and/or the rights of other students.
- and**
- It physically or emotionally harmed Oscar, **AND/OR** insulted or demeaned Oscar, **AND/OR** created a hostile educational environment for Oscar.

Interpreting the definition: Example No. 2

- Nunzio and Seamus are walking to class having a conversation. Seamus takes Nunzio's baseball cap, Nunzio asks for it back, but Seamus won't give it to him.
- Nunzio, in trying to get it back, and says, "You better..."
- Seamus says, "Or what? Are you going to get your dad to give me some cement shoes and throw me in the Hudson River? Isn't that how you guys take care of business?"
- Nunzio manages to grab the cap from Seamus and bops Seamus over the head with it. Nunzio laughs at Seamus and says, "You've been watching too much *Sopranos*, you idiot."
- A teacher observing the incident in the hallway admonishes both of them. They go into class together. There are no further issues with the students.
- The teacher, concerned that this may be an incident of HIB, reports it to the Principal.

Question: Is this HIB?

Interpreting the definition: Example No. 2 ***(continued)***

- **Answer: No. This is normal conflict.**
 - There was a verbal and physical act; and
 - It took place on school grounds; and
 - It is reasonably perceived as being motivated by a perceived **characteristic**.

BUT

- There is no substantial disruption or interference with either the orderly operation of the school or the rights of other students.
- Moreover, it doesn't appear that Nunzio was emotionally harmed, felt insulted, or subject to a hostile educational environment.

Interpreting the definition: Example No. 3

- Clark is a newly-enrolled middle school student whose ears are somewhat large for his head.
- Over the period of a few months, his fellow classmates routinely make fun of him because of the size of his ears, calling him “Dumbo,” asking if he can fly with those ears, and other juvenile acts making fun of his appearance.
- Individual students are admonished and/or given detention or other sanctions, but Clark hears it from a different student each time.
- Clark finally decides to stand up to his tormentors, but instead they continue to make fun of him, and call him a “wimp” for complaining about it. They completely ostracize him and leave him out of any activities, and he tells his guidance counselor that he hates coming to school and wishes he could go to school somewhere else.

Question: Is this HIB?

Interpreting the definition: Example No. 3 (continued)

- Answer: **Yes.**
 - There were many verbal and physical act; and
 - It took place on school grounds; and
 - The actions **were** motivated by an **actual characteristic** (in this case, Clark's big ears).
 - There was a substantial disruption or interference with either the orderly operation of the school or the rights of other students (Clark's); and
 - Clark felt insulted and demeaned by the actions of his classmates, and suffered emotional harm.

Is it HIB or just “conflict?”

- **Keys:**
 - **Know** the definition and **all of its component parts**, the most important of which are:
 - **Motivated by** an actual or perceived distinguishing characteristic
 - **Substantial disruption or interference** with either the orderly operation of the school or the rights of other students.
 - The result: (a) causes physical or emotional harm **or** (b) is insulting or demeaning **or** (c) creates a hostile educational environment
 - **Ask** the **correct questions** to ensure that we elicit information that identifies whether or not all parts of the definition have been met.
 - **Analyze** all of the information gathered in light of the definition’s various components.

Reporting Timelines

- **Reporting Timelines**

- All acts of HIB shall be reported **verbally to the school principal on the same day** when the school employee or contracted service provider witnessed or received reliable information regarding any such incident. **The principal shall inform the parents or guardians of all students involved** in the alleged incident, and may discuss, as appropriate, the availability of counseling and other intervention services.
- All acts of HIB shall be reported **in writing to the school principal within two school days** of when the school employee or contracted service provider witnessed or received reliable information that a student had been subject to HIB.

The School Anti-Bullying Specialist

- Appointed by the Principal in each school.
- Responsible for chairing the **School Safety Team**.
- Responsible for **leading 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.

The District Anti-Bullying Coordinator

- Responsibilities include:
 - **Coordinating and strengthening** the school district's policies to prevent, identify, and address HIB of students;
 - **Collaborating** with school anti-bullying specialists in the district, the board of education, and the Superintendent of Schools to prevent, identify, and respond to HIB of students;
 - **Provide data**, in collaboration with the superintendent of schools, to the Department of Education regarding HIB of students; and
 - Executing such **other duties** related to school HIB as requested by the Superintendent of Schools.
 - **Meeting** at least **twice a school year** with the school anti-bullying specialists in the district to discuss and strengthen procedures and policies to prevent, identify, and address HIB in the district.

The School Safety Team

- The law requires that each school have a School Safety Team to **develop, foster, and maintain a positive school climate** by focusing on the on-going, systemic process and practices in the school and to address school climate issues such as HIB.
- Shall meet **at least two times** per school year.
- The **School Anti-Bullying Specialist** shall serve as the chair of the School Safety Team.



