



Questions and Answers
Anti-Bullying Bill of Rights Act
P.L.2010, c.122 and P.L.2012, c.1

Implementing the new *Anti-Bullying Bill of Rights Act* (ABR) requires additional knowledge and training on harassment, intimidation and bullying (HIB) for the anti-bullying coordinators (ABC), the anti-bullying specialists (ABS), the school safety teams (SST), board of education members, chief school administrators (CSA), principals, staff, parents and students. As school staff members implement these requirements, it is important for them to know that they are not alone; resources, in addition to this Questions and Answers document, exist on the New Jersey Department of Education's (NJDOE) website (<http://www.state.nj.us/education/students/safety/behavior/hib/#si>) and other websites. This Questions and Answers document is organized according to the following categories:

- HIB Policy and Procedures;
- Training and Pre-Service;
- Incident and Investigation Reporting;
- Public Reporting;
- Prevention Programs and Strategies;
- Parents' Rights and Information;
- School Roles/Functions;
- Board of Education Action;
- General; and
- Resources.

HIB Policy and Procedures

1. **Who is required to participate in the development of the board of education's HIB policy?**
The board of education must develop the HIB policy through a process that includes representation of parents and other community members, students, school staff and administrators, and volunteers. (*N.J.S.A. 18A:37-15a*)
2. **What is the relationship between the ABR and *N.J.A.C. 6A:16-7, Student Conduct*?**
The board of education's (BOE's) HIB policy must be included in or must be consistent with the BOE's code of student conduct.
3. **What is the district's responsibility for publicizing and making parents aware of the HIB policy?**

The board of education's HIB policy must include a statement on the way the policy is to be publicized, including notice that the policy applies to behavior during school-sponsored functions. The policy must include a requirement that a link to the policy is to be prominently displayed on the home page of the school district's website and distributed annually to parents who have children enrolled in a school in the school district. Additionally, notice of the policy must appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for schools in the district and in any student handbook. (*N.J.S.A.* 18A:37-15b(10), (11) and e)

4. What are the requirements for the ongoing review of the HIB policy?

Each school district must annually conduct a re-evaluation, reassessment and review of the HIB policy, making any necessary revisions and additions. The board of education (BOE) must include input from the school anti-bullying specialists in conducting the re-evaluation, reassessment and review. A copy of any revised policy must be submitted to the executive county superintendent of schools within 30 days of its adoption by the BOE. (*N.J.S.A.* 18A:37-17a)

5. Are there requirements for providing students with information on the HIB policy?

Yes. Each school district must develop a process for discussing the board of education's HIB policy with students. (*N.J.S.A.* 18A:37-17b(3))

6. Must all reports of harassment, intimidation or bullying be investigated or only those that meet all of the criteria in the ABR?

All reports of harassment, intimidation or bullying (HIB) must be investigated by the school anti-bullying specialist in consultation with the principal. The purpose of the investigation is to determine the facts of each report, which would include assessing whether there was HIB according to the statutory definition or some other behavior of concern. Determinations on the nature of a behavior are not made prior to conducting an investigation, but are made based on the findings from an investigation. Additionally, in all cases when HIB is initially reported, regardless of the investigation findings, the district must engage in the entire procedure cited in *N.J.S.A.* 18A:37-15, including submission of the investigation report to the chief school administrator (CSA), the CSA's report to the board of education, the provision of information to parents, the opportunity for the parents to be heard by the board, and the board's determination on the CSA's decision.

7. Can a finding of HIB under the ABR be based solely on evidence that the incident was motivated by an actual or perceived characteristic?

No. Each of three criteria identified in the HIB definition at *N.J.S.A.* 18A:37-14 must be met for the incident to be determined HIB under the ABR. For there to be a finding of HIB under the ABR, evidence of the following criteria must be present:

- A reasonable perception of the HIB being motivated either by any actual or perceived characteristic; and

- Substantial disruption or interference with the orderly operation of the school or the rights of other students; and
- One or more of the following criteria –
 - 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
 - Has the effect of insulting or demeaning any student or group of students; or
 - 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.

8. What are the requirements for addressing HIB that occurs off school grounds?

School districts are responsible for addressing HIB that occurs off school grounds when a school employee is made aware of the HIB and the HIB substantially disrupts or interferes with the orderly operation of the school or the rights of other students. The two provisions in the ABR regarding HIB off school grounds can be found at *N.J.S.A. 18A:37-14* and *15.3*

9: Does the *Anti-Bullying Bill of Rights Act (ABR)* apply to summer school or other board of education-sponsored educational activities that take place during the summer?

The ABR applies to all board of education-sponsored activities on school property, at school-sponsored functions and on school buses without regard to the time period. The only exception is for the bi-annual reporting requirement at *N.J.S.A. 18A:17-46*, which is limited to all acts of HIB that take place between the time periods of September 1 to January 1 and January 1 to June 30.

Training and Pre-Service

1. Districts are required to train school staff on the board of education's HIB policy and procedures and on the prevention of HIB based on the categories and characteristics identified in the HIB definition. Which resources exist to help develop and deliver an efficient and effective presentation, particularly if there is limited time available to prepare or to conduct a full in-service?

