

Beyond the Binary

A Tool Kit for Gender Identity Activism in Schools

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NCLR
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Introduction

Is your school safe for ALL students?

Is your school safe for guys who aren't as masculine as other guys? Is your school safe for girls who aren't as feminine as other girls? Is your school safe for youth who identify as transgender?

What is Gender?

Is gender just a matter of being male or female? Is gender only about the way you look and dress? Or is it also about how you see yourself and how that affects you? Gender is a combination of all these components.



Gender is defined and evaluated all around us. There are words that are associated with being a boy and others that are associated with being a girl. There are clothes that boys are expected to wear to prom, and clothes that girls are expected to wear to prom. There are sports that are considered "boys'" sports and sports that are considered "girls'" sports.

Students who are gender non-conforming are those whose gender expression (or outward appearance) does not follow traditional gender roles: "feminine boys," "masculine girls," and students who are androgynous, for example. It can also include students who look the way boys and girls are expected to look but participate in activities that are gender non-conforming, like a boy who does ballet. The term "transgender youth"

can be used as an umbrella term for all students whose gender identity is different from the sex they were assigned at birth and/or whose gender expression is non-stereotypical. Some transgender students transition or change from one gender to another. Transition often means changing the way you dress, selecting a new name, and sometimes getting help from a doctor to change your body.

How are Transgender and Other Gender Non-Conforming Youth Treated at School?

In addition to the typical challenges faced by all students, those who are transgender and/or gender non-conforming must also be ready to survive slurs, bullying, harassment, and assaults by fellow students and even teachers. Instead of creating safe spaces for gender non-conforming and transgender students, school administrations often enforce policies and practices that can punish gender non-conforming and transgender youth simply for being who they are. Examples of discrimination based on gender identity, appearance, and behavior include: refusing to allow students to wear clothing that fits their gender identity, denying students access to educational or extra-curricular opportunities due to their actual or perceived gender identity and/or expression, and a school's failure to protect students from harassment based on their actual or perceived gender identity and/or expression.

Harassment:

Students who are transgender or gender non-conforming often face persistent and severe harassment that can involve name-calling, threats of violence, sexual innuendos or sexual harassment, and even physical assault. A recent study of California students found that 53% of students said their schools were not safe for guys who aren't as masculine as other guys, and 34% of students said their schools were not safe for girls who aren't as feminine as other girls. Students who are gender non-conforming and/or transgender are often thought to be gay, bisexual, or lesbian (even if they do not identify as any of these), which increases the harassment and/or discrimination that they experience. This is because gender discrimination and harassment is often rooted in homophobia, as gender and sexual orientation are seen as interconnected.

Names and Pronouns:

Recognizing and validating the names and pronouns that correspond to transgender students' gender identity is important for their emotional health and well-being. A student's name appears in a large variety of places -- student records, IDs, class roll-call, school publications, tests, and homework assignments to name just a few. Many transgender



students adopt new names that are essential to their identity. They also may request that they be referred to by the pronoun that corresponds, or most closely corresponds, with their gender identity. It is important that these requests be respected.

Some gender non-conforming students do not change their name or ask to be referred to by a different pronoun. Even for these students, however, names and pronouns can still be used to discriminate against them. For example, some gender non-conforming students are teased through the use of the wrong pronoun or variations of their names. For example, a boy called Juan who is perceived to be effeminate is called “Juanita” to express other students’ beliefs that he is not acting the way a boy “is supposed to act.” This type of name calling or the misuse of an appropriate name or pronoun can be very damaging to a student’s ability to fully engage in, and feel safe at, school.

Sex Segregation:

Many school environments and some school activities are sex segregated. Examples include restrooms, some physical education activities, some class projects, and some student activities. Such segregation can cause difficulties for transgender students if they are not allowed access to those facilities or activities that match their gender identity.

Not only can such a denial affect students’ emotional well-being, but in some cases it can also affect their physical well-being. For instance, if transgender students are denied access to the restroom that corresponds with their gender identity, they might avoid using the restroom at school altogether. This can lead to many physical and emotional health problems and can also create an incentive for the student to disengage from school.

Sex segregation can be especially difficult for transgender students who do not identify as either male or female. If such a student is only presented with the choice of a male or female restroom, the student is forced to make a choice that does not match their gender identity. And often times such a “choice” is meaningless because the student is harassed by other students regardless of whether the student opts to use the male or the female restroom.

Harassment in restrooms is a common form of discrimination against gender non-conforming students. Because of transphobia and sex stereotyping, these students are regularly subjected to verbal and physical harassment in restrooms. Therefore, it is important that schools take steps to make sure that restrooms and other sex-segregated spaces be made accessible and safe for students who are transgender and/or gender non-conforming.

Dress Codes:

Enforcement of dress codes is often a source of discrimination. For example, it would be discriminatory for a school to have a dress code that is different for boys and girls and refuse to allow a transgender student to wear clothing consistent with their gender identity. Sometimes transgender students are even disciplined simply for wearing clothing consistent with their gender identity. Such disciplinary action can negatively affect the student’s standing in the school. In addition, transgender and gender non-conforming students are sometimes held to a different standard than other students. For example, the clothes of young transgender women are often scrutinized more closely than the clothes of other young women. A skirt that is considered “appropriate” when worn by a biological girl is called “inappropriate” when it is worn by a transgender student. Similarly, gender non-conforming students sometimes face harassment or are scrutinized because their clothes are considered “too feminine” or “too masculine.”

Do Laws Protect Transgender and Gender Non-Conforming Youth?

Both California and federal law protect transgender and other gender non-conforming students from harassment. This means that if a transgender student is being harassed by other students or by a school official because the harasser thinks the student doesn’t look or dress the way a girl or boy “should” look or dress, the school has to do something to stop the harassment. This could mean disciplining the harasser, or, even better, providing a training about why the harassment is unacceptable behavior.

In addition to prohibiting harassment, the law also prohibits discrimination against transgender and gender non-conforming youth. This means that school officials have to let a student wear clothing that matches the student’s gender identity, and cannot refuse to call the student by the appropriate name and pronoun. The school also has to provide transgender and gender non-conforming students with access to a safe and appropriate restroom and locker room or an appropriate alternative place in which to change for gym class. To learn more about these laws, see page 32. You may want to give this legal handout to school officials so that they can understand how the law protects transgender and other gender-nonconforming students.

Fortunately, with the passage of the California Student Safety and Violence Prevention Act of 2000 (AB 537) and the courageous activism of transgender, gender non-conforming, and ally youth across California, more students are safe at school and able express their gender fully. Thanks to the legal protections that exist and the education that has already occurred to ensure these legal protections are known and enforced, more students are safe, and more schools understand the negative effects that harassment and discrimination have on students and how it impacts a student's ability to achieve.

What Can You Do To Fight for Gender Justice?

Segregating, targeting, or isolating people whose gender does not conform to traditional stereotypes or expectations leaves students without the support they need to succeed in school. Furthermore, a system that doesn't allow for the expression of transgender identities or gender diversity locks everyone into a more rigid set of expectations for how males and females should look, act, and identify. These gender roles create a hostile school environment for everyone, not just transgender and gender non-conforming youth. Understanding how this environment can affect all students is essential to creating safety for transgender and gender non-conforming students in schools.

Education can make change. Through student organizing and activism you can work with other students to ensure that your school has good policies that protect students of all genders and create a safe space at your school.

By educating your school administrators, teachers, and other students you can take action, speak out, and make change not only in your school but also in the broader community.

Gay-Straight Alliance Network, in partnership with the Transgender Law Center and the National Center for Lesbian Rights, asks you to join us in fighting for gender justice.

- Harassment and discrimination based on gender identity and gender expression creates a hostile school climate for all students.
- This is not just a part of growing up. Harassment and discrimination of a student based on gender is not acceptable in any school.
- The impact that school climate has on students affects their ability to learn. All students can learn, but only if the school climate is safe for all students, including those who are transgender and gender non-conforming.

How Can You Use This Toolkit

The *Beyond the Binary* tool kit is designed for student leaders, activists, and gender non-conformers who want to challenge the gender binary system in schools by ensuring gender-inclusive policies exist in schools and by raising awareness about gender through education of students and staff about gender non-conformity and transgender issues. It is essential that student organizers focus on the big picture when setting out to do a gender identity campaign. That means you need to make race, class, and sexual orientation issues, along with gender, central to the education and campaign work you undertake. The "big picture" means creating a safer environment for all students, recognizing how gender issues affect students of all races, classes, and sexual orientations.

This tool kit includes concrete steps on:

- What to do if you are harassed or discriminated against
- Ways to design and implement your campaign
- How to work effectively with your administration
- Identifying coalition partners to help build your campaign
- Ideas for conducting student, teacher, and administrator trainings
- How to organize campus visibility events such as the Transgender Day of Remembrance

We encourage student organizers to contact GSA Network for support and training as you begin working on your campaign. Attorneys from the National Center for Lesbian Rights and the Transgender Law Center are available to assist with legal concerns or advice regarding harassment or discrimination you may be facing.

As people expand their knowledge of gender and embrace new terms such as genderqueer and tranny boi to define their gender identity, there are still some female-bodied people who are queer and who 'transgress' gender, but do not identify as transgender. In the queer women community they are referred to as butches or studs. Most of the people who identify as studs are African-American. However, there are other people of color who identify as studs as well. The following is an interview between Sean Saifa M. Wall ("SS"), of GSA Network, and Nahje ("N"), a young African-American female-identified person who identifies as a stud. Nahje attends Pittsburg High School in Pittsburg, California.

SS: Nahje, how would you define a stud?

N: A stud is a female who dresses in male clothes and expresses as male, but does not necessarily feel that they should be a man. Studs are considered aggressive.

SS: I remember that when we talked before at a leadership training, you said that your friend identifies as a stem—how is that different from a stud?

N: A stem is a person that dresses as a stud, but acts like a femme. For example, a stem may cross their legs and have mannerisms that are feminine.

SS: Are there other kinds of studs?

N: Yeah, a soft stud is like a stem and a hard core stud is someone who may identify more with being transgender than a stud. Hard core studs are very masculine. Most studs use male references when talking with one another, but usually use female pronouns.

SS: What has been your experience at school?

N: I've been a tomboy all of my life and I just dress boyish. At school, people talk behind my back, stare and ask questions about my gender. Whenever people ask me about my sexual preference or gender, I just give people a simple answer and brush people off, trying not to be mean. Dudes don't really care, but when guys try to holler at me, I've been cursed out when I told them that I don't get down like that.

SS: How about at home?

N: With family, I have to keep it [my identity as a stud] kinda mellow and try not to let my pants sag. My mom asks me, "Can you wear some lipstick? Can you pull up your pants?" I want to go to the gay prom in Hayward and wear a suit, but my mom wants me to wear a woman's suit and I will do it for my mom, but I hate it because why can't they take me as I am.

I've been a tomboy all of my life and I just dress boyish. At school, people talk behind my back, stare and ask questions about my gender.



Definitions

Gender identity refers to a person's internal, deeply-felt sense of being either male, female, something other, or in between. Everyone has a gender identity.

Gender expression refers to an individual's characteristics and behaviors such as appearance, dress, mannerisms, speech patterns, and social interactions that are perceived as masculine or feminine.

Transgender is an umbrella term that can be used to describe people whose gender expression is non-conforming and/or whose gender identity is different from their birth assigned gender.

Transsexual is a term most commonly used to refer to someone who transitions from one gender to another. It includes students who were identified as male at birth but whose gender identity is female, students who were identified as female at birth but whose gender identity is male, and students whose gender identity is neither male nor female. Transition often consists of a change in style of dress, selection of a new name, and a request that people use the correct pronoun when describing them. Transition may, but does not always, include necessary medical care like hormone therapy, counseling, and/or surgery.



Gender non-conforming refers to a person who is or is perceived to have gender characteristics and/or behaviors that do not conform to traditional or societal expectations. Gender non-conforming people may or may not identify as lesbian, gay, bisexual, transgender, or queer.

Genderqueer refers to people who do not identify as, or who do not express themselves as completely male or female. Genderqueer people may or may not identify as transgender.

Sexual orientation refers to a person's emotional and sexual attraction to other people based on the gender of the other person. A person may identify their sexual orientation as heterosexual, lesbian, gay, bisexual, or queer. It is important to understand that sexual orientation and gender identity are two different things. Not all transgender youth identify as gay, lesbian, bisexual, or queer. And not all gay, lesbian, bisexual, and queer youth display gender non-conforming characteristics.

LGBTQ is an umbrella term that stands for "lesbian, gay, bisexual, transgender, and questioning." The category "questioning" is included to incorporate those that are not yet certain of their sexual orientation and/or gender identity.

Gender Identity

Myths + Facts

- 1 Myth:** Youth are not old enough to know their gender identity.
Fact: Because of greater awareness about gender and transgender issues, more and more young people are becoming empowered to express their identity at young ages.
- 2 Myth:** Youth are identifying as transgender just to be trendy.
Fact: Identifying as transgender brings with it challenges and often discrimination. It is not something people do to be cool. Like in many other areas of their life, some students may be exploring their gender expression and the labels they use to describe themselves. Such exploration is a normal part of adolescent development.
- 3 Myth:** All gender non-conforming students are white.
Fact: Gender non-conforming students are from all socio-economic, racial, ethnic, and religious backgrounds.
- 4 Myth:** Transgender youth deceive others about what their “true” gender is.
Fact: Transgender people are not deceiving others by expressing their gender identity. For example, when a student transitions from male to female, she is expressing her true self to the world. She deserves to be recognized and respected like any other girl should be.
- 5 Myth:** Transgender and gender non-conforming students are actually gay.
Fact: Sexual orientation and gender identity are different. A person’s sexual orientation is related to whether the person is romantically attracted to men, women, or both. Gender identity, on the other hand, is about the person’s own internal identification as male, female, or a gender in between male and female. Just like non-transgender people, transgender people can be of any sexual orientation.
- 6 Myth:** All transgender youth will eventually take hormones and have sex reassignment surgery.
Fact: Some transgender people take hormones and/or have surgery. However, for a number of reasons, many transgender people do not take either of these steps. Some feel comfortable with their bodies the way they are. For others, hormones and surgery are inaccessible because they may be too expensive and/or require parental permission.
- 7 Myth:** Transgender women are not “real” women and transgender men are not “real” men.
Fact: People’s “true” gender is not defined by the sex they were assigned at birth. Our true gender is based on our gender identity. When a person who is transgender expresses an identity different from the one they were assigned at birth, the gender they are expressing is their “real” gender.
- 8 Myth:** Communities of color are more transphobic or homophobic than white communities.
Fact: No one community is any more transphobic than any other. Unfortunately, most transgender people experience transphobia regardless of the racial or ethnic community they are a part of.
- 9 Myth:** It’s okay to make fun of girls who are too masculine and boys who are too effeminate because that is just harmless teasing.
Fact: Teasing is never harmless, particularly regarding gender stereotypes. Gender non-conforming youth are often very clear about their gender identity. Their appearance or expression may seem confusing, but that is only because it doesn’t fit into stereotypes we have about gender.

Statistics

Feeling Unsafe at School

- 53% of California students reported that their school is unsafe for “guys who aren’t as masculine as other guys” and 34% reported that their school is unsafe for “girls who aren’t as feminine as other girls.”¹
- 90% of transgender youth surveyed for a nationwide survey reported feeling unsafe at school because of their gender expression.²

Hearing Negative Comments

- 63% of California students reported that they sometimes or often hear students make negative comments based on gender presentation.³
- 13% of California students report that they sometimes or often hear teachers make negative comments based on gender presentation.⁴
- Only 40% of California students report that sometimes or often they hear teachers or staff stop others when others make negative comments based on gender presentation.⁵

Experiencing Harassment

- 27% of California students report being harassed because they aren’t “masculine enough” or aren’t “feminine enough.”⁶
- 55% of transgender youth on a nationwide survey report being physically harassed at school because of their gender expression.⁷
- 81% of transgender youth on a nationwide survey reported being sexually harassed at school in the past year because of their gender expression.⁸

Improving Protections and Reducing Harassment and Violence

- California students were less likely to be harassed for gender non-conformity if their school harassment policy included sexual orientation and gender, teachers intervened when negative comments were made, their school had a Gay-Straight Alliance club, and students learned about LGBT issues in school.¹⁰
- In a recent poll, 95% of youth supported expanding current hate crimes laws to cover gender and sexual orientation.¹¹
- In the U.S., 4 states, 52 cities and 9 counties include transgender people in their anti-discrimination laws. This means that 24% of the U.S. population is protected from discrimination on the basis of gender identity by statute, and 76% are not.¹²

1 California Safe Schools Coalition, Safe Place to Learn: Consequences of Harassment Based on Actual or Perceived Sexual Orientation and Gender Non-Conformity and Steps for Making Schools Safer, p. 16 (2004) (hereinafter Safe Place to Learn), available at <http://www.casafeschools.org/SafePlacetolearnLow.pdf>.

