

IN HARM'S WAY:

A Survey of Lesbian, Gay, Bisexual, and Transgender Students Who
Speak About Harassment and Discrimination in New York City Schools

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Executive Summary

A safe and supportive learning environment is integral to a student's learning experience. This report examines the results of a survey to determine whether many lesbian, gay, bisexual, and transgender (LGBT) students in New York City lack this essential foundation for success. The report also examines the current state of the law meant to protect students from harassment and discrimination in schools. The results of this work were disturbing: most LGBT young people surveyed experienced extensive harassment and/or discrimination in New York City schools, both by peers and by school staff. Though there are a number of laws and regulations meant to protect students from harassment and discrimination, our findings indicate that they are not being regularly enforced in many schools. For many of those surveyed, harassment and/or discrimination are not only unpleasant parts of their school day, but were the direct cause for their dropping out of school. Lack of a high school degree has lifelong damaging economic implications. It is our hope that the Department of Education will respond systemically to this issue and begin comprehensive enforcement of existing laws and regulations to help assure that LGBT students can go to school free of harassment and discrimination.

SURVEY FINDINGS

Advocates for Children (AFC) surveyed 107 LGBT young people at youth centers and high schools. Seventy-five of the surveys were valid and used to compile our findings. Not all 75 respondents answered each question. Our survey results found the following:

Finding #1: LGBT students face a high rate of peer-to-peer harassment in New York City schools, with the majority reporting that school staff did not intervene on their behalf.

- Nearly 70% (52 out of 75 respondents) reported being called offensive names because of their sexual orientation or gender identity. Almost half (46.2%, 24 out of 52 respondents) had been called offensive names on a daily basis.
- Twenty-six percent of the 75 respondents reported being physically threatened or hurt in school because of their gender or sexual identity.
- Out of 50 respondents, 59% (32 out of 50 respondents) reported that school personnel were present and provided no assistance at the time of the harassment and violence.
- Sixty-three percent (24 out of 38 respondents) reported that school personnel did not conduct an investigation after a complaint had been filed.
- Ninety-three percent of respondents (55 of 59 respondents) reported that they knew of other LGBT students who have been harassed or discriminated against by their peers.

Finding #2: In New York City schools, LGBT students faced a high rate of teacher-to-student harassment, which was often ignored by school administrators.

- Twenty-three percent (17 of the 75) respondents reported that school personnel called them offensive names.
- Of those 17 who responded that school personnel had called them offensive names, 47% (8 of 17) identified the staffer who did so as a teacher

- Nearly 59 percent (10 out of 17 respondents) reported incidents to school staff. Of those 17, less than half (8 of 17 or 47 percent) reported that there was an investigation.

Finding # 3: Students are dropping out of school as a result of harassment and discrimination

- Nearly thirty percent (8 out of 27) of those surveyed who were not enrolled in school stated they left because they encountered violence and harassment based on either their sexual or gender identity.

Finding #4: Students are uninformed about anti-discrimination policies and guidelines.

- Thirty-three percent (25 out of 75 respondents) responded that their schools do not have any anti-discriminatory rules, and 35 percent did not know whether their school had that type of rule.
- Seventy-two percent of 18 respondents did not know whether their school’s student handbook contains information on the Office of Equal Opportunity and an anti-discrimination policy; 85% of respondents were without this information.
- Forty-seven percent of 73 respondents did not know where to file a complaint against school personnel.

RECOMMENDATIONS

Recommendation #1: Implement existing laws and regulations

There are clear laws and regulations that currently exist, particularly on a citywide level, that do not appear to be implemented in a meaningful manner. Both New York City law and Chancellor’s regulations provide protections that are not being implemented. The New York City Human Rights Commission’s guidelines created to protect transgender students should be enforced in New York City schools.

In particular, the outright refusal to implement Local Law No. 42, the Dignity for All Students Act, is a serious and disappointing omission. This law enables students to receive a safety transfer if they are being harassed, and mandates schools to record incidents of harassments and discrimination. New York City should implement this law that offers cogent and practical solutions to this serious problem.

- Once implemented, it is our recommendation that Local Law No. 42’s requirements and the Office of Equal Opportunity’s responsibilities be integrated since they share concurrent duties, such as training school staff and enforcing anti-harassment policy and guidelines.

Recommendation #2: New York City schools should thoroughly train Local Equal Opportunity Coordinators

All New York City schools should have well trained Local Equal Opportunity Coordinators. Local Equal Opportunity Coordinators play an instrumental role in the enforcement of anti-discriminatory policies. They are meant to train school staff and oversee the complaint process. Currently, in our experience New York City schools either do not have Local Equal Opportunity Coordinators or have poorly trained Coordinators. Every New York City school should have a knowledgeable Local Equal Opportunity Coordinator to carry out the mandates imposed by Chancellor's Regulation A-830.

Recommendation #3: New York City school administrators should provide written statements regarding their harassment and discrimination policy to students and school staff.

The New York City Department of Education should issue a written statement outlining its policy prohibiting harassment and distribute it annually. Staff and students need to know about the policy and where to go if there is a violation of this policy. Such a statement would set a clear tone that the school system will not tolerate harassment or discriminatory behavior from students or school staff. The written policy should include information on the school's complaint procedure and the different venues where students can file complaints.

Recommendation #4: Encourage Gay and Straight Alliance clubs in high schools.

Creating an environment of tolerance and respect is the most likely way to decrease the number of harassing and discriminating incidents that happen in New York schools. Schools should be encouraged to facilitate the creation of Gay and Straight Alliance (GSA) clubs. Such clubs could be an opportunity for students of all sexualities and gender identities to learn about their differences and to create friendships. Research has shown that having a GSA club at a school decreases the rate of discrimination and provides social support to LGBT students.

I. LGBT Students in the New York City Education System

A. Introduction

A safe and supportive learning environment is integral to a student's learning experience. This report examines the results of a survey to determine whether many lesbian, gay, bisexual, and transgender (LGBT) students in New York City lack this essential foundation for success. This report also examines the current state of the law meant to protect students from harassment and discrimination in schools. The results of this work was disturbing; most LGBT young people surveyed have experienced extensive harassment and/or discrimination in New York City schools, both by peers and by school staff. There are an estimated 14- 17,000 LGBT students enrolled in New York City schools, all of whom should be safe from an atmosphere of discrimination or harassment.¹ Though there are a number of laws and regulations meant to protect students from harassment and discrimination, our findings indicate that these laws and regulations are not being regularly enforced in many schools. For many of those surveyed, harassment or discrimination are not only unpleasant parts of their school day, but was the direct cause for them dropping out of school. Lack of a high school degree has lifelong damaging economic implications.

In a democratic society, certain conditions must be met. Ronald Dworkin reasons, "Democracy means government subject to conditions-we might call these the 'democratic' conditions- of equal status for all citizens."² Following Dworkin's reasoning, obtaining an education becomes one of those essential democratic conditions. In *Brown vs. the Board of Education*, Chief Justice Earl Warren explains the reasons:

Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education of our democratic society...It is the very foundation of good citizenship. Today it is a principal instrument in

¹ See New York City Department of Education's Registration by Grade for the 2004-2005 School Year, at <http://www.nycenet.edu/Offices/Stats/Register>.

² Ronald Dworkin, Freedom's Law: The Moral Reading of the American Constitution at 17 (1996).

awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment.³

Consequently, setting up educational barriers for LGBT students referred to above jeopardizes this foundation of our nation's democracy. Lacking a high school degree, LGBT youth cannot as meaningfully contribute within society. Our school system must follow the laws as set out as well as honoring the values inherent in democratic society. For these reasons, Advocates for Children of New York (AFC) undertook this report to examine the issue of harassment and discrimination of LGBT students in New York City schools. Past reports have flagged this issue nationally.⁴ This report examines this issue specifically in New York City. It is our hope that the New York City Department of Education will respond systemically to this issue and begin comprehensive enforcement of existing laws and regulations to help assure that students can go to school free of harassment and discrimination.

