

Proposed regulations by Coalition for an Effective ABR

N.J.A.C. 6A:16, PROGRAMS TO SUPPORT STUDENT DEVELOPMENT

TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

6A:16-1.2 Scope

6A:16-1.3 Definitions

SUBCHAPTER 7. STUDENT CONDUCT

6A:16-7.7 Harassment, intimidation, and bullying

**6A:16-7.8 Harassment, intimidation, and bullying in approved private schools for students
with disabilities (PSSDs)**

6A:16-[7.8]7.9 Student records and confidentiality

CHAPTER 16. PROGRAMS TO SUPPORT STUDENT DEVELOPMENT

SUBCHAPTER 1. GENERAL PROVISIONS

6A:16-1.2 Scope

The rules apply to the provision of programs and services for all students in kindergarten through grade 12 by New Jersey public school districts, charter schools, jointure commissions, educational services commissions, and approved private schools for students with disabilities (PSSDs) acting under contract to provide educational services on behalf of New Jersey public school districts, unless otherwise indicated. Throughout the chapter, “district board of education” refers to the governing authority for all of the agencies identified in this section, unless otherwise indicated. **“District board of education” in N.J.A.C. 6A:16-7.7 shall not refer to approved PSSDs, which shall be governed by N.J.A.C. 6A:16-7.8.**

6A:16-1.3 Definitions

The following words and terms shall have the following meanings when used in this chapter unless the context clearly indicates otherwise.

“Abused children” means the categories of children enumerated in N.J.S.A. 9:6-8.21.

"Advanced practice nurse" means a person who holds a current license as nurse practitioner/clinical nurse specialist from the State Board of Nursing.

“Affirmative Action Officer (AAO)” means a member of the professional staff who has responsibility to coordinate and implement the district’s efforts to comply with the regulations of N.J.A.C. 6A:7 and to promote a working and learning environment free of discrimination on the basis of race, color, national origin, religion, sexual orientation, gender identity, gender expression, age or disability.

"Alternative education program" means a comprehensive educational program designed to address the individual learning, behavior, and health needs of students who are not succeeding in the general education program or who have been mandated for removal from general education, pursuant to N.J.A.C. 6A:16-5.5, 5.6 and, as appropriate, 5.7. The alternative education program shall provide a variety of approaches to meet the State-adopted standards, such as, through non-traditional programs, services, and methodologies to ensure curriculum and instruction are delivered in a way that enables students to demonstrate the knowledge and skills specified for all students in N.J.A.C. 6A:8.

"Assessment" means procedures used by school staff to make a preliminary determination of a student’s need for educational programs, supportive services, or referral for outside services that extend beyond the general school program by virtue of learning, behavioral, or health difficulties of the student or the student’s family.

“Asthma treatment plan” means a form approved by the Commissioner and completed by the medical home that is specifically designed to indicate differentiated symptoms and appropriate action to be taken by school staff to manage the care of a student who suffers from asthma-related illnesses pursuant to N.J.S.A. 18A:40-12.8(b). The asthma treatment plan shall serve as an accompaniment to the student’s Individualized Healthcare Plan.

“Case management” means advocacy for and coordination of student services, including, but not limited to, counseling, health services, referrals to community-based agencies, and monitoring of academic progress.

"Certified school nurse" means a person who holds a current license as a registered professional nurse from the State Board of Nursing and an educational services certificate, school nurse or school nurse/non-instructional endorsement from the Department of Education pursuant to N.J.A.C. 6A: 9B-12.3 and 12.4.

“Code of student conduct” means standards, policies, and procedures established by district boards of education for positive student development and student behavioral expectations on school grounds, including on school buses or at school-sponsored functions, and, as appropriate, conduct away from school grounds, in accordance with N.J.A.C. 6A:16-7.5.

“Distinguishing characteristic,” including “other distinguishing characteristics,” may include actual or perceived characteristics that may or may not be permanent or visible in nature and which may include, but are not limited to, characteristics of a physical, psychological, emotional, intellectual, social, or familial nature.

"Do Not Resuscitate order" or "DNR order" means a written directive signed by the parent or guardian of a student who, after consultation with the pediatrician and other advisors, declines emergency administration of cardiopulmonary resuscitation (CPR) and automated external defibrillator (AED) to the student.

“Electronic communication” means a communication transmitted by means of an electronic

device, including, but not limited to, a telephone, cellular phone, computer, or remotely activating paging device.

“Electronic Violence and Vandalism Reporting System” means the electronic system, or other similar system developed by the Department, used to collect information from school districts to fulfill the requirements of N.J.S.A. 18A:17-46 and 48, as amended by P.L. 2010, c.122.

"Evaluation" means procedures used by a certified or licensed professional to make a positive determination of a student's need for programs and services that extend beyond the general school program by virtue of learning, behavior, or health difficulties of the student or the student's family.

“Expulsion” means the discontinuance of educational services or the discontinuance of payment of educational services for a student.

"Firearms" means items enumerated in N.J.S.A. 2C:39-1(f) and 18 U.S.C. §921.

“General education” means the educational programs and services provided to students other than students determined to be eligible for special education and related services pursuant to N.J.A.C. 6A:14-3.5 and 3.6.

“Guided-learning experiences” mean structured learning tasks that are assigned to the student to perform without the teacher being present, aligned to the school district curriculum and State Core Curriculum Content Standards, and designed to help the student to learn new or reinforce prior knowledge, practice skills, integrate knowledge and skills, or demonstrate mastery.

“Harassment, intimidation, or bullying” means any gesture, any written, verbal, or physical act, or any electronic communication, whether it be a single incident or a series of incidents, in accordance with N.J.S.A. 18A:37-14, 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 disability, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function, on a school bus, or off school grounds as provided for in N.J.S.A. 18A:37-14 and 15.3, that substantially disrupts or interferes with the orderly operation of the school or the rights of other students and that a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or damaging the student’s property or placing a student in reasonable fear of physical or emotional harm to his or her person or damage to his or her property; has the effect of insulting or demeaning any student or group of students; or creates a hostile educational environment for a student by interfering with the student’s education or by severely or pervasively causing physical or emotional harm to the student.

"Home instruction" means the provision of one-to-one, small-group, or online instruction in the student’s place of residence or other appropriate setting due to a health condition, need for treatment, court order, or exclusion from general education for conduct or safety reasons.

“Individualized emergency healthcare plan” means a plan written by the certified school nurse that specifies the delivery of healthcare accommodations and services needed by a student in the event of an emergency.

