

NJPSA Comments, Survey Results and Recommendations to the Anti-Bullying Task Force November 15, 2023

NJPSA represents over 7,100 active school leaders in our public schools including principals, assistant principals, directors, and supervisory staff. The issue of bullying in our schools is a top concern of our members and our association. NJPSA members are responsible, not only for the safety and well-being of all our students, but for their instructional lives while at school. We are dedicated to providing a safe and caring school environment based upon mutual respect, sensitivity to others and a strong focus on learning.

The implementation of the Anti-Bullying Bill of Rights (ABR) in our schools is an important component of our work. School principals play a critical role establishing a positive school environment and training staff members in social-emotional learning (SEL) practices and on the ABR. They are responsible for the investigation and response to allegations of harassment, intimidation, and bullying (HIB) in our schools; working with students and parents when HIB allegations arise; and working with their school staff to thoroughly investigate incidents while simultaneously striving to prevent HIB in their schools. It is a major responsibility that NJPSA members do not take lightly.

As an association, NJPSA has committed itself to assisting our members in the implementation of this law. We actively provide legal training on the law itself for school leaders, school teams, and Anti-Bullying Specialists (ABSs). We also provide professional learning sessions focused on sound educational practice – including sessions on creating positive learning environments, the utilization of restorative practices in discipline, and the provision of appropriate interventions for students – to name a few topics of our professional development programming. On the advocacy front, we have engaged in the legislative process to ensure that the ABR law is responsive to student needs with provisions that can be implemented effectively in our schools. As this Task Force understands, this is a work in progress! NJPSA welcomes this opportunity to share our experiences in implementation of the ABR, the barriers we face in our schools, and our recommendations to improve the ABR to address both student, school, and parental needs.

The NJPSA Focus Group

On September 27, 2023, a focus group of NJPSA members and staff met with Task Force representatives. Our focus group consisted of principals and supervisors, represented all school grade levels, and covered all regions of the state.

During this meeting, NJPSA members identified key **positive outcomes** of the ABR in their schools:

- The ABR has put a strong emphasis on developing a positive, supportive school climate and culture.
- The ABR's focus on preventative measures has raised awareness of behavioral expectations among students.

- The strict investigation procedures of the ABR have both positive and negative impacts on the school with positive impacts including thorough investigations, the provision of appropriate interventions, and the proactive use of restorative practices to address behaviors.
- SEL is interwoven within the curriculum.
- HIB data review is now routine, helping school administrators and staff in assessing the pulse of the school and any shifts in climate or behaviors.

The Focus Group next identified the **negative aspects** of implementation, including any unintended consequences of the law. Highlights of their responses include:

- The complexity of the law and its implementation, including the definition of HIB, creates difficulties in implementation; misunderstanding among staff, students and parents; and unnecessary conflict.
- The HIB investigation process, with its strict timelines, creates a significant workload in a school that requires high levels of staff time and resources and diverts those resources from other critical school responsibilities and functions.
- The HIB law is not funded, yet it has taken staff away from their work with students at a time when schools face a staffing/retention crisis across the board.
- The school's scope of responsibility is inappropriately broad, with schools being held responsible to address behaviors that occur on social media or out-of-school where schools have no supervision or control of the incident.
- The law is being weaponized, primarily by parents, to settle scores, retaliate against others, and use it as leverage with the school.
- The law's promotion of the use of school counselors as Anti-Bullying Specialists who investigate allegations of HIB, has negatively compromised the critical role of school counselors as trusted resources to students in our schools at a time when student mental health needs are extensive.
- Our members' experience is that there is no disproportionate impact of the ABR on coaches, although the law does impact staff members in their respective roles.

[The NJPSA ABR Implementation Survey](#)

In order to broaden our outreach to NJPSA members and provide more depth in our response to the Task Force, NJPSA conducted a member survey on the Implementation of the ABR from October 27, 2023, to November 10, 2023. We received 235 responses as of the close of the survey.

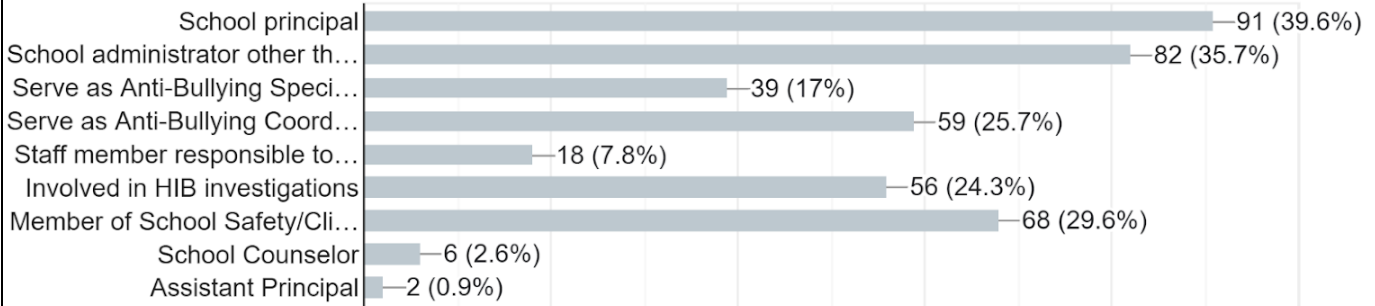
Key results of this statewide member survey are shared below, including salient member comments in relevant areas. Based upon our members' thoughtful, detailed responses, NJPSA shares its recommendations for the ABR in the final section of this report. Please note that percentages may not equal or may exceed the total number of respondents (235) or 100% since respondents may serve more than one role, have selected more than one answer, may have provided an "other" response that was duplicative or has been truncated as not representative of larger trends, or may not have answered a question at all.

[Composition of Respondent Pool](#)

We asked members to identify their role in implementing the ABR:

I am involved in the implementation of the Anti-Bullying Bill of Rights (ABR) in the following roles (check all that apply):

230 responses



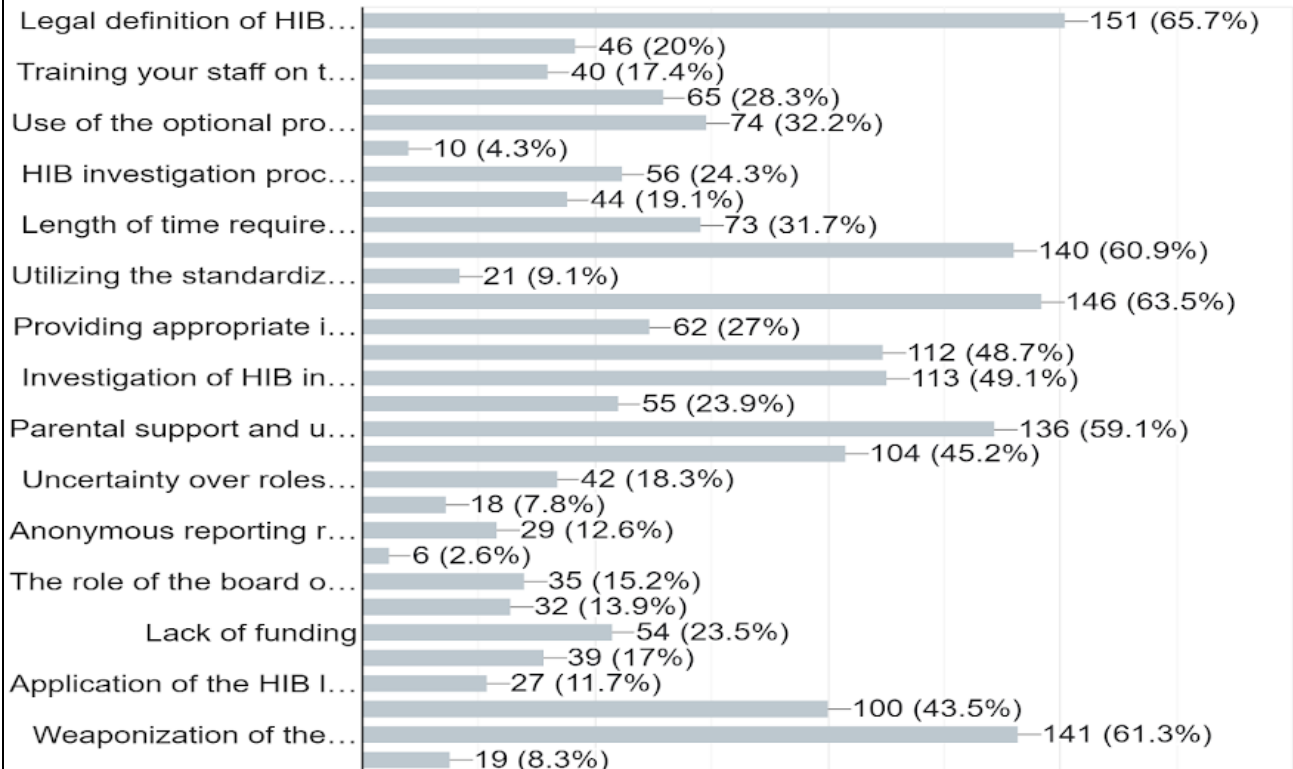
1. ABR Implementation Issues for Administrators

