

**MODEL POLICY
PROHIBITING HARASSMENT, INTIMIDATION AND BULLYING
ON SCHOOL PROPERTY, AT SCHOOL-SPONSORED FUNCTIONS
AND ON SCHOOL BUSES**

BACKGROUND

Legislation (*N.J.S.A.* 18A:37-13 *et seq.*) enacted on September 6, 2002 requires each school district to adopt, by September 1, 2003, a policy prohibiting harassment, intimidation and bullying on school property, at school-sponsored functions and on school buses. To assist each school district in developing these policies, the legislation also requires the Commissioner of Education to develop and issue a model policy applicable to grades kindergarten through 12, by December 1, 2002.

Under *N.J.S.A.* 18A:37-15, each school district is granted local control over the contents of the policy and ancillary procedures, but, at a minimum, the ten components listed in the authorizing statute must be included in a school district's policy prohibiting harassment, intimidation and bullying. Some of the provisions of the authorizing statute call for the school district to stipulate the consequences and appropriate remedial actions for the following instances: 1) persons violating the policy; 2) persons who engage in reprisal or retaliation against someone who reports a violation of the policy; and 3) persons who falsely report allegations of harassment, intimidation or bullying as a means of retaliation or as a means of harassment, intimidation or bullying. Another provision of the statute requires the school district's policy to articulate the range of different measures a school will take to respond to violations of the policy.

The New Jersey Department of Education (NJDOE) recognizes that decisions about consequences and actions to be taken in response to violations of policies prohibiting harassment, intimidation and bullying should take into consideration the unique circumstances of the acts and the persons involved, as well as the unique conditions and characteristics in each school district. The NJDOE also recognizes that these decisions must comport with existing school district policies, including those that address the provisions of *N.J.A.C.* 6A:16, Programs To Support Student Development, in general, and *N.J.A.C.* 6A:16-5.1, Code of student conduct, in particular, as well as the provisions of the district's Memorandum of Agreement Between Education and Law Enforcement Officials, pursuant to *N.J.A.C.* 6A:16-6, Law Enforcement Operations For Substances, Weapons, and Safety.

The policy must conform to the case law and statutes, including *Saxe v State College Area School Dist.*, 240 F. 3d 200 (3d Cir. 2001); *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999); *N.J.S.A.* 2C:33-4, Harassment; *N.J.S.A.* 10:5-1 *et seq.*, Law Against Discrimination; *N.J.S.A.* 18A:36-20, Discrimination; prohibition; *N.J.S.A.* 18A:38-5.1, No child to be excluded from school because of race, etc. Districts should also consult guidance documents, including "Recommended Guidelines for School Personnel for the Management of Student Sexual Harassment in Schools" signed by the Commissioners of the New Jersey Department of Education and Human Services and the New Jersey Attorney General on February 22, 2000. Additional resources are included at the end of his document.

POLICY FORMAT

For the reasons explained above, the model policy provided below is written in a format that provides guidance for each school district to use in developing its own policies. This model policy spells out the provisions that a district policy must include; suggests model language, where appropriate; and notes issues for a district to consider in developing a policy that fits its own unique situations and that is consistent with existing policies. The model policy has been developed to address each provision of the statute, in sequence. However, nothing in the model policy or in the legislation is meant to preclude a school district from including additional provisions, or from using language and formats that are consistent with each district's board-approved policies and procedures.

**SAMPLE MODEL POLICY
PROHIBITING HARASSMENT, INTIMIDATION AND BULLYING**

1. Statutory Requirement

The policy shall contain a statement prohibiting harassment, intimidation or bullying of a student. N.J.S.A. 18A:37-15 (3)(b)(1)

Model Policy Language

The board prohibits acts of harassment, intimidation or bullying.

A safe and civil environment in school is necessary for students to learn and achieve high academic standards; harassment, intimidation or bullying, like other disruptive or violent behaviors, is conduct that disrupts both a student's ability to learn and a school's ability to educate its students in a safe environment; and since students learn by example, school administrators, faculty, staff and volunteers should be commended for demonstrating appropriate behavior, treating others with civility and respect, and refusing to tolerate harassment, intimidation or bullying.

Issues for Consideration

- Although not required, a statement of purpose is helpful to clearly establish the goal of the policy.
- The board may consider parallel expectations against harassment, intimidation and bullying to include employees, visitors and volunteers; however, care should be taken to ensure that policies for these groups are consistent with the case law, federal and state laws, regulations and policies, including, but not limited to, those against hazing, bias crimes and assaults, as well as the district's board-approved policies, procedures and agreements.