Consider using sections of the NJDOE's PowerPoint slides (*An Overview of Amendments to Laws on Harassment, Intimidation and Bullying* at <http://www.state.nj.us/education/students/safety/behavior/hib/overview.pdf>) to serve as a springboard for discussion and action plans. For example, there are slides that focus on legal requirements, school culture, "upstanders," and cyberbullying. Additionally, the PowerPoint presentation titled *Understanding and Applying the Anti-Bullying Bill of Rights* that was used in the NJDOE's trainings to provide guidance on the functions of district anti-bullying

coordinators and school anti-bullying specialists can be found at <http://www.state.nj.us/education/students/safety/behavior/hib/HIBTrainingPP.pdf>

- 2. What are the in-service training requirements for full- and part-time staff members, persons contracted by the school district to provide services to students (e.g., bus drivers, substitute teachers, home instruction teachers, educators employed by private companies and outsourced to school districts) and volunteers who have significant contact with students? Are there resources available to help meet these training requirements?**

School districts are required to provide HIB in-service training for all full- and part-time staff, contracted service providers and volunteers. Each local district must determine the appropriate way to provide staff, contracted service providers and volunteers, with the required training on the board of education's HIB policy and procedures, the prevention of HIB based on the protected categories identified in the HIB definition and other distinguishing characteristics. The applicable provisions in the ABR can be found at *N.J.S.A. 18A:37-17*.

The NJDOE has resource materials on HIB that can be found at <http://www.state.nj.us/education/students/safety/behavior/hib/#si>; in particular, the PowerPoint presentations found at <http://www.state.nj.us/education/students/safety/behavior/hib/overview.shtml>. A comprehensive list of New Jersey and national HIB resources can be found at <http://www.state.nj.us/education/students/safety/behavior/hib/hibresources.shtml>.

These materials could assist contracted vendors in understanding the ABR, but not the district's HIB policy and procedures. To fulfill its obligation to provide in-service training, the district would have to modify these materials to include specific information about the district's HIB policy and procedures, the protected categories of students and other distinguishing characteristics that could be the target of HIB.

- 3. Are substitute teachers and teachers providing home or out-of school instruction, in addition to full- and part-time teachers and educational services professionals, required to have training in HIB prevention as a prerequisite for employment?**

No. There is no training requirement that is a prerequisite to employment; however, there is a requirement for training as a condition of certification. The applicable requirement in the ABR can be found at *N.J.S.A. 18A:37-22*. The NJDOE's guidance on these requirements can be found at <http://www.state.nj.us/education/students/safety/behavior/hib/HIBGuidanceEdPrep.pdf>, and <http://www.state.nj.us/education/students/safety/behavior/hib/HIBGuidanceEdPrepMemo.pdf>.

- 4. Are school districts required to annually re-train all full- and part-time school staff members, including persons contracted to provide services to**

students (e.g., bus drivers, substitute teachers, home instruction teachers, educators employed by private companies and outsourced to school districts) and volunteers who have significant contact with students?

No, the ABR does not specify that annual in-service training on HIB must be provided to all school staff, contracted service providers. However, the school district must provide training to all new full- and part-time staff, new contractors providing services to students, and new volunteers who have significant contact with students. The applicable provisions in the ABR can be found at *N.J.S.A. 18A:37-17*.

5. Are there professional development requirements in addition to the in-service training provided by school districts?

Yes. In addition to the in-service training provided by the school district for current and new employees (explained above), staff must receive two hours of instruction in suicide prevention (that includes HIB information), and an additional two hours of instruction in the prevention of HIB in each five-year professional development cycle. The applicable provisions from the ABR can be found at *N.J.S.A. 18A:6-112* and *18A:37-22*. The department's guidance on these requirements can be found at

<http://www.state.nj.us/education/students/safety/behavior/hib/HIBGuidancePD.pdf>, and

<http://www.state.nj.us/education/students/safety/behavior/hib/HIBGuidancePDMemo.pdf>.

6. What is the process for becoming an approved or certified HIB trainer?

There is no process for approving or registering trainers and there are no certification requirements or other standards or qualifications for an individual to provide HIB training services to school districts. District boards of education are responsible for determining the strategy and resources to be used in providing the required in-service training for staff. Should someone be interested in providing HIB training to school districts, he or she can contact school officials directly regarding the services (information on New Jersey schools and school districts can be found at <http://www.state.nj.us/education/directory/>). To assist in these efforts, the NJDOE's HIB resources can be found at <http://www.state.nj.us/education/students/safety/behavior/hib/#si>.

Incident and Investigation Reporting

1. Which forms and correspondence are required or may be used in the district's HIB reporting and investigation procedures?

While the ABR establishes new procedures and responsibilities, it does not require the development or use of specific forms or the manner of correspondence. Any forms pertaining to the ABR are developed and used at the district's discretion, but must be consistent with the requirements of applicable laws and regulations. However, if a district chooses to use forms, the forms may not be used to replace the opportunity for people to verbally report HIB.

There is specific data that districts are required to report in the Electronic Violence and Vandalism Reporting System. Districts may want to collect some of this information at the time of the report to the principal. See the question under Public Reporting below regarding the EVVRS reporting.

