

# Sexual Orientation, Our Children & the Law

The responsibilities and obligations of  
California public schools  
under California law:  
*The California Student Safety and Violence  
Prevention Act  
Effective January 1, 2000*



**Peninsula/South Bay**

Gay, Lesbian and Straight Education Network  
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# **SAN MATEO COUNTY OFFICE OF EDUCATION**

**Floyd Gonella, Ed.D., County Superintendent of Schools**

## **A SAFE SCHOOL ENVIRONMENT**

**Assuring a safe school environment has always been a moral obligation of educators, and, for the most part, they have done a fine job. It is common knowledge that for many children, the schoolhouse is the most secure place in their lives. Nevertheless, we can make schools even safer, and we now have new legislation to help us to achieve that end. Assembly Bill 537 which became effective January 1, 2000, specifically outlines the protections due students in the state's educational institutions. This bill, which is now known as the California Student Safety and Violence Prevention Act of 2000, unequivocally safeguards our youngsters from the kind of discrimination and acts of violence that for far too long have been viewed as "part of the rough and tumble of growing up." All of our students deserve nothing less than a safe learning environment and now AB 537 guarantees it. I strongly recommend that all educators review the content and implications of AB 537 and that, collectively, we all rededicate ourselves to maintaining a safe, secure, and nurturing atmosphere in our schools.**

**FLOYD GONELLA, Ed.D.  
San Mateo County Superintendent of Schools**

**January 7, 2000**

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San Mateo County Superintendent of Schools

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# 1. The Legal Background

On January 1, 2000, a new law went into effect in California: The **California Student Safety and Violence Prevention Act of 2000**.<sup>1</sup> It is also known by its number in the legislature, **AB537**, and is a revision to the California Education Code. This state law prohibits discrimination and harassment against students in California public schools based on sexual orientation or gender non-conformity.

## Don't we already have this law?

No. Prior to the enactment of AB537, schools (and the children who attend those schools) were only specifically prohibited from discriminating against students based on sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability.<sup>2</sup> In addition, California's Education Code had a very narrow definition of sex discrimination. Discrimination and harassment based on sexual orientation or gender non-conformity were not specifically prohibited before the enactment of AB537.

## How does AB537 work?

AB537 adds sexual orientation (actual or perceived) and a more expansive definition of gender to this list of characteristics.<sup>3</sup> For the first time, the

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<sup>1</sup> See Appendix for full text of the Act.

<sup>2</sup> This law was made up of two sections of the California Education Code. Prior to the enactment of AB537, Education Code §200 read:

§200. State policy; Declaration of Purpose. "It is the policy of the State of California to afford all persons in public schools, regardless of their sex, ethnic group identification, race, national origin, religion, or mental or physical disability, equal rights and opportunities in the educational institutions of the state. The purpose of this chapter is to prohibit acts which are contrary to that policy and to provide remedies therefor.

Education Code §220 read:

§220. Applicability to educational institutions. "No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid."

<sup>3</sup> This is done by referencing the prohibitions against hate crimes in Section 422.6 of the Penal Code. Section 220 of the Education Code now reads:

§220. Applicability to educational institutions. "It is the policy of the State of California to afford all persons in public schools, regardless of their sex, ethnic group identification,



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California Education Code now specifically prohibits harassment, threats and discrimination against gay and lesbian students, or straight students who are perceived as gay and lesbian. In addition, the more expansive definition of gender discrimination includes discrimination against a person because their identity, appearance or behavior is different than that traditionally associated with the person's sex at birth. That means it is illegal to discriminate against a female student because she wears boyish clothing, against a male student, because his mannerisms are perceived as "effeminate" or because a student is transgender identified.

## What responsibilities do schools have under this new law?

Schools must not only ensure that teachers and other school employees not engage in prohibited behavior, but also that students are not subjected to prohibited behavior. In other words, student-to-student discrimination and harassment prevention is the responsibility of the school.

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- race, national origin, religion, mental or physical disability, or regardless of any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code, equal rights and opportunities in the educational institutions of the state. The purpose of this chapter is to prohibit acts which are contrary to that policy and to provide remedies therefor." (new section underlined)
- Section 220 of the Education Code now reads:  
§220. Applicability to educational institutions. "No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability, or any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid." (New section underlined)
- Section 422.6(a) of the Penal Code reads:  
"No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because he or she perceives that the other person has one or more of those characteristics."
- Section 422.76 of the Penal Code reads:  
For purposes of Section 186.21, subdivisions (a) and (b) of Section 422.6, Section 422.7, subdivisions (a), (b), (c), and (e) of Section 422.75, Sections 1170.75 and 11410, paragraph (9) of subdivision (b) of Section 11413, Section 13023, subdivision (c) of Section 13519.4, and subdivision (a) of Section 13519.6, "gender" means the victim's actual sex or the defendant's perception of the victim's sex, and includes the defendant's perception of the victim's identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the victim's sex at birth.



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Schools are also responsible for ensuring that students are free from harassment and discrimination from any source while at school. This includes parent or community volunteers, and sports team coaches.

### **What are the consequences for schools for violating AB537?**

Like any other violation of the California Education Code, schools and school districts can be sued for not complying with AB537. Schools are responsible for ensuring that students are not victims of harassment or discrimination based on sexual orientation or perceived sexual orientation. If they fail in preventing or stopping that type of behavior, they can be sued. In addition, administrators, teachers and staff may be personally liable as well.

Complaints of sexual orientation or gender discrimination must be handled in the same manner as other discrimination complaints. Students can file a complaint with the school board, with an investigation and written response due in 60 days. If a student is not happy with the response, they can appeal to the California Department of Education. Students are also free to file a civil action for injunctive relief (an order to stop prohibited behavior) or for compensatory damages.

### **Haven't some schools been held liable for discrimination or harassment based on sexual orientation before AB537?**

Prior to the enactment of AB537, schools in California could be liable for discrimination and harassment based on sexual orientation in only four ways. (Note that these four ways are not always effective – these are merely the theories upon which claims have been made, some of which have worked.)

First, if a school district or school has a non-discrimination or anti-harassment policy based on sexual orientation in place, violation of that policy is grounds for a lawsuit.

Second, federal law (Title IX of the Education Amendments of 1972) and court decisions interpreting that law protect students against sexual harassment where that harassment constitutes a “sexually hostile environment.” Although “sexual orientation” is not specifically mentioned in Title IX, some cases of harassment based on sexual orientation may meet the elements for a claim under sexual harassment. What this means is that harassment based on sexual orientation doesn't clearly fall within Title IX, although students may have a claim



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for sexual harassment based on sexual orientation because the harassment has a sexual component to it.

Third, one federal appellate court found an extreme case of harassment based on sexual orientation to have violated the equal protection clause in the 14<sup>th</sup> amendment of the Constitution.<sup>4</sup> In that case, a middle school boy, Jamie Nabozny, was subjected to years of unchecked physical and verbal abuse. The Court of Appeals found that the school failed to protect Jamie because he was male. In other words, if the harassment had been male to female, the school would have treated the matter differently.

Fourth, Article I, Section 28 (c) of the California Constitution declares that “all students and staff of public primary, elementary, junior high and senior high schools have the inalienable right to attend campuses which are safe, secure and peaceful.”

In addition to a court finding of liability, some school districts have chosen to settle outside of court when faced with a harassment claim. In August 1998, the Laguna Salada School District in San Mateo County paid out \$160,000 after school officials allegedly failed to protect a 10-year-old boy from anti-gay slurs. Further, the settlement included that the Laguna Salada School District must include curriculum in its schools that educates and informs children about sexual harassment and sexual orientation harassment.

### **Does AB537 cover teachers?**

Although AB537 is usually spoken of in terms of what protections it offers students, the law applies equally to all persons in public schools, including teachers and other school employees. There are also protections against employment discrimination on the basis of sexual orientation in the California Fair Employment and Housing Act (Section 12940 of the California Government Code) that apply to teachers and other school employees.