2. Statutory Requirement

The policy shall contain a definition of harassment, intimidation or bullying no less inclusive than:

“Harassment, intimidation or bullying” means any gesture or written, verbal or physical act 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, 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 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*
- 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. N.J.S.A. 18A:37-15 (3)(b)(2)*

Model Policy Language

“Harassment, intimidation or bullying” means any gesture or written, verbal or physical act that takes place on school property, at any school-sponsored function or on a school bus and that:

- a. is motivated 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,
- b. by any other distinguishing characteristic; and
- c. a reasonable person should know, under the circumstances, that the act(s) 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
- d. 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.

Issues for Consideration

Districts should make it clear that the policy includes the motivating factors set forth in the authorizing statute (*N.J.S.A. 18A:37-14*). Not all acts of bullying, however, are motivated by characteristics such as the target’s race, color, religion, gender or sexual orientation. Some acts of bullying are simply one child exercising power and control over another either in isolated incidents (e.g., intimidation, harassment) or patterns of harassing or intimidating behavior (e.g., bullying). If the district chooses to consider acts of bullying not motivated by the factors identified in the authorizing statute, they should take care to ensure that any expansion of the motivating factors should be consistent with the case law, Federal and State statutes, regulations and policies and the districts’ board-approved policies and procedures.

3. Statutory Requirement

The policy shall include a description of the type of behavior expected from each student.
N.J.S.A. 18A:37-15 (3)(b)(3)

Model Policy Language

The board of education expects students to conduct themselves in keeping with their levels of development, maturity and demonstrated capabilities with a proper regard for the rights and welfare of other students and school staff, the educational purpose underlying all school activities, and the care of school facilities and equipment.

The board of education believes that standards for student behavior must be set cooperatively through interaction among the students, parents/guardians, staff and community members, producing an atmosphere that encourages students to grow in self-discipline. The development of this atmosphere requires respect for self and others, as well as for district and community property on the part of students, staff and community members.

The board of education believes that the best discipline is self-imposed, and that it is the responsibility of staff to use disciplinary situations as opportunities to help students learn to assume and accept responsibility for their behavior and the consequences of their behavior. Staff members who interact with students shall apply best practices designed to prevent discipline problems and encourage students' abilities to grow in self-discipline.

Based on broad community involvement (i.e., the use of a process that includes representation of parents/guardians and other community representatives, school employees, volunteers, students and administrators for the purpose of providing input regarding the development and content of the policy that is based on accepted core ethical values), the board of education shall develop general guidelines for student conduct and shall direct development of detailed regulations suited to the age levels of the students and the mission and physical facilities of the individual schools. Board policy requires all students in the district to adhere to the rules and regulations established by the school district and to submit to such disciplinary measures as are appropriately assigned for infraction of these rules.

The chief school administrator shall provide annually to students and their parents/guardians the rules of the district regarding student conduct, and the policy shall appear in all publications of the school district's comprehensive rules, procedures and standards of conduct for schools within the school district, including the student handbook. Provisions shall be made for informing parents/guardians whose primary language is other than English.

The policy shall:

- A. Describe student responsibilities, including the requirements for students to conform to reasonable standards of socially acceptable behavior; respect the person, property and rights of others; obey constituted authority; and respond to those who hold that authority;
- B. Address appropriate recognition for positive reinforcement for good conduct, self-discipline, good citizenship and academic success.
- C. Explain student rights; and
- D. Identify disciplinary sanctions and due process.

Issues for Consideration

The goal of this section is to explain global expectations for student conduct while leaving school administrators with the flexibility to define school-specific rules of conduct that are informed by the ages and abilities of students and the unique characteristics of the school. Per the provisions of the authorizing statute, the procedures should be included as a part of the board-approved policy. The district should give consideration to involving a broad-base of community members and organizations, including faith-based, health and human service, business and law enforcement, in the development of the policy.

Since bystander support of harassment, intimidation or bullying can support these behaviors, districts should consider including a statement prohibiting active or passive

support for harassment, intimidation or bullying. The district should encourage students to support students who walk away from these acts when they see them, constructively attempt to stop them or report them to the designated authority.

4. Statutory Requirement

The policy shall include the consequences and appropriate remedial actions for a person who commits an act of harassment, intimidation or bullying. N.J.S.A. 18A:37-15 (3)(b)(4)

Model Policy Language

In determining the appropriate response to students who commit one or more acts of harassment, intimidation or bullying, school administrators should consider the following factors: the developmental and maturity levels of the parties involved, the levels of harm, the surrounding circumstances, the nature of the behaviors, past incidences or past or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Concluding whether a particular action or incident constitutes a violation of this policy requires a determination based on all of the facts and surrounding circumstances. It is only after meaningful consideration of these factors that an appropriate consequence should be determined, consistent with the case law, Federal and State statutes, regulations and policies, and district policies and procedures. Consequences and appropriate remedial action for students who commit acts of harassment, intimidation or bullying may range from positive behavioral interventions up to and including suspension or expulsion.