2. Are the district board of education’s HIB policies required to include an anonymous reporting procedure?

Yes. Each district board of education’s procedure for reporting an act of HIB must include a provision that permits a person to anonymously report HIB. However, school officials are not permitted to take formal disciplinary action solely on the basis of an anonymous HIB report.

3. What are the requirements for parent reports of HIB?

The ABR does not establish specific reporting requirements for parents. However, pursuant to *N.J.S.A. 18A:37-15*, each school district must establish its HIB reporting procedure. Each school district should be contacted to determine its procedures for parent reports of HIB.

4. Is the chief school administrator required to present the results of each investigation, regardless of the findings, to the board of education?

All investigation reports completed under the ABR must be reported to the chief school administrator, who is required to report the results of each investigation to the board of education. The applicable provisions in the ABR can be found at *N.J.S.A. 18A:37-15b(6)*.

5. What are the criteria or parameters for the chief school administrator’s (CSA) report on the results of each HIB investigation to the board of education (BOE)?

N.J.S.A. 18A:37-15b(6)(c) establishes that the CSA must report the results of each investigation, along with information on any services provided, training established, discipline imposed or other action taken or recommended by the CSA. Since there are no other specific criteria or parameters for the CSA’s report on the results of each investigation, the report should be based on the facts from each investigation. Additionally, since parents are entitled to specific information subsequent to the CSA’s report to the BOE, pursuant to *N.J.S.A. 18A:37-15b(6)(d)*, the CSA may want to provide the same information, at a minimum, to the BOE.

Public Reporting

1. Which data must be reported by the chief school administrator (CSA) at the bi-annual public hearing, and which data must be reported to the NJDOE twice each school year?

As set forth in *N.J.S.A. 18A:17-46*, the CSA’s bi-annual reports to the board of education and to the NJDOE must include all of the information reported on the

Electronic Violence and Vandalism Reporting System, which includes the number of reports of HIB, the status of all investigations, the nature of the HIB based on one of the protected categories identified in *N.J.S.A. 18A:37-14*, the names of the investigators, the type and nature of any discipline imposed on any student engaged in HIB, and any other measures imposed, training conducted, or programs implemented, to reduce HIB. The report also must include data for each school in the district, in addition to district-wide data. The report could include any other information the CSA chooses to provide. Guidance and reporting forms specific to the data required by the NJDOE can be found at <http://homeroom.state.nj.us/EVVRS.htm>.

2. Will schools be required to report all reported HIB incidents or only confirmed HIB incidents on the Electronic Violence and Vandalism Reporting System (EVVRS)?

School districts must report on the EVVRS (<http://homeroom.state.nj.us/evvrs/00317-11-12.pdf>) all acts of HIB that have been affirmed by the district board of education and not HIB acts that only have been reported. However, on the Harassment, Intimidation and Bullying Interventions, Trainings and Programs Data Collection System (http://homeroom.state.nj.us/evvrs/HIB_11-15.pdf), school districts must report all reported HIB incidents for which the required investigation has been completed and for which the acts of HIB that have been affirmed by the district board of education.

3. Which information must the chief school administrator report to the public and to the NJDOE?

The chief school administrator must report all acts of violence, vandalism, and HIB which occurred during the previous reporting period to the board of education, at a public hearing, two times each school year, between September 1 and January 1 and between January 1 and June 30. The information also must be reported once during each period to the NJDOE. The report must include the following information: the number of reports of HIB; the status of all HIB investigations; the nature of the HIB based on one of the protected categories identified *N.J.S.A. 18A:37-14*; the names of the HIB investigators; the type and nature of any discipline imposed on any student engaged in HIB; and any other measures imposed, training conducted, or programs implemented, to reduce HIB. The report must include data broken down by the enumerated categories as listed in *N.J.S.A. 18A:37-14*, and data broken down by each school in the district.

4. For the purpose of reporting HIB data to the NJDOE, are public college-operated programs for students with disabilities considered public schools or are they considered as being similar to an approved private school for students with disabilities?

For the purpose of HIB reporting, public college-operated programs for students with disabilities are considered receiving schools. The definition of receiving

schools (*N.J.A.C. 6A:14-7.1*), which include both public and private entities, follows:

“Receiving schools include educational services commissions, jointure commissions, regional day schools, county special services school districts, the Marie H. Katzenbach School for the Deaf, approved private schools for students with disabilities (that may or may not provide residential services) and **public college operated programs for students with disabilities**. Receiving schools shall obtain prior written approval from the Department of Education to provide programs for students with disabilities through contracts with district boards of education.” (bold added)

As such, public college-operated programs for students with disabilities are not required to report HIB data to the NJDOE.

Prevention Programs and Strategies

- 1. If the purchase of a commercial program is being considered as part of a comprehensive HIB prevention initiative, are there resources available to obtain information on the program or on similar programs?**

A searchable data base to help identify evidence-based HIB prevention and intervention programs can be found at the SAMHSA National Registry of Evidence-based Programs (<http://www.nrepp.samhsa.gov/>). Additional program data bases can be found in the document titled Resources on Harassment, Intimidation and Bullying at <http://www.state.nj.us/education/students/safety/behavior/hib/hibresources.shtml>.

