

**MODEL POLICY AND GUIDANCE FOR
PROHIBITING HARASSMENT, INTIMIDATION AND BULLYING
ON SCHOOL PROPERTY, AT SCHOOL-SPONSORED FUNCTIONS
AND ON SCHOOL BUSES
(Revised November 2008)**

INTRODUCTION

This document is designed to provide guidance to local district boards of education in the development, establishment and implementation of policies, procedures and programs for the prevention, intervention and remediation of harassment, intimidation and bullying behavior in schools. The document is divided into six discrete parts, as described below:

Part 1: Background includes information on the legal context and key points for harassment, intimidation and bullying policies and procedures.

Part 2: Guidance for Local Policy Development summarizes the basic requirements for the development of harassment, intimidation and bullying policies and procedures, the minimum components of the policies and procedures and the annual requirements for staff training and policy review.

Part 3: Use of the Model Policy and Guidance includes an explanation of this document and guidance for appropriate uses of the document.

Part 4: Model Policy Development: Issues for Consideration, Sample Policy Language and Requirements contains 10 specific sections, each providing statutory and regulatory requirements, sample or suggested model policy language, where appropriate, and issues for district boards of education to consider in the development of their locally determined harassment, intimidation and bullying policies and procedures.

Part 5: Implementation of Bullying Prevention Policies and Procedures includes specific requirements regarding the annual review of the extent and characteristics of harassment, intimidation and bullying in the school buildings of the districts and the implementation of programmatic or other responses to harassment, intimidation and bullying, the annual review of staff training needs and the implementation of staff training programs to address the training needs and the annual discussion of the harassment, intimidation and bullying policies and procedures with students.

Part 6: Resources on Harassment, Intimidation and Bullying lists books, programs and articles pertaining to harassment, intimidation and bullying.

PART 1 BACKGROUND

Legislation (*N.J.S.A.* 18A:37-13 *et seq.*) enacted on September 6, 2002 required each school district to adopt a policy prohibiting harassment, intimidation and bullying on school property*, at school-sponsored functions and on school buses. On August 3, 2005, the New Jersey State Board of Education adopted regulations on harassment, intimidation and bullying at *N.J.A.C.* 6A:16-7.9. Additionally, the authorizing statute was amended on August 6, 2007 to require the district's policy to address electronic communications, and was amended again on January 13, 2008 to mandate posting of the policy on the district's website and notifying students and parents** that the policy is available on the district's website.

To assist each district board of education in developing its harassment, intimidation and bullying policy, the original legislation required the Commissioner of Education to issue a model policy applicable to grades kindergarten through twelve (K-12). This document includes a revision of the model policy originally published in September 2003, revised in April 2006 and revised again in April 2007, and includes appropriate references to statutes, regulations and emergent information on harassment, intimidation and bullying.

Under *N.J.S.A.* 18A:37-15 and *N.J.A.C.* 6A:16-7.9(a)2, each district board of education is granted local control over the contents of the policy and ancillary procedures, but, at a minimum, the components listed in the authorizing statute and the regulations *must* be included in the school district's policy prohibiting harassment, intimidation and bullying. Some of the provisions of the authorizing statute and the regulations call for the district board of education to stipulate the consequences and appropriate *remedial actions* for the following instances: 1) persons who violate the policy; 2) persons who engage in reprisal or retaliation against someone who reports a violation of the policy; and 3) persons who falsely report allegations of harassment, intimidation or bullying as a means of retaliation or as a means of harassment, intimidation or bullying. Another provision that appears in the statute and the regulations requires the district board of education's policy to articulate the range of different measures school officials will take to respond to violations of the policy. It is important to note that the range of school responses to incidents of harassment, intimidation and bullying must include *support for victims* and *corrective actions* for documented *systemic problems* related to harassment, intimidation and bullying.

* Pursuant to *N.J.A.C.* 6A:16-1.3, the term "school property" means and includes land, portions of land, structures, buildings, and vehicles, when used for the provision of academic or extracurricular programs sponsored by the school district or community provider and structures that support these buildings, such as school district wastewater treatment facilities, generating facilities, and other central service facilities including, but not limited to, kitchens and maintenance shops. School property also includes other facilities as defined in *N.J.A.C.* 6A:26-1.2, playgrounds, and recreational places owned by local municipalities, private entities or other individuals during those times when the school district has exclusive use of a portion of such land.

** Pursuant to *N.J.A.C.* 6A:16-1.3, the term "parent" means the natural parent(s) or adoptive parent(s), legal guardian(s), foster parent(s) or parent surrogate(s) of a student. Where parents are separated or divorced, "parent" means the person or agency which has legal custody of the student, as well as the natural or adoptive parent(s) of the student, provided such parental rights have not been terminated by a court of appropriate jurisdiction.