Issues for Consideration

The response to students who commit one or more acts in violation of this policy should be determined based on the totality of the circumstances. Responses ranging from positive behavioral interventions to expulsion should be considered, consistent with the framework of the existing Federal and State case law, statutes, regulations and policies and district policies and procedures. In all cases, the district should attempt to actively involve parents in the remediation of the behavior(s) of concern.

5. Statutory Requirement

The policy shall include 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. N.J.S.A. 18A:37-15 (3)(b)(5)

Model Policy Language

At each school, the principal or the principal's designee is responsible for receiving complaints alleging violations of this policy. All school employees are required to report alleged violations of this policy to the principal or the principal's designee. All other members of the school community, including students, parents, volunteers and visitors, are encouraged to report any act that may be a violation of this policy. While submission

of the report form is not required, the reporting party is encouraged to use the report form available from the principal of each building or available at the school district office. Oral reports also shall be considered official reports. Reports may be made anonymously, but formal disciplinary action may not be based solely on the basis of an anonymous report.

Issues for Consideration

The goal of a reporting procedure is to encourage reports of alleged violations of this policy by making the reporting process simple and non-threatening. The district should consider every mechanism available to them to facilitate reporting, including web-based reporting mechanisms and locked boxes located in areas of the school where reports can be submitted without fear of being observed.

6. Statutory Requirement

The policy shall include 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. N.J.S.A. 18A:37-15 (3)(b)(6)

Model Policy Language

The principal and/or the principal's designee is responsible for determining whether an alleged act constitutes a violation of this policy. In so doing, the principal and/or the principal's designee shall conduct a prompt, thorough and complete investigation of the alleged incident.

Issues for Consideration

School districts are encouraged to use existing policies and procedures, including those used to investigate allegations of violations of the districts' codes of student conduct, as appropriate. School districts are also encouraged to establish record keeping policies and procedures that create a defensible record that demonstrates the district's efforts to reduce incidents of harassment, intimidation and bullying, and that facilitate the evaluation of districts' efforts to reduce incidents of harassment, intimidation and bullying.

7. Statutory Requirement

The policy shall contain the range of ways in which a school will respond once an incident of harassment, intimidation or bullying is identified. N.J.S.A. 18A:37-15 (3)(b)(7)

Model Language

Some acts of harassment, intimidation or bullying may be isolated incidents requiring that the school respond appropriately to the individuals committing the acts. Other acts may be so serious or parts of a larger pattern of harassment, intimidation or bullying that they require a response either at the classroom, school building or school district levels or by law enforcement officials.

Consequences and appropriate remedial actions for students who commit an act of harassment, intimidation or bullying range from positive behavioral interventions up to and including suspension or expulsion, as permitted under *N.J.S.A. 18A:37-1, Discipline of Pupils*.

In considering whether a response beyond the individual level is appropriate, the administrator should consider the nature and circumstances of the act, the level of harm, the nature of the behavior, past incidences or past or continuing patterns of behavior, and the context in which the alleged incident(s) occurred. Institutional (i.e., classroom, school building, school district) responses can range from school and community surveys, to mailings, to focus groups, to adoption of research-based bullying prevention program models, to training for certificated and non-certificated staff, to participation of parents and other community members and organizations, to small or large group presentations for fully addressing the actions and the school's response to the actions, in the context of the acceptable student behavior and the consequences of such actions and to involvement of law enforcement officers, including school resource officers..

Issues for Consideration

Every incident of harassment, intimidation or bullying requires that the district respond appropriately to the individual who committed the act. The district is encouraged to set the range of responses, including individual, classroom, school or district level responses, as appropriate. Individual responses can include positive behavioral interventions (e.g., peer mentoring, short-term counseling, life skills groups) and punitive actions (e.g., in-school suspension, expulsion). Classroom responses can include class discussions about an incident of harassment, intimidation or bullying, role plays, research projects, observing and discussing audio-visual materials on these subjects and skill-building lessons in courtesy, tolerance, assertiveness and conflict management. School responses can include theme days, learning station programs, parent programs and information disseminated to students and parents. District-wide responses can include community involvement in policy review and development, professional development programs, adoption of curricula and coordination with community-based organizations (e.g., mental health, health services, health facilities, law enforcement, faith-based).

