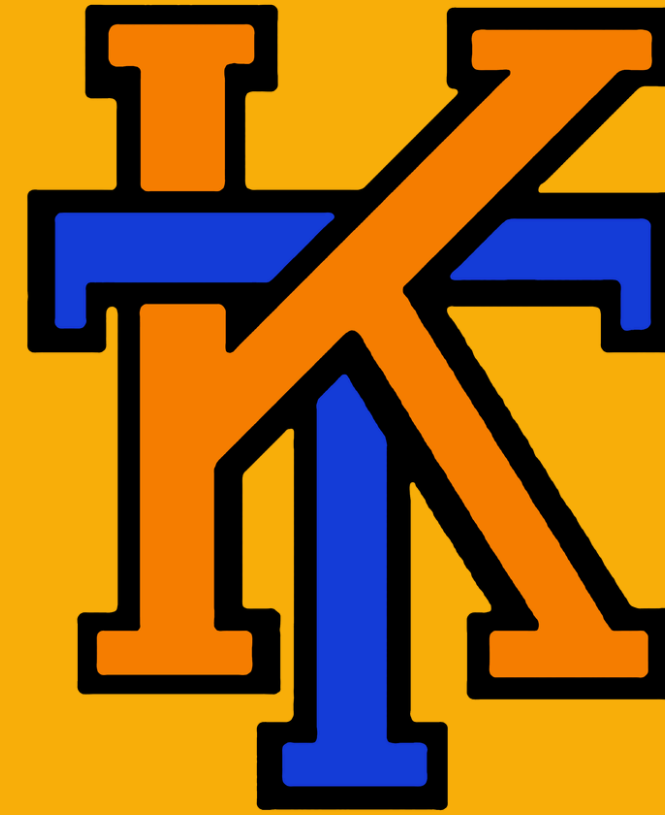


March 25, 2026

HIB LAW UPDATE



A review of basic HIB guidelines and
new updates

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OVERVIEW



- HIB Definition and Laws
 - Bullying v. Conflict
 - School Safety/Climate Team
 - Legislative Update
- Scenarios
- LGBTQ Students and Free Speech Issues
- Scenarios
- Receiving Allegations and Launching an HIB Investigation
- Investigations and HIB Reports
- Case Law

GROUP DISCUSSION

What trends are you seeing in your school and districtwide related to HIB?

What impact does the Anti-Bullying Bill of Rights have on student safety? On your ability to address other critical priorities?

What factors are driving the large number of reports of alleged HIB?

What steps can be taken to reduce HIB allegations and confirmed cases?



HIB DEFINED



- Can include gestures, written, verbal & physical acts, & electronic communication
- May be single or series of incidents
- Can take place on school property, school-sponsored function or school bus, or off school grounds





DETERMINING HIB



- 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”*

01

Did an act occur?

02

Was this a single incident? Reciprocated?

03

Did it effect student’s schooling?

04

Was there a evidence supported characteristic?



HIB LAW UPDATES

2022 Amendments (still governing practice)

Key impacts:

- Required use of standardized NJDOE reporting forms (HIB 338 forms)
- Reinforced timelines:
 - Same-day verbal report
 - Written report within 2 school days
 - Investigation within 10 school days
- Required policy updates and public posting requirements
- Expanded accountability for staff, volunteers, and contractors

These are still the operative “new” legal requirements districts are working under.





Case law is tightening what “counts” as HIB

Recent Commissioner decisions are clarifying the definition in practice.

Key takeaway for stakeholders:

- HIB requires ALL elements:
- Distinguishing characteristic
- Substantial disruption or interference
- Harm, insult, or hostile environment

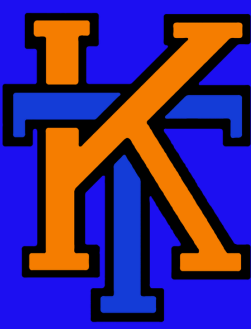
If one is missing, it is not HIB (even if the behavior is inappropriate).

Implication:

- Increase in “code of conduct, not HIB” determinations
- Administrators must clearly articulate the characteristic link

NEW DEVELOPMENTS





NEW DEVELOPMENTS



“Reasonable perception” standard is being emphasized

Recent rulings reinforce:

- Intent is NOT required
- Focus is on whether a reasonable person would perceive the act as characteristic-based

Implication:

- Students can commit HIB without explicit intent
- Staff must analyze impact and perception, not just motivation



NEW DEVELOPMENTS



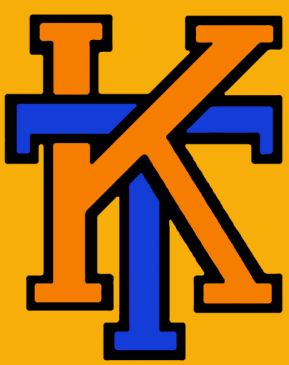
Broader interpretation of victim status

Recent decisions confirm:

- A student can be a victim even if not the intended target
- Incidents can be reported by third-party bystanders

Implication:

- Expands the scope of investigations
- Reinforces need for strong documentation



HIB & ADULTS

HIB is not:

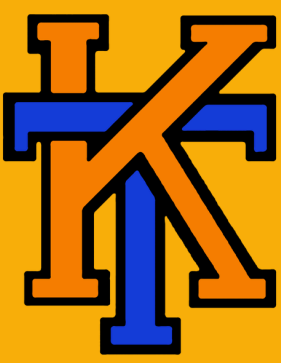
- Adult v. Adult
 - Issues for the Human Resources Department and/or AAO.
- Student Aggressor v. Adult Victim
 - Code of Conduct Violation / Possible HR/AAO Issue

HIB may exist if:

- Student v. Student
- Student Victim v. Adult Aggressor
 - Remember both may also require AAO Involvement and/or be Code of Conduct Violations

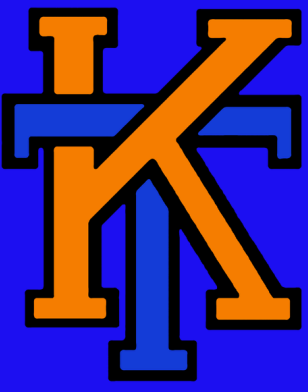
PROCESS & PROCEDURE





Communicating with Parents

- Critical to communicate throughout the process
- Notice that their child may have been involved in incident
- Explanation of investigation process
- Notice when investigation completed, and when the BOE will be advised
- Explanation of due process rights
- Review parental rights to access info from investigation
- **HOWEVER**, no right to be present for student interviews – See *Goss v. Lopez*



After Alleged Incident

- The principal informs the parent verbally
 - Ideally, before the student goes home
- May be after ABS has interviewed the child, no need for prior parent notice or permission
- Parents should be informed if:
 - The student was the alleged victim or aggressor
 - Actual or perceived characteristic
 - Additional information on a case-by-case basis if necessary to protect student safety
 - Explain the HIB Investigation and Appeal Process
- Resist temptation to give detailed account at outset, since facts are not yet known



Status Updates

- Do not provide daily status updates during an ongoing investigation
- Indicate district is conducting thorough investigation, gathering relevant information
- Reiterate process and parental rights rather than describing what you think you know at that moment
- Principal should shield ABS from directly responding to parent during and after the investigation



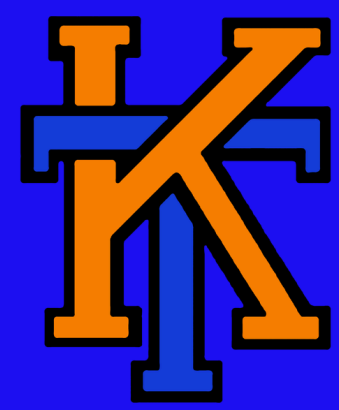
Completion of Investigation

- ABC and Superintendent should sign off, ensure their questions are answered
- Not required, but best practice to inform parents that investigation has been completed, the conclusion reached by the ABS, and when case will be presented to BOE
- If discipline was imposed on another student, although not the specifics of the discipline
- If there was a Code of Student Conduct violation EVEN IF not HIB



