

Testimony of Eliza Byard, Ph.D.

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Before the U.S. Commission on Civil Rights

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Members of the Commission:

I appreciate the invitation to testify today regarding issues of bullying, harassment and violence in our schools.

An Introduction to Joey

I would like to begin my remarks by introducing you to Joey, a typical teenager. Joey, a high school junior, works at McDonald's, listens to Lady Gaga and spends way too much time on Facebook. But something about Joey, who turns seventeen next week, is different from most of his classmates. Joey is gay. Up until the time he revealed this fact to friends in middle school, Joey was a popular kid and never thought twice about whether he was safe at school. After he came out, Joey's school experience changed dramatically for the worse. He was harassed daily, a problem that escalated to the moment when a student threatened Joey with a knife. Rather than intervene, a school administrator's response was to encourage Joey to act "less gay" and to consider whether the bullying he experienced was something he deserved because of who he is.

The consequences? Joey's grades dropped, he withdrew from former friends and school life, and at one point, considered taking his own life. I spoke with Joey earlier this week. When I told him that the United States Commission on Civil Rights was holding a hearing on student-on-student violence that would include consideration of the harassment faced by lesbian, gay, bisexual, and transgender youth, Joey asked me to say something to the Commission on his behalf. He asked me to say: Thank you.

GLSEN: Who we are and what we stand for

My name is Eliza Byard. I am the executive director of GLSEN, the Gay, Lesbian and Straight Education Network. Founded in 1990 by a group of educators, parents and students in Massachusetts, GLSEN is now the leading national education organization focused on LGBT issues in K-12 schools and committed to promoting safe schools for all students. Every day, GLSEN and our chapters are at work in communities around the country, partnering with school districts, students and parents to build awareness, promote policies and deliver programs that foster healthy school cultures in which every child learns to respect and accept all people, regardless of sexual orientation, gender identity, or gender expression.

I will echo my young friend in thanking you for shedding light on an urgent crisis in our schools that has left countless American children behind. But I must also urge you to act. Visible or invisible, LGBT youth are in every district in this country, and are drawn from every constituency that you are empowered to

protect. They need your help and federal leadership to cut through the noise that too often surrounds this issue with recommendations that specifically address the needs of LGBT youth as well as all other students affected by bullying and violence in our schools. The simple fact is that too many LGBT students face bullying, harassment and violence on a daily basis that can deprive them of equal educational opportunity, undermine their individual well-being, and keep them from achieving their full potential.

Bullying and harassment of LGBT students: prevalence, impact and prevention

Sadly, Joey's story is by no means an anomaly. LGBT students experience bullying at an alarming rate in America. In GLSEN's 2009 National School Climate Survey, nearly nine out of ten LGBT students said they were verbally, physically or sexually harassed in the past year because of their sexual orientation and nearly two-thirds because of their gender expression. One in five had been physically assaulted in the past year. One in three had missed a day of school in the past month because they were simply too afraid to go. Three in five did not feel safe in school because of who they are.

It is no surprise that the youth who face this violence do less well in school and are less likely to plan to graduate and go on to college. And it is no surprise that LGBT youth are more likely to engage in behaviors that put them at risk – including attempts at suicide – because of the discrimination and violence they suffer.

These statistics are simply unacceptable, and the situation they illuminate is grim. Equally disheartening, however, is that this situation has not yet sparked the urgent and comprehensive response it requires. Only eleven states have anti-bullying laws that explicitly protect students from bullying and harassment on the basis of sexual orientation and gender identity. On the level of individual responses, the vast majority of LGBT students – 80 percent – report that when a member of the faculty and school staff witness anti-LGBT behavior, they do little or nothing about it. The majority say that they do not report many incidents of violence they face because they do not believe there will be a response from school authorities. And those who do report victimization to the school say the most common response is nothing – no action at all.

A core challenge in the effort to create safer schools for all students is the fact that bias-based bullying complicates adult response. Whether it is out of fear of controversy, failure to recognize the seriousness of the behavior, or active indifference to the fate of the students involved, adults charged with the education and care of our sons and daughters during the school day are not consistently living up to their responsibilities. Federal leadership is necessary to make the extent of their responsibilities crystal clear, and to assure those who fear controversy or backlash that they are indeed doing the right thing.