- 2. What are the requirements for HIB prevention programs?**

Each school district must annually establish, implement, document and assess HIB prevention programs or approaches and other initiatives involving parents, law enforcement and other community members, students, school staff and administrators, and school volunteers. The programs or approaches and other initiatives must be designed to create school-wide conditions to prevent and address HIB. (*N.J.S.A. 18A:37-17a*)

- 3. Where can information be found on specific best practices in social-emotional and character development that have been successfully implemented in New Jersey schools?**

The Character Education Partnership (CEP) recognizes outstanding practices that have been implemented in schools across the nation. Descriptions of individual practices as well as the contacts for New Jersey schools can be found on CEP’s website (<http://www.character.org/>). Additionally, information on New Jersey’s Alliance for Social and Character Development can be found at www.njasecd.org.

Parents’ Rights and Information

- 1. Parents continue to ask questions about the ABR. Is there any “easy” place to which I can direct them for information on the ABR?**

All of the NJDOE's resources in support of the ABR can be found at <http://www.state.nj.us/education/students/safety/behavior/hib/#si>. They include a guidance document and a tutorial developed specifically for parents.

2. Is the school district required to provide parents of offenders and victims with information on the results of an HIB investigation? If so, which information is required and how must the information be provided to parents?

Yes. Regardless of the findings from an investigation, parents of alleged offenders and alleged victims are 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 HIB, or whether discipline was imposed or services provided to address the incident of HIB. This information must be provided in writing within five school days after the results of the investigation are reported to the board of education. The applicable provision in the ABR can be found at *N.J.S.A. 18A:37-15b(6)*.

The ABR does not establish requirements for the way in which districts choose to meet this requirement, and does not supersede existing requirements or procedures for informing or contacting parents. If a district has established a procedure for notifying parents that has been approved by the board of education or legal counsel and is consistent with applicable laws and regulations, there is nothing in the ABR that prohibits the use of this pre-existing parent notification procedure.

Additionally, the ABR does not require the provision of the investigation report to parents. Parents are only entitled to the information specified in the ABR provision included above. If a district chooses to provide parents with the report, the investigation report cannot divulge privileged information, particularly information about students other than their own children and that would identify students other than their own children, without the permission of the parents or the student who is 18 years of age or older. Pursuant to the *Family Rights and Educational Privacy Act* (20 *U.S.C.* §1232g and 34 *CFR* Part 99), parents are entitled to information only on their children.

3. Does the ABR establish student records or privacy requirements?

The ABR is silent on the issue of student records, and does not establish new student records or privacy requirements. Student records maintained in connection with the ABR are not mandated records under the NJDOE's student records regulations, and the decision to retain these records would be made by each local school district. However, school districts are required to retain records on any discipline imposed on a student, since this information must be shared with a sending school district should the student transfer to another school district (20 *U.S.C.* §6301 and *N.J.S.A.* 2A:4A-60); this requirement applies to discipline imposed for any type of conduct and not only HIB. The district's procedures regarding student records, at a minimum, must be consistent with the Family

Educational Rights and Privacy Act and its regulations (20 U.S.C. §1232g and 34 CFR Part 99), the Department of Education's student records regulations (*N.J.A.C.* 6A:32-7), the Open Public Meetings Act and each board of education's procedures.

4. Do parents have the right to deny school staff the permission to interview their child as a part of an HIB investigation?

No. The ABR does not address the issue of parent presence during interviews. Therefore, the school district determines the procedures for conducting investigations, including interviews. Since the ABR does not establish new or amended requirements regarding parent involvement in student interviews, pre-existing requirements apply, meaning that schools have the right to interview students without parents being present. For information on requirements for parent involvement when consequences and remedial strategies are being determined for students with disabilities, it is suggested that you contact the child study team supervisor in the county office of education (contact information for the county offices can be found at <http://www.state.nj.us/education/counties/>). If a suspected criminal offense is involved, the investigation would be conducted in accordance with *N.J.A.C.* 6A:16-6, Law Enforcement Operations for Alcohol, Other Drugs, Weapons and Safety and the *Memorandum of Agreement Between Education and Law Enforcement Officials*, which can be found at <http://www.state.nj.us/education/schools/security/regs/agree.pdf>.

5. Is the school district required to inform parents of their right to a board of education hearing in executive session?

While *N.J.S.A.* 18A:37-15b(6)(d) provides parents with the right to a hearing, it does not explicitly mandate parent notification of this right. Since the hearing is an unequivocal right and it provides the district and parents with an additional opportunity to assure the safety of students, parents should be notified of their right to be heard by the board of education. Parent notification of this right is a logical component of the investigation information that must be provided to the parents of alleged offenders and victims and assures the provision of due process of law, as intended in *N.J.S.A.* 18A:37-15b(6)(d).

6. Is a hard copy of the HIB policy required to be annually disseminated to parents?

N.J.S.A. 18A:37-15b(11) requires that the HIB policy be *distributed annually* to parents and guardians who have children enrolled in the school district, and that a link to the policy be prominently posted on the home page of the school district's website.

