

BILL NO. _____ Date of Intro. _____ Ref. _____

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AN ACT concerning harassment, intimidation, and bullying in school settings and amending and supplementing various parts of the statutory law.

Establishes measures to address harassment, intimidation, and bullying in school settings.

PRIME Sponsor _____ / _____

<u>CO-Sponsor</u>	<u>District</u>	<u>CO-Sponsor</u>	<u>District</u>
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Same as _____ 08/09 Same as _____ 10/11

Suggested allocation: Section 1 and 2 to C.18A:37-32; §16 to C.18A:37-15.3; §§ 17-27 to C.18A:37-21 et seq.; §28 to C.18A:3B-68

AN ACT concerning harassment, intimidation, and bullying in school settings and amending and supplementing various parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. (New section) Sections 1, 2, and 16 through 28 of this act and P.L.2002, c.83 (C.18A:37-13 et seq.) shall be known and may be cited as the “Anti-Bullying Bill of Rights Act.”

2. (New section) The Legislature finds and declares that:

a. A 2009 study by the United States Departments 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 of students enrolled in the district;

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;

g. Fiscal responsibility requires New Jersey to take a smarter, clearer approach to fight school bullying by ensuring that existing resources are better managed and used to make our schools safer for students;

h. In keeping with the aforementioned goal of fiscal responsibility and in an effort to minimize any burden placed on schools and school districts, existing personnel and resources shall be utilized in every possible instance to accomplish the goals of

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

increased prevention, reporting, and responsiveness to incidents of harassment, intimidation or bullying, including in the appointment of school anti-bullying specialists and district anti-bullying coordinators;

i. By strengthening standards for preventing, reporting, investigating, and responding to incidents of bullying this act will help to reduce the risk of suicide among students and avert not only the needless loss of a young life, but also the tragedy that such loss represents to the student's family and the community at large; and

j. Harassment, intimidation, and bullying is also a problem which occurs on the campuses of institutions of higher education in this State, and this act by requiring the public institutions to include in their student codes of conduct a specific prohibition against bullying will be a significant step in reducing incidents of such activity.

3. Section 1 of P.L.1986, c.116 (C.18A:6-7.1) is amended to read as follows:

1. A facility, center, school, or school system under the supervision of the Department of Education and board of education which cares for, or is involved in the education of children under the age of 18 shall not employ for pay or contract for the paid services of any teaching staff member or substitute teacher, teacher aide, child study team member, school physician, school nurse, custodian, school maintenance worker, cafeteria worker, school law enforcement officer, school secretary or clerical worker or any other person serving in a position which involves regular contact with pupils unless the employer has first determined consistent with the requirements and standards of this act, that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or the State Bureau of Identification which would disqualify that individual from being employed or utilized in such capacity or position. An individual employed by a board of education or a school bus contractor holding a contract with a board of education, in the capacity of a school bus driver, shall be required to meet the criminal history record requirements pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1). A facility, center, school, or school system under the supervision of the Department of Education and board of education which cares for, or is involved in the education of children under the age of 18 may require criminal history record checks for individuals who, on an unpaid voluntary basis, provide services that involve regular contact with pupils. In the case of school districts involved in a sending-receiving relationship, the decision to require criminal history record checks for volunteers shall be made jointly by the boards of education of the sending and receiving districts.

An individual, except as provided in subsection g. of this section, shall be permanently disqualified from employment or service

under this act if the individual's criminal history record check reveals a record of conviction for any crime of the first or second degree; or

a. An offense as set forth in chapter 14 of Title 2C of the New Jersey Statutes, or as set forth in N.J.S.2C:24-4 and 2C:24-7, or as set forth in R.S.9:6-1 et seq., or as set forth in N.J.S.2C:29-2; or

b. An offense involving the manufacture, transportation, sale, possession, distribution or habitual use of a "controlled dangerous substance" as defined in the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al. or "drug paraphernalia" as defined pursuant to N.J.S.2C:36-1 et seq.; or

c. (1) A crime involving the use of force or the threat of force to or upon a person or property including, but not limited to, robbery, aggravated assault, stalking, kidnapping, arson, manslaughter and murder; or

(2) A crime as set forth in chapter 39 of Title 2C of the New Jersey Statutes, a third degree crime as set forth in chapter 20 of Title 2C of the New Jersey Statutes, or a crime as listed below:

Recklessly endangering another person	N.J.S.2C:12-2
Terroristic threats	N.J.S.2C:12-3
Criminal restraint	N.J.S.2C:13-2
Luring, enticing child into motor vehicle, structure or isolated area	P.L.1993, c.291 (C.2C:13-6)
Causing or risking widespread injury or damage	N.J.S.2C:17-2
Criminal mischief	N.J.S.2C:17-3
Burglary	N.J.S.2C:18-2
Usury	N.J.S.2C:21-19
Threats and other improper influence	N.J.S.2C:27-3
Perjury and false swearing	N.J.S.2C:28-3
Resisting arrest	N.J.S.2C:29-2
Escape	N.J.S.2C:29-5
<u>Bias intimidation</u>	<u>N.J.S.2C:16-1;</u>

or

(3) Conspiracy to commit or an attempt to commit any of the crimes described in this act.

