

ASSEMBLY, No. 5340

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MARCH 23, 2023

Sponsored by:

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

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District 34 (Essex and Passaic)

Co-Sponsored by:

Assemblywoman McKnight

SYNOPSIS

Broadens definition of “harassment, intimidation, or bullying” in Anti-Bullying Bill of Rights Act.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/23/2023)

1 AN ACT concerning school bullying and amending P.L.1982, c.163
2 and P.L.2002, c.83.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 1 of P.L.1982, c.163 (C.18A:17-46) is amended to
8 read as follows:

9 1. Any school employee or contracted service provider
10 observing or having direct knowledge from a participant or victim
11 of an act of violence shall, in accordance with standards established
12 by the commissioner, file a report describing the incident to the
13 school principal in a manner prescribed by the commissioner, and a
14 copy of **the report** shall be forwarded to the district
15 superintendent.

16 The principal shall notify the district superintendent of schools
17 of the action taken regarding the incident. Two times each school
18 year, between September 1 and January 1 and between January 1
19 and June 30, at a public hearing, the superintendent of schools shall
20 report to the board of education all acts of violence, vandalism, and
21 harassment, intimidation, or bullying which occurred during the
22 previous reporting period. The report shall include the number of
23 reports of harassment, intimidation, or bullying, disaggregated by
24 race, gender, sexual orientation, eligibility for free or reduced-price
25 lunch under the National School Lunch Program, special education
26 designation, and English language learner designation, the status of
27 all investigations, **the nature of the bullying based on one of the**
28 **protected categories identified in section 2 of**
29 **P.L.2002, c.83 (C.18A:37-14),** **the names of the investigators, the**
30 **type and nature of any discipline imposed on any student engaged**
31 **in harassment, intimidation, or bullying, and any other measures**
32 **imposed, training conducted, or programs implemented, to reduce**
33 **harassment, intimidation, or bullying. The information shall also be**
34 **reported once during each reporting period to the Department of**
35 **Education. The report must shall include data broken down by**
36 **the enumerated categories as listed in section 2 of**
37 **P.L.2002, c.83 (C.18A:37-14), and data broken down** **by each**
38 **school in the district, in addition to district-wide data, and the data**
39 **shall be disaggregated by race, gender, sexual orientation, eligibility**
40 **for free or reduced-price lunch under the National School Lunch**
41 **Program, special education designation, and English language**
42 **learner designation. It shall be a violation to improperly release any**
43 **confidential information not authorized by federal or State law for**
44 **public release.**

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.

1 The report shall be used to grade each school for the purpose of
2 assessing its effort to implement policies and programs consistent
3 with the provisions of P.L.2002, c.83 (C.18A:37-13 et seq.). The
4 district shall receive a grade determined by averaging the grades of
5 all the schools in the district. The commissioner shall promulgate
6 guidelines for a program to grade schools for the purposes of this
7 section.

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

14 If a school district's policy permits a preliminary determination
15 to be made on whether a reported incident or complaint is a report
16 outside the scope of the definition of harassment, intimidation, or
17 bullying pursuant to section 2 of P.L.2002, c.83 (C.18A:37-14), the
18 superintendent shall also provide annually to the board of education
19 information on the number of times a preliminary determination
20 was made that an incident or complaint was outside the scope of
21 that definition for the purposes of the State's monitoring of the
22 school district.

23 Verification of the reports on violence, vandalism, and
24 harassment, intimidation, or bullying shall be part of the State's
25 monitoring of the school district, and the State Board of Education
26 shall adopt regulations that impose a penalty on a school employee
27 who knowingly falsifies the report. A board of education shall
28 provide ongoing staff training, in cooperation with the Department
29 of Education, in fulfilling the reporting requirements pursuant to
30 this section. The majority representative of the school employees
31 shall have access monthly to the number and disposition of all
32 reported acts of school violence, vandalism, and harassment,
33 intimidation, or bullying.
34 (cf: P.L.2021, c.338, s.2)

35
36 2. Section 2 of P.L.2002, c.83 (C.18A:37-14) is amended to read
37 as follows:

38 2. As used in this act:

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

42 "Harassment, intimidation or bullying" means any gesture, any
43 written, verbal or physical act, or any electronic communication,
44 whether it be a single incident or a series of incidents [], that is
45 reasonably perceived as being motivated either by any actual or
46 perceived characteristic, such as race, color, religion, ancestry,
47 national origin, gender, sexual orientation, gender identity and
48 expression, or a mental, physical or sensory disability, or by any

1 other distinguishing characteristic,] that takes place on school
2 property, at any school-sponsored function, on a school bus, or off
3 school grounds as provided for in section 16 of
4 P.L.2010, c.122 (C.18A:37-15.3), that substantially disrupts or
5 interferes with the orderly operation of the school or the rights of
6 other students and that:

7 a. a reasonable person should know, under the circumstances,
8 will have the effect of physically or emotionally harming a student
9 or damaging the student's property, or placing a student in
10 reasonable fear of physical or emotional harm to his person or
11 damage to his property;

12 b. has the effect of insulting or demeaning any student or group
13 of students; or

14 c. creates a hostile educational environment for the student by
15 interfering with a student's education or by severely or pervasively
16 causing physical or emotional harm to the student.

