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10/21/03
Date

2003 SENATE EDUCATION

SB 2216

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10/21/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2216

Senate Education Committee

☐ Conference Committee

Hearing Date 01-21-03

Tape Number	Side A	Side B	Meter #
1		x	28.4 - end
2	x		0 - 30.1
Committee Clerk Signature <i>Dan Johnson</i>			

Minutes: CHAIRMAN FREBORG called the committee to order. Roll call was taken with all (6) members present.

CHAIRMAN FREBORG opened the hearing on SB 2216 relating to conduct by school students and staff.

Testimony in support of SB 2216:

SENATOR CHRISTENSON, Dist. 18, testified. (see attached testimony). She stated this creates an atmosphere in the school system that is "safe". As human beings, we all have the right to be treated with respect. How do we do this? With this legislation, she hopes to build policy within a school district. This is not talking about day to day byplay but when a child feels threatened or dreads school because of constant harassment, is what this legislation is about. This bill is a mandate to have a policy in place in each school district. Hopefully this will protect students and the school district from litigation and from large awards of compensation from the courts.

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Senate Education Committee
Bill/Resolution Number SB 2216
Hearing Date 01-21-03

ROBERT UEBEL, Co-Chair of Equality ND, testified. (see attached) He further presented testimony from others and a fact sheet. SENATOR FREBORG asked if there are any FED laws in place to take care of harassment in schools. MR. UEBEL stated there is nothing specific to GLBT, but he feels the law is in place for a general nature.

JAN ELIASSEN, Fargo, testified. (see attached).

SARA BERGER, Mandan High School student, testified as the daughter of two lesbian women. (see attached).

JOSEPH KIEFFER, Fargo, testified. (see attached)

JEAN KING, Bismarck, mother of a child needing special education services, testified. (see attached). SENATOR FLAKOLL asked if the Bismarck school district doesn't have a policy.

MRS. KING replied they probably did, but her family had to go through an attorney and the court system to address her son's problems.

JON LINDGREN, representing (PLG) Parents of Lesbians and Gays, stated his support of SB 2216.

CHERYL BERGIAN, Dir. of the ND Human Rights Coalition, testified. (see attached).

Testimony in opposition to SB 2216:

GLORIA LOKKEN, NDEA, stated they have concerns with the legal and constitutional issues.

MIKE GEIRMANN, Legal Counsel, for NDEA, stated they clearly advocate safe schools. He asked whether it is constitutional. He asked if it is over broad, which is when the statute encompasses rights that are already protected. He feels this is regulating conduct 24/7 for students and teachers. He feels the bill should be tailored to meet the needs of the populace.

When the statutes come from the legislature, they need to supply specifics such as what kind of

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Senate Education Committee
Bill/Resolution Number SB 2216
Hearing Date 01-21-03

conduct is permitted and what isn't. They need to supply definition of terms (intent). Most districts have Title IX policy, whether it is effective or implemented is up to them.

BEV NIELSON, ND School Boards Assn., distributed several sheets of facts. (see attached) The forms are generic forms for policies and could be used by any district. Agree with promoting an atmosphere of respect. She feels many terms are subjective and give cause for concern. She would like a broader bill. They would like to have the local districts adopt a policy that is right for them. They would like the "shall require" omitted from the bill.

Further testimony in support of SBN 2216:

BARB ARNOLD-TENGESDAL, Voices for ND's Children, stated their belief that all bias and stereotyping are wrong. Children need to have a voice and a process to go through when these things happen to them.

LINDA JOHNSON, Dir. of School Health Programs, DPI, spoke in favor of the bill. (see attached).

BRUCE MURRY, Protection and Advocacy Project, has a concern with special education students.

MICHON SAX, Pres. of McKenzie Co. School Dist. #1, stated they have a policy already in place. It was further stated that teachers do have a right to a private life.

The hearing on SB 2216 was closed.

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2216

Senate Education Committee

☐ Conference Committee

Hearing Date 01-28-03

Tape Number	Side A	Side B	Meter #
1	x		27.0 - 40.0
1		x	6.9 - 16.5
Committee Clerk Signature <i>Sandra Johnson</i>			

Minutes: CHAIRMAN FREBORG called the committee to order. roll Call was taken with all (6) members present.

SENATOR CHRISTENSON presented an amendment to SB 2216 (30297.0101) which would specify "on school property" and would not control people's private lives, both teachers and students. She wants this to be a positive, not negative, rule.

SENATOR FLAKOLL asked if this would deal with (example: harassing calls to home, teacher or authority figure doing something undesirable at the mall) some of these things. SENATOR CHRISTENSON feels there are other laws that would kick in for those instances. The concept of this bill is "safe school and safe school grounds".

SENATOR FREBORG asked if we need specifics in the bill. SENATOR CHRISTENSON feels this is needed for the letter of the law to be followed. She feels some people may be excluded if not listed. SENATOR FREBORG asked if it is not specified, could some people be missed and then not be able to prosecute.

Deanna D. Walsh
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Hearing Date 1-28-03

SENATOR G. LEE feels this is already in the Federal policy, and wondered what this adds.

SENATOR CHRISTENSON stated that if you challenge the Federal law, you wind up in Federal court. This is more on a local level and would be handled in local court. This is designed for districts that don't have a local policy.

SENATOR CHRISTENSON moved the amendments. (30297.0101) Seconded by

SENATOR TAYLOR. Roll Call Vote: 3 YES. 3 NO. 0 Absent. Motion Failed.

SENATOR COOK feels with this law, the school doesn't have recourse or responsibility if the act does not happen on school property.

Committee Adjourned.

CHAIRMAN FREBORG called the committee to order.

SENATOR FLAKOLL presented his amendment. (30297.0102) This basically allows the student or school employee to file a grievance. He feels the schools should adopt their own policy on how to handle a grievance.

SENATOR FLAKOLL moved his amendment (30297.0102). Seconded by SENATOR COOK. Roll Call Vote: 4 YES. 2 NO. 0 Absent. Amendment adopted.

SENATOR CHRISTENSON feels this guts and bill and doesn't address the group it was intended for. It still allows for confrontation with a school board.

SENATOR FLAKOLL moved a DO PASS as Amended. Seconded by SENATOR COOK. Roll Call Vote: 4 YES. 2 NO. 0 Absent. Motion Carried.

SENATOR CHRISTENSON stated that she feels this doesn't address the problem and doesn't help the children.

Carrier: SENATOR FLAKOLL

30297.0101
Title.

Prepared by the Legislative Council staff for
Senator Christenson
January 28, 2003

PROPOSED AMENDMENTS TO SENATE BILL NO. 2216

Page 1, line 10, after "orientation" insert ", while on school property, involved in a school-related activity, or at a school-sponsored event"

Page 1, line 14, after "orientation" insert ", while on school property, involved in a school-related activity, or at a school-sponsored event"

Renumber accordingly

Page No. 1

30297.0101

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10/21/03
Date

Date: 1/28/03
Roll Call Vote #: /

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2216

Senate EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken moved amendments 30297.0101

Motion Made By Sen. Christenson Seconded By Sen. Taylor

Senators	Yes	No	Senators	Yes	No
LAYTON FREBORG, CHAIR.		✓	LINDA CHRISTENSON	✓	
GARY A. LEE, V. CHAIR.	✓		RYAN M. TAYLOR	✓	
DWIGHT COOK		✓			
TIM FLAKOLL		✓			

Total (Yes) 3 No 3

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

failed

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Operator's Signature

Deanna Galt

Date

10/21/03

30297.0102
Title.0200

Prepared by the Legislative Council staff for
Senator Flakoll

January 28, 2003

703
1-28-03

PROPOSED AMENDMENTS TO SENATE BILL NO. 2216

Page 1, line 6, replace "Complaint" with "Grievance"

Page 1, remove lines 7 through 14

Page 1, line 15, remove "3."

Page 1, line 16, replace "an individual who has a grievance under this" with "a student or an individual employed by the board of the district who has a grievance against another student or individual employed by the board of the district may have that grievance addressed."

Page 1, remove lines 17 through 19

Renumber accordingly

Date: 1/28/03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2216

Senate EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken moved amendments 30297.0102

Motion Made By Sen. Flakoll Seconded By Sen. Cook

Senators	Yes	No	Senators	Yes	No
LAYTON FREBORG, CHAIR.	✓		LINDA CHRISTENSON		✓
GARY A. LEE, V. CHAIR.	✓		RYAN M. TAYLOR		✓
DWIGHT COOK	✓				
TIM FLAKOLL	✓				

Total (Yes) 4 No 2

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

amendment moved

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Deanna Wall
Operator's Signature

10/21/03
Date

Date: 1/28/03
Roll Call Vote #: 3

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2216

Senate EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30297. 0102

Action Taken Do Pass is amended

Motion Made By Sen. Flakoll Seconded By Sen. Cook

[illegible]

Total (Yes) 4 No 2

Absent 0

Floor Assignment Sen. Flakoll

If the vote is on an amendment, briefly indicate intent:

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Date _____

REPORT OF STANDING COMMITTEE (410)
January 28, 2003 3:23 p.m.

Module No: SR-16-1224
Carrier: Flakoll
Insert LC: 30297.0102 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2216: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2216 was placed on the Sixth order on the calendar.

Page 1, line 6, replace "Complaint" with "Grievance"

Page 1, remove lines 7 through 14

Page 1, line 15, remove "3."

Page 1, line 16, replace "an individual who has a grievance under this" with "a student or an individual employed by the board of the district who has a grievance against another student or individual employed by the board of the district may have that grievance addressed."

Page 1, remove lines 17 through 19

Renumber accordingly

2003 HOUSE EDUCATION

SB 2216

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Date

2003 HOUSE STANDING COMMITTEE MINUTES
BILL/RESOLUTION NO. SB 2216
House Education Committee

☐ Conference Committee

Hearing Date March 04, 2003

Tape Number	Side A	Side B	Meter #
1	x		4000-end
1		x	00-2548
Committee Clerk Signature <i>Linda Christenson</i>			

Chairman Kelsch opened the hearing on HB 2216

Senator Linda Christenson, District 18, Grand Forks

I have taught in the public schools of ND for 30 years. So when I come to you with this bill it was because I found there was great truth and necessity for it, otherwise it is a bill that should be considered on other merits. This bill asks that each school district in the state under their own policy using their own community as guidelines, establish a policy within the school pertaining to school grounds and school property during school occasions that requires certain high expectations that people will treat one another with respect. Sometimes we feel that this is a unspoken rule, but in the society in which we now live today, we now have to say it should be in print. When we ask you to be kind and curts and respectful of each others identities, lives, attitudes, beliefs, religions, whatever is in compassed, what we mean is everyone has a right to be who he or she wishes to be. When we talk about the school we are talking about an institution that is as democratic and widely based as you will find anywhere. For that reason it is a very reasonable policy to say that in the school settings we have expectations of behavior, that there are certain kinds of words and deeds and actions that are not acceptable to a civilized society. We

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House Education Committee
Bill/Resolution Number SB 2216
Hearing Date March 4, 2003

are often told you can not legislate the human heart, no you may not, but you can certainly legislate certain aspects of human behavior and when you are in a public institution that deals with the diversity of the human spirit mind and body, then certainly you should have respect for that diversity. Unfortunately that is not always the case. This was put in so that school districts could accomplish two things: One: be proactive by helping themselves by having a due process policy whereby individuals who felt they were being abused, negated and some way denigrated in their human condition have a right to say to the school 'you have to done wrong, I'm asking you to help me correct this'. Some people think that I am talking about the kind of joshing and teasing that goes on between friends and peers in the hallway and class rooms. One of the Senators who spoke against this bill on the floor said 'we used to tease each other about the football teams we like and we used to tease each other about the clothes we wore.' That is not what this bill is about. Among peer groups we can't have that kind of teasing and joshing in kidding and it is a relaxed atmosphere because the code and the standard is there. It is peer dealing with one another. This bill deals with the kind of actions where there is not a peer group in accordance. Where the group as a whole or several individuals have selected certain people to be singled out for ridicule, for hateful remarks and comments often to the point of making people not even want to be part of the school system. School districts who do not have a policy in place have historically and currently been involved in some lawsuits. Across the country these suits keep coming up to school districts. The tradition is the judge will look at the plaintiff and the defendant and say 'did you defendant have a policy in place, Where by an individual who felt they were being challenged unknowingly and unwillingly and certain ungraciously. Did you have a way to deal with that situation. If you did the courts will look at you favorably, if there is no

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Bill/Resolution Number SB 2216
Hearing Date March 4, 2003

policy in place there is almost an automatic judgment given to the plaintiff. So putting in place a policy is a protection, it is not a way of inviting more lawsuits as some people fear. It is a way of preventing them. My son works in the St. Paul Public School for a number years in an intercity school where there was a great deal of strife between diverse groups. And he said with their policy in place, not a single lawsuit emerged, because they found a way to deal with it within the school that was equitable for everyone concerned. That treated everyone with respect. If you do not have a policy in place you are not protected by ignorance. By your claim that well we didn't think things like that when on here. You are not protected under the law. So if you are a pragmatic minded person please see it as a proactive way for school districts to put themselves squarely on the side of respect for the individual and respecting and upholding diversity. The second and most important reason I put this bill in is for the kids. I have watched it for over 30 years. And I know that as much as we do not want to talk about it we do not want to acknowledge it there is very grievous harm being done to people's minds, bodies and spirit by the attitude taken by some who want everyone to be alike and nobody to be different. Sometimes it is out of fear, they don't know how to handle this difference. Sometimes it is just plain ignorance and sometime it just mean spirit. Whatever the reason, we are asking that kids have a right to come to school and live in a health environment for learning, they have a right to socialize and feel comfortable. I can tell you that a child that is miserable does not learn in the capacity in which he or she is capable. We have in this bill categories that were named, this was done especially, what you have before you is the amended bill, which removed those categories. My Senate colleagues felt uncomfortable with the categories that were named. they did not say this, but if you have the copy of the original you can see that it was a fairly comprehensive listing. The

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Hearing Date March 4, 2003

first argument is don't name people, we have federal laws that take care of things like that. Yes you do, if you want to go to federal court. And I do believe there is a community in ND that is dealing with this very issue. They are facing lawsuits because of an inability to deal with an incident that was in there school. These categories must be named, because otherwise the statement is made 'well you are not a protected category we don't have to worry about your grievance.' There are people who have faced silence about their dignity. most especially I am talking about the sexual orientation, the gay and lesbian. Because these young people are so often singled out, they are so often marginalized and the overt or the covert discrimination that they suffer is extremely painful. We know from our studies that a third of the suicides among teenagers generally deals with an individual who is struggling with a sexual orientation issue. We can not abide a society that allows its schools to so propitiate and sometimes actually support discrimination. And I'm talking about the joke by people who think they are amusing but don't realize the devastation that it causes. And if you do not take care of this, if you do not acknowledge that sexual orientation is a one of the major issues in which we are dealing, then we are turning our backs on students. Protection is deserved.

Rep. Hanson Why don't you provide us with amendments that you want.

Chairman Kelsch I'm going to be assigning a sub committee.

Rep. Williams Do you know how many schools do not have a process for grievances?

Christenson: Study or count hasn't been taken, but we do know that the school boards association has a harassment policy that does talk about sexual orientation in all of the groups and they send it out recommendation that it be adopted. So this is not countered to a lot of good thought out there that is in action but there are a number of district sort there that have not dealt

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Hearing Date March 4, 2003

with it at all, and those are the ones that we are concerned about.

Robert Uebel, Fargo, co-chair of Equality North Dakota

flip tape

Vickie Nixon read testimony from Sara Berger, See Attached Testimony

Sherri Parsons, co-chair of Equality North Dakota, See Attached Testimony

Cheryle Bergain, Director of the ND Human Rights Coalition, See Attached Testimony

Nancy Sand, NDEA

(1345) When this was heard in the Senate we did testify with some concerns because of the way the bill was written. Not because of its intention. The only concern that we had is that school districts should only be making policy that affects staff and students when they are representing the school or in school related activities. We were in total support of the intent of this bill. And we would like to see the bill restored to its original language with that modification. I think that the protected classes are particularly important now cause of NCLB, this bill is significant. How can our young people achieve if they are feeling uncomfortable going to school. This bill not only talks about staff treating each other and students treating each other with respect but it goes both ways as well. A bill like this with this language requiring the schools to adopt policy, specific policy, might just provide the particular staff person or student that has overheard the comment to say wait a minute we have a policy and that particular person might feel more comfortable reporting that, helping to call a halt to it. Now school districts that do have a grievance complaint procedures. I do not know the number. But with my work with NDEA, when we get calls the first thing we ask is do you have a policy. Not all school districts do. I

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House Education Committee

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Hearing Date March 4, 2003

wished the Senate would have fixed this bill and not take out the protected classes. We fully support this to help students and staff. This will make it easier for the victim of the remark to carry forward.

Rep. Mueller Concerns about wording to NDEA, could you please be more specific about the wording that you wanted changed.

Sand: The original language, read category and section 2 the requirement of students our concerns was simply that it was not specific enough to say that this was a school district requirement while the individual was employed and working as a school system employee or commonly referred to as 24/7.

Chairman Kelsch So basically what you are saying is that while they are teaching or representing the school the policy applies, but if they are in there private life that it doesn't apply.

Sand: We don't think that the school district can require anything of their employee when they are not acting as an employee.

Rep. Mueller What was your position on the original bill?

Sand: NDEA, we needed it amended to have that separation, concept is good.

(1850) Rep. Herbel Do you See Attached Testimony any areas in here that are not covered, the extremely short or tall kids, are they covered

Sand: I had not thought about that

Rep. Herbel physical abilities does cover that

Sand: My need to expand the list, respect for each individual is the main focus of the bill.

Rep. Herbel told story of a tall child in his school, 6'8" until the kid was a good basketball player. If we are going to cover them lets cover them all.

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Hearing Date March 4, 2003

Sand: I would hope that the sub committee could handle this.

Dr. Bob Wentz, Pediatrician in ND

I would like to say some comments in support of this. I See Attached Testimony a lot of young people who have been victims of harassment and the results can be really devastating. I'm glad there was the discussion about children with disabilities. Because a number of the children that I See that have them go through a lot of harassment as well. I think it is advisable to have some type of mechanism where students who are going through these kinds of things can have some type of regress.

Linda Johnson, Director of school health programs, Department of Public Instruction

would like to stand in support of the amended Senate bill. To put into law a grievances process that would create consistence practice across the state. I want to remind you about the Columbine incidence of the US started with small nuggets of harassment. and although we have never had anything that big and will not have this in ND. When parents become disenfranchised and do not know where to turn and they have a problem with their student they call Dr. Sanstead. and the calls come to my desk. The reason that we would stand for the amended version is the questions that I have fielded this year, that actually would not fit, a general law or more inclusive for the students. True we get many calls on sexual harassment, but others I have fielded this year more generic, my child is picked on, my child singled out, my child tried to commit suicide because they were teased for having a sexually transmitted disease that actually showed on their body. I need to open enroll, I've missed the open enrollment deadline, and the list goes on and on. I'm afraid that if we do have a list, it might not be inclusive enough for what the parents have. Again would be to put into law a consistent practice.

Deanna D. Hall
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Bill/Resolution Number SB 2216
Hearing Date March 4, 2003

Rep. Sitte The whole area of freedom of speech and bullying it is a horrendous problem in schools, the whole issue of the actions taken against, is there no recourse?

Johnson: I do an investigation, there are always two sides to the story. This is local control, the state has no business being involved in it. Talk to the school board, do they have a policy, get all people talking, Most of the time they are not talking to each other. Connect the dots to solve the problem.

Opposition- None

closed hearing: 2548

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2003 HOUSE STANDING COMMITTEE MINUTES
BILL/RESOLUTION NO. SB 2216
House Education Committee

☐ Conference Committee

Hearing Date March 1st 2003

Tape Number	Side A	Side B	Meter #
3	x		1308-end
Committee Clerk Signature <i>Linda Frechtner</i>			

Rep Nelson reviewed the amendments.

Rep. Jon Nelson moved to accept LEGISLATIVE COUNCIL 30297-0201, Rep. Hawken

seconded the motion, passed with voice vote.

Rep. Meier motioned a DO PASS as Amended, Rep. Mueller second the motion

Rep. Mueller A concern about all of this is that the schools are to be doing this anyway. Anita added the second part so that there is a annual review. The annual review will then require that the its following concerns be met.

Roll Vote: 10-1-3 passed Rep. Jon Nelson will carry the bill to the floor.

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10/21/03
Date

30297.0201
Title.0300

Prepared by the Legislative Council staff for
Representatives Nelson, Mueller, and Meler
March 11, 2003

House Amendments to Engrossed SB 2216 - Education Committee 03/13/2003

Page 1, line 6, replace "On or before July 1," with:

- "1. The board of each school district shall require that all students and employees of the district, while on school property, involved in a school-related activity or in attendance at a school-sponsored event, conduct themselves in a manner that promotes respect for all individuals.
2. The board of each school district shall annually review its grievance policies and procedures to ensure that all requirements of federal civil rights laws have been met."