d. For the purposes of this section, a conviction exists if the individual has at any time been convicted under the laws of this State or under any similar statutes of the United States or any other state for a substantially equivalent crime or other offense.

e. Notwithstanding the provisions of this section, an individual shall not be disqualified from employment or service under this act on the basis of any conviction disclosed by a criminal record check performed pursuant to this act without an opportunity to challenge the accuracy of the disqualifying criminal history record.

f. When charges are pending for a crime or any other offense enumerated in this section, the employing board of education shall be notified that the candidate shall not be eligible for employment

until the commissioner has made a determination regarding qualification or disqualification upon adjudication of the pending charges.

g. This section shall first apply to criminal history record checks conducted on or after the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); except that in the case of an individual employed by a board of education or a contracted service provider who is required to undergo a check upon employment with another board of education or contracted service provider, the individual shall be disqualified only for the following offenses:

(1) any offense enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); and

(2) any offense enumerated in this section which had not been enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.), if the person was convicted of that offense on or after the effective date of that act.

(cf: P.L.2007, c.82, s.1)

4. Section 2 of P.L.2005, c.310 (C.18A:6-112) is amended to read as follows:

2. The State Board of Education, in consultation with the New Jersey Youth Suicide Prevention Advisory Council established in the Department of Children and Families pursuant to P.L.2003, c.214 (C.30:9A-22 et seq.), shall, as part of the professional development requirement established by the State board for public school teaching staff members, require each public school teaching staff member to complete at least two hours of instruction in suicide prevention, to be provided by a licensed health care professional with training and experience in mental health issues, in each professional development period. The instruction in suicide prevention shall include information on the relationship between the risk of suicide and incidents of harassment, intimidation, and bullying and information on reducing the risk of suicide in students who are members of communities identified as having members at high risk of suicide.

(cf: P.L.2006, c.47, s.80)

5. Section 3 of P.L.1995, c.235 (C.18A:7E-3) is amended to read as follows:

3. Report cards issued pursuant to section 2 of this act shall include, but not be limited to, the following information for:

a. the school district and for each school within the district, as appropriate:

- (1) results of the elementary assessment programs;
- (2) results of the Early Warning Test;
- (3) results of the High School Proficiency Test;
- (4) daily attendance records for students and professional staff;
- (5) student graduation and dropout rates;
- (6) annual student scores on the Scholastic Aptitude Test;

(7) total student enrollment, percentage of limited English proficient students, percentage of students in advanced placement courses, and any other school characteristics which the commissioner deems appropriate;

(8) instructional resources including teacher/student ratio, average class size and amount of instructional time per day, as calculated by formulas specified by the commissioner; [and]

(9) a written narrative by the school principal or a designee which describes any special achievements, events, problems or initiatives of the school or district; and

(10) data identifying the number and nature of all reports of harassment, intimidation, or bullying; and

b. the school district, as appropriate:

(1) per pupil expenditures and State aid ratio;

(2) percent of budget allocated for salaries and benefits of administrative personnel;

(3) percent of budget allocated for salaries and benefits of teachers;

(4) percentage increase over the previous year for salaries and benefits of administrative and instructional personnel;

(5) the number of administrative personnel and the ratio of administrative personnel to instructional personnel;

(6) a profile of the most recent graduating class concerning their educational or employment plans following graduation; and

(7) any other information which the commissioner deems appropriate.

For the purposes of this section, the Commissioner of Education shall establish a uniform methodology for the reporting of the data concerning administrative personnel on a full-time equivalent basis. (cf: P.L.1995, c.235, s.3)

6. Section 13 of P.L.1991, c.393 (C.18A:12-33) is amended to read as follows:

13. a. Each newly elected or appointed board member shall complete during the first year of the member's first term a training program to be prepared and offered by the New Jersey School Boards Association, in consultation with the New Jersey Association of School Administrators, the New Jersey Principals and Supervisors Association, and the Department of Education, regarding the skills and knowledge necessary to serve as a local school board member. The training program shall include information regarding the school district monitoring system established pursuant to P.L.2005, c.235, the New Jersey Quality Single Accountability Continuum, and the five key components of school district effectiveness on which school districts are evaluated under the monitoring system: instruction and program; personnel; fiscal management; operations; and governance.

The board member shall complete a training program on school district governance in each of the subsequent two years of the board member's first term.

b. Within one year after each re-election or re-appointment to the board of education, the board member shall complete an advanced training program to be prepared and offered by the New Jersey School Boards Association. This advanced training program shall include information on relevant changes to New Jersey school law and other information deemed appropriate to enable the board member to serve more effectively.

c. The New Jersey School Boards Association shall examine options for providing training programs to school board members through alternative methods such as on-line or other distance learning media or through regional-based training.

d. Within one year after being newly elected or appointed or being re-elected or re-appointed to the board of education, a board member shall complete a training program on harassment, intimidation and bullying in schools, including a school district's responsibilities under P.L.2002, c.83 (C.18A:37-13 et seq.). A board member shall be required to complete the program only once.

e. Training on harassment, intimidation and bullying in schools shall be provided by the New Jersey School Boards Association, in consultation with recognized experts in school bullying from a cross section of academia, child advocacy organizations, nonprofit organizations, professional associations, and government agencies.