Additionally, district policy must conform to the case law and statutes, including Saxe v State College Area School Dist., 240 F. 3d 200 (3d Cir. 2001); Davis v. Monroe County Board of Education, 526 U.S. 629 (1999); L.W. v. Toms River Reg'l Schs. Bd. of Educ., SUPREME COURT OF NEW JERSEY, 189 N.J. 381; 915 A.2d 535; 2007 N.J. LEXIS 184, November 13, 2006, Argued, February 21, 2007, Decided; *N.J.S.A. 2C:33-4*, Harassment; *N.J.S.A. 10:5-1 et seq.*, Law Against Discrimination; *N.J.S.A. 18A:36-20*, Discrimination; prohibition; *N.J.S.A. 18A:38-5.1*, No child to be excluded from school because of race, etc. Additional resources are identified at the end of this document.

PART 2 GUIDANCE FOR LOCAL POLICY DEVELOPMENT

Policy Context

The New Jersey Department of Education (NJDOE) recognizes that decisions about consequences and actions to be taken in response to violations of policies prohibiting harassment, intimidation and bullying should take into consideration the unique circumstances of the acts and the persons involved, as well as the unique conditions and characteristics in each school district. Each district board of education's policy, however, must comport with existing school district policies, including those that address the provisions of *N.J.A.C. 6A:16*, Programs to Support Student Development, in general, and *N.J.A.C. 6A:16-7.1*, Code of student conduct, in particular, as well as the provisions of the district's *Memorandum of Agreement Between Education and Law Enforcement Officials*, pursuant to *N.J.A.C. 6A:16-6*, Law Enforcement Operations for Substances, Weapons, and Safety.

Local Policy Development

The following descriptions of applicable regulations make it clear that *the content and format of local policies and procedures must be developed locally*:

- Each district board of education must develop its ***harassment, intimidation and bullying policy in consultation with comprehensive representation from the school and community***, in accordance with *N.J.A.C. 6A:16-7.9(a)1*, and the policy must be consistent with the provisions of *N.J.A.C. 6A:16-7*, Student Conduct, as appropriate.
- Each district board of education's ***code of student conduct must include a policy and procedures regarding harassment, intimidation and bullying, and must be based on parent, student and community involvement which represents the composition of the schools and communities***, pursuant to *N.J.A.C. 6A:16-7.1(a)1*.
- The code of student conduct, which must include the harassment, intimidation and bullying policy, ***must be based on locally determined and accepted core ethical values adopted by the district board of education***, pursuant to *N.J.A.C. 6A:16-7.1(a)2*.
- The code of student conduct, which must include the harassment, intimidation and bullying policy, ***must be reviewed annually and updated***, as appropriate, pursuant to *N.J.A.C. 6A:16-7.1(a)3*.

- The district board of education ***must annually review*** the content and characteristics of harassment, intimidation and bullying behavior in the school buildings of the district and implement locally determined programmatic or other response, which could include policy revisions), pursuant to *N.J.A.C. 6A:16-7.9(d)3*. The programs or other services ***must be planned in consultation*** with parents, students and other community members, pursuant to *N.J.A.C. 6A:16-7.9(d)3i*.

Requirements for Policy Contents

Each district board of education has local control over the content of the harassment, intimidation and bullying policy, except that the policy ***must contain, at a minimum, the following components:***

- A statement prohibiting harassment, intimidation or bullying of a student;
- A definition of harassment, intimidation or bullying no less inclusive than that set forth in the definition at *N.J.S.A. 18A:37-14* and *N.J.A.C. 6A:16-1.3*;
- A description of the type of behavior expected from each student;
- Appropriate remedial action for a student who commits an act of harassment, intimidation or bullying that takes into account the nature of the behavior, the developmental age of the student and the student's history of problem behaviors and performance and that may include the following:
 - A behavioral assessment or evaluation including, but not limited to, a referral to the child study team, as appropriate; and
 - Supportive interventions and referral services, including those at *N.J.A.C. 6A: 16-8*;
- Consequences for a student who commits an act of harassment, intimidation or bullying that is:
 - Varied and graded according to the nature of the behavior, the developmental age of the student and the student's history of problem behaviors and performance; and
 - Consistent with the provisions of *N.J.A.C. 6A:16-7*, as appropriate;
- Appropriate consequences and remedial action for any staff member who commits an act of harassment, intimidation or bullying;
- A procedure for reporting an act of harassment, intimidation or bullying, including a provision that permits a person to report anonymously an act of harassment, intimidation or bullying:
 - The district board of education is not permitted to take formal disciplinary action based solely on the anonymous report;
- A procedure for prompt investigation of reports of violations and complaints, identifying either the principal or the principal's designee as the person responsible for the investigation:
 - Reports and complaints include, but are not limited to, oral reports, written reports or electronic reports;
- The range of ways in which a school will respond once an incident of harassment, intimidation or bullying is identified.
 - The responses, at a minimum, must include support for victims of harassment, intimidation or bullying and corrective actions for documented systemic problems related to harassment, intimidation or bullying;
- A statement that prohibits reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying.

