



What Every Parent | Caregiver Needs to Know About Harassment, Intimidation & Bullying (HIB)

More Info: Parent PowerPoint Slidedeck: [The Anti-Bullying Bill of Rights: What Parents Need to Know](#) (Fogarty & Hara, Esqs.)

Q. 1. What is the statutory definition of HIB as per the law?

A. “Any gesture, any written, verbal or physical act, or any electronic communication, whether it be a single incident or a series of incidents, that is reasonably perceived as being motivated either by any 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, that takes place on school property, at any school-sponsored function, on a school bus, or off school grounds as provided for in section 16 of P.L.2010, c.122 (C.18A:37-15.3), that substantially disrupts or interferes with the orderly operation of the school or the rights of other students **AND** that: (a) a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or damaging the student’s property, or placing a student in reasonable fear of physical or emotional harm to his person or damage to his property; (b) has the effect of insulting or demeaning any student or group of students; or (c) creates a hostile educational environment for the student by interfering with a student’s education or by severely or pervasively causing physical or emotional harm to the student. – *The Anti-Bullying Bill of Rights (ABR), authorized in January 2011 and [amended in July 2022](#).*

Q. 2. What if a student commits an act of HIB but didn’t mean to hurt anyone?

A. The act does not have to be *actually* motivated by an actual or perceived characteristic or other distinguishing characteristic. **The critical question is whether the victim or witnesses felt that the student was targeted based on the characteristic. If the answer is yes, then the question then becomes whether that belief is reasonable.**

Q. 3. How does the school determine if a substantial disruption or interference has occurred?

A. Through the investigative process, the school will collect information from relevant witnesses to determine the impact of the act on the alleged target, or on the orderly operation of the school.

Q. 4. If an incident occurs off school grounds, can the school discipline the offender(s) if HIB is found?

A. **Although a finding of HIB can be found for conduct off school property, imposition of discipline is subject to the following restrictions:** 1) Only when discipline is reasonably necessary for the student’s physical or emotional safety, security, and well-being or for reasons relating to the safety, security or well-being of other students, staff or school property pursuant to N.J.S.A. 18A:25-2 and N.J.S.A. 18A:37-2; 2) Only when the conduct which is the subject of the proposed consequence materially and substantially interferes with the requirements of appropriate discipline in the operation of the school. N.J.A.C. 6A:16-7.5, and 3) The discipline must be consistent with [Board Policy 5131](#) “Code and Discipline”.

Q. 5. Are all reported claims of HIB investigated?

A. **Board Policy 5131.1 permits the Principal to make a preliminary determination as to whether or not a reported incident is within the scope of the definition of HIB.** The threshold question is: Assuming the facts as alleged are true, does the incident meet the definition of HIB? If they would not, then the Principal does not need to commence an investigation. (Example: The facts reported do not indicate that the act was motivated by a protected class or distinguishing characteristic.) In these cases, the incident may be considered a peer conflict and/or a Code of Conduct violation.

Q. 6. How long does the school have to conduct an investigation?

A. The Principal must initiate an investigation within one school day of the verbal or initial report, and the investigation must be completed within ten school days from the date of the written report (which must be submitted via the *HIB 338 Form for Parents/Caregivers* (located [here](#)) or the *HIB 338 Form for School Personnel*. **See next page for info on parent notification.**

Q. 7. When are parents/guardians notified of a HIB investigation? What information is shared at that time?

A. The principal will notify the parent/guardian by phone on the first day of the investigation, informing them whether their child is the alleged target or alleged offender, and may only provide general information regarding the nature of the allegation. The principal is not permitted to disclose the names of the other students involved.

Q. 8. What if the parent/guardian does not want their child to be interviewed as part of the investigation?

A. The Anti-Bullying Bill of Rights Act does not require school districts to request parental consent, and does not provide parents with the right to deny a school district permission to interview their child. The District retains sole discretion with respect to who the appropriate interviewees are in a particular investigation, however, parents may request that their child not participate in an investigation interview. It is critical for parents/guardians to understand that the school may only consider the information they gather during the HIB process, and must still proceed with the investigation and make a determination. A student who withholds information will not have their side of the story considered in the findings.

Q. 9. Do parents/guardians have the right to be present when their child is interviewed?

A. No. While the statute requires parental notification of the bullying allegation, N.J.S.A. 18A:37-15b.(5), and the findings of the Board, N.J.S.A. 18A:37-15b.(6)(d), there is no requirement that the parent be present during the alleged bully's interview and parents do not have a right under the statute to participate in HIB investigations involving their children. In addition, information identifying other students cannot be discussed if a parent were present, and this could compromise the investigation.

Q. 10. When are the parents/guardians notified of the findings? What information is shared at that time?

A. Within five (5) school days after the results of the investigation are reported to the Board, the parents of the students who are parties to the investigation must be provided with written information about the investigation, including: 1) the nature of the investigation; 2) whether the district found evidence of HIB; and 3) whether any discipline will be imposed or services provided to address the act of HIB. Note: The BOE must review the findings at the next scheduled Board meeting after the investigation has been completed. Only the Superintendent of Schools may notify parents/guardians of the determination. The notification will come in the form of a hard copy letter in the mail. Note: Parents are also entitled to a Board hearing within sixty (60) days of receiving the written determination. Parents are encouraged to review the first few questions in this document before requesting a hearing to ensure an understanding of the law which guides the determination of HIB.

Q. 11. What information are parents/guardians entitled to after the investigation concludes?

A. After the investigation and upon request, a parent/guardian is entitled to a redacted copy of the report that removes all student identification information. This information will be confidentially shared by the Board. The request must be made directly to the Office of the Superintendent.

Q. 12. If HIB is found, is that information included in the offenders permanent school record?

A. Yes. As per the Anti-Bullying Bill of Rights [amendments in July 2022](#), in all instances of an affirmative HIB finding, a copy of the investigation results must be placed in the student's record.

Q. 13. Can the HIB documentation in the school record be shared without parental consent?

A. Generally speaking, no, student records cannot be shared with anyone other than authorized organizations, agencies, and individuals, which are defined by law, without parental consent.

Q. 14. What is parental liability for Cyber Harassment?

A. A parent or guardian who demonstrates willful or wanton disregard in the exercise of supervision and control over the conduct of a minor over whom they have legal custody and who is adjudicated delinquent of cyber harassment (a fourth-degree crime) **can be held liable in a civil action**. A parent or guardian can also be fined up to \$100 for the first offense, and \$500 for each subsequent offense, for failure to comply with a condition of the sentence of a minor who committed cyber harassment (e.g., jointly attending a class or training program on cyber harassment).