(cf: P.L.2007, c.53, s.17)

7. Section 1 of P.L.1982, c.163 (C.18A:17-46) is amended to read as follows:

1. Any school employee observing or having direct knowledge from a participant or victim of an act of violence shall, in accordance with standards established by the commissioner, file a report describing the incident to the school principal in a manner prescribed by the commissioner, and copy of same shall be forwarded to the district superintendent.

The principal shall notify the district superintendent of schools of the action taken regarding the incident. [Annually] Once during each semester of the school year, at a public hearing, the superintendent of schools shall report to the board of education all acts of violence [and] , vandalism, and harassment, intimidation, or bullying which occurred during the previous [school year] semester. The report shall include the number of reports of harassment, intimidation, or bullying, the status of all investigations, the nature of the bullying based on one of the protected categories identified in section 2 of P.L.2002, c.83 (C.18A:37-14), the names of the investigators, the type and nature of any discipline imposed on any student engaged in harassment, intimidation, or bullying, and any other measures imposed, training conducted, or programs implemented, to reduce harassment, intimidation, or bullying. The

information shall also be reported once during each semester of the school year to the Department of Education. The report must include data broken down by the enumerated categories as listed in section 2 of P.L.2002, c.83 (C.18A:37-14), and data broken down by each school in the district, in addition to district-wide data. It shall be a violation to improperly release any confidential information not authorized by federal or State law for public release.

The report shall be used to grade each school for the purpose of assessing its effort to identify harassment, intimidation, or bullying. The district shall receive a grade determined by averaging the grades of all the schools in the district. The commissioner shall promulgate guidelines for a program to grade schools for the purpose of assessing their efforts to identify harassment, intimidation, or bullying.

The grade received by a school and the district shall be posted on the homepage of the school's website. The grade for the district and each school of the district shall be posted on the homepage of the district's website. A link to the report shall be available on the district's website. The information shall be posted on the websites within 10 days of the receipt of a grade by the school and district.

Verification of the [annual report] reports on violence [and] , vandalism, and harassment, intimidation, or bullying shall be part of the State's monitoring of the school district, and the State Board of Education shall adopt regulations that impose a penalty on a school employee who knowingly falsifies the report. A board of education shall provide ongoing staff training, in cooperation with the Department of Education, in fulfilling the reporting requirements pursuant to this section. The majority representative of the school employees shall have access monthly to the number and disposition of all reported acts of school violence [and] , vandalism, and harassment, intimidation, or bullying.

(cf: P.L.2007, c.42, s.1)

8. Section 3 of P.L.1982, c.163 (C.18A:17-48) is amended to read as follows:

3. The Commissioner of Education shall each year submit a report to the Education Committees of the Senate and General Assembly detailing the extent of violence [and] , vandalism, and harassment, intimidation, or bullying in the public schools and making recommendations to alleviate the problem. The report shall be made available annually to the public no later than October 1, and shall be posted on the department's website.

(cf: P.L.1982, c.163, s.3)

9. Section 13 of P.L.2007, c.53 (C.18A:26-8.2) is amended to read as follows:

13. a. As used in this section, "school leader" means a school district staff member who holds a position that requires the

possession of a chief school administrator, principal, or supervisor endorsement.

b. A school leader shall complete training on issues of school ethics, school law, and school governance as part of the professional development for school leaders required pursuant to State Board of Education regulations. Information on the prevention of harassment, intimidation, and bullying shall also be included in the training. The training shall be offered through a collaborative training model as identified by the Commissioner of Education, in consultation with the State Advisory Committee on Professional Development for School Leaders.

(cf: P.L.2007, c.53, s.13)

10. N.J.S.18A:37-2 is amended to read as follows:

18A:37-2. Any pupil who is guilty of continued and willful disobedience, or of open defiance of the authority of any teacher or person having authority over him, or of the habitual use of profanity or of obscene language, or who shall cut, deface or otherwise injure any school property, shall be liable to punishment and to suspension or expulsion from school.

Conduct which shall constitute good cause for suspension or expulsion of a pupil guilty of such conduct shall include, but not be limited to, any of the following:

- a. Continued and willful disobedience;
- b. Open defiance of the authority of any teacher or person, having authority over him;
- c. Conduct of such character as to constitute a continuing danger to the physical well-being of other pupils;
- d. Physical assault upon another pupil;
- e. Taking, or attempting to take, personal property or money from another pupil, or from his presence, by means of force or fear;
- f. Willfully causing, or attempting to cause, substantial damage to school property;
- g. Participation in an unauthorized occupancy by any group of pupils or others of any part of any school or other building owned by any school district, and failure to leave such school or other facility promptly after having been directed to do so by the principal or other person then in charge of such building or facility;
- h. Incitement which is intended to and does result in unauthorized occupation by any group of pupils or others of any part of a school or other facility owned by any school district;
- i. Incitement which is intended to and does result in truancy by other pupils; [and]
- j. Knowing possession or knowing consumption without legal authority of alcoholic beverages or controlled dangerous substances on school premises, or being under the influence of intoxicating liquor or controlled dangerous substances while on school premises; and
- k. Harassment, intimidation, or bullying.