17 (cf: P.L.2010, c.122, s.11)

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

21 3. a. Each school district shall adopt a policy prohibiting
22 harassment, intimidation or bullying on school property, at a
23 school-sponsored function or on a school bus. The school district
24 shall adopt the policy through a process that includes representation
25 of parents or guardians, school employees, volunteers, students,
26 administrators, and community representatives.

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

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

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

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

37 (4) consequences and appropriate remedial action for a person
38 who commits an act of harassment, intimidation, or bullying. The
39 consequences for a student who commits an act of harassment,
40 intimidation, or bullying **may** shall include: for the first act of
41 harassment, intimidation, or bullying committed by a student, a
42 copy of the results of the investigation shall be placed in the
43 student's record and the student may be subject to remedial actions,
44 including the provision of counseling or behavioral intervention
45 services, or discipline, or both, as determined by the principal in
46 consultation with appropriate school staff; for the second act, a
47 copy of the results of the investigation shall be placed in the
48 student's record and the student may be subject to remedial actions,

1 including the provision of counseling or behavioral intervention
2 services, or discipline, or both, as determined by the principal, in
3 consultation with appropriate school staff; and for the third and
4 each subsequent act, a copy of the results of the investigation shall
5 be placed in the student's record, and the principal, in consultation
6 with appropriate school staff, shall develop an individual student
7 intervention plan which shall be approved by the superintendent of
8 schools or the superintendent's designee, and may include remedial
9 actions including counseling or behavioral intervention services, or
10 progressive discipline, or both, and may require the student,
11 accompanied by a parent or guardian, to complete in a satisfactory
12 manner a class or training program to reduce harassment,
13 intimidation or bullying behavior.

14 The superintendent of schools or the superintendent's designee
15 and the principal shall consult law enforcement, as appropriate,
16 pursuant to the provisions of the Uniform State Memorandum of
17 Agreement Between Education and Law Enforcement Officials, if
18 the student's behavior may constitute a possible violation of the
19 New Jersey Code of Criminal Justice;

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

25 All acts of harassment, intimidation, or bullying shall be reported
26 verbally to the school principal on the same day when the school
27 employee or contracted service provider witnessed or received
28 reliable information regarding any such incident. The principal
29 shall inform the parents or guardians of all students involved in the
30 alleged incident, and may discuss, as appropriate, the availability of
31 counseling and other intervention services. The principal shall keep
32 a written record of the date, time, and manner of notification to the
33 parents or guardians. All acts of harassment, intimidation, or
34 bullying shall be reported in writing to the school principal within
35 two school days of when the school employee or contracted service
36 provider witnessed or received reliable information that a student
37 had been subject to harassment, intimidation, or bullying. The
38 written report shall be on a numbered form developed by the
39 Department of Education. A copy of the form shall be submitted
40 promptly by the principal to the superintendent of schools. The
41 form shall be completed even if a preliminary determination is
42 made under the school district's policy that the reported incident or
43 complaint is a report outside the scope of the definition of
44 harassment, intimidation, or bullying pursuant to section 2 of
45 P.L.2002, c.83 (C.18A:37-14), and shall be kept on file at the
46 school but shall not be included in any student record, unless the
47 incident results in disciplinary action or is otherwise required to be
48 contained in a student's record under State or federal law. A

1 redacted copy of the form that removes all student identification
2 information shall be confidentially shared with the board of
3 education after the conclusion of the investigation, if a hearing is
4 requested by a parent or guardian pursuant to subparagraph (d) of
5 paragraph (6) of this subsection.

6 The school district shall provide a means for a parent or guardian
7 to complete an online numbered form developed by the Department
8 of Education to confidentially report an incident of harassment,
9 intimidation, or bullying.