In addition, the district should make resources (e.g., counseling) available to individual victims of harassment, intimidation and bullying and respond in a manner that does not stigmatize victim(s). Social skills training provided for all students is an example of a school or district-level response for addressing victimization.

The school district is reminded that the required *Memorandum of Agreement Between Education and Law Enforcement Officials* (*N.J.A.C. 6A:16-6.2(b)12*) defines the conditions by which school officials are required to report suspected hate crimes or bias-related acts to law enforcement authorities. Since some acts of harassment, intimidation or bullying may be bias-related acts and potentially hate or bias crimes, school officials must report to law enforcement officials either serious acts or those which may be part of a larger pattern.

8 **Statutory Requirement**

The policy shall contain 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. N.J.S.A. 18A:37-15 (3)(b)(8)

Model Policy Language

The school district prohibits reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying. The consequence and appropriate remedial action for a person who engages in reprisal or retaliation shall be determined by the administrator after consideration of the nature and circumstances of the act, in accordance with case law, federal and state statutes and regulations and district policies and procedures.

Issues for Consideration

Acts of reprisal or retaliation can have a chilling effect on a school environment and can create an atmosphere where alleged violations of this policy are not reported. It is important to establish and maintain the norm that all suspected acts of reprisal or retaliation are taken seriously and appropriate responses are made, in accordance with the totality of the circumstances. Inconsistent applications of appropriate responses to acts of reprisal or retaliation can contribute to the culture of violence that this policy is intended to prevent.

9 **Statutory Requirements**

The policy shall contain the consequences and appropriate remedial action for a person found to have falsely accused another as a means of harassment, intimidation or bullying. N.J.S.A. 18A:37-15 (3)(b)(9)

Model Policy Language

Consequences and appropriate remedial action for a student found to have falsely accused another as a means of harassment, intimidation or bullying range from positive behavioral interventions up to and including suspension or expulsion, as permitted under *N.J.S.A. 18A:37-1, Discipline of Pupils*. Consequences and appropriate remedial action for a school employee found to have falsely accused another as a means of harassment, intimidation or bullying shall be disciplined in accordance with district policies, procedures and agreements. Consequences and appropriate remedial action for a visitor or volunteer, found to have falsely accused another as a means of harassment, intimidation or bullying shall be determined by the school administrator after consideration of the nature and circumstances of the act, including reports to appropriate law enforcement officials.

Issues for Consideration

School districts are encouraged to consider the totality of the circumstances surrounding individuals who falsely accuse others as a means of harassment, intimidation or bullying. Decisions about consequences and appropriate remedial action should be consistent with

existing case law, federal and state statutes and regulations and district policies and procedures.

10. Statutory Requirement

The policy shall contain a statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions. N.J.S.A. 18A:37-15 (3)(b)(10)

Model Language

The policy shall be disseminated annually to all school staff, students and parents, along with a statement explaining that it applies to all acts of harassment, intimidation and bullying that occur on school property, at school-sponsored functions or on a school bus. The chief school administrator shall develop an annual process for discussing the school district policy on harassment, intimidation and bullying with students.

Issues for Consideration

The goal of this policy is to foster a safe and disciplined environment that is conducive to learning, where individuals treat one another with civility and respect. To accomplish this goal, the policy must be widely disseminated to inform everyone in the school and community of its provisions. A range of options are available to districts for publicizing the policy, including posting the policy in public buildings or in publications (e.g., newsletters, newspapers, web-sites, list serves, e-mail), utilization of the audio-visual media (e.g., public cable access, radio, public television), mailing copies, requiring all employees, students and parents to sign a written statement indicating that they have received and read the policy and agree to abide by the provisions of the policy and reviewing the policy at public meetings. While multiple methods for publicizing the policy can increase the chances of public awareness, support and compliance, school districts are encouraged to use the strategies that fit their unique situations.

11. Establishment of Bullying Prevention Programs

Statutory Provisions

Pursuant to *N.J.S.A.: 37-17(5)(c)*, information regarding the district's policy against harassment, intimidation and bullying shall be incorporated into a school's employee training program.

Pursuant to *N.J.S.A.: 37-17(5)(a)*, the district and its schools are encouraged to establish bullying prevention programs, and other initiative involving school staff, students, administrators, volunteers, parents, law enforcement and community members.

Pursuant to *N.J.S.A.: 37-17(5)(b)*, the school district is encouraged to, and if funds are appropriated for these purposes are required to:

- 1) provide training on the school district's harassment, intimidation and bullying policies to school employees and volunteers who have significant contact with students; and
- 2) develop a process for discussing the school district's harassment, intimidation and bullying policies with students.