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<sup>4</sup> Nabozny v. Podlesny, (7<sup>th</sup> Circuit, July 31, 1996)



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## **2. Discussing Sexual Orientation and Gender Issues in Our Schools**

**Why does our school need to do anything in response to AB537? We don't have any gay students or gay parents.**

Many schools believe that gay and lesbian issues aren't relevant to their particular school; that all the gay people are in other schools or other districts. However, there are students in every elementary school who will become gay or questioning adolescents. Every school district has gay or lesbian parents and employees. An even higher percentage of students, parents or teachers may have a gay or lesbian family member, parent, sibling, child or friend. School personnel may not know of any gay, lesbian, bisexual or transgender people, but this does not exclude their existence. Students, parents or employees who are gay or lesbian often do not feel safe enough to let others know.

Even if you believe you have no gay or lesbian families in your school, gay bashing can still occur. AB537 protects students not only against harassment based on sexual orientation, but based on gender identity and perceived sexual orientation as well.

**Does AB537 really apply to us? We don't have a problem with harassment based on sexual orientation at our school.**

The fact that teachers and administrators do not always hear anti-gay slurs does not mean that they're not occurring. Often, name-calling will occur on the playground, in the hall, the restrooms, lunchrooms and gym or during other less structured times.

Second, some teachers and parents aren't attuned to gender-based name-calling. Some believe that if one child calls another child "gay," it's not wrong if the offending child doesn't know what "gay" means. Also, gender-based name-calling (e.g., "you throw like a girl") often doesn't engender the same response as a racist epithet.

Third, often teachers are uncomfortable addressing anti-gay slurs because they believe that any such discussion must involve a discussion of sexuality (see Concerns).



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## **We're an elementary [or middle] school. Do we really need to be concerned about harassment?**

At most elementary schools, the word "gay" is used as a slur and insult by students in all grades, including kindergarten. According to the study from the *Massachusetts Governor's Commission on Gay and Lesbian Youth, Making Schools Safe for Gay and Lesbian Youth, (1993) p. 51*, among second graders, "that's so gay" is the second most common insult (after "that's so stupid").

These slurs escalate to increasingly ugly language (fag, dyke), accompanied by threats and physical violence, increasing in middle and high school. By addressing and ending this verbal violence early on, safer schools can be created for all students, and the risk of liability can be reduced. By educating students about the appropriate use of terms associated with gay issues, we teach respect for the diversity of the larger community.

In its 1993 report on sexual harassment in America's schools, the American Association of University Women (AAUW) Educational Foundation found that 85% of the boys and 87% of the girls surveyed said they would be "very upset" if they were called gay or lesbian. No other type of harassment - including actual physical abuse - provoked a reaction this strong.

As previously indicated, a school district in San Mateo County has settled a case for \$160,000 based on a claim that it failed to protect a child against anti-gay harassment.

## **Aren't elementary school children too young to begin a discussion of gay issues?**

Elementary school children are already dealing with these issues, possibly at home and/or school. Children watch television and movies that discuss, satirize and ridicule gays and lesbians. (Yes, even on Nickelodeon and the Disney channel.) Even if you haven't heard it, children at your school have used "gay" or "faggot" as an insult, often without knowing what it means. They just know that it's a derogatory and demeaning term. Your obligation as an educator is to confront stereotypes and address inappropriate language to make the schools safe for all students and families. These discussions are not about sex, but about respect for differences.<sup>5</sup>

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<sup>5</sup> Adapted from materials provided by: Support Services for Sexual Minority Youth, School Health Programs, the San Francisco United School District, Kevin Gogin and Crystal Jang.



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**All of our students are reminded to treat others with respect. Isn't that enough?**

Teaching children about “the golden rule” does not specifically address harassment based on issues of gender and perceived sexual orientation. When children hear that they must be kind to others and that they must not engage in name calling, they don't necessarily make the connection between gender bashing/teasing and name calling. For children to understand why harassing behavior is not acceptable, it is important to teach them in a way that is specific, developmentally appropriate and as experiential as possible.