"Individualized Program Plan" (IPP) means a written plan developed for a general education

student who has been assigned by the district board of education to home instruction, an alternative education program or who is being provided other educational services either in or out of school that are comparable to those provided in the public schools for students of similar grades and attainments, pursuant to N.J.S.A. 18A:38-25. The IPP sets forth the student's present level of performance, measurable goals and short-term objectives or benchmarks that encompass behavioral and social competency as well as curriculum, and individually designed instructional activities to achieve the goals and objectives.

"Informal hearing" means a discussion between a school administrator and a student regarding the student's alleged misconduct, pursuant to N.J.A.C. 6A:16-7.2, Short-term suspensions, in which the student is informed of his or her alleged violation of the district board of education's code of student conduct, pursuant to N.J.A.C. 6A:16-7.1, Code of student conduct, and the basis for the accusation. During the informal hearing, the student is given the opportunity to explain his or her version of the facts and events regarding the alleged violation.

"Long-term suspension" means removal of a student for more than 10 consecutive school days from the general education program, or the special education program when the appropriate procedures set forth in N.J.A.C. 6A:14-2.8 have been followed, but not the cessation of the student's educational services.

"Medical home" means a health care provider, including NJ FamilyCare providers as defined by N.J.S.A. 30:4J-12 and the provider's practice site chosen by the student's parent or guardian for the provision of health care.

"Medical staff" means employees of the district board of education serving as school physician, certified school nurse, noncertified nurse, advanced practice nurse, registered nurse, or licensed

practical nurse.

"Medication" means a drug approved by the Federal Food and Drug Administration for preventing, caring for, and assisting in the cure of disease and injury that has a written order from a physician licensed in medicine, dentistry or osteopathy, or from an advanced practice nurse. Medication does not include herbal remedies.

"Noncertified nurse" means a person who holds a current license as a professional nurse from the State Board of Nursing and is employed by a district board of education or nonpublic school, and who is not certified as a school nurse by the Department of Education.

"Nursing services plan" means a plan that describes in detail the nursing services to be provided throughout the school district based on the needs of its students, potential emergency situations, basic nursing services requirements, and the assignment of medical staff to provide the services.

"Parent" means the natural parent(s), adoptive parent(s), legal guardian(s), foster parent(s), or parent surrogate(s) of a student. When parents are separated or divorced, "parent" means the person or agency who has legal custody of the student, as well as the natural or adoptive parent(s) of the student, provided parental rights have not been terminated by a court of appropriate jurisdiction.

"Parent surrogate(s)" means an individual or individuals approved by the district board of education in accordance with N.J.A.C. 6A:32 to act on behalf of a student whose parent(s) is not available to assure the student's education rights.

"Physical examination" means the examination of the body by a professional licensed to practice

medicine or osteopathy, or by an advanced practice nurse. The term includes specific procedures required by statute as stated in N.J.A.C. 6A:16-2.2.

“Power imbalance” is a concept used in some research on bullying to distinguish bullying from other forms of hurtful behavior. The concept reflects the following aspects of bullying: (1) the tendency for those engaged in bullying behavior to direct that behavior toward targets who are vulnerable, (2) the target’s feelings of powerlessness that enhance the harmful impact of bullying, and (3) the inability of the target to effectively end the bullying, and, therefore, the importance of adult intervention into bullying situations. In keeping with evidence-based definitions of bullying, the imbalance of power in a bullying situation may be real or perceived by either the perpetrator or the target; it may be an imbalance in physical, social, intellectual, or psychological power; it may be an imbalance that stems from factors either inside or outside the school, e.g., societal stigma; it may develop as a consequence of victimization; and it may not be apparent to observers. The concept of “power imbalance” should be used to enhance understanding of bullying; it is not a required criterion for identifying incidents of bullying or “Harassment, Intimidation, or Bullying.”

"Referral for evaluation" means programs and services suggested to a student or his or her family to make a positive determination regarding a student’s need for services that extend beyond the general school program.

“Referral for treatment” means programs and services suggested to a student or to his or her family:

1. To help implement the recommendations resulting from an evaluation, pursuant to N.J.A.C. 6A:16-1.3 and 4.1(c)5 and 6; or

2. In response to a positive alcohol or other drug test result, pursuant to N.J.A.C. 6A:16-4.4; or
3. In response to the family's request for assistance with a learning, behavior, or health difficulty, pursuant to N.J.A.C. 6A:16-4.1(c)7 and 8.

"Remedial Action" means effective measures for the victim and for the student or staff member who has committed an act of HIB, which corrects the problem behavior of the student or staff member who committed an act of HIB, prevents another occurrence of the problem and protects and provides support for the victim of the act.

"School climate" means the collective perception of how well a school provides suitable conditions for learning, for positive social, emotional, and character development, for all staff to grow professionally, and for parents, families, and community resources to become engaged in the school. School climate includes not only the general climate of the school, but also awareness of any differences in school climate as experienced by students with different identities related to race, ethnicity, religion, disability, sexual orientation, gender identity, and gender expression.

"School grounds" 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. School grounds also includes school buses, school-sponsored functions, structures that support the 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 grounds also includes other facilities as defined in N.J.A.C. 6A:26-1.2, playgrounds, and recreational places owned by municipalities, private entities or other individuals during times when the school district has exclusive use of a portion of the land.

“School safety/school climate team” means the designated individuals collectively responsible in each school to develop, foster, and maintain a positive school environment by focusing on the on-going systemic process and practices in the school and to address school climate issues.

“School-sponsored function” means any activity, event or program occurring on or off school grounds, whether during or outside of regular school hours, that is organized and/or supported by the school.

“Short-term suspension” means removal of a student for one but not more than 10 consecutive school days from the general education program or the special education program, in accordance with N.J.A.C. 6A:14-2.8, but not the cessation of the student’s educational services.

“Standing orders” means directives and protocols written by the school physician to carry out medical procedures for all students and staff.

“Student health record” means documented information relevant to the health of the student to manage the routine and emergency care of the student while school is in session.

“Substitute school nurse” means a person who holds a current license from the State Board of Nursing as a registered professional nurse and who has been issued a certificate to serve as a substitute for a certified school nurse in accordance with N.J.A.C. 6A:9B-6.5(i).

“Truancy” means 10 or more cumulative unexcused student absences, as determined by the district board of education pursuant to N.J.A.C. 6A:16-7.6(a)3 and the definition of a school day,

pursuant to N.J.A.C. 6A:32-8.3.

“Universal precautions” means a set of procedures designed to prevent transmission of human immunodeficiency virus (HIV), hepatitis B virus, and other bloodborne pathogens.

“Weapon” means items enumerated in N.J.S.A. 2C:39-1(r), except a firearm as defined by N.J.S.A. 2C:39-1(f).

