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## Does Your School Policy Convey a Clear Commitment to Lesbian, Gay, Bisexual, and Transgender Students, Families, and Staff?

### An LGBT Policy Checklist for *Your* Minnesota School District

**Directions:** School policies that are inclusive of LGBT people create a more welcoming learning environment for all. As a parent, student, educator, or community member, you have the right to advocate for stronger policies.

1. Review the checklist for an overview of which policies impact LGBT people and how they can be strengthened.
2. To learn what your district's policies are, surf your district's website and look through its printed materials.
3. If you're a parent or community member, consider enlisting the help of students or school staff in completing the checklist. Try the counselor who runs the LGBT support group or the Gay/Straight Alliance club advisor.
4. Answer each question on the checklist with a Y for Yes, N for No, or DK for Don't Know. Attach a photocopy of each relevant policy. Submit your completed checklist, with photocopies of the policies, to PFLAG.
5. The checklist will identify which policies in your district need strengthening. Advocate for their revision! Because good policies are only effective if people know what they say, make sure they are easily accessible.

**Did you know?** Minnesota is one of only two states that received "A" grades and eight that managed passing grades in the *2004 State of the States Policy Analysis on LGBT Safer Schools Issues* conducted by the Gay, Lesbian, Straight Education Network (GLSEN). (To download the report, visit [www.glsen.org](http://www.glsen.org).)

Minnesota received its "A" grade in large part due to the 1993 Minnesota Human Rights Act, which extends equal rights to LGBT people. To read the Human Rights Act for yourself, visit [www.revisor.leg.state.mn.us/stats/363A](http://www.revisor.leg.state.mn.us/stats/363A). Minnesota's strong state law gives advocates for more inclusive school policies a persuasive bargaining tool: Districts can clearly demonstrate compliance with state law by strengthening their policies to include LGBT people.

#### What protections do Minnesota students and school staff have under state law?

- **Protection for students:** Minnesota is one of very few states that protect students from discrimination, including harassment, based on their actual or perceived sexual orientation and gender identity.
- **Protection for school staff:** Minnesota is one of very few states that offer school staff workplace protection from discrimination, including harassment, based on their actual or perceived sexual orientation and gender identity.
- **Exemption for religious schools:** The Human Rights Act extends protection based on sexual orientation and gender identity to students and school staff in all public schools and private nonreligious schools. Students and staff in religious schools are *not* protected.
- **Transgender coverage:** The 1993 Minnesota Human Rights Act defines "sexual orientation" to include sexual identity (heterosexual, lesbian, gay, bisexual) and gender identity (transgender). By including, in its definition of sexual orientation, people "having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness," the Human Rights Act covers transgender people. Thus, all references in Minnesota law to "sexual orientation" also cover gender identity.

**PLUS: Federal law offers protection against harassment:** Recent court decisions have found that Title IX of the 1972 Education Amendment, which prohibits discrimination on the basis of sex in schools that receive federal funding, also protects students against harassment based on nonconformity with stereotyped notions of masculinity and femininity.

# LGBT POLICY CHECKLIST FOR MINNESOTA SCHOOL DISTRICTS

## 1. Contact Information

My school district's name and identification number are: \_\_\_\_\_

District address: \_\_\_\_\_

Phone: \_\_\_\_\_ Website: \_\_\_\_\_

Name of lead contact person who conducted checklist: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Relationship to school: Alum:  Community member:  Family member:  Parent:  Staff:  Student:

Please also provide contact information for a district staff member familiar with these policies, such as Human Relations Director, Safe Staff Coordinator, or Gay/Straight Alliance Advisor. Name: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

District position: \_\_\_\_\_

## 2. Does My School District Policy Comply with State and Federal Law?

School district policies that include sexual orientation and gender identity send a clear message that the district extends equal rights to lesbian, gay, bisexual, and transgender people. Although school districts are not technically required to update their written policies to exhibit compliance with state and federal law, they are required to actively enforce the law. Updating district policies provides an opportunity to educate the school community about the law and demonstrate that the district takes the law seriously. Inclusive policy also sends a strong signal to LGBT students, families, and staff that, if they choose to be "out," the district will recognize—and, if necessary, enforce—their rights.