7. Does the ABR provide parents with opportunities to be involved in HIB policy and program development?

Yes. There are three specific school district functions in which parents must be involved:

- *School Safety Teams (SST)* – Each school must have a SST. Each SST must include, at a minimum, one parent of a student enrolled in the school, in addition to the school anti-bullying specialist, the principal and a teacher in the school. (*N.J.S.A. 18A:37-21*)
- *School District Harassment, Intimidation and Bullying (HIB) Policy* – The HIB policy must be developed through a process that includes representation of parents, along with other community representatives, students, school employees and school administrators and volunteers. (*N.J.S.A. 18A:37-15a*)
- *HIB Programs* – Schools and school districts must annually establish, implement, document and assess HIB prevention programs, approaches or other initiatives involving parents, law enforcement and other community members, school staff and school administrators, students and volunteers. (*N.J.S.A. 18A:37-17*)

School Roles/Functions

1. Who must perform the role of the school anti-bullying specialist (ABS)? May the principal perform this role?

N.J.S.A. 18A:37-20a specifies that the ABS must be a guidance counselor, school psychologist or other person trained to be the ABS, who is currently employed at the school. If no one meets these criteria, the principal must appoint the ABS from currently employed personnel, and the employee must be trained to be the ABS.

Since the principal is the one who must appoint school staff to this role, the legislative language and intent is for this to be someone other than a school administrator (e.g., someone with a student support services or student advocacy point of view and function) to counter-balance the administrative, including disciplinary, point of view.

The principal must serve on the school safety team, while the ABS chairs the team. The intent is for the ABS to have this leadership role, rather than the principal. This same dynamic exists in other areas of the ABR (e.g., the ABS acts as the primary person for preventing HIB, etc., the ABS leads HIB investigations in consultation with the principal), which requires someone other than the school administrator to perform these functions.

That being said, there is nothing in the ABR that explicitly prohibits a principal from serving as the ABS. If a district chooses to assign the principal or permits the principal to appoint the assistant principal to act as the ABS, as an “other person trained to be the ABS,” the district would make this determination, presumably in consultation with the school attorney.

2. Must a staff member assume the new role of school anti-bullying specialist (ABS)? Are there contractual obligations that could interfere with this role?

Each school district would determine whether there are contractual obligations that affect the appointment of the ABS or his or her ability to perform this role. The principal has latitude in the person he or she chooses to appoint to this role. It is advisable that a principal appoint an individual who he or she believes can and will perform the ABS functions. That being said, the performance of the role is a school responsibility under state law.

3. Must the CSA appoint a school employee to perform the role of the district anti-bullying coordinator (ABC)?

The ABR specifically states that the CSA must make every effort to appoint an employee of the district as the ABC; however, appointing a school employee to serve as the ABC is not required. (*N.J.S.A. 18A:37-20b*)

Board of Education Action

1. Who is required and who is permitted to participate in a board of education hearing held in executive session for a parent?

N.J.S.A. 18A:37-15b(6)(d) establishes the following:

...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;

As indicated above, the ABR does not establish requirements for whom a board of education may choose to have appear or provide information at a hearing, and the ABR does not establish new requirements for board hearings conducted in executive session. Therefore, in addition to having the explicit option to hear from the school anti-bullying specialist, a board of education could choose to hear from anyone it determines could help the board make its decision pursuant to *N.J.S.A. 18A:37-15b(6)(e)*.

2. Is the board of education required to issue a decision, in writing, regarding the chief school administrator's decision following his or her receipt of the results of each investigation or only when a parent requests a hearing?

The board of education must issue a decision, in writing, to affirm, reject or modify the chief school administrator's (CSA) report on the results of each investigation. The applicable provision (*N.J.S.A. 18A:37b(6)(e)*) applies to the board's receipt of the CSA's report(s) and his or her decision(s), rather than to the outcomes of a board hearing. However, should a hearing be held, it is assumed that information from the hearing also would be used by the board to guide its decision.

General

1. In March 2012, a law (*P.L.2012, c.1*) concerning HIB in the public schools, was adopted. What is the effect of this law on the *Anti-Bullying Bill of Rights Act* (*P.L.2010, c.122*) adopted in January 2011?

The new law (*P.L.2012, c.1*) amends specific portions of *P.L.2010, c.122*. In general, the amendments were made in response to the decision of the Council on Local Mandates on the Allamuchy Board of Education's complaint that portions of the ABR constituted unfunded mandates. The amendments achieve the following purposes:

- Clarified that school officials should use existing resources to implement HIB prevention and intervention strategies and personnel and may at their own discretion use HIB prevention and intervention strategies and personnel which impose a cost on the district;
- Appropriated \$1 million to assist school districts with the implementation of the ABR in the 2011-2012 school year; and
- Established an Anti-Bullying Task Force, which during a three-year time period is to provide guidance to school districts on available resources to assist in the implementation of the ABR; examine the implementation of the ABR; draft model regulations in support of the ABR and submit them to the Commissioner of Education; present any recommendations regarding the ABR deemed to be necessary and appropriate; and prepare reports on the effectiveness of the act in addressing HIB in schools.

