

HOW STATE EDUCATION AGENCIES CAN ADVANCE IMPLEMENTATION OF ENUMERATED ANTI-BULLYING AND HARASSMENT LAWS

GLSEN continues to build support for the passage of the Safe Schools Improvement Act that will establish federal enumerated protections for all students from bullying and harassment by their peers, regardless of their actual or perceived race, color, national origin, sex, disability, sexual orientation, gender identity, or religion. Absent federal standards, state governments have passed a diverse range of anti-bullying and harassment laws that create a patchwork of protections that are inconsistent and unequal for students living in different areas of the country.¹ There are currently 21 states and the District of Columbia that have enumerated anti-bullying and harassment laws.²

Research conducted by GLSEN indicates that anti-bullying and harassment laws make schools safer for all students. Based on findings in GLSEN's 2017 National School Climate Survey, LGBTQ+ students who attended schools with an enumerated anti-bullying and harassment policy heard fewer homophobic and racist remarks compared to students with no policy.³ These same students were less likely to feel unsafe in school compared to students in schools with generic (policies without enumerated protections) or no policies. These students were also less likely to perceive bullying, name-calling, or harassment as a problem at their school compared to students in schools with a generic policy or with no policy. Further, teachers in schools with enumerated anti-bullying policies reported higher levels of comfort addressing bullying based on sexual orientation compared to teachers in schools with a generic policy or no policy.⁴

Once enumerated anti-bullying and harassment legislation is passed at the state level, Local Education Agencies (LEAs), frequently called school districts, often must adopt a policy that incorporates all of the requirements of the new law. This process authorizes and serves as a catalyst for implementation of the state law in schools under an LEA's jurisdiction. A study of LEA anti-bullying and harassment policies conducted by GLSEN found that 26.3% of LEAs had not adopted an anti-bullying policy.⁵ In states with laws enumerating sexual orientation, or gender identity/gender expression in anti-bullying and harassment laws, 38.7% and 60.3% of LEAs were not including similar protections in their policies, respectively.⁶

State Education Agencies (SEAs), often named Departments of Education, provide resources and guidance on a wide range of issues impacting the short-term and long-term educational attainment and health of students in K-12 education, including bullying and harassment prevention. A scan of available resources on SEA bullying prevention websites in the 21 states and the District of Columbia with enumerated protections revealed that many agencies have authored, published, and deployed resources that support LEA policy adoption and implementation of enumerated anti-bullying and harassment laws. Educators and advocates who are working in states that already have enumerated protections, or that have recently passed an enumerated bill, can

reference these examples to help determine how best to advance LEA bullying and harassment policy adoption and implementation in their own states and communities.

WAYS THAT SEAs CAN ENCOURAGE LEA IMPLEMENTATION OF ENUMERATED STATE ANTI-BULLYING AND HARASSMENT LAWS

- Assign a lead staff person or office to support LEA policy adoption and implementation of a state’s enumerated anti-bullying and harassment law
- Publish, disseminate, and update a statewide model LEA anti-bullying and harassment policy in compliance with a state’s enumerated anti-bullying and harassment law
- Publish and disseminate guidance to LEAs on policy adoption and implementation of a state’s enumerated anti-bullying and harassment law
- Publish and disseminate guidance to LEAs on protections for students who are transgender or gender-nonconforming
- Publish and disseminate guidance to LEAs on data collection to inform a state’s biennial report on bullying and harassment incidents in schools
- Maintain a current inventory of all LEA anti-bullying and harassment policies to monitor and support LEA policy adoption and implementation of a state’s enumerated anti-bullying and harassment law

Recommendations for all SEAs including those operating in states without enumerated anti-bullying and harassment legislation

- Establish a state taskforce to assess and strengthen bullying and harassment prevention programs
- Affirm the rights of students to form GSAs (Gay-Straight Alliances or Gender and Sexuality Alliances)
- Endorse and engage in GLSEN’s programs that empower and mobilize students, educators, and other community members

Assign a lead staff person or office to support LEA policy adoption and implementation of a state’s enumerated anti-bullying and harassment law

Although the exact role of each staff and office with responsibility for assisting LEAs with policy adoption and implementation, as well as broader bullying and harassment prevention efforts, is unique to an agency and state, these experts provide critical technical assistance and other resources to educators. When LEA personnel readily have access to subject matter experts on a state’s enumerated anti-bullying and harassment law, they can more easily resolve questions on legal requirements, incident reporting, accessing evidence-based professional development training, among other important concerns. SEA staff can also proactively engage LEAs on policy adoption and implementation of a state’s enumerated anti-bullying and harassment law.