(cf: P.L.1981, c.59, s.1)

11. Section 2 of P.L.2002, c.83 (C.18A:37-14) is amended to read as follows:

2. As used in this act:

"Electronic communication" means a communication transmitted by means of an electronic device, including, but not limited to, a telephone, cellular phone, computer, or pager;

"Harassment, intimidation or bullying" means any gesture, any written, verbal or physical act, or any electronic communication 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 [handicap] disability, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function or on a school bus 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; [or]

b. 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 the school;

c. creates a hostile environment at school for the student; or

d. infringes on the rights of the student at school.

(cf: P.L.2007, c.129, s.1)

12. Section 3 of P.L.2002, c.83 (C.18A:37-15) is amended to read as follows:

3. a. Each school district shall adopt a policy prohibiting harassment, intimidation or bullying on school property, at a school-sponsored function or on a school bus. The school district shall [attempt to] adopt the policy through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives.

b. A school district shall have local control over the content of the policy, except that the policy shall contain, at a minimum, the following components:

(1) a statement prohibiting harassment, intimidation or bullying of a student;

(2) a definition of harassment, intimidation or bullying no less inclusive than that set forth in section 2 of P.L.2002, c.83 (C.18A:37-14);

(3) a description of the type of behavior expected from each student;

(4) consequences and appropriate remedial action for a person who commits an act of harassment, intimidation or bullying;

(5) a procedure for reporting an act of harassment, intimidation or bullying, including a provision that permits a person to report an act of harassment, intimidation or bullying anonymously; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

All acts of harassment, intimidation, or bullying shall be reported verbally to the school principal on the same day when the school employee or contracted service provider witnessed or received reliable information regarding any such incident. The principal shall inform the parents or guardians of all students involved in the alleged incident, and may discuss, as appropriate, the availability of counseling and other intervention services. All acts of harassment, intimidation, or bullying shall be reported in writing to the school principal within two school days of when the school employee or contracted service provider witnessed or received reliable information that a student had been subject to harassment, intimidation or bullying. In cases in which an incident of harassment, intimidation or bullying occurs exclusively among or between special education students or students with developmental disabilities, in the context of a county special services school district or a separate program for special education students within a school district, the school employee who witnesses such an incident of harassment, intimidation, or bullying shall have discretion to determine whether the incident is necessary to report or whether the incident may have been affected by the condition of the students and thereby warrant an alternative approach more appropriate in the special education context;

(6) a procedure for prompt investigation of reports of violations and complaints, [identifying either the principal or the principal's designee as the person responsible for the investigation] which procedure shall at a minimum provide that:

(a) the investigation shall be initiated by the principal or the principal's designee within one school day of the report of the incident and shall be conducted by a school anti-bullying specialist. The principal may appoint additional personnel who are not school anti-bullying specialists to assist in the investigation. The investigation shall be completed as soon as possible, but not later than 10 school days from the date of the report of the incident of harassment, intimidation, or bullying;

(b) the results of the investigation shall be reported to the superintendent of schools within two school days of the completion of the investigation, and in accordance with regulations promulgated by the State Board of Education pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the superintendent may decide to provide intervention services, establish training programs to reduce harassment, intimidation, or bullying and enhance school climate, impose

discipline, or order counseling as a result of the findings of the investigation;

(c) the results of each investigation shall be reported to the board of education no later than the date of the board of education meeting next following the completion of the investigation, along with information on any services provided, training established, or discipline imposed, or recommended by the superintendent;

(d) parents or guardians of the students who are parties to the investigation shall be entitled to receive information about the investigation, in accordance with federal and State law and regulation, including the nature of the investigation, whether the district found evidence of harassment, intimidation, or bullying, or whether discipline was imposed or services provided to address the incident of harassment, intimidation, or bullying. This information shall be provided in writing within 5 school days after the results of the investigation are reported to the board. A parent or guardian may request a hearing before the board after receiving the information, and the hearing shall be held within 10 days of the request. The board shall meet in executive session for the hearing to protect the confidentiality of the students. At the hearing the board may hear from the school anti-bullying specialist about the incident, recommendations for discipline or services, and any programs instituted to reduce such incidents;

(e) at the next board of education meeting following its receipt of the report, the board shall issue a decision, in writing, to affirm, reject, or modify the superintendent's decision. The board's decision may be appealed to the Commissioner of Education, in accordance with the procedures set forth in law and regulation, no later than the 90 days after the issuance of the board's decision; and

(f) a parent, student, guardian, or organization may file a complaint with the Division on Civil Rights within 180 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.);

(7) the range of ways in which a school will respond once an incident of harassment, intimidation or bullying is identified, which shall be defined by the principal in conjunction with the school anti-bullying specialist, but shall include an appropriate combination of counseling, support services, intervention services, and other programs, as defined by the commissioner;

(8) a statement that prohibits reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying and the consequence and appropriate remedial action for a person who engages in reprisal or retaliation;