2. What are the harmful effects of HIB on students, particularly when adults are not perceived as protecting students?

Examples of harmful effects include:

- Behavioral effects, such as absenteeism, violence, retaliation, HIB and suicide;
- Physical effects, such as headaches, dizziness, stomachaches and inability to concentrate; and
- Emotional effects, such as anxiety, powerlessness, low self-esteem and depression.

3. Is there a way to check whether school and school district activities are in compliance with the ABR?

Use the *Harassment, Intimidation and Bullying (HIB) Compliance Checklist*, on the NJDOE's website to determine the degree of the district's and school's compliance with the ABR

(<http://www.state.nj.us/education/students/safety/behavior/hib/checklist.pdf>).

Additional compliance information can be found in the NJDOE's HIB resources at <http://www.state.nj.us/education/students/safety/behavior/hib/#si>.

4. Does the ABR only apply to an act of HIB committed against a student, or does it also apply to an act committed against an adult? Additionally, does the ABR apply to an adult who commits an act of HIB or only to a student offender?

The ABR applies only to HIB committed against a student. There is no reference in the ABR to HIB committed against an adult. Under the ABR, the offenders could be any persons, students or adults, but the victims are students. The applicable provision can be found at *N.J.S.A. 18A:37-15b*.

5. Must student records be maintained for HIB cases? If so, which files must be maintained?

School districts are not required to maintain reports of HIB as part of the mandated school record, pursuant to *N.J.A.C. 6A:32-7*. A district may include such reports or other items related to HIB incidents, at the district's discretion. Such files would be retained consistent, at a minimum, with the student records regulations (*N.J.A.C. 6A:32-7*) and 20 *U.S.C. §1232g, Family Educational Rights and Privacy Act*, and 34 *CFR Part 99, Family Educational Rights and Privacy*.

However, pursuant to 20 *U.S.C. § 6301, N.J.S.A. 18A:36-19a* and *N.J.A.C. 6A:16-7.10(a)* and (b) school districts are required to provide receiving school districts with all information in a transferring student's record related to disciplinary actions taken against the student by the district. Therefore, school districts must maintain records of disciplinary actions imposed under the ABR.

While not mandated, it is recommended that sufficient documentation be retained for reporting incidents on the Electronic Violence and Vandalism Reporting System (EVVRS). This documentation is important to ensure accurate reporting and to verify the disposition of cases and incidents reported on the EVVRS.

6. Are schools required to investigate only bias-based HIB?

Per *N.J.S.A. 18A:37-15b(5)*, all reports of HIB must be investigated by the school anti-bullying specialist in consultation with the principal. The purpose of the investigation is to ascertain the facts for each report and determine the nature of the concern, which could include, for example:

- A finding of HIB according to the definition in the ABR;
- A finding of bullying that does not meet the criteria in the statutory definition for HIB, but meets the criteria in a different definition of bullying;
- A finding that no HIB under the definition in the ABR or other bullying occurred;
- A violation of the code of student conduct other than HIB or other bullying; or
- Some other finding based on the facts of the case.

It is important to note that “bias” is only one of the conditions in the HIB definition in the ABR; the definition in its entirety must be considered. An HIB incident would fall under this definition, if it is motivated by an actual or perceived characteristic and interferes with the orderly operation of the school or the rights of the victim, and meets one of the conditions identified in *N.J.S.A. 18A:37-14a* through c.

7. How should districts proceed with HIB cases involving students with disabilities?

In regard to the application of the ABR to cases involving students with disabilities, the procedures in the ABR must be followed for *all* students. All decisions should be based on the facts of the cases and the specific situations and

characteristics of the students involved in the incident(s) and the applicable federal and state laws and regulations.

The only difference in implementing the ABR for students with disabilities is in the application of consequences and remedial strategies for HIB when the student is the offender. If a student with a disability is determined to have engaged in HIB, any consequence must be determined in compliance with the requirements of the *Individuals with Disabilities Education Act (IDEA)* and applicable state and federal regulations. Therefore, if it is determined that the conduct resulting in HIB resulted from the student's unique circumstances (disabling condition), the resulting consequence should be determined with that in mind, which could result in the provision of counseling or other assistance, rather than a punitive measure such as a suspension. In addition, if the consequence imposed results in a requirement, in accordance with the IDEA, to conduct a manifestation determination, and it is concluded that the HIB behavior was a manifestation of the student's disability, any consequence changing the placement of the student would have to be rescinded and the student returned to his or her placement.

However, in *all cases all* of the procedures established in the ABR must be followed, including, but not limited to, the incident report, the investigation, the report of the results of the investigation to the chief school administrator (CSA) and the board of education's decision regarding the CSA's decision.

It is understood that some students with disabilities might not understand the effects of their behaviors, might have varying degrees of control over their behaviors, or might not have acquired or mastered certain behaviors. However, it is important to recognize that in addition to addressing HIB offenders, the ABR *protects student victims* of HIB, regardless of who commits the HIB.

The ABR provides schools with the opportunity to teach all students about special education (e.g., the student's cognitive, social-emotional, behavioral or physical challenges), which could minimize HIB reports for misperceived or misunderstood behaviors from students with disabilities. This can be a component of the district's activities to improve school culture and climate.