NEW YORK

In 2010 lawmakers in New York State passed the Dignity for All Students Act (DASA), an enumerated anti-bullying and harassment law. The New York State Education Department assigned the Student Support Services Office to assist LEAs with implementation of DASA.⁷ Office personnel answer questions on legal requirements. Resources available through the Student Support Services Office include guidance for LEAs on implementation, a voluntary implementation self-assessment tool, promotional materials, and curriculum resources. The Office also provides a list of approved professional development programs for educators as required by DASA, along with a training syllabus that is available online.

Publish, disseminate, and update a statewide model LEA anti-bullying and harassment policy in compliance with a state's enumerated anti-bullying and harassment law

SEAs can encourage and accelerate comprehensive LEA policy adoption by publishing a model policy that school boards, or other LEA officials with similar authority, can reference to more easily incorporate enumeration and other essential components into an LEA's policy. SEA personnel can reference GLSEN's model LEA policies for sample language when authoring their state's model policy. In addition, the GLSEN Public Policy Office is available to share recommendations and provide technical assistance to legislators and agency officials when crafting model LEA policies.

VERMONT

The Vermont Agency of Education published a model LEA anti-bullying and harassment policy in 2016.⁸ The policy includes the state law's language on the enumeration of protections based on race, color, religion, creed, national origin, marital status, sex, sexual orientation, gender identity, and disability. It requires designation of at least two LEA employees to receive complaints and the designation of one additional staff to serve as an Equity Coordinator, responsible for implementation of the law. Additional guidance on implementation procedures is referenced as part of the model policy.

MINNESOTA

The model LEA policy developed by the Minnesota Department of Education also highlights the state law's enumerations of protections based on actual or perceived race, ethnicity, color, creed, religion, national origin, immigration status, sex, marital status, familial status, socioeconomic status, physical appearance, sexual orientation, including gender identity and expression, academic status related to student performance, disability, status with regard to public assistance, age, or any additional characteristic defined in Minnesota Statutes.⁹ The model provides direction on how to file complaints on bullying and harassment. Further, it directs the publication of the enumerated anti-bullying and harassment policies in LEA handbooks, websites, and via other communications channels.

Publish and disseminate guidance to LEAs on policy adoption and implementation of a state's enumerated anti-bullying and harassment law

GLSEN's research has shown that the availability of policy guidance was a strong predictor of the inclusion of critical components (LGBTQ+ enumeration, professional development requirements, and accountability

stipulations) in LEA policies.¹⁰ Given that these critical characteristics are most commonly discussed and addressed in policy guidance, and given the potential policy guidance holds for influencing district policies, SEAs should consider focusing their efforts on developing and implementing comprehensive policy guidance that can inform LEA policies and practices. Although certain laws require SEAs to issue guidance, other SEAs have discretion under state law on whether or not to do so. Important areas of discussion can include enumeration of protections, the use of restorative rather than punitive discipline practices, professional development for educators, and incident reporting protocols.

COLORADO

In Colorado, guidance on implementing the enumerated anti-bullying and harassment law, titled Ashawnty's Law, was published in a single document alongside the model LEA anti-bullying and harassment policy, and other resources created by the Student Learning Division, Teaching and Learning Unit of the Office of Learning Supports.¹¹ This comprehensive resource highlights the importance of including enumerated protections for students with disabilities, LGBTQ+ students, and students of color. It includes best practices for bullying prevention program implementation. In addition, the guidance emphasizes establishing restorative rather than punitive discipline practices, such as expulsion, that are detrimental to student educational attainment and long-term well-being.¹² The process for documenting and processing incident reports is included along with a discussion on incident investigation procedures

NEW JERSEY

The New Jersey Department of Education guidance was issued as required by the enumerated anti-bullying and harassment law titled, Anti-Bullying Bill of Rights Act. Content was developed in consultation with the state's Safe and Supportive Schools Advisory Committee, Harassment, Intimidation, Bullying Guidance Document Subcommittee, and Office of Civil Rights.¹³ In order to facilitate implementation of the law, the authors outlined the roles and responsibilities of school administrators and board of education members. Teachers and school personnel can reference the guidance for information on required training and incident reporting procedures. All LEAs are directed to observe a *Week of Respect*, when schools provide age-appropriate instruction on bullying prevention.

