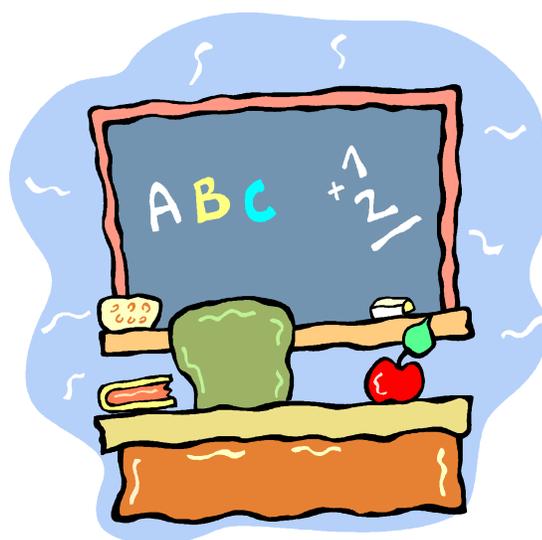


*Harassment, Intimidation  
and Bullying of  
Students with Disabilities  
in Schools*



# **Harassment, Intimidation and Bullying of Students with Disabilities in Schools**

This handbook is designed to assist students with disabilities and their families in understanding the New Jersey Anti-Bullying Bill of Rights Act.

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May 2012

**Advocating and advancing  
the human, civil and legal rights  
of people with disabilities**

**Disability Rights New Jersey**

1-800-922-7233 (New Jersey only)

609-292-9742

609-777-0187 (FAX)

609-633-7106 (TTY) or dial “711” for Relay

210 S. Broad Street, 3<sup>rd</sup> Floor

Trenton, New Jersey 08608

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- Se Habla Español

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## **New Jersey's Anti-Harassment, Intimidation and Bullying Law (HIB)**

Governor Christie signed the “Anti-Bullying Bill of Rights Act”, P.L. 2010, Chapter 122, into law on January 5, 2011. It became effective on September 1, 2011. It amends and supplements the 2003 New Jersey Bullying Law, and aims to forge a statewide approach to harassment and bullying that involves students, parents, teachers, administrators, and the community at large. It applies to all public elementary, secondary and postsecondary schools. The goal of the new amendments is to increase prevention, reporting, and responsiveness to incidents by requiring each school district to adopt a policy prohibiting harassment, intimidation or bullying on school property, at a school-sponsored function, on a school bus, or off school grounds. It requires that staff report any allegations of bullying, that schools provide training, and that they comply with strict guidelines for investigations.

### **Definitions of Harassment, Intimidation and Bullying**

Under the law, harassment, intimidation and bullying are broadly defined, and may consist of a single incident or series of incidents that a reasonable person would believe is intended to cause harm or create a hostile environment. Harassing conduct may take many forms, including verbal acts and name-calling, as well as nonverbal behavior, such as graphic and written statements, including electronic communications, known as cyber-bullying, or conduct that is physically threatening, harmful, or humiliating.

## **Harassment, Intimidation and Bullying Policy**

The law gives local school districts control over the content of its harassment, intimidation or bullying policy, but requires that the policy contain the following:

- A statement prohibiting harassment, intimidation or bullying of students;
- A definition of harassment, intimidation, and bullying that is at least as strong as the statutory definition;
- A description of the type of behavior expected from each student;
- The consequences and appropriate remedial action for a person who commits an act of harassment, intimidation or bullying;
- A procedure for the reporting and prompt investigation of complaints with specific time frames and a procedure for anonymous reporting;
- The manner in which a school will respond once incidents are identified; and
- A statement prohibiting reprisal.

The chief school administrator (generally the principal) must ensure that notice of the policy appears in any publication of the school district that sets forth comprehensive rules, procedures, and standards, and in any student handbook. Contact information for the school district's anti-bullying coordinator and the school's anti-bullying specialist must be listed on each school's website.

## **Investigative Procedures**

The law sets forth the investigation timeframes that a school district must follow when an allegation of harassment, intimidation, or bullying is made.

- The principal or designee must begin the investigation within one day of receipt of the allegation.
- A written investigative report must be completed within ten days of the initial allegation. The report may be amended if additional information becomes available later.
- The report must be sent to the superintendent within two days of its completion for a recommendation regarding appropriate action.
- The results of each investigation and the superintendent's recommendations shall be reported to the board of education at their next meeting.
- Families must receive information regarding the investigation within five days after the report is submitted to the board of education.
- Parents may request a confidential executive session with the board of education to be held within ten days of the request.
- The Board of Education will issue a decision to uphold or overturn the superintendent's recommendations. The decision must be issued no later than the board of education meeting following the receipt of the report and any parental hearing.

- A family may appeal the board's decision to the Commissioner of the New Jersey Department of Education within 90 days.

### **Anti-bullying Staff**

The anti-bullying specialist at a school is appointed by the principal and may be a guidance counselor, school psychologist or other school employee trained for this role. The principal may not fulfill this role, as the intent is to have a perspective other than administration/disciplinarian. The anti-bullying specialist chairs the school safety team and leads the investigations of alleged incidences of harassment, intimidation and bullying. The specialist is responsible for preventing, identifying, and addressing incidences of HIB and providing input to the local board of education regarding the policy and possible revisions.

The school safety team consists of the principal, the anti-bullying specialist, parents, and other school officials appointed by the principal. It meets at least twice a year and its purpose is to develop, foster and maintain a positive school environment. The team receives complaints and reports of harassment, intimidation, and bullying, although the parent members do not have access to the complaints and reports because of privacy issues. The team identifies and addresses patterns of HIB in schools, educates the community, and participates in HIB activities. Finally, the team assists in providing data to the anti-bullying coordinator and in the development of policies.

The anti-bullying coordinator is a district-wide position and is appointed by the superintendent. The coordinator is responsible for meeting with the anti-bullying specialists at the local school level and with principals and the superintendent. In addition, the coordinator works with the superintendent to provide necessary data regarding harassment, intimidation and bullying to the New Jersey Department of Education.

### **Harassment, Intimidation and Bullying Prevention Programs**

Schools and school districts must establish, implement, document, and assess their prevention programs annually, with an approach designed to create a school-wide environment that prevents and addresses HIB.

### **Staff Training**

Full and part-time staff, as well as volunteers who have substantial contact with students, must have training on the school district's HIB policy.

Training for teachers must also include the connection between suicide and incidents of HIB, as well as general suicide prevention information. Each professional development period must include two hours on HIB and two hours on suicide prevention.

School leaders including principals must have training in the prevention of HIB.

School board members must have training on HIB in schools within one year of their election, re-election or appointment. In addition, there must be training through the School Board Association with nationally recognized experts on school bullying.

School resource officers must have training in the protection of students from HIB.

### **Public Reporting Requirements**

The law requires that each superintendent report the data on the number and nature of all HIB allegations to the school board and the New Jersey Department of Education twice a year. The information must be available not only district wide but also at the individual school level. The New Jersey Department of Education will give schools and districts a grade. The information is accessible through the School Report Card which must be placed on the school's website within 10 days of being graded.

The Department of Education must then make an annual report to the New Jersey legislature no later than each October 1<sup>st</sup>.

### **Legal Recourse**

Numerous other laws protect New Jersey students with disabilities against harassment, bullying and intimidation. In some circumstances, Section 504 of the Rehabilitation Act, Title II of the American with Disabilities Act, or the

New Jersey Law Against Discrimination may provide additional remedies to students who have been harassed or bullied based upon their disability.

Disability harassment under Section 504 of the Rehabilitation Act, and Title II of the Americans with Disabilities Act, is intimidating or abusive behavior toward a student based on disability that creates a hostile environment by interfering with, or denying a student's participation in, or receipt of benefits, services, or opportunities in the institution's program.

Within 180 days of the alleged harassing incident, a family may file a complaint with the New Jersey Division for Civil Rights alleging a violation of the Law Against Discrimination or with the U.S. Department of Education Office of Civil Rights alleging discrimination based on disability in violation of Section 504 of the Rehabilitation Act.