8. How will the NJDOE assign the “grade” required in the ABR? Additionally, which data will school districts be required to report for the “grade” and through which mechanism will it be reported?

Per *N.J.S.A. 18A:17-46*, the Commissioner of Education is required to develop guidelines to “... grade each school for the purpose of assessing its effort to implement policies and programs consistent with the ABR.” The Commissioner's Program for Determining Grades under the *Anti-Bullying Bill of Rights Act* was developed in consultation with experts in anti-bullying strategies and school climate improvement and school district representatives from the 21 counties. The program was announced to school districts in a memorandum dated March 12, 2013. All materials developed in support of the program can be found at <http://www.state.nj.us/education/students/safety/behavior/hib/guidance/>. These materials

include correspondence from the NJDOE to school districts, a guidance document that explains the program for grading both schools and school districts, the self-assessment to be used by schools in determining the grades, the web reporting system announcement and instructions, the statement of assurances to be submitted to the NJDOE by the chief school administrator and sample summary and district and school grade reports.

9. How can a school district apply for grants under the Bullying Prevention Fund?

The ABR was amended on March 26, 2012 (*P.L.2012, c.1*), in part, to provide for the funding of certain activities required under the ABR. An application for funds for the 2011-2012 school year was disseminated to school districts and charter schools on April 16, 2012. It is anticipated that future funding opportunities will be made based on available funds.

10. Are school districts required to complete the HIB procedures established in the ABR when law enforcement officials are involved in the matter?

Yes. There is no provision in the ABR that permits districts to truncate or stop an HIB investigation once a report of HIB has been made. The document titled *A Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials* (MOA)

(<http://www.state.nj.us/education/schools/security/regs/agree.pdf>) was accordingly revised in September 2011. The revision at Article 8.6.5 acknowledges that the ABR provides mandatory time frames for the completion of school investigations and hearings, and contains no provisions suspending those requirements while a criminal investigation is pending (*N.J.S.A. 18A:37-15.*). Therefore, HIB investigations for all HIB reports must be completed by schools within the statutory 10-school-day time frame (*N.J.S.A. 18A:37-15b(6)(a)*). However, since the purposes of school and law enforcement investigations are different, and efforts can and must be coordinated in order to avoid hampering the efforts of either party, school and law enforcement officials should jointly review these matters as they plan or proceed with their respective investigations.

11. Does the *Anti-Bullying Bill of Rights Act* (ABR) apply to pre-school students?

The *Anti-Bullying Bill of Rights Act* (ABR) applies to all students, including pre-school age children who are *enrolled* in a public school district. The ABR establishes requirements for district boards of education and school district staff regarding the harassment, intimidation and bullying (HIB) of students in their care. The ABR does not establish an age range that qualifies students to receive the services nor does it exempt any age group from receiving the required services.

In the instance of contracted pre-school programs, they must follow the policy of the school district and report incidents to the school principal of the school district, and the school anti-bullying specialist from the principal's school must

investigate the report. The school district is responsible for training contracted service providers in the district's HIB policy and procedures.

12. Are evening, adult-only programs required to implement the ABR, including the designation of a school anti-bullying specialist (ABS)?

If school-age students are enrolled in the program and the program is operated by the school district, the program must implement the ABR. If the program is for adults only, the program is not required to implement the ABR. In terms of a General Education Development (GED) program, the ABR does not apply, even if the program is run by the school district, because the participants are not enrolled in the school district.

13. How should school officials proceed when the same source repeatedly reports HIB of a student, but the investigations of the reports do not reveal evidence to substantiate the reports?

The ABR requires each board of education-approved HIB policy to include consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of HIB. School officials should implement this provision when a determination has been made from the evidence that a person reporting HIB has falsely accused another. Until this determination has been made, however, all reports of HIB must be investigated and all other procedures in the ABR must be followed. If there are repeated incidents where reports from one or more sources are not substantiated as a result of investigations, some possible courses of action could be to confer with the school attorney to determine appropriate actions, reevaluate the investigation procedures used by school officials or recommend amendments to the board-approved HIB policy that will address this type of occurrence.

14. How should schools proceed when they receive a complaint for an incident of HIB that allegedly occurred in school during the regular school year, but the complaint is received after school has closed for the school year? Are there differences in the procedure when the alleged student victim or offender will be moving to another school building in the same school district (e.g., middle school to high school) or transferring to another school district in the next school year, or has recently graduated from high school? Are there differences in the procedure if the complaint alleges HIB off school grounds?

N.J.S.A. 18A:37-15b(6) requires that each board of education's (BOE) policy include "a procedure for prompt investigation of reports of violations and complaints..." Since the ABR applies to all board of education-sponsored activities on school property, at school-sponsored functions and on school buses without regard to when the report is received, the school in which the alleged incident occurred must investigate, in accordance with the BOE's investigation procedures.

In instances where the alleged offenders or victims are moving to another school in the same school district, the sending school would investigate the complaint,

the receiving school would be advised of the matter and the officials from both schools would consider appropriate responses pursuant to *N.J.S.A.* 18A:37-15b(4) and (7). When the alleged offender or victim or both transfer to a school outside of the school district, the school district in which the incident occurred would investigate the complaint to determine whether actions are warranted for students remaining in the school or to determine issues that could affect school programs, policies, procedures or activities as a result of the findings from the investigation.