With this question, NJPSA members were asked to **select all choices that applied** to answer the question of **what ABR provisions create implementation issues for you in your school?** Members also had the option to add independent responses. Highlights of these comments are included after the chart. A blank copy of the survey questions can be accessed here:

[Implementation of the ABR Survey Questions.pdf](#)

1. What provisions of the ABR create implementation issues for you within your school? (Check ALL that apply.)

230 responses



Representative Member Comments:

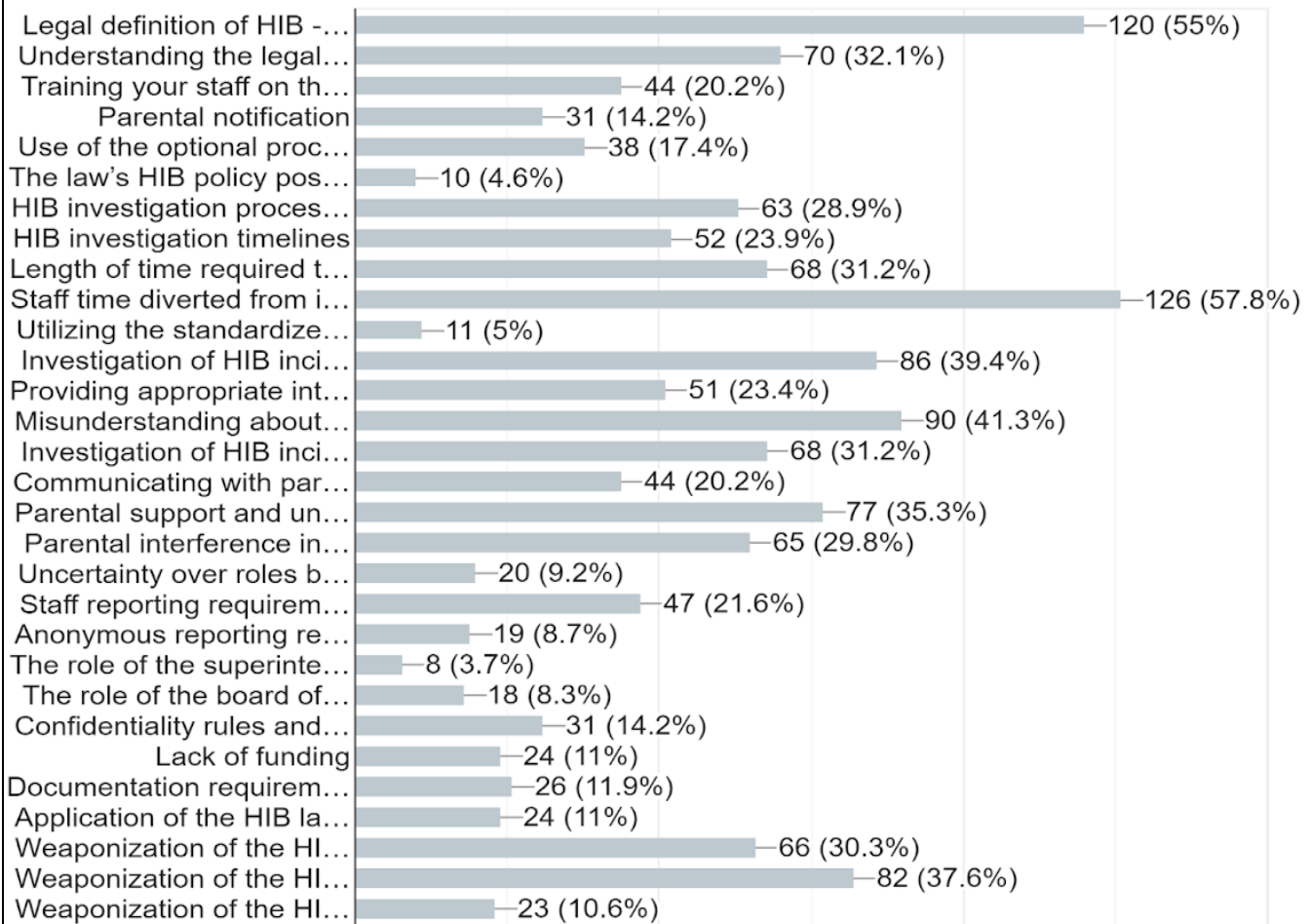
- The use of counselors as ABS (Anti-Bullying Specialists) which puts them (in students' eyes) in an investigative role and not a support/advocacy role. The time counselors spend working on HIB investigations takes away tremendous amounts of time with respect to their actual counseling and running of support programs for students. Ironically, the counselors are not able to thoroughly implement the very HIB remediations the HIB law is supposed to support.
- HIB law revisions and updates. There is little to zero discussion from NJDOE, and they expect districts to function on their own.
- There are issues about sharing applicable information with the BOE.
- The law is not flexible enough to recognize the developmental needs and actions of elementary students and students with disabilities.
- It is a problem not having the ability to conference with families of victims before determining if an investigation will open. For many families who are involved with their students, they do not want to share anything with the school because they are interested in handling issues with their children in different ways. We are at a point where families are fearful of sharing anything with us because it may initiate a HIB investigation.
- A big issue is parental reactivity and retaliation and threats of lawsuits. This is time-consuming and exhausting!
- This Law went from no law to a law that is so extreme it is not helping kids. Students in ages K- 8 are truly insufficiently developed for all the legal ramifications of this law. There needs to be specific steps in the process that leads to whether there should even be an HIB investigation. Our Code of Conduct does not effectively exist anymore because everything is automatically going to a HIB investigation. Students are not given the opportunity to resolve problems.
- The one occurrence for an incident does not allow for younger students to make a mistake and learn from it.

2. ABR Implementation Issues for Staff

The top implementation impacts for staff include the diversion of time of staff members from regular student services to engaging in HIB investigations (57.8%), followed by implementation issues arising from the legal definition of HIB (55%), the misunderstanding between HIB incidents and code of conduct violations (41.3%) investigating HIB allegations that occur outside of school (39.4%), and parental weaponization of HIB (37.6%).

2. What provisions of the ABR create implementation issues for your staff within your school?
(Check ALL that apply.)

218 responses

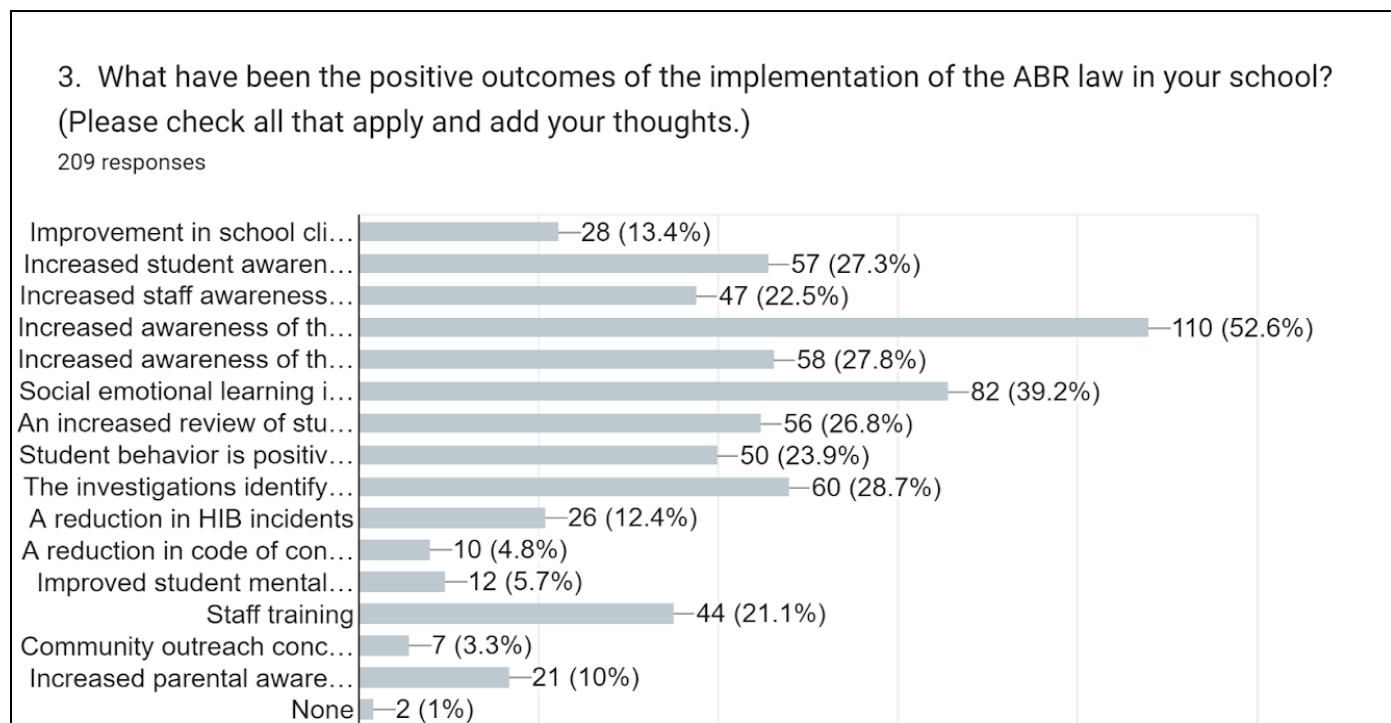


Representative Member Comments:

- Staff members who are accused of HIB are often fearful of returning to their duties. Even when it is unfounded, staff are concerned with student behavior and with parents feeling empowered by filing complaints when things don't go their child's way.
- Parents using the HIB law against staff to try to change grades.
- Sometimes there are issues with keeping students involved in a HIB separated from one another such as keeping classified students, who cannot be in the same class, separated when they have the same programming needs and there are limited alternative options.
- Counselors and staff have no time to implement necessary Tier 1 and Tier 2 mental health supports because so much time is spent investigating HIB and defending HIB determinations. It is turning into a completely reactive model based on our volume of investigations.
- Not allowing younger students to make a mistake when something is done one time. They are automatically labeled a bully if they make a mistake which is most likely developmentally appropriate.
- Parental understanding of HIB. The difference between conflict and HIB.

- The current HIB investigation processes cause conflict of interest since a Counselor, SAC, and School Psychologist are often appointed to do the investigations. This new status hurts the relationship and trust between Counselors, SACs, and Psychologists with their students. The ABS should be a mental health, licensed, separate, paid position, not a SAC, or Guidance Counselor.

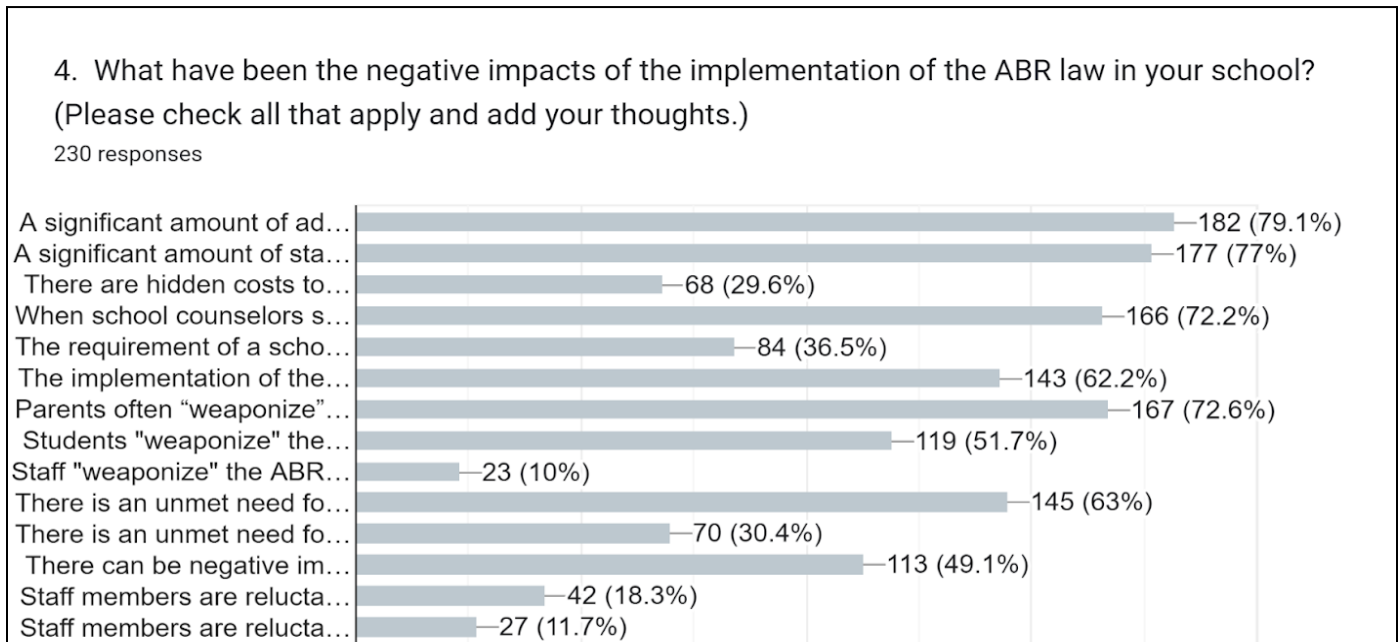
3. Positive Outcomes of ABR in a School



Representative Member Comments:

- School climate improvements do not necessarily result from the ABR, rather they are the result of local district initiatives.
- There is confidence in reporting that a thorough investigation will take place and action will result.
- There is more data on interventions and a clear paper trail.
- The heightened litigation and the confusion amongst the public over the HIB definition have caused more damage to the climate in our district and community than help.
- Increased professional development on SEL (social emotional learning), proactive strategies, & character development.
- Multiple members answered that they found few positive outcomes directly resulting from the ABR with this comment representative of the others: "I have not found any positive outcomes. We have always addressed bullying, both by its true definition and those situations that would fall under the state's definition in the ABR. Likewise, we have prioritized SEL and promoting a positive culture since before the ABR. The ABR has only served to introduce burdensome paperwork and added a layer of upset and anxiety that wouldn't exist in its absence when we deal with anything investigated through the HIB process. Rather than the focus being solely on the event, consequences, and remedial measures, which was always done, there is also the need to reduce parent anxiety over the "scarlet letters" of HIB.

4. Negative Consequences of Implementation in A School



Clearly, the amount of time required to investigate allegations of HIB in a school is the most significant negative impact of the law, followed by the weaponization of the law by parents, and the compromise of the school counselor's role in working with students.

Representative Member Comments:

- There is heightened anxiety among all stakeholders to not violate a law that is tricky to understand.
- The negative impacts are that parents often feel it is the school's job to have oversight of social media. This poses a problem since students are not allowed to have their phones during the school day and most of the social media issues occur after school hours when the children are under the supervision of their parents.
- Parents do not understand the law and cost themselves and school districts time and money to appeal decisions to try and get rid of the "labels" that come with the investigation. Also, the HIB documentation going into the student files is an issue because anyone can accuse any student of anything. The documentation may say "not an HIB," but it still stays in a student's folder.
- Understanding the difference between unresolved student conflict and HIB is a problem. It unnecessarily elevates incidents that could have been easily addressed at a lower level.
- In many ways, families avoid telling us anything because they are fearful it will require an investigation.
- There are limitations to what district staff can legally do when addressing an HIB, particularly when it is taking place online or off grounds. Often parents want the district to take actions that we are not legally able to do to address such issues.
- The fourth item (about school counselors' roles being compromised) cannot be overstated. Having school counselors serve as ABSs takes them away from providing much needed support to students as the role is very time consuming. Serving as ABS takes school counselors away from their main jobs and compromises school counseling programs/services.
- The parents need to understand the law, not what they believe it is.

5. Unintended Consequences of the Implementation of the ABR

This question was an open-ended question. Member responses have been categorized into the major topics that members raised in their answers. There were 130 independent responses to this question. The most frequent and representative comments are included below:

A. Student Impacts

- Student victims are ostracized more due to the process.
- All school-aged children do not have fully developed brains. They make mistakes without giving much thought to the consequences. While schools should hold students accountable for their behavior, the threat of having a HIB offense on their record for life is not in the spirit of education. Children make mistakes, and we must foster an environment of learning and growth. A student can make a bad choice in ninth grade and learn from it and not have to worry that they have been labeled a bully or offender for the rest of their time in high school.
- The law actually gets in the way of our ability to truly educate students, as the students and parents are so focused on the "label " of "bully" that they many times fail to use a situation as a learning experience. Frequently, they focus on finding justification for the child's actions. Also, kids' exposure to social media and the internet without a filter leads them to say things they truly don't understand the gravity of, and then when it is investigated as an HIB, the teachable opportunity is lost. We may have to call it "confirmed" even though we realize that the student didn't necessarily understand the gravity of what was said.
- We find that if someone is investigated for something, other students then mimic the behavior and we see an uptick in that behavior. It is almost like the power of suggestion.
- Students do not trust counselors who are also ABSs. So much time is taken away from positive student engagement that SEL, restorative practice, and other helpful curriculum and activities cannot be completed. Students get labeled victims and bullies.
- Scheduling issues for students who can no longer be in the same special education classes and there are no other options available to meet their programming needs.
- Students tend to keep only to their friend groups so as to minimize the potential of getting "in trouble."
- While the ABR law has good intentions, our biggest issue is weaponization of the process and its use for retaliation. Students are often afraid to use the process as they do not feel it is effective.

B. School Impacts

- There is just a huge amount of time that gets dedicated to investigations, and everything related to an investigation. This is always "in addition to" normal job roles and responsibilities. And because you cannot predict when something is going to occur it is constantly disrupting workflow. Furthermore, there is an expectation on the part of parents that someone is always watching so that if an incident occurs after school hours and a parent sends a message after school hours that somehow the matter would already be investigated and acted upon by the time school starts the next day. There is also an underlying fear of making a mistake and getting in trouble over it. We tell the Antibullying Specialists to do the best they can with the time and resources available. But there is

always an uneasiness that they might make a mistake and end up in trouble. It feels like there is little room for error.

- It is a problem if we receive a HIB allegation at the end of the day and haven't had time to talk to parents. The fact that we have to notify them that day, without any information, is very upsetting to them. The fact that a HIB result now goes on a student's record compels parents to appeal compared to when it wasn't on a student's record.
- Implementation of the ABR is extremely time consuming and takes administrators and school counselors away from their main duties. Having to investigate and deal with problems that occur outside of school is also very time-consuming and again diverts resources to issues that have nothing to do with the operation of the school. Student services programs are suffering because the counselor is so busy serving as ABS.
- Lawsuits, threats of lawsuits, staff members worried about losing certifications over false accusations, and staff members nervous about being accused of not reporting potential HIB so they report every small misbehavior.
- Although the verbiage describes the student as an offender, the label that they ultimately take on is that of a bully. This label has a negative impact on the student who was the offender and does not help with a growth mindset. Furthermore, the other student is labeled a victim. As a victim, the student and their families feel entitled to an assortment of things. No discipline or counseling that is assigned is enough. Parents/students then say the school is not doing anything. Finally, the student who was named a victim regularly references the investigation as the reasoning for a multitude of things that may not have had anything to do with the case.
- Our already limited resources are now drained by the process. We are struggling to provide restorative practices for students involved in HIBs and counseling support to other students because counselors are busy investigating HIBs. Also, SIS [Student Information System] record keeping and SSDS [Student Safety Data System] recording are challenging and require a significant amount of staff time and oversight.
- The unintended consequence of fractured parental relationships when enforcing ABR is creating issues. Parents' misunderstanding of the law, definition of bullying, and our responsibility creates turmoil in our relationships.

C. Scope is Too Broad

- Social media is a nightmare.
- In my experience, the majority of the cases are a result of social media and out of school events. This law has now made the school responsible for the actions of the students when they are not present in the building. How is a school supposed to prevent something at the movie theater or a restaurant? The law is instead reactionary. The event happens, and the school responds to it. However, the rallying cry from parents and legislatures is to STOP BULLYING. An educational institution cannot stop these online and out of school events, but our schools are being held accountable for them.
- There is no significant reduction in the problem behaviors in school as a result of the ABR. Unfortunately, when parents and schools don't work together to address student behavior, little changes. The ABR law has put undue pressure on schools and districts to solve problems that are much larger than just schools and school districts. Schools do not create bullies and in most cases do an incredible amount of work to educate students about not being bullies, being kind and accepting, and coexisting peacefully with their peers. However, if families and our larger society are not reinforcing these ideals, as well, there

will be little schools can do to make change. In the end, schools are held accountable for the behaviors of students that are the responsibility of an entire society.

- The ABR does not always result in the most beneficial outcomes. Kids and/or parents will make claims invoking ABR/HIB and expect it to resolve all conflicts while also demanding anonymity/no unintended consequences. It also removes any opportunity for kids to build resiliency or independently solve problems. The spirit of the ABR is great and doesn't allow schools to look the other way when problems are occurring; however, it has created a "gotcha" culture that often empowers those who want to get others in trouble. It has made schools responsible for things that traditionally have been handled by parents and families.

D. A Climate of Retaliation

- Communication with parents prior to the start of the investigation can create interference, antagonism, and defensiveness when we have, at that time, very little information.
- Retaliatory HIB accusations are frequent.
- Having this law in effect for their entire school experience, many students use the term "HIB" as a verb and will say "I am going to HIB you."
- False accusations. Families retaliate by filing counter-HIB claims, as if we are a court of law.
- The ABS being accused of a HIB because of completing multiple, mandatory investigations.

E. A Climate Fostering Litigation

- The timeline where parents/caregivers of alleged offenders are notified prior to investigating creates a strain on the investigation. Parental interference occurs (I am coming to sign my student out before you talk with them, texts, etc.). The root of the interference has been the placement of the HIB results in the permanent file.
- Because of the required HIB documentation, parents of the "accused" and "confirmed" are less likely to hold their own children accountable, instead litigating the innocence of their children. These parents are less likely to encourage their children to take ownership of their behavior (therefore learn from it). I had a parent refuse to have their child engage in a restorative practice (write an apology letter) because they did not want any documentation in writing of their child's offense.
- Students and parents are weaponizing HIB as means of revenge against peers and children of enemies (for lack of a better word). Additionally, the behaviors that can fall under the HIB law are middle school age appropriate developmentally, and parents view this as a "scarlet letter" against their child. There is SIGNIFICANT pushback when a student is confirmed to be an aggressor in a HIB and then the revenge HIB comes into play. Beyond that, as we educate students on the law and expectations, they learn to "skirt the line" of behavior that doesn't meet the HIB requirements but is equally egregious; however, we cannot discipline off campus behavior unless HIB is a factor. Beyond THAT, this law takes a single incident into account, when bullying SHOULD be a pattern of behaviors. The law being patterned after affirmative action protected classes does not consider the classic issues students still continue to experience. Also, parents suing parents is not a solution to poor behavior.
- Everything about this law is bad for kids. Here's just one example: So many of these incidents now rise to litigious levels in the courts. Students and parents, who might normally be cooperative, are now refusing to participate or provide any information because they do

