

# Anti-Gay Harassment in Schools



## Human Rights Commission

By Harvey Golubock  
and Sam Abel-Palmer

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A high school student comes out to his friends; when the word gets out, the name-calling starts. Pretty soon, he can't walk down the hall without someone calling him "faggot," and when the harassment becomes more than he can bear, he quits school. In another school, the daughter of a lesbian mother gets bombarded daily with sneering questions about her own orientation. The vice principal of yet another high school tells the members of the school's gay-straight alliance that if they want to invite a speaker from Outright Vermont to a diversity day event, they will also have to invite a speaker from an ex-gay ministry to represent the "other side." In another part of the state, a college administrator refuses to allow a lesbian couple to live in married student housing.

Incidents like this are all too common. Each of them was reported to the Vermont Human Rights Commission. Unfortunately, the great majority of anti-gay harassment in schools never gets reported, either to school administrators or to the Human Rights Commission.

Vermont is one of the few states that prohibit discrimination based upon sexual orientation in housing, employment, and public accommodations, including schools. These laws require schools to take steps to eliminate sexual orientation discrimination and to make efforts to provide a safe environment for GLBT students. This means that school staff may not discriminate against you or harass you because of your sexual orientation, or perceived sexual orientation. Just as important, schools must take steps to prevent and stop student-to-student harassment based on sexual orientation.

It's important to recognize that not all anti-gay incidents fall under the definition of harassment. A single case of name-calling or a random piece of graffiti by itself may not amount to illegal harassment. Harassing conduct must be sufficiently severe, persistent or pervasive to limit a student's ability to participate in or benefit from an educational program, or to create a hostile or abusive educational environment. However, the conduct need not be severe, persistent and pervasive at the

same time. For example, a single serious threat of physical violence, for example, could qualify as harassment.

A school must have notice of harassment before it is responsible for taking action to stop it. In other words, the school administration is responsible for harassment where it actually knew of the harassment or where it reasonably should know about the harassment. A school has notice of harassment if a student complains to an administrator, a teacher or other appropriate personnel, or if someone in authority witnesses or hears about the harassment. If a school knows of some incidents, it may be obligated to investigate in order to learn if other similar incidents have taken place. A school may be expected to know about the harassment if the harassment is pervasive or widespread, openly practiced, or well known, such as, for example, incidents in hallways where staff are present, graffiti in public spaces, or incidents that happen while a teacher is supervising students.

This notice requirement can cause major difficulties. If a student is not out to her parents, she probably won't want to tell anyone that other students are harassing her for being a lesbian. Or a boy may be subject to anti-gay harassment if he does not exhibit sufficiently "macho" behavior, even though he may be straight, or only beginning to question his sexuality, and so may want to hide all evidence of the harassment. Yet without some notice that the harassment is taking place, the school is not responsible for taking action to stop it. Ideally, a student will find a sympathetic teacher or counselor who can help in the reporting process, or a support group such as

Outright Vermont to facilitate communication. The Human Rights Commission typically takes steps to protect the identity of minors involved in investigations.

Once a school has notice of alleged harassment, it must take immediate and appropriate steps to investigate what happened. If a school discovers that harassing incidents have taken place, it must then take steps reasonably calculated to end the harassment, eliminate the hostile environment, prevent the harassment from recurring, and remedy the effects of the harassment. The actual form this action takes is largely up to the school administration, but typically involves some kind of counseling, warning, or disciplinary action, as well as wider educational programs aimed at preventing further incidents in the school community as a whole. If the initial steps are not effective in stopping harassment, the school may need to take a series of disciplinary actions of increasing severity, until the harassing behavior stops and the hostile environment is repaired.

Despite Vermont's strong laws, anti-gay harassment remains a pervasive problem in our schools. We can work to reduce the scope of this problem through educational programs for students, teachers, and school administrators. But we also need to make sure that schools know about harassment and fulfill their legal obligation to stop it and to protect GLBT students.

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