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### **3. Concerns**

#### **How can we talk about sexual orientation issues without talking about sex?**

A discussion about respect for differences is not a discussion about human sexuality. The focus is on making school climates safe for all students and families, including gay, lesbian, bisexual and transgender persons. This discussion concerning equity and civil rights has nothing to do with sex. Often, we confuse sexual orientation with sexual behavior. Elementary school children know that people can be married without understanding the specifics of human sexuality.

Gender issues are another source of serious harassment at our schools. Children who have non-traditional expressions of gender identification often suffer cruel repercussions from peers at school without sufficient intervention from adults. Allowing children to express themselves in a natural way that is comfortable for them, without fear of cruelty or repercussions, has nothing to do with human sexuality. It has everything to do with safety and respect for differences.

GLSEN Peninsula/South Bay has developmentally appropriate curriculum available for every grade level, which includes vocabulary lists and thoughtful, comprehensive lesson plans. Substituting appropriate vocabulary and concepts of respect for differences is a first step in reducing the hateful epithets that permeate school hallways. GLSEN Peninsula/South Bay also has materials that explain how educators can handle harassment incidents.

#### **Other student issues are more pressing. Why not focus on them?**

Gay and lesbian students cross all cultural, racial and socioeconomic boundaries. These young people are three to four times more likely to attempt suicide and are nearly seven times more likely to be threatened or injured at school. Further, insults and threats against gays or lesbians (or those perceived to be gay or lesbian) are far more common than any other verbal attacks on school sites. The level of safety in the school climate affects all students, regardless of sexual orientation.



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## What about the religious beliefs of families and teachers?

There exists a separation of church and state in the United States. One of our greatest freedoms allows people to believe whatever they want, and this includes religious beliefs. Students need to be taught to respect differences that include sexual orientation. This does not mean that students are expected to like everyone who is different, but to respect the rights of others in our community. This does not infringe on any religious beliefs. No religion advocates harassment of children.

Teachers may have religious beliefs that make talking about gay and lesbian issues uncomfortable for them. However, a teacher's first responsibility is to provide a safe environment for his/her students. This responsibility does not impinge on a teacher's religious belief. If a teacher is too uncomfortable to deal with a situation of anti-gay harassment, the situation should be referred to someone who can.<sup>6</sup>

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<sup>6</sup> ibid.



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## 4. What School Districts Can Do

### 1. Establish

- Anti-slur and anti-harassment policies that specify that the district will not tolerate harassment based on sexual orientation or gender non-conformity.
- Hiring and promotion policies which guarantee protection from discrimination based on sexual orientation and gender non-conformity.
- Controversial issue policies that protect students' rights to learn about a broad spectrum of beliefs and that allow for their questions to be answered.
- A climate that fosters support for students who want to start gay/straight alliance clubs.
- Textual and audio-visual materials adoption policies that ensure the materials will be free not only of gender and racial bias, but also of bias based on sexual orientation.

### 2. Be explicit in including sexual orientation in the district's curriculum.

- Age appropriate curriculum from K-12 is available through GLSEN-Peninsula/South Bay or through the GLSEN web site at [www.glsen.org](http://www.glsen.org).

### 3. Provide adult training regarding sexual orientation so that **ALL** school employees and other adults coming in contact with students<sup>7</sup> will recognize:

- That it is an issue of personal importance to a great number of children.
- That they have an obligation to support and enhance the self-esteem of all students.
- That they have a responsibility to support and respect relationships in all families.
- That they are obliged to counteract stereotyping and prejudice, and to reduce the likelihood of violence against any group.
- That the administration will stand behind the School Board's policies.

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<sup>7</sup> This includes teachers, principals, counselors, librarians, nurses, secretaries, custodians, bus drivers, coaches, parent volunteers and classroom aides. Often, the adults most likely to witness harassment against students are those most likely not to receive training.



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- The more common myths and misconceptions and how each damages students.
- Specific ways to address the issue in the classroom.
- Specific, effective ways to interrupt harassment in the classroom and on the campus.

#### **4. Make funding available so that**

- Teachers can develop or obtain lesson plans or other teaching materials.
- Librarians can purchase sensitive, affirming books and audio-visual materials.
- Teachers, nurses and counselors can obtain posters and pamphlets to provide silent affirmation.
- Stipends can be given to an identified “safe contact person” to establish a 24 hour hotline at each middle and high school for gay, lesbian, bisexual, transgender or questioning students to contact when in crisis.



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## 5. What the Classroom Teacher Can Do

1. **Establish an anti-slur/anti-harassment policy in the classroom.** Include in the ground rules the notion of protecting the feelings of others and of recognizing that there is healthy, enriching diversity within the group.
2. **Interrupt name-calling.** Name it, claim it, stop it! Teach how self-defeating and hurtful name-calling can be.
3. **Always assume that some students in each school will discover that they are gay, lesbian, bisexual or transgender.** An even higher number will have an immediate family member who is gay.
4. **Identify derogatory terms, myths and stereotypes as such.** Do this even when these are innocently incorporated into questions. This should be done in a developmentally appropriate way, by replacing slurs with appropriate terms.
5. **Refer value questions home, distinguishing between feelings.** Avoid value judgments in the classroom; students can discuss issues of “right and wrong” at home. Present information objectively.
6. **Teach specifically about sexual orientation.** Define terms, address myths, concerns and common questions. These lessons do not include discussions about human sexuality, unless it is a part of the health curriculum. This can be taught in any classroom from K-12.
7. **Use orientation neutral language.** For example, “people get crushes at puberty” v. “people get crushes on the opposite sex at puberty.” Use inclusive language, e.g., “Write about whomever you think of as family. That may be Mom, Dad, brothers and sisters; it may include step-family members, foster family members, grandparents, more than one mom or dad, etc.”
8. **Incorporate specific mention of sexual orientation into various disciplines.** Just as mention of other minority groups should not be limited to an isolated unit about those groups, so teachers should not limit their discussion of sexual orientation. Inclusion would be appropriate in:



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- Early elementary units about families and respecting differences
  - Upper elementary lessons about name-calling
  - Middle school lessons about myths and stereotypes
  - Literature by gay or lesbian authors or about gay/lesbian/bisexual/transgender characters
  - History and world cultures (including history of oppressions as well as historical contributions of an invisible minority)
- 9. Declare your classroom to be a “Safe Place,”** with a poster declaring that, in your classroom, no one will be harassed or discriminated against based on race, gender, sexual orientation, disability, or religion. (A poster can be downloaded from [glsenco.org](http://glsenco.org).)
- 10. Don’t be afraid to say the words “gay” and “lesbian.”** It normalizes them.
- 11. Answer all questions honestly, without bias.** Remember: discussing gay and lesbian issues in the classroom is not about sex, religion or recruitment, it is about relationships and providing a safe environment for all students to learn.<sup>8</sup>

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<sup>8</sup> Partially adapted from an article by Betsy Crane, health educator, Planned Parenthood, Ithaca, New York.



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## 6. Resources

GLSEN (Gay, Lesbian, Straight Education Network) works to make schools safe for *all* students. We work to support diversity, equity and the right of every student to learn in a safe and accepting environment. We also provide networking and support for gay, bisexual, transgender and straight ally teachers, parents and administrative staff.

For more information:

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Also visit:

GLSEN National at [www.glsen.org](http://www.glsen.org)

GLSEN Colorado at [www.glsenco.org](http://www.glsenco.org) (great site for resources)

### Other local resources include:

**OUTLET** offers a safe, supportive, confidential drop-in support and social group for lesbian, gay, bisexual, transgender and questioning youth age 18 and under at the Palo Alto YWCA. Call (650) 494-0972, ext. 301 for more information, or visit <http://ywcamid.org/rcc/Outlet/>.

**GSA Network (Gay-Straight Alliance Network)** assists students in forming gay-straight alliances at their schools, and assists those clubs once formed. Contact Carolyn Laub at (415) 442-4726 or visit [www.gsanetwork.org](http://www.gsanetwork.org).

**PFLAG (Parents, Families and Friends of Lesbians and Gays)** offers a monthly support group for parents, families and friends of gay, lesbian, bisexual and transgender people. There are four meeting locations in the Bay Area: San Mateo, Menlo Park, San Jose, and Gilroy. Call (650) 857-1058 or (408) 270-8182 for more information, or visit [www.pflagsanjose.org](http://www.pflagsanjose.org).



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**The Billy DeFrank Lesbian and Gay Community Center** is a community center in San Jose provides social and support services for lesbian, gay, bisexual, transgender and questioning youth. (408) 293-2429

**The Crisis Center** offers 24-hour crisis support over the telephone. Call (650) 692-6655

**LYRIC (Lavender Youth Recreation and Information Center)** is a community center in San Francisco with comprehensive services for lesbian, gay, bisexual, transgender and questioning youth 23 and under. Call (415) 703-6150, or visit [www.lyric.org](http://www.lyric.org).

**1-800-2246-PRIDE (1-800-246-7743)**. A 24-hour peer support hot-line for lesbian, gay, bisexual, transgender and questioning youth run by LYRIC (Lavender Youth Recreation and Information Center).

**Colage (Children of Lesbians and Gays Everywhere)** offers support for children with lesbian, gay, bisexual and transgender parents. Call (415) 861-5437.

**Sexual Identity Forum (the SIF Group)** offers safe, supportive and confidential support for lesbian, gay, bisexual, transgender and questioning youth ages 12-23. Meets Wednesdays 7:30-9 p.m. at the Redwood City Youth Health Center.

**CAPE (California Alliance for Pride and Equality)** lobbies to ensure basic rights for lesbians and gays in California. [www.calcape.org](http://www.calcape.org).

**Lambda Legal Defense and Education Fund** is a national organization committed to achieving full recognition of civil rights to lesbians and gays. [www.lambdalegal.org](http://www.lambdalegal.org)

**Reconciling Ministries Network** provides information on faith-based programs for gays and lesbians. [www.rcp.org](http://www.rcp.org)



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## **7. About GLSEN Peninsula/South Bay**

GLSEN Peninsula/South Bay is a local chapter of GLSEN national, the country's largest organization that works to end discrimination and harassment against gay, lesbian, bisexual, transgender and gender non-conforming students in K-12 schools. GLSEN Peninsula/South Bay was formed in 1996 as GLSEN San Mateo County. In early 2000, the chapter expanded to Santa Clara County and became GLSEN Peninsula/South Bay. GLSEN Peninsula/South Bay is composed of 60% straight allies and 40% gay, lesbian, bisexual and transgender members. This chapter includes principals, superintendents, teachers, parents, district office administrators, and students.

GLSEN Peninsula/South Bay can provide workshops for all school personnel and administrators, as well as students. It can also provide resources such as sample anti-slur policies, curriculum for K-12 classes, books, films, and speakers.

This handbook was prepared by Ellen Press, M.S. Ed., and Teri Shugart Erickson, attorney.



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## 8. Appendix

### The California Student Safety and Violence Prevention Act

An act to amend Sections 200, 220, 66251, and 66270 of, to add Section 241 to, and to amend and renumber Sections 221 and 66271 of, the Education Code, relating to discrimination.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 537, Kuehl. Discrimination.

(1) Existing law provides that it is the policy of the State of California to afford all persons in public schools and postsecondary institutions, regardless of their sex, ethnic group identification, race, national origin, religion, or mental or physical disability, equal rights and opportunities in the educational institutions of the state.