When both the alleged offender and victim have graduated from high school, the school would not be required to investigate the complaint when the complaint is made after the close of the regular school year. However, if one of the students remains in school, the complaint would be investigated and actions would be taken for the remaining student(s), as appropriate to the facts and circumstances of the matter.

While investigations and responses to HIB complaints must proceed as described above regardless of time period, the only exception is for the bi-annual public and state reporting requirement at *N.J.S.A.* 18A:17-46. The statute is specific that the public and state reporting requirements apply to all acts of HIB that take place between the time periods of September 1 to January 1 and January 1 to June 30.

Resources

1. Which resources exist to conduct an assessment of school climate?

A list of school climate surveys that have been vetted for statistical reliability and validity by the US Department of Education can be found at the website of the Safe and Supportive Schools Technical Assistance Center at <http://safesupportiveschools.ed.gov/index.php?id=133>. A list of assessment tools is included in the Resources section of the NJDOE's *Model Policy and Guidance for Prohibiting Harassment, Intimidation and Bullying* (<http://www.state.nj.us/education/parents/bully.htm>). Additionally, free and easy-to-administer staff, student and parent surveys on school culture can be downloaded from the website of the Positive Behavior Support in Schools (PBSIS) program (<http://www.njpbs.org/resources/>).

2. Where can additional information be found on the ABR, particularly information on differences from the original law and the explicit requirements for the district anti-bullying coordinator, school anti-bullying specialist and the school safety team?

The NJDOE Keeping Our Kids, Safe, Healthy & in School website (<http://www.state.nj.us/education/students/safety/behavior/hib/#si>) is a source of information. For example, at this location you can find the following resources:

- *Anti-Bullying Bill of Rights Act* – The law provides explicit descriptions of the new requirements, including for the ABS, the ABC and the SST. (http://www.njleg.state.nj.us/2010/Bills/PL10/122_.PDF)

- *Model Policy and Guidance for Prohibiting Harassment, Intimidation and Bullying* – This resource provides comprehensive information on the ABR and in particular for developing the district’s HIB policy. (<http://www.state.nj.us/education/parents/bully.htm>)
- *An Overview of Amendments to Laws on Harassment, Intimidation and Bullying* – This PowerPoint presentation, which includes versions with supportive documentation and presenter narratives, provides an easy-to-follow summary of the changes in the law. (<http://www.state.nj.us/education/students/safety/behavior/hib/overview.pdf>)
- *Harassment, Intimidation and Bullying Compliance Checklist* – This checklist is designed to help school staff determine the degree of the district’s compliance with the HIB policy and other requirements under the ABR. (<http://www.state.nj.us/education/students/safety/behavior/hib/checklist.pdf>)
- *HIB Online Tutorials* – These tutorials provide information on the ABR, HIB prevention, HIB intervention and the relationship between the Law Against Discrimination and the ABR. (<http://www.state.nj.us/education/students/safety/behavior/hib/tutorials/>)
- *Guidance for Schools on Implementing the Anti-Bullying Bill of Rights Act* – This document explains the implementation of the ABR, procedures for resolving HIB complaints, and identifies best practices for HIB prevention, intervention and remediation. (<http://www.nj.gov/education/students/safety/behavior/hib/guidance.pdf>)
- *Understanding and Applying the Anti-Bullying Bill of Rights* – This PowerPoint presentation provides detailed information on the ABR and its implementation. (<http://www.state.nj.us/education/students/safety/behavior/hib/HIBTrainingPP.pdf>)

3. Which resources exist to help school anti-bullying specialists fulfill their statutory responsibilities, and, in particular, to help with the activities of the school safety T\team?

A host of publically available tools, templates and suggestions are available at the Positive Behavior Support in Schools website (<http://www.njpbs.org/resources/>). Topics range from a meeting agenda format, tips on facilitating a meeting, conducting a school self-assessment and a checklist for an effective building “walk through.” Additionally, the NJDOE publication titled *Resource Manual for Intervention and Referral Services* includes information for addressing a range of academic, behavior and health concerns.

4. Which resources exist for video programs that could be shown to staff, students or parents?

Edutopia (<http://www.edutopia.org/groups/social-emotional-learning/stop-bullying>) is a source for articles, strategies and videos. A video that has received over 30,000 “hits” was made by students at Long Branch Middle School, New Jersey in response to the suicide of a Rutgers student. The eighth grade students received permission to change the lyrics of Enrique Iglesias’ hit song titled "I

Like It" to tell the story of a girl bullied in school. The video is titled "Bullying We'll Stop It" and can be found at <http://www.youtube.com/watch?v=f76MRNpRedI>).

5. Where can information be obtained on the prevention and intervention of cyberbullying?

The *Stop Bullying Now* website (<http://www.stopbullying.gov>) provides helpful information on this and other HIB subjects. The Cyberbullying Research Center (<http://www.cyberbullying.us>) is another source for research articles, effective strategies and the use of student-inspired and implemented service-learning projects to prevent and intervene with cyberbullying.