- The statement must include the consequence(s) and appropriate remedial action(s) for a person who engages in reprisal or retaliation;
- Consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of harassment, intimidation or bullying; and
- A statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions and on school buses.
 - Notice of the district board of education's policy must appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards of student conduct, pursuant to *N.J.A.C. 6A:16-7.1*, for schools within the school district
- A statement that the policy must be posted on the school district's website and distributed annually to parents and guardians who have children enrolled in the school district. *N.J.S.A. 18A:37-15(3)(b)(11)*

Other Requirements

While the requirements cited above must be included in the locally developed policy, additional school district requirements regarding harassment, intimidation and bullying are described below:

- The policy must be made available on the school district's **website**. *N.J.S.A. 18A:37-15.2(8)*;
- The school district must **notify students and parents** that the policy is available on the school district's **website**. *N.J.S.A. 18A:37-15.2(8)*;
- The chief school administrator must ensure that **notice of the district's policy will appear in any publication** of the school district that sets forth the comprehensive rules, procedures and standards for schools within the school district, and in any student handbook. *N.J.S.A. 18A:37-15.1(2)(a)* and *N.J.A.C. 6A:16-7.9(a)2xii*; and
- The policy must be **transmitted** to the appropriate **county superintendent** of schools. *N.J.S.A. 18A:37-15.1(2)(a)*.
- Information regarding the district's policy against harassment, intimidation and bullying must be incorporated into a school's **employee training program**. *N.J.S.A.: 37-17(5)(c)* and *N.J.A.C. 6A:16-7.9(d)1i*
- The district is required to **annually review the extent and characteristics** of harassment, intimidation and bullying behavior in the school buildings of the school district and **implement locally determined programmatic or other responses**, if determined appropriate by the district board of education. *N.J.A.C. 6A:16-7.9(d)3*
- The school district is required to **annually review the training needs** of district staff for the effective implementation of the harassment, intimidation and bullying policy, procedures, programs and initiatives of the district board of education and **implement locally determined staff training programs** consistent with the annual review of training needs and the findings of the annual review and update of the code of student conduct, pursuant to *N.J.A.C. 6A:16-7.1(a)3*, as determined appropriate by the district board of education. *N.J.A.C. 6A:16-7.9(d)1*
- The school district is required to develop a process for **annually discussing the school district's harassment, intimidation and bullying policy with students**. *N.J.A.C. 6A:16-7.9(d)2*

PART 3 USE OF THE MODEL POLICY AND GUIDANCE

Careful consideration of all issues must inform the final policy of the school district. For the reasons explained above and below, the model policy language in this document provides only general points for the district board of education's policy, rather than all-inclusive policy language that addresses local values, issues and priorities. As a result of these local consultation requirements and the impracticality of anticipating the divergent and changing values, needs, priorities and practices of each school district in New Jersey, this document is presented as a summary guide and model, and is not a complete and final policy to be adopted by the district board of education.

Nothing in the model policy language or in the legislation and regulations is meant to preclude a school district from including additional provisions, or from using language and formats that are consistent with the district board of education's approved policies and procedures. ***Additionally, the district board of education is advised that, pursuant to N.J.A.C. 6A:16-7.1(c), it is required to integrate the harassment, intimidation and bullying policy and procedures into its code of student conduct, pursuant to N.J.A.C. 6A:16-7.1, rather than create a separate policy for harassment, intimidation and bullying behaviors.***

The information provided in sections 1-10 of Part 4 includes an explanation of the following:

- The statutory and regulatory provisions that district policies and procedures must include;
- Suggested or sample model policy language, where appropriate; and
- Issues for the district to consider in developing policies and procedures that fit its own unique situation and that are consistent with existing district board of education policies.

Part 5 contains information on additional requirements and issues for consideration regarding the establishment of bullying prevention programs, but does not include model policy language since these provisions are not required elements for harassment, intimidation and bullying policies.

Part 6 contains information on resources regarding harassment, intimidation and bullying.

PART 4
MODEL POLICY DEVELOPMENT:
ISSUES FOR CONSIDERATION, SAMPLE POLICY LANGUAGE
AND REQUIREMENTS

Section 1

Statutory and Regulatory Requirements: *The policy shall contain a statement prohibiting harassment, intimidation or bullying of a student. N.J.S.A. 18A:37-15(3)(b)(1) and N.J.A.C. 6A:16-7.9(a)2i*

Sample Model Policy Language

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

Issues for Consideration in Local Policy Development

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

Section 2

Statutory and Regulatory Requirements: *The policy shall contain a definition of harassment, intimidation or bullying no less inclusive than:*

"Harassment, intimidation or bullying" means any gesture or written, verbal or physical act, or any electronic communication that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory handicap, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function or on a school bus and that:*

