

Why Enumerate?

A Tool for Advocates

As an advocate for educational anti-bullying and anti-harassment laws, policies and programs at the national, state and local level, you will be challenged to explain why enumerated categories are better than no categories at all.

Any time a safe schools bill is introduced we urge its sponsor to enumerate the kinds of students that should be protected. While the goal of any safe schools legislation is to protect all students, we know that enumeration that specifies the categories of students to be protected is critical.

Unfortunately, there are a large number of legislators, community leaders and others who believe that singling out any one group through enumeration gives that group special privileges. Even though we know that is not true – enumeration serves to underscore the fact that special attention must be given to those who experience the most bullying and harassment – they continue to use this argument.

WHY IS ENUMERATION ESSENTIAL?

- **Enumeration protects ALL students!**
 - **Enumeration is essential to protecting as many students as possibly from bullying and harassment.** The strength of an enumerated law or policy is that it underscores not only that ALL students are protected; but also those students that research shows are most likely to be bullied and harassed and least likely to be protected by generic safe schools laws and policies.¹
 - Proponents of generic bullying laws argue that enumerated categories protect fewer students than generic laws because only certain students are protected. But our research shows that students who live in states or school districts with enumerated laws and policies are provided greater protections across the board.
- **Students who attend schools with policies that enumerate categories report less bullying and harassment than students who do not!**
 - Research has shown that students in states with generic laws are no more protected from bullying than students who live in states without any anti-bullying and harassment laws (40.8% w/ generic policies vs. 39.8% w/ no policies report 'often or frequently' hearing verbal harassment based on sexual orientation).²
 - Students report less overall harassment when they know their school has a comprehensive policy that includes enumeration. Students from schools with an enumerated policy report that others are harassed far less often in their school for reasons like their physical appearance (36% vs. 52%), their sexual orientation (32% vs. 43%) or their gender expression (26% vs. 37%).³
 - Students whose schools have a policy that specifically includes sexual orientation or gender identity/expression are less likely than other students to report a serious harassment problem at their school (33% vs. 44%).⁴
- **Enumeration is essential if laws are to be implemented!**

¹ Harris Interactive and GLSEN (2005). From Teasing to Torment: School Climate in America, A Survey of Students and Teachers. New York: GLSEN.

² Kosciw, J. G. and Diaz, E. M. (2006). The 2005 National School Climate Survey. New York: GLSEN.

³ Harris Interactive and GLSEN.

⁴ Ibid.

- History and the Supreme Court tell us that enumerating policies is necessary. Girls would not have sports and our schools would not be integrated if policymakers had not specifically addressed these inequities by enumerating categories like sex and race in our laws. **The Supreme Court of the United States noted in Romer v. Evans that “Enumeration is the essential device used to make the duty not to discriminate concrete and to provide guidance for those who must comply.” (emphasis added)**
- Enumeration gives teachers and other educators the tools they need to implement safe schools policies that protect each and every student. Students reported that teachers were significantly less likely to intervene always or most of the time in states with enumerated policies, as compared to states with either generic policies or no policies at all (25.3% vs. 15.9% and 12.3%)⁵
- Enumeration makes it easier for teachers and other school staff to intervene. School personnel often fear that they will themselves be targeted for intervening on behalf of certain groups of students. When they can point to language that provides clear protection for students, they feel more comfortable enforcing the policy.⁶
- **Enumeration that includes sexual orientation and gender identity removes all doubt that LGBT youth are protected from bullying and harassment!**
 - *Evidence shows that school officials often do not recognize that anti-LGBT harassment and discrimination are unacceptable behaviors, or do not respond to the problem due to prejudice or community pressure without the cover of a specific law or policy.*⁷
- **Policies with enumeration help ensure safety and reduce absenteeism!**
 - Students from schools with a comprehensive policy are 50% more likely to feel very safe at school (54% vs. 36%). Students without such a policy are three times more likely to skip a class because they feel uncomfortable or unsafe (16% vs. 5%).⁸
- **Texas proved we need to enumerate**
 - In 2000 when James Byrd, Jr. was dragged behind a truck until he died in Jasper, Texas the prosecutor could not use the state’s hate crime law because it did not enumerate. It essentially said, “hate crimes are wrong.”
- **Unless we prohibit something, we permit it!**
 - The way our system of laws works, unless we make something illegal – it is legal. If we want to be able to discriminate in employment based on criminal status or merit, we would not add that to the anti-discrimination law. But we must add the reasons that we feel it is wrong to discriminate. The same goes for anti-bullying statutes.

⁵ Kosciw, J.G. and Diaz, E.M..

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.