

CHAPTER 338

AN ACT concerning bullying, revising various parts of the statutory law, and supplementing Title 2A and Title 18A of the New Jersey Statutes.

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

1. Section 1 of P.L.2013, c.272 (C.2C:33-4.1) is amended to read as follows:

C.2C:33-4.1 Crime of cyber-harassment.

1. a. A person commits the crime of cyber-harassment if, while making one or more communications in an online capacity via any electronic device or through a social networking site and with the purpose to harass another, the person:

- (1) threatens to inflict injury or physical harm to any person or the property of any person;
- (2) knowingly sends, posts, comments, requests, suggests, or proposes any lewd, indecent, or obscene material to or about a person with the intent to emotionally harm a reasonable person or place a reasonable person in fear of physical or emotional harm to his person; or
- (3) threatens to commit any crime against the person or the person's property.

b. Cyber-harassment is a crime of the fourth degree, unless the person is 21 years of age or older at the time of the offense and impersonates a minor for the purpose of cyber-harassing a minor, in which case it is a crime of the third degree.

c. If a minor under the age of 16 is adjudicated delinquent for cyber-harassment, the court may order as a condition of the sentence that the minor, accompanied by a parent or guardian, complete, in a satisfactory manner, one or both of the following:

- (1) a class or training program intended to reduce the tendency toward cyber-harassment behavior; or
- (2) a class or training program intended to bring awareness to the dangers associated with cyber-harassment.

d. A parent or guardian who fails to comply with a condition imposed by the court pursuant to subsection c. of this section is a disorderly person and shall be fined not more than \$100 for a first offense and not more than \$500 for each subsequent offense.

e. The trier of fact may infer that a person acted with a purpose to harass another if the person knows or should have known that any of the person's actions constituting an offense under this section are knowingly directed to or are about a judicial officer, and there is a nexus between the offense and relates to the performance of the judge's public duties. For the purposes of this subsection, "judicial officer" has the same meaning as defined in section 1 of P.L.1995, c.23 (C.47:1A-1.1).

f. In addition to any other disposition or condition imposed pursuant to this section, a parent or guardian having legal custody of a minor who demonstrates willful or wanton disregard in the exercise of the supervision and control of the conduct of a minor adjudicated delinquent of cyber-harassment pursuant to this section may be liable in a civil action pursuant to section 4 of P.L.2021, c.338 (C.2A:53A-17.1).

2. Section 1 of P.L.1982, c.163 (C.18A:17-46) is amended to read as follows:

C.18A:17-46 Reporting of certain acts by school employee; report; public hearing.

1. Any school employee observing or having direct knowledge from a participant or victim of an act of violence shall, in accordance with standards established by the commissioner, file a report describing the incident to the school principal in a manner prescribed by the commissioner, and copy of same shall be forwarded to the district superintendent.

The principal shall notify the district superintendent of schools of the action taken regarding the incident. Two times each school year, between September 1 and January 1 and between January 1 and June 30, at a public hearing, the superintendent of schools shall report to the board of education all acts of violence, vandalism, and harassment, intimidation, or bullying which occurred during the previous reporting period. The report shall include the number of reports of harassment, intimidation, or bullying, the status of all investigations, the nature of the bullying based on one of the protected categories identified in section 2 of P.L.2002, c.83 (C.18A:37-14), the names of the investigators, the type and nature of any discipline imposed on any student engaged in harassment, intimidation, or bullying, and any other measures imposed, training conducted, or programs implemented, to reduce harassment, intimidation, or bullying. The information shall also be reported once during each reporting period to the Department of Education. The report must include data broken down by the enumerated categories as listed in section 2 of P.L.2002, c.83 (C.18A:37-14), and data broken down by each school in the district, in addition to district-wide data. It shall be a violation to improperly release any confidential information not authorized by federal or State law for public release.

The report shall be used to grade each school for the purpose of assessing its effort to implement policies and programs consistent with the provisions of P.L.2002, c.83 (C.18A:37-13 et seq.). The district shall receive a grade determined by averaging the grades of all the schools in the district. The commissioner shall promulgate guidelines for a program to grade schools for the purposes of this section.

The grade received by a school and the district shall be posted on the homepage of the school's website. The grade for the district and each school of the district shall be posted on the homepage of the district's website. A link to the report shall be available on the district's website. The information shall be posted on the websites within 10 days of the receipt of a grade by the school and district.

If a school district's policy permits a preliminary determination to be made on whether a reported incident or complaint is a report outside the scope of the definition of harassment, intimidation, or bullying pursuant to section 2 of P.L.2002, c.83 (C.18A:37-14), the superintendent shall also provide annually to the board of education information on the number of times a preliminary determination was made that an incident or complaint was outside the scope of that definition for the purposes of the State's monitoring of the school district.

