

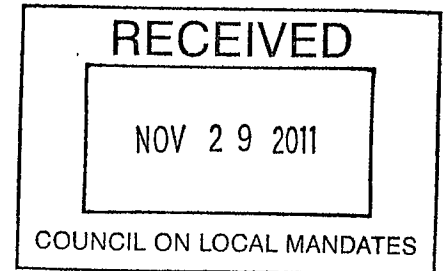


NEW JERSEY STATE BAR ASSOCIATION

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New Brunswick, New Jersey 08901-1500
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November 23, 2011

Council on Local Mandates
135 West Hanover Street
Trenton, NJ 08625-0627



Re: Complaint filed by the Allamuchy Township Board of Education (9-11)

Dear Council Members:

Please accept this letter as a formal Request to Appear *Amicus Curiae* in the above referenced matter by the New Jersey State Bar Association. The New Jersey State Bar Association requests that it be permitted to file the attached brief and participate in any oral argument or other hearings the Council may conduct in this matter.

The Association shall rely on the attached Certification in support of its request.

Pursuant to the Council's Rules of Procedure, a Pleading Summary is also attached, which is understood will be placed on the Council's website. The Pleading Summary represents a summary of the proposed brief submitted by the NJSBA.

While Susan A. Feeney, NJSBA President, will serve as official counsel in this case for the Association, all communication can be directed to me as legal counsel for the Association at sbalsamo@njsba.com or by mail to the above address.

Thank you for your courtesies in this matter.

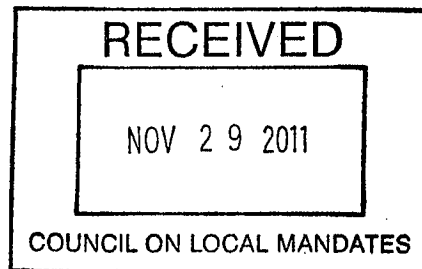
Very truly yours,

Sharon A. Balsamo
Counsel and Director of Legal Affairs

/sab

cc: Francis Gavin
Daniel Dryzga, DAG
Julia Casteleiro

NEW JERSEY STATE BAR ASSOCIATION
New Jersey Law Center
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IN RE: COMPLAINT FILED BY THE : BEFORE THE COUNCIL
ALLAMUCHY TOWNSHIP BOARD OF : ON LOCAL MANDATES
EDUCATION : Docket No. 9-11
: CERTIFICATION IN SUPPORT OF
: REQUEST TO APPEAR *AMICUS CURIAE*
:

Sharon A. Balsamo, Esq., of full age and sound mind, upon his oath and according to law, deposes and says:

1. I am an attorney at law of the State of New Jersey and I am counsel to the New Jersey State Bar Association ("NJSBA"). As such, I am fully familiar with the facts set forth herein.

2. I submit this Certification in support of the Request of the NJSBA to enter this case as *amicus curiae*.

3. The NJSBA was founded in 1899 in order to "maintain the honor and dignity of the profession of the law; to cultivate social relations among its members; to suggest and urge reforms in the law; and to aid in the administration of justice".

4. The mission of the NJSBA is to serve, protect, foster and promote the personal and professional interests of its members; to serve as the voice of the New Jersey attorneys with regard to the law, legal profession and legal system; to promote access to the justice system and fairness in its administration; to foster professionalism and pride in the practice of law; to provide

educational opportunities to New Jersey attorneys so as to enhance the quality of legal services; and to provide education to the public with respect to the legal system and the legal profession.

5. There are approximately 17,000 attorneys who are members of the NJSBA and whose practices, whether private or public, involve every area of the law, including representation of local governments, school districts, parents and students.

6. The NJSBA has a Young Lawyers Division, 36 sections, 17 standing committees, and 27 special committees. It is also a continuing legal education provider.

7. The NJSBA has a professional staff that deals with issues of legal affairs, judicial administration, professionalism and legislative services. It provides support to the attorney disciplinary system and administers the Lawyers Assistance and Ethics Diversionary Programs. NJSBA officers, members and staff testify on a regular basis before committees of the Senate and Assembly and before various Departments with the executive branch on issues involving the law and the administration of justice.

8. The NJSBA's educational arm, the New Jersey State Bar Foundation, routinely offers free public education programs on a variety of legal topics, including free training for school safety and climate teams consistent with the Anti-Bullying Bill of Rights, the statute at issue in this matter.

9. The NJSBA has appeared before the New Jersey Supreme

Court on many occasions as *amicus curiae*, sometimes at the invitation of the Supreme Court, with respect to issues that affect the legal profession or the system of justice.

10. The NJSBA strongly supported the passage of the New Jersey Anti-Bullying Bill of Rights, P.L. 2010 c. 122, enacted January 5, 2011 (the "Act"), noting that it provides school districts with a clear roadmap for dealing with the current epidemic of bullying that is negatively impacting the educational process and students' progress in schools and in society.

11. The New Jersey State Bar Association would like the opportunity to assist the Council in its resolution of the challenge presented in this case concerning whether the Act represents an unfunded mandate. Specifically, the NJSBA would like to address the public's interest in ensuring that school districts have a clear roadmap for recognizing and remediating acts of harassment, intimidation and bullying that negatively impact educational processes and students' progress in schools and in society consistent with the New Jersey Constitution and within the confines of existing laws and school budgets.

12. The New Jersey State Bar Association has a special interest in the issues raised in the within matter because many of its members represent school boards, local governments, parents of children and even the children themselves who are identified as individuals who are bullying or being bullied. In addition, as

noted above, the New Jersey State Bar Foundation, the educational arm of the NJSBA, has been in the forefront of this issue since 2001, training thousands of school personnel throughout the state, free of charge, on anti-bullying strategies.

13. The NJSBA submits that its participation in this matter will assist the Council in the resolution of the issues raised in this matter. Specifically, in its brief, the NJSBA intends to provide the Council with an explanation about why the Act is exempt from the Council's mandate and, even if the Council deems the Act is within the Council's mandate, why the Act does not create an unfunded mandate such that the Council should declare it unenforceable or expired.

14. For the foregoing reasons, the NJSBA respectfully requests that the Council permit it to participate in this matter as *amicus curiae* by both the filing of the within brief and presenting oral argument at the appropriate time or participating in any hearing on this matter.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



Sharon A. Balsamo Esq.

Counsel

New Jersey State Bar Association

Dated: 11/23/11

RECEIVED

NOV 29 2011

COUNCIL ON LOCAL MANDATES

PLEADING SUMMARY

Submitted By *Amicus Curiae* New Jersey State Bar Association

In Complaint filed by the Allamuchy Township Board of Education (9-11)

The New Jersey State Bar Association (“NJSBA”) submits this Request to Appear as *Amicus Curiae* to oppose the Petition seeking to declare non-mandatory and expired certain portions of the New Jersey Anti-Bullying Bill of Rights, P.L. 2010 c. 122, enacted January 5, 2011 (“NJABBR” or “Act”). The Act is narrowly-tailored and seeks to further define, protect and clarify the rights of bullying victims while providing all students with a Free and Appropriate Public Education, as required by the New Jersey Constitution. It was enacted in response to an epidemic of bullying, cyber-bullying and suicides affecting public schools across the country. It fills a vacuum of liability and procedure by providing school districts with a clear roadmap for recognizing and remediating acts of harassment, intimidation and bullying (“HIB”) that negatively impact educational processes and students’ progress in schools and in society. Finally, it strengthens New Jersey’s existing laws aimed at curbing and, ideally, eliminating the proliferation of bullying and suicides occurring in recent years, and tackles a new and vehement strain of harmful conduct being visited on student victims with the advent of electronic and social media such as Facebook, Myspace and other means occurring off school grounds, which have a negative and harmful impact on the school environment.

Three obvious issues place the NJABBR beyond the scope of the Council’s review, necessitating dismissal of the instant challenge before the Council. First, the Council’s prior decisional law has consistently held that the Council will not inquire into a law that, on its face, creates an internal funding mechanism. While the NJABBR presents no new, mandatory costs to

be incurred, the text of the Act creates a Bullying Prevention Fund in the Department of Education to which a school district can apply for reimbursement if it *chooses* to incur expenses.

Second, the NJABBR follows the seminal 2007 New Jersey Supreme Court ruling in L.W. v. Toms River Regional Schools, 189 N.J. 381 (2007) which held that the civil rights guaranteed by the New Jersey Constitution and embodied in the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq. (LAD), extends to all citizens including public school students. L.W. established a standard of vicarious liability for school districts, manifesting in them equal liability for the harm caused by bullies akin to that of employers who fail to stop employees who engage in harassment in the workplace. Thus, the NJABBR was directly responsive to our State Supreme Court's holding in L.W. mandating that school districts protect students' State Constitutional rights as embodied in the LAD, placing it squarely within the exemptions specified in the Constitution and, thus, outside of review by the Council on Local Mandates.

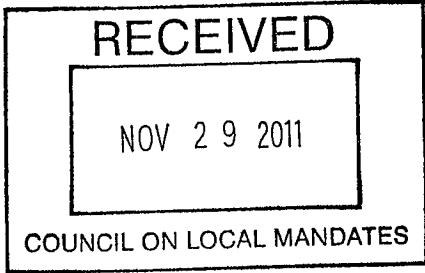
The Act also served to update the existing New Jersey anti-bullying statute and to streamline and clarify the law to better prevent HIB. Where a school district's efforts fail to prevent HIB a procedural model for the school district to investigate and address that Constitutional violation must be in place. The Act actually serves to potentially reward school districts with certain liability protections and immunity – with no added costs to a school districts budget.

Third, the Act follows the dictates of several federal laws and rules, particularly those ~~dealing with discrimination issues, and also sets forth the possible eligibility standard for federal~~ entitlement funds.

Moreover, the face of the NJABBR and the facts of this case support the position that the Act imposes no unfunded obligations or costs on New Jersey School districts. The NJABBR is carefully drafted so as to not require any new personnel hiring nor any other additional expenditure of money for materials or trainings beyond what was already required by State laws and regulations. Examples of the fiscal conservatism in the Act abound: the Act simply requires that existing school district trainings (that are already mandatory under the law that the Act modified) now include education on, *inter alia*, cyber-bullying and suicide prevention; the Bullying Coordinator who is to handle any complaints of HIB is expressly proposed to be a person already on staff in the school district; and the text of the Act creates a Bullying Prevention Fund in the Department of Education to which a school district can apply. Furthermore, any training required under the Act is available at no cost to school districts from various non-profit sources, such as the New Jersey State Bar Foundation, the NJSBA's educational arm, should a school district decide to avail itself of such opportunities.

The Fiscal Note prepared by the independent Office of Legislative Services (OLS) confirms that the Act imposes no unfunded mandates on New Jersey school districts. The OLS Fiscal Note opines that the Act provides a simple mechanism for compliance that avoids cost outlays.

Lastly, the NJSBA submits that the NJABBR not only implements provisions of the New Jersey Constitution and builds upon existing law, but it also represents landmark legislation that fosters community partnerships as a means of advancing one of the greatest legislative policy ~~objective there is: to make public education safer and better.~~



IN RE: COMPLAINT FILED BY THE
ALLAMUCHY TOWNSHIP BOARD OF
EDUCATION

BEFORE THE COUNCIL
ON LOCAL MANDATES

Docket No. 9-11

BRIEF *AMICUS CURIAE* OF THE NEW JERSEY STATE BAR ASSOCIATION

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PRELIMINARY STATEMENT

The New Jersey State Bar Association (“NJSBA”) submits this Brief *Amicus Curiae* in opposition to the Petition seeking to declare non-mandatory and expired certain portions of the New Jersey Anti-Bullying Bill of Rights, P.L. 2010 c. 122, enacted January 5, 2011 as N.J.S.A. 18A:37-13, et seq. (“NJABBR” or “Act”). The Act is narrowly-tailored and seeks to further define, protect and clarify the rights of bullying victims while providing all students with a Free and Appropriate Public Education. It fills a vacuum of liability and procedure by providing school districts with a clear roadmap for recognizing and remediating acts of harassment, intimidation and bullying (“HIB”) that negatively impact educational processes and students’ progress in schools and in society.

The NJSBA carefully reviewed the proposed law, seeking input from across its membership of 17,000 attorneys, and decided to support the Act as a matter of the Association’s highest priority. See Exhibit 1, Letter from then NJSBA President Richard Steen to Governor Chris Christie. The NJSBA considered the unique public-private partnership model forged in the text of the Act that encouraged New Jersey school districts to turn to the vast reservoir of knowledge and experience of not-for-profit organizations on these issues, including, for example, the New Jersey State Bar Foundation (“NJSBF” or “Foundation”), the NJSBA’s educational arm, which has an over-twenty year history working with New Jersey public school educators in the prevention of, and response to, childhood bullying and violence prevention, offering a widely-respected, established curriculum in these areas to all comers (on a first-come, first served basis) *gratis*. The Legislature and Governor envisioned that such a partnership would allow districts to capitalize on existing beneficent organizations that exist in the private sector to help meet the

objectives delineated in the NJABBR for HIB prevention, suicide risk evaluation and procedures for responding to related issues.

The NJABBR was publicized and near-unanimously supported by State legislators and the Governor in response to a topic which gained widespread public notoriety: to wit, the epidemic of bullying, cyber-bullying and suicides affecting public schools across the country.¹ The Act was drafted and enacted as an amendment to, and update of, the prior 2002 legislative effort to address bullying in public schools across the state at P.L.2002, c.83 (C.18A:37-13 et seq.). In this respect, the NJABBR was designed to strengthen New Jersey's existing policies aimed at curbing and, ideally, eliminating the proliferation of bullying and suicides occurring in recent years, and also to tackle a new and vehement strain of harmful conduct being visited on student victims with the advent of electronic and social media such as Facebook, Myspace and other means occurring off school grounds, which have a negative and harmful impact on school environment.

Three obvious issues place the NJABBR beyond the scope of the Council's review, necessitating dismissal of the instant challenge before the Council. First, the Council's prior decisional law has consistently held that the Council will not inquire into a law that, on its face, creates an internal funding mechanism. While the NJABBR presents no new, mandatory costs to be incurred, the text of the Act creates a Bullying Prevention Fund in the Department of Education to which a school district can apply for reimbursement if it *chooses* to incur expenses.

¹ Just as the finishing touches of the Act, based upon the New Jersey Supreme Court decision in L.W. v. Toms River Regional School District, 189 N.J. 381 (2007) were being written, Rutgers University freshman Tyler Clementi committed suicide as a result of alleged cyber-bullying in the form of the posting and/or streaming of a video of his personal encounter with another man. As this brief was being written 10 year old Ashlynn Connor committed suicide as the result of being bullied. Funeral held for 10-year-old suspected of committing suicide over bullying - Child found hanging in her closet one day after complaining of bullies at school: <http://www.nydailynews.com/news/national/funeral-held-10-year-old-suspected-committing-suicide-bullying-article-1.978707#ixzz1e452GSGJ>

As discussed *infra*, the Act clearly does not require a school district to incur new expenses, but does not forbid school districts from choosing to do so either.

Second, the NJABBR follows the seminal 2007 New Jersey Supreme Court ruling in L.W. v. Toms River Regional Schools, 189 N.J. 381 (2007) which held that the civil rights guaranteed by the New Jersey Constitution and embodied in the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 *et seq.* (LAD), extends to all citizens including public school students. L.W. established a standard of vicarious liability for school districts, manifesting in them equal liability for the harm caused by bullies akin to that of employers who fail to stop employees who engage in harassment in the workplace. Thus, the NJABBR was directly responsive to our State Supreme Court's holding in L.W. mandating that school districts protect students' State Constitutional rights as embodied in the LAD, placing it squarely within the exemptions specified in the Constitution and, thus, outside of review by the Council on Local Mandates.

The Act also served to update the existing New Jersey anti-bullying statute and to streamline and clarify the law to better prevent HIB. Where a school district's efforts fail to prevent HIB a procedural model for the school district to investigate and address that Constitutional violation must be in place. The Act actually serves to potentially reward school districts with certain liability protections and immunity – with no added costs to a school districts budget.

Third, the Act follows the dictates of several federal laws and rules, particularly those ~~dealing with discrimination issues, and also sets forth the possible eligibility standard for federal entitlement funds.~~

Moreover, the face of the NJABBR and the facts of this case support the position that the Act imposes no unfunded obligations or costs on New Jersey School districts. The NJABBR is carefully drafted so as to not require any new personnel hiring nor any other additional expenditure of money for materials or trainings beyond what was already required by State laws and regulations. Examples of the fiscal conservatism in the Act abound: the Act simply requires that existing school district trainings (that are already mandatory under the law that the Act modified) now include education on, *inter alia*, cyber-bullying and suicide prevention; the Bullying Coordinator who is to handle any complaints of HIB is expressly proposed to be a person already on staff in the school district; and the text of the Act creates a Bullying Prevention Fund in the Department of Education to which a school district can apply.

The Fiscal Note prepared by the independent Office of Legislative Services (OLS) confirms the unequivocal analysis and defense that the Act imposes no unfunded mandates on New Jersey school districts. As is routine with all proposed legislation, State legislators and the Governor were provided with the detailed OLS financial assessment which, in this case, concluded that school districts may choose to retain new personnel and fee-based training contractors, but such decisions are just that: a choice. As discussed *infra*, the OLS Fiscal Note opines that the Act provides a simple mechanism for compliance that avoids cost outlays.

Lastly, the Council can readily observe the fundamental public policy benefits in the Act that would be defeated by an adverse ruling, visiting harm upon an already disenfranchised and marginalized segment of our society that the law seeks to protect. Against that important social policy backdrop, the NJSBA submits that the NJABBR not only implements provisions of the New Jersey Constitution but it also represents a legislative paradigm that encourages and promotes the involvement of numerous private, not-for-profit organizations and foundations that

have worked tirelessly to eradicate the pernicious behaviors that underpin the Act. Indeed, the New Jersey State Bar Association believes the New Jersey Anti-Bullying Bill of Rights Act represented landmark legislation that fosters community partnerships as a means of advancing one of the greatest legislative policy objective there is: to make public education safer and better. With the novel nature of this Act, New Jersey stands to serve as an embodiment of U.S. Supreme Court Justice Louis Brandeis famous dissent in New State Ice Co. v. Liebmann, 285 U.S. 262 (1932), that “[i]t is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.”

We respectfully request the Council dismiss the Petition and decline to declare expired the NJABBR, in whole or in part.

LEGAL ARGUMENT

The New Jersey Anti-Bullying Bill of Rights Act cannot be construed as an unfunded State mandate both because the Act is exempt for a variety of reasons that place it squarely outside the scope of the Council on Local Mandates (“Council”) and because no direct expenditures are required to be incurred by school districts in order to implement the Act. The Act, rather than being a cost burden, actually presents a unique legislative model that helps school districts and the public avoid much of the confusion, litigation and increased burden that existed prior to the Act’s implementation and, by virtue of adherence to a legal and procedural framework, are rewarded with civil liability immunity as stated therein.

