

**Studies show that inclusive nondiscrimination policies in schools have direct and positive impacts on the health and well-being of students. Bullying, harassment, taunting and violence all distract from the core mission of schools – to educate our children.**

Making it clear in state, district and school-level policies that we will end bullying, stop harassment, and celebrate the diversity of family constellations represented in our schools leads to improvement in all of these areas. But oftentimes it takes the actions of individual and small groups of concerned parents to put these policies in place.

With help from our partners in safe schools work, the Family Equality Council has put together this model nondiscrimination policy for schools. Each of the ten items listed below is key to an effective policy, and each of the ten carries real-world examples to better explain its use. We encourage you to find out more about the policies in your area, and to use this resource in your efforts to build better schools.

### **1. A statement prohibiting both discrimination and harassment:**

**Legally speaking, harassment is a form of discrimination, but discrimination is not always a form of harassment.** Prohibiting a student from participating in a school activity because she is a lesbian or because her dad is gay is discrimination, but not necessarily harassment. Verbally attacking a student in the hallway because his lesbian aunts are raising him is harassment and discrimination. It's best to protect explicitly against both.

### **2. A definition of harassment that includes at least the following:**

Harassment should be defined as:

any gesture or written, verbal or physical act that is reasonably perceived as being motivated by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, gender identity or expression, sexual orientation, or a mental, physical or sensory disability or on the basis of association with an individual who falls into one of the protected categories, that takes place on school property, at any school-sponsored function, or on a school bus, and that (1) places a student or school employee in reasonable fear of harm to his or her person or damage to his or her property; or (2) has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or (3) has the effect of substantially disrupting the orderly operation of the school.

Including this entire definition provides the fullest protection for students. **A necessary component of the definition is the protection based on any of the characteristics listed, whether they are “actual or perceived.”** This protects students from bullying even when they are not a member of a category, but it is believed that they are. For example, a heterosexual student may be continually subjected to anti-gay name-calling and threats. Even though he is not gay, that student will be protected under the nondiscrimination policy because he was perceived to be gay.

**Additionally, the definition of harassment given above provides protection on the basis of association with anyone who falls into a protected category.** This language has been specifically developed to protect LGBTQ families, since the children of LGBTQ parents are often bullied based on their association with family members. A child of lesbian mothers will be protected from harassment and discrimination directed toward her that occurs because her parents are lesbians.

### **3. A description of the type of behavior expected from each student and school employee:**

This list should include items such as “respectful association with others,” “honest and timely reporting of incidents,” and (for employees) “meaningful intervention in student conflicts.” School officials should be given significant control over the creation of this list, since it is a description of behavior for staff and students—individuals for whom they are primarily responsible. In order to achieve your goal, let this be an area of negotiation, so long as the final description of behavior adheres to the core principles of the nondiscrimination statement.

### **4. Consequences and appropriate remedial action for a person who commits an act of discrimination or harassment:**

Inclusive nondiscrimination policies mean very little if they lack means of enforcement. To ensure that the policy has teeth, include clear consequences, such as appropriate disciplinary and educative actions for offending students, as well as proper responses for offending staff. One appropriate remedial action for a high school student might be to write a report on the nature and effects of hate crimes on people who fall into the category the student offended.

**5. A procedure for reporting an act of discrimination or harassment, including a provision that permits a person to report an act of discrimination, harassment, intimidation or bullying anonymously:**

A solid nondiscrimination policy establishes useable mechanisms for reporting incidents to the proper authorities. This provision should include a clear statement on students' and staff's responsibility to report incidents in a timely manner. Such a statement should read as follows:

A school employee, student or volunteer who has witnessed, or has reliable information that a student or school employee has been subject to discrimination or harassment shall report the incident to the appropriate school official.

However, the procedure should specify that there will be no formal disciplinary action if the report is purely anonymous.

**6. A procedure for prompt investigation of reports of serious violations and complaints, identifying the designated person, most often the principal, responsible for the investigation:**

Schools need to be both proactive and reactive when it comes to harassment and discrimination. There should be more than one type of investigative procedure, acknowledging that some acts of discrimination or harassment require more immediate response than others. When immediate health and safety is concerned, school leaders need to be personally responsible (and ready) to act. Expecting the offended student, staff or associated family member to report and pursue all acts of discrimination and harassment themselves is unrealistic and may be dangerous.

**7. The range of ways in which a school will respond once an incident of discrimination or harassment is confirmed:**

Schools must be ready to respond to confirmed incidents immediately. As an example, if one student is harassing another, an immediate response may involve separating the two students from each other on school property, at school functions and school-sponsored events.

**8. A statement that prohibits reprisal or retaliation against any person who reports an act of discrimination or harassment, and the appropriate remedial action and consequence for a person who engages in reprisal or retaliation:**

Creating an environment in which people are encouraged to report and feel safe reporting harassment and discrimination is key to an effective policy. It's highly unlikely that a student who witnesses harassment, especially of a violent nature, will report the incident if the student is not confident that he or she will be safe from retaliation. Members of the school community should understand that reprisal and retaliation are prohibited, and will be handled with as much seriousness as the original act of harassment or discrimination.

**9. Consequences and appropriate remedial action for a person found to have falsely accused another:**

In pushing for an inclusive nondiscrimination policy, this will likely be an item of controversy. Opponents will raise concerns about the opportunities the policy creates for people to falsely accuse others of harassment and discrimination. Regardless of whether this concern is genuine or political, it's serious and worth dealing with upfront.

**10. A statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions:**

The authoritative reach of the nondiscrimination policy should be clear. We recommend the following language to explain what, whom and where this policy covers:

The statute should cover any activity or program occurring on the grounds of a covered institution during the hours in which school is in session, all school-related and school-sponsored programs or activities, and transportation on a school bus to or from school or a school-related or school sponsored program or activity.

Harassment and discrimination will not be tolerated anywhere, including on field trips, in the lunchroom, at the basketball game, during the spelling bee, and at prom. Additionally, the policy should mandate that its contents be publicized in all school publications that set forth the comprehensive rules, procedures and standards of conduct for the affected school, and in any student and school employee handbook.

*The Family Equality Council would like to thank the National Gay & Lesbian Task Force for contributing to the production of this document.*