



HUMAN  
RIGHTS  
WATCH

# “Like Walking Through a Hailstorm”

Discrimination against LGBT Youth in US Schools





# **“Like Walking Through a Hailstorm”**

## **Discrimination Against LGBT Youth in US Schools**

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# “Like Walking Through a Hailstorm”

## Discrimination Against LGBT Youth in US Schools

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## Glossary

<b>Agender</b>	Does not identify with any gender.
<b>Aromantic</b>	Experiences little or no romantic attraction to other people.
<b>Asexual</b>	Experiences little or no sexual attraction to other people.
<b>Bioromantic</b>	Romantically attracted to two or more sexes or genders.
<b>Bisexual</b>	Sexually or romantically attracted to two or more sexes or genders.
<b>Cisgender</b>	Sex assigned at birth conforms to identified or lived gender.
<b>Demiboy</b>	Only partly male, regardless of sex assigned at birth.
<b>Demigirl</b>	Only partly female, regardless of sex assigned at birth.
<b>Demisexual</b>	Feels attraction only to those with whom they have a strong emotional bond.
<b>Gay</b>	Male is primarily sexually or romantically attracted to other males.
<b>Genderfluid</b>	Gender fluctuates and may differ over time.
<b>Gender Identity</b>	Deeply felt sense of being female or male, neither, both, or something other than female and male. Does not necessarily correspond to sex assigned at birth.
<b>Gender Non-Conforming</b>	Does not conform to stereotypical appearances, behaviors, or traits associated with sex assigned at birth.

<b>Genderqueer</b>	Identifies as neither male nor female, both male and female, or a combination of male and female, and not within the gender binary.
<b>Lesbian</b>	Female is primarily sexually or romantically attracted to other females.
<b>LGBT</b>	Lesbian, gay, bisexual, and transgender.
<b>Non-Binary</b>	Identifies as neither male nor female.
<b>Pansexual</b>	Sexual or romantic attraction is not restricted by sex assigned at birth, gender, or gender identity.
<b>Sexual Orientation</b>	Sense of attraction to, or sexual desire for, individuals of the same sex, another sex, both, or neither.
<b>Transgender</b>	Sex assigned at birth does not conform to identified or lived gender.

# Summary

It's like walking through a hailstorm...

—Polly R. (pseudonym), parent of gender non-conforming son, describing the hostile environment that LGBT children face in schools, Utah, December 2015

Outside the home, schools are the primary vehicles for educating, socializing, and providing services to young people in the United States. Schools can be difficult environments for students, regardless of their sexual orientation or gender identity, but they are often especially unwelcoming for lesbian, gay, bisexual, and transgender (LGBT) youth. A lack of policies and practices that affirm and support LGBT youth—and a failure to implement protections that do exist—means that LGBT students nationwide continue to face bullying, exclusion, and discrimination in school, putting them at physical and psychological risk and limiting their education.

In 2001, Human Rights Watch published *Hatred in the Hallways: Violence and Discrimination against Lesbian, Gay, Bisexual, and Transgender Students in US Schools*. The report documented rampant bullying and discrimination against LGBT students in schools across the country, and urged policymakers and school officials to take concrete steps to respect and protect the rights of LGBT youth.

Over the last 15 years, lawmakers and school administrators have increasingly recognized that LGBT youth are a vulnerable population in school settings, and many have implemented policies designed to ensure all students feel safe and welcome at school.

Yet progress is uneven. In many states and school districts, LGBT students and teachers lack protections from discrimination on the basis of sexual orientation or gender identity. In others, protections that do exist are inadequate or unenforced. As transgender and gender non-conforming students have become more visible, too, many states and school districts have ignored their needs and failed to ensure they enjoy the same academic and extracurricular benefits as their non-transgender peers.

This undermines a number of fundamental human rights, including LGBT students' rights to education, personal security, freedom from discrimination, access to information, free expression, association and privacy.

Based on interviews with over 500 students, teachers, administrators, parents, service providers, and advocates in Alabama, Pennsylvania, South Dakota, Texas, and Utah, this report focuses on four main issues that LGBT people continue to experience in school environments in the United States.

Areas of concern include bullying and harassment, exclusion from school curricula and resources, restrictions on LGBT student groups, and other forms of discrimination and bigotry against students and staff based on sexual orientation and gender identity. While not exhaustive, these broad issues offer a starting point for policymakers and administrators to ensure that LGBT people's rights are respected and protected in schools.

## **LGBT Experiences in School**

Social pressures are part of the school experience of many students, regardless of sexual orientation or gender identity. But the experience can be particularly difficult for LGBT students, who often struggle to make sense of their identities, lack support from family and friends, and encounter negative messaging about LGBT people at school and in their community.

As a result of these factors, LGBT students are more likely than heterosexual peers to suffer abuse. "I've been shoved into lockers, and sometimes people will just push up on me to check if I have boobs," said Kevin I., a 17-year-old transgender boy in Utah. He added that school administrators dismissed his complaints of verbal and physical abuse, blaming him for being "so open about it."

In some instances, teachers themselves mocked LGBT youth or joined the bullying. Lynette G., the mother of a young girl with a gay father in South Dakota, recalled that when her daughter was eight, "she ran home because they were teasing her. Like, 'Oh, your dad is a cocksucker, a faggot, he sucks dick.' ... She saw a teacher laughing and that traumatized her even worse."

Students also reported difficulty accessing information about LGBT issues from teachers and counselors, and found little information in school libraries and on school computers. In some districts, this silence was exacerbated by state law. In Alabama, Texas, Utah, and five other US states, antiquated state laws restrict discussions of homosexuality in schools. Such restrictions make it difficult or impossible for LGBT youth to get information about health and well-being on the same terms as heterosexual peers. “In my health class I tested the water by asking [the teacher] about safer sex, because I’m gay,” Brayden W., a 17-year-old boy in Utah, said. “He said he was not allowed to talk about it.”

The effects of these laws are not only limited to health or sexuality education classes. As students and teachers describe in this report, they also chilled discussions of LGBT topics and themes in history, government, psychology, and English classes.

Many LGBT youth have organized gay-straight alliances (GSAs), which can serve as important resources for students and as supportive spaces to counteract bullying and institutional silence about issues of importance to them. As this report documents, however, these clubs continue to encounter obstacles from some school administrators that make it difficult for them to form and operate.

When GSAs were allowed to form, some students said they were subject to more stringent requirements than other clubs, were left out of school-wide activities, or had their advertising defaced or destroyed. Serena I., a 17-year-old bisexual girl in Utah, said: “It’s mental abuse, almost, seeing all these posters up and yours is the only one that’s written on or torn down.”

Often, LGBT students also lacked teacher role models. In the absence of employment protections, many LGBT teachers said they feared backlash from parents or adverse employment consequences if they were open about their sexual orientation or gender identity.

Discrimination and bigotry against transgender students took various forms, including restricting bathroom and locker room access, limiting participation in extracurricular activities, and curtailing other forms of expression—for example, dressing for the school day or special events like homecoming. “They didn’t let me in and I didn’t get my money

back,” said Willow K., a 14-year-old transgender girl in Texas who attempted to wear a dress to her homecoming.

LGBT students also described persistent patterns of isolation, exclusion, and marginalization that made them feel unsafe or unwelcome at school. Students described how hearing slurs, lacking resources relevant to their experience, being discouraged from having same-sex relationships, and being regularly misgendered made the school a hostile environment, which in turn can impact health and well-being.

Acanthus R., a 17-year-old pansexual, non-binary transgender student in Utah, said it was “like a little mental pinch” when teachers used the wrong pronouns. “It doesn’t seem like a big deal, but eventually you bruise.”

Comprehensive approaches are urgently needed to make school environments welcoming for LGBT students and staff, and to allow students to learn and socialize with peers without fearing exclusion, humiliation, or violence. Above all:

- States should repeal outdated and stigmatizing laws that deter and arguably prohibit discussion of LGBT issues in schools, and enact laws protecting students and staff from bullying and discrimination based on sexual orientation and gender identity.
- Schools should ensure that policies, curricula, and resources explicitly include LGBT people, and that the school environment is responsive to the specific needs of LGBT youth.
- Teachers and administrators should work to make existing policies meaningful by enforcing protections and intervening when bullying or discrimination occurs.

# Key Recommendations

## To State Legislatures

- Ensure that state laws against bullying and harassment include enumerated protections on the basis of sexual orientation and gender identity;
- Ensure that state non-discrimination laws include explicit protections from discrimination on the basis of sexual orientation and gender identity, particularly in education, employment, and public accommodations;
- Repeal laws that preclude local school districts from providing enumerated protections against discrimination on the basis of sexual orientation and gender identity;
- Repeal laws that prohibit or restrict discussion of LGBT issues in schools.

## To State Departments of Education

- Ensure that teachers, counselors, and other staff receive training to familiarize them with the issues LGBT students might face;
- Promulgate model guidelines for school districts to follow to make schools safe and inclusive for LGBT youth.

## To School Administrators

- Ensure that school policies against bullying and harassment include enumerated protections on the basis of sexual orientation and gender identity;
- Ensure that the school provide comprehensive sexuality education that is inclusive of LGBT youth, covers same-sex activity on equal footing with other sexual activity, and is medically and scientifically accurate;
- Ensure that GSAs and other LGBT student organizations are permitted to form and operate on the same terms as all other student organizations;
- Ensure that same-sex couples are able to date, display affection, and attend dances and other school functions on the same terms as all other student couples;

- Ensure that students are able to access facilities, express themselves, and participate in classes, sports teams, and extracurricular activities in accordance with their gender identity.

## **To the US Congress**

- Enact the Equality Act or similar legislation to prohibit discrimination on the basis of sexual orientation and gender identity in employment, education, federal funding, and public accommodations;
- Enact the Student Non-Discrimination Act or similar legislation to prohibit discrimination on the basis of sexual orientation and gender identity in schools;
- Enact the Safe Schools Improvement Act or similar legislation to encourage states to enact strong policies to prevent bullying and harassment that are inclusive of sexual orientation and gender identity;
- Enact the Real Education for Healthy Youth Act or similar legislation to support comprehensive sexuality education and restrict funding to health education programs that are medically inaccurate, scientifically ineffective, or unresponsive to the needs of LGBT youth.

## Methodology

Human Rights Watch conducted research for this report between November 2015 and May 2016 in five US states: Alabama, Pennsylvania, South Dakota, Texas, and Utah. The sites were chosen as a regionally diverse sample of states that, at time of writing, lacked enumerated statewide protections against bullying and discrimination on the basis of sexual orientation and gender identity in schools.

Human Rights Watch contacted potential interviewees through nongovernmental organizations, LGBT organizations in high schools and middle schools, and LGBT organizations in post-secondary institutions where recent graduates reflected on their high school experiences. The research focused on public schools, including public charter schools, rather than private schools that enjoy greater autonomy to act in accordance with their particular beliefs under US law.<sup>1</sup> Researchers spoke with 358 current or former students and 145 teachers, administrators, parents, service providers, and advocates for LGBT youth.

All interviews were conducted in English. No compensation was paid to interviewees. Whenever possible, interviews were conducted one-on-one in a private setting. Researchers also spoke with interviewees in pairs, trios, or small groups when students asked to meet together or when time and space constraints required meeting with members of student organizations simultaneously.

Researchers obtained oral informed consent from interviewees, and notified interviewees why Human Rights Watch was conducting the research and how it would use their accounts, that they did not need to answer any questions they preferred not to answer, and that they could stop the interview at any time. When students were interviewed in groups, those who were present but did not actively participate and volunteer information were not recorded or counted in our final pool of interviewees.

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<sup>1</sup> Because of this focus, this report does not address the hostile environments that many students encountered in religious schools. Many interviewees who had attended religious schools at some point in their education described teachers and administrators telling them that being LGBT is sinful or immoral, or subjecting them to closer monitoring or harsher discipline than heterosexual, cisgender students.

In this report, pseudonyms are used for interviewees who are students, teachers, or administrators in schools to protect their privacy and mitigate the risk of adverse consequences for participating in the research. Unless requested by interviewees, pseudonyms are not used for individuals who work in a public capacity on the issues discussed in this report.

# I. Background

## Successes, with Limits

LGBT communities in the United States have won a number of victories over the past decade. Among other milestones, advocates have successfully fought to include sexual orientation and gender identity in federal hate crimes legislation,<sup>2</sup> repeal the “Don’t Ask, Don’t Tell” policy that banned LGBT persons from serving in the US military,<sup>3</sup> and prohibit discrimination on the basis of sexual orientation and gender identity in employment by the federal government and its contractors and subcontractors.<sup>4</sup> The US Supreme Court has also extended the constitutional right to marry to same-sex couples nationwide.<sup>5</sup>

In contrast to these positive trends, many LGBT youth still remain vulnerable to stigmatization and abuse. In a survey of more than 10,000 youth conducted in 2012, a lack of family acceptance was the primary concern that LGBT youth identified as the most important problem in their lives.<sup>6</sup> Due in part to rejection by families and peers, LGBT youth have disproportionately high rates of homelessness, physical and mental health concerns, and suicidality. Only five US states and the District of Columbia have prohibited “conversion therapy,” a dangerous and discredited practice meant to change a person’s sexual orientation or gender identity.<sup>7</sup>

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<sup>2</sup> CNN, “Obama Signs Hate Crimes Bill into Law,” October 28, 2009, <http://www.cnn.com/2009/POLITICS/10/28/hate.crimes> (accessed August 15, 2016).

<sup>3</sup> Elisabeth Bumiller, “Obama Ends ‘Don’t Ask, Don’t Tell’ Policy,” *New York Times*, July 22, 2011, <http://www.nytimes.com/2011/07/23/us/23military.html> (accessed August 15, 2016); Matthew Rosenberg, “Transgender People Will Be Allowed to Serve Openly in Military,” *New York Times*, June 30, 2016, <http://www.nytimes.com/2016/07/01/us/transgender-military.html> (accessed August 15, 2016).

<sup>4</sup> White House Office of the Press Secretary, “Executive Order: Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity,” July 21, 2014, <https://www.whitehouse.gov/the-press-office/2014/07/21/executive-order-further-amendments-executive-order-11478-equal-employemen> (accessed August 15, 2016).

<sup>5</sup> *Obergefell v. Hodges*, 576 US \_\_\_ (2015); see also *United States v. Windsor*, 570 US \_\_\_ (2013).

<sup>6</sup> Human Rights Campaign, “Growing Up LGBT in America: HRC Youth Survey Report Key Findings,” [http://hrc-assets.s3-website-us-east-1.amazonaws.com/files/assets/resources/Growing-Up-LGBT-in-America\\_Report.pdf](http://hrc-assets.s3-website-us-east-1.amazonaws.com/files/assets/resources/Growing-Up-LGBT-in-America_Report.pdf) (accessed November 21, 2016).

<sup>7</sup> Movement Advancement Project (MAP), “Conversion Therapy Laws,” [http://www.lgbtmap.org/equality-maps/conversion\\_therapy](http://www.lgbtmap.org/equality-maps/conversion_therapy) (accessed August 15, 2016).

When LGBT youth experience family or community rejection, schools can ideally function as safe and affirming environments for them to learn, interact with peers, and feel a sense of belonging. Yet efforts to ensure such conditions for LGBT youth in schools have historically encountered strong political, legal, and cultural resistance, and continue to face such resistance today, often due to the charge that adults are “indoctrinating” or “recruiting” youth into being LGBT.

In 1977, Anita Bryant’s “Save Our Children” campaign relied heavily on this type of child-protective rhetoric to repeal a Dade County, Florida ordinance prohibiting discrimination on the basis of sexual orientation, and inspired a number of copycat campaigns around the United States.<sup>8</sup>

Nearly 40 years later, many teachers who are visibly out as LGBT or actively support LGBT students still worry that they will be passed over for promotions, demoted, or terminated as a result.<sup>9</sup> Such concerns are not unfounded; most US states still lack laws prohibiting discrimination on the basis of sexual orientation or gender identity in the workplace.<sup>10</sup>

In the late 1980s, lawmakers began amending sexuality education laws and inserting provisions that many educators read as prohibiting or restricting discussions of homosexuality in schools. Such laws have been decried as discriminatory and nonsensical, yet they remain on the books in eight US states.<sup>11</sup> Attempts to repeal them have proved

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<sup>8</sup> William N. Eskridge, Jr., “No Promo Homo: The Sedimentation of Antigay Discourse and the Channeling Effect of Judicial Review,” *New York Law Review*, vol. 75 (2000), p. 1351-1352.

<sup>9</sup> David Artavia, “LGBT Teachers Forced Back into the Closet,” *The Advocate*, August 23, 2013, <http://www.advocate.com/youth/2013/08/23/lgbt-teachers-forced-back-closet> (accessed November 10, 2016); Human Rights Watch interview with Misty A. (pseudonym), Texas, November 5, 2015; Human Rights Watch interview with Marisol J. (pseudonym), Texas, November 7, 2015; Human Rights Watch interview with Hannah L. (pseudonym), Utah, December 8, 2015; Human Rights Watch interview with Sharon B. (pseudonym), Alabama, January 21, 2016.

<sup>10</sup> Of the 50 US states, 28 do not protect workers from discrimination on the basis of sexual orientation or gender identity. In 20 states and the District of Columbia, state law prohibits discrimination on the basis of sexual orientation and gender identity, and in two states, state law prohibits discrimination on the basis of sexual orientation but not gender identity. See Movement Advancement Project (MAP), “Non-Discrimination Laws: Employment,” [http://www.lgbtmap.org/equality-maps/non\\_discrimination\\_laws](http://www.lgbtmap.org/equality-maps/non_discrimination_laws) (accessed August 15, 2016).

<sup>11</sup> Alabama, Arizona, Louisiana, Mississippi, Oklahoma, South Carolina, Texas, and Utah retain these laws. See GLSEN, “State Maps,” <http://www.glsen.org/article/state-maps> (accessed September 22, 2016); Lambda Legal, “#DontEraseUs: FAQ about Anti-LGBT Curriculum Laws,” <http://www.lambdalegal.org/dont-erase-us/faq> (accessed September 22, 2016).

unsuccessful, and lawmakers in Missouri and Tennessee have pushed in recent years to adopt similar laws in their states.<sup>12</sup>

When students themselves began organizing in the 1990s, many school administrators across the US unsuccessfully fought to restrict the formation and operation of gay-straight alliances (GSAs) in schools, arguing that the clubs were inappropriate for youth. Although courts have clearly and repeatedly affirmed that schools must allow such groups to form, dogged resistance to GSAs continues in many school systems.<sup>13</sup>

And in 2016, anxieties about LGBT youth in schools emerged anew when lawmakers in at least 18 states sought to restrict transgender students' access to bathrooms, locker rooms, and other facilities consistent with their gender identity.<sup>14</sup> Despite significant changes in public opinion toward LGBT people, resistance to policies that render schools safe and affirming leave LGBT students and faculty vulnerable in too many schools across the US.

## “No Promo Homo” Laws

In some instances, pervasive anxieties about indoctrination and recruitment in schools have prompted state and local efforts—some of them successful—to limit what teachers may say about LGBT topics in the classroom.

One of the most overt campaigns to keep LGBT topics out of schools was the Briggs Initiative, a ballot measure in California in 1978 that would have prohibited “the advocating, soliciting, imposing, encouraging or promoting of private or public homosexual activity directed at, or likely to come to the attention of, schoolchildren and/or other employees.”<sup>15</sup>

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<sup>12</sup> Igor Volsky, “Missouri Advances ‘Don’t Say Gay’ Bill,” *Think Progress*, April 20, 2012, <https://thinkprogress.org/missouri-advances-dont-say-gay-bill-447beb19a331#.ljx4rqmp6> (accessed November 15, 2016); Chris Sanders, “Fighting Back in a Red State: Tennessee’s ‘Don’t Say Gay’ and ‘License to Bully’ Legislation,” *QED: A Journal in GLBTQ Worldmaking* (2013), p. 141-148.

<sup>13</sup> American Civil Liberties Union (ACLU), “GSA Court Victories: A Quick Guide for Gay-Straight Alliances,” July 2015, [https://www.aclu.org/sites/default/files/field\\_document/gsa\\_victories\\_handout\\_july\\_2015.pdf](https://www.aclu.org/sites/default/files/field_document/gsa_victories_handout_july_2015.pdf).

<sup>14</sup> Bills restricting access to shared facilities were introduced in Illinois, Indiana, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New York, North Carolina, Oklahoma, South Carolina, South Dakota, Tennessee, Virginia, Washington, and Wisconsin. See National Center for Transgender Equality, “Action Center,” <http://www.transequality.org/action-center> (accessed August 22, 2016).

<sup>15</sup> California Proposition 6, Section 3(b)(2), 1978.

Although the Briggs Initiative was defeated, laws prohibiting the promotion of homosexuality or restricting discussions of homosexuality in schools were enacted by state legislatures in the late 1980s and 1990s. Laws that restrict classroom instruction in this manner—or “no promo homo” laws—remain on the books in Alabama, Arizona, Louisiana, Mississippi, Oklahoma, South Carolina, Texas, and Utah.<sup>16</sup>

The provisions in Alabama, Mississippi, and Texas refer to homosexuality as a criminal offense under state law, ignoring that the Supreme Court deemed those criminal laws unconstitutional in 2003.<sup>17</sup> Of the five states where interviews took place, Alabama, Texas, and Utah each have laws pertaining to discussions of homosexuality in schools:

- Alabama state law dictates that “[c]ourse materials and instruction that relate to sexual education or sexually transmitted diseases should include all of the following elements ... [a]n emphasis, in a factual manner and from a public health perspective, that homosexuality is not a lifestyle acceptable to the general public and that homosexual conduct is a criminal offense under the laws of the state.”<sup>18</sup>
- Texas state law specifies that the Department of State Health Services “shall give priority to developing model education programs for persons younger than 18 years of age,” and “[t]he materials in the education programs intended for persons younger than 18 years of age must ... state that homosexual conduct is not an acceptable lifestyle and is a criminal offense under Section 21.06, Penal Code.”<sup>19</sup>
- Utah state law prohibits public schools from using materials for “community and personal health, physiology, personal hygiene, and prevention of communicable disease” that include instruction in “the intricacies of intercourse, sexual stimulation, or erotic behavior; the advocacy of homosexuality; the advocacy or encouragement of the use of contraceptive methods or devices; or the advocacy of sexual activity outside marriage.”<sup>20</sup>

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<sup>16</sup> Alabama Code Section 16-40A-2; Arizona Revised Statutes Section 15-716; Louisiana Revised Statutes Section 17:281; Mississippi Code Section 37-13-171; Oklahoma Revised Statutes Section 70-11-103.3; South Carolina Code Section 59-32-30; Texas Health and Safety Code Section 85.007; Utah Code Section 53A-13-101; *see also* Utah Administrative Code Rule R277-474.

<sup>17</sup> *Lawrence v. Texas*, 539 U.S. 558 (2003).

<sup>18</sup> Alabama Code Section 16-40A-2(c)(8).

<sup>19</sup> Texas Health and Safety Code Section 85.007(a), (b); *see also* Texas Health and Safety Code Section 163.002(8).

<sup>20</sup> Utah Code Section 53A-13-101(1)(a), (c)(iii); *see also* Utah Administrative Code Rule R277-474.

They appear alongside more general restrictions on sexuality education, including provisions requiring or encouraging abstinence education. Although each of these restrictions specifically appears in portions of state law addressing instruction in sexuality education, their chilling effects often extend much further.

As Nora F., an administrator in Utah, said:

The law says you can't do four things – advocate for sex outside of marriage, contraception, homosexuality, and can't teach the mechanics of sex. It's in the realm of sexuality education, but these four things transcend health classes. This is why history teachers might hesitate to teach an LGBT rights lesson, or why elementary school teachers might hesitate to read a book with LGBTQ themes.<sup>21</sup>

As interviews with administrators, teachers, and students demonstrate, the practical effect of these outdated laws has been to discourage discussion of LGBT issues throughout the school environment, from curricular instruction to counseling to library resources to GSA programming. Many teachers avoided or silenced any discussion of LGBT issues in schools. At times, this was because they were unsure what it meant to “advocate” or “promote” homosexuality and feared they would face repercussions from parents or administrators if they were too frank or supportive of students. At other times, teachers refused to teach the antiquated, discriminatory messages that some no promo homo laws require them to convey when homosexuality is discussed, and so declined to address LGBT topics at all. Without clear instruction on what the laws permit, many teachers reported that they or their colleagues erred on the side of caution, excluding information that parents or administrators might construe as falling within their scope.

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<sup>21</sup> Human Rights Watch interview with Nora F. (pseudonym), Utah, December 2, 2015.

	<b>Anti-LGBT</b> Law restricting teachers and staff from talking about LGBT issues at school	<b>Anti-bullying</b> Law prohibiting bullying of students on the bases of sexual orientation and gender identity	<b>Employment</b> Law protecting people from workplace discrimination based on sexual orientation and gender identity
Alabama			
Alaska			
Arizona			
Arkansas			
California			
Colorado			
Connecticut			
Delaware			
Florida			
Georgia			
Hawaii			
Idaho			
Illinois			
Indiana			
Iowa			
Kansas			
Kentucky			
Louisiana			
Maine			
Maryland			
Massachusetts			
Michigan			
Minnesota			
Mississippi			
Missouri			

	<b>Anti-LGBT</b> Law restricting teachers and staff from talking about LGBT issues at school	<b>Anti-bullying</b> Law prohibiting bullying of students on the bases of sexual orientation and gender identity	<b>Employment</b> Law protecting people from workplace discrimination based on sexual orientation and gender identity
<b>Montana</b>			
<b>Nebraska</b>			
<b>Nevada</b>			
<b>New Hampshire</b>			sexual orientation only
<b>New Jersey</b>			
<b>New Mexico</b>			
<b>New York</b>			
<b>North Carolina</b>			
<b>North Dakota</b>			
<b>Ohio</b>			
<b>Oklahoma</b>			
<b>Oregon</b>			
<b>Pennsylvania</b>			
<b>Rhode Island</b>			
<b>South Carolina</b>			
<b>South Dakota</b>			
<b>Tennessee</b>			
<b>Texas</b>			
<b>Utah</b>			
<b>Vermont</b>			
<b>Virginia</b>			
<b>Washington</b>			
<b>Washington, D.C.</b>			
<b>West Virginia</b>			
<b>Wisconsin</b>			sexual orientation only
<b>Wyoming</b>			

## Impact on LGBT Students of Discrimination and Victimization

In 2013, the Gay, Lesbian and Straight Education Network (GLSEN) found that discrimination and victimization of youth based on their sexual orientation or gender identity correlated with lower levels of self-esteem, higher levels of depression, and increased absenteeism from school.<sup>22</sup>

GLSEN's findings are consistent with governmental and academic studies that consistently show that LGBT youth are at elevated risk of adverse mental health outcomes, including depression, anxiety, substance abuse, and suicidality.<sup>23</sup> According to a study by the Williams Institute, a research institute at the UCLA School of Law, a disproportionate 40 percent of youth experiencing homelessness identify as LGBT, due in large part to families rejecting their sexual orientation or gender identity.<sup>24</sup>

In 2016, the federal government's Youth Risk Behavior Survey asked for the first time nationally about student sexuality, and found the 8 percent of students who identified as lesbian, gay, or bisexual nationally experienced higher rates of depression and suicidality than their heterosexual peers.<sup>25</sup> Data showed that an alarming 42.8 percent of lesbian, gay, and bisexual youth respondents had seriously considered suicide in the previous year, and 29.4 percent had attempted suicide, compared with 14.8 percent of heterosexual youth who had seriously considered suicide in the previous year and 6.4 percent of heterosexual youth who had attempted suicide.<sup>26</sup>

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<sup>22</sup> GLSEN, *The 2013 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual and Transgender Youth in Our Nation's Schools* (2014), p. 48-49; see also GLSEN, *From Teasing to Torment: School Climate Revisited* (2016), p. 21-22; Centers for Disease Control and Prevention, US Department of Health and Human Services, "Sexual Identity, Sex of Sexual Contacts, and Health-Related Behaviors Among Students in Grades 9-12 – United States and Selected Sites, 2015," *Morbidity and Mortality Weekly Report: Surveillance Summaries*, Vol. 65, No. 9, August 12, 2016, <http://www.cdc.gov/mmwr/volumes/65/ss/pdfs/ss6509.pdf>.

<sup>23</sup> Centers for Disease Control and Prevention, "LGBT Youth," November 12, 2014, <http://www.cdc.gov/lgbthealth/youth.htm> (accessed August 15, 2016); Youth.gov, "Behavioral Health," <http://youth.gov/youth-topics/lgbtq-youth/health-depression-and-suicide> (accessed August 15, 2016).

<sup>24</sup> Williams Institute, "94% of Homeless Youth Service Providers Report Serving LGBT Youth," July 12, 2012, <http://williamsinstitute.law.ucla.edu/press/press-releases/94-of-homeless-youth-service-providers-report-serving-lgbt-youth> (accessed August 15, 2016).

<sup>25</sup> Centers for Disease Control and Prevention, US Department of Health and Human Services, "Sexual Identity, Sex of Sexual Contacts, and Health-Related Behaviors Among Students in Grades 9-12 – United States and Selected Sites, 2015," *Morbidity and Mortality Weekly Report: Surveillance Summaries*, Vol. 65, No. 9, August 12, 2016, <http://www.cdc.gov/mmwr/volumes/65/ss/pdfs/ss6509.pdf>; Jan Hoffman, "Gay and Lesbian High School Students Report 'Heartbreaking' Levels of Violence," *New York Times*, August 11, 2016, <http://nyti.ms/2aZl8j6> (accessed August 15, 2016).

<sup>26</sup> *Ibid.*

A lack of support contributed to the prevalence of negative mental health outcomes; in one study, lesbian, gay, and bisexual students in environments with fewer supports like gay-straight alliances, inclusive anti-bullying policies, and inclusive non-discrimination policies were 20 percent more likely to attempt suicide than those in more supportive environments.<sup>27</sup> Studies have suggested that “[a] higher risk for suicide ideation and attempts among LGB groups seems to start at least as early as high school.”<sup>28</sup>

For LGBT youth, isolation and exclusion can be as detrimental as bullying and can aggregate over time to create an unmistakably hostile environment. In recent years, psychologists have drawn attention to these types of incidents—or “microaggressions”—and the way they collectively function to adversely affect development and health.<sup>29</sup>

“Incidents build up and eventually you blow up. I think microaggressions are seen as not important or damaging as violence, but they are, just in different ways,” Kayla E., a 17-year-old lesbian girl in Pennsylvania, said.<sup>30</sup> As Polly R., the parent of a gender non-conforming son in Utah, described the effects of a hostile environment in schools: “It’s like walking through a hailstorm. It’s not like any one piece of hail that gets you, it’s all the hail together.”<sup>31</sup>

Amanda Keller, director of LGBTQ Programs and the Magic City Acceptance Center at Birmingham AIDS Outreach in Alabama, said students often told her they wished fellow students would “just hit them or lash out rather than just ignoring them, ignoring their identity, walking into them and pretending there’s nobody there.”<sup>32</sup> Vanessa M., a counselor in Pennsylvania, said: “That stuff, it not only builds, but it takes a toll on their psyche where they don’t like themselves.”<sup>33</sup>

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<sup>27</sup> Mark L. Hatzenbuehler, “The Social Environment and Suicide Attempts in Lesbian, Gay, and Bisexual Youth,” *Pediatrics*, vol. 127, no. 5 (2011), p. 896-903.

<sup>28</sup> Ilan H. Meyer, “Prejudice, Social Stress, and Mental Health in Lesbian, Gay, and Bisexual Populations: Conceptual Issues and Research Evidence,” *Psychological Bulletin*, vol. 129 (2003), p. 674-697.

<sup>29</sup> See Kevin L. Nadal, *That’s So Gay! Microaggressions and the Lesbian, Gay, Bisexual, and Transgender Community* (Washington, D.C.: American Psychological Association, 2013).

<sup>30</sup> Human Rights Watch interview with Kayla E. (pseudonym), Pennsylvania, April 20, 2016.

<sup>31</sup> Human Rights Watch telephone interview with Polly R. (pseudonym), Utah, December 18, 2015.

<sup>32</sup> Human Rights Watch interview with Amanda Keller, Director of LGBTQ Programs and the Magic City Acceptance Center at Birmingham AIDS Outreach, Birmingham, Alabama, February 1, 2016.

<sup>33</sup> Human Rights Watch interview with Vanessa M. (pseudonym), Pennsylvania, May 3, 2016.

The discrimination and victimization that LGBT youth face in schools is often exacerbated when they have intersectional identities based on race, ethnicity, sex, disability, and other characteristics. LGBT youth of color, for example, often report bullying based on race and ethnicity, closer surveillance by school personnel, and harsher disciplinary measures.<sup>34</sup>

When students experience stigmatization, hostility, and rejection over years of schooling, the cumulative effect can be devastating and long-lasting. Psychological research has suggested that “circumstances in the environment, especially related to stigma and prejudice, may bring about stressors that LGBT people experience their entire lives.”<sup>35</sup>

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<sup>34</sup> Advocates for Youth, “The Impact of Homophobia and Racism on GLBTQ Youth of Color,” 2007, [http://www.advocatesforyouth.org/storage/advfy/documents/fsglbtq\\_yoc.pdf](http://www.advocatesforyouth.org/storage/advfy/documents/fsglbtq_yoc.pdf); Hilary Burdge et al., *LGBTQ Youth of Color: Discipline Disparities, School Push-Out, and the School-to-Prison Pipeline*, GSA Network and Crossroads Collaborative (2014), [https://gsanetwork.org/files/aboutus/LGBTQ\\_brief\\_FINAL-web.pdf](https://gsanetwork.org/files/aboutus/LGBTQ_brief_FINAL-web.pdf).

<sup>35</sup> Ilan H. Meyer, “Resilience in the Study of Minority Stress and Health of Sexual and Gender Minorities,” *Psychology of Sexual Orientation and Gender Diversity*, vol. 2, no. 3 (2015), p. 209.

## II. Bullying and Harassment

Pervasive bullying and harassment of LGBT youth has long been a problem in US schools. In 2001, Human Rights Watch researchers documented widespread physical abuse and sexual harassment of LGBT youth, and noted that “[n]early every one of the 140 youth we interviewed described incidents of verbal or other nonphysical harassment in school because of their own or other students’ perceived sexual orientation.”<sup>36</sup>

Fifteen years later, bullying, harassment, and exclusion remain serious problems for LGBT youth across the US, even as their peers generally become more supportive as a group. The Human Rights Campaign has found that although 75 percent of LGBT youth say most of their peers do not have a problem with their LGBT identity, LGBT youth are still more than twice as likely as non-LGBT youth to be physically attacked at school, twice as likely to be verbally harassed at school, and twice as likely to be excluded by their peers.<sup>37</sup>

In 2016, the Youth Risk Behavior Survey found that 34.2 percent of lesbian, gay, and bisexual respondents in the US had been bullied on school property, and that lesbian, gay, and bisexual respondents were twice as likely as heterosexual youth to be threatened or injured with a weapon on school property.<sup>38</sup>

The impacts of bullying on youth can be severe, and legislatures across the US have recognized that bullying is a serious and widespread problem that merits intervention. In

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<sup>36</sup> Human Rights Watch, *Hatred in the Hallways: Violence and Discrimination against Lesbian, Gay, Bisexual, and Transgender Students in US Schools*, 2001, <https://www.hrw.org/reports/2001/uslgbt/toc.htm>, p. 28.

<sup>37</sup> Human Rights Campaign, *Growing Up LGBT in America: HRC Youth Survey Report Key Findings* (2012), p. 16.

<sup>38</sup> Centers for Disease Control and Prevention, US Department of Health and Human Services, “Sexual Identity, Sex of Sexual Contacts, and Health-Related Behaviors Among Students in Grades 9-12 – United States and Selected Sites, 2015,” *Morbidity and Mortality Weekly Report: Surveillance Summaries*, Vol. 65, No. 9, August 12, 2016, <http://www.cdc.gov/mmwr/volumes/65/ss/pdfs/ss6509.pdf>. According to the CDC, “[t]he YRBS defines bullying as repeated aggression (teasing, threatening, spreading rumors, hitting, shoving, or hurting) among youth where the targeted youth has less strength or power than the perpetrator.” Centers for Disease Control and Prevention, US Department of Health and Human Services, “Bullying Surveillance Among Youths: Uniform Definitions for Public Health and Recommended Data Elements,” 2014, <http://www.cdc.gov/violenceprevention/pdf/bullying-definitions-final-a.pdf>, p. 5, n4.

1999, Georgia passed the first school bullying law in the US.<sup>39</sup> The rest of the US states followed suit, with the final state—Montana—passing its school bullying law in 2015.<sup>40</sup>

Although provisions of these laws vary by state, they typically define prohibited conduct; enumerate characteristics that are frequently targeted for bullying; direct local schools to develop policies for reporting, documenting, investigating, and responding to bullying; and provide for staff training, data collection and monitoring, and periodic review.<sup>41</sup>

At time of writing, 19 states and the District of Columbia had enacted laws prohibiting bullying on the basis of sexual orientation and gender identity statewide.<sup>42</sup> Research indicates that laws and policies that enumerate sexual orientation and gender identity as protected grounds are more effective than those that merely provide a general admonition against bullying.<sup>43</sup> Without express protections for sexual orientation and gender identity that are clearly conveyed to students and staff, bullying and harassment against LGBT students frequently goes unchecked.

Still, 31 states—including the five studied for this report—lack any specific, enumerated laws protecting against bullying on the basis of sexual orientation or gender identity. In Alabama, Pennsylvania, Texas, and Utah, some school districts and schools had taken the initiative to enact inclusive, enumerated bullying policies; in South Dakota, however, state law expressly prohibits school districts and schools from enumerating protected classes of students.<sup>44</sup>

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<sup>39</sup> Victoria Stuart-Cassel, Ariana Bell, and J. Fred Springer, *Analysis of State Bullying Laws and Policies*, US Department of Education, 2011, <http://www2.ed.gov/rschstat/eval/bullying/state-bullying-laws/state-bullying-laws.pdf>.

<sup>40</sup> Lisa Baumann, “Gov. Bullock Signs Montana Anti-Bullying Bill into Law,” *Great Falls Tribune*, April 21, 2015, <http://www.greatfallstribune.com/story/news/local/2015/04/21/gov-bullock-signs-montana-anti-bullying-bill-law/26145567> (accessed August 15, 2016).

<sup>41</sup> StopBullying.gov, “Key Components in State Anti-Bullying Laws,” March 31, 2014, <https://www.stopbullying.gov/laws/key-components/index.html>.

<sup>42</sup> Movement Advancement Project (MAP), “Safe Schools Laws: Anti-Bullying,” [http://www.lgbtmap.org/equality-maps/safe\\_school\\_laws](http://www.lgbtmap.org/equality-maps/safe_school_laws) (accessed August 15, 2016).

<sup>43</sup> Mark L. Hatzenbuehler and Katherine M. Keyes, “Inclusive Anti-Bullying Policies and Reduced Risk of Suicide Attempts in Lesbian and Gay Youth,” *Journal of Adolescent Health*, vol. 53 (2013): S21-S26; Melissa Wright, “Spelling Out LGBT: Enumerating Sexual Orientation in Virginia’s Bullying Law,” *University of Richmond Law Review*, vol. 47 (2013): 1373-1401; GLSEN, *The 2013 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual and Transgender Youth in Our Nation’s Schools* (2014).

<sup>44</sup> South Dakota was among the last states to pass an anti-bullying law, and did so in 2012. South Dakota Codified Laws Section 13-32-14 provides that “no school district policy prohibiting bullying ... may contain any protected classes of students.” The only other US state with a law prohibiting enumeration in bullying laws is Missouri, which was not included in

Schools that have enacted protections do not always clearly convey them to students, faculty, and staff. In interviews, many students and teachers expressed uncertainty or offered contradictory information as to whether their school prohibited bullying on the basis of sexual orientation and gender identity, even in schools where enumerated protections were already in place.

Many students reported that school personnel did not raise the issue of bullying on the basis of sexual orientation or gender identity at assemblies and educational programming on bullying held at their school.

For policies to be effective, students, faculty, and staff also need to know how targets of bullying can report incidents, how those incidents will be handled, and the consequences for bullying. Few of the 41 school policies reviewed by Human Rights Watch for this report contain clear guidelines detailing the protocol for reporting and dealing with bullying, making it unclear to students whether or how any reported incidents might be dealt with in practice.

Interviewees identified multiple types of bullying and harassment that they encountered in schools, each of which has consequences for LGBT students' safety, sense of belonging, and ability to learn.

## Physical Bullying

Most students interviewed indicated that physical violence was rare in their school. Students attributed this in part to a decrease in anti-LGBT attitudes among peers, both as a generational shift and among their cohort as they aged through high school. Some students also attributed this partly to zero tolerance policies and the perception that, though other forms of harassment may go unpunished, physical assault could result in serious consequences for perpetrators.<sup>45</sup>

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the research for this report. Missouri Revised Statutes Section 160.775(3) states that “[p]olicies shall treat students equally and shall not contain specific lists of protected classes of students who are to receive special treatment.” Arkansas, North Carolina, and Tennessee have enacted laws that more generally provide that local non-discrimination protections cannot be broader than those outlined in the state’s non-discrimination protections.

<sup>45</sup> The frequency of violence, like other forms of adverse treatment, is shaped in part by the research methodology for the report. Interviewees were in part contacted through youth groups, GSAs, and service providers, which meant they were in

Yet some students did face persistent physical violence at school and many said their schools took no effective steps to stop it. Sandra C., the mother of a 16-year-old gay boy in Utah, described a pattern of harassment that culminated in her withdrawing her son from the school:

My son was dragged down the lockers, called ‘gay’ and ‘fag’ and ‘queer,’ shoved into a locker, and picked up by his neck. And that was going on since sixth grade. They tried shoving him into a girl’s bathroom and said that he’s worthless and should be a girl.<sup>46</sup>

Some students who experienced physical violence hesitated to tell adults for fear that reporting would be ineffectual or make the situation worse. Willow K., a 14-year-old transgender girl in Texas, recalled being abused by members of the football team in seventh grade:

I came out that year, as gay, before I knew I was transgender, and I went into the locker room and everybody beat me up. I didn’t feel safe telling people because I thought they’d beat me up more.<sup>47</sup>

She added: “When I did tell somebody a kid was threatening to fight me, they did jack shit to stop it.”<sup>48</sup>

In one incident in Montgomery, Alabama in 2014, a gay high school student was surrounded and assaulted by a group of male students who punched and kicked him repeatedly, breaking his arm and leg. As Paul Hard, a counselor in Alabama, recalled:

The counselor and others came in to address the matter with the principal, and his response was to the effect of, ‘If you’d butch it up, this kind of thing wouldn’t happen to you.’<sup>49</sup>

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some way connected to supportive adults or peers. Interviewees were also primarily based in urban or suburban areas where resources may be more accessible, although rural youth were interviewed as well.

<sup>46</sup> Human Rights Watch interview with Sandra C. (pseudonym), Utah, November 29, 2015.

<sup>47</sup> Human Rights Watch interview with Willow K. (pseudonym), Texas, November 10, 2015.

<sup>48</sup> Human Rights Watch interview with Willow K. (pseudonym), Texas, November 10, 2015.

Kevin I., a 17-year-old transgender boy in Utah, said:

I've been shoved into lockers, and sometimes people will just push up on me to check if I have boobs.... And I have reported... that I've been physically hurt because I'm trans, and I remember one of the administrators said, 'It's just because you're so open about it.' I've reported slurs and they say they're going to go talk to them, but they never do.<sup>50</sup>

When administrators react indifferently to bullying and harassment, it can deter students from coming forward. Alexander S., a 16-year-old transgender boy in Texas, said:

I've been bullied my whole life, since kindergarten. I didn't want to play dolls, and play with the girls in the classroom. I was more comfortable with the guys.... When I was eight, I started getting beaten up. When I realized what was going on, I told my teacher about the verbal bullying, she didn't believe me, she called me a liar, because one of the bullies was her son. And I figured bullying wasn't a big deal. I was already starting to be depressed at six or seven and started having suicidal thoughts. By nine, I realized the school wasn't going to do anything.... I just kept it all bottled in.<sup>51</sup>

Alexander's parents finally learned of the bullying after he attempted suicide. He has continued to struggle with depression and suicidal thoughts, and has been repeatedly admitted to inpatient care for treatment.

## Verbal Harassment and Hostile Environments

Almost all of the students interviewed for the report reported encountering verbal harassment in their school environment, even in the most LGBT-friendly schools. In some schools, derogatory phrases like “that's so gay” and slurs like “dyke” or “faggot” were

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<sup>49</sup> Human Rights Watch telephone interview with Paul Hard, Professor at Auburn University Montgomery, Alabama, January 30, 2016.

<sup>50</sup> Human Rights Watch telephone interview with Kevin I. (pseudonym), Utah, January 9, 2016.

<sup>51</sup> Human Rights Watch interview with Alexander S. (pseudonym), Texas, November 8, 2015.

used by students to belittle or taunt peers, whether or not the targets identified as LGBT. Students stressed that even these generalized slurs contributed to a sense of hostility and danger in the school environment.

In each of the five states where interviews were conducted, researchers encountered schools where slurs were ubiquitous. Katrina I., a 17-year-old gay girl in Alabama, noted: “All the time, I hear slurs. I hear ‘queer’ thrown around a lot, the F word [faggot] thrown around a lot.”<sup>52</sup> Joel W., a genderfluid 17-year-old in Pennsylvania, said: “I hear slurs almost every single class.”<sup>53</sup> Ryan K., an 18-year-old student in South Dakota, concurred: “I hear it like every class period.”<sup>54</sup> In addition to “that’s so gay,” “faggot,” and “dyke,” transgender students reported encountering anti-transgender slurs like “tranny” or being referred to with dismissive, dehumanizing terms like “it” or “fe-man.”

Students also encountered anti-LGBT graffiti and slurs written on the school building, tests and papers, and personal property, and noted that their schools failed to investigate or rectify the vandalism. Kayla E., a 17-year-old lesbian student in Pennsylvania, said:

I’ve had to scrape ‘tranny’ and ‘faggot’ off the bathroom stall walls. I went to our center and told the secretary and she was like, ‘Oh, okay,’ but that was it.<sup>55</sup>

Molly A., a 17-year-old LGBT-identified student in South Dakota, described pervasive anti-LGBT graffiti: “All the bathroom doors in middle school have the F and G [gay] and Q [queer] words written all over them.”<sup>56</sup>

Lee W., a 15-year-old bisexual genderqueer student in Pennsylvania, said: “I’ve been called slurs in the hallway and I know teachers hear but they don’t say anything. I’ve been called a dyke and faggot.”<sup>57</sup> Ursula P., a 16-year-old transgender girl in Alabama, said:

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<sup>52</sup> Human Rights Watch interview with Katrina I. (pseudonym), Alabama, January 27, 2016.

<sup>53</sup> Human Rights Watch interview with Joel W. (pseudonym), Pennsylvania, May 4, 2016.

<sup>54</sup> Human Rights Watch interview with Ryan K. (pseudonym), South Dakota, February 9, 2016.

<sup>55</sup> Human Rights Watch interview with Kayla E. (pseudonym), Pennsylvania, April 20, 2016.

<sup>56</sup> Human Rights Watch interview with Molly A. (pseudonym), South Dakota, February 9, 2016.

<sup>57</sup> Human Rights Watch interview with Lee W. (pseudonym), Pennsylvania, April 20, 2016.

Every other day people will yell and say negative things to me, like ‘You’re a guy,’ and it just really upsets me. I tell the teachers or counselors and they talk to the kid, but the same thing happens and it doesn’t help at all.<sup>58</sup>

Experiencing targeted verbal harassment had negative effects on student mental health. In addition to isolation, anxiety, and depression, harassment can exacerbate gender dysphoria, a condition where there is “a marked difference between the individual’s expressed/experienced gender and the gender others would assign him or her” that “causes clinically significant distress or impairment in social, occupational, or other important areas of functioning.”<sup>59</sup>

Zack T., a 16-year-old transgender boy in Texas, said that “I mostly got verbal abuse, which was pretty degrading, and my dysphoria would go through the roof.”<sup>60</sup> Some students developed defenses to wall themselves off from abuse. Jayden N. a 16-year-old gay boy in Texas, said:

I’ve had someone yell ‘faggot’ at me, ‘queer boy,’ you hear people say ‘that’s so gay’ all the time.... In the beginning it was hard, but you get kind of used to it after a while.<sup>61</sup>

Students noted that some of the verbal harassment they encountered occurred in spaces that were unmonitored by teachers, administrators, and other staff, such as hallways, cafeterias, buses, and locker rooms. Yet even in classrooms and in communal spaces where school personnel were present, many students said teachers did little to intervene to stop slurs and verbal harassment.

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<sup>58</sup> Human Rights Watch interview with Ursula P. (pseudonym), Alabama, January 28, 2016.

<sup>59</sup> American Psychiatric Association, “Gender Dysphoria,” 2013, <http://www.dsm5.org/documents/gender%20dysphoria%20fact%20sheet.pdf>.

<sup>60</sup> Human Rights Watch interview with Zack T. (pseudonym), Texas, November 8, 2015.

<sup>61</sup> Human Rights Watch interview with Jayden N. (pseudonym), Texas, November 7, 2015.

Colin N., an 18-year-old transgender boy in Pennsylvania who heard slurs daily, said:

I think it's a mix of, it's not in the teacher's earshot, or teachers don't want to deal with it, or it's around teachers who feel the same way. I've never been around where a kid has gotten called out for saying something like that.<sup>62</sup>

Charlie O., a genderfluid 17-year-old in Texas, described a similar incident:

In sophomore history class, we had to stand up and say our name and one thing we're part of, and I said 'Charlie, and GSA,' and a girl said 'what's GSA?,' and a boy in the corner said, 'That's the faggot club.' The teacher just kind of looked at him. The teachers turn a blind eye.<sup>63</sup>

Noah P., a 14-year-old transgender boy in Texas, said: "A guy asked my teacher, 'Right, gay people are going to hell, right?' And she didn't say a thing. They don't do shit."<sup>64</sup>

Students said that when teachers did intervene, intervention was at times sporadic or inadequate. Daisy J., an 18-year-old student in Alabama, said, "A kid will say [a slur] like seven times, and if she talks to them, it's after everyone leaves."<sup>65</sup>

Arthur C., a 34-year-old transgender teacher in Texas, recalled hearing slurs 10-20 times a day at the middle school where he taught. "If I sent them to the female AP's (assistant principal's) office, they'd be back in my classroom within five minutes. 'Don't write them up for this, it's not worth my time.'"<sup>66</sup> At the high school where he taught later, Arthur said, "I'd hear stuff in other teachers' classrooms ... but they just wouldn't even acknowledge it."<sup>67</sup>

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<sup>62</sup> Human Rights Watch interview with Colin N. (pseudonym), Pennsylvania, May 5, 2016.

<sup>63</sup> Human Rights Watch interview with Charlie O. (pseudonym), Texas, November 7, 2015. In this and other quotes where students used their name or name assigned at birth, the identifying information has been replaced with a pseudonym.

<sup>64</sup> Human Rights Watch interview with Noah P. (pseudonym), Texas, November 10, 2015.

<sup>65</sup> Human Rights Watch interview with Daisy J. (pseudonym), Alabama, January 26, 2016.

<sup>66</sup> Human Rights Watch interview with Arthur C. (pseudonym), Texas, November 9, 2015.

<sup>67</sup> Human Rights Watch interview with Arthur C. (pseudonym), Texas, November 9, 2015.

Other teachers also acknowledged that slurs were prevalent and used within earshot of school personnel. Monica D., a 37-year-old teacher in Utah, said: “I absolutely hear slurs. Frequently, kids still say, ‘That’s so gay,’ or I hear them say, ‘You’re a fag,’ or whatever.”<sup>68</sup> Lillian D., a teacher and GSA advisor in Pennsylvania, suggested that non-intervention was a deliberate, if flawed, strategy for educators:

A lot of teachers ignore it hoping it’ll go away, but when they don’t speak up, students assume it’s okay with that teacher.... But this is an area where that strategy doesn’t work.<sup>69</sup>

Interviewees indicated that teachers lacked training or support to know when and how to intervene when slurs were used. As Isabel M., a GSA advisor in South Dakota, said, “They’re just letting these things go over their heads. They don’t know how to deal with it, and they don’t recognize it.”<sup>70</sup>

In some instances, teachers and administrators’ willingness to effectively respond to slurs was compromised by laws or policies restricting the discussion of LGBT issues in schools. Alice L., a 53-year-old mother of a transgender student in Utah, said: “I’ve talked to teachers who are like, ‘I’d like to stop it, but I don’t know what to say, and particularly in light of Utah’s laws where I can’t promote homosexuality.’”<sup>71</sup>

In some instances, teachers responded to slurs in ways that affirmatively encouraged verbal harassment. Eric N., a 22-year-old transgender man in Pennsylvania, recalled: “In chemistry, students called me ‘faggot,’ and the teacher just laughed along.... it just sets the tone for the whole rest of the day.”<sup>72</sup> Rebecca P., a 19-year-old pansexual woman in Utah, said:

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<sup>68</sup> Human Rights Watch interview with Monica D. (pseudonym), Utah, December 1, 2015.

<sup>69</sup> Human Rights Watch interview with Lillian D. (pseudonym), Pennsylvania, April 15, 2016.

<sup>70</sup> Human Rights Watch interview with Isabel M. (pseudonym), South Dakota, February 12, 2016.

<sup>71</sup> Human Rights Watch interview with Alice L. (pseudonym), Utah, December 8, 2015.

<sup>72</sup> Human Rights Watch interview with Eric N. (pseudonym), Pennsylvania, May 3, 2016.

They saw it as a joke, like, ha ha ha, you're so gay, and the teachers would laugh along with it instead of stepping in. A few teachers here and there might have stepped in, but most were weirdly okay with it.<sup>73</sup>

Lynette G., the mother of a young girl with a gay father in South Dakota, said the role of teachers in teasing was problematic as early as elementary school:

My daughter was eight, and she ran home because they were teasing her. Like, 'Oh, your dad is a cocksucker, a faggot, he sucks dick.' Just mean, nasty stuff.... [T]he teachers laughed, along with the kids teasing. She saw a teacher laughing and that traumatized her even worse.<sup>74</sup>

In addition to tacit encouragement, some teachers themselves made dismissive or derogatory comments about LGBT people, sometimes passing off such remarks as jokes and on other occasions appearing to intend disparagement. Bianca L., a 16-year-old bisexual girl in Alabama, said:

My biology teacher my freshman year would bring in kids who were wearing short shorts or weird sweaters and say, 'You'd better take that off, you're going to look gay.' But she'd say it in front of the whole class.<sup>75</sup>

Michelle A., a genderfluid 18-year-old student in South Dakota, said: "I built something in a day ... and I said it wasn't really good, and he [the teacher] said, 'Well, that's lesbian construction.'"<sup>76</sup>

Tristan O., a 21-year-old transgender man in Pennsylvania, recalled that when he was in school, many of his teachers made gay jokes with students, and "when teachers or authority figures make comments, you're stuck with those people in school. And that chips away at you."<sup>77</sup> Kelly A., a 19-year-old gay cisgender woman in Utah, remembered:

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<sup>73</sup> Human Rights Watch interview with Rebecca P. (pseudonym), Utah, December 2, 2015.

<sup>74</sup> Human Rights Watch interview with Lynette G. (pseudonym), South Dakota, May 23, 2016.

<sup>75</sup> Human Rights Watch interview with Bianca L. (pseudonym), Alabama, January 28, 2016.

<sup>76</sup> Human Rights Watch interview with Michelle A. (pseudonym), South Dakota, February 11, 2016.

<sup>77</sup> Human Rights Watch interview with Tristan O. (pseudonym), Pennsylvania, April 19, 2016.

“Teachers said ‘that’s so gay’ – my gym teacher, a math teacher, and a science teacher.”<sup>78</sup> Students also identified coaches and JROTC [Junior Reserve Officers Training Corps] personnel who called students “gay,” “fags,” or feminizing or sexist terms. Eliza H., an 18-year-old bisexual girl in Alabama, recalled: “[M]y girlfriend walked me to class and she came in and held my hand, and [the teacher] told me we’re going to hell because we’re together.”<sup>79</sup> Cheyenne F., a 17-year-old transgender student in Alabama, recalled being told in class by a health teacher “that America’s acceptance of gays and abortion was the cause of the fall of the Twin Towers,” a reference to the attacks of September 11, 2001.<sup>80</sup>

Condemnation of students on religious grounds was particularly evident in interviews in Utah. Approximately 60 percent of Utah’s population belongs to the Church of Jesus Christ of Latter Day Saints, more commonly known as the Mormon Church. Across the state, public schools give students release time in which the school disclaims responsibility for the student and allows them to leave the campus. During this period, students may attend seminary classes in church buildings adjacent to public schools for religious instruction. Students described strong pressure to attend seminary.

The de facto arrangement between public schools and the church can expose students to overtly anti-LGBT messages. Acanthus R., a 17-year-old non-binary transgender student in Utah, described seminary classes at their school as “a boiling pot of hate.”<sup>81</sup> Frankie S., a 17-year-old pansexual student in Utah, said: “They’ll tell you God made male and female and we don’t violate that.”<sup>82</sup>

When students presented a different point of view, they said they were rebuked. Brenda C., a 17-year-old pansexual student in Utah, described a friend being “called a heathen by a seminary teacher.”<sup>83</sup> Lacey T., a 15-year-old bisexual student in Utah, said her brother was kicked out of seminary for disagreeing with students expressing anti-LGBT positions.<sup>84</sup>

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<sup>78</sup> Human Rights Watch interview with Kelly A. (pseudonym), Utah, November 23, 2015.

<sup>79</sup> Human Rights Watch interview with Eliza H. (pseudonym), Alabama, January 21, 2016.

<sup>80</sup> Human Rights Watch interview with Cheyenne F. (pseudonym), Alabama, January 27, 2016.

<sup>81</sup> Human Rights Watch interview with Acanthus R. (pseudonym), Utah, December 7, 2015.

<sup>82</sup> Human Rights Watch interview with Frankie S. (pseudonym), Utah, December 7, 2015.

<sup>83</sup> Human Rights Watch interview with Brenda C. (pseudonym), Utah, December 8, 2015.

<sup>84</sup> Human Rights Watch interview with Lacey T. (pseudonym), Utah, December 8, 2015.

In interviews, teachers themselves recalled colleagues making derogatory comments to students. Arthur C., a 34-year-old teacher in Texas, said: “If a teacher ever told a kid they were damned for the color of their skin, they’d be fired instantly. But there’s no consequence when they say it to LGBT kids.”<sup>85</sup>

## Cyber Bullying

LGBT students described a double-edged relationship with technology and social media, which allowed them to find communities online to explore their sexual orientation and gender identity, but also exposed them to bullying and harassment.

Students acknowledged that cyberbullying is a problem for middle and high schoolers generally, but said LGBT students could be particularly vulnerable to harassment. Miley D., a 17-year-old bisexual girl in Alabama, suggested: “Online, if you’re open about anything about yourself, you’re prone to be bullied. And if you’re LGBT, it’s 10 times worse.”<sup>86</sup>

In some instances, students took advantage of anonymous apps to target and harass LGBT peers. Eliza H., an 18-year-old bisexual woman in Alabama, recalled: “I was cyberbullied by a few of the guys on the football team because they found out I liked girls ... they kept making fake accounts and saying things over and over.”<sup>87</sup>

In other instances, students circulated unflattering photos or videos to misgender, mock, and embarrass LGBT peers online. Willow K., a 14-year-old transgender girl in Texas, described how other students constructed a website using “my real name ... called ‘Kyle Sucks’ with a bunch of pictures about me, calling me an ugly fatass. And there’s a guy who always takes Snapchats of me and calls me a ‘he/she’ and shares them.”<sup>88</sup>

The public exposure and ridicule that students face as a result of cyberbullying can have negative repercussions for their mental health and academic achievement. Carson E., a 28-year-old teacher in Utah, described an incident where students filmed one of his gay

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<sup>85</sup> Human Rights Watch interview with Arthur C. (pseudonym), Texas, November 9, 2015.

<sup>86</sup> Human Rights Watch interview with Miley D. (pseudonym), Alabama, January 27, 2016.

<sup>87</sup> Human Rights Watch interview with Eliza H. (pseudonym), Alabama, January 21, 2016.

<sup>88</sup> Human Rights Watch interview with Willow K. (pseudonym), Texas, November 10, 2015.

students rehearsing a role for the school musical and put it on Facebook, where it rapidly spread with mocking comments. “He stopped going to school for a while,” Carson said. “And his grades are just awful, and last year they were straight As.”<sup>89</sup>

Yet when cyberbullying occurred, many students indicated that their schools were reluctant or ill-equipped to respond. Natalie D., a 17-year-old agender student in Utah, noted: “We’re told with cyberbullying that there is no proof so there’s nothing they can do about it.”<sup>90</sup> Students reported that they had brought threats of physical violence, including death threats, to the attention of their schools, and nothing was done.

Alexander S., a 16-year-old transgender boy in Texas, said:

I started getting a lot of anonymous people telling me to kill myself, that it wasn’t worth living. I called the school and told them what was going on and they didn’t do anything. The crisis counselor ... said we couldn’t do anything because we didn’t know who the kids were.<sup>91</sup>

## Sexual Harassment

Unlike gay and bisexual boys, who were rarely treated as sex objects by their peers, lesbian and bisexual girls said they were regularly propositioned for sex by straight male classmates.

Bianca L., a 16-year-old girl in Alabama, explained: “I’m bisexual, and every time I come out to a guy, it’s always, ‘Can I see you make out with a girl, or want a threesome?’”<sup>92</sup>

Catherine G., a 17-year-old asexual girl in Alabama, said: “I started identifying as asexual last year, and all of a sudden everybody wants to be in my pants. I’m a challenge now.”<sup>93</sup>

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<sup>89</sup> Human Rights Watch interview with Carson E. (pseudonym), Utah, December 1, 2015.

<sup>90</sup> Human Rights Watch interview with Natalie D. (pseudonym), Utah, December 7, 2015.

<sup>91</sup> Human Rights Watch interview with Alexander S. (pseudonym), Texas, November 8, 2015.

<sup>92</sup> Human Rights Watch interview with Bianca L. (pseudonym), Alabama, January 28, 2016.

<sup>93</sup> Human Rights Watch interview with Catherine G. (pseudonym), Alabama, January 27, 2016.

Other students described invasive questions about sexual practices and genitalia, which were most often reported by transgender and gender non-conforming youth. Kayla E., a 17-year-old lesbian girl in Pennsylvania, said:

People will ask really intrusive questions about your sex life when they find out you're a non-straight woman. They ask questions you wouldn't ask anyone else. I feel like queer women are oversexualized and that's mistaken as acceptance.<sup>94</sup>

Dominic J., a 13-year-old transgender boy in Pennsylvania said: "I get a lot of questions, like really inappropriate questions, like about my down there and my up here."<sup>95</sup>

In addition to sexual harassment, lesbian and bisexual girls and transgender and gender non-conforming students were subject to overt threats of sexual assault. Tracy M., an 18-year-old in Texas, said:

I've experienced a lot of verbal sexual harassment. I didn't really accept the label lesbian, and I had one guy tell me he was going to rape me and change me.<sup>96</sup>

Julian L., a 15-year-old transgender boy in South Dakota, described being threatened during his freshman year by a senior:

At one point he was like 'What do you have between your legs,' and I said, 'Why do you need to know that,' and he was like, 'I need to know if I can rape you.'<sup>97</sup>

Some lesbian and bisexual girls and transgender and gender non-conforming students were physically groped and touched by young men who learned they were LGBT. As early

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<sup>94</sup> Human Rights Watch interview with Kayla E. (pseudonym), Pennsylvania, April 20, 2016.

<sup>95</sup> Human Rights Watch interview with Dominic J. (pseudonym), Pennsylvania, April 15, 2016.

<sup>96</sup> Human Rights Watch interview with Tracy M. (pseudonym), Texas, November 10, 2015.

<sup>97</sup> Human Rights Watch interview with Julian L. (pseudonym), South Dakota, February 14, 2016.

as middle school, lesbian and bisexual girls and transgender and gender non-conforming students described being targets for unwanted touching and sexual assault. Alexis J., a genderfluid 19-year-old in Texas, recalled “straight up sexual assault” by “people who would just grab my butt or my boobs or my crotch,” to see if they were “real.”<sup>98</sup>

Students said some teachers failed to take sexual harassment seriously.<sup>99</sup> Daniel N., a 17-year-old student in Texas, said: “You know teachers hear sexual harassment, and they take it as, oh, they’re just joking around, and kids will be kids.”<sup>100</sup> Lacey T., a 15-year-old bisexual girl in Utah, recalled that when she was a freshman:

One guy would always ask my pansexual friend and I if we wanted to have a threesome. It got to the point where I had to tell the teacher about it, and she said, ‘Oh, he’s just messing around.’<sup>101</sup>

## Exclusion and Isolation

Even in the absence of overt bullying and harassment, LGBT students in each state where interviews were conducted suggested they felt alone or unwelcome in their school environment. Schools are difficult environments for many youth, but for LGBT youth, isolation and exclusion are exacerbated by a lack of role models, resources, and support that other students enjoy. Lucia Hermo of the American Civil Liberties Union (ACLU) of Alabama noted the prevalence of these complaints even in districts where physical bullying was uncommon: “What we’re hearing is isolation, I can’t find anyone... and feel there’s something wrong with me.”<sup>102</sup>

A lack of friends and feelings of loneliness were common for LGBT youth. Jonah O., a 16-year-old gay boy in Alabama, said:

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<sup>98</sup> Human Rights Watch interview with Alexis J. (pseudonym), Texas, November 10, 2015.

<sup>99</sup> For an ethnographic analysis of sexualized harassment in school environments, see C.J. Pascoe, *Dude, You’re a Fag: Masculinity and Sexuality in High School* (Berkeley, CA: University of California Press, 2007).

<sup>100</sup> Human Rights Watch interview with Daniel N. (pseudonym), Texas, November 10, 2015.

<sup>101</sup> Human Rights Watch interview with Lacey T. (pseudonym), Utah, December 8, 2015.

<sup>102</sup> Human Rights Watch interview with Lucia Hermo, Outreach Paralegal, ACLU of Alabama, Montgomery, Alabama, January 26, 2016.

There aren't... many out kids, so that kind of gives a sense of loneliness. There was a rumor that spread that I had a huge crush on this guy in my grade, and all my relationships with other guys in the grade kind of halted at that point.<sup>103</sup>

Isolation can begin as early as elementary school; Raven C., a 10-year-old gay student in Texas, said he was shunned by peers after he came out: "People are friends with each other, but they treat me like I'm a shadow."<sup>104</sup>

Isolation and exclusion were particularly difficult for many LGBT students because it was not something they felt they could report. Students isolated and excluded LGBT peers in ways that were apparent to those students but not so obviously egregious that teachers or administrators would take any one incident seriously. Tristan O., a 21-year-old transgender man in Pennsylvania, said: "It's nothing you can hit with a hammer. You know what they're doing, and it hurts you, but they know it's just small enough that it'll slide."<sup>105</sup>

A common example was belittling comments or exclusion from group activities. As Ginger M., a 17-year-old bisexual girl in Utah, asked: "[H]ow do you go to the administration with that? Someone laughed because I'm gay?"<sup>106</sup> According to Dave W., a 44-year-old teacher and GSA advisor in Pennsylvania, such slights "make a difference after a while... People don't look you in the eye, teachers don't call on you in class, they have lower expectations of you."<sup>107</sup>

School policies and programs can contribute to the isolation and exclusion of LGBT youth, including holding school dances where same-sex dates are discouraged, and school spirit days like "gender switch day." Ursula P., a 16-year-old transgender girl in Alabama, described how the school yearbook photographer "told me that if I appeared in the yearbook, they'd use my legal name. I asked him to use my real name and he said he

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<sup>103</sup> Human Rights Watch interview with Jonah O. (pseudonym), Alabama, January 22, 2016.

<sup>104</sup> Human Rights Watch interview with Raven C. (pseudonym), Texas, November 5, 2015.

<sup>105</sup> Human Rights Watch interview with Tristan O. (pseudonym), Pennsylvania, April 19, 2016.

<sup>106</sup> Human Rights Watch interview with Ginger M. (pseudonym), Utah, December 7, 2015.

<sup>107</sup> Human Rights Watch interview with Dave W. (pseudonym), Pennsylvania, May 4, 2016.

wouldn't, so I told him not to include me in it.”<sup>108</sup> When teachers and administrators signal to students that they are not full members of the school environment, it can exacerbate the isolation and exclusion they already face from peers.

LGBT students responded to isolation and exclusion in different ways. Some recounted how they carefully policed their behavior, dress, and friendships to fit in and avoid harassment. Max R., a 13-year-old student in Pennsylvania, commented:

You almost have to be really cautious with what you do. You can't be yourself. Even from allegedly straight students, any sort of weird thing they'll do with each other, it's like, 'Whoa, that's gay, man.'<sup>109</sup>

Others responded by distancing themselves even further from their peers. Caleb C., a gay non-binary 20-year-old in Utah, recalled:

A lot of what I did to be safe was to be even more outrageous. If I'm so queer that nobody will talk to me, they won't hurt me. I did things to make myself much more gay: play up my gay lisp, feminize my voice, feminize my speech, I had hella long pink hair. That was my thinking, become such an outsider they won't even approach me.<sup>110</sup>

### *Exclusion and Isolation by LGBT Peers*

Even spaces created for LGBT youth at times failed to serve all youth equally. Some interviewees noted that the GSAs at their schools were inclusive only of students who identified as gay or straight, and had little to offer to students with other identities. Cassidy R., a pansexual agender 18-year-old in Utah, did not pay attention to their school's GSA “because I felt like I wasn't included in the conversation, and it really didn't pertain to me.”<sup>111</sup>

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<sup>108</sup> Human Rights Watch interview with Ursula P. (pseudonym), Alabama, January 28, 2016.

<sup>109</sup> Human Rights Watch interview with Max. R. (pseudonym), Pennsylvania, April 22, 2016.

<sup>110</sup> Human Rights Watch interview with Caleb C. (pseudonym), Utah, November 24, 2015.

<sup>111</sup> Human Rights Watch interview with Cassidy R. (pseudonym), Utah, December 2, 2015.

Other LGBT students described outright discrimination or hostility from LGBT peers. Christopher I., a gay transgender 18-year-old in Texas, explained: “The worst I got was from gay guys. Whenever I’d meet guys who were really proud to be gay, they’d be like, ‘Oh, I hate vaginas.’ And being a gay trans guy, I’m like, okay, bye.”<sup>112</sup> Anthony G., a 16-year-old demisexual transgender boy in Texas, said:

The LGBT community is sometimes mean to each other. I met someone who’s pansexual, and we were just talking and getting to know each other, and that came up, and I said, ‘Cool, I’m trans,’ and they were like, ‘Yeah, do you have guy parts,’ and they were like, ‘Then you’re a female.’<sup>113</sup>

Furthermore, LGBT students of color experienced intersectional isolation as a product of their sexual and gender identities and racial, ethnic, and national identities. Nora F., a school administrator in Utah, said: “If a student is LGB or T and a child of color, these issues are different. They’re more likely to be harassed, they’re less likely to be intervened with, they’re more likely to face disciplinary proceedings in schools.”<sup>114</sup> Students also noted that being LGBT and a person of color could prove isolating in environments where their LGBT peers were predominantly white and their peers who were students of color were predominantly heterosexual and cisgender.

## Reporting and Retaliation

Schools typically encourage students to report when they are bullied or harassed by students or adults. Yet some students who did report physical bullying, verbal harassment, or sexual harassment were rebuffed.

Garrett B., a 16-year-old pansexual transgender boy in Alabama, described inaction when he reported threats of physical violence:

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<sup>112</sup> Human Rights Watch interview with Christopher I. (pseudonym), Texas, November 12, 2015.

<sup>113</sup> Human Rights Watch interview with Anthony G. (pseudonym), Texas, November 12, 2015.

<sup>114</sup> Human Rights Watch interview with Nora F. (pseudonym), Utah, December 2, 2015.

I got a death threat and they did nothing about it. There's a guy who really hates me for being trans and he was like, 'I'm going to shoot you in the face,' and the administration said there was 'conflicting evidence,' which probably just means he said he didn't do it.<sup>115</sup>

Silas G., a 15-year-old transgender boy in South Dakota, said: "Bullying got to the point where someone told me to kill myself, and I told a teacher, and they didn't do anything."<sup>116</sup>

Students reported being told their schools could not address bullying or harassment without proof, and used the fact that they lacked the evidence necessary to discipline a student to justify inaction. Furthermore, students who tried to document various forms of bullying and harassment with their phones or cameras found themselves being punished for using devices in school.

Noah P., a 14-year-old transgender boy in Texas, said:

I got in-school suspension for recording bullying on my phone... because you can't film another person without their consent.<sup>117</sup>

Students who engaged or fought back faced additional barriers or punishment, even when the instigator went unpunished. Ginger M., a 17-year-old bisexual girl in Utah, said:

I was sexually harassed for like five months.... And these text messages just kept going. And I started swearing at him. I screenshotted the messages, they were on Facebook Messenger, and I went to the school and the cops, and they said, 'Well, you fought back.'<sup>118</sup>

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<sup>115</sup> Human Rights Watch interview with Garrett B. (pseudonym), Alabama, January 27, 2016.

<sup>116</sup> Human Rights Watch interview with Silas G. (pseudonym), South Dakota, February 12, 2016.

<sup>117</sup> Human Rights Watch interview with Noah P. (pseudonym), Texas, November 10, 2015.

<sup>118</sup> Human Rights Watch interview with Ginger M. (pseudonym), Utah, December 7, 2015.

Jordan L., a gay 17-year-old student in Texas, said:

There's one kid who goes to my school who wore an earring. And they'd be picking and picking, and he'd argue back, and he'd get in trouble but the other students wouldn't get in trouble. One time a girl hit him and he hit back, and he got in trouble but she didn't.<sup>119</sup>

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<sup>119</sup> Human Rights Watch interview with Jordan L. (pseudonym), Texas, November 7, 2015.

### III. Exclusion from School Curricula and Resources

Schools directly teach and instruct students with curricular offerings. But they also provide physical and mental health resources, library materials, access to the internet, extracurricular and noncurricular activities, and opportunities to socialize. In each of these areas, students noted that LGBT perspectives were either neglected or expressly excluded on the grounds that they were not appropriate or relevant for youth.

As LGBT people become more visible, research suggests that students are coming out or exploring their sexual orientation and gender identity at younger ages. The silence surrounding LGBT issues in schools not only sends a message to students that their identities are somehow inappropriate, but leaves them ill-prepared to deal with issues that schools equip their heterosexual and cisgender peers to handle.

#### Classroom Instruction and Discussion

In each of the five states examined in the research for this report, most students said that their teachers had never raised or discussed LGBT issues in class. Logan J., an 18-year-old pansexual non-binary student in Utah, said: “I haven’t really had teachers mention LGBT issues at all. Nobody likes to mention it. And any time someone brings up the issue, it’s just skimmed over.”<sup>120</sup> This was not only true of health classes, but of English, government, history, social studies, sociology, psychology, and other courses where LGBT themes and issues might naturally arise in the curriculum.

Adults echoed students’ perceptions that teachers and administrators treated LGBT issues more cautiously than others. Amy L., a teacher in Pennsylvania, said: “We read *Will Grayson, Will Grayson* last year, and a lot of the male students didn’t want to read it because it had two students that are gay, and the school let them opt out and read a different book. We don’t do that for other things.”<sup>121</sup>

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<sup>120</sup> Human Rights Watch telephone interview with Logan J. (pseudonym), Utah, January 9, 2016.

<sup>121</sup> Human Rights Watch interview with Amy L. (pseudonym), Pennsylvania, April 22, 2016.

When LGBT issues did come up in class, students said it was often as a debate in a government or current affairs class, where the teacher remained pointedly neutral on the topic. Some students took offense at this type of approach to LGBT issues, noting that it placed their identities, relationships, and morality up for debate and exposed them to scrutiny in ways their peers did not experience. Fatima W., an 18-year-old girl in Alabama, said:

[T]hey'll say, I think it's a discussion, so everyone can voice their opinion, and someone always says 'I don't agree,' and I get so mad. They don't let us debate whether black and white people can marry.<sup>122</sup>

Teachers in some schools silenced students who attempted to raise LGBT issues as a topic of discussion. Rowan C., a 15-year-old pansexual genderfluid student in Alabama, noted:

We learn about the civil rights movement, the women's rights movement, but not LGBT movements. We even tried to bring it up in class and got shot down... and it was the teacher shutting it down.<sup>123</sup>

In some instances, teachers rebuked students for speaking up about LGBT issues. Angela T., a 17-year-old girl in Pennsylvania, said:

I remember in middle school, asking about same-sex relationships, and being totally shut down, and being pulled aside by an administrator and told that's not something we talk about.<sup>124</sup>

In some instances, teachers rebuked students who brought up LGBT issues or themes. Catherine G., a 17-year-old asexual girl in Alabama, recalled one such incident in a story-writing exercise in seventh grade:

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<sup>122</sup> Human Rights Watch interview with Fatima W. (pseudonym), Alabama, February 1, 2016.

<sup>123</sup> Human Rights Watch interview with Rowan C. (pseudonym), Alabama, January 21, 2016.

<sup>124</sup> Human Rights Watch interview with Angela T. (pseudonym), Pennsylvania, April 21, 2016.

A girl wrote this great story about a man whose wife leaves him because he was gay, and she actually got [reprimanded] and her parents were called because they said it was inappropriate and not acceptable in a school environment.<sup>125</sup>

Even some supportive teachers, fearing backlash, expressed reluctance to engage with LGBT topics in class. Sharon B., a teacher and GSA advisor in Alabama, said:

I'm conscious that students think of me as the GSA sponsor, and I think I hold back from teaching too much LGBT content—and even gender content—in my English class because I know some students are just waiting and ready to say I'm pushing an agenda.<sup>126</sup>

Horacio J., a teacher and GSA advisor in Alabama concurred:

Teachers, their default is just to not talk about it. They're not trained to talk about subject matter like that.... we have to be careful about what we say in the classroom because all it takes is one student complaining to mom and dad and it becomes a huge problem—a school problem, and potentially a school district problem.<sup>127</sup>

Teachers' reticence to talk about LGBT issues stems both from the existence of laws restricting their speech and a lack of training and guidance about what those laws do and do not prohibit. Joe J., a teacher and GSA advisor in Utah, said: "I know a lot of teachers teach less than they can legally because they're either unsure what they can teach or worry they'll get in trouble."<sup>128</sup> Hannah L., a teacher in Utah, described how the no promo homo laws shaped her curriculum:

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<sup>125</sup> Human Rights Watch interview with Catherine G. (pseudonym), Alabama, January 27, 2016.

<sup>126</sup> Human Rights Watch interview with Sharon B. (pseudonym), Alabama, January 21, 2016.

<sup>127</sup> Human Rights Watch interview with Horacio J. (pseudonym), Alabama, January 27, 2016.

<sup>128</sup> Human Rights Watch interview with Joe J. (pseudonym), Utah, December 7, 2015.

It's scary, as a teacher, because I can be fired if a parent gets upset enough about something that happens in my class.... There are so many LGBT issues that are happening in the world, if I'm going to run an authentic English classroom, we need to be able to talk about it. And it's asinine that as a competent teacher I'm not given the leeway to have the conversations we need to be having.<sup>129</sup>

## Comprehensive Sexuality Education

In each of the states where interviews were conducted, students said the sexuality education they received was nonexistent or inadequate—only teaching abstinence, for example—often because it was not taught or was not a required component of the curriculum. However, when it was taught in their school, they said it was especially limited for LGBT youth.

Some teachers placed LGBT issues off-limits or made clear they would not be teaching about same-sex activity. Miley D., a 17-year-old bisexual girl in Alabama, described how the coach who taught her health class:

told us he was only teaching what's in the book. But what's in the book is that marriage is between a man and a woman.... Sex is between a man and a woman. He told us outright the first day of class that he would not teach about anything gay or lesbian.<sup>130</sup>

Evan H., a 19-year-old man in Utah, said:

Health was taught by the wrestling coach, who was a 70-year-old devout LDS [Latter Day Saints] man.... The only time they brought up gay anal sex was when he said... 'The butt is not meant for sex.'<sup>131</sup>

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<sup>129</sup> Human Rights Watch interview with Hannah L. (pseudonym), Utah, December 8, 2015.

<sup>130</sup> Human Rights Watch interview with Miley D. (pseudonym), Alabama, January 27, 2016.

<sup>131</sup> Human Rights Watch interview with Evan H. (pseudonym), Utah, November 30, 2015.

When instructors did deal with LGBT issues, it was common for them to suggest that gay men would contract HIV. While sexuality education can and should explain that HIV and other STIs can be transmitted through same-sex activity, students recalled classes where LGBT people were only treated as vectors of disease, and with little or no discussion of the ways LGBT people might protect themselves with safer sex practices. “The only time they mentioned homosexuality in high school was to say that if you’re homosexual you’d get AIDS,” Damien N., a 24-year-old straight man in Alabama said.<sup>132</sup>

Placing the onus on students to ask questions or raise LGBT issues made it difficult for them to elicit the information that they needed to lead safe, healthy, and affirming sexual lives. For many students, it was not clear what information they would need in the future or what questions they should ask. Caleb C., a gay non-binary 20-year-old in Utah, said: “Utah teaches abstinence plus, so it’s abstinence only but students can ask questions. Which sucks, because kids don’t know what to ask.”<sup>133</sup>

Even when they had specific questions, some LGBT students did not feel comfortable asking for further information in front of their peers. “We were scared, we didn’t want to get taunted, so we weren’t going to ask in class with all the straight kids,” Malik F., a 19-year-old bisexual man in Pennsylvania, said.<sup>134</sup> When students did bring in LGBT perspectives, they were sometimes not taken seriously or disciplined for doing so. Lacey T., a 15-year-old bisexual girl in Utah, recalled a classroom discussion about safe sex.

[The teacher] said, ‘How do we avoid getting pregnant?’ and you can say anything. And I said, ‘Have sex with someone of the same sex,’ and I got kicked out of class.<sup>135</sup>

When students themselves tried to raise questions that were pertinent to LGBT youth, instructors more typically reacted with embarrassment or deflection. Kevin I., a 17-year-old transgender boy in Utah, said:

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<sup>132</sup> Human Rights Watch interview with Damien N. (pseudonym), Alabama, February 2, 2016.

<sup>133</sup> Human Rights Watch interview with Caleb C. (pseudonym), Utah, November 24, 2015.

<sup>134</sup> Human Rights Watch interview with Malik F. (pseudonym), Pennsylvania, April 13, 2016.

<sup>135</sup> Human Rights Watch interview with Lacey T. (pseudonym), Utah, December 8, 2015.

In my health class, LGBT issues came up because somebody mentioned it, but the teacher just kept going on about how female and male reproductive systems work. He just changed the subject.<sup>136</sup>

The existence of no promo homo laws has a particularly chilling effect on LGBT-relevant education. In Alabama, Texas, and Utah, teachers and administrators repeatedly underscored their uncertainty about what the law actually prohibited them from saying. “It creates this kind of haze; teachers and counselors don’t know how to address the issue,” said Troy Williams, executive director of Equality Utah.<sup>137</sup>

LGBT rights advocates note that the Texas law only pertains to the content of model curricula issued by the state, for example, but Kevin D., a teacher in Texas, explained to researchers, “[i]t is written into the code that health teachers are supposed to stress that homosexuality is against the law.”<sup>138</sup> Nora F., a Utah administrator, said most teachers “aren’t formally trained on what the no promo homo law means,” and “the ... understanding is that you can’t say anything about LGBT identity, harassment, anything.”<sup>139</sup>

As a result, many teachers err on the side of avoiding any discussion of LGBT issues at all, in sexuality education and in the curriculum generally. Even in Pennsylvania and South Dakota, which did not have a statewide no promo homo law, individual schools imposed their own limits on discussions of same-sex activity. These took various forms, from regulating curricula to restricting what teachers say in the classroom to punishing teachers who addressed LGBT issues in a frank manner.

Pauline J., a community health educator in Pennsylvania, described

a school district where I teach where you’re not allowed to talk about homosexuality.... and the reasons why have been explained to me and they don’t make sense.... There’s a lot of topics I cover and the teacher is like,

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<sup>136</sup> Human Rights Watch telephone interview with Kevin I. (pseudonym), Utah, January 9, 2016.

<sup>137</sup> Human Rights Watch interview with Troy Williams, Executive Director, Equality Utah, Salt Lake City, Utah, December 1, 2015.

<sup>138</sup> Human Rights Watch interview with Kevin D. (pseudonym), Texas, November 9, 2015.

<sup>139</sup> Human Rights Watch interview with Nora F. (pseudonym), Utah, December 2, 2015.

‘You probably can’t discuss that, because you’d have to talk about sexual orientation, and you can’t do that.’<sup>140</sup>

As a result of these formal and informal restrictions, LGBT students were unable to access information that would be relevant to them as part of their sexuality education, including risks associated with same-sex activity or routes of transmission other than penile-vaginal intercourse. Brayden W., a 17-year-old gay boy in Utah, recalled trying to ask about safer sex and being rebuffed: “In my health class I tested the water by asking [the teacher] about safer sex because I’m gay. He said he was not allowed to talk about it.”<sup>141</sup> Gabriel B., a 19-year-old gay man in Utah, similarly recalled a lesbian classmate who

[r]aised her hand and asked, ‘What about me?’ And the teacher said, ‘I can’t really discuss that,’ and went over it really quickly, and then said that Utah state law prevents her from discussing it in class.<sup>142</sup>

In addition to LGBT issues, some students said that asexuality was not addressed in health curricula. Andrea L., a 17-year-old asexual girl in Pennsylvania, said:

When I was younger, I never felt sexual feelings toward anyone. I thought that was abnormal of me. And nobody taught me that was an okay feeling to have.<sup>143</sup>

The lack of information was exacerbated by the tendency for LGBT students to tune out the sexuality education they did receive because they felt it did not pertain to them. “If you’re gay, and you’re being taught all this stuff that’s irrelevant to you, you just don’t pay attention,”<sup>144</sup> said Gabriella B., a 17-year-old bisexual girl in Pennsylvania.

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<sup>140</sup> Human Rights Watch interview with Pauline J. (pseudonym), Pennsylvania, April 21, 2016.

<sup>141</sup> Human Rights Watch interview with Brayden W. (pseudonym), Utah, December 6, 2015.

<sup>142</sup> Human Rights Watch interview with Gabriel B. (pseudonym), Utah, November 23, 2015.

<sup>143</sup> Human Rights Watch interview with Andrea L. (pseudonym), Pennsylvania, May 4, 2016.

<sup>144</sup> Human Rights Watch interview with Gabriella B. (pseudonym), Pennsylvania, April 15, 2016.

The need for LGBT students to receive comprehensive sexuality education is clear. LGBT youth encounter a number of health issues that existing health classes fail to address. As Pauline J., a community health educator in Pennsylvania, said:

LGBT inclusive sex ed saves lives. LGBT students are not being heard at all, in any class. And there's research saying the unintended pregnancy rates among LGBT youth is higher than straight youth. And the reason is that sex ed goes right over their heads. When we say "the man and the woman," and you're gay or trans, you're tuning that out.<sup>145</sup>

Although discussions of same-sex activity were restricted at the state level and by individual schools and instructors, transgender issues were also virtually absent from classroom discussions, despite the unique health concerns that transgender youth face. Joel W., a 17-year-old asexual, genderfluid student in Pennsylvania, said:

They don't cover trans stuff, like binders. They should say, 'Hey, don't bind too long,' or talk about the effects of different hormones.<sup>146</sup>

The absence of LGBT-inclusive information is particularly detrimental insofar as LGBT youth may not know where else they can obtain trustworthy information about sexuality. Many students either were not out to their parents or said their parents did not accept their sexual orientation or gender identity, limiting their ability to obtain information about sexuality when it was not provided at school.

LGBT students may also have a greater need for school-based comprehensive sexuality education insofar as their parents are unfamiliar with safer sex recommendations for LGBT people and cannot provide the information they need. According to Alison McKee, senior director of Education and Training at Planned Parenthood Keystone in Pennsylvania:

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<sup>145</sup> Human Rights Watch interview with Pauline J. (pseudonym), Pennsylvania, April 21, 2016.

<sup>146</sup> Human Rights Watch interview with Joel W. (pseudonym), Pennsylvania, May 4, 2016.

So many parents tell me, ‘Well, they’re getting sex ed at school, right?’ .... You can’t make that assumption. You can’t assume they’re covering the relevant topics, or that your student isn’t being left out.<sup>147</sup>

When schools did not provide information and students could not or did not get that information from their parents, they most often reported getting it from peers or the internet,<sup>148</sup> including Tumblr, a microblogging platform where users generate and post content. Students said such platforms were powerful tools, particularly for students exploring issues of sexuality and gender who were in rural areas or otherwise isolated from supportive resources.<sup>149</sup> But because content is user-generated, students who used the platform for sexuality education were effectively learning from peers, without any guarantee of the scientific and medical accuracy of the information they received.

Cameron S., a 16-year-old boy in South Dakota, said:

I get information from word of mouth, which is a horrible way to get it. What gets passed around is semi-accurate or not explained at all.<sup>150</sup>

In the absence of sexuality education that discussed the mechanics of same-sex activity, students also indicated they learned about sex by viewing pornography or engaging in sexual activity with more experienced partners. When asked how students learned about safer sex, Camille V., a biromantic 17-year-old girl in Alabama, remarked with a shrug: “Hope the other person knows what they’re doing.”<sup>151</sup>

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<sup>147</sup> Human Rights Watch telephone interview with Alison McKee, Senior Director of Education and Training, Planned Parenthood Keystone, Allentown, Pennsylvania, May 2, 2016.

<sup>148</sup> Other research has similarly determined that the internet is a primary sexual health resource for students who do not receive sexuality education in schools. One study found that LGBT youth are five times more likely than non-LGBT youth to look for information about sexuality online and four times more likely than non-LGBT youth to look for information about HIV/AIDS and STIs online. GLSEN et al., *Out Online: The Experiences of Lesbian, Gay, Bisexual and Transgender Youth on the Internet*, 2013, <http://www.glsen.org/sites/default/files/Out%20Online%20FINAL.pdf>; see also Brian Mustanski et al., “Internet Use and Sexual Health of Young Men Who Have Sex with Men: A Mixed-Methods Study,” *Archives of Sexual Behavior*, Vol. 42, No. 2 (2011), p. 289-300.

<sup>149</sup> For one such account, see Jonno Revanche, “Tumblr Was My Saviour. It Made Me See I Wasn’t Monstrous and Unloveable,” *The Guardian*, August 23, 2016, <https://www.theguardian.com/commentisfree/2016/aug/24/tumblr-was-my-saviour-it-made-me-see-i-wasnt-monstrous-and-unloveable> (accessed September 23, 2016).

<sup>150</sup> Human Rights Watch interview with Cameron S. (pseudonym), South Dakota, February 17, 2016.

<sup>151</sup> Human Rights Watch interview with Camille V. (pseudonym), Alabama, February 1, 2016.

Refusal to convey accurate, nonjudgmental information about same-sex activity and other LGBT issues puts LGBT youth at heightened risk of sexually transmitted infections, including HIV. Maureen Gray, coordinator of the Northeastern Pennsylvania Rainbow Alliance, recalled a conversation with a HIV-positive young man in his early twenties:

[H]e said to me, ‘I wish I had known more about HIV transmission.... [I]n high school, it’s just this really cursory mention, and I really didn’t know, and now I’ve got a life sentence, you know? Because I didn’t know.’<sup>152</sup>

The lack of information about safer sex for LGBT youth is compounded by stigmatization and isolation, which may increase the likelihood that students engage in risky behavior. As Kate Bennion, director of satellites for OUTReach Resource Centers in Utah, observed: “If you think, ‘Oh, well, if I’m gay and I’m going to hell, I might as well have sex,’ there’s a little bit of a fatalist mentality.”<sup>153</sup>

The absence of LGBT-inclusive comprehensive sexuality education not only left students ill-equipped to navigate sexual activity, but often exacerbated feelings of difference, exclusion, or stigmatization. Students underscored that the sexuality education they received took for granted that they were cisgender and heterosexual. Discussions of puberty and bodily development presumed that students were cisgender; indeed, some students were divided by sex, so students who were assigned female at birth attended a discussion of women’s development and bodies and students who were assigned male at birth attended a discussion of men’s development and bodies.

Similarly, students noted that discussions of sexual activity, relationships, and marriage almost always operated under the assumption of heterosexuality. When same-sex relationships were acknowledged, students said it was typically as a cursory aside rather than a consistent, integrated recognition of their equal validity.

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<sup>152</sup> Human Rights Watch interview with Maureen Gray, Coordinator, Northeastern Pennsylvania Rainbow Alliance, Pittston, Pennsylvania, April 22, 2016.

<sup>153</sup> Human Rights Watch interview with Kate Bennion, Director of Satellites, OUTreach Resource Centers, Logan, Utah, December 8, 2015.

## Counseling and Support

Many schools provide counselors to ensure that the academic and mental health needs of students are reliably met. Counseling is particularly important for LGBT youth, who face stressors at home and in schools that put them at a high risk for adverse mental health and academic outcomes.

As a result of bullying, exclusion, and isolation, many LGBT youth are at increased risk of adverse mental health outcomes. Studies have shown that LGBT youth experience higher incidences of depression, anxiety, substance abuse, and suicidality than their heterosexual, cisgender peers.<sup>154</sup>

Discrimination in school environments also adversely affects the academic achievement of LGBT youth. A recent survey from GLSEN found that LGBT youth who faced discrimination in school had lower GPAs and were more than three times more likely to miss school in the past month than those who did not.<sup>155</sup> In the aggregate, LGBT youth who experienced high levels of victimization because of their sexual orientation or gender identity were twice as likely as those who experienced lower levels of victimization to say they did not plan to go on to post-secondary education.<sup>156</sup>

These findings suggest that LGBT youth are in particular need of counselors who are attuned to their unique needs and risk factors. Unfortunately, students often lack access to supportive, culturally competent counseling in schools. None of the states surveyed required counselors to be trained on sexual orientation or gender identity, leaving it up to individual counselors to seek out cultural competency training on LGBT issues.

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<sup>154</sup> Centers for Disease Control and Prevention, "LGBT Youth," November 12, 2014, <http://www.cdc.gov/lgbthealth/youth.htm> (accessed August 15, 2016); Youth.gov, "Behavioral Health," <http://youth.gov/youth-topics/lgbtq-youth/health-depression-and-suicide> (accessed August 15, 2016).

<sup>155</sup> GLSEN, *The 2013 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual and Transgender Youth in Our Nation's Schools* (2014).

<sup>156</sup> *Ibid.*

Monica D., a teacher in Utah, said the counseling center at her school was “not a safe place” for LGBT youth.<sup>157</sup> She noted: “I recently went through the suicide prevention training ... and there’s no mention of LGBT students at all.”<sup>158</sup>

Counselors who had some familiarity with LGBT issues noted that because they were assigned students alphabetically or at random, LGBT students at the school were not necessarily able to take advantage of their competency in the field.<sup>159</sup> As one counselor noted, this meant LGBT students who did seek them out came to them informally in ways that increased their caseloads or generated friction among the counseling staff.<sup>160</sup>

The result was that very few students interviewed by Human Rights Watch regarded the school counselor’s office as a resource or supportive space. Natalie D., a 17-year-old agender student in Utah, called the school counselor “completely useless.”<sup>161</sup> Ginger M., a 17-year-old bisexual girl in Utah, observed: “The counselors don’t have any resources,” and “asked *us* to bring stuff back.”<sup>162</sup> As Cam I., a 17-year-old bisexual student who dropped out of high school in Texas, said:

They weren’t really good about grappling with mental health issues. And that’s something that’s really prevalent for people in the LGBT community.... That definitely factored into the decision to leave the school system.<sup>163</sup>

In the absence of clear indications that counselors were accepting and inclusive of LGBT youth, many students expressed reluctance to utilize them as a resource. Some counselors overtly signaled they were unwilling or unable to be nonjudgmental resources for LGBT youth. Paul Hard, a counselor and professor in Alabama, recalled a case

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<sup>157</sup> Human Rights Watch interview with Monica D. (pseudonym), Utah, December 1, 2015.

<sup>158</sup> Human Rights Watch interview with Monica D. (pseudonym), Utah, December 1, 2015.

<sup>159</sup> Human Rights Watch interview with Isabel M. (pseudonym), South Dakota, February 12, 2016; Vanessa M. (pseudonym), Pennsylvania, May 3, 2016.

<sup>160</sup> Human Rights Watch interview with Vanessa M. (pseudonym), Pennsylvania, May 3, 2016.

<sup>161</sup> Human Rights Watch interview with Natalie D. (pseudonym), Utah, December 7, 2015.

<sup>162</sup> Human Rights Watch interview with Ginger M. (pseudonym), Utah, December 7, 2015.

<sup>163</sup> Human Rights Watch interview with Cam I. (pseudonym), Texas, November 15, 2015.

[w]here the school counselor, upon a student coming out as a lesbian, took it upon herself to accost three of the girl’s closest friends and drag them into her office and suggest they should rethink who they’re friends with, because the girl was going to hell and they would be judged by their associations.<sup>164</sup>

Monica D., a teacher in Utah, noted that students felt they had to look for subtle cues to help them guess whether particular counselors would offer useful resources and a safe space, such as whether they had attended a university with a reputation for intolerance against LGBT people.<sup>165</sup>

In the absence of training, and with laws pertaining to gender and sexuality in schools—including anti-bullying laws and no promo homo laws—counselors may incorrectly believe they cannot counsel LGBT youth without parental permission. Rebecca C., an 18-year-old lesbian girl in Alabama, recalled seeking help from a counselor in eighth grade when she had nowhere else to turn:

[S]he said, ‘This is something really big to think about at your age, 13 or 14, I have resources I can give you but I can’t give them to you without your parents’ permission,’ and I was like, ‘Okay, so I won’t get them.’ And I went back a few times and she kept telling me I couldn’t have them until I got permission from my parents.<sup>166</sup>

Counselors may also incorrectly believe they are obligated to report a student’s sexual orientation or gender identity to their parents when that fact is divulged to them. Nora F., an administrator in Utah, pointed out that this is encouraged by ambiguities in the state’s anti-bullying law, which requires parental notification when children are bullied in school:

If I’m a counselor and I call up parents, they’re going to ask why my child is getting bullied, and what do I say if he’s really gay or changes clothes and

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<sup>164</sup> Human Rights Watch telephone interview with Paul Hard, Professor at Auburn University Montgomery, January 30, 2016.

<sup>165</sup> Human Rights Watch interview with Monica D. (pseudonym), Utah, December 1, 2015.

<sup>166</sup> Human Rights Watch interview with Rebecca C. (pseudonym), Alabama, January 25, 2016.

wears dresses at school? So you have to tell parents but there's not guidance on how to tell them in a way that keeps the kids safe.<sup>167</sup>

She noted the same is true of the state's no promo homo law, as school personnel believe that "if a student comes out to them, they have to tell their parents, and they don't. That's not in the law. But they think they have to do that."<sup>168</sup>

Maintaining confidentiality is critically important when serving LGBT youth, due in large part to the withdrawal of support or repercussions they may experience when their sexual orientation or gender identity is disclosed to parents, teachers, or other adults. Nonetheless, counselors, teachers, and other school personnel may fail to grasp the importance of confidentiality.

As students attested in interviews, any interaction with school personnel about one's sexual orientation or gender identity—reporting bullying, meeting with a counselor, attending the GSA, wearing gender-affirming clothes in school, or requesting access to an all-gender restroom—could be fraught with risk that students would be outed to other staff, their classmates, or their family members.

Administrators outed Alexis J., a genderfluid 19-year-old in Texas, to their family:

I came out at school, I got called to the principal's office, and they're like, 'We're going to have to tell your parents,' and I was like, 'You know there's a one in four chance I'll be homeless,' and the principal says, 'As a parent, I'd want to know.' They told my parents and I came home and they were a mess.<sup>169</sup>

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<sup>167</sup> Human Rights Watch interview with Nora F. (pseudonym), Utah, December 2, 2015; see also Lindsay Whitehurst, "Utah Advocates Say Anti-Bullying Law Could 'Out' Gay Kids," *Salt Lake Tribune*, October 28, 2013, <http://archive.sltrib.com/story.php?ref=/sltrib/news/56969776-78/parents-bullying-law-utah.html.csp> (accessed September 23, 2016).

<sup>168</sup> Human Rights Watch interview with Nora F. (pseudonym), Utah, December 2, 2015.

<sup>169</sup> Human Rights Watch interview with Alexis J. (pseudonym), Texas, November 10, 2015.

Incidents of outing and concerns about counselor confidentiality discouraged other students from coming forward, limiting their access to resources. Natalie D., a 17-year-old agender student in Utah, said:

I've heard that people going to the counselor, it's not confidential. It gets around the school.... And that's a reason I'd never go to the counselors for any problems.<sup>170</sup>

When outing occurs, there may be serious consequences for LGBT youth. Parker R., a pansexual 21-year-old in Alabama, recalled an incident from junior year where teachers outed a lesbian student, both within the school and to her family:

Her friends stopped talking to her, and her mother kicked her out of the house. She's been crammed back in the closet. And she was tortured in high school.<sup>171</sup>

Annette D., an administrator at a residential school in South Dakota, recalled incidents where administrators outed students to parents after discovering they were LGBT: "In one situation a girl was left homeless because they wouldn't accept her choices. And I remember one situation where a girl was beat up by her mom."<sup>172</sup>

## Library and Internet Resources

Schools provide libraries, technological tools, and access to the internet, and in so doing, act as providers and gatekeepers for students seeking information about various topics.

However, information about sexual orientation and gender identity is often scarce. Censorship of LGBT content in schools not only sends a discriminatory and stigmatizing message that LGBT content is inherently inappropriate, but deprives students of the right to access information that could be important to their development, health, and safety.

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<sup>170</sup> Human Rights Watch interview with Natalie D. (pseudonym), Utah, December 7, 2015.

<sup>171</sup> Human Rights Watch interview with Parker R. (pseudonym), Alabama, February 2, 2016.

<sup>172</sup> Human Rights Watch interview with Annette D. (pseudonym), South Dakota, May 23, 2016.

Most students reported that they were not aware of any books or information on LGBT topics in their school libraries. Hannah L., a teacher in Utah, said:

Our library, I'm pretty sure, has no LGBT books in it. And that's unfortunate, because the best way to explore those things is in a book.<sup>173</sup>

The absence of available material meant that students looked elsewhere, typically, in commercial bookstores or on the internet, where information may be available but not necessarily curated for elementary, middle, and high school students.

Filters that schools apply to web access may limit students' ability to get information about LGBT topics using school-provided tools, and deprive students of information regarding their health, rights, and resources in their community.

Students, teachers, and administrators in some schools noted that school computers blocked groups like PFLAG, Lambda Legal, and the Human Rights Campaign, as well as services and resources specifically aimed at supporting LGBT youth. Kathryn Gonzales, operations director at Out Youth in Austin, Texas, said: "One counselor said a district classifies Out Youth's website as porn, so even if a counselor wants to refer them to us, they can't show them the website."<sup>174</sup>

William J., a 17-year-old gay boy in Texas, said: "On the school computers, when I'm trying to find stuff about LGBT youth, it'll say 'blocked site.'"<sup>175</sup> Sharon B., a teacher and GSA advisor in Alabama, noted: "I had two students write a paper on a TED talk on homosexuality, and they also had to write the paper at home because they weren't able to do it at school."<sup>176</sup> Veronica I., an 18-year-old student in South Dakota, said censorship can affect studies:

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<sup>173</sup> Human Rights Watch interview with Hannah L. (pseudonym), Utah, December 8, 2015.

<sup>174</sup> Human Rights Watch interview with Kathryn Gonzales, Operations Director, Out Youth, Austin, Texas, November 15, 2015.

<sup>175</sup> Human Rights Watch interview with William J. (pseudonym), Texas, November 6, 2015.

<sup>176</sup> Human Rights Watch interview with Sharon B. (pseudonym), Alabama, January 21, 2016.

I did a speech about gay rights and there were so many websites that were blocked that I was getting information from 2004. I got a C on the speech because of how outdated the information was.<sup>177</sup>

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<sup>177</sup> Human Rights Watch interview with Veronica M. (pseudonym), South Dakota, May 3, 2016.

## IV. Restrictions on LGBT Student Groups

LGBT students and allies have joined together to form their own student groups in many schools. The groups are often colloquially referred to as “gay-straight alliances” or “GSAs,” although schools have often adopted inclusive variations like “gender and sexuality alliance” or “queer-straight alliance,” or generalized terms like “Spectrum” or “Prism.”<sup>178</sup>

GSAs serve various needs for their members and school communities. They often have a strong educational component, with discussions or guest speakers addressing LGBT issues. Some raise awareness of LGBT and social justice issues in their schools with events like National Coming Out Day or the Day of Silence, an annual event where students do not speak for a school day to underscore how bullying silences LGBT youth. Some perform community service activities or advocacy in their broader community. Many also function as sources of social and emotional support for members.

In the 1990s, some schools attempted to block the formation of GSAs but were rebuffed by courts under the federal Equal Access Act of 1984, which specifies that schools that receive federal funding and allow non-curricular student groups to meet on their premises must treat all non-curricular groups equally.<sup>179</sup>

Schools can require that GSAs follow the same rules about forming and operating that other student groups must follow, so long as those rules are consistently applied.<sup>180</sup> Schools cannot, however, require GSAs to adopt a different name or broaden their mission as a condition for their formation.<sup>181</sup> Yet despite decades of clear and consistent guidance

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<sup>178</sup> For the purposes of this report, the term “GSA” is used to refer to LGBT student groups more generally.

<sup>179</sup> 20 U.S.C. § 4071(a); Bd. of Educ. of Westside Comm. Schs. v. Mergens, 496 U.S. 226, 237 (1990); Straights & Gays for Equal. v. Osseo Area Sch. Dist. No. 279, 540 F.3d 911, 914 (8th Cir. 2008); Boyd County High Sch. Gay/Straight Alliance v. Bd. of Educ. of Boyd County, 258 F. Supp. 2d 667 (E.D. Ky. 2003); White Cnty. High Sch. Peers in Diverse Educ. v. White County Sch. Dist., CIV 2:06CV29 WCO, 2006 WL 1991990 (N.D. Ga. July 14, 2006); E. High Gay/Straight Alliance v. Bd. of Educ. of Salt Lake City Sch. Dist., 81 F. Supp. 2d 1166 (D. Utah 1999).

<sup>180</sup> Gay and Lesbian Advocates and Defenders (GLAD), “The Right to Establish a GSA in Public Schools: A Basic Primer,” June 2010, <https://www.glad.org/uploads/docs/publications/gsa-public-schools.pdf>.

<sup>181</sup> *Ibid.*; see also *Gay-Straight Alliance of Yulee High Sch. v. Sch. Bd. Of Nassau County*, 602 F. Supp. 2d 1233 (M.D. Fla. 2009); *Franklin Cent. Gay/Straight Alliance v. Franklin Twp. Cmty. Sch. Corp.*, IP01-1518 C-M/S, 2002 WL 32097530 (S.D. Ind. Aug. 30, 2002); *Colin v. Orange Unified Sch. Dist.*, 83 F. Supp. 2d 1135 (C.D. Cal. 2000).

from federal courts recognizing the right to form and operate GSAs, some schools continue to use various tactics to discourage LGBT students from joining together in groups.<sup>182</sup>

Of the five states examined in this report, efforts to quell GSAs have been most evident in Utah. When a high school GSA in Provo, Utah, met with opposition from parents and community members in 2005, legislators responded by imposing stringent new requirements on the operation of student groups.<sup>183</sup> In addition to a parental notification requirement,<sup>184</sup> they amended state law in 2007 to require schools not to allow clubs whose mission or activities “involve human sexuality.”<sup>185</sup> The law has had a chilling effect on the formation of GSAs in some schools, and some existing GSAs expressed reluctance to discuss certain topics or provide resources to students for fear of running afoul of its provisions.

## Forming Gay-Straight Alliances

Schools typically set out requirements that students must follow in order to form non-curricular student groups, including that students write a group charter or constitution, identify a faculty sponsor, and complete any necessary paperwork to begin meeting.

While all groups, regardless of focus, must theoretically adhere to the same requirements, interviews with students and teachers indicate that it can be harder to establish a GSA than other student groups, both because of stronger scrutiny by administrators, school boards, and parents and because GSAs may lack faculty support.

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<sup>182</sup> See, e.g., Casey Quinlan, “Tennessee School Board Responds to Residents’ Fear of ‘Gay Agenda’ By Restricting Student Groups,” *ThinkProgress*, March 16, 2016, <http://thinkprogress.org/education/2016/03/16/3760305/gay-straight-alliance> (accessed August 15, 2016); Jessica Glenza, “Mississippi Schools Under Fire for Efforts to Curb Gay-Straight Alliance,” *The Guardian*, January 15, 2015, <http://www.theguardian.com/us-news/2015/jan/15/mississippi-schoolsefforts-gay-straight-alliance-membership> (accessed August 15, 2016).

<sup>183</sup> Kirk Johnson, “Utah Sets Rigorous Rules for School Clubs, and Gay Ones May Be Target,” *New York Times*, March 17, 2007, <http://www.nytimes.com/2007/03/17/education/17utah.html> (accessed August 15, 2016).

<sup>184</sup> In Utah, state law mandates in two separate provisions that: “A school shall require written parental or guardian consent for student participation in all curricular and noncurricular clubs at the school.” See Utah Code §§ 53A-11-1209, 53A-11-1210 (2007).

<sup>185</sup> See Utah Code §§ 53A-11-1202, 53A-11-1206 (2007). The term “sexual activity . . . forbidden by state law” is not defined. The state law of Utah still criminalizes consensual same-sex activity as a class B misdemeanor, despite that law being rendered unenforceable by the United States Supreme Court in 2003. See Utah Code § 76-5-403; *Lawrence v. Texas*, 539 U.S. 558 (2003).

In each of the five states visited, students at some schools described being unable to form a GSA because teachers were unwilling to sponsor the club. Noah P., a 14-year-old transgender boy in Texas, explained: “Our school doesn’t have a GSA because none of the teachers would sponsor it.”<sup>186</sup> Paolo V., a 19-year-old transgender man in Texas, said: “[W]hen we tried to get teachers for the GSA, they’d say, ‘I don’t think I can,’ or ‘I don’t want to risk it.’ You could tell that they were a little bit afraid.”<sup>187</sup>

Students’ perceptions were confirmed by teachers themselves, who said they were concerned that being openly supportive of LGBT youth could cost them their jobs. Renee F., a teacher and GSA advisor in Utah, said “The first time I was approached to be the GSA advisor, I was like, I’m not tenured, I’d better not.”<sup>188</sup> Sharon B., a teacher and GSA advisor in Alabama, recalled: “I didn’t know this at the time, but when I started the GSA, parents went to the school board and tried to get me fired.”<sup>189</sup>

Fears of backlash against GSAs were particularly discouraging for staff who were themselves LGBT. A number of GSA leaders noted that they were able to be resources for LGBT youth precisely because they were straight, and would not face the scrutiny or backlash that an LGBT counterpart would likely face. Vanessa M., a counselor in Pennsylvania, recalled discussions she had about starting a middle school GSA:

I was asking a gay teacher to help me out, and he said, ‘No, it has to be a hetero female.’ And he said, ‘look, it has to be safe, and they’re going to think I’m converting their kids, or taking advantage of their kids.’<sup>190</sup>

Concerns about backlash or retaliation could prevent those with firsthand knowledge of LGBT issues, who might function as role models for LGBT youth, to remain closeted or keep their distance from the GSA. One advocate for LGBT youth in Alabama said:

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<sup>186</sup> Human Rights Watch interview with Noah P. (pseudonym), Texas, November 10, 2015.

<sup>187</sup> Human Rights Watch interview with Paolo V. (pseudonym), Texas, November 12, 2015.

<sup>188</sup> Human Rights Watch interview with Renee F. (pseudonym), Utah, November 30, 2015.

<sup>189</sup> Human Rights Watch interview with Sharon B. (pseudonym), Alabama, January 21, 2016.

<sup>190</sup> Human Rights Watch interview with Vanessa M. (pseudonym), Pennsylvania, May 3, 2016.

Every GSA I know is run ... by straight women who are sweet and well-meaning but because of that the students respond very different to the GSA. Nobody else in the school district feels comfortable stepping up, even though they'd be a better fit, because they worry they'd lose their job. People are terrified.<sup>191</sup>

Whether because of school policy or because of a fear of retaliation, GSAs in the schools examined were almost always the product of student advocacy, and not begun by teachers who recognized the need for a safe and nonjudgmental space for LGBT students and allies in school. George Taylor, an LGBT youth advocate with Shared Goals LLC in Alabama, said:

I think it's an unreasonable expectation that students will just start this on their own.... Some kids can, but it's important to have adults and role models who will affirm what you're doing and let you know you don't have to climb this mountain by yourself.<sup>192</sup>

Nora F., an administrator in Utah, said:

[A] GSA must be student-led and student-driven, so a teacher can't rally students to start one if they feel it's needed. And that's difficult because many youth aren't used to taking initiative in that way.<sup>193</sup>

As Liam F., a 16-year-old gay boy in Utah, said, "With the math club, you just walk up to the teacher and ask. But with the gay club, you have to identify if someone is an ally, and if they'd be willing to be an advisor."<sup>194</sup> Charlie O., a 17-year-old pansexual genderfluid student in Texas, explained:

You have to find a sponsor, so when you're in the heart of conservative Texas, you have to go through a school of classic white Christian teachers

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<sup>191</sup> Human Rights Watch interview with LGBT advocate in Alabama, February 1, 2016.

<sup>192</sup> Human Rights Watch interview with George Taylor, Partner, Shared Goals LLC, Birmingham, Alabama, February 1, 2016.

<sup>193</sup> Human Rights Watch interview with Nora F. (pseudonym), Utah, December 2, 2015.

<sup>194</sup> Human Rights Watch interview with Liam F. (pseudonym), Utah, November 29, 2015.

and you're really scared because they have a cross by their desk and you're like, are they *those* kinds of Christians?<sup>195</sup>

The lack of initiative from school personnel was particularly detrimental in middle school, when students are often just beginning to navigate their sexual orientation and gender identity, face especially egregious bullying for nonconformity, and lack the experience to advocate for themselves and form organizations. Reina Parker, a LGBT youth advocate with the Center for Equality in Sioux Falls, South Dakota, said many middle school students “don’t really have that awareness and recognition and path all at once.... Without a GSA already there, you wouldn’t know what you’re getting into starting one.”<sup>196</sup> As a result, middle school GSAs remain rare.

Although they may not fully alleviate fears about retaliation or adverse employment actions, protections for teachers who are LGBT or support LGBT students can provide necessary reassurance to some teachers and administrators. Sandra C., the parent of a gay student in Utah, described how the introduction of statewide employment protections for sexual orientation and gender identity mattered when her son and his friends attempted to start a GSA. Prior to those protections, the students had approached six teachers who had initially said “yes,” then changed their minds and said they could not act as faculty sponsors. “They were all afraid of their tenure, losing their jobs, religious affiliations, etc. So it mattered when the laws changed,” she said.<sup>197</sup>

Even with faculty backing, students attempting to form GSAs encountered other obstacles. Despite court rulings deeming the practice impermissible under the Equal Access Act, some students noted that they were told they had to broaden their GSA’s mission in order to obtain approval. Levi B., a 16-year-old gay boy in Utah, said:

The principal gave me a hard time about making it a GSA instead of a support group. She said some parents are going to be uncomfortable with a

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<sup>195</sup> Human Rights Watch interview with Charlie O. (pseudonym), Texas, November 7, 2015.

<sup>196</sup> Human Rights Watch interview with Reina Parker, Youth and Family Services, Center for Equality, Sioux Falls, South Dakota, February 7, 2016.

<sup>197</sup> Human Rights Watch interview with Sandra C. (pseudonym), Utah, November 29, 2015.

club that ‘promotes’ LGBT things, because in Utah, that’s not really accepted culturally.<sup>198</sup>

Katherine R., a 16-year-old bisexual girl in Pennsylvania who was attempting to start a GSA, was repeatedly encouraged by her school administration to start a broader anti-bullying or pro-diversity club instead. She said: “You’re telling us we’re not important and the way we are shouldn’t be visible. And that’s the whole reason we want a gay-straight alliance.”<sup>199</sup>

Other students were told they could form a GSA, but were not allowed to use terms like “LGBT” or “queer” in the name, mission, or advertising. Such a stance creates particular problems for groups with members or leaders whose primary identification is not gay or lesbian—for example, students who are bisexual, transgender, queer, or questioning. Lucas K., an 18-year-old transgender boy in South Dakota, recalled:

We wanted to call it the LGBT Club, and they said we had to call it the GSA because they didn’t want to make parents upset.<sup>200</sup>

The use of “queer” was a particular sticking point for administrators, who treated it as a slur rather than recognizing that it could also be a term reclaimed by LGBT communities. Piper N., a 15-year-old pansexual student at another high school in South Dakota, said:

We wanted to call it a Queer Straight Alliance because we wanted to go beyond ‘gay,’ but they said we couldn’t say ‘queer’ because they said it was a slur and people would be offended.<sup>201</sup>

When students expressed interest in forming a GSA, or even persisted and satisfied the necessary requirements, some school administrators stonewalled students, delaying discussions or approval until interested students gave up or graduated from the school. Jayden N., a 16-year-old gay boy in Texas, described how his principal appeared to stall

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<sup>198</sup> Human Rights Watch interview with Levi B. (pseudonym), Utah, December 6, 2015.

<sup>199</sup> Human Rights Watch interview with Katherine R. (pseudonym), Pennsylvania, May 3, 2016.

<sup>200</sup> Human Rights Watch interview with Lucas K. (pseudonym), South Dakota, February 13, 2016.

<sup>201</sup> Human Rights Watch interview with Piper N. (pseudonym), South Dakota, February 14, 2016.

approving a GSA before a local LGBT activist and a supportive adult in the school system helped push the issue on his behalf:

I asked the principal for help and he said he couldn't. After about two weeks, I got a sponsor and approached the principal to have a meeting to get it started, and he [the principal] kept putting me off; we have to wait 'til this week, 'til this day. I got annoyed and told [the LGBT activist], and he wrote an email with legal stuff saying why I have the legal right to start the group. And after that, the principal came and talked to me the next day. He didn't seem happy ... but he said he'd help me finish the approval.<sup>202</sup>

Mia E., a 16-year-old pansexual girl in Pennsylvania, was similarly stonewalled and ultimately unsuccessful when she tried to start a GSA:

I asked my school last year and they were like, 'Great,' and [my counselor] was like, 'We'll talk next week,' and I thought it was in the bag. And I kept trying to meet with him, and he was always busy, or they said he wasn't in today, and I ended up switching counselors. So I asked the new counselor I had this year, and she basically was like, 'We don't really do that.'<sup>203</sup>

## Operating Gay-Straight Alliances

Even after students successfully formed GSAs, administrators at times imposed obstacles to their free and successful operation. When they are strictly or selectively enforced, even seemingly neutral requirements can preclude students from operating GSAs. In overt and subtle ways, GSAs were discouraged from building their membership, advertising their existence to the school community, or undertaking programming.

GSA advisors and members identified parental permission requirements as a formidable barrier to organizing and operating GSAs. Whether they are generally applicable to student clubs or specifically enforced against GSAs, these requirements exclude students who

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<sup>202</sup> Human Rights Watch interview with Jayden N. (pseudonym), Texas, November 7, 2015.

<sup>203</sup> Human Rights Watch interview with Mia E. (pseudonym), Pennsylvania, April 13, 2016.

cannot obtain permission from their parents or guardians or worry about the potentially serious consequences—for example, being rejected, forced into therapy, withdrawn from school, kicked out, disowned, or subjected to violence—if their parents or guardians suspect they might be LGBT. As a result, the students who are in most need of the supportive environment provided by a GSA are often effectively barred from attending or participating.

In Utah, where state law requires parental permission to participate in non-curricular clubs, the problem was particularly acute.<sup>204</sup> In 2007, the parental permission requirement was enacted by the state legislature in direct response to GSAs forming across the state. Caleb C., a gay non-binary 20-year-old in Utah, said his school began enforcing the requirement after a GSA formed:

This is something they implemented after the GSA was founded—you have to get a signature from your parent to join every club in the school... And if you're a questioning student, you're not going to be able to get a signature from your parent.<sup>205</sup>

In some instances, parental permission requirements were selectively applied against the GSA but not against other clubs. Joe J., a teacher and GSA advisor in Utah, said:

A lot of times it won't matter until a parent complains, 'Hey, I don't want my kid in that club, how did that happen.' So they won't care about Frisbee Club, but they'll care about us.<sup>206</sup>

Some students did not feel they could tell their parents about their involvement with the GSA for fear they would be barred from attending or would face repercussions. Lucia B., a high school student in Pennsylvania, said:

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<sup>204</sup> See Utah Code §§ 53A-11-1209, 53A-11-1210 (2007). The State of Georgia has a similar law. See Georgia Code § 20-2-705 (2006).

<sup>205</sup> Human Rights Watch interview with Caleb C. (pseudonym), Utah, November 24, 2015.

<sup>206</sup> Human Rights Watch interview with Joe J. (pseudonym), Utah, December 7, 2015.

I accidentally told my dad I went to GSA, and he asked what it was, and I told him, and he said, ‘You better not be part of that, or you’re going back to that church camp.’<sup>207</sup>

Her classmate Ashley D., an 18-year-old girl, said:

My mom knows I go to GSA, but she doesn’t know I’m bi. My dad told me and my brother that if we ever come out to be gay, lesbian, or bisexual, we’ll get disowned or kicked out of the house.<sup>208</sup>

Some students also said they sensed reluctance on the part of school personnel to acknowledge or advertise the GSA in the same manner as other clubs, further impeding their functioning. Ethan B., a 16-year-old transgender boy in Texas, cited an instance when school officials would not let the GSA be in the yearbook “because they said we didn’t meet the criteria,” though he believed they did.<sup>209</sup> Casey E., a 15-year-old pansexual genderfluid student in Texas, said school administrators would not let the GSA attend the eighth grade fair for incoming students “because they said it was just for school-sponsored clubs,” although there were other clubs that did not fit the same criteria and were allowed to participate.<sup>210</sup>

In some instances, students said that administrators turned away announcements from the GSA or persistently neglected to make those announcements as they would for other groups. Serena I., a 17-year-old bisexual girl in Utah, observed: “We’ve put in announcements and they skip them.”<sup>211</sup> GSA advisors ran into this problem as well. Arthur C., a teacher and GSA advisor in Texas, said: “I’d put announcements in weekly and they’d often go unread. The students who’d read them would laugh or start to read them and stop.”<sup>212</sup> Isabel M., a GSA advisor in South Dakota, noted that after a particularly

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<sup>207</sup> Human Rights Watch interview with Lucia B. (pseudonym), Pennsylvania, May 3, 2016.

<sup>208</sup> Human Rights Watch interview with Ashley D. (pseudonym), Pennsylvania, May 3, 2016.

<sup>209</sup> Human Rights Watch interview with Ethan B. (pseudonym), Texas, November 5, 2015.

<sup>210</sup> Human Rights Watch interview with Casey E. (pseudonym), Texas, November 12, 2015.

<sup>211</sup> Human Rights Watch interview with Serena I. (pseudonym), Utah, December 7, 2015.

<sup>212</sup> Human Rights Watch interview with Arthur C. (pseudonym), Texas, November 9, 2015.

contentious backlash from parents against the Day of Silence, her school's GSA was prohibited from making announcements outright.<sup>213</sup>

Some students said that even after GSAs were allowed to form, school personnel restricted the words and messaging they were able to use in announcements and posters. Jayden N., a 16-year-old gay boy in Texas, said:

We tried to get an announcement on the announcements, but we couldn't because it had the word 'gay.' And I can't say 'GSA,' because nobody would know what I'm talking about.<sup>214</sup>

Misty A., a teacher in Texas, similarly recalled:

When we had the GSA on our campus, the principal wouldn't let us use the word 'gay' on posters. The rationale was that if they know it's a gay group, the kids might get bullied. I think she just didn't want the word....<sup>215</sup>

Some GSAs were unable to advertise in their school or in particular places within the school. In at least one instance, specific teachers refused to have GSA posters near their classrooms. Arthur C., a teacher and GSA advisor in Texas, said: "I had some teachers be like, you can't hang those near my room—three of them."<sup>216</sup>

For some GSAs, posters were heavily regulated, and in a different manner from other groups. Misty A., a teacher in Texas, recalled that the principal at her school "insisted on approving all posters, which they didn't do for any other group, and haven't done since."<sup>217</sup> Lillian D., a teacher and GSA advisor, in Pennsylvania, said that while her school generally allowed the GSA to operate, it was forced to take down its posters before an open house

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<sup>213</sup> Human Rights Watch interview with Isabel M. (pseudonym), South Dakota, February 12, 2016.

<sup>214</sup> Human Rights Watch interview with Jayden N. (pseudonym), Texas, November 7, 2015.

<sup>215</sup> Human Rights Watch interview with Misty A. (pseudonym), Texas, November 5, 2015.

<sup>216</sup> Human Rights Watch interview with Arthur C. (pseudonym), Texas, November 9, 2015.

<sup>217</sup> Human Rights Watch interview with Misty A. (pseudonym), Texas, November 5, 2015.

attended by parents: “No other clubs had to take down their signs. The principal just wanted our sign down before parents came in.”<sup>218</sup>

One of the most pervasive problems that GSAs faced was posters being ripped, defaced, or destroyed without consequence. Ethan B., a 16-year-old transgender boy in Texas, said:

People would pound on the GSA doors, people would join to make fun of us, we’d put up posters and they’d get written on and torn down. We complained but the administration said they couldn’t do anything.<sup>219</sup>

Gianna F., a teacher and GSA advisor in Pennsylvania, said: “We can’t put posters up because they get ripped down.” Instead of advertising with posters like other clubs at the school, the GSA had to paint its announcements on the inside of her classroom window to keep them from being defaced.<sup>220</sup> As Serena I., a 17-year-old bisexual girl in Utah observed: “It’s mental abuse, almost, seeing all these posters up and yours is the only one that’s written on or torn down.”<sup>221</sup>

Other GSA advisors and members explained that, because their posters were so regularly defaced, they had simply stopped making them and advertising the club in the common areas of the school.

A small number of students also said that GSA meetings were singled out for special monitoring by school administrators who sat in on proceedings, discouraging openness and discussions among members. Paolo V., a 19-year-old transgender man in Texas, said: “They assigned different administrators to supervise us because they thought we’d go into inappropriate subjects.... They didn’t assign administrators to other groups.”<sup>222</sup> Victoria P., a 16-year-old lesbian girl in Pennsylvania, said that although administrators were generally

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<sup>218</sup> Human Rights Watch interview with Lillian D. (pseudonym), Pennsylvania, April 15, 2016.

<sup>219</sup> Human Rights Watch interview with Ethan B. (pseudonym), Texas, November 5, 2015.

<sup>220</sup> Human Rights Watch interview with Gianna F. (pseudonym), Pennsylvania, April 19, 2016.

<sup>221</sup> Human Rights Watch interview with Serena I. (pseudonym), Utah, December 7, 2015.

<sup>222</sup> Human Rights Watch interview with Paolo V. (pseudonym), Texas, November 12, 2015.

supportive, “I think we’re also watched more closely than other clubs for content, though, to make sure everything is appropriate for school.”<sup>223</sup>

Kevin I., a 17-year-old transgender boy in Utah, said of his GSA:

They can’t speak about sex, they can’t speak about genitalia, they can’t bring guest speakers, they can’t talk about issues that are huge in the LGBT community. They say it’s not ‘appropriate’ for a school environment. Which is stupid, because it’s very important.<sup>224</sup>

Concern about what was and was not permissible can lead to self-censorship. Brook E., an asexual agender 18-year-old in Utah, recalled: “The no promo homo law has been a big thing in the GSA because we couldn’t be ‘promoting’ homosexuality.... We had to tiptoe around a lot of things for that reason.”<sup>225</sup> Rhonda H., a teacher and GSA advisor in Utah, recalled how the no promo homo law had deterred students in the GSA from screening YouTube videos about LGBT identities because they were concerned the videos violated the state’s law by mentioning sex, “which is not something the Film Critics Club, or the Food Club, has to worry about.”<sup>226</sup>

Some school administrators also strictly and selectively enforced prohibitions on involvement with speakers or groups beyond the school. Jayden N., a 16-year-old gay boy in Texas, said: “We also weren’t allowed to announce events from outside groups that were part of us. But other groups would announce community events.”<sup>227</sup> Lucas K., an 18-year-old transgender boy in South Dakota, encountered the same resistance with his GSA:

[W]e wanted to do more public events this year, and we were told we can’t do that, or have a get together with all the other GSAs in Sioux Falls,

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<sup>223</sup> Human Rights Watch interview with Victoria P. (pseudonym), Pennsylvania, May 5, 2016.

<sup>224</sup> Human Rights Watch telephone interview with Kevin I. (pseudonym), Utah, January 9, 2016.

<sup>225</sup> Human Rights Watch interview with Brook E. (pseudonym), Utah, November 27, 2015.

<sup>226</sup> Human Rights Watch interview with Rhonda H. (pseudonym), Utah, December 3, 2015.

<sup>227</sup> Human Rights Watch interview with Jayden N. (pseudonym), Texas, November 7, 2015.

because they'd be liable. But if they had all the football teams get together... that would be fine.<sup>228</sup>

Some GSAs were prohibited from raising awareness, speaking out against discrimination, or undertaking other programming. Patrick J., a teacher and GSA advisor in South Dakota, said the GSA had been told it could not hold a fundraising bake sale, although he noted “student council is selling root beer floats tomorrow. And the sports teams sell food like that.”<sup>229</sup>

As a result of these various forms of interference, students in GSAs at times ran into resistance and self-censorship from advisors who anticipated pushback from the school administration or parents. Marcus A., a 20-year-old bisexual man in Alabama, recalled that one transgender student in the GSA said when he brought up the idea of observing the Transgender Day of Remembrance “one of our GSA sponsors said it was hard enough to get set up, that there were enough people against us that trying to include trans issues would increase the backlash.”<sup>230</sup>

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<sup>228</sup> Human Rights Watch interview with Lucas K. (pseudonym), South Dakota, February 13, 2016.

<sup>229</sup> Human Rights Watch interview with Patrick J. (pseudonym), South Dakota, February 9, 2016.

<sup>230</sup> Human Rights Watch interview with Marcus A. (pseudonym), Alabama, January 21, 2016.

## V. Discrimination and Bigotry

Many LGBT students, teachers, and staff face overt discrimination and acts of bigotry because of their sexual orientation or gender identity.

In 12 states and the District of Columbia, state law prohibits discrimination on the basis of sexual orientation and gender identity in schools, and in Wisconsin, state law prohibits discrimination on the basis of sexual orientation but not gender identity.<sup>231</sup> A larger number of US states—20 and the District of Columbia—have laws prohibiting discrimination based on sexual orientation and gender identity in employment.<sup>232</sup> Of the five states examined in this report, only Utah has statutory employment protections covering both sexual orientation and gender identity.<sup>233</sup> The remaining 30 states have partial protections, executive orders, or no statewide protections at all.

As the testimonies of LGBT students, teachers, and administrators show, discrimination and bigotry against LGBT people in school environments can be subtle or overt. Transgender, gender non-conforming, and non-binary youth in particular have faced discrimination and bigotry in schools, due in part to the pervasively gendered nature of many school environments, a lack of clarity about the legal obligations that schools must meet when issues arise, and a lack of training and familiarity on the part of school personnel.

Bullying and discrimination, together with a range of other practices that students identified, can lead to LGBT students being seen as anomalous or excluded from the school community. Repeated slights and microaggressions created a hostile environment for many LGBT youth in schools.

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<sup>231</sup> Movement Advancement Project (MAP), “Safe Schools Laws: Non-Discrimination,” [http://www.lgbtmap.org/equality-maps/safe\\_school\\_laws](http://www.lgbtmap.org/equality-maps/safe_school_laws) (accessed September 23, 2016).

<sup>232</sup> Movement Advancement Project (MAP), “Non-Discrimination Laws: Employment,” [http://www.lgbtmap.org/equality-maps/non\\_discrimination\\_laws](http://www.lgbtmap.org/equality-maps/non_discrimination_laws) (accessed August 15, 2016).

<sup>233</sup> Utah Code Ann. Sec. 34A-5-106.

## Bigotry and Fear of Repercussion Faced by LGBT Staff and Faculty

Discussions of LGBT issues in schools often focus on LGBT youth, who are especially vulnerable to bullying, harassment, and adverse academic and mental health outcomes. Yet LGBT school personnel also encounter adverse treatment because of their sexual orientation and gender identity. LGBT teachers who were out at school frequently faced harassment from students. Victoria P., a 16-year-old lesbian girl in Pennsylvania, said:

My advisor, Mr. [Thompson], he gets stuff yelled at him sometimes, and he's one of the only openly gay teachers at the school. Like, the other day, some kid yelled, 'Mr. [Thompson], you're gay!'<sup>234</sup>

Sometimes, adverse treatment came from other faculty and staff as well. Arthur C., a transgender teacher in Texas, said:

One of the assistant principals said I was morally bankrupt and the other called me a 'shim' [a derogatory contraction of 'she/him'] ... and there was a coach in the cafeteria to let people in. And every morning, he would say things like, 'Hey, got a faggot I can borrow,' or 'You need to wear a skirt...'<sup>235</sup>

Kevin D., a gay teacher in Texas, cited an instance when his partner kissed him on the cheek at the school door, and a student told their parent, who reported it to the principal.

He [the principal] got defensive, and cited ethical comportment by teachers, and I stood my ground and said I'm sure there are heterosexual teachers who do it, and I said show me the policy, and he never got back to me.<sup>236</sup>

Such a hostile climate can lead teachers who have not 'come out' to fear doing so. Isabel M., a GSA advisor in South Dakota, said:

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<sup>234</sup> Human Rights Watch interview with Victoria P. (pseudonym), Pennsylvania, May 5, 2016.

<sup>235</sup> Human Rights Watch interview with Arthur C. (pseudonym), Texas, November 9, 2015.

<sup>236</sup> Human Rights Watch interview with Kevin D. (pseudonym), Texas, November 9, 2015.

We definitely have gay teachers, they just aren't out. I think they're more worried about the community, not about the administration firing them. That the community wouldn't want their kids taught by a gay teacher.<sup>237</sup>

Sonja E., an administrator in Texas, noted: "I know teachers have told me that they don't feel comfortable putting up the photos of themselves and their partners that other teachers have put up, because they don't feel they can be that visible."<sup>238</sup> Kelly A., a 19-year-old gay woman in Utah, said: "One of my mom's friends was a Spanish teacher who would refer to his 'wife' even though he's married to a man, because he said he didn't want students to avoid his class because he's gay."<sup>239</sup>

Many interviewees—LGBT-identified and not—also voiced concerns about potential employment consequences of openly supporting LGBT students. In addition to the reluctance to sponsor GSAs, teachers said they wanted to avoid any perception they were expressly supportive on LGBT issues because they feared backlash from parents or school administrators. Glenda Elliott, a member of the Safe Schools Coalition in Alabama, said:

[F]aculty have no protection if they are gay, and those that might be willing to be supportive—and I've had them tell me this—they're afraid to be a strong advocate or ally, because they'll be shunned by colleagues, and they're not sure their principal will support them. You're talking about older people, in their 40s, 50s, 60s, when you're talking about principals and superintendents—and they're not changing overnight.<sup>240</sup>

Nora F., an administrator in Utah, explained how this spilled into classroom instruction:

Most of the educators that I talk to, especially young educators ... they don't have a lot of experience with [discussions of LGBT issues] or a clear understanding of what they can and can't teach. And they ultimately worry

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<sup>237</sup> Human Rights Watch interview with Isabel M. (pseudonym), South Dakota, February 12, 2016.

<sup>238</sup> Human Rights Watch interview with Sonja E. (pseudonym), Texas, November 13, 2015.

<sup>239</sup> Human Rights Watch interview with Kelly A. (pseudonym), Utah, November 23, 2015.

<sup>240</sup> Human Rights Watch interview with Glenda Elliott, Member, Alabama Safe Schools Coalition, Birmingham, Alabama, January 30, 2016.

they'll lose their job, and to be fair, they could lose their job. Even though we have some protections, we have a pretty clear limitation through the no promo homo law. And Utah is a right to work state.<sup>241</sup>

Carson E., a young gay male teacher in Utah, said: "I know a lot of male teachers who are gay, but they're not out. I teach in [a school district] which is about as Mormon as it gets, and I think they're afraid of the repercussions."<sup>242</sup> After she was summoned to the principal's office and instructed not to use gender-affirming names and pronouns for a transgender student, Gianna F., a teacher and GSA advisor in Pennsylvania, remarked: "I would love to stick my neck out for [the student], but I don't want to lose my job either."<sup>243</sup>

Even though outright firing was said to be rare, teachers still feared adverse consequences and hostility from colleagues and supervisors. Marisol J., an administrator in Texas, said:

I've had threats. I had a Catholic parishioner send an email to the entire school board because I was wasting taxpayer money for promoting homosexuality in schools. I know it might be a shadow over me for promotions.<sup>244</sup>

Maureen Gray of the Northeastern Pennsylvania Rainbow Alliance recalled a controversy over a high school staging of the musical "Spamalot," when a student mentioned to her parents that the character Lancelot is gay and the principal expressed concern about the musical's "homosexual themes." "They cancelled the show and fired the drama teacher."<sup>245</sup>

Reticence about being too visible as LGBT or supportive of LGBT youth can limit the ability of supportive teachers to help students in need. Ellen A., a transgender teacher in Utah, recalled a difficult incident prior to her transition at school:

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<sup>241</sup> Human Rights Watch interview with Nora F. (pseudonym), Utah, December 2, 2015.

<sup>242</sup> Human Rights Watch interview with Carson E. (pseudonym), Utah, December 1, 2015.

<sup>243</sup> Human Rights Watch interview with Gianna F. (pseudonym), Pennsylvania, April 19, 2016.

<sup>244</sup> Human Rights Watch interview with Marisol J. (pseudonym), Texas, November 7, 2015.

<sup>245</sup> Human Rights Watch interview with Maureen Gray, Coordinator, Northeastern Pennsylvania Rainbow Alliance, Pittston, Pennsylvania, April 22, 2016; Patrick Healy, "Dispute Over High School's Canceled 'Spamalot' Leads to Director's Departure," *New York Times*, September 22, 2014, <http://artsbeat.blogs.nytimes.com/2014/09/22/dispute-over-high-schools-canceled-spamalot-leads-to-directors-departure> (accessed November 12, 2016).

There was a young fellow who came through the elementary school. I clearly knew that he was gay, and there was nothing I could do, and it killed me. It not only broke my heart for him, because I saw the bullying and teasing ... but I was also terrified for me. I didn't want to risk exposing myself.... He went to the junior high school and was bullied terribly, and ended up having to leave that school.<sup>246</sup>

A lack of employment non-discrimination protections fueled the fear and uncertainty that teachers faced. Genie Taylor, an LGBT youth advocate with Shared Goals LLC in Alabama, explained: “If those policies were in place, according to what we’ve heard from teachers, they’d feel more comfortable standing up for kids if they weren’t concerned about being outed.”<sup>247</sup> Ellen A. underscored the importance of such protections in her own decision to come out as transgender and transition in the workplace. “Senate Bill 296 in the state of Utah made it less threatening for me to lose my job.”<sup>248</sup>

Yet employment protections have limited efficacy without notice and enforcement. Arthur C., a transgender teacher in Texas, said formal protections mattered little if they were not taken seriously, citing his former school’s policy against discrimination. “It’s very much campus-based how it’s enforced. I tried to get the principal to do the training, but it never happened in the faculty meetings. I felt like I was just hitting a wall.”<sup>249</sup>

## Same-Sex Couples in Schools

Multiple US federal court rulings have determined that unequal treatment of same-sex couples constitutes sex discrimination and that students have a right to take a same-sex date to school functions.<sup>250</sup> But for many same-sex couples, dating or attending school-sponsored events can be a fraught experience, generating frank displays of discrimination and disapprobation from school personnel.

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<sup>246</sup> Human Rights Watch interview with Ellen A. (pseudonym), Utah, November 23, 2015.

<sup>247</sup> Human Rights Watch interview with Genie Taylor, Partner, Shared Goals LLC, Birmingham, Alabama, February 1, 2016. For more on LGBT issues in education in the state, see LGBTQ Fund of the Community Foundation of Greater Birmingham, *Living LGBTQ in Central Alabama: Priorities for Action* (2016), p. 19-24.

<sup>248</sup> Human Rights Watch interview with Ellen A. (pseudonym), Utah, November 23, 2015.

<sup>249</sup> Human Rights Watch interview with Arthur C. (pseudonym), Texas, November 9, 2015.

<sup>250</sup> See, e.g., *Lawson v. Kelly*, No. 14-522, 2014 WL 5810215 (W.D. Mo. Nov. 7, 2014); *McMillen v. Itawamba Cnty. Sch. Dist.*, 702 F. Supp. 2d 699 (N.D. Miss. 2010); *Fricke v. Lynch*, 491 F. Supp. 381 (D.R.I., May 28, 1980).

Casey Akers, a sophomore at Timber Creek High School in Fort Worth, Texas, made local headlines in 2015 when her school stopped her from making a “promposal” inviting another girl in her school to prom.<sup>251</sup> As she explained in an interview, “I had a friend who was a senior, and just as friends, she asked if we’d be prom dates. Texas has a thing where we prompose to people, where you ask someone to go to prom in a special way. So before school started, I asked an administrator if I could do a promposal, just when and how, not who I was asking. The same administrator found me at lunch and asked if I was asking a girl to prom, and I said, ‘yes,’ and she said I couldn’t because it was not appropriate. The school let out a rule or notice that they had never let anyone do promposals [in her school district]. But the next day there were promposals going on with no consequence. The rule said any promposals would have consequences, but there were no consequences.”<sup>252</sup>

Other students reported school personnel discouraging them from bringing a same-sex date to prom, telling them that they could not do so, or refusing them a reduced price couple’s ticket. Kyra S., an 18-year-old queer woman in Alabama, recalled:

We were really explicit about it for our prom: if you’re a guy you bring a girl, if you’re a girl you bring a guy, and if you don’t do that don’t bring anyone.<sup>253</sup>

Gabby W., a 19-year-old bisexual woman in Alabama, encountered similar resistance with her same-sex date:

We also had to write down our name and our date’s name, and they asked if we were going as friends, and we said, ‘no,’ we’re going to go as a couple, and they said you can’t do that. I ended up having to put down my guy friend’s name and just give her the ticket.<sup>254</sup>

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<sup>251</sup> Bianca Castro, “Student Claims School Denied Her Lesbian Promposal Plan,” NBC, March 26, 2015, <http://www.nbcdfw.com/news/local/Keller-ISD-Student-Denied-Promposal-297747751.html> (accessed August 15, 2016).

<sup>252</sup> Human Rights Watch interview with Casey Akers, Fort Worth, Texas, November 9, 2015.

<sup>253</sup> Human Rights Watch interview with Kyra S. (pseudonym), Alabama, February 2, 2016.

<sup>254</sup> Human Rights Watch interview with Gabby W. (pseudonym), Alabama, January 25, 2016.

Caleb C., a gay non-binary 20-year-old in Utah, recalled:

[Y]ou're not allowed to buy the couples' tickets if you were a same-sex couple, so they're individual tickets and more expensive.... The poster actually said 'traditional couples only' for the couples' price.<sup>255</sup>

In one instance, a teacher stepped in to discourage LGBT students from attending a school dance together. Michael H., a 17-year-old gay boy in Texas who was the student body president as well as a member of the GSA, recalled: "She was like, 'Are you going to make a political statement? You're going to ruin our dance.'"<sup>256</sup>

Students in same-sex couples also reported experiencing differential treatment during the school day. Many schools prohibit public displays of affection (PDA), but students perceived that these policies are enforced unevenly against same-sex and heterosexual couples. The disparate enforcement of PDA rules arose in interviews in each of the five states examined in this report. Anna T., a 15-year-old bisexual girl in Pennsylvania, said: "Some teachers will stop PDA when it's guy-girl, but every time they spot same-sex PDA, they'll crack down on it."<sup>257</sup> Miley D., a 17-year-old bisexual girl in Alabama, recalled:

I saw a teacher tell a same-sex couple to stop holding hands. And I made a point to stand in front of the teacher and give my boyfriend a 30-second hug and kiss him on the cheek, and she said nothing.<sup>258</sup>

School personnel also reprimanded same-sex couples for behaviors that would be considered innocuous between heterosexual friends or couples. Brock K., a 15-year-old transgender boy in Texas, said that "as soon as my English teacher thought me and my friend were dating, if I put an arm around their shoulders, she'd break us up immediately, and 20 feet away, there's Brianna and John making out, and nobody would say anything."<sup>259</sup>

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<sup>255</sup> Human Rights Watch interview with Caleb C. (pseudonym), Utah, November 24, 2015.

<sup>256</sup> Human Rights Watch interview with Michael H. (pseudonym), Texas, November 6, 2015.

<sup>257</sup> Human Rights Watch interview with Anna T. (pseudonym), Pennsylvania, May 4, 2016.

<sup>258</sup> Human Rights Watch interview with Miley D. (pseudonym), Alabama, January 27, 2016.

<sup>259</sup> Human Rights Watch interview with Brock K. (pseudonym), Texas, November 15, 2015.

Some students faced harsh disapprobation when they were reprimanded for displays of same-sex affection. Zachary J., a 19-year-old transgender man in South Dakota, recalled a teacher’s run-in with his friends who were dating: “[S]he stopped them in the hallway when they were holding hands, and she brought them into her classroom and had this whole conversation about how being lesbian was a sin.”<sup>260</sup> In Pennsylvania, Melanie M., a 14-year-old bisexual girl, said: “I kissed my girlfriend out by the bus, and we both got calls home, and my girlfriend was outed to her parents by the call.”<sup>261</sup>

Students were conscious of this double standard, and teachers and administrators recognized it as well. Arthur C., a transgender teacher in Texas, noted: “They’d often yell at the gay kids kissing or holding hands, but they’d ignore straight kids doing the same thing. I saw that a dozen times.”<sup>262</sup> Mona T., a teacher and GSA advisor in Pennsylvania, said: “If you’re going to call it, call it for everyone. But if you’re going to call it out only for LGBT couples, that’s not fair.”<sup>263</sup>

## Access to Facilities

One of the most pressing concerns for transgender students is safety in bathrooms and locker rooms. Proponents of bathroom and locker room restrictions cite student safety as a reason to require students to use facilities according to their sex assigned at birth. But when schools require transgender girls to use the men’s room or require transgender boys to use the women’s room—which teachers do not monitor—they put them at risk of physical, verbal, or sexual assault from other students or adults.

Transgender students interviewed by Human Rights Watch said that being made to use facilities that did not correspond to their gender identity made them feel unsafe at school or exposed them to verbal and physical assault. Willow K., a 14-year-old transgender girl in Texas, recalled of her required eighth grade gym class:

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<sup>260</sup> Human Rights Watch interview with Zachary J. (pseudonym), South Dakota, February 16, 2016.

<sup>261</sup> Human Rights Watch interview with Melanie M. (pseudonym), Pennsylvania, May 4, 2016.

<sup>262</sup> Human Rights Watch interview with Arthur C. (pseudonym), Texas, November 9, 2015.

<sup>263</sup> Human Rights Watch interview with Mona T. (pseudonym), Pennsylvania, May 4, 2016.

I had to strip down into my girly underwear in front of a bunch of guys who would call me these rude names, and I couldn't go to the bathroom [or girls' locker room] to change ... and it made me so uncomfortable.<sup>264</sup>

The previous year, Willow had been assaulted by a group of football players in the locker room, making the requirement that she use the male locker room particularly difficult. Alexis J., a self-described genderfluid 19-year-old in Texas, recalled a gym class where “I had to strip down to girly underwear in front of a bunch of dudes. And they're like, ‘Faggot.’ And this was freshman year, so they're just vicious.”<sup>265</sup>

Transgender students expressed particular concern about physical assault and harassment in boys' bathrooms and locker rooms, but described harassment in girls' bathrooms and locker rooms as well. Kevin I., a 17-year-old transgender boy in Utah, said:

It was hard for me to be in a female locker room. People would ask if I was a lesbian, or was going to have sex with anyone in the locker room, and it was just very uncomfortable.<sup>266</sup>

And while many of the transgender students interviewed identified strongly as boys or girls and wanted to use the corresponding facilities, many others said they did not feel safe in either space and felt their only option was to forego bathrooms, gym classes, and gendered extracurricular activities with their peers altogether.

In addition to gendered divisions, lesbian, gay, and bisexual students deemed locker rooms particularly stressful, as their sexual orientation made them suspect to their peers. Nathan J., an 18-year-old student in South Dakota, said: “There's a lot of rampant homophobia in locker rooms. It's weirdly homophobic statements said so casually.”<sup>267</sup> Often, these statements had sexist or gendered undertones.

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<sup>264</sup> Human Rights Watch interview with Willow K. (pseudonym), Texas, November 10, 2015.

<sup>265</sup> Human Rights Watch interview with Alexis J. (pseudonym), Texas, November 10, 2015.

<sup>266</sup> Human Rights Watch telephone interview with Kevin I. (pseudonym), Utah, January 9, 2016.

<sup>267</sup> Human Rights Watch interview with Nathan J. (pseudonym), South Dakota, February 9, 2016.

The tendency to see LGBT people and issues as inherently sexual also colored lesbian, gay, and bisexual students' interactions in locker rooms. This was an especially prominent theme in interviews with young lesbian and bisexual women. Charlie O., a 17-year-old pansexual genderfluid student in Texas, offered an example:

[P]eople would be weird about it because I fit the stereotypical lesbian look, and so I guess no one would talk to me in the locker room. They'd talk to each other and not talk to me. I'm not going to hit on everyone.<sup>268</sup>

Caleb C., a gay non-binary 20-year-old in Utah, said:

I would just change in the stall after everyone was done changing. And that sucked, because I had it in the morning, and I'd just be sweaty all day.<sup>269</sup>

As a result of discomfort, harassment, and exclusion, some LGBT students opted not to take gym class. In some states and school districts, however, gym class is required to graduate, putting LGBT students in difficult positions. Some students interviewed for this report took gym classes online, bypassing the physical and social benefits of taking those classes with their peers. As noted above, others remained in gym classes but avoided changing or participating, often receiving poor grades as a result.

Restricting access to these facilities negatively affects the physical and mental health of transgender youth. For example, research indicates that avoiding bathroom use for extended periods of time is linked to dehydration, urinary tract infections, and kidney problems.<sup>270</sup> Cassidy R., an agender 18-year-old in Utah, recalled: "I know a lot of my friends just didn't go to the bathroom and suffered a lot of infections and health problems because of that."<sup>271</sup> Daniel N., a 17-year-old transgender boy in Texas, said, "I don't pee during school.... I don't drink [water] at school, and I'm dehydrated."<sup>272</sup>

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<sup>268</sup> Human Rights Watch interview with Charlie O. (pseudonym), Texas, November 7, 2015.

<sup>269</sup> Human Rights Watch interview with Caleb C. (pseudonym), Utah, November 24, 2015.

<sup>270</sup> Jody L. Herman, "Gendered Restrooms and Minority Stress: The Public Regulation of Gender and its Impact on Transgender Peoples' Lives," *Journal of Public Management and Social Policy*, Vol. 19 (2013), p. 75-76.

<sup>271</sup> Human Rights Watch interview with Cassidy R. (pseudonym), Utah, December 2, 2015.

<sup>272</sup> Human Rights Watch interview with Daniel N. (pseudonym), Texas, November 10, 2015.

In addition to physical health issues, students underscored the mental health repercussions of being denied access to the spaces their peers used because they were transgender, including anxiety and feelings of gender dysphoria.<sup>273</sup> Acanthus R., a 17-year-old transgender student in Utah, said:

If you're assigned female at birth now, you go to the women's room, and it's just a reminder about what you hate most about yourself. And if you go the men's bathroom, it's, 'Am I going to get jumped,' 'Am I going to get suspended,' 'Is someone going to call me a tranny?'<sup>274</sup>

A number of medical authorities have emphasized that social transition, including access to bathrooms consistent with one's gender identity, is among the most important aspects of transition, and is crucial to transgender students' health and well-being.<sup>275</sup>

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<sup>273</sup> The American Psychiatric Association has explained that gender dysphoria occurs when there is "a marked difference between the individual's expressed/experienced gender and the gender others would assign him or her," which "causes clinically significant distress or impairment in social, occupational, or other important areas of functioning." American Psychiatric Association, "Gender Dysphoria," 2013, <http://www.dsm5.org/documents/gender%20dysphoria%20fact%20sheet.pdf>.

<sup>274</sup> Human Rights Watch interview with Acanthus R. (pseudonym), Utah, December 7, 2015.

<sup>275</sup> See Brief of Maine Chapter of the American Academy of Pediatrics et al., *Doe v. Clenchy*, No. 09-201 (Me. Nov. 20, 2012), <http://www.glad.org/uploads/docs/cases/doe-v-clenchy/2013-05-03-doe-v-clenchy-amicus-brief-final.pdf>; see also World Professional Association for Transgender Health (WPATH), *Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People* (7th ed., 2011), [https://s3.amazonaws.com/amo\\_hub\\_content/Association140/files/Standards%20of%20Care%20V7%20-%202011%20WPATH%20\(2\)\(1\).pdf](https://s3.amazonaws.com/amo_hub_content/Association140/files/Standards%20of%20Care%20V7%20-%202011%20WPATH%20(2)(1).pdf) (accessed September 23, 2016).

Parents of transgender youth observed the repercussions of restricted access to facilities, particularly in elementary schoolers and middle schoolers. In an interview with Human Rights Watch in Texas, Tanya H., the mother of a nine-year-old transgender boy named Elijah, recalled:

A year ago at this time, he was having a really hard time, and he'd go into the girl's bathroom and girls would yell, 'There's a boy in here!' and he couldn't go to the boys' bathroom, and so he stopped going to the bathroom. There were a lot of meltdowns.

When Elijah mentioned suicide and was briefly hospitalized, his mother spoke to administrators to ensure that he would be treated as a boy when he started at a new school in the fall. Tanya recalled:

He was kind of worried about going to a new school, and he said, 'If I can go as a boy, okay.' He's just fallen into it, and he's so much happier.... He's making friends who know him as a boy.<sup>276</sup>

Ingrid A., the parent of a transgender girl in fifth grade in Pennsylvania, recalled a similar shift when her daughter transitioned at school:

She was a darker child, prior. When she would be angry, her tantrums would go to a dark place: 'I want to die,' 'God made a mistake,' 'I'm not supposed to be a boy.'... But that year of transition, she just became comfortable with herself and you just saw this kid blossom.<sup>277</sup>

Proponents of restrictions on bathroom and locker room access often cite the privacy or discomfort of cisgender students using the same facilities as a justification for excluding transgender youth. However, as described above, these concerns are far outweighed by the harmful and potentially dangerous impact on transgender students of policies that deny them the use of facilities that correspond to their gender identity. Such discrimination can also undermine transgender students' right to privacy, by effectively outing them as transgender to peers and school staff.

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<sup>276</sup> Human Rights Watch interview with Tanya H. (pseudonym), Texas, November 14, 2015.

<sup>277</sup> Human Rights Watch interview with Ingrid A. (pseudonym), Pennsylvania, May 5, 2016.

Some schools have allowed transgender students to use alternative facilities, including faculty bathrooms normally off-limits to students, as an alternative to giving them free access to facilities that correspond with their gender identity. This is not an adequate compromise. Several transgender students told us that requesting or using all-gender options that cisgender students did not use served to convey their transgender status to faculty, staff, and peers as well. Silas G., a 15-year-old transgender boy in South Dakota, said: “My teacher would grill me, ‘Why are you going to the nurse?’.... And I got yelled at for using the faculty bathroom.”<sup>278</sup> Teagan W., a 16-year-old transgender boy in Texas, said when using the faculty bathroom, “I get a lot of weird looks from teachers. I’ll wait until teachers go in so they’re not like, ‘What are you doing?’”<sup>279</sup>

On the other hand, some transgender students prefer the use of all-gender facilities because they do not feel comfortable in bathrooms that correspond to the gender binary. In these situations, schools should take steps to minimize the degree of unwanted scrutiny this generates, including by instructing teachers to refrain from interrogating students’ use of alternative facilities.

Many transgender students’ fear of being “outed” extends beyond the school environment to their own families. Many students who are transgender or are exploring their gender identity are not out to their families, fearing hostility or negative repercussions. In some instances, students who have sought accommodations from their schools have been outed to family, classmates, and others without their consent. Henry C., a 16-year-old transgender boy in Pennsylvania, said: “You can get a staff key for the faculty bathroom, but the last kid I know who asked to do that was outed to their parents by the office staff.”<sup>280</sup>

For students who feared strong disapprobation, violence, or being kicked out of their house if their transgender status was disclosed to their parents, the threat of disclosure can discourage them from talking with school officials about bathroom access, including discussions of all-gender alternatives.

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<sup>278</sup> Human Rights Watch interview with Silas G. (pseudonym), South Dakota, February 12, 2016.

<sup>279</sup> Human Rights Watch interview with Teagan W. (pseudonym), Texas, November 13, 2015.

<sup>280</sup> Human Rights Watch interview with Henry C. (pseudonym), Pennsylvania, April 15, 2016.

Privacy is indeed lacking in many school bathroom and locker room facilities. Some schools have removed stall doors from bathrooms in an effort to deter drug use and other prohibited behavior. And many if not most school locker rooms require students to change clothes and/or shower in a shared, communal space without curtains or other barriers.

Some schools have increased the level of privacy in bathrooms and locker rooms, rather than bar transgender students from accessing them altogether. Many transgender students told Human Rights Watch that they wished their schools would adopt such measures. Harley A., an administrator who has overseen the implementation of such a policy in Pennsylvania, said “One of the first things I did when I started this was to go to facilities and say, go around to every bathroom and locker room and make sure there are doors on the stalls.”<sup>281</sup> With the inclusive policy in place, “There’s a couple kids changing for gym in the locker room of their gender identity, and that’s worked fine.”<sup>282</sup>

Restrictions on bathroom usage also compromise transgender students’ education and their ability to participate fully in the school community on an equal footing with others. When students are preoccupied with the unavailability of safe places to relieve themselves, forego participation in gym classes, or suffer other negative impacts resulting from discriminatory restrictions, they are less able to learn and participate fully in school.

Ursula P., a 16-year-old transgender girl in Alabama, said:

They refused to put me in girls’ PE last year, and I was scared to go in the locker room and [change clothes] and wouldn’t participate, and so I failed. I requested to do girls’ PE and it’s been over a month; I don’t think they’re making the decision. And I need a whole year of PE to graduate.<sup>283</sup>

In some instances, students who had been offered the use of all-gender bathrooms noted that these were inconveniently located—often distant from classrooms, and far less prevalent than gendered options.

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<sup>281</sup> Human Rights Watch interview with Harley A. (pseudonym), Pennsylvania, April 13, 2016.

<sup>282</sup> Ibid.

<sup>283</sup> Human Rights Watch interview with Ursula P. (pseudonym), Alabama, January 28, 2016.

Zack T., a 16-year-old transgender boy in Texas, said:

I've been trying to get gender-neutral bathrooms this year.... It takes probably three minutes to get there, three minutes to use the restroom, three minutes to get back, like ten minutes. And that's out of an hour of classroom time, and is cutting into my learning time. But the nearest guy's room is just down the hallway.<sup>284</sup>

The unavailability of safe and accessible bathrooms and locker rooms also compromises participation in the school community more generally. For example, students described strategies of leaving the campus entirely to find a bathroom at a gas station, fast food restaurant, or other establishment that they could use safely and comfortably, and, as a result, missing out on opportunities to eat lunch or socialize with peers. Students also explained that they did not participate in extracurricular activities—primarily sports, but also choir, drama, and other activities—because they expected they would have to participate as their sex assigned at birth in the activity and any associated use of locker rooms or bathrooms for out of town trips.

Regulating transgender students' access to shared facilities also puts those students at risk of disciplinary action. When students feel there is no bathroom they can use safely and privately, they often break the rules. Willow K., a 14-year-old transgender girl in Texas, said: "I've tried going to the girl's bathroom; there's a girl who doesn't like me and she told one of the teachers and I got in trouble and got written up."<sup>285</sup> Several students shared stories of being reprimanded by teachers or administrators, despite the fact that no incidents occurred due to their using the bathroom that matched their gender identity.

Some students told Human Rights Watch that all-gender facilities, introduced as an option available to all students, would be their preferred solution, and lessen the stress of gender policing by peers and teachers.

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<sup>284</sup> Human Rights Watch interview with Zack T. (pseudonym), Texas, November 8, 2015.

<sup>285</sup> Human Rights Watch interview with Willow K. (pseudonym), Texas, November 10, 2015.

Students who were agender, genderfluid, or non-binary, and even some transgender boys and girls found gendered bathrooms intimidating. As Dominic J., a 13-year-old transgender boy in Pennsylvania, noted: “I’ve been yelled at in both the men’s bathrooms and the women’s bathrooms in my school.”<sup>286</sup>

Students lauded a range of approaches that some schools have adopted to expand all-gender options, including redesignating gendered, single-stall bathrooms as all-gender bathrooms, and opening them for use by anyone who needs them; adding more single-stall bathrooms, often in the form of family bathrooms or accessible bathrooms that serve the needs of families and people with disabilities as well as transgender individuals; and designating certain multi-stall bathrooms as all-gender.

## Participation in School Events and Extracurricular Activities

In many schools, LGBT students are deterred or effectively excluded from participating in school events, extra-curriculars, or everyday activities because of their sexual orientation or gender identity. As a result, they are deprived of the full education that their heterosexual, cisgender peers enjoy.

Across many US states, transgender students face restrictions related to participation in sports and other extracurricular activities. The treatment of transgender students in public school sports varies considerably from state to state.

In some states, students are allowed to participate consistent with their gender identity.<sup>287</sup>In others, students may participate consistent with their gender identity if they have undergone some form of medical intervention, typically hormone treatments.<sup>288</sup> A number of states use case-by-case evaluations or lack any guidelines to determine how students participate.<sup>289</sup> And in some states, students are required to participate in extracurricular activities as their sex assigned at birth.<sup>290</sup>

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<sup>286</sup> Human Rights Watch interview with Dominic J. (pseudonym), Pennsylvania, April 15, 2016.

<sup>287</sup> Trans\*Athlete, “High School Policies for Transgender Student Athletes,” <http://www.transathlete.com/#!/k-12/c4w2> (accessed June 2, 2016).

<sup>288</sup> Ibid.

<sup>289</sup> Ibid.

<sup>290</sup> Ibid.

In extracurricular activities, like other areas of school environments, federal interpretations of Title IX recognize that transgender girls are girls and transgender boys are boys, and schools should treat them accordingly. This approach not only respects transgender students' right to be free from discrimination, but comports with best practices from high school athletic associations.<sup>291</sup>

When students were uncertain about their ability to participate in extracurricular activities according to their gender identity, they at times forewent participation in those activities. Kevin I., a 17-year-old transgender boy in Utah, explained: "I can't join the football team because I'm biologically female, I don't want to join softball because it's all females. There's just nothing to do after school."<sup>292</sup>

Some students were expressly barred from participating in sports and other extracurricular activities according to their gender identity. Lucas K., an 18-year-old transgender boy in South Dakota, explained: "I wanted to do football, and of course I could not do football, being 'female.' I can play football. I can play it well. But they were like, you can't do that, you don't have the kind of build for it. And with training, you get the build."<sup>293</sup> Zack T., a 16-year-old transgender boy in Texas who was required to wrestle with girls, observed:

Right now [the University Interscholastic League] is saying that the gender your birth certificate says, you have to wrestle in that. I've had a problem with that, but it's a thing I have to fall back on scholarship-wise, and I really like wrestling.<sup>294</sup>

When students did participate, they sometimes faced restrictions on their uniforms or the extent of their participation. Amanda K., a 19-year-old transgender girl in South Dakota, recounted her experience trying to participate on her school's cheerleading team. After

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<sup>291</sup> Pat Griffin, "Developing Policies for Transgender Students on High School Teams," National Federation of State High School Associations, September 8, 2015, <http://www.nfhs.org/articles/developing-policies-for-transgender-students-on-high-school-teams> (accessed August 15, 2016); Transgender Law and Policy Institute, "Guidelines for Creating Policies for Transgender Children in Recreational Sports," September 2009, [http://media.wix.com/ugd/2bc3fc\\_6cd03b8e19147c71c0153c81e96babcb.pdf](http://media.wix.com/ugd/2bc3fc_6cd03b8e19147c71c0153c81e96babcb.pdf).

<sup>292</sup> Human Rights Watch telephone interview with Kevin I. (pseudonym), Utah, January 9, 2016.

<sup>293</sup> Human Rights Watch interview with Lucas K. (pseudonym), South Dakota, February 13, 2016.

<sup>294</sup> Human Rights Watch interview with Zack T. (pseudonym), Texas, November 8, 2015.

being stonewalled for a year, she was finally allowed to be on the team, but not to wear the girls' uniform or perform the same routines as her teammates. As she recalled, "I felt uncomfortable because everyone else was in skirts."<sup>295</sup>

Although most of the issues that students identified with sports and extracurricular activities involved restrictions based on gender identity, some lesbian, gay, and bisexual students noted pervasive hostility on the basis of sexual orientation. Francesca K., an 18-year-old lesbian girl in Alabama, said:

All my issues were with sports. Somebody outed me to everybody else on the lacrosse team and those people started calling me, leaving messages about how your daughter is a faggot. And then at lacrosse itself, people stopped talking to me. And that person continued to make everybody make fun of me. They were calling me faggot. The coach found out, but he didn't do anything.<sup>296</sup>

## Expression and Dress

LGBT students often experienced rigorous policing of how they dressed and expressed their gender. Wearing gender-affirming clothing is an important part of social transition, making such regulations particularly stressful and humiliating for transgender youth.

Sometimes, this policing of transgender and gender non-conforming youth happened during the school day. Caleb C., a gay non-binary 20-year-old in Utah, recalled a student who was routinely punished for wearing women's clothing.

I remember once they were wearing a skirt and it followed the guideline, two to three inches above the knee, they were really careful about that. And they got sent to the office for wearing a costume on a non-Halloween day.<sup>297</sup>

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<sup>295</sup> Human Rights Watch interview with Amanda K. (pseudonym), South Dakota,

<sup>296</sup> Human Rights Watch interview with Francesca K. (pseudonym), Alabama, January 21, 2016.

<sup>297</sup> Human Rights Watch interview with Caleb C. (pseudonym), Utah, November 24, 2015.

At other times, policing happened at events and other occasions. Willow K., a 14-year-old transgender girl in Texas, recalled: “I tried to wear a dress—I bought my ticket, went to homecoming wearing a dress, and they didn’t let me in and I didn’t get my money back.”<sup>298</sup> Julian L., a 15-year-old gay transgender boy in South Dakota, observed that in JROTC: “I asked like five times last year if I could wear the men’s uniform, and they said they’d look into it but never did.... I want to feel like the other guys.”<sup>299</sup>

Even when students were not punished, adults at times ridiculed them for gender non-conformity, including clothing. Adrian C., a 17-year-old student in Utah, said:

When I did wear heels last year, I had an incident with the vice principal....he followed me all the way down the hall talking, and said, ‘You know what I’m going to call you from now on? Dorothy? Do you know who Dorothy is?’ Because the heels were red. The tone of the entire experience was him trying to humiliate me in some way, and trying to get the people around me to turn on me, looking at them hoping they’ll join in.<sup>300</sup>

Glenda Elliott of the Alabama Safe Schools Coalition said no promo homo laws are invoked to justify censorship:

A school administrator has quoted that to me and said we have to be really careful we don’t promote—and he used that word, ‘promote’—homosexuality. The issue there was whether a student could wear a tee shirt that said ‘Gay? Fine By Me.’ He was afraid that by allowing that t-shirt to be worn in school, he would be advocating for same-sex activity.<sup>301</sup>

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<sup>298</sup> Human Rights Watch interview with Willow K. (pseudonym), Texas, November 10, 2015.

<sup>299</sup> Human Rights Watch interview with Julian L. (pseudonym), South Dakota, February 14, 2016.

<sup>300</sup> Human Rights Watch interview with Adrian C. (pseudonym), Utah, December 7, 2015.

<sup>301</sup> Human Rights Watch interview with Glenda Elliott, Member, Alabama Safe Schools Coalition, Birmingham, Alabama, January 30, 2016.

## School Events

In some instances, school spirit events and competitions explicitly or implicitly excluded LGBT youth. For example, in some schools, same-sex couples were excluded from elections to the homecoming court or other school competitions. Malia E., an 18-year-old bisexual girl in Texas, recalled: “The sponsor for student council didn’t allow us to put up two guys for homecoming court. She said, ‘You don’t have to try to make a statement.’”<sup>302</sup> Carol G., an administrator in Texas, recalled an incident where “the senior class nominated two men for a cutest couples contest, and the teacher in charge took them out of it, and then lied to the administrator by saying they had withdrawn.”<sup>303</sup>

In some instances, transgender students were excluded from schoolwide competitions as well. Bianca L., a 16-year-old bisexual girl in Alabama, recalled: “[W]e had a transgender student who had the possibility of being part of [a popular school beauty pageant,] and there were some teachers who said if she did it they wouldn’t help out.”<sup>304</sup> The student ultimately did not participate. Tristan O., a 21-year-old transgender man in Pennsylvania, said he was excluded due to his gender identity when he tried to run for prom king:

And everyone was really good about it, used the right name and pronouns and everything. It was just the head principal who made the problem. He moved me. They put me on ... the male side [of the ballot], and my friends went to vote and couldn’t find me, and they had put me on the other side. They hadn’t even told me.<sup>305</sup>

In South Dakota, students and parents at multiple schools across the state underscored the exclusionary and often sexist nature of “cross dress” or “gender switch” days, a school spirit event where students at the school dressed as the “opposite” gender. For transgender and non-binary students, the event invited a stream of public commentary from their peers on their clothing and gender. Justin P., a 19-year-old transgender man, recalled: “If you’re already androgynous, what are you supposed to do?”<sup>306</sup>

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<sup>302</sup> Human Rights Watch interview with Malia E. (pseudonym), Texas, November 10, 2016.

<sup>303</sup> Human Rights Watch interview with Carol G. (pseudonym), Texas, November 13, 2015.

<sup>304</sup> Human Rights Watch interview with Bianca L. (pseudonym), Alabama, January 28, 2016.

<sup>305</sup> Human Rights Watch interview with Tristan O. (pseudonym), Pennsylvania, April 19, 2016.

<sup>306</sup> Human Rights Watch interview with Justin P. (pseudonym), South Dakota, February 10, 2016.

Even when parents complained, schools let the days proceed. Rhoda B., a parent in South Dakota, reached out to the high school to urge them to change the theme and was rebuffed: “I reached out to school board members, and every one of them, for the most part, said ‘I can’t believe they’re doing it either’... but nobody did anything about it.”<sup>307</sup>

In Alabama, students at one school described a school-wide blood drive where the club with the highest participation rate won a pizza party. Because of the federal government’s ban on sexually active gay men donating blood, multiple members of the school’s GSA were turned away and barred from participating. Bianca L., a 16-year-old bisexual girl who led the GSA, explained: “It’s insulting ... it makes you feel dirty.”<sup>308</sup>

## Gender Policing

Students identified subtle but routine practices that were unnecessarily gendered and created stressful situations for transgender youth. Antonio H., an administrator in Utah, said: “There’s a number of teachers at our school who vehemently affirm traditional gender norms on a regular basis. Like, boys aren’t supposed to act that way, or girls aren’t supposed to act that way.”<sup>309</sup>

Even in high school, students described being instructed to divide into teams of boys or girls, being seated in alternating boy-girl patterns, or being addressed in gendered ways, with rigid policing of who goes where. Susanna K., a parent and school photographer in Utah said:

One thing I’ve noticed when I go into the schools doing photos is that they still have boy lines and girl lines, and I’ve heard teachers say, ‘You get out of that line, you’re not a boy. Get out of that line, you’re not a girl.’ And I’m like, just make lines of kids! Number the kids!.... I wanted to go talk to the principal, and to just say, I’m the parent of a transgender child, and I know this would have made my child hate being at school.<sup>310</sup>

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<sup>307</sup> Human Rights Watch telephone interview with Rhoda B. (pseudonym), South Dakota, March 16, 2016.

<sup>308</sup> Human Rights Watch interview with Bianca L. (pseudonym), Alabama, January 28, 2016.

<sup>309</sup> Human Rights Watch interview with Antonio H. (pseudonym), Utah, December 6, 2015.

<sup>310</sup> Human Rights Watch interview with Susanna K. (pseudonym), Utah, December 8, 2015.

## Names and Pronouns

A constant frustration for transgender students was the refusal or failure of teachers and administrators to use their identified name and pronouns in class and in school records. The US Department of Education has issued guidance indicating that, under Title IX, schools should respect the name and pronouns of transgender students.<sup>311</sup>

In some of the schools visited for this report, administrators were following that approach without incident. Harley A., an administrator in Pennsylvania, noted that “unless I have something absolutely forbidding me from using a trans name, I use a trans name. And that was part of the training for principals, basically saying, this is the name we use.”<sup>312</sup>

Students spoke favorably of strategies teachers employed to ensure their gender identity was respected. One common tactic was to pass out notecards at the beginning of the year where students could write information they wanted the teacher to know; for example, their preferred name and pronouns, any medical information that might be pertinent, any disabilities or learning difficulties, or other concerns.

While some schools and teachers invited students to identify their names and pronouns, a more typical arrangement was that it was up to transgender students to identify themselves and their name and pronouns to their teachers on a case-by-case, class-by-class basis. Putting the onus on students to inform teachers was a stressful process, particularly when teachers rejected the student’s gender identity. Because schools and school personnel typically did not indicate to students that they would respect names and pronouns, some students declined to take the risk of volunteering that information.

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<sup>311</sup> Under Title VII and some municipal ordinances, intentionally misgendering a person and insisting on using names and pronouns that accord with their sex assigned at birth can also constitute actionable harassment on the basis of gender identity. See Chris Geidner, “Army Discriminated Against Transgender Civilian Worker, Federal Agency Rules,” *BuzzFeed*, April 7, 2015, <https://www.buzzfeed.com/chrisgeidner/army-discriminated-against-transgender-civilian-worker-feder> (accessed September 23, 2016); Joe Tacopino, “Not Using Transgender Pronouns Could Get You Fined,” *New York Post*, May 19, 2016, <http://nypost.com/2016/05/19/city-issues-new-guidelines-on-transgender-pronouns> (accessed September 23, 2016).

<sup>312</sup> Human Rights Watch interview with Harley A. (pseudonym), Pennsylvania, April 13, 2016.

Tanner H., a pansexual 18-year-old in Texas, said:

Virtually all the people I know who were trans and non-binary, most didn't try to approach teachers about the kind of thing. It's a lot of effort for something that still might not be properly addressed.<sup>313</sup>

Anthony G., a 16-year-old demisexual transgender boy in Texas, said:

Today, a teacher I told many times, 'I'm Anthony, I'm Anthony,' I had to go up to them and finally say, 'Please, make an effort to use the right terms.' And I was really upset.<sup>314</sup>

In many instances, students observed that they had informed teachers of their identified name and pronouns, but teachers failed to use them and routinely misgendered the student before their peers. Silas G., a 15-year-old transgender boy in South Dakota, said:

At the beginning of the year, every teacher I had, I'd go explain what's going on, and that I want to be called Silas with male pronouns. Half the teachers would use my name and pronoun, and half wouldn't. One teacher will use Silas but ... uses female pronouns.<sup>315</sup>

Paolo V., a 19-year-old transgender man in Texas, recalled:

I did approach most of my teachers with a corrected name, and the ones who liked me would do it, but teachers who didn't like me would do it like a mistake, just to insult me.<sup>316</sup>

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<sup>313</sup> Human Rights Watch interview with Tanner H. (pseudonym), Texas, November 12, 2015.

<sup>314</sup> Human Rights Watch interview with Anthony G. (pseudonym), Texas, November 12, 2015.

<sup>315</sup> Human Rights Watch interview with Silas G. (pseudonym), South Dakota, February 12, 2016.

<sup>316</sup> Human Rights Watch interview with Paolo V. (pseudonym), Texas, November 12, 2015.

A further effect of misgendering in class was to stigmatize transgender students in front of peers. Charlie O., a 17-year-old pansexual genderfluid student in Texas, said of another student:

Carlos is trans and his name in the school books is Carla. So when you're in the classroom and the teacher says Carla, and he puts up his hand and says, 'I go by Carlos,' kids know to pick on him. It outs him to everyone else in the class, and that's when kids are like, you're not a real boy, or why are you like this, or you're a freak.<sup>317</sup>

Using the correct name and pronoun for a transgender student is critical for their mental health, well-being, and academic achievement. Acanthus R., a 17-year-old pansexual, non-binary transgender student in Utah, explained: "I notice pronouns every time. It's like a little mental pinch. It doesn't seem like a big deal, but eventually you bruise."<sup>318</sup>

Tristan O., a 21-year-old transgender man in Pennsylvania, agreed:

Names and pronouns are the first step to really being tangibly who you are, and have always been. And especially somewhere you have to spend all day, every day in, to not acknowledge who you are, it's like sticking a pin in you every time. Eventually, you're going to look like a porcupine.<sup>319</sup>

## Record Keeping

The use of incorrect names and pronouns was exacerbated by administrators' refusal or failure to update student information in school records. Some transgender students said they were told the school was unable to update any school records unless they had legally changed their name and gender. Administrators in other schools did update student information without incident, however, particularly in their internal records.

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<sup>317</sup> Human Rights Watch interview with Charlie O. (pseudonym), Texas, November 7, 2015.

<sup>318</sup> Human Rights Watch interview with Acanthus R. (pseudonym), Utah, December 7, 2015.

<sup>319</sup> Human Rights Watch interview with Tristan O. (pseudonym), Pennsylvania, April 19, 2016.

Willow K., a 14-year-old transgender girl in Texas, said:

I've tried to get the school to get my school to change my gender and name in the school records, and they're like, no, this is what you're enrolled as, we're not changing you to a girl.<sup>320</sup>

Julian L., a 15-year-old transgender boy in South Dakota, said: "Last year I asked the office if they'd be okay changing my name in the system from Julie to Julian, and they didn't do it but they would put Julian in parentheses. They said legally they couldn't change it."<sup>321</sup> In at least one instance, school officials believed that students had to medically transition in order to update their school records. Hannah L., a teacher in Utah, said: "The vice principal is under the impression that we can't change the gender to female until [a transgender boy] has an operation, by law."<sup>322</sup>

Students were especially concerned that records reflecting their name and sex assigned at birth would out them or create uncomfortable scenes when given to substitute teachers, guest speakers, and others who were unfamiliar with the student and their gender identity. Daniel N., a 17-year-old transgender boy in Texas, said: "It's awful with subs, who call my name, and I just have to say '...here...' and hope nobody notices it's me."<sup>323</sup> With substitutes who may not be trained to be sensitive to LGBT concerns and may not know students well, this misgendering could be especially aggressive. Anna T., a 15-year-old bisexual girl in Pennsylvania, recalled: "My friend has transitioned fully, he's male, and the substitute calls him female, and 'sweetie.'"<sup>324</sup>

Other students noted that their school refused to issue them a transcript or diploma with their identified name and gender, which could create new challenges and privacy concerns as students moved into higher education or the job market. Tristan O., a 21-year-old

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<sup>320</sup> Human Rights Watch interview with Willow K. (pseudonym), Texas, November 10, 2015.

<sup>321</sup> Human Rights Watch interview with Julian L. (pseudonym), South Dakota, February 14, 2016.

<sup>322</sup> Human Rights Watch interview with Hannah L. (pseudonym), Utah, December 8, 2015.

<sup>323</sup> Human Rights Watch interview with Daniel N. (pseudonym), Texas, November 10, 2015.

<sup>324</sup> Human Rights Watch interview with Anna T. (pseudonym), Pennsylvania, May 4, 2016.

transgender man in Pennsylvania, said: “I called them to get my transcripts and asked if they could switch my name, and they said that that wasn’t possible.”<sup>325</sup>

FERPA, a federal law, provides an avenue for transgender students to correct their educational records so they are consistent with the student’s gender identity.<sup>326</sup> Under FERPA, parents or legal guardians have the right to amend student records until the student is 18 or enrolls in a postsecondary institution, at which point the student has the right to amend records.

While schools do have recordkeeping obligations related to statewide testing, social services, and other legal requirements, as well as entry into the Selective Service System, the Free Application for Federal Student Aid (FAFSA), and other federal programs, some schools have demonstrated that internal systems can be successfully modified to include spaces for identified name and gender, such that that information appears on roll call, grading sheets, and other internal systems.

Schools may not realize that in many instances, documents and materials that reflect a student’s gender need not include gender at all. Where gender is pertinent, schools can either provide a menu of options beyond male and female or, ideally, leave an open-ended space for students to provide the gender with which they identify. Systems can be put in place for students to change their identified gender in school records, recognizing that the gender on a student’s birth certificate or initial records in kindergarten may not be the student’s gender in middle school or high school.

## Graduation

In many school districts across the country, graduation poses a final and often painful obstacle for transgender students. In many schools, graduating seniors sit for senior portraits where men are required to wear a suit or tuxedo and women are required to wear a gown or drape. Many schools were inflexible in their gendered requirements when transgender students sought accommodations. Paolo V., a 19-year-old transgender man in

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<sup>325</sup> Human Rights Watch interview with Tristan O. (pseudonym), Pennsylvania, April 19, 2016.

<sup>326</sup> Lambda Legal, “A Transgender Advocate’s Guide to Updating and Amending School Records,” May 15, 2014, <http://www.lambdalegal.org/know-your-rights/transgender/ferpa-faq> (accessed September 23, 2016).

Texas, recalled: “The most I got for the photo was, ‘You don’t have to wear the pearls,’ but they still made me wear the [drape] rather than the tux.”<sup>327</sup>

Graduation ceremonies themselves are often gendered, with different colored gowns for men and women. Some students described being assigned gowns based on their sex assigned at birth and denied permission to wear the gown consistent with their gender identity.<sup>328</sup>

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<sup>327</sup> Human Rights Watch interview with Paolo V. (pseudonym), Texas, November 12, 2015.

<sup>328</sup> Human Rights Watch telephone interview with Logan J. (pseudonym), Utah, January 9, 2016.

## VII. Human Rights Analysis

The problems described in this report undermine a number of fundamental human rights that the US is obliged to uphold under international law, including LGBT students' rights to personal security, freedom from discrimination, access to information, free expression, association and privacy. These rights are guaranteed by the International Covenant on Civil and Political Rights (ICCPR), which the US ratified in 1992.<sup>329</sup> All levels of government—federal, state, and local—share in the responsibility to respect and uphold these rights.<sup>330</sup>

Many of the human rights problems LGBT students face in schools also undermine their right to education. The US Constitution does not guarantee the right to education but the laws or constitutions of all 50 US states recognize that all children are entitled to primary and secondary education.<sup>331</sup> The right to education is protected under the International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>332</sup> The US has signed but not ratified the ICESCR and is therefore not bound by its provisions.<sup>333</sup> However, the ICESCR provides an important source of guidance as to the necessary content of the right to education and the measures needed to uphold it.

Similarly, the US is the only UN member state that has not ratified the Convention on the Rights of the Child (CRC), the primary instrument under international law that elaborates the rights of children.<sup>334</sup> However, the Convention is an authoritative and useful tool for understanding the human rights issues children face, and the measures needed to effectively address them.

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<sup>329</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 220A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, arts. 9, 17, 19, 22, 26.

<sup>330</sup> Article 50 of the ICCPR provides that “the provisions of the present covenant shall extend to all parts of federal states without any limitations or exceptions.” ICCPR Art. 50.

<sup>331</sup> See Emily Parker, “Constitutional Obligations for Public Education,” Education Commission of the States, March 2016, <http://www.ecs.org/ec-content/uploads/2016-Constitutional-obligations-for-public-education-1.pdf>.

<sup>332</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, Art. 13.

<sup>333</sup> As a signatory to the Convention, the United States is required to refrain from acts that are “contrary to the object and purpose” of the treaty. Vienna Convention on the Law of Treaties (1980), 1155 U.N.T.S. 331, art. 18.

<sup>334</sup> Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990. The United States has signed but not ratified the CRC.

## Violence and Bullying

Government institutions and school administrators should ensure that LGBT youth are safe from violence and bullying by faculty, staff, and classmates in school environments. Article 9 of the ICCPR guarantees the right to liberty and security of person. This encompasses an obligation on the part of governments to protect people's right to personal security against attacks by private persons.<sup>335</sup>

Under Article 24 of the ICCPR, the US government has an additional responsibility to undertake "such measures of protection" to protect the rights of children "as are required by [their] status as minor[s]."<sup>336</sup> The Human Rights Committee, the UN expert body that monitors and helps guide state parties' compliance with the ICCPR, has also expressed concern about violence and harassment against LGBT people.<sup>337</sup>

Article 19 of the Convention on the Rights of the Child (CRC) speaks directly to the need to protect children from all forms of physical and mental violence.<sup>338</sup> The Committee on the Rights of the Child, the expert body charged with interpreting state obligations under the CRC, has emphasized that bullying constitutes physical or mental violence against children and that it "not only harms a child's physical and psychological integrity and well-being in the immediate term, but often has severe impact on his or her development, education, and social integration in the medium and long term."<sup>339</sup> UNICEF has similarly urged states to take steps to curb anti-LGBT bullying, noting "robust evidence to suggest that LGBT children and youth exposed to discrimination are more likely to consider or attempt suicide than their peers."<sup>340</sup>

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<sup>335</sup> ICCPR Art 9. See also UN Human Rights Committee, *Delgado Paez v. Colombia*, CCPR/C/39/D/195/1985, August 23, 1990, <http://hrlibrary.umn.edu/undocs/session39/195-1985.html> (accessed October 20, 2016).

<sup>336</sup> ICCPR, Art 24 (1).

<sup>337</sup> See UN Human Rights Committee, *Concluding Observations: Russian Federation*, U.N. Doc. CCPR/C/RUS/CO/6 (November 24, 2009), para. 27; UN Human Rights Committee, *Concluding Observations: Cambodia*, U.N. Doc. CCPR/C/COL/CO/6 (August 4, 2010), para. 12; UN Human Rights Committee, *Concluding Observations: Ireland*, U.N. Doc. CCPR/C/IRL/CO/3 (July 30, 2008), para. 8.

<sup>338</sup> CRC. Art. 19.

<sup>339</sup> UN Committee on the Rights of the Child, *General Comment No. 13, The right of the child to freedom from all forms of violence*, CRC/C/GC/13 (2011), para. 27.

<sup>340</sup> UNICEF, "Eliminating Discrimination against Children and Parents Based on Sexual Orientation and/or Gender Identity," *Current Issues*, no. 9, November 2014, [http://www.unicef.org/videoaudio/PDFs/Current\\_Issues\\_Paper\\_Sexual\\_Identification\\_Gender\\_Identity.pdf](http://www.unicef.org/videoaudio/PDFs/Current_Issues_Paper_Sexual_Identification_Gender_Identity.pdf).

## Freedoms of Expression, Association, and Assembly

Article 19 of the ICCPR more broadly protects the freedom of expression.<sup>341</sup> The ICCPR also recognizes the right of peaceful assembly under Article 21 and the right to freedom of association with others under Article 22.<sup>342</sup> The many obstacles that LGBT youth encounter when forming or operating GSAs threaten to unduly limit or restrict LGBT students' rights to expression, association, and assembly in schools.

As part of the right to freedom of expression, Article 19 of the ICCPR recognizes the “freedom to seek, receive and impart information and ideas of all kinds.”<sup>343</sup> This right is not restricted to adults; it is guaranteed to “everyone.” The Convention on the Rights of the Child reaffirms that children, like adults, have “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, or in print, in the form of art, or through any other media of the child’s choice.”<sup>344</sup> The absence of education related to LGBT issues and the continued existence of no promo homo laws undermines the right to freedom of expression for both students and teachers. The UN Human Rights Committee, reviewing a conviction under Russia’s law prohibiting “propaganda of homosexuality among minors,” thus concluded that “there is no doubt that there has been a restriction on the exercise of the author’s right to freedom of expression” under such laws.<sup>345</sup>

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<sup>341</sup> ICCPR, Art. 19.

<sup>342</sup> ICCPR, Arts. 21, 22.

<sup>343</sup> ICCPR, Art. 19(2).

<sup>344</sup> CRC, Art. 13(1).

<sup>345</sup> UN Human Rights Committee, Communication No. 1932/2010: Views Adopted by the Committee at its 106th Session, CCPR/C/106/D/1932/2010 (2012), para. 10.2.

## Right to Privacy

Article 17 of the ICCPR specifies that “[n]o one shall be subjected to arbitrary or unlawful interference with [their] privacy.”<sup>346</sup> Disclosure of a student’s sexual orientation or gender identity, whether by teachers, counselors, or other school staff, jeopardizes the right to privacy for LGBT youth.

While making every effort to ensure that the school environment welcomes and includes LGBT students, education policies should also seek to ensure respect for LGBT students’ privacy. In particular, schools should take steps not only to respect the gender identity of transgender students, but to refrain from treating those students in a manner that could “out” them against their will to other members of the school community. In practice there is substantial overlap between many of the steps needed to display full respect for a transgender student’s gender identity and those needed to protect their privacy—such as consistent use of students’ preferred names and pronouns, reflecting their gender identity.

## Discrimination

Under the ICCPR, the United States is obliged to protect LGBT students from discrimination on the basis of their sexuality or gender identity.<sup>347</sup> This report describes how in many schools, LGBT students experience affirmative acts of discrimination such as targeted restrictions on students’ ability to create and operate GSAs and attend school dances with same-sex dates.<sup>348</sup> The US federal, state, and local governments are obligated to take effective steps to eradicate such discrimination from all schools.

So-called no promo homo laws, which restrict discussions of homosexuality in schools, are inherently discriminatory. In addition, because the problem they purport to confront—the “recruitment” of students to homosexuality—is a fallacy, the laws serve no practical

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<sup>346</sup> ICCPR, Art. 17.

<sup>347</sup> ICCPR, Art 26. See also UN Human Rights Committee, *Young v Australia*, CCPR/C/78/D/941/2000 (September 18, 2003), <http://hrlibrary.umn.edu/undocs/941-2000.html> (accessed October 20, 2016); UN Human Rights Committee, *Toonen v Australia*, CCPR/C/50/D/488/1992 (March 31, 1994), <http://hrlibrary.umn.edu/undocs/html/vws488.htm> (accessed October 20, 2016).

<sup>348</sup> See *supra* Sections IV-V.

purpose other than to constrain and chill schools' efforts to provide an education that is inclusive and responsive to the needs of LGBT students.<sup>349</sup>

The UN Human Rights Committee has expressed concern about discrimination on the basis of gender identity and has lauded states that have taken steps to recognize the gender identity of transgender people. Laws, regulations and policies that explicitly bar transgender students from using school facilities that correspond with their gender identity constitute acts of affirmative discrimination that should be prohibited. The US federal government has adopted and sought to enforce this position but the scope of its power to regulate such practices absent new legislation is a contested legal issue that had not been resolved as of November 2016.<sup>350</sup> As this report describes and as Human Rights Watch has documented in detail elsewhere, restrictions on transgender students' use of facilities that correspond with their gender identity place those students at heightened risk of bullying, negatively impact their ability to participate fully in the experience of schooling, and put their health at risk.<sup>351</sup>

## Education, Personal Development, and the School Environment

The Committee on the Rights of the Child has rightly observed that the process of fulfilling the right to education must take account of “the environment within which education takes place.”<sup>352</sup> But in too many US schools, an accumulation of pejorative or exclusionary statements, practices and environmental factors combine to inhibit LGBT students' ability to participate fully in the experience of schooling.

The UN special rapporteur on the right to education has argued that sexuality, health and education are “interdependent rights.” The special rapporteur has also warned against sex education programs that are based exclusively on heterosexual relationships because “by

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<sup>349</sup> See *supra* Section III.

<sup>350</sup> United States Department of Education, Office for Civil Rights, letter regarding OCR Case No. 05-1401055, November 2, 2015, <https://assets.documentcloud.org/documents/2501220/letter-from-the-u-s-dept-of-education-to-daniel.pdf> (accessed October 20, 2016); and White House Task Force to Protect Students from Sexual Assault, “Not Alone,” April 2014, <https://www.notalone.gov/assets/report.pdf> (accessed October 20, 2016).

<sup>351</sup> See Human Rights Watch, *Shut Out* (New York: Human Rights Watch, 2016) [https://www.hrw.org/sites/default/files/report\\_pdf/uslgbttrans0916\\_web.pdf](https://www.hrw.org/sites/default/files/report_pdf/uslgbttrans0916_web.pdf) pp. 20-22.

<sup>352</sup> UN Committee on the Rights of the Child, General Comment No. 1, On the Aims of Education, CRC/GC/2001/1 (2001), para. 8.

denying the existence of the lesbian, gay, transsexual, transgender and bisexual population, they expose these groups to risky and discriminatory practices.”<sup>353</sup>

UN treaty bodies have often stressed the need for accurate and inclusive sex education and information as a means of promoting good health.<sup>354</sup> The Committee on the Rights of the Child has recommended that “adolescents deemed mature enough to receive counselling without the presence of a parent or other person” be entitled to confidential services, including treatment.<sup>355</sup>

Bullying and harassment can also undermine a child’s right to education.<sup>356</sup> LGBT students who drop out of school, skip classes, avoid certain activities, or have difficulty concentrating and learning as a result of bullying and harassment are unable to effectively exercise that right. To the extent that education is broader than curricular learning, that right is further undermined by policies and practices that deter LGBT youth participation in extracurricular activities and school events.

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<sup>353</sup> Report of the Special Rapporteur on the Right to Education, Kishore Singh, A/65/162, July 23, 2010, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/462/13/PDF/N1046213.pdf?OpenElement> (accessed October 20, 2016). According to the special rapporteur, “In order to be comprehensive, sexual education must pay special attention to diversity, since everyone has the right to deal with his or her own sexuality without being discriminated against on grounds of sexual orientation or gender identity.”

<sup>354</sup> See for example, UN Committee on the Rights of the Child, Concluding Observations: Albania, CRC/C/15/Add.249 (2005), para. 57, UN CEDAW Committee, General Recommendation 15, Avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS), A/45/38 (1990); UN Committee on Economic, Social and Cultural Rights, General Comment No. 14, E/C.12/2000/4, August 11, 2000; UN Committee on the Rights of the Child, General Comment No. 4.

<sup>355</sup> UN Committee on the Rights of the Child, General Comment No. 4 para 11.

<sup>356</sup> The Committee on the Rights of the Child has rightly argued that, “[a] school which allows bullying or other violent and exclusionary practices to occur” is not one that can advance the aims of education as set out under the Convention.

# Recommendations

## To State Legislatures

- Ensure that state laws against bullying and harassment include enumerated protections on the basis of sexual orientation and gender identity;
- Ensure that state laws against bullying and harassment respect student confidentiality and do not encourage disclosure of a student’s sexual orientation or gender identity to parents without prior discussions with the student;
- Ensure that state non-discrimination laws include explicit protections from discrimination on the basis of sexual orientation and gender identity, particularly in education, employment, and public accommodations;
- Repeal laws that preclude local school districts from providing enumerated protections against discrimination on the basis of sexual orientation and gender identity;
- Repeal laws that prohibit or restrict discussion of LGBT issues in schools;
- Enact laws that provide for comprehensive sexuality education in schools that is medically and scientifically accurate, is inclusive of LGBT youth, and covers same-sex activity on equal footing with other sexual activity;
- Repeal laws that require parental permission to join GSAs and access other age-appropriate resources and support;
- Enact laws permitting transgender students to access facilities and participate in classes, sports teams, and extracurricular activities in accordance with their gender identity;
- Modify any building regulations that require particular numbers or percentages of gendered restrooms in public or commercial buildings to permit the designation of all-gender restrooms.

## To State Departments of Education

- Ensure that teachers, counselors, and other staff receive sufficient training and support to intervene in bullying and harassment when it occurs;

- Ensure that teachers, counselors, and other staff receive training to familiarize them with the issues LGBT students might face;
- Promulgate model guidelines for school districts to follow to make schools safe and inclusive for LGBT youth;
- Develop a system to integrate school records that reflect a student's name and pronouns with state operated databases and standardized testing.

## To School Administrators

- Ensure that school policies against bullying and harassment include enumerated protections on the basis of sexual orientation and gender identity;
- Ensure that school policies against bullying and harassment establish and clearly specify what constitutes bullying, procedures for victims to lodge complaints, consequences for perpetrators, and protections against retaliation;
- Notify students that cyberbullying is unacceptable, establish clear reporting guidelines, and train staff to identify and respond to incidents. Have systems in place to document cyberbullying, report it to authorities when appropriate, and offer counseling and support to students who are targeted.<sup>357</sup>
- Ensure that school policies against bullying and harassment are circulated to the school community and clearly understood by students, faculty, staff, and third-party providers operating in the school setting;
- Require a response to all reported incidents of bullying and harassment, whether or not the victim files a written complaint;
- Require schools to document all incidents of bullying and harassment and how the incident was addressed;
- Ensure that the school provide comprehensive sexuality education that is inclusive of LGBT youth, covers same-sex activity on equal footing with other sexual activity, and is medically and scientifically accurate;

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<sup>357</sup> Anti-Defamation League (ADL), "Cyberbullying Prevention Law: An ADL Model Statute," 2012, <http://www.adl.org/assets/pdf/education-outreach/ADL-Cyberbullying-Prevention-Law-Model-Statute.pdf> (accessed September 22, 2016).

- Ensure that GSAs and other LGBT student organizations are permitted to form and operate on the same terms as all other student organizations;
- Consider facilitating and supporting the formation of GSAs and other LGBT student organizations at the middle school level;
- Ensure that same-sex couples are able to date, display affection, and attend dances and other school functions on the same terms as all other student couples;
- Ensure that students are able to access facilities, express themselves, and participate in classes, sports teams, and extracurricular activities in accordance with their gender identity;
- Consider erecting stalls, barriers, and privacy curtains to maximize student privacy in all bathrooms, locker rooms, and shared facilities;
- Designate all-gender restrooms in easily accessible locations throughout the school where feasible, particularly where single-user restrooms are currently gendered;
- Incorporate all-gender restrooms and private changing and shower areas into new construction of school facilities;
- Modify school recordkeeping systems to allow students to specify the name and pronouns they wish to use in school and ensure those identifiers are respected by staff and faculty and reflected in class lists, yearbooks, diplomas, and other documentation, to the extent permitted by law;
- Create avenues for graduates to obtain updated school records and diplomas consistent with their gender identity;
- Take steps to ensure that agender or non-binary students are able to fully participate throughout the school environment.

## To the US Congress

- Enact the Equality Act or similar legislation to prohibit discrimination on the basis of sexual orientation and gender identity in employment, education, federal funding, and public accommodations;
- Enact the Student Non-Discrimination Act or similar legislation to prohibit discrimination on the basis of sexual orientation and gender identity in schools;

- Enact the Safe Schools Improvement Act or similar legislation to encourage states to enact strong policies to prevent bullying and harassment that are inclusive of sexual orientation and gender identity;
- Enact the Real Education for Healthy Youth Act or similar legislation to support comprehensive sexuality education and restrict funding to health education programs that are medically inaccurate, scientifically ineffective, or unresponsive to the needs of LGBT youth.

### **To the US Department of Education**

- Develop a system to integrate school records that reflect a student's name and pronouns with federally operated databases and programs like Selective Service Registration and the Free Application for Federal Student Aid (FAFSA).

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## “Like Walking Through a Hailstorm”

Discrimination against LGBT Youth in US Schools

In 2001, Human Rights Watch published *Hatred in the Hallways*, a report that documented widespread bullying and harassment of LGBT students in the United States. Fifteen years later, research in Alabama, Pennsylvania, South Dakota, Texas, and Utah demonstrates that many LGBT youth across the country remain unsafe and unwelcome in their schools. Drawing from interviews with over 500 students, teachers, administrators, parents, and service providers, *“Like Walking Through a Hailstorm”* documents how bullying and harassment, exclusion from school curricula and resources, restrictions on LGBT student groups, and discrimination and bigotry jeopardize the rights and well-being of LGBT youth. It urges federal, state, and local officials to take meaningful steps to curb bullying and discrimination, recognize and affirm LGBT youth, and foster environments where all students are able to participate and learn.

*(above) Kara Massie of the Queer Advocacy Network and fellow students raise awareness about anti-LGBT bullying and harassment on the Day of Silence in Laramie, WY, April 2013.*

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*(front cover) Josh Greer, a student who has been the target of bullying and discrimination in school, writes in his journal in his bedroom in Cache County, UT, October 2016.*

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