

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.” Alana, frightened and in tears, took the photo to the assistant principal, who brushed her off and told her to go back to class, saying, “Don’t bring me this trash anymore, this is disgusting.” The assistant principal 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 *Flores v. Morgan Hill Unified School District* settled in January of 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 school knows anti-gay harassment is happening, it must take meaningful steps to stop it.

It has been over 10 years since the first time a federal court ruled that public high schools have a Constitutional obligation to protect their students from harassment on the basis of sexual orientation. Since then, courts have awarded over four million dollars to lesbian, gay, bisexual, and transgender students who filed lawsuits against their schools for refusing to take adequate steps to stop anti-gay harassment.

Protecting LGBT students 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. If you’ve reported anti-gay harassment to your school and they’ve done nothing, perhaps you should let them know about the nearly four million dollar total price tag of the following successful – and expensive – lawsuits. This summary reinforces the importance of adopting and enforcing LGBT-inclusive safe schools policies and training faculty on how to prevent harassment.

How much can allowing anti-gay harassment cost a school?

2005: After losing at trial before a 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 of school during his junior year because the harassment, which had begun when he was in 7th grade, had become unbearable. *Theno v. Tonganoxie Unified School Dist. No. 464*, 2005 WL 3434016, (D. Kan. 2005).

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

them even after becoming aware of the harassment the students were experiencing. Both students from Poway High School, near San Diego, were repeatedly threatened, and Ramelli was spit on, kicked, punched, and his car was vandalized. Ramelli and Donovan were home-schooled during their senior year because they could no longer handle the constant harassment. The jury awarded \$125,000 to Donovan and \$175,000 to Ramelli. *Ramelli and Donovan v. Poway Unified School District*, San Diego Superior Court.

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. This was the first New Jersey case to determine how much school administrators must do to protect students from discrimination by other students, and it holds school officials to the same tough standards that employers must enforce in the workplace. *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 did not take Rothmeyer’s claims of harassment seriously. *Rothmeyer v. Perry Community School District*, U.S. District Court for the Southern District.



2003: A federal appeals court covering the western region of the U.S. 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 Derek Henkle, a gay student who was harassed for years in district schools. 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: The Visalia Unified School District in California settled a lawsuit brought by George Loomis, a gay student who was harassed by teachers and students. The school district paid Loomis \$130,000 in damages and agreed to a sweeping package of reforms including changes to the schools 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. Board Of Education of Somerset Independent Schools, Et Al*, C.A. No. 00-145

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 (C.A. 6th Cir.,2000)

1998: The Kent School District in Washington settled a lawsuit brought by Mark Iversen, who was harassed for years at the school. The school paid Iversen \$41,000 and agreed to enforce their existing anti-harassment policy and train staff about anti-gay harassment. *Mark Iversen vs. Kent School District, et al*, C97-1194 (U.S. District Court, Seattle, 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 sued his school in rural Wisconsin after harassment escalated into a mock rape by a group of students. The school paid Nabozny nearly one million dollars. *Nabozny v. Podlesny*, 92 F.3d 446 (C.A. 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.

