

The Cost of Harassment

A fact sheet for lesbian, gay, bisexual, and transgender high school students

Why? In 1997, Alana Flores found a picture of a naked woman – bound and gagged, with her legs spread and her throat slashed – taped to her locker at school in Morgan Hill, California. On the photo, someone had written, “Die, die... dyke bitch, fuck off. We’ll kill you.” In tears, Alana took the photo to the assistant principal, who brushed her off and told her to go back to class. She then asked Alana if she was gay and said, “If you’re not gay, why are you crying?”

The next year, Alana and five other students sued their school district for repeatedly ignoring or minimizing many reports by the students that they were being abused by others who thought they were gay. The school district had to pay \$1.1 million when their case settled in 2004. As a result of the settlement, schools in Morgan Hill now have a comprehensive training program to combat anti-gay harassment. The case also set an important precedent when a federal court ruled that if a public school knows anti-gay harassment is happening, it must take meaningful steps to stop it.

It’s been over 15 years since the first time a federal court ruled that public schools have a Constitutional obligation to protect their students from harassment on the basis of sexual orientation. Since then, courts have awarded millions of dollars to students who filed lawsuits against their schools for refusing to take adequate steps to stop harassment on the basis of sexual orientation or gender identity. Making sure all students feel safe at school is the right thing to do, but unfortunately the possibility of losing a lot of money is sometimes a better motivator to get schools to take harassment seriously.

2012: Russell Dickerson III faced years of bullying and harassment in Aberdeen, Washington because of his race and perceived sexual orientation. The school district, which failed to act after being informed of the bullying, settled an ACLU of Washington case brought by Dickerson, paying him \$100,000 and another \$35,000 in legal fees. *Russell Dickerson III v. Aberdeen School Dist. No. 5*, U.S. District Court for the Western District of Washington.

2012: The Anoka-Hennepin School District settled two lawsuits filed by the Southern Poverty Law Center and the National Center for Lesbian Rights on behalf of students who had suffered harassment only made worse by a “neutrality” policy that banned school staff from mentioning LGBT issues even when dealing with anti-LGBT bullying. The plaintiffs received \$270,000 and the school will also spend \$500,000 on anti-bullying measures. *Jane Doe v. Anoka-Hennepin School Dist.No. 11*, U.S. District Court for the District of Minnesota and *E.R. v. Anoka-Hennepin School Dist. No. 11*, U.S. District Court for the District of Minnesota.

2010: The Mohawk Central School District settled a case brought by the New York Civil Liberties Union on behalf of a 14-year-old gay student who endured verbal and physical harassment during the seventh and eighth grades. The district paid him over \$75,000 and agreed to adopt reforms to protect students from facing similar harassment. *JL v. Mohawk Central School Dist.*, U.S. District Court for the Northern District of New York.

2009: The Vallejo City Unified School District settled a harassment complaint brought by the ACLU on behalf of Rochelle Hamilton, a lesbian student who was harassed by school faculty and staff and forced to attend anti-gay “counseling.” The district paid her \$25,000 and agreed to implement a mandatory training program for faculty and students about discrimination and harassment. *Rochelle Hamilton v. Vallejo City Unified School Dist.* 2009 WL 1677123

2005: Joseph Ramelli and Megan Donovan, two gay California former high school students, were awarded \$300,000 by a jury that found school officials failed to act to protect them

even after learning the students were being harassed. Both students from Poway High School, near San Diego, were repeatedly threatened, and Ramelli was spit on, kicked, punched, and his car was vandalized. The jury awarded \$300,000 to the students, who were represented by Lambda Legal. *Ramelli and Donovan v. Poway Unified School Dist.*, San Diego Superior Court.

2005: After losing at trial in federal court, the Tonganoxie School District in Kansas agreed to pay \$440,000 to a heterosexual teenager who suffered anti-gay taunting for four years. Dylan J. Theno, who was perceived as gay by some of his classmates, testified that other students spread rumors about him, threatened him, and called him “bitch,” “fag,” and “homo.” He finally dropped out during his junior year because the harassment, which started when he was in 7th grade, had become unbearable. *Theno v. Tonganoxie Unified School Dist. No. 464*, 2005 WL 3434016 (D. Kan. 2005).

2004: The New Jersey Division on Civil Rights ordered the Toms River Regional School District to pay \$50,000 to a boy who was slapped,



punched and repeatedly taunted by classmates who perceived him as gay. The district was also fined \$10,000, ordered to pay another \$10,000 to the student's mother, and required to toughen its policies against anti-gay harassment. *L.W ex rel. L.G. v. Toms River Regional Schools Bd. of Educ.*, 886 A.2d 1090, (N.J. Super. A.D. 2005)

2004: A U.S. District Court in Des Moines awarded over \$27,000 to Tyler Rothmeyer, a former high school student from Perry, Iowa who was subjected to physical and verbal abuse over three years. The adults who were supposed to protect students from abuse, ranging from teachers to the high school resource officer, all ignored or didn't take Rothmeyer's claims of harassment seriously. *Rothmeyer v. Perry Community School Dist.*, U.S. District Court for the Southern District of Iowa.

2003: A federal appeals court affirmed that schools can be held liable when they deliberately ignore anti-gay harassment. In response to an ACLU lawsuit brought by six former students of a California school system, the court said schools must take steps to eliminate harassment once they know it's happening. After fighting the lawsuit for over five years, the school district agreed to pay \$1.1 million in attorneys' fees and damages for Alana Flores, Freddie Fuentes, and four other students who'd been harassed in Morgan Hill, California. *Flores v. Morgan Hill Unified School Dist.*, 324 F.3d 1130 (9th Cir. 2003).

2002: The Washoe County School District in Nevada settled a lawsuit

brought by Lambda Legal on behalf of Derek Henkle, a gay student who was harassed for years in district schools. After the court ruled against the school, the district paid him \$451,000 in damages and agreed to adopt LGBT-inclusive safe schools policies and implement an anti-harassment training program for school staff. *Henkle v. Gregory*, 150 F.Supp. 2d 1067 (D. Nev., 2001)

2002: George Loomis was a gay student who was harassed by teachers and students in Visalia, California. The ACLU sued the Visalia Unified School District on Loomis's behalf. After the court denied the district's motion to dismiss the case, the district settled, paying Loomis \$130,000 in damages and agreeing to a sweeping package of reforms including changes to the school's policies and anti-harassment trainings for staff and students. *Gay-Straight Alliance Network v. Visalia Unified School Dist.*, 262 F.Supp. 2d 1088 (E.D.Cal. 2001)

2002: The Titusville Area School District in Pennsylvania settled a harassment lawsuit brought by Timothy Dahle, a gay student who was forced to drop out of school because he could no longer bear the harassment. After first claiming Dahle never complained about the harassment, the school district suddenly ended the lawsuit and paid him \$312,000. *Ronald D. ex rel. Timothy D. v. Titusville Area School Dist.*, 159 F. Supp. 2d 857 (W.D. Pa. 2001)

2000: The Somerset Independent School District in Kentucky settled a harassment lawsuit brought by Bradley

Putman, who suffered anti-gay harassment and death threats. The school paid Putman \$135,000 and agreed to adopt a more stringent anti-harassment policy. *Putman v. Bd. of Educ. of Somerset Independent Schools*, C.A. No. 00-145, Court

1998: A federal court in Kentucky found that the Spencer County School District failed to take adequate measures to stop the harassment of Alma McGowen, who was perceived to be a lesbian by her classmates. The federal jury awarded McGowen \$220,000. A federal appeals court later upheld that jury decision. *Vance v. Spencer County Public School Dist.*, 231 F.3d 253 (6th Cir. 2000)

1998: The Kent School District in Washington settled a lawsuit brought by the ACLU on behalf of Mark Iversen, who was harassed for years at the school. The school paid Iversen \$41,000 and agreed to enforce its existing anti-harassment policy and train staff about anti-gay harassment. *Mark Iversen vs. Kent School Dist.*, (U.S. District Court, Western District of Washington, 1999)

1996: In a landmark ruling, a federal appeals court held that schools can be held liable for deliberately ignoring anti-gay harassment. Jamie Nabozny, represented by Lambda Legal, sued his school in rural Wisconsin after harassment escalated into a mock rape by a group of students. The school ultimately paid Nabozny nearly a million dollars. *Nabozny v. Podlesny*, 92 F.3d 446 (7th Cir. 1996)

Got more questions? Are you being harassed at your school? Are your school administrators not taking adequate steps to address the problem, or have told you that they can't do anything about it at all? Want someone to talk with about what you can do about it? Contact us at aclu.org/safeschools! It's confidential – we won't ever contact your school, your parents, your friends, or anyone else without your okay, and any communication between you and the ACLU is private.