10 The principal shall report to the superintendent if a preliminary
11 determination is made under the school district's policy that the
12 reported incident or complaint is a report outside the scope of the
13 definition of harassment, intimidation, or bullying, and the
14 superintendent may require the principal to conduct an investigation
15 of the incident, if the superintendent determines that an
16 investigation is necessary because the incident is within the scope
17 of the definition of harassment, intimidation, or bullying. The
18 superintendent shall notify the principal of this determination in
19 writing;

20 (6) a procedure for prompt investigation of reports of violations
21 and complaints, which procedure shall at a minimum provide that:

22 (a) the investigation shall be initiated by the principal or the
23 principal's designee within one school day of the report of the
24 incident and shall be conducted by a school anti-bullying specialist.
25 The principal may appoint additional personnel who are not school
26 anti-bullying specialists to assist in the investigation. The
27 investigation shall be completed as soon as possible, but not later
28 than 10 school days from the date of the written report of the
29 incident of harassment, intimidation, or bullying or from the date of
30 the written notification from the superintendent to the principal to
31 initiate an investigation pursuant to paragraph (5) of this subsection.
32 In the event that there is information relative to the investigation
33 that is anticipated but not yet received by the end of the 10-day
34 period, the school anti-bullying specialist may amend the original
35 report of the results of the investigation to reflect the information;

36 (b) the results of the investigation shall be reported to the
37 superintendent of schools within two school days of the completion
38 of the investigation, and in accordance with regulations
39 promulgated by the State Board of Education pursuant to the
40 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
41 seq.), the superintendent may decide to provide intervention
42 services, establish training programs to reduce harassment,
43 intimidation, or bullying and enhance school climate, impose
44 discipline, order counseling as a result of the findings of the
45 investigation, or take or recommend other appropriate action
46 including seeking further information;

47 (c) the results of each investigation shall be reported to the board
48 of education no later than the date of the board of education

1 meeting next following the completion of the investigation, along
2 with information on any services provided, training established,
3 discipline imposed, or other action taken or recommended by the
4 superintendent;

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

21 (e) at the next board of education meeting following its receipt of
22 the report pursuant to subparagraph (c) of paragraph (6) of this
23 subsection, the board shall issue a decision, in writing, to affirm,
24 reject, or modify the superintendent's decision. The board's
25 decision may be appealed to the Commissioner of Education, in
26 accordance with the procedures set forth in law and regulation, no
27 later than 90 days after the issuance of the board's decision; and

28 (f) a parent, student, guardian, or organization may file a
29 complaint with the Division on Civil Rights within 180 days of the
30 occurrence of any incident of harassment, intimidation, or bullying
31 based on membership in a protected group as enumerated in the
32 "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.);

33 (7) the range of ways in which a school will respond once an
34 incident of harassment, intimidation or bullying is identified, which
35 shall be defined by the principal in conjunction with the school anti-
36 bullying specialist, but shall include an appropriate combination of
37 services that are available within the district such as counseling,
38 support services, intervention services, and other programs, as
39 defined by the commissioner. In the event that the necessary
40 programs and services are not available within the district, the
41 district may apply to the Department of Education for a grant from
42 the "Bullying Prevention Fund" established pursuant to section 25
43 of P.L.2010, c.122 (C.18A:37-28) to support the provision of out-
44 of-district programs and services;

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

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

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

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

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

20 (13) a requirement that the school district and each school in the
21 district with a website post on its homepage the current version of
22 the document, Guidance for Parents on the Anti-Bullying Bill of
23 Rights Act, developed by the Department of Education. The School
24 Climate State Coordinator shall ensure that this document is
25 updated as needed and then promptly disseminated to all school
26 districts.

27 c. A school district shall adopt a policy and transmit a copy of
28 its policy to the appropriate executive county superintendent of
29 schools by September 1, 2003. A school district shall annually ,
30 and upon any revision of the "Anti-Bullying Bill of Rights Act,"
31 P.L.2002, c.83 (C.18A:37-13 et seq.), as amended and
32 supplemented by P.L.2010, c.122 (C.18A:37-13.1 et al.), conduct a
33 re-evaluation, reassessment, and review of its policy, making any
34 necessary revisions and additions. The board shall include input
35 from the school anti-bullying specialists in conducting its re-
36 evaluation, reassessment, and review. The district shall transmit a
37 copy of the revised policy to the appropriate executive county
38 superintendent of schools within 30 school days of the revision.
39 The first revised policy following the effective date of
40 P.L.2010, c.122 (C.18A:37-13.1 et al.) shall be transmitted to the
41 executive county superintendent of schools by September 1, 2011.

42 d. (1) To assist school districts in developing policies for the
43 prevention of harassment, intimidation, or bullying, the
44 Commissioner of Education shall develop a model policy applicable
45 to grades kindergarten through 12. This model policy shall be
46 issued no later than December 1, 2002.

