



NJPSAFE

LEGAL ONE —

*Law, Ethics and Governance for All Leaders, including an
Overview of New and Emerging Issues*

Chesterfield Township School District: HIB Law Update

Admin Training: July 26, 2023

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HIB Defined

- **The gesture, act or communication is reasonably perceived to be motivated by any actual or perceived characteristic:**
 - Race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, mental, physical or sensory disability or any other distinguishing characteristic
 - ***“Other Distinguishing Characteristic” is broadly interpreted***
 - *Vegetarianism, lice, quiet, new kid, parents, etc.*
 - *HOWEVER, need evidence to support conclusion regarding characteristic, can’t simply check “Other”*

HIB Defined

The Gesture, Act or Communication:

Substantially disrupts/interferes with the orderly operation of school or rights of other students

- Substantial disruption only has to be for one student. Can be dramatic or more subtle (change in demeanor, increased fear/anxiety)
- Needs to be more than a momentary annoyance

HIB Defined

- One of these three:
 - Has effect of--or creates reasonable fear of-- physical/emotional harm to student or damage to student's property, or
 - Has effect of insulting/ demeaning any student or group of students, or
 - Creates a hostile educational environment for the student by interfering with student's education or by severely or pervasively causing him/her physical or emotional harm.

Unpacking the HIB Definition

Bullying v. Conflict

- During a conflict, name-calling, threats and other conduct that might look like bullying can occur. However, a conflict and bullying are very different.
- Unlike bullying, during a conflict people are equally involved in some type of disagreement. Conflict is considered mutual, meaning everyone is more or less evenly involved.
 - HIB is primarily one-sided, but not always 100% one-sided
 - Incident may be HIB first, then become conflict or vice versa

NJDOE Forms for Reporting HIB

- Broadcast memo with Updated 338 forms:
<https://www.nj.gov/education/broadcasts/2023/july/19/ReleaseofHIB338Formsforthe2023-2024SchoolYear.pdf>
- See NJDOE Broadcast Email – 8/29/22
 - Implementing Amendments to the Anti-Bullying Bill of Rights Act
 - Includes Revised Model Policy

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Investigation Steps



- **KNOW YOUR STANDARD OPERATING PROCEDURES!**
- HIB complaint filed (**Staff must report incident on day it occurs, follow up in writing**)
- Principal initiates investigation and responds to Code of Conduct issues (Key Q - Is this an allegation of HIB?)
- ABS leads investigation (10 school days to complete)
- ABS writes HIB Report (within 2 school days of completing investigation)
- Superintendent signs off on HIB response
- Board informed of incident
- Parent/Guardian notified of outcome, right to hearing (within 5 days of school board being informed)
- Hearing occurs if requested
- BOE votes to affirm, reject or modify
- Parent retains rights to appeal, pursue other legal avenues

Receiving Allegations

- Students
- Parents
- **Staff Members**
- Law Enforcement
- Others (shared time schools, APSSDs, community organizations, other school districts)
- Anonymous

Students

- May report to any staff member or volunteer
- May report incident verbally and/or in writing
 - Always try to get a written student statement
- May describe allegations without using the words “harassment” “intimidation” or “bullying”
- No deadline on making a report
- May report incident anonymously

Parents

- Should be encouraged to submit written allegations, but can't be required to do so
- If parent describes alleged behavior that meets HIB definition, investigation must be launched, even if parent doesn't want that to occur
- Parents should be advised about the law, district policy and their due process rights
- Information should be prominently displayed on website on how to report alleged HIB

Staff Members

- **Must report incident verbally to the principal the same day it occurs**
 - E.g., alleged incident occurs during evening school function, needs to be reported to principal or designee that evening, not the next day
 - Ideally verbal report should happen in short time span, not waiting many hours (district is allowed to have higher standard if it chooses)
- Must follow up in writing within 2 school days of the verbal report
 - Ideally written statement(338 form) should be provided same day or next day(Please reach out to counselors or principal prior to filling out the 338 form.
- Cannot report anonymously
- May trigger required report by district to law enforcement

HIB DEFINED

WHEN TRYING TO DETERMINE IF AN INCIDENT IS **HIB**, COMPARE IT AGAINST THE DEFINITION.

DOES THE INCIDENT MEET ALL OF THE FOLLOWING?

- ✓ Harassment, Intimidation, or bullying means any gesture, any written, verbal or physical act, or any electronic communications, whether it be a single incident or a series of incidents that:
- ✓ ... is reasonably perceived as being motivated 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; and that takes place on school property, at any school sponsored function, on a school bus, or off school grounds that substantially disrupts or interferes with the orderly operation of the school or the rights of other students
- ✓ ... takes place on school property, at any school sponsored function, or off school grounds
- ✓ ... substantially disrupts or interferes with the orderly operation of the school or the rights of other students

AND, DOES IT MEET ONE OF THESE?

- ✓ A reasonable person should know, under the circumstances, that the act(s) will have the effect of physically or emotionally harming a pupil or damaging the pupil's property, or placing a pupil in reasonable fear of physical or emotional harm to his/her person or damage to his/her property
- ✓ Has the effect of insulting or demeaning any student or group of students
- ✓ Creates a hostile educational environment for the pupil by interfering with a pupil's education or by severely or pervasively causing physical or emotional harm to the student

Continue...



Chesterfield Township School District

The information you enter on this site will be used to complete a digital 338 Form. A 338 LEA Form will be used if you specify you are a staff member. A 338 Family Form will be used for 338 LEA Form for more information.

PLEASE NOTE: This form is being submitted to an electronic queue for investigation. There is no guarantee that it will be read immediately. In the event that you or the student is in imminent danger, please contact the appropriate authorities.

Select HIB 338 Form

Are you a family member, student, or a staff member?

☐ Family / Student / Non-Staff ☒ Staff

School:

Chesterfield Elementary

Individual Completing Form

If you prefer to remain anonymous, leave this section blank.

First Name:

Last Name:

Phone Number:

Email address:

Role in School (For Staff):

Incident Information