**TIP** *Suggestions for including gender identity:* The Minnesota Human Rights Act extends protection to transgender people by including gender identity in its definition of "sexual orientation." It can reasonably be assumed that school district policies that name but don't define "sexual orientation" are using the Human Rights Act definition as their default definition, thus extending protection to transgender people. However, Minnesota school districts can choose to make their commitment to transgender students and staff more explicit. In doing so, districts have an opportunity to educate the school community about the needs and rights of transgender people. Local school policy can:

- State that the school complies fully with the Minnesota Human Rights Act and its definitions;
- List the definitions from the Human Rights Act with which it complies and include sexual orientation in that list;
- Include the actual definition of sexual orientation from the Human Rights Act in the text of school policy; or
- Include "gender identity/expression" along with "sexual orientation" in the list of categories that require equal treatment.

*No matter what their policies say, all Minnesota school districts are required to extend protection to transgender people.*

**A. Protection for students:** Does my school district policy protect students from discrimination and/or harassment based on their actual or perceived:

Sexual orientation:  Is gender identity explicitly included?

If gender identity is included, what is the wording? \_\_\_\_\_

Is my district's anti-harassment policy posted on the district's website?

Printed in a student handbook that all students receive?

**B. Protection for school staff:** Does my school district policy protect school staff from discrimination and/or harassment in hiring, firing, and promotion based on their actual or perceived:

Sexual orientation:  Is gender identity explicitly included?

If gender identity is included, what is the wording? \_\_\_\_\_

Is my district's equal employment opportunity policy posted on the district web site?

Printed in a staff handbook that all school staff receive?  Included on the employment application?

### 3. Do Employment Contracts Extend Benefits to Domestic Partners?

Minnesota school districts can express support for LGBT administrators, teachers, and support staff by agreeing to employment contracts that cover family illness and bereavement leave for domestic partners. To add such coverage to their employment contract, school district employees can enlist the help of their union representative.

**TIP Contract language suggestions:** Although contracts in some employment fields will specify “same-sex domestic partners” or “domestic partner” (which covers both same-sex and opposite-sex partners), such language can itself be controversial. School district contracts typically employ more neutral language. For example, Minnesota District 279, Osseo Area Schools, uses the following phrasing (*italics added*): “The immediate family will include father, mother, sister, brother, husband, wife, son, daughter, son-in-law, daughter-in-law, grandfather, grandmother, grandchildren, guardian *and any other relative or non-relative who stands in the same relationship with the teacher.*” Another option is to extend coverage to “immediate household members,” defined as “those who dwell under the same roof and comprise a family or domestic establishment.”

**A. Family illness leave:** If a domestic partner or immediate household member is ill, can school staff in my district take time off to care for the person?

If so, what is the contract language? \_\_\_\_\_

**B. Bereavement leave:** If a domestic partner or immediate household member dies, can school staff in my district take bereavement leave?

If so, what is the contract language? \_\_\_\_\_

**Healthcare coverage unavailable for domestic partners:** Although employment contracts can legally cover domestic partners for family illness and bereavement leave, under Minnesota state law (as currently interpreted) staff members in a public school cannot put a domestic partner on their district’s health insurance plan. A 1995 decision by the Minnesota Court of Appeals holds that Minnesota Statute 471.61 ([www.revisor.leg.state.mn.us/stats/471.61](http://www.revisor.leg.state.mn.us/stats/471.61)) permits local governments (including school districts) to offer premium-based health insurance benefits *only* to their employees and to the spouses and children of their employees. Thus, at this time, school districts in Minnesota are unable to extend healthcare coverage to same-sex or opposite-sex domestic partners. The rare circumstance of a self-insured school district that has more than 100 employees would constitute the only possible exception.

### 4. Does My District Give LGBT Student Groups Equal Recognition?

In a school, two kinds of groups may be available to students who are exploring their sexual orientation or gender identity or who have parents or friends who are LGBT: support groups conducted by guidance counselors or social workers and Gay/Straight Alliance student-initiated clubs. GSAs can have a social, support, or advocacy focus.

According to the 1984 federal Equal Access Act, which applies to all secondary schools that receive federal funding, a school that lets *any* voluntary, student-initiated club meet during non-school hours is required to provide the same opportunities to all non-curricular clubs, no matter what their religious, political, or philosophical beliefs. Thus, schools that permit other extracurricular student groups, such as cheerleaders or chess (which virtually every school does), must also permit a GSA. *Only schools that prohibit all extracurricular groups can prohibit a GSA.*

The Equal Access Act requires that GSAs have the same opportunities as other extracurricular groups to publicize their activities through posters, announcements over the public address system, tables at school events, and publication in the yearbook and school newspaper. Unfortunately, GSAs can encounter unequal treatment when school personnel are unaware of a school’s legal obligations.

**A. Gay/Straight Alliances:** Does my school district have a Gay/Straight Alliance student club?

Has the GSA encountered unequal treatment?  If so, please explain how: \_\_\_\_\_

Name of GSA advisor: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

## 5. Does My School District Value Diversity?

School districts often communicate their priorities to the community through a mission statement, vision statement, and a list of district beliefs or values. Although such statements do not have the force of law, it is reasonable to hold districts accountable to the beliefs and values they profess. When school districts directly name or indirectly reference diversity as a value, they imply a commitment to welcoming LGBT people.

An example of a value statement that directly names diversity comes from School District 197 in the southeastern suburban Twin Cities: "A celebration of the diversity represented by all learners." School District 191 (Burnsville-Eagan-Savage) provides two examples of value statements that indirectly address diversity: "Individual differences must be acknowledged and respected," and "As society changes, organizations which serve that society must change."

Like most words, "diversity" has different meanings for different people. Districts that explicitly name which groups are included in diversity efforts can help the school community avoid confusion and develop a shared understanding and clear priorities. Districts seeking an authoritative guide for defining diversity can reference the Minnesota Human Rights Act, which names "sexual orientation" as a category deserving of equal rights.

**A. District values:** Does my district directly name diversity as a value?  Indirectly value diversity?

Write the value(s) here: \_\_\_\_\_

**B. Diversity statement:** Does my district's definition of diversity include:

Sexual orientation:  Gender identity:

What is the diversity statement? \_\_\_\_\_

## 6. Are My School District Forms Inclusive?

School district forms that recognize the range of human experience send a respectful message to LGBT persons.

**A. School district forms:** Do school forms specify parents or guardians, rather than mother and father?

Are school forms gender-neutral so that, rather than checking a box for male or female, individuals can self-identify gender and have the option to specify "transgender" or "intersex" (born with ambiguous sexual characteristics)?

## 7. Does My School District Have Anti-LGBT Policies?

Minnesota is not among the handful of states that prohibit the positive portrayal of homosexuality in schools or that require the exclusive promotion of monogamous heterosexual marriage. However, at least one Minnesota school district—District 11 (Anoka-Hennepin)—does have a sexuality education policy that prohibits presenting homosexuality as a valid, normal lifestyle. The legality of this policy has not been tested.

**A. Sexuality education guidelines:** Does my district prohibit the positive portrayal of homosexuality?

Does my district require the promotion of monogamous heterosexual marriage?

## 8. How Can I Help My District Institute More Inclusive Policies?

Often school districts do not have LGBT-inclusive policies because they are unaware of the need for them. Use the results of your checklist to educate district administrators about how to create a more welcoming learning environment for all. Make sure they know that instituting and enforcing inclusive policies can protect districts from costly lawsuits.

**A. Top priority:** What policy issue do I consider my top priority for creating a more LGBT-friendly school district?  
\_\_\_\_\_

**B. My next step:** What will I do next to change existing policy or educate the school community about policy issues?  
\_\_\_\_\_

For specific legal questions, call OutFront MN in the Twin Cities at 612-822-0127, ext. 230; statewide call 800-800-0350, ext. 230.

This checklist was created by Jacqueline White, School OUTreach Coordinator, PFLAG St. Paul/Minneapolis. 12/04

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