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Position Paper
Safety for K-12 students: United States policy concerning LGBT student safety must provide inclusion

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Students who identify as lesbian, gay, bisexual, or transgender (LGBT) are at risk for harassment due to their sexual orientation or gender identification with over 85% of LGBT students in the United States (US) reporting such harassment.[1] These statistics demonstrate one aspect of the significance of this issue, but the cost of human life in some instances has revealed another layer of importance related to a need for safety policies for LGBT students. Even though a need exists for such policies, the practice of heteronormativity found in US policymaking regarding bullying does not protect victims or curb the violence. This essay highlights several recent developments in anti-bullying policy in US schools that shows the existence of heteronormativity, which is not helping to protect LGBT students. By understanding the discrimination encouraged by current policy, future policy can be better shaped to protect LGBT students.

[1] Biegel and Keuhl, 2010.

Overview of heteronormativity

Heteronormativity is a theoretical concept that analyzes the difference between homosexual and heterosexual, and establishes heterosexuality as the norm. Homosexuality is then judged as an alternative against the norm. Even though heteronormativity does not explicitly label homosexuality as deviant, the practice does encourage the inference that homosexuality is in opposition to what is considered normal. Silencing is one way to practice heteronormativity, and it can be done through the process of systematic exclusion.[2] Systematic exclusion can be defined as "ignoring or denying the presence of lesbian, gay, and bisexual people."[3] Such silence does not always have to come from heterosexual individuals. When LGBT people remain silent about their relationships and lives, they convey an LGBT identity as something of which to feel shame.[4] Additionally, when teachers and administrators are silent about anti-LGBT bullying, the same inference about shame is given to students. Along with silence, teachers and administrators imply negative connotations about LGBT identities when they demonstrate they are not comfortable saying words like gay and lesbian.[5] Yet, the way to oppose heternormativity is to be open when discussing LGBT issues with students so that they can form their own truth.[6] Hoffman describes such absence of discussion and acknowledgement as a "conspiracy of silence we have all entered into" with a result that "can only damage their [students] chances of emerging whole from their school years."[7]

[2] Friend, 1993.
[3] Friend, 1993, p. 210.
[4] DePalma and Atkison, 2009.
[5] DePalma and Atkison, 2009.
[6] Nelson, 2009.
[7] Hoffman, 1993, p. 56.

US education and policy

All children in the United States have access to free public schools. Formal schooling in the US lasts 12-13 years, beginning at age 6 in kindergarten and lasting until around age 18 in the 12th grade. The requirement to attend school ends by age 16 in most states; the remaining states require students to attend school until they are 17 or 18. Education is primarily the responsibility of state and local government; the individual states have great control over their schools, and policy is largely created by each individual school district at a local level.[8] This brief explanation is included to demonstrate that school policy affects the life of US school children for the majority of their first two decades of life, thus shaping their perspectives.

LGBT students: An at-risk population

The National Mental Health Association (NHMA) has designated LGBT students as an at-risk population in US schools, and reports that their high level of risk is a result of the stress around them and "not because of their inherently gay or lesbian identity orientation."[9] The high level of suicide rates as well as homelessness in this population of students could be connected to Tomsho's study showing LGBT students or those perceived to be LGBT were bullied twice as often as students who were not LGBT.[10] In a 2008 study conducted by the Gay, Lesbian and Straight Education Network (GLSEN), students said they did not report bullying due to their belief that no action would be taken by school officials, and 1/3 of the students surveyed said they had reported the mistreatment with no response from the school. The lack of response from school officials is another link in the chain

[8] *United States Department of Education,* http://www.ed.gov/
[9] National Mental Health Association, http://www.nmha.org/go/information/get-info/children-s-mental-health/bullying-and-gay-youth
[10] Tomsho, 2003.

of harassment LGBT students experience resulting in negative self-images and stunted emotional growth, which contributes to problems with social interaction.[11] LGBT students are developing an identity in a society that is telling them that homosexuality is deviant. Most of their credible sources of leadership, such as ministers or teachers or family members, are sending the message that homosexuality is not the accepted norm, and these young people then could begin to learn that hiding their identity when their adolescent years begin is one way to navigate when "social interaction and sexual strivings coincide with formulating an adult identity."[12] Although, the precarious nature of how LGBT students will respond to developing their identity will vary, especially as various perspectives of inclusion are introduced.

Heteronormativity in policy

Local policies within school districts across the US vary in whether or not sexual orientation is specifically listed in the bullying policy observed by school administrators. One trend in policymaking is to avoid discussing LGBT issues as they are connected to the bullying. Tennessee State Senator Stacey Campfield is the sponsor of State Bill 049, which is also known as the "Don't Say Gay" bill. Campfield believes school officials should be banned from discussing LGBT issues at school even in relation to anti-gay bullying and harassment. The bill is described as a neutral bill since school officials would not be allowed to discuss LGBT topics through the ninth grade.[13] Far from neutral, the bill encourages discrimination against LGBT students through the silence mandated in this attempt of neutrality policy. The message this bill teaches youth is that school officials cannot even talk about LGBT topics because of the associated shame: "Schools are always and already addressing oppression, often by reinforcing it or at least allowing it to continue playing out unchallenged, and often without realizing that they are doing

[11] Ryan and Futterman, 1998.
[12] Ryan and Futterman, 1998, p. 5.
[13] Humphrey, 2011.

so."[14] The silence mandated by this bill is a clear reinforcement of oppression against LGBT students through the practice of heteronormativity.

Anoka-Hennepin School District in Minnesota has been debating this neutrality policy. This district is Minnesota's largest district serving over 40,000 students. The district had 6 suicides throughout the 2009-10 school year, and friends and parents of the students claimed that all were experiencing anti-gay bullying and harassment. One of the suicide victims was Justin Aaberg who was 15 years old and hanged himself in his room in July of 2010. Justin's mother, Tammy Aaberg, believes the neutrality policy encouraged anti-gay bullying against her son, and she claims to have not even been notified of some instances of anti-gay bullying of which school officials were aware. The neutrality policy instructed administrators not to discuss that anti-gay was the root of the bullying. In August 2010, the district amended the policy to specifically include anti-gay bullying, but opponents of this policy contend that addressing specifics about the victim is not necessary and should not be discussed in the school setting.[15] The silence in schools when discussing anti-LGBT bullying is a clear example of how heteronormativity works to create an environment where only one sexual identity – heterosexuality – is considered normal and without shame. The neutrality policy is in essence a silence policy, and silence leads to further prejudice.

Solutions for future policy

Even though school districts can choose whether or not to include sexual orientation in policy, one particular landmark court case in the US could begin to have great impact on local policies created by school districts. In Nabozny v. Podlesny, the ruling determined that a public school could be held accountable for not stopping antigay abuse.[16] Jamie Nabozny experienced repeated

[14] Kumashiro, 2004, p. XXIV.
[15] Crary, 2010.
[16] Brief of Appellant, Nabozny v. Podlesny, No. 95-3634, 1995.

antigay harassment at his public school in Ashland, Wisconsin, eventually leading to his need for surgery from being kicked excessively in the stomach. When Nabozny reported the bullying, his middle school principal told him: "If you're going to be openly gay you have to expect this kind of stuff."[17] This case is important because it demonstrates that one possibility for providing protection for LGBT students in a heteronormative society is through the legal system. Since school districts and school officials can legally be held accountable for not intervening in antigay harassment, the legal system could motivate school officials to protect LGBT students. Such protection might be motivated only by fear of large settlements that could financially bankrupt the school district, but protection would still be provided.

The Nabozny ruling was a historic decision and held public schools responsible for intervening in LGBT bullying in order to provide a safe school environment for all students – no matter the sexual orientation or sexual identity. Nabozny settled for just under $1 million in damages with the school district.[18] This significant case relates to local policy because school officials and districts can now be held responsible for not stopping anti-LGBT bullying, which means students and school officials must be allowed to discuss LGBT issues related to the bullying. Overcoming silence is one very effective way to combat heteronormativity.

Legal action is not a fully effective solution for helping LGBT students targeted by bullying. In spite of the Nabozny ruling, most states only have a policy that prohibits bullying based on race, sex, religion, national origin, and disability.[19] Only 13 states prohibit sexual orientation discrimination against students who are victims of bullying: California, Colorado, Connecticut, District of Columbia, Illinois, Iowa, Massachusetts, Minnesota,

[17] Brief of Appellant, Nabozny v. Podlesny, No. 95-3634, 1995.
[18] Brummel, 2010.
[19] Wolfe, 2010.

New Jersey, New York, Vermont, Washington, and Wisconsin.[20] Additional measures must be taken to help overcome heteronormative policies.

The Safe Schools Improvement Act (SSIA) would amend the Elementary and Secondary Education Act to require school districts that receive federal funds from the national government to create a policy addressing bullying based specifically on sexual orientation. The SSIA would also require states to report data on bullying and harassment to the Department of Education, and this report would be provided to Congress every two years. Senator Robert Casey (Democrat Party Member from Pennsylvania) and Senator Mark Kirk (Republican Party Member from Illinois) reintroduced the SSIA in the Senate on March 8, 2011; currently, the bill is being discussed in committee.[21]

In the past two years, several significant changes have been made in policy at the district level in some areas across the country concerning the bullying and harassment of LGBT students. In April of 2011, the San Diego Unified School District Board of Education unanimously approved an anti-bullying, harassment and intimidation policy including anti-LGBT specifically as a cause.[22] The Minneapolis School Board voted unanimously in January of 2011 to add to the district's anti-LGBT bullying policy with a resolution requiring incidents of anti-LGBT bullying to be tracked. In addition to the policy change, the district will also add LGBT health issues to the sexual health curriculum and provide a yearly training for teachers on how to deal with LGBT training.[23] By addressing anti-LGBT bullying, the silence can begin to be broken because allowing policies that do not address anti-LGBT discrimination further justifies that the discrimination is acceptable and should be tolerated.

[20] Biegal and Kuehl, 2010.
[21] S. 506--112th Congress: Safe Schools Improvement Act of 2011.
[22] Braatz, 2011.
[23] Williams, 2011.

A model policy should be enacted within all school districts across the US to protect LGBT students as well as the school district. Clearly stating in policy that bullying and harassment of LGBT students will not be tolerated sends a message to teachers, administrators, and students that the school should be safe for all students and not just the socially favored ones. The NEA, the National PTA, the American Association of School Administrators, and the National Association of Secondary School Principals all endorse the specific listing of anti-gay bullying and harassment in public school policy as a way to help provide a safe school environment for LGBT students.[24] Policy alone will not solve the problem of violence and homophobia directed at LGBT students. The recognition of the problem in policy at all levels including local, state, and national is simply a starting point in an attempt to provide LGBT students a basic right of safety in school. By establishing a policy that is uniform across all US school districts, students will then be able to go beyond the silent tolerance of difference and instead be able to discuss, respect, and accept differences.

Conclusion

In spite of the heightened awareness of the bullying issue and the strong concern for students, the majority of states within the US do not have anti-bullying laws specifically focusing on anti-LGBT bullying. By avoiding the inclusion of anti-LGBT bullying measures in school and public policy, a silence related to homophobia is currently being allowed to exist around the issue of protecting LGBT youth. Such silence and avoidance of including anti-LGBT bullying in the policies demonstrates the practice of heteronormativity. Local school policy as well as state and national legislative measures should break the silence and very clearly include anti-LGBT bullying, and until such inclusion exists, public officials and school administrators in the US are encouraging a clear expression of discrimination.

[24] Wolfe, 2010.

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