Issues for Consideration

Staff members should be encouraged to become trained in skills and strategies for developing student self-discipline and to apply best practices for positive behavioral interventions. It is particularly important to use the policy as an opportunity to prepare staff to prevent and effectively intervene with instances of harassment, intimidation and bullying, as well as use the policy as a prevention tool by explaining to students the district's expectations for their behavior, consistent with the provisions of the district's policy. For students to demonstrate preferred behaviors, it is important that they have a clear understanding of the district's expectations under the policy, the reasons for and benefits of the policy, as well as the consequences for violations of the policy.

It is through explanation and dialogue with students and staff that the district can clearly distinguish, for example, "friendly teasing" and "rough and tumble play" from harassment, intimidation and bullying. It is also through discussion that the district can help students and staff discern between "telling" or responsible "reporting" (which is intended to keep someone from getting hurt) of acts of harassment, intimidation and bullying from "ratting" or "tattling." The district is encouraged to use experiential learning techniques, such as role play situations and other demonstration and modeling strategies in its information activities for students and staff.

RESOURCES ON HARASSMENT, INTIMIDATION AND BULLYING

Books and Programs

A Guide to Effective Statewide Laws/Policies: Preventing Discrimination Against LGBT Students in K-12. GLSEN and Lamda Legal Defense and Education Fund. 2001.

A School-Based Anti-violence Program. Sudermann, M., Jaffe, P., Schiek, E. *et al.* (1996). London, ON: London Family Court Clinic.

Blueprint for Violence Prevention – Book 9, Bullying Prevention Program. United States Department of Justice, Office of Justice Programs, Juvenile Justice Delinquency Prevention.

Bullying at School: What We Know and What We Can Do. Olweus, D. 1993. Cambridge, MA: Blackwell.

Bullying Behavior: Current Issues, Research and Interventions. Geffner, R.A., Loring, M. and Young, C. (Eds.) 2001. Haworth Press, New York.

Bully proof: A Teachers Guide to Teasing and Bullying for Use with Fourth and Fifth Grade Students. Sjostrom, Lisa, & Stein, Nan. (1996). Boston, MA: Wellesley College Center for Research on Women and the NEA Professional Library.

Keys to Dealing With Bullies (Barron's Parenting Keys). Barry Edwards McNamara, Francine McNamara (Contributor). Keys Hauppauge, N.Y. : Barron's Educational Series, 1997.

Protecting Students from Harassment and Hate Crime: A Guide for Schools. United States Department of Education. 1999.

School Bullying: Insights and Perspectives. Smith, P. K., & Sharp, S. (1994). London : Routledge.

The Bullying Prevention Handbook: A Guide for Principals, Teachers and Counselors. Hoover, J.H. and Oliver, R. 1996. National Educational Service, Bloomington, IN.

Articles

Ahmad, Y., & Smith, P. K. (1994). Bullying in schools and the issue of sex differences. In John Archer (Ed.), *Male violence*. London: Routledge.

Batsche, G. M., & Knoff, H. M. (1994). Bullies and their victims: Understanding a pervasive problem in the schools. *School Psychology Review*, 23(2), 165-174.

Charach, A., Pepler, D., & Ziegler, S. (1995). Bullying at school--a Canadian perspective: A survey of problems and suggestions for intervention. *Education Canada*, 35(1), 12-18.

Loeber, R. and Dishion, T. (1983). Early Predictors of Male Delinquency: A Review. *Psychological Bulletin*, 94, 69-99.

McCoy, E. What to Do... When Kids Are Mean to Your Child (What to Do Parenting Guides, Vol. 1). Pleasantville, N.Y. : Reader's Digest, c1997. 96 p. : col. ill. ; 21 cm.

Nolin, M. J., Davies, E., & Chandler, K. (1995). *Student victimization at school*. National Center for Education Statistics/4Statistics in Brief (NCES 95-204).

Olweus, D. (1993b). Victimization by Peers: Antecedents and Long-term Consequences. In K.H. Rubin and J.B. Asendorf (eds.), *Social Withdrawal, Inhibition and Shyness in Childhood*. Hillsdale NJ: Erlbaum.

Patterson, G.R., DeBaryshe, B.D. and Ramsey, E. (1989). A Developmental Perspective on Antisocial Behaviour. *American Psychologist*, 44, 329-35.

Whitney, I., & Smith, P. K. (1993). A survey of the nature and extent of bullying in junior/middle and secondary schools. *Educational Research*, 35(1), 3-25.

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