

# The Nuts and Bolts of New Jersey's HIB Law

Tewksbury School District

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*Presented By*

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# THE TOUGHEST ANTI-BULLYING LAW IN THE U.S.:

1. Zero-Tolerance approach to H.I.B.
2. Purpose of the law is *prevention* not reaction.
3. Cases often involve multiple aggressors and multiple victims.
4. Definition of H.I.B. is complicated with many criteria.
5. The law deals with off-campus conduct.
6. A significant amount of administrative time and resources are monopolized by the law.

# Breaking down the definition of H.I.B.:

- "Harassment, intimidation or bullying" means:
- (WHAT?) any gesture, any written, verbal or physical act, or any *electronic communication*
- (HOW OFTEN?) whether it be by a single incident or series of incidents
- (PERCEIVED AS MOTIVATED BY WHAT?) that is reasonably perceived as being motivated either by any actual or perceived characteristic,

# Breaking down the definition of H.I.B. cont.:

- (BASED ON WHAT CHARACTERISTICS?) 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,*
- (WHERE & WHEN?) that takes place on school property, at any school-sponsored function or on a school bus or off school grounds . . .
- (THAT DOES WHAT?) that substantially disrupts or interferes with the orderly operation of the school or the rights of other students and that:

# Meets 1 of the 3 additional criteria:

- a) a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or damaging the student's property, or placing a student in reasonable fear of physical or emotional harm to his person or damage to his property; or
- b) has the effect of insulting or demeaning any student or group of students; or
- c) 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.

# Distinguishing Characteristic

1. "Vegetarians are stupid." C.C. v. Montgomery BOE
2. Student was short and "sucked at basketball." S.C. v. Jefferson BOE.
3. Student dyed her hair because of head lice. W.C.L. v. Tenafly BOE.
4. (Skinny) student repeatedly called "fat" and "fat ass." R.G.B. v. Ridgewood BOE.
5. Student made fun of another student's hair, telling victim it made him look like Donald Trump. N.U. v. Mansfield BOE.

# *Substantial* Disruption

- Substantial disruption means more than the target being upset.
- Can be dramatic or more subtle (change in demeanor, increased fear/anxiety, drop in grades, attendance, etc.)
- Must be more than a “momentary annoyance.”

Wehbeh v. Verona BOE – Commissioner holds that one can unintentionally commit act of HIB because the focus is on whether the victim *reasonably* perceives that an action was motivated by an actual, perceived or other distinguishing characteristic.





# 2022-23 Statistics:

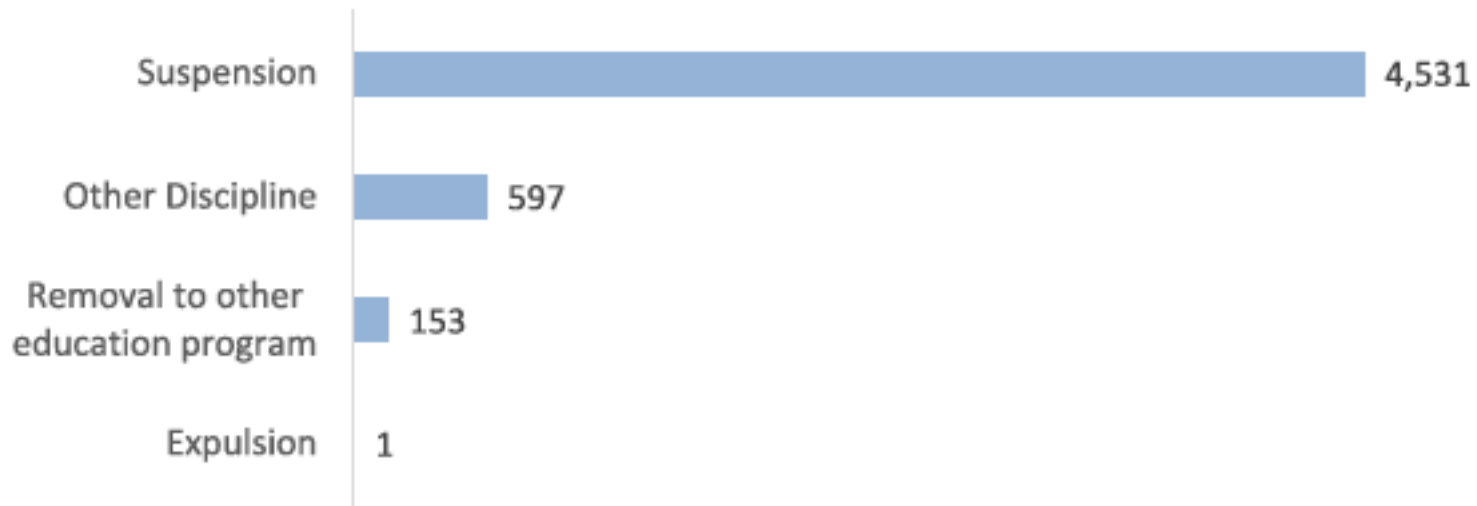
- Districts conducted 22,022 investigations into reported HIB offenses (up by about 5,000 from the year before).
- 9,077 confirmed to be HIB
- 80% occurred on school grounds.
- 10% off school grounds
- 10% were both.



