

Assembly Bill 537 Advisory Task Force Report

**California Student Safety and
Violence Prevention Act of 2000**



California Department of Education
Sacramento, 2001

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Advisory
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A Message from the State Superintendent of Public Instruction

ONE OF OUR SCHOOLS' MOST important jobs is to ensure that all students are offered equal protection from potentially violent discrimination and harassment, which not only disrupt learning but also can leave lifetime scars. The California Student Safety and Violence Prevention Act of 2000 (Assembly Bill 537) takes an important step in offering that protection.

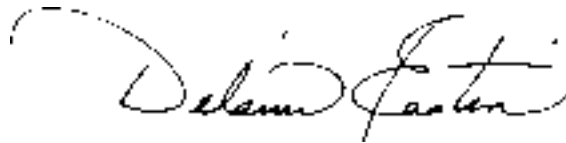
Before Assembly Bill (AB) 537 was enacted, the California *Education Code* specifically prohibited discrimination against and harassment of students and staff in schools on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability. The new law has added the provision that all students and staff in public education facilities have the same right to a safe learning environment, regardless of their sexual orientation or gender identity.

I convened the AB 537 Advisory Task Force to develop recommendations for schools as they work

with their communities to ensure that policies and strategies are in place that fulfill the law's provisions. Successful implementation of the law will help ensure that schools provide a safe, supportive environment for all students.

Despite media attention focused on the tragedies that have occurred in recent years on school campuses, our schools continue to be safe havens for most students. However, any incident that harms a student, or makes him or her feel unsafe, needs to be prevented and addressed. We must continue the important task of fostering and promoting programs that ensure our students' safety and enhance the learning environment of our schools. The recommendations in this document contribute to that effort.

I want to thank the members of the task force for all their hard work. I appreciate their time, dedication, and thoughtful contribution as we continue our efforts to promote safe schools throughout California.



DELAINE EASTIN
State Superintendent of Public Instruction

Preface

Americans want all students and staff in our schools to be safe, supported, and engaged. We want schools to bring out the best in our children and to provide all students equal access to a good education. The concept of equal access has long been a cornerstone of American education, but when students and staff fear for their safety, their equal access to an excellent education is compromised. We know that students and staff cannot be expected to function well when preoccupied with fear in their environment.

Hundreds of laws, policies, regulations, and programs have been established to ensure that schools are, in fact, safe and supportive and that all students have equal access to education. However, we know that students and educators who are or who are perceived to be lesbian, gay, bisexual, or transgender too often face harassment, discrimination, and even violence on a regular basis. Unfortunately, we also know that some school decision makers may be reticent in responding effectively to such instances because of their own fears that their response might be considered too controversial. In such instances equal access to a quality education for all is not being provided. This report's recommendations attempt to ameliorate this situation in California public schools.

Assembly Bill 537

The California Student Safety and Violence Prevention Act of 2000, Assembly Bill (AB) 537, was passed by the California Legislature in September 1999 and was signed into law by Governor Gray

Davis shortly thereafter. The law, which officially took effect in January 2000, prohibits discrimination in California public schools on the same grounds used to define hate crimes under California law. Through AB 537 the Legislature added two new forms of discrimination to the existing prohibitions against discrimination and harassment in California public schools: actual or perceived sexual orientation and actual or perceived gender.

AB 537 Advisory Task Force

In spring 2000 State Superintendent of Public Instruction Delaine Eastin established the AB 537 Advisory Task Force to identify, research, and recommend guidelines to implement the California Student Safety and Violence Prevention Act of 2000. This task force was established to make recommendations to ensure that AB 537 did not become another law that would sit on a bookshelf. The Advisory Task Force, composed of 35 members from a wide variety of constituencies throughout California, met regularly over eight months to develop recommendations to implement AB 537. This report culminates the group's work to date.

Summary of Recommendations

The AB 537 Advisory Task Force developed 12 recommendations, which range from actions the California Department of Education can implement administratively to those the California State Board of Education must approve. Each recommendation includes a rationale and implementation strategies. Recommendations have been developed in the areas

of policy language, legal compliance, training, curricula, resources, and data collection.

Why the Recommendations Are Necessary

All California students deserve equal opportunities to learn, to have role models with whom they can identify, to have educational content that applies to them, and to have an equal voice in their education. Schools cannot expect students to get the most out of their education when they are constantly worried about safety or are discriminated against because of who they are, who they are perceived to be, or who their families are.

Most educators and other school personnel will agree that they have a responsibility to provide a safe, supportive environment for their students. Unfortunately, however, negative attitudes about sexual orientation and gender identity exist. Students who are perceived to be or who are lesbian, gay, bisexual, or transgender too often are the victims of harassment, discrimination, and violence. Numerous studies have documented such antigay attitudes and incidents in kindergarten through grade twelve (K–12) schools.

The State Board of Education has previously indicated that every effort should be made to eliminate hate-motivated violence. The Board has stated that public schools can take the lead in this effort and that all California schools are responsible for creating environments that prevent hate-motivated violence. To take that responsibility seriously, educators and other school staff must fully understand and respond to harassment and learn how they can most effectively create school environments that will, indeed, be safe and supportive for all students.

Several state and federal legal mandates apply to California schools with regard to harassment of and discrimination against those who are or who are perceived to be lesbian, gay, bisexual, or transgender. The California *Education Code* requires that public school districts ensure educational access

by addressing harassment of and discrimination against these students and staff. Recent legal cases, in California and other states, have provided clear admonition to school districts to address these issues or face possible litigation. School administrators realize that if their staffs are expected to follow the law and its intent, those same individuals need resources and training to do so.

Next Steps

The AB 537 Advisory Task Force members hope that the State Superintendent of Public Instruction will now choose to apply these recommendations to the work of Department of Education staff when it is possible to do so administratively, submit the recommendations to the State Board of Education for policy change where necessary, and ask the Legislature to provide resources to fully implement these recommendations. The Advisory Task Force strongly recommends that a similar but permanent advisory committee be established to review policy, legal compliance, training, resources, curricula, and data collection.

Conclusion

If we sincerely believe that California schools should provide an equally safe, engaging, and supportive educational atmosphere for all students and staff, the California Department of Education and California school districts must take proactive steps to stop harassment, discrimination, and violence based on actual or perceived sexual orientation and gender identity in schools.

Assembly Bill 537 was enacted as a first legal step to make things right. Now it is incumbent on state and local educational agencies to develop policies and training materials that will implement this law. While implementation of some recommendations might appear to be controversial in some districts, most school administrators will agree that such implementation is the legally and professionally pragmatic thing to do. On a deeper human level,

if each of us honestly subscribes to the belief that schools should be safe and supportive for all, then we will move past our fears of controversy and do what we know is the right thing; that is, ensure that equal access to quality education is, indeed, provided for all.

The AB 537 Advisory Task Force asks that the State Superintendent of Public Instruction accept and implement the attached set of recommendations to ensure that the letter of AB 537 and its intent are carried out fully. The members of the task force appreciate the opportunity to develop these recommendations.

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Introduction

THROUGH ENACTMENT OF ASSEMBLY Bill (AB) 537, the California Legislature added two new prohibited forms of discrimination to the existing prohibitions against discrimination and harassment in California public schools: actual or perceived sexual orientation and gender identity. Assembly Bill 537 prohibits discrimination in California public schools on the same grounds used in the definition of hate crimes under California law. The Legislature’s express intent in enacting this law was to prevent the climate-setting incidents of harassment and discrimination that lead to hate violence.

The State Superintendent of Public Instruction wanted guidance to assist her in addressing the intent of AB 537. The AB 537 Advisory Task Force was formed to develop strategies to implement the bill in public schools to reduce or eliminate incidents of harassment and hate-motivated behavior directed at students who may be or are perceived to be lesbian, gay, bisexual, or transgender individuals. Its purpose

was to provide recommendations to ensure that all students and staff in California schools are safe and protected from discrimination and hate violence.

The task force was composed of representatives from K–12 education, higher education faculty and researchers, faith community members, community organization members, and students. The group conducted a series of meetings to identify key issues involved in implementing AB 537 in the state’s school communities.

The task force reviewed state data, researched the issues, and held many discussions to develop recommendations in five theme areas: providing access to resources for students and staff about sexual orientation and gender identity issues and hate violence; developing research to identify issues related to sexual orientation and gender identity and hate violence; creating accountability and enforcement guidelines at schools; providing advisory committee and staff support to monitor AB 537 provisions; and formulating state policy.

Recommendations

1 Ensure that all school personnel are informed of the provisions of AB 537 and that all district and site personnel are trained in the law's requirements.

Rationale

Without appropriate information and training, teachers and administrators may not be able to meet their legal obligation to respond to discrimination and harassment based on actual or perceived sexual orientation and gender identity. Nor will they be able to prevent discrimination and harassment before they occur by responding appropriately to climate-setting incidents. Comprehensive training for school personnel on the new law is essential.

Additionally, Safe School Plan training is offered statewide, and safe school plans are required for all schools. Integrating sexual orientation and gender identity issues into Hate-Motivated Violence Prevention training and Safe School Plan training will provide those people responsible for school safety with current information about the critical nature of discrimination and harassment based on sexual orientation and gender identity.

Strategies

- Provide guidance to all school personnel on the new law and the school district policy on responding to climate-setting incidents of harassment and violence.
- Require schools to have all staff members sign off after receiving information about the new law.
- Create and distribute a model antislur, antiharassment policy approved by the California Department of Education (CDE) that explicitly includes sexual orientation and gender identity as protected categories.
- Integrate training related to AB 537 into Hate-Motivated Violence Prevention training and statewide Safe School Plan training.

- Seek legislation and funding to ensure ongoing AB 537 training in addition to training related to sexual harassment, child abuse, gender equity, and safe school plans. (SB 187 [Hughes], Chapter 736, Statutes of 1997)
- Urge the Commission on Teacher Credentialing to ensure that AB 537 information is included in teacher preparation programs. (AB 1785 [Villaraigosa], Chapter 955, Statutes of 2000, has added a human relations course to required teacher preparation.)
- Develop a trainer-of-trainers program to prepare individuals to provide training to district staff. Ensure that the program addresses gender identity as well as sexual orientation.
- Publish a list of identified AB 537 trainers and seek funding for districts to receive training.
- Seek commitment from the Association of California School Administrators to (1) include AB 537 information in leadership academies and publications; and (2) include lesbian, gay, bisexual, transgender, and gender identity issues in Tier I and Tier II Administrator Training.
- Include AB 537 compliance as an eligible topic for staff development buy-back topics for teacher recertification.
- Develop and offer specific training for coaches, physical education teachers, crisis counselors, crisis response teams, school police, school security officers, school counselors, nurses, and parents/guardians.
- Disseminate an informational letter to school districts about the provisions of AB 537.

2

Develop and provide guidance for students about their rights and responsibilities related to AB 537. Support student participation in preventing harassment, violence, and discrimination on the basis of actual or perceived sexual orientation and gender identity.

Rationale

When students are forced to navigate a minefield of harassment and discrimination in school, they are being denied equal educational access. Every child deserves an education free from intimidation, harassment, and violence. It is extremely important to develop strategies to prevent such actions before they occur. It is also very important to have effective and meaningful systems in place to respond to incidents of discrimination, harassment, and hate-motivated violence.

While our first priority must be to educate school personnel about their responsibilities under AB 537 and ensure that they model an appropriate response to harassment, discrimination, and violent incidents, students and parents/guardians must also play a role. Students, parents/guardians, and school personnel must all be a part of ending harassment, discrimination, and violence based on actual or perceived sexual orientation and gender identity.

Students and parents/guardians must be informed about their rights and responsibilities under AB 537. There must be effective notice about the new law and how a student can file a discrimination complaint with the school district. An effective grievance system provides an immediate response to ongoing discrimination; redress for a past harm; and rehabilitation to perpetrators. It also deters future acts of harassment, discrimination, and hate-motivated violence on school property or during school-sponsored activities.

Students must be involved in preventing discrimination, harassment, and violence while knowing their rights and responsibilities under the new law. Although the ultimate legal responsibility to respond to incidents of harassment, discrimination, and hate violence lies with school personnel, students play a key role in the school climate. Discrimination and harassment can quickly escalate into hate

violence incidents if left unchecked. Informed students play an important part by responding appropriately to incidents of harassment and discrimination among their peers.

Strategies

- Ensure that schools post an antidiscrimination policy that explicitly mentions actual or perceived sexual orientation and gender identity on all school campuses in locations that students regularly see.
- Ensure that schools inform all students and parents/guardians annually of discrimination prohibitions and grievance procedures, including information on contacting administrators responsible for handling complaints.
- Enact legislation to provide guidance annually on implementing the provisions of AB 537 in schools through classroom training for students and mandatory in-service training for school personnel.
- Ensure that school-site training includes examples of prohibited conduct by describing the varying forms of discrimination, harassment, and violence related to sexual orientation and gender identity covered by the provisions of AB 537 as well as information about the reporting and investigation procedures.
- Encourage and support student organizations, such as Gay-Straight Alliances, campus civil rights groups, and peer counseling and guidance programs, in their work to create safe and tolerant school environments.
- Develop student leadership in creating safe schools for all students through mentoring, leadership training, positive recognition, and financial support for student-led prevention efforts.

3 Ensure that exemplary educational resources used to eliminate discrimination, harassment, and hate-motivated violence based on actual or perceived sexual orientation and gender identity are identified and developed for use in California schools.

Rationale

Educators and administrators need access to culturally sensitive, effective educational resources to help them eliminate discrimination, harassment, and hate-motivated violence based on sexual orientation and gender identity. Numerous educational resources already exist in school districts and workplaces around the country. However, many of these resources may need to be tailored to address the range of issues presented in schools.

Strategies

- Establish a training subcommittee of the permanent advisory committee (see Recommendation 6) to work with CDE staff in collaboration with established CDE resource providers to evaluate materials, develop a resource list with Web site links, and recommend appropriate materials for specific groups and grade levels.
- Identify and contact other states, school districts, government agencies, nonprofit organizations, corporations, and entities that have addressed discrimination based on sexual orientation and gender identity. Obtain copies of their training materials, guidelines, posters, and manuals to use as references to develop educational materials.
- Include materials and information relating to AB 537 in CDE's publications and store.
- Identify supplemental educational resources that address sexual orientation and gender identity in curriculum subject areas. Ensure resources are culturally and age-appropriate and reflect California's racial and geographic diversity. Include resource examples in the Healthy Kids Resource Center and the Healthy Kids Dissemination Center.
- Provide lesbian, gay, bisexual, transgender, and other gender identity resources in Safe Schools Plan training and Hate-Motivated Violence Prevention training. Include resources also in grade-level appropriate reading lists based on state standards and district reading programs.
- Create positive, grade-appropriate visual images that include all sexual orientations and gender identities for use in school common areas throughout the school year.

4 Integrate methods to monitor compliance with AB 537 into existing educational compliance systems and develop additional systems to support compliance.

Rationale

Systems and programs that provide school accountability for programs and practices exist statewide. Current systems include coordinated compliance reviews; School Improvement Programs; Focus on Learning, Joint CDE Process with Western Association of Schools and Colleges; and Safe

School Plans. Integration of AB 537 compliance into current systems will ensure the enforcement of AB 537. Additionally, in view of the long history of discrimination against students based on actual or perceived sexual orientation and gender, the creation of new systems is necessary to ensure compliance with the provisions of AB 537.

Strategies

- Integrate compliance with AB 537 into planning and reporting mechanisms required by current compliance systems.
- Include AB 537 provisions in any application for grants pertaining to students at risk of discrimination and as a part of all agreements for grants to eliminate discrimination.
- Include freedom from discrimination on the basis of actual or perceived sexual orientation and gender identity in the “Student Bill of Rights.”
- Ensure that districts and schools continue to implement policies that require the reporting of

hate-motivated violence, specifically including hate-violence incidents targeting persons who are perceived to be or who are lesbian, gay, bisexual, and transgender. (AB 1785 [Villaraigosa], Chapter 955, Statutes of 2000)

- Develop a biennial evaluation of AB 537 compliance that includes recommendations for improving compliance.
- Seek legislation and funding to designate one person at each school knowledgeable about sexual orientation and gender identity issues to support implementation of AB 537, and ensure that the individual is involved at the school in all compliance and training activities related to the law.

5

Seek resources to develop a public information campaign to promote awareness of AB 537 and educate school board members, district administrators, certificated and classified staff members, parents/guardians, community members, students, and businesses regarding the purpose, protections, and benefits of AB 537.

Rationale

The California Department of Education has a central responsibility to ensure that the school community is aware of AB 537 and its implications. The media campaign will educate the public about the law in a meaningful context.

Strategies

- Involve youths in the creation of a public information campaign to promote awareness of AB 537.
- Create sample public service announcements for local and school television and radio stations.
- Provide posters, sample ads for school newspapers, book covers, and other materials to school communities.
- Promote AB 537 through presentations to organizations involved with youths, such as parent–teacher associations, county health and social service agencies, violence-prevention organizations, coordinating councils for youth and teen agencies, and the Interagency Coalition on Abuse and Neglect.

- Promote AB 537 through pay envelope announcements to state and local government employees.
- Create a speaker’s bureau to discuss the provisions of AB 537 at conferences of education associations and other interested groups.
- Develop a media kit about the public education campaign and solicit general news stories about the public education efforts.
- Cultivate stories about AB 537 in education-related media.
- Develop resources specifically for education media, including a fact sheet on AB 537; implementation and enforcement procedures; basic background information on discrimination, harassment, and hate-motivated violence in schools based on actual or perceived sexual orientation and gender identity; and a media contact list.
- Act as a clearinghouse for materials from successful local public education campaigns.
- Create partnerships with foundations to provide resources for the statewide information and awareness campaign.



Create a permanent advisory committee to review policy, legal compliance, training, resources, and data issues and to provide suggestions on revisions incorporating AB 537 requirements, issues, and concerns into curricular standards.

Rationale

Many of the recommendations of the AB 537 Advisory Task Force will require oversight during implementation, monitoring, further research, and evaluation. Therefore, a permanent advisory committee with regularly scheduled meetings should be established to hear continually from the groups affected by the legislation.

State content standards and curriculum frameworks are periodically reviewed and updated. Many other state policies and guidelines are reviewed in multiyear cycles. A permanent advisory committee will be able to provide ongoing advice on reviews and revisions of policies, curriculum standards, and frameworks.

Strategies

- Appoint a permanent advisory committee to guide the revision of state education policy and programs to reflect the intent of AB 537. The permanent advisory committee should include students, teachers, administrators, clergy, business leaders, and community members.
- Ensure that the advisory committee is geographically and ethnically diverse and includes transgender as well as lesbian, gay, and bisexual participants.
- Provide resources for advisory committee meetings as needed.



Request the Legislature to appropriate additional resources for civil rights compliance and training related to AB 537 and for a full-time staff position to assist school districts with AB 537 compliance requirements.

Rationale

Additional resources must be allocated within CDE to support the efforts of school districts to comply with the provisions of AB 537. The volume and complexity of issues related to sexual orientation and gender identity discrimination merit a staff position to provide technical assistance, training, outreach, and resources to schools.

Strategies

- Create a permanent, full-time staff position to assist school districts with compliance and training requirements related to AB 537.
- Increase funding for CDE civil rights compliance.
- Provide new training for compliance officers on the provisions of AB 537.

8

Acknowledge lesbian, gay, bisexual, and transgender historical figures and related events, concepts, and issues in the revisions of content standards and curriculum frameworks, when appropriate. Identify and expand the available lesbian, gay, bisexual, and transgender resources for school library materials.

Rationale

State content standards and curriculum frameworks provide guidelines to give structure and direction to classroom teachers. As content standards and curriculum frameworks are periodically reviewed, they are updated to address changing cultural beliefs and perceptions regarding people of color, disenfranchised groups, women, and other groups.

Guidelines should include references to lesbian, gay, bisexual, and transgender figures and related events, concepts, and issues, when appropriate. Inclusion of these references will provide a context for lesbian, gay, bisexual, and transgender people to be perceived in a broad, positive cultural and historical perspective, rather than as an isolated group subject to derision and scorn. State-adopted materials should acknowledge lesbian, gay, bisexual, and transgender historical figures and related events and issues, when appropriate. Inclusion of these references provides a broader context that will help educators implement laws regarding discrimination and harassment.

Strategies

- Include the review and addition of lesbian, gay, bisexual, and transgender historical figures and related events and concepts, when appropriate, as a part of existing review processes for content standards and curriculum frameworks.
- Charge the permanent AB 537 advisory committee with providing reviewers suggestions on revisions to the content standards as individual subjects are reviewed and updated.
- Encourage school libraries to include age-appropriate and culturally sensitive resources about lesbian, gay, bisexual, and transgender historical figures and related events and concepts.
- Ensure that the State Board of Education revise state curriculum frameworks and guidelines and moral and civic education curricula to foster an appreciation of California's diversity and discourage discriminatory attitudes and practices. (AB 1785 [Villaraigosa], Chapter 955, Statutes of 2000)

9

Propose legislative or budget language to fund research of promising programs preventing discrimination, harassment, and violence based on actual or perceived sexual orientation and gender identity and to fund replication of effective models.

Rationale

Currently, no state-funded project identifies model programs that prevent discrimination and violence based on actual or perceived sexual orientation and gender identity, nor does funding exist to replicate these models.

The California Department of Education should contract with a higher education institution to seek

program models, applicable to California communities, that reduce violence and harassment and that educate students at risk of discrimination about how to be safe and to exercise their rights to an equal educational opportunity. Programs in schools and communities nationwide should be reviewed to identify those with successful or promising results. The Department should specifically ensure that the

model programs to be replicated address issues related to sexual orientation and gender identity.

The study should identify effective programs, materials, and technical assistance required to replicate these models. Further, the research results should include proposed guidelines to be followed in local program design.

This initiative requires state staff and funding for implementation.

Strategies

- Propose legislative or budget language to fund a research study of promising programs preventing discrimination, harassment, and violence based on actual or perceived sexual orientation and gender identity.
- Contract for a research study to identify effective programs.
- Provide technical assistance and funding to schools to replicate model programs.

10

Modify existing data gathering systems to provide information on the prevalence in schools of threats, harassment, or violence against students based on sexual orientation or gender identity.

Rationale

Anecdotal reports of harassment, threats, and violence against lesbian, gay, bisexual, and transgender youths are numerous. The problem has been confirmed by several studies, but there is no broad-based, ongoing data collection system to measure the magnitude and distribution of problems in California schools. The AB 537 Advisory Task Force recommends a system that integrates data collection on these issues in survey instruments covering a broader range of discriminatory and violent behavior.

Two existing state-level data collection systems have the potential to meet this need:

1. The California Healthy Kids Survey is administered by school districts and county offices of education to over 400,000 students in grades five, seven, nine, and eleven. Each local educational agency determines its own survey schedule, including an annual or a biennial frequency. More than 600 school districts, whose total enrollment represents 87 percent of California's school population, participate.
2. The California Student Survey, administered biennially by the Attorney General, draws a

sample of 13,000 youths in grades seven, nine, and eleven.

These two surveys (for grades seven, nine, and eleven) contain questions regarding harassment, threats, or violence. The wording in these questions combines discriminatory behavior based on sexual orientation with incidents motivated by other factors. To measure incidents arising only from sexual orientation and gender identity, the AB 537 Advisory Task Force recommends that one or more separate questions be created dealing specifically with these issues.

Strategies

- Collaborate with the Attorney General's Office in developing one or more survey questions to measure the prevalence of harassment, threats, and violence based on issues of sexual orientation and gender identity. These items should be included in both the California Healthy Kids Survey and the California Student Survey.
- Support more extensive use of the Healthy Kids Survey to provide schools an effective measure of school safety and related issues affecting lesbian, gay, bisexual, and transgender youths.

11

Charge the permanent advisory committee with developing further recommendations that specifically protect the rights of transgender students in California public schools.

Rationale

For the purposes of AB 537, gender is defined as actual or perceived sex and includes a person's gender-related identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's sex at birth. This new law protects students who are discriminated against because they are or are perceived to be transgender students.

While there are similarities between discrimination and harassment based on actual or perceived sexual orientation and discrimination based on actual or perceived gender, there are also differences that must be addressed in the school setting. The words *gender identity* must not simply be inserted into recommendations regarding sexual orientation. The advisory committee must specifically address protecting the educational rights of transgender youths.

Additionally, while many educators and administrators may be at least somewhat aware of issues related to discrimination based on actual or perceived sexual orientation, very few teachers and administrators are aware of the issues related to discrimination based on gender identity. On examination of the resources and information currently available on issues related to transgender youths, the need for more information and resources becomes glaringly obvious.

Strategies

- Charge the advisory committee with providing further research and recommendations on ways in which to protect the rights of transgender students.
- Ensure that the advisory committee includes transgender representatives.
- Consult with those who have expertise related to the needs of transgender youths to develop recommendations.
- Ensure that all the recommendations of the AB 537 Advisory Task Force are applied and tailored to address those who are or are perceived to be transgender.
- Develop best practice recommendations for school districts to reduce the adverse impact of gender segregation on transgender students. In particular, best practice guidance should address issues related to locker rooms, restrooms, and dress codes.
- Charge the advisory committee with considering modifications of current gender equity compliance and technical assistance systems to address discrimination based on an expanded definition of gender.

12

Recommend that the California State Board of Education revise its policy on Hate-Motivated Violence.

Rationale

The AB 537 Advisory Task Force recommends that the California State Board of Education's existing policy on Hate-Motivated Violence be amended to incorporate the provisions of AB 537. The following recommended revisions to the existing policy should be forwarded to the State Board for consideration and adoption.

Strategies

- Submit the recommended revisions to the policy on Hate-Motivated Violence to the California State Board of Education for consideration and adoption.

Proposed Policy: Hate-Motivated Violence

Hate-Motivated Behavior in Schools, a publication of the California Department of Education, carries this definition of hate-motivated behavior: "An incident of hate-motivated behavior is any act or attempted act intended to cause emotional suffering, physical injury, or property damage through intimidation, harassment, bigoted slurs or epithets, force or threat of force, or vandalism motivated in part or in whole by hostility toward the victim's real or perceived ethnicity, national origin, immigrant status, religious belief, gender, sexual orientation, age, disability, political affiliation, race, or any other physical or cultural characteristic."

Violence directed at individuals because of their age, gender, gender identity, sexual orientation, ethnic group identification, race, ancestry, national origin, religion, color, mental or physical disability, marital or parental status, or any other physical or cultural characteristic or belief is intolerable in this or any other society. The public schools—with the cooperation and assistance of parents, students, business and community representatives—have the obligation to prevent, combat, and heal the wounds from hate violence through curriculum and instruction, student support services, clubs and activities, and, when necessary, direct intervention.

The State Board of Education believes that every effort should be made to eliminate hate-motivated violence. While every responsible citizen must play a part in eradicating this violence, the Board believes that a major step in this effort can be made through the leadership of our public schools. Therefore, the State Board of Education mandates each school district governing board develop policies relating to the prevention and elimination of hate-motivated violence. These policies establish the right of all students, staff, and parents to be free from hate crimes and will affirm that each school within the district will be responsible for creating an environment that prevents hate-motivated violence.

In keeping with local board policies, district leadership shall develop guidelines, regulations, and in-service programs designed to assist staff in dealing with hate-motivated behavior and crime. These guidelines will help staff, students, and parents customize their own action plans for their campuses well ahead of any incidents.

All schools shall work to foster positive behaviors and attitudes about diversity among all students and staff members through curriculum and instructional strategies. One way of doing so at the

curricular level is to ensure the alignment of those strategies with the state frameworks, particularly in the areas of health education, history–social science, and English–language arts.

The State Board affirms the value of diversity in our society, and its belief is clearly stated in its adopted curriculum frameworks and reform documents. For example, one of the four unifying ideas of the 1994 *Health Framework for California Public Schools, Kindergarten Through Grade Twelve* is respect for and promotion of the health of others. The document recognizes violence as a public health issue and urges that the curricula at all grade levels include a comprehensive approach to preventing violence. It states emphatically:

Nonviolent conflict-resolution skills, anger management, and good communication skills can all help to prevent violence.

The 1997 *History-Social Science Framework for California Public Schools, Kindergarten Through Grade Twelve* declares:

We want our students to learn about the cultures, societies, and economic systems that prevail in other parts of the world and to recognize the political and cultural barriers that divide people as well as the common human qualities that unite them.

Here They Come: Ready or Not! (the 1988 report of the School Readiness Task Force) stresses the importance of meeting the special needs of our culturally and linguistically diverse students, as well as the needs of exceptional children, to prepare them for successful participation in school and society. *Elementary Makes the Grade!* (the 2000 report of the Elementary Grades Task Force) discusses the importance of establishing positive character traits in elementary school students and modeling ethical behavior as adults. Schools need systematically to reinforce traits such as caring, citizenship, fairness, and responsibility.

Taking Center Stage (the 2001 report of the Superintendent’s Middle Grades Task Force) explores strategies for use by middle schools to create a positive environment. An example of a strategy for students is the following: “I need to live life free of prejudices and stereotypes directed at me or others because of race, language, sexual preference, or other types of differences which humans experience. I know it is not a perfect world and that the kind of life I am talking about begins with me.” *Second to None* (the 1992 report of the California High School Task Force) stresses the creation of a comprehensive student support system and innovative ways to involve students in activities that will lead to positive social and educational development.

The 1997 publication *Hate-Motivated Behavior in Schools* provides a great deal of information and advice pertinent to the prevention of and response to hate-motivated violence. Key passages state:

California schools have a constitutional and moral obligation to protect children on campus and to maintain a safe, secure learning environment. Addressing hate-motivated behavior is an important part of this obligation. . . .

It is our intent to provide an environment that further allows persons to realize their full individual potential through an understanding and appreciation of the society’s diversity of race, ethnicity, religion, and sexual orientation. To accomplish this objective, the district will be accountable through a visible commitment to human rights.

District leadership shall provide the necessary resources to allow teachers to use these documents to develop and implement lessons which promote citizenship and respect in a democratic society and which can help students understand the causes of prejudice, racism, homophobia, heterosexism, discrimination, and stereotyping and their negative influences in our society. These lessons shall also develop within students an appreciation of diversity and an understanding of the contributions of all members of our society. They should promote positive interaction among students of every age, gender, gender identity, sexual orientation, ethnic group identification, race, ancestry, national origin, religion, color, mental or physical ability, and marital or parental status.

Schools shall extend their efforts to embrace active development of cocurricular and extracurricular activities that promote pro-social attitudes and behaviors, such as clubs that encourage understanding and cooperation. In addition, administration, counseling, and other student support service personnel at all schools shall not only focus their efforts on precluding outbreaks of hate violence, but also provide specific assistance to all school employees and volunteers toward that end.

Finally, all schools are at risk of hate violence. The proactive intervention of school officials—particularly where local, state, national, or international events are likely to cause outbreaks of hate violence—is needed. This can be done through such measures as assemblies, peer exchange, community meetings, specific in-service training, and other such activities. Schools facing circumstances that imminently could result in hate violence should immediately make use of specific resources to help address those circumstances proactively and avert hate-related crises. Many such resources are available from federal, state, and local agencies.

Appendix A

Statistics

STUDIES OF LESBIAN, GAY, BISEXUAL, and transgender (LGBT) youths show them to be at risk of some of the greatest difficulties experienced by adolescents. Several of those problems pertain directly to education and schooling, such as poor academic performance, negative school attitudes, or victimization at school. In addition, recent research has begun to link the negative mental health and risk behaviors of LGBT youths to challenges that they face in school, including harassment and discrimination. These challenges impede not only the students' academic performance but also the students' general emotional and social development. Research demonstrates that teachers play an important role in creating supportive school environments for LGBT youths; therefore, comprehensive education on sexual orientation and gender identity is essential for educators and school personnel. Because there is little research on effective harassment-prevention and intervention strategies related to issues of sexual orientation and gender identity, further research is critically needed to provide schools with the tools necessary to create supportive educational environments for all students.

Understanding the Research on LGBT Youths

It is important to understand the limitations of past research to make sense of what is known about LGBT youths in schools. Past studies have focused on the following groups:

- Youths who identify themselves as lesbian, gay, or bisexual
- Youths who report sexual activity with the same sex
- Youths who report attractions to or relationships with the same sex

There has been virtually no past research on the risks faced by transgender youths, largely because of the difficulties in defining and identifying this popula-

tion (1). Until recently, knowledge of lesbian, gay, and bisexual (LGB) youths was based on small community samples of youths identified as LGB who volunteered to participate in research studies. The samples were limited because they were not drawn from a larger youth population; therefore, their results could not be generalized to the larger population. Several recent studies have significantly improved our knowledge of LGBT youths through the use of improved sampling techniques.

LGBT Youths: Youths at Risk

Research indicates that LGBT adolescents are at higher risk of some of the most compromising challenges that adolescents face today than are their heterosexual peers. Substance use and abuse rates well above national averages have been reported in several studies of gay male adolescents (7, 14, 20, 21); further, the use and abuse of substances is linked to their lives at school. A study based on the 1995 Vermont Youth Risk Behavior Survey (YRBS) showed that male youths who engage in same-sex sexual behaviors are more likely than are other sexually active males to smoke cigarettes, use tobacco, drink alcohol, and use marijuana at school (4, 5, 22). In addition, LGBT adolescents are more likely to experience anxiety, low self-esteem, and depression (2, 3) and to contemplate or attempt suicide (3, 6, 7, 8, 9).

Why are LGBT adolescents at risk? A fundamental developmental task during adolescence is dealing with emerging sexuality (10). The usual difficulties associated with this developmental process are likely to be exacerbated for LGBT youths: they must simultaneously negotiate the challenges of adolescence and the cultural stigma of homosexuality (11). As is the case for all at-risk youths, the important sources of support in their lives—family, friends, church, and school—are critical to their healthy development.

Suicide

One of the most widely known risks for LGBT youths is suicide. Studies of LGB youths consistently indicate that they are at higher risk of *thinking about and attempting suicide* than are their heterosexual peers (7, 9, 12, 13, 16, 18, 19; for comparison statistics to U.S. adolescents, see 14, 15). Recent population-based studies have affirmed these reports.

Substance Use and Abuse

A study using the 1995 Massachusetts YRBS shows that youths identified as LGB are more likely than are their peers to begin to use marijuana and alcohol at younger ages, to have higher lifetime rates of crack/cocaine use, and to report more recent use of tobacco (17). Finally, data from a nationally funded study titled “Add Health Study” indicate that youths reporting romantic attractions to the same sex are more likely than are their peers to abuse alcohol (3).

Victimization

Several recent studies have examined associations between adolescent sexual self-identity or same-sex sexual behavior and experiences of violence. Data from the 1995 Vermont YRBS indicate that among young men, same-sex sexual behavior is associated with more frequent reports of threats of physical violence, threats or injuries with a weapon at school, and fights that result in a need for medical attention (22). Students in the 1995 Massachusetts YRBS who identified themselves as LGB reported higher frequencies of having been threatened with a weapon at school, fighting, and injuries from fighting that required medical attention (17). Finally, data from the “Add Health Study” show that youths who report same-sex romantic attractions are more likely than are their peers to experience extreme forms of violence and to witness violence (23).

LGBT Youths and the School Environment

One of the most important contexts for child and adolescent development is the school. Next to the

family (and faith for some youths), education plays a critical role in the lives of children and adolescents. The school environment is important not only in the development of academic and occupational skills but also in the development of the personal and social skills that shape the first 20 years of life.

Peers may be the first people to whom LGBT youths “come out,” and peers may also be the people from whom they receive the most harassment or victimization. In many high schools verbal abuse, graffiti, and other antigay activities permeate everyday relations among students (24). A recent study reported that the increased prevalence of suicide among sexual minority youths was associated with the loss of friends because of the disclosure of sexual orientation (25). A survey of high school students conducted by the Massachusetts Governor’s Commission on Gay and Lesbian Youth revealed that 97.5 percent of 398 respondents reported hearing homophobic remarks at school; 49 percent of the students reported hearing such comments frequently (26).

Much research on LGBT youths within school environments has been written by and for school counselors to create supportive school environments (27, 28, 29). A study of school-based homophobia points to lower self-esteem and a higher likelihood of self-destructive behavior in LGBT youths (30); a recent study documents that gay and lesbian students come to school counselors for assistance with depression, poor self-esteem, social isolation, and an elevated risk of suicide (31).

What can make a difference in school environments? Sexual minority youths with positive feelings about their teachers are significantly less likely than are their peers to experience school troubles (32). Therefore, teachers can play an important role in creating supportive school environments in which all youths can grow and learn. Training and support are needed to provide teachers and other school personnel with the knowledge and skills to support LGBT youths in school settings.

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Appendix B

Current Laws

Assembly Bill 537 (Kuehl), Chapter 587, Statutes of 1999: California Student Safety and Violence Prevention Act of 2000

In January 2000 Assembly Bill 537 became law in California. Assembly Bill 537 amended California *Education Code* Section 220 to state that “No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, mental or physical disability, *or any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code*” [emphasis added]. *Penal Code* Section 422.6 (a) includes the protection of persons because of their race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or the perception of one or more of those characteristics in the exercise of rights and privileges secured under state and federal laws. “Gender” is defined to include perception of a person’s sex and perception of a person’s 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.

Assembly Bill 1785 (Villaraigosa), Chapter 955, Statutes of 2000: Hate Violence

This bill states the intent of the Legislature that public schools have access to supplemental resources to combat bias based on membership in specified groups or classifications and to prevent and respond to acts of hate violence and bias-related incidents. This bill also amended the *Penal Code* to

include hate-motivated incidents and hate crimes as part of the California Safe Schools Assessment. The revised reporting system will be implemented July 2001. In addition, the State Board of Education is required to revise state curriculum frameworks and guidelines and moral and civic education curricula to include human relations education, fostering an appreciation of California’s diversity and discouraging discriminatory attitudes and practices. The Legislature intends that public schools “combat bias on the basis of race, color, religion, ancestry, national origin, disability, gender, or sexual orientation and . . . prevent and respond to acts of hate violence and bias-related incidents.” The new law also adds course work in human relations to the credential requirement for teachers of English language learners.

Senate Bill 187 (Hughes), Chapter 736, Statutes of 1997: Comprehensive School Safety Plans

In 1997 the Legislature passed and the Governor signed into law a landmark bill on school safety which requires every school site to have a comprehensive school safety plan. Senate Bill 187 requires schools to identify appropriate safety strategies and programs that are relevant to the needs and resources of the school. The law requires schools to include specific representatives (school site council, principal, teacher, parent, classified employee, other members, or law enforcement) in the planning process, adopt policies and procedures in the event of an emergency or a disaster, and solicit community opinion and update the plan annually.