B. Overview of Existing Reports

According to the Human Rights Watch's report *Hatred in the Hallways*, "more than two million lesbian, gay, bisexual and transgender students of school age [live] in the United States."⁵ Human Rights Watch calculated "that between 5 and 6 percent of students fit into one of these categories:"⁶ lesbian, gay, bisexual and transgender. This would mean between 14,000 to 17,000 of the 281,922⁷ students registered in New York City high schools are LGBT students.

Either narrated first hand by LGBT students or shared by community-based organizations, staff at AFC have heard numerous stories of LGBT students being harassed or

³ Brown v. Board of Education 347 U.S. 483, 74 S. Ct. 686.

⁴ See Human Rights Watch, *Hatred in the Hallways: Violence and Discrimination against Lesbian, Gay, Bisexual, and Transgender Students in US Schools* (2001), at <http://www.hrw.org/reports/2001/uslgbt/toc.html>; See Gay Lesbian Straight Education Network, *The 2003 National School Climate Survey* (2003), at http://www.glsen.org/binary-data/GLSEN_ATTACHMENTS/file/300-3.PDF.

⁵ See Human Rights Watch, *supra* note 4.

⁶ *Id.*

⁷ See New York City Department of Education's Registration by Grade for the 2004-2005 School Year, *supra* note 1.

physically assaulted by peers, and discriminated against by school personnel. Some stories tell of physical attacks, others of educational opportunities lost. One student faced a violent attack by her peers at her school. After some boys called her offensive names related to her sexual identity, one of those boys threw a paper ball soaked in gasoline, which was ignited by a match thrown after she caught the ball in her hands. A transgender student was illegally suspended for over a month and half because she wore make-up to express her feminine gender identity. It was incidents such as these that prompted AFC to look further into the issue of harassment and discrimination of LGBT students. AFC created a survey as a tool to uncover whether if harassment and discrimination is an uncommon occurrence or a systemic problem for LGBT students.

There has been no in-depth survey assessing the degree to which LGBT students are harassed and discriminated against in New York City schools, but there have been a few national reports on this issue. The most relevant are: Human Rights Watch's *Hatred in the Hallways: Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Students in US Schools* ("Hatred in the Hallways")⁸ and Gay and Lesbian Straight Network's *The 2003 National School Climate Survey: The School-Related Experience of Our Nation's Lesbian, Gay, Bisexual and Transgender Students* ("Nat'l School Climate Survey").⁹ These reports are discussed in greater detail in Section III. Generally, these national surveys did not provide an in-depth analysis of local cities' particular problems. For example, unlike most suburban and rural schools, New York City schools use police officers as staff for security reasons. In their analysis, these reports did not consider police officers as a staff member who might harass or help protect LGBT students. These reports did not give an account of the particular problems faced in New York City.

⁸ Human Rights Watch, *supra* note 4.

⁹ See Gay Lesbian Straight Education Network, *supra* note 4.

II. Overview of Federal, State, and Local Laws and Regulations Governing Discrimination and Harassment of LGBT Students in New York City Schools

Federal, state and local laws and regulations govern discrimination and harassment of LGBT students in the New York City schools. As outlined below, the federal laws protect only certain subsets of the LGBT population, or protect against very specific forms of discrimination. In contrast, New York State and New York City laws provide LGBT students with fairly expansive protections against discrimination in schools. However, efforts to enact or enforce state and city laws protecting LGBT students from harassment in schools have not been completely successful. Thus, although students in the New York City schools possess more expansive rights than are provided for under the federal law, there remains much room for improvement.

A. Federal Law, Regulations and Decisions

There is no federal law that explicitly forbids discrimination and harassment of LGBT students in schools. However, federal courts have found that both the equal protection clause of the Fourteenth Amendment and Title IX of the Education Amendments of 1972 prohibit certain types of sexual harassment and gender identity-based discrimination.

i. Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution

In theory, gay, lesbian and transgender students, like all students, are entitled to equal protection under the law.¹⁰ However, in reality, the right of LGBT students to be treated equally is much weaker than the right of students to be free from race or gender-based discrimination.¹¹ Nevertheless, federal courts have held that the equal protection clause forbids some forms of discrimination of LGBT students. Specifically, courts have found that school officials violate a student's right to equal protection if they respond to complaints of harassment based on actual or

¹⁰ U.S. Const. Amend. XIV.

¹¹ See Romer v. Evans, 517 U.S. 620 (1996).

perceived sexual orientation differently than they respond to complaints of other types of harassment.¹²

In 1996, the Seventh Circuit held that school officials, in failing to respond to a student's continued complaints of harassment based on his perceived sexual orientation, violated the student's right to equal protection.¹³ The key factor in the court's equal protection analysis was its finding that the school officials had firmly responded to complaints of other types of harassment.¹⁴ The court found "that [the plaintiff] introduced sufficient evidence to show that the discriminatory treatment was motivated by the defendants' disapproval of [the plaintiff's] sexual orientation, including statements by the defendants that [the plaintiff] should expect to be harassed because he is gay."¹⁵ The Seventh Circuit went on to state that it was "unable to garner any rational basis for permitting one student to assault another based on the victim's sexual orientation."¹⁶ The Ninth Circuit affirmed this analysis in 2003, by stating that "[t]he guarantee of equal protection . . . requires the defendants to enforce District policies in cases of peer harassment of homosexual and bisexual students in the same way that they enforce those policies in cases of peer harassment of heterosexual students."¹⁷ Notably, these decisions are not limited to situations where the harassed student is actually homosexual or bisexual, but include harassment of students based on their *perceived* sexual orientation, regardless of their actual sexual orientation.¹⁸

¹² See, e.g., Nabozny v. Podlesny, 92 F.3d 446 (7th Cir. 1996); Flores v. Morgan Hill Unified Sch. District, 324 F.3d 1130 (9th Cir. 2003); Montgomery v. Indep. Sch. Dist. No. 709, 109 F.Supp.2d 1081 (D. Minn. 2000).

¹³ Nabozny, 92 F.3d at 458.

¹⁴ Id.

¹⁵ Id. at 457.

¹⁶ Id. at 458.

¹⁷ Flores, 324 F.3d at 1137; see also Montgomery, 109 F.Supp.2d at 1089 ("The School District offers no rational basis for permitting students to assault plaintiff on the basis of his sexual orientation while protecting other students from similar forms of harassment.").

¹⁸ At this time, it is unclear how much protection the equal protection clause provides to transsexual or transgender students harassed based on actual or perceived gender identity. Case law has made clear that discrimination based on sexual orientation is covered, but that does not cover gender identity.

Although Nabozny and similar decisions have strengthened LGBT students' right to be free of harassment in schools, some lower courts have limited the reach of Nabozny.¹⁹ Thus, while the equal protection clause is an important tool in fighting discrimination and harassment of LGBT students, it remains a limited one.

ii. Title IX of the Education Amendments of 1972

Title IX of the Education Amendments of 1972,²⁰ which applies to all schools receiving federal funds, forbids discrimination on the basis of sex.²¹ In 1997, the United States Department of Education explicitly recognized that, since sexual harassment can be a form of sex discrimination, sexual harassment is covered by Title IX.²² The Supreme Court has recently found that a school district that knowingly turns a blind eye to teacher-student or student-student sexual harassment may be liable to the student for monetary damages.²³

Despite this reinforcement of a student's right not to be sexually harassed at school, the Supreme Court has ensured that a school district will be liable for monetary damages in very limited situations. In the case of teacher-student sexual harassment, the student must introduce evidence showing that an official with "authority to take corrective action to end the discrimination" actually knew about the harassment, and that that official was deliberately indifferent to the harassment.²⁴ In instances of student-student sexual harassment, the student must show, in addition to proving actual knowledge and deliberate indifference, that the

¹⁹ In 2004, a federal court in Iowa held, in a case containing facts similar to those in Nabozny, that the plaintiff was unlikely to succeed on his equal protection claim because he was unable to show that reaction to his complaints of harassment was "totally lacking as it was in Nabozny . . ." Doe v. Perry Cmty. Sch. Dist., 316 F.Supp.2d 809, 831 (S.D. Iowa, 2004). Thus, this court indicated that a student's equal protection rights are not violated if school officials take *any* action in response to complaints of harassment.

