



## Harassment, Intimidation, and Bullying (HIB) FAQ

### 1. What is the Anti-Bullying Bill of Rights Act?

New Jersey's Anti-Bullying Bill of Rights Act (ABR) is commonly referred to as the Harassment, Intimidation, and Bullying (HIB) law. The purpose of the law is to strengthen the standards by which school districts prevent, report, investigate and respond to incidents of bullying, with the intention of developing and sustaining safe, supportive and civil schools in which HIB does not occur.

### 2. What is Harassment, Intimidation, and Bullying (HIB) per the Anti-Bullying Bill of Rights Act (ABR)?

HIB is defined in both NJ law and Board Policy 5512 as:

Any gesture, any written, verbal, or physical act, or any electronic communication, whether it be a single incident or a series of incidents, that

- i. is reasonably perceived as being motivated either by an 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**
- ii. takes place on school property, on a school bus, at a school-sponsored or related event, or even off school grounds in certain circumstances; **AND**
- iii. substantially disrupts or interferes with the orderly operation of the school or the rights of other students.

[Prongs i., ii. and iii. above must all be met before proceeding to the next phase]

#### **AND ONE OR MORE OF THE FOLLOWING:**

- a. a reasonable person should know, under the circumstances, that the actions will physically or emotionally harm the student or damage the student's property, or that the actions would place the student in reasonable fear of physical or emotional harm to the student's person or damage to the student's property; **OR**
- b. has the effect of insulting or demeaning the student or groups of students; **OR**
- c. interferes with the student's education or is severe or pervasive enough that it causes physical or emotional harm to the student.

### 3. What is an Anti-Bullying Specialist?

An Anti-Bullying Specialist (ABS) is a guidance counselor, school psychologist, or another school employee trained to act as the ABS. The Anti-Bullying Specialist is responsible for leading HIB investigations.

One ABS is designated and Board-approved for each school in the district. At the elementary and middle school levels, the ABS is the school counselor.

#### **4. What happens when a HIB complaint is made?**

- (i) Principal receives report
- (ii) Principal ensures student safety and contacts all involved parents
- (iii) Principal makes preliminary determination (see FAQ #6) or initiates an investigation within 1 school day
- (iv) The school's Anti-Bullying Specialist (ABS) conducts and completes an investigation within 10 school days of written HIB incident report
- (v) ABS sends a written report to the Principal for review
- (vi) Principal sends the report to the Superintendent within 2 school days of the completion of the report
- (vii) Superintendent reports investigation results to the Board of Education at the next regularly scheduled Board meeting
- (viii) Parents are provided written notification of same within 5 school days after the BOE meeting
- (ix) Parents may request a hearing before the Board within 60 days of receiving the notification.
- (x) Board takes action to affirm, reject or modify the determination at the next regularly scheduled Board meeting following receipt of the report.
- (xi) District provides parents notification of same within 10 days of the BOE meeting.

#### **5. What is a preliminary determination?**

Some incidents will clearly not fall within the ABR's definition of HIB. Under the ABR and school policy, the Principal may, in consultation with the ABS, make a preliminary determination whether the reported incident or complaint is a report within the scope of the definition of harassment, intimidation or bullying. In making this determination, the Principal assumes that all the facts alleged are true. If the Principal determines that the incident does not meet the definition of HIB, the Principal notifies all involved parents and the Superintendent of this decision, and the incident is investigated as a potential violation of the Code of Student Conduct under the pupil discipline process. (If a violation of the Code of Student Conduct is found, appropriate disciplinary and/or remedial measures will be taken.) The Superintendent may override the Principal's preliminary determination and direct that the report or complaint be investigated as a possible HIB. Parents who disagree with the Principal's preliminary determination have the right to appeal that determination to the Board of Education.

#### **6. What is the difference between HIB and peer conflict?**

Conflicts at school will occur. Conflict -- which occurs in everyday life -- can range from a simple disagreement over an idea to a verbal argument or a physical altercation. During a conflict, name-calling, threats, and other behaviors that may look like HIB can occur. However, conflict and bullying are very different. Conflict is considered mutual, meaning all participants play some part in initiating, continuing, or engaging in the disagreement. HIB is primarily one-sided, but not always totally one-sided. An incident may be HIB first, then become conflict or vice versa.