“Written order” means a directive and protocol written by the student’s medical home to address a healthcare need or provide a medical service for a specific student.

SUBCHAPTER 7. STUDENT CONDUCT

6A:16-7.7 Harassment, intimidation, and bullying

- (a) Each district board of education shall develop, adopt, and implement a policy prohibiting harassment, intimidation, or bullying on school grounds, pursuant to N.J.S.A. 18A:37-15.
1. Each district board of education shall develop the policy in consultation with, at a minimum, parents and other community members, school employees, school volunteers, students, and school administrators.
 2. Each district board of education shall have control over the content of the policy, except [that] it shall contain, at a minimum, the following components:
 - i. A statement prohibiting harassment, intimidation or bullying of a student;
 - ii. 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;

iii. A statement that bullying is **hurtful, unwanted, aggressive behavior that may might or might not involve a real or perceived power imbalance;**

[iii.] iv. A description of the type of behavior expected from each student;

[iv.] v. A statement that appropriate remedial action for a student who commits an act of harassment, intimidation, or bullying consists of action that is effective to curb the student's behavior and that makes clear the range of possible responses to an incident. The response to HIB must include an appropriate combination of the following: referral to the child study team, counseling for the student who committed the act, counseling for the student who was targeted by the act, behavioral contract and other positive behavioral support measures for the student who committed the act, support services, intervention and referral services including those at N.J.A.C. 6A:16-8, and other programs, as defined by the commissioner. The response to HIB may also include the list of possible remedial measures referred to in the New Jersey Department of Education's Model Policy and Guidance for Prohibiting Harassment, Intimidation and Bullying on School Property, at School-Sponsored Functions and on School Buses. In general, conflict mediation or conflict resolution strategies are not considered appropriate evidence-based remedial responses to bullying situations. 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 nature of the student's disability, if any and to the extent relevant;** the developmental age of the student; and the student's history of problem behaviors and performance. [and that] ~~The appropriate remedial action also may include the following:~~

(1) Remedial measures must be designed to alter the behavior of the harassers, not the person harassed. This does not preclude the transfer or classroom re-assignment of a student who is the target of harassment, intimidation, or bullying, if such transfer or re-assignment is done at the request of the target's parents. However, such transfer or re-assignment of the targeted student does not constitute remedial action designed to alter the behavior of the harasser.

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(2) A school district may be liable for the cost of the target's tuition at another school when the district has been provided with timely notice of harassment, intimidation, or bullying, but has failed to take actions reasonably calculated to remediate and end that conduct.

~~(1) — A behavioral assessment or evaluation, including, but not limited to, a referral to the child study team, as appropriate; and~~

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~~(2) — Supportive interventions and referral services, including those at N.J.A.C. 6A:16-8;~~

[v.] **vi.** Consequences for a student who commits an act of harassment, intimidation, or bullying that are:

(1) Varied and graded according to the nature of the behavior[.]; **the nature of the student's disability, if any and to the extent relevant;** the developmental age of the student; and the student's history of problem behaviors and performance; and

(2) Consistent with the provisions of N.J.A.C. 6A:16-7, as appropriate;

[vi.] **vii.** Appropriate consequences and remedial action for a staff member who commits an act of harassment, intimidation, or bullying;

[vii.] **viii.** A procedure **that allows** for reporting, verbally and in writing, an act of harassment, intimidation, or bullying[, including] **committed by an**

adult or youth against a student. The procedure also shall include a provision that permits a person to report anonymously consistent with N.J.S.A. 18A:37-15.b(5);

(1) The district board of education shall not take formal disciplinary action based solely on the anonymous report;

[viii.] **ix.** A procedure for prompt investigation of violation and complaint reports consistent with N.J.S.A. 18A:37-15.b(6)(a) through (f) and 16.d;

(1) **The procedure set forth in the district board of education policy may include a process by which the principal, or his/her designee, in consultation with the anti-bullying specialist, makes a preliminary determination as to whether a reported incident or complaint is a report of an act of harassment, intimidation, or bullying, pursuant to N.J.S.A. 18A:37-14, prior to initiating an investigation. This process must, at minimum:**

(a) Produce documentation of the determination. If the incident or complaint is referred to the Anti-Bullying Specialist for investigation in accordance with N.J.S.A. 18A:37, then documentation of this referral may constitute the required documentation.

(b) Include the provision that if a reported incident or complaint is determined not to be a report of an act of harassment, intimidation, or bullying, pursuant to N.J.S.A. 18A:37-14, that this determination be supported in the required documentation by reference to the specific criterion

or criteria in N.J.S.A. 18A:37-14 that is not met by the incident or complaint.

(c) Require that the documentation be provided within two school days to the Superintendent, and shall be made available to the parents of all students involved in the incident upon request.

(d) Require that an incident that is determined not to be HIB shall be addressed under the district's Code of Conduct, as applicable, including any parental notification procedures outlined in the district's disciplinary code.

(e) Include a provision for appeal of the determination by any student involved in the incident, and by the parents of any student involved in the incident.

(f) Require that if information is subsequently reported as pertinent to the criterion or criteria in N.J.S.A. 18A:37-14 that was determined not to have been met by the incident or complaint, then the incident or complaint shall be referred to the Anti-Bullying Specialist for investigation in accordance with N.J.S.A. 18A:37.

- (2) **Investigations of complaints concerning adult conduct shall not be investigated by a member of the same bargaining unit as the individual who is the subject of the investigation.**
- (3) **The procedure set forth in the district board of education policy shall include provisions for maintaining the privacy of information pertaining to the students involved, consistent with all applicable laws governing student records, during reporting, investigation, and notification procedures involving staff, students, and parents. These privacy provisions must address the handling of information that might be sensitive -- whether or not it is recognized by federal or state statute as legally protected confidential information --, such as information about actual or perceived distinguishing characteristic(s), including information about a student's actual or perceived sexual orientation, gender identity, gender expression, or transgender status. Districts are specifically directed to ensure that their privacy provisions are consistent with the significant guidance issued by the U.S. Departments of Justice and Education in the May 13, 2016 "Dear Colleague Letter on Transgender Students," as well as state guidance to be issued on the handling of sensitive information.**

[ix.] x. A requirement for the principal, in conjunction with the school anti-bullying specialist, to define the range of ways in which a school will respond once an incident of harassment, intimidation, or bullying is identified, consistent with the range of responses adopted by the board of education, pursuant to N.J.S.A. 18A:37-15.b(7);

- (1) The responses, at a minimum, shall include support for victims of harassment, intimidation or bullying and corrective actions for documented systemic problems related to harassment, intimidation, or bullying;

xi. A requirement that within five school days after the results of the harassment, intimidation, or bullying investigation are reported to the district board of education, ~~information~~ written notice, as defined in subsection (5) below, ~~about the investigation~~ shall be provided ~~in writing~~ to the parents or guardians of students who are party to a harassment, intimidation, or bullying investigation.

