



**Written Testimony of the
American Association of University Women**

before the

**United States House Committee on Education and Labor
Early Childhood, Elementary and Secondary Education Subcommittee and
Healthy Families and Communities Subcommittee**

Hearing on

“Strengthening School Safety through Prevention of Bullying”

July 8, 2009

Subcommittee Chairmen Kildee and McCarthy and members of the Subcommittees, thank you for the opportunity to submit testimony for the hearing “Strengthening School Safety through Prevention of Bullying.”

The American Association of University Women is a membership organization founded in 1881 with approximately 100,000 members and 1300 branches nationwide. AAUW has a proud 127-year history of breaking through barriers for women and girls and believes all students deserve safe learning environments. Today, AAUW continues its mission through education, research, and advocacy.

AAUW stands firmly by the belief that the country should provide an excellent education for all children. The 2009-2011 AAUW Public Policy Program of contains the firm belief that “...quality public education is the foundation of a democratic society” and advocates a “... bias-free public education ...”¹ However, our nation's schools face longstanding challenges in preventing and effectively responding to instances of bullying and harassment. Bullying and harassment interfere with a student’s ability to achieve high standards and have a significant impact on GPAs, school attendance, dropout rates, and likelihood of obtaining a post-secondary education. In addition, bullying and harassment can lead to even greater school safety problems. Many high profile cases of school violence have been attributed to students who were bullied and harassed in school. Whether based on race, color, national origin, sex, disability, sexual orientation, religion, gender identity or any other characteristic, bullying and harassment interfere with students’ ability to learn.

Legislation to Prevent Bullying:

Although a limited number of federal laws address certain particular kinds of harassment, they do not prohibit all kinds of harassment in schools, and no federal law specifically prohibits bullying in schools. Therefore, the enactment of more comprehensive safe schools policies will fill a troubling gap in federal education policy – to ensure that *all* students, regardless of their background or personal characteristics, are provided a safe environment in which to learn and succeed.

Implementation of stronger policies is necessary to deter bullying and harassment and help to ensure safe learning environments for all students. Recent research shows that bullying affects nearly one in three American school children in grades six through ten.² A National School Boards' Association study found that half of those surveyed reported that they see other students being bullied at least once a month;³ more disturbing is that almost half of students surveyed stated that they doubted teachers could stop the behavior.⁴ AAUW believes that parents, educators, and advocates – together with students – should focus on changing the culture of harassment and bullying in schools. This can be done by promoting students' use of existing resources to address problems, and passage of legislation to better address both prevention of bullying and to ensure the implementation of strong policies should bullying and harassment occur.

AAUW supports legislation that prevents bullying and harassment and clearly enumerates categories of students that are protected. Children who attend schools with anti-harassment policies with clearly enumerated student categories report that they feel safer (54 percent vs. 36 percent) and are less likely to skip a class because they feel uncomfortable or unsafe (5 percent vs. 16 percent). Specific enumerated policies against bullying and harassment also make it more likely and easier for educators to intervene when they witness bullying and harassment. More than half of all teachers (53 percent) reported that bullying and harassment is a serious problem in their school. Students noted that teachers were more likely to intervene (25.3 percent vs. 12.3 percent) when bullying occurred, and were more likely to do so successfully (55.7 percent vs. 38.7 percent), if school policies included enumerated student categories (compared to non-enumerated policies).⁵

An example of an enumerated policy:

BULLYING- The term 'bullying' means conduct that

(A) adversely affects the ability of one or more students to participate in or benefit from the school's educational programs or activities by placing the student (or students) in reasonable fear of physical harm; and

(B) includes conduct that is based on--

(i) a student's actual or perceived--

(I) race;

(II) color;

(III) national origin;

(IV) sex;

(V) disability;

(VI) sexual orientation;

(VII) gender identity; or

(VIII) religion;

(ii) any other distinguishing characteristics that may be defined by a State or local educational agency; or

(iii) association with a person or group with one or more of the actual or perceived characteristics listed in clause (i) or (ii).

AAUW supports The Safe Schools Improvement Act, H.R. 2262, which clearly enumerates categories of students. In addition, the legislation would require that states, districts, and schools develop policies and programs to prevent and appropriately respond to instances of bullying and harassment as a condition of receiving federal funding. This proposal would require that:

- States, districts, and schools have in place policies prohibiting bullying and harassment; and
- Schools and districts establish complaint procedures to effectively respond to instances of harassment in a manner that is timely and results in educationally appropriate resolutions for students who are victims of bullying or harassment; and
- States include information regarding bullying and harassment in their required drug and violence prevention reports.