(9) consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of harassment, intimidation or bullying;

(10) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions; [and]

(11) a requirement that [the] a link to the policy be prominently posted on the home page of the school district's website and distributed annually to parents and guardians who have children enrolled in a school in the school district; and

(12) a requirement that the name, phone number, address and email address of the district anti-bullying coordinator be listed on the home page of the school district's website and that on the home page of each school's website the name, phone number, address and email address of the school anti-bullying specialist and the district anti-bullying coordinator be listed. The information concerning the district anti-bullying coordinator and the school anti-bullying specialists shall also be maintained on the department's website.

c. A school district shall adopt a policy and transmit a copy of its policy to the appropriate executive county superintendent of schools by September 1, 2003. A school district shall annually conduct a re-evaluation, reassessment, and review of its policy, making any necessary revisions and additions. The board shall include input from the school anti-bullying specialist in conducting its re-evaluation, reassessment, and review. The district shall transmit a copy of the revised policy to the appropriate executive county superintendent of schools within 30 school days of the revision. The first revised policy following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) shall be transmitted to the executive county superintendent of schools by September 1, 2011.

d. [To assist school districts in developing policies for the prevention of harassment, intimidation or bullying, the Commissioner of Education shall develop a model policy applicable to grades kindergarten through 12. This model policy shall be issued no later than December 1, 2002.] Deleted by amendment, P.L. , c. (C.) (pending before the Legislature as this bill)

e. Notice of the school district's policy shall appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for schools within the school district, and in any student handbook.

f. Nothing in this section shall prohibit a school district from adopting a policy that includes components that are more stringent than the components set forth in this section.

(cf: P.L.2007, c.303, s.7)

13. Section 4 of P.L.2002, c.83 (C.18A:37-16) is amended to read as follows:

4. a. A member of a board of education, school employee, student or volunteer shall not engage in reprisal, retaliation or false accusation against a victim, witness or one with reliable information about an act of harassment, intimidation or bullying.

b. A member of a board of education, school employee, contracted service provider, student or volunteer who has witnessed, or has reliable information that a student has been subject to, harassment, intimidation or bullying shall report the incident to the appropriate school official designated by the school district's policy, or to any school administrator or safe schools resource officer, who shall immediately initiate the school district's procedures concerning school bullying.

c. A member of a board of education or a school employee who promptly reports an incident of harassment, intimidation or bullying, to the appropriate school official designated by the school district's policy, or to any school administrator or safe schools resource officer, and who makes this report in compliance with the procedures in the district's policy, is immune from a cause of action for damages arising from any failure to remedy the reported incident.

d. A school administrator who receives a report of harassment, intimidation, or bullying from a district employee, and fails to initiate or conduct an investigation, or who should have known of an incident of harassment, intimidation, or bullying and fails to take sufficient action to minimize or eliminate the harassment, intimidation, or bullying, may be subject to disciplinary action.

(cf: P.L.2002, c.83, s.4)

14. Section 5 of P.L.2002, c.83 (C.18A:37-17) is amended to read as follows:

5. a. Schools and school districts [are encouraged to] shall annually establish, implement, document, and assess bullying prevention programs or approaches, and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement and community members. The programs or approaches shall be designed to create school-wide conditions to prevent and address harassment, intimidation, and bullying.

A school district may apply to the Department of Education for a grant to be used for programs or approaches established pursuant to this subsection, to the extent funds are appropriated for these purposes or funds are made available through the Bullying Prevention Fund established pursuant to section 25 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. [To the extent funds are appropriated for these purposes, a] A school district shall: (1) provide training on the school district's harassment, intimidation or bullying policies to school employees and volunteers who have significant contact with students; [and] (2) ensure that the training includes instruction on preventing bullying on the basis of the protected categories enumerated in section 2 of P.L.2002, c.83 (C.18A:37-14) and other distinguishing characteristics that may incite incidents of discrimination, harassment, intimidation, or bullying; and (3) develop a process for

discussing the district's harassment, intimidation or bullying policy with students.

c. Information regarding the school district policy against harassment, intimidation or bullying shall be incorporated into a school's employee training program and shall be provided to full-time and part-time staff, volunteers who have significant contact with students, and those persons contracted by the district to provide services to students.

(cf: P.L.2002, c.83, s.5)

15. Section 2 of P.L.2005, c.276 (C.52:17B-71.8) is amended to read as follows:

2. a. The Police Training Commission in the Division of Criminal Justice in the Department of Law and Public Safety, in consultation with the Attorney General, shall develop a training course for safe schools resource officers and public school employees assigned by a board of education to serve as a school liaison to law enforcement. The Attorney General, in conjunction with the Police Training Commission, shall ensure that the training course is developed within 180 days of the effective date of this act. The course shall at a minimum provide comprehensive and consistent training in current school resource officer practices and concepts. The course shall include training in the protection of students from harassment, intimidation, and bullying, including incidents which occur through electronic communication. The course shall be made available to:

(1) any law enforcement officer or public school employee referred by the board of education of the public school to which assignment as a safe schools resource officer or school liaison to law enforcement is sought; and