Publish and disseminate guidance to LEAs on protections for students who are transgender or gender-nonconforming

SEAs should issue guidance to address the unique needs of students who are transgender, nonbinary, and/or gender nonconforming as part of the process of implementing enumerated anti-bullying and harassment laws. It is estimated that over 150,000 transgender students between the ages of 13 and 17 attend schools in the United States.¹⁴ Research has shown that transgender students experience pervasive hostility, including bullying and harassment from their peers at school.¹⁵ Many transgender students report serious physical and emotional health consequences, as a result of bullying and harassment.¹⁶

OREGON

Guidance on the treatment of transgender students promulgated by the Oregon Department of Education includes a review of key terms and considerations related to gender identity.¹⁷ There is a discussion of discrimination protections for students that is accompanied by a full description of how to acknowledge and respect students by using appropriate gender pronouns that reflect a student's gender identity. The guidance also includes instructions on how to properly manage records and student documents using respectful and appropriate language. Best practice procedures for name changes are outlined for LEA personnel. Tips for educators on instruction on student support for comprehensive sexuality education, gender-based activities, restroom and locker room usage, and overall student safety are covered as well.

VIRGINIA

In 2020, S.B. 161 became law in the Commonwealth of Virginia. This legislation requires the Department of Education to develop guidance on the treatment of transgender students that will be made available to all school boards no later than December 31, 2020. The law requires that the guidance include information on compliance with nondiscrimination laws, providing a safe learning environment that is free of bullying and harassment, student confidentiality concerns, enforcement of sex-based dress codes, and student participation in sex-specific school activities and events. LEA school boards are required to adopt a compliant policy by the end of the 2021-2022 school year.

Publish and disseminate guidance to LEAs on data collection to inform a state's biennial report on bullying and harassment incidents in schools

Statewide data is an important tool that can be used to evaluate and strengthen bullying and harassment prevention programs. This data is an essential reference for educators who seek to establish accountability for improving programs that are in place to make schools safer for all students. SEAs can support LEAs by providing guidance on procedures for collection and submission of data on incidents of bullying and harassment. Through tools like online reporting portals and sample reporting forms, LEAs are better able to provide uniform data in a timely manner and that supports accurate statewide reporting to inform future statewide improvements to bullying prevention programs.

MARYLAND

Under the Safe Schools Reporting Act of 2005, the Maryland State Department of Education issued guidance on how LEAs collect information on incidents of bullying and harassment.¹⁸ Information collected by LEAs is reported to the SEA where it can be analyzed to evaluate and strengthen state-wide bullying and harassment prevention efforts. The Department distributes an electronic reporting instrument that LEAs populate with incident reports. Detailed instructions on how to submit LEA content include explanations of each category of information, i.e. location of incident, description of incident, alleged motives, investigative methods, and corrective actions. The Department also publishes sample incident reporting forms and related materials that are used to record information at the school level.

The Department's annual statewide report on incidents of bullying and harassment is authored by the Lead Specialist for the School Safety Division of Student Support, Academic Enrichment, and Educational Policy. A total number of 7,647 incidents of bullying and harassment were reported during the 2017-2018 school year. Although a majority of incidents occurred on school property, nearly 4% occurred at an off-site school sponsored activity, about 9% occurred on a school bus, 7% on the way to school, and over 11% happened via the internet or off school property. Reports of incidents of bullying and harassment based on sexual orientation, race, and disability bias, accounted for over 12% of incidents that were reported to school officials. Over 57% of incidents involved teasing and name-calling and over 46% of incidents involved physical aggression.¹⁹

Maintain a current inventory of all LEA anti-bullying and harassment policies to monitor and support LEA policy adoption and implementation of a state's enumerated anti-bullying and harassment law

Having a current statewide inventory of LEA policies allows SEAs to monitor policy adoption and implementation of a state's enumerated anti-bullying and harassment law so that all students are protected, regardless of where they live. Several statewide LEA policy collection efforts have been led by advocates to determine the number of LEAs that have adopted essential components of the law, such as protections for LGBTQ+ students.²⁰ In each case, LEA policy adoption and related implementation of the law was incomplete, illustrating the need for this process to be further supported by SEAs that have the capacity to create and maintain statewide LEA policy inventories.