This proposed legislative language would also allow states, district, and schools to use funding under the Safe and Drug-Free Schools and Communities Act to:

- Provide professional development regarding strategies to prevent bullying and harassment and how to effectively intervene when such incidents occur; and
- Implement student education programs designed to teach students about the issues around, and consequences of, bullying and harassment.

Sexual Harassment:

In addition to bullying, many students also face sexual harassment at school. Almost a decade ago, AAUW's own research revealed that 83 percent of girls and 79 percent of boys reported having experienced sexual harassment, and over one in four students stated that harassment happens "often."⁶ Also, although large groups of both boys and girls report experiencing sexual harassment, girls are more likely to report being negatively affected by it.⁷ In addition, if unchecked, bullying and harassment follow students to college. AAUW's more recent report, *Drawing the Line: Sexual Harassment on Campus*, found at the postsecondary level, nearly two-thirds of college students (62 percent) say they have been sexually harassed⁸, including nearly one-third of first year students;⁹ 41 percent of students admit they have sexually harassed another student.¹⁰

Since AAUW's first research into this area in 1993, students have become more aware of their school's harassment policies and the resources available to them.¹¹ Unfortunately, students' increased awareness has not translated into fewer incidents of sexual harassment, nor has it increased the likelihood they would report such incidents.¹² Sexual harassment has serious implications for students, some of whom may experience a hostile educational environment on a daily basis. However, most do not report it or even talk openly about sexual harassment as a serious issue.¹³

How Title IX Protects Students from Sexual Harassment:

Title IX protects students from unlawful sexual harassment in all of a school's programs or activities, whether they take place in the facilities of the school, on a school bus, at a class or training program sponsored by the school at another location, or elsewhere. Title IX protects both male and female students from sexual harassment, regardless of who the harasser may be.¹⁴

Title IX also prohibits sexual harassment by any employee or agent of the school. Covered institutions must have a procedure in place that provides for equitable resolution of sexual harassment complaints, which may be the same procedure set up for general Title IX complaints.¹⁵

Case Law and Regulations Addressing Sexual Harassment in Schools:

In 1997, the U.S. Department of Education's Office for Civil Rights (OCR) issued policy guidance on sexual harassment, outlining Title IX's requirements in this area and providing schools with much-needed help in defining, addressing, and preventing sexual harassment.¹⁶ The 1997 guidance makes clear that inaction is never the right response to sexual harassment and urges schools to adopt policies and procedures that help prevent such misconduct. In 1998, however, the U.S. Supreme Court found in *Gebser v. Lago Vista Intermediate School District* that school districts were not liable for teacher-to-student sexual harassment unless there was prior knowledge of the harassment and demonstrated deliberate indifference.¹⁷

In 1999, the U.S. Supreme Court ruled again on sexual harassment in schools in *Davis v. Monroe County Board of Education*.¹⁸ The court found that school districts can be held liable for student-to-student sexual harassment if the school district knew about the harassment and responded with deliberate indifference. The harassment must be severe, pervasive, and offensive, and it must interfere with the student's ability to get an education. Schools cannot, however, be held responsible for teasing and bullying.

In 2001, OCR released important new policy guidance on sexual harassment to clarify a school's obligations in light of the *Gebser* and *Davis* decisions.¹⁹ The new 2001 guidance reinforces the 1997 guidance that schools are responsible for recognizing and remedying sexual harassment. Further, schools are potentially liable for failing to recognize or remedy such harassment.

Recommendations on Sexual Harassment:

While many schools have taken the first step in creating policies and procedures to address this problem, more can be done to help alleviate the culture of harassment that disrupts the educational experience of so many students. Sexual harassment defies a simple solution but still demands action. As AAUW's research over the last decade demonstrates, the problem is unlikely to go away on its own. Dialogue is a good first step in the right direction. Students, teachers, and parents and guardians must begin to talk openly about attitudes and behaviors that promote or impede our progress toward a harassment-free climate in which all students can reach their full potential.

In addition to creating an atmosphere for productive and proactive dialogue on this issue, AAUW believes we must commit ourselves to strong Title IX enforcement at the local, state, and federal levels and ensure policymakers maintain a commitment to Title IX.

- First, education programs, activities, and institutions must comply with their Title IX responsibilities and ensure that programs do not discriminate on the basis of sex, including designating an employee to be responsible for compliance with Title IX (typically known as a Title IX coordinator).
- Second, Title IX coordinators and their respective schools/universities must proactively disseminate information in the school and campus community to ensure that students and employees are aware of sexual harassment policies, as well as the school's process for filing complaints.
- Third, the Department of Education must vigorously enforce all portions of Title IX in all aspects of education. Undertaking proactive compliance reviews to identify problems of sex discrimination and fully implementing Title IX regulations are important strategies of solid enforcement.
- Fourth, the Department of Education must be required to annually collect data across all areas of education at the elementary, secondary, and postsecondary levels. The data must be broken down by sex so that progress in achieving gender equity can be measured and tracked.