#### **7. Do HIB consequences and discipline differ from Code of Conduct consequences and discipline?**

It depends on the incident. Consequences and discipline are imposed to address inappropriate behavior whether the incidents meet the definition of HIB or whether the actions violate the Student Code of Conduct. School administrators will take the steps necessary to maintain a safe and secure school environment for all students.

**8. What should parents do if they believe their child is being bullied?**

If you suspect that your child is being bullied at school, report the matter to your child's teacher, counselor, anti-bullying specialist or administrator and fill out a [HIB Reporting Form](#). Be assured that school personnel will assist in helping to resolve the problem. Contact information for Anti-Bullying Specialists and additional HIB information can be found on the District's website [here](#).

**9. How do schools determine if an incident is HIB and/or a Code of Conduct violation?**

The ABS conducts an investigation to determine whether a reported incident occurred, gathers the underlying facts, analyzes whether the incident meets the definition of HIB and determines whether the behavior conflicts with the Code of Conduct. Investigations involve interviews with students, teachers, and, if appropriate, parents who have information about the incident. School staff must also consider the involved students' ages and developmental stages, the severity of the incident(s), how long the conduct has occurred, and the impact on the student(s) targeted by the actions.

The Code of Conduct delineates expected student behaviors and possible consequences. If a reported incident is found to be credible but does not meet the definition of HIB, schools handle the situation as a Code of Conduct infraction and impose discipline as needed.

**10. Can a parent refuse to allow school staff to speak with their child?**

**NO.** The school does not need your consent to speak with your child. School personnel will determine with whom and when they will discuss school matters with students. In order to protect the identity and personal information of the students involved and to guard the integrity of the investigation, parents are not permitted to sit in with their students when the incident is discussed.

**11. Is a complaint of HIB automatically substantiated if the actions are found to have been motivated by an actual or perceived characteristic?**

**NO.** In addition to finding that the actions were motivated by an actual or perceived characteristic, the school must also find that actions met the rest of the criteria outlined in question 2 above.

**12. If an incident is determined not to be HIB, does that mean that the school won't look into the matter?**

**NO.** Many incidents that do not fall under the law's definition will violate the School's Code of Conduct. Consequences will be imposed when there is a Code of Conduct violation, possibly before an HIB investigation is even initiated.

**13. Can a parent/student "withdraw" a HIB complaint?**

**NO.** There is no provision in the ABR that permits the withdrawal of a HIB complaint. Once a complaint is made, the District is obligated to complete the investigation process.

**14. What should I do if my child is accused of harassment, intimidation, or bullying?**

**Remain calm.** Students, particularly young students, may pick up on a parent's anxiety over the situation. Conflict resolution, coping skills and learning about differences among peers

are part of the educational process that the ABR seeks to strengthen in school districts. The ABR is not a criminal statute but rather a remedial statute, and students are treated with respect, care and due regard by administrators, teachers, and the ABS throughout the process. Encourage your student to be truthful and reassure them that staff members are present to help them so that all students feel safe and secure when attending school.

**15. What happens if my child is found to have committed acts of harassment, intimidation, or bullying multiple times?**

The ABR provides parameters for responding to first, second, or subsequent acts of HIB by a student.

- 1st offense – student may be subject to remedial measures (counseling, behavior intervention services, discipline determined by principal in consultation with appropriate staff).
- 2nd offense – Same as 1st offense
- 3rd offense – Same as 1st offense AND the principal is required to develop an individual student intervention plan which shall be approved by the superintendent. This plan may require parents and students to complete a class or training program.

**16. What if the investigation determines that the student's actions constitute HIB?**

Supports are available for both the alleged victim and the alleged offender. The alleged offender will receive consequences at the school level, and/or counseling and support, as appropriate. The alleged victim will also receive counseling and support, as appropriate. Examples of consequences and/or services include, but are not limited to, individual or small-group counseling, social skills instruction, peer support groups, written or verbal apology, classroom instruction aligned to the goals of the ABR, detention (staying in for lunch at the younger grades), or suspension.