- a) *a reasonable person should know, under the circumstances, will have the effect of harming a student or damaging the student’s property, or placing a student in reasonable fear of harm to his person or damage to his property; or*
- b) *has the effect of insulting or demeaning any student or group of students in such a way as to cause substantial disruption in, or substantial interference with, the orderly operation of the school. N.J.S.A. 18A:37-14, N.J.S.A. 18A:37-15(3)(b)(2), N.J.S.A. 18A:37-15.1(2)(b) and N.J.A.C. 6A:16-7.9(a)2ii.*

Sample Model Policy Language

The district board of education establishes that "harassment, intimidation or bullying" means any gesture or written, verbal or physical act, or any use of electronic communication (N.J.S.A. 18A:37-15.1) that takes place on school property, or at any school-sponsored function, on a school bus and that:

- a) *is motivated by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability; or,*
- b) *by any other distinguishing characteristic; and*
- c) *a reasonable person should know, under the circumstances, that the act(s) will have the effect of harming a student or damaging the student’s property, or placing a student in reasonable fear of harm to his person or damage to his property; or*
- d) *has the effect of insulting or demeaning any student or group of students in such a way as to cause substantial disruption in, or substantial interference with, the orderly operation of the school.*

Issues for Consideration in Local Policy Development

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

The policy and procedures may address and impose consequences for acts of harassment, intimidation or bullying that occur off school grounds, such as “cyber-bullying” (e.g., the use of electronic or wireless devices to harass, intimidate or bully), to the extent that the policy comports with the provisions of N.J.A.C. 6A:16-7.6, Conduct away from school grounds, and the district board of education’s code of student conduct, pursuant to N.J.A.C. 6A:16-7.1. In *all* instances of harassment, intimidation or bullying behavior occurring off school

grounds, the consequences only may be exercised when it is reasonably necessary for the offending student’s physical or emotional safety and well-being or for reasons relating to the safety and well-being of other students, staff or school grounds, pursuant to *N.J.S.A. 18A:25-2* and *18A:37-2*, and when the conduct which is the subject of a proposed consequence materially and substantially interferes with the requirements of appropriate discipline in the operation of the school. All acts of harassment, intimidation or bullying that include the use of school property (e.g., school computers, other electronic or wireless communication devices) apply to the provisions of *N.J.S.A. 18A:37-15* and *N.J.A.C. 6A:16-7.9*, Intimidation, harassment and bullying, whether the subject or recipient of the bullying is on or off school property.

* “*Electronic communication*” means a communication transmitted by means of an electronic device, including, but not limited to, a telephone, cellular phone, computer, or pager.

Section 3

Statutory and Regulatory Requirements: *The policy shall include a description of the type of behavior expected from each student. N.J.S.A. 18A:37-15(3)(b)(3) and N.J.A.C. 6A:16-7.9(a)2iii*

Sample Model Policy Language

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

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

The district board of education believes that the best discipline is self-imposed, and that it is the responsibility of staff to use instances of violations of the code of student conduct as opportunities for helping students learn to assume and accept responsibility for their behavior and the consequences of their behavior. Staff members who interact with students shall apply best practices designed to prevent student conduct problems and foster students’ abilities to grow in self-discipline.

Issues for Consideration in Local Policy Development

The goal of this section is to explain global expectations for student conduct while providing school administrators with the flexibility to address developmental ages

and abilities of students and the unique characteristics of the schools, as is intended in *N.J.A.C. 6A:16-7.1(b)6*. Per the provisions of the authorizing statute, the procedures should be included as a part of the district board of education's approved policy, which must be a part of the code of student conduct, pursuant to *N.J.A.C. 6A:16-7.1(c)7*.

Pursuant to *N.J.A.C. 6A:16-7.1(a)1* and *7.9(a)1*, the district *must* involve a broad-base of school and community members, including parents, students, instructional staff, student support services staff, school administrators and school volunteers, as well as community organizations, such as faith-based, health and human service, business and law enforcement, in the development of the policy. Based on the locally determined and accepted core ethical values adopted by the district board of education, pursuant to *N.J.A.C. 6A:16-7.1(a)2*, the district board of education must develop guidelines for student conduct, pursuant to *N.J.A.C. 6A:16-7.1*, taking into consideration the developmental ages of students, the severity of offenses and students' histories of inappropriate behaviors, and the mission and physical facilities of the individual schools. Board policy must require all students in the district to adhere to the rules established by the school district and to submit to the remedial and consequential measures that are appropriately assigned for infractions of these rules.

Pursuant to *N.J.A.C. 6A:16-7.1*, the chief school administrator must annually provide to students and their parents the rules of the district regarding student conduct. Pursuant to *N.J.A.C. 6A:16-7.9(a)1xii(1)*, the policy must appear in all publications of the school district's comprehensive rules, procedures and standards of student conduct for the schools within the school district, including the student handbook and must be posted on the district's website. Provisions should be made for informing parents whose primary language is other than English.