- (1) Any request by the parents or guardians for a hearing before the district board of education concerning the written information about a harassment, intimidation, or bullying investigation, pursuant to N.J.S.A. 18A:37-15.b(6)(d), shall be filed with the district board of education secretary no later than 4590 calendar days after the written information is received by the parents or guardians.**
- (2) The board shall provide a copy of the full investigatory file to a parent within two business days of such parent's request for appeal. Such documents shall be provided in accordance with the board's procedure for maintaining the privacy of student information, established pursuant to N.J.A.C. 6A:16-7.7(a)(2)(ix)(3).**
- (3) The hearing shall be held within 10 business days of the request.**

(a) The board shall meet in executive session for the hearing to protect the confidentiality of the students;

(b) At the hearing, the board may hear from the school anti-bullying specialist about the incident, recommendations for discipline or services, and any programs instituted to reduce such incidents.

(c) For hearings conducted on behalf of students found to have committed acts of harassment, intimidation, or bullying, all due process protections applicable to other code of conduct violations shall be followed.

(4) The board shall issue a written decision, affirming, rejecting, or modifying the superintendent's decision at the next board of education meeting following its receipt of the investigation report. If the timing of the parent's request for a hearing does not permit the hearing to be held and decision issued within that time frame, then the board shall issue a subsequent decision, within five school days after the hearing has been held, which shall be the final board decision, for purposes of appeal.

(5) The board's decision may be appealed to the Commissioner of Education, in accordance with the procedures set forth in N.J.A.C. 6A:3, no later than 90 days after the issuance of the board's decision.

~~(4)~~(6) For purposes of N.J.A.C. 6A:16-7.7(a)(xi) "written notice" means notice in writing to the parent or guardians of students that shall include:

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- a. **Description of the nature of the investigation including any incident or incidents reported and/or discovered during the investigation that are alleged incidents of harassment, intimidation, or bullying.**
- b. **Description of each procedure, record, or report the school district used in its investigation, including:**
 - i. **Whether the report was made anonymously, by a school employee, parent, and/or student;**
 - ii. **Whether the HIB was reported verbally or in writing;**
 - iii. **The type of investigation that was conducted (i.e. whether it was a preliminary determination or a full investigation was conducted).**
- c. **Explanation of why the school district found or did not find evidence of HIB; and**
- d. **Description of whether or not discipline was imposed or services were provided to address the incident of harassment, intimidation, or bullying.**
- e. **Explanation of the right to a hearing before the Board of Education, and information on how and when such a hearing can be requested.**

To protect the interests of students and permit compliance with district policies and practices, and with federal guidance regarding the handling of sensitive information, the “written notice” required by N.J.A.C. 6A:16-7.7(a)(xi) is not required to include information about the distinguishing characteristic at issue.

[x.] **xii.** A statement that prohibits a district board of education member, school employee, student, or volunteer from engaging in reprisal, retaliation, or false accusation against a victim, witness, or any person who reports or has reliable information about an act of harassment, intimidation, or bullying.

- (1) The statement shall include the consequence(s) and appropriate remedial action(s) for a person who engages in reprisal or retaliation;

[xi.] **xiii.** Consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or harassment, intimidation, or bullying;

[xii.] **xiv.** A statement of how the harassment, intimidation, and bullying policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions and on school buses.

- (1) Notice of the district board of education's policy shall appear in any publication of the school district that sets forth the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1, for schools within the school district;

[xiii.] **xv.** A requirement that a link to the harassment, intimidation, and bullying policy be posted prominently on the home page of the school district's and each school's website;

[xiv.] **xvi.** A requirement that the harassment, intimidation, and bullying policy be distributed annually to all school staff, students, and parents;

[xv.] **xvii.** A requirement that the name of the school district's anti-bullying coordinator and his or her school phone number, school address, and

school e-mail address be listed on the home page of the school district's website;

[xvi.] **xviii.** A requirement that the name of the school's anti-bullying specialist and his or her school phone number, school address, and school e-mail address be listed on the home page of the school's website; and

[xvii.] **xix.** Provisions for appropriate responses to harassment, intimidation, or bullying, as defined in N.J.S.A. 18A:37-14 and N.J.A.C. 6A:16-1.3, that occurs off school grounds in cases in which a school employee is made aware of the actions or a school administrator should have known of an incident of harassment, intimidation, or bullying.

(1) Responses to harassment, intimidation, or bullying that occurs off school grounds shall be consistent with N.J.A.C. 6A:16-7.1 and 7.5 and this section.

(b) A district board of education shall not be prohibited from adopting a harassment, intimidation, and bullying policy that includes components ~~more stringent than~~ that exceed the requirements than components set forth in N.J.S.A. 18A:37-15 and (a) above, including components intended to protect the targeted student.

(c) A district board of education member, school employee, contracted service provider, student, or volunteer who has witnessed **an incident of harassment, intimidation, or bullying**, or has reliable information that a student has been subject to harassment, intimidation, or bullying shall report the incident to the appropriate school official designated by the district board of education's policy, pursuant to N.J.S.A. 18A:37-15 and (a)2viii above, or to any school administrator or safe schools resource officer, who shall immediately initiate the school district's procedures concerning harassment, intimidation, and bullying.

1. A district board of education member or school employee who promptly reports an incident of harassment, intimidation, or bullying to the appropriate school official designated by the district board of education's policy, or to any school administrator or safe schools resource officer, and who makes the report in compliance with the district board of education's policy, is immune from a cause of action for damages arising from a failure to remedy the reported incident, as set forth in N.J.S.A. 18A:37-16.c.
- (d) A school administrator who receives [from a school district employee] a report of harassment, intimidation, or bullying, and fails to initiate or conduct an investigation, or who should have known of an incident of harassment, intimidation, or bullying and fails to take sufficient action to minimize or eliminate the harassment, intimidation, or bullying, may be subject to disciplinary action.
- (e) The district board of education shall:
1. Annually [review] **examine** the training needs of school employees and volunteers who have significant contact with students for the effective implementation of the harassment, intimidation, [and] **or** bullying policies, procedures, programs, and initiatives of the district board of education and implement training programs for school employees and volunteers who have significant contact with students, consistent with [P.L. 2010, c.122,] **N.J.S.A. 18A:37-17.b.**
 - i. [the] **The** annual [review] **examination** of training needs [and] **shall take into consideration** 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)2.
 - [i.] **ii.** Information regarding the district board of education's policy against harassment, intimidation, and bullying shall be incorporated into the school district's employee training program.

