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**U.S. Senate  
Committee on Health, Education, Labor, and Pensions  
“Bully-Free Schools: How Local, State and Federal Efforts Can Help”**

**East High School  
Des Moines Independent Community School District  
Des Moines, Iowa**

**June 8, 2012**

**I. Introduction**

Thank you for inviting me to participate in this hearing. On behalf of Secretary Duncan and myself: thank you, Senator Harkin, for all your work on preventing bullying, particularly on behalf of those student populations that are disproportionately affected by bullying. I appreciate the opportunity to share with you the work that the Department is doing to support schools in their efforts to provide all students with a high-quality education in a safe learning environment, free from discrimination, harassment, bullying, and violence.

Bullying of any student for any reason is unacceptable. When students are bullied, they cannot feel safe. If they do not feel safe, they cannot learn. And if they do not learn, they cannot reach their full potential as students, citizens, and human beings.

If adults allow this to happen, then not only may we have violated students' civil rights, but we may also have profoundly interrupted their development as human beings, and, in the most tragic instances, cost them their very lives.

Ignoring, tolerating, or responding ineffectively to bullying can poison the school environment for all students: for the students who are targeted and victimized, and for the students who witness it, at a time when it is vital for students to learn lessons on peer contact, social interaction and humanity that they will carry with them after they leave school.

When educators, parents, or students tolerate a culture that allows children to bully and harass each other, physically, socially or emotionally, based on their race or ethnicity, national origin or immigration status, sex, sexual orientation, gender identity, religion, physical or mental disability, or for any other reason -- we fail to live up to the principles of fairness and equity on which this country was founded.

## **II. Department of Education Bullying-Prevention Efforts**

The Department's work begins with the recognition that the real work of preventing bullying happens at the local level, in schools and playgrounds and college campuses, in homes, on the streets, and in community centers across the nation. Teachers' and school administrators' good judgment, common sense, and knowledge of the school community are critical to crafting an effective response to harassment and bullying. And parents and community organizations play no less important a role. We encourage and support community-based approaches to addressing peer harassment and bullying and changing the school climate so that such conduct does not occur or recur. Each school has the ultimate responsibility to create a safe learning environment and to ensure that its policies, practices, and procedures protect all students from abuse, violence, and discrimination. There is no universal, one-size-fits-all approach that will be right for every school or all students; and the Department makes no effort to mandate one.

But we also recognize that bullying and harassment are serious problems across the country, and thus appropriate subjects for a national commitment in response. Secretary Duncan, my colleagues in the Office for Civil Rights (OCR), and the entire Department are engaged in a coordinated effort to address bullying and harassment in our schools. The Department serves as a leader in the federal government's anti-bullying efforts, which are coordinated through the Federal Partners in Bullying Prevention Steering Committee. In collaboration with its Federal Partners in Bullying Prevention, comprised of nine federal agencies, the Department has hosted two National Bullying Summits (August 2010 and September 2011) and participated in a first-ever White House Conference on Bullying Prevention. We will host the third Annual National Bullying Summit in August 2012. These summits bring together non-profit leaders, educators, researchers, parents, and youth to discuss and identify areas that need additional guidance and clarification.

In part as a result of our conversations with youth, parents, educators and other community leaders about this issue, we have, among other efforts, (1) issued policy guidance on federal laws that apply to bullying, (2) provided resources based on best available research and practice, (3) vigorously enforced federal civil rights laws, (4) improved data collection on bullying and harassment, and (5) coordinated efforts across government and with non-governmental organizations.

### **(1) Issuing Policy Guidance on Laws that Apply to Bullying**

We have issued written policy guidance to clarify for schools how federal and state laws may affect a school's policies and procedures as they apply to bullying and harassment.

To better understand the landscape of state bullying laws and model policies, the Department issued a letter in December 2010 outlining key components of state anti-bullying laws. We followed up in December 2011 with a report analyzing each state's inclusion of those components in their laws. In late 2012, we expect to release a report that will analyze the impact such laws have on the day-to-day efforts to address bullying in schools and districts.

In my office we've focused on addressing common practices and situations at educational institutions that we believe affect their compliance with civil rights laws.

