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May 27, 2011

**Via Electronic Mail**

Kim Tolhurst, Esq., Acting General Counsel  
U.S. Commission on Civil Rights  
624 Ninth St., N.W.  
Washington, D.C. 20001

Dear Commissioner Members:

Re: Model Anti-Bullying and Harassment Policies

Thank you for allowing the Gay, Lesbian & Straight Education Network (GLSEN) to submit testimony on the critical issue of school bullying and harassment at the recent hearing. We would like to supplement our testimony by submitting the attached model anti-bullying and harassment policies, in further illustration of the way in which effective, enumerated policies are also inclusive of all students.

GLSEN's Model State Anti-Bullying and Harassment Legislation, Model District Anti-Bullying and Harassment Policy, and Model School Anti-Bullying and Harassment Policy provide an solid basis from which advocates and policymakers can develop and implement effective anti-bullying policies at the state, district, and individual school levels. Rather than limiting anti-bullying protections to only certain categories of students, these models prohibit bullying and harassment against all students, while at the same time, specifically enumerating certain categories of students who frequently face bullying and harassment in school. Notably, these policies are broadly aligned with the inclusive definitions of bullying and harassment found in the proposed Safe Schools Improvement Act, about which we've earlier corresponded.

These models were generated through a detailed review of anti-bullying laws and policies adopted by states and school districts around the country, and they are both comprehensive and fully adaptable to meet the needs of the school community. In addition, these models conform to the guidelines for best practices in anti-bullying policies put forth by the U.S. Department of Education in December of 2010.

Sincerely,

Eliza Byard, Ph.D.  
Executive Director  
Gay, Lesbian and Straight Education Network (GLSEN)



ENSURING SAFE  
AND EFFECTIVE  
SCHOOLS FOR ALL

# MODEL STATE ANTI-BULLYING & HARASSMENT LEGISLATION

MODEL  
LANGUAGE,  
COMMENTARY &  
REFERENCES

REFERENCES  
COMMENTARY &  
LANGUAGE

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This document presents our Model State Anti-Bullying and Harassment Legislation, explains the policy objectives for each section of the Model, and presents some key points and alternatives to consider. The commentary below will help you tailor the model language to the specific needs of your state, while keeping the original intent of the legislation intact. While this document provides a useful model, it is still necessary to carefully consider the legislative background of your state, the local political environment, the fiscal impact of any proposal, and any existing laws with which this legislation might interact.

If you have any questions about this document or would like GLSEN's assistance to construct your own anti-bullying and harassment bill, you may contact our Public Policy Department at 202-621-5821 or by email at [publicpolicy@glsen.org](mailto:publicpolicy@glsen.org).

*Text in the beige boxes contains the language of the Model State Anti-Bullying and Harassment Legislation, partitioned by section.*

*Text on the white background lists and explains the policy goals and objectives for each section of the Model Legislation.*

*Text in the yellow boxes provides additional information and key points to consider.*

# LEGISLATIVE PURPOSE & FINDINGS

## MODEL LANGUAGE

Be it enacted by the Legislature of the State of \_\_\_\_\_:

### **Section 1.**

This Act, henceforth known as the Safe Schools Act, shall be hereby enacted to read as follows:

A. The Legislature finds and declares that:

- (1) All students have the right to participate fully in the educational process, free from bullying and harassment;
- (2) A safe and civil environment in school is necessary for students to learn and to achieve high academic standards;
- (3) Bullying and harassment, like other disruptive or violent behaviors, are forms of conduct that disrupt both a student's ability to learn and a school's ability to educate its students in a safe environment; and
- (4) Because students learn by example, school administrators, faculty, staff, and volunteers should be expected to demonstrate appropriate behavior, treat others with civility and respect, and refuse to tolerate bullying and harassment.

## POLICY OBJECTIVES

- **Explain the context and need for the legislation**
- **If appropriate, mention particular local needs or recognized incidents**

This statement provides the context for the legislation, which clearly explains why anti-bullying and harassment legislation is important. Often in attempting to decide how to rule on a particular case, courts will look to the “legislative intent” behind the law. The inclusion of a section like this — which describes the importance of a safe school environment and the way in which bullying and harassment can adversely affect that environment — can help answer that question.

## LOCAL MEDIA CONSIDERATIONS

In some states the need for state anti-bullying and harassment legislation is made particularly relevant by media recognition of incidents of bullying or their unfortunate consequences. If local media has been publicizing stories about bullying in schools, you may wish to include in the Legislative Findings section a short statement about the demonstrated need for this legislation in your state.

It's also possible to name the legislation after a particular student or students, especially if a high-profile event in the state has drawn attention to the issue of bullying and harassment. For example, Florida's anti-bullying law provides that “This section may be cited as the ‘Jeffrey Johnston Stand Up for All Students Act,’” after Jeffrey Johnston, a 15 year old boy that died by suicide after being bullied relentlessly.

