

II. PROTOCOL FOR FORMAL INVESTIGATION OF COMPLAINTS OF ALLEGED HIB INCIDENTS

NOTE: Pending the outcome of a formal investigation, actions should be taken immediately to ensure the victim's safety and attendance at school.

A. Determination of Investigation Strategy

- 1) Determine the facts that are needed to confirm or refute the identified allegations and determine the district's compliance with statute, regulations and board policies and procedures, including, but not limited to the:
 - a) **Consequences** that were imposed on the individual(s) committing an act of HIB, that took into account the student's developmental age, the nature of the behavior and the student's history of inappropriate behaviors and performance (*N.J.A.C. 6A:16-7.9(a)2v*). (See *Attachment 6: Examples of Consequences and Remedial Measures for Individuals Committing HIB Acts, Support for Victims of HIB, and Corrective Actions for Systemic HIB Problems* for ideas on consequences.)
 - b) **Remedial action(s)** that were taken to change the behavior of the student(s) committing an act of HIB that took into account the student's developmental age, the nature of the behavior and the student's history of inappropriate behaviors and performance (*N.J.A.C. 6A:16-7.9(a)2iv*), which could include:
 - i) Supportive interventions and supportive referral services, including those at *N.J.A.C. 6A:16-8, Intervention and Referral Services*;
 - ii) School counseling;
 - iii) A behavioral assessment or evaluation, including, but not limited to, a referral to the Child Study Team, as appropriate; and
 - iv) Other possible remedial actions. (See *Attachment 6: Examples of Consequences and Remedial Measures for Individuals Committing HIB Acts, Support for Victims of HIB, and Corrective Actions for Systemic HIB Problems* for additional ideas on remedial actions.)
 - c) **Support** that was provided to the victim(s) of HIB [*N.J.A.C. 6A:16-7.9(a)ix(1)*]. (See *Attachment 6: Examples of Consequences and Remedial Measures for Individuals Committing HIB Acts, Support for Victims of HIB, and Corrective Actions for Systemic HIB Problems* for ideas on support for victims.)
- 2) Select the appropriate actions for confirming or refuting the allegations, which may include, but that are not limited to the following:
 - a) Reviewing multiple records or other documents;
 - b) Interviewing school or school district staff;
 - c) Observing the conditions related to the complaint;
 - d) Verifying information provided by district officials;
 - e) Verifying facts; or
 - f) Verifying implementation of corrective actions.

B. Conducting the Investigation

- 1) **Case File** – Maintain a file to retain relevant documentation (e.g., intake record, notes from phone calls, conversations or interviews, letters, emails, faxes, newspaper articles, documentation from the district).
- 2) **District Contact** – Contact the appropriate school official(s) regarding the formal investigation.
 - a) Provide written notification to the chief school administrator (See *Attachment 5: Notice of Investigation from County Office to Chief School Administrator* for notification/authorization template); and

- b) Provide and gather information as explained in *I. Protocol for Determining Appropriate Action Regarding HIB Complaints*, section B.5), if not previously completed.

3) **Fact Finding** – Conduct the following fact finding activities, as appropriate:

- a) Review the board-approved HIB policies and procedures and the code of student conduct to identify required school actions and the parent's and student's rights and responsibilities (See *Attachment 7: Code of Student Conduct Review Checklist* and *Attachment 8: Review of District Policies and Procedures on Harassment, Intimidation and Bullying* for guidance);
- b) Interview individuals (e.g., parent(s), the individual making the report, key involved district staff, and the victim(s) with parent permission), as necessary, to:
 - i) Clarify allegations or concerns;
 - ii) Identify parent and school actions taken; and
 - iii) Identify both the preferred and acceptable remedies or outcomes (see *Attachment 2: Sample Intake and Interview Questions/Items*);
- c) Review documentation on the alleged offender(s), the alleged victim(s) (e.g., student files) and the school and district staff responses to the incident(s) and the complaint(s);
- d) Review the accuracy and completeness of the relevant incident report(s) for the Electronic Violence and Vandalism Reporting System (*N.J.S.A. 18A:17-46* and *N.J.A.C. 6A:16-5.3*);
- e) Review police report(s), if available and appropriate, or reports or records of other legal involvement; and
- f) Collect any and all other information as necessary.

4) **County Office Determination** – Based on the findings from the investigation, determine whether:

- a) School officials promptly and thoroughly investigated the report(s) of HIB (*N.J.A.C. 6A:16-7.9(a)2viii*);
- b) School officials followed the board-approved HIB policies and procedures (*N.J.A.C. 6A:16-7.9*, Intimidation, harassment and bullying), including completion of a prompt and thorough investigation and implementation of all required consequences and remedial actions for the individual(s) committing the HIB and support for the victim(s), consistent with the board-approved code of student conduct (*N.J.A.C. 6A:16-7.1*) and the HIB statute (*N.J.S.A. 18A:37-14 et seq.*); and
- c) Reasonable actions were taken to ensure the safety of the victim(s) when on school grounds, on school buses and at school-sponsored functions.

C. **Concluding the Investigation** – Conclude the investigation when all fact finding has been completed and determinations have been made. Notify the chief school administrator and the complainant in writing of the county office of education's conclusions, (see *Attachment 9: Notice of Findings from County Office to Chief School Administrator* for notification template. The complainant receives a copy of the notice).

- 1) Summarize the allegations and findings; **and either**
- 2) Require the chief school administrator to submit a written corrective action plan designed to resolve the findings of noncompliance; **or**
- 3) Stipulate that the district acted in compliance with all requirements.

D. **Follow up on Corrective Action Plan** – The county office of education verifies that the corrective action plan has been implemented by the district and verifies that the areas of non-compliance have been corrected by:

- 1) Reviewing and approving the district's corrective action plan or requesting modifications until the plan is approvable;
- 2) Verifying that the approved corrective action plan was implemented; and

- 3) Seeking additional sanctions if the district fails or refuses to implement the corrective action plan, such as:
 - a) Request the NJDOE's Office of Fiscal Accountability and Compliance to conduct a compliance review of the matter; or
 - b) Request the Commissioner of Education to issue a "show cause" order for actions, including, but not limited to:
 - i) Compensatory services; and/or
 - ii) Withholding state aid.

ATTACHMENT 1

NEW JERSEY DEPARTMENT OF EDUCATION (NJDOE) RESOURCES FOR HARASSMENT, INTIMIDATION AND BULLYING (HIB) COMPLAINTS

Authoritative Materials

HIB Statute (N.J.S.A. 18A:37-13 et seq.)

http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=205003&depth=2&expandheadings=off&headingswithhits=on&infobase=statutes.nfo&softpage=TOC_Frame_Pg42

HIB Regulations (N.J.A.C. 6A:16-7.9)

<http://www.nj.gov/education/code/current/title6a/chap16.pdf>

NJDOE's publication titled Model Policy and Guidance for Prohibiting Harassment, Intimidation and Bullying on School Property, at School-Sponsored Functions and on School Buses

<http://www.state.nj.us/education/parents/bully.htm>

Checklist for the Review of District Policies and Procedures on HIB

<http://www.nj.gov/education/students/safety/behavior/hib/#resources>

Code of Student Conduct Review Checklist

<http://www.nj.gov/education/students/safety/behavior/codes/#resources>

NJDOE's Unsafe School Choice Option Policy

<http://www.state.nj.us/education/grants/nclb/policy/unsafe.htm>

Unsafe School Choice Option Policy: Questions and Answers

<Http://Www.State.Nj.Us/Education/Grants/Nclb/Policy/Unsafeqa.Htm>

Memorandum of Agreement Between Education and Law Enforcement Officials

<http://www.state.nj.us/education/schools/security/regs/agree.pdf>

Memorandum of Agreement Between Education and Law Enforcement Officials

Education-Law Enforcement Working Group: Frequently Asked Questions

<http://www.nj.gov/education/schools/security/regs/agreefaq.pdf>

Violence and Vandalism Reporting System

<http://homeroom.state.nj.us/index.htm>

District and School Summaries of Violence and Vandalism Incident Data

<http://www.state.nj.us/education/schools/vandv/>

The Commissioner of Education's Annual Reports on Violence, Vandalism and Substance Abuse to the State Legislature

<http://www.state.nj.us/education/schools/vandv/>

Annual School Violence Awareness Week and Annual School Violence Public Hearing Guidelines

<http://www.nj.gov/education/students/safety/behavior/violence.shtml>

L.W. v. Toms River Regional School Boards of Education (A-111-05)
http://www.edlawcenter.org/ELCPublic/elcnews_070305_SupremeCourtLWDecision.pdf

Government Agencies

Division on Civil Rights
New Jersey Department of Law and Public Safety
www.njcivilrights.org

Division on Civil Rights
Office for Civil Rights
United States Department of Education
<http://www2.ed.gov/about/offices/list/ocr/index.html>

Office of Bias Crimes and Community Relations
New Jersey Department of Law and Public Safety
<http://www.nj.gov/oag/dcj/obccr/>

Division of Field Services/County Offices of Education
New Jersey Department of Education
<http://www.state.nj.us/education/genfo/overview/divisions.htm>

Office of Controversies and Disputes
New Jersey Department of Education
http://www.nj.gov/education/genfo/overview/faq_candd.htm

New Jersey School Security Unit
New Jersey Department of Education
<http://www.nj.gov/education/schools/security/>

Division of Youth and Family Services
New Jersey Department of Children and Families
<http://www.state.nj.us/dcf/divisions/dyfs/>

Other Resources

Keeping Our Kids Safe, Healthy and in School
New Jersey Department of Education
<http://www.nj.gov/education/students/safety>

What Works Clearinghouse
United States Department of Education
<http://ies.ed.gov/ncee/wwc/>

National Registry of Evidence-based Programs and Practices
Substance Abuse and Mental Health Services Administration
<http://nrepp.samhsa.gov>

American Civil Liberties Union
<http://www.aclu-nj.org/>

Stop Bullying Now Campaign
Human Resources Services Administration (HRSa)
<http://www.stopbullyingnow.hrsa.gov/kids/>

New Jersey State Bar Association
<http://www.njsbf.org/>

The Center for Safe and Responsible Internet Use (cyber bullying)
<http://www.cyberbully.org/>

New Jersey Coalition for Bullying Awareness and Prevention
<http://www.njbullying.org/>

Gay, Lesbian and Straight Education Network
<http://www.glsen.org/cgi-bin/iowa/all/home/index.html>