The Office for Civil Rights is responsible for enforcing laws that prohibit discrimination based on race, color, national origin, sex, and disability. In October 2010, we issued a Dear Colleague letter to clarify the relationship between bullying and discriminatory harassment under the civil rights laws enforced by the Department. The letter explains how student misconduct that falls under an anti-bullying policy also may trigger responsibilities under federal civil rights laws and reminds schools that failure to recognize discriminatory harassment when addressing that misconduct may lead to inadequate or inappropriate responses that fail to remedy violations of students' civil rights. The letter also offers examples of racial and national origin harassment, sexual harassment, gender-based harassment, and disability harassment, and illustrates how a school could respond appropriately in each case.

That letter also made clear, among other things, that although Title IX of the Education Amendments of 1972 does not cover discrimination based solely on sexual orientation, bullying that lesbian, gay, bisexual, and transgender (LGBT) students face frequently involves sex discrimination—that is, discrimination about the students' failure to conform to sex stereotypes or to behave in a so-called gender appropriate manner. This type of discrimination is covered under Title IX. We included an example in our policy guidance to remind schools and universities that the fact that harassment (1) targets LGBT students, (2) includes anti-gay comments, or (3) is based in part on a target's actual or perceived sexual orientation does not relieve a school of its obligation under Title IX to investigate and remedy overlapping sexual- or gender-based harassment.

We also provided clear examples demonstrating how the law applies in specific scenarios. For instance, we included a scenario in which a student, because of his learning disability, was called names and physically assaulted in school and while on a school bus. We then described how the school should have adopted a comprehensive approach to dealing with bullying, which may include counseling and discipline, training for staff on responding to harassment of students with disabilities, and monitoring locations where harassment takes place, to ensure that it does not resume. We believe that by providing clear examples of how

schools might respond to particular situations, we can help to prevent many acts of bullying, harassment, and discrimination from occurring.

In June 2011, the Department released another letter reminding schools of their obligation to provide equal access to student-initiated groups or clubs under what is known as the Equal Access Act, a law passed by Congress nearly 30 years ago to ensure equal access to extracurricular clubs in secondary schools. This law has been invoked when schools in the U.S. have refused to accommodate student-initiated clubs with an LGBT theme, such as "Gay-Straight Alliances." Such clubs have been shown to help reduce bullying of LGBT youth and create a safer climate for all youth.

Notwithstanding the Department's efforts in this area, it is clear that certain categories of students are still not receiving adequate legal protection. The Obama Administration, including the Department, therefore supports legislative efforts to address this problem, specifically the Student Non-Discrimination Act and the Safe Schools Improvement Act.

## **(2) Providing Resources Based on Research and Practice**

We need to help administrators and teachers understand bullying-prevention research, and laws, and to develop and implement policies based on the best practices. We have leveraged our resources to offer tools, training and technical assistance to combat bullying and harassment.

Department staff and senior leadership regularly attend and present at meetings of various groups and constituencies to help increase awareness and knowledge on bullying and the resources available for affected individuals and their families. Recent and upcoming events include the White House Conferences on LGBT Safe Schools and LGBT Families, a local anti-bullying summit in Michigan, the White House Initiative on Asian Americans and Pacific Islander's Stakeholders meeting, the policy committee for the American Foundation on Suicide Prevention, the Southeastern State Pupil Transportation Conference, and the Society for Prevention Research Annual Conference. In an effort to help coordinate these activities, the Department's subject-matter experts also regularly communicate and provide technical assistance to many of the organizations engaged in bullying-prevention campaigns, including the Cartoon Network's Stop Bullying, Speak Up! Campaign, Lady Gaga's Born this Way Foundation, and the Bully Project, LLC. A few weeks ago, I addressed the UNESCO meetings on Effective Policy and Practice to Address Homophobic Bullying in Educational Institutions, which built on the work already being conducted on this issue during the UN's first-ever international consultation to address bullying against LGBT students.

OCR has 12 regional offices around the country that are equipped to provide technical assistance to educational institutions as they work to address and prevent civil rights violations. In addition, the Department funds ten Equity Assistance Centers nationwide that provide training, materials and technical assistance to state or local education agencies to assist educators, schools and communities in reducing harassment, bullying and prejudice based on race, national origin or sex. And, the Department funds ten regional Disability and Business Technical Assistance Centers that provide information and referral, technical assistance, and training on the Americans with Disabilities Act, including on disability-based bullying and harassment.