(2) any safe schools resource officer or school liaison to law enforcement assigned to a public school prior to the effective date of P.L.2005, c.276 (C.52:17B-71.8 et al.).

b. The training course developed by the commission pursuant to subsection a. of this section shall be offered at each school approved by the commission to provide police training courses pursuant to the provisions of P.L.1961, c.56 (C.52:17B-66 et seq.). The commission shall ensure that an individual assigned to instruct the course is proficient and experienced in current school resource officer practices and concepts.

c. The commission shall award a certificate to each individual who successfully completes the course.

d. The Police Training Commission, in consultation with the Commissioner of Education, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

(cf: P.L.2005, c.276, s.2)

16. (New section) The policy adopted by each school district pursuant to section 3 of P.L.2002, c.83 (C.18A:37-15) shall include provisions for appropriate responses to harassment, intimidation, or bullying that occurs off school grounds, in cases in which a school employee is made aware of such actions, and such actions create a hostile environment at school for the student, infringe on the rights of the student at school, or disrupt the education process or orderly operation of a school. The responses to harassment, intimidation, or bullying that occurs off school grounds shall be consistent with the board of education's code of student conduct and other provisions of the board's policy on harassment, intimidation, or bullying.

17. (New section) a. The principal in each school in a school district shall appoint a school anti-bullying specialist. When a school guidance counselor, school psychologist, or another individual similarly trained is currently employed in the school, the principal shall appoint that individual to be the school anti-bullying specialist. If no individual meeting this criteria is currently employed in the school, the principal shall appoint a school anti-bullying specialist from currently employed school personnel. The school anti-bullying specialist shall:

(1) chair the school safety team as provided in section 18 of P.L. c. , (C.) (pending before the Legislature as this bill);

(2) lead the investigation of incidents of harassment, intimidation, and bullying in the school; and

(3) act as the primary school official responsible for preventing, identifying, and addressing incidents of harassment, intimidation and bullying in the school.

b. The superintendent of schools shall appoint a district anti-bullying coordinator. The superintendent shall make every effort to appoint an employee of the school district to this position. The district anti-bullying coordinator shall:

(1) be responsible for coordinating and strengthening the school district's policies to prevent, identify, and address harassment, intimidation and bullying of students;

(2) collaborate with school anti-bullying specialists in the district, the board of education, and the superintendent of schools to prevent, identify, and respond to harassment, intimidation, and bullying of students in the district;

(3) provide data, in collaboration with the superintendent of schools, to the Department of Education regarding harassment, intimidation, and bullying of students; and

(4) execute such other duties related to school harassment, intimidation, and bullying as requested by the superintendent of schools.

c. The district anti-bullying coordinator shall meet at least twice a school year, once in the first semester and once in the second semester, with the school anti-bullying specialists in the district to

discuss and strengthen procedures and policies to prevent, identify, and address harassment, intimidation, and bullying in the district.

18. (New section) a. A school district shall form a school safety team in each school in the district to develop, foster, and maintain a positive school climate by focusing on the on-going, systemic process and practices in the school and to address school climate issues such as harassment, intimidation, or bullying. A school safety team shall meet at least two times per school year, once in the first semester and once in the second semester.

b. A school safety team shall consist of the principal or his designee who, if possible, shall be a senior administrator in the school and the following appointees of the principal: a teacher in the school; a school anti-bullying specialist; a parent of a student in the school; and other members to be determined by the principal. The school anti-bullying specialist shall serve as the chair of the school safety team.

c. The school safety team shall:

(1) receive any complaints of harassment, intimidation, or bullying of students that have been reported to the principal;

(2) receive copies of any report prepared after an investigation of an incident of harassment, intimidation, or bullying;

(3) identify and address patterns of harassment, intimidation, or bullying of students in the school;

(4) review and strengthen school climate and the policies of the school in order to prevent and address harassment, intimidation, or bullying of students;

(5) educate the community, including students, teachers, administrative staff, and parents, to prevent and address harassment, intimidation, or bullying of students;

(6) participate in the training required pursuant to the provisions of P.L.2002, c.83 (C.18A:37-13 et seq.) and other training which the principal or the district anti-bullying coordinator may request;

(7) collaborate with the district anti-bullying coordinator in the collection of district-wide data and in the development of district policies to prevent and address harassment, intimidation, or bullying of students; and

(8) execute such other duties related to harassment, intimidation, and bullying as requested by the principal or district anti-bullying coordinator.

d. The members of a school safety team shall be provided professional development opportunities that address effective practices of successful school climate programs or approaches.

19. (New section) a. Beginning with the 2011-2012 school year all candidates for teaching certification shall satisfactorily complete a program on harassment, intimidation, and bullying prevention.

b. Beginning with the 2010-2011 school year any person seeking certification through the alternate route shall, within one year of

being employed, satisfactorily complete a program on harassment, intimidation, and bullying prevention.

c. The State Board of Education shall establish the appropriate requirements of the program on harassment, intimidation, and bullying prevention.

d. The State Board of Education shall, as part of the professional development requirement established by the State board for public school teachers, require each public school teacher to complete at least two hours of instruction on harassment, intimidation, or bullying prevention in each professional development period.