BOE Hearing/Appeal

- Closed session
- Opportunity for parent to present any evidence it wishes BOE to consider
- Factual evidence on alleged incident
- Mitigating factors/Context
- Evidence regarding investigation process
- No requirement to allow parent or attorney to cross examine witnesses

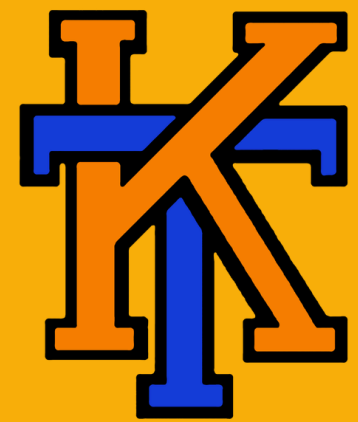


PRELIMINARY DETERMINATION



Keansburg School District does not use Preliminary Determination
All claims of alleged HIB are investigated by ABS

SCENARIOS



Scenario 1: The Group Chat Comment

A student sends a message in a group chat saying:

“Of course you messed that up, you’re ESL.”

The message is shared among classmates and brought to school the next day. The targeted student is upset and avoids class participation.

Outcome: HIB

Why:

- Distinguishing characteristic: National origin / language status
- Reasonable perception standard applies
- Disruption: Student withdrawal from participation
- Meets all 3 prongs



Scenario 2: "You're Trash at Basketball"

During gym, one student repeatedly tells another:

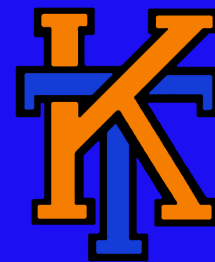
"You're trash. You suck. Quit the team."

No reference to any protected or distinguishing characteristic.

Outcome: Not HIB (Code of Conduct)

Why:

- No distinguishing characteristic
- Behavior is inappropriate and possibly harassment
- Falls under discipline, not HIB



Scenario 3: The Hoodie Incident

A student wears a hoodie with a religious symbol. Another student says:

“That’s weird. People like you are brainwashed.”

Peers laugh. The student later reports feeling targeted and embarrassed.

Outcome: HIB

Why:

- Distinguishing characteristic: Religion
- Public humiliation contributes to hostile environment
- Meets disruption and harm standard



Scenario 4: Off-Campus Snapchat Post

A student posts a video at home mocking another student's weight and tagging them. The video spreads among students and leads to teasing in school the next day.

Outcome: HIB

Why:

- Off-campus is covered if it substantially disrupts school
- Distinguishing characteristic: Physical appearance (weight)
- Clear school-day impact



Scenario 5: Mutual Argument in Hallway

Two students argue loudly:

“You started it.”

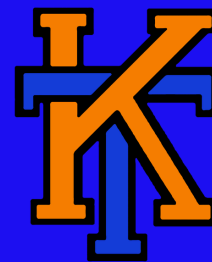
“No, you did.”

There is name-calling, but nothing tied to identity or characteristics.

Outcome: Not HIB (Conflict)

Why:

- Mutual conflict
- No distinguishing characteristic
- No power imbalance or targeted hostility tied to identity



Scenario 6: “That’s So Gay” Comment

A student says in class:

“That assignment is so gay.”

A student who identifies as LGBTQ+ reports feeling uncomfortable.

Outcome: HIB

Why:

- Distinguishing characteristic: Sexual orientation
- NJ case law supports this as HIB even if not directed at a specific student
- Reasonable perception standard applies

