

EDUCATION

STATE BOARD OF EDUCATION

Programs to Support Student Development

Proposed Amendments: N.J.A.C. 6A:16-1.2, 1.3, and 7.7

Proposed New Rule: N.J.A.C. 6A:16-7.8

Authorized By: New Jersey State Board of Education, David Hesse, Secretary and
Commissioner, Department of Education.

Authority: N.J.S.A. 18A:38-1.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2016-132.

Submit written comments by November 5, 2016, to:

Susan Martz, Chief Learning Supports Officer

New Jersey Department of Education

100 River View Executive Plaza

PO Box 500

Trenton, New Jersey 08625-0500

chapter16@doe.state.nj.us

The agency proposal follows:

Summary

The Department of Education (Department) proposes amendments to N.J.A.C. 6A:16,

Programs to Support Student Development, to clarify existing rules implementing the Anti-Bullying Bill of Rights Act (ABR) (P.L. 2010, c. 122) and in response to recommendations proposed by the Anti-Bullying Task Force. The proposed amendments will assure all students have the opportunity to achieve academic and behavioral success in safe and supportive learning environments.

The Department proposes to amend N.J.A.C. 6A:16-1.2, Scope, 1.3, Definitions, and 7.7, Harassment, intimidation, and bullying. The Department also proposes new N.J.A.C. 6A:16-7.8, Harassment, intimidation, and bullying in approved private schools for students with disabilities (PSSDs). As a result of new N.J.A.C. 6A:16-7.8, existing N.J.A.C. 6A:16-7.8 will be recodified as N.J.A.C. 6A:16-7.9 without change.

The following is a description of the sections proposed for amendment and the proposed new rule:

Subchapter 1. General Provisions

N.J.A.C. 6A:16-1.2 Scope

The section establishes the rules that apply to the provision of programs and services for all students in kindergarten through grade 12 by New Jersey public school districts, including educational services commissions, jointure commissions, charter schools, and approved PSSDs acting under contract with school districts to provide the services. Throughout the chapter, “district board of education” refers to the governing authority for all of the identified agencies, unless otherwise indicated.

The Department proposes an amendment at N.J.A.C. 6A:16-1.2 to state that approved PSSDs will no longer be included under the term “district board of education” at N.J.A.C. 6A:16-7.7. Instead, the Department proposes new N.J.A.C. 6A:16-7.8 to clarify how the

harassment, intimidation, and bullying rules apply to approved PSSDs.

N.J.A.C. 6A:16-1.3 Definitions

The section defines terms used throughout the chapter.

The Department proposes a definition for “Electronic Violence and Vandalism Reporting System” to identify the electronic system developed by the Department to collect incident data from school districts, pursuant to N.J.S.A. 18A:17-46 and 48, as amended by P.L. 2010, c. 122. The proposed definition is necessary since the Department is currently developing an updated, more efficient data collection system to replace the decade-old Electronic Violence and Vandalism Reporting System (EVVRS) with a system that collects the same data, as well as the harassment, intimidation, and bullying data collected, pursuant to N.J.S.A. 18A:37-17, in a separate data collection system. The new system, not yet named, will not be ready for use by school districts until after the effective date of the proposed amendments. The proposed definition for EVVRS, which is used in Subchapters 5 and 6, is intended to capture any future-named data system that collects the same information as the current EVVRS.

The Department proposes a definition for “school safety/school climate team” to reflect the intended role of the school safety team specified in the ABR, which is to develop, foster, and maintain a positive school climate. There currently is no definition for “school safety team” outlining the team’s role and responsibilities. The Anti-Bullying Task Force recommended to revise the title for the school safety team to include “school climate” since addressing school climate issues is an important function of the safety team that often is underutilized by school districts. The proposed definition for “school safety/school climate team” is necessary to specify the revision to the school safety team’s name proposed at N.J.A.C. 6A:16-7.7(h). The proposed change will not alter the team’s roles and responsibilities as described in N.J.S.A. 18A:37-21.

Subchapter 7. Student Conduct

N.J.A.C. 6A:16-7.7 Harassment, intimidation, and bullying

The section establishes requirements for district boards of education to develop, adopt, and implement policies prohibiting harassment, intimidation, and bullying (HIB) on or off school grounds.

The Department proposes an amendment at N.J.A.C. 6A:16-7.7(a)2, which allows each district board of education control over the content of its HIB policy and states its required minimum components, to replace “it” with “the policy” to ensure consistency with N.J.S.A. 18A:37-15.

The Department proposes new N.J.A.C. 6A:16-7.7(a)2iii to require each district board of education’s policy prohibiting harassment, intimidation, or bullying on school grounds to include a statement that bullying is unwanted, aggressive behavior that may involve a real or perceived power imbalance. Including power imbalance as a method of distinguishing the characteristic that motivated the aggressor was recommended by the Anti-Bullying Task Force, since power imbalance could be the root cause of the aggressor’s behavior toward the target.

The Department proposes an amendment at recodified N.J.A.C. 6A:16-7.7(a)2v, which requires the policy prohibiting harassment, intimidation, or bullying to include 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 student’s developmental age, and the student’s history of problem behaviors and performance. The Department proposes to add “the nature of the student’s disability, if any and to the extent relevant” as one of the issues that must be considered since a student served by the district board of education may have a documented disability and the nature of a student’s disability may have an effect on a student’s role as

offender in an act of harassment, intimidation, or bullying.