Communities must come together to shine a light on this issue and help students, faculty and staff, as well as parents and guardians, understand the many forms of sexual harassment and promote respectful and appropriate behaviors.

For the latest research on this issue, refer to AAUW reports available at <http://www.aauw.org/research/index.cfm>. For testimony on Title IX's impact on sexual harassment, given by Lisa Maatz, AAUW's Director of Public Policy and Government Relations, at a House Committee on Education and Labor hearing in June 2007, visit http://www.aauw.org/About/newsroom/pressreleases/upload/titleIXTestimony_061907.pdf.

Conclusion:

All children must have a safe environment in which to learn. Currently, bullying and sexual harassment can significantly interfere with some students' ability to learn. AAUW strongly supports legislation that requires states and schools to develop policies to prevent bullying and harassment and procedures to effectively respond to such behavior. AAUW looks forward to working with Congress and the Obama Administration to develop these policies.

Thank you for the opportunity to submit written testimony.

¹ American Association of University Women. (June 2009). *2009 – 11 AAUW Public Policy Program*.

² Members of the National Safe Schools Partnership (June 2007). *Bridging the Gap in Federal Law: Promoting Safe School and Improved Student Achievement by Preventing Bullying and Harassment in our Schools*. Retrieved on December 19, 2008, from http://www.glsen.org/binary-data/GLSEN_ATTACHMENTS/file/000/000/912-1.pdf.

³ Hutton, Thomas. "No Right of Passage: Coming to Grips with Harassment and Bullying." National School Boards Association's *Leadership Insider*, p. 1. August 2006.

⁴ Ibid.

⁵ Harris Interactive and GLSEN (2005). *From Teasing to Torment: School Climate in America, A Survey of Students*

and Teachers. Retrieved on July 6, 2009, from http://www.glsen.org/binary-data/GLSEN_ATTACHMENTS/file/499-1.pdf

⁶ In 1993, AAUW released *Hostile Hallways: The AAUW Survey on Sexual Harassment in America's Schools*, which revealed that four out of five students in grades eight to 11 had experienced some form of sexual harassment. In 2001, the AAUW Educational Foundation released the follow-up report, *Hostile Hallways: Bullying, Teasing, and Sexual Harassment in School*, which found that nearly a decade later, sexual harassment remained a major problem and a significant barrier to student achievement in public schools. In response, AAUW developed a resource guide, *Harassment-Free Hallways* (2002), which provides guidelines and recommendations to help schools, students, and parents prevent and combat sexual harassment. All of these publications, including *Drawing the Line*, are available at <http://www.aauw.org/research>.

⁷ Ibid on p. 32.

⁸ AAUW Educational Foundation. (2006). *Drawing the Line: Sexual Harassment on Campus*, 15.

⁹ Ibid, 2.

¹⁰ Ibid, 22.

¹¹ AAUW Educational Foundation. (2001). *Hostile Hallways: Bullying, Teasing, and Sexual Harassment in School*, 4.

¹² Ibid, 5.

¹³ AAUW Educational Foundation. (2006). *Drawing the Line: Sexual Harassment on Campus*, 33.

¹⁴ U.S. Department of Education, Office for Civil Rights. *Sexual Harassment: It's Not Academic*. Retrieved January 14, 2009, from <http://www.ed.gov/about/offices/list/ocr/docs/ocrshpam.html>.

¹⁵ U.S. Department of Education, Office for Civil Rights. *Sexual Harassment: It's Not Academic*. Retrieved January 14, 2009, from <http://www.ed.gov/about/offices/list/ocr/docs/ocrshpam.pdf>.

¹⁶ U.S. Department of Education, Office for Civil Rights. *Sexual Harassment Guidance 1997*. Retrieved January 14, 2009, from <http://www.ed.gov/about/offices/list/ocr/docs/sexhar01.html>.

¹⁷ Cornell University Law School. Alida Star Genser and Alida McCullough, *Petitioners v. Lago Vista, Independent School District*. Retrieved July 2, 2009 from <http://www.law.cornell.edu/supct/html/96-1866.ZO.html>.

¹⁸ National Women's Law Center. *Sexual Harassment, Davis v. Monroe Brief*. Retrieved January 14, 2009, from <http://www.nwlc.org/pdf/DavisBrief.pdf>.

¹⁹ U.S. Department of Education, Office for Civil Rights. *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties; Notice*. Retrieved January 14, 2009, from <http://www.ed.gov/legislation/FedRegister/other/2000-4/110200b.html>.