

Respect in Our Schools: Anti-Bullying Bill of Rights Act

Presentation for Parents/Guardians Warren County School Districts
November 3, 2011

Philip E. Stern, Esq.
Adams Stern Gutierrez & Lattiboudere, LLC.
The Legal Center
1037 Raymond Blvd., Suite 900
Newark, New Jersey 07102
(973) 735-2742
pstern@asglaw.com



RESPECT

GIVE IT



TO GET IT.

How Can I Contribute to a “Respectful Environment”?

- Understand the importance of familiarizing yourself with your school district’s policies and the law.
- Acknowledge the right to a respectful school environment for all.
- Set a positive example.

Why You Should Be Concerned

- Individual liability
- Million dollar verdicts
- Significant defense costs
- Less productive workforce
- Negative publicity

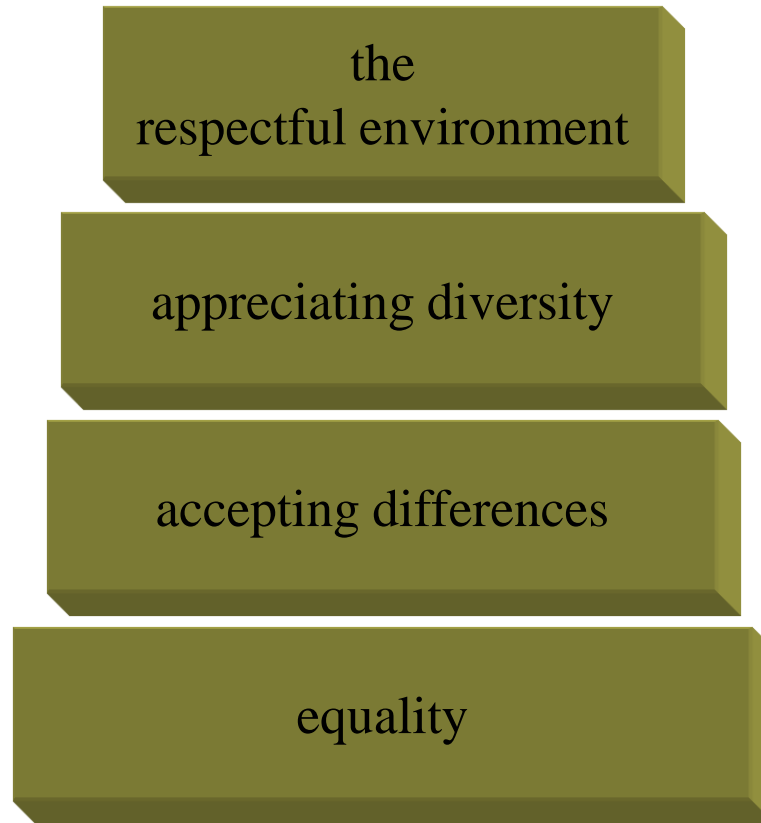
STOP harassment/inappropriate conduct



Questions to Address:

- What is unlawful harassment, intimidation and bullying?
- Why do I need to know?
- What is my school district's policy against HIB?
- What do I do if I witness inappropriate conduct?

Building Blocks of a Respectful Environment



Prohibited Harassment, Intimidation and Bullying

On the basis of:

- Sex
- Age
- Race
- National Origin
- Religion
- Sexual Orientation
- Disability
- Domestic Partnership Status
- Any other protected characteristic

Student Harassment, Intimidation and Bullying



Student Bullying

Anti Bullying Bill of Rights Act

November 8, 2010

DECLARATION

The Legislature finds and declares that:

- a. A 2009 study by the United States Department of Justice and Education, “Indicators of School Crime and Safety,” reported that **32% of students aged 12 through 18 were bullied** in the previous school year. The study reported that 25% of the responding public schools indicated that bullying was a daily or weekly problem;
- b. A 2009 study by the United States Centers for Disease Control and Prevention, “Youth Risk Behavior Surveillance,” reported that the percentage of students bullied in New Jersey is **1 percentage point higher** than the national median;
- c. In 2010, the chronic persistence of school bullying has led to student ***suicides*** across the country, including in New Jersey;
- d. Significant research has emerged since New Jersey enacted its public school anti-bullying statute in 2002, and since the State amended that law in 2007 to include cyber-bullying and in 2008 to ***require each school district to post its anti-bullying policy on its website and distribute it annually to parents or guardians enrolled in the district;***