The Department proposes an amendment at recodified N.J.A.C. 6A:16-7.7(a)2vi(1), which requires the district board of education's policy to include consequences for a student who commits an act of harassment, intimidation, or bullying that are varied and graded according to the nature of the behavior, the student's developmental age, and the student's history of problem behaviors and performance. The Department proposes to add "the nature of the student's disability, if any and to the extent relevant" since students served by the district board of education may have a documented disability and the nature of a student's disability must be considered when determining appropriate consequences for a student who commits an act of harassment, intimidation, or bullying.

The Department proposes amendments at recodified N.J.A.C. 6A:16-7.7(a)2viii, which requires a school district's policy on harassment, intimidation, and bullying to include a procedure for reporting, verbally and in writing, an act of harassment, intimidation, or bullying, including a provision that permits a person to report anonymously. The Department proposes to add "that allows" before "for reporting, verbally and in writing" to clarify the procedure for reporting harassment, intimidation, or bullying in the district board of education policy. The Department also proposes to replace "including" with "committed by an adult or youth against a student" to clarify all alleged acts of harassment, intimidation, or bullying against a student are to be reported, pursuant to N.J.S.A. 18A:37-15.b(5), whether the act is committed by an adult or youth. The Department also proposes an amendment to make the subparagraph two sentences for grammatical purposes.

The Department proposes new N.J.A.C. 6A:16-7.7(a)2ix(1) to specify the school district's policy on harassment, intimidation, or bullying may include, as part of its investigation,

a process by which the principal, or his or 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. The proposed regulation is in response to a recommendation presented to the Department by three Statewide organizations whose members are responsible for implementing the New Jersey Principals and Supervisors Association, New Jersey Association of School Administrators, and New Jersey School Boards Association (ABR) to clarify the principal's role when there is a reported incident or complaint of an act of harassment, intimidation, or bullying. Including the preliminary determination by the principal and the anti-bullying specialist as part of the investigatory process, if permitted by an approved district board of education policy, will align the rule with the requirement for the principal to initiate the harassment, intimidation, or bullying investigation within one day of the incident report of an incident, pursuant to N.J.S.A. 18A:37-15.b.(6)(a).

The Department proposes new N.J.A.C. 6A:16-7.7(a)2ix(2) to require the district board of education's HIB policy to include a procedure for investigating incidents on a district board of education bus, at school-sponsored functions, and off school grounds involving a student placed in an approved PSSD when the complaint or report is received by the district board of education. The Department proposes new N.J.A.C. 6A:16-7.7(a)2ix(2)(A) to require the district board of education's anti-bullying specialist to conduct an investigation in consultation with the approved PSSD. The proposed rules are necessary to clarify when the district board of education is responsible for conducting an investigation. The inclusion of the consultation with the approved PSSD is also necessary since the approved PSSD's staff could be more familiar with the student(s) involved than the sending district board of education. The consultation also alerts the

approved PSSD of the occurrence of an incident that might affect the orderly operation of its school.

The Department proposes new N.J.A.C. 6A:16-7.7(a)2ix(3) to prohibit investigations of complaints concerning adult conduct from being investigated by a member of the same bargaining unit as the individual who is the subject of the investigation. The proposed rule is in response to confusion in school districts about who may conduct the harassment, intimidation, or bullying investigation when the alleged offender is a school staff member. The proposed rule clarifies that it is not permissible for a complaint to be investigated by a member of the same bargaining unit.

The Department proposes new N.J.A.C. 6A:16-7.7(a)2xi and (a)2xi(1) to provide parents or guardians of students who are parties to a harassment, intimidation, or bullying investigation a timeline of 45 calendar days after the parents or guardians receive the required written information about the investigation from the district board of education, pursuant to N.J.S.A. 18A:37-15.b(6)(d), to request a hearing before the district board of education. An established timeline will ensure hearings are requested within a reasonable amount of time from the date the parent or guardian receives information about the investigation. Proposed new N.J.A.C. 6A:16-7.7(a)2xi(2) also requires the district board of education to hold the hearing within 10 business days of the parent or guardian's request, as recommended by the Anti-Bullying Task Force. The ABR does not specify whether the hearing must be held within 10 business, calendar, or school days after the request.

The Department proposes amendments to N.J.A.C. 6A:16-7.7(c), which requires a district board of education member, school employee, contracted service provider, student, or volunteer who has witnessed, or has reliable information that a student has been subject to harassment,

intimidation, or bullying to report the incident to the appropriate school official designated by the district board of education's policy, or to any school administrator or safe schools resource officer, who shall immediately initiate the school district's procedures concerning harassment, intimidation, and bullying. The Department proposes to replace the cross-reference "(a)2vii above" with "(a)2viii above" due to the recodified rules and to add "an incident of harassment, intimidation, or bullying" after "who has witnessed" to better describe what was witnessed.

The Department proposes amendments to N.J.A.C. 6A:16-7.7(d), which requires a school administrator who receives a report of harassment, intimidation, or bullying from a school employee 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. The Department proposes to delete "from a school employee" to clarify any administrator who fails to act on an bullying complaint, no matter who makes the complaint, is subject to disciplinary action. The proposed amendment will emphasize the importance of the school administrator's role in prevention of and intervention in harassment, intimidation, or bullying incidents to provide a safe learning environment.

The Department proposes amendments to N.J.A.C. 6A:16-7.7(e)1, which requires district boards of education to do the following: annually review the training needs of school employees and volunteers who have significant contact with students for the effective implementation of the harassment, intimidation, and bullying policies, procedures, programs, and initiatives of the district board of education; implement training programs for school employees and volunteers who have significant contact with students, consistent with P.L. 2010, c. 122; and review training needs and the findings of the annual review and update the code of student conduct. The

proposed amendments replace “[a]nnually review” and “annual review” with “[a]nnually examine” and “annual examination” to differentiate the examination of training needs versus the annual review and update of the code of student conduct. The Department also proposes to replace “P.L. 2010, c. 122” with “N.J.S.A. 18A:37-17.b” to cite the corresponding statute. The Department further proposes to recodify “the annual examination 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)2” as new N.J.A.C. 6A:16-7.7(e)1i for clarity.