POINT I

THE ANTI-BULLYING BILL OF RIGHTS ACT IS EXEMPT FROM REVIEW BY THE COUNCIL ON LOCAL MANDATES AS THE ACT IMPLEMENTS STATE CONSTITUTIONAL REQUIREMENTS AS WELL AS FEDERAL LAWS AND RULES AND, ON ITS FACE, PROVIDES AN EXPRESS, DEFINED FUNDING SOURCE

New Jersey Constitution, Article VIII, Section II, paragraph 5, provides:

(a) ...[E]xcept as otherwise provided herein, any provision of such law, or of such rule or regulation issued pursuant to a law, which is determined in accordance with this paragraph to be an unfunded mandate upon boards of education, counties, or municipalities because it does not authorize resources, other than the property tax, to offset the additional direct expenditures required for the implementation of the law or rule or regulation, shall, upon such determination cease to be mandatory in its effect and expire. A law or rule or regulation issued pursuant to a law that is determined to be an unfunded mandate shall not be considered to establish a standard of care for the purpose of civil liability.

(b) The Legislature shall create by law a Council on Local Mandates. The Council shall resolve any dispute regarding whether a law or rule or regulation issued pursuant to a law constitutes an unfunded mandate....The decisions of the Council shall be political and not judicial determinations.

(c) Notwithstanding anything in this paragraph to the contrary, the following categories of laws or rules or regulations issued pursuant to a law, shall not be considered unfunded mandates:

- (1) those which are required to comply with federal laws or rules or to meet eligibility standards for federal entitlements;
- (2) those which are imposed on both government and non-government entities in the same or substantially similar circumstances;
- (3) those which repeal, revise or ease an existing requirement or mandate or which reapportion the costs of activities between boards of education, counties, and municipalities;
- (4) those which stem from failure to comply with previously enacted laws or rules or regulations issued pursuant to a law;
- (5) those which implement the provisions of this Constitution; and
- (6) laws which are enacted after a public hearing, held after public notice that unfunded mandates will be considered, for which a fiscal analysis is available at the time of the public hearing and which, in addition to complying with all other constitutional requirements with regard to the enactment of laws, are passed by 3/4 affirmative vote of the members of each House of the Legislature. (Emphasis added.)

The New Jersey Legislature, with the Governor's approval, enacted the Local Mandate Act, N.J.S.A. 52:13H-1 et seq., and created the New Jersey Council on Local Mandates ("Council") therein. The Legislature restated the Council's mandate of the six classes of laws that "shall not be considered unfunded mandates" by expressly restating the six enumerated categories approved by the voters. N.J.S.A. 52:13H-3(a)-(f).

N.J.S.A. 52:13H-2, in restating New Jersey Const., Article VIII, Section II, paragraph 5(a), clarifies that, as a condition precedent to declaring a law or component thereof to be an unfunded mandate, the Council must find that "it does not authorize resources to offset the additional direct expenditures required for the implementation of the law or the rule or regulation." (Emphasis added.)

Even with a political, non-judicial body such as the Council, "[e]very possible presumption favors the validity of an act of the Legislature." New Jersey Sports & Exposition Auth. v. McCrane 61 N.J. 1,8 appeal dismissed sub nom., Borough of E. Rutherford v. New Jersey Sports & Exposition Auth., 409 U.S. 943 (1972). Indeed, it should be noted that case law supports the very notion of such a strong presumption by stating that a reviewing body should not second-guess the Legislature's social policy decisions. Brown v. State, 356 N.J. Super. 71, 80 (App. Div. 2002).

As set forth below, the New Jersey Anti-Bullying Bill of Rights Act is exempt from review by the Council on Local Mandates under the clear reading of the applicable Constitutional provision and its implementing statute, N.J.S.A. 52:13H-1 et seq., the Local Mandate Act, specifically N.J.S.A. 52:13H-3(a), (d), and (e).

A. The New Jersey Anti-Bullying Bill of Rights Act is Exempt From Council Review As It Implements Provisions of The New Jersey Constitution and Therefore Cannot Be Considered an Unfunded Mandate

Where a challenged statute “implement[s] the provisions of [the New Jersey] Constitution” it is “within the jurisdiction of the Courts, rather than this Council.” In the Matter of a Complaint Filed by the Township of Medford, Council on Local Mandates, p. 5, decided March 18, 2009, (citing N.J. Const. Art. VIII, § 2, ¶ 5(c)(5)). Because the NJABBR implements several provisions of the State Constitution, specifically Art. I, §1,² 5,³ and 21⁴, it is exempt from, and squarely outside jurisdiction of, Council action. N.J.S.A. 52:13H-3(c).⁵

L.W. v. Toms River Board of Education, 189 N.J. 381 (2007), held that school district liability as it relates to the quality and environment of educational institutions stems directly from the Law Against Discrimination, N.J.S.A. 10:5-1 to -12. In analyzing the LAD in the context of the horrendous acts of bullying suffered by the public school student plaintiff in L.W.,

² All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness. N.J. Const. Art. I, ¶1.

³ No person shall be denied the enjoyment of any civil or military right, nor be discriminated against in the exercise of any civil or military right, nor be segregated in the militia or in the public schools, because of religious principles, race, color, ancestry or national origin. N.J. Const. Art. I, ¶5.

⁴ This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people. N.J. Const. Art. I, ¶21.

⁵ See also, N.J.A.C. 6A - Chapter 7. Managing For Equality And Equity In Education The purpose of this chapter is to ensure that all students regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability, or socioeconomic status are provided equal access to educational programs and services by district boards of education. These educational programs and services include the teaching of challenging curriculum based on the New Jersey State Core Curriculum Content Standards, differentiated instruction, formative assessments aligned to the Core Curriculum Content Standards, qualified teachers, and high teacher expectations for student learning. These rules specify standards for district boards of education in establishing policies and procedures for the provision of educational programs and services for all students, pursuant to: Article I, Paragraph 5 of the New Jersey State Constitution, the New Jersey Law Against Discrimination (N.J.S.A. 10:5-1 et seq.); N.J.S.A. 18A:35-1; 18A:36-20; 18A:38-5.1; Titles VI and VII of the Civil Rights Act of 1964 (P.L. 88-352); the Equal Employment Opportunity Act of 1972 (42 U.S.C. § 2000e); Title IX of Education Amendments of 1972 (20 U.S.C. § § 1681 et seq.); the Equal Pay Act of 1973 (P.L. 88-38); Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112); the Individuals with Disabilities Act of 1990 (P.L. 103- 336); and the Individuals with Disabilities Education Act (IDEA) of 1997 (P.L. 105-17). 6A:7-1.1

the New Jersey Supreme Court drew on the history and purpose of the LAD and its roots in the equal protection promise laid out in the New Jersey's 1947 Constitution. Highlighting the role the LAD plays in implementing the New Jersey Constitution, the Court held that:

Freedom from discrimination is one of the fundamental principles of our society.... The overarching goal of the LAD is nothing less than the eradication of the cancer of discrimination.... The LAD is the legislature's attempt to protect society from the vestiges of discrimination.... The LAD ensures that the civil rights guaranteed by the State Constitution are extended to all its citizens[.]" L.W., 189 N.J. at 399. (Emphasis added).

In extending that reasoning to the State's obligation to provide a constitutionally guaranteed thorough and efficient education, the Supreme Court stated:

A school cannot be expected to shelter students from all instances of peer harassment. Nevertheless, reasonable measures are required to protect our youth, a duty that schools are more than capable of performing. In the school setting... a school district may be found liable under the law against discrimination for student-on-student sexual orientation harassment that creates a hostile educational environment when the school district knew or should have known of the harassment, but failed to take action reasonably calculated to end the harassment. Id. at 407. (Emphasis added).

The Supreme Court concluded that the LAD permits a cause of action by a student against a school district predicated upon acts of harassment "if the school district's failure to reasonably address that harassment has the effect of denying to that student any of a school's 'accommodations, advantages, facilities or privileges.'" Id. at 402 (citing N.J.S.A.10:5-12 (f)). (Emphasis added.)

Therefore, the Court held that the applicable standard for harassment in the educational context is the same standard formulated in the milieu of the employment environment as articulated in Lehmann v. Toys 'R' Us, Inc., 132 N.J. 587 (1993).

A school district may be found liable under the LAD for student-on-student sexual orientation harassment that creates a hostile educational environment when the school district knew or should have known of the harassment, but failed to take action reasonably calculated to end the harassment[.]We require school

districts to implement effective preventive and remedial measures to curb severe or pervasive discriminatory mistreatment. Appropriate and reasonable measures will reinforce the basic principle that student-on-student sexual harassment is unacceptable.” L.W., 189 N.J. at 407. (Emphasis added).

Recognizing that school districts needed further guidance, the L.W. Court said that factfinders must consider the “totality of the circumstances . . . all relevant circumstances, and . . . the cumulative effect of incidents of harassment and the school’s efforts to curtail harassment[.]” (Emphasis added.) Id. at 408-410.

The Court recognized that the New Jersey legislature passed an anti-bullying and harassment statute, N.J.S.A. 18A:37-13-17, in 2002, two years after plaintiff LW fled the Toms River school district. It is clear, therefore, that the Legislature adopted the NJABBR as a codification of the principles enunciated in L.W. and as a need to revise the existing law.

Of note, in 2002, the Supreme Court decided Gaines v. Bellino,⁶ 173 N.J. 301 (2002), which mandated comprehensive and effective anti-harassment training, and monitoring methods for employers to successfully defend harassment claims. This case placed a greater emphasis on the need for New Jersey employers, both public and private, to implement comprehensive anti-harassment training and to monitor the effectiveness of the training and complaint procedures. As a result of the Gaines decision, public employers have provided such training to their staff--even though the State provided no additional funding to conduct such training.

Similarly, the NJABBR is merely an extension of the four corners of the L.W. decision--requiring training as a way of reducing potential liability against school districts, protecting the

⁶ In Bellino, a county corrections officer brought suit alleging that she was sexually harassed by her shift supervisor. Significantly, the employer had taken steps to ensure that it maintained a workplace that was free from unlawful harassment: it had a written sexual harassment policy; the policy was disseminated in posters and its handbook; it conducted training; and it took action when facts were brought to its attention. The plaintiff successfully argued, however, that these steps were not sufficient to shield the employer from liability. She presented evidence that supervisory personnel had not received training in recognizing and preventing unlawful harassment; that employees were discouraged from using the available grievance procedures; and that the employer did not have adequate mechanisms in place to monitor the effectiveness of the anti-harassment training and grievance procedures.

public dollars, and ultimately caring for our children. In focusing on training and programming the NJABBR follows the Court's Constitutional imperative in Gaines and L.W. Moreover, in establishing a strict and defined timeframe for investigation, hearing and adjudication of HIB-related complaints, the Act serves to make clear and protects the Constitutional Due Process rights of all students (including alleged bullies and victims).

What L.W. and Gaines are instructive in is that New Jersey school districts must take clear and visible steps to implement their legal obligation to protect all students, especially the students who are highly vulnerable to harassment.⁷ School districts must seek to create school environments that are safe and healthy, so that all students can learn and achieve the academic, social, and personal goals for which schools were established and provide a "thorough and efficient" education.

Thus, in keeping with the standards set forth by our Supreme Court, which expounded upon historical constitutional principles preceding the NJABBR, schools must go beyond discipline of individual harassers. This is so not only for legal and ethical reasons, but also because schools are vulnerable financially for failing to act when confronted with hostile educational environments.

The New Jersey Supreme Court made a poignant remark in a case dealing with principal-on-student sexual harassment:

Although the overarching mission of a board of education is to educate, the first imperative must be to do no harm to the children in its care. A board of education must take reasonable measures to assure that the teachers and administrators who stand as parents during the day are educating, not

⁷ Districts are dealing with the lives of their students and staffs, See Sharon L. Nichols, Gay, Lesbian, and Bisexual Youth, 99 ELEMENTARY SCH. J. 506, 510 (1999), for data on the percentage rate of suicide attempts by a related group of students who have experienced sexual harassment. According to Nichols, "[G]ay and lesbian adolescents are two and three times more likely to attempt suicide than their heterosexual peers [and] prevalence of suicide attempts among gay and bisexual male youths is high (39%), especially as compared to reports of presumably heterosexual youths in high schools (11% -16%) ... Id. at 510.

endangering, and protecting, not exploiting vulnerable children. Frugis v. Bracigliano, 177 N.J. 250, 268 (2003). (Emphasis added.)

Thus L.W. requires that school districts “implement effective preventive and remedial measures to curb severe or pervasive discriminatory mistreatment.” L.W., 189 N.J. at 407. (Emphasis added.) This underscores the need for all staff members and students to learn that they have a role in preventing harassment and teaching that HIB is unacceptable in schools. The NJABBR codified these long existing requirements. The L.W. decision set the stage for more families to bring claims against their local schools. The NJABBR sets the roadmap to foreclose those claims.

By interpreting the LAD to hold school districts liable for bullying, the Supreme Court essentially created a mandate upon all school districts to take “action reasonably calculated to end the harassment.” This mandate ensures “that the civil rights guaranteed by the State Constitution” of victims of bullying are protected by and through the LAD. By implementing the NJABBR, the Legislature carried out the Court’s L.W. mandates and further ensured that a victim’s Constitutional civil rights are protected.

As such, this Council “cannot pass judgment on what is constitutionally ‘necessary,’ a responsibility of the judiciary. Nor should the Council presume to narrow the discretion traditionally entrusted to the legislative and executive branches to fashion remedies for constitutional problems.” Medford at 7-8. Accordingly, whether the NJABBR “appropriately advance[s] [its] intended goal is a question to be resolved by the Courts, not this Council.” Id. at 8.

B. The New Jersey Anti-Bullying Bill of Rights Act is Exempt from Council Review as It Serves to Implement Requirements Arising Under Federal Laws or Rules and to Meet Eligibility Standards for Federal Entitlements

The NJABBR follows the dictates of several federal laws and rules, and it also sets forth the possible eligibility standard for federal entitlement funds, a consideration which places the affected provisions of the Act beyond Council jurisdictional review. N.J.S.A. 52:13H-3(a). By way of example, students with disabilities can seek remedies for the denial of a Free and Appropriate Public Education under the Individuals with Disabilities Education Improvement Act (“IDEA”) when the program offered is not sufficiently free from the threat of harassment. Shore Regional High School Bd. of Educ. v. P.S., 381 F.3d 194 (3d Cir. 2004).

In further elaboration of this requirement, on October 26, 2010, shortly before the New Jersey legislature overwhelming passed the Act, the United States Department of Education, Office for Civil Rights, issued the following policy statement, penned by Russlyn Ali, Assistant U.S. Secretary for Civil Rights:

The movement to adopt anti-bullying policies reflects schools’ appreciation of their important responsibility to maintain a safe learning environment for all students. I am writing to remind you, however, that some student misconduct that falls under a school’s anti-bullying policy also may trigger responsibilities under one or more of the federal antidiscrimination laws enforced by the Department’s Office for Civil Rights (OCR).

The statutes that OCR enforces include Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 (Section 504); and Title II of the Americans with Disabilities Act of 1990 (Title II). Section 504 and Title II prohibit discrimination on the basis of disability.

There is no dispute that protection of schools as safe areas, free from HIB-based discrimination, is a mandatory requirement of numerous federal laws. Accordingly, the Act, which serves to

make such safe areas a reality in the lives of New Jersey's school children, is not subject to the unfunded mandate requirement as stated in the New Jersey Constitution.

C. The New Jersey Anti-Bullying Bill of Rights Act is Exempt from Review as, On its Face, it Indicates the Legislature's Clear Intent to Evaluate and, Where Appropriate, Provide Funding to School Districts Should Same Be Incurred.

As this Council's own decisional record shows, the very creation of a funding source such as the Bullying Prevention Fund in the text of the law is the start and finish of the Council's inquiry of the legislature's intent to fund and the issue of whether the law presents an unfunded mandate. The existence of the Bullying Prevention Fund in the text of the Act is sufficient to satisfy the Council's concern regarding an unfunded State mandate and should be the start and finish of the instant inquiry. The legislative creation of the Fund, as well as the financial analysis addressed in the independent Office of Legislative Services Fiscal Note, discussed *infra*, reflect careful and methodical consideration and a clear, conscious legislative effort to avoid running afoul of New Jersey Constitution, Article VIII, Section II, paragraph 5.

The Council's prior decisional law cites the specific allocation of money to fund the legislative mandate at issue versus a general increase in funding to the local institution as being the key factor in the analysis of whether a mandate is unfunded. The Council reasoned in Special Services School District of Burlington, Atlantic, Cape May, and Bergen Counties ("Special Services School Districts"), Council on Local Mandates, decided July 26, 2007, and later cited in In re Complaints Filed by the Mayors of Shiloh Borough and the Borough of Rocky Hill and by Southampton Township, Deerfield Township, Shamong Township, Upper Deerfield Township and Buena Vista Township ("Shiloh and Rocky Hill"), Council on Local Mandates, decided De. 12, 2008, that the general increase in State aid for education did not satisfy the need

for funding the new mandate because that general aid was not specifically “earmarked” to pay for the mandate. Special Services School District at 15-16; Shiloh and Rocky Hill at 10.

Here, there is no such problem. The specific provisions in the NJABBR that provide for reimbursement of any local expenses incurred in the bill’s implementation constitute an earmark of funds for that purpose. See N.J.S.A. 18A:37-28; N.J.S.A. 18A:37-19. These reimbursements are not a general increase in education spending to which local school districts would have been entitled anyway. Rather, the law itself specifically authorizes the reimbursements to offset any expenses incurred to implement that particular law.

The Council recognizes this limitation on the scope of the Council’s authority. See Shiloh and Rocky Hill at 11 and In re Ocean Township (Monmouth County) and Frankford Township (“Ocean/Frankford”), Council on Local Mandates, decided Aug. 2, 2002, at 12 (“The obvious purpose of this legislative provision...is to prevent the Council from becoming involved in fiscal policymaking”).

In Shiloh and Rocky Hill, the Council stated that it only had the authority to find an unfunded mandate to the extent that it was not “second-guessing legislative judgments about the adequacy of the legislative funding, but simply recognizing the explicit terms and the acknowledged consequences of the legislation.” Id. at 11. The Council should only scrutinize the statute’s purported method of funding if it is “seriously flawed to the point of being illusory.” Id. at 12; Ocean/Frankford at 12.

Unlike the statute in Shiloh and Rocky Hill, the Act, on its face, states that it fully ~~reimburses school districts that incur costs to implement it, if any.~~ As the Attorney General points out in her Answer at page 3, N.J.S.A. 18A:37-19 provides that school districts incurring additional costs to implement the law shall apply to the Commissioner of Education for

reimbursement. Because the statute on its face provides for full reimbursement of all local expenses by the Department of Education, a method that can hardly be considered “illusory” because the law provides for it expressly, the Council should decline to inquire further into the adequacy of the funding in accordance with the previously recognized limited scope of its duties.

For the foregoing reasons, the Act is exempt from the Council’s jurisdiction and review and the challenge to the Act should be dismissed in its entirety.

POINT II

THE ANTI-BULLYING BILL OF RIGHTS ACT IS NOT AN UNFUNDED MANDATE AS IT MERELY AUGMENTS EXISTING TRAININGS, STREAMLINES INVESTIGATORY AND DISCIPLINARY PROCEDURES AND DIRECTS SCHOOL DISTRICTS TO UTILIZE EXISTING RESOURCES OR TO TURN TO NON-PROFIT AND FOUNDATION RESOURCES THAT ARE WIDELY AVAILABLE

The New Jersey Legislature found and declared at the start of the NJABBR 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;
- ...
- 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 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. N.J.S.A. 18A:37-13.1.