- (1) The program shall be provided to full- and part-time staff, volunteers who have significant contact with students, and persons contracted by the school district to provide services to students;
 - iii. All school staff shall receive training regarding sensitive issues that affect students in school such as sexual orientation, gender identify and gender expression. Training shall include accurate information about the coming out process and the gender transition process for LGBT students, the nature of anti-LGBT bullying, and confidentiality rights and guidance on including sensitive information in discipline, health, or academic records.
2. Develop a process for annually discussing with students the school district's harassment, intimidation, and bullying policy;
3. Annually conduct a re-evaluation, reassessment, and review of its harassment, intimidation, and bullying policy, and **any report(s) and/or finding(s) of the school safety/school climate team(s). The district board of education also shall** make any necessary revision(s) **to its policy**, consistent with N.J.S.A. 18A:37-15.c.
 - i. The programs or other responses shall be planned in consultation with, at a minimum, parents and other community members, school employees, **law enforcement**, school volunteers, students, and school administrators;
4. Annually establish, implement, document, and assess bullying-prevention programs or approaches and other initiatives designed to create schoolwide conditions to prevent or intervene in harassment, intimidation, and bullying in schools of the school district.
 - i. Programs, approaches, and initiatives shall be planned in consultation with, at a minimum, parents and other community members, school

employees, **law enforcement**, school volunteers, students, and school administrators; and

5. Submit to the executive county superintendent a copy of its approved harassment, intimidation, and bullying policy within 30 days of its adoption **or revision**.

(f) The principal of each school in the school district shall appoint a school anti-bullying specialist to perform the functions established in N.J.S.A. 18A:37-20.a and c.

(g) The chief school administrator of the school district shall appoint a district anti-bullying coordinator to perform the functions established in N.J.S.A. 18A:37-20.b and c. **To the extent practicable, the district anti-bullying coordinator will also serve as the District's Title IX Coordinator and Affirmative Action Officer established in N.J.A.C. 6A:7. At minimum, the district anti-bullying coordinator shall integrate and coordinate its efforts with the affirmative action officer.**

(h) The district board of education shall form a school safety/school climate team in each school in the school district to achieve the purposes and perform the functions established in N.J.S.A. 18A:37-21. **To the extent practicable, the school safety/school climate team in each school in the school district should mirror the affirmative action team that oversee district compliance with N.J.A.C. 6A:7. At minimum, the School Safety Team shall integrate and coordinate its efforts with the affirmative action team.**

1. Pursuant to N.J.S.A. 18A:37-21.b, the school safety/school climate team shall consist of the principal or his or her designee and the following members appointed by the principal: a teacher in the school; the school anti-bullying specialist; a parent of a student in the school; and other members determined by the principal. The team shall be chaired by the school anti-bullying specialist.

- i. A parent shall be on the school safety/school climate team only in regard to general school climate issues and shall not participate in activities that ~~may~~ compromise a student's confidentiality, pursuant to N.J.S.A. 18A:37-21.e. **To the extent practicable, records will be provided in redacted form to avoid compromising a student's confidentiality. The district shall be responsible for ensuring that the parent is informed about relevant state and federal laws and district policies and practices for ensuring student confidentiality and the handling of sensitive information.**
- ii. Other members of the school safety/school climate team who are not authorized to access student records pursuant to N.J.A.C. 6A:32-7.5 shall be on the team only in regard to general school climate issues and shall not participate in activities that ~~may~~ compromise a student's confidentiality. **To the extent practicable, records will be provided in redacted form to avoid compromising a student's confidentiality.**
- iii. **Schools must make an active, ongoing effort to recruit parents for the school safety/school climate team, with participation solicited as widely as possible, and the criteria for participation – determined by the principal and anti-bullying specialist to include availability and willingness to adhere to the confidentiality requirements – made openly available and publicized as part of the parent recruitment effort.**
- iv. All parent members of the school safety/school climate team must be prepared for the role by the school district in the following manner:
 - a) given a written description, prepared by the anti-bullying specialist, of the structure and function of the safety team, and the parent role

on the team, including the confidentiality requirements; b) provided anti-bullying training to the same extent as school staff members; c) provided additional training directed to the functioning of parents and community members in preventing and addressing HIB; and d) provided the minutes of past team meetings, redacted so as not to identify specific students and families.

- v. When multiple parents are interested and engaged, the anti-bullying specialist and the parent selected for the school safety/school climate team shall organize and convene a schedule of ongoing meetings for the interested parents which shall operate as follows: a) developing a collective parent perspective that will be regularly conveyed for consideration by the school safety/school climate team; and b) receiving training, support and empowerment by the anti-bullying specialist, as one of his or her designated duties, to enable these interested parents to provide support to parents of targeted children.

- 2. Pursuant to N.J.S.A. 18A:37-21(b), the school safety team shall meet at least two times per school year, however, to the extent practicable, the school safety/school climate team will meet on a regular basis in order to achieve the purposes and perform the functions established in N.J.S.A. 18A:37-21:

- a. Receive any complaint(s) of harassment, intimidation, or bullying of students that has been reported to the principal;
- b. Receive copies of any report prepared after an investigation of an incident of harassment, intimidation, or bullying;
- c. Identify and address patterns of harassment, intimidation, or bullying of students in the school;

- d. **Review and strengthen school climate and school policies to prevent and address harassment, intimidation, or bullying of students;**
 - e. **Educate the school community, including students, teachers, administrative staff, and parents, to prevent and address harassment, intimidation, or bullying of students;**
 - f. **Participate in training required by the Anti-Bullying Bill of Rights and other training which the principal or the district anti-bullying coordinator may request;**
 - g. **Collaborate with the district anti-bullying coordinator in the collection of district-wide data and in the development of district policies to prevent and address harassment, intimidation, or bullying of students; and**
 - h. **Execute other duties related to harassment, intimidation, and bullying as requested by the principal or the district anti-bullying coordinator;**
3. **Pursuant to N.J.S.A. 18A:37-21(c)(1), the school safety team shall receive information about any complaints of harassment, intimidation, or bullying of students that have been reported to the principal. In accordance with statute and to assist the school safety team in identifying and addressing potential school climate issues for the purpose of preventing future incidents of harassment, intimidation, or bullying, this information shall not be limited to those reports that have been determined through investigation to be HIB.**

(i) The office of the executive county superintendent of schools shall investigate all complaints that document an allegation of a violation of the Anti-Bullying Bill of Rights or these regulations by a school district or a private school for students with

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disabilities located within the county, when the complaint has not been adequately addressed on the local level.

1. Complaints may be submitted on a form to be developed by the Commissioner of Education and posted on the New Jersey Department of Education's website.

2. The office of the executive county superintendent of schools shall complete an investigation and shall issue a report setting forth a final decision with respect to the complaint within 60 calendar days after receipt of the written signed complaint.

A. The complainant shall be given the opportunity to provide additional information, either orally or in writing about the allegations in the complaint;

B. The report shall include findings, conclusions, and, if appropriate, an order for the school district or the private school for students with disabilities to develop and implement corrective actions that are specific to the facts of the case.

C. Personnel responsible for conducting investigations under this section shall receive training and technical support on the use of a complaint investigation protocol established by the Commissioner.

D. The office of the executive county superintendent of schools shall verify the implementation of any corrective actions ordered in an investigation report.

- (j) The requirements are promulgated pursuant to N.J.S.A. 18A:37-13 through 32 and shall not be interpreted to prevent a victim of **harassment, intimidation, or bullying** from seeking redress under any other available civil or criminal law.

6A:16-7.8 Harassment, intimidation, and bullying in approved private schools for students with disabilities (PSSDs)

- (a) Each approved private school for students with disabilities (PSSD) shall develop, adopt, and implement a policy prohibiting harassment, intimidation, or bullying on school grounds.
1. Each approved PSSD shall develop the policy to include approved PSSD school grounds, pursuant to N.J.A.C. 6A:16-1.3, excluding sending district board of education school-sponsored functions and school buses;
 2. Each approved PSSD shall develop the policy in consultation with, at a minimum, parents and other community members, school employees, school administrators, and, as appropriate, school volunteers and students.
 3. Each approved PSSD shall have control over the content of the policy, except that it shall contain, at a minimum, the following components:
 - i. A statement prohibiting harassment, intimidation, or bullying of a student;
 - ii. A definition of harassment, intimidation, or bullying as set forth in the definition at N.J.A.C. 6A:16-1.3, except for incidents occurring off school grounds;
 - iii. A statement that bullying is **hurtful, unwanted**, aggressive behavior that ~~may~~ **might or might not** involve a real or perceived power imbalance;
 - iv. A description of the type of behavior expected from all students;
 - v. A statement that appropriate remedial action for a student who commits an act of harassment, intimidation, or bullying consists of action that is effective to curb the student's behavior and that makes clear the range of possible responses to an incident. The response to HIB must include an appropriate combination of the following: referral to the child study team,

counseling for the student who committed the act, counseling for the student who was targeted by the act, behavioral contract and other positive behavioral support measures for the student who committed the act, support services, intervention and referral services including those at N.J.A.C. 6A:16-8, and other programs, as defined by the commissioner. The response to HIB may also include the list of possible remedial measures referred to in the New Jersey Department of Education's Model Policy and Guidance for Prohibiting Harassment, Intimidation and Bullying on School Property, at School-Sponsored Functions and on School Buses. In general, conflict mediation or conflict resolution strategies are not considered appropriate evidence-based remedial responses to bullying situations. Appropriate remedial action for a student who commits an act of harassment, intimidation, or bullying also takes into account the nature of the behavior[.]; **the nature of the student's disability, if any and to the extent relevant**; the developmental age of the student; and the student's history of problem behaviors and performance. [and that] ~~The appropriate remedial action also may include the following:~~

- (1) Remedial measures must be designed to alter the behavior of the harassers, not the person harassed. This does not preclude the transfer of a student who is the target of harassment, intimidation, or bullying, if such transfer is done at the request of the target's parents.
- (2) A PSSD may be liable for the cost of the target's tuition at another school when the PSSD has been provided with timely notice of harassment, intimidation, or bullying, but has failed to take actions reasonably calculated to remediate and end that conduct.

~~(1) A behavioral assessment or evaluation, including, but not limited to a referral to the child study team, as appropriate; and~~

~~(2) Supportive interventions and referral services, including those at N.J.A.C. 6A:16-8.~~

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vi. **Consequences for a student who commits an act of harassment, intimidation, or bullying that are:**

- (1) **Varied and graded according to the nature of the behavior, the nature of the student's disability, the developmental age of the student, and the student's history of problem behaviors and performance; and**
- (2) **Consistent with the provisions of N.J.A.C. 6A:16-7, as appropriate, and N.J.A.C. 6A:14-7.6(f).**

vii. **Appropriate consequences and remedial action for a staff member who commits an act of harassment, intimidation, or bullying;**

viii. **A procedure that allows for reporting, verbally and in writing, an act of harassment, intimidation, or bullying committed by an adult or youth against a student. The procedure also shall include a provision that permits a person to report anonymously;**

- (1) **The approved PSSD shall not take formal disciplinary action based solely on the anonymous report;**
- (2) **Disciplinary action shall be consistent with the provisions of N.J.A.C. 6A:14-7.6(f);**

ix. **A procedure for prompt investigation of violation and complaint reports;**

- (1) **The full-time non-teaching principal, pursuant to N.J.A.C. 6A:14-7.6(d), or his or her designee, shall initiate the investigation within one school day of the initial report of the**

incident. The school anti-bullying specialist shall conduct the investigation and the full-time non-teaching principal may appoint additional personnel who are not school anti-bullying specialists to assist in the investigation. The investigation shall be completed as soon as possible, but not later than 10 school days from the date of the written report of the incident of harassment, intimidation, or bullying. If information relevant to the investigation is anticipated but not yet received by the end of the 10-school-day period, the school anti-bullying specialist may amend the initial report of the investigation results to reflect the information;

- (2) The anti-bullying specialist shall report the investigation results to the full-time non-teaching principal within two school days of the investigation's completion;**
- (3) The full-time non-teaching principal may provide intervention services; establish training programs to reduce harassment, intimidation, or bullying and to enhance school climate; and, in consultation and conjunction with the sending district board of education pursuant to N.J.A.C 6A:14-7.6(f), impose discipline, order counseling as a result of the investigation findings, or take or recommend other appropriate action;**
- (4) The full-time non-teaching principal shall report to the sending district board of education of the students who are parties to the harassment, intimidation, or bullying investigation the results of each investigation involving an incident found to be harassment, intimidation, or bullying no later than five school**

days following the investigation's completion, along with information on any service(s) provided; training established; and, pursuant to N.J.A.C. 6A:14-7.6(f), discipline imposed or other action taken or recommended by the full-time non-teaching principal.

- (5) In accordance with Federal and State law and regulation, the full-time non-teaching principal shall provide parents or guardians of students who are parties to the harassment, intimidation, or bullying investigation with information about the investigation, including the nature of the investigation, the findings, and whether discipline was imposed or services were provided, as appropriate, to address the incident of harassment, intimidation, or bullying. The full-time non-teaching principal shall provide the information in writing within five school days following the investigation's completion;**
- (6) A full-time non-teaching principal who receives a report of harassment, intimidation, or bullying and fails to initiate or conduct an investigation, or who has reason to believe an incident of harassment, intimidation, or bullying occurred and fails to take sufficient action to minimize or eliminate the harassment, intimidation, or bullying, may be subject to disciplinary action;**
- (7) The procedure set forth in the approved PSSD policy may include a process by which the full-time non-teaching principal, or his/her designee, in consultation with the anti-**

bullying specialist, makes a preliminary determination as to whether a reported incident or complaint is a report of an act of harassment, intimidation, or bullying, pursuant to N.J.A.C. 6A:16-7.8(a)3ii, prior to initiating an investigation. **Such a process for preliminary determination shall include the minimum requirements set forth at N.J.A.C. 6A:16-7.7(a)(2)(ix)(1)(a)-(f).**

- x. A requirement for the full-time non-teaching principal and school anti-bullying specialist, in consultation and conjunction with the sending district board of education, pursuant to N.J.A.C. 6A:14-7.1, to define the range of ways in which a school will respond once an incident of harassment, intimidation, or bullying is identified, including an appropriate combination of counseling, support services, intervention services, and other programs;
 - (1) The responses, at a minimum, shall include support for a victim of harassment, intimidation, or bullying and corrective actions, pursuant to N.J.A.C. 6A:14-7.1, for documented systemic problems related to harassment, intimidation, or bullying;

- xi. A requirement that allows the parents or guardians of students who are party to a harassment, intimidation, or bullying investigation to request a hearing before the sending district board of education concerning the information received about a investigation, pursuant to (a)3ix(5) above.
 - (1) Any request for a hearing before the sending district board of education shall be filed within **4590** calendar days after the

written information about the harassment, intimidation, or bullying investigation, pursuant to (a)3ix(4) and (5) above, is received by the sending district board of education and the parents or guardians.

(2) The hearing before the sending district board of education shall be scheduled in collaboration with the PSSD and held by the sending district board of education within 10 school days of the request. The approved PSSD and the sending district board of education shall coordinate the policies and procedures for conducting such hearings.

xii. A statement that prohibits an approved PSSD's employee, student, or volunteer from engaging in reprisal, retaliation, or false accusation against a victim, witness, or any person who reports or has reliable information about an act of harassment, intimidation, or bullying.

(1) The statement shall include the consequence(s) and appropriate remedial action(s) for a person who engages in reprisal or retaliation;

xiii. Consequences and appropriate remedial action identified in consultation and conjunction with the sending district board of education and pursuant to N.J.A.C. 6A:14-7.6(f) for a student found to have falsely accused another as a means of retaliation or harassment, intimidation, or bullying;

xiv. A statement that a parent, student, guardian, or organization may file a complaint with the New Jersey Division on Civil Rights within 180 days of the occurrence of any incident of harassment, intimidation, or

bullying based on membership in a protected group as enumerated in the Law Against Discrimination, P.L.1945, c.169 (C.10:5-1 et seq.);

xv. A statement of how the harassment, intimidation, and bullying policy is to be publicized, including notice that the policy applies to participation in approved PSSD-sponsored functions and on school buses operated by the approved PSSD.

(1) Notice of the approved PSSD's policy shall appear in any publication of the approved PSSD that sets forth the code of student conduct, pursuant to N.J.A.C. 6A:16-7.1;

xvi. A requirement that a link to the harassment, intimidation, and bullying policy be posted prominently on the home page of the approved PSSD's website;

xvii. A requirement that the harassment, intimidation, and bullying policy be distributed annually to all school staff, students, and parents;

xviii. A requirement that the name of the school's anti-bullying specialist and his or her school phone number, school address, and school e-mail address be listed on the home page of the approved PSSD's website.

(b) An approved PSSD employee, contracted service provider, student, or volunteer who has witnessed an incident of harassment, intimidation, or bullying, or has reliable information that a student has been subject to harassment, intimidation, or bullying, shall report the incident to the full-time non-teaching principal, pursuant to (a)3viii above, or to any school administrator or safe schools resource officer, who shall immediately initiate the approved PSSD's procedures concerning harassment, intimidation, and bullying.

(c) The approved PSSD shall:

1. **Annually examine the training needs of school employees and volunteers who have significant contact with students for the effective implementation of the harassment, intimidation, or bullying policies, procedures, programs, and initiatives and implement training programs for school employees and volunteers who have significant contact with students.**
 - i. **The annual examination of training needs shall take into consideration 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)2.**
 - ii. **Information regarding the approved PSSD's policy against harassment, intimidation, or bullying shall be incorporated into its training program.**
 - (1) **The program shall be provided to full- and part-time staff, volunteers who have significant contact with students, and persons contracted by the approved PSSD to provide services to students;**
 - iii. **All school staff shall receive training regarding sensitive issues that affect students in school such as sexual orientation, gender identity, and gender expression. Training shall include accurate information about the coming out process and the gender transition process for LGBT students, the nature of anti-LGBT bullying, and confidentiality rights and guidance on including sensitive information in discipline, health, or academic records.**
2. **Develop a process for annually discussing with students the approved PSSD's harassment, intimidation, and bullying policy;**
3. **Annually conduct a re-evaluation, reassessment, and review of its harassment, intimidation, and bullying policy, and any report(s) and/or finding(s) of the school safety/school climate team(s). The approved PSSD also shall make any necessary revision(s) to its policy, consistent with**

N.J.A.C. 6A:14-7.3(a), to strengthen the policy to prevent, identify, and address harassment, intimidation, and bullying of students.

i. The programs or other responses shall be planned in consultation with, at a minimum, parents and other community members, school employees, law enforcement, school administrators, and, as appropriate, school volunteers and students;

4. Annually establish, implement, document, and assess bullying-prevention programs or approaches and other initiatives designed to create schoolwide conditions to prevent or intervene in harassment, intimidation, and bullying in the approved PSSD.

i. Programs, approaches, and initiatives shall be planned in consultation with, at a minimum, parents and other community members, school employees, law enforcement, school administrators, and, as appropriate, school volunteers and students;

5. Submit to the executive county superintendent a copy of its harassment, intimidation, and bullying policy in the first school year following the effective date of the amendments to the rules or within 30 days of revision.

