



## AN OVERVIEW OF LAWS & POLICIES THAT SUPPORT SAFE AND WELCOMING SCHOOLS

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When advocating to ensure respect for all students and families, knowledge of the supporting laws and/or policies in your state or school district helps makes your reasoning more powerful. Administrators and educators can move forward knowing that providing safe, welcoming and respectful schools is their responsibility.

### FEDERAL LAWS THAT PROTECT STUDENTS FROM HARASSMENT AND BIAS

#### EQUAL PROTECTION CLAUSE OF THE 14TH AMENDMENT

Under the Equal Protection Clause of the 14th Amendment public schools have a duty to protect all students on an equal basis.<sup>1</sup>

#### TITLE IV AND TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

The Civil Rights Act prohibits discrimination on the basis of race, color, sex, religion, or national origin.<sup>2</sup>

#### TITLE IX OF THE EDUCATION AMENDMENT ACTS OF 1972

Title IX prohibits discrimination based on sex and applies to all schools that receive federal financial assistance. Sexual harassment and gender harassment are both considered forms of sex discrimination.<sup>3</sup> According to the Office of Civil Rights of the Department of Education, “gender-based harassment, including that predicated on sex-stereotyping, is covered by Title IX if it is sufficiently serious to deny or limit a student's ability to participate in or benefit from the program. Thus, it can be discrimination on the basis of sex to harass a student on the basis of the victim's failure to conform to stereotyped notions of masculinity and femininity.”<sup>4</sup>

#### SECTION 504 OF THE REHABILITATION ACT OF 1973, TITLES II AND III OF THE AMERICANS WITH DISABILITIES ACT (ADA), AND INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

These three laws prohibit discrimination on the basis of disability.<sup>5</sup>

#### DEPARTMENT OF EDUCATION DEAR COLLEAGUE LETTER ON BULLYING AND HARASSMENT

When it comes to the law, bullying and harassment have different definitions. Bullying is defined under state laws, on a state-by-state basis. Discriminatory harassment is defined by federal law. When bullying and discriminatory harassment overlap, federally-funded schools have an obligation to resolve the harassment. The Dear Colleague Letter gives specific examples of racial, religious, sexual, gender and disability harassment. It states that harassment:

- may take many forms, including verbal acts and name-calling; graphic and written statements, which may include use of cell phones or the Internet; or other conduct that may be physically threatening, harmful, or humiliating.
- does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.
- creates a hostile environment when the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student's ability to participate in school.<sup>6</sup>

<sup>1</sup> Dunklee, Dennis R. (2006) *The Principal's Quick-reference Guide to School Law: Reducing Liability, Litigation and Other Potential Legal Tangles*. Corwin Press.

<sup>2</sup> Stopbullying.gov. Policies and Laws. U.S. Department of Health & Human Services. Available at: [www.stopbullying.gov/laws/index.html](http://www.stopbullying.gov/laws/index.html).

<sup>3</sup> Stopbullying.gov. Policies and Laws. U.S. Department of Health & Human Services. Available at: [www.stopbullying.gov/laws/index.html](http://www.stopbullying.gov/laws/index.html).

<sup>4</sup> Office for Civil Rights (2001) Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties. U.S. Department of Education. Available at: <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.html>

<sup>5</sup> Stopbullying.gov. Policies and Laws. U.S. Department of Health & Human Services. <http://www.stopbullying.gov/laws/index.html>.

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## **SAFE SCHOOLS FEDERAL LEGISLATION**

The Safe Schools Improvement Act (SSIA) would amend the Elementary and Secondary Education Act to require schools and districts receiving federal funds to adopt codes of conduct specifically prohibiting bullying and harassment, including on the basis of sexual orientation and gender identity.

The Student Non-Discrimination Act (SNDA) would prohibit any school program or activity receiving federal financial assistance from discriminating against any public school student on the basis of actual or perceived sexual orientation or gender identity. This legislation considers harassment to be a form of discrimination.

## **STATE ANTI-BULLYING LAWS**

As of 2013, 49 states plus the District of Columbia have anti-bullying laws.<sup>7</sup> The laws vary widely by state. The U.S. Department of Health & Human Services through their website *Stopbullying.gov* provides examples of key components for effective state anti-bullying laws or policies. Some of these recommendations include:

- Inclusion of enumeration of actual or perceived characteristics of students who have historically been targets of bullying while at the same time being clear that something can be called bullying that is not based on any particular characteristic.
- A graduated range of consequences and sanctions for bullying.
- Includes a provision for school districts to provide training for all school staff, including, but not limited to, teachers, aides, support staff, and school bus drivers, on preventing, identifying, and responding to bullying.
- Encourages school districts to implement age-appropriate school- and community-wide bullying prevention programs.<sup>8</sup>

## **ENUMERATION IN LAWS AND POLICIES**

Enumerated laws specifically name actual or perceived characteristics of students who have historically been targets of bullying. Students in states with comprehensive, enumerated safe school laws report hearing fewer anti-gay remarks in school, experience lower levels of harassment based on their sexual orientation or gender expression, and report a higher frequency of staff intervention than students in states with no law or in states with a non-enumerated anti-bullying law.<sup>9</sup>

When there is a local comprehensive, enumerated policy in a school or district, LGBT students also report hearing fewer gay slurs and experience less victimization or bullying, and more teacher intervention when harassment happens.<sup>10</sup> Students in schools with comprehensive and enumerated school safety policies report fewer suicide attempts.<sup>11</sup>

As of 2013, 19 states have enumerated anti-bullying or non-discrimination laws that include sexual orientation and gender identity.<sup>12</sup> At the elementary level, the importance of policies that include sexual orientation and

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<sup>6</sup> Ali, R. (2010). *Dear colleague letter: Harassment and bullying*. U.S. Department of Education, Office for Civil Rights. Available at: <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html>.

<sup>7</sup> Hinduja, Sameer and Justin Patchin (2013) A Brief Review of State Cyberbullying Laws and Policies. Cyberbullying Research Center. Available at: [www.cyberbullying.us](http://www.cyberbullying.us).

<sup>8</sup> Stopbullying.gov. Key Components in State Anti-Bullying Laws. U.S. Department of Health & Human Services. Available at: <http://www.stopbullying.gov/laws/key-components/index.html>

<sup>9</sup> Kosciw, J. G., Diaz, E. M., & Greytak, E. A. (2008). 2007 National School Climate Survey: The experiences of lesbian, gay, bisexual and transgender youth in our nation's schools. New York: GLSEN. Available at: <http://www.glsen.org/cgi-bin/iowa/all/library/record/2624.html>.

<sup>10</sup> Kosciw, J. G., Diaz, E. M., & Greytak, E. A. (2008). 2007 National School Climate Survey: The experiences of lesbian, gay, bisexual and transgender youth in our nation's schools. New York: GLSEN. Available at: <http://www.glsen.org/cgi-bin/iowa/all/library/record/2624.html>.

<sup>11</sup> Goodenow, C., Szalacha, L., & Westheimer, K. (2006). School support groups, other school factors, and the safety of sexual minority adolescents. *Psychology in the Schools*, 43(5), 573-589. doi:10.1002/pits.20173.

<sup>12</sup> Safe Schools Laws, Movement Advancement Project. Available at: [http://www.lgbtmap.org/equality-maps/safe\\_school\\_laws](http://www.lgbtmap.org/equality-maps/safe_school_laws)

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gender identity is largely not due to the fact that students actually identify with a sexual orientation or a gender different than their biological sex (although some do), but because many students do get teased for “being a sissy,” “acting gay,” “acting like a girl” or, conversely, “acting like a boy.” There can be harsh social sanctions for those who look or act in ways that are not considered gender-appropriate.

The state of Vermont’s statute on harassment is unusual as it includes attributes of both the student and a student’s family.<sup>13</sup> Some newer laws such as New Hampshire’s include not only the student’s characteristics but also the characteristics of people the student associates with.<sup>14</sup>

Examples of enumeration in anti-bullying laws:

#### **ARKANSAS**

“‘Attribute’ means an actual or perceived personal characteristic including without limitation race, color, religion, ancestry, national origin, socioeconomic status, academic status, disability, gender, gender identity, physical appearance, health condition, or sexual orientation.” (Arkansas Code § 6-18-514)<sup>15</sup>

#### **NEW HAMPSHIRE**

“Bullying in schools has historically included actions shown to be motivated by a pupil’s actual or perceived race, color, religion, national origin, ancestry or ethnicity, sexual orientation, socioeconomic status, age, physical, mental, emotional, or learning disability, gender, gender identity and expression, obesity, or other distinguishing personal characteristics, or based on association with any person identified in any of the above categories.” (New Hampshire Statutes Chapter 155)<sup>16</sup>

### **GENDER NON-DISCRIMINATION LAWS AND SCHOOLS**

In some states actual or perceived gender identity is included in their safe schools laws or anti-bullying laws including Arkansas, New Hampshire, and North Carolina. Some states have more recently passed bills to specifically add gender non-discrimination to their laws. These include states such as Connecticut, Massachusetts, Vermont and Washington.<sup>17</sup> California amended their education act to clarify existing anti-discrimination laws.

In August 2013, “The School Success and Opportunity Act” was signed into law in California. This amendment specifically addresses the exclusion of transgender students from classes and activities and clarifies existing anti-discrimination law to provide clear protections to transgender students. It states:

“A pupil shall be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with his or her gender identity, irrespective of the gender listed on the pupil’s records.”<sup>18</sup>

Some districts, such as the Los Angeles Unified School District (LAUSD), have had policies in line with this law for many years. To clarify the district’s policies, the General Council of the LAUSD developed a Reference Guide entitled, “Transgender and Gender Variant Students - Ensuring Equity and Nondiscrimination.”<sup>19</sup> It

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<sup>13</sup> 16 V.S.A. § 11(a)(26)A). Available at: [www.leg.state.vt.us/statutes/fullsection.cfm?Title=16&Chapter=001&Section=00011](http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=16&Chapter=001&Section=00011).

<sup>14</sup> New Hampshire Statutes Chapter 155 Pupil Safety and Violence Prevention Act. Available at: <http://www.gencourt.state.nh.us/legislation/2010/HB1523.html>.

<sup>15</sup> Arkansas Code Title 6 Education, Subtitle 2. Elementary And Secondary Education Generally, Chapter 18 Students Subchapter 5 -- Discipline, A.C.A. § 6-18-514 (2012) Available at: <http://www.lexisnexis.com/hottopics/arcode/Default.asp>

<sup>16</sup> New Hampshire Statutes Chapter 155 Pupil Safety and Violence Prevention Act. Available at: <http://www.gencourt.state.nh.us/legislation/2010/HB1523.html>.

<sup>17</sup> Safe School Laws, 2013, Movement Advancement Project. Available at: [http://www.lgbtmap.org/equality-maps/safe\\_school\\_laws](http://www.lgbtmap.org/equality-maps/safe_school_laws).

<sup>18</sup> Section 221.5 of the California Education Code as amended August 12, 2013.

<sup>19</sup> Los Angeles Unified School District, Transgender and Gender Nonconforming Students-Ensuring Equity and Nondiscrimination - REF-1557.1 - dated 09-09-11.

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covers student privacy, name and pronoun use, restroom accessibility, dress codes, access to physical education, and bullying and harassment.

Many states after passing a law regarding gender non-discrimination in schools have developed guidelines to assist schools in implementing the laws. Some of the more recent documents such as this include “Guidance for Massachusetts Public Schools: Creating a Safe and Supportive School Environment: Nondiscrimination on the Basis of Gender Identity” that was released in early 2013 by the Massachusetts Department of Elementary and Secondary Education.<sup>20</sup> In Connecticut, the Department of Education distributes a document in a Q&A format called “Guidelines for Connecticut Schools to Comply with Gender Identity and Expression Non-Discrimination Laws” developed by a Safe Schools Coalition.<sup>21</sup>

During the summer of 2013, both state and federal civil rights divisions ruled on specific cases regarding transgender students. In June 2013, Colorado’s civil rights division ruled that the Fountain-Fort Carson School District created a situation that would subject a six-year old girl to harassment by barring her from use of the girls’ bathroom because she had been born biologically male. The decision reads in part: “That she must disregard her identity while performing one of the most essential human functions constitutes severe and pervasive treatment, and creates an environment that is objectively and subjectively hostile, intimidating or offensive.”<sup>22, 23</sup>

In July 2013, Civil Rights divisions of the Departments of Education and Justice settled an agreement with the Arcadia Unified School District in southern California regarding a sex discrimination case brought by the family of a student who had “consistently and uniformly presented as a boy at school and in all other aspects of his life for several years.”<sup>24</sup> The agreement between civil rights divisions of the Departments of Education and Justice and the Arcadia Unified School District includes District-wide measures such as: hiring a consultant with expertise in child and adolescent gender identity to support and assist the District; reviewing and revising policies, procedures and regulations; training for all District-level and school-based administrators; professional development for faculty and staff; and integration of gender discrimination and harassment into bullying prevention programs. It also includes individual measures such as: access to restrooms consistent with gender identity; equal treatment in education programs; confidentiality and privacy in school records; and if requested by the student or parents a support team at the school to ensure protection from gender-based discrimination in school programs or activities.

## **LOCAL SCHOOL DISTRICT ANTI-DISCRIMINATION AND ANTI-HARASSMENT POLICIES**

While some school districts have policies that make general statements about creating a respectful learning environment for all students and all school districts have non-discrimination policies to comply with federal law, some districts go beyond this. To protect vulnerable students, they specifically list additional categories to help ensure that all students are not discriminated against or harassed. Some of these local examples include:

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<sup>20</sup> Massachusetts Public Schools: Creating a Safe and Supportive School Environment: Nondiscrimination on the Basis of Gender Identity, 2013, Massachusetts Department of Elementary and Secondary Education. Available at: [www.doe.mass.edu/ssce/GenderIdentity.pdf](http://www.doe.mass.edu/ssce/GenderIdentity.pdf).

<sup>21</sup> Guidelines for Connecticut Schools to Comply with Gender Identity and Expression Non-Discrimination Laws, 2012, Connecticut Safe Schools Coalition. Available at: <http://www.sde.ct.gov/sde/cwp/view.asp?a=2700&Q=322402>.

<sup>22</sup> Frosch, Dan (June 23, 2013) Rights Unit Finds Bias Against Transgender Student, New York Times. Available at <http://www.nytimes.com/2013/06/24/us/agency-says-district-discriminated-against-transgender-student.html>

<sup>23</sup> Colorado Division of Civil Rights Determination in Coy Mathis v. Fountain-Fort Carson School District 8. Transgender Legal Defense & Education Fund. June 2013. Available at [www.transgenderlegal.org/media/uploads/doc\\_529.pdf](http://www.transgenderlegal.org/media/uploads/doc_529.pdf).

<sup>24</sup> Resolution Agreement Between Arcadia Unified School District, the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, OCR Case Number 09-12-1020, DOJ Case Number 169-12C-70, July 23, 2013.

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## **SUNNYSIDE UNIFIED SCHOOL DISTRICT, TUCSON, AZ**

### **Non-Discrimination/Equal Opportunity<sup>25</sup>**

“The Board is committed to a policy of non-discrimination in relation to race, color, religion, sex, age, national origin, language of origin, disability, sexual orientation, gender identity or expression or marital status. Unless expressly superseded by controlling federal or state statutes, regulations or court decisions, this policy will prevail in all matters concerning staff members, students, the public, educational programs and services and individuals with whom the Board does business.”

## **HOUSTON INDEPENDENT SCHOOL DISTRICT**

### **Freedom from Discrimination, Harassment and Retaliation<sup>26</sup>**

“Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student’s age, race, color, ancestry, national origin, gender, handicap or disability, marital status, religion, veteran status, political affiliation, sexual orientation, gender identity, and/or gender expression, or any other basis prohibited by law... Examples of prohibited harassment may include offensive or derogatory language directed at another person’s religious beliefs or practices, accent, skin color, or need for accommodation; threatening, intimidating, or humiliating conduct; offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other kinds of aggressive conduct such as theft or damage to property.”

## **CHALLENGES TO BOOKS IN SCHOOLS**

After a school board removed 9 books from a school library, students and parents challenged the decision.

After a lengthy court case, Island Trees Union Free School District No. 26 v. Pico, the Supreme Court held that school officials cannot remove books from a school library simply because they find the ideas in the books objectionable.<sup>27</sup> This case is frequently cited in challenges to books in school.

In the majority opinion, Supreme Court Justice William Brennan wrote, “Local school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books.”<sup>28</sup>

The American Library Association’s Office for Intellectual Freedom outlines strategies and tips for dealing with challenges to library materials.<sup>29</sup>

## **PARENTAL NOTIFICATION / OPT-IN & OPT-OUT LAWS**

A number of states have laws regarding parental notification, the requirement that parents sign a form to allow their child to learn a particular lesson (“opt-in”) or the ability of parents to request that their child not be included in a particular lesson (“opt-out”). Generally, these laws specifically refer to sex education; human sexuality; or STD, HIV or AIDS prevention. Courts have consistently ruled that school districts have the responsibility for the content of a curriculum as long as it is based on sound education rationale.<sup>30</sup>

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<sup>25</sup> Sunnyside Unified School District Tucson, Ariz., “Non-Discrimination/Equal Opportunity.” Available at: <http://www.susd12.org/nondiscrimination-equal-opportunity>.

<sup>26</sup> Houston Independent School District Board Policy Manual, Freedom from Discrimination, Harassment and Retaliation FFH(LOCAL) Available at <http://pol.tasb.org/Home/Index/592>.

<sup>27</sup> Board of Education, Island Trees Union Free School District No. 26 v. Pico, 457 U.S. 853 (1982). First Amendment Schools. Available at: <http://www.firstamendmentschools.org/freedoms/case.aspx?id=41>

<sup>28</sup> *Board of Education, Island Trees Union Free School District No. 26 v. Pico*, 457 U.S. 853, 102 S.Ct. 2799, 73 L.Ed.2d 435 (1982). American Library Association, Notable First Amendment Court Cases. Available at: <http://www.ala.org/offices/oif/firstamendment/courtcases/courtcases>.

<sup>29</sup> American Library Association, Office for Intellectual Freedom. Available at: <http://www.ala.org/offices/oif>.

<sup>30</sup> Dunklee, Dennis R. (2006) *The Principal’s Quick-reference Guide to School Law: Reducing Liability, Litigation and Other Potential Legal Tangles*. Corwin Press.

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In elementary school classroom discussions that include the topic of lesbian or gay people generally arise in the context of talking about different kinds of families, name-calling and harassment or issues of stereotypes and discrimination.

- When the discussion is about different kinds of families, teachers and students are simply talking about different kinds of mothers and fathers or other caring adults that are in children's lives.
- When there is discussion of anti-gay name-calling or harassment, teachers and students are talking about inappropriate behavior or about respecting their classmates and all people.
- Students may also be learning the real definitions of words such as "gay" or "lesbian" (instead of the hushed whispering or slang meanings).
- When there is discussion of issues of stereotypes and discrimination against LGBT people, students may be learning history, social studies or discussing current events.

The key in many of the notification laws is the difference between teaching tolerance and respect versus teaching sex education. In elementary school, discussions that include LGBT topics are not about sex education. They are about families, name-calling and respect.

## **STUDENT'S RIGHT TO PRIVACY**

The United States Supreme Court has long recognized that the constitutional right to privacy includes the right to control the nature and extent of highly personal information released about that individual. This right to privacy extends to students in a school setting.

Students have the constitutional right to share or withhold information about their sexual orientation or gender identity from their parents, teachers, and other parties. It is against the law for school officials to disclose, or compel students to disclose, that information. Even when a student appears to be open about his or her sexual orientation or gender identity at school, it is that student's right to limit the extent to which, and with whom, the information is shared.<sup>31</sup>

School officials may think they are doing the right thing by revealing a student's sexual orientation or gender identity to his or her parents. However, doing so not only violates the student's privacy rights, but can negatively impact a young person's life. Young people whose schools have "outed" them to their families often report subsequent rejection and/or abuse at home.<sup>32</sup>

The Broward County (FL) Public Schools LGBTQ Critical Support Guide notes that occasionally a parent/guardian may contact a school to ask if their child has confided in them or if it is suspected their child may be gay. The Guide recommends sample language for teachers or administrators:

"Based on policy and federal guidelines, I cannot divulge whether your child and I have had any such confidential conversations, as even students are legally afforded rights of privacy. If you suspect your child may be gay, I suggest that you speak directly to your child. Furthermore, I recommend that you contact your local PFLAG (Parents, Families and Friends of Lesbians and Gays) chapter. You don't have to be certain of your child's sexual orientation to ask questions or attend a meeting."<sup>33</sup>

The Guide goes on to give an example of talking with a parent/guardian when a child is harassed with gay put-downs. "Mrs. Smith, your son was involved in an altercation today as the result of being bullied by another student who called him a 'faggot.' Unfortunately, this term is frequently used by students as a generalized put-down."<sup>34</sup> Some parents/guardians get upset thinking that their child may be gay so this would also be a good time to remind a parent of their child's strengths—be they academic or artistic.

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<sup>31</sup> Nguon v. Wolf (2007); Sterling v. Borough of Minersville (2000)

<sup>32</sup> Sample School Privacy Letter (2012) ACLU. Available at: <http://www.aclu.org/lgbt-rights/letter-school-officials-regarding-lgbt-student-privacy>.

<sup>33</sup> Broward County Public Schools LGBTQ Critical Support Guide. Fort Lauderdale, FL.

<sup>34</sup> Broward County Public Schools LGBTQ Critical Support Guide. Fort Lauderdale, FL.

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## EXAMPLES OF CASE LAW — THE FINANCIAL IMPACT OF DISCRIMINATION

Many of the experiences that are highlighted in the legal cases on harassment based on either perceived or actual sexual orientation have their origins in elementary or early middle school years. These experiences point to the need for the specific inclusion of gender and gay slurs in efforts to reduce name-calling and create a safer school environment.

- The Anoka-Hennepin School District in Minnesota settled two lawsuits in the spring of 2012. The middle school students had suffered harassment that had been made worse by a “neutrality” policy that banned school staff from mentioning LGBT topics even when dealing with anti-LGBT bullying. The plaintiffs received \$270,000 and the district will also spend \$500,000 on anti-bullying measures.<sup>35</sup> Between 2009 and 2011, 9 students in the Anoka-Hennepin area died due to suicide.<sup>36</sup>
- In one of the landmark cases, *Nabozny v. Podlesny*, the harassment began early in the seventh grade when Nabozny realized that he was gay. He was regularly referred to as “faggot” and the verbal abuse eventually escalated into physical abuse over a number of years. A federal appeals court held that schools can be held liable for deliberately ignoring anti-gay harassment. The case settled for close to \$1 million.<sup>37</sup>
- In a 2005 decision, a federal court held the Tonganoxie, Kansas, School District responsible for four years of anti-gay harassment. A heterosexual boy was taunted and threatened because other students perceived him as gay. He was called “bitch,” “fag” and “homo.” This harassment began when the student was in the seventh grade. After four years of enduring this abuse, the student dropped out of school and sued the school district. The district agreed to pay close to half a million dollars to the boy.<sup>38</sup>
- In a 2007 ruling applying state anti-discrimination law, New Jersey’s Supreme Court noted that, “As a fourth-grader at South Toms River Elementary School, New Jersey, L.W. was taunted with homosexual epithets such as ‘gay,’ ‘homo’ and ‘fag.’ The harassment increased in regularity and severity as L.W. advanced through school. Students in the classroom are entitled to no less protection from unlawful discrimination and harassment than their adult counterparts in the workplace. … We require school districts to implement effective preventive and remedial measures to curb severe or pervasive discriminatory mistreatment.”<sup>39</sup> The school district was fined and required to pay both the boy and his mother a financial settlement.<sup>40</sup>

*Note: Nothing in these materials from Welcoming Schools is intended in any way as legal advice. If you need legal advice about any issue, please consult an attorney.*

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<sup>35</sup> ACLU, “The Cost of Harassment: A Fact Sheet for Lesbian, Gay, Bisexual and Transgender High School Students,” 2012. Available at: [http://www.aclu.org/lgbt-rights\\_hiv-aids/cost-harassment-fact-sheet-lesbian-gay-bisexual-and-transgender-high-school-stu](http://www.aclu.org/lgbt-rights_hiv-aids/cost-harassment-fact-sheet-lesbian-gay-bisexual-and-transgender-high-school-stu).

<sup>36</sup> Rubin Erdely, Sabrina (2012) One Town’s War on Gay Teens, Rolling Stone, February 12. Available at: <http://www.rollingstone.com/politics/news/one-towns-war-on-gay-teens-20120202#ixzz1HFiT5WB>.

<sup>37</sup> ACLU, “The Cost of Harassment: A Fact Sheet for Lesbian, Gay, Bisexual and Transgender High School Students,” 2012. *Nabozny v. Podlesny*, 92 F.3d 446 (C.A. 7th Cir., 1996) Available at: [http://www.aclu.org/lgbt-rights\\_hiv-aids/cost-harassment-fact-sheet-lesbian-gay-bisexual-and-transgender-high-school-stu](http://www.aclu.org/lgbt-rights_hiv-aids/cost-harassment-fact-sheet-lesbian-gay-bisexual-and-transgender-high-school-stu).

<sup>38</sup> ACLU, “The Cost of Harassment: A Fact Sheet for Lesbian, Gay, Bisexual and Transgender High School Students,” 2012. *Theno v. Tonganoxie Unified School Dist. No. 464*, 2005 WL 3434016, (D. Kan. 2005). Available at: [http://www.aclu.org/lgbt-rights\\_hiv-aids/cost-harassment-fact-sheet-lesbian-gay-bisexual-and-transgender-high-school-stu](http://www.aclu.org/lgbt-rights_hiv-aids/cost-harassment-fact-sheet-lesbian-gay-bisexual-and-transgender-high-school-stu).

<sup>39</sup> *L.W. v. Toms River Regional Schools Board of Education* (A-111-05), C.J. ZAZZALI, writing for a unanimous New Jersey Supreme Court. Decided Feb. 21, 2007. Available at: <http://lawlibrary.rutgers.edu/decisions/supreme/a-111-05.doc.html>.

<sup>40</sup> ACLU, “The Cost of Harassment: A Fact Sheet for Lesbian, Gay, Bisexual and Transgender High School Students,” February 2007. *L.W ex rel. L.G. v. Toms River Regional Schools Bd. of Educ.*, 886 A.2d 1090, (N.J. Super. A.D., 2005.) Available at: [www.aclu.org/pdfs/lgbt/schoolsyouth/costofharassment.pdf](http://www.aclu.org/pdfs/lgbt/schoolsyouth/costofharassment.pdf).