The Department proposes an amendment at N.J.A.C. 6A:16-7.7(e)3, which requires a district board of education to conduct an annual re-evaluation, reassessment, and review of its harassment, intimidation, and bullying policy and make any necessary revisions, to include the re-evaluation, reassessment, and review of “any report(s) and/or finding(s) of the school safety/school climate team(s).” The proposed amendment will align the rule with the duties of the school safety/school climate team at N.J.S.A. 18A:37-21.c. The Department also proposes to make the paragraph two sentences for grammatical purposes and to add “to its policy” after “revisions” to clarify what may be revised.

The Department proposes an amendment to N.J.A.C. 6A:16-7.7(e)3i, which requires the programs or other responses to be planned in consultation with, at a minimum, parents and other community members, school employees, school volunteers, students, and school administrators, to add “law enforcement” as a specified group. Members of law enforcement are current contributors in planning programs and other responses to the annual re-evaluation, reassessment, and review of the harassment, intimidation, and bullying policy in schools. The addition of law enforcement members will align the rule with current practices.

The Department proposes an amendment at N.J.A.C. 6A:16-7.7(e)4i, which requires

programs, approaches, and initiatives designed to create schoolwide conditions to prevent or intervene in harassment, intimidation, and bullying in the school district's schools to be planned in consultation with, at a minimum, parents and other community members, school employees, volunteers, and administrators, and students, to add "law enforcement" as a specified group, pursuant to N.J.S.A. 18A:37-17.a. Members of law enforcement are current contributors in the creation of schoolwide programs, approaches, and initiatives to intervene in harassment, intimidation, and bullying in schools. The addition of law enforcement members will update the rule to align with current practices and ensure consistency with the statutory requirement.

The Department proposes an amendment at N.J.A.C. 6A:16-7.7(e)5, which requires the district board of education to submit to the executive county superintendent, its approved harassment, intimidation, or bullying policy within 30 days of its adoption, to further require the district board of education to submit the policy within 30 days of its revision. The proposed amendment will ensure the executive county superintendent has been provided with each school district's most recent harassment, intimidation, or bullying policy.

The Department proposes an amendment at N.J.A.C. 6A:16-7.7(h), which requires the district board of education to form a school safety team in each school in the school district, to replace "school safety team" with "school safety/school climate team" to reflect the intended role of the team and to be consistent with the proposed definition for "school safety/school climate team."

The Department proposes N.J.A.C. 6A:16-7.7(h)1 to require the school safety/school climate team to 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 proposed new

paragraph will also require the team to be chaired by the school anti-bullying specialist, as required by N.J.S.A. 18A:37-21.b. The proposed rule will ensure the team has broad representation to fulfill its significant role in implementing the ABR.

The Department also proposes new N.J.A.C. 6A:16-7.7(h)1i and ii to specify the participation of the parent and other members of the school safety/school climate team who are not authorized to access student records is limited to general school climate issues and to prohibit the individuals from participating in activities that could compromise student confidentiality, pursuant to N.J.S.A. 18A:37-21.e and N.J.A.C. 6A:32-7.5.

The Department proposes an amendment at N.J.A.C. 6A:16-7.7(i), which specifies that the section's rules must not be interpreted to prevent a victim from seeking redress under any other available civil or criminal law, to add "of harassment, intimidation, or bullying" after "victim" to clarify the subchapter applies specifically to victims of harassment, intimidation, or bullying.

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

The Department proposes new N.J.A.C. 6A:16-7.8, Harassment, intimidation, and bullying in approved private schools for students with disabilities (PSSDs), to require approved PSSDs to develop, adopt, and implement policies prohibiting harassment, intimidation, and bullying on school grounds, including its school buses and school-sponsored functions. Prior to the readoption of N.J.A.C. 6A:16 with amendments in February 2014 (46 N.J.R. 505(a)), N.J.A.C. 6A:16-7.7 applied to both school districts and approved PSSDs. After further analysis, the Department has determined all of the rules applicable to district boards of education should not be applied to approved PSSDs. Therefore, the Department is tailoring the amendments to

meet the unique needs of the approved PSSDs. Since the ABR's provisions apply to New Jersey public schools but not to approved PSSDs, some of the requirements in N.J.A.C. 6A:16-7.7 are not appropriate for approved PSSDs. Approved PSSDs are private entities, may not have a governing body, may have a personnel structure that differs from a public school, and serve as receiving schools contracted to provide educational services on behalf of public schools. Proposed N.J.A.C. 6A:16-7.8 will correct the oversight made when N.J.A.C. 6A:16 was readopted.

The Department proposes to replicate the majority of existing N.J.A.C. 6A:16-7.7 and the proposed provisions at new N.J.A.C. 6A:16-7.8 with the following differences: all references to the ABR (N.J.S.A. 18A:37-13 et seq.) are deleted; "district board of education" is replaced with "approved private schools for students with disabilities (PSSDs)"; and "principal" is replaced with "full-time non-teaching principal," pursuant to N.J.A.C. 6A:14-7.6(d).

The rules in proposed N.J.A.C. 6A:16-7.8 that are not identical to the corresponding rule at N.J.A.C. 6A:16-7.7, as proposed, or have been excluded from proposed N.J.A.C. 6A:16-7.8, are described below along with a justification for each variation.