Existing law makes it a crime for a person, whether or not acting under color of law, to willfully injure, intimidate, interfere with, oppress, or threaten any other person, by force or threat of force, in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because he or she perceives that the other person has one or more of those characteristics. This bill would also provide that it is the policy of the state to afford all persons in public school and postsecondary institutions equal rights and opportunities in the educational institutions of the state, regardless of any basis referred to in the aforementioned paragraph.

(2) Existing law prohibits a person from being subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability in any program or activity conducted by any educational institution or postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

This bill would also prohibit a person from being subjected to discrimination on the basis of any basis referred to in paragraph (1) in any program or activity conducted by any educational institution or postsecondary educational institution



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that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

(3) This bill would state that it does not require the inclusion of any curriculum, textbook, presentation, or other material in any program or activity conducted by an educational institution or a postsecondary educational institution and would prohibit this bill from being deemed to be violated by the omission of any curriculum, textbook, presentation, or other material in any program or activity conducted by an educational institution or a postsecondary educational institution.

To the extent that this bill would impose new duties on school districts and community college districts, it would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

### **AB 537: The California Student Safety and Violence Prevention Act of 2000**

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This bill shall be known, and may be cited, as the California Student Safety and Violence Prevention Act of 2000.

SEC. 2. (a) The Legislature finds and declares all of the following:

(1) Under the California Constitution, all students of public schools have the inalienable right to attend campuses that are safe, secure, and peaceful. Violence is the number one cause of death for young people in California and has become a public health problem of epidemic proportion. One of the Legislature's highest priorities must be to prevent our children from the plague of violence.

(2) The fastest growing, violent crime in California is hate crime, and it is incumbent upon us to ensure that all students attending public school in California are protected from potentially violent discrimination. Educators see



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how violence affects youth every day; they know first hand that youth cannot learn if they are concerned about their safety. This legislation is designed to protect the institution of learning as well as our students.

(3) Not only do we need to address the issue of school violence but also we must strive to reverse the increase in teen suicide. The number of teens who attempt suicide, as well as the number who actually kill themselves, has risen substantially in recent years. Teen suicides in the United States have doubled in number since 1960 and every year over a quarter of a million adolescents in the United States attempt suicide. Sadly, approximately 4,000 of these attempts every year are completed. Suicide is the third leading cause of death for youths 15 through 24 years of age. To combat this problem we must seriously examine these grim statistics and take immediate action to ensure all students are offered equal protection from discrimination under California law.

SEC. 3. Section 200 of the Education Code is amended to read:

200. It is the policy of the State of California to afford all persons in public schools, regardless of their sex, ethnic group identification, race, national origin, religion, mental or physical disability, or regardless of any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code, equal rights and opportunities in the educational institutions of the state. The purpose of this chapter is to prohibit acts which are contrary to that policy and to provide remedies therefor.

SEC. 4. Section 220 of the Education Code is amended to read:

220. No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, mental or physical disability, or any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid.

SEC. 5. Section 221 of the Education Code is renumbered to read:

220.5. This article shall not apply to an educational institution which is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization.

SEC. 6. Section 241 is added to the Education Code, to read:

241. Nothing in the California Student Safety and Violence Prevention Act of 2000 requires the inclusion of any curriculum, textbook, presentation, or other material in any program or activity conducted by an educational institution or postsecondary educational institution; the California Student Safety and Violence Prevention Act of 2000 shall not be deemed to be violated by the omission of any



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curriculum, textbook, presentation, or other material in any program or activity conducted by an educational institution or postsecondary educational institution.

SEC. 7. Section 66251 of the Education Code is amended to read:  
66251. It is the policy of the State of California to afford all persons, regardless of their sex, ethnic group identification, race, national origin, religion, mental or physical disability, or regardless of any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code, equal rights and opportunities in the postsecondary institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor.

SEC. 8. Section 66270 of the Education Code is amended to read:  
66270. No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability, or any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

SEC. 9. Section 66271 of the Education Code is renumbered to read:  
66270.5. This chapter shall not apply to an educational institution that is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization.

SEC. 10. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.



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