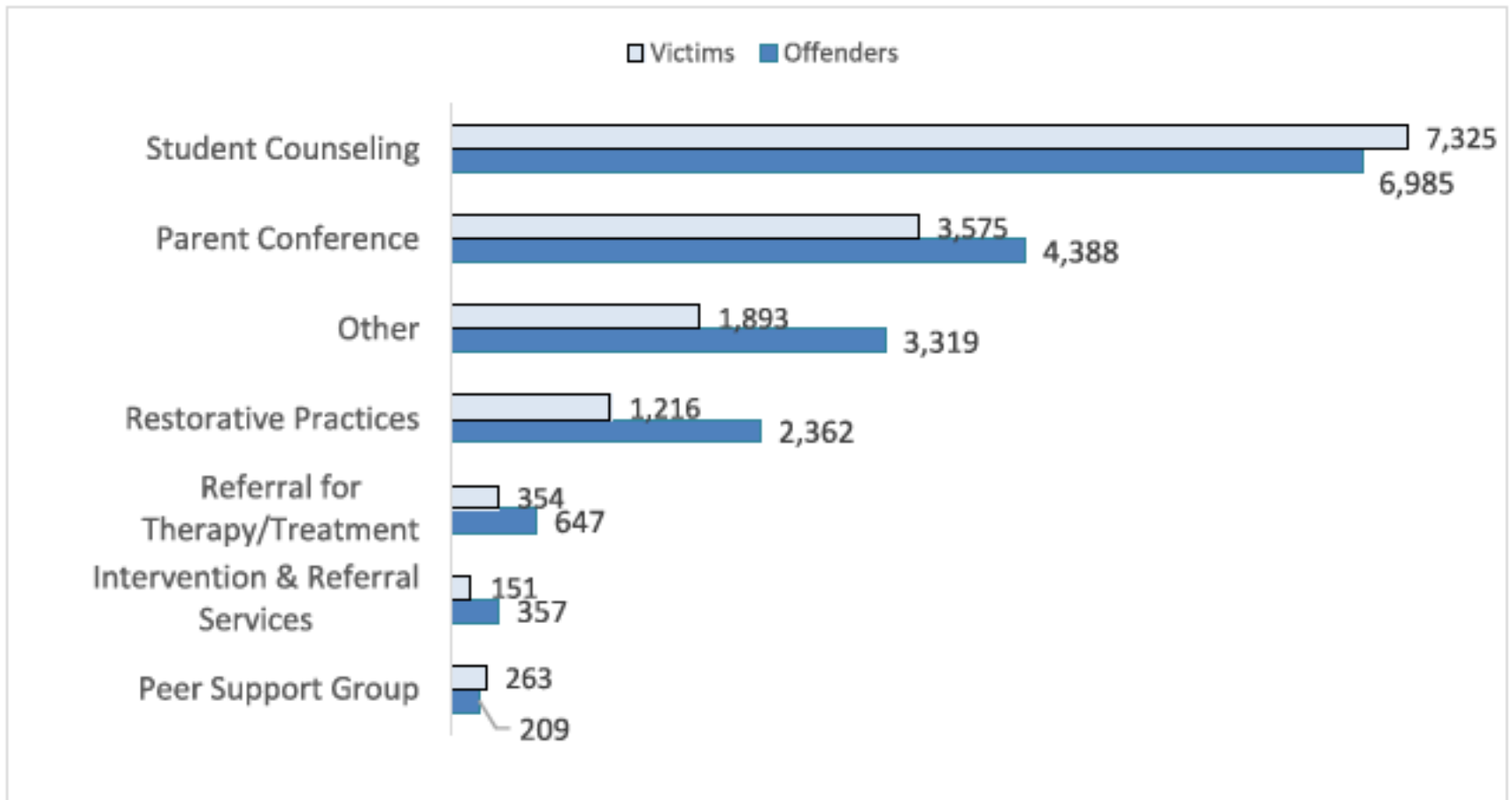
# Why Pupils Were Targets:

<b>CATEGORY</b>	<b># of confirmed cases</b>
<b>Race/Color</b>	<b>2407</b>
<b>Religion</b>	<b>305</b>
<b>Ancestry/Origin</b>	<b>539</b>
<b>Sexual Orientation</b>	<b>938</b>
<b>Gender</b>	<b>1099</b>
<b>Mental, Physical or Sensory Disability</b>	<b>849</b>
<b>Other Distinguishing Characteristics</b>	<b>4519</b>

# HIB Disciplinary Actions:



# HIB Remedial Actions:



# Legal Reporting Obligations:

- Anyone who has witnessed, or has reliable information that a student has been subject to H.I.B. shall report the incident to the anti-bullying specialist, or to any school administrator or safe schools resource officer, who shall immediately initiate the school district's procedures concerning school bullying;



# Standards & Procedures for Reporting and Investigating H.I.B.:

- 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 H.I.B.
- In the event 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.

## Report to the Board of Education:

- The results shall be reported to the board no later than the board meeting which follows the completion of the investigation, along with information on any services provided, training established, or discipline imposed, or other action taken or recommended by the Superintendent.

## Report to Parents:

- Within 5 days after the results are reported to the board, the parents or guardians of the students who are parties to the investigation shall be entitled to receive information about the investigation, including:
  - (1) the nature of the investigation;**
  - (2) whether the district found evidence of H.I.B.**
  - (3) whether discipline was imposed; and/or**
  - (4) services provided to address the incident of H.I.B.**



## Board-level Hearing:

- 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.
- Any request by the parents or guardians for a hearing before the district board of education shall be filed with the district board of education secretary no later than 60 calendar days after the written information is received by the parents or guardians.



# BOE Role at Hearing

- The Board's role is to listen to the appeal and determine, following the presentation, whether policy was followed, due process provided and if the criteria for HIB were properly applied.
- Board's role is not to second-guess the investigation methodology, who was interviewed, evidence considered, credibility findings, etc. UNLESS there is a glaring error which renders the ABS's determination arbitrary, capricious and unreasonable.

## Board Vote to Accept Report:

- Following the hearing the board shall issue a decision, in writing, to affirm, reject, or modify the ABS's decision. The board's decision may be appealed to the Commissioner of Education.



## To Summarize:

- Be proactive in preventing the H.I.B. before it starts with training and education for staff and students.
- When faced with a situation involving H.I.B., a timely investigation is required.
- To find that something constitutes HIB all of the pertinent criteria must be satisfied and noted in the report.
- Your decisions are entitled to deference by the DOE, so long as they are not arbitrary, capricious and unreasonable.
- Ongoing monitoring of the situation is important.
- Document, document, document!!

# QUESTIONS?



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