



February 9, 2011

Dear Committee Member:

RE: Include Protections for LGBT Students in the Reauthorization of the Elementary and Secondary Education Act

On behalf of the American Civil Liberties Union (ACLU), a non-partisan organization with more than a half million members and fifty-three affiliates nationwide, we write to highlight the critical importance of a comprehensive discussion of ways to improve the Elementary and Secondary Education Act (ESEA) for students, parents, and teachers.¹ Today, we urge you to ensure that the pending reauthorization of ESEA includes important and long-overdue federal protections for students in public elementary and secondary schools who are, or are thought to be, lesbian, gay, bisexual, or transgender (LGBT). Specifically, we urge that the language of the Student Non-Discrimination Act, H.R. 4530 in the 111th Congress, be included as a part of ESEA reauthorization.

The Student Non-Discrimination Act would establish a comprehensive federal prohibition against discrimination and harassment in public schools based on a student's actual or perceived sexual orientation or gender identity, as well as provide victims with remedies modeled after Title IX of the Education Amendments of 1972, and the Department of Education civil rights rules applicable to all schools receiving ESEA funds. Nearly 50 years of civil rights history clearly demonstrate that laws similar to the Student Non-Discrimination Act are often most effective in preventing discrimination from occurring in the first place. While federal laws currently protect students on the basis of their race, color, sex, religion, disability or national origin, no federal statute explicitly protects students on the basis of actual or perceived sexual orientation or gender identity.

The recent tragic deaths of young gay students from across the country underscore the fact that LGBT students are an especially vulnerable population in our nation's schools. Discrimination and harassment, even physical abuse, are often a part of these students' daily lives. To take but

¹There are many areas of concern to the ACLU that we hope Committee members will work to address in ESEA this Congress, including, for example, school climate and school discipline issues, the continuing use of corporal punishment, school diversity and racial isolation, the treatment of pregnant and parenting teens in our classrooms, and the critical need for further civil rights data collection. We will provide our detailed recommendations on these fundamentally important issues as the Committee undertakes the reauthorization process in the weeks ahead.

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one example, 13-year-old Seth Walsh had endured years of anti-gay harassment at school when he hanged himself from a plum tree in his family's backyard in September 2010. Seth's mother Wendy had tried in vain for years to get school district officials in Tehachapi, California, to do something about the abuse her son was experiencing at school. When Seth was in the fifth grade, other students started calling him "gay." As he got older, the harassment became more frequent and severe. By seventh grade, taunts and verbal abuse were a constant occurrence. Students regularly called him "fag" and "queer." He was afraid to use the rest room or to be in the boys' locker room before gym class. Seth's mother and close friends reported that teachers and school administrators were aware that Seth was being harassed and, in some instances, participated in the harassment. One teacher allegedly called Seth "fruity" in front of an entire class.

Wendy's pleas to the school for help were often brushed aside. Seth had always been a good student, receiving A's and B's, but his grades quickly dropped to failing as the harassment continued. Friends reported that he became depressed and withdrawn. A note Seth left upon his death expressed love for his family and close friends, and anger at the school "for bringing you this sorrow."

Seth died on September 28, 2010, after nine days on life support. On December 16, 2010, the ACLU sent a letter to Tehachapi Unified School District officials urging them to take immediate and affirmative steps to prevent this kind of tragedy from happening again. The U.S. Department of Education is also investigating the district.

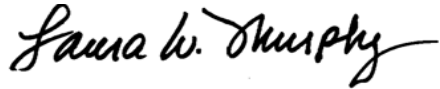
Sadly, the abuse that Seth endured on a daily basis is an all-too-common reality in the lives of LGBT students in school districts from coast to coast. In a 2009 study of more than 7,000 LGBT middle and high school students entitled the *National School Climate Survey*, nine out of ten LGBT students reported experiencing harassment at their school within the past year based on their sexual orientation or gender identity, and two-thirds said they felt unsafe at school because of who they are. Nearly one-third skipped at least one day of school within the previous month because of concerns for their safety. Locker rooms and bathrooms were locations of particular worry for LGBT students.

The U.S. Department of Education has listed the effects of harassment in school as including lowered academic achievement and aspirations; increased anxiety; loss of self-esteem and confidence; depression and post-traumatic stress; general deterioration of physical health; self-harm and suicidal thinking; feelings of alienation in the school environment, such as fear of other children; and absenteeism from school. As a country, we must do a better job of protecting LGBT students and ensuring their rights to an education free of discrimination and harassment.

The Student Non-Discrimination Act would have a profound impact in improving the lives of LGBT students by ensuring that discrimination and harassment of students on the basis of their sexual orientation or gender identity has no place in our country's public elementary and secondary schools.

The ACLU urges you to work to include the language of the Student Non-Discrimination Act in the ESEA reauthorization bill.

Sincerely,



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