The Department proposes N.J.A.C. 6A:16-7.8(a)1 to require each approved PSSD to develop the policy to prohibit harassment, intimidation, or bullying on approved PSSD grounds. The similar rule at N.J.A.C. 6A:16-7.7(a) for public schools requires the policy to prohibit harassment, intimidation, or bullying on school grounds and proposed N.J.A.C. 6A:16-7.8(a)1 specifies on approved PSSD grounds only. The Department proposes N.J.A.C. 6A:16-7.8(a)1i to require the approved PSSD's harassment, intimidation, or bullying policy to include a provision for initiating an investigation when the approved PSSD receives a complaint or report of an act of harassment, intimidation, or bullying occurring on a sending district board of education bus or

at school-sponsored functions. The investigation must include consultation with the sending district board of education, pursuant to proposed N.J.A.C. 6A:16-7.8(a)1i.

The Department proposes N.J.A.C. 6A:16-7.8(a)2 to require each approved PSSD to develop the policy prohibiting harassment, intimidation, or bullying in consultation with, at a minimum, parents and other community members, school employees, school administrators, and, as appropriate, school volunteers and students. “[A]s appropriate” is not included in the similar rule for school districts at N.J.A.C. 6A:16-7.7(a)1 as it relates to school volunteers but is included in the proposed rule since approved PSSDs are not required under the law to utilize school volunteers or to include school volunteers in the development of the harassment, intimidation, or bullying policy. The proposed rule further allows each approved PSSD to determine the appropriateness of student involvement in this process.

The Department proposes N.J.A.C. 6A:16-7.8(a)3ii to require the approved PSSD’s policy to include the definition for harassment, intimidation, or bullying as set forth at N.J.A.C. 6A:16-1.3, except for incidents occurring off school grounds. The proposed rule specifies the policy prohibiting harassment, intimidation, or bullying is for occurrences only on approved PSSD grounds; incidents occurring off school grounds are included at the corresponding rule for school districts at N.J.A.C. 6A:16-7.7(a)2ii where the definition of harassment, intimidation, or bullying includes off school grounds, pursuant to N.J.S.A. 18A:37-14. Additionally, “no less inclusive” from the corresponding rule at N.J.A.C. 6A:16-7.7(a)2ii is not included in proposed N.J.A.C. 6A:16-7.8(a)3ii because approved PSSDs will not be required to include a definition for “harassment, intimidation, or bullying” that is as inclusive as the definition at N.J.A.C. 6A:16-1.3.

The Department proposes N.J.A.C. 6A:16-7.8(a)3iv to require the policy prohibiting harassment, intimidation, or bullying to include a description of the type of behavior expected from all students. The Department proposes to replace “each student,” as in recodified N.J.A.C. 6A:16-7.7(a)2iv, with “all students” to clarify the harassment, intimidation, or bullying policy must include general expectations for behavior of all students. A student’s individualized education program (IEP) details individualized behavior expectations, as appropriate.

The Department proposes N.J.A.C. 6A:16-7.8(a)3v(1) to specify that the appropriate remedial action for a student who commits an act of harassment, intimidation, or bullying may include a behavioral assessment or evaluation, including, but not limited to, a referral to the IEP team of the sending district board of education, as appropriate. The Department proposes to replace “child study team” from the corresponding rule at recodified N.J.A.C. 6A:16-7.7(a)2v(1) with “individualized education program team of the sending district board of education” as the appropriate team. All students in approved PSSDs have been evaluated previously by the child study team and have an IEP. The sending district board of education is responsible for maintaining an IEP for each district board of education student receiving services at an approved PSSD.

The Department proposes N.J.A.C. 6A:16-7.8(a)3vi(2) to require disciplinary action for a student who commits an act of harassment, intimidation, or bullying to be consistent with N.J.A.C. 6A:14-7.6(f). Since all students in the approved PSSD have an IEP, consequences must be consistent with special education rules.

The Department proposes N.J.A.C. 6A:16-7.8(a)3viii(2) to require approved PSSDs to establish a procedure that allows for verbal and written reporting of an act of harassment, intimidation, or bullying committed by an adult or youth against a student to include a provision

that disciplinary action must be consistent with provisions of N.J.A.C. 6A:14-7.6(f). The proposed amendment will prevent approved PSSDs, as receiving schools, from unilaterally implementing specific disciplinary action for a student who commits an act of harassment, intimidation, or bullying, including removal of a student to an interim education setting, suspension of more than 10 consecutive or cumulative school days in a school year, or termination of placement. Any disciplinary action must be implemented in consultation and conjunction with the sending district board of education, pursuant to N.J.A.C. 6A:14-7.6(f).

The Department proposes N.J.A.C. 6A:16-7.8(a)3ix(1) through (6) to replace the reference to the provisions of N.J.S.A. 18A:37-15.b(6)(a) through (f) and 16.d that are referenced at recodified N.J.A.C. 6A:16-7.7(a)2ix. N.J.S.A. 18A:37-15.b(6)(a) through (f) and 16.d do not apply to approved PSSDs. Proposed N.J.A.C. 6A:16-7.8(a)3ix(1) through (7) will specify the investigation procedures for approved PSSDs and maintain uniformity of investigations.