47 (2) The commissioner shall adopt amendments to the model
48 policy which reflect the provisions of P.L.2010, c.122 (C.18A:37-

1 13.1 et al.) no later than 90 days after the effective date of that act
2 and shall subsequently update the model policy upon any revision
3 of the "Anti-Bullying Bill of Rights Act," P.L.2002, c.83
4 (C.18A:37-13 et seq.), as amended and supplemented by P.L.2010,
5 c.122 (C.18A:37-13.1 et al.), and as the commissioner deems
6 necessary.

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

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

14 (cf: P.L.2021, c.338, s.3)

15
16 4. Section 5 of P.L.2002, c.83 (C.18A:37-17) is amended to read
17 as follows:

18 5. a. Schools and school districts shall annually establish,
19 implement, document, and assess bullying prevention programs or
20 approaches, and other initiatives involving school staff, students,
21 administrators, volunteers, parents, law enforcement and
22 community members. The programs or approaches shall be
23 designed to create school-wide conditions to prevent and address
24 harassment, intimidation, and bullying. A school district may
25 implement bullying prevention programs and approaches that may
26 be available at no cost from the Department of Education, the New
27 Jersey State Bar Foundation, or any other entity. A school district
28 may, at its own discretion, implement bullying prevention programs
29 and approaches which impose a cost on the district.

30 A school district may apply to the Department of Education for a
31 grant to be used for programs, approaches, or personnel established
32 pursuant to this act, to the extent funds are appropriated for these
33 purposes or funds are made available through the "Bullying
34 Prevention Fund" established pursuant to section 25 of P.L.2010,
35 c.122 (C.18A:37-28). A school district may make an application
36 for a grant only after exploring bullying prevention programs and
37 approaches that are available at no cost, and making an affirmative
38 demonstration of that exploration in its grant application.

39 b. A school district shall:

40 (1) provide training on the school district's harassment,
41 intimidation, or bullying policies to school employees and
42 volunteers who have significant contact with students; and

43 (2) **【**ensure that the training includes instruction on preventing
44 bullying on the basis of the protected categories enumerated in
45 section 2 of P.L.2002, c.83 (C.18A:37-14) and other distinguishing
46 characteristics that may incite incidents of discrimination,
47 harassment, intimidation, or bullying; **and】** (Deleted by amendment,
48 P.L. , c.) (pending before the Legislature as this bill)

1 (3) develop a process for discussing the district's harassment,
2 intimidation, or bullying policy with students.

3 A school district may satisfy the training required pursuant to
4 this subsection by utilizing training that may be provided at no cost
5 by the Department of Education, the New Jersey State Bar
6 Foundation, or any other entity. A school district may, at its own
7 discretion, implement a training program which imposes a cost on
8 the district.

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

15 (cf: P.L.2012, c.1, s.2)

16

17 5. This act shall take effect on the first day of the second month
18 next following enactment.

19

20

21

STATEMENT

22

23 This bill amends the definition of "harassment, intimidation, or
24 bullying" in the Anti-Bullying Bill of Rights Act to encompass acts
25 of harassment, intimidation, or bullying against all students, not just
26 students in protected classes.

27 As currently defined, "harassment, intimidation, or bullying" is
28 required to be reasonably perceived as being motivated by an actual
29 or perceived characteristic. The definition sets forth examples of
30 such characteristics - race, color, religion, ancestry, national origin,
31 gender, sexual orientation, gender identity and expression, mental,
32 physical or sensory disability, or other distinguishing characteristic.
33 This bill eliminates the requirement that the conduct is motivated by
34 these actual or perceived characteristics from the definition.

35 The bill requires the Commissioner of Education to update the
36 model policy on harassment, intimidation, or bullying upon any
37 revision of the Anti-Bullying Bill of Rights Act. The bill also
38 provides that a school district's policy on prohibiting harassment,
39 intimidation, or bullying be amended upon any revision of the Anti-
40 Bullying Bill of Rights Act.

41 The bill removes the requirement that a school district ensure
42 that its training on harassment, intimidation, or bullying include
43 instruction on preventing bullying on the basis of protected
44 categories since these categories are eliminated by the bill.

45 Finally, the bill requires that as part of the information provided
46 by the superintendent of schools twice a year to the board of
47 education regarding acts of violence, vandalism, and bullying which
48 occurred during the previous reporting period, the superintendent is

1 to provide the board with information on the number of reports of
2 harassment, intimidation, or bullying, disaggregated by race,
3 gender, sexual orientation, eligibility for free or reduced-price lunch
4 under the National School Lunch Program, special education
5 designation, and English language learner designation. Similarly,
6 the bill requires the information that is to be reported to the
7 Department of Education include this disaggregated data.