Research consistently shows that the policies that most effectively address anti-LGBT bullying actually name the problem, as is true with other types of bias-based bullying. General anti-bullying laws and policies leave some of our most vulnerable youth behind, a statement I make based on research and as a representative of an organization rooted in schools that works with schools and knows firsthand that if you are not willing to tell a bully directly that his or her behavior is wrong, he or she is not going to stop. LGBT youth whose schools' anti-bullying policies include enumeration are less likely be victimized, more

likely to report incidents that do occur to school authorities, and more likely to say that school staff intervened when they witnessed anti-LGBT behavior. I would mention that the general population of students also benefits from the presence of such a policy – students of all kinds whose schools have such a policy in place are less likely to say that bullying is a serious problem at their school.

The emerging patchwork of protection and the need for federal action

We are grateful to the Office of Civil Rights at the Department of Education and to the Department of Justice for their commitment to exercising what authority they have under Title IX to protect LGBT students. But these statutes cover only some of the serious challenges LGBT students face. As evidence has mounted of the effectiveness of enumerated anti-bullying and anti-harassment policies, we have seen some much-needed movement. The Department of Education recently included enumeration in its memo to state education authorities regarding “best practices” in bullying-prevention law and policy. In recent months, school districts across the country, in Oklahoma City; Jackson, Mississippi; Dallas, Texas; and Park City, Utah have adopted enumerated policies that included sexual orientation and gender identity among their protections for all students. And just last month Arkansas passed an anti-bullying law that does the same – a bill that passed unanimously in its Senate. Unfortunately, however, state laws and district policies create only a patchwork quilt of protection for LGBT students.

As a baseline matter of safety, we need federal leadership to establish a national floor of protection that fills in the gaps that do not extend protections for all students, upon which states and districts may build. As a national issue of equity, we also need non-discrimination protections for some of our nation’s most vulnerable students. As the Commission considers how it can help to address violence and harassment directed at LGBT students and those perceived to be LGBT, I encourage the Commission to support the Safe Schools Improvement Act (SSIA), an anti-bullying bill introduced in Congress with bipartisan support in both chambers and broad-based support among education, youth development, health, religious and civil rights organizations. The Safe Schools Improvement Act is supported by the National Safe Schools Partnership, comprised of nearly 90 national organizations from these worlds including GLSEN. I also ask the commission to support the Student Non-Discrimination Act (SNDA), which would extend non-discrimination protections to students on the basis of sexual orientation and gender identity. GLSEN, the National Safe Schools Partnership, and a number of other organizations have submitted briefs to the Commission in support of these two pieces of legislation, and I ask that you consider them carefully.

You may hear some of my colleagues testify that there is no urgent need to address anti-LGBT bullying and violence in our schools, or that to do so would compromise the First Amendment rights of other students with strongly held personal beliefs regarding homosexuality. As an educator and as a parent, I am firmly committed to the principle of respectful debate and dialogue across lines of difference in our vibrantly diverse society. But let me be very clear: the words “faggot” and “dyke” are not part of any religious creed. And harassment and assault are crimes.

To those who deny the need for action and attack the principle of enumeration, I challenge them to provide data to support their flawed arguments rather than innuendo and tired assertions that seek to perpetuate the status quo. The U.S. Department of Health and Human Services has declared the bullying problem in our schools to be a “national public health crisis,” and it is a crisis that cannot be addressed without a clear-headed assessment of the specific behaviors at its heart. It is a crisis that harms students, their families, and their schools every day, and contributes to the greater crisis gripping American education.

For every Jackson, Mississippi, and Park City, Utah, there are places where bullying-prevention efforts do not explicitly protect all students and where the consequences are all too real. Joey knows this all too well: bullying forced him and his family to move across state lines to find a school where he would be treated with the same respect as every other student. Fortunately for Joey, his family had the means and inclination to find that safe school. Many parents don't. Indeed, no parent should have to make that choice.

Communities across our country wrestle with these issues every day – and do it on their own. We need federal leadership to fill the gaps in local laws and policies that exist and that currently allow the kinds of harm that Joey experienced to be all too pervasive. We must ensure that the physical, mental, academic, and social well being of our nation's LGBT youth are not left to the vagaries of local practice – especially when there are commonsense solutions built upon significant common ground among people of goodwill and divergent politics and belief.

Each child in this nation who enters a school every morning deserves a school environment where they are safe and respected. They deserve the same chance to excel as every other child. Bullying and violence can rob them of that, and far too many of our children who are affected by harassment are suffering needlessly—with consequences for our schools, our communities and our nation. I ask today that you all signal your support for appropriate federal action that will create a foundation upon which all of our children can walk the halls of their schools free of the threat of bullying and harassment, and with the opportunity to become the person they were meant to be.

Thank you.