20. (New section) a. Beginning with the 2011-2012 school year all candidates for administrative certification shall satisfactorily complete a program on harassment, intimidation, and bullying prevention.

21. (New section) a. The Department of Education, in consultation with the Division on Civil Rights in the Department of Law and Public Safety shall develop a guidance document for use by parents or guardians, students, and school districts to assist in resolving complaints concerning student harassment, intimidation, or bullying behaviors and the implementation of P.L.2002, c.83 (C.18A:37-13 et seq.) by school districts. The document shall include:

(1) a school district's obligations under P.L.2002, c.83 (C.18A:37-13 et seq.);

(2) best practices for the prevention, intervention, and remediation of harassment, intimidation, or bullying in schools, including methods to identify and assist student populations at high risk for harassment, intimidation, or bullying;

(3) a clear explanation of the procedures for petitioning the Commissioner of Education to hear and decide disputes concerning P.L.2002, c.83 (C.18A:37-13 et seq.);

(4) a clear explanation of the Division on Civil Rights' jurisdiction and services in regard to specific types of harassment, intimidation, or bullying; and

(5) a clear explanation of the process for appealing final agency determinations to the Appellate Division of the Superior Court.

b. The guidance document shall be available on the Department of Education and the Division on Civil Rights Internet sites and on every school district Internet site at an easily accessible location.

22. (New section) a. The Commissioner of Education shall establish a formal protocol pursuant to which the office of the executive county superintendent of schools shall investigate a complaint that documents an allegation of a violation of P.L.2002, c.83 (C.18A:37-13 et seq.) by a school district located within the county, when the complaint has not been adequately addressed on the local level. The office of the executive county superintendent

shall report its findings, and if appropriate, issue an order for the school district to develop and implement corrective actions that are specific to the facts of the case.

b. The commissioner shall ensure that the personnel of the office of the executive county superintendent of schools who are responsible for conducting the investigations receive training and technical support on the use of the complaint investigation protocol.

23. (New section) a. The Commissioner of Education, in consultation with recognized experts in school bullying from a cross section of academia, child advocacy organizations, nonprofit organizations, professional associations, and government agencies, shall establish inservice workshops and training programs to train selected public school employees to act as district anti-bullying coordinators and school anti-bullying specialists in accordance with the provisions of P.L. , c. (C.) (pending before the Legislature as this bill). The commissioner shall seek to make the workshops and training programs available and administered online through the department's website or other existing online resources. The commissioner shall evaluate the effectiveness of the consulting group on an annual basis. The inservice training programs may utilize the offices of the executive county superintendent of schools, or such other institutions, agencies, or persons as the commissioner deems appropriate. Each board of education shall provide time for the inservice training during the usual school schedule in order to ensure that appropriate personnel are prepared to act in the district as district anti-bullying coordinators and school anti-bullying specialists.

b. Upon completion of the initial inservice training program, the commissioner shall ensure that programs and workshops that reflect the most current information on harassment, intimidation, and bullying in schools are prepared and made available to district anti-bullying coordinators and school anti-bullying specialists at regular intervals.

24. (New section) The Commissioner of Education shall develop, in consultation with the Division on Civil Rights, and make available on the Department of Education's Internet site, an on-line tutorial on harassment, intimidation, and bullying. The on-line tutorial shall, at a minimum, include best practices in the prevention of harassment, intimidation, and bullying, applicable laws, and such other information that the commissioner determines to be appropriate. The on-line tutorial shall be accompanied by a test to assess a person's understanding of the information provided in the tutorial.

25. (New section) There is created a special fund in the Department of Education, which shall be designated the "Bullying Prevention Fund." The fund shall be maintained in a separate

account and administered by the commissioner to carry out the provisions of this act. The fund shall consist of (1) any monies appropriated by the State for the purposes of the fund; (2) any monies donated for the purposes of the fund; and (3) all interest and investment earnings received on monies in the fund. The fund shall be used to offer grants to school districts to provide training on harassment, intimidation, and bullying prevention and on the effective creation of positive school climates.

26. (New section) The week beginning with the first Monday in October of each year is designated as a “Week of Respect” in the State of New Jersey. School districts, in order to recognize the importance of character education, shall observe the week by providing age-appropriate instruction focusing on preventing harassment, intimidation, or bullying as defined in section 2 of P.L.2002, c.83 (C.18A:37-14). Throughout the school year the school district shall provide ongoing age-appropriate instruction on preventing harassment, intimidation, and bullying in accordance with the core curriculum content standards.

27. (New section) Nothing contained P.L. , c. (C.) (pending before the Legislature as this bill) shall be construed as affecting the provisions of any collective bargaining agreement or individual contract of employment in effect on that act’s effective date.