The Department also funds two technical assistance centers. The Safe and Supportive Schools Technical Assistance Center provides assistance to schools and districts to understand school climate issues, develop assessment systems, and implement prevention programming, and the Positive Behavior and Intervention Supports (PBIS) Technical Assistance Center provides support for schools implementing PBIS. PBIS is a multi-tiered school-wide approach to establishing a social culture that is helpful for schools to achieve social and academic gains for all children while minimizing problem behavior.

Just last month, a group of federal agencies including the Department of Education re-launched a website that illustrates concrete steps everyone can take to prevent and respond to bullying. You can visit it at [www.stopbullying.gov](http://www.stopbullying.gov). The site features a comprehensive map of state anti-bullying laws, guidance on how to prevent and respond to bullying, and interactive webisodes for kids.

Because the greatest responsibility for addressing bullying and harassment resides at the local level, we know that it's important to distribute funds to help states and communities do this important work. For example, the Department has awarded Safe and Supportive School grants to eleven states to measure school safety at the building level and to support changes in those schools with the greatest needs. The ultimate goal of the grants is to create and support safe and drug-free learning environments, and increase academic success for students in these high-risk schools. One of those grants went to Iowa, and is supporting efforts here at East High School. The Departments of Education, Health and Human Services, and Justice have, for the past 13 years, engaged in a unique collaboration to award grants to local education authorities across the Nation through the Safe Schools/Healthy Students initiative. Funding is provided to many school districts around the country, including Sioux City Community School District, to support school and community partnerships to integrate systems that promote the mental health of students, enhance academic achievement, prevent violence and substance use, and create safe and respectful school climates. Bullying prevention has been a key component of this initiative. Another example is the Department's funding for the Bureau of Indian Education

(BIE) to develop a specific anti-bullying technical assistance initiative in BIE schools in Indian Country.

We've invested in other grant initiatives to help at-risk and high-poverty schools and neighborhoods, and to improve teaching and learning conditions and school climates generally, so that we're not just addressing bullying and harassment but the entire school environment.

These are examples of the kinds of tools, training and resources that we've provided at the federal level. And we want to continue to support States and school districts in their efforts, because robust efforts at the federal level must be accompanied by equally vigorous enforcement, capacity-building, and knowledge-building at the local level.

### **(3) Vigorously Enforcing Federal Civil Rights Laws**

It is important to go beyond establishing good laws and policies: we must also vigorously enforce them. The Department has a very open complaint process that enables any member of the public, whether directly harmed or not, to file a complaint with our office. Over the past two years our office has received nearly 2,000 complaints of harassment based on race, color, national origin, sex or disability in educational institutions. We also engage in proactive investigations—compliance reviews—when we believe that systemic violations may be occurring on a campus-, school-, or district-wide basis, and when the underlying problem is particularly acute or national in scope. We can also initiate “directed investigations” where we believe something might be going on in an educational institution and believe our presence will help resolve the situation before we have received a complaint. Since FY 2009, OCR has initiated fourteen of these proactive investigations on all forms of harassment covered by the laws OCR enforces.

For example, OCR and the Department of Justice (DOJ) conducted a joint investigation of a school district to determine whether students in that district were subjected to peer harassment based on non-conformance with sex stereotypes in violation of Title IX of the Education Amendments of 1972 and Title IV of the Civil Rights Act of 1964. Students told our attorneys that they were constantly harassed (some almost every day for years) because of their failure to conform to gender stereotypes. Female students reported being called “manly,” “guy,” or “he-she”; male students reported being called “girl,” and “gay boy,” and being told, “you’re a guy, act like it.” A female student reported being told to “go kill herself” and students said they were threatened and subjected to physical assaults because of their nonconformity to gender stereotypes. Some of these students suffered from physical and mental health problems. Some students stopped attending school for periods of time, left the school district, or dropped out of school entirely. We also found that the school district knew about the harassment, that the district did not take effective action to stop the harassment and that, as a

result, the harassment continued and in certain instances escalated. In March 2012, after extensive settlement negotiations with the school district, we achieved a court-approved consent decree. As part of the consent decree, the school district agreed to take all reasonable steps to prevent and eliminate sex-based harassment, and to respond promptly and appropriately to all reports of harassment. The district also agreed to implement a number of specific reforms, including policy changes, hiring new staff focused on ensuring equity and safety, conducting additional training for students and staff, mental health counseling for bullying victims, surveying students to assess school climate and student behavior, and establishing student peer-based leadership programs.

Students with disabilities are disproportionately affected by bullying behavior and are often more vulnerable to bullying than others. We received a complaint from a middle school student with cerebral palsy who alleged that he was bullied and harassed at school and on the school bus, including being kicked in the legs in the cafeteria and being hit with bottles at a pep rally. The student was so severely harassed that he requested home schooling. OCR successfully obtained an agreement with the school district to set up a “hot line” for the child to use to report any future concerns, and to provide better monitoring in the cafeteria and on the bus. OCR conducted training for all school staff, and the district agreed to provide training to all students at the middle school. The district also agreed to fully implement policies on the discipline of students for peer bullying and harassment, and to report incidents to parents in a timely matter.

I describe these outcomes to highlight another approach of ours—which is to craft more robust remedies designed to empower the entire school community to address issues of harassment. Our remedies are not just “top-down” (involving policy change and training), but also from the “ground up” (engaging schools and communities).

#### **(4) Improving Data Collection on Bullying and Harassment**

At the federal level, another approach we’ve used is to take data collection to another level to be able to monitor the “equity health”, of schools around the nation.

In March of this year, we unveiled the latest installation of a transformed Civil Rights Data Collection or “CRDC.” The CRDC is a representative sample from 2009-10 covering 85% of the nation’s students—that’s 7,000 school districts and 72,000 schools. Next year, it will be expanded to all schools. The CRDC allows us to track which schools have policies on bullying and harassment and which do not. We also track the number of students reported to have been bullied and harassed, the number of incidents of bullying and harassment, and the number of students disciplined for bullying and harassment. All of these data are self-reported

by schools. Because many schools weren't keeping track of these data, the quality of the data will improve with time. Not only will these data shine a light on the problem nationally and locally, but they will help individual schools across the country know who is being bullied or harassed, how often, and why, and be accountable for the safety of their students, and help the Department support States, school districts and schools in those efforts.

A consistent theme heard at the initial Bullying Prevention Summit was the absence of a uniform definition of bullying that can inform both research and in policy. The lack of a uniform definition restricts the applicability and comparability of research and makes it difficult to monitor trends in bullying over time. We are working with the Centers for Disease Control (CDC) to help the field reach a consensus on what bullying is, and to improve understanding and development of ways to combat it. A definition is expected to be released this fall.

### **(5) Coordinating Across Government and with non-Governmental Organizations**

The Department also actively forms partnerships with other government agencies and with non-governmental and civic organizations to combat bullying and harassment. These strategic partnerships have brought together a cross-section of local, State and national organizations whose different perspectives and experience have created a rich discussion on how to eradicate bullying in our schools.

Within the government, we have partnered with nine federal agencies to ensure that bullying is addressed from all angles. And, we are collaborating internationally as well, as other countries have similar issues regarding school climate and we can learn from each other's experiences. We recently agreed to work with the Republic of Korea, which is very concerned about school violence, to examine data and policies to address bullying and ensure school safety.

And with our invaluable non-governmental partners, including many in the education and civil rights communities, we've been able to accomplish so much more than what we'd be able to do alone.

### **III. Conclusion**

Through our collective efforts, and in partnership with other agencies and other experts in education and civil rights, we believe that we can help provide students, parents, and local school districts with the tools that they need to adopt more effective approaches to preventing and addressing bullying, harassment, and discrimination. The Department of Education is committed to working to ensure that every student has the opportunity to receive a high-quality education at a safe school, free from discrimination and harassment.



In conclusion, let me reiterate my appreciation for the opportunity to participate in this hearing. This topic is so important. When we curb bullying, we contribute to the educational success of each child. We remove barriers to achievement, and we reaffirm our national commitment to provide an equitable educational opportunity for every child.