



Anti-Bullying Bill of Rights Act (ABR) Harassment, Intimidation, and Bullying (HIB)

There are many common misconceptions about HIB investigations. This FAQ has been written to support Upper Township School District families in navigating this kind of situation and understanding the terminology, processes, and outcomes of HIB investigations. We are here for you. Please reach out to any of our Anti-Bullying Specialist (ABS) or our Anti-Bullying Coordinator (ABC) for more information or with any questions.

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1. What is the ABR/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 was to strengthen the standards by which school districts prevent, report, investigate, and respond to incidents of bullying.

2. What is Harassment, Intimidation, & Bullying?

HIB is defined in both the law and Board policy as:

Any gesture or written, verbal or physical act or any electronic communication which is

- i. motivated by any actual or perceived characteristic such as race, color, religion, ancestry, nation origin, gender, sexual orientation, gender identity and expression, or disability, or any other distinguishing characteristic(s); and

- ii. which 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 that:

- 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, that the actions would place a student in reasonable fear of physical or emotional harm to his person or 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 a student.

3. What actions do school officials take when they receive a HIB complaint?

The principal receives the report and ensures the students' safety and then follows the protocols set forth by the state.

4. HIB or Conflict?

Conflicts at schools will occur. However, conflict and bullying are very different. Conflict is considered mutual, meaning that all participants play some part in initiating, continuing, or engaging in the disagreement. Conflict, which occurs in everyday life, can range from 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.

Bullying, on the other hand, is one-sided. There is no mutual participation in the actions. It may or may not involve several people. The individual or individuals intentionally commit a mean or violent act against another person or persons who have a hard time defending themselves. Although not all incidents will fall under the definition of HIB, this does not mean that the situation will not be dealt with appropriately. All disciplinary infractions are subject to the Student Code of Conduct.

5. What should a parent do if they believe their child is being bullied?

If you suspect that your child is being bullied at school, report the matter to the school officials, fill out a HIB complaint (Form 338 found on our website) and assure your child that school personnel will assist in helping to resolve the problem.

6. How do school officials determine if an incident is HIB or conflict?

School officials conduct investigations to determine whether a reported incident occurred, whether it meets the definition of HIB, and whether the behavior conflicts with the Student Code of Conduct. Investigations involve discussions with students, teachers, and parents who have information about the incident. School officials are also required to 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 students in receipt of the actions. The Student Code of Conduct delineates expected student behaviors and possible consequences. If a reported incident is found to be accurate but does not meet the definition of HIB, school officials will handle the situation as a Student Code of Conduct infraction and impose disciplinary actions as needed.

7. Do HIB consequences and disciplinary action differ from Code of Conduct consequences and disciplinary action?

It depends on the incident. Consequences and disciplinary actions are imposed to stop continued incidents, prevent future incidents, and to change the behavior of the students involved whether the incidents meet the definition of HIB or whether the actions conflict with the Student Code of Conduct. School officials will take the actions necessary to maintain a safe and secure school environment for all students.

8. 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 the impact of the actions is one listed in a-c above.

9. If school officials determine an incident is not HIB, does that mean that they will stop further investigation of the incident?

NO. Many incidents that do not fall under the definition of HIB will violate the Student Code of Conduct, so consequences will be imposed even before a HIB investigation is initiated.

10. Can a parent/student "withdraw" an HIB complaint?

NO. At this time, there is no provision in the ABR that permits the withdrawal of a HIB complaint.

11. Can a parent refuse to allow school officials to speak with their child(ren)?

NO. School officials will conduct an investigation as determined by the allegation. 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 child(ren) when the incident is discussed.

12. What should I do if my child is accused of HIB?

Don't panic! 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 and students are treated with respect, care and due regard by administrators, teachers, and the ABS throughout the process. Encourage your children to be truthful and reassure them that the school officials are present to help all students feel safe and secure in school.

13. Is the school district required to provide parents with an investigation report?

NO. The ABR does not require school districts to provide a copy of the investigation report to parents. Parents are only entitled to learn the outcome of the investigation as it pertains to their children. The Family Educational Rights and Privacy Act and 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.

14. Does the ABR apply to preschool, kindergarten or disabled students?

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

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

If your child attends an out-of-district school, and you suspect that he/she is being bullied, you should immediately report that information both to the staff at the out-of-district school and your child's case manager.

16. How does the District investigate HIB that occurs via electronic communications?

The District will respond to complaints of electronic HIB by collecting objective information from any involved students. Although the District will investigate, the District may not be able to uncover the identities of any particular individuals involved.

17. 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 an additional prong of the HIB law in order for school personnel to impose consequences against the aggressor.

18. Does the ABR apply to summer school?

The ABR applies to all school sponsored or related events without regard to the time period. However, the report that the District must file with the State through the Student Data Safety System (SSDS) is limited to instances that take place from September 1 through June 30. Nevertheless, the District will maintain records of incidents and actions taken so as to inform future programming and services.

19. How does the District respond when it receives a HIB complaint after school has closed for the summer?

If a HIB complaint is filed after school has concluded for the year and the conduct occurred during the course of the school year, the District will attempt to investigate the incident using the same procedures employed during the school year. However, interviewing students during the summer may not be possible. The District is required to complete its report within the ten (10) day timeframe. Therefore, the District may not be able to obtain sufficient information from students to substantiate the report. Accordingly, parents are strongly encouraged to promptly report any matters they believe may be HIB.

If the conduct occurs during the summer and is not related to a school-sponsored or related event, parents should report the conduct to local law enforcement, if appropriate, and provide emotional counseling and support for their student. Additionally, parents should notify the student's principal at the beginning of the school year so that appropriate services and interventions may be implemented.

20. What if the investigation determines that the student's actions constitute an act of HIB?

The student will receive consequences at the school level, and/or counseling and support, as applicable. 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.

21. What happens to my child's record if it is determined that my child engaged in an act of HIB?

- 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.
- If a student receives disciplinary action that is reported as a detention or suspension, that information is recorded. 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.

22. What happens after parents are told about the results of the investigation?

After the principal and ABS confer on the report, the report is sent to the Superintendent for review. The Superintendent will determine whether the supports and remedial actions were appropriate or if further actions are warranted. This also allows the Superintendent to ensure that schools are interpreting the HIB consistently and that resources and services are being efficiently and effectively administered. It provides a high-level review of each school's climate and culture.

The Superintendent will provide a summary to the Board at the next Board meeting of any HIB reports completed in the preceding month. Once the summary information is reviewed by the Board, the district will send a letter to the parents of the involved students advising them of the findings of the investigation and resulting consequences and/or services for their child.

23. What if I disagree with the report, the way in which the investigation was conducted or the outcome of the investigation?

Either party may appeal to the Board of Education and request a Board-level review of the matter. You may request a hearing before the Board of Education within ten (10) days of receiving a letter from the Superintendent notifying you that the investigation has been completed. Submit a letter requesting a Board hearing to the Superintendent of Schools. The Board discusses the matter and a vote is held in public either affirming, reversing, or modifying the decision. No student names or initials are used in the resolution. Parents of all students involved

will receive a written decision, which may be appealed to the Commissioner of Education in accordance with N.J.A.C. 6A:3, Controversies and Disputes, no later than ninety (90) days after issuance of the Board of Education's decision. A parent, pupil, legal guardian, or organization may file a complaint with the Division on Civil Rights within one hundred eighty days of the occurrence of any incident of harassment, intimidation, or bullying based on membership in a protected group as enumerated in the "Law Against Discrimination," P.L. 1945, c. 169 (C.10.5-1 et seq.).

24. 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, the District officials have no involvement in this type of allegation. This is a private matter that the District officials are not permitted to address.

25. 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 parents, guardians, or community members, may make a report of HIB.