- A. As an Amendment to the 2002 New Jersey Anti-Bullying Law and Implementing the Holding of L.W. v. Toms River Regional Schools, the New Jersey Anti-Bullying Bill of Rights Act Clearly Does Not Provide for Additional Costs or Burden to School Districts

The NJABBR contains the following amendments, each of which is followed by a brief analysis refuting allegations that the Act poses an unfunded mandate:

1. The definition of harassment, intimidation, or bullying was amended to include that the “harm” that a student may experience can be either physical or emotional and by adding criterion to the definition; acts that create a “hostile environment at school.” The inclusion of the phrase “hostile environment at schools” is in accord with L.W. This change does not cause or require any new expenditure by school districts.
2. The NJABBR maintains that, for districts to respond to bullying or harassing incidents both on and off school grounds, there must be a “substantial” disruption or interference with the orderly operation of the school or the rights of other students. N.J.S.A. 18A:37-14. This follows what is already contained in the Code of Student Conduct and comports with the leading federal court jurisprudence including the Saxe v. State College Area School District, 240 F.3d 200 (3rd. Cir.2000), opinion penned by then- Judge Samuel Alito of the United States Court of Appeals for the Third Circuit. Indeed, numerous courts have held that school districts and their staff are required to act when bullying, harassing, or intimidating conduct is brought to their attention so the Act simply implements existing, binding case law. This change does not cause or require any new expenditure by school districts.
3. The issue of training existed in the 2002 version of New Jersey’s anti-bullying law. The NJABBR, following the language of the New Jersey Supreme Court in L.W. merely enhances and refines existing training requirements concerning harassment, intimidation, and bullying. N.J.S.A. 18A:37-17. Such training is designed to be part of the professional licensure and development requirements, meaning that they are an obligation for any incoming applicant and, for existing staff, a component of the professional development they are required to maintain. Toward that end, to suggest that the State legislature is not

permitted to require that existing trainings be augmented with new, cutting edge requirements to safeguard the lives and well-being of children (such as suicide prevention, as is the issue here) defies logic and practicality. The logical extension of that analysis would see a halt to incorporation of societal advances into schools simply because they are different. Moreover, free training programs are readily available through the New Jersey State Bar Foundation and other organizations, including the New Jersey DOE, the United States Department of Education website and other web based training resources.⁸ This change does not cause any mandatory additional expenditure. Of course school districts are free to expend money voluntarily on training. A list of resources is available from the State Department of Education: <http://www.state.nj.us/education/students/safety/behavior/hib>, the New Jersey State Bar Foundation: <http://www.njsbf.org> and the New Jersey Principals and Supervisors Association: <http://www.njpsa.org/bullyhome.cfm> amongst others (last visited November 18, 2011).

4. The legislation states that school districts may apply for a grant to be used for training programs established through the "Bullying Prevention Fund," to the "extent... funds...are made available." N.J.S.A. 18A:37-17. This fund is to be made available in the event that there is any expenditure required under the NJABBR, and thus protects against any expenditures by a school district.
5. Under previous State legislation, schools were already required to have policies aimed at prohibiting harassment, intimidation, and bullying on school property or at school-

⁸ Schools can access hundreds of pages of free material, including handouts and presentations, through www.njbullying.org (Coalition) and recommended websites mentioned there (including Stan Davis' site, www.stopbullyingnow.com, and the federal -HRSA - site, www.bullyinginfo.gov, <http://www.nj.gov/education/students/safety/behavior/hib/#si>; and others).

sponsored functions or on a school bus. The NJABBR clarifies that existing requirement,⁹ providing specific details of what must be included in the policy.

6. The Act further establishes a procedure for reporting all acts of harassment, intimidation, or bullying. N.J.S.A. 18A:37-15. The NJABBR sets out the process by which the policy is to be created; that the process includes parents and/or guardians, school employees, administrators, students, volunteers, and “community representatives.” This change does not cause any expenditure by a school district.
7. Every school must have an anti-bullying specialist (“ABS”) appointed by the principal. The ABS position is revenue neutral as the person can be appointed from among the existing school staff. This change does not cause any expenditure by a school district.
8. The superintendent appoints an anti-bullying coordinator (“ABC”). The appointment is revenue-neutral because the anti-bullying coordinator can be chosen from among existing staff. This change does not cause any expenditure by a school district.
9. The legislation requires School Safety Teams (“SST”) for each school which is a revenue neutral requirement. A SST is to consist of the principal, or the principal’s designee, a teacher, the ABS, a parent/guardian of a student, and “other members to be determined by the principal.” This change does not cause any expenditure by a school district.
10. Reporting Requirements are outlined at N.J.S.A. 18A:37-15b(5) as the following:
 - a. All acts of harassment, intimidation, or bullying are to be reported verbally on the same day that an employee or “contracted service provider” witnesses or receives “reliable information” regarding an incident.

⁹ The previous regulations contained a provision laying out the specific minimum requirements to be contained in the policy.

- b. The principal must inform parents/guardians of students involved in an incident and may discuss the availability of counseling and other intervention services.
- c. All acts of harassment, intimidation, or bullying must be reported in writing within two (2) days of when it was witnessed or when “reliable information” was received. These changes do not cause any expenditure by a school district.

11. Investigation Requirements are outlined at N.J.S.A. 18A:37-15b(6) as the following:

- a. The principal or the principal’s designee is to “initiate” an investigation within one (1) school day of the report of the incident.
- b. The investigation is to be conducted by the school’s ABS. Additional existing personnel may be appointed to assist the ABS.
- c. The investigation must be completed “as soon as possible, but not later than ten (10) school days from the date of the written report of the incident...” If, after the investigation is conducted, additional relevant information is received, the ABS may amend the investigation report.
- d. The results of the investigation are to be reported to the superintendent within two (2) school days of the completion of the investigation.
- e. The superintendent may decide to provide intervention services, establish training programs to reduce harassment, intimidation, or bullying, impose discipline, or order counseling as a result of the findings of the investigation.
- f. The superintendent is to report the investigation’s results to the board of education no later than the date of the next board meeting following completion of the investigation, including information on services provided, training

established, or discipline imposed, recommended or any other action taken or recommended.

- g. Parents or guardians of the students who are parties shall be entitled to receive information about the investigation, including the nature of the investigation, whether the district found evidence of harassment, intimidation or bullying, or whether discipline was imposed. This information is to be provided in writing within five (5) school days after the results of the investigation are reported to the board.
- h. The principal with the ABS shall determine the "range" of ways to address the behavior.
- i. A parent or guardian may request a hearing before the board after receiving the information and the hearing shall be held within ten (10) days of the request. The hearing is to be conducted in executive session.
- j. At the next board meeting the board is to issue a decision in writing to affirm, reject, or modify the superintendent's decision/ recommendation.
- k. The decision may be appealed to the Commissioner of Education within ninety (90) days after issuance of the board's decision. Not one of the investigation or reporting requirements causes any expenditure to the school district. They do, however, mandate that the obligations set forth in prior versions of the law which were ignored by some school districts must be followed.

12. Discipline for school district administrators and staff who fail to act is outlined at

N.J.S.A. 18A:37-16.

a. The legislation imposes potential discipline on school personnel or others who do not comply with required timelines and reporting requirements. However, as noted above, the law already provided for a standard, or a duty of care for school administrators or other employees who receive reports of harassment, intimidation or bullying. The L.W. Court held that school personnel are accountable for their actions regarding bullying behavior; that they are subject to what a “reasonable person” would do in a similar position and in a similar situation. Thus, the effect of this provision is to merely make clear the existing requirements that are applicable to school districts administrators and staff, not to burden a district with any costs.

B. The Independent Office of Legislative Services Analyzed Funding Issues At the Time the New Jersey Anti-Bullying Bill of Rights Act Was Drafted and Debated, Prior To Signing, Demonstrating That the Legislature and the Governor Considered the Concerns Presently Before the Council

The NJABBR was narrowly-tailored and written so it doesn't require any new personnel nor does it require that a District spend any additional money. It simply requires that existing school district trainings (that are already mandatory) now include education on bullying, intimidation and harassment as well as suicide prevention. For example, as a matter of first resort, the Anti-Bullying Coordinator, named under the revised law and designated to handle any complaints of bullying, intimidation and harassment, is expected to be an *existing* staff person that each school district designates as such as a function of his or her existing responsibilities; the school district can, if it chooses, hire a new staff person.

The independent, non-partisan Office of Legislative Services' (OLS) Fiscal Note, provided to the members of the legislature and the Governor *as they considered, debated and*

then adopted the NJABBR, reflects that careful consideration was given to the concerns brought before the Council. See Exhibit 2, Office of Legislative Services Fiscal Note. The OLS clearly opined that, under the NJABBR, all costs incurred on a local level are incurred as a result of a school district making a decision to do so:

Presumably, appointing such a staff member to serve as the anti-bullying specialist or on the school safety team would require additional compensation to be determined by the collective bargaining agreement. Since the person who would be appointed to serve as the district's anti-bullying coordinator is not specified in the bill, it is possible that the superintendent would assign the duties to someone who is not a member of a collective bargaining unit and would not need to provide additional compensation. However, while the bill encourages the superintendent to appoint an existing staff member to be the anti-bullying coordinator, the [District's voluntary decision to hire] ...an additional person would be permissible and would generate an additional local cost.