## SHOULD PRIVATE SCHOOLS BE COVERED?

Ideally, anti-bullying and harassment legislation should protect all students by applying to both public and private schools. However, state laws tend to treat public and private schools differently, and many safe schools laws cover only public schools. You should determine whether it's possible, in your state, to reach private schools and whether there will be higher levels of resistance. As an example, Minnesota's anti-bullying law specifically defines an “Education institution” to mean a:

*Public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system, and a business, nursing, professional, secretarial, technical,*

*vocational school; and includes an agent of an education institution. Minn. Stat. Ann. § 363.01, Subd. 15.*

If the proposed legislation is intended to govern private schools, consider whether to include an exception applicable to certain religious schools to accommodate their constitutional rights. For example, California's law provides that:

*This article shall not apply to an educational institution which is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization. Cal. Educ. Code § 220.5.*

# DEFINITIONS & SCOPE OF PROSCRIBED CONDUCT

## MODEL LANGUAGE

### **Section 2.** Definitions and Scope of Proscribed Conduct

A. This act applies to conduct occurring on all public elementary and secondary school premises, at any school-sponsored functions or activities, and on school-sponsored transportation. This act also applies to usage of electronic technology and electronic communications that occurs on all public elementary and secondary school premises, at any school-sponsored functions or activities, on school-sponsored transportation, and on school computers, networks, forums and mailing lists.

B. As used in this Chapter:

- (1) The term ‘bullying’ used in this act means conduct that:
  - (a) Adversely affects the ability of one or more students to participate in or benefit from the school’s educational programs or activities by placing a student in reasonable fear of physical harm; and
  - (b) Includes conduct based on a student’s actual or perceived race, color, national origin, sex, gender, disability, sexual orientation, gender identity or expression, religion, or any other distinguishing characteristics that may be defined by a State or local education agency; or
  - (c) Is based on association with a person or group with any person with one or more of the actual or perceived characteristics listed in (b).
- (2) The term ‘harassment’ used in this act means conduct that:
  - (a) Adversely affects the ability of one or more students to participate in or benefit from the school’s educational programs or activities because the conduct as reasonably perceived by the student is so severe, persistent, or pervasive; and
  - (b) Includes conduct based on a student’s actual or perceived race, color, national origin, sex, gender, disability, sexual orientation, gender identity or expression, religion, or any other distinguishing characteristics that may be defined by a State or local education agency; or
  - (c) Is based on association with a person or group with any person with one or more of the actual or perceived characteristics listed in (b).

## POLICY OBJECTIVES

- **Make the Act applicable to all public schools and school-related activities**
- **Focus definitions of bullying and harassment focus on effect of behavior**
- **Specify definitions of bullying and harassment that enumerate specific categories of students to be protected**
- **Provide separate definitions for bullying and harassment**

In some cases, state legislatures have defined bullying and harassment coextensively— as if they were the same thing. A better view recognizes that while certain behavior may represent both bullying and harassment, there are cases in which harassment will not constitute bullying, and vice versa. In defining bullying and harassment, the focus should be on how the conduct interferes with a student’s ability to participate in educational opportunities. By focusing on the impact of the behavior of the “bully” or “harasser,” we do not become involved in issues of the actor’s intent. Rather, we stay focused on real harm to real students—which can adversely affect their educational opportunities.

In addition, this focus will help the legislation comply with the free expression requirements of the First Amendment. To maintain consistency between various state and local bullying laws as well as proposed federal laws, you should use the definitions of bullying and harassment as we have laid them out here. Enumerated categories are a key element in making sure that the legislation will protect LGBT students.

## ENUMERATION

As an advocate for anti-bullying and anti-harassment laws, policies and programs at the national, state and local level, you will be challenged to explain why enumerated categories are better than no categories at all.

When a law enumerates categories it usually identifies types of individuals or things that need to be protected.

We generally refer to these individuals or things as groups or classes. Anti-bullying and harassment bills are designed to address the needs of students who

experience bullying and harassment in their schools. This is best achieved through a policy which both requires that all students are protected from bullying and harassment and also specifies categories of students who must be included by name (e.g., LGBT students).

Any time an anti-bullying and harassment bill is introduced we urge its sponsor to enumerate the kinds

(Cont.)

# DEFINITIONS & SCOPE OF PROSCRIBED CONDUCT

## ENUMERATION (Cont. from page 4)

of students who must be included within the protection of the law. While the goal of any anti-bullying and harassment legislation is to protect all students, we know that enumeration that not only focuses on race, sex or religion – all of which are very important – but also on the basis of sexual orientation and gender identity is critical.

Unfortunately, there are a large number of legislators, community leaders and others who believe that singling out by name any one group through enumeration gives that group special privileges. This is the area where your anti-bullying advocacy is likely to be most controversial and have the greatest opposition. However, we know that enumeration is absolutely necessary to protect ALL students as research has consistently shown that students experience less bullying, they feel safer overall, and teachers are more likely to intervene to prevent incidents of bullying in a school with an enumerated policy.

- The strength of an enumerated law or policy is that it underscores that those students that research shows are most likely to be bullied and harassed and least likely to be protected by generic anti-bullying and harassment laws and policies are protected, as well as ALL other students.
- Proponents of non-enumerated bullying laws argue that enumerated categories protect fewer students than generic laws because only certain students are protected. However, although enumerated bullying laws place an emphasis on certain categories because of their prevalence, all students are still protected. Furthermore, our research shows that students who live in states or school districts with enumerated laws and policies are provided greater protections across the board.
- Research has shown that students in states with non-enumerated bullying laws are no more protected from bullying than students who live in states without any anti-bullying and harassment laws (74.3% with generic policies vs. 75.0% with no policies report 'often or frequently' hearing homophobic remarks based on sexual orientation).
- Students report less overall harassment when they know their school has a comprehensive policy that includes enumeration. Students from schools

with an enumerated policy report that others are harassed far less often in their school for reasons like their physical appearance (36% vs. 52%), their sexual orientation (32% vs. 43%) or their gender expression (26% vs. 37%).