²⁰ 20 U.S.C. § 1681 *et seq.*

²¹ See 20 U.S.C. § 1681.

²² See U.S. Dept. of Educ., Office for Civil Rights, Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, 62 Fed. Reg. 12034 (March 13, 1997).

²³ See Gebser v. Lago Vista Indep. Sch. Dist., 524 U.S. 274 (1998); Davis v. Monroe Bd. of Educ., 526 U.S. 629 (1999).

²⁴ Gebser, 524 U.S. at 290.

harassment “is so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities and benefits provided by the schools.”²⁵

LGBT students are covered by Title IX to the same extent as all other students. Thus, if a gay or lesbian student is sexually harassed in school, the school district will be found liable for monetary damages if the student is able to meet the requirements set forth above.²⁶ Furthermore, the United States Department of Education has stated that gender-based discrimination includes harassment directed at students for not conforming to gender stereotypes – in other words, harassment of male students for feminine behaviors or characteristics or female students for masculine behaviors.²⁷ Although the Department of Education has explicitly refused to include such gender identification harassment under the definition of sexual harassment, it has stated that “incidents of gender-based harassment combined with incidents of sexual harassment could create a hostile environment, even if neither the gender-based harassment alone nor the sexual harassment alone would be sufficient to do so.”²⁸ However, in order to state a claim for monetary relief the student must again show actual knowledge and deliberate indifference on the part of school officials, and that the harassment was so persistent that it deprived the student of the school’s educational benefits.

²⁵ Davis, 526 U.S. at 650.

²⁶ “. . . sexual harassment directed at gay or lesbian students that is sufficiently serious to limit or deny a student’s ability to participate in or benefit from the school’s program constitutes sexual harassment prohibited by Title IX.” U.S. Dept. of Educ., Office for Civil Rights, Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, 66 Fed. Reg. 5512 (Jan. 19, 2001).

²⁷ See id.; see also U.S. Dept. of Educ. Office for Civil Rights, Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, *Analysis of Comments Received Concerning the Proposed Revised Guidance and the Resulting Changes* (“gender-based harassment, including that predicated on sex-stereotyping, is covered by Title IX if it is sufficiently serious to deny or limit a student’s ability to participate in or benefit from the program. Thus, it can be discrimination on the basis of sex to harass a student on the basis of the victim’s failure to conform to stereotyped notions of masculinity and femininity.”). Courts have held that students may adequately state Title IX claims by alleging facts showing that he or she was harassed “based on the perception that he did not fit his peers’ stereotypes of masculinity.” Montgomery, 109 F.Supp.2d at 1092; see also Doe v. Perry Cmty. Sch. Dist., 316 F.Supp.2d 809, 834 (S.D. Iowa 2004) (some likelihood of success on the merits on a Title IX claims where student alleged harassment based on his perceived sexual orientation). However, we know of no case law that explicitly protect transgender students under Title IX.

²⁸ See Revised Sexual Harassment Guidance, 66 Fed. Reg. 5512.

Finally, since Title IX focuses on sex or gender discrimination, and not on discrimination based on sexual orientation, a student is not necessarily protected from being called derogatory names based on his or her perceived sexual orientation, if those names do not focus on the student's gender.²⁹

B. New York State Laws and Regulations

i. SONDA

In late 2002, the New York State Legislature passed the Sexual Orientation Non-Discrimination Act (“SONDA”), which became effective on January 16, 2003.³⁰ SONDA amended the New York State Human Rights Law³¹ to forbid discrimination on the basis of sexual orientation, defined as “heterosexuality, homosexuality, bisexuality, or asexuality, whether actual or perceived.”³² The Human Rights law currently states that “[t]he opportunity to obtain education . . . without discrimination because of . . . sexual orientation . . . is hereby recognized as and declared to be a civil right.”³³ It further states that it is unlawful for any public school “to deny . . . to any person” the use of its facilities because of a person’s sexual orientation, or “to permit the harassment of any student or applicant, by reason of his . . . sexual orientation”³⁴

Although SONDA extended protection against discrimination to gay and lesbian students, it did not mandate that the Human Rights law be amended to prevent discrimination on the basis of gender identity or perception. However, some New York state courts have held that

²⁹ See, e.g., Theno v. Tonganoxie Unified Sch. Dist. No. 464, 377 F.Supp.2d 952, 965 (D.Kan. 2005) (holding that, pursuant to a Title IX claim, “a rational trier of fact could infer that plaintiff was harassed because he failed to satisfy his peers’ stereotyped expectations for his gender because the primary objective of plaintiff’s harassers appears to have been to disparage his perceived lack of masculinity.” However, the Court further stated that the name-calling, which involved a long history of being called “fag”, “faggot” and “gay”, “probably would not be sufficient” on its own.); see also U.S. Dept. of Educ., Office for Civil Rights, Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (Jan. 19, 2001).

³⁰ 2002 N.Y. Laws Ch. 2 (codified at N.Y. Exec. Law §292(27), 296).

³¹ N.Y. Exec. Law §§ 290 *et seq.*

³² 2002 N.Y. Laws, ch. 2; N.Y. Exec. Law § 292(27)

³³ N.Y. Exec. Law § 291.

³⁴ N.Y. Exec. Law § 296(4)

transgender persons may be covered under the Human Rights Law’s provisions forbidding discrimination.³⁵

ii. Dignity for All Students Act/ Schools as Safe Harbors Act

While SONDA protects gay and lesbian students from discrimination, there is no New York State law that specifically addresses the harassment of LGBT students in schools. For several years in a row, the New York State Assembly has passed the Dignity for All Students Act, which offers protection from harassment and bullying for all students, including LGBT students.³⁶ However, the New York State Senate, instead of approving the Dignity for All Students Act, has responded with a bill of its own – the Schools as Safe Harbors Act.³⁷ The Schools as Safe Harbors Act limits some of the protections provided in the Dignity for All Students Act. At this point, neither bill has been passed into law.

iii. New York State Department of Education’s Commissioner’s Regulations

The New York State Commissioner’s Regulations govern the provision of education to students in New York State. Currently, the Regulations do not provide much protection for LGBT students. However, Commissioner’s Regulation Part 100.2(gg) does require schools to report violent incidents to the Commissioner of Education, including “epithets or slurs involving . . . gender, sexual orientation . . . that substantially disrupts the educational process.”³⁸

C. New York City Laws and Regulations

i. New York City Human Rights Law

Since 1986, New York City’s Human Rights law has forbidden discrimination on the basis of sexual orientation in places of public accommodation.³⁹ Sexual orientation is defined as

³⁵ See, e.g., Doe v. Bell, 754 N.Y.S.2d 846 (N.Y. Sup. Ct. 2003) (holding that a 17 year-old male to female transsexual diagnosed with “Gender Identity Disorder” may be considered disabled under the New York State Human Rights Law and therefore is subject to that law’s protections).

³⁶ N.Y. Assembly Bill A.4963/S.1454.

³⁷ N.Y. Senate Bill S.4023.

³⁸ 8 N.Y.C.R.R. 100.2(gg).

³⁹ NYC Admin Code § 8-107(4).

“heterosexuality, homosexuality, or bisexuality,”⁴⁰ and “public accommodation” includes schools that receive public funds.⁴¹ Specifically, under the Human Rights law, school officials are prohibited from refusing any “accommodations, advantages, facilities or privileges” of the school due to the student’s actual or perceived sexual orientation.⁴² In addition, school officials may not indicate, either in writing or orally, that any student is unwelcome or to be refused access due to his or her actual or perceived sexual orientation.⁴³

In 2002, the Human Rights Law was amended to “make clear that all gender-based discrimination – including, but not limited to, discrimination based on an individuals’ actual or perceived sex, and discrimination based on an individual’s gender identity, self-image, appearance, behavior or expression – constitutes a violation of the City’s Human Rights Law.”⁴⁴ In other words, discrimination of transgender persons is now expressly prohibited.⁴⁵ In December 2004 the Commission released guidelines defining actions that are considered discriminatory against transgender students.⁴⁶

ii. Dignity for All Students Act

The New York City Council passed the Dignity for All Students Act (“DASA”) on June 29, 2004.⁴⁷ DASA recognizes the harmful effects of harassing behavior, and seeks to curtail

⁴⁰ Id. § 8-102 (20).