The Department proposes N.J.A.C. 6A:16-7.8(a)3ix(1) to require, as part of the procedure for prompt investigation of violation and complaint reports, the full-time non-teaching principal, or his or her designee, to initiate the investigation within one school day of the initial incident report and to require the school anti-bullying specialist to conduct the investigation. The proposed rule also allows the full-time non-teaching principal to appoint additional personnel who are not school anti-bullying specialists to assist in the investigation. The proposed rule further requires the investigation to be completed as soon as possible, but no later than 10 school days from the date of the written report of the harassment, intimidation, and bullying incident. The proposed rule further allows the initial report of the investigation results to be amended when relevant information is received after the end of the 10-school-day investigation period. The proposed rule ensures reports of harassment, intimidation, and bullying are promptly

investigated and specifies the investigation requirements. The proposed rule also requires the full-time non-teaching principal and the anti-bullying specialist to perform in a timely manner certain functions during the investigative process to protect the safety and well-being of each student in an approved PSSD.

The Department proposes N.J.A.C. 6A:16-7.8(a)3ix(2) to require the anti-bullying specialist to report the harassment, intimidation, or bullying investigation results to the full-time non-teaching principal within two school days of the investigation's completion. An established timeline for reporting the investigation results to the full-time non-teaching principal will ensure allegations of harassment, intimidation, or bullying will be addressed in a reasonable amount of time from when the allegation is reported to an employee of an approved PSSD.

The Department proposes N.J.A.C. 6A:16-7.8(a)3ix(3) to allow the full-time non-teaching principal to do the following: 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 and pursuant to N.J.A.C. 6A:14-7.6(f), impose discipline, order counseling as a result of the investigation's findings, or take or recommend other appropriate actions as part of the procedure for prompt investigation of violations and complaint reports of harassment, intimidation, or bullying. The proposed rule specifies the appropriate actions that may be implemented as a result of the investigation findings and clarifies that certain actions must be consistent with N.J.A.C. 6A:14.

The Department proposes N.J.A.C. 6A:16-7.8(a)3ix(4) to require the full-time non-teaching principal to 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. The proposed rule will also require the full-time non-teaching principal to provide the sending district board of education with information about any service(s) provided, training established, and discipline imposed or other action taken or recommended by the full-time non-teaching principal. The proposed rule will ensure sending district boards of education and parents or guardians are provided with information about their students who attend approved PSSDs in a reasonable amount of time from when the harassment, intimidation, or bullying incident is reported to an employee of an approved PSSD. It is essential that district boards of education are provided this information to determine if the school district needs to reconvene a student's IEP team as a result of being an offender or victim in an incident of harassment, intimidation, or bullying, pursuant to N.J.A.C. 6A:14-7.1.

The Department proposes N.J.A.C. 6A:16-7.8(a)3ix(5) to require the full-time non-teaching principal to provide, in accordance with Federal and State law and regulation, parents or guardians of students who are parties to a harassment, intimidation, or bullying investigation with information about the investigation including the nature of the investigation, the findings, and whether discipline was imposed and services were provided, as appropriate, to address the harassment, intimidation, or bullying incident. The proposed rule also will require the full-time non-teaching principal to provide the information within five school days following the investigation's completion. The proposed rule will ensure parents or guardians are provided with information related to their child's experiences in the educational setting and within a reasonable amount of time from when the investigation is completed. Parents and guardians can determine whether to request a meeting to discuss changes to the IEP based on the written information received about the investigation, pursuant to N.J.A.C. 6A:14-2.3(h)5.

The Department proposes N.J.A.C. 6A:16-7.8(a)3ix(6) to require each approved PSSD's investigation procedure to include a provision that a full-time non-teaching principal may be subject to disciplinary action if he or she 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. The proposed rule will emphasize the importance of the full-time non-teaching principal's role in prevention and intervention of harassment, intimidation, or bullying incidents to provide a safe learning environment. Parents, adult students, school officials, and employees have the right to file a complaint with the Department's Office of Controversies and Disputes when there is concern a rule may have been violated, in accordance with N.J.A.C. 6A:3.

The Department proposes N.J.A.C. 6A:16-7.8(a)3ix(7) to allow the procedure set forth in the approved PSSD's policy on harassment, intimidation, or bullying to include, as part of the investigation, a process by which the full-time non-teaching principal, or his or 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. The proposed rule is consistent with N.J.A.C. 6A:16-7.7(a)2ix(1) to maintain uniformity of investigations.

The Department has chosen to exclude, at proposed N.J.A.C. 6A:16-7.8, the provisions of proposed N.J.A.C. 6A:16-7.7(a)2ix(2) that specify who may investigate complaints regarding alleged adult-on-student harassment, intimidation, or bullying when the investigator and alleged offender are part of the same bargaining unit. Approved PSSDs are private entities that may or may not have collective bargaining units.

The Department proposes N.J.A.C. 6A:16-7.8(a)3x to require the approved PSSD's policy to include a requirement for the full-time non-teaching principal and 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, including an appropriate combination of counseling, support services, intervention services, and other programs. The proposed rule does not require an approved PSSD to consult and act in conjunction with the sending district board of education when identifying responses for the victim and offender since this may require the approved PSSD to consult with multiple sending school districts. Instead, the Department proposes N.J.A.C. 6A:16-7.8(a)3x(2) to require the approved PSSD's full-time non-teaching principal to determine the appropriate response to address the individual circumstances of an identified incident of harassment, intimidation, or bullying, in consultation and conjunction with the sending district board of education, pursuant to N.J.A.C. 6A:14-7.6(f).

The Department proposes N.J.A.C. 6A:16-7.8(a)3x(1) to require the approved PSSD's response to include, at a minimum, support for a victim of harassment, intimidation, or bullying and corrective actions for documented systemic problems related to harassment, intimidation, or bullying. The proposed rule allows for safe and supportive schools for all students, including the prevention of and intervention in incidents of harassment, intimidation, or bullying, to support the establishment and maintenance of civil, secure, and disciplined school environments conducive to learning, pursuant to N.J.A.C. 6A:14-7.6.