Pursuant to *N.J.A.C. 6A:16-7* and *7.9*, the policy should:

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

Since bystander support of harassment, intimidation or bullying can reinforce these behaviors, district boards of education should consider including a statement prohibiting active or passive support for acts of harassment, intimidation or bullying. The district should encourage students to support students who:

- Walk away from these acts of harassment, intimidation or bullying when they see them;
- Constructively attempt to stop acts of harassment, intimidation or bullying; and
- Report acts of harassment, intimidation or bullying to the designated school staff.

The district might consider adopting a policy prohibiting harassment, intimidation and bullying of school employees, visitors or volunteers as a safety measure and to foster a climate of civility and respect among all members of and participants in the educational community.

Section 4

Statutory and Regulatory Requirements: *The policy shall include the consequences and appropriate remedial actions for a person who commits an act of harassment, intimidation or bullying. N.J.S.A. 18A:37-15(3)(b)(4), N.J.A.C. 6A:16-7.9(a)2iv and N.J.A.C. 6A:16-7.9(a)2vi*

Sample Model Policy Language

The district board of education requires its school administrators to implement procedures that ensure both the appropriate consequences and remedial responses for students who commit one or more acts of harassment, intimidation or bullying, consistent with the code of student conduct, and the consequences and remedial responses for staff members who commit one or more acts of harassment, intimidation or bullying. The following factors, at a minimum, shall be given full consideration by school administrators in the implementation of appropriate consequences and remedial measures for each act of harassment, intimidation or bullying by students. Appropriate consequences and remedial actions are those that are graded according to the severity of the offenses, consider the developmental ages of the student offenders and students' histories of inappropriate behaviors, per the code of student conduct.

Factors for Determining Consequences

- Age, developmental and maturity levels of the parties involved;
- Degrees of harm;
- Surrounding circumstances;
- Nature and severity of the behaviors;
- Incidences of past or continuing patterns of behavior;
- Relationships between the parties involved; and
- Context in which the alleged incidents occurred.

Factors for Determining Remedial Measures

Personal

- Life skill deficiencies;
- Social relationships;

- Strengths;
- Talents;
- Traits;
- Interests;
- Hobbies;
- Extra-curricular activities;
- Classroom participation; and
- Academic performance.

Environmental

- School culture;
- School climate;
- Student-staff relationships and staff behavior toward the student;
- General staff management of classrooms or other educational environments;
- Staff ability to prevent and manage difficult or inflammatory situations;
- Social-emotional and behavioral supports;
- Social relationships;
- Community activities;
- Neighborhood situation; and
- Family situation.

Examples of Consequences and Remedial Measures

Consequences and appropriate remedial actions for a student or staff member who commits one or more acts of harassment, intimidation or bullying may range from *positive* behavioral interventions up to and including suspension or expulsion of students, as set forth in the board of education’s approved code of student conduct, pursuant to *N.J.A.C. 6A:16-7.1. Consequences* for a student who commits an act of harassment, intimidation or bullying shall be *varied and graded according to the nature of the behavior, the developmental age of the student and the student’s history of problem behaviors and performance*, and must be consistent with the district board of education’s approved code of student conduct and *N.J.A.C. 6A:16-7, Student Conduct*. Remedial measures shall be designed to *correct the problem behavior; prevent another occurrence of the problem; protect and provide support for the victim of the act; and take corrective action for documented systemic problems* related to harassment, intimidation or bullying. The consequences and remedial measures may include, but are not limited to, the examples listed below:

Examples of Consequences

- Admonishment;
- Temporary removal from the classroom;
- Deprivation of privileges;
- Classroom or administrative detention;
- Referral to disciplinarian;

- In-school suspension during the school week or the weekend;
- After-school programs;
- Out-of-school suspension (short-term or long-term);
- Legal action; and
- Expulsion.

Examples of Remedial Measures

Personal

- Restitution and restoration;
- Mediation;
- Peer support group;
- Recommendations of a student behavior or ethics council;
- Corrective instruction or other relevant learning or service experience;
- Supportive student interventions, including participation of the Intervention and Referral Services team, pursuant to *N.J.A.C. 6A:16-8*;
- Behavioral assessment or evaluation, including, but not limited to, a referral to the Child Study Team, as appropriate;
- Behavioral management plan, with benchmarks that are closely monitored;
- Assignment of leadership responsibilities (e.g., hallway or bus monitor);
- Involvement of school “disciplinarian;”
- Student counseling;
- Parent conferences;
- Student treatment; or
- Student therapy.