- Students whose schools have a policy that specifically includes sexual orientation and gender identity/expression are less likely than other students to report a serious harassment problem at their school (33% vs. 44%).
- Enumeration gives teachers and other educators the tools they need to implement anti-bullying and harassment policies, which makes it easier for them to intervene to prevent bullying. School personnel often fear that they will themselves be targeted for intervening on behalf of LGBT students. When they can point to language that provides clear protection for LGBT students, they feel more comfortable enforcing the policy. Students reported that teachers were significantly more likely to intervene always or most of the time in states with enumerated policies, as compared to states with either non-enumerated policies or no policies at all (25.3% vs. 15.9% and 12.3%).
- Evidence shows that school officials often do not recognize that anti-LGBT harassment and discrimination are unacceptable behaviors, or do not respond to the problem due to prejudice or community pressure without the cover of a specific law or policy.
- Students from schools with a enumerated policy are 50% more likely to feel very safe at school (54% vs. 36%). Students without such a policy are three times more likely to skip a class because they feel uncomfortable or unsafe (16% vs. 5%).

### All statistics quoted above are from the following two reports:

Harris Interactive and GLSEN (2005). *From Teasing to Torment: School Climate in America, A Survey of Students and Teachers*. New York: GLSEN.

Kosciw, J. G., Diaz, E. M. and Greytak, E.A. (2008). *The 2007 National School Climate Survey: The experiences of lesbian, gay, bisexual and transgender youth in our nation's schools*. New York: GLSEN.



# STATE DEPARTMENT OF EDUCATION RESPONSIBILITIES

## MODEL LANGUAGE

### **Section 3.** State Department of Education Responsibilities

- A. To assist school districts in developing policies for the prevention of bullying and harassment, the Department of Education shall develop and maintain a model policy that is:
- (1) Applicable to grades kindergarten through 12; and
  - (2) Contains definitions of bullying and harassment consistent with this Act.
- B. The Department of Education shall adopt rules to implement this legislation.
- C. The Department of Education shall develop appropriate procedures for:
- (1) Investigating violations of this Act;
  - (2) Reporting of and responding to failures to implement this Act by districts, schools, and administrators;
  - (3) Reporting of incidents of bullying and harassment by districts and schools;
  - (4) Publication of statewide statistics concerning bullying and harassment, as defined in this chapter; and
  - (5) Filing complaints regarding district failure to develop and implement policies that provide the protections set forth in this chapter.

## POLICY OBJECTIVES

- **Require the Department of Education (DOE) to maintain a model policy**
- **Require that the DOE Model Policy is consistent with the Act**
- **Grant DOE the responsibility to implement regulations**
- **Specify that DOE should develop procedures for investigating and responding to violations and publicizing bullying statistics**
- **Provide a procedure for filing complaints with the DOE**

Throughout this text, we have used the term Department of Education. Your state may use a slightly different term and you should modify your legislation accordingly.

# DISTRICT RESPONSIBILITIES

## MODEL LANGUAGE

### **Section 4.** District Responsibilities

- A. Each school district shall adopt a policy prohibiting harassment and bullying as defined in this legislation. Such policies shall, at a minimum, incorporate the model policy established by the Department of Education.
- B. Each school district shall adopt policies pursuant to this legislation that, at a minimum:
- (1) Prohibit bullying and harassment of all students, as specified and defined in this legislation;
  - (2) Designate one person in the district as the primary contact regarding the anti-bullying and harassment policy. The primary contact shall receive copies of all formal and informal complaints, have responsibility for assuring the implementation of the policy and procedure, and serve as the primary contact on the policy and procedures between the school district and the Department of Education;
  - (3) Require that school employees and trained volunteers who witness incidents of bullying or harassment, or possess reliable information that would lead a reasonable person to suspect that a person is a target of bullying or harassment, promptly report that information to the school principal and district designee;
  - (4) Provide a procedure for prompt investigation of reports of complaints of bullying or harassment, identifying either the principal or the principal's designee as the person responsible for the investigation;
  - (5) Delineate the range of ways in which a school will respond once an incident of bullying or harassment is identified, including a range of age-appropriate consequences that may or will attach to the prohibited bullying and harassment;
  - (6) Prohibit reprisal or retaliation against any person who reports an act of bullying or harassment and describe appropriate remedial action for a person who engages in reprisal or retaliation;
  - (7) Allow for anonymous reporting while clarifying that no remedial action may be undertaken solely on the basis of an anonymous report;
  - (8) Include a statement of how the policy is to be publicized, including that the school district's policy shall appear in new employee training materials, any publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for schools within the school district, and in any student handbook; and
  - (9) Describe a process by which data on incidents of bullying and harassment shall be collected, reported and analyzed at least on an annual basis.

(Cont.)

# DISTRICT RESPONSIBILITIES

## POLICY OBJECTIVES

- **Ensure that the policy is mandatory in every school district**
- **Include a reporting procedure with a primary contact in each district**
- **Require a defined disciplinary process and consequences**
- **Provide protection from retaliation for those who report incidents**
- **Provide for initial anonymous reporting of incidents**
- **Require that policy must use definitions of bullying and harassment that include enumerated categories of students**
- **Require publication of the anti-bullying and harassment policy**
- **Require the incorporation of the model DOE policy**

You should note that school districts and schools will, in all cases, have an existing code of student conduct, which includes many of the provisions called for in the model legislation. Therefore many if not most of these requirements will not impose major new obligations on schools or districts. At most, schools and districts will be required to amend existing policies to include the specific projections set forth in the legislation.