The Department proposes N.J.A.C. 6A:16-7.8(a)3xi and (a)3xi(1) to require the approved PSSD's policy to allow the parents or guardians of students who are parties to a harassment, intimidation, or bullying investigation to request a hearing before the sending district board of education concerning the information received about a harassment, intimidation, or bullying

investigation, pursuant to proposed N.J.A.C. 6A:16-7.8(a)3ix(5). The proposed rules will require any request for a hearing to be filed with the sending district board of education within 45 calendar days after written information regarding the investigation is received by the sending district board of education and the parents or guardians. The Department also proposes N.J.A.C. 6A:16-7.8(a)3xi(2) to require the hearing to be scheduled in collaboration with the PSSD, to be held within 10 business days of the request, and for the hearing procedures to be in accordance with the sending district board of education's policies and procedures for conducting such hearings. The proposed rule will provide the same rights to appeal afforded to all students at proposed N.J.A.C. 6A:16-7.7(a)xi.

The Department proposes N.J.A.C. 6A:16-7.8(a)3xiii to require each approved PSSD's policy to include consequences and appropriate remedial action for a student who falsely accuses another as a means of retaliation of harassment, intimidation, or bullying. Since all students in the approved PSSD have an IEP, the proposed rule requires the school to identify the consequences and appropriate remedial action "in consultation and conjunction with the sending district board of education and pursuant to N.J.A.C. 6A:14-7.6(f)." The proposed rule will allow district boards of education and approved PSSDs to develop the appropriate disciplinary action based on individual student needs.

The Department proposes N.J.A.C. 6A:16-7.8(a)3xiv to require the approved PSSD's harassment, intimidation, or bullying policy to include a statement that a parent, student, guardian, or organization can file a complaint with the New Jersey Division on Civil Rights within 180 days of the occurrence of any harassment, intimidation, or bullying incident based on membership in a protected group as enumerated in the Law Against Discrimination, P.L. 1945, c. 169 (N.J.S.A. 10:5-1 et seq.). The proposed rule will ensure parents, students, guardians, and

organizations are aware of their right to file a complaint with the New Jersey Division on Civil Rights.

The Department proposes N.J.A.C. 6A:16-7.8(a)3xv to require the approved PSSD's policy to include a statement of how the harassment, intimidation, and bullying policy is to be publicized, including notice that it applies to participation in approved PSSD-sponsored functions and on school buses operated by the approved PSSD. While recodified N.J.A.C. 6A:16-7.7(a)2xiv contains most of the proposed new rule's provisions for school districts, N.J.A.C. 6A:16-7.8(a)3xiii applies only to an approved PSSD's buses and school-sponsored functions because the sending school district remains responsible for incidents that occur off school grounds.

The Department has chosen to exclude the requirement for the name of the school district's anti-bullying coordinator and associated information to be posted prominently on the home page of the school district's website as regulated at recodified N.J.A.C. 6A:16-7.7(a)2xvii for school districts. The Department did not include the requirement for approved PSSDs to have an anti-bullying coordinator since N.J.S.A. 18A:37-20.b does not require this position. Requiring approved PSSDs to have an anti-bullying coordinator could present an undue financial burden on approved PSSDs if it is necessary to hire a new staff member to fulfill the anti-bullying coordinator duties as set forth for school districts.

The Department has chosen to exclude the provisions of N.J.A.C. 6A:16-7.7(a)2xix and (a)2xix(1), which require appropriate responses to harassment, intimidation, or bullying occurring off school grounds when a school employee is made aware of the actions or a school administrator should have known of an incident of harassment, intimidation, or bullying, and responses to be consistent with N.J.A.C. 6A:16-7.1, 7.5, and 7.7. It is the responsibility of the

sending district board of education to respond to reports of harassment, intimidation, or bullying that occurs off school grounds, pursuant to N.J.S.A. 18A:37-15.3.

The Department has chosen to exclude the provisions of N.J.A.C. 6A:16-7.7(b), which provides that a district board of education shall not be prohibited from adopting a harassment, intimidation, or bullying policy that includes components more stringent than N.J.S.A. 18A:37-15 and N.J.A.C. 6A:16-7.7(a)2. The rule was excluded for approved PSSDs because approved PSSDs are not required to have a governing body and, therefore, cannot be subject to a rule that governs district boards of education.

The Department has chosen to exclude the provisions of N.J.A.C. 6A:16-7.7(c)1, which gives to the district board of education member or school employee who reports an incident of harassment, intimidation, or bullying, or to any school administrator or safe school resource officer who makes the report in compliance with the district board of education's policy, immunity from a cause of action for damages arising from a failure to remedy the reported incident, pursuant to N.J.S.A. 18A:37-16.c. The Department does not have the authority to include an immunity provision for an employee of an approved PSSD who promptly reports an incident of harassment, intimidation, or bullying to the full-time non-teaching principal in compliance with the approved PSSD's harassment, intimidation, or bullying policy since approved PSSDs are not included under N.J.S.A. 18A:37-16.c.

The Department proposes N.J.A.C. 6A:16-7.8(b) to require 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, to report the incident to the full-time non-teaching principal, or to any school administrator or safe schools resource officer, who must immediately

initiate the approved PSSD's procedures concerning harassment, intimidation, and bullying.

The Department proposes N.J.A.C. 6A:16-7.8(c)1 and (c)1i to require approved PSSDs to do the following: 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; implement training programs for school employees and volunteers who have significant contact with students; and consider the findings of the annual review and update of the code of student conduct when examining the training needs. The proposed rule will ensure training needs of school employees and volunteers who have significant contact with students are assessed each year as part of the implementation of effective harassment, intimidation, or bullying training programs.

