

Can A 7-Year Old Commit An Act Of Harassment, Intimidation Or Bullying Against Another Student In Violation Of The Anti-Bullying Bill Of Rights Acts? The Answer Is Yes.

October 29, 2018 | by Jennifer Fortunato

In the case of *J.L. v. Bd. Of Educ. Of the Bridgewater-Raritan Reg'l Sch. Dist.*, ____ N.J. Super ____ (App. Div. 2018), the Board of Education of the Bridgewater-Raritan Regional School District found that a group of 7-year old girls committed an act of harassment, intimidation or bullying (HIB) in violation of the Anti-Bullying Bill of Rights Act (Act) by engaging in name-calling and making fun of a student's speech on the school bus. One of the students, Anna L., appealed the Board's decision. Ultimately, the Appellate Court remanded the matter to the School Board to conduct a full and proper hearing to determine if Anna L.'s conduct constituted an act of HIB after the School Board undisputedly failed to comply with the notice requirements of the Act.

The father of an elementary school student, Ella, emailed his daughter's elementary school's principal advising that his daughter had been bullied on the school bus for several months. At the time, all of the students were 7-years old. In response, the principal instructed the school counselor and anti-bullying specialist to investigate. After investigating several students on the bus including Anna L., who admitted to making fun of Ella's speech on only one occasion, the anti-bullying specialist wrote a report finding that the students' conduct constituted HIB. This report was signed by the school principal and superintendent of the school district and subsequently approved by the School Board. According to the anti-bullying specialists report, the students were issued a "verbal reprimand, their parents were telephoned and a change of bus seating" was initiated. Anna L's parents wrote to the superintendent and explained that they were aware of the investigation, but no one had contacted them.

Anna L. appealed the School Board's decision to the Commissioner, who referred the matter to the Office of Administrative. The Administrative Law Judge found that the School Board violated the notice

requirements of the Act, but he declined to make a substantive determination as to whether Anna L's conduct constituted HIB. The Administrative Law Judge concluded that remanding the matter to the School Board for a hearing would be unfairly prejudicial to Anna L. due to the passage of time since the events. The Administrative Law Judge concluded the only viable remedy for the School Board's procedural violations of the Act was a reversal of the HIB determination and expungement of any reference to the incident from Anna L's school records.

The School Board presented the Administrative Law Judge's findings to the Commissioner to review. The Commissioner agreed with the Administrative Law Judge's conclusion that the School Board violated the requirements of the Act, but the Commissioner disagreed with the Administrative Law Judge's remedy and he remanded the matter for a hearing before the School Board.

Anna L. appealed the Commissioner's decision to modify the Administrative Law Judge's decision by remanding the matter to the School Board to conduct a hearing. The Appellate Court agreed with the Commissioner's decision to remand the matter to the School Board for a full and proper hearing to determine if Anna L.'s conduct constituted an act of HIB as a result of the School Board undisputedly failing to comply with the notice requirements of the Act.