DECLARATION (CON'T)

- e. School districts and their students, parents, teachers, principals, other school staff, and board of education members would benefit by the establishment of clearer standards on what constitutes harassment, intimidation, and bullying, and clearer standards on how to prevent, report, investigate, and respond to incidents of harassment, intimidation, and bullying;
- f. It is the intent of the Legislature in enacting this legislation to strengthen the standards and procedures for preventing, reporting, investigating, and responding to incidents of harassment, intimidation, and bullying of students that occur in school and off school premises.



Definition of Harassment, Intimidation and Bullying

“Harassment, intimidation or bullying” means 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, 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
- d. by interfering with a student's education or by severely or pervasively causing physical or emotional harm to the student.

Implementation- The **Anti-Bullying Bill of Rights Act** takes effect in the first school year following enactment, but the Commissioner of Education may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Other Relevant Legal Authorities

N.J.S.A. 18A:36-20: “No pupil in a public school in this State shall be discriminated against in admission to, or in obtaining any advantages, privileges or courses of study of the school by reason of race, color, creed, sex or national origin.”

N.J.S.A. 18A:37-18: NJ Anti-Bullying Law- Strengthens law designed to combat harassment and bullying in schools.



Bullying Defined

- Aggressive behavior that intends to cause harm or distress
- Usually repeated over time
- Occurs in a relationship where there is an imbalance of power or strength



Direct Bullying

- Hitting, kicking, shoving, spitting...
- Taunting, teasing, racial slurs, verbal harassment
- Threatening, obscene gestures



Indirect Bullying

- Getting another person to bully someone for you
- Spreading rumors
- Deliberately excluding someone from a group or activity
- Cyber-bullying
 - Note: **Electronic Cyber-bullying** → using cell phones, instant messaging, texts, emails, blogs, web pages, etc. *for the purpose of harassing, intimidating or bullying someone.*



Gender Differences in Bullying

- Most studies find that boys bully more than do girls.
- Boys report being bullied by boys; girls report being bullied by boys **and** girls.
- Boys are more likely to be physically bullied by their peers.
- Girls are more likely to be bullied through rumor-spreading and social exclusion.



Conditions Surrounding Bullying

- Children usually are bullied by one child or a small group.
- Common locations include: playgrounds, classrooms, lunchrooms, halls, and bathrooms.
- Bullying is more common at school than on the way to or from school.



Children who are bullied have:

- Lower self esteem
- Higher rates of depression
- Higher absenteeism rates
- More suicidal ideation



Common Characteristics of Bullies

- Hyperactive, have difficulty concentrating
- Quick-tempered, try to fight back if provoked
- May be bullied by many children
- Try to bully younger, weaker children



Kids Who Observe

What do you usually do when you see a student being bullied?

- Nothing, because it's none of my business
- I don't do anything, but I think I should help
- I try to help him or her



Anti-Bullying Law

- Report incidents of *bullying, harassment*
- Confidentiality; but action must be taken
- **Investigate and Respond**
- **Protect** victim from retaliation
- School district **must have a policy** and a **bullying prevention program** prohibiting harassment, intimidation or bullying on school property, at school-sponsored functions and on school buses

Anti-Bullying (cont'd)

- Harassment, intimidation and bullying are reasons that would constitute “**good cause**” for suspension or expulsion of a student.
- School District’s policy must include appropriate responses to actions of harassment, intimidation and bullying that occur off school grounds



Anti-Bullying Definition

- Any gesture or written, verbal or physical act
- Reasonably perceived as being motivated either by any actual or perceived characteristics such as race, color, religion ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory handicap
- Or by “any other distinguished characteristics”
- That takes place on **school property**, at any school sponsored function, or on a school bus



Anti-Bullying Definition (Cont'd)

- That a **reasonable person should know**, under the circumstances, will have the *effect of harming a student or damaging the student's property*, or placing a student in **reasonable fear of harm** to his person or damage to his property; or
- That has the effect of **insulting or demeaning** any student or group of students in such a way as to cause *substantial disruption* in, or substantial interference with, the orderly operation of school;
- The “harm” that a student may experience could be either *physical or emotional*; and
- Adds two additional criteria to the definition: **the creation of a hostile environment at school** and the **infringement on the rights of the student at a school**.
- Add “bias intimidation” to the list of crimes for which a person can be disqualified for employment in a school district.



BULLYING DEFINED, CONT.



Not all Incidents are Bullying

Conflict

- *Conflict is mutually competitive or mutually engaging*
- *May include disagreements, arguments, or fights*
- *Normal part of growing up*

Bullying

- *Bullying is one-sided*
- *One or more students may be the victim of aggression by the same person*
- *The intent is to physically or emotionally hurt someone*

Your Obligation

- What this means for the School and its employees?
 - If you know about student-to-student bullying or harassment → **ACT - REPORT**
 - A SCHOOL EMPLOYEE OR CONTRACTED SERVICE PROVIDER MUST FILE A WRITTEN REPORT WITH THE SCHOOL PRINCIPAL WITHIN TWO (2) DAYS OF OBSERVING OR BEING MADE AWARE OF AN ACT OF HARASSMENT, INTIMIDATION, OR BULLYING



NEW ROLES

- **Anti-Bullying Specialist (school)**
 - Appointed from existing staff/leads investigations/chairs school safety team
- **School Safety Team (school)**
 - Principal, teacher, parent other members who meet re school climate, HIB, patterns
 - Parent member rights limited
- **Anti-Bullying Coordinator (district)**
 - Coordinate district policies, provides data

TIMELINE FOR INVESTIGATION

- School Day 1: HIB occurs and/or employee learns of HIB – Verbal report must be made to principal.
Principal must inform parents/guardians “of all students involved”
- By School Day 2: Principal must initiate investigation by Anti-Bullying Specialist within one school day of report; may appoint others to assist.
- By School Day 3: Written report to principal to be made within 2 days of when employee witnessed or received reliable information that a student experienced HIB.

TIMELINE FOR INVESTIGATION

(cont'd)

- By School Day 11: Investigation complete by Anti-Bullying Specialist (by 10 school days from written report).
- By School Day 13: Results of investigation must be given to superintendent within 2 school days of completing investigation. Superintendent may decide to take action (ex. Intervention services, training, discipline, counseling, etc.)

TIMELINE FOR INVESTIGATION

(cont'd)

- Report to Board: Superintendent must report to board of education at next board meeting following completion of investigation.
- Report to parent/guardian: District must provide “information about the investigation” to parents/guardians of “students who are parties to the investigation” about the investigation and findings within 5 school days after investigation results are given to the board. Information to include: nature of investigation, whether evidence of HIB was found, whether discipline imposed or counseling services were provided to address HIB.

TIMELINE FOR INVESTIGATION (cont'd)

- **Board Hearing:** Parent may request a confidential hearing before board of education, which must occur within 10 calendar days of request. (Just the family and the administrators – like a student discipline hearing)
- **Board Decision:** Board must issue decision in writing to affirm, reject or modify Superintendent's decision, at next board meeting following receipt of report. Board's decision may be appealed to Commissioner of Education within 90 calendar days.

TIMELINE FOR INVESTIGATION

(cont'd)

- **Civil Rights Complaint:** Parent may file a complaint with the NJ Division on Civil Rights within 180 calendar days of incident, or in state or federal court. The complaint must be based on one of the protected categories of the NJ Law Against Discrimination.
- **ECS Investigation:** Executive county superintendent shall investigate a complaint of a violation by a school district when the complaint is not adequately addressed on the local level.

School Policy

- HIB **WILL NOT** be tolerated.
- All complaints will be promptly and thoroughly investigated while protecting the rights of the parties involved.
- Retaliation **WILL NOT** be permitted
- Effective remedial action will be taken



Students with Disabilities

- Nothing contained in the “Anti-Bullying Bill of Rights Act,” P.L.2002, c.83 (C.18A:37-13 et seq.), as amended and supplemented shall alter or reduce the rights of a student with a disability with regard to disciplinary actions or to general or special educational services and supports.



What works in bullying prevention?

- What is required to reduce bullying in schools is **nothing less than a change in the school climate and in norms for behavior.**
- This requires a *comprehensive, school-wide effort* involving the *entire school community.*





QUESTIONS ?



THANK

YOU