Page 1, remove lines 7 through 10

Renumber accordingly

Deanna Waller
Operator's Signature

10/21/03
Date

Date: 3/12/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2216

House HOUSE EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number LC 30297-0201

Action Taken _____

Motion Made By Nelson Seconded By Hawken

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch					
Rep. Johnson					
Rep. Nelson					
Rep. Haas					
Rep. Hawken					
Rep. Herbel					
Rep. Meier					
Rep. Norland					
Rep. Sitte					
Rep. Hanson					
Rep. Hunsakor					
Rep. Mueller					
Rep. Solberg					
Rep. Williams					

Total (Yes) Yell No _____

Absent Yell _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

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10/21/03
Date

Date: 3/12/03
Roll Call Vote #: 2

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2216

House HOUSE EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number LC 30297-0201

Action Taken SP As amended

Motion Made By Meier Seconded By Mueller

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓				
Rep. Johnson	AB				
Rep. Nelson	✓				
Rep. Haas	✓				
Rep. Hawken	✓				
Rep. Herbel	✓				
Rep. Meier	✓				
Rep. Norland	✓				
Rep. Sitte		✓			
Rep. Hanson	AB				
Rep. Hunskor	✓				
Rep. Mueller	✓				
Rep. Solberg	AB				
Rep. Williams	✓				

Total (Yes) 10 No 1

Absent 3

Floor Assignment Nelson

If the vote is on an amendment, briefly indicate intent:

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Deanne Waller
Operator's Signature

10/21/03
Date

REPORT OF STANDING COMMITTEE (410)
March 13, 2003 12:36 p.m.

Module No: HR-45-4667
Carrier: Nelson
Insert LC: 30297.0201 Title: .0300

REPORT OF STANDING COMMITTEE
SB 2216, as engrossed: Education Committee (Rep. R. Kelsch, Chairman) recommends
AMENDMENTS AS FOLLOWS: and when so amended, recommends **DO PASS**
(10 YEAS, 1 NAY, 3 ABSENT AND NOT VOTING). Engrossed SB 2216 was placed
on the Sixth order on the calendar.

Page 1, line 6, replace "On or before July 1," with:

- "1. The board of each school district shall require that all students and employees of the district, while on school property, involved in a school-related activity or in attendance at a school-sponsored event, conduct themselves in a manner that promotes respect for all individuals.
2. The board of each school district shall annually review its grievance policies and procedures to ensure that all requirements of federal civil rights laws have been met."

Page 1, remove lines 7 through 10

Renumber accordingly

2003 TESTIMONY

SB 2216

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10/21/03
Date

Senate Education Committee
SB 2216

"Safe schools" is a concept deserving our allegiance and action. When I began my work on this bill I saw it as a way to protect kids in school. Usually we see weapons and drugs as the major culprits when kids feel threatened, frightened, or simply frustrated with their school environment. However, the causes are more basic - even though we cannot ignore weapons and drugs.

I now realize this is a protection for the school district as well. Trying to the best of our legislative ability, we must endeavor to make the school proper as well as school grounds "safe" in every situation possible.

SB 2216 works in two ways:

(1) It gives a protocol or "due process" for a student who feels threatened. We are not talking day-to-day jostling, friendly teasing or byplay in the school community. We are talking repeated, patterned deliberate harrassment based on the categories listed.

(2) It provides protection for school districts in case of litigation. Schools who have in place a policy of this nature have a more sound legal basis for protection.

(3) SB 2216 sets the perimeters for dialogue on this crucial issue - board, administrators, students, and parents are all concerned participants. The most significant part may be the process of discussion.

Please understand the following:

1. This bill will not encourage litigation or complaints.
2. No fiscal note is applicable.
3. Many schools already have a policy - many do not.
4. The need is palpable.

Linda Christenson
District 18

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Deanna Walsh
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10/21/03
Date

Equality North Dakota
P.O. Box 5222
Fargo, ND 58185-5222

Robert Uebel
Co-Chair

Good morning. My name is Robert Uebel, and I live in Fargo. I'm speaking today in support of Senate Bill 2216 as co-chair of Equality North Dakota, the statewide advocacy organization for gay, lesbian, bisexual and transgender North Dakotans. (GLBT)

Equality North Dakota firmly believes that all students deserve a safe school environment in which they are free from harassment, bullying, and discrimination. We are particularly concerned that such an environment does not yet exist for gay, lesbian, bisexual, and transgender youth in North Dakota schools. Far too often, verbal and physical harassment are part of the daily school life of GLBT youth in our state.

There is now extensive evidence that GLBT students are disproportionately targeted for harassment and discrimination in our nation's schools. The 2001 National School Climate Survey indicated that over 80% of GLBT students reported being verbally harassed because of their sexual orientation; nearly 70% reported feeling unsafe in school. Studies also indicate that school officials often fail to respond to or, in some cases, even participate in the discrimination and harassment.

The climate of fear created may result in increased absenteeism, decreased academic performance and increased risk of suicide. The National School Climate Survey also found that over 30% of GLBT students had missed at least one entire day of school in the past month because they felt unsafe.

Without a policy that explicitly includes sexual orientation as protected categories, many school officials do not respond appropriately to anti-GLBT harassment and discrimination. Or it may be the case they do not feel comfortable and supported in responding to harassment of GLBT students. It is conduct – failing to act or failing to act in a reasonable manner – that opens up school districts to liability, not the adoption of an anti-harassment policy.

No detailed statistics are available for GLBT students in North Dakota, because student surveys have not included questions regarding sexual orientation. This fact alone shows that the concerns of GLBT youth in North Dakota are not being addressed by our state's schools. Furthermore, North Dakota is the only state in the country without a single high school gay-straight student alliance.

The unsupportive attitudes many GLBT youth encounter in school only serve to further paint North Dakota as a state which is unwelcoming to those who are perceived as "different." Is it any wonder that GLBT youth often see no future for themselves in North Dakota and leave the state in droves? At a time when many in our state are looking for ways to keep our young people here, we need to send the message in our schools that all students are worthy of our full respect. Thank you.

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10/21/03
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Robert Uebel
SB 2216

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North Dakota GLBT Youth Talk About Their School Experiences

Wendy Brovold, Fargo

My name is Wendy Brovold, and I graduated from Fargo South High School in 1994. I came out as a lesbian to my family and friends when I was 16 years old. I never tried to keep my sexual orientation a secret, and I paid dearly for it while attending high school. The harassment started in my sophomore year and continued until graduation. The harassment started with name calling – words such as "dyke," "queer," "lesbo" and "fag" were yelled at me daily. Towards the end of my sophomore year and into my junior year, the harassment became more physical and personal. I was continually spit on while walking the halls between classes and shoved into lockers. My art was defaced with graffiti (for example, my pottery had the word "dyke" scraped into it before being fired). Several times while walking to my car in the school parking lot, other students tried to run me down with their vehicles.

I didn't feel safe in school or out. I was constantly afraid that I would see my harassers off campus and be beaten. I talked to school counselors, administrators and teachers about the harassment. I quickly learned that it was all my problem because I was "that way." Therefore, I **deserved** the treatment. I received no response, and the harassment didn't stop until I graduated. I feared for my safety and my life while attending Fargo South. My high school education was supplemented with the knowledge that I didn't matter as a person and my voice didn't count. The harassment was scary enough, but the harassment not being acknowledged by the administration and faculty was a teenager's nightmare. I urge you to pass Senate Bill 2216 and protect our children from experiences like mine, because every child should have a voice and that voice should be heard.

Darren Buttke, Fargo

High school wasn't so bad; I found a close, protective group of friends and I was able to blend in so I wasn't targeted for harassment. However, elementary and junior high was a different story. I was first exposed to the word "faggot" in elementary school because I wasn't "one of the boys"; I wasn't into playing sports or doing stereotypically boy things. I was more effeminate and liked hanging out

Darren Buttke
Operator's Signature

10/21/03
Date

with the girls. So that got me labeled a "fag" and I was teased and bullied because of it.

In junior high, the harassment got worse. I was still called "faggot" and "queer," but I was also verbally threatened by some of the guys in my class. One boy was particularly cruel. He said that if he could kill me and get away with it, he would. He also cornered me in a room once and asked me if I wanted to "suck his dick" since I was a "faggot." It was one thing to receive this treatment from some of my peers but it was another to receive it from my teachers, those in positions of authority who were supposed to be setting examples and looking out for my best interest. One teacher in particular told me that I was asking for the harassment and bullying I was receiving; according to this teacher, a teacher who supposedly was a representative of God (I attended a private junior high), if I didn't act the way I did (i.e. like a faggot) then this wouldn't be happening. This is the same teacher who expressed in sex education class that he thought gay people (along with intravenous drug users) deserved to die from AIDS. Hearing this ignorant and hateful statement at such a young age, knowing very well at the time I was gay, coming out of the mouth of a representative of God made me feel alone, afraid and unwanted. I felt that God didn't love me or want me and, hence, I didn't deserve to live. The scars of emotional, mental, and spiritual terrorism are scars that don't heal easily, and I'm still dealing with these scars almost 15 years later.

Matt B.

In December 2001 I was attacked for being an openly gay teen. It was late at night, and I was taking out the garbage. I went to the dumpster and a guy whose features I couldn't see because it was dark came out and starting yelling statements like "Hey, queer," "Fucking homo" and "Die fag." He then came at me with a knife and cut me across the stomach. I tried to grab his wrists, and he sliced my right arm. I then rushed him and kicked him in the groin. Luckily I was able to get away. I never reported the crime, and the person who attacked me was never found. Not only does the physical scar on my arm still remain today, but the emotional scars do as well. I have been on anti-depressants for eleven months now and still can't seem to get over the trauma of last year.

That is the most horrible thing that has ever happened to me for being who I am, but at school I used to constantly be insulted with derogatory terms in the hallways between classes with every name you can imagine. People would throw things at me, and I would just turn and walk away in fear of a repeat of my attack from last year.

Thank you for your time.

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10/21/03
Date

Chelsea Wittmann

My name is Chelsea Wittmann and I am a Junior at Red River High School in Grand Forks, North Dakota. I am openly gay, and most of my peers are comfortable with my sexual orientation. I have had many good experiences with supportive students and faculty during my high school career. However, I have had a few bad experiences, too.