This is one area in which you will want to carefully review existing state law. It is likely that your state already requires a student discipline code and, if so, you should consider presenting this legislation as an amendment to the legislation which requires the discipline code.

In some states, local control is a very important issue and legislation that appears to ignore or supersede local authority may face difficulties. In such situations, another option is to state that each local jurisdiction must adopt a policy “that has a definition of harassment and bullying no less inclusive

## TRAINING & PREVENTION PROGRAMS

In order to ensure that school staff and teachers are actually aware of district policies enacted under this law to prevent bullying and harassment, it is advisable to have a requirement that they be trained about the policy. Generally, training requires resources, which may present a stumbling block to getting this legislation passed, particularly in a poor economic environment. At a minimum, however, the District Responsibilities section should include a requirement that information regarding the policy be incorporated into training programs for new employees. Because most districts require training for new employees anyway, this will present few resource implications. For example:

*C. Information regarding a local school district policy against bullying and harassment shall be incorporated into a school’s employee training program.*

Additionally, you may add a subsection encouraging but not requiring training and education programs to be developed at the district level. For example:

*D. Schools and school districts are encouraged to establish programs designed to help eliminate bullying and harassment, and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement, and community members.*

Alternately, you may require training at the local level if resources are later appropriated. For example:

*E. School districts are encouraged to; and to the extent funds are appropriated for these purposes, they are required to:*

- (1) At least annually ensure that all schools provide training regarding the school district’s/ school’s bullying and harassment policies that conform to this legislation to school employees and volunteers that have significant contact with students; and*
- (2) Develop and implement a program for discussing bullying and harassment issues and related school policies with all students.*



# SANCTIONS & CIVIL LIABILITY

## MODEL LANGUAGE

### Section 5. Sanctions and Civil Liability

- A. Any district or school not complying with the terms of this title shall be ineligible to receive state funds.
- B. This act is not intended to establish any private right of action.
- C. This act is not intended to limit the rights of any individual currently available under any other available law, civil or criminal.
- D. A school employee is immune from a cause of action for damages arising from any failure to remedy the reported incident, if they:
  - (1) Promptly report an incident of bullying or harassment to the appropriate official designated by the school district's policy; and
  - (2) Make this report in compliance with the procedures in the district's policy.
- E. A school employee, student or volunteer shall not engage in reprisal, retaliation or false accusation against a victim, witness or one with reliable information about an act of bullying or harassment.

## POLICY OBJECTIVES

- **Allow for administrative sanctions, such as denial of funds for noncompliance**
- **Ensure that the language does not limit current legal remedies**
- **Create a provision for immunity, so that the Act encourages teachers who witness bullying to report it**
- **Forbid reprisals or false accusations against those who bring complaints and witnesses**

## MISCELLANEOUS

## MODEL LANGUAGE

### Section 6. Miscellaneous

- A. The provisions of this title shall be severable, and if any court of competent jurisdiction declares any phrase, clause, sentence or provisions of this title to be invalid, or its applicability to any government agency, person or circumstance is declared invalid, the remainder of this article and its relevant applicability shall not be affected.
- B. The provisions of this article shall be liberally construed to give effect to the purposes thereof.
- C. Nothing in this title is intended to interfere with the First Amendment rights of free speech and expression of any person affected.

## PRIVATE RIGHTS OF ACTION

You may decide to propose legislation that establishes a student's right to sue a school or district for failure to adhere to the requirements of this law. If you want the legislation to include such a private cause of action, it must be spelled out in the legislation. A court will typically not infer a private right of action where the legislation is not specific. Ideally, this provision should specify that monetary damages, injunctive relief, and any other appropriate relief may be awarded for a violation of the statute.

It is also important to make clear that any remedies specifically provided by the legislation do not waive one's right to pursue other legal remedies. For example, the California law provides that, "It is the intent of the Legislature that ... the remedies provided herein shall not be the exclusive remedies, but may be combined with remedies that may be provided by the above statutes." Cal. Educ. Code § 201(g).

It is important to note that a private cause of action may prove to be very controversial and may create larger challenges in getting your legislation passed. Creating a private right of action can be a very complex issue, and you should consult with an attorney familiar with this area of the law before proceeding. In addition, when considering whether to create a private right of action, you should be familiar with sovereign immunity principles in your state. Sovereign immunity is the principle that the government is generally immune to law suits unless it consents to be sued.

## POLICY OBJECTIVES

- **Allow for severability so that provisions of the Act may remain in effect even if other sections are found unconstitutional**
- **State that the Act should be interpreted liberally in order for judges to consider the intent of the law, as laid out in Section 1**
- **Ensure that the Act is not intended to interfere with any individual's freedom of expression**



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ENSURING SAFE  
AND EFFECTIVE  
SCHOOLS FOR ALL

# MODEL DISTRICT ANTI-BULLYING & HARASSMENT POLICY

MODEL  
LANGUAGE,  
COMMENTARY &  
RESOURCES

POLICY  
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*Text on the white background displays the District Model Language.*

*Text in the yellow boxes provides additional information  
and key points to consider.*

### INTRODUCTION

This document presents our Model District Anti-Bullying and Harassment Policy and presents some key points and alternatives to consider. The commentary below will help you tailor the model language to the specific needs of your school district. While this document provides a useful model, it is still necessary to carefully consider the legislative background of your state, the local political environment, the fiscal impact of any proposal, and any existing laws with which this policy might interact.

