

# ANTI-BULLYING BILL OF RIGHTS ACT

BERNARDS TOWNSHIP BOARD OF EDUCATION

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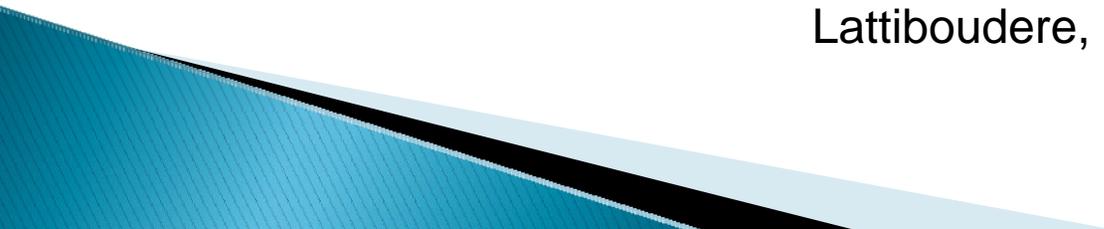
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# NEW LAW

January 6, 2011 Governor Christie signed into law the “Anti-Bullying Bill of Rights” Act

New law goes into effect *September 2011*

Amends the 2002 anti-bullying law

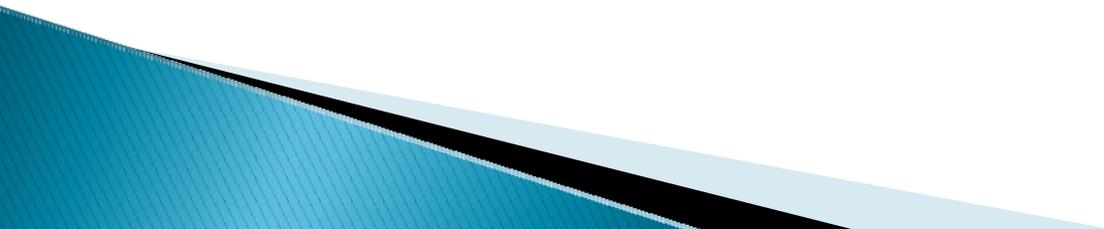
# WHAT'S THE PROBLEM?

Harassment, intimidation and bullying have been documented as significant problems in school populations since NJ enacted anti-bullying legislation in 2002

Nationwide, suicides of students have been attributed to harassment, intimidation and/or bullying

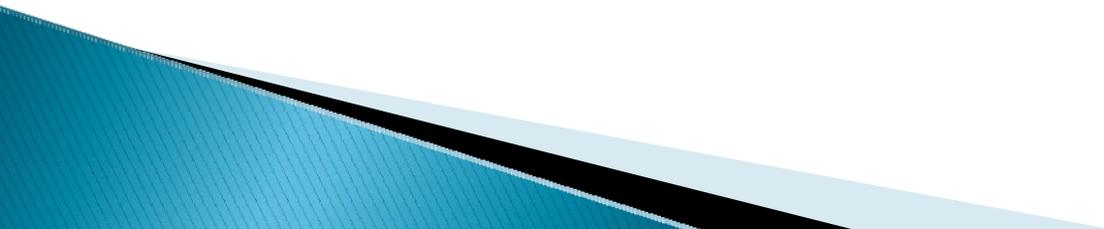
Two studies in 2009 illustrated the scope of the problem, and were referenced in the “Anti-Bullying Bill of Rights” Act:

# THE PROBLEM...

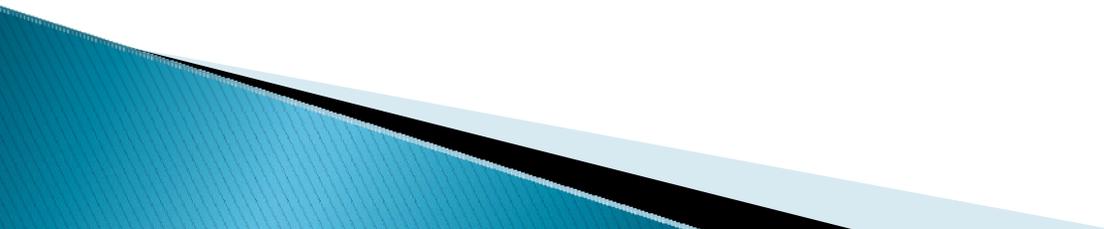
- ▶ 2009 study by U.S. Depts. of Justice and Education reported that 32% of students ages 12 through 18 were bullied in past year (“Indicators of School Crime and Safety,” 2009)
  - ▶ 25% of responding public schools indicated that bullying was a daily or weekly problem (“Indicators of School Crime and Safety,” 2009)
  - ▶ 2009 study by the Centers for Disease Control and Prevention reported that the percentage of students bullied in NJ is 1 percentage point higher than the national median (“Youth Risk Behavior Surveillance,” 2009)
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# KEY ISSUES IN NEW LAW

