



Protecting the Right to a Quality Education: Standing Together for Schools that Are Safe and Free of Discrimination

July 5, 2011

Our Position

Ensuring that education is safe and free of discrimination isn't about sexual orientation and gender identity, or how you might feel about LGBT issues being raised in schools. As Dr. Eliza Byard, Executive Director of the Gay, Lesbian and Straight Education Network, put it, "This is an issue of behavior, not belief." This is about stopping abhorrent behavior that prevents victimized students from accessing a quality education. The problem isn't new; what's new is that we're finally talking about it. Innocent students at every level have been targeted for bullying and harassment. Their pleas to their teachers, principals, and university administrators for help – if they are brave enough to make them in the first place – too often go unanswered. What should be a haven for learning has instead become, for LGBT students and those who are perceived to be LGBT, a site of abject torment. All of our young people deserve far better than that.

Talking Points

Bullying and harassment are forms of discrimination, but federal civil rights statutes leave LGBT students, and those who are perceived to be LGBT, unprotected. Federal law protects against discrimination based on race, color, sex, religion, disability, and national origin. There are no federal protections for sexual orientation or gender identity. LGBT students, those who are perceived to be LGBT, and their parents are left with little legal recourse in the face of bullying and harassment, where there would be a variety of remedies available under different circumstances.

Bullying and harassment in schools is a pervasive national problem. According to the [2009 National School Climate Survey](#): 84.6% of LGBT students suffer verbal harassment; 40.1% were subject to physical harassment; and 18.8% experienced physical assault based on sexual orientation. For gender identity harassment, it's 63.7% verbal and 27.2% physical, with 12.5% reporting physical assault. In many cases, not surprisingly, this makes these vulnerable students feel unsafe: 61.1% of students reported feeling unsafe based on sexual orientation; 39.9% based on gender identity.

Both Americans overall and education professionals in particular recognize the problem and support congressional action. On December 8, 2010, USA Network published its 2nd annual "[United or Divided](#)" poll in conjunction with Hart Research Associates and Public Opinion Strategies. 58% of respondents give America a C or D grade for its efforts to stop bullying by kids. 89% believe it is a serious problem, and nearly as many, 85%, support congressional action to resolve the problem. 70% are concerned that it's a growing trend. In the education community, anti-bullying allies include the American Association of School

Administrators, American Federation of Teachers, American Schools Counselors Association, American School Health Association, National Association of School Psychologists, and National Education Association, among many others.

When students lose their sense of safety, they lose their access to quality education. A student who feels unsafe due to bullying and harassment may choose to simply avoid the situation altogether, adding a loss of learning to the harms they're already suffering. According to the [2009 National School Climate Survey](#), "29.1% of LGBT students missed a class at least once and 30.0% missed at least one day of school in the past month because of safety concerns, compared to only 8.0% and 6.7%, respectively, of a national sample of secondary school students." And even when they remain in class, targeted students lose as much as half a grade point.

As Congress works to reauthorize the Elementary and Secondary Education Act, it should address the bullying and harassment problem. Since 1965, ESEA has served as the fundamental blueprint for education in America. While it sets forth a broad range of requirements, ESEA doesn't currently provide any protections against bullying and harassment for any protected class. Building a strong sense of safety and fostering equality is just as important to education as teacher hiring, curricular standards, and student performance. ESEA is long overdue for an update, and its reauthorization is an appropriate venue to address this pervasive national problem, including for students who are LGBT or perceived to be LGBT.

This isn't just an elementary and secondary education problem but also extends to college campuses. The untimely death of Rutgers University freshman [Tyler Clementi](#) was a tragic reminder that the end of high school doesn't mean the end of bullying and harassment. According to the [2010 National College Climate Survey](#), 23% of lesbian, gay, bisexual, and queer students, 39% of transmen, and 38% of transwomen reported harassment, the overwhelming majority in all cases attributing that harassment to sexual orientation or gender identity.

This isn't just a question of education. It's a matter of life and death. These days we can't seem to escape the stories of lives ruined, or even ended, by bullying and harassment based on actual or perceived sexual orientation or gender identity. Even one death is too many. What is happening now is unconscionable. This must stop. And if it doesn't, much of what we're fighting for today – implementing Don't Ask, Don't Tell repeal, passing the Employment Non-Discrimination Act, health benefits and housing, immigration rights, relationship recognition, marriage equality – won't mean anything tomorrow.

Just as Shepard's legacy lives on, our work continues. On October 7, 1998, Aaron Kreifels found Matthew Shepard clinging to life in a field outside Laramie, Wyoming. Unfortunately, Shepard lost that battle five days later. Today [his mother, Judy, fights on:](#)

Quite simply, we are calling one more time for all Americans to stand up and speak out against taunting, invasion of privacy, violence and discrimination against these youth by their peers, and asking everyone in a position of authority in their schools and communities to step forward and provide safe spaces and support services for LGBT

youth or those who are simply targeted for discrimination because others assume they are gay. There can never be enough love and acceptance for these young people as they seek to live openly as their true selves and find their role in society.

Legislation

The Safe Schools Improvement Act (SSIA) ([H.R. 1648/S. 506](#)) and the Student Non-Discrimination Act (SNDA) ([H.R. 998/S. 555](#)) work together to address bullying and harassment in public elementary and secondary schools. SSIA supports the creation of comprehensive anti-bullying policies that enumerate specific categories of victims, including incidents based on sexual orientation and gender identity, as well as data collection, public education, and grievance procedures. SNDA protects students from school-based sexual orientation and gender identity discrimination, much like Title IX does for gender discrimination, and much like other areas of law do for various protected classes. SNDA recognizes bullying and harassment as discrimination, and it provides both for remedies against discrimination and incentives for schools to prevent it from happening in the first place.

Both SSIA and SNDA are being discussed in the context of the yet-pending reauthorization of the Elementary and Secondary Education Act (ESEA).

Additionally, the Tyler Clementi Higher Education Anti-Harassment Act ([H.R. 1048/S. 540](#)) requires institutions of higher education receiving certain federal funds to develop and implement statements of policy prohibiting harassment, including sexual orientation and gender identity protections, and also work to prevent such harassment. These institutions must also implement and inform students of procedures to respond to incidents of harassment. The bill creates a grant program to support this work.

Action

Contact your [Representative](#) and [Senators](#) and tell them that all students should feel safe and secure when they enter the schoolhouse doors or walk onto a college campus. Let them know that the time to act is now. Urge them to support the Safe Schools Improvement Act (SSIA), the Student Nondiscrimination Act (SNDA) and their inclusion in the reauthorization of the Elementary and Secondary Education Act (ESEA), as well as the Tyler Clementi Higher Education Anti-Harassment Act. Thank anyone who has cosponsored safe schools legislation. Write a letter to the editor of your local newspaper explaining how anti-bullying and anti-discrimination policies will foster safer learning environments, and how America can do better than letting young people live their lives in fear.

Further Reading

[American Civil Liberties Union](#)
[American Foundation for Suicide Prevention](#)
[Anti-Defamation League](#)
[Campus Pride](#)
[Gay, Lesbian and Straight Education Network](#)

[Gay-Straight Alliance Network](#)
[Human Rights Campaign](#)
[It Gets Better Project](#)
[Make it Better Project](#)
[National Gay and Lesbian Task Force](#)
[PFAW: Right Wing Watch Report](#)
[Trevor Project](#)