Environmental (Classroom, School Building or School District)

- School and community surveys or other strategies for determining the conditions contributing to harassment, intimidation or bullying;
- School culture change;
- School climate improvement;
- Adoption of research-based, systemic bullying prevention programs;
- School policy and procedures revisions;
- Modifications of schedules;
- Adjustments in hallway traffic;
- Modifications in student routes or patterns traveling to and from school;
- Supervision of student before and after school, including school transportation;
- Targeted use of monitors (e.g., hallway, cafeteria, locker room, playground, school perimeter, bus);
- Teacher aides;
- Small or large group presentations for fully addressing the behaviors and the responses to the behaviors;
- General professional development programs for certificated and non-certificated staff;

- Professional development plans for involved staff;
- Disciplinary action for school staff who contributed to the problem;
- Supportive institutional interventions, including participation of the Intervention and Referral Services team, pursuant to *N.J.A.C. 6A:16-8*;
- Parent conferences;
- Family counseling;
- Involvement of parent-teacher organizations;
- Involvement of community-based organizations;
- Development of a general bullying response plan;
- Recommendations of a student behavior or ethics council;
- Peer support groups;
- School transfers; and
- Law enforcement (e.g., school resource office, juvenile officer) involvement.

Issues for Consideration in Local Policy Development

Since *N.J.S.A. 18A:37-15(3)(b)(4)* and *N.J.A.C. 6A:16-7.9(a)2iv* clearly establish that the responses to a person who commits an act of harassment, intimidation or bullying must include *both consequences and appropriate remedial actions*, school officials are responsible for taking all appropriate steps to understand and rectify the problem, which by law involves *more than traditional punitive actions*. It is important to note that *N.J.A.C. 6A:16-7.9(a)2vi* also requires appropriate consequences and remedial actions for any staff member who commits an act of harassment, intimidation and bullying.

- *Consequences* – In regard to *consequences*, only after meaningful consideration of the factors for determining consequences, described above, can an appropriate consequence be determined, consistent with the case law, Federal and State statutes, regulations and policies, and district policies, procedures and collective bargaining agreements.
- *Remediation* – In regard to *remediation*, only after meaningful consideration of the factors for determining remedial measures can an appropriate remedial response be determined, consistent with the documented needs of the student or staff member and the unique characteristics of the situation.

The overall school *climate* and school *culture* and the individual and institutional factors that contribute to climate and culture might overtly or inadvertently support harassment, intimidation or bullying behavior. These factors *always* should be considered in the response to an act of harassment, intimidation or bullying. Additionally, in *all* cases the district should attempt to *actively involve parents* in the remediation of the behavior(s) of concern. It is only after meaningful consideration of the factors and examples described above that appropriate consequences and remedial responses can be determined, consistent with the documented needs of the student or staff member, the unique characteristics of the student's or staff member's situation and the requirements under *N.J.S.A. 18A:37-13 et seq.* and *N.J.A.C. 6A:16-7.9*.

Section 5

Statutory and Regulatory Requirements: *The policy shall include a procedure for reporting an act of harassment, intimidation or bullying, including a provision that permits a person to report an act of harassment intimidation or bullying anonymously; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report. N.J.S.A. 18A:37-15(3)(b)(5) and N.J.A.C. 6A:16-7.9(a)2vii*

Sample Model Policy Language

The district board of education requires the principal and/or the principal's designee at each school to be responsible for receiving complaints alleging violations of this policy. All school employees as well as all other members of the school community, including students, parents, volunteers and visitors, are required to report alleged violations of this policy to the principal or the principal's designee. While submission of the report form is not required, the reporting party is encouraged to use the report form available from the principal of each building or available at the school district's central office, or the reporting party may use the district's web-based reporting system. Oral reports also shall be considered official reports. Reports may be made anonymously, but formal action for violations of the code of student conduct may not be based solely on the basis of an anonymous report.

Issues for Consideration in Local Policy Development

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

Section 6

Statutory and Regulatory Requirements: *The policy shall include a procedure for prompt investigation of reports of violations and complaints, identifying either the principal or the principal's designee as the person responsible for the investigation. N.J.S.A. 18A:37-15(3)(b)(6) and N.J.A.C. 6A:16-7.9(a)2viii*

Sample Model Policy Language

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

Issues for Consideration in Local Policy Development

The school district is encouraged to use existing policies and procedures, including those used to investigate allegations of violations of the district board of education's codes of student conduct, pursuant to N.J.A.C. 6A:16-7.1, as

appropriate. The school district also is encouraged to establish record keeping policies and procedures that create a defensible record which demonstrates the district's efforts to remediate and reduce incidents of harassment, intimidation and bullying, and that facilitate the evaluation of the district's efforts to reduce incidents of harassment, intimidation and bullying.