Thus, it is clear that a school district has the option of hiring a new staff person, but such an option is merely a function of the school district's choice to avoid utilizing existing school staff, the latter being preferred under the Act. The OLS Fiscal Note reflects that the legislature and the Governor took the funding concern into account when it established the Bullying Coordinator role under the NJABBR.

Later, the OLS continued analyzing the fiscal issues under the then-pending legislation, saying,

First, if a school has already implemented a program or other initiative to prevent harassment, intimidation, and bullying based on current law, then the school would not incur any new costs as a result of this provision. Second, among schools that have not yet implemented such a program, the incurrence of additional costs would depend on how the school elects to satisfy this provision. The language included in the bill appears to provide schools with flexibility in determining what program, approach, or other initiative it will implement and would appear to include the development of a "home grown" program or approach, the use of training material that is available at no cost^[10]...
...

^[10] For example, the New Jersey State Bar Foundation offers free training to school administrators and educators on dealing with bullying and related issues. See Exhibit 3, NJSBF Training Brochure..

The OLS anticipates that the additional reporting requirements included in section 7 of the bill would not lead to increased school district expenditures, ... The bill would require that a superintendent provides two reports each school year, and also details what information must be included in the report. The EVVRS user manual^[1] notes that users can produce school- and district-level reports throughout the year. This functionality would appear to provide school districts with the capacity to produce the biannual reports required in the bill without requiring additional expenditures.

...
Similarly, the OLS anticipates that the additional details outlined in section 12 with respect to reporting and investigating cases of harassment, intimidation, and bullying will not lead to additional costs. Current State Board of Education regulations, at N.J.A.C.6A:16-7.9(a)(2)(viii), require that a school conduct a “prompt” investigation; the more specific timeline included in the bill would not likely add to a school’s expenditures.

...
Assembly Bill No. 3466 (1R) may lead to increased revenue in schools. Section 25 provides for the creation of the “Bullying Prevention Fund” (Fund) that would be used to provide grants to schools....

It is, thus, clear that the independent OLS vigorously reviewed the Act prior to it being voted upon and found it satisfies any concerns regarding funding, reinforcing the Council’s prior decisional holding, “where there is choice, there is no mandate.” In the Matter of a Complaint Filed by the Township of Medford, Council on Local Mandates, p.7-8

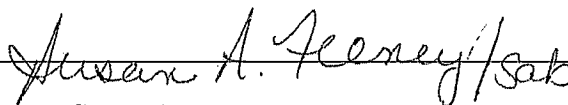
For the foregoing reasons, the Act does not present an unfunded mandate and the challenge to the Act should be dismissed in its entirety.

¹¹ Available at http://homeroom.state.nj.us/evvrs/UserMan_09.doc (last visited on November 17, 2011)

CONCLUSION

The New Jersey Anti-Bullying Bill of Rights Act is exempt from adjudication as an unfunded local mandate because it implements a New Jersey Supreme Court order redressing a Constitutional infirmity under the Equal Protection Clause of the New Jersey Constitution and further refines affected parties' rights under the Constitution's Due Process clause. Against this Constitutional backdrop, the Act rests squarely outside the jurisdiction of the Council on Local Mandates. Moreover, the plain language of the Act demonstrates that it is narrowly-tailored to define, protect and clarify the rights of bullying victims and to provide school districts with tools to fight harassment, intimidation and bullying in order to meet the requirements of the Act without incurring additional costs. Should a school district *choose* to incur such costs, the Act, on its face, provides a funding reimbursement mechanism in the State Education Department, again, placing it beyond Council review. The New Jersey State Bar Association believes the New Jersey Anti-Bullying Bill of Rights Act is a visionary legislation that stands to implement a matter of pure social good while advancing a public-private partnership between school districts and non-profit entities, including the NJSBA's own Foundation which offers trainings to school districts for free. The NJSBA respectfully request the Council dismiss the challenge to the Act and decline to declare expired the NJABBR, in whole or in part.

Respectfully submitted,



Susan A. Feeney, Esq.
President, New Jersey State
Bar Association

Dated: 11/23/11

NEW JERSEY STATE BAR ASSOCIATION

RICHARD H. STEEN, PRESIDENT
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December 3, 2010

The Honorable Chris Christie
Office of the Governor
P.O. Box 0001
Trenton, NJ 08625-0001

Re: Assembly Bill 3466

Dear Governor Christie:

On behalf of the New Jersey State Bar Association, I respectfully urge you to sign into law Assembly Bill 3466 (Vainieri Huttel) which would establish an Anti-Bullying Bill of Rights in New Jersey.

The NJSBA has carefully reviewed this legislation and we find that the bill is narrowly crafted to safeguard the rights of bullied students, parents, and students accused of bullying. This legislation is essential because for the first time a statute mandates comprehensive training of school personnel from senior administrators to cafeteria workers while also providing important standards and specificity so that these same individuals can adopt strategies to insure the orderly administration of their schools while simultaneously securing the interests of all parties concerned.

The bill is consistent with state and federal jurisprudence in this area. In *Saxe v. State College*, 240 F.3d 200 (2001), the leading case in this area, the United State Court of Appeals for the Third Circuit provides a framework, with benchmarks, to weigh the constitutional issues and related definitions in the legislation and to ensure protection of First Amendment rights including an individual's right to free speech and freedom of expression. It is clear that the State Legislature followed the *Saxe* decision when it incorporated the court's language by requiring the regulated conduct must "substantially disrupt or interfere with the orderly operation of the school or the rights of other students" in key provisions of the definitions in Section 11, as a prerequisite to the four broad criteria that define bullying conduct.

By ensuring that the off-school-grounds conduct of the suspected bully is regulated only when it involves a direct nexus with the school and the operation of the educational system, the Anti-Bullying Bill of Rights Act is carefully tailored to invoke only that conduct which affects and/or disrupts the educational process.

New Jersey Law Center • One Constitution Square • New Brunswick, New Jersey 08901-1520
PHONE: 732-249-5000 • FAX: 732-249-2815 • EMAIL: president@njsba.com • www.njsba.com

Exhibit 1

As noted above, that language states that the bullying action must "substantially disrupt or interfere with the orderly operation of the school or the rights of other students" and fulfill one of the following four broad criteria, such as "infringing on the rights of the student at school by interfering with a student's education or by severely or pervasively causing physical or emotional harm to the student." Thus, consistent with *Saxe, supra*, in order for conduct that occurs off-school-grounds to be reachable and, therefore, regulated, it must cause a substantial disruption or interference with the orderly operation of a school or the rights of the students at school. This framework regulates offending conduct that occurs off-school-grounds in a manner that that clearly should satisfy constitutional scrutiny.

The definition of "bullying", found in Section 11, has a direct nexus with Section 16, which addresses off-school-grounds conduct. By incorporating by reference the Section 11 definition in the Section 16 language, the bill's constitutional integrity is retained with regard to off-school-grounds conduct.

The NJSBA notes that the Anti-Bullying Bill of Rights Act protects all students through the catch-all clause after the enumerated categories who are bullied "for any other characteristic," a reference to the statute that was enacted in 2002. Similarly, the Bill does not add new enumerated categories of those for students K-12 as this has been part of the existing bullying law since its 2002 enactment.

The Anti-Bullying Bill of Rights Act leaves it up to local schools and school districts to establish and define curriculum content. This is significant because it leaves to the local school boards, elected by the local community, how best to write the applicable curriculum and educate children in the district. We also note that, pursuant to "The Parents Rights to Conscience Act of 1979," N.J.S.A. 18A:35-4.6 et seq., parents are fully empowered have their children excused without penalty from any part of the curriculum if the parent feels a portion is in conflict with his or her conscience, moral beliefs or religious beliefs and the parent submits a signed statement to that effect.

In conclusion, NJSBA believes the bill will provide all parties concerned, including school districts, with a clear roadmap for dealing with the epidemic of bullying that exists now and that negatively impacts the educational process and students' progress in schools and in society. We note that the overriding public policy behind this bill protects victims while securing the right to due process for alleged bullies, and affirms the right of all students to be free from harassment in the course of their education. We respectfully urge that this landmark legislation be viewed in that light.

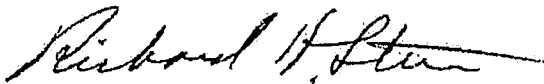
To illustrate the importance of this issue from our perspective you should know that the NJSBA has been invested in these matters for a number of years now through its educational arm, the New Jersey State Bar Foundation. Since 2001, before there was a state law, the Foundation has been at the forefront of training thousands of school personnel throughout the state, including playground aides and other non-teaching staff, on anti-bullying strategies, and has developed its own curriculum and training program, free to schools, on these issues. Cyber-bullying, i.e. off-

school grounds, has emerged as the leading mechanism for children to bully each other, and it is crucial that schools include off-school conduct in their anti-bullying programs. The NJSBF was one of the first groups to be invited to join the New Jersey Coalition Against Bullying and our facilities at the Law Center host their meetings. The vital nature of this legislation to these efforts cannot be overemphasized. It will help to provide clearer standards and other essential tools to communities and educators so that we can continue to train, advise and inform teachers on the best approaches to addressing these significant issues.

For the foregoing reasons, the NJSBA, once again, respectfully urges you to sign this important legislation into law.

Thank you for your attention with regard to our position on this legislation. Please contact us if you, or your staff, have any questions or comments in this regard.

Very truly yours,



Richard H. Steen
President

- C: Honorable Valerie Vainieri Huttle
Richard H. Bagger, Chief of Staff
Jeff Chiesa, Chief Counsel
Kevin O'Dowd, Deputy Chief Counsel
Susana Guerrero, Assistant Counsel
Susan A. Feeney, President-elect
Angela C. Scheck, Executive Director
D. Todd Sidor, Director of Government Affairs

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3466

STATE OF NEW JERSEY 214th LEGISLATURE

DATED: NOVEMBER 24, 2010

SUMMARY

Synopsis: The "Anti-Bullying Bill of Rights Act."

Type of Impact: Expenditure Increase in Local School Districts; Possible Expenditure Increase from General Fund

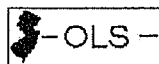
Agencies Affected: Department of Education; Local School Districts

Office of Legislative Services Estimate

Fiscal Impact	Year 1	Year 2	Year 3
State Cost	Indeterminate – See comments below		
Local Cost	Indeterminate – See comments below		
Local Revenue	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) cannot determine the cost of implementing Assembly Bill, No. 3466 (1R) of 2010, as the cost would be contingent on decisions made by the State and local school districts that cannot be predicted.
- The cost of A-3466 (1R) to local school districts is largely contingent on three factors: 1) the amount of additional compensation provided to school and district personnel for serving as anti-bullying specialists, anti-bullying coordinators, or serving on a school safety team; 2) whether or not a school has already implemented the type of program on bullying prevention required pursuant to section 14 of the bill; and 3) the manner in which schools not already having such a program choose to implement it.
- To the extent that funding is provided to the "Bullying Prevention Fund" (Fund), either through State appropriations or donations, school districts may receive an increase in revenue through grants provided by the Department of Education pursuant to section 25 of the bill.

Office of Legislative Services
State House Annex
P.O. Box 068
Trenton, New Jersey 08625



Legislative Budget and Finance Office
Phone (609) 292-8030
Fax (609) 777-2442
www.njleg.state.nj.us

Exhibit 2

- While A-3466 (1R) establishes the Fund in the department, nothing in the bill provides that the State will appropriate any specific amount to the Fund. As such, this analysis cannot assume any particular State cost associated with making an appropriation to the Fund.
- The OLS concludes that various other State actions required by the bill, such the provision of certain materials, developing an online tutorial, and grading a school's efforts to identify harassment, intimidation, and bullying, may have certain costs as they are developed. Other provisions, such as establishing a procedure for the executive county superintendents of schools to review claims that a district did not adequately address a case of harassment, intimidation, and bullying, would not lead to additional expenditures since a protocol already exists.

BILL DESCRIPTION

Assembly Bill, No. 3466 (1R) of 2010 amends and supplements the law on harassment, intimidation, and bullying in public schools, and incorporates a number of the recommendations of the New Jersey Commission on Bullying in Schools contained in its December 15, 2009 report. More specifically, the bill, among other things, does the following:

- modifies the definition of harassment, intimidation, and bullying;
- provides additional details regarding the procedures for reporting and investigating cases of harassment, intimidation, and bullying that must be included in school districts' policies;
- requires schools to implement, document, and assess bullying prevention programs or approaches;
- stipulates that a school principal appoint a school staff member to serve as the school's anti-bullying specialist and to form a school safety team that includes the principal (or the principal's designee), a teacher, the anti-bullying specialist, a parent, and anyone else chosen by the principal;
- requires that the school district superintendent appoint, preferably from among current personnel, an anti-bullying coordinator;
- provides for more frequent reporting of incidents of harassment, intimidation, and bullying to the district board of education and requires the inclusion of data on harassment, intimidation, and bullying in the School Report Card and the violence, vandalism, and substance abuse report issued annually by the Department of Education;
- establishes harassment, intimidation, and bullying training requirements for teachers, as part of their two hour training requirement in suicide prevention, new school board members, school leaders, safe schools resource officers and public school liaisons to law enforcement, and individuals seeking certification in instruction or administration;
- requires that the Department of Education develop guidance documents explaining how complaints regarding harassment, intimidation, and bullying are to be resolved, establish inservice workshops to train anti-bullying specialists and coordinators, and create an Internet based tutorial on harassment, intimidation, and bullying;
- directs the Commissioner of Education to establish a formal protocol for the executive county superintendents of schools to address complaints of harassment, intimidation, and bullying incidents not being adequately addressed by schools and districts;

- creates a "Bullying Prevention Fund" within the Department of Education for the purpose of providing grants for training related to harassment, intimidation, and bullying prevention; and
- requires public institutions of higher education to adopt a policy in the code of student conduct prohibiting harassment, intimidation, and bullying.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS cannot determine the cost of implementing Assembly Bill, No. 3466 (1R), as the cost would largely be contingent on decisions made by the State and local school districts that cannot be predicted. It is possible, however, for the OLS to discuss which provisions of the bill are likely to lead to an increase in State or local expenditures and local revenues.

Local Expenditures and Revenues

Assembly Bill No. 3466 (1R) contains certain provisions that will likely lead to an indeterminate increase in expenditures by local school districts. Section 17 requires that each school principal assign a current staff member to serve as the school's anti-bullying specialist. The bill requires that the principal appoint a guidance counselor, school psychologist, or similarly trained staff member if such an individual works in the school; otherwise, the principal must appoint another individual who is currently employed in the school. The same section of the bill requires that the superintendent appoint an individual, preferably a current employee of the district, to serve as the anti-bullying coordinator. Under section 18, the principal must assign individuals, including a teacher in the school, to serve on the school safety team. The types of personnel specified in the bill who would serve as the anti-bullying specialist or on the school safety team are generally members of collective bargaining units and have salaries that are determined pursuant to existing collective bargaining agreements. These agreements specify additional compensation that an individual will receive to perform additional duties or to serve on committees. Presumably, appointing such a staff member to serve as the anti-bullying specialist or on the school safety team would require additional compensation to be determined by the collective bargaining agreement. Since the person who would be appointed to serve as the district's anti-bullying coordinator is not specified in the bill, it is possible that the superintendent would assign the duties to someone who is not a member of a collective bargaining unit and would not need to provide additional compensation. However, while the bill encourages the superintendent to appoint an existing staff member to be the anti-bullying coordinator, ~~the hiring of an additional person would be permissible and would generate an additional local cost.~~

Current law provides that schools are "...encouraged to establish bullying prevention programs and other initiatives..." Assembly Bill No. 3466 (1R) would make the implementation of such programs and approaches mandatory. The extent to which this provision may increase costs to local school districts is indeterminate; however, the fiscal effect would be contingent on two factors. First, if a school has already implemented a program or other initiative to prevent

harassment, intimidation, and bullying based on current law, then the school would not incur any new costs as a result of this provision. Second, among schools that have not yet implemented such a program, the incurrence of additional costs would depend on how the school elects to satisfy this provision. The language included in the bill appears to provide schools with flexibility in determining what program, approach, or other initiative it will implement and would appear to include the development of a "home grown" program or approach, the use of training material that is available at no cost,¹ or the purchase of a commercially available program.²

The OLS anticipates that the additional reporting requirements included in section 7 of the bill would not lead to increased school district expenditures, assuming the Department of Education makes necessary changes to the Electronic Violence and Vandalism Reporting System (EVVRS). Current law, at N.J.S.A.18A:17-46, requires that a school district superintendent annually report to the board of education at a public hearing all acts of violence and vandalism and N.J.S.A.18A:17-48 requires the Commissioner of Education to submit an annual report on violence and vandalism to the Legislature. As part of this process, districts submit the relevant data to EVVRS, which, at the prompting of the user, produces a report used in implementing the provisions of these sections of law. The bill would require that a superintendent provides two reports each school year, and also details what information must be included in the report. The EVVRS user manual³ notes that users can produce school- and district-level reports throughout the year. This functionality would appear to provide school districts with the capacity to produce the biannual reports required in the bill without requiring additional expenditures. A review of the EVVRS user manual suggests that the only data elements required by the bill that are not currently included in the EVVRS are the names of individuals who conducted any investigation into an incident of harassment, intimidation, and bullying, and the program that the school implemented to reduce harassment, intimidation, and bullying. While the department would ultimately determine its role in the implementation of this provision, it appears that the EVVRS could be modified to include a data entry field for the investigator's name for each incident being reported by a district. Similarly, a data entry field could be added in which district personnel can identify the bullying prevention program used.

Similarly, the OLS anticipates that the additional details outlined in section 12 with respect to reporting and investigating cases of harassment, intimidation, and bullying will not lead to additional costs. Current State Board of Education regulations, at N.J.A.C.6A:16-7.9(a)(2)(viii), require that a school conduct a "prompt" investigation; the more specific timeline included in the bill would not likely add to a school's expenditures.

Assembly Bill No. 3466 (1R) may lead to increased revenue in schools. Section 25 provides for the creation of the "Bullying Prevention Fund" (Fund) that would be used to provide grants to schools to support the costs of providing training on harassment, intimidation, and bullying. The OLS cannot project how much revenue, if any, would be appropriated by the State for this purpose or how much revenue might be donated to the Fund.

¹ For example, the New Jersey State Bar Foundation offers free training to school administrators and educators on dealing with bullying and related issues.

² One example of a commercially available bullying prevention program for which cost data are readily available is the Olweus Bullying Prevention Program. The cost of this program is estimated to be between \$1,500 and \$3,200 per school, depending on the size of the school.

³ Available at http://homerom.state.nj.us/evvrs/UserMan_09.doc; accessed on 11/17/2010.

State Expenditures

Assembly Bill No. 3466 (1R) would establish a "Bullying Prevention Fund" (Fund) in the Department of Education that would be used to provide grants to school districts to provide training in the prevention of harassment, intimidation, and bullying. The bill notes that the fund would consist of funding appropriated by the State for that purpose, donations to the Fund, and interest and investment earnings. The existence of the Fund provides a potential for an increase in State expenditures; however, the bill does not contain a specific State appropriation for the Fund and it is not possible to determine whether such an appropriation would ever be made.

The OLS anticipates that certain additional State data reporting requirements included in A-3466 (1R) will not lead to an increase in expenditures. Section 5 of the bill specifies that data indentifying the number and nature of all reports of harassment, intimidation, and bullying must be included in the annual School Report Card. Additionally, section 8 requires that the violence, vandalism, and substance abuse report issued by the commissioner pursuant to N.J.S.A.18A:17-48 must also include information on harassment, intimidation, and bullying. To the extent that the violence, vandalism, and substance abuse report already includes information on harassment, intimidation, and bullying, the latter requirement would simply codify current practice into law and would not affect State expenditures. Since the Department of Education already collects data regarding incidents of harassment, intimidation, and bullying, including such information in the School Report Card would not necessitate additional resources.

Section 7 of A-3466 (1R) requires that the department promulgate guidelines to grade schools on their efforts to implement policies and programs consistent with the law based on the biannual reports that would be produced by districts pursuant to that section. As previously noted, most of the information currently included in the report is quantitative in nature and is collected by the department through EVVRS. The OLS cannot predict how the department would elect to determine each school's grade; however, given that the grade would be based on the data required under this section of the bill, it appears that one approach would be to develop a calculation that uses the data to determine a score that measures a school's efforts in this regard, and a rubric to transform that score into a grade. Such an approach might require a one-time expenditure to determine the methodology that will be used to calculate the grade. It is plausible that the department may select an alternative procedure that is more resource intensive and requires recurring expenditures.

Various sections of A-3466 (1R) require the department to: 1) establish a protocol for the executive county superintendents of schools to investigate situations in which an incident of bullying was not properly addressed by a school or district; 2) develop guidance documents for parents and guardians, students, and school districts; 3) create an Internet-based tutorial on harassment, intimidation, and bullying; and 4) develop an inservice workshop, preferably to be made available online, that will provide training to personnel serving as anti-bullying specialists and coordinators. As a result of the enactment of the original law on school bullying, P.L.2002, c.83, the department has already developed guidance documentation and a procedure for the executive county superintendents to address circumstances in which someone believes a district has not adequately addressed an instance of harassment, intimidation, and bullying.⁴ As such, this should not lead to additional State expenditures. Developing the materials, tutorial, and inservice workshop may require an initial expenditure, but the potential cost cannot be determined.

⁴ The complaint procedures and investigation protocols can be found at <http://www.state.nj.us/education/students/safety/behavior/hib/HIBCCombined.pdf>, last accessed on 11/18/2010.

A3466 [1R]

6

Section: Education
Analyst: Allen T. Dupree
Senior Fiscal Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

An Introduction
TO
Teasing
and
Bullying

Training for
School Safety
and
Climate Teams



Offered by
New Jersey State Bar Foundation
New Jersey Law Center
One Constitution Square
New Brunswick, NJ 08901-1520
www.njsbf.org • 1-800-FREE-LAW

Exhibit 3

What is Bullying?

Bullying involves an imbalance of power. That imbalance can be physical in nature or it could be gender, cultural or racially-based. According to researchers, "bullying occurs in school playgrounds every seven minutes and once every 25 minutes in class."

The National Center for Victims of Crimes stresses that anyone can be a bully, and bullying can be carried out in different ways. Physical bullying may include shoving, pushing and hitting. Words and non-verbal behavior can also be used to hurt someone by spreading rumors, taking part in gossip, or threatening someone with looks, notes or pictures.

According to the National Center on Addiction and Substance Abuse, children and teens who are bullied are at greater risk of suffering from depression and other mental health problems. Further, the Center contends that bullying behavior has been linked to other problem behaviors such as vandalism, shoplifting, truancy, dropping out of school, fighting, and tobacco, alcohol and drug abuse.

Bullying is *9/150* spreading rumors, **gossiping**, **threatening with looks, notes & pictures**

behavior has been linked to other problem behaviors such as vandalism, shoplifting, truancy, dropping out of school, fighting, and tobacco, alcohol and drug abuse.

New Jersey's Anti-Bullying Bill of Rights

In January 2011, New Jersey enacted the Anti-Bullying Bill of Rights, believed to be one of the toughest state laws regulating student-related bullying, harassment and intimidation. The new law requires school districts implement policies preventing bullying including having their teachers and other school employees trained. Under the new law, schools must appoint safety teams and an anti-bullying specialist.

New Jersey State Bar Foundation Teasing & Bullying Program

While the Foundation's teasing and bullying training session, An Introduction to Teasing and Bullying Training for School Safety and Climate Teams, will address the new law, its main focus is to emphasize the importance of a school changing its culture and climate, developing a school-wide approach and being proactive in combatting bullying. Under the new law, schools are required to have a program in place that includes lessons taught to students. The Foundation's training is curriculum-based and provides K-12 lessons that educators should use with their students.

The training also dispels the many myths about bullying, such as bullies have low self-esteem. Research has consistently shown that is not the case and bullies actually have an average or above average sense of self. Another critical component in addressing bullying effectively is being able to identify normal conflict versus bullying. The Foundation's training provides attendees with concrete examples of normal conflict and bullying.

the key is to promote a positive learning environment

Schools are required to send **two to four people per building** to the Foundation's training and are **strongly encouraged to have an administrator as part of the team.**

Experts agree that the key to combatting bullying is changing a school's culture and climate to one that promotes a positive learning environment. As with the success of any program, this change must emanate from the top and it is the administrator that sets the tone for the building.

Materials Included

All attendees to An Introduction to Teasing and Bullying Training for School Safety and Climate Teams will receive the Bar Foundation's anti-bullying curriculum guide, as well as posters that correspond to the lessons. Titled *Bully-Busting Curriculum: Six Essential Lessons for Grades K-12*, the curriculum complements the training and tailors each lesson to the elementary, middle and high school grade levels. In addition, the curriculum contains valuable resources for educators.

Posters available through the program include:

- **Definition of Bullying** — a complete definition to help your students identify bullying.
 - **Dr. Martin Luther King Jr. Quote** — this quote from Dr. King addresses the importance of the bystander in bullying situations.
 - **Bullying Behavior Chart** — gives definitions of physical, emotional and social bullying and provides examples of each at three different levels.
 - **Creating a Positive Classroom** — provides 10 examples of keeping a positive classroom, inspiring your students to brainstorm their own ideas.
 - **Shoving Fun vs. Making Fun** — explains the difference between good-natured joking and harmful teasing.
 - **My Heart Feels Your Pain** — explains the difference between sympathy and empathy.
 - **Bullying Concept Web** — gives examples of completed concept web and will encourage your class to develop a web of its own.
 - **Teasing vs. Bullying** — explains the difference between teasing and bullying with words, gestures and physical acts.
- Due to the sensitivity of the subject matter, only those who attend An Introduction to Teasing and Bullying Training for School Safety and Climate Teams will be allowed to order the materials that complement this training.*

How to Register

The teasing and bullying training sessions are free of charge; however, a refundable \$20 security deposit check, made payable to the New Jersey State Bar Foundation, is required for each registrant and must accompany each registration. Money orders or purchase orders, if any, will not be accepted. Deposit checks will be returned by mail to those who give 72 hours' notice of inability to attend. Checks from registrants who do not give at least 72 hours' notice of their inability to attend will be used to defray the expenses related to no-show registrants, and therefore will be forfeited.

Space in the teasing and bullying training sessions is limited. Registrations will be accepted on a first-come, first-served basis. To register for the training, call 732-937-7528 to request a registration form, leaving your email address (preferable) or your fax number. When we receive your registration and deposit check, you will be sent either a confirmation letter if you have been successfully registered or a letter advising that the training has been closed.

Trainings are conducted at the New Jersey Law Center in New Brunswick.

Questions

Questions regarding the content of An Introduction to Teasing and Bullying Training for School Safety and Climate Teams may be directed to the program's director, Ielsa-Annie Smith, Esq. at 732-937-7517 or iasmith@njsbf.org. For questions regarding the registration process, you may call 732-937-7528.

Facts About Bullying

A United States Secret Service study of school shootings found that almost three-quarters of the attackers felt persecuted, bullied, threatened, attacked or injured by others prior to the incident.

According to a GLSEN National School Climate Survey, more than 64 percent of lesbian, gay, bisexual and transgender students say they feel unsafe at school because of their sexual orientation.

The National Association of School Psychologists (NASP) said bullying is the most common form of violence in our society. Between 15 and 30 percent of students are bullies or victims, according to NASP and over two-thirds of students believe that schools respond poorly to bullying, with a high percentage of students believing that adult help is infrequent and ineffective.

According to the National Association of School Psychologists, direct physical bullying increases in elementary school, peaks in middle school, and declines in high school. Verbal abuse, on the other hand, remains constant. The U.S. Department of Justice reports that younger students are more likely to be bullied than older students.

IN THE MATTER OF THE ALLAMUCHY TOWNSHIP
Board Of Education (9-11) SERVICE LIST

Copy of letter, w/enclosures and attachments, by email/fax to:

Claimant Allamuchy Township Board of Education – Francis Gavin, Board President
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Amicus Curiae: NJ State Bar Association and LGBTQ Caucus of Rutgers School of Law, Newark

NJ State Bar Association

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Copies of letter, w/enclosures and attachments, by email/fax to:

Chuck Chiarello (Mayor, Buena Vista Township)
President
New Jersey State League of Municipalities
222 West State Street
Trenton, NJ 08618

William Dressel, Executive Director
New Jersey State League of Municipalities
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E-Mail: bdressel@njslom.com

IN THE MATTER OF THE ALLAMUCHY TOWNSHIP
Board Of Education (9-11) SERVICE LIST

Copies of letter, w/enclosures and attachments, by email/fax to:

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Beth E. Timberman (Salem County Freeholder)
President
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Copy of letter, w/enclosures and attachments, by fax to:

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Acting Commissioner
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(609) 777-4099 fax