**17. Is the school district required to provide parents with the investigation report?**

**NO.** The ABR does not require school districts to provide a copy of the investigation report to parents. Additionally, State law, the federal Family Educational Rights and Privacy Act and, where applicable, the Individuals with Disabilities Education Act require school personnel to maintain student confidentiality. Discipline, consequences, and remediation activities regarding children other than your own cannot be shared.

Parents are entitled to the following information, specified in the ABR, as it pertains to their children:

- The type of investigation that was conducted.
- Whether or not the district found evidence of HIB, as defined in the ABR.
- Whether or not discipline was imposed, or services were provided to address the HIB.

**18. Does the ABR apply to pre-school, kindergarten, or disabled students?**

The ABR applies to all students who are enrolled in a public school district.

**19. What if my child attends an out-of-district school?**

If your child attends an out-of-district school, and you suspect that they are being bullied, you should immediately report that information both to the staff at the out-of-district school and

your child's case manager.

**20. Does the District investigate HIB that occurs via electronic communications?**

Yes, the definition of HIB includes electronic communications. The district will investigate potential incidents of HIB via electronic communication. However, the district may not always discover the identities of the other parties involved.

**21. What consequences can the district impose for HIB conduct that occurs off school property?**

Actions that occur off school property, including social media postings that occur outside of school hours, must meet a higher substantial disruption threshold in order for school personnel to impose consequences against the aggressor.

**22. Does the ABR apply to summer school?**

Yes, the ABR applies to all school-sponsored or related events without regard to the time period.

**23. What happens to my child's records if it is determined that my child has engaged in an act of HIB?**

Reports of HIB investigations are kept at the school and district levels. Investigation reports are NOT maintained in the student's cumulative folder. The parent letter is maintained in the cumulative folder. The district does not send HIB letters to colleges.

*If a student receives a disciplinary consequence that is reported as detention or suspension, that information is recorded in the student's disciplinary file. The district is legally required to transfer a student's disciplinary file to any other New Jersey public school district to which a student transfers at the time the transfer occurs.*

**24. Who can report HIB?**

Teachers, Board members, administrators, and other district personnel **are required by law to report** an incident of HIB. Any other individual, including students, parents, guardians, or community members **may** make a report of HIB. A HIB report may also be made anonymously.

**25. What are my appeal rights if I disagree with a HIB determination?**

Parents have the right to appeal a HIB determination to the Board of Education within 60 calendar days after receipt of the initial notification that the matter has been reported to the Board. An appeal hearing is an informal appearance before the Board and is not an adversarial proceeding. The hearing is held in executive (closed) session to protect student confidentiality. Parents pursuing an appeal should be prepared to explain to the Board why they believe the Board should reject or modify the Administration's determination, applying the standards of the HIB statute.

**26. What if the Board of Education affirmed the outcome of the investigation before I was able to submit an appeal?**

Parents may request a hearing even if the Board has already acted on the investigation

result, so long as they are within the 60-day limit noted above. After an appeal hearing, the Board will determine whether to affirm, reverse or modify its prior decision. The Board of Education's decision may be appealed to the Commissioner of Education within 90 days of issuance by the Board. While parents are not required to pursue an appeal to the Board as a prerequisite to filing a petition with the Commissioner of Education, we encourage them to do so in order to give the Board an opportunity to hear and consider their concerns with the decision. Parents may file a complaint with the New Jersey Division on Civil Rights within 180 days of the occurrence of any incident of HIB based on membership in a protected category listed in the Law Against Discrimination.

***27. What if a parent is bullying my child?***

District officials are required to investigate alleged acts of HIB perpetrated by an adult when the alleged perpetrator is employed by or volunteering on behalf of the Board. Investigating alleged acts of HIB perpetrated by a parent who is not employed by or volunteering for the Board is beyond the scope of the ABR; therefore, district officials have no involvement in this type of allegation, and the local police department can be contacted to investigate an alleged incident.