Section 7

Statutory and Regulatory Requirements: *The policy shall contain the range of ways in which a school will respond once an incident of harassment, intimidation or bullying is identified.* N.J.S.A. 18A:37-15(3)(b)(7) and N.J.A.C. 6A:16-7.9(a)2ix

Sample Model Policy Language

The district board of education recognizes that some acts of harassment, intimidation or bullying may be isolated incidents requiring that the school officials respond appropriately to the individuals committing the acts. Other acts may be so serious or parts of a larger pattern of harassment, intimidation or bullying that they require a response either at the classroom, school building or school district levels or by law enforcement officials. Consequences and appropriate remedial actions for a student who commits an act of harassment, intimidation or bullying may range from positive behavioral interventions up to and including suspension or expulsion, as permitted under N.J.S.A. 18A:37-1, Discipline of Pupils and as set forth in N.J.A.C. 6A:16-7.2, Short-term suspensions, N.J.A.C. 6A:16-7.3, Long-term Suspensions and N.J.A.C. 6A:16-7.5, Expulsions.

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

Issues for Consideration in Local Policy Development

For every incident of harassment, intimidation or bullying, the district *must* respond appropriately to the individual who committed the act. The district is encouraged to set the range of responses, including individual, classroom, school or district responses to student offenders, as appropriate, such as the following:

- *Individual responses* can include positive behavioral interventions (e.g., peer mentoring, short-term counseling, life skills groups) and punitive actions (e.g., detention, in-school or out-of-school suspension, expulsion).
- *Classroom responses* can include class discussions about an incident of harassment, intimidation or bullying, role plays, research projects, observing and discussing audio-visual materials on these subjects and skill-building lessons in courtesy, tolerance, assertiveness and conflict management.
- *School responses* can include theme days, learning station programs, parent programs and information disseminated to students and parents, such as fact sheets or newsletters explaining acceptable uses of electronic and wireless communication devices.
- *District-wide responses* can include community involvement in policy review and development, professional development programs, adoption of curricula and school-wide programs and coordination with community-based organizations (e.g., mental health, health services, health facilities, law enforcement, faith-based).

Pursuant to N.J.A.C. 6A:16-7.9(a)ix(1), the district is obligated to provide support for victims of harassment, intimidation or bullying. Districts should identify a range of strategies and resources (e.g., counseling, teacher aides, hallway and playground monitors, mediators, schedule changes, school transfers, before- and after-school and/or school transportation supervision, therapy) that will be available to individual victims of harassment, intimidation and bullying and should respond in a manner that provides relief to victims and does not stigmatize victims or further their sense of persecution. Social skills training provided for all students is an example of a school or a school district-wide response for addressing victimization.

The school district is reminded that the required *Memorandum of Agreement Between Education and Law Enforcement Officials* (N.J.A.C. 6A:16-6.2(b)13) defines the conditions under which school officials are required to report suspected hate crimes or bias-related acts to law enforcement authorities. Since some acts of harassment, intimidation or bullying may be bias-related acts and potentially hate or bias crimes, school officials *must report* to law enforcement officials either serious acts or those which may be part of a larger pattern. Additionally, all incidents of harassment, intimidation and bullying, including related offender and victim information, must be reported over the NJDOE's Electronic Violence and Vandalism Reporting System, pursuant to N.J.S.A. 18A:17-46 and N.J.A.C. 6A:16-5.3.

Section 8

Statutory and Regulatory Requirements: *The policy shall contain a statement that prohibits reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying and the consequence and appropriate remedial action for a person who engages in reprisal or retaliation. N.J.S.A. 18A:37-15(3)(b)(8) and N.J.A.C. 6A:16-7.9(a)2x*

Sample Model Policy Language

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

Issues for Consideration in Local Policy Development

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

Section 9

Statutory and Regulatory Requirements: *The policy shall contain the consequences and appropriate remedial action for a person found to have falsely accused another as a means of harassment, intimidation or bullying. N.J.S.A. 18A:37-15(3)(b)(9) and N.J.A.C. 6A:16-7.9(a)2xi*

Sample Model Policy Language

The district board of education prohibits any person from falsely accusing another as a means of harassment, intimidation or bullying.

- *Students – The consequences and appropriate remedial action for a student found to have falsely accused another as a means of harassment, intimidation or bullying may range from positive behavioral interventions up to and including suspension or expulsion, as permitted under N.J.S.A. 18A:37-1, Discipline of Pupils and as set forth in N.J.A.C. 6A:16-7.2, Short-term suspensions, N.J.A.C. 6A:16-7., Long-term Suspensions and N.J.A.C. 6A:16-7.5, Expulsions.*
- *School Employees – Consequences and appropriate remedial action for a school employee found to have falsely accused another as a means of harassment, intimidation or bullying shall be disciplined in accordance with district policies, procedures and agreements.*
- *Visitors or Volunteers – Consequences and appropriate remedial action for a visitor or volunteer, found to have falsely accused another as a means of harassment, intimidation or bullying shall be determined by the school administrator after consideration of the nature, severity and circumstances of the act, including reports to appropriate law enforcement officials.*

Issues for Consideration in Local Policy Development

The school district is encouraged to consider the totality of the circumstances surrounding individuals who falsely accuse others as a means of harassment, intimidation or bullying. Decisions about consequences and appropriate remedial actions should be consistent with existing case law, Federal and State statutes and regulations and district policies and procedures.

