



## Mixed Opinions about Enumeration

As the variation in state policies suggests, there are mixed opinions as to whether or not to enumerate anti-bullying policies, including legal opinions. Although there is growing support for enumeration, there are also concerns about unintended consequences of enumerating.

### Mixed Opinions about Enumeration

#### Support for enumeration

- Enumeration is listed as one of eleven key components of anti-bullying policy by the U.S. Department of Education.<sup>3</sup>
- Enumeration can send a broad message to school staff, students and families about values regarding appropriate behavior.<sup>4,6</sup>
- In 1996 the U.S. Supreme Court articulated support for enumeration as an “essential device used to make the duty not to discriminate concrete.”<sup>7</sup>
- Organizations that promote the health and well-being of LGBT youth, such as The Gay, Lesbian and Straight Education Network (GLSEN) and the Gay-Straight Alliance Network, strongly advocate for anti-bullying policies that enumerate sexual orientation.
- In a national survey of adults in the United States, between 66% and 75% supported state and federal anti-bullying legislation that enumerates distinguishing characteristics.<sup>8</sup>

#### Concerns about enumeration

- When policies are enumerated, there is the possibility that enforcement will focus only on students who are bullied based on enumerated characteristics instead of protecting all students from bullying on any basis.<sup>9,10</sup>
- Attempting to enumerate a policy could lengthen legislative debate and hinder its passage.<sup>3</sup>
- The characteristics that make someone more likely to be the target of bullying change over time. Moreover, bullying is frequently the result of multiple characteristics yet only one/ some characteristics may be enumerated, which could complicate a legal response.<sup>6</sup>
- Bullying is often motivated by factors like personal appearance rather than having a specific characteristic or trait that could be enumerated.<sup>5</sup>

## What the Research Says

There is limited research regarding the effectiveness of enumerating anti-bullying policy. In addition, the potential harmful effects on students who are not part of enumerated groups or other unintended consequences have not been studied. Two studies demonstrate associations between enumeration and bullying-related outcomes, both of which focus on the impact of enumerating sexual orientation. GLSEN’s large, but not nationally representative, online School Climate Survey of sexual minority youth aged 13-21 years found lower levels of bullying victimization among LGBT youth in schools with policies that enumerate sexual orientation.<sup>11</sup> Hatzenbuehler and



Keyes looked at 11th grade public school students in Oregon and found that lesbian and gay teens are less likely to attempt suicide if they live in areas with school districts that include sexual orientation as a protected characteristic in anti-bullying policies.<sup>12</sup> Another paper from Hatzenbuehler and colleagues used data from 25 states to evaluate the effectiveness of anti-bullying legislation in reducing students’ risk of being bullied and cyberbullied. They found that having at least one recommended legislative component was protective against bullying and cyberbullying, but no significant effect was found for enumeration.<sup>13</sup>

## What Local Education Agencies Can Do

Regardless of whether or not local education agencies choose to enumerate their anti-bullying policy, establishing and implementing strong anti-bullying policies will help prevent bullying. If local education agencies choose to enumerate, they will want to ensure that the policy protects all students and minimizes unintended consequences. The following information can help prevent bullying.

### Key Considerations for ALL Anti-Bullying Policies

Enumerated or not, strong anti-bullying policies will<sup>3,14-16</sup>:

- Provide a clear definition of bullying, consistent with state laws, that includes prohibited actions.
- State locations where bullying might take place, such as school grounds, school events, and the internet, that are covered by the policy.
- Describe graduated sanctions and consequences for incidents of bullying, including non-punitive alternatives.
- Include a statement of rights to other legal recourse.

### Actions for Effective Implementation of ALL Anti-Bullying Policies

All anti-bullying policies should have guidance for effectively implementing the policy. Having a policy “on the books” is not enough. The policy needs to be consistently enforced. This involves the following<sup>3,16</sup>:

- Determine how the policy will be enforced, by whom, and how enforcement will be monitored.
- Educate staff, students, and families regularly about the policy using multiple channels (e.g., newsletters, emails, Facebook, etc.).
- Train staff and students to recognize bullying and respond safely and effectively.
- Establish a system to support reporting of bullying with protection from retaliation and promptly investigate and respond to reports of bullying.
- Refer perpetrators and victims to counseling and other services.
- Support effective school-based violence prevention programs that combine whole-school programs with classroom curricula and small group or individual-level programs that include mentoring and address social skills.

### Additional Considerations for ENUMERATED Anti-Bullying Policies

To ensure protection for all students, enumerated policies should<sup>3</sup>:

- State that all students are protected under the policy, even if they are not represented by the traits or characteristics enumerated in the policy. Using phrases like “including but not limited to” or “any other distinguishing characteristics” when enumerating characteristics helps make this clear.
- Acknowledge that not all acts of bullying are based on enumerated characteristics and that the types of things that make a student more likely to be the target of bullying change over time and from place to place.
- Include background information explaining that students with certain characteristics, actual or perceived by others, may be more likely to experience bullying.
- List examples of characteristics that might be the basis of bullying. It is important to state that these characteristics might be actual (e.g., a student is openly gay) or perceived (e.g., others think that a student is gay.)



## References

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