Verification of the reports on violence, vandalism, and harassment, intimidation, or bullying shall be part of the State's monitoring of the school district, and the State Board of Education shall adopt regulations that impose a penalty on a school employee who knowingly falsifies the report. A board of education shall provide ongoing staff training, in cooperation with the Department of Education, in fulfilling the reporting requirements pursuant to this section. The majority representative of the school employees shall have access monthly to the number and disposition of all reported acts of school violence, vandalism, and harassment, intimidation, or bullying.

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

C.18A:37-15 Adoption of policy concerning harassment, intimidating or bullying by each school district.

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

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

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

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

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

(4) consequences and appropriate remedial action for a person who commits an act of harassment, intimidation or bullying. The consequences for a student who commits an act of harassment, intimidation, or bullying may include: for the first act of harassment, intimidation, or bullying committed by a student, a copy of the results of the investigation shall be placed in the student's record and the student may be subject to remedial actions, including the provision of counseling or behavioral intervention services, or discipline, or both, as determined by the principal in consultation with appropriate school staff; for the second act, a copy of the results of the investigation shall be placed in the student's record and the student may be subject to remedial actions, including the provision of counseling or behavioral intervention services, or discipline, or both, as determined by the principal, in consultation with appropriate school staff; and for the third and each subsequent act, a copy of the results of the investigation shall be placed in the student's record, and the principal, in consultation with appropriate school staff, shall develop an individual student intervention plan which shall be approved by the superintendent of schools or the superintendent's designee, and may include remedial actions including counseling or behavioral intervention services, or progressive discipline, or both, and may require the student, accompanied by a parent or guardian, to complete in a satisfactory manner a class or training program to reduce harassment, intimidation or bullying behavior.

The superintendent of schools or the superintendent's designee and the principal shall consult law enforcement, as appropriate, pursuant to the provisions of the Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials, if the student's behavior may constitute a possible violation of the New Jersey Code of Criminal Justice;

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

All acts of harassment, intimidation, or bullying 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. The principal shall keep a written record of the date, time, and manner of notification to the parents or guardians. All acts of harassment, intimidation, or bullying 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 harassment, intimidation, or bullying. The written report shall be on a numbered form developed by the Department of Education. A copy of the form shall be submitted promptly by the principal to the superintendent of schools. The form shall be completed even if a preliminary determination is made under the school district's policy that the reported incident or complaint is a report outside the scope of the definition of harassment, intimidation, or bullying pursuant to section 2 of P.L.2002, c.83 (C.18A:37-14), and shall be kept on file at the school but shall not be included in any student record, unless the incident results in disciplinary action or is otherwise required to be contained in a student's record under State or federal law. A redacted copy of the form that removes all student identification information shall

be confidentially shared with the board of education after the conclusion of the investigation, if a hearing is requested by a parent or guardian pursuant to subparagraph (d) of paragraph (6) of this subsection.

The school district shall provide a means for a parent or guardian to complete an online numbered form developed by the Department of Education to confidentially report an incident of harassment, intimidation, or bullying.

The principal shall report to the superintendent if a preliminary determination is made under the school district's policy that the reported incident or complaint is a report outside the scope of the definition of harassment, intimidation, or bullying, and the superintendent may require the principal to conduct an investigation of the incident, if the superintendent determines that an investigation is necessary because the incident is within the scope of the definition of harassment, intimidation, or bullying. The superintendent shall notify the principal of this determination in writing;

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

(a) the investigation shall be initiated by the principal or the principal's designee within one school day of the report of the incident and shall be conducted by a school anti-bullying specialist. The principal may appoint additional personnel who are not school anti-bullying specialists to assist in the investigation. The investigation shall be completed as soon as possible, but not later than 10 school days from the date of the written report of the incident of harassment, intimidation, or bullying or from the date of the written notification from the superintendent to the principal to initiate an investigation pursuant to paragraph (5) of this subsection. In the event that there is information relative to the investigation that 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 the information;

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

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

(d) parents or guardians of the students who are parties to the investigation shall be entitled to receive information about the investigation, in accordance with federal and State law and regulation, including the nature of the investigation, whether the district found evidence of harassment, intimidation, or bullying, or whether discipline was imposed or services provided to address the incident of harassment, intimidation, or bullying. This information shall be provided in writing within 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 shall be held within 10 days of the request. The board shall meet in executive session for the hearing to protect the confidentiality of the students. At the hearing 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;

(e) at the next board of education meeting following its receipt of the report pursuant to subparagraph (c) of paragraph (6) of this subsection, the board shall issue a decision, in writing, to affirm, reject, or modify the superintendent's decision. The board's decision may be appealed to the Commissioner of Education, in accordance with the procedures set forth in law and regulation, no later than 90 days after the issuance of the board's decision; and

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

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

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

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

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

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

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

(13) a requirement that the school district and each school in the district with a website post on its homepage the current version of the document, Guidance for Parents on the Anti-Bullying Bill of Rights Act, developed by the Department of Education. The School Climate State Coordinator shall ensure that this document is updated as needed and then promptly disseminated to all school districts.

