



## GLBT Civil & Human Rights in Brief in Schools & Families

11/19/04

- (1) 14 states prohibit employment discrimination based on sexual orientation (4 include gender identity)
- (2) 29 states (plus D.C.) prohibit hate crimes based on sexual orientation (7 plus D.C. include gender identity, too)
- (3) 4 states have educators' professional ethics codes addressing sexual orientation
- (4) 9 states (plus D.C.) prohibit anti-gay harassment and/or discrimination in schools (3 include gender identity) ... over and above the protection of the U.S. Constitution & Title IX
- (5) Federal (U.S.) law assures Gay-Straight Alliances the same privileges afforded the chess club and the ski club
- (6) Federal (U.S.) law prohibits school districts from enforcing their anti-discrimination policies when it comes to Boy Scouts
- (7) Federal (U.S.) law prohibits school districts from enforcing their anti-discrimination policies when it comes to military recruiters
- (8) 23 states allow children the security of being adopted by the same-sex partner of their biological parent
- (9) Just 1 state – Massachusetts -- offers children the security of their same-sex parents being allowed to marry

**(1) 14 states prohibit employment discrimination based on sexual orientation (4 include gender identity)**

- a) **Four** states (Minnesota, Rhode Island, New Mexico and California) ban discrimination based on both sexual orientation and gender identity.
- b) **Ten** others (Wisconsin, Massachusetts, Connecticut, Hawaii, New Jersey, Vermont, New Hampshire, Nevada, Maryland and New York) ban just sexual-orientation-based discrimination.  
*-- according to the web site of the National Lesbian and Gay Task Force, 11/04*

**(2) 29 states (plus D.C.) prohibit hate crimes based on sexual orientation (7 plus D.C. include gender identity, too)**

- a) **Seven** states plus Washington, D.C. **have hate crimes laws including sexual orientation and gender identity**: California, District of Columbia, Hawaii, Minnesota, Missouri, New Mexico, Pennsylvania, Vermont
- b) **Twenty-two** other states with hate crimes laws including sexual orientation, **but not gender identity**: Arizona, Connecticut, Delaware, Florida, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Nebraska, Nevada, New Hampshire, New Jersey, New York, Oregon, Rhode Island, Tennessee, Texas, Washington, Wisconsin
- c) **Seventeen** states have hate crimes laws **not** explicitly including sexual orientation.
- d) **Four** states do **not** have hate crime laws based on any characteristics at all.  
*-- according to the web site of the National Lesbian and Gay Task Force, 11/04*



### (3) 5 states have educators' professional ethics codes addressing sexual orientation

- a) In Alaska, Connecticut, Florida and Pennsylvania "administrators can jeopardize their licenses, potentially, if they do not take sexual orientation discrimination seriously," according to attorney David Buckel of the Lambda Legal Defense and Education Fund.  
-- quoted in an article by Rebecca Jones "Your Legal Duty to Protect Gay Kids From Harassment" in the ACLU manual "Making Schools Safe" (Nov. 2002): <http://www.aclu.org/LesbianGayRights/LesbianGayRights.cfm?ID=11187&c=106>
- b) Since 1999, North Dakota's "Code of Professional Conduct for Educators" has also prohibited harassing or discriminating against students on the basis of sexual orientation.  
-- see <http://www.state.nd.us/espb/practices/ethics.htm>
- c) In addition, the codes of ethics of a number of **professional associations** prohibit discriminating on the basis of sexual orientation or requiring respect and sensitivity to all regardless of sexual orientation. These include such groups as the National Education Association, American School Health Association, American School Counselor Association, National Association of School Psychologists, and the Association for Supervision and Curriculum Development.

### (4) 9 states (plus D.C.) prohibit anti-gay harassment and/or discrimination in schools (3 include gender identity) ... over and above the protection of the U.S. Constitution & Title IX

- a) **Nine** states plus Washington, D.C. have laws **prohibiting harassment on the basis of sexual orientation in education**: California, Connecticut, Maryland, Massachusetts, Minnesota, New Jersey, Vermont, Washington, Wisconsin
- b) **Four** states explicitly prohibit discrimination or harassment on the basis of **gender identity**: California, Maryland, Minnesota, New Jersey
- c) For information about a few people's **law suits and other victories and struggles** this year, over anti-gay harassment and discrimination at school, see ...  
Webb City, MO: <http://www.aclu.org/LesbianGayRights/LesbianGayRights.cfm?ID=16915&c=106>  
Salt Lake City, UT: <http://www.aclu.org/LesbianGayRights/LesbianGayRights.cfm?ID=15675&c=106>  
Morgan Hill, CA: <http://www.nclrights.org/projects/youthproject.htm>  
Lubbock, TX: <http://www.splc.org/newsflash.asp?id=768>  
Los Angeles, CA: <http://www.qsanetwork.org/press/RamirezvLAUSD.html>

### (5) Federal (U.S.) law assures Gay-Straight Alliances the same privileges afforded the chess club and the ski club

For information about the **Federal Equal Access Act**, see:

Gay-Straight Alliances Q & A: <http://www.nclrights.org/publications/qsaga.htm>

Q&A About Gay-Straight Alliances: [http://www.qsanetwork.org/resources/pdf/GSA\\_QA.ACLU.pdf](http://www.qsanetwork.org/resources/pdf/GSA_QA.ACLU.pdf)

Defending Gay/Straight Alliances and Other Gay-Related Groups in Public Schools Under the Equal Access Act: <http://www.lambdalegal.org/cgi-bin/iowa/documents/record?record=251>

Dealing with Legal Matters Surrounding Students' Sexual Orientation and Gender Identity: <http://www.nsba.org/site/docs/34600/34527.pdf>

### (6) Federal (U.S.) law prohibits school districts from enforcing their anti-discrimination policies when it comes to Boy Scouts

For more information, see: [http://www.nea.org/nea\\_today/0203/rights.html](http://www.nea.org/nea_today/0203/rights.html)



**(7) Federal (U.S.) law prohibits school districts from enforcing their anti-discrimination policies when it comes to military recruiters**

For more information, see: <http://www.afsc.org/youthmil/news/nochild.htm>

**(8) 23 states allow children the security of being adopted by the same-sex partner of their biological parent**

- a) **Three** states **explicitly bar discrimination against a second parent of the same sex** who wants to adopt his/her partner's biological child: California, Connecticut, and Vermont.
- b) In **five** other states plus Washington, D.C. higher appellate or state supreme **courts have ruled that same sex couples are legally entitled** to adopt one another's biological children: Illinois, Massachusetts, New Jersey, New York, and Pennsylvania.
- c) In **fifteen** states there are no explicit laws or higher court precedents protecting children's rights to be legally parented by both moms or both dads, but **lower courts have allowed second-parent adoptions** for same sex couples: Alabama, Alaska, Hawaii, Indiana, Iowa, Louisiana, Maryland, Michigan, Minnesota, Nevada, New Mexico, Oregon, Rhode Island, Texas, Washington.  
*-- from the National Gay and Lesbian Task Force web site 11/2004*

**(9) Just 1 state – Massachusetts -- offers children the security of their same-sex parents being allowed to marry**

- a) Besides Massachusetts, however:
  - i) The state of **Vermont** offers children of same-sex couples *some* of the protections they'd have if their parents could marry, through something called "**civil unions**."
  - ii) **Five** other states now offer gay and lesbian couples and their families some **lesser status** besides "civil union" or "marriage," with a few of the same protections. They are Hawