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July 9, 2012

TO: Chief School Administrators
Charter School Lead Persons
Directors, Approved Private Schools for Students with Disabilities

FROM: Barbara Gantwerk, Assistant Commissioner 
Division of Student and Field Services

SUBJECT: Harassment, Intimidation and Bullying Requirements
Involving Approved Private Schools for Students with Disabilities

This is to advise you on the requirements for approved private schools for students with disabilities (PSD) to address harassment, intimidation and bullying (HIB). Pursuant to *N.J.S.A. 18A:37-31*, all nonpublic schools, including PSDs, are encouraged but *not required* to implement the *Anti-Bullying Bill of Rights Act (P.L.2010, c.122) (ABR)*. Although public school districts are required to implement *both* the ABR *and* the applicable provisions of *N.J.A.C. 6A:16-7.9*, PSDs are *only required* to implement the HIB regulations at *N.J.A.C. 6A:16-7.9*, which does not include all of the provisions in the ABR.

Therefore, PSDs are not required to comply with new provisions in the public school district's HIB policy or programs (i.e., appointment of school anti-bullying specialists or district anti-bullying coordinators, operating school safety teams) that were adopted to comply with the ABR. However, a PSD could, by agreement with school districts, agree to perform tasks required by the ABR. For example, school districts could consider including an agreement which requires the PSDs to submit reports on HIB incidents. However, in no instance may sending school districts represent their requests additional provisions as being state requirements that apply to PSDs or as being established for state purposes, unless the requirements are specifically set forth in *N.J.A.C. 6A:16-7.9*.

In regard to HIB investigations, the principal or principal's designees of PSDs are responsible for conducting HIB investigations in the PSDs (*N.J.A.C. 6A:16-7.9(a)2viii*); whereas, the school anti-bullying specialists, in cooperation with the principals of public schools, are responsible for conducting HIB investigations in public schools (*N.J.S.A. 18A:37-15b(6)*).

PSDs can act on their own in response to HIB incidents, consistent with *N.J.A.C.* 6A:16-7.9, until the point at which public school districts are mandated to become involved in disciplinary consequences, pursuant to *N.J.A.C.* 6A:14-7.6(e) and (f).

BG/SM

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