2 Gay, Lesbian and Straight Education Network (GLSEN), National School Climate Survey (2001), available at http://www.glsen.org/binary-data/GLSEN_ATTACHMENTS/file/185-1.pdf.

3 Safe Place to Learn, supra note 1, at p. 16.

4 Id. at p. 16.

5 Id. at p. 16.

6 Id. at p. 15.

7 GLSEN, National School Climate Survey, p. 33 (2003), available at http://www.glsen.org/binary-data/GLSEN_ATTACHMENTS/file/1851.pdf.

8 Id. at p. 19.

9 Safe Place to Learn, supra note 1, at p. 20.

10 MTV, Fight for your rights, take a stand against violence: MTV Nationwide Poll (1999).

11 National Gay and Lesbian Task Force, Scope of Transgender-Inclusive Anti-Discrimination Laws (2003), available at <http://www.thetaskforce.org/downloads/TransInclaws.pdf>.

12 National Gay and Lesbian Task Force, Populations of Jurisdictions with Explicitly Transgender-Inclusive Anti-Discrimination Laws (2003), available at <http://www.thetaskforce.org/downloads/TransInclPops.pdf>.

My name is Caleb Ryen and I am a 16 year old FTM, and I'm out at school. I'm writing a little bit about my 'coming out' experience at school, and how I was able to get my school on board and educated about trans issues.

I came out to my school administration and teachers the beginning of my senior year, after spending the summer at an art school as male. Armed with knowledge of AB 537 and expecting to be "met in the middle" at best, I first talked to my grade level secretary and my vice-principal. The conversation went somewhat like this: "Mrs. Grade Level Secretary, I'm transgendered and I want to be treated as male at school, what do I need to do?" Naturally, my school, in Fremont, CA had no idea what in the world I was talking about. However, I did tell them that AB 537, the anti-discrimination policy (as I like to call it), protected my gender identity separate from my sex, and that I had a right to be treated as male at school. I was then sent to my school's vice-principal to find out if he knew what to do. He didn't, but they told me that they would see what they could do for me. With this good sign I went on hoping for the best. After a few days the vice-principal had no idea what to do, and probably no idea what I was talking about either, so I went to my principal. I told her that I wanted to use the men's bathroom, and she told me that I couldn't unless she talked to my therapist first.

Meanwhile, talking to and dealing with my teachers was an entirely different matter. Luckily for me though, my teachers were all very open-minded about the issue, but they needed a little education. On my first day of classes, before my new teachers began attendance, I told them that I preferred to be called Caleb, and that I used male pronouns. I was very lucky to have teachers who didn't pry and ask questions or give me a hard time. While some of them have had trouble with the pronouns on occasion they tried, and that is what matters to me. The two teachers I had when I was B----- and female were a little bit different. I simply told them that I identified as male and used the name Caleb, but I let them decide if they wanted to use my male name and pronouns, or not. Both teachers use both pretty consistently.

As for my classmates, most call me Caleb, a few don't, most use male pronouns, some don't, but as a whole my class is pretty good about all this. In my school there are some students who only know me as male, some who know me as trans, and some who only know me as female, and this isn't a problem for me. I believe that the reason my classmates are so open about this is that I am open as well. I try to answer any questions that they have about trans issues in hopes that educating them and letting them know that I don't expect them to become trans educated overnight. This isn't to say that I don't have any trouble with students at my school because there are a few students who consistently and intentionally call me by my female name to upset me, as does one of my administrators. This is a problem that I haven't been able to figure out quite yet, but as I hardly see these two individuals, I have chosen to simply correct them, and then let it go.

The bathroom issue was solved eventually with a bit of a compromise. I was given a key to a specific male restroom on campus, but I have to check it out from my grade level secretary. This way, I am able to use the appropriate restroom, but I don't run the risk of being 'found out' or beat up. I also get to use one of the cleanest restrooms on campus, and what I am sure is the cleanest men's room ever. The school benefits from not having to deal with crazy conservative parents flipping out, or with other students trying to use being transgender as a false reason for using a different restroom.

In the end, the decision to come out at school came down to these questions: Am I willing to fight for the right to have my male identity at school? Do I feel that I would be safe at school? Do I feel that my school would protect me if students became threatening or harassing? And finally, will I be happier as male at my school? For me the answer to all of these questions was, and is, yes.

Am I willing to fight for the right to have my male identity at school?



Filing a Complaint

What to do if you're harassed or discriminated against

The most important thing to do if you experience harassment or discrimination is to make sure you are safe. Violence and threats of violence are illegal: if you have experienced a serious attack, report it to the police. Once you are safe, here are some steps to take to stop the harassment or discrimination from continuing.

1 Make a complaint at your school

a. Write it down.



Document the incident. Make sure you write down a detailed description of the incident, including what happened, who was involved, where it happened, when it happened, the names of any witnesses, and whether any faculty members were present and how they responded. It is essential that you do this immediately. If other people witnessed the harassment, ask them write a description of what happened as well. You also may want to ask that person to join you when you make the complaint.

b. Take it to the principal.

Take your complaint to the school principal or to the person who is supposed to receive and process complaints of harassment or other forms of discrimination. Under AB 537, your school is legally responsible for protecting you from harassment and discrimination. However, it is important to tell the person responsible for taking complaints (your principal or other administrator) or your school can claim that they never knew about it. Don't let your school use this excuse!

Although you can present your claim orally, it helps to bring a written statement with you. In your statement, you should ask for a particular solution or response – things the school should do to help stop the harassment and prevent it from happening again, like educating the harasser or training all students about LGBT issues. Make sure that this action doesn't involve removing you from the classroom or school – you are not to blame for any harassment you suffer. Ask the school official to let you know what action he or she plans to take and when.

And always make sure to make a copy for yourself of everything you give to the school official and keep it in a folder!

c. Follow up.

Report back. If harassment continues from the same individual, let your principal know that the disciplinary action isn't working. You may want to bring a written report with you again when you have your follow up meeting. After the meeting, write down what happened, what the principal said, what you agreed on, and whether your principal carried out his or her end of the bargain.

2 Take it to the next level

If the problem stops after the meeting with your principal, then congratulations! You have taken a stand and made a difference. Unfortunately, this will not always be the case. What do you do next if the harassment doesn't stop?

a. Recognize that your school's response is inadequate.

How do you know if your school's response is inadequate? Ask yourself a few questions about what happened after you told your school official:

- Has the problem been solved? Did your school take positive steps to stop the harassment or discrimination?
- If the harassment or discrimination is constant or widespread, did your school take steps to change the school environment and prevent harassment from happening, rather than just responding to each incident?
- Did your school treat your complaint seriously, and did they take action right away?

If the answer to any of these questions is "no," you should consider taking your complaint to the next level – your school district.

b. File a complaint with your school district.

Make sure you file your complaint with the school district within six months of the original incident. Your district is required to have a person who handles complaints. To find out who this person is in your district:

- Call the District Superintendent's Office. You can get the number for the superintendent's office from your school handbook or your principal's office.
- Ask to talk to the designated compliance officer or compliance coordinator for the district. Explain that each district is required by law under the Uniform Complaint Procedures to have a person who receives complaints of harassment and discrimination. Don't let them tell you there isn't such a person. If the office can't tell you who the complaint officer is, contact GSA Network for help.

If you do find out who the compliance officer is, ask to talk to her or him and make sure that he or she is the right person to receive complaints and get the mailing address for sending written complaints.

- Mail your complaint to the compliance officer or coordinator. After this person receives your complaint, they have 60 days to conduct an investigation, make a decision, and send you a report.

3 Decide whether or not you want to appeal

If you are not satisfied with a decision made by your district, you have only 15 days to appeal to the CA Department of Education. Send (by registered mail): A copy of all of your documents, statements from witnesses, a description of your meeting with your principal, the papers you sent to the school district, the district's response, and your explanation of why this response is not enough to:

Sharon Felix-Rochon, Office of Equal Opportunity, California Department of Education, 721 Capitol Mall, Room 651, Sacramento, CA 95814, Attention: Director; 916-445-9174, sfelix@cde.ca.gov

The Dept. of Education will give your school district 10 days to solve the problem. Then the Department will investigate and reach a decision within 60 days.

Things to consider when filing a complaint

Why file a complaint?

When you hear the word "complaint", you might think, "I'm not a complainer." However, a "complaint" simply means a formal way of taking action to tell authorities about the problem. Filing a complaint means you're not going to let harassment or discrimination continue.

You may have other fears about making a complaint: you may worry about retaliation, or being outed. These are real concerns, and you should think about them carefully. But be aware also that if you don't let the school know about the harassment or discrimination, your school can claim that it didn't do anything because it didn't know there was a problem. In other words, when you file a complaint, you force your school to take responsibility.

Preparing yourself for the risks you might encounter

Making a complaint can sometimes involve risks. When you weigh the risks of making a report of discrimination or harassment, don't forget to think about the risks of not reporting it, which include the harassment getting worse, the unsafe or hostile school environment continuing, and interference with your right to learn and be educated. Here are some risks you should consider before you file a complaint and some strategies you can use to respond to them.

Risk 1: Retaliation from the perpetrator

At the first sign of retaliation from the person who harassed you, be prepared to report him or her again and insist that your school take active measures to ensure your safety. You may also want to plan ahead and think about safe places at school, safe routes from place to place within school, and safe ways to get to and from school. Ask friends or trusted adults to help you plan for your safety if you fear that reporting harassment or discrimination may lead to more of the same. Remember, too, that violence and threats of violence are illegal – and the police may be able to help you.

Risk 2: Inappropriate punishment

Some administrators will treat incidents of harassment as fighting between students and will punish both students



while taking no special steps to eliminate harassment. If this is how your principal responds, you can pursue your complaint at the district level (see above).

Risk 3: Confidentiality

The law requires that the person who receives your complaint must keep it confidential as appropriate; however, many schools automatically notify your parents of bias incidents, threats, or harassment that you report. Ask your principal if he or she will respect students' wishes not to disclose the basis of the harassment to their parents. If you are afraid that your parents will find out about the basis for your complaint, you can also send an anonymous letter of complaint to your district superintendent's office so that your school will know that harassment is occurring. This won't force your school to do something about your situation, but it will help make sure that your school knows that this kind of harassment is happening.

Crisis Situations (what if you can't wait)

The whole complaint process takes 145 days. Sometimes you just can't wait that long.

Physical danger

If you are in physical danger, you need to make sure you are safe. If you experience violence or threats of violence, contact the police immediately. If anyone is physically violent with you or threatens to be violent, they are breaking the law, and the police can help. Don't tolerate any violence, even if you think you can take it; you never know when it will get worse. Don't wait for your school to act if you are in physical danger. You can still file a complaint with your school even if you involve the police.

When you can't file a complaint with your principal

You are supposed to go to your principal first with your complaint, but, if you need to, you can skip this step and go directly to your district. Keep in mind that your principal may be the person with the power to solve the problem faster. Under certain conditions, however, it may be in your best interest to go directly to your school district. This may be the case if, for example, your complaint involves a faculty member, if you are concerned about confidentiality or fear retaliation, or if your principal hasn't listened to your complaints before.

Legal remedies

If you cannot wait through this long process to stop the harassment or discrimination, keep in mind that you have other options. At any point, you can talk to a lawyer and possibly take your school to court. A judge can issue something called "injunctive relief," which is an order from a judge requiring the school to take certain steps to make the school safer.

How you can put pressure on your school to act

Throughout this process, you also have the option of activism. Activism can help you put pressure on your school, empower you and your allies, give exposure to the issue you are facing, and win the support of your fellow students. Organize your allies to pressure your school to make changes that will stop and prevent harassment and discrimination on your campus.

Brandon Jackson

Beneath the false eye lashes and cover up is me, Brandon, a normal teenage boy; but to most people, a very confused one. I don't see myself as a girl. I know what I am, and I'm very proud of it; if I wasn't, I wouldn't wear makeup every day.

When I was 14, I was going to a middle school, but I was treated bad by kids and some teachers. Kids called me names, and teachers didn't say anything to stop it. Everyone watched me, but nobody helped me, even when I got pushed down a flight of stairs. Being at school was killing my self-esteem. I got on independent study and thought I would never go back into a classroom again. I was depressed, and nobody understood me. I went to the length of trying to commit suicide by overdosing on pills.

**I know what I am,
and I'm very proud of it**

But I realized that my life is important to the world. And this year I discovered a charter school that doesn't allow kids to treat me bad, even though they still try sometimes. Now they get expelled, instead of me, and I feel safe enough to go to school.



Beyond the Binary

organizing a campaign

When you work with a group to change your school in a specific way, you are working on a campaign. Before you start a campaign to change your school, you need a plan. When taking on any campaign, it helps to be organized and strategic. This section of *Beyond the Binary* will help you document your resources, evaluate your power, and decide which strategy and specific tactics or actions are best to help your group reach its goal. If you plan on forming a coalition with other student groups on campus, fill out this section as a group so that everyone's input is included. You can use the charts within this section as a worksheet you fill out, and/or you can use the strategy chart on page 15.

What is your overall goal?

Think Big! What would your school look like if all students of all gender identities were safe and free from harassment and discrimination? Your goal is what you are fighting to accomplish. Everything you do in your gender identity campaign should work toward your goal. Then, when you begin considering specific tactics and actions, you can ask yourselves this question: "If we take this action, will it get us closer to our goal?"

OVERALL GOAL: _____

What is your campaign?

A campaign is a strategic, organized plan that focuses on one or two winnable gains that will bring you closer to your overall goal. A solid campaign will enable many people to get involved who share the same goal, increase participation of your members, and achieve your goal. For example, if your goal is to end transphobia in your school, your campaign for the year might focus on one area of the problem like trans-inclusive accessible bathrooms or dress codes that don't punish transgender students. A typical school-based campaign will take between 6 and 9 months to complete.

CAMPAIGN: _____

What do you know about your issue?

Research helps you figure out the biggest problems related to gender-based discrimination at your school, which will help you choose the best strategy. The results of your research can also be a tool you can use to convince school administrators or your school board that there is a problem at your school that needs to be solved. Some ways you can research the problem are: conducting a survey or collecting student stories. After you have researched the problem you should ask yourself, what did we learn about the problem? What is the root of the problem?

Research Phase:

- ____ Survey students
- ____ Collect student stories/experiences
- ____ Other idea: _____

WHAT DID YOU FIND IN YOUR RESEARCH? _____

What are your strengths and weaknesses?

It is important to evaluate the strengths and weaknesses of your group or coalition. Be thorough and honest. Think about membership (number of people working on your campaign), access to cars, copy machines, and money. Think about public speaking and writing abilities. List anything that may be helpful in your campaign and anything you don't have that you might need. Use the chart below to help organize your thoughts.

Strengths	Weaknesses

Who are your allies and opponents?

Allies: Who will help you accomplish your goal? Think about who is on your side. Who else wants to stop discrimination based on gender? Who else cares about transgender and gender non-conforming students? Who else cares about student safety and student rights? Which teachers? Which students? What groups on campus? Which members of the broader community? Be as specific as possible.

Opponents: Who might stand in your way as you try to accomplish your campaign goal? Who will try to prevent your campaign from being successful? In this category, brainstorm about who will actively organize against you. Your opponents can never be your targets.

Allies	Opponents

Your Target: Who has the power to give you what you want?

Your target is the person who has the power to give you what you want, and for campaigns in schools, an administrator is almost always that person. Typically, a school administrator also has the power to approve the action you are trying to take with your campaign. So, your target not only has the power to give you what you want, but they can also approve tactics and actions you take during your campaign. It is important to keep in mind that your target is not your opponent. Your school administrator is the person who you will need to work with at your school throughout your campaign to implement the tactics of your campaign to meet your goals.

TARGET: _____

TIP: If your target appears to be a group of people (example: School Board/ Student Governing Body) concentrate your efforts on a particular person or two people rather than the whole group. Determine who in the group is undecided about letting you carry out your campaign and focus your efforts on them. Their votes of approval will make the difference.

Tactics: What actions will help you reach your goal?

Are you focusing on changing students' attitudes? Teachers' behavior? District policies? Think about what strategy and specific actions or tactics will help you get what you want from your target.

While brainstorming tactics ask yourselves how each tactic will help you meet your campaign goal. Be creative! Remember to think about drawing on your strengths, engaging your allies, and minimizing the power of your opponents as you choose your strategy and plan your tactics. After you write down your tactics, make sure to create a timeline (see pages 16-17 for a timeline worksheet) that says when all these steps will happen, who will do what, and by when.

Examples of tactics may include: getting students to sign a petition supporting what you are trying to do, asking parents to write supportive letters to the school board, or having students wear buttons or ribbons in support of your campaign. If you are trying to change students' attitudes, you should consider participating in the Transgender Day of Remembrance. A step-by-step guide for how to do the Transgender Day of Remembrance starts on page 23.

SPECIFIC TACTICS: _____

What do you do after the campaign is over?

Once your campaign is over, it is important to spend some time evaluating what happened and what impact your group had on your community. You may even want to consider building in an evaluation tool such as a survey, especially if your campaign has included any trainings for staff or students. If you won a victory such as changing school policy or winning a gender neutral bathroom on campus, be sure to celebrate your success. If you weren't successful, think about what prevented you from succeeding.

When you assess your wins and losses you should think about what impact your actions had. For example, consider how many people you were able to educate about transgender issues. Also, be sure to think about if your campaign goals were realistic and how well your group worked together or with other groups. Reflect on the lessons that you learned in order to help your members plan a new campaign to fight transphobia in your school.

Beck Wehrle

When I was six, I tried to convince anyone who would listen that I was really a boy. But because I wore dresses and my favorite color was pink, no one would listen. And once I came to the conclusion that I was bad at sports, I stopped talking about it too. After all, all boys could play sports. So, I wasn't a boy, but I didn't feel like a girl either.

Ten years later, I was president of my school's GSA and was assembling teacher packets for Transgender Day of Remembrance, the first year my school was participating in the event. Among the contents of the packet was a definition list and that's where I found it: Genderqueers: "may feel that they do not fit within a binary gender system, they may feel that they are either both male and female or fall completely outside the system." Suddenly, I found something that fit me.

I was afraid that I wouldn't be accepted by the trans community because I wouldn't be considered trans enough. I've found that not to be true. The other trans people I've met have been very welcoming. My family and school community have been very supportive. And even though most of the people I've come out to still refer to me as a 'woman' and use the pronoun 'she' (even though I prefer 'ze'), I do not mind too much because I can tell that they are trying.

In my junior year, I had tried to start using the men's restroom. This was right after I came out.

The one place I've had some challenges has been the restroom. In my junior year, I had tried to start using the men's restroom. This was right after I came out.

The first time I went into the men's restroom, I scared a freshman and ran out myself. Based on that experience, I decided I wasn't ready for the men's restroom. By my senior year, though, I was much more comfortable with my gender identity. I walked into the restroom and nobody cared.

That changed in December of my senior year, when I was chased out of the boy's bathroom by a group of about 7 guys. It all started when I was washing my hands and I felt someone reaching into my pocket. I whirled around and said, "Excuse me?" quite indignantly. The boy made a lot of excuses to cover up the fact that he was trying to steal my wallet and all of a sudden yelled, "There's a girl in the boy's bathroom!" He and his posse yelled mean things at me and told me I was breaking the law. He screamed, "Are you a boy or a girl?" He then grabbed my arm and attempted to pull me down the hall, yelling, "She's a girl!"

I filed a grievance with the administration and requested a gender neutral bathroom. I got a response within the day offering me a temporary unisex restroom only available to teachers (and now any student uncomfortable with the man/woman bathroom setup). I was promised that several single stall unisex restrooms would be included when the new school gets built. Once I started to use the teacher's restroom, I had to explain to a few teachers during the first week why I was using their restroom, but that was okay because I am comfortable talking about my identity. One of my teachers has even gone so far as to make sure that her language is trans inclusive in the classroom.

At the end of my senior year, I ran for Prom King. Even though there was a rumor that one particular girl would beat me up if I won, I received great support from my peers and teachers. On the night of senior ball, I was crowned to the sound of cheers. The next school day, I received congratulations from people I had never met, including a big hug from the girl who had been rumored to want to beat me up. One small step for me, one giant leap for transkind.



Campaign Organizing Chart

Phase 1

Goals

Overall Goal
Think Big!
Everything you do in your gender identity campaign should work toward your goal.

Campaign Goal
A plan that focuses on one or two winnable gains toward your overall goal.

Phase 2

Research

What do you need to know about your issue?

What are your groups strengths and weaknesses?

Who are your allies?

Who are your opponents?

Target

Primary:
One person or small group that has the decision-making power to get you what you want.

Secondary:
One person who your group has influence over who can sway the primary target.

Phase 3

Tactics

Specific actions that will help you get what you want for your target. Tactics will help you change people, attitudes, behaviors, and policies. This is also where your group can work together creatively.

Phase 4

Outcomes

Campaign finished!
Make a plan for next steps and/or a new campaign.

Lose!!!

Take this time to evaluate. Build on lessons learned in order to revamp the old campaign or start a new campaign.

Win!!!!

Celebrate!
Evaluate lessons learned and get ready to build on your win to further reach your overall goals.

Developing a Timeline

When planning a campaign as a GSA or coalition, it is important to create a timeline. Timelines help you keep track of what needs to be done, who is doing it, and when it will be done. Timelines are great documents for ensuring that all of your bases are covered and that no details get lost along the way. This section of *Beyond the Binary* takes you step by step through creating a timeline for your gender identity campaign. You will also find a chart that your club may find useful for developing a timeline.

Steps for creating a timeline

1 Use the Campaign Organizing Chart!

Once you've filled out the Campaign Organizing Chart (see page 15) think about how much work and involvement is necessary to accomplish your goal. For example, a bathroom policy campaign may take longer to implement than securing a teacher training. If you choose more than one campaign, you will need a separate timeline for each.

2 Examine your school environment.

Assess the likelihood of support from your school's administration. Ask yourselves how long would it take to get approval? Will you have to go to your school board? If so, they may meet only once or twice a month, and that should factor into your timeline.

3 Make a detailed list.

List all the steps that need to be accomplished in order to carry out your campaign. Be specific and detailed.

4 Assign duties.

Match people and groups to tasks. Every task listed must be matched with a person or group responsible for carrying it out.

5 Set your dates.

Designate dates by when each task must be completed. At this point your timeline actually begins to take shape. Assign every task a "complete by" date that is realistic and that enables your process to move forward.

6 Distribute your timeline.

Give a copy of your timeline to everyone involved and communicate the importance of sticking to it to insure the success of your project.

7 Carry out your project according to the timeline.

Try to stick to your timeline as much as possible, but if any step in your timeline is delayed, change the rest of the timeline accordingly.

8 Celebrate all your accomplishments along the way!

Campaign work is rewarding but hard. Make sure everyone remembers how important your work is. Take the time to recognize everyone's contributions along the way.



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People Power:

Examine the resources of your group. How many members do you have? Are you going to form a coalition with other groups? Building a coalition takes time and careful planning. Once you answer these questions list the names of persons and groups (or potential people) you can count on to work on the campaign.

Fundraising:

Is money required to carry out your goal? Will you need to fundraise or get donations? If it is necessary to raise money for your campaign, consider establishing a fundraising subcommittee in your coalition or GSA. Be sure to build the fundraising process into your timeline.

Research:

Do you need to do research or collect data? Will you need to present this information to win key support before your plans can go forward? What is the most effective way of presenting your research? Make sure your timeline takes into account the research elements of your gender identity campaign.

Tips for creating a timeline

- 1 Designate several dates throughout the timeline that are “check-in” dates. On these dates, everyone who is responsible for accomplishing certain tasks reports in on their progress. This way, if new things have come up, you can deal with them in a timely manner, and your campaign can move ahead as scheduled.
- 2 When creating a timeline, working backwards from the final completion date can be the most effective way to plan. For instance, if you are planning to hold a teacher training on March 12th, and you estimate that publicity needs to begin a month ahead of time, you’ll realize that you need to get administrative approval by February 12th so you can start publicizing the training.

Task	Who will do it	Complete by

Changing School Policy Organizing Tips

Below you will find a quick summary of the key steps in a campaign to change school policy. In the section immediately following this summary, you can read about each step in greater detail.

Step 1: Get Educated

- Get educated about the issue (gather statistics and stories).
- Get educated about your school (who is who and who do you need to convince?).
- Define the issue you want to address and the steps you think your school or school district should take to address the problem.

Step 2: Recruit Allies

- Find a supportive adult or a school official to help you strategize (a teacher, an administrator, a counselor).
- Contact other groups at your school who might support your goals, such as student groups or parent/teacher groups.
- Contact other organizations in your community who will support your goals (see a list of organizations on pages 41-43).
- Work with your allies to develop your ideas about what the problem is and how it should be addressed.
- Get a lawyer on your side by contacting one of the legal organizations that can help you develop the policy and defend it to your school's lawyers (see the list on page 43).

Step 3: Schedule a Meeting with a School or District Official

- Based on your campaign planning, figure out who you need to meet with and call or email them. Tell them who you are and why you want a meeting. Schedule a time, day, and place for the meeting.
- Bring printed copies of your statistics and/or stories.
- Bring a draft of your suggested policy or resolution (or just a write up about what you want to happen).
- Have a clear sense of what you are asking the official to do and communicate this.
- Be ready to negotiate if the official does not agree to do what you have asked for. Decide beforehand with your group what you will be willing to accept.
- After the meeting, send a follow up letter or memo thanking them for meeting with you and summarizing the meeting and the agreements you made.

Step 4: Getting the New Policy Adopted

If a District Administrator is the decision maker:

- Prepare materials for the meeting.
- Incorporate any compromises you negotiated in your previous meeting.
- Bring a few allies with you to the meeting (other students, teacher and staff allies, and/or adult allies).
- Make sure that when you leave the meeting you both clearly understand what agreement was reached.
- Schedule a second meeting if necessary.

If the School Board members are the decision makers:

- Prepare materials for the meeting.
- Arrange and prepare your speakers.
- Bring as many of your allies with you as possible.

Step 5: Follow-Up

- Get the new policy distributed to the school community.
- Get the new policy posted on your school's website, if possible.
- Try to get a training for the staff and the students about the new policy.

Step 6: Celebrate Your Victory

- Celebrate the new policy you helped create.
- If your policy didn't pass, celebrate that you have educated school officials.
- Thank everyone in your group and all of your allies for their help.

Step 7: Evaluate and Plan for the Future

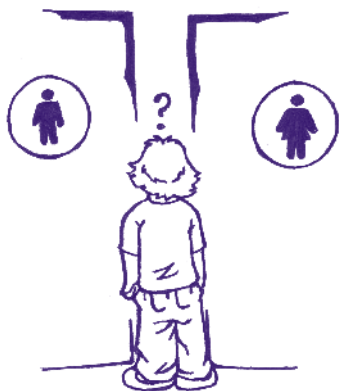
- Find out what impact the new policy is having in your school.
- Use what you learn to plan your next campaign.
- Keep records of what you have done to pass on to future organizers.



Changing School Policy

A Step by Step Guide

Step 1: Get Educated



About the issue

Before you begin your campaign to make schools safer for transgender and other gender non-conforming students, you should educate yourself and your allies about the issue. Decide on a particular issue you want to address. Make sure you have as much information about this issue as possible. Gathering statistics about the harassment and discrimination that transgender and gender non-conforming students face is helpful. (You can find some good statistics on page 7.)

It is especially helpful to have statistics about your own school or school district. You can collect this type of information through a survey or by collecting stories from people who you know. If you do collect this information, you should write up a summary or fact sheet to give to people you talk to about the issue. Make sure that the information you present is clear, well thought out, and supportive of your goals.

In addition, you want to make sure that you all understand the terminology that you are using to describe your issue and that you are able to explain it to others. (See page 5 for a terminology list.)

About your school

In addition to learning a lot about the issue, you should do some basic research on your school and district. What changes will the District need to make to resolve the issue you have addressed above? Is this a change in school policy (anti-discrimination policy, dress code, etc) or a change to the building (a gender neutral restroom, for instance)? Who are the decision makers who can approve the necessary changes? For example, this could be the School Board, the Superintendent, or a district administrator. What rules, if any, do you have to follow in order to contact this person or get them to consider your issue?

Getting this information will be incredibly helpful as you move forward in your campaign. Often, a supportive teacher or counselor will be able to help you answer these questions. Sometimes, school districts also have people at the School District office (like a Gender Equity Compliance Officer) who can help you get the answers to these questions.

Step 2: Recruit Allies

It's very important that you get as many allies as possible. One of the first places to look for an ally is among the staff at your school or district. As mentioned above, these people might have more information about how the school district works and can help you get through the system.

In addition to finding someone on the "inside," it's important to recruit other students, student groups, and people outside the school system. This can help give you the numbers you need so that you'll be taken seriously by a decision maker who might otherwise ignore your requests. Approaching other student groups can also help to educate the student body about the issues that concern transgender and gender non-conforming students. Finally, involving parents groups and outside allies is a great way to bring adults into the process. It's very important that the school or district know that the policy you want passed is one that concerns the entire community.

Once you have recruited allies, work with them to develop your ideas. You know the issue you want to address and you have an idea of what you want the school to do. Now, work with your allies to create a concrete proposal or request. This might be new language for an anti-discrimination policy. It might be a policy about how school personnel should treat transgender and gender non-conforming students. Or it might be a request to set-aside one restroom as a gender neutral restroom. Whatever it is, work with your allies to come up with a moving argument for why the issue is important and a clear statement about what you want the school to do. (To see a sample policy, check out the San Francisco Unified School District policy regulation on transgender and gender non-conforming students in the appendix of this tool kit.)

Step 3: Schedule a Meeting with a School or District Official

The next step in getting the School District to do what you want is to meet with the appropriate person to explain your request. A meeting of this sort is very important because it lets you to get feedback from the school about problems in the policy that you may not have noticed on your own. Using the campaign chart, you have identified who the right person is (a School Board member or members, the superintendent, an administrator, etc). Now you need to go through the correct steps to set up a meeting with that person.

Scheduling a meeting may be as easy as calling or sending the person an email. Or you may have to first contact the person's assistant or secretary. Don't be discouraged if the person doesn't seem interested in meeting with you right away. Be polite, but don't give up. If the person suggests that you meet with someone else first, go ahead and meet with that new person. It's possible that they can help you get the result you want.

Prior to the meeting, you should think about what questions you might get asked and prepare answers to these questions. Keep in mind that just because the person is asking questions, it doesn't necessarily mean that they don't agree with you. It might just be that they know someone else in the school or district will be asking these questions and they want to prepare you for it. Also, think about which people should attend the meeting. You may want to have several different groups represented, such as students, parents, and school staff.

Before the meeting, make sure you know what result you want. Decide as a group what you will agree to change and what things you will not agree to change. At the end of the meeting, you should check with the person you are meeting with to confirm that you both agree on next steps (or agree to disagree in some cases). Next steps for the official could be contacting other people in the school or district to find out what they will think of the policy. Next steps for you might be to make some revisions to your materials or gather additional information that the school official needs.

After the meeting, write the school official to thank them for meeting with you. In this letter, also review the agreements you made at the meeting. This will demonstrate to the official that you are serious about your campaign and that you expect them to follow through with their agreements.

You should take these steps with each person with whom you have a meeting.

Step 4: Getting the New Policy Adopted

This is the critical step, when you meet with the final decision maker(s) on whether the school or school district will act on your request. You've already identified the person or people in the district who need to approve your request. Now it's time to sell your ideas to them.

If a District Administrator is the decision maker:

Your final meeting might be in person, on the phone, or over email. In preparing for the final meeting, have all of your arguments planned out ahead of time. You should have a sheet of talking points that outlines your message. Stick to your message!

You should also have a couple of allies with you, but you don't want to overwhelm the person with a lot of people. Important people to have at the meeting include: people who the new policy will protect (so they can tell their personal stories), someone who understands the policy inside and out, and an adult ally who has a connection with the school. Having other allies sign a group letter supporting your goals is one good way to let the decision maker know you have wide support but won't overwhelm them with people at the meeting.

At the end of the meeting, make sure you are clear on what decision, if any, has been reached. Sometimes, it takes more than one meeting to reach a decision, but once one is reached you should make sure you completely understand it. If the decision maker agrees to adopt your new policy or some variation on it, make sure that you understand when and how this will happen.

If the School Board members are the decision makers:

The main thing to remember is: numbers count! Bring as many people as you can to the meeting. Strategize well ahead of time about how to get as many allies to the meeting as possible. You want your allies to be organized. You should have some way for them to indicate their support – like giving everyone a sticker or a ribbon to wear.

School Board meetings often allow time for public comment. It is important that your allies know the issue and can speak about it. Make sure you have written materials to give to everyone, including talking points. Talking points should be short and clear.

Before the meeting, figure out who should speak at the meeting. Make sure you have different types of people speaking – such as a parent, a student, a teacher, etc. Make sure to give these people suggestions about what points would be helpful to make. The points can use statistics, stories, and the intended outcome of the new policy. You may want to make everyone write out their statement ahead of time and let you read the statements first. You should also practice what you are going to say ahead of time and practice staying on message (don't get distracted by other issues). If someone who is opposing your policy says something totally irrelevant to the discussion, don't waste time responding. Just continue creating a clear and forceful message and stay on it.

In the end, Board Members will have to vote on your request. Make sure you understand what they are voting on and what the result is. Keep good notes about who voted to approve your request and who voted against it. Send thank you letters to Board Members who voted in favor of your request. If the Board did not approve your request, prepare to come back to them again when the time is right.

Step 5: Follow-Up

Once you have a commitment from the school district to approve your request, it is important to get the word out to other students, district staff, and the community. Check with the decision maker(s) to find out when the district or school will take action on your request. If you have requested that a new policy be adopted, ask if it will be included in official materials and if it can be posted on the district's website.

Make your own educational materials explaining the action the district has taken, why it's necessary, and what changes it makes (these new materials can just be an updated version of the materials you created in Step 1). Hand these materials out to school groups and district staff, and if possible include it on a student or community organization website.

Ask your school's newspaper to publish an article on the district's action. Make sure they include the work that was done by students and allies who made the request in the first place. It's important that people who read the article understand that the district learned about the problem and took action because students took the time to ask them to do so.

Finally, working with your allies, you may want to try to get the school to have trainings for school staff and students on the new policy.

Step 6: Celebrate your Victory

It is important to celebrate what you have done so that your group can feel good about what they have accomplished. Even if you didn't get approval for your policy, celebrate what you did accomplish: at the very least, you have educated school officials about the problem at your school. Running a campaign is hard work; make sure you thank and congratulate everyone who is involved. When people feel good about the work they did, they'll be more ready and willing to be involved in your next campaign.

Step 7: Evaluate and Plan for the Future

After the new policy starts being used, find out what effect your campaign has had on your school. Survey people or collect stories to find out if conditions have gotten better. Talk to your group to find out what worked well and what didn't work so well. Write all of this feedback down, so that your group can use it to plan your next campaign to be even better. Keeping a written record of this information will help your group succeed even after you graduate.



Alyn provided this following testimony at a Senate Select Committee on School Safety Hearing on “Sexual Orientation, Gender Identity Discrimination and School Safety,” which was held on October 3, 2002 in West Hollywood, CA.

After facing many years of verbal and physical harassment, often resulting in violence, I realized that I needed to empower myself. I had given up my power to my attackers and I wanted it back. I turned to activism after I heard Senator Sheila Kuehl speak about AB537 at a PFLAG conference.

All through middle school, I was attacked by my peers for being gender non-conforming. I preferred masculine clothing to feminine apparel, my attitude and carriage reflected my inner masculinity that was in turmoil with my female body. In 6th grade, I was beaten up by two 8th grade boys who thought I was a boy. Instead of fighting back, I ran for help. The vice principal, upon listening to the story, 'helpfully suggested' that had I worn nail polish, had long hair, or dressed like a girl, the problem wouldn't have occurred. He suspended me on the grounds that I participated in a fight. The reality of the situation was that I got suspended for my lack of femininity.

The physical harassment in high school turned out to be slightly less brutal than it had been in middle school. Still, I was chased around a classroom with a stapler. I had death notes put in my locker. And I got kicked out of every bathroom on campus. While certain teachers tried to stop the harassment, most of them ignored the problem, even as kids shouted things like "fucking dyke" across the classroom.

At the end of first semester of 9th grade, I had an emotional breakdown. I couldn't deal with the pressure to conform, the harassment I'd been dealing with since kindergarten, and the stress of being 'different and alone.' I was normally a solid A/B student, but that semester, I got 5 D's and an F. I was suicidal, unsure of whether life was really worth living anymore.

My 10th grade year was eerily quiet - the harassment seemed to have disappeared. In 11th grade, I was attacked across the street from school by two students with knives. I reported the crime and this time, the administration worked with the school police to resolve the issue since I told them I was attacked for being transgender, even though my attackers thought I was a lesbian.

My high school experience greatly contrasts that of middle school. Rather than being blamed for the harassment, my high school campus has realized that instead of trying to change me, it needs to educate the students in order to prevent incidents like these from occurring again. They have been supportive through my transition; allowing me access to the nurse's bathroom, rather than forcing me to use women's rooms. While it is a step in the right direction, I still don't have equal access to facilities before and after school. My school identification now matches my gender identity of male, as well as my legally changed name. The administration realizes that there are problems to be addressed, however, it is difficult to take action since not many people know how to deal with LGBT issues. Perhaps providing mandatory faculty trainings on AB537 and LGBT issues, educating the student body on LGBT issues, requiring all school campuses to have a support group for LGBT youth, and providing safe facilities for all youth would help address some of the issues schools face today. We have managed to make progress as a school, but until more detailed protocol exists on dealing with LGBT youth, and especially transgender youth, confusion on campuses across the state will prevail.



Student Action

Organizing the Transgender Day of Remembrance

What is the Transgender Day of Remembrance?

The Transgender Day of Remembrance is held in November each year to memorialize those who were killed due to anti-transgender hatred or prejudice. Although not every person represented during the Day of Remembrance self-identified as transgender, each was a victim of violence based on bias against transgender people. The list of deaths available at www.rememberingourdead.org only contains those deaths known to the transgender community or that have been reported to the media. The Day of Remembrance is held in November to honor Rita Hester, whose murder kicked off the "Remembering Our Dead" web project and a San Francisco candlelight vigil in 1999. Rita Hester's murder - like most anti-transgender murder cases - has yet to be solved.

What is the purpose of the Day of Remembrance?

The Transgender Day of Remembrance serves several purposes. It raises public awareness of hate crimes against transgender people, an action that current media doesn't perform. Day of Remembrance publicly mourns and honors the lives of transgender people who might otherwise be forgotten. Through the vigil, we express love and respect in the face of national indifference and hatred. Day of Remembrance gives transgender people and their allies a chance to step forward and stand in vigil, memorializing those who've died by anti-transgender violence. Putting on the Day of Remembrance in schools can also be used as a way to educate students, teachers, and administrators about transgender issues, so we can try to prevent anti-transgender hatred and violence from continuing.

What are the guiding principles of the Day of Remembrance?

These are the guiding principles developed by the organizers of the Day of Remembrance. You can use these words to help frame your message and tone for the day.

- "Those who cannot remember the past are doomed to repeat it." (Santayana)
- All who die due to anti-transgender violence are to be remembered.
- It is up to us to remember these people, since their killers, law enforcement, and the media often seek to erase their existence.
- Transgender lives are affirmed as valuable.
- We can make a difference by being visible, speaking out, educating and organizing around anti-transgender violence, which can effect change.

What can be done for the Day of Remembrance?

- Candlelight Vigils / Marches
- Discussion forums with local activists, politicians, or school officials
- Performance Actions
- Poetry or spoken word art readings
- Visual representation of the number of deaths with:
 - Cardboard Tomb Stones of Remembered People
 - Paper Cutouts of Remembered People
 - Body Outline Chalkings of Remembered People
- Teach-Ins and Speakers Bureaus
- Art / Photography Displays
- Movie screenings (such as "Boys Don't Cry")
- Trans 101 trainings for staff or any interested people
- Anything else that reflects the grounding principles of the day that you can imagine

Tips for Planning & Having a Successful Day of Remembrance

Before:

- **Make a Plan** Your GSA should prepare in advance for how exactly you want to approach the project and what you want the day to consist of.
- **Create a Timeline** After deciding what it is your club would like to do, you should make a timeline so that everyone knows what needs to be done. Be sure to include who is in charge of each item and when it needs to be finished.
- **Get More Peeps Involved** You should try to get as many people as possible aware of the event and involved in participating. You could do that by sending out e-mail announcements, advertising in the school newspaper, putting up flyers and posters, and of course by word of mouth.
- **Build Coalitions/Build Bridges** Consider including other clubs in your school that may be interested in collaborating on the project. There might be a need for education on how violence affects different groups, as well as how anti-transgender violence is increasingly affecting low income, transgender youth of color. It is important for other groups to understand how violence based on gender affects all communities.
- **Issue a Press Release** Let the local media know about what you are doing to honor the Transgender Day of Remembrance. Describe the events at your school, history of the event, and use some quotes from GSA members about why you are doing the event. Be sure to include a phone number for how a reporter can reach your group to follow-up for interviews.
- **Get Teachers/Administrators/Staff Involved** Find out if staff are interested in participating.
- **Let your Principal Know** Schedule a meeting with your principal to explain your plans for the Day of Remembrance.
- **Be Prepared!** Have a pre-Transgender Day of Remembrance meeting to discuss positive ways to handle harassment from non-participants. Be prepared to have spokespersons from your group who can speak about the event. This is an emotionally charged subject, and can end up being a very “down” event. Provide remembrance of those we’ve lost, but also provide reassurance and healing for those in attendance.

During...

- **Announce the Event** Post an announcement in the daily bulletin explaining the event and requesting that all staff and students be respectful of the students participating in the project.
- **Coordinate Volunteers** Ask people to help setup your event. Make sure that you have enough people for setup, monitoring the event, and cleanup.
- **Provide Resources** Have a resource spot or staffed table where people can find info about your GSA or other LGBTQ groups and resources.
- **Organize Visual Displays** Organize some sort of visible display such as having your participants wear a sticker or T-shirt that commemorates a victim of anti-transgender violence.
- **Hold Your Event** During the event, be sure to: let people know what the purpose of the event is, have speakers discussing transgender issues, read the names of people victimized by anti-transgender violence, describe the meaning of the visual art you have used on campus (e.g. cardboard cutouts, chalkings, etc.), close the event, and thank everyone for coming.
- **Create a Safe Space** Due to the intensity of the event — you should think of creative ways to create a safe space, such as a safe room where people can go if they need to reflect or talk about their feelings.

After...

- **Continue the Education** Host a discussion about how to raise awareness of transgender people everyday as opposed to one day out of the year.
- **Evaluate the Day** Evaluate the successes of the day and discuss what improvements could be made for next year.
- **Plan for Next Year** Lay groundwork for the next Transgender Day of Remembrance.

The Day of Remembrance can be a perfect opportunity to raise people’s awareness of and interest in transgender issues. Some ideas for addressing larger issues within the school or community include:

- Adding “gender identity and gender expression” to the school’s handbook
- Having a Trans 101 training for faculty and staff
- Having some restrooms be gender neutral and available to people of all genders to use
- Educating the school’s GSA or diversity group on trans issues and how to be better trans allies

This resource sheet was adapted from materials published by the Transgender Day of Remembrance, which is a project of Gender Education and Advocacy. For more information, check out the website: <http://www.gender.org/remember/day/what.html>

Who is being honored by the Transgender Day of Remembrance?

Over the past year, over 30 transgender people have lost their lives due to hate crimes, but this is unfortunately just the tip of the iceberg of people killed worldwide due to bias and hatred based on gender identity and expression. Most of the victims were people of color who came from working class backgrounds. Among the fallen are transgender and gender non-conforming youth of color whose lives were cut short unnecessarily.

Gwen Araujo, 17, (Newark, California) chose the name, Gwen, after her favorite star, Gwen Stefani, from the group No Doubt. Before her untimely death, her skirt was lifted up for people to see that she was born biologically male before she was beaten and buried in a shallow grave.

Alina Marie Barragan, 19, (San Jose, California) was strangled to death and her body was stuffed in the trunk of a car after a man named Kozi Santino Scott became enraged after discovering that Alina Marie, who he originally thought was a woman, was biologically male.

Sakia Gunn, 15, (Newark, New Jersey) was a gender non-conforming lesbian who was targeted because of her gender presentation. Sakia Gunn was not like most girls in her neighborhood. She refused to wear pink even as a young child. Her mother laughs when asked if Sakia played with dolls. When they were given to her as toys, she immediately cut off their hair, she says. For as long as anyone can remember, Sakia preferred baggy jeans and a T-shirt over dresses and skirts. On a hot night in June, Sakia and her friends were returning from the Chelsea Piers in downtown Manhattan, a hangout for mostly queer youth of color, to Newark, New Jersey. When Sakia and her friends, refused the advances of a couple of men, Sakia was subsequently stabbed and passed away on the way to the hospital.

Nireah Johnson, 17, (Indianapolis, Indiana) was murdered by a man who became angered when he discovered that Nireah, the young woman he was attracted to, was transgender. Nireah and a friend, 18-year-old Brandie Coleman, were shot in the head while sitting in a SUV.

Freddie Martinez, 16, (Cortez, Colorado) was a very striking Navajo teen who presented as female and was often harassed at school. Freddie was murdered in Cortez, Colorado.

Nikki Nicholas, 19, (Detroit, Michigan) was truly loved by her friends and family. She was an African-American transwoman making her living as a performer in clubs where she often danced and lip-synched to Beyonce songs. The youngster preferred playing with Barbie dolls rather than G.I. Joes, Nicholas' mother said, and by age 11 began experimenting with girls' clothing and makeup. Her body was discovered during a routine property check of an abandoned farmhouse.

Stephanie Thomas, 19, and **Ukea Davis**, 18, (Washington, DC) were friends found shot to death together. They were a part of SMYL (Sexual Minority Youth Liaison) and were often teased for being feminine. Stephanie started wearing dresses and makeup at the age of 14. Her mother commented that "on the school bus kids tormented her, so she would get off and walk a couple miles to the school." Through a transgender health group, Stephanie met Ukea Davis, another transgender woman. They supported one another, especially when classmates--and even teachers--harassed them about their gender identity.

Sadly, these numbers are continuing to grow. With TV shows like Jerry Springer, gender identity is trivialized as transgender and gender non-conforming people are brought on the show and bashed verbally and sometimes physically. When people watch shows like this or when we reduce people's experiences to phrases like "he was dressed as a woman," we trivialize gender and people's identities.

For Gwen, Stephanie, Nikki, and other transgender teenagers, public school is usually not a safe place for them to express their gender. In addition, if they come from school districts that are underfunded, there will not be any funds to have teacher trainings and programs that address diversity, especially gender identity. Very few states have laws that protect transgender and gender non-conforming students' rights.

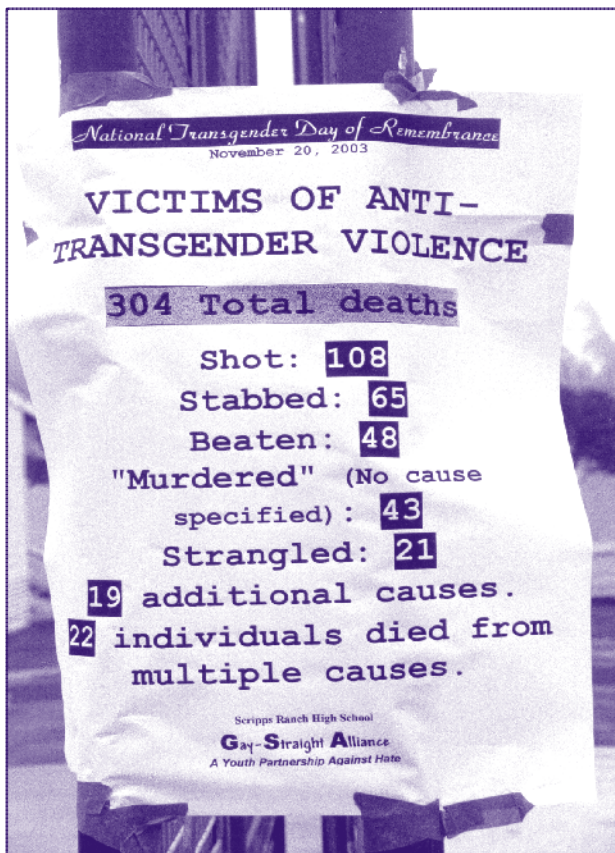


Photo by Yve Laris Cohen

At Scripps Ranch High School in San Diego, posters like this one were on display all over campus during the Transgender Day of Remembrance.

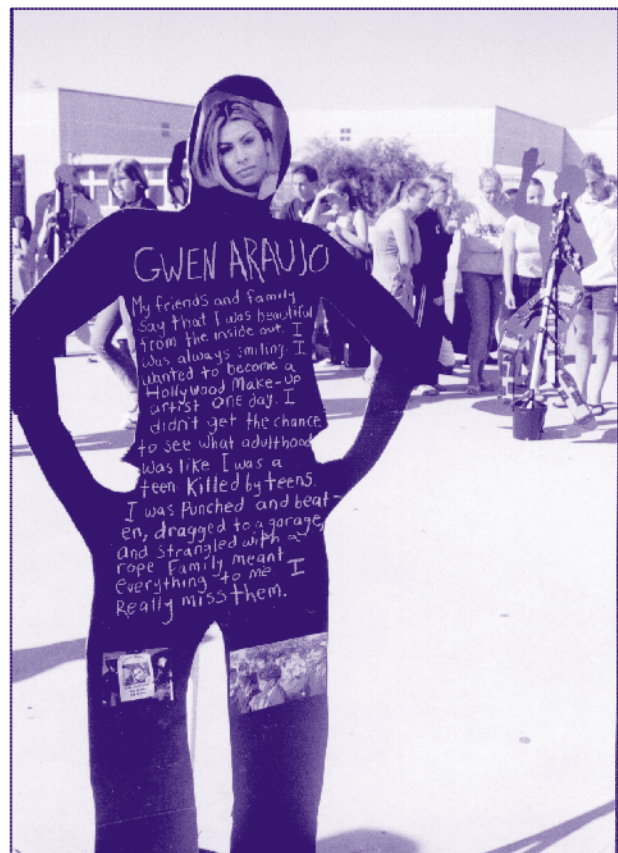


Photo by Yve Laris Cohen

The GSA club at Scripps Ranch High School created cardboard cutouts that they set up in the quad to honor victims of anti-transgender violence.

Vanessa Coe

My name is Vanessa Coe and I am a trans ally. I am the founder and president of the Gay-Straight Alliance club at Troy High School in Fullerton, CA. Our GSA's Transgender Day of Remembrance had around 50 participants in 2003 plus many more supporters. We decided to participate in this day because there is not enough transgender representation within the GSAs in California. We wanted to emphasize that GSAs are not just about sexual orientation but also gender. Our goal is to end transphobia just as much as it is to end homophobia.

Once we decided that we wanted to have a Transgender Day of Remembrance, we brainstormed different ideas to portray this event and decided that we wanted to emphasize the lives of those that have suffered from such heinous hate crimes in the recent year. We researched and discovered the stories of people killed because of anti-transgender violence by visiting <http://www.gender.org/remember/day/>. To memorialize the people who've been killed, GSA members created signs that would go around each participant's neck with the words, "Hi my name is _____, ask me my story." Different names were then printed on the blank line. Each student carried around a card with a story and took on the role of the transgender victim by speaking out to protest the hatred.

We had to inform faculty and staff by writing letters and having them approved by the activities director, who then forwarded the letters to the boxes in the teacher's lounge. We made sure to have this event approved by the administration so that everything would run smoothly. On the day of the event, we wore our signs and told our stories when asked. We also held a lunch time meeting with a presentation on a personal trans story.

Afterwards, we had a discussion about the event and how it affected our school and ourselves. We wanted to see if the climate at school changed, and if perhaps even the community surrounding our school had changed. We then accepted any opinions from outside sources to explain what they appreciated and did not appreciate. The event itself was publicity for the next year's Transgender Day of Remembrance. Over 100 people are signed up as prospective participants for next year.



Training Staff

Transgender and Gender Non-Conforming Students Workshop Agenda

Preventing discrimination from occurring in the first place is one of the most effective ways to protect transgender and gender non-conforming students. Teachers and administrators at your school are required by law to prevent discrimination, but may not have the necessary information to do that effectively. A staff training is a great chance to talk about the everyday issues that transgender and gender non-conforming students face and the steps that staff can take to ensure their safety.

The following outline is a model for what such a training would involve. It lists basic categories of information that you should consider including in your training and gives you a way to arrange that material. Most of the information you need to present a training can be found in this toolkit. For example, information about the law is on page 32, the definitions are on page 5, and information on the challenges students face is included in the introduction. The statistics are on page 7 and the San Francisco Unified School District policy is on page 38. We encourage you to allow staff to work in small groups to come up with solutions to hypothetical scenarios, and we've included the sample scenarios on the following page.

The first step to putting on a staff training is to work with the school administration or faculty to get it approved and scheduled. You can follow many of the steps we've laid out in the "Changing School Policy" section of *Beyond the Binary* on page 18 in order to do that.

1. INTRODUCTIONS

- Names
- Why the participants are here
- Any questions they want to make sure get answered (if possible)
- Who presenters are

2. STATE OF THE LAW

- California Student Safety and Violence Prevention Act (AB 537)
- Your school's policy

3. DEFINITIONS OF TERMS AND GENERAL INFORMATION ABOUT GENDER IDENTITY

4. CHALLENGES FACED BY TRANSGENDER AND GENDER NON-CONFORMING STUDENTS

- Discrimination Generally
- Names/Pronouns
- Official Records
- Restroom Accessibility
- Locker Room Accessibility
- Sports and Gym Class
- Other Sex Segregation

5. GUEST SPEAKERS

- Transgender and/or Gender Non-Conforming Students
- Allies

6. SCHOOL SCENARIOS

- Small Group Discussion
- Large Group Report Back

7. EVALUATION

Scenario 1

Robert is an eighth grade student who often dresses and acts in a traditionally “feminine” manner. One day, Robert wears a skirt and blouse to school. His teacher sends him to the principal’s office with a request that Robert be sent home to change his clothes.

Questions to Consider:

Did the teacher take the right action? Why or why not?

What kinds of questions, if any, should the Principal ask Robert?

Should Robert’s parent(s) or guardian(s) be called? If so, when?

What kind(s) of referrals to resources could the Principal or another school employee give to Robert?

What should the Principal say to Robert’s teacher? Should the Principal take any disciplinary action against Robert’s teacher?

What, if anything, should Robert’s classmates be told?

Scenario 2

A student named Ronnie has started school as a 10th grade transfer student. Although Ronnie wears make-up and has the appearance of a girl, students who knew her in elementary school claim that she is really a boy. Ronnie has complained that some of these students have called her names in the hallway and have begun harassing her more seriously during lunch and P.E. Hate slurs have been written on her locker and she has been threatened in anonymous notes.

Ronnie has finally come forward to report these incidents to her counselor and talk about her problems with peer harassment at school. She confides in the counselor that she identifies as a female but it’s very hard for her to talk to people about it. Although she won’t elaborate, the counselor gets the feeling that Ronnie’s parents are not supportive. She reports that she feels unsafe at school and has been having nightmares, stomach aches, and other stress related symptoms.

Some of the teachers are asking questions about how to deal with Ronnie and how to explain the situation to other students. One of the issues raised by some of the teachers is the question of confidentiality.

Questions to Consider:

What kind of support can the counselor offer to Ronnie about the nightmares, stomach aches, and other stress related symptoms she is experiencing?

What is the counselor required to do in response to Ronnie’s complaints of harassment?

Can the counselor handle the issue without betraying Ronnie’s confidence?

What can the counselor ask the school to do to ensure that Ronnie is safe and respected at her school?

What do you say to the staff? To other students? To Ronnie’s parents?

Scenario 3

Cameron identifies as transgender and would like to use the boy’s restroom at his school. He presents as male and uses male pronouns. When he tries to use the boy’s restroom, he is often harassed and taunted in the facility and school staff and students always tell him to use the girl’s restroom. Fed-up with the harassment, he asks the principal for a gender-neutral bathroom.

Questions to Consider:

How should the principal address Cameron’s situation in a way that is confidential and respectful of Cameron?

What can teachers and administrators do to ensure his safety, while respecting him as a transgender student?

How can Cameron be supported mentally and emotionally in a way that affirms his gender identity?

What should the principal do to train staff about their obligations to protect transgender students from harassment and discrimination?

What plan should the principal put in place to educate students about transgender issues?

What steps should the school take to ensure that they have safe facilities for transgender and gender non-conforming students?

My name is Devon Roark and I am a senior at Antioch High School. In my four years of high school there, I have identified as a lesbian female, a gender-neutral omni-sexual, and now, as a gay transgender boy, and with each change in identity, I have received an increasing amount of harassment and discrimination in every part of the school. I have been asked pervasive questions inside of bathrooms, teased excessively inside locker rooms, been threatened both physically and verbally, directly and indirectly (for example, by other students saying things like "I would kill a fag"), and have had to deal with hearing "that's SO gay!" every five minutes from both strangers and classmates, even people that I get along with well. On top of that I have had to deal with teachers' lack of knowledge about how to respond to slurs and harassment, the administration's lack of response to harassment I have reported, and a general struggle to do any events with the Gay-Straight Alliance due to lack of support from the administrators.

I have even been asked, by a vice principal of Antioch High School, to write a short essay explaining what "transgender" is, because he wasn't "really clear on what it meant."

This school is not following AB537 whatsoever, and it is causing many students, like myself, to fear coming to school everyday. Currently, I cry just about every morning, wishing that I did not have to go to a place where I feel extremely unsafe, begging to not have to go to school. Sometimes I feel so overwhelmed with fear that I leave school early and miss classes just so I do not have to deal with harassment. This often leads to my low grades, and the fact that I am always doing make-up work. I also know others who do, and have done the same, right in Antioch Unified School District, including students who have dropped out or flunked out of school as a direct by-product of the fear. We are supposed to be at school to learn, and a learning environment that is disrupted by hate and fear, is not a productive, healthy one, as it should be.

There is not much currently being done to alleviate the problem of harassment and discrimination based on gender and sexual orientation at my school. Teachers and staff need to receive more training on our state non-discrimination law and how to keep students safe. Training should provide administrators with the proper knowledge to handle situations that arise from having students with diverse sexual orientations and gender identities at their school, such as an incident where one student harasses another, a gay slur is said in class, or a transgender student needs access to a safe place to use the restroom and change their clothing for physical education. The Antioch High School Gay-Straight Alliance club has been working very hard to spread the word about our state non-discrimination law among teachers and staff, but

so far efforts to force the school to act on the law have come from students, rather than administrators taking the lead.



Teachers and staff need to receive more training on our state non-discrimination law and how to keep students safe.



Prior Cases Against School Districts

When a school district allows discrimination, transgender and gender non-conforming students aren't the only ones who have to pay the price. While the environmental health of the whole school is affected when such discrimination is allowed, so is the fiscal health. Here are a few examples of what discriminatory school districts have had to pay when students have stood up for their rights.

School District	Form of Discrimination	Damage Award	Things the School Has to Do
Flores, et al v. Morgan Hill Unified School District (Settled 2004)	Suit brought on behalf of 6 former MHUSD districts who were subjected to daily harassment and threats of physical violence and actual physical violence on the basis of their real or perceived sexual orientation and gender.	\$1,100,000	<ul style="list-style-type: none">▪ Change their nondiscrimination policy to include sexual orientation and gender▪ Train almost all of their district employees on sexual orientation or gender identity harassment and discrimination▪ Mandatory training for seventh and ninth graders on preventing anti LGBT harassment and discrimination▪ The district must keep written records of any complaints made concerning anti-LGBT harassment or discrimination.
Massey v. Banning Unified School District (Settled 2004)	Ashly Massey, an eighth grade student, was prohibited from attending physical education class on the basis of her sexual orientation. After it was disclosed that she is a lesbian, Ashly was made to spend gym class in the school's administrative offices.	\$45,000	<ul style="list-style-type: none">▪ Amendment of existing nondiscrimination policy to include sexual orientation and gender▪ Training for all district teachers and other school staff on issues of anti discrimination and diversity▪ Training for students at all grade levels, K-12, with respect to diversity
GSA Network and Loomis v. Visalia Unified School District (Settled 2002)	George Loomis and other students were verbally harassed by teachers and students, spit on in hallways, put on independent study, and subjected to sexually suggestive touching	\$130,000	<ul style="list-style-type: none">▪ Train almost all of their district employees on sexual orientation or gender identity harassment and discrimination▪ Mandatory training for seventh and ninth graders on preventing anti-LGBT harassment and discrimination▪ Revise anti-harassment policy to include real or perceived sexual orientation and gender▪ Identify two compliance coordinators at each school, one male and one female▪ The district must keep written records of any complaints made concerning anti-LGBT harassment or discrimination.

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Legal Protections for Transgender and other Gender Non-Conforming Youth

California law

California law explicitly provides that public schools and non-religious private schools that receive state funding, have a legal duty to protect students from discrimination and harassment on the basis of actual and perceived gender identity. California Education Code §§ 200-220. The Department of Education regulations implementing this law state that:

[N]o person...shall be subjected to discrimination, or any form of illegal bias, including harassment. No person shall be excluded from participation in or denied the benefits of any [school] program or activity on the basis of . . . gender . . . Title 5, California Code of Regulations, § 4900(a).

The law defines "gender" very broadly:

"Gender" means sex, and includes a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth. Penal Code § 422.56 (effective Jan. 1, 2005, as amended by S.B. 1234 (2004)).¹

Federal law

In addition to this state law, discrimination or harassment directed at transgender or gender-nonconforming students may violate the Equal Protection Clause of the Constitution, Title IX of the federal Education Amendment Acts of 1972, or other constitutional provisions.

(1) Equal Protection Clause

All students have a federal constitutional right to equal protection under the law. This means that schools have a duty to protect transgender students from harassment on an equal basis with all other students. If school officials failed to respond to harassment directed at a transgender student because they believe the student should expect to be harassed, or because they believe the student brought the harassment upon themselves simply by being openly transgender, or because the school was uneducated about transgender issues and was uncomfortable addressing the situation, then the school may have violated the Equal Protection Clause. *Flores v. Morgan Hill Unified School District*, 324 F.3d 1130 (9th Cir. 2003) (holding that school officials have an obligation under the Equal Protection Clause to respond to harassment and discrimination based on sexual orientation);² *Nabozny v. Podlesny*, 92 F.3d 446 (7th Cir. 1996) (holding that school's failure to protect a gay student from harassment violated the equal protection clause).³ Although *Flores* and *Nabozny* involved lesbian and gay students, the same rationale would likely be applied if a school failed to protect a transgender student from harassment or discrimination.

A transgender student also has a right under the Equal Protection Clause to be treated similarly to other students of the same gender identity. So, if the school treats the student differently than it would treat other students of the same gender identity (i.e. if it imposes a dress code on a male-to-female transsexual that is different than the dress code that is applied to biological females), then the school is applying rules in a sex discriminatory way (i.e. it is applying the code differently based on the student's biological sex). See *Doe v. Yunits*, 2000 WL 33162199 (Mass. Super. 2000).

(2) Title IX

Title IX of the Education Amendment Acts of 1972 prohibits discrimination based on sex in education programs and activities receiving federal financial assistance. One of the forms of prohibited conduct under Title IX is discrimination on the basis of gender non-conformity. So, for example, if a boy is called girls names because he is perceived to be effeminate, failure to take steps to stop that harassment may violate Title IX. See, e.g., *Montgomery v. Independent Sch. Dist. No. 709*, 2000 WL 1233063 (D. Minn. 2000); *Miles v. New York University*, 979 F. Supp. 248 (S.D.N.Y. 1997).⁴

(3) Other Constitutional Provisions

A transgender student's right to dress in accordance with his or her gender identity is also protected under both the First Amendment and the Due Process Clause of the U.S. Constitution. The First Amendment prohibits government officials (including public school teachers and administrators) from censoring a student's speech or expression without a compelling reason. Similarly, students have a protected liberty interest (under the Due Process Clause) in their personal appearance. See *Doe v. Yunits*, 2000 WL 33162199 (Mass. Super. 2000).

¹ See also Title 5, California Code of Regulations, § 4910(k) ("'Gender' means a person's actual sex or perceived sex, and includes a person's perceived identity, appearance, or behavior, whether or not that identity, appearance or behavior is different from that traditionally associated with a person's sex at birth.").

² This case recently settled for over \$1.1 million, as well as significant policy changes and training requirements for school officials and students.

³ On the eve of trial, the school district agreed to pay Jamie Nabozny almost \$1 million in damages.

⁴ See U.S. Dept. of Educ., Office of Civil Rights, Revised Title IX Guidance, § III ("gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, but not involving conduct of a sexual nature, is also a form of sex discrimination to which a school must respond . . .").

Letter to School Board

TO: School District Legal Counsel
FROM: Courtney Joslin, Staff Attorney, NCLR
RE: Proposed Amendments to District Anti-Discrimination and Anti-Harassment Policies

To Whom It May Concern:

This memo provides a legal analysis of why it makes sense, from a legal perspective, to add “sexual orientation” and “gender identity and expression” to the School District’s anti-harassment and discrimination policies.

OVERVIEW OF THE PROBLEM

Studies demonstrate that lesbian, gay, bisexual, and transgender (LGBT) youth face disproportionately high levels of harassment and discrimination in schools across the country. According to a recent study analyzing the prevalence of harassment and discrimination in California schools, 91% of students reported hearing other students make negative comments based on sexual orientation.¹ Forty-four percent of students reported hearing teachers make negative comments based on sexual orientation.² Forty-six percent of students said their schools were not safe for LGBT students.³

In addition, the study found that the situation faced by transgender youth – youth whose gender identity or gender expression does not conform to the identity or expression traditionally associated with their biological sex⁴ – is even worse. Over 50% of students reported that schools were not safe for “guys who aren’t as masculine as other guys,” and 34% of students said that their schools were unsafe for “girls who are as feminine as other girls.”⁵

What these numbers make clear is that many students are subjected to harassment – both verbal and physical – because of their gender identity or expression and/or their sexual orientation. Left unchecked, this kind of harassment and discrimination can increase a student’s sense of isolation and lowered self-esteem to the point that the student may drop out of school or engage in other dangerous or self-destructive behaviors. And even in less drastic situations, these forms of harassment and discrimination limit opportunities and prevent young people from achieving their full potential by discouraging students from engaging in behavior and activities that are viewed as gender non-conforming, such as girls playing sports or excelling in math and science, or boys excelling in drama.

LEGAL OVERVIEW

Under California law, public schools and non-religious private schools that receive state funding have a legal duty to protect students from discrimination and harassment on the basis of actual and perceived sexual orientation or gender identity. Student Safety and Violence Prevention Act of 2000 (AB 537); California Education Code §§ 200-220. The Department of Education regulations implementing this law state that:

[N]o person...shall be subjected to discrimination, or any form of illegal bias, including harassment. No person shall be excluded from participation in or denied the benefits of any [school] program or activity on the basis of sex, sexual orientation, [or] gender . . . Title 5, California Code of Regulations, § 4900(a).

The law defines “gender” very broadly:

“Gender” means sex, and includes a person’s gender identity and gender related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth. Penal Code § 422.56 (effective Jan. 1, 2005, as amended by S.B. 1234 (2004)).⁶

All students also have constitutional rights to equal protection under the law, and are protected under Title IX of the federal Education Amendment Acts of 1972 from sex discrimination in educational programs that receive federal funds. Schools must protect lesbian, gay, bisexual, and transgender (LGBT) students and those perceived to be LGBT from harassment, just as they must protect students from harassment on the basis of race, religion, sex, and other characteristics. Schools cannot ignore harassment on the basis that LGBT students should expect to be harassed, or have brought the harassment upon themselves by being open about their sexual orientation or gender identity. Also, students have constitutional rights to freedom of expression, including the right to be open about their sexual orientation and gender identity.

In addition to this explicit state law protection, LGBT students are also protected under federal law. All students have a federal constitutional right to equal protection under the law. This means that schools have a duty to protect lesbian, gay, bisexual, and transgender (LGBT) students from harassment on an equal basis with all other students. Based on current case law, courts have held that schools are liable for failing to provide equal protection if school officials refuse to take action against anti-LGBT

harassment because they believed that the student should expect to be harassed, or because they believed that LGBT students bring the harassment upon themselves simply by being openly LGBT, or because the school was uneducated about LGBT issues and was uncomfortable addressing the situation. *See Flores v. Morgan Hill School District*, 324 F.3d 1130 (9th Cir. 2003); *Nabozny v. Podlesny*, 92 F.3d 446 (7th Cir. 1996).⁷

In addition, Title IX of the Education Amendment Acts of 1972 prohibits discrimination based on sex in education programs and activities receiving federal financial assistance. One of the forms of prohibited conduct under Title IX is discrimination on the basis of gender non-conformity. *See, e.g., Montgomery v. Independent Sch. Dist. No. 709*, 109 F. Supp. 2d 1081 (D. Minn. 2000) (“It is much more plausible that the students began tormenting him based on feminine personality traits that he exhibited and the perception that he did not engage in behaviors befitting a boy. Plaintiff thus appears to plead facts that would support a claim of harassment based on the perception that he did not fit his peers’ stereotypes of masculinity.”). *See also* U.S. Dept. of Educ., Office of Civil Rights, Revised Title IX Guidance, § III (“*gender-based harassment*, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, but not involving conduct of a sexual nature, *is also a form of sex discrimination to which a school must respond . . .*”).

Thus, under California and federal law, all California public schools *already* have a legal obligation to respond to harassment and discrimination based on sexual orientation or directed at a student because of the student’s gender identity or expression.

This legal obligation exists regardless of whether the school district has its own policy that is inclusive of sexual orientation and/or gender identity and expression. Such a policy does not create legal liability for a school; what creates legal liability is a school district’s failure to meet its legal obligation to respond to harassment and discrimination. School districts are most likely to fail to fulfill their already existing legal obligations when their internal policies do not make it clear that school officials must respond to these types of harassment and discrimination.

HAVING AN INCLUSIVE POLICY HELPS THE SCHOOL FULFILL ITS LEGAL OBLIGATIONS

Having anti-harassment and discrimination policies that explicitly include sexual orientation and gender identity and expression helps school districts avoid potential liability. Having such policies ensures that everyone – staff, faculty, students, and the community – is aware that this type of conduct is unacceptable and that appropriate measures must be taken in response to it. Without such explicit language, studies have demonstrated that school staff are often unaware that they have a responsibility to respond to this type of harassment and discrimination, thereby causing unnecessary harm to students and creating potential liability for school districts.

MOREOVER, IT IS THE RIGHT THING TO DO

In addition to helping the school district avoid potential liability, making the district’s anti-harassment and discrimination policies inclusive of sexual orientation and gender identity and expression is the right thing to do. All students deserve a safe and effective learning environment. As the statistics cited earlier show, lesbian, gay, bisexual, and transgender youth are disproportionately targeted for harassment. In particular, a shocking 53% of California students reported that school is unsafe for boys who do not conform to gender stereotypes. An inclusive policy enables teachers and administrators to better respond to such problems so that all of the districts students may do what they came to school to do: learn.

If you have any questions, please feel free to contact me at (415) 392-6257.

Sincerely,
Courtney Joslin
Staff Attorney

cc: School Board members

1 This study – The Safe Place to Learn Report – can be accessed at: <http://www.casafeschools.org/SafePlaceToLearnLow.pdf>. Another recent study -- the 2003 National School Climate Survey -- reached very similar results. The 2003 National School Climate Survey can be accessed at: http://www.glsen.org/binary-data/GLSEN_ATTACHMENTS/file/300-2.PDF.

2 *Id.*

3 *Id.*

4 The term “transgender” includes a wide range of individuals, including boys who are perceived to be effeminate because they do not play sports or like to act, and girls who are perceived to act in a “tomboyish” manner because they like to play sports or do not like to wear dresses and makeup, as well as people who are born male but identify as female and vice versa.

5 Safe Place to Learn, *supra* note 1.

6 *See also* Title 5, California Code of Regulations, § 4910(k) (“‘Gender’ means a person’s actual sex or perceived sex, and includes a person’s perceived identity, appearance, or behavior, whether or not that identity, appearance or behavior is different from that traditionally associated with a person’s sex at birth.”).

7 The Morgan Hill School District in California recently settled the case for over \$1.1 million, in addition to mandatory training for all school staff and all 7th and 9th grade students. In the Nabozny case, the school district agreed to pay Jamie Nabozny almost \$1 million in damages. For an overview of 15 lawsuits against school districts, see *Fifteen Expensive Reasons Why Safe Schools Legislation Is In Your State’s Best Interest*, available at <http://www.nclrights.org/publications/pubs/15reasons.pdf>.

Model Anti-Harassment Policy

HARASSMENT OF STUDENTS

Policy

The [Your School District] School District is committed to providing all students and employees with a safe and supportive school environment in which all members of the school community are treated with respect. Teachers and other staff members are expected to teach and demonstrate by example that all members of the community are entitled to respect.

It is hereby the policy of the [Your School District] School District to prohibit harassment based on real or perceived race, color, religion (creed), national origin, marital status, sex, sexual orientation, gender identity and expression, disability, or on the basis of association with others identified by these categories.

This policy is intended to comply with [Your State] state as well as federal requirements.

The School District shall act to investigate all complaints of harassment, formal or informal, verbal or written, and to discipline or take other appropriate action against any member of the school community who is found to have violated this policy.

Definitions

Adverse Action: Includes any form of intimidation, reprisal or harassment such as diminishment of grades, suspension, expulsion, change in educational conditions, loss of privileges or benefits, or other unwarranted disciplinary action in the case of students and includes any form of intimidation, reprisal, or harassment such as suspension, termination, change in working conditions, loss of privileges or benefits, or other disciplinary action in the case of employees.

Employee: For purposes of this policy, an employee includes any person employed directly or through a contract with another company by the school district agents of the school; school board members; and any student teacher, intern, or school volunteer.

Gender Identity and Expression: For purposes of this policy, gender identity or expression means having or being perceived as having gender-related characteristics, appearance, mannerisms, or identity, whether or not stereotypically associated with one's assigned sex at birth.

Harassment: Harassment means verbal or physical conduct based on the student's real or perceived race, religion (creed), color, national origin, marital status, sex, sexual orientation, gender identity and expression, disability, or on the basis of association with others identified by these categories, that (1) substantially interferes with or will substantially interfere with a student's educational benefits, opportunities, or performance; or a student's physical or psychological well-being; or (2) creates an intimidating or hostile environment.

School Community: Includes but is not limited to all students, school employees, contractors, unpaid volunteers, work study students, interns, student teachers, and visitors.

Sexual Harassment: A form of harassment which means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature made by a school employee to a student or by a student to another student when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of a student's education, academic status or progress; or
- Submission to or rejection of such conduct by a student is used as a component of the basis for decisions affecting that student; or
- The conduct (1) substantially interferes with or will substantially interfere with a student's educational benefits, opportunities, or performance; or a student's physical or psychological well-being; or (2) creates an intimidating or hostile educational environment; or
- Submission to or rejection of such conduct by a student is used as the basis for evaluating the student's performance within a course of study or other school-related activity.

Retaliation: Any adverse action taken against a person for reporting a complaint of harassment when the complainant honestly believes harassment has occurred or is occurring, or for participating in or cooperating with an investigation.

PROCEDURES FOR REPORTING AND HANDLING COMPLAINTS OF HARASSMENT OF STUDENTS

A. REPORTING

1. Students. It is the policy of the [Your School District] School District to encourage student targets of harassment and students who have first-hand knowledge of such harassment to report such claims. Students should report incident(s) to any teacher, guidance counselor, or school administrator.

2. Employees. Any adult school employee who witnesses, overhears, or receives a report, formal or informal, written or oral, of harassment at school or during school-sponsored activities shall report it to the principal or the principal's designee. If the report involves the school principal, the reporter shall make the report directly to the school district equity coordinator or superintendent.

Under certain circumstances, alleged harassment may constitute child abuse under state law. The statutory obligation to report suspected abuse, therefore, may be applicable.

3. Privacy. Complaints will be kept confidential to the extent possible given the need to investigate and act on investigative results.

B. RESPONSE

1. Principal's Duty. The principal or the principal's designee is the person responsible for receiving oral or written reports of harassment. Upon receipt of a report, the principal must notify the school district equity coordinator immediately, without screening or investigating the report. The principal may request, but may not insist upon, a written complaint. A written statement of the facts alleged will be forwarded as soon as practicable by the principal to the school district equity coordinator. If the report was given verbally, the principal shall reduce it to written form within 24 hours and forward it to the school district equity coordinator. Failure to forward any harassment report or complaint as provided herein will result in disciplinary action against the principal.

2. School District Equity Coordinator(s). The superintendent shall designate at least one individual within the school district/supervisory union as the school district equity coordinator to receive reports of harassment. If the report involves the school district equity coordinator, the reporter shall refer the complaint directly to the superintendent. The school district shall prominently post the name, mailing address, and telephone number of its equity coordinator(s). For the [Year] school year the district equity coordinator(s) is (are):

[Name]

[Mailing Address]

[Telephone Number]

C. INVESTIGATION

1. Who. The principal or school district equity coordinator shall conduct an investigation upon receipt of a report or complaint alleging student harassment.

2. How. The investigator shall interview individuals involved and any other persons who may have knowledge of the circumstances giving rise to the complaint and may use other methods and documentation. In determining whether the alleged conduct constitutes a violation of this policy, the investigator shall consider, among other things: the nature of the behavior; how often the conduct occurred; whether there were past incidents or past continuing patterns of behavior; and the relationship of the parties involved.

3. When. The investigator shall complete the investigation as soon as practicable, but in no event later than fourteen (14) calendar days following receipt of the complaint.

4. Result. Upon completion of the investigation, the investigator shall decide if a violation of this policy has occurred and report that decision, along with the evidence supporting it, to the principal or school district equity coordinator and the superintendent or, if the complaint involves the superintendent, directly to the school board, for appropriate action in accordance with school district disciplinary policy.

D. SCHOOL DISTRICT ACTION

The district shall take disciplinary or remedial action as appropriate in order to ensure that further harassment does not occur. Such action may include, but is not limited to: counseling, awareness training, parent-teacher conferences, warning, transfer, suspension and/or expulsion of a student, and counseling, awareness training, transfer, or suspension and/or termination of an employee.

School District action taken for violation of this policy will be consistent with the requirements of applicable collective bargaining agreements, [Your state] and federal law, and School District policies.

E. APPEAL

A person judged to be in violation of the policy on student harassment and subjected to action under it may appeal the determination and/or the action taken as follows:

1. Student. If the person filing the appeal is a student, the appeal shall proceed in accordance with School District policy governing discipline of students and with legal due process requirements.
2. Employee. If the person filing the appeal is an employee, the appeal shall proceed in accordance with School District policy governing employee discipline, including, if applicable, grievance procedures under any applicable collective bargaining agreement, and with legal due process requirements.

F. RETALIATION

Any individual who retaliates against any employee or student who reports, testifies, assists, or participates in an investigation or hearing relating to a harassment complaint will be subject to appropriate action and/or discipline by the School District.

Retaliation for reporting harassment or cooperating in an investigation of harassment is unlawful under state law.

G. RECORD KEEPING AND NOTIFICATION

1. Record keeping. The superintendent shall assure that a record of any complaint and investigation of harassment as well as the disposition of the complaint and any disciplinary or remedial action taken is maintained by the School District in a confidential file.
2. Notification. The superintendent shall assure that the complainant is notified whether allegations of harassment were found to be valid, whether a violation of the policy occurred, and whether action was taken as a result.

H. NOTICE

The superintendent shall use all reasonable means to inform students, employees, and parents or guardians that the district will not tolerate harassment. Copies of the policy and procedures shall appear in the student and employee handbooks (or other similar publications) as well as publications distributed to parents and community members and shall be posted prominently in each school. The notice shall also provide information about the following additional methods of pursuing claims of harassment:

A person may make a complaint of harassment to the [Your State] Human Rights Commission or the federal Office of Civil Rights at the following places:

[Your State] Human Rights Commission

[Address]

[Phone Number]

Director, Compliance Division [Your Area]

Office for Civil Rights

[Address for respective region]

[Phone Number]

In addition, an individual may seek other remedies through private legal action and, in some circumstances, through criminal prosecution.

I. TRAINING

The superintendent shall develop age-appropriate methods of discussing the meaning and substance of this policy with staff and students in order to help prevent harassment.

In addition to informing staff and students about the policy, these programs, implemented within the context of professional development and school curriculum, must also raise awareness about the different types of harassment; how the harassment manifests itself; and the devastating emotion and educational consequences of harassment.

SEVERABILITY

The provisions of this policy shall be severable. If any provision of portion of this policy or its application to any person or circumstance is held invalid, the remainder of the policy or the application of the provision to other persons or circumstances is not affected.

Adopted:

Revised:

Developed by: National Center for Lesbian Rights 870 Market St., Suite 370 San Francisco, CA 94102 (415) 392-6257 www.nclrights.org

BOARD OF EDUCATION ADMINISTRATIVE REGULATION

[San Francisco Unified School District Policy on Transgender Students]

R5163

ARTICLE 5: STUDENTS

SECTION: Nondiscrimination for Students and Employees

This regulation is meant to advise school site staff and administration regarding transgender and gender nonconforming student concerns in order to create a safe learning environment for all students, and to ensure that every student has equal access to all components of their educational program.

California Law Prohibits Gender-Based Discrimination in Public Schools

The California Education Code states that “all pupils have the right to participate fully in the educational process, free from discrimination and harassment.” Cal. Ed. Code Section 201(a). Section 220 of the Education Code provides that no person shall be subject to discrimination on the basis of gender in any program or activity conducted by an educational institution that receives or benefits from state financial assistance. The Code further provides that public schools have an affirmative obligation to combat sexism and other forms of bias, and a responsibility to provide equal educational opportunity to all pupils. Cal. Ed. Code Section 201(b).

The California Code of Regulations similarly provides that “No person shall be excluded from participation in or denied the benefits of any local agency’s program or activity on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability in any program or activity conducted by an ‘educational institution’ or any other ‘local agency’. . .that receives or benefits from any state financial assistance.” 5 CCR Section 4900(a).

The California Code of Regulations defines “gender” as: “a person’s actual sex or perceived sex and includes a person’s perceived identity, appearance or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with a person’s sex at birth.” 5 CCR Section 4910(k).

SFUSD Board Policy Prohibits Gender-Based Harassment

SFUSD Board Policy 5163 requires that “All educational programs, activities and employment practices shall be conducted without discrimination based on . . .sex, sexual orientation, [or] gender identity . . .” Board Policy 5162 requires that “students should treat all persons equally and respectfully and refrain from the willful or negligent use of slurs against any person” based on sex or sexual orientation.

Therefore, transgender and gender nonconforming students must be protected from discrimination and harassment in the public school system. Staff must respond appropriately to ensure that schools are free from any such discrimination or harassment.

Names/Pronouns

Students shall have the right to be addressed by a name and pronoun corresponding to their gender identity that is exclusively and consistently asserted at school. Students are not required to obtain a court ordered name and/or gender change or to change their official records as a prerequisite to being addressed by the name and pronoun that corresponds to their gender identity. This directive does not prohibit inadvertent slips or honest mistakes, but it does apply to an intentional and persistent refusal to respect a student’s gender identity. The requested name shall be included in the SIS system in addition to the student’s legal name, in order to inform teachers of the name and pronoun to use when addressing the student.

Official Records

The District is required to maintain a mandatory permanent pupil record which includes the legal name of the pupil, as well as the pupil’s gender. 5 Cal. Code Reg. 432(b)(1)(A), (D). The District shall change a student’s official records to reflect a change in legal name or gender upon receipt of documentation that such legal name and/or gender have been changed pursuant to California legal requirements.

Restroom Accessibility

Students shall have access to the restroom that corresponds to their gender identity exclusively and consistently asserted at school. Where available, a single stall bathroom may be used by any student who desires increased privacy, regardless of the underlying reason. The use of such a single stall bathroom shall be a matter of choice for a student, and no student shall be compelled to use such bathroom.

Locker Room Accessibility

Transgender students shall not be forced to use the locker room corresponding to their gender assigned at birth. In locker rooms that involve undressing in front of others, transgender students who want to use the locker room corresponding to their gender identity exclusively and consistently asserted at school will be provided with the available accommodation that best meets the needs and privacy concerns of all students involved. Based on availability and appropriateness to address privacy concerns, such accommodations could include, but are not limited to:

- Use of a private area in the public area (i.e., a bathroom stall with a door, an area separated by a curtain, a PE instructor's office in the locker room);
- A separate changing schedule (either utilizing the locker room before or after the other students); or
- Use of a nearby private area (i.e., a nearby restroom, a nurse's office).

Sports and Gym Class [Athletic Activities and Physical Education]

Transgender students shall not be denied the opportunity to participate in physical education, nor shall they be forced to have physical education outside of the assigned class time. Generally, students should be permitted to participate in gender-segregated recreational gym [physical education] class activities and sports [athletic activities] in accordance with the student's gender identity that is exclusively and consistently asserted at school. Participation in competitive athletic activities and contact sports will be resolved on a case by case basis.

Dress Codes

School sites can enforce dress codes that are adopted pursuant to Education Code 35291. Students shall have the right to dress in accordance with their gender identity that is exclusively and consistently asserted at school, within the constraints of the dress codes adopted at their school site. This regulation does not limit a student's right to dress in accordance with the Dress/Appearance standards articulated in the Student and Parent/Guardian Handbook, page 23.

Gender Segregation in Other Areas

As a general rule, in any other circumstances where students are separated by gender in school activities (i.e., class discussions, field trips), students shall be permitted to participate in accordance with their gender identity exclusively and consistently asserted at school. Activities that may involve the need for accommodations to address student privacy concerns will be addressed on a case by case basis. In such circumstances, staff shall make a reasonable effort to provide an available accommodation that can address any such concerns.

Books and Videos on Gender Identity Issues

Books:

- Allen, M F A GEISHA, New York: Vintage Books
- Halberstam, Judith (1998). FEMALE MASCULINITY, Durham: Duke University Press.
- Howe, James (2003). THE MISFITS, New York Aladdin Paperbacks.
- Huegel, Kelley (2003). GLBTQ: THE SURVIVAL GUIDE FOR QUEER AND QUESTIONING TEENS, Minneapolis: Free Spirit Publishing
- Mallon, Gerald P. (1999). SOCIAL SERVICES WITH TRANSGENDERED YOUTH, Binghamton: Haworth Press.
- Nestle, Joan et al. (2002). GENDERQUEER: VOICES FROM BEYOND THE SEXUAL BINARY, Los Angeles: Alyson Press.
- Schacht, Steven P. and Lisa Underwood (2004). THE DRAG QUEEN ANTHOLOGY: THE ABSOLUTELY FABULOUS BUT FLAWLESSLY CUSTOMARY WORLD OF FEMAL IMPERSONATORS, Binghamton: Haworth Press.
- Singer, Bennett L, ed. (1994). GROWING UP GAY/ GROWING UP LESBIAN: A LITERARY ANTHOLOGY, New York: New Press.
- Sonnie, Amy, ed. (2000). REVOLUTIONARY VOICES: A MULTICULTURAL QUEER YOUTH ANTHOLOGY, Los Angeles: Alyson Press.
- Taste This (1998). BOYS LIKE HER: TRANSFICTIONS, Vancouver: Press Gang Publishers.

Videos:

- THE ADVENTURES OF SEBASTIAN COLE, Tod Williams, dir., (1998). The story of Sebastian Cole, a self-destructive teen who comes to accept his step-father, who is transitioning from male to female.
- BOYS DON'T CRY, Kimberly Peirce, dir., (1999). Based on the life of Brandon Teena.
- THE BRANDON TEENA STORY, Susan Muska and Gréta Olafsdóttir, dirs., (1998). Real life account of Brandon Teena, a transgender man that was murdered in Nebraska.
- THE CRYING GAME, Neil Jordan, dir., (1992). Story about a transgender woman and her relationship with a person who doesn't have any knowledge of transpeople.
- HEDWIG AND THE ANGRY INCH, John Cameron Mitchell, dir., (2001). A transsexual punk rock girl from East Berlin tours the US with her rock band as she tells her life story and follows the ex-boyfriend/ bandmate who stole her songs.
- JUST CALL ME KADE, Sam Zolten, dir., (2002). Story of a 16 year old, Female to Male person and his journey dealing with transition and family.
- MA VIE EN ROSE, Alain Berliner, dir., (1997). Movie about young person who wants to be loved regardless of his gender expression.
- MADAME BUTTERFLY, Frédéric Mitterrand, dir., (1995). Compelling tale of a diplomat who falls in love with a performer.
- NO DUMB QUESTIONS, Melissa Regan, dir., (2001). Three little girls grapple with their uncle's transition.
- NORMAL, V. Alex Marquez, dir., (2004). Reasonably realistic story of a man transitioning within marriage.
- PARIS IS BURNING, Jennie Livingston, dir., (1990) Film that reveals a subculture of the gay community called the ballroom.
- A SOLDIER'S GIRL, Frank Pierson, dir., (2003). Story about a soldier that falls in love with a striking MTF lounge singer.
- SOUTHERN COMFORT, Kate Davis, dir., (2001). Excellent documentary on transsexual lives and relationships featuring a beautiful relationship between an MTF and a FTM.
- XXXY, Gale Porter and Laleh Soomekh, dirs., (2000). A documentary about two intersex people and their struggle against the medical establishment and society's enforced gender system.

Organizational Resources

Transgender Youth Services in California

Ark House

2500 Market Street, San Francisco
415.861.5382
Runs a LGBT transitional housing program for Young Adults

Bienestar

323.752.3100 South Los Angeles
323.727.7896 East Los Angeles
323.727.7897 La Casa LGBT Center
TU offers a youth referral program aimed at Latina Transgenders. Clients are referred to other social and medical programs that which offer psychological services, hormonal therapy, and case management.

Billy DeFrank LGBT Community Center

938 The Alameda
San Jose, CA 95126
408.293.2429
www.defrank.org
Runs a support group for transgender youth.

Dimensions Queer Youth Health Clinic

3850 17th Street
San Francisco, CA 94114
415.487.7589
Provides free primary health services and transgender health services for youth. Open 6-8 Thursday evenings.

Gender Alliance

930 North Van Ness
Fresno, CA 93728
559.486.2216
Central Valley support group for transgender youth.

Hillcrest Youth Center

3777 4th Street
San Diego, CA 92103
619.497.2920 x113
www.youthcentersd.com
Trans youth group (EAGER) meets Fridays 7-8.

Jeff Griffith Youth Center

7051 Santa Monica Boulevard
Los Angeles, CA 90038
323.461.8163
www.laglc.org
Has Brandon's Corner, an FTM youth support group, Fri., 6-7:30pm.

LYRIC

127 Collingwood Street
San Francisco, CA 94114
415.703.6150
www.lyric.org
LGBTQ youth center with groups for transgender youth and a peer hotline for youth: 1-800-246-PRIDE.

Pacific Center

2712 Telegraph Avenue
Berkeley, CA 94705
510.548.8283
www.pacificcenter.org
Has TransMission group that meets every Thursday for people on the FTM spectrum.

Proyecto Contra Sida Por Vida

2973 16th Street
San Francisco, CA 94103
415.864.7278
Offer safe space for trans/queer youth and youth of color, age 25 and under. Activities include trips, discussion groups, and parties.

Rainbow Community Center

2118 Willow Pass Rd, #500
Concord, CA 94520
925.692.0090
Has a transgender support group for youth in Contra Costa.

SMAAC (Sexual Minority Alliance of Alameda County)

1608 Webster Street
Oakland, CA 94612
510.834.9578
Has support groups and services for transgender youth and adults.

Transgender Teen Project of Santa Cruz County

c/o Diversity Center
P.O. Box 8280
Santa Cruz, CA 95061
831.427.4004
www.diversitycenter.org/qytf/transteens
Bringing attention to gender identity/expression issues for students in K-12 schools in Santa Cruz County and educating about how AB 537 mandates safe schools for all students, including transgender students.

Youth Gender Project

1800 Market Street - Suite #307
San Francisco, CA 94114
415.865.5625
www.youthgenderproject.org
A youth-led organization working to empower and advocate for trans, gender-variant, and questioning (TGQ) youth.



Support

The American Boyz

212A S. Bridge Street #131

Elkton, MD 21921

www.amboyz.org

Online support for transmen, resources, directory listings. Coordinators of the annual True Spirit conference in Washington, DC.

FTM International

160 14th Street

San Francisco, CA 94103

415.553.5987

www.ftmi.org

International organization providing support and services to FTMs. Publishes a resource guide and directory of members.

International Foundation for Gender Education

P.O. Box 540229

Waltham, MA 02454-0229

781.899.2212

www.ifge.org

Clearinghouse for transgender books, materials and resources. Publishes Transgender Tapestry magazine.

Intersex Society of North America (ISNA)

www.isna.org

International organization providing support and medical information to intersex people and health professionals.

National Coalition for LGBT Health

www.lgbthealth.net

Information and advocacy around the health and well-being of LGBT people. Website includes links to LGBT health clinics.

PFLAG Transgender Network

1726 M Street, NW, Suite 400

Washington, DC 20036

202.467.8180

www.youth-guard.org/pflag-tnet/index.htm

Support for parents, friends and families of transgender people. Resources for transgender people.

Survivor Project

P.O. Box 40664

Portland, OR 97240

503.288.3191

www.survivorproject.org

Support for intersex and transgender survivors of domestic and sexual violence.

Trans-Health

www.trans-health.com

A health and fitness magazine for transgender people.

Transsexual Women's Resources

www.annelawrence.com

Complete transition resource for transgender women; includes youth-specific resources.

Education/Advocacy

Advocates for Youth

2000 M. Street NW, Suite 750

Washington, DC 20036

202.419.3420

www.youthresource.org

Jessie@advocatesforyouth.org

Provides information and peer support to transgender youth. Website includes great listings of resources and articles.

California Safe Schools Coalition

160 14th Street

San Francisco, CA 94103

415.626.1680

www.casafeschools.org

California statewide voice for implementing and enforcing AB 537, which protects transgender youth from discrimination in schools.

Gay, Lesbian and Straight Education Network (GLSEN)

121 West 27th Street, Suite 804

New York, NY 10001-6207

212.727.0135

www.glsen.org

National organization fighting to end antigay bias in K-12 schools. Resources for Gay-Straight Alliances, including trans issues.

Gay-Straight Alliance Network (GSA Network)

160 14th Street

San Francisco, CA 94103

415.552.4229

www.gsanetwork.org

Youth-led organization that empowers youth fighting homophobia and transphobia in schools through Gay-Straight Alliances. Advocates on behalf of transgender and gender non-conforming youth through lobbying, policy advocacy, education programs, and grassroots organizing.

National Youth Advocacy Coalition (NYAC)

1638 R Street, NW, Suite 300

Washington, DC 20009

800.541.6922

www.nyacyouth.org

National social justice coalition of organizations and advocates for LGBT youth.

National Center for Transgender Equality (NCTE)

1325 Massachusetts Ave., NW, Suite 600

Washington, DC 20005

202.639.6332

www.nctequality.org

National organization seeking transgender equality. Provides national lobbying and local community assistance.

National Gay and Lesbian Task Force (NGLTF)

1325 Massachusetts Ave., NW, Suite 600

Washington, DC 20005

202.393.5177

www.thetaskforce.org

National organization seeking civil rights for LGBT people. Transgender specific legislative policy resources.

National Transgender Advocacy Coalition (NTAC)

P.O. Box 76027

Washington, DC 20013

www.ntac.org

National political advocacy coalition seeking civil rights for transgender people.

Sexuality Information and Education Council of the United States (SIECUS)

130 West 42nd Street, Suite 350

New York, NY 10036-7802

212.819.9770

www.siecus.org

National organization and clearinghouse on youth sexuality. Fact sheets, reports and bibliographies on transgender resources.

Transgender Law and Policy Institutewww.transgenderlaw.org

National organization tracking current developments in legal and public policy issues affecting transgender people and their families. Lists legal, medical, and social science resources.

Legal

American Civil Liberties Union (ACLU) -- Lesbian and Gay Rights Project

125 Broad Street, 18th Floor

New York, NY 10004

www.aclu.org

Defending and expanding the civil liberties of all people, including LGBT people.

American Civil Liberties Union (ACLU) of Northern California

1663 Mission Street, Suite 460

San Francisco, CA 94103

415.621.2493

www.aclunc.org

Defending and expanding the civil liberties of all people, including LGBT people in Northern California, through litigation, public education, advocacy, and grassroots organizing.

American Civil Liberties Union (ACLU) of Southern California

1616 Beverly Blvd.

Los Angeles, CA 90026

213.977.5200

www.aclu-sc.org

Defending and expanding the civil liberties of all people, including LGBT people in Southern California, through litigation, public education, advocacy, and grassroots organizing.

Lambda Legal

120 Wall Street, Suite 1500

New York, NY 10005

212.809.8585

www.lambdalegal.org

National civil rights organization seeking equality for LGBT people and people with HIV through the court system, advocacy, and public education.

National Center for Lesbian Rights (NCLR)

870 Market Street, Suite 370

San Francisco, CA 94102

415-392.6257

www.nclrights.org

National organization that litigates on behalf of the LGBT community. Significant online resources and publications with specific focus on LGBT youth concerns.

Sylvia Rivera Law Project

322 8th Avenue, 3rd Floor

New York, NY 10001

212.337.8550

www.srlp.org

Organization working to guarantee that all people are free to determine their gender identity and expression, regardless of income, and without fearing harassment, discrimination or violence.

Transgender Law Center

160 14th Street

San Francisco, CA 94103

415.865.0176

www.transgenderlawcenter.org

California-specific organization providing direct legal services, advocacy, and education on behalf of transgender people.

San Francisco Chronicle

SUNDAY, FEBRUARY 8, 2004

Nuances of gay identities reflected in new language

'Homosexual' is passé in a 'boi's' life

By Rona Marech
CHRONICLE STAFF WRITER

First, there was the term "homosexual," then "gay" and "lesbian," then the once taboo "dyke" and "queer."

Now, all bets are off.

With the universe of gender and sexual identities expanding, a gay youth culture emerging, acceptance of gays rising and label loyalty falling, the gay lexicon has

exploded with scores of new words and blended phrases that delineate every conceivable stop on the identity spectrum — at least for this week.

Someone who is "gender-queer," for example, views the gender options as more than just male and female or doesn't fit into the binary male-female system. A "trannydyke" is a transgender person (whose gender is different than the one assigned at birth) attracted to people with a more feminine gender, while a "pansexual" is attracted to people of multiple

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KIM ROGERS / The Chronicle

Tiffany Solomon, (left) who is metrosexual, Danielle Silk and Andy Duran, who are queer, meet about a gay youth conference.

genders. A "boi" describes a boyish gay guy or a biological female with a male presentation; and "heteroflexible" refers to a straight person with a queer mindset.

The list of terms — which have hotly contested definitions — goes on: "ITM" for male to female, "MTE" for female to male, "boydyke," "trannyboy," "trannydyke," "multigendered," "polygendered," "queerboi," "transboi," "transguy," "transman," "half-dyke," "bi-dyke," "stud," "stem," "trisexual," "omnisexual," and "multisexual."

"The language thing is tricky," said Thom Lynch, the director of the San Francisco Lesbian, Gay, Bisexual, Transgender Community Center. "I feel sorry for straight people."

Tricky, maybe, but also healthy and empowering, said Carolyn Laub, the director of the Gay-Straight Alliance Network, which links gay and lesbian student clubs in the state.

"We in society and in our generation are developing new understandings of sexual orientation and gender identities and what that means to us," she said. "We don't really have enough language to describe that; therefore, we have to create new words."

For those back in the linguistic dark ages still wondering what's wrong with "homosexual," the evolution of queer identity language has progressed something like this: "Homosexual" sounded pathological and clinical, so activists went about creating their own words, starting with "gay" and "lesbian." That was well and good, but terms like "dyke" and "queer" had an appealing spikiness and served double-duty by stripping the sting from words that had heretofore been considered unspeakably nasty.

The adjustment took time for some. As recently as 2002, visitors

at the San Francisco community center routinely complained about a sign proudly pronouncing it "The queerest place on Earth," Lynch said. But in the Bay Area, in the age of "Queer Eye for the Straight Guy," that sort of sensitivity is beginning to seem almost quaint. Even some straight people have adopted the word because they have gay parents or an affinity for gay culture.

These days, "queer" is especially handy because it's vague enough to encompass just about everyone. The word and its new-fangled linguistic cousins have become indispensable as the transgender population in the Bay Area has grown exponentially — into the tens of thousands, advocates say — and sexual identities have become increasingly complicated.

"If you're not a man or woman, words like 'gay' or 'lesbian' don't fit you anymore," said Sam Davis, founder of United Genders of The Universe, a support group and speakers bureau. "The words from just a few years ago aren't adequate to talk about who we are, where we're coming from



Tiffany Solomon is put off by the word "lesbian" because it makes her think of women who wear flannel.

and who we like."

Dee Braur, a 17-year-old with a tuft of green hair, calls herself "half-dyke." "I'm bisexual but I lean more toward women than men," she said. Men, she added, annoy her.

"Trisexual" also works, she said with a snicker. "I'll try anything once and if I like it, I'll try it again and again and again."

Andy Duran, 19, said: "People are feeling like, what's the point of labeling? If I must label, let me

create my own."

That said, Duran uses "queer" — among others — because "it's the one that leaves the most for discovery. . . . It's not really limiting. I can date a woman or a man. I can date someone who's transgender or genderqueer."

Tiffany Solomon, who is 19 and technically a lesbian, is put off by the word "lesbian."

"I think of a short-haired woman who wears flannel. It's bad to a degree, but it's something that becomes embedded when you're young and queer and look on TV and you only have stereotypes to go on," she said. She calls herself a "metrosexual" — the word used to describe straight men who have a gay sensibility when it comes to fashion and grooming — because she also identifies with gay male culture.

Justin, who is 19 and didn't want to use his last name because he's not out to his family as transgender, calls himself a "boi" — with an "i" — because he feels like a boy — with a "y" — but "I don't have the boy parts, as much as I wish I did."

"I'm still learning the ropes of just being me," he added.

Lynn Breedlove, a musician and author, spent years as a "hutch dyke," but nowadays, he prefers to interchange pronouns and, depending on his mood, goes back and forth between the old label and "trannyboy." "Because I'm like Peter Pan — eternally youthful but I'm always played by a girl," Breedlove said. "It's more of a faggy aesthetic thing. I don't want hair on my face and chest. Ooh, I don't want to be transman — that sounds really furry."

While Breedlove is old enough to have an age complex — he explained his refusal to divulge his age as a "rock star thing" — a lot of the identity fluidity, name mania and word invention is bubbling up from the

What it all means

Definitions of many words in the gay lexicon are hotly contested. Here is a sample:

Genderqueer: Someone who views the gender options as more than just male and female or who doesn't fit into the binary male-female system.

Transgender: An umbrella term for transgression of the binary gender system. May include surgical, hormonal or nonhormonal changes that result in a gender identity different from the one assigned at birth.

Pansexual: Someone attracted to people of multiple genders.

Trannydyke: A transgender person attracted to people with a more feminine gender.

Trannyfag: A transgender person attracted to people with a more masculine gender.

Boi: A boyish gay guy or a biological female with a boyish presentation.

Heteroflexible: A straight person with a queer mind-set.

next generation of queer youth.

"Now that community resources are in place and public acceptance has increased, it's more feasible for adolescents to come out during adolescence," said Caitlin Ryan, a researcher at San Francisco State University who has studied lesbian, gay and bisexual youth. "What we're getting in the LGBT community is the power of youth. It's their expression and exuberance and energy and also their contribution to the culture."

It makes sense that youth, in particular, are coming up with new words and trying them on, considering that "identity development is one of the most important developmental tasks of adolescence," she said.

Growing acceptance of gays

and lesbians has also encouraged idiosyncrasy, Ryan said. "Identities are very personal. That was much less true 20 years ago, when identity was more around community. Now that there's a community, a vibrant one with resources, there's more room for personal identity. Before, the tribe was so much more important," she said.

To further complicate matters, race and ethnicity affect who is using which words. Some people of color prefer the word "stud" to "butch," meaning a masculine-identified lesbian. Which makes someone who falls between a stud and a femme — a more "feminine" lesbian — a "stem."

And genderbending and genderqueerness aren't as prevalent among people of color, said Matteo Cruz, who's Latino and a staff member at the Pacific Center, Berkeley's LGBT center.

In these communities, "queer" and the terms it spawned have a reputation of being "white," so some shy away from them in favor of "same-gender-loving people" or "men who sleep with men," or — among Spanish speakers — "homosexual," which is also a Spanish word.

"A lot of the stereotypes of what a 'queer' person is supposed to be, especially in mainstream media, is always a white person," said Solomon, who is African American. "A lot of issues people of color have with their families is their parents are saying, 'If you're gay, then you want to be white.' Because that's all they see. So yeah, 'queer' is not a word that a lot of people of color use."

No wonder Cruz sometimes grows frustrated when he leads discussions about appropriate language in anti-homophobia workshops. It can take an hour for his savvy students to list the "hundreds" of words they know for gay, lesbian, bisexual and transgender people. Then the discussion about what the words mean, who can use them and whether they're polite, often drags on ad nauseam.

When Cruz's coding system — circles, big X's and dotted lines to connote cool, uncool, and sometimes-cool terms — inevitably breaks down, he throws up his hands.

"However people self-identify," he tells students, "we have to respect."

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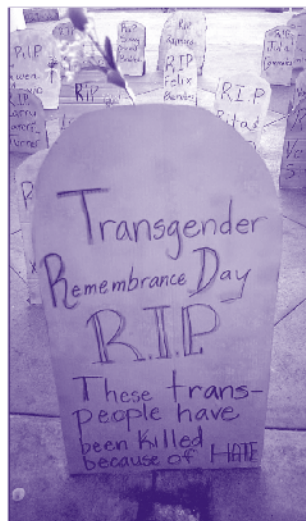
S.F. school's day of remembrance

Gay student groups honor transgender victims of homicide

By Rona Marech
CHRONICLE STAFF WRITER

Some of the cardboard grave-stones were tilting or had been knocked over by the wind. But the message was clear: Atop each of the small, gray markers were the letters RIP and the name of a transgender person who had been killed in a hate crime.

Julia Carrizales, who died of strangulation in Webster, Texas, in 2000. Sissy "Charles" Bolden, slain in 1999 in Savannah, Ga. Jose Angel Osuna, shot in the chest and stomach in San Diego in 1990.



KURT ROGERS / The Chronicle

A cardboard gravestone is part of the memorial to the slain.

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The names continued on signs in the auditorium and up and down the hallways. Cinnamon Perry, shot down by someone in a passing car in Houston in 2003.

George Washington High School's gay organizations, Go and the Gay Straight Alliance, planned the mock graveyard and the sign campaign in honor of Transgender Day of Remembrance, a nationwide event founded five years ago in honor of Rita Hester, who was stabbed to death in Boston in 1998, and other transgender homicide victims.

Students also made a public service announcement, passed out black armbands and organized a panel of young transgender speakers. Yesterday's events also commemorated the first anniversary of the death of Gwen Araujo, the transgender Newark teenager who was killed last October.

"The fact that she was so young hit home," said Benish Khan, 16. "It's scary that it could happen in the Bay Area because we're so diverse, and there are so many people here who regard themselves as different. ... We thought this would be a good way to increase awareness and appreciation for different people."

George Washington High in the Richmond District is one of six California schools — including Antioch High School and four others in Southern California — that planned activities honoring the day.

Gay advocates and educators say that these small actions are symbolic of a noticeable shift in attitude toward transgender individuals — people whose internal sense of gender doesn't match their biological gender.

"Gwen's death and the subsequent media coverage have raised awareness in a good way, in society and in schools, for transgender people — particularly for transgender young people," said Caro-



Benish Khan, a student at George Washington High, helped organize Transgender Remembrance Day.

lyn Laub, the executive director of Gay-Straight Alliance Network, which links gay and lesbian clubs in the state.

"Gwen was young, so it really struck a chord with young people and parents, school teachers and administrators. ... We've definitely seen an increase in people wanting to learn more about what they can be doing to make sure school is a safe place and what happened to Gwen doesn't happen again in their community."

Mateo Cruz, one of yesterday's panelists, said that since Araujo's death, the Pacific Center in Berkeley, the gay and lesbian community center where he works, had received three times as many requests for speakers and trainings. He participates in at least five panels every month.

In addition, while no one tracks out transgender high school students in the state, their ranks are increasing, Laub said. "Five years ago, when I started the network, there were no out transgender students I knew of," she said. "No one was talking about this. Just in five years, there has been a real change."

That correlates to the growing number of Gay Straight Alliance clubs in the state, from 50 to 370 in five years, she said.

Gay students at George Washington High School say that while homophobia and intolerance exist at the large, multiracial school, the environment for gay students is generally accepting. Aside from a comment or snicker here and there, the events yesterday inspired little controversy, and the 40 or so students who attended the panel listened with rapt attention.

They clapped and yelled encouragement when one speaker said she was nervous and broke into applause again when Cruz said that even though his family had cut him off since his transition from female to male, "I've never been happier. I feel so happy and confident about who I am."

As students filed out at the end of the period, Marion Weaver, 14, said, "I never knew they had to go through all that just to be who they are."

"I thought it was quite awesome that they are so comfortable with themselves and can be themselves without hiding it," said Holly King, 14. "I learned that you can't just hide and act like everyone else. You have to be individual and be unique."

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Beyond the Binary is a publication of:



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