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

d. (1) To assist school districts in developing policies for the prevention of harassment, intimidation, or bullying, the Commissioner of Education shall develop a model policy applicable

to grades kindergarten through 12. This model policy shall be issued no later than December 1, 2002.

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

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

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

C.2A:53A-17.1 Liability of parent or guardian.

4. Notwithstanding any other provision of law to the contrary, a parent or guardian having legal custody of a minor who demonstrates willful or wanton disregard in the exercise of the supervision and control of the conduct of a minor adjudicated delinquent of cyber-harassment, pursuant to section 1 of P.L.2013, c.272 (C.2C:33-4.1), or harassment, pursuant to N.J.S.2C:33-4, may be liable in a civil action.

C.18A:37-37.1 School Climate State Coordinator, established.

5. There is hereby established within the Department of Education a School Climate State Coordinator to serve as a resource to parents, students, and educators. The duties and responsibilities of the State coordinator shall include:

a. Identifying and disseminating research and resources, including professional development resources, to promote best practices in student social-emotional learning and the development of a positive, supportive school climate in New Jersey schools;

b. Providing information regarding the provisions and procedures of the "Anti-Bullying Bill of Rights Act," P.L.2002, c.83 (C.18A:37-13 et seq.), and regulations promulgated thereto, relevant provisions of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), and other State and federal laws addressing harassment, intimidation, and bullying;

c. Reviewing and reporting data collected on harassment, intimidation and bullying pursuant to section 1 of P.L.1982, c.163 (C.18A:17-46) to identify and report to the Department of Education any patterns of harassment, intimidation, or bullying in public schools. The department shall review the information provided by the State coordinator to develop guidance and strategies for public schools, parents, school staff, and other agencies, as appropriate;

d. Assisting the Department of Education in creating public information programs that educate parents, educators, and the public concerning the duties of the State coordinator, the issue of harassment, intimidation, and bullying, and the resources available to address and prevent harassment, intimidation, and bullying;

e. Working collaboratively with law enforcement, the Department of Education, the Division on Civil Rights in the Department of Law and Public Safety, and the Department of Health to develop a training program on the impact of harassment, intimidation, and bullying on students and schools, that will be available for school districts to use in local anti-bullying programs and intervention plans;

f. Working collaboratively with law enforcement, including organizations representing school resource officers, to develop resources and training for law enforcement concerning the impact of harassment, intimidation, and bullying on students and schools, and the appropriate

role of law enforcement in such matters pursuant to the Uniform Memorandum of Agreement Between Education and Law Enforcement Officials; and

g. Annually providing to the Commissioner of Education, the State Board of Education, and pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) the Legislature, a report summarizing the activities of the State coordinator, and any specific recommendations concerning school climate best practices and procedures.

C.18A:37-37.2 Confidentiality.

6. The School Climate State Coordinator shall consider communications received in the course of his duties, including personally identifiable information regarding students, parents, and others from whom information is acquired, as confidential and shall not disclose this information, in accordance with State and federal law.

C.18A:37-37.3 Contact information for School Climate State Coordinator.

7. The Department of Education shall post in a prominent location on the homepage of its Internet website the contact information for the School Climate State Coordinator. Each school district shall post this information on its website at the same location it makes its policy on harassment, intimidation, and bullying available.

C.18A:37-37.4 State assistance for School Climate State Coordinator.

8. The School Climate State Coordinator is authorized to call upon any department, office, division, or agency of the State to supply the State coordinator with data and any other information or assistance available to the department, office, division, or agency as the State coordinator deems necessary to discharge the duties under P.L.2021, c.338 (C.2A:53A-17.1 et al.). Each department, office, division, or agency, to the extent not inconsistent with law, shall cooperate fully with the State coordinator within the limits of its statutory authority, and provide such assistance on as timely a basis as is necessary to enable the State coordinator to accomplish his duties pursuant to P.L.2021, c.338 (C.2A:53A-17.1 et al.). The State coordinator may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of the State coordinator's mission.

C.18A:37-37.5 Funding of School Climate State Coordinator position.

9. The Legislature shall appropriate such monies as necessary to fund the position of School Climate State Coordinator established pursuant to section 5 of P.L.2021, c.338 (C.18A:37-37.1), and the "Bullying Prevention Fund" established pursuant to section 25 of P.L. 2010, c.122 (C.18A:37-28), and such other monies as necessary to implement the provisions of this act.

10. Sections 1 and 4 of this act shall take effect immediately and the remainder of this act shall take effect on July 1 of the first full school year following the date of enactment , or 180 days following the date of enactment, whichever is later.

Approved January 10, 2022.