

Anti-Bullying Policy: Why Enumeration Matters

As an advocate for educational anti-bullying and anti-harassment laws, policies and programs at the national, state and local level, you will be challenged to explain why enumerated categories are better than no categories at all. This document explains some of the major reasons why anti-bullying and anti-harassment laws and rules that use enumerated categories are better at protecting students and educators and school systems.

WHAT IS ENUMERATION?

When a law enumerates categories it usually identifies types of individuals or things that need to be protected. We generally refer to these individuals or things as groups or classes. Safe schools bills are designed to address the needs of students who experience bullying and harassment in their schools by identifying the types of behavior that students should be protected from and the types of students who should be protected.

Two of the categories most important to any discussion of anti-bullying policy are sexual orientation and gender identity. Any time a safe schools bill is introduced we urge its sponsor to enumerate the kinds of students that should be protected. While the goal of any safe schools legislation is to protect all students, we know that enumeration that focuses on race, sex or religion is vital – but a policy that also includes sexual orientation and gender identity, real or perceived, is critical.

Unfortunately, there are some who believe that singling out any one group through enumeration gives that group special privileges. Even though we know that is not true – enumeration serves to underscore the fact that special attention must be given to those who experience the most bullying and harassment – they continue to use this argument.

A law that incorporates enumeration might read like this:

Example of enumerated clause:

“Bullying means any gesture or written, verbal or physical act that takes place on school property, bus or off-site location where school activities are taking place, that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity and expression, or a mental, physical or sensory handicap, or by any other distinguishing characteristic...”

In contrast, a law that does not include enumeration might read like this:

Example of non-enumerated clause:

“Bullying means any gesture or written, verbal or physical act against any student that takes place on school property...”

WHY IS ENUMERATION ESSENTIAL?

- **Enumeration protects ALL students!**
 - Enumeration is essential to protecting as many students as possible from bullying and harassment. The strength of an enumerated law or policy is that it underscores not only that ALL students are protected; but also those students that research shows are most likely to be bullied and harassed and least likely to be protected by generic safe schools laws and policies.ⁱ
 - Proponents of generic bullying laws argue that enumerated categories protect fewer students than generic laws because only certain students are protected. ***Research shows that students who live in states or school districts with enumerated laws and policies are provided greater protections*** across the board.
- **Students who attend schools with policies that enumerate categories report less bullying and harassment than students who do not!**
 - Research has shown that students in states with generic laws are no more protected from bullying than students who live in states without any anti-bullying and harassment laws (40.8% w/ generic policies vs. 39.8% w/ no policies report 'often or frequently' hearing verbal harassment based on sexual orientation).ⁱⁱ
 - Students report less overall harassment when they know their school has a comprehensive policy that includes enumeration. Students from schools with an enumerated policy report that others are harassed far less often in their school for reasons like their physical appearance (36% vs. 52%), their sexual orientation (32% vs. 43%) or their gender expression (26% vs. 37%).ⁱⁱⁱ
 - Students whose schools have a policy that specifically includes sexual orientation or gender identity/expression are less likely than other students to report a serious harassment problem at their school (33% vs. 44%).^{iv}
- **Enumeration is essential if laws are to be implemented!**
 - History and the Supreme Court tell us that enumerating policies is necessary. Girls would not have sports and our schools would not be integrated if policymakers had not specifically addressed these inequities by enumerating categories like sex and race in our laws. The Supreme Court of the United States noted in *Romer v. Evans* that “***Enumeration is the essential device used to make the duty not to***

discriminate concrete and to provide guidance for those who must comply.” (emphasis added)

- Enumeration gives teachers and other educators the tools they need to implement safe schools policies that protect each and every student. Students reported that teachers were significantly more likely to intervene always or most of the time in states with enumerated policies, as compared to states with either generic policies or no policies at all (25.3% vs. 15.9% and 12.3%).^v
- Enumeration makes it easier for teachers and other school staff to intervene. School personnel often fear that they will themselves be targeted for intervening on behalf of LGBT students. When they can point to language that provides clear protection for students, they feel more comfortable enforcing the policy.^{vi}
- **Enumeration that includes sexual orientation and gender identity removes all doubt that LGBT youth are protected from bullying and harassment!**
 - Evidence shows that school officials often do not recognize that anti-LGBT harassment and discrimination are unacceptable behaviors, or do not respond to the problem due to prejudice or community pressure without the cover of a specific law or policy.^{vii}
- **Comprehensive policies with enumeration help ensure safety and reduce absenteeism!**
 - Students from schools with a comprehensive policy are 50% more likely to feel very safe at school (54% vs. 36%). Students without such a policy are three times more likely to skip a class because they feel uncomfortable or unsafe (16% vs. 5%).^{viii}

- i Harris Interactive (2005). From Teasing to Torment: School Climate in America, A Survey of Students and Teachers. New York: GLSEN
- ii Kosciw, J. G. and Diaz, E. M. (2006). The 2005 National School Climate Survey: The experiences of lesbian, gay, bisexual and transgender youth in our nation's schools. New York:
- iii Harris Interactive and GLSEN
- iv Ibid.
- v Kosciw, J.G. and Diaz, E.M..
- vi Ibid.
- vii Ibid
- viii Ibid.