SEAs already collect and analyze significant amounts of data from LEAs on a wide range of issues in K-12 education. In order to create an inventory of all LEA policies and monitor implementation of enumerated laws, SEAs might assess what existing databases could be adapted to also house information on LEA anti-bullying and harassment policies. Elements of a data collection module and accompanying database might include the following and other items that incorporate key requirements of a state's enumerated anti-bullying and harassment law:

- LEA Contact
- National Center for Education Statistics LEA ID #
- Website link to the LEA policy
- Copy of LEA policy that are often published in student handbooks
- Indicator of all enumerated protections, e.g. sexual orientation, gender identity, gender expression, race, religion, etc.
- Whether the policy includes a process for reporting incidents of bullying and harassment
- Whether the policy includes a process for addressing incidents of bullying and harassment
- Whether the policy specifies a plan for providing professional development for educators
- Whether the policy outlines how students will also receive anti-bullying and harassment training

ILLINOIS AND DELAWARE

At least two SEAs, in Delaware and Illinois, have collected anti-bullying and harassment policies from every LEA within their jurisdiction, a process that alerts LEAs of the need to adopt a policy and begin implementation in schools. An updated inventory of policies for all 43 LEAs in the Delaware Department of Education's service area are publicly available on the SEA's website.²¹ As required by the state enumerated anti-bullying and harassment law, the Illinois State Board of Education collects and monitors LEA anti-bullying and harassment policies from all 852 LEAs in the state.²² LEAs in Illinois must review, re-evaluate, and update their policies every two years. Updated policies are then transmitted to the state via a policy collection email address where the SEA can evaluate and provide recommendations on additional amendments that will incorporate all of the state standards.

Establish a state taskforce to assess and strengthen bullying and harassment prevention programs

Many SEAs have the authority to convene task forces that bring together experts and representatives from local communities to create recommendations on K-12 education policy. An ensemble of these leaders working together can help develop policies that promote positive school transformation that makes schools safer for all students, including those who identify as LGBTQ+. At least 13 states and the District of Columbia convened anti-bullying and harassment task forces to assess and strengthen bullying prevention programs.

Cohorts of such local leaders across the country have already conducted research and organized community listening sessions to better understand the issues and programs that work best in their states. Educators, students, school counselors, and other community leaders who serve as taskforce members guide the content of anti-bullying and harassment regulations and model policies issued by SEAs. They craft recommendations on professional development training for educators, anti-bullying and harassment training for students, and more.

ILLINOIS

Members of the Illinois School Bullying Prevention Task Force were charged with exploring the causes and consequences of bullying in schools; identifying promising best practices that reduce incidences of bullying; highlighting training and technical assistance opportunities for schools to effectively address bullying; evaluating the effectiveness of existing anti-bullying and harassment policies and other bullying prevention programs.²³ Members included teachers, high school students, and researchers, along with representatives from state agencies, regional offices of education, and LEAs.

The Task Force conducted research and submitted recommendations on future legislative amendments to the state's anti-bullying and harassment law that included supporting the process of local implementation. They highlighted the importance of finding ways to leverage existing and future data collection efforts to enhance program effectiveness and accountability to advance positive outcomes. Establishing a process for individual school transformation was also an area of focus in the Task Force's recommendations.

Affirm the rights of students to form GSAs (Gay-Straight Alliances or Gender and Sexuality Alliances)

The presence of GSAs helps make schools safer for LGBTQ+ students by sending a message that LGBTQ+ students are a welcome part of school communities. Students who attend a school with a GSA are more likely to feel safe at school and experience a greater sense of belonging than those without GSAs. Becoming a member of a GSAs also helps LGBTQ+ students identify at least one educator, the GSA advisor, who is supportive. Research continues to demonstrate the importance of having at least one educator who affirms LGBTQ+ identities to promote stronger academic achievement outcomes.²⁴

CONNECTICUT

The Connecticut State Department of Education publishes a fact sheet on the rights of students to form GSAs on the agency's website.²⁵ The resource highlights support for the rights of students to form groups under federal law and precedent established by the U.S. Supreme Court. As indicated in the guidance, obstruction of the formation of a GSA might constitute a violation of student's civil rights. The resource describes the process for filing a civil rights violation complaint with the U.S. Department of Justice, U.S. Department of Education Office of Civil Rights, and the U.S. Attorney's Office. In addition, students are provided with information on services available through the state's Commission on Human Rights and Opportunities.

Endorse and engage in GLSEN's programs that empower and mobilize students, educators, and other community members

SEAs can adopt affirming resolutions and engage in other activities led by GLSEN's Education and Youth Program that centers the leadership and experiences of LGBTQ+ students and educators. The program supports student organizers in communities across the country who have the power to enact change in schools. GLSEN unites supportive educators who may often be the one person in a school who can ensure that LGBTQ+ students feel safe, welcomed, and encouraged to learn. By actively engaging in GLSEN's education and youth initiatives, SEAs can provide leadership on advancing positive school transformation where everyone is affirmed, regardless of their sexual orientation, gender identity, and gender expression.

No Name Calling Week

The No Name-Calling Week program, created by GLSEN and Simon & Schuster Children's publishing, consists of over 40 national partner organizations, organizing No Name-Calling Week in schools across the nation.²⁶ The program seeks to focus national attention on the problem of name-calling in schools, and to provide students and educators with the tools and inspiration to launch an ongoing dialogue about ways to eliminate name-calling in their communities. A Congressional resolution sponsored by U.S. Representative Barbara Lee (CA-13) in 2020 recognized the program and serves as a call to action to communities across the country.

Day of Silence

The GLSEN Day of Silence program is a nationally recognized student-led demonstration where LGBTQ+ students and allies all around the country—and the world—take a vow of silence to protest the harmful effects of bullying and harassment of LGBTQ+ people in schools.²⁷ Started in the mid 1990's by two college

students, the Day of Silence has expanded to reach hundreds of thousands of students in K-12 schools each year. Every April, students go through the school day without speaking, ending the day with Breaking the Silence rallies and events to share their experiences during the protest and bring attention to ways their schools and communities can become more inclusive. U.S. Representative Eliot Engel (NY-16) has sponsored a resolution during each Congress since 2002 to acknowledge and build awareness of the annual Day of Silence.

Barriers to LGBTQ+ student educational achievement and well-being are persistent, but SEAs can encourage positive school transformation, where all student identities are affirmed, by providing additional support to LEAs to implement enumerated anti-bullying and harassment laws. They can hire staff at the state level to publish a model LEA policy, issue guidance on implementation, guidance on the treatment of transgender students that can help address bullying and harassment from peers, promulgate guidance on reporting incidents of bullying and harassment, and maintain current inventories of LEA bullying and harassment prevention policies. SEAs can convene bullying prevention task forces programs. They can affirm the rights of students to form GSAs. These state agencies can also become part of GLSEN’s community each year during No Name Calling Week, Day of Silence, and other programming that centers the voices of students who seek to achieve their full potential free from the harms created by experiences of bullying and harassment from their peers.

¹ U.S. Department of Health and Human Services. “Laws, Policies & Regulations.” Available at <https://www.stopbullying.gov/laws/index.html>

² GLSEN. “State Policy Maps.” Available at <https://www.glsen.org/policy-maps>

³ Kosciw, J. G., Greytak, E. A., Zongrone, A. D., Clark, C. M., & Truong, N. L. (2018). “The 2017 National School Climate Survey: The experiences of lesbian, gay, bisexual, transgender, and queer youth in our nation’s schools.” (New York: GLSEN). Available at <https://www.glsen.org/research/school-climate-survey>

⁴ See Figure 2.20 (enumerated policy: 77.7%, generic policy: 74.9%, no policy: 53.9%). Greytak, E. A., Kosciw, J.G., Villenas, C., & Giga, N. M. (2016). “From Teasing to Torment: School Climate Revisited, A Survey of U.S. Secondary Students and Teachers.” (New York: GLSEN).

⁵ Kull, R.M., Kosciw, J.G., & Greytak, E.A. (2015). “From Statehouse to Schoolhouse: Anti-Bullying Policy Efforts in U.S. States and School Districts.” (New York: GLSEN).

⁶ Ibid.

⁷ New York State Department of Education. “The Dignity for All Students Act.” Available at <http://www.p12.nysed.gov/dignityact/> (accessed November 2019)

⁸ State of Vermont Agency of Education (2016). “MODEL POLICY ON THE PREVENTION OF HARASSMENT, HAZING AND BULLYING OF STUDENTS.” Available at <https://education.vermont.gov/documents/healthy-safe-schools-hhb-model-policy> (accessed November 2019)

⁹ Minnesota Department of Education (2014). “Model Student Bullying Prohibition Policy.” Available at http://education.state.mn.us/mdeprod/idcplg?IdcService=GET_FILE&dDocName=058974&RevisionSelectionMethod=latestReleased&Rendition=primary (accessed November 2019)

¹⁰ Kull, R.M., Kosciw, J.G., & Greytak, E.A. (2015). “From Statehouse to Schoolhouse: Anti-Bullying Policy Efforts in U.S. States and School Districts.” (New York: GLSEN).

¹¹ Colorado Department of Education. “Colorado Bullying Prevention and Education Best Practices and Model Policy.” Available at <https://www.cde.state.co.us/mtss/modelpolicy.pdf> (accessed November 2019)

¹² Palmer, Neal A., Greytak, Emily A., and Kosciw, Joseph G. (2016). “Educational Exclusion: Drop Out, Push Out, and the School-to-Prison Pipeline among LGBTQ Youth.” (New York: GLSEN).

¹³ New Jersey Department of Education. “Guidance for Schools on Implementing the Anti-Bullying Bill of Rights Act.” Available at <https://www.nj.gov/education/students/safety/behavior/hib/guidance.pdf> (accessed November 2019)

¹⁴ MAP, GLSEN, NCTE, NEA. “Separation and Stigma: Transgender Youth and School Facilities.” Available at <https://www.glsen.org/sites/default/files/Separation%20and%20Stigma%20-%20Full%20Report.pdf>

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Oregon Department of Education. “Guidance to School Districts: Creating a Safe and Supportive School Environment for Transgender Students.” Available at <https://www.oregon.gov/ode/students-and-family/equity/civilrights/Documents/TransgenderStudentGuidance.pdf> (accessed November 2019)

- ¹⁸ Maryland State Department of Education. “Bullying Data Collection Manual Guidance Document.” Available at <http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/Bullying/BullyingGuidanceKPreview.pdf> (accessed November 2019)
- ¹⁹ Maryland State Department of Education (2019). “Maryland Bullying, Harassment, or Intimidation in Maryland Public Schools, A Report to the Maryland General Assembly on Incidents Reported Under the Safe Schools Reporting Act of 2005.” Available at <http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/Bullying/BullyingHarassmentReport2019.pdf>
- ²⁰ Oregon Safe Schools and Communities Coalition (2012-2014). “State of the Safe Schools Act.” Available at <https://www.oregonsafeschools.org/leaders>
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- ²² Illinois State Board of Education. “School Wellness: Bullying Prevention.” Available at <https://www.isbe.net/Pages/Bullying-Prevention.aspx> (accessed April 2020)
- ²³ Illinois State Board of Education. “School Bullying Prevention Task Force.” Available at <https://www.isbe.net/Pages/School-Bullying-Prevention-Task-Force.aspx>
- ²⁴ GLSEN. “Research Brief: Gay-Straight Alliances: Creating Safer Schools for LGBT Students and Their Allies.” Available at <https://www.glsen.org/sites/default/files/Gay-Straight%20Alliances.pdf>
- ²⁵ Connecticut Department of Education. “Your Right to Form a Gay Straight Alliance (GSA).” Available at https://portal.ct.gov/-/media/SDE/Title-IX/Your_Right_to_Form_a_Gay_Straight_Alliance_GSA_2015_May.pdf
- ²⁶ GLSEN. “No Name Calling Week.” Available at <https://www.glsen.org/no-name-calling-week>
- ²⁷ GLSEN. “Day of Silence.” Available at <https://www.glsen.org/day-of-silence>