Some examples of harassment based on disability:

- A student repeatedly places classroom furniture or other objects in the path of classmates who use wheelchairs.
- A teacher subjects a student to inappropriate physical restraint because of conduct related to his disability.
- A school administrator repeatedly denies a student with a disability access to lunch, field trips, assemblies, and extracurricular activities as

punishment for taking time off from school for required services related to the student's disability.

- A teacher or staff member repeatedly belittles and criticizes a student with a disability for using accommodations in class.
- Students continually taunt or belittle a student with cognitive or physical disabilities.

When disability harassment limits or denies a student's ability to participate in or benefit from a school's programs or activities, the school must respond effectively. When the institution learns that disability discrimination may have occurred, the school must investigate the incident(s) promptly and respond appropriately.

## Appendices

### Appendix A: Resources

Disability Rights New Jersey  
210 S. Broad Street, 3<sup>rd</sup> Floor  
Trenton, New Jersey 08608  
1-800-922-7233 (NJ only)  
609-292-9742  
609-777-0187 (fax)  
609-633-7106 (TTY)  
[www.drnj.org](http://www.drnj.org)

Education Law Center  
60 Park Place, Suite 300  
Newark, New Jersey 07102  
973-624-1815  
973-624-4618 (TTY)  
[www.edlawcenter.org](http://www.edlawcenter.org)

Rutgers School of Law  
Special Education Clinic  
123 Washington Street  
Newark, New Jersey 07102  
973-353-5576

ARC of New Jersey  
985 Livingston Avenue  
New Brunswick, New Jersey 08902  
732-246-2525  
732-214-1834 (fax)

[www.arcnj.org](http://www.arcnj.org)

Statewide Parent Advocacy Network

35 Halsey Street, 4<sup>th</sup> Floor

Newark, New Jersey 07102

1-800-634-SPAN (NJ Only)

973-642-8100

973-642-8080 (fax)

[www.spannj.org](http://www.spannj.org)

## Appendix B: Sample Letters

{Date}

Dear (Principal's Name) :

I am writing to inform you that my child, (name), is being harassed based upon his/her disability. The harassment includes instances of (specify behavior) occurring on (dates, times, locations) by (names). I understand it is the legal responsibility of the school to investigate these instances and to ensure that they stop.

I anticipate that an investigation into the harassment against my child will begin pursuant to the New Jersey Anti-Bullying Bill of Rights Act, which requires the school to begin its investigation within one day of receipt of this letter, and requires the completion of a written report within ten days. Please keep me informed and contact me if you need additional information.

Thank you.

Sincerely,

Parent's Name

{Date}

Dear (Superintendent's name):

I am writing to you regarding the harassment of my child, (name), which was reported on (date) and investigated by (investigator's name). I believe that relevant information may have been left out of the report, and I would like to meet with you to discuss the matter.

Please contact me within ( ) days.

Thank you.

Sincerely,

Parent's Name

{Date}

Dear Board of Education Members:

I am writing to inform the Board that I disagree with the decision of the superintendent regarding the harassment of my child, (name). Therefore, I am requesting a meeting before the board of education to discuss this matter.

The New Jersey Anti-Bullying Bill of Rights Act requires that this meeting be held in an executive session within ten days.

Thank you in advance for your cooperation.

Sincerely,

Parent's Name

(Date)

Commissioner of Education  
New Jersey Department of Education  
P.O. Box 500  
Trenton, New Jersey 08625-0500

Re: (Student's name and Birthdate)

Dear Commissioner:

Please accept this letter as an appeal from the Board of Education (name) decision regarding the bullying of my child. The Board's decision was issued on (date) and I am within the 90 days necessary to appeal this decision under the New Jersey Anti-Bullying Bill of Rights Act.

I believe the Board of the Education failed to consider properly the following information. (detail events and documents)

Thank you for your consideration and I look forward to hearing from you as soon as possible.

Sincerely,

Parent's Name

Disability Rights New Jersey (DRNJ) is the State's federally funded protection and advocacy system for people with disabilities. DRNJ is a private, non-profit, consumer driven organization with a mission to advocate and advance the human, civil and legal rights of person with disabilities.

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