The Department proposes N.J.A.C. 6A:16-7.8(c)3 to specify the annual re-evaluation, reassessment, and review of its harassment, intimidation, and bullying policy and/or finding(s) of the school safety/school climate team(s) for the purpose of making necessary revisions. The proposed rule contains the provisions at N.J.A.C. 6A:16-7.7(e)3, replacing the cross-reference to "N.J.S.A. 18A:37-15.c," which does not apply to approved PSSDs, with the appropriate cross-reference for approved PSSDs (N.J.A.C. 6A:14-7.3(a)). The Department proposes to add "to strengthen the policy to prevent, identify, and address harassment, intimidation, and bullying of students," at the end. The proposed differences require ongoing school climate and harassment, intimidation, or bullying efforts to promote safe and supportive learning environments.

The Department proposes N.J.A.C. 6A:16-7.8(c)3i to require programs or other responses to 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. "[A]s appropriate" is not included in the similar rule for school districts at N.J.A.C.

6A:16-7.7(e)3i, but is included in this section, since approved PSSDs are not required to utilize school volunteers or to include school volunteers in the development of the policy prohibiting harassment, intimidation, or bullying. The proposed rule further allows each approved PSSD to determine the appropriateness of student involvement in the process.

The Department proposes N.J.A.C. 6A:16-7.8(c)4i to require programs, approaches, and initiatives to 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. “[A]s appropriate” is not included in the similar rule for school districts at N.J.A.C. 6A:16-7.7(e)4i, but is included in this section, since approved PSSDs are not required to utilize school volunteers or to include school volunteers in the development of the policy prohibiting harassment, intimidation, or bullying. The proposed rule further allows each approved PSSD to determine the appropriateness of student involvement in the process.

The Department proposes N.J.A.C. 6A:16-7.8(c)5 to require the approved PSSD to 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 proposed new rule and within 30 days of revision. The similar rule for public school districts as proposed at N.J.A.C. 6A:16-7.7(e)5 requires the policy to be submitted within 30 days of its adoption or revision. Since approved PSSDs do not have a district board of education to adopt the policy, the proposed requirement for submitting the original policy to the executive county superintendent within 30 days of adoption has been revised to allow time for the approved PSSD to develop a policy within the first school year of the effective date of the proposed new rule.

The Department proposes N.J.A.C. 6A:16-7.8(d) to require the full-time non-teaching principal to 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 proposed N.J.A.C. 6A:16-7.8(a)3ix, (a)3ix(1), and (a)3x. The proposed rule at N.J.A.C. 6A:16-7.8(d) includes the provisions of N.J.A.C. 6A:16-7.7(f), which state the functions of the anti-bullying specialist under N.J.S.A. 18A:37-13, and removes the requirement for PSSDs to have anti-bullying coordinators as approved PSSDs are not governed under the ABR. Similarly, the Department has chosen to exclude from proposed N.J.A.C. 6A:16-7.8 the requirement at N.J.A.C. 6A:16-7.7(g) for the chief school administrator to appoint an anti-bullying coordinator.

The Department proposes N.J.A.C. 6A:16-7.8(e) to require each approved PSSD to 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. The proposed rule also will require the approved PSSD to perform the functions specified at proposed N.J.A.C. 6A:16-7.8(e)1 through 7, including meet two times per school year; receive any complaint(s) of harassment, intimidation, or bullying of students that has been reported to the full-time non-teaching principal; receive copies of any report prepared after an investigation of a harassment, intimidation, or bullying incident; identify and address patterns of harassment, intimidation, or bullying of students in the school; review and strengthen school climate and policies to prevent and address harassment, intimidation, or bullying of students; educate the school community, including students, teachers, administrative staff, and parents, to prevent and address harassment, intimidation, or bullying of students; and execute other duties related to harassment, intimidation, and bullying as requested by the full-time non-teaching principal. The similar rule for public schools at N.J.A.C. 6A:16-7.7(h) cross-references N.J.S.A. 18A:37-21, rather than

listing the functions. N.J.S.A. 18A:37-21.c(7), which requires the school safety team to collaborate with the school district anti-bullying coordinator in collecting data and developing policies to prevent harassment, intimidation, and bullying, was excluded from proposed N.J.A.C. 6A:16-7.8(e), since approved PSSDs are not required by law to have anti-bullying coordinators.

The Department proposes N.J.A.C. 6A:16-7.8(f)3 to require the approved PSSD to provide school safety/school climate team members with development opportunities that address effective practices of successful school climate programs or approaches. The proposed rule will ensure school safety team members are provided the necessary skills through continued professional development for ongoing enhancement of school climate programs and approaches.

The Department proposes N.J.A.C. 6A:16-7.8(g) to prohibit the interpretation of the section's requirements from being interpreted to prevent a victim of harassment, intimidation, or bullying from seeking redress under any applicable civil or criminal law. The similar rule at N.J.A.C. 6A:16-7.7(i) references the rules promulgated pursuant to N.J.S.A. 18A:37-13 through 32, which do not apply to approved PSSDs.

As the Department has provided a 60-day comment period on this notice of proposal, the notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments and new rule will help ensure the required harassment, intimidation, and bullying policies and procedures are followed in a timely and effective manner to prevent interference with the intellectual, academic, and social development of public school students and students in approved PSSDs. The proposed amendments and new rule will assure

all students have the opportunity to achieve academic success by providing safe and supportive learning environments. By clarifying the rules regarding harassment, intimidation, and bullying and, specifically, under the new rule, district boards of education will be able to strengthen standards for preventing, reporting, investigating, and responding to incidents of harassment, intimidation, and bullying as intended by the Legislature. Similarly, approved PSSDs will protect district board of education students under their purview.

Economic Impact

The Department anticipates no financial impact on school districts or approved PSSDs as the result of the proposed amendments and new rule.

Federal Standards Statement

The proposed amendments and new rule do not exceed Federal standards as there are no Federal laws or regulations regarding the provisions of student conduct.

Jobs Impact

The proposed amendments and new rule will have no impact on the generation or loss of jobs.

Agriculture Industry Impact

The proposed amendments and new rule will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

The proposed amendments and new rule alleviate some requirements previously imposed and clarify existing reporting, recordkeeping, or other compliance requirements on small business, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Approved PSSDs could be considered small businesses, as that term is defined by the Regulatory Flexibility Act, and could be impacted by the proposed amendments and new rule. The provisions are generally consistent with the harassment, intimidation, and bullying rules that were in place for school districts and approved PSSDs prior to the adoption in February 2014 (46 N.J.R. 505(a)) of amendments to N.J.A.C. 6A:16-7.7 to include the requirements of the Anti-Bullying Bill of Rights Act.

The provisions of proposed N.J.A.C. 6A:16-7.8 that impact reporting, recordkeeping, or other compliance requirements include the reporting of harassment, intimidation, or bullying investigations in writing and the results of investigations within the approved PSSDs and to the appropriate sending school districts; posting and distribution of the harassment, intimidation, and bullying policy; implementation of training programs on harassment, intimidation, or bullying; and implementation, documentation, and assessment of bullying prevention programs. The Department requires the use of existing approved PSSD school staff and resources to meet requirements of the proposed rules. The proposed rules are not so burdensome on small

businesses to outweigh their potential benefit addressing incidents of harassment, intimidation, or bullying. The Department does not anticipate adverse economic impact of the proposed rules at N.J.A.C. 6A:16-7.8 on approved PSSDs, as the requirements have not significantly changed from the adoption of N.J.A.C. 6A:16-7.7 in 2014. The Department contends the recordkeeping, reporting, and compliance requirements are reasonable and necessary.

Housing Affordability Impact Analysis

The proposed amendments and new rule will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood the proposed amendments and new rule would evoke a change in the average costs associated with housing because the proposed amendments and new rule govern harassment, intimidation, and bullying policies for public school students and students in approved PSSDs.

Smart Growth Development Impact Analysis

The proposed amendments and new rule will have an insignificant impact on smart growth and there is an extreme unlikelihood the proposed amendments and new rule would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments and new rule govern harassment, intimidation, and bullying policies for public school students and students in approved PSSDs.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

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.

...

“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.

...

“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.

...

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. (No change.)
 2. Each district board of education shall have control over the content of the policy, except that [it] **the policy** shall contain, at a minimum, the following components:
 - i.-ii. (No change.)
 - iii. A statement that bullying is unwanted, aggressive behavior that may involve a real or perceived power imbalance;**
 - [iii.] **iv.** (No change in text.)
 - [iv.] **v.** 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)-(2) (No change.)

[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) (No change.)

[vi.] **vii.** (No change in text.)

[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) (No change.)

[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, as part of the investigation, a process by which the principal, or his or 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.

- (2) The procedure also shall include a process by which the district board of education will investigate a complaint or report of harassment, intimidation, or bullying, pursuant to (a)2ix(1) above, occurring on district board of education school buses, at school-sponsored functions, and off school grounds involving a student who attends an approved PSSD.**
 - (A) The investigation conducted by the district board of education’s anti-bullying specialist shall be in consultation with the approved PSSD.**
- (3) 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;**

[ix.] x. (No change in text.)

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 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 45 calendar days after the written information is received by the parents or guardians.

(2) The hearing shall be held within 10 business days of receipt of the request.

Recodify existing x.-xvii. as **xii.-xix.** (No change in text.)

- (b) (No change.)
- (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. (No change.)
- (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, the] **N.J.S.A. 18A:37-17.b.**
 - i. **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.** (No change in text.)
2. (No change.)
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)-(g) (No change.)

(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.

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.**

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.**

(i) The requirements **of this section** 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.**

i. **The policy shall include a provision for initiating an investigation, pursuant to (a)3ix(7) below, in consultation with the sending district board of education when the approved PSSD receives a complaint or report of an act of harassment, intimidation, or bullying occurring on a sending district board of education school bus or at school-sponsored functions;**

- 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 unwanted, aggressive behavior that may involve a real or perceived power imbalance;**
 - iv. A description of the type of behavior expected from all students;**
 - v. 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, the developmental age of the student, and the student's history of problem behaviors and performance, and that may include the following:**
 - (1) A behavioral assessment or evaluation, including, but not limited to, a referral to the individualized education program team of the sending district board of education, as appropriate; and**

- (2) **Supportive interventions and referral services, including those at N.J.A.C. 6A:16-8;**
- 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 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 this subchapter, 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 shall also 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; and**
 - (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, as part of the investigation, a process by which the full-time non-teaching principal, or his or 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 (a)3ii above;**
- x. A requirement for the full-time non-teaching principal and 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, 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:14-7.6, for documented**

systemic problems related to harassment, intimidation, or bullying.

- (2) Once an incident of harassment, intimidation, or bullying is identified, the full-time non-teaching principal shall determine the appropriate response to address the individual circumstances in consultation and conjunction with the sending district board of education, pursuant to N.J.A.C. 6A:14-7.6(f), as appropriate;**

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 45 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 business 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 (N.J.S.A. 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; and

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;**
- 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.**

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 two times per school year;**
 - 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; and**
 - 7. 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.**
 - 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.**
 - 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.**
- (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(No change in text.)