28. (New section) a. A public institution of higher education shall adopt a policy to be included in its student code of conduct prohibiting harassment, intimidation, or bullying. The policy shall contain, at a minimum:

(1) A statement prohibiting harassment, intimidation, or bullying;

(2) Disciplinary actions which may result if a student commits an act of harassment, intimidation, or bullying; and

(3) A definition of harassment, intimidation, or bullying that at a minimum includes any gesture, any written, verbal or physical act, or any electronic communication 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 the property of the institution of higher education or at any function sponsored by the institution of higher education 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 in such a way as to cause disruption in, or interference with, the orderly operation of the institution of higher education;

(c) creates a hostile environment for the student at the institution of higher education; or

(d) infringes on the rights of the student at the institution of higher education.

b. The institution shall distribute the policy by email to each student within seven days of the start of each semester and shall post the policy on its website.

29. This act shall take 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.

STATEMENT

This bill amends and supplements the law on harassment, intimidation, and bullying in public schools. The bill includes a number of the recommendations of the New Jersey Commission on Bullying in Schools contained in its report issued December 15, 2009, in addition to a number of other provisions. The bill:

- Amends the definition of “harassment, intimidation or bullying”: to specify that the “harm” that a student may experience could be either physical or emotional; to add two additional criteria to the definition - the creation of a hostile environment at school and the infringement on the rights of the student at school; and to eliminate the requirement that the disruption or interference with the orderly operation of the school be “substantial”;
- Adds a conviction of “bias intimidation” to the list of crimes for which a person may be disqualified for employment in a school;
- Provides that training on harassment, intimidation, and bullying be part of the training required for public school teaching staff members in suicide prevention. The instruction is also required to include information on reducing the risk of suicide for students who are members of communities identified as having members at high risk of suicide;
- Provides that by the 2011-2012 school year all candidates for school administrator or teacher certification will be required to complete a program on harassment, intimidation, or bullying prevention, and that training in this area will be a part of the professional development requirements for these individuals;

- Includes training regarding harassment, intimidation and bullying in schools as a part of the training program provided to all school board members;
- Provides that the training course for safe schools resource officers and public school employees assigned by a board of education to serve as a school liaison to law enforcement must include training in the protection of students from harassment, intimidation, and bullying;
- Includes harassment, intimidation, and bullying in the types of conduct that under current statute may constitute good cause for suspension or expulsion;
- Includes members of the school board in the list of individuals who may not engage in reprisals against victims or witnesses of acts of harassment, intimidation, or bullying and also in the list of those who are required to report acts of harassment, intimidation, or bullying to appropriate officials in the school district;
- Requires school districts to establish bullying prevention programs or approaches. Under current law school districts are only “encouraged” to establish such programs;
- Provides that a school district’s policy on harassment, intimidation, and bullying must include appropriate responses to such actions that occur off school grounds;
- Provides that the Department of Education, in consultation with the Division on Civil Rights in the Department of Law and Public Safety, must develop a guidance document for use by parents, students, and school districts to assist in resolving complaints regarding harassment, intimidation, or bullying behaviors and concerning the implementation by school districts of statutory requirements in this area;
- Provides that the Department of Education must establish a formal protocol to be used by the offices of the executive county superintendent of schools in investigating complaints that school districts are not adhering to the provisions of law governing harassment, intimidation, or bullying in the schools;
- Provides that each school district must form a school safety team in each school in the district to foster and maintain a positive school climate within the schools;
- Creates the “Bullying Prevention Fund” in the Department of Education to be used to fund grants to school districts to provide training on harassment, intimidation, and bullying prevention and on effective means to create a positive school climate;
- Designates the week beginning with the first Monday in October of each year as a “Week of Respect” and requires districts to observe the week by providing age-appropriate

instruction focusing on preventing harassment, intimidation or bullying;

- Provides a detailed procedure that must be included in each district's policy concerning the investigation of incidents of harassment, intimidation, or bullying;
- Provides that a school administrator who fails to initiate or conduct an investigation of an incident, or who should have known of an incident and fails to take action, is subject to discipline;
- Provides that a school employee or contracted service provider must file a written report with the school principal within two days of observing or being made aware of an act of harassment, intimidation, or bullying;
- Provides that the principal in each public school must appoint the currently employed school guidance counselor, school psychologist or another similarly trained individual as the school anti-bullying specialist. If there is no individual that meets these criteria employed in the school, the principal must appoint another currently employed individual in the school to the position of school anti-bullying specialist. The bill also sets forth the responsibilities of school anti-bullying specialists;
- Provides that the superintendent of schools in each school district must appoint a district anti-bullying coordinator and sets forth the responsibilities of that individual;
- Provides that the superintendent of schools must report to the board of education twice a year, rather than annually, at a public hearing all acts of violence, vandalism and harassment, intimidation, or bullying which occurred during the previous period. The report shall be used to grade schools and districts in their efforts to identify harassment, intimidation or bullying, pursuant to a program for which the commissioner will provide guidelines; and
- Includes in the School Report Card data identifying the number and nature of all reports of harassment, intimidation or bullying.

The New Jersey Commission on Bullying in Schools was established pursuant to P.L.2007, c.303. The commission was charged with the responsibility of studying the issue of school harassment, intimidation, and bullying and making recommendations on how to reduce these activities in our schools.

The bill also includes a provision that requires all public institutions of higher education to include a policy on harassment, intimidation, or bullying as part of its student code of conduct.

Establishes measures to address harassment, intimidation, and bullying in school settings.