Section 10

Statutory and Regulatory Requirements: *The policy shall contain a statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions. N.J.S.A. 18A:37-15(3)(b)(10) and N.J.A.C. 6A:16-7.9(a)2xii*

The policy shall contain a statement that the policy must be posted on the school district's website and distributed annually to parents and guardians who have children enrolled in the school district. N.J.S.A. 18A:37-15(3)(b)(11)

The policy shall be made available on the school district's website. N.J.S.A. 18A:37-15.2(8)

The school district shall notify students and parents that the policy is available on the school district's website. N.J.S.A. 18A:37-15.2(8)

The chief school administrator shall ensure that notice of the district's policy shall appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards for schools within the school district, and in any student handbook. N.J.S.A. 18A:37-15.1(2)(a) and N.J.A.C. 6A:16-7.9(a)2xii

The policy shall be transmitted to the appropriate county superintendent of schools. N.J.S.A. 18A:37-15.1(2)(a)

Sample Model Policy Language

The district board of education requires school officials to annually disseminate the policy to all school staff, students and parents, along with a statement explaining that it applies to all applicable acts of harassment, intimidation and bullying that occur on school property, at school-sponsored functions or on a school bus. The chief school administrator shall post the policy on the school district's website as well as annually notify students and parents that the policy is available on the district's website. The chief school administrator shall develop and implement a process for annually discussing the school district policy on harassment, intimidation and bullying with students.

Issues for Consideration in Local Policy Development

The goal of this policy is to foster a safe and disciplined environment that is conducive to learning, where individuals treat one another with civility and respect. To accomplish this goal, the policy must be widely disseminated to

inform everyone in the school and community of its provisions. ***Districts are required to post the policy on the district's website, notify students and parents the policy is on the website and include notice of the policy in the district's publications on student conduct.*** Additionally, a range of options are available to school districts for publicizing the policy, including posting the policy in public buildings or in publications (e.g., newsletters, newspapers, list serves, e-mail), utilization of audio-visual media (e.g., public cable access, radio, public television), mailing copies, requiring all employees, students and parents to sign a written statement indicating that they have received and read the policy and agree to abide by the provisions of the policy and reviewing the policy at public meetings. While multiple methods for publicizing the policy can increase the chances of public awareness, support and compliance, the school district is encouraged to use the strategies that fit its unique situation.

PART 5

IMPLEMENTATION OF BULLYING PREVENTION POLICIES AND PROCEDURES

Statutory and Regulatory Provisions: *Information regarding the district's policy against harassment, intimidation and bullying must be incorporated into a school's employee training program. N.J.S.A.: 37-17(5)(c) and N.J.A.C. 6A:16-7.9(d)1i*

The district is required to annually review the extent and characteristics of harassment, intimidation and bullying behavior in the school buildings of the school district and implement locally determined programmatic or other responses, if determined appropriate by the district board of education. N.J.A.C. 6A:16-7.9(d)3

The school district is required to annually review the training needs of district staff for the effective implementation of the harassment, intimidation and bullying policy, procedures, programs and initiatives of the district board of education and implement locally determined staff training programs consistent with the annual review of training needs and the findings of the annual review and update of the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1(a)3, as determined appropriate by the district board of education. N.J.A.C. 6A:16-7.9(d)1

The school district is required to develop a process for annually discussing the school district's harassment, intimidation and bullying policy with students. N.J.A.C. 6A:16-7.9(d)2

Issues for Consideration

Once school district officials have clearly articulated the preferred behaviors for all students in grades K-12, staff members should be trained in skills and strategies for developing student self-discipline and to apply best practices for *positive* behavioral interventions. It is particularly important to use the policy as an opportunity for preparing staff to effectively *intervene* with instances of harassment, intimidation and bullying, as well as use the policy as a *prevention tool* by explaining to students the school district's expectations for their behavior and teaching skills and providing sufficient support for

students to fulfill the behavioral expectations, consistent with the provisions of the district board of education's code of student conduct, including harassment, intimidation and bullying, and *N.J.A.C. 6A:16-7.1*, Code of student conduct. For students to demonstrate preferred behaviors, it is important that they have a clear understanding of the school district's expectations under the policy, the reasons for and benefits of the policy, the consequences for violations of the policy, as well as have opportunities to learn preferred behaviors, both before and after the advent of conduct problems.

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

PART 6
RESOURCES ON HARASSMENT, INTIMIDATION AND BULLYING

Books and Programs

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

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

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

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

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

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

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

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

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

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

Articles

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

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

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

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

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

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

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

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

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

s:\sdfs unit\projects\bullying\fy09\10.22.08 model policy draft.doc