I came out of the closet as a lesbian when I was 13 years old. I was in the eighth grade at the time. In the past three years, I have encountered many people who condemn my orientation. The frequency in which I encountered these people rose drastically when I entered high school. The instances that I have been harassed in school have primarily come in the form of verbal intimidation. That is, people making comments to or yelling things at me. Recently, I had a few experiences with food being thrown at me, but it was nothing long term or serious. I attribute the fact that I have not received a great deal of harassment in school to the fact that I am involved in many sports and extra curricular organizations. I have always put great emphasis on letting my teammates and schoolmates understand that gay, lesbian, bisexual and transgendered (GLBT) students are just like everyone else. My involvement and advocacy has given me a chance to become a fairly well known and outspoken member of the student body.

It is needless to say that not every GLBT student is as comfortable voicing their opinions as I am. I have a few GLBT friends from school, and their experiences with harassment have been a little more traumatizing than mine. I have heard their accounts of being spit on, pushed, tripped, kicked, and yelled at. One of the first dealings that we (the GLBT students) had with prejudicial action stemmed from a locker room encounter in which a gay student went into his locker room on the first day of gym class freshman year and was informed that he would be killed if he didn't leave. The latest run in that we've had with negative action came from a freshman girl who had "Go to hell you fucking dyke. We hate you." written on her locker.

Such instances have made the GLBT population at our school uncomfortable and on-edge. Lately it seems like we are standing by and waiting for the next happening. I firmly believe that the time to act on such harassment is now. I think that if we can take a stand and stop intolerant behavior before it becomes a habit, we can trouble shoot a lot of problems that may surface down the line.

Tolerance is a lesson that everyone needs in their life. If a rule is enforced against harassing someone on account of a trait that they were predisposed to at birth, then the lesson will likely be applied to many minority groups, not just gays and lesbians.

Thank you for your time and consideration.

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www.pridecollective.com/end.html

Robert Hebel
SB 2216

**All North Dakota students should be treated with respect at school.
Unfortunately, GLBT students are often the target of harassment.**

There is now extensive evidence that GLBT (gay, lesbian, bisexual and transgender) students are disproportionately targeted for harassment and discrimination in schools.

The 2001 National School Climate Survey indicated that over 80% of GLBT students reported being harassed because of their sexual orientation. Nearly 70% of GLBT students reported feeling unsafe in school because of their sexual orientation.

Moreover, studies also indicate that school officials often fail to respond to or, in some cases, even participate in the discrimination and harassment.

The climate of fear created may result in increased absenteeism, decreased academic performance and increased risk of suicide. The National School Climate Survey also found that over 30% of GLBT students had missed at least one entire day of school in the past month because they felt unsafe.

Anti-harassment policies do not open up schools and teachers to additional legal liability. In fact, having an effective anti-harassment policy helps schools fulfill their existing legal obligations and protects school districts and teachers from potential liability.

School officials often do not feel comfortable and supported in responding to harassment of GLBT students. It is conduct – failing to act or failing to act in a reasonable manner – that opens up school districts to liability, not the adoption of an anti-harassment policy.

Blanket prohibitions against discrimination and harassment without enumerated categories are not sufficient to protect GLBT students.

Evidence shows that school officials often do not recognize that anti-GLBT harassment and discrimination are unacceptable behaviors. Without specifically enumerating sexual orientation as a protected category, many school officials may continue to believe that they do not have a responsibility to respond to anti-GLBT harassment.

Policies promoting respect for all students regardless of their sexual orientation do not violate the religious freedom of school officials who disapprove of homosexuality.

Requiring staff to treat all students with respect and to ensure that all students are provided with a safe and effective learning environment does not impinge on their freedom to hold any beliefs they choose about homosexuality. The policy simply requires that they fulfill their legal obligation to make sure that no student is harassed or discriminated against and that all are treated with respect.

Source: Gay, Lesbian and Straight Education Network: www.glsen.org

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10/21/03
Date

Senate Bill No. 2216

Testimony presented by Jan Eliassen in favor of Senate Bill No. 2216

01/21/03

Mr. Chairman and members of the committee:

My name is Jan Eliassen. I am from Fargo. I am in favor of Bill No. 2216 because it will improve the experiences of not only the students the bill is designed to protect, but that of all youth and faculty in the ND public school system.

As an informed professional who's worked closely with youth in ND for the last fifteen years, I affirm this effort to combat discrimination based on age, gender, color, ability, religion, economic status, or sexual orientation. Having worked with the latter and because I recently conducted a research project involving the attitudes of school faculty towards training on sexual orientation issues, my testimony today concerns those youth who are or are perceived to be gay, lesbian, bisexual, or questioning (GLBQ).

To begin, through my work with at-risk youth and other community involvements, I have been fortunate enough to get to know many, many young people in ND. I watched them develop and grow and get to know themselves in a variety of settings. While I have countless wonderful and heartwarming stories about the young people I've known, I also have stories that are very sad. I've seen firsthand what repeated harassment at school can do to a child. I've witnessed how the subsequent emotional damage manifests itself in some very ugly ways. As much as I and others attempted to either protect these kids from repeated harassment or tried to help them heal the wounds of their past experiences, there is only so much one can do without the full support of schools and everyone within the walls of those schools.

Whether we like it or not, there are many GLBQ students struggling to simply survive their educational experience. These youth report their experiences as being steeped in isolation and fear. Many experience poor self esteem, addiction, depression, and attempts at suicide, to name a few of the difficulties. Please understand that these difficulties are not due to being gay, lesbian, or bisexual but rather, they are due to the

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12/21/03
Date

isolation, harassment, and living life in an environment that lacks acceptance and support. Their feelings have to be heard and their needs met to the best of our abilities. The following are just a few examples of what can happen when we fail to do so:

Several years ago, I worked with a boy to whom I'll give the pseudonym 'Travis.' When I first met Travis, what struck me and my co-workers was that, despite his tumultuous home life, he was an intelligent, gentle, and loving child. Upon entering high school, however, his daily routine began to include enduring a barrage of anti-gay harassment from other students. Travis was perceived by others as 'looking' and 'acting' gay. In a setting where the epithet 'fag' is used frequently as the ultimate in insults, his self-esteem was under constant attack. It soon became obvious that his sweet disposition would not survive the abuse.

I wasn't sure how to help Travis. I was uncomfortable talking about his dilemma with him and I didn't know where to go within the school system to get help. The advice he received from others focused on what he needed to change about himself to avoid further conflict rather than confronting the behavior of the harassers themselves. As you might imagine, asking a teenager – or an adult for that matter – to drastically modify their inherent personality is a tall order to fill. Travis began acting out and on several occasions he ran away to the streets where he abused drugs and where much older men took advantage of *him*.

Travis is now twenty-six years old. Though he's made attempts at bettering himself, he's more often than not caught in the throes of addiction; and addiction all too often supported by continuing to put himself ⁱⁿ unsafe and brutal situations. It's easy to simply pass these off as the choices Travis has made for himself. But the fact is, when he was still an impressionable youth, he was made to feel perverse and worthless by his peers. All these years later, Travis is simply being what he thinks he's supposed to be.

'Kim,' – also a pseudonym – was fifteen years old when I met her. With an absentee mother and father, she'd already been taking care of her younger brother for five years. She was as strong and independent as any fifteen-year-old I'd ever met. Upon being entered into a residential facility, Kim's grades began to climb. She became active in school and various sports. But after confiding in a friend that she simply had no interest in boys or dating, Kim's high school career became a nightmare. Her friend took

part in seemingly innocent gossip, telling another girl that Kim was a lesbian. The word spread and students began openly referring to Kim as a 'dyke.' Soon thereafter, she was nothing more than a pariah; her friends abandoned her and even certain faculty quietly withdrew their earlier support for her in school activities and sports. She turned eighteen half way through her senior year and immediately dropped out of high school. In this case, the harassment was based purely on *perceived* sexual identity because, though Kim was a tomboy, she was never gay.

Finally, there was a boy who I'll call 'Ryan.' Ryan was unusual in that he knew he was gay by the time he was thirteen years old. For the two years I knew him, Ryan pretended that the barbs from his fellow students didn't bother him. He even risked further harassment by starting an informal club outside of school for those students who questioned their sexual identity. Others made threats, defaced his locker, spit at him, and called him names. He walked courageously through high school life this way for two years until one night some boys attacked him outside a movie theater. Ryan survived the assault, suffering only a few bruises. But something about that night sapped his infamous bravery and his will to go on. Eventually, after years of torment and little support from the adults in his life, Ryan committed suicide by jumping off a building.

It pains me to think of these three children and others like them. In a world where simply having a pimple can be an utter catastrophe, GLBQ kids are sitting ducks for the jibes and taunts of students who may or may not know better. This is not a matter of telling the harassed child to 'suck it up' or to simply 'deal with it.' This is not a case of 'sticks and stones...'

While gay, lesbian, bisexual, and questioning youth are just as diverse as any group, there is one principle difference that sets them apart: they can be invisible. They rarely grow up with people they can identify as being like themselves. With the exception of being perceived as being gay based on stereotypical physical attributes, they are assumed to be heterosexual unless they declare otherwise. They have survived by keeping quiet about being gay, lesbian, bisexual, or questioning. The pervasiveness of anti-gay attitudes and behavior, combined with the need to belong, conspire to keep these youth in the "closet" and therefore, unseen.

Deanna Ball
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10/21/03
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Time and time again, researchers have found that gay, lesbian, and bisexual youth are at higher risk for harassment, abuse, and violence throughout their school experience. Between 30 and 70 percent of gay and lesbian youth report experiencing verbal abuse or physical assault in school (Advocates for Youth, 1998). Unfortunately, these numbers may actually be low because few youth are likely to reveal their sexual orientation/identity to authorities, social service staff, or teachers. Failure on the part of school faculty to recognize or acknowledge the existence of gay, lesbian, and bisexual students and continuing reluctance to intervene on their behalf has played a significant role in allowing negative attitudes towards these students to persist.

Teachers may be reluctant to address these issues because of general discomfort and/or a lack of accurate information. While it's become the norm that racial slurs are consistently and aggressively confronted (or at least becoming so), inconsistent confrontation of anti-gay comments is also the norm. Addressing the discomfort of teachers and faculty remains a challenge as training on GLBT sensitivity and related issues is not currently offered in the school system. To complicate matters, teachers are understandably reluctant to support more training being added to their schedules as the demands placed on them are already excessive.