⁴¹ See id. § 8-107 (4).

⁴² Id. § 8-107(4).

⁴³ Id.

⁴⁴ Commission on Human Rights Amendment, Local Law 3 § 1 (April 20, 2002).

⁴⁵ Id. § 2 (Section 1-02 of the Human Rights law is amended as follows: “the term ‘gender’ shall include actual or perceived sex and shall also include a person’s gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth.” See also Guidelines Regarding “Gender Identity” Discrimination, A Form of Gender Discrimination Prohibited by the New York City Human Rights Law, *available at* http://www.nyc.gov/html/cchr/html/trans_guide.html.

⁴⁶ The guidelines set out the following: requesting proof of an individual's gender except when legally required, challenging an individual's gender, asking inappropriate questions about intimate details of an individual's anatomy, and not allowing individuals to use a dressing or changing room consistent with their identity or gender expression Guidelines Regarding “Gender Identity” Discrimination, A Form of Gender Discrimination Prohibited by the New York City Human Rights Law, *available at* http://www.nyc.gov/html/cchr/html/trans_guide.html.

⁴⁷ N.Y. City Council Int. No. 188-A.

such behavior in the New York City schools.⁴⁸ Harassment is defined as “the creation of a hostile environment by, in whole or in part, conduct or verbal threats, taunting, intimidation or abuse, including conduct, verbal threats, intimidation or abuse for any reason . . .” DASA specifically prohibits harassment of a student due to his or her sexual orientation, gender or perceived gender, and gender identity.⁴⁹ DASA requires school systems to create policies and guidelines for addressing harassment, and implements reporting procedures to track incidents of harassment in the city schools.⁵⁰

The current status of DASA in New York City is unclear. Although DASA was passed by the New York City Council, it was vetoed by Mayor Bloomberg in July 2004. On September 9, 2004, the City Council overrode the Mayor’s veto and in effect made DASA law in New York City.⁵¹ However, the Mayor has thus far refused to implement DASA, claiming that the City Council does not have the authority to enact laws governing the Department of Education. As a result, DASA is not being implemented or enforced at this time.

iii. New York City Department of Education Regulations and Policy

The New York City Regulations of the Chancellor (“Chancellor’s Regulations”) govern the education of New York City’s schoolchildren, and set forth the rights of students and parents in compliance with federal, state and local laws.

Chancellor’s Regulation A-830 governs the filing procedures for complaints of unlawful discrimination or harassment. This Regulation states that “[i]t is the policy of the New York City Department of Education to provide equal educational and employment opportunities without regard to . . . sexual orientation, gender (sex) . . . and to maintain an environment free of

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ Id.

⁵¹ “Council Overrides Mayor’s Veto of Dignity for All Students Act,” The Council of the City of New York Office of Communications (September 9, 2004) *available at* http://www.nycouncil.info/pdf_files/newswire/09-09-04dasa_override.pdf.

harassment on any of the above-noted grounds, including sexual harassment or retaliation⁵²

On February 13, 2004, Regulation A-830 was revised to expand the definition of gender to include the gender identification language found in New York City’s Human Rights Law.⁵³

Regulation A-830 explicitly mandates that complaints of such discrimination or harassment “be filed with [the Office of Equal Opportunity].”⁵⁴ In addition, schools must appoint at least one Local Equal Opportunity Coordinator who “is responsible for providing information on matters affecting equal educational and employment opportunities and for conciliating and investigating complaints of unlawful discrimination”⁵⁵

New York City’s Chancellor’s Regulation A-831 governs student-to-student sexual harassment, defined as:

conduct and/or communication by a student directed against another student. It consists of unwelcome and uninvited sexual advance, requests for sexual favors, sexually motivated physical conduct and other verbal, non-verbal or physical conduct or communication of a sexual nature which is sufficiently severe, pervasive or persistent to: (1) substantially interfere with a student’s ability to participate in or benefit from an educational program, school sponsored activity or any other aspect of a student’s education; or (2) create a hostile, offensive, or intimidating school environment; or (3) otherwise adversely affect a student’s educational opportunities. Such behavior can constitute sexual harassment whether it is directed at persons of the same sex or opposite sex.⁵⁶

The regulation requires every school principal to “designate a staff member to whom reports of student-to-student sexual harassment can be made,” and requires that all such complaints be promptly investigated.⁵⁷ It further requires all staff members who either witnesses student-to-student sexual harassment or who have other knowledge of such harassment, to immediately

⁵² CR A-830.

⁵³ CR A-830, Attach. #1 (“The term ‘gender’ shall also include a person’s gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth.”).

⁵⁴ CR A-830.

⁵⁵ Id.

⁵⁶ CR A-831.

⁵⁷ Id.

report the harassment to the staff member designated by the principal to handle student-to-student sexual harassment complaints.⁵⁸

Although Regulations A-830 and A-831 are important tools in preventing harassment and discrimination of LGBT students, the regulations do not stipulate any penalties for a school's non-compliance.

III. Survey Findings

A. Overview of Past Surveys Regarding Discrimination and Harassment Against Lesbian, Gay, Bi-Sexual and Transgender Students in Educational Settings

There have been two national reports examining discrimination and harassment of lesbian, gay, bi-sexual and transgender (LGBT) students referred to above. These reports documented discrimination and harassment by other students against LGBT students, and the lack of school personnel's intervention on behalf of LGBT students. So far, no report has focused solely on New York City.

In May 2001, the Human Rights Watch released a report, *Hatred in the Hallways: Violence and Discrimination against Lesbian, Gay, Bisexual, and Transgender Students in US Schools* (hereafter *Hatred in the Hallways*).⁵⁹ The report compiled interviews of LGBT students discussing the verbal and physical harassment and violence they faced daily in schools across the United States. The report also documented that school personnel failed to protect these students even when the school staff were witnesses. Human Rights Watch staff interviewed one hundred and forty (140) students and one hundred and thirty (130) teachers from seven cities across the United States.⁶⁰ New York City was among the seven selected cities where interviews were conducted. The report found that nearly every one of the 140 students interviewed had faced

⁵⁸ See *id.*

⁵⁹ Human Rights Watch, *supra* note 4.

⁶⁰ *Id.*

incidents of verbal or other non physical harassment.⁶¹ These narrations depicted different forms of harassment including daily verbal harassment,⁶² whisper campaigns consisting of rumors such as the LGBT student person having AIDS,⁶³ and derogatory written or obscene pictorial materials.⁶⁴ The report stated that transgender students endured a higher rate of violence and harassment than their lesbian, gay and bisexual counterparts.

The *Hatred in the Hallways* report further found that teachers and school administrators failed to protect students from peer harassment and violence in several ways. School staff either did not intervene on behalf of LGBT students facing violence or harassment, or did not report or discipline those acting against LGBT students. Indifference was summed up in a survey participant named Lavonne's interview when he answered the question of what teachers did when fellow peers had harassed him with a "nothing."⁶⁵ An example of harassment by school staff was given in the interview of a survey participant named Alex M. where his world history teacher would say, "oh, faggot this, faggot that."⁶⁶ Reporting such actions to school staff by LGBT students often brought nothing but more harassment as in the interview of Thomas B. who had reported to the principal that several derogatory notes written identifiably by a substitute teacher. Instead of investigating the incident, the principal grilled him about his sexuality, and still did nothing afterwards.⁶⁷ None of these examples from *Hatred in the Hallway* came from New York City. Yet, clearly these stories indicated a problem with harassment of LGBT students in schools throughout the nation.

