



# School Bullying - Your Rights

## What Does the NJ Law Against Discrimination Say about Bias-based Harassment, Intimidation and Bullying

### Does Harassment, Intimidation and Bullying in Schools Violate the New Jersey Law Against Discrimination?

Harassment, intimidation and bullying in schools is unlawful in New Jersey, but only certain types of harassment, intimidation and bullying violate the New Jersey Law Against Discrimination (LAD), which is enforced by the New Jersey Division on Civil Rights.

Other types of harassment, intimidation and bullying may be addressed through the school district, under the Anti-Bullying Bill of Rights Act (N.J.S.A. 18A:37-13 et seq.), or in some cases through the New Jersey Department of Education.

### What Types of Harassment, Intimidation and Bullying Violate the LAD?

The LAD prohibits most schools from discriminating against students based on race, creed, color, national origin, ancestry, nationality, sex, sexual orientation, gender identity or expression, or disability.

"Discrimination" in this context includes instances when a school or school district permits "bias-based" harassment, intimidation or bullying — that is, harassment, intimidation or bullying that targets a student because of any of the protected characteristics listed above.

**EXCEPTION:** The LAD does not apply to any school that is operated or maintained by a bona fide religious or sectarian institution.

### When is a School or School District Liable for Bias-Based Harassment, Intimidation or Bullying?

The LAD requires a school or school district to take appropriate action to prevent and stop bias-based bullying. For that reason, any LAD complaint alleging bias-based bullying will charge the school or school district, rather than the student perpetrator, with violating the LAD.

A school or school district may be held liable when a student is subjected to bias-based harassment, intimidation or bullying, if:

**a.** The conduct was sufficiently severe or pervasive that a reasonable student of the same age, maturity level, and protected characteristic would find that the harassment, intimidation or bullying created an intimidating, hostile, or offensive school environment, and

**b.** The school administration knew or should have known of the bias-based harassment, intimidation or bullying, but failed to take actions reasonably calculated to stop it.

### Is a Student, Parent or Guardian who Complains Protected From Reprisal or Retaliation?

Yes. The LAD also prohibits reprisal or retaliation because an individual made a good faith complaint about bias-based harassment, intimidation or bullying, or assisted someone else in making such a complaint.

### Will the recently amended "Anti-Bullying Bill of Rights Act," change students' protections or school districts' liability under the LAD?

The new anti-bullying provisions (which take effect in the 2011-2012 school year) do not amend the LAD.

Under the new provisions, the Division on Civil Rights will work with the Department of Education to develop an online tutorial and a guidance document for parents, guardians, students, and school districts, to assist in preventing and eliminating harassment, intimidation and bullying. The new provisions codify and clarify some legal standards and procedures, but do not insulate school districts from liability for failure to take actions reasonably calculated to end bias-based harassment, intimidation and bullying.

### What Can I Do if My Child is Subjected to Bias-Based Harassment, Intimidation or Bullying?

First, the student, parent or guardian should report the harassment, intimidation and bullying to school administrators, and give them a reasonable opportunity to take action to stop the discriminatory conduct.

## What Should I Do Next?

If that does not remedy the situation, the student, parent or guardian has two options for seeking relief under the LAD, if the reported harassment, intimidation or bullying is based on race, creed, color, national origin, ancestry, nationality, sex, sexual orientation, gender identity or expression, or disability:

### **Administrative Remedy:**

The Department of Law & Public Safety, through its Division on Civil Rights, is responsible for enforcing the Law Against Discrimination (LAD). If you believe that you have been the victim of unlawful discrimination, please visit or phone us at the Division on Civil Rights office closest to where you live or where the discrimination occurred. Our addresses and phone numbers are at the end of this fact sheet, or visit us on the web at [www.NJCivilRights.gov](http://www.NJCivilRights.gov).

A complaint must be filed with the New Jersey Division on Civil Rights within 180 days of the act of discrimination. An initial evaluation will be conducted to determine if you state a claim for relief under the LAD. If so, the Division will prepare a complaint for you to sign and then the Division will conduct an investigation into your allegations. If the investigation shows enough evidence to support your complaint (known as probable cause), and your complaint cannot be settled, a hearing will be held in the Office of Administrative Law. You may choose to retain a private attorney to represent you at the hearing, or a lawyer will be provided to prosecute the case on behalf of the New Jersey Division on Civil Rights. At the conclusion of the hearing, the Director of the Division on Civil Rights will make a final decision as to whether unlawful discrimination has been proven and, if so, what remedies should be awarded to the complainant. Other than fees for a private attorney, if applicable, there is no cost to the individual for these services.

### **Judicial Remedy:**

In the alternative, an individual who believes he or she has been discriminated against in violation of the LAD may file a complaint and try his or her case in New Jersey Superior Court. Individuals usually hire an attorney to represent them in a Superior Court action. A party cannot file with the Division on Civil Rights and in Superior Court at the same time. A Superior Court action must be filed within two years from the act of discrimination.

### **Remedies Available:**

The Division on Civil Rights or the Superior Court may order equitable relief, as well as compensatory damages and attorney fees.

In addition, the Division may impose penalties on the party who violated the LAD of up to \$10,000 for the first violation, up to \$25,000 for a second violation within 5 years, and up to \$50,000 for third and subsequent offenses within 7 years. These penalties are payable to the State, not the complainant. Punitive damages are only available in Superior Court actions.

Remember, it's against the law for anyone to retaliate against you because you have exercised your rights under the New Jersey Law Against Discrimination.

The Department of Law & Public Safety, through its Division on Civil Rights, is responsible for enforcing the LAD. To file a complaint or get more information, contact or visit the office nearest you:



**NJ Office of the Attorney General**

**CIVIL RIGHTS**

The Department of Law & Public Safety, through its Division on Civil Rights, is responsible for enforcing the law. To file a complaint, contact or visit the office nearest you:

#### **South Shore Regional Office:**

1325 Boardwalk, Tennessee Ave. & Boardwalk  
Atlantic City, NJ 08401  
Phone: **(609) 441-3100** • Fax: (609) 441-3578

#### **Southern Regional Office:**

5 Executive Campus, Suite 107  
Cherry Hill, NJ 08034  
Phone: **(856) 486-4080**

#### **Northern Regional Office:**

31 Clinton Street, Newark, NJ 07102  
Phone: **(973) 648-2700** • Fax: (973) 648-4405

#### **Central Regional Office:**

140 East Front Street / P.O. Box 090  
Trenton, NJ 08625-0090  
Phone: **(609) 292-4605** • Fax: (609) 984-3812

Visit our web site at **[www.NJCivilRights.gov](http://www.NJCivilRights.gov)**