Confronting anti-gay rhetoric and attempting to promote safer schools on behalf of GLBQ students will not be an easy or comfortable task. However, it pales in comparison to the adversity that these youth face each day. Societal discomfort in no way excuses the failure of schools to protect each and every student from discrimination, harassment, and violence. Fortunately, school faculty do not have to reinvent the wheel as many programs already exist that assist schools in promoting safer environments for all youth. Several organizations have developed models of faculty training and made recommendations on how to improve safety in schools. The recommendations include:

- Schools must maintain campuses that are safe and conducive to learning through the development of policies that prohibit harassment.
- Schools must identify and respond to all incidents of harassment and violence.
- Schools must provide formal complaint procedures.
- Schools must create a school environment that supports all forms of diversity.

Bill No. 2216 will not undermine anyone's moral or religious beliefs. Rather, it will help educators address the needs of all students, and the need for a safe and supportive learning environment.

Often, people are apprehensive about addressing GLBQ issues – especially when it comes to children. They perceive doing so as contrary to religious, social, or political beliefs. It's important that everyone understand what it is we are talking about here. No one is asking for approval of homosexuality. Our society has undergone numerous changes in the arena of discrimination. We have come to understand that we can prohibit discrimination based on religion and promote respect for different beliefs without asking people to compromise their own. We know that fostering respect for different cultures doesn't mean discarding one's own traditions. We can strongly disagree on issues, yet still respect one another's right to live our own lives as we choose. By fostering mutual respect around an issue, especially one as volatile as sexual orientation, schools can improve the educational experiences of their students and allow them to carry that message into a healthy, well-rounded adulthood. We owe them this, at the least.

North Dakota is no longer a microcosm of similar peoples. It is quickly becoming diverse in every facet of the word. Let's accept this new diversity with the same courage we show in the face of all of life's challenges. Bill No. 2216 will help insure that students of any age, gender, color, ability, religion, economic status, or sexual orientation are not merely tolerated, but validated, affirmed, and celebrated as a vital part of an increasingly more diverse population in our schools and in our state.

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10/21/03
Date

Testimony in favor of SB 2216

My name is Sara Berger. I am the 15-year-old heterosexual daughter of two lesbian women, and a freshman at Mandan High School. I am in favor of Senate Bill 2216.

Safety in schools is needed now more than ever. It shouldn't matter what race, gender, age, religion, sexual orientation, or ethnic background you are - all should have the same rights, freedoms, and "safeties" as everyone else. In my high school, harassment takes place everyday, and I have been a witness as well as a victim to it. Kids get harassed for numerous reasons, anything from wearing the wrong clothes to saying the wrong thing. I'd like to point out some specific situations that violate this proposed law.

The biggest concern for me is the issue of sexual orientation. Because some kids and teachers are uneducated or bigoted, it often is a target for teasing and shunning. You get teased if you are homosexual, are suspected of being homosexual, or if you know someone who is homosexual, like I do. What exactly is said, you ask? Well, some comments to me have been "Queer-lover", or "That's so gay", or "You'll be a dyke too when you grow up". Some girls are afraid to be close to me. They know about my moms and think I'm a lesbian too.

My boyfriend has also gotten harassed for going out with me. He's been assaulted with questions, and because he's an advocate for my family, he gets called names too. We're not gay and we get harassed about it. I can't imagine what it is like for someone who is out about their sexuality in our school.

Although I've never been threatened or "pushed around", I have felt "unsafe". To me, the definition of safety isn't only protection from physical injuries but also from other harm, like mental injuries due to harassment or bullying. School should be a place where you are safe to learn new things and be free to express yourself. You shouldn't have to worry that someone is going to call you names because of your moms' or your orientation. It's amazing how much hate goes into my generation's minds and how much of it is thrown out again back at other people. Gay teenagers are three times more likely to commit suicide than straight teens. To me, that says that they don't feel safe and welcomed in school or at home.

Teachers also play a major part in school safety. Most of my teachers, when confronted at conferences with my moms, were accepting and polite. Still, a few of them were disturbed, and during the following weeks treated me significantly different than before they knew. One even made a comment to me regarding my moms, and it made me feel horrible. However, no matter how many times I get picked on or questioned or looked at because of my family, I am proud and stand tall. Some kids however, in a similar situation, aren't so brave and need help.

If this law is passed, it won't stop everything. It will, however, help. Maybe kids and adults will see that they shouldn't harass others and that it is serious. Please pass this law to protect everyone regardless of their differences.

My name is Joseph Kieffer from Fargo, ND. I'm here to speak in support of Senate Bill 2216.

I never came out of the closet until I was in my twenties because I was deathly afraid of the reactions I would receive from my family and friends but mostly the student at my school in Casselton, North Dakota. The word "faggot" was used frequently at Central Cass to describe any undesirable person. I quickly understood that if I came out then I never would have been able to live in Casselton anymore. The simple but powerful fear of coming out as gay to others was enough for me to hide it from others and to hate it in myself.

Like many students, and most gay teens, I considered suicide. I just couldn't force myself to overdose on pills or drive my car over a bridge, so I prayed to God for cancer or some terminal illness to end my emotional pain. I also prayed often to not be gay. After high school, I learned being gay was not the problem; rather it was the hateful remarks from people who did not know what it is like to be a gay student in school.

The verbal assaults I encounter now don't bother me anymore. However, in my adolescence, when I was questioning my sexuality, the bullying and verbal assaults were traumatic. I thought my whole world (consisting of the school and fellow peers) was against me. Even though I knew deep inside my closest friends wouldn't throw me aside, I still couldn't take that chance.

My main concern today is the safety of current and future students in our state's schools. Its not just the gay or questioning students but also the other students harassed based on religious, or racial grounds need to know there is a safe school to attend where teachers and administrators will listen to their concerns and protect their right to an environment rich in learning respect and free from fear and contempt.

Thank you for your consideration of my testimony,

Joseph Kieffer
3350 42 St S #105
Fargo, ND 58104

Senate Bill 2216 – Respect for individuals – Requirements – Complaint Process

Good morning Chair Freborg and members of the Senate Education Committee. My name is Jean King and my husband and I live in Bismarck. We have two children, a daughter who is a senior at Bismarck Senior High School, and a son, 14, who is currently home-schooled. I am here to testify in favor of Senate Bill 2216.

My son was identified as needing special education services when he was 2-1/2 years old. For six months a school district employee came to our home two to three times a week to help Brian develop his language skills. For the next 4 years, Brian was enrolled in BECEP's preschool programs, including a year in Transition Room for children with learning disabilities. At seven, Brian was diagnosed with Asperger's Syndrome, a high-functioning form of autism by an interdisciplinary team at Children's Hospital in Denver, CO.

Bismarck Public Schools was unable to place Brian in a program designed specifically to meet his needs, so he was placed in a special classroom for children with severe emotional disturbances at Myhre Elementary School. While at Myhre School, Brian began to refuse to go out for recess. Because of his communication problems, it was difficult to find out why he was avoiding recess, but he did talk about being called names and being shoved around by one particular boy, "N," and "his gang." We asked Brian's teacher about this and she reported that N had a reputation as a troublemaker, but that she was personally unaware of any incidents, though she did know that Brian was choosing to stay inside for recess whenever possible.

After beginning first grade with good reports in August, Brian began to experience more behavioral difficulties at school and at home over the rest of the school year. We were unable to use regular babysitters any longer and had to sign up for Respite Care through Easter Seal Society, a taxpayer supported program. *-no longer providing services for children like Brian.*

During Brian's second year at Myhre, the behavior problems became even more pronounced and his teacher and I discussed having Brian attend school for the morning session only. His pattern was to have increasing difficulty as the day went on. In late March or April, after being exposed to the chaotic conditions in the SED room during the middle of the day when I came to pick Brian up, I insisted that Brian be transferred out of the program and into his home school, Solheim, for a minimal amount of time each day, while I continued his education at home for the remainder of the day.

Brian began 3rd grade at Solheim the following August, mornings only. He was especially successful on Wednesday, when his classroom teacher, an angel by the name of Robin Fleurer, used a center approach with lots of hands-on activities and small working groups. Because of his success, and because of difficulties coordinating his afternoon education at home with his special education team at school, we decided to try full-time 4th grade at school.

Brian's year began well, but quickly deteriorated. He again began to complain about being 'bullied' at recess, having balls kicked at him, being called a 'retard,' being shoved to the ground, and made fun of. Special educators were unwilling to supervise Brian more closely during recess, feeling that it would 'stigmatize' him. Brian's behavior at school and at home began to deteriorate markedly, and we had to increase medication doses. We attempted to teach Brian positive ways to respond to bullying, by asking teachers for help, making assertive verbal statements and walking away. We rehearsed appropriate responses at home. By November, Brian began running away from school. Despite repeated attempts to address this issue we were unable to protect our son. The final incident occurred during an IEP meeting. While we were inside discussing Brian's special education program, he was shoved again from behind. He came into the meeting crying and distraught.

We started homeschooling Brian at the end of fourth grade.

We have a history of supporting public schools during fundraising campaigns, on the newspaper editorial page, in parent-teacher organizations, and by donations. But our son was driven out of the public schools by harassment and intolerance of his differences, and lack of support by teachers and administrators.

This bill would make it easier for problems like my son's to be addressed. It is clear that Brian was not receiving 'respect' from some of the children at the school. What wasn't clear was what should be done about it. This bill mandates a complaint process with investigation, written findings, disciplinary guidelines and an appeal process to the school board.

A written policy promoting respect for all students can only be a good thing, and designing a process to ensure justice for our smallest citizens gives them a good start, believing in our society and the justice and equality we are taught it stands for.

Please consider favorably this bill and this testimony. Thank you for listening.

Jean King
737 Munich Drive
Bismarck, ND
258-7579
jking@westriv.com

North Dakota Human Rights Coalition

P.O. Box 1961, Fargo, ND 58107-1961 (701) 239-9323 Fax (701) 478-4452 www.ndhrc.org



Testimony

SB 2216

Conduct by school students and staff

Chairman Freborg and members of the Senate Education Committee, I am Cheryl Bergian, Director of the North Dakota Human Rights Coalition. The Coalition includes a broad-based, statewide membership of individuals and organizations interested in the furtherance of human rights in North Dakota; the Coalition's mission is to effect change so that all people in North Dakota enjoy full human rights. Our work is based on the principles enunciated in the Universal Declaration of Human Rights. Article 26 of the Universal Declaration of Human Rights states that "[education] shall promote understanding, tolerance and friendship among all nations, racial or religious groups"

I speak in support of SB 2216. All North Dakota students should be treated with respect at school. The effect of SB 2216 would be to assist school districts in ensuring that students and staff promote respect, understanding and tolerance of each other and that if there are incidents of harassment or discrimination, that there is a process in place to further address those incidents before they have an opportunity to escalate. It is especially important that harassment or discrimination based on sexual orientation be included in this legislation. We are all familiar with the possibility of harassment or discrimination based on race or religion. However, it may not be as well known that gay, lesbian, bisexual or transgender students report being harassed at incredible proportions, rising to 80% of those surveyed (source: 2001 National School Climate Survey). Please also note that this harassment occurs because of perceived sexual orientation, not just actual sexual orientation.

SB 2216 could avert situations in which harassment and discrimination rise to the level that school districts are faced with litigation, when if an incident had been addressed early, the situation could have been resolved. I would submit to you that school districts are more likely to face litigation for failure to act to protect a student facing harassment or discrimination if they do not have policy and procedure to address incidents, because they will not become aware of incidents before they escalate to the stage that litigation is initiated.

I appreciate this opportunity to testify on behalf of the ND Human Rights Coalition.

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Deanna Waller

Date

10/21/03

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Required
by Fed or State

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EQUAL EMPLOYMENT
AND EDUCATIONAL OPPORTUNITIES

Bur T. Nelson

SB 2216

The (Name of District) School District is committed to a policy of equal opportunity for all employees and students. Discrimination on the basis of gender, race, creed, marital status, age, disability, national origin, sexual orientation, or color is prohibited.

["Age," as used in this policy, means the age of a person who is at least 40 years old.]

The school system shall establish and maintain an atmosphere in which all persons can develop attitudes and skills for effective, cooperative living, including:

- a. Respect for the individual regardless of economic status, physical or intellectual ability, race, creed, color, religion, gender, sexual orientation, or age.
- b. Respect for cultural differences.
- c. Respect for economic, political, and social rights of others.
- d. Respect for the right of others to seek and maintain their own identities.

The school system shall strive to remove all vestiges of prejudice and discrimination in employment, assignment, and promotion of personnel; in location and use of facilities; in curriculum development and instructional materials; and in the availability of programs for children.

The school system shall continue to reexamine thoroughly all parts of the curriculum to make sure that the instructional materials accurately portray the history, contributions, and culture of the various ethnic groups in our society.

To ensure implementation of this policy, the Superintendent will:

1. Appoint an affirmative action compliance administrator.
2. Annually disseminate information emphasizing that the (Name of District) is an Equal Opportunity Employer.
3. Develop a complaint and appeals procedure for use by any employee or student who believes that he or she has been discriminated against, denied a benefit or

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1

POLICY ADOPTED:
POLICY AMENDED:

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excluded from participation in a district education program or activity on the basis of race, creed, color, national origin, gender, sexual orientation, age, marital status, or disabling condition.

Legal Ref: 1964 Civil Rights Act, Title VI
1964 Civil Rights Act, Title VII
Executive Order 11246, as amended
1972 Educational Amendment, Title IX
45 CFR Part 86 Regulations
1973 Rehabilitation Act, Section 503
1973 Rehabilitation Act, Section 504
45 CFR Part 84 Regulations
29 U.S.C. §626 (PL 101-433) Old Workers Benefit Protection Act
22 U.S.C. §623; 29 U.S.C. §631 Age Discrimination in Employment Act
42 U.S.C. 12101-12213 Americans With Disabilities Act
20 U.S.C. 1413 Individuals With Disabilities Education Act
NDCC Ch. 14-02.4 Discrimination
NDCC Ch. 15.1-32 Special Education of Children

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NON-DISCRIMINATION POLICY

STATEMENT:

The (Name of District), in the County of (Name of County) and State of North Dakota, supports the provisions of federal and state laws which commit all schools to the elimination of discrimination on the basis of race, creed, color, national origin, gender, sexual orientation, marital status, age, and disability in employment and in those programs and activities offered to its students. It is the expressed intent of the (Name of District) to provide equal opportunity for all students.

["Age," as used in this policy, means the age of a person who is at least 40 years old.]

This concept of equal opportunity will serve as a guide to the School Board, the administration, and staff in making decisions related to the employment of personnel, school facilities, curriculum, activities, and regulations affecting students and employees.

LOCATION OF POLICY:

A copy of the board policy is available for review in each school building administrative office (See policy AAC) [on the district Web page] [in the school library].

COMPLAINT PROCEDURE:

Any student or employee of the District who believes he or she has been discriminated against, denied a benefit, or excluded from participation in a district education program or activity on the basis of race, color, creed, national origin, gender, sexual orientation, age, marital status, or disabling condition may file a written complaint with the compliance administrator or follow other procedures outlined in the Affirmative Actions' procedure. (See policy AAC-R)

COMPLIANCE ADMINISTRATOR:

The compliance administrator for this policy is (Name, Title, Address and Phone Number of person designated by the Superintendent).

For inclusion in Employee
and Student Handbooks

SUMMARY OF YOUR RIGHTS AS A PARENT/GUARDIAN

These safeguards are guaranteed to children with a disability and their families by 20 United States Code 1413, The Individuals With Disabilities Education Act of 1994, and Section 504 of Public Law 93-122, The Vocational Rehabilitation Act of 1973.

1. You must give informed written consent before the school may conduct evaluation of your child.
2. You must receive written notification of any initiation or refusal to initiate a change in your child's educational placement.
3. You have the right to present your views regarding the identification, evaluation, placement or provision of a free appropriate education to your child. This includes the right to request an educational evaluation.
4. You have the right to request an independent educational evaluation of your child.
5. You have access to all relevant school records of your child.
6. Either you or the school may initiate an impartial due process hearing to resolve differences that could not be resolved informally. The request is filed with the North Dakota Department of Public Instruction. In conducting such a hearing, parents must:
 - a. Receive timely and specific notice of the hearing.
 - b. Have the right to be accompanied and advised by counsel and/or by individuals with special knowledge or training with respect to children with disabilities.
 - c. Confront, cross-examine and compel the attendance of witnesses.
 - d. Present evidence relevant to the decision.
 - e. Obtain written or electronic verbatim record of the hearing, and obtain written findings of facts and decisions.
 - f. The hearing will be conducted by an impartial hearing officer selected from a list provided by the Department of Public Instruction.
 - g. The decision of the hearing is binding on all parties pending appeal.
 - h. Either party has the right to appeal the findings and decision of the hearing through the court system.
 - i. During the above process your child shall remain in the current program or any other program to which both parties can agree.
7. Students receiving special education and related services must receive a reevaluation every three years. The School District must have your informed written consent before conducting a reevaluation. However, the District has

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Descriptor AAC-E2

the right to reevaluate without your written consent if you have not responded to requests for your consent.

8. These rights transfer to your child when he/she reaches the age of 18 unless a guardian has been appointed by the court. These rights would then be retained by a court appointed guardian.

The above information has been explained to my satisfaction. I have also received *Procedural Safeguards In Special Education for Children and Parents*, published by the Department of Public Instruction, Bismarck, North Dakota.

Parent/Guardian

School Personnel Presenting Summary

Date

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AFFIRMATIVE ACTION
GRIEVANCE PROCEDURE

Any person who believes him/herself or any specific class of individuals to be subjected to discrimination in employment or in any of the programs or activities of the (Name of District) may file a complaint as follows:

1. COMPLAINT PROCEDURES

- a. An oral complaint may be informally filed with the department chairman or immediate superior of a complaining employee; OR
- b. A formal written complaint may be filed with the principal of the building in which the alleged discrimination occurred; OR
- c. A formal written complaint may be filed with the district compliance officer who has been designated as the person responsible for coordinating the efforts of (Name of District) to comply with the Equal Opportunity Policy, including the investigation of complaints alleging noncompliance.
- d. If an oral complaint is filed as outlined above (a) or a formal written complaint is filed as outlined in (b) or (c) above, an investigation will be made by the appropriate person (department chairman, principal, or coordinator) within a 30 day period following the complaint. The appropriate person, as outlined above, will submit a written report to the complainant outlining the results of the investigation. This report will either concur with the complainant that a violation exists or will state that the complaint is deemed without merit. If it is determined by the investigation that the complaint has merit, the written response will outline ways the deficiency will be corrected.

To be considered for investigation, any such complaint must have been filed within 180 days of the alleged occurrence of discrimination. Any person lodging an informal, oral complaint reserves the right to file a formal written complaint within 60 days of filing the oral complaint. Further, a formal written complaint must be filed as outlined in (b) or (c) above, prior to the filing of an appeal as outlined below:

2. FORMAL APPEAL PROCEDURES

- a. Grievance:

When a formal written complaint has been filed and a response from the appropriate person has been received by the complainant as outlined above, and the complainant believes the rejection of the complaint or the remedies suggested are not equitable, the complainant may, within 30 days of the filing of the original complaint, file a formal written appeal. Such appeal should be filed with the Business Manager

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ADMINISTRATIVE REGULATION
1 APPROVED:

Deanna D. Hall
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Date

Descriptor Code: AAC-R

of the School Board of the (Name of District) or with the State Department of Public Instruction. Upon receipt of an appeal, a date shall be fixed for a hearing to be held not less than 20 days after the receipt of the appeal. Both the School Board and the complainant shall have the right to:

- 1) Be represented by counsel.
- 2) Introduce all relevant evidence on the issue.
- 3) Take direct testimony of any witness, given orally under oath or affirmation.
- 4) Question witnesses on any matter material to the proceeding for purposes of clarification of their testimony.
- 5) Have the proceeding transcribed by a court reporter, at the expense of the party requesting such transcript.

A decision shall be made at the hearing and reported in writing to all parties within thirty (30) days of the hearing. The decision of the Board shall be final.

Any employee or student of the (Name of District) shall be entitled to submit any complaint of alleged discrimination on the basis of sex or disabling condition, directly to the Regional Office for Civil Rights of the United States Department of Human Services by sending said complaint to:

Office for Civil Rights
10220 N Executive Hills Blvd 8th Floor
Kansas City, Missouri 64153-1367
Telephone: (816) 880-4202
TDD: (816) 891-0582
Fax: (816) 891-0644

In addition to the above specified procedural rights, the provisions applicable to Title VI of the Civil Rights Act of 1964 as found at 34 CFR sections 100.6-100.11, 34 CFR Part 101, 45 CFR sections 80.6-80.11 and 45 CFR Part 81 are also made applicable to Formal Appeals under Title IX.

b. Due Process:

In the event of a complaint involving a person who needs or is believed to need special instruction or related services because of a disability, the parent/guardian may request an impartial due process hearing. The request for a hearing must be made in writing to the School Board of (Name of District). Opportunities for informal conferences under the usual appeal procedures within the district will be made available to the parent/guardian in order to resolve the conflict in an amicable manner.

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ADMINISTRATIVE REGULATION
2 APPROVED:

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- 1) Upon receipt of the request for a hearing the Board shall make a formal request to the North Dakota Office of Administrative Hearings for a list of three persons whose names appear on the state register of qualified hearing officers. The name of a person will not be included if there is a personal or professional conflict with his/her objectivity in the case.
- 2) Within five calendar days from the receipt of the list of hearing officers, the parent/guardian and/or the school district may delete one name from the list.
- 3) The school district shall designate a hearing officer for the hearing from the remaining names and immediately notify all parties of such determination.
- 4) The notification sent to the parent/guardian shall be accompanied by a written notice informing the parent/guardian of the right to request the attendance at any hearing of any personnel who may have testimony relevant to the needs, abilities, proposed programs, or status of the student, the rights of access by parents to all relevant school records and documents, and the availability of any low-cost or free legal or relevant support services in the area in which the parent/guardian resides.
- 5) The hearing shall be scheduled at a time and place which is mutually convenient to the parent/guardian and the district.
- 6) The hearing officer may meet with the parties in order to attempt to arrive at a voluntary resolution of the matters in dispute before the commencement of the hearing.
- 7) In the event that a voluntary resolution of the dispute can not be achieved, a hearing shall be conducted in accordance with established procedures. If the primary language of the parent/guardian is other than English, or if the parent or guardian is either blind or deaf, an interpreter or reader shall be provided. All hearings shall be conducted in locations fully accessible to persons with physical disabilities.
- 8) Either party to the hearing shall have the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the area of the issue at hand. If the parent/guardian retains counsel the Board will also be represented by counsel.
- 9) Either party to the hearing has the right to present evidence; confront, cross-examine, and compel witnesses; and prohibit the introduction of any evidence at the hearing which has not been disclosed to that party at least five (5) days before the hearing.
- 10) If requested by the parent/guardian, the hearing shall be open to the public. Specific individuals may also be permitted to attend the hearing at the request

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Date

Descriptor Code: AAC-R

of the parent/guardian.

- 11) A tape recording or other verbatim record of the hearing shall be made by the district. Upon request, the parent/guardian shall have the right to obtain a copy of the record of the proceedings.
- 12) Following the close of the hearing, a decision which states concisely and explicitly the findings of fact and conclusions of law will be sent by certified mail to the parties involved. The decision of the hearing officer is final unless either party appeals the decision through the court system. As appropriate, the hearing decision will be written in English and in the primary language of the parent/guardian if other than English, and, where appropriate, will be transcribed in Braille or tape-recorded for a parent/guardian who is visually impaired or blind.
- 13) During these proceedings, the child shall remain in his/her present placement unless the parties agree otherwise. While the placement may not be changed, this does not preclude the district from using its normal procedures for dealing with a child who is endangering self or others.
- 14) If the complaint involves an application for initial admission of a child to a public school the child, with the consent of the parents, shall be placed in the public school program until the completion of all administrative and judicial proceedings.
- 15) A final decision shall be reached in the hearing and a copy of the decision will be mailed to each of the parties in the dispute no later than 45 days after the receipt of the request for the due process hearing. A hearing officer may grant specific extensions beyond the 45 days at the reasonable request of either party.

Legal Ref: 1964 Civil Rights Act, Title VI
1964 Civil Rights Act, Title VII
Executive Order 11246, as amended
1972 Educational Amendments, Title IX
45 CFR Part 86 Regulations
1973 Rehabilitation Act, Section 503
1973 Rehabilitation Act, Section 504
45 CFR Part 84 Regulations
29 U.S.C. §626 (PL 101-433) Old Workers Benefit Protection Act
22 U.S.C. §623; 29 U.S.C. §631 Age Discrimination in Employment Act
42 U.S.C. 12101-12213 Americans With Disabilities Act
20 U.S.C. 1413 Individuals With Disabilities Education Act
NDCC Ch. 14-02.4 Discrimination
NDCC Ch. 15.1-32 Special Education of Children

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Descriptor Code: AACAA
DABAA
FBBC

SEXUAL HARASSMENT

A learning and working environment that is free from sexual harassment will be maintained in the (Name of District). It will be a violation of policy for any member of the district staff to harass another staff member or student, or for students to harass employees or other students, through conduct or communication of a sexual nature as defined by this policy, whether *quid pro quo* or as creation of a hostile environment. Further, this District will not tolerate the harassment of any staff member or student by any third party. This prohibition shall be in effect in any building belonging to or used by the (Name of District) or on the grounds of any such building or on any property or in any vehicle belonging to or used by the (Name of District) or at any school-related activity.

Any person who believes he or she has been the victim of sexual harassment by any employee or student of the school district, or any third person with knowledge or belief of conduct which may constitute sexual harassment, should report the alleged acts immediately to any teacher, counselor, or administrator, or directly to the board president. The person receiving the complaint shall refer it to the District Title IX Coordinator for investigation. Filing of a complaint or otherwise reporting sexual harassment will not reflect upon the individual's status or affect future employment, work assignments, or grades.

Administrators and supervisors will make it clear to their staff and students that sexual harassment is prohibited by board policy and is grounds for disciplinary action. Administrators will use staff meetings and inservice sessions and student assemblies to inform employees and students of their rights and remedies under the law.

A substantiated charge against a school district staff member will subject such member to disciplinary action, which may include discharge.

A substantiated charge against a student in the school district will subject that student to disciplinary action, which may include suspension or expulsion, consistent with student disciplinary policies.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, written, or physical conduct or communication of a sexual nature when (1) submission to such conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education, advancement or grade, (2) submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting

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such individual's employment or education, or (3) such conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education or creating an intimidating, hostile, or offensive employment or education environment.

Sexual harassment, as defined above, may include, but is not limited to:

1. Sexual or "dirty" jokes.
2. Sexual advances.
3. Pressure for sexual favors.
4. Unwelcome touching, such as patting, pinching, or constant brushing against another's body.
5. Displaying or distributing of sexually explicit drawings, pictures, and written materials.
6. Graffiti of a sexual nature.
7. Sexual gestures.
8. Touching oneself sexually or talking about one's sexual activity in front of others.
9. Spreading rumors about or rating other students as to sexual activity or performance.
10. Remarks as to a person's sexual orientation.

The right to confidentiality, both of the complainant and of the accused, will be respected consistent with the school district's legal obligations and with the necessity to investigate allegations of harassment and to take disciplinary action when this conduct has occurred.

Any person making a knowingly false accusation regarding sexual harassment will likewise be subject to disciplinary action up to and including discharge for employees or suspension and expulsion for students.

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Notice of this policy will be circulated to all district schools and departments and incorporated in teacher and student handbooks.

Legal Ref: 1964 Civil Rights Act, Title VII
1972 Educational Amendments, Title IX
45 CFR Part 86 Regulations

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Deanna Waller
Operator's Signature

10/21/03
Date

Bur Nelson
NDSBA

Descriptor Code: AACC
DADH
FHCI

SB2216

HARASSMENT

Harassment of any type has no place in the school setting. The (Name of District) School District will endeavor to maintain a learning and working environment that is free of harassment. The School Board expects administrators and supervisors to make it clear to students and staff that harassment in the school building, on school grounds, or at school-sponsored functions will not be tolerated and will be grounds for disciplinary action up to and including suspension or expulsion of students and termination of employment for employees.

Harassment may include but is not limited to sexual harassment, racial harassment or harassment because of a physical condition or disability, appearance, or sexual orientation. It may also include but is not limited to hostile, demeaning or intimidating behavior or conversation.

Incidents involving initiations, hazing, intimidation and/or related activities which are likely to cause bodily danger, physical harm or personal degradation or disgrace resulting in physical or mental harm to students are prohibited.

Cross Ref: Policy AACA/DABAA/FBBC Sexual Harassment
Policy DAHB/FCAAA/JBFBB Significant Contagious Disease
Policy FHDA Suspension and Expulsion

Legal Ref: NDCC Ch. 15.1-15 Contracts of Teachers and Administrators
NDCC 15.1-09-33 School board - Powers
NDCC 15.1-19-09 Students - Suspension and expulsion - Rules

REFERENCE
12/01

POLICY ADOPTED:
POLICY AMENDED:

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Deanna D. [Signature]
Director's Signature

10/21/03
Date

Descriptor Code: FHClA

BULLYING

Bullying of any type has no place in the school setting. The (Name of District) will endeavor to maintain a learning and working environment free of bullying.

Bullying is defined as the act of one or more individuals intimidating one or more individuals through either verbal, physical, mental, or written interactions. Bullying can cause undue anxiety relative to attending school, playing on the playground, participating in or attending activities, or riding on the bus. This can adversely affect student or employee performance.

Examples of bullying include but are not exclusive to:

1. Intimidation--either physical or mental.
2. Threats of any kind.
3. Assault--verbal, physical, mental, or toward property.

The School Board expects administrators and supervisors to make it clear to students and staff that bullying in the school building, on school grounds, on the bus, or at school-sponsored functions will not be tolerated and will be grounds for disciplinary action up to and including suspension or expulsion of students, and termination for employees.

REFERENCE
02/02

POLICY ADOPTED:
POLICY AMENDED:

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10/21/03
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**TESTIMONY ON SB 2216
SENATE EDUCATION COMMITTEE**

January 21, 2003

**by Linda L. Johnson, Director of School Health Programs
(701) 328-4138
Department of Public Instruction**

Chairman Freborg and members of the committee:

My name is Linda Johnson and I am the Director of School Health Programs, including Character Education for the Department of Public Instruction. I am here to speak in favor of SB 2216.

The Department of Public Instruction currently administers a grant from the Department of Education for Character Education. One half of the State's students are in districts involved with this grant promoting respect and responsibility in our future citizens and among school staff. The language in this bill, "staff and students conduct themselves in a manner that promotes respect for all individuals", is a very common theme in these character education schools. Schools recognize the need for addressing respect issues as evidenced in many of the professional development plans written by districts.

The intent of this bill, to promote respect in both staff and students, is admirable. However, the implementation phase of this bill beginning on line 15 leaves some unanswered questions.

1. Who will monitor each school district to assure the process for grievance has been developed?
2. Who will gauge the quality of these plans?
3. How will each plan be measured to assure due process?
4. Who will do the full and complete investigation of the complaint?
5. Who will check to assure the disciplinary guidelines are appropriate?

The passage of SB 2216 with the above measures more fully defined would further assure a positive learning environment in North Dakota schools.

I will be pleased to answer your questions.

Testimony of Equality North Dakota in Support of Senate Bill 2216

Good morning, Madam Chairman and other members of the committee. My name is Robert Uebel, and I live in Fargo. I am co-chair of Equality North Dakota, the statewide advocacy organization for gay, lesbian, bisexual and transgender North Dakotans, and I'm speaking today in support of Senate Bill 2216 and the amendments offered by Sen. Christensen.