In 2003, Gay Lesbian and Straight Education Network (GLSEN) released a national report entitled *The 2003 National School Climate: The School Related Experience of Our*

⁶¹ See Id.

⁶² See Id. at 2.

⁶³ See Id. at 3.

⁶⁴ See Id.

⁶⁵ See Id. at 2.

⁶⁶ See Id.

⁶⁷ See Id.

Nation's Lesbian, Gay, Bisexual and Transgender Students, (hereafter *National School Climate Report*)⁶⁸ which confirmed *Hatred in the Hallways*' findings. Unlike *Hatred in the Hallways*, the *National School Climate Report* used statistics to capture LGBT students' experience in school. After surveying eight hundred eighty-seven (887) LGBT students nationwide, the report found that the eight-four percent of LGBT students had experienced verbal harassment, thirty-nine percent of the students had faced physical harassment, and nearly twenty percent of these students had been physically assaulted.⁶⁹ The report remarked on the frequency of the harassment and violence imposed on LGBT students, emphasizing the gravity of the often-repeated harassment and violence, as well as the compounded effect of such repeated actions. The report stated, "Over 10% [reported] that [verbal harassment] occurred frequently," and "10% reported that [physical] harassment occurred frequently or often."⁷⁰

Like the Human Rights Watch report, the *National School Climate Report* provided a detailed analysis of the population by sorting the information according to race, gender, and gender expression. According to the report, no difference existed between white and students of color with regards to the harassment and violence based on sexual orientation and gender identity. However, the report found significant differences amongst genders.⁷¹ The *National School Climate Report* explains the sophisticated conception of gender. There exists a continuum of gender expression: female, male and transgender. Male and transgender students experience more frequent verbal and physical harassment, and physical assault based on sexual harassment than female students.⁷² Transgender students experienced more frequent verbal and physical harassment, and physical assault based on sexual harassment than the male counterpart.⁷³

B. Description of Survey Methodology

⁶⁸ Gay Lesbian Straight Education Network, *supra* note 4.

⁶⁹ See Id.

⁷⁰ See Id.

⁷¹ See Id. at 40.

⁷² See Id. at 40.

⁷³ See Id.

In order to examine the environment for LGBT students in New York City today, AFC created a survey to determine the rate and the kind of discrimination and harassment found by LGBT students in the New York City school system. AFC also sought to define the level of knowledge of LGBT students regarding New York schools' anti-harassment and discrimination policies and complaint procedures. The survey consisted of nine general questions accompanied with further detailed questions to understand each general question. The survey is attached as Appendix A.

The Project Director of Queer Students Educational Advocacy at AFC administered the survey to school-aged students who self-identified as LGBT. Community-based organizations assisted in the process by either allowing their clients to take the survey during a meeting time at their offices or organized events so that their clients could take the survey. The participating community-based organizations were Lawyers for Children, Gays and Lesbians of Bushwick Empowered at Make the Road by Walking, Streetworks, The New Neutral Zone, The Peter Cicchino Students Project at the Urban Justice Center, Gay Men of African Descent, Hispanic AIDS Forum, The Bronx Lesbian and Gay Health Resource Consortium, and Green Chimney's Residence. In addition, three high schools participated in the survey.

C. Demographic Characteristics of Survey Respondents

Seventy-five self-identified LGBT or questioning students fully completed surveys during the 2004-2005 school year. Not all 75 respondents answered each question. Twenty-six young people identified themselves as bisexual, twenty-four young people identified themselves as gay, fourteen young people identified themselves as lesbians, eight young people were questioning, and three young people identified as heterosexuals. The three heterosexual students and one bisexual student had transgender experience. The survey group consists of thirty-four

females, thirty-four males, four transgender individuals, and three gender neutral.⁷⁴ Out of the four transgender individuals, one is a female-to-male transgender individual and the other three are male-to-female transgender individuals. Out of the thirty-four females, sixteen are bisexuals, twelve are lesbians and five are questioning. Out of the thirty-three males, eight are bisexual, twenty are gay and four are questioning.

D. Coming out Status

Sixty (80%) out of seventy five surveyed LGBT students report that they are “out” to their fellow students. Forty-six (61.33 %) out of the seventy-five are out to school personnel. In comparison, only thirty-nine (52 %) out of the seventy-five LGBT students have disclosed this information to their family.

E. In School/Out of School

Out of the seventy-five LGBT students surveyed, twenty-seven young people (36%) were not currently in school while forty-eight were currently enrolled in school (64%). Approximately thirty percent (8 out of 27, 29.6%) of those not enrolled in school stated they left because they encountered violence and harassment based on either their sexual or gender identity. Thirteen of the twenty-seven young people (48.1%) provided multiple reasons why they were not in school, and sixteen (59.3%) gave only one reason for not attending school. Fifty percent (13 out of 27, 48.1%) of the young people surveyed stated that other reasons besides or in addition to the stated reasons lead them to leave school. Approximately 22% (6 out of 27, or 22.2%) of LGBT students surveyed reported that they left school in response to school personnel telling them that they do not “fit in” and should go to another school. Approximately 22% (6 out of 27, or 22.2%) of those LGBT students who left school stated that they had been told they

⁷⁴ In this context, gender neutral is defined as free of explicit or implicit reference to gender or sex.

would not graduate and should enroll in a GED program.⁷⁵ Approximately 19% (5 out of 27, or 18.5%) stated that they left school because they ran away from home. Approximately 11% (3 out of 27, or 11.1%) stated that they left school because school personnel told them that they would not pass the Regents exams and should enroll in a GED Program. Three other factors were cited by those surveyed who left school: they were homeless (2 out of 27, 7.4%); school personnel told them that they were too old to be in school and yet, they were under twenty-one years old (2 out of 27, 7.4%), and they have been imprisoned (2 out of 27, 7.4%).

Figure 1: Those surveyed not currently enrolled in schools vs. Those currently enrolled in schools

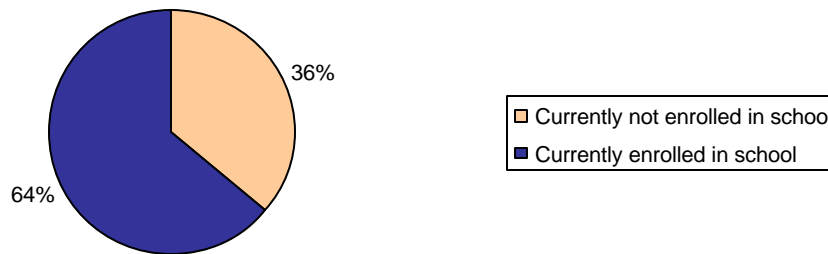
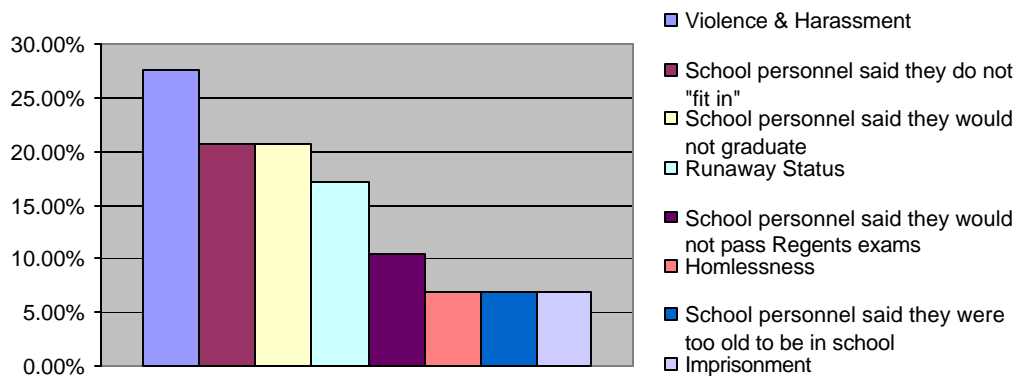


Figure 2: Reasons Underlying LGBT Students Leaving School



⁷⁵ These students are pushouts: See Advocates for Children, *Pushing Out At-Risk Students: An Analysis of High School Discharge Figures- A joint report by AFC and the Public Advocate* (2002).

i. Transgender Young People

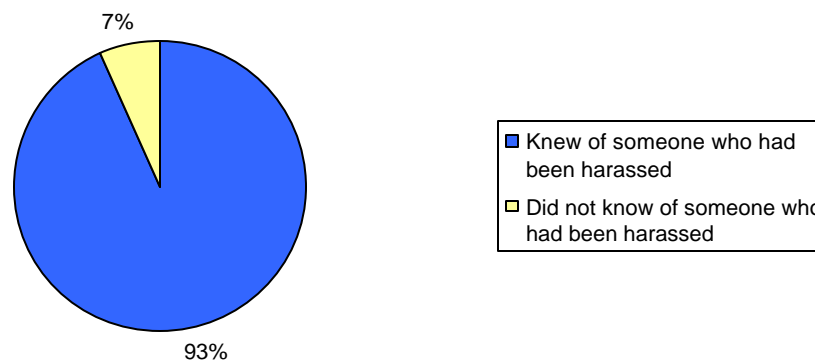
Because other reports found the highest levels of harassment or discrimination against transgender students, we examined their responses in particular and found that they were more likely to not be currently enrolled in school and that one of the reasons for this was harassment or violence against them.⁷⁶

F. Peer-to-peer harassment and violence

i. Harassment of LGBT Peers

The survey asked if respondents knew of any other LGBT students who have been harassed or discriminated against by other students, and respondents knew of someone who had been harassed or discriminated against.

Figure 3: Knowledge of Others Having Been Harassed

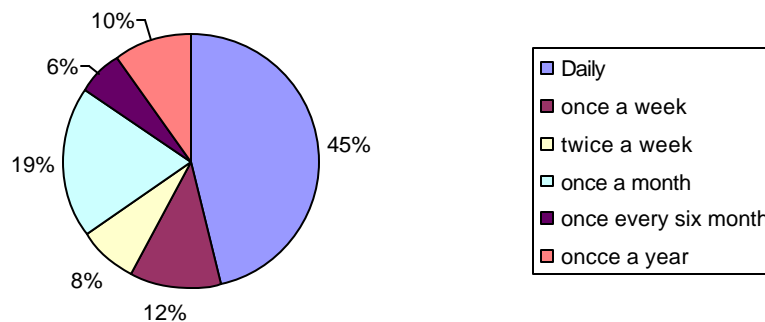


⁷⁶ Four transgender students responded to the survey. Three out of the four (75%) transgender students are male-to-female and the other is a female-to-male. Three of the four transgender students are not enrolled in school. Those three who are not enrolled in school are male-to-female. All three male-to-female transgender students have answered that one of the reasons for leaving school is that they encountered violence and harassment based on either their sexual identity or gender. Two (66.6%) of the three male-to-female transgender students also reported that school personnel informed them that they do not fit in and should go to another school. One of the three male-to-female stated other reasons: school personnel told her that she would not pass the Regents Exams and should enroll in a GED program; she was a runaway, and she was imprisoned.

ii. First-hand Harassment Experience

In this surveyed group, fifty-two (69.3%) out of seventy LGBT students stated that they had been called offensive names based upon their sexual orientation or gender identity. The majority had been harassed in this manner regularly, with nearly half experiencing this harassment daily. Twenty-four (46.2%) of those fifty-two students had been called offensive names on a daily basis. Ten (19.2 %) of those fifty-two students reporting name calling had been called offensive names once a month. Six (12%) out of those fifty-two reported they had been called offensive names once week. Five (10%) of the fifty-two students stated they had been verbally harassed once a year. Four (7%) of the fifty-two students reported they had been called names twice a week. Three (4%) of the fifty-two reported they had been called names once every six months.

Figure 4: Frequency of the Harassment



iii. Verbal Harassment

Twenty-three (35%) of seventy-five LGBT students reported they had been verbally threatened because of their sexual identity or gender identity. Six (26.1%) of those students reported facing verbal threats monthly. Five (21 %) encountered them daily or once a week. Four

(17%) heard verbal threats every six months, while two (8%) were faced with verbal threats every year. One (1.3%) student reported that threats were made verbally twice a week.

Figure 5: Number of Verbal Threats

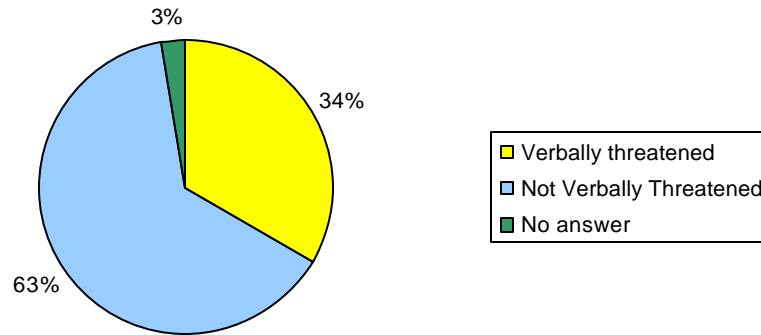
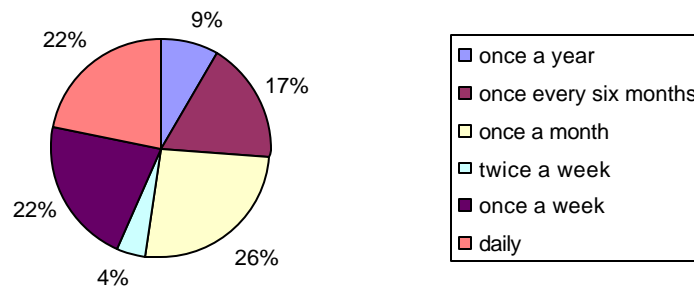


Figure 6: Frequency of Verbal Threats



iv. Physical Threats

Over one quarter of those surveyed reported being physically threatened or harmed. Twenty (26%) of seventy-five young people reported being either physically threatened or hurt because of their sexual orientation or gender identity. Out of these twenty young people, eighteen (78.3%) responded to the frequency of such physical threats or being physically hurt. Four (22.2%) reported that they had been physically threatened or hurt daily or once every six

months or once a year. Over sixteen percent (3 out of 18) answered that they had been physically threatened or hurt once a month. Out of eighteen respondents, two (11.1%) stated that they had been physically threatened or hurt once a week.

Figure 7: Numbers Physically Threatened or Hurt

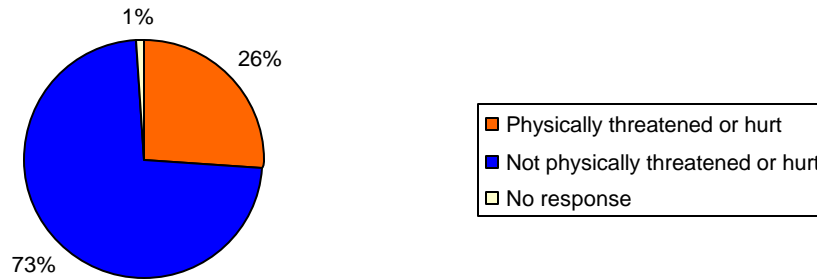
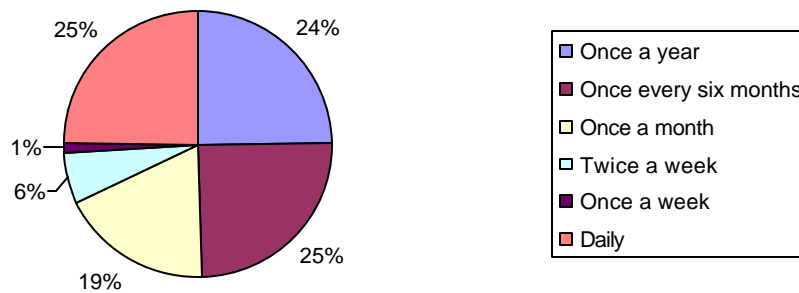


Figure 8: Frequency of Physical Threats



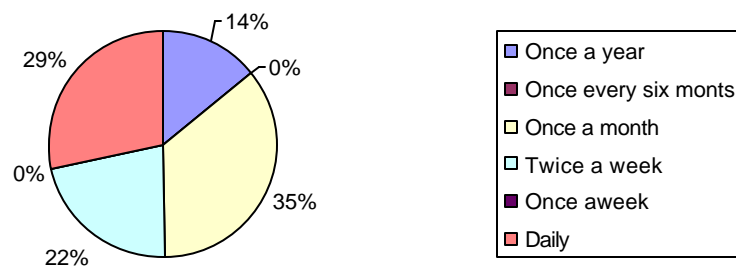
v. Emotional Response to Harassment or Discrimination

Fifty-eight of the seventy five who responded to the survey had experienced being called offensive names, being verbally threatened or physically threatened. Of these, fifty-six (91.4%) out of the fifty-eight responded. Thirty (51.7%) of fifty-eight LGBT students reported that one of their emotional responses was “not to care” about these threats. Twenty-eight (48.3%) of fifty-

eight LGBT students reported that they had anger towards the harassment and violence aimed towards them, and most of the time, toward the perpetrators. Nineteen (32.8%) students had felt completely “stressed out” from the violence and harassment in school everyday. Seventeen (29.3%) to sixteen (27.6%) were “depressed” or “sad” about these incidents. Fourteen (24.1%) had felt completely “alone” when facing these kinds of school conditions.

Although many of the respondents were clearly faced with difficult school conditions, many of these young people stayed in school despite the harassment or discrimination. Fifty-five (73%) of seventy students stated that they did not miss school because of the harassment and discrimination they faced. Even when they did miss school, they missed school infrequently. Five (33%) of fifteen respondents stated they missed school only once a month because they did not want to hear those names, felt threatened or were scared of being hurt. Four of the fifteen (26.7%) respondents stated they missed school daily for those reasons. Three (20%) of the fifteen respondents stated that they missed twice a week for those reasons. Two (13.3%) of the fifteen respondents stated that they missed school once a year.

Figure 9: Frequency of Absences Based on Harassment



vi. Problems concentrating in school due to harassment

Sixteen (30%) of seventy-two LGBT young people reported having difficulties focusing on schoolwork because of the name calling or the threats.

G. Actions of School Personnel when Faced with Incidents of Harassment

The large majority of respondents reported that school personnel were not or were rarely present in situations of peer-to-peer harassment. However, when present, such personnel did not stop the harassment or discrimination. Forty-one (64%) of sixty-four LGBT respondents reported that no school personnel were present at the time of violent or harassing incidents. Of the 23 young people who said that school personnel were present at such incidents, eighteen (72%) reported that school personnel were rarely at those incidents. Thirty-two (59%) of fifty-respondents reported that school personnel were present and did not stop such actions. LGBT respondents stated that teachers were present at the time of an incident, and nine (39%) of twenty-three LGBT respondents stated that security guards were present.

Twenty-seven (44%) of sixty LGBT respondents stated they reported incidents of harassment or violence in different manners. Twelve (44.4%) of twenty seven respondents complained to their teacher about an incident, and ten (37.0%) respondents filed complaints with the school principal. When asked whether the person to whom incidents were reported conducted an investigation, twenty-four (63.2%) of thirty-eight people replied that the school personnel had not conducted an investigation. Even when respondents reported affirmatively, nothing or little was done. Five (35.7%) out of fourteen respondents were informed that a warning was given to the offending student after the investigation, two (14.3%) out of the fourteen stated nothing was done or they didn't know what was done after the investigation, and one (7.14%) out of the fourteen was not informed of other actions that were taken after the investigation.⁷⁷

H. School Staff-to-Student Harassment

⁷⁷ One of the fourteen respondents did not respond and another had a contradictory response.

When asked if the respondents had ever experienced harassment because of their LGBT status by school staff, seventeen (22.7%) of seventy-five students reported that school personnel called them offensive names. Eight (47.0%) of the seventeen respondents have had a teacher call them offensive names and four (23.5%) have had a security guard call them names.

LGBT students responded with a mixture of emotions about harassment by school personnel.⁷⁸ The majority of LGBT students felt anger towards offending school personnel. Thirteen (76.4%) of seventeen respondents felt ‘angry’ when harassed by members of school personnel. Four (30.8%) of the thirteen stated that anger was the only emotion felt while nine (69.2%) of the thirteen felt multiple emotions. Five (38.5%) reported that they were indifferent to the experience.

Ten (58.8%) of the seventeen students reported the incidences of harassment by school personnel while seven (41.2%) out of the seventeen LGBT students did not.⁷⁹ Of those who responded that they experienced harassment by school personnel, less than half (47.1%, or 8 of 17) reported that the school did conduct an investigation.⁸⁰

I. Implementation and Knowledge of Anti-Discrimination Laws, Policies, and Requirements

Our survey attempted to find out how well existing protections for LGBT students were implemented in schools and known by students. The results were not encouraging. When asked about their knowledge of school rules that forbid discrimination or harassment based on sexual orientation or sexual identity, twenty-five (33.3 %) of seventy-five LGBT students reported that their school did not have rules, and twenty-six (34.7%) of seventy-five LGBT students answered that they did not know whether their school had those types of rules.

⁷⁸ Ten (58.8%) out of seventeen responded with multiple emotions, five (29%) out of those seventeen responded with one emotion, and two (11.8%) out of those seventeen did not respond to the question.

⁷⁹ One did not respond to the question.

⁸⁰ One did not respond to this question; five (29.4%) of seventeen respondents reported that the school did not conduct an investigation; four who responded that they did not report the incident also did not respond to this question.

The twenty-four (32.0%) students, who answered that their school had rules that forbade discrimination or harassment based on sexual orientation or sexual identity, had incomplete, contradictory, or confusing knowledge of the rules. When asked if the school had posted the rules, ten (41.7%) answered “no.” Only six (46.2%) of thirteen students were able to provide specific locations where rules were posted. Nine (40.9%) of twenty-two students did not know if their school handbook had contained these rules. One (4.5%) student stated that the school handbook did not contain such rules.

Of those who had been informed there were rules in place, sixteen (72.7%) out of twenty-two respondents had school personnel inform them of these rules. Six (50%) of the twelve reported more than one school personnel had informed them, while another six (50%) had only been informed by one person. Six (50%) of the twelve were informed by a school counselor; five (40%) stated the principal had informed them; four (33%) reported the teacher and the secretary had informed them of the rules; and one stated he was informed by the security guard.

When asked whether schools posted the Office of Equal Opportunity’s address and the discrimination policy, seven (35.0%) out of twenty reported “no” and ten (50.0%) did not know. Overall, 85% were without this information. Thirteen (72.2%) of eighteen respondents reported that they did not know whether their school had placed the Office of Equal Opportunity’s information and the discrimination policy in the student handbook, and three (16.7%) students stated “no.” In regards to the Local Equal Opportunity Coordinator in their school, ten (66.7%) out of fifteen student reported that they did not know whether the school had posted the name; five (33.3%) out of the fifteen respond “no” the name was not posted.

Thirty-five (46.7%) of seventy-three respondents do not know how or where to file a complaint against school personnel for harassment or discrimination. For those who did know, they believed that the principal’s office was the only place to file the complaint (even though complaints can be filed with the Office of Equal Opportunity or the Local Equal Opportunity

Coordinator as well). Twenty (29.9%) of sixty-seven students responded that the principal's office was the place where complaints were filed; only five (7.5%) reported knowing that a complaint could be filed with the Equal Opportunity Office. LGBT students' lack of knowledge may affect the numbers of complaints filed. Of the thirty-eight respondents who said they knew where to file a complaint, ten (26.3%) filed a complaint.