If you have any questions about this document or would like GLSEN's assistance to construct or advocate for your own district anti-bullying and harassment policy, you may contact our Public Policy Department at 202-621-5821 or by email at [publicpolicy@glsen.org](mailto:publicpolicy@glsen.org).

# STATEMENT OF PURPOSE & DEFINITIONS

## MODEL LANGUAGE

### Statement of Purpose

This School District acknowledges that all students have the right to participate fully in the educational process, free from bullying and harassment, and in that regard, a safe and civil environment in school is necessary for students to learn and to achieve high academic standards. Bullying and harassment, like other disruptive or violent behaviors, are forms of conduct that disrupt both a student's ability to learn and a school's ability to educate its students in a safe environment. Because students learn by example, school administrators, faculty, staff, and volunteers should be expected to demonstrate appropriate behavior, treat others with civility and respect, and refuse to tolerate bullying and harassment.

### Definitions

- A. "Bullying" means written, verbal or physical conduct that adversely affects the ability of one or more students to participate in or benefit from the school's educational programs or activities by placing the student (or students) in reasonable fear of physical harm. This includes conduct that is based on a student's actual or perceived race, color, national origin, sex, disability, sexual orientation, gender identity or expression, religion or any other distinguishing characteristics that may be defined by the district or state educational agency. This also includes association with a person or group with one or more of the abovementioned characteristics, whether actual or perceived.
- B. "Harassment" means written, verbal or physical conduct that adversely affects the ability of one or more students to participate in or benefit from the school's educational programs or activities because the conduct is so severe, persistent or pervasive. This includes conduct that is based on a student's actual or perceived race, color, national origin, sex, disability, sexual orientation, gender identity or expression, religion, or any other distinguishing characteristics that may be defined by the district or state educational agency. This also includes association with a person or group with one or more of the abovementioned characteristics, whether actual or perceived.
- C. "Cyber-bullying" means use of any electronic communication technology to bully or harass, as defined above, one or more students, regardless of location or the type of electronic communication used.

## THE IMPORTANCE OF ENUMERATION

While the goal of any anti-bullying and harassment policy is to protect all students, research has continually shown that enumeration, or the specification of particular categories of students, is critically important for an effective policy. Enumeration that includes characteristics like race, religion, sex, disability, sexual orientation and gender identity/expression is absolutely necessary to protect ALL students, particularly those students most marginalized by societal discrimination. Research has consistently shown that students experience less bullying and harassment, they feel safer overall, and teachers are more likely to intervene to prevent incidents of bullying and harassment in a school with an enumerated anti-bullying and harassment policy.

Proponents of generic anti-bullying and harassment policies may contend that enumeration is unnecessary because all students should be protected from bullying and harassment. Although enumerated policies specify certain categories, all students are protected by the bullying and harassment prohibitions. Moreover, LGBT students in states with generic anti-bullying and harassment laws have the same increased risk of bullying and harassment as students in states without any anti-bullying and harassment laws.

Enumeration gives teachers and other educators the tools they need to implement anti-bullying and harassment policies, which makes it easier for them to intervene to prevent bullying and harassment. Some educators do not recognize that anti-LGBT bullying and harassment are unacceptable behaviors. School personnel often fear that they will themselves be targeted for intervening on behalf of LGBT students. When they can point to language that provides clear protection for LGBT students, they feel more comfortable enforcing the policy.

## SCOPE, PROHIBITIONS AND RESPONSIBILITIES

### Scope of Proscribed Conduct

This policy is applicable to all educators, staff members, students, and volunteers, and covers conduct that takes place in the school, on school property, at school-sponsored functions and activities, on school buses or vehicles and at bus stops. This policy also pertains to usage of electronic technology and electronic communication that is used for bullying, harassment, or cyber-bullying.

### Prohibition on Bullying Behavior

Bullying, harassment, and cyber-bullying are prohibited in this District. Retaliation or threats of retaliation meant to intimidate the victim of bullying, harassment, or cyber-bullying, or toward those investigating incidents thereof, are also prohibited.

### District Responsibilities

- A. The Superintendent shall identify the district administrator(s) responsible for collecting and responding to reports of bullying, harassment, or cyber-bullying.
- B. The District shall provide a report on the aggregate complaints of bullying, harassment, and cyber-bullying and responses to these complaints to the Board at least annually. This report shall be made available to the public.
- C. The District shall receive and investigate complaints from parents, students, educators, and staff members, which allege that a school is failing to implement this policy.
- D. This policy will be distributed annually, and will also be included in any district-wide student codes of conduct, disciplinary policies, student handbooks, and websites.

### School Responsibilities

- A. The school principals and designated administrators within this district shall create environments where the school community upholds the standards of respect and civility and understands that bullying, harassment, and cyber-bullying are inappropriate, harmful and unacceptable.
- B. This policy will be distributed annually and will also be included in any student codes of conduct, disciplinary policies, student handbooks, and school websites.
- C. Schools within this district shall identify the school administrator(s) responsible for receiving reports of, and responding to, complaints of bullying, harassment, or cyber-bullying. The system for reporting suspected bullying, harassment, and cyber-bullying must ensure the reporting can be done easily, safely and privately.
- D. Schools within this district shall maintain written or electronic records regarding all complaints of bullying, harassment, and cyber-bullying, any investigation thereof, and any disciplinary action taken. These records shall be maintained for no less than 5 years.
- E. All schools shall report on all complaints of bullying, harassment, and cyber-bullying and responses to these complaints to the District at least every three months.

## STATE ANTI-BULLYING & HARASSMENT STATUTES

It is important that any proposed district anti-bullying and harassment policy provide at least as much protection as required by any existing anti-bullying and harassment statute in your state. While the majority of states have some form of anti-bullying and harassment legislation, only 10 states specifically prohibit bullying and harassment on the basis of sexual orientation and gender identity. Before proposing a district anti-bullying and harassment policy, you should carefully review any state law on this issue. Note that in some states anti-bullying and harassment laws reference anti-dating violence, anti-hazing, and other matters related to school violence. State anti-bullying and harassment laws may require school districts to adopt specific baseline definitions of bullying and harassment and include specific components such as training or reporting to the state education department.

If the anti-bullying and harassment law in a state requires a specific definition for bullying or harassment, in most cases the district policy is free to use the state definition and incorporate specific protections for characteristics such as race, religion, disability, sexual orientation, and gender identity. To ensure these characteristics are enumerated, you may include the following language in the definition of bullying and harassment:

*Bullying and harassment includes, but is not limited to, conduct based on a student's actual or perceived race, color, national origin, sex, gender, disability, sexual orientation, gender identity or expression, religion, or any other distinguishing characteristics or based on association with a person or group with any person with one or more of the aforementioned actual or perceived characteristics.*



# RESPONSIBILITIES AND COMPLAINT PROCEDURE

## Educator and Staff Responsibilities

Educators, school and district staff share responsibility for modeling appropriate behavior and creating an environment where mutual respect, civility, tolerance, and acceptance among students and staff are promoted and where students understand that bullying and harassment are inappropriate, harmful and are taken seriously.

All educators, school and district staff members will take reasonable measures to prevent bullying, harassment, and cyber-bullying and are obligated to report in a timely manner any such acts or complaints of such that come to their attention.

## Student Responsibilities

Students share responsibility for helping to create a safe school environment by not engaging in or contributing to bullying, harassment, or cyber-bullying, treating everyone with respect, and being sensitive as to how others might perceive their actions or words.

Any student who observes an act of bullying, harassment, or cyber-bullying should report the incidents to school authorities in a timely manner.

## Complaint Procedure

- A. All allegations of bullying, harassment, or cyber-bullying shall be reported to the designated school administrator, either orally or in writing. Any student, parent or guardian, volunteer, educator, or staff member may file such a report. If a report contains incomplete information, the designated administrator shall take reasonable measures to contact the individuals involved to determine whether an investigation should be pursued.
- B. Upon receiving a complaint of bullying, harassment, or cyber-bullying from any student, educator, staff member, or parent, the designated school administrator shall:
  1. Promptly and thoroughly investigate the alleged incident of bullying, harassment, or cyber-bullying;
  2. Take immediate steps, at the administrator's discretion, to protect any involved students, educators, or staff pending completion of an investigation;
  3. Provide notification to the parents or guardians of all involved students, provided that such notification does not endanger the health, safety or well-being of any student;
  4. Maintain a written or electronic record of the complaint, any investigation, and any intervention or disciplinary actions taken;
  5. Take proper disciplinary action immediately following the conclusion of the investigation; and

## NONDISCRIMINATION POLICIES

While this model provides the basis for a strong anti-bullying and harassment policy, we also suggest that districts adopt a nondiscrimination policy that makes it clear that schools should not discriminate against students on the basis of their sexual orientation or gender identity/expression. Nondiscrimination policies help to protect students against discrimination that may otherwise not qualify as bullying or harassment. Examples of items covered by a nondiscrimination policy may include discriminatory behavior on the part of educators, discriminatory application of a dress code or bathroom policy, and failure to allow LGBT students to participate in school activities such as sports teams or school proms.

There are several states that currently prohibit discrimination in schools based on sexual orientation and/or gender identity/expression. California, Colorado, Illinois, Iowa, Maine, Minnesota, New Jersey, Oregon, Vermont, and Washington, as well as the District of Columbia provide nondiscrimination protection on the basis of sexual orientation and gender identity, while Connecticut, Massachusetts, and Wisconsin provide protection on the basis of sexual orientation only. It is particularly important in these states that district policies reflect state law so that educators and students are aware of the district's responsibility to treat all students fairly and equally.