Equality North Dakota firmly believes that all students deserve a safe school environment in which they are free from harassment, bullying and discrimination. We are particularly concerned that such an environment does not yet exist for gay, lesbian, bisexual and transgender youth in North Dakota schools. Far too often, verbal and physical harassment are part of the daily school life of GLBT youth in our state. We have included written testimony from several individuals which documents the harassment they faced in our schools and the failure of administrators to take action to remedy the problems.

Just as recently as a month ago, a case in Kindred, North Dakota came to light where two individuals spoke of having been verbally harassed by a school employee and other students for allegedly being gay. According to their complaint, the school principal failed to adequately investigate the matter and take their reports of harassment seriously. The former students had to file a federal complaint before their concerns were addressed by school officials. To my knowledge the students were not seeking a financial settlement; they merely wished to have the harassment and the lack of response acknowledged and have steps taken to prevent the same thing from happening to other students in the future.

Senate Bill 2216, as it currently stands, does not include any specific protection for GLBT students, since all categories which were originally in the bill were removed in the Senate. A vague grievance procedure without enumerated categories is not sufficient to protect GLBT students. Evidence shows that school officials often do not recognize that anti-GLBT harassment and discrimination are unacceptable behaviors. Without specifically enumerating sexual orientation as a protected category, many school officials

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harassment. Or it may be the case that teachers and administrators do not feel comfortable and supported in responding to harassment of GLBT students. It is conduct - failing to act or failing to act in a reasonable manner - that opens up school districts to liability, not the adoption of an anti-harassment policy.

There is now extensive evidence that GLBT students are disproportionately targeted for harassment and discrimination in our nation's schools. The 2001 National School Climate Survey indicated that over 80% of GLBT students reported being verbally harassed because of their sexual orientation; nearly 70% reported feeling unsafe in school. Studies also indicate that school officials often fail to respond to or, in some cases, even participate in the discrimination and harassment.

The climate of fear created may result in increased absenteeism, decreased academic performance and increased risk of suicide. The National School Climate Survey also found that over 30% of GLBT students had missed at least one entire day of school in the past month because they felt unsafe.

No detailed statistics are available for GLBT students in North Dakota, because, to the best of our knowledge, student surveys have not included questions regarding sexual orientation. This fact alone shows that the concerns of GLBT youth in North Dakota are not being adequately addressed by our state's schools. Furthermore, North Dakota is the only state in the country without a single high school gay-straight student alliance. Far too often, issues regarding sexual orientation are simply ignored in our state, because they are seen as too controversial or too politically unpopular. Many continue to claim that there just aren't many GLBT people in North Dakota or that our call for full equality under the law constitutes some sort of sinister "gay agenda."

The unsupportive attitudes many GLBT youth encounter in school only serve to further paint North Dakota as a state which is unwelcoming to those who are perceived as "different." Is it any wonder that GLBT youth often see no future for themselves in North Dakota and leave the state in droves? At a time when many in our state are looking for ways to keep our young people here, we need to send the message in our schools that all students are worthy of our full respect. Thank you.

Deanna D. Smith
Operator's Signature

10/21/03
Date

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701-235-7481
e-mail: end@pridecollective.com
www.pridecollective.com/end.html

Sherri Parsons
END Co-chair

My name is Sherri Parsons and I am co-chair for Equality North Dakota. I am here to encourage you today to develop and pass effective anti-harassment school legislation. A bill that requires students and school personnel treat each individual with respect is a start, but it doesn't go far enough. For it to be effective, it needs to be specific and cover age, color, economic status, gender, intellectual ability, physical ability, race, religion, and sexual orientation. It must also allow a grievance procedure. This type of youth initiative is needed to create a safe school environment for all young people.

All North Dakota students should be treated with respect at school. Unfortunately, many are not. The young Bismarck wrestler who was sexually harassed on the bus traveling to a match was not treated with respect. A Bismarck elementary school child with a disability was harassed so severely his mother now home schools him. Our heterosexual 15-year-old daughter faces taunts from other Mandan students because she has gay parents.

A Fargo girl was verbally abused in her high school because of sexual orientation. The harassment progressed to physical assaults, which included spitting and shoving. Her art projects were defaced with graffiti. Students attempted to run her down with their vehicles. School officials did nothing to stop the harassment.

A Fargo boy suffered through grade school and junior high because he was perceived to be gay. He was continually assaulted with vulgar language and threats to his life. When he approached a teacher for help, the teacher told him he was asking for the harassment and bullying by being and acting "that way".

A Jewish student in North Dakota was continually assaulted with anti-Semitic remarks and one day found a Nazi swastika carved into her locker. A Grand Forks girl endured verbal harassment and found, "Go to hell you fucking dyke. We hate you," written boldly on her locker.

In the 2001 Student Violence and Aggressive Behavior Survey and Safe Schools Survey, 43 percent of North Dakota parents reported that their child was a victim of verbal harassment or bullying. Approximately 65 percent of North Dakota principals were concerned about children's safety in regards to verbal harassment and bullying. Fewer than half the schools that have policies addressing these behaviors track the incidents that occur. A third of the principals' report the behaviors are getting worse at their schools.

To illustrate the need for any anti-harassment policy to be specific and to have a grievance procedure, I offer the following example. Mandan Junior High has a non-specific policy requiring students and teachers to respect others. It is written in the student handbook and posted on the school walls. When our youngest child was in seventh grade, she was thoroughly enjoying a Life Science class, taught by her favorite teacher. She raved about this particular teacher and regaled us with his words of

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Sherri Parsons
END Co-chair

wisdom. However, one day she came home in tears. During a discussion on genetics, her favorite teacher, not once, but several times remarked "we don't need any more of those silly homosexuals in our world". The other students roared with laughter and made rude comments. The teacher did nothing to stop the uproar.

When we contacted the principal about the inappropriate comments, we were not given any indication our complaint would be addressed. We finally put our complaint in writing and mailed it to both the principal and the teacher. Several weeks later, in another classroom discussion the teacher attempted to remedy his earlier inappropriate comments. We commend the instructor for his efforts, but who will ever know what damage was already done? Certainly our daughter was very upset. How many other young people were affected that day – others with gay parents, brothers or sisters – maybe some discovering their own sexual orientation?

Senate Bill 2216 is needed to protect our young people. As our very wise daughter said, "School should be a place where you are safe to learn new things and be free to express yourself. You shouldn't have to worry that someone is going to call you names or hurt you." Please vote to pass specific and complete safe schools legislation. Thank you.

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Student Violence and Aggressive Behavior Survey 2001 (Principal Survey)
Safe Schools Survey (Parent Survey)

"Every day 160,000 children miss school for fear of being bullied, the National Association of School Psychologists estimates." Seppa, 1996

Recent regional academic study - "...significant numbers of students in small and rural schools appear to perpetuate bullying and suffer peer aggression" and "the effects of psychological and physical safety on academic achievement is well established" (Hoover, et al. 2000, p.9)

Percent of ND parents who said their children were victims of:

Verbal Abuse	25.2
Bullying	17.6
Theft	17.5
Fighting	10.8
Students Carrying Weapons	3.6
Hazing	2.6
Sexual Harassment	2.3

ND Principals and Parents Concerned About Children's Safety In Regards to:

	% Principals	% Parents
Verbal Abuse	62.2	39.1
Bullying	65.0	35.0
Theft	14.3	34.7
Fighting	26.9	32.0
Students Carrying Weapons	2.2	31.4
Hazing	4.8	27.0
Sexual Harassment	31.4	24.1

Study Conclusions:

Bullying and verbal abuse are behaviors with which both principals and parents are most concerned. Fewer than half the schools that have policies addressing these behaviors track the number of incidents that occur.

There may be considerable differences in how schools define certain behaviors that could affect accurate tracking and data collection, possible overlooking the need for intervention.

Only 42% of principals reported that they had conducted assessments related to the behaviors within the last two years.

Thirty percent of the principals said the behaviors were getting worse at their schools.

North Dakota Adolescent Suicide Prevention Task Force; September 2000

Sexual Orientation - the psychological problems of gay and lesbian adolescents are primarily the result of societal stigma, hostility, hatred, and isolation. Gay youths account for up to 30 percent of all completed adolescent suicides. (Perrin) A study of 137 homosexual youths found that 41 of them had attempted suicide; nearly one-half of the attempts were of moderate to severe lethality. (Remafedi 1991) Gay and lesbian youth are two to three times more likely to attempt suicide than other youth.

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North Dakota Human Rights Coalition

P.O. Box 1961, Fargo, ND 58107-1961 (701) 239-9323 Fax (701) 478-4452 www.ndhrc.org



Testimony
March 4, 2003
House Education Committee

SB 2216
Conduct by school students and staff

Madam Chairman Kelsch and members of the House Education Committee, I am Cheryl Bergian, Director of the North Dakota Human Rights Coalition. The Coalition includes a broad-based, statewide membership of individuals and organizations interested in the furtherance of human rights in North Dakota; the Coalition's mission is to effect change so that all people in North Dakota enjoy full human rights. Our work is based on the principles enunciated in the Universal Declaration of Human Rights. Article 26 of the Universal Declaration of Human Rights states that "[education] shall promote understanding, tolerance and friendship among all nations, racial or religious groups"

I speak in support of SB 2216 and the proposed amendments to SB 2216. All North Dakota students should be treated with respect at school. The effect of SB 2216 as amended would be to assist school districts in ensuring that students and staff promote respect, understanding and tolerance of each other and that if there are incidents of harassment or discrimination, that there is a process in place to further address those incidents before they have an opportunity to escalate. It is especially important that harassment or discrimination based on sexual orientation be included in this legislation. We are all familiar with the possibility of harassment or discrimination based on race or religion. However, it may not be as well known that gay, lesbian, bisexual or transgender students report being harassed at incredible proportions, rising to 80% of those surveyed (source: 2001 National School Climate Survey). Please also note that this harassment occurs because of perceived sexual orientation, not just actual sexual orientation.

SB 2216, as amended, could avert situations in which harassment and discrimination rise to the level that school districts are faced with litigation, when if an incident had been addressed early, the situation could have been resolved. I would submit to you that school districts are more likely to face litigation for failure to act to protect a student facing harassment or discrimination if they do not have policy and procedure to address incidents, because they will not become aware of incidents before they escalate to the stage that litigation is initiated.

I appreciate this opportunity to testify on behalf of the ND Human Rights Coalition.

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Deanna Walcott

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