(d) The full-time non-teaching principal shall appoint a school anti-bullying specialist from currently employed school staff to act as the primary school official responsible for preventing, identifying, and addressing incidents of harassment, intimidation and bullying in the school and the functions identified pursuant to N.J.A.C. 6A:16-7.8(a)3ix, ix(1), and x above.

(e) The approved PSSD shall form a school safety/school climate team to develop, foster, and maintain a positive school climate by focusing on the on-going systemic processes and practices in the school and to address school climate issues such as harassment, intimidation, or bullying and perform the following functions:

1. Meet **at least** two times per school year, **and to the extent practicable on a regular basis in order to achieve the purposes and perform the functions established in N.J.S.A. 18A:37-21;**
2. Receive any complaint(s) of harassment, intimidation, or bullying of students that has been reported to the full-time non-teaching principal;
3. Receive copies of any report prepared after an investigation of an incident of harassment, intimidation, or bullying;
4. Identify and address patterns of harassment, intimidation, or bullying of students in the school;
5. Review and strengthen school climate and school policies to prevent and address harassment, intimidation, or bullying of students;
6. Educate the school community, including students, teachers, administrative staff, and parents, to prevent and address harassment, intimidation, or bullying of students;
7. **Participate in training required by the Anti-Bullying Bill of Rights and other training which the full-time non-teaching principal may request; and**
8. Execute other duties related to harassment, intimidation, and bullying as requested by the full-time non-teaching principal;

(f) The school safety/school climate team shall consist of the full-time non-teaching principal, or his or her designee, and the following members appointed by the full-time non-teaching principal: a teacher in the school; the school anti-bullying specialist; a parent of a student in the school; and other members determined by the principal. The team shall be chaired by the school anti-bullying specialist.

1. A parent shall be on the school safety/school climate team only in regard to general school climate issues and shall not participate in activities that ~~may~~ compromise a student's confidentiality. **To the extent practicable, records**

will be provided in redacted form to avoid compromising a student's confidentiality. The PSSD shall be responsible for ensuring that the parent is informed about relevant state and federal laws and district policies and practices for ensuring student confidentiality and the handling of sensitive information.

- 2. Other members of the school safety/school climate team who are not authorized to access student records pursuant to N.J.A.C. 6A:32-7.5 shall be on the team only in regard to general school climate issues and shall not participate in activities that ~~may~~ compromise a student's confidentiality. **To the extent practicable, records will be provided in redacted form to avoid compromising a student's confidentiality.****
- 3. The approved PSSD shall provide school safety/school climate team members with development opportunities that address effective practices of successful school climate programs or approaches.**
- 4. The approved PSSD must make an active, ongoing effort to recruit parents for the school safety/school climate team, with participation solicited as widely as possible, and the criteria for participation – determined by the principal and the anti-bullying specialist to include availability and willingness to adhere to the confidentiality requirements – made openly available and publicized as part of the parent recruitment effort.**
- 5. All parent members of the school safety/school climate team must be prepared for the role by the approved PSSD in the following manner: a) given a written description, prepared by the anti-bullying specialist, of the structure and function of the structure and function of the safety team, and the parent role on the team, including the confidentiality requirements; b) provided anti-bullying training to the same extent as school staff members; c)**

provided additional training directed to the functioning of parents and community members in preventing and addressing HIB; and d) provided the minutes of past team meetings, redacted so as not to identify specific students and families.

6. When multiple parents are interested and engaged, the anti-bullying specialist and the parent selected for the school safety/ school climate team shall organize and convene a schedule of meetings for the interested parents which shall operate as follows: a) developing a collective parent perspective that will be regularly conveyed for consideration by the school safety/school climate team; and b) receiving training, support, and empowerment by the anti-bullying specialist, as one of his or her designated duties, to enable these interested parents to provide support to parents of targeted children.

(g) The section's requirements shall not be interpreted to prevent a victim of harassment, intimidation, or bullying from seeking redress under any applicable civil or criminal law.

6A:16-[7.8]7.9 Student records and confidentiality

(a) When a student transfers to a public school district from another public school district, all information in the student's record related to disciplinary actions taken against the student by the school district and any information the school district has obtained pursuant to N.J.S.A. 2A:4A-60, Disclosure of juvenile information; penalties for disclosure, shall be provided to the receiving public school district in accordance with N.J.S.A. 18A:36-19a and N.J.A.C. 6A:32-7.5.

1. The record shall be provided within two weeks of the date the student enrolls in the receiving school district.

2. Written consent of the parent or adult student shall not be required as a condition of the record transfer.
 - i. Written notice of the transfer shall be provided to the parent or the adult student.
- (b) When a student transfers to a private school, which includes all sectarian or nonsectarian nonprofit institutional day or residential schools that provide education for students placed by their parents and that are controlled by other than public authority, all student disciplinary records with respect to suspensions or expulsions shall be provided by the public school district of residence to the private school upon written request from the private school, in the same manner the records would be provided to a public school district, pursuant to 20 U.S.C. § 6301, Title IV(A)IV § 4155 of the Elementary and Secondary Education Act.
- (c) A district board of education shall not use a student's past offenses on record to discriminate against the student.
- (d) All records maintained pursuant to this subchapter shall conform with the requirements set forth at 20 U.S.C. § 1232g, Family Educational Rights and Privacy Act; 34 CFR Part 99, Family Educational Rights and Privacy; 20 U.S.C. § 1232h, Protection of Pupil Rights; 34 CFR Part 98, Student Rights in Research, Experimental Programs, and Testing; P.L. 104-191, Health Insurance Portability and Accountability Act; 45 CFR Part 160, General Administrative Requirements; 20 U.S.C. § 7165, Transfer of school disciplinary records; 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; N.J.S.A. 18A:40A-7.1, Confidentiality of certain information provided by pupils, exceptions; N.J.A.C. 6A:16-3.2, Confidentiality of student alcohol and other drug information; N.J.S.A. 18A:36-19, Pupil records, creation, maintenance and retention, security and access, regulations, nonliability; N.J.S.A. 2A:4A-60, Disclosure of juvenile information, penalties for disclosure; N.J.A.C. 6A:32-7, Student Records; N.J.A.C.

6A:14-2.9, Student records; [N.J.S.A. 47:1A-1, Open Public Records Act](#), as well as other existing Federal and State laws and rules pertaining to student records and confidentiality.

(e) **To the extent certain documents are specifically enumerated in the ABR, they are “student records” within the meaning of N.J.A.C. 6A:32-2. As such the parents or guardians of students who are party to a harassment, intimidation, or bullying investigation may obtain a copy of the investigation report and related documentation upon request. All personally identifiable information of other students shall be redacted in compliance with 6A:16-7.9 of these regulations.**