## COMPLAINT PROCEDURE AND NOTIFICATION

6. Issue a report in a timely manner regarding the complaint, investigation, and any disciplinary measures taken to all involved students, parents, and educators, while maintaining the privacy and safety of any involved students.
- C. Reports of bullying, harassment, and cyber-bullying may be filed anonymously. However, disciplinary action cannot be taken solely based on an anonymous report. Anonymous reports will be investigated with the same procedure, timeliness and vigor as other reports and disciplinary action can occur based on the results of the investigation.
- D. Students who file false reports of bullying, harassment, or cyber-bullying will be subject to discipline.
- E. School administrators shall also use this procedure to investigate complaints of retaliation or threats of retaliation meant to intimidate the victim of bullying, harassment, or cyber-bullying or toward those investigating incidents thereof.
- F. Incidents of bullying, harassment, or cyber-bullying that involve criminal activity shall be reported to law enforcement.
- G. A complainant may request that the District conduct an independent review if they: (1) believe that the school did not correctly analyze the complaint and failed to conduct an investigation of the incident because the school believed the alleged conduct did not constitute bullying or harassment, (2) are dissatisfied with the final determination following an investigation as to whether bullying or harassment occurred, or (3) believe that although a final determination was made that bullying or harassment occurred, the school's response was inadequate to correct the problem. The complainant shall make such a request in writing to the Superintendent. Upon such request, the Superintendent shall promptly initiate an independent review by a neutral person, and the school and all employees shall cooperate with the independent reviewer so that they may proceed expeditiously. The review shall consist of an interview of the complainant and relevant school officials and a review of the written materials from the school's investigation.

### Notification of Parents and Guardians

When a complaint of bullying, harassment, or cyber-bullying is filed, the designated school administrator shall notify the parents or guardians of all involved students. Additionally, when the investigation is completed, the designated administrator shall issue a report in a timely manner regarding the complaint, investigation, and any disciplinary measures taken to the parents and guardians of any involved students. Private educational or personal data regarding an

## CRIMINALIZATION OF STUDENT BEHAVIOR

This model emphasizes a range of appropriate disciplinary and counseling options. Operating under a theory of education and prevention, we provide tools to allow educators to effectively intervene to prevent bullying behavior rather than focus on punitive action or criminalization of student behavior. There has been significant research showing that efforts to protect students by criminalizing certain types of behaviors, such as cyber-bullying, bias harassment, and "sexting" often backfire and end up harming marginalized students. Moreover, criminalizing student behavior can unfortunately lead to student incarceration or disengagement from the educational environment, which can have lifelong a negative impact on both the student and the community. While it is sometimes necessary to involve law enforcement to address egregious matters of student discipline, approaches that strive to educate and prevent negative behavior should be the first recourse for educators.

## CURRICULUM COMPONENTS

Depending upon your particular school district, it may be advisable to include requirements that certain aspects of the school curriculum contain components meant to reduce bullying and promote student civility and respect. GLSEN research has demonstrated that curriculum that includes positive representations of LGBT people, history, and events helps promote respect for all and can improve an individual LGBT student's school experiences and increase their sense of school connectedness. In fact, students in schools with an inclusive curriculum heard fewer homophobic remarks, felt safer overall, report about half as much absenteeism, and are more likely to report their classmates are somewhat or very accepting of LGBT people, when compared to schools without an inclusive curriculum.

## DISCIPLINE, PROFESSIONAL DEVELOPMENT & STUDENT TRAINING

alleged perpetrator who is a student or employee of the District shall not be disclosed, to the extent protected by law. In certain circumstances, disclosure of the basis for which a student is bullied may result in additional negative consequences to the student's health and well-being. Prior to notification of any parent or guardian regarding any incident of bullying, harassment, or cyber-bullying, school authorities must consider the issue of notification as they would any other educationally-relevant decision, considering the health, well-being, and safety of any students involved in the incident.

### **Discipline and Counseling**

Disciplinary actions for bullying, harassment, and cyber-bullying may include, but are not limited to: warnings; counseling; loss of opportunity to participate in extracurricular activities, school social events or graduation exercises; loss of school bus transportation; community service; in-school suspension; short term suspension; or transfer to another school among others. The specific consequences should be consistent, reasonable, fair, age appropriate and match the severity of the incident. While the District takes ALL reported cases of bullying, harassment, and cyber-bullying seriously, we promote progressive discipline and intervention as opposed to "zero tolerance" policies.

If necessary, counseling will be provided for the target and/or the student perpetrating the bullying, harassment, or cyber-bullying.

### **Professional Development**

The school district shall implement ongoing professional development to build the skills of all staff members, including, but not limited to educators, school and district staff, to prevent, identify and respond to bullying, harassment, and cyber-bullying. The content of such professional development shall include, but not be limited to: (i) developmentally appropriate strategies to prevent bullying, harassment, and cyber-bullying incidents; (ii) developmentally appropriate strategies for immediate, effective interventions to stop bullying, harassment, and cyber-bullying incidents; (iii) information regarding the complex interaction and power differential that can take place between and among a perpetrator, victim and witnesses to the bullying, harassment, and cyber-bullying; (iv) research findings on bullying, harassment, and cyber-bullying, including information about specific categories of students who have been shown to be particularly at risk for bullying, harassment, and cyber-bullying in the school environment; (v) information on the incidence and nature of cyber-bullying; and (vi) internet safety issues as they relate to cyber-bullying. The district shall identify and offer information on alternative methods for fulfilling the professional development requirements of this section.

### **Student Training and Prevention**

Each school shall present in age-appropriate language the District's policy on bullying, harassment, and cyber-bullying as part of any orientation program conducted for students at the beginning of each academic term. This will also include instruction on how to prevent bullying, harassment, and cyber-bullying; the process for filing complaints; and the process/consequences that will result from the complaint. This policy will be distributed annually and will also be included in any student codes of conduct, disciplinary policies, student handbooks, and school and district websites.