Recommendations and Conclusion

RECOMMENDATIONS

Recommendation #1: Implement existing laws and regulations

There are clear laws and regulations that currently exist, particularly on a citywide level, that do not appear to be implemented in a meaningful manner. Both New York City law and Chancellor's regulations provide protections that are not being implemented. The New York City Human Rights Commission's guidelines created to protect transgender students should be enforced in New York City schools.

In particular, the outright refusal to implement Local Law No. 42, the Dignity for All Students Act, is a serious and disappointing omission. This law enables students to receive a safety transfer if they are being harassed, and mandates schools to record incidents of harassments and discrimination. New York City should implement this law that offers cogent and practical solutions to this serious problem.

- Once implemented, it is our recommendation that Local Law No. 42's requirements and the Office of Equal Opportunity's responsibilities be integrated since they share concurrent duties, such as training school staff and enforcing anti-harassment policy and guidelines.

Recommendation #2: New York City schools should thoroughly train Local Equal Opportunity Coordinators

All New York City schools should have well trained Local Equal Opportunity Coordinators. Local Equal Opportunity Coordinators play an instrumental role in the enforcement of anti-discriminatory policies. They are meant to train school staff and oversee the complaint process. Currently, New York City schools either do not have Local Equal Opportunity Coordinators or in our experience, have poorly trained Coordinators. Every New York City school should have a knowledgeable Local Equal Opportunity Coordinator to carry out the mandates imposed by Chancellor's Regulation A-830.

Recommendation #3: New York City school administrators should provide written statements regarding their harassment and discrimination policy to students and school staff.

The New York City Department of Education should issue a written statement outlining its policy prohibiting harassment and distribute it annually. Staff and students need to know about the policy and where to go if there is a violation of this policy. Such a statement would set a clear tone that the school system will not tolerate harassment or discriminatory behavior from students or school staff. The written policy should include information on the school's complaint procedure and the different venues where students can file complaints.

Recommendation #4: Encourage Gay and Straight Alliance clubs in high schools.

Creating an environment of tolerance and respect is the most likely way to decrease the number of harassing and discriminating incidents that happen in New York schools. Schools should be encouraged to facilitate the creation of Gay and Straight Alliance (GSA) clubs. Such clubs could be an opportunity for students of all sexualities and gender identities to learn about

their differences and to create friendships. Research has shown that having a GSA club at a school decreases the rate of discrimination and provides social support to LGBT students.

CONCLUSION

Addressing the harassment and discrimination against LGBT students requires the New York City Department of Education to fully implement existing laws and regulations and to encourage programs that can teach students to learn from their differences rather than devalue them. These steps taken will secure a supportive environment where LGBT students could begin to concentrate on their academic skills rather than possibly suffering from harassment and discrimination. Creating a safe environment will allow more LGBT students to graduate rather than dropout, drastically affecting their lives for the better.

Appendix A

LGBT Youth Survey

1. Are you currently attending school? ___Yes ___No If yes, what grade are you in? _____

1a. If you are not currently in school, have you ever attended a New York City school?
_____Yes _____No If no, please do not continue to complete the survey.

1b. If you have left school, what are the reason(s)(feel free to check more than one if applicable) :
____school personnel told you that you were too old to be in school and you are under 21 years old
____school personnel told you that you would not graduate and should enroll in a GED program
____school personnel told you that you would not pass the Regents Exams and should enroll in a GED program
____school personnel told you that you do not “fit in” and you should go to another school
____you encountered violence and harassment based on either your sexual identity or gender identity
____you became homeless
____you were a runaway
____you were imprisoned
____you were afraid that the school would find out your immigration status
____other (please describe :_____)

2. How do you identify your sexual identity:

___Gay ___Lesbian ___Bi-Sexual ___Questioning ___Heterosexual

3. What do you consider your gender identity to be:

___Male ___Female ___Transgender Female ___Transgender Male ___ Gender Neutral

4. Are you “out” to other students? _____ Yes ___No

4a. Are you “out” to school personnel? _____ Yes _____No

4b. Are you “out” to your family? ___Yes ___No

5. Have any students in school ever called you offensive names that had to do with your sexual or gender identity?

___ Yes _____ No

5a. If yes, how often were you called those offensive names? (circle)

Once a year Once every six months Once a month Twice a week Once a week Daily

5b. Have any students ever verbally threatened you in school because of your sexual or gender identity? ___ Yes ___No

5c. If yes, how often? Once a year Once every six months Once a month Twice a week Once a week Daily

5d. Have any students ever physically threatened or hurt you in school because of your sexual or gender identity?

___Yes _____No

5e If yes, how often? (circle)

Once a year Once every six months Once a month Twice a week Once a week Daily

5f. If you were called offensive names, physically threatened or hurt in school, how did you feel? (select as many as you want) ___depressed ___sad _____scared _____angry ___alone _____anxious ___don’t care

____nervous _____stressed ___fine

5g. Have you ever missed school because you didn’t want to hear those names, felt threatened or were scared of being hurt? ___Yes ___No

If yes, how often? (circle) Once a year Once every six months Once a month Twice a week Once a week

Daily

5h. Have you had difficulties focusing on school work because of the name calling or the threats of being hurt? Yes No

5i. Were any school personnel ever present when a student called you these names or threatened you or acted violently towards you? Yes No If yes, who was there? teacher principal secretary counselor coach school security nurse other (if so, please list: _____)

5j. If any school personnel were present when a student called you those names, how often were those adults present? Rarely Sometimes Often All the Time

5k. Have any school personnel ever stopped the name calling, threats or violence? Yes No

5l. Have you ever reported the name calling, threats or violent acts to any school personnel? Yes No If yes, who? teacher principal secretary counselor coach school security nurse other (if so, please list: _____)

5m. If you did report these incidents to school personnel, did that person(s) investigate the incident? Yes No

5n. If yes, what happened after the investigation? nothing the student was punished a warning was given don't know other

6. Has any school personnel ever called you offensive names that had to do with your sexual or gender identity? Yes No If yes who? teacher principal secretary counselor coach school security nurse other (if so, please list: _____)

6a. If yes, how often? Never Once a year Once every six months Once a month Twice a week Once a week Daily

6b. If yes, how did you feel when school personnel called you these names? (select as many as you want) depressed sad scared angry alone anxious indifferent nervous stressed fine

6c. Have you ever reported such name calling to school personnel? Yes No

6d. If you reported these incidents to school personnel, was an investigation conducted? Yes No

6e. If yes, what happened after the investigation? nothing the adult was punished a warning was given don't know other

7. To your knowledge does your school have rules that forbid discrimination or harassment based on your sexual orientation or sexual identity? Yes No I don't know

7a. If yes, are these rules posted in your school? Yes No If yes, where? _____

7b. If yes, are these rules in your student handbook? Yes No I don't know

7c. If yes did someone tell you these rules during the school year? Yes No If so, who? teacher principal secretary counselor coach school security nurse other (if so, please list: _____)

7d. If yes, has your school posted the Office of Equal Opportunity's address with the discrimination policy at school? Yes No I don't know If yes, where? Principal's Office Guidance Counselor's office in every classroom in the front entrance other (if so, please list: _____)

7e. If yes, Has your school placed the Office of Equal Opportunity's information with the discrimination policy in the student handbook? Yes No I don't know

7f. If yes, Has your school posted the local equal opportunity coordinator's name at school? Yes No I don't know If yes, where? Principal's Office Guidance Counselor's office in every classroom in the front entrance
 other (if so, please list: _____)

8. Do you know where you can file a complaint against school personnel for harassment or discriminatory behavior? Yes No If yes, where? Principal 's office Office of Equal Opportunity or counselor's office or other (if so, please name: _____)

8a. Have you ever filed a complaint of discrimination or harassment based on your gender identity or sexual orientation with a person at your school? Yes No If yes, who in your school handled the complaint? teacher principal secretary counselor coach school security nurse other (if so, who: _____)

If yes, were you happy with the outcome? Yes No not yet resolved

9. Do you know of other lesbian, gay, bi-sexual or transgender students who have been harassed or discriminated against by either other students or school personnel? yes no

Any Additional Comments: