

PUBLIC NOTICE

EDUCATION

STATE BOARD OF EDUCATION

Notice of Receipt and Action on Petition for Rulemaking

Harassment, Intimidation, and Bullying

N.J.A.C. 6A:9

Petitioner: Deborah Esposito.

Take notice that on October 13, 2019, the New Jersey State Board of Education (State Board) received a petition for rulemaking from the above petitioner requesting the State Board to create a new rule at N.J.A.C. 6A:9, Professional Standards, to amend the State law governing the harassment, intimidation, and bullying (HIB) of public school students. The petitioner requested for the law to be changed to create a venue for a complaint against a student where the HIB incident is not motivated by race, religion, gender, etc. The petitioner's request stated that HIB occurs for many reasons, including unconscious bias, and the current law regarding HIB incidents gives school districts a loophole to dismiss legitimate claims by saying an incident was not motivated.

After reviewing the petition, the Department of Education (Department) has concluded the chapter of New Jersey Administrative Code cited by the petitioner is about professional standards for teachers and school leaders and not HIB.

Furthermore, the State Board cannot amend the HIB rules at N.J.A.C. 6A:16-7.7 to grant the petitioner's request because the definition of "harassment, intimidation, and bullying" in the State's Anti-Bullying Bill of Rights Act (ABR) at N.J.S.A. 18A:37-14 includes the following language: "reasonably perceived as being motivated either by any actual or perceived

characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identify and expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic.” The ABR at N.J.S.A. 18A:37-15.b requires each school district to adopt a policy concerning HIB that includes a definition of HIB that is no less inclusive than the definition found in the law.

Therefore, the petitioner’s request is denied and the petitioner is directed to make the request of the New Jersey Legislature.