

February 17, 2011

Commission on Bullying Prevention
Office of Attorney General Martha Coakley
One Ashburton Place
Boston, MA 02108

Dear Members of the Commission:

On behalf of the boards and staff of MassEquality, and the lesbian, gay, bisexual and transgender community we serve, I would like to thank you for the opportunity to offer comment to the Commission for Bullying Prevention on the Commonwealth's recently enacted anti-bullying legislation. My name is Carly Burton and I am the Director of Public Policy and Political Affairs at MassEquality. MassEquality is the statewide grassroots organization working to ensure equal rights and opportunities for LGBT people from cradle to grave – in schools, in marriage and family life, at work, and in retirement

We were delighted to help ensure the passage of the anti-bullying bill, and to see it passed so handily by the legislature and signed by the Governor in May. We were also heartened to see the strong guidance put forth by the Department of Elementary and Secondary Education on parental notification. However, there are some areas of the law and the guidance to which we would respectfully suggest improvements.

Enumeration:

The law currently states that schools “may establish separate discrimination or harassment policies that include categories of students.” We believe that this is not sufficient to address the specific challenges of LGBT youth, youth with LGBT parents, and other students who may be more vulnerable to harassment and bullying. Prior to the passage of the bill, we advocated to have enumerated categories of students included within the legislation due to the disproportionately high incidence of bullying of LGBT students, students with LGBT parents, and those who are perceived to be LGBT. We continue to hold the view that the legislation must include a non-exclusive list of enumerated categories of students who are at a disproportionate risk of being bullied. Seventeen other states and Washington, D.C. have such enumerated anti-bullying laws. The inclusion of this language would reflect a greater focus on bullying prevention by acknowledging the fact that certain students with actual or perceived differences may be more at risk. To prove this point, according to the 2009 national climate survey by the Gay and Lesbian Straight Education Network), who also testified before this commission, over 84.6% of the almost 10,000 students surveyed stated that they had been verbally harassed at school because of their sexual orientation and 18.1 % shared that they had been physically assaulted at school. (GLSEN report: http://www.glsen.org/binary-data/GLSEN_ATTACHMENTS/file/000/001/1676-2.PDF.) In contrast, research shows that students feel safer when their schools have policies with enumerated protections. Accordingly, we recommend the definition of bullying be expanded to include the following: “acts reasonably perceived as being motivated by any actual or perceived differentiating characteristic including but not limited to race, color, religion, ancestry, national origin, sex, socioeconomic status, academic status, gender identity or expression, physical appearance, sexual orientation, or mental, physical, developmental, sensory or other disability...”

Parental Notification

MassEquality was glad to see the strong guidance from the Department of Elementary and Secondary Education on notifying parents when a student has been bullied based on sexual orientation or gender identity or expression. However, we would suggest that the language of the statute is amended so that it includes a balancing test of the student's privacy interests with the need for parental notification. As you are aware, the coming out process for LGBT students is very individual and personal. Though students may be out to friends and peers at school, they may not be out with their family. As a result, revealing a student's status to his/her parent/guardian may put that student at risk within the home environment. In fact, research has shown that youth who experience rejection by their families when they reveal their sexual orientation are more than eight times as likely to have attempted suicide and nearly six times as vulnerable to severe depression as those whose parents respond positively. The consequences of familial rejection are thus clearly at cross purposes with the very intent of the Commonwealth's anti-bullying protections, and great care is required to determine when parent notification is safe and appropriate.

Additionally, revealing sexual orientation to parents/guardians or others is not necessary to fulfill the requirements of parental notification. We recommend the Department require that students provide written consent to the principal or other notifying administrator for any disclosure of sexual orientation, gender identity, gender expression or other private information to the parent or guardian.

Additionally, the DESE guidance *recommends* that districts designate a staff person who is proficient in these topics. It would be more helpful if the Department *required* the designation of such a person and explicitly described the expertise required to be proficient in this area. Such designees would be required to be informed of pertinent research on youth development, racism, sexism, homophobia, transphobia, and other issues as well as on victimization and its consequences.

Unfunded Mandate

MassEquality applauds the crucial training and educational requirements set forth in the statute. However, this legislation currently is an unfunded mandate, which will make it difficult for educational institutions to effectively implement it, especially the training and educational provisions that are so critical to the law's successful prevention of bullying. The statute requires that the anti-bullying plan include a provision for ongoing professional development to build the skills of all staff members in combating bullying, and it has a robust list of what should be included in the professional development offerings for each district. Though we were happy to see that the DESE stated that it would use resources to help school districts fund this professional development work until June of 2011, once this funding is depleted, there are no monies attached to the legislation for school districts to access to provide this professional development. We recommend the creation of a bullying prevention fund that would serve to provide monies to school districts for the professional development programs for teachers and staff. The resources within this fund could also support anti-bullying specialists for the department and if monies allow, within each school district.

Evaluation

We are also concerned about how schools will be evaluated in subsequent years both for their compliance to the law as well as for their effectiveness in reducing bullying. The statute requires the Department to periodically review school districts to determine whether they are in compliance with this act. However, the legislation is not specific as to what this evaluation will entail. The state of New Jersey, which also just recently passed an anti-bullying law, provides comprehensive language and a timeline for how compliance should be evaluated. The language included requires some schools to be

graded on their effective compliance with the law. We recommend that the statute be amended to be more specific on how the school districts will be monitored for their implementation of the law. For example, the legislation could require the Department of Elementary and Secondary Education to develop survey instruments for distribution to a variety of stakeholders including students, parents, administrators, staff, and other experts to gauge how effective the plan is in the anti-bullying efforts of that particular school district.

In closing, MassEquality was delighted to support the passage of the anti-bullying law last year, and we thank the Commission for this opportunity to provide feedback on how to improve the legislation going forward.

Sincerely,

Carly Burton
Director of Public Policy and Political Affairs