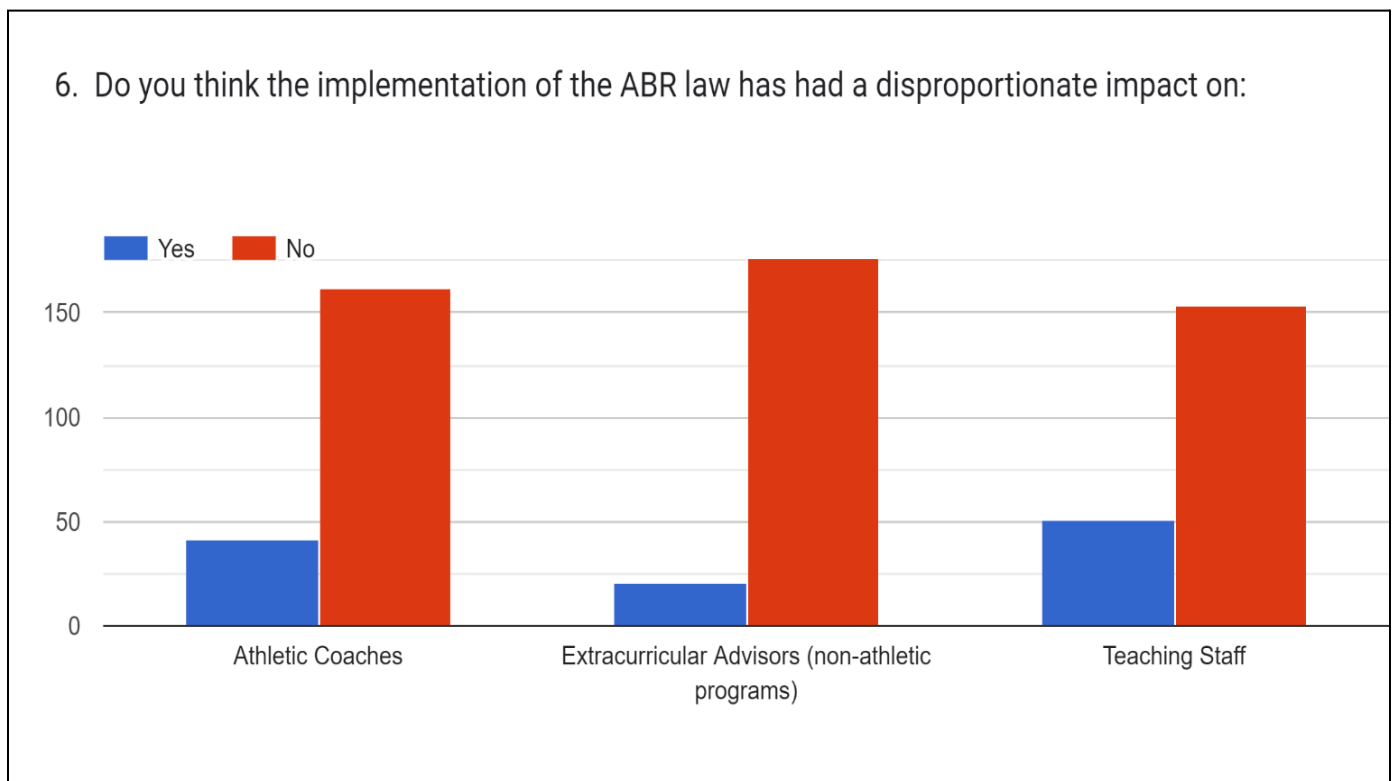
not want to get hauled into a court case years from now. The law and gravity of it encourages students and parents NOT to be upstanders.

- Increased parental concern for “Founded” offenders and the finding being a part of the students record!

F. Negative Impact on Counselors’ Role and Provision of Mental Health Services

As the ABS and mental health provider, the amount of time that goes into training, investigations, leading the SS/CT, documentation, and other ABR responsibilities takes me away from supporting the emotional well-being of my staff and students. It also compromises my relationship with students and parents and confuses students when they are meeting with me for an interview instead of counseling. There is also no additional funding for programs or even to compensate for the extra time that I spend outside of contracted hours. It has also damaged community and parent relationships due to the lack of understanding of the law versus how commonly the word "bullying" is used by others and by the media. It has also led to an overall distrust of how we handle situations and families pitted against the school as well as other families.

6. Potential ABR Impacts on Staff Member Groups



Representative Member Comments:

In terms of the law’s impact on particular groups of school staff, respondents largely do not see a disproportionate impact of the law on any particular group. Teachers receive the highest number of responses in this category as opposed to coaches or extracurricular advisors. However, member comments to this section do note the following impacts:

Impacts on Coaches

- Parents and students take limited play time defensively and characterize it as bullying versus the need for further student skill building.
- As the ABC (Anti-Bullying Coordinator), I investigate accusations against coaches. In nearly every case, the accusations, typically from the parent, have more to do with playing time versus a violation of HIB.
- If a child does not like the way they are being treated or if they are not chosen for a club or sport, some parents revert to saying it is bullying behavior.
- Normal conversations that coaches have such as utilizing different players in different roles, stature, disposition, strength necessary to play certain positions- everything they say is weaponized against them. We are losing coaches and teachers. It's not just about the accusation and investigation, it is lawsuits. They are worried for their livelihood and careers.
- When accusations are made against coaches and/or staff members, those staff members become more closed off to the community and reluctant to do more than teach their classes. Coaches often leave after those accusations come forward. Although there are times when coaches or teachers are legitimately accused of poor behavior, the HIB law should not be used for those situations. Those cases should be handled differently than a student-to-student accusation.
- Coaches and advisors tend to have a different relationship with students. This can cause issues when coaching or advising the students differently than in a class. As an example, parents believe their child is being bullied if they do not get playing time.
- A teaching or coaching style can lead to students not liking the teacher because they are strict or have high standards. In turn, the students make allegations they are harassed and yelled at.
- Parents should not have the ability to file a HIB against a coach when playing time is the parent's complaint. We are losing too many great coaches because parents have been empowered to ruin someone's reputation.
- Instead of teaching and coaching, our staff now have to contend with aggrieved parents and students who allege "bullying" over simple disagreements, conflicts, etc.

Extracurricular Impacts

- Athletic coaches and EC (extracurricular) advisors are often tasked with managing significantly LARGER groups of students than a typical class size. Behaviors often increase in less structured environments. Athletics and ECs often have fewer adults with far more students and places where these types of behaviors can occur.
- The law has taken away a professional's authority to try to handle or mediate a situation in what he/she perceives as a timely and appropriate manner, thereby creating sometimes unnecessary resentment and drama on teams or organizations.
- It has been increasingly difficult to attract and retain teachers, coaches, and advisors. I believe the ABR law has made it less attractive for individuals to go into the fields.

Educator Impacts

- It can be used as a weapon by students who don't like their teacher.
- Teachers are concerned about being sued by parents.
- It makes teachers second-guess their ability to discipline students.
- I think the disproportionate impact is on the administrators and counselors.

- Teachers are asked repeatedly to give up prep time to fill out reports and provide statements for investigations.
- Parents use harassment, intimidation, or bullying as a way to attack staff (coaches and teachers) when the parents feel the student is not getting enough playing time and/or not doing well in a class. It becomes the coach/teachers fault. They use ABR as an excuse and take no accountability as a parent.
- Staff have become targets by using the HIB laws by parents to get what they want when coaches, advisors, and teachers who do not freely give them preferential treatment.
- There is fear of retaliation for natural consequences of behavior or upholding a standard of conduct.
- Weaponization of the HIB law by PARENTS to "attack" or "get others in trouble" (resulting in non-HIB determinations) is a MASSIVE problem. Parents project their own issues, and a cascade of toxic impacts occur. Often, we are dealing with a Montagues and Capulets scenario, and ultimately children lose, every time.
- No matter where the HIB occurs, teaching staff are held accountable for correcting the behavior of the offender.
- Too much time and energy is spent on HIB investigations. The students no longer feel comfortable speaking with us.
- Staff members are spending too much time on investigations, including those that we have determined are code of conduct violations.

7. Barriers to Implementation of the ABR

In Question 7, members were asked if there were **any barriers to the implementation of the ABR** in their schools. This was an open-ended question with 115 written responses.

- A few members answered that they had no barriers to implementation.
- An overwhelming majority of members' answers cite time, lack of funding, and staffing as key barriers.
- The HIB definition does not clearly state "imbalance of power" - it MUST include this.
- The 24-hour principal (preliminary) determination is a quick turnaround. There have been a few incidents this year that if we had another 24 hours, we may have not moved forward. This is especially so in cases that involve cyber bullying.
- Reporting of "Suspected Bias Acts" are not clearly defined. It is creating a RIF between law enforcement and the district because they think it does not reach a reportable level in many cases.
- Time and limitations of things beyond our control. The school should not be extending its scope when students are not in school.
- The use of the counselor is ineffective, as students no longer view her as someone they can go to for help. She is viewed as an "investigator." Funding is needed to secure a staff member who only deals in HIB investigations and could be shared between schools (but only 2 schools) if necessary.
- Cost and parental misunderstanding.
- The time dedicated to proper investigations can result in time spent away from traditional CST duties. For actual bullying incidents, this is not an issue as they are absolutely important to dedicate time to, but frivolous or unsubstantiated complaints can divert time from other necessary school functions.
- Chasing social media threads is nearly impossible. Unless students bring the "evidence" we do not have the capacity to search thoroughly. I resent being the social media police and being

blamed by the parents for things that happen on social media away from school. Just because they gather here together doesn't mean that we control every facet of their lives.

- The NJDOE and their lack of communication when laws are revised or changed.
- Parents and students are still using the word "bullying" to describe code of conduct violations or conflicts between peers. We need a better definition of bullying because conflict happens as kids are growing up, and they need to develop coping strategies to deal with it appropriately.
- Lack of time/pulling Child Study Team members away from other responsibilities; volume of cases at the high school level.
- Where districts do not allow principal discretion in the implementation of the law, this allows for the harming of innocent students.
- We implement it so well that it consumes us and other programs suffer especially Tier 1 and Tier 2 counseling supports. We have completed 68 investigations in the first 32 days of school. We spend so much time on this that everything else suffers.
- The ABR is implemented with fidelity. Time is always a barrier as we have multiple initiatives.
- The level and sophistication of the technology and social media apps the students are using make it virtually impossible for a school district to determine who is doing these things. So many things that take place outside of school on students' phones have now become the responsibility of the schools and not that of the parents who are equipping their children with these devices.
- With every state mandate, we have less time to do what we did before. I can name numerous state mandates, but I can't think of anything that the state has told us that we don't need to do anymore. Time is finite, which means that continuing to add responsibilities without taking others away will ultimately necessitate things being done with less care and thoroughness because there simply isn't enough time.
- Just being sure all new staff are up to date.
- Cell phones and technology lead to a distortion of student interviews. Stories change.
- The law is too broad...almost anything can be considered a protected category. Time consuming for all involved, and a breach of the student-counselor relationship.
- As a small school district, we face many challenges with the implementation of the ABR. The investigation process must be completed swiftly to minimize disruption to students, and allow for interviews, etc., to be conducted without interference from parents/guardians. Parents/guardians are often reluctant to share concerns that may involve HIB in our district because they are aware that staff members are required to report HIB and investigate. In addition, our counselors are often placed in compromising positions as the ABS while also needing to maintain trust with students who may be involved in the investigative process. Finally, the ABR and HIB investigative process are paralyzing a small school district. The operations of the school and student learning are significantly compromised.
- The law does not account for stages of child development. An HIB allegation against a K student vs. an 8th grade student are completely different. But in the eye of the law, they are not and must be investigated in the same exact way. I understand the reason behind this, but it does make it very difficult. Especially for parents to understand, as most do not have a background on the way in which a child develops socially and emotionally.
- The appeal process has led to significant issues. BOE members should not be the individuals making the final call on these findings as they are not adequately trained on ABR and there are often significant conflicts of interest.
- No barriers at this time; however, the choice of who can serve in this role should be offered to an additional and broader scope of staff members, as it is a conflict of interest for counselors to investigate students for bullying and then counsel them. It can have a negative impact on relationships and trust built.

- We have 1200 high school students and one ABS. The ABS is the SAC. It is a conflict for the ABS to make the determination of HIB but then also be responsible for meeting with the student to discuss the behavior and provide interventions.
- The lack of parental education with respect to the ABR. Also, the lack of understanding from the BOE members who overturn HIBs without having the proper training to understand the process and the outcomes as decided by the building's ABS and administration.
- Time is a barrier. Access to students is a barrier--they lose instructional time during the investigation.

8. Areas Needing Clarification

In Question 8, members were asked to identify **areas of the law or its implementation that need clarification**. There were 147 responses which are grouped into the following areas:

A. The Definition:

- The definition of the law to parents, including a definition of bullying vs. conflict and things that are addressed by the Code of Conduct.
- There needs to be developed a user-friendly definition of bullying that students can understand. The legal definition is too wordy and complex for many students to understand.
- Imbalance of power must be included in the definition.
- The area centered around "other distinguishing" characters and "substantial disruption" need clarity and tools to assist us in applying them in the school context.
- There needs to be limits to the scope of the law's coverage of events that occur off school time, off school grounds, or not at school events.
- First Amendment rights vs "bullying" speech needs to be explained.
- A single incident vs on-going conduct?
- The definition of bullying versus harassment and intimidation, what confirmed or unconfirmed mean, that labels (like bully, victim, etc.) should NOT be used, and the limitations of schools in addressing the situation.
- Are students who are being bullied for reasons other than defining characteristics protected under the HIB law? If so, how?
- A clear explanation that if there is back and forth and/or retaliation it is classified as a conflict.
- What is the definition of a "hostile environment?"

B. Preliminary Determination:

- The preliminary determination clause is ineffective – even though our district has given us this authority, as it stands, we are being advised by our counsel to investigate anyway.
- The role of the BOE, if any, when a principal and superintendent make a preliminary determination not to investigate as the incident did not meet the legal definition of HIB. Can a parent appeal to the BOE on this? According to our County office, they can, and the County office can get involved. This needs clarification.
- Communication timeline in the pre-investigation.
- Principal's discretion: our principals have a mindset to err on the side of caution, fearing that if they don't investigate as an HIB, they will be blamed for not taking the event seriously enough...so the result is that they end up unnecessarily investigating situations that are not

HIB because they do not seem to believe that addressing it through our code of conduct is serious enough, and they seem to want to cover themselves.

- We need a statement of confidence in a school district's ability to allow preliminary determinations by trained principals and superintendents, so they feel supported/protected enacting/using it.
- Professionals need to be able to make preliminary determinations --- it should be written into the code!
- If there is any discretion at all. It seems like there is, but in reality, you have to investigate everything as an HIB if certain terms are used.

C. The Investigation Process

- The initial reporting calls often cause high levels of angst and concern prior to actually speaking with students. Parent interference is raised right away.
- What exactly Parental Notification should look like. What is permitted to be shared; not permitted to be shared. The documentation and letters to parents at the conclusion of the case, it is very hard to interpret when letters should be sent. Also open to interpretation how much information and data from the case can be shared with parents.
- The timeline as it relates to the number of days and when the "clock" starts, so to speak.
- Scope of investigations. Parents need to address children's behavior after school.
- How to do a ten-day investigation if/when key parties are absent. How to manage four or more HIBs at once in a small district. Who should contact the parents? Should it be the ABC or a different person to protect the ABC? When to involve law enforcement?
- The rights of the parents of the students who have been accused.
- Appropriate coordination with law enforcement, if relevant.
- Appeal process and timelines.
- Statute of limitations and impact on a students' educational programming.

D. Interventions and Consequences

- When a student needs an intervention plan to return to school after 3 HIB incidents. Is it throughout their entire career in the district or just one year? Very gray area.
- Instruction and the educational process should not be compromised for the victims, the offenders, or other students who are either directly or indirectly involved.

E. Special Issues

- How ABR and Sped connect or diverge; guidance on consequences and next steps.
- Bias reporting to law enforcement and prosecutor's office.
- How to appropriately apply the law at different developmental ages and stages?
- How the ABR relates to sexual misconduct.

F. Practice Issues

- Please present specific, updated scenarios so more case law is available.
- What is required for it to be a HIB and if a student is constantly making threats that are not related to a distinguishing characteristic what additional steps can be taken beyond code of conduct?
- Applicability of special education code.

- There needs to be a delineation between age-appropriate disagreements and use of the word "bully" and egregious acts of HIB. The required communication to families escalates stress and anxiety over a process that should not produce that for our communities. In other words, it has unintended effects of law-like consequences for our families and misunderstanding (regardless of education campaigns) of the repercussions, especially for families where English is a second language & immigrant families.

G. Social Media Issues

- How to effectively intervene in incidents that occur over social media. This is a parenting issue.
- The parameters of if, and how, law enforcement can assist us with social media issues?
- How can schools convince social media companies to take down damaging posts?

9. Recommendations

The ninth question asks about **recommendations** for changes to the ABR. Please see the end of this document for recommendations offered in summation of the findings of the survey.

10. Training for School Employees – Staff and Board Members

In this section, NJPSA members were asked, **Do you believe that more professional training is needed for school employees on the ABR law? If so, please describe the types of training needed.**

The majority of the 127 individuals who responded to this question answered in the affirmative, although a significant number of respondents stated that current training requirements were sufficient. In the latter group, respondents stated that current requirements prepared them to implement the law, that more training would be burdensome and costly, and that the problem was not with the lack of training, but with key aspects of the law itself (complexity, social media issues, overly broad scope of the law, time, staffing, and lack of funding).

Of the individuals who believe more training is needed, many would differentiate the intensity of the training based upon the school employee's role in the ABR investigation process. Although all school employees need training on the parameters of the law, many felt that Anti-Bullying Specialists, Coordinators, and administrative teams investigating these matters could use more practical training on investigative procedures, techniques, interviewing witnesses, and reporting. They also felt that current training could be revised and updated, rather than adding additional mandates for staff training.

An important area to address, and one that was raised by many, is training on the reporting of bias-related events and the interplay between law enforcement and HIB investigations where potential crimes have occurred. Members believe that law enforcement and the prosecutor's office need to be on the same page with a clearly defined process.

Members also believe that board of education members need comprehensive training on the law and its parameters due to their ultimate role in hearing parent appeals of local decisions on investigation results and findings.

In terms of staff training, NJPSA members shared the following needs and comments:

- All required training must be funded by the state.
- Case study training for counselors and administrators to see what outcomes or consequences are effective with which types of behaviors and to standardize responses across districts.
- Staff members conducting investigations often feel as though they are taking on a law enforcement role that contradicts their role as an educator dedicated to supporting students, especially when others may be weaponizing the ABR for their own best interest when it cannot be implemented as intended.
- Teachers need more clarity around the ways they are susceptible to HIB accusations from parents. I think that most teachers are terrified when a student mentions bullying and they very quickly send them to the office. Training is needed to help teachers be more comfortable with the term and be able to assist and support their students properly.
- Exclusively video-based training is NOT effective.
- The preliminary determination process and requirements.
- Specifically with respect to how to implement positive school climate changes in everyday ways.
- Staff need to understand the difference between classroom management and HIB; the process and their rights if accused.
- Procedures - the step-by-step process since forms and the process changes often.
- Board member training is critical – their role and the process.
- BOE members should be required to complete the entire ABS training if they have the power to overturn HIBs and conduct appeal hearings. There needs to be a structured, straight forward Appeal process as well.
- Continue training/refresher training.
- All teachers should be trained to recognize and differentiate what is bullying and what is not.
- Training on how to reduce HIB or Code of Conduct infractions by characteristics or protected class.
- Training on creating a positive school climate.
- Share scenarios and investigations from beginning to end, not a one-and-done.
- More training is needed. In addition, more resources (money for programs, training for students, staff, and parents, etc.) are needed at the middle and high school levels. Finding evidence-based programs for these levels has not been easy.

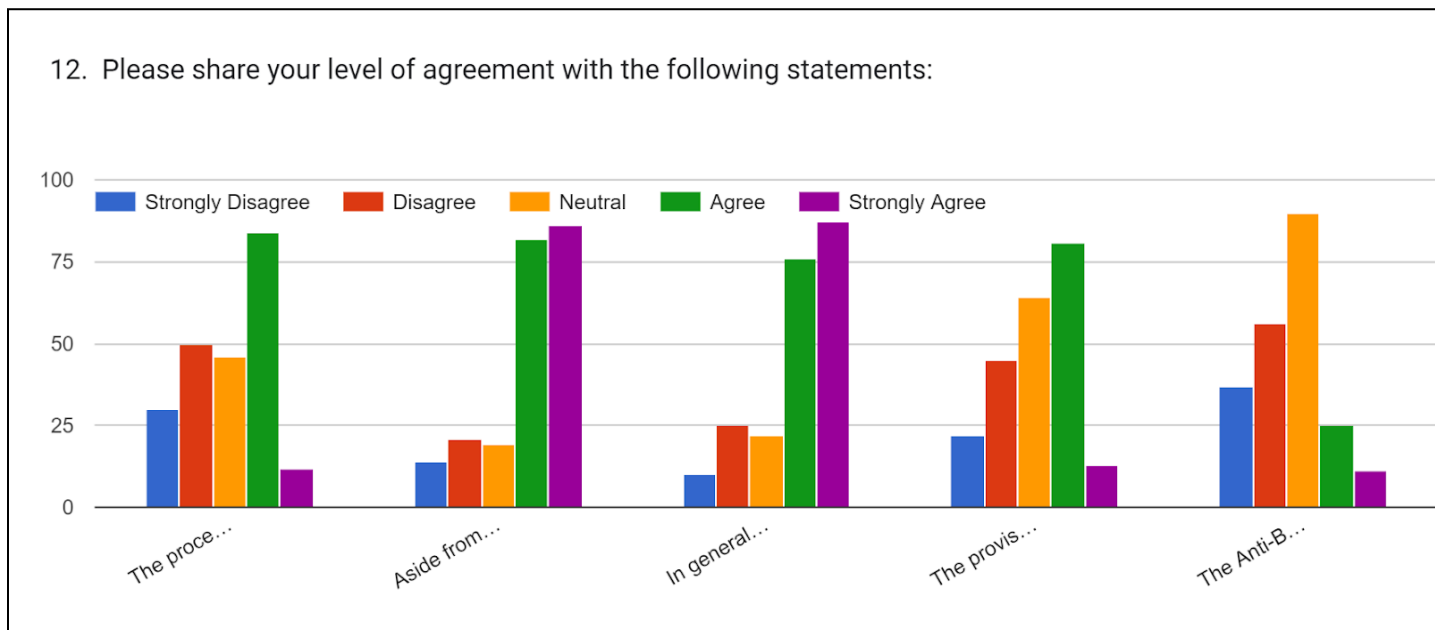
11. Training for Parents

With a few exceptions, NJPSA members believe that statewide training options for parents are needed, beyond what local districts can offer. Some members voiced concerns about parental attendance at such training and the lack of any viable enforcement mechanism, but, overall, members felt that statewide training options for parents would be a positive step forward in the implementation of this law. Members recommended that the NJDOE state-level Anti-Bullying Coordinator should identify and develop training options and disseminate this information to parents and school districts. They strongly believe that this is a state mandate, so the state needs to take more responsibility in educating parents about the law. The content of this training should include:

- The legal definition of HIB vs. common understanding of the word bullying, including what a "distinguishing characteristic" is and what "substantial disruption" means.

- The difference between HIB and code of conduct violations and the fact that a continuum of potential interventions and consequences occur for both types of behaviors.
- How parents can help their children manage childhood conflicts, developing resilience, and how to monitor their child’s online actions (digital citizenship).
- HIB procedures and appeal rights.
- Confidentiality rules for all students including FERPA requirements.
- Student development and appropriate behaviors at developmental stages.
- The negative repercussions to the students, as well as the ripple effect on the school and district, when frivolous claims and false accusations are brought.

12. Final Question – Members’ Perspectives on the Process



In the final questions members were asked their level of agreement or disagreement with a series of statements. From left to right, the questions and responses are:

A. The procedural requirements of the ABR (forms, parental notification, timelines, etc.) help us successfully address HIB allegations.

Strongly Agree: 12
 Agree: 84
 Neutral: 46
 Disagree: 50
 Strongly Disagree: 30

B. Aside from procedural requirements and who conducts the investigation, HIB allegations and Code of Conduct allegations are investigated with the same level of attention, effort, and concern.

Strongly Agree: 86
 Agree: 82
 Neutral: 19

Disagree: 21
Strongly Disagree: 14

C. In general terms, the administrative actions taken (warning, interventions, counseling, mediation, detention, suspension, etc.) are the same whether an offense is found to be a HIB or Code of Conduct violation.

Strongly Agree: 87
Agree: 76
Neutral: 22
Disagree: 25
Strongly Disagree: 10

D. The provisions of the ABR have increased my school community's awareness and response to allegations of HIB.

Strongly Agree: 13
Agree: 81
Neutral: 64
Disagree: 45
Strongly Disagree: 22

E. The Anti-Bullying Bill of Rights has resulted in a more positive school climate for students in my school.

Strongly Agree: 11
Agree: 25
Neutral: 90
Disagree: 56
Strongly Disagree: 37

Representative Member Comments:

NJPSA members noted that positive school climates result from district actions, curriculum and programming, not the provisions of the ABR itself.

- I fully understand the need to make sure students are safe and that those who err are addressed, but the ABR process is clunky and oftentimes leads to more issues than originally intended due to paperwork, timelines, and communication needs.
- I don't think the ABR is the reason for our positive school climate, especially at the elementary level. Positive school climate has been created through extensive infusion of SEL, character development programs, and approaches throughout our entire district. Proactively teaching social and emotional skills, reinforcing kindness, respect, and citizenship as a school culture is what I believe cuts down on bullying incidents. Of course the law is necessary for schools if/when an incident occurs, to have procedures and processes to follow, a definition to use, etc. But the HIB law is not what transforms students' behaviors or stops bullying; that comes from the entire school community recognizing positive relationships, a caring environment, and tirelessly teaching & promoting SEL skills. THAT is what transforms students, changes behaviors, stops bullying, and ultimately changes people's hearts and choices. When students

learn to stop and think, when they learn empathy by putting themselves in others shoes, when they learn about conflict and how to talk things out appropriately and respectfully, when they learn about different cultures and begin to appreciate each others differences, when they are reinforced for being kind, compassionate, helpful, thoughtful citizens, when they learn to regulate their own emotions and respond rather than react out of anger, THAT is what makes the difference. THAT is what can change the world.

- This role is really challenging. It is just about a full-time job. But very few districts have the capability of making this a full-time job, which just means that the people in these roles constantly feel like they are lacking in some area. Stop making mandates that have no support for implementation. This is why so many people leave the profession and don't come back.
- Good schools immediately address any form of bullying with both discipline and proactive measures. This law is really an anti-discrimination law which has merit but adds a massive layer on top of thorough work that schools do and that inevitably re-aggravates all parents, students, and stakeholders involved. It is exhausting to stand in front of a BOE and explain that something is traditional bullying but not HIB on so many levels.
- When investigating, most times the conduct itself has been handled under the Code of Conduct. Whether it is HIB is just a label that does not change consequences since you are disciplining the action and giving conduct and/or remediation.
- The school climate committee/safety team is positive and should be used more as an agent of change. They need more time to collect the right data, analyze the data in the right way, and have time and funds to implement the correct interventions and resources. This committee should be the focus of the ABR but instead it is the HIB investigation.
- Mental health issues are greatly impacting students and their ability to cope with daily stressors. Lack of social skills and interpersonal skills have given rise to conflicts and are immediately labeled by the students and their parents as bullying. It is difficult for schools to be a one-stop for all of these issues when funding is lacking and community services are not readily available due to issues such as family health insurance coverage limitations. In theory, the law is good. In practice, there are many flaws, and it does not seem to be protecting the students in the ways it was designed to. The law does not take into account the relationship that schools have built with families (of the victim) and the requirement to open an investigation when information is received has caused damage with relationships between our Anti-Bullying Specialists, who are our guidance counselors, and students/families.
- The idea behind the law makes sense however, the way it is written and the expectations are not achieving the desired outcomes. I can only speak from a high school perspective but peer conflict is no longer allowed to exist. Everything seems to end up in HIB and more often than not it's CYA or the fact that HIB definition requires that something only has to happen once and imbalance of power is not mentioned. Also, the amount of time and resources this takes is daunting. There needs to be change or the funding provided to hire staff to handle the volume.

Specific NJPSA Recommendations

In response to question 9 on the survey, as well as the comments and experiences of our members, NJPSA recommends that the Anti-Bullying Task Force consider the following:

- The NJDOE and the Anti-Bullying State Coordinator should **identify, develop, and/or update resources for school districts** that can assist in the implementation of the ABR. Some examples include a sample template for an intervention plan, investigation techniques, procedural checklists, plan ideas for repeat offenders, standardized letter templates for parental notifications, free parent training modules, FAQ documents on what is or is not HIB,

and supportive resources for both victims and offenders. Provide clarity on whether an intervention plan is required for three offenses in one year, in a calendar year, in a three-year period (allowing for development growth), during the entire school career, or with the same student/group of students. Note that current [guidance](#) on the NJDOE website reflects initial ABR implementation in 2010.

- **Funding** must be provided to assist districts in obtaining the necessary staffing and resources to implement the law. Advocate that the State Legislature fund the Bullying Prevention Fund created within the ABR.
- Develop easy to understand materials that **clarify the legal definition of HIB** including key components of the definition (distinguishing characteristic, substantial disruption, etc.). Also the use of "substantial disruption" is a very broad term. There needs to be a set of guidelines and tools to help schools communicate better with stakeholders to effectively implement this.
- Reconsider the widespread use of school counselors in the role of Anti-Bullying Specialist. There should be a **specific position created to conduct HIB investigations**. The ABS role pulls school counselors from direct service responsibilities to students and negatively impacts the counselor's relationship with students and families.
- **Adjust the parental notification requirements** prior to the start of the HIB investigation to minimize interference. Modify the timeline for parental notification to 24 hours (not inclusive of Saturday/Sunday/holidays barring threat to self/others) from the date/time that principals receive a report of a bullying incident. The same day requirement is often unmanageable if the report occurs at the end of the school day or involves a large number of students, and it will frequently compromise the investigation, cause undue or premature upset, and result in parental/student attempts to triage or "manage" the situation, potentially further victimizing the alleged victim.
- Clarify the **rules for non-school days** (weekends, holidays, summers, and breaks) within the investigation timelines.
- Clarify how an **appeal** should actually work in front of the BOE. Who can testify? Can new evidence be presented? Is there a time limit in speaking to the BOE? Should the solicitor be there? Does the victim need to be notified and have a right to testify?
- There should be more **funded training** available for school staff, administrators, students, **parents, Board of Education**, and School Climate Teams, as well.
- Revisit the **timelines** to be more realistic for the thorough completion of investigations, particularly if multiple HIB investigations are underway.
- Support the use of the **preliminary determination** process as the law provides to target school efforts appropriately to incidents that meet the legal definition of HIB.
- Assist schools in addressing allegations of bullying that involve **social media**. Schools have no tools to track down the offenders and no leverage with social media companies to convince them to take down harmful posts. This must be addressed.

- Limit the **scope of coverage** of the ABR to limit school responsibility for incidents that occur away from school or outside of school sponsored events. The current breadth of expectations is too high a standard for schools to cover. Parental involvement and accountability must be part of the solution.
- The **ABR Self-Assessment** should be modified or removed as a requirement. It can be a quick checklist of requirements to follow instead of a 26 element rubric.
- Consider **different nomenclature** for confirmed cases of HIB at the K-5 level and as it pertains to special education students where their disabilities impact their ability to understand their words/actions (these allowances exist in current special education code regarding disciplining students with disabilities).
- **Streamline the process** wherever possible. Develop the ability to integrate systems like Hibster with SSDS so districts do not have to do double-entry of data.
- Develop **expectations for parents** to be involved in interventions, consequences and any restorative practices assigned to address an offender's behaviors.
- The driving force behind parents' and students' unwillingness to openly engage in addressing the behaviors that meet the definition of HIB is the fear that a lifelong label of "bully" will follow the student forever, funneling them into a defensive posture instead of a cooperative, growth-oriented one. Provide clarity on reporting that explicitly allows schools to maintain confidential, internal, school-career-long **records** of HIB investigations/outcomes so that patterns/trends can be identified with individual students or on a schoolwide basis but explicitly prohibit reporting student-specific information to any other entity without written consent by the parent of a minor student or a student/alumnus aged 18 or older.
- Continue to seek out the **voice of administrators and educators** in the field who are charged with the direct implementation of this law and who work every day to promote the well-being of all students.

While this may be unrealistic in the context of the Anti-Bullying Task Force's current charge, it warrants mentioning that our members believe that the best way to most effectively address the behaviors that are often classified as HIB is, in a sense, to **reverse the order of the current procedural aspects** of the ABR. If incidents were first investigated as Code of Conduct violations without alarming parents with premature notifications that offer little to no information, parental interference would be reduced, allowing investigations to proceed naturally and expeditiously in schools by the appropriate staff member (vice/assistant principal or principal). At the conclusion of the investigation, the findings are reviewed through the lens of what does and does not qualify as harassment, intimidation, and bullying in accordance with the Anti-Bullying Bill of Rights, at which point a timeline goes into effect for formal reporting purposes to parents, the superintendent, and the Board of Education. Earlier notification to parents and/or the superintendent could happen as a natural part of the investigation and with a greater focus on identifying emergent issues, as well as preparing the parent/student for remedial steps (from counseling to consequences) with a focus on learning and personal growth. This is also the point at which the Anti-Bullying Specialist is brought into the situation to begin the mediation, counseling, and recovery process, allowing that role to continue to be filled by school counselors in keeping with their true purposes in their schools. The purpose of the Anti-Bullying Bill of Rights is to identify, educate, and improve interpersonal

interactions between students, not out of fear but through supporting personal growth, and that requires finesse, not force. The current procedural requirements of the ABR are more force than finesse, undermining everyone's shared goal in bringing incidents of HIB to an end.

Thank you for your consideration of the views, experiences and recommendations of the membership of the NJ Principals and Supervisors Association.

Submitted by:

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