## ADDITIONAL RESOURCES

The following reports examine the experiences of both LGBT students and all students with regard to bullying and harassment in schools and discuss ways to effectively prevent this harmful behavior.

Greytak, E. A. and Kosciw, J. G. (2010). Year One Evaluation of the New York City Department of Education Respect for All Training Program. New York: GLSEN.

Harris Interactive and GLSEN (2005). From Teasing to Torment: School Climate in America, A Survey of Students and Teachers. New York: GLSEN.

Kosciw, J. G., Greytak, E. A., Diaz, E. M., and Bartkiewicz, M. J. (2010). The 2009 National School Climate Survey: The experiences of lesbian, gay, bisexual and transgender youth in our nation's schools. New York: GLSEN.



[www.glsen.org](http://www.glsen.org)

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# MODEL SCHOOL ANTI-BULLYING AND HARASSMENT POLICY

*This document presents our Model School Anti-Bullying and Harassment Policy, which is meant to be readily accessible to administrators, students, teachers and parents. Please note that this document is distinct from GLSEN's Model District Policy, which is more comprehensive and further addresses issues of bullying and harassment at the school district level. While this document provides a useful model, it is still necessary to carefully consider the legislative background of your state, the local political environment and the fiscal impact of any proposal.*

*If you have questions about this document or would like GLSEN's assistance to construct your own anti-bullying and harassment policy, you may contact our Public Policy Department at 202-621-5821 or by email at [publicpolicy@glsen.org](mailto:publicpolicy@glsen.org).*

## **1. Prohibition Against Bullying and Harassment**

Bullying and harassment are prohibited in <Name of school>.

## **2. Definition of Bullying**

Bullying means written, verbal or physical conduct that adversely affects the ability of one or more students to participate in or benefit from the school's educational programs or activities by placing the student (or students) in reasonable fear of physical harm. This includes conduct that is based on a student's actual or perceived race, color, national origin, sex, disability, sexual orientation, gender identity or expression, religion or any other distinguishing characteristics that may be defined by the state or local educational agency. This also includes association with a person or group with one or more of the abovementioned characteristics, whether actual or perceived.

## **3. Definition of Harassment**

Harassment means written, verbal or physical conduct that adversely affects the ability of one or more students to participate in or benefit from the school's educational programs or activities because the conduct is so severe, persistent or pervasive. This includes conduct that is based on a student's actual or perceived race, color, national origin, sex, disability, sexual orientation, gender identity or expression, religion or any other distinguishing characteristics that may be defined by the state or local educational agency. This also includes association with a person or group with one or more of the abovementioned characteristics, whether actual or perceived.

## **4. Scope**

This policy covers conduct that takes place in the school, on school property, at school-sponsored functions and activities, on school buses or vehicles at bus stops. This policy also pertains to usage of electronic technology and electronic communication that occurs in the school, on school property, at school-sponsored functions and activities, on school buses or vehicles at bus stops, and on school computers, networks, forums, and mailing lists.

## **5. Notice**

This policy will be distributed annually and will also be included in any student codes of conduct, disciplinary policies, student handbooks and school websites.

## **6. Reporting Bullying and Harassment**

All allegations of bullying or harassment shall be reported to the principal or a designated staff member. The principal or designated staff member shall keep a written or electronic record of complaints and shall notify the parents of all students involved. Whoever is designated to accept complaints will also

(Cont.)

be responsible for investigating the allegation in a timely manner and taking an appropriate course of action. The principal or designated staff member will be held accountable for doing everything possible, within reason, to resolve the situation.

### **7. Anonymous Reports**

Reports may be filed anonymously. However, disciplinary action cannot be taken solely based on an anonymous report. Anonymous reports will be investigated with the same procedure, timeliness and vigor as other reports and disciplinary action can occur based on the results of the investigation.

### **8. False Reports**

Students who file false reports of bullying or harassment will be subject to discipline.

### **9. Parental Reports**

Reports alleging bullying or harassment may be filed with the principal or the principal's designee by parents and school volunteers.

### **10. Responsibility of Students**

Any student who observes an act of bullying or harassment should report the bullying or harassment to school authorities.

### **11. Responsibility of Staff**

All staff members will take reasonable measures to prevent bullying and harassment and are obligated to report any such acts that come to their attention.

### **12. Retaliation**

Retaliation or threats of retaliation meant to intimidate the victim of bullying or harassment or toward those investigating the incident will not be tolerated. If threats or actual retaliation occurs, suspension will be the likely outcome. Referral to the police will occur when appropriate.

### **13. Investigation of Bullying and Harassment**

Once reported, any allegation of bullying or harassment will be promptly investigated by the principal or a designated staff member. Proper disciplinary action will be taken immediately following the conclusion of the investigation.

### **14. Disciplinary Sanctions and Counseling**

Disciplinary actions for bullying and harassment may include, but are not limited to: warnings; counseling; loss of opportunity to participate in extracurricular activities, school social events or graduation exercises; loss of school bus transportation; community service; in-school suspension; short term suspension; or transfer to another school among others. The specific consequences should be consistent, reasonable, fair, age appropriate and match the severity of the incident.

If necessary, counseling will be provided for the target and/or the student perpetrating the bullying or harassment.

### **15. Training and Prevention**

Students and staff will be given instruction on how to prevent bullying and harassment. This will also include instruction on the process for filing complaints and the process/consequences that will result from the complaint.