



## The Importance of Listing So-Called “Protected Classes” in Anti-Bullying Laws and Policies

by Beth Reis

The Safe Schools Coalition believes that it is very helpful and important to list actual forms that harassment may take in the laws and policies that are supposed to prevent it.

**Some argue that enumerating the common forms of bias expressed through bullying means favoring one group of children. We’d say, “Not at all!” Calling those forms of harassment “protected classes” sounds as if some children are protected by such lists and others aren’t. That’s just not true.** They provide a safety net for every student. Everyone has a race, a gender, a sexual orientation, etc. ... so listing those forms of bullying doesn't give any special protection to one child over another. What it does is to give students and staff a heads up that **even** the forms of harassment that are so pervasive as to have become almost invisible ... that even those forms are prohibited and will be taken as seriously as any other harassment. If you don't list the forms bullying can take, then many students and some staff will assume that you must not mean XYZ (whatever is most commonplace in their building). Or they'll be afraid to apply the rules when the content of the graffiti (or whatever) is controversial. Naming even the controversial ones says to everyone involved, "We aren't afraid to say that we value every single child."

**Some argue that no list could ever include every kind of harassment. That’s true. That’s why policies should add “or other characteristics” lest anyone think that the list of prohibited behaviors is intended as a ceiling rather than a floor.** That said, it's important to acknowledge that the bias-based forms of harassment can be among the most devastating (not the *only* devastating forms, but among them). Too many bullying prevention programs address assertiveness skills and how-to-report, while ignoring the prejudices that can underlie bullying. You can stop a behavior over and over, you can punish the offenders, but you'll never really end it if you don't help children understand the attitudes that lead to it. They'll just do it when no adult is looking.

**Some argue that explicitly prohibiting anti-gay harassment and violence will stigmatize people with traditional views of sexuality. The idea is not to stigmatize anyone.** Schools need to ensure that conservative kids feel as safe in a classroom or hallway as liberal kids; heterosexual kids as safe as gay, lesbian, bisexual and transgender kids. A teacher should never tolerate a student harassing another for carrying a Bible or belonging to the flagpole gathering. Neither should they tolerate a student harassing another for belonging to a gay-straight alliance or for being less masculine or less feminine than average.

**Some argue that including a prohibition against sexual orientation or gender identity/expression-based violence violates the free speech rights of conservative students. There’s a big, easily recognizable difference between legitimate expression of beliefs and prohibited bullying behavior:** It's perfectly legitimate to write an article for the school paper or a paper for a class or to speak up during a class discussion to say that you think same-sex behavior is wrong (or that a particular religion



is wrong or that you believe all classes should be taught in English or that war is wrong or whatever other controversial belief you might have). It's just **not** OK to mock someone or joke about a group of people or to whisper threats to a person or spread rumors about them or spit at them or yell in their face about your opinion and call them names, or even, some judges have found, to wear T-shirts deriding homosexuality as "shameful" (see <http://writ.news.findlaw.com/dorf/20060426.html> and <http://www.10news.com/news/10844949/detail.html>) And adults need to say in clear, unequivocal terms that these behaviors are wrong.

**Some argue that including lists of prohibited forms of bullying will lead to bills' and policies' being defeated. The Safe Schools Coalition certainly doesn't want to jeopardize bills/policies that omit the forms of harassment. Still hundreds of districts and at least eight states have had the courage to name the problem** (See <http://www.nclrights.org/site/DocServer/ha-legaloverview.pdf?docID=1602>). And bills that lack a list of banned forms of bullying are relatively toothless; we think it's worth holding out for ones that do list the forms bullying can take. Similarly, we think it's worth holding out for bills that require schools to set up anonymous reporting systems and to document reports and investigate incidents properly, etc.

**Bottom line: enumeration matters.**