## What has changed?

- New definition of harassment/intimidation/bullying
  - Clarifies responsibility for conduct away from school grounds
  - Creates School Safety Teams
  - Requires Anti-Bullying Specialist in every school
  - Requires Anti-Bullying Coordinator for district
  - New reporting, investigation, discipline, appeal procedures
- 

# KEY ISSUES IN NEW LAW (cont'd)

- ▶ New state reporting requirements on incidents of bullying
  - ▶ New grading procedure for schools and districts
  - ▶ New training requirements
  - ▶ Clarifies instances where school employee may be subject to disciplinary action
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# NEW DEFINITION

“Harassment, Intimidation or Bullying”  
 (“HIB”)

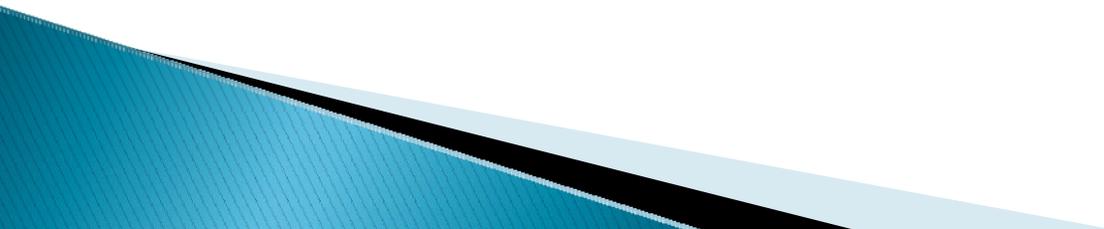
1. Types of behaviors included:
    - ANY gesture, or
    - ANY written, verbal or physical act, or
    - ANY electronic communication
    - Can be a single incident or series of incidents
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# HIB DEFINITION (cont'd)

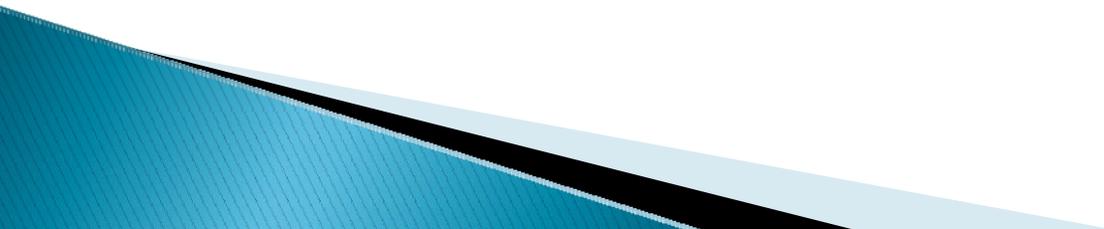
## 2. Motivation for behavior:

- ANY actual OR perceived characteristic
- TYPES OF CHARACTERISTICS: race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or mental/physical/sensory disability,
- or ANY OTHER DISTINGUISHING CHARACTERISTIC

# HIB Definition (cont'd)

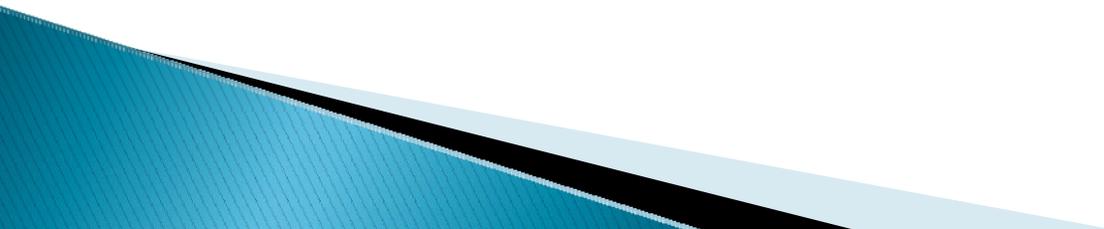
3. Location of behavior:
    - On school property
    - At school-sponsored function
    - On a school bus
    - Off school grounds (including cyberspace)
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# HIB DEFINITION (cont'd)

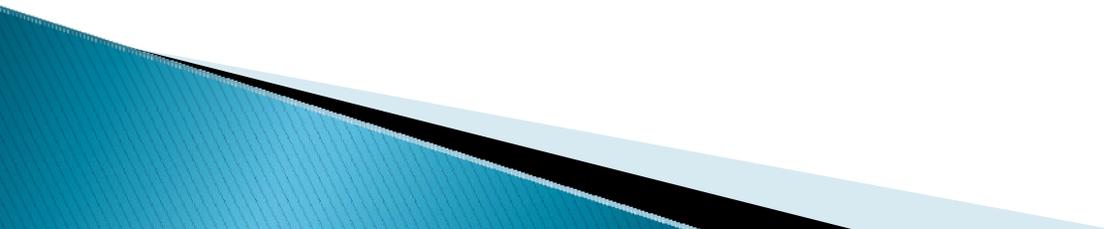
4. BEHAVIOR MUST CAUSE SUBSTANTIAL DISRUPTION OR INTERFERENCE IN SCHOOL OR OF STUDENT RIGHTS, *AND* MEET ONE OF THE FOLLOWING CONDITIONS:
- Physical or emotional harm to student or damage to student's property, or placing student in fear of harm to self or property
  - Effect of insulting or demeaning student or group of students OR
  - Create "hostile educational environment" for student by interfering with student's education OR severely or pervasively causing physical or emotional harm to student
- 

# REVISED LANGUAGE, BUT SIMILAR LEGAL STANDARD

New statute clarifies the following, which were already true based on case law:

- ▶ Need for threshold showing of substantial disruption with operation of school or with rights of student
  - ▶ HIB could be single incident or series
  - ▶ HIB could be emotional or physical harm
  - ▶ Incident could be off school grounds
- 

# 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
- 

# BULLYING V. CONFLICT



## 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*

# CONDUCT AWAY FROM SCHOOL GROUNDS

- ▶ Schools' duty goes beyond "portal to portal"
- ▶ Legal duty existed since 1971 decision in *R.R. v. Shore Regional*
- ▶ Duty has been in NJ administrative code since 2005 (N.J.A.C. 6A:16-7.6)
- ▶ Examples : (i) student in fight at park over perceived sexual orientation, results in student fearful and distracted in school; (ii) race-based comments posted at home through peer's Facebook page or Twitter account, and student's grades begin to drop

# CONDUCT AWAY FROM SCHOOL GROUNDS (cont'd)

New law doesn't change scope of schools' responsibility for student conduct away from school grounds

*Remember*, for schools to discipline for conduct away from school grounds, there must be **substantial disruption with operation of school *or* with rights of student[s]**

# ANTI-BULLYING SPECIALIST

New position – in every school

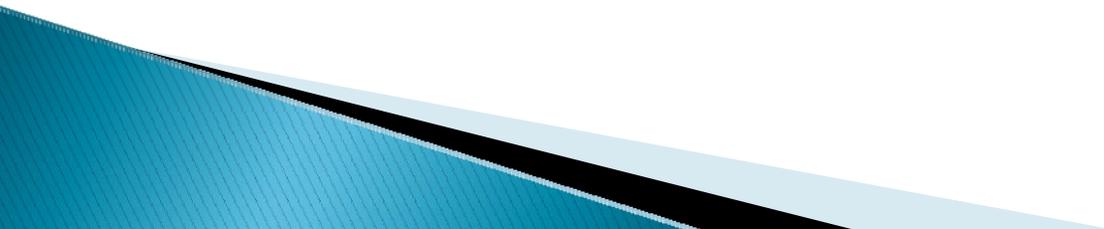
Principal appoints

Guidance counselor, school psychologist or  
other “similarly trained” individual

If none of above available, appoint someone  
else from staff

# ANTI-BULLYING SPECIALIST (cont'd)

## DUTIES:

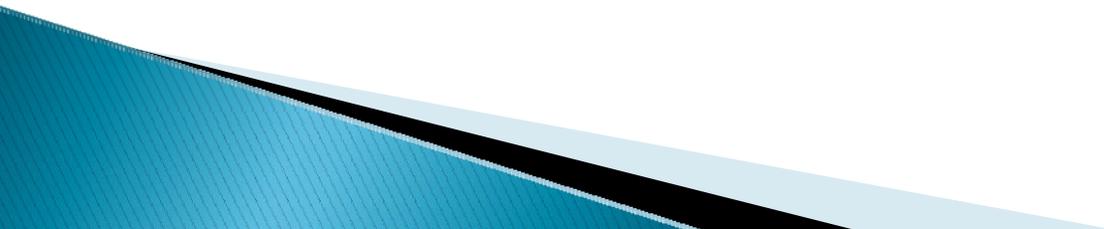
- Responsible to LEAD investigations
  - Primary official responsible for preventing, identifying and addressing incidents
  - Chair the newly-created School Safety Team
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# SCHOOL SAFETY TEAMS

Chaired by Anti-Bullying Specialist

Includes principal or designee, teacher, parent,  
other members as determined by principal

Must meet at least 2 times per year



# SCHOOL SAFETY TEAM

## (cont'd)

### DUTIES:

- Receive complaints reported to principal
- Receive copies of investigation reports
- Review and strengthen school policies
- Identify and address patterns of bullying in school
- Participate in training programs
- Collaborate with district Anti-Bullying Coordinator to collect and develop policies
- PARENT EXCLUDED FROM HAVING INFO ON SPECIFIC INCIDENTS , OR ROLE IN IDENTIFYING PATTERNS

# ANTI-BULLYING COORDINATOR

Superintendent must appoint from existing staff

## DUTIES:

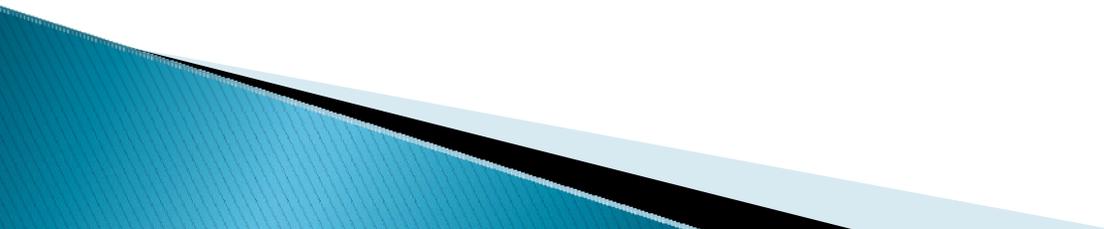
- Coordinate and strengthen policies
  - Collaborate with school anti-bullying specialists
  - Provide data to NJDOE
  - Meet at least 2 times per year with anti-bullying specialists
- 

# REPORTING PROCEDURES

- ▶ Have a report form available for anyone to use
- ▶ Make reporting form widely available: post report form on school and district websites, have forms available in key areas in schools
- ▶ Act allows anonymous reports to be accepted to trigger an investigation; staff should identify themselves, but parents or students can report anonymously

# NEW INVESTIGATION PROCEDURE

## DETAILED, SPECIFIC TIMELINES:

- ▶ Verbal report must be made to principal on same day incident occurs
  - ▶ Follow-up written report within 2 days of verbal report
  - ▶ Principal must initiate investigation “within one school day of receiving report.” Until clarified in regulations, assume must initiate within 1 day of VERBAL report
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# NEW INVESTIGATION PROCEDURE (cont'd)

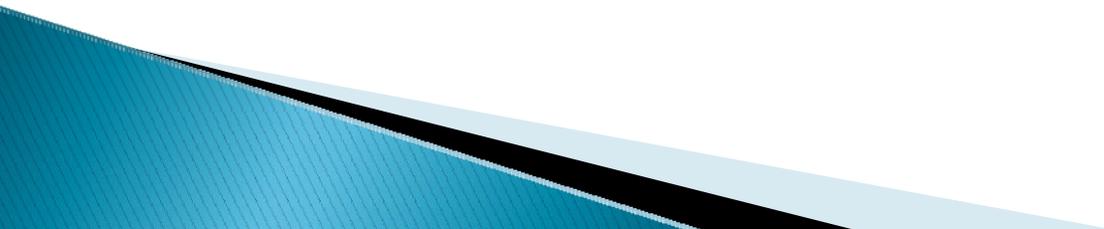
Investigation must be conducted by Anti-Bullying Specialist

Principal may appoint others to assist

Must complete as soon as possible, but no later than 10 school days from date of the written report

Must give report to superintendent within 2 school days of completing investigation

May amend report if additional info later



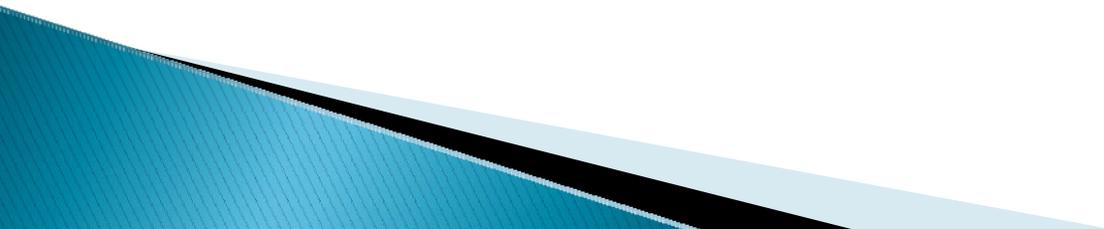
# SCHOOL'S RESPONSES TO HIB

Principal, with anti-bullying specialist, to determine range of possible responses available to respond to HIB

*e.g.*, counseling, support services, intervention services, “and other programs, as defined by the commissioner”

# SUPERINTENDENT'S NEW ROLE

Superintendent must decide actions to take:

- Intervention services
  - Training programs
  - Impose discipline
  - Order counseling
  - Report to Board by the next board meeting following completion of investigation
- 

# NEW ROLE OF BOARD OF EDUCATION

Receives superintendent's report of HIB

Must issue written decision to affirm, reject or modify superintendent's decision

State DOE's position is that the Board must formally act only where there is an appeal; otherwise it is a simple report to the Board.

# DUE PROCESS RIGHTS FOR ALLEGED ACCUSED AND ALLEGED VICTIM(S)

Parents of all parties involved have right to receive information—includes parents of alleged victim and alleged bully

School must provide info within 5 school days after results of investigation reported to board

Parent may request hearing after receiving information, must be provided within 10 days of request

# DUE PROCESS RIGHTS (cont'd)

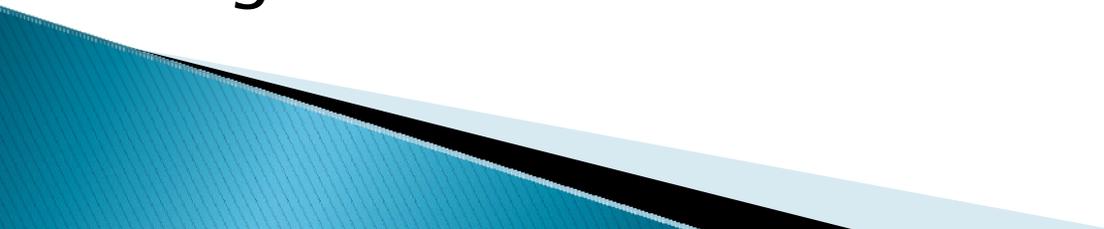
Board must issue a decision in writing at next board meeting following receipt of report

Parents of parties may appeal decision to Commissioner of Education within 90 days

Parents of alleged victim may separately file complaint with NJ Division on Civil Rights within 180 of alleged incident

Parents may also file in Superior Court or federal district court – if bullying is based on protected characteristic under state or federal law

# EMPLOYEE DISCIPLINE

- Discipline may be imposed on employee who
- ▶ FAILS TO INVESTIGATE or SHOULD HAVE KNOWN of an incident and fails to take action
  - ▶ Key issue = SHOULD HAVE KNOWN – districts need to create clear internal procedures, provide training
  - ▶ Range of possible discipline – memo, increment withholding, tenure charges
  - ▶ Board members may not engage in reprisals against witnesses or victims
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# REPORTING REQUIREMENTS

Two times each year, superintendent must report to board on acts of violence, vandalism *and bullying* (once Sept. 1 – Jan. 1, and once Jan. 1 – June 30)

Type and number of incidents, with breakdown of reasons for bullying incidents (race, disability, ethnicity, sexual orientation, etc.)

Must also report data to NJDOE

State Report Card will include bullying info

# GRADING

District report shall be used to grade each school and district

Grade based on efforts to implement law and required board policies

Commissioner will develop guidelines for grading

Grade must be posted on homepage of school's website

# DOE GUIDANCE

DOE has issued a guidance document to assist school districts, available at

[www.state.nj.us/education/parents/bully.htm](http://www.state.nj.us/education/parents/bully.htm)

(April 2011)

DOE is developing an online tutorial

DOE must issue a protocol for Executive County Supt. to investigate complaints, where requested

# TRAINING REQUIRED

School districts must provide annual training for all staff on code of conduct, including HIB

Must include HIB prevention training as part of required suicide prevention

Must be part of required training that all school leaders must complete on school law, ethics, and governance

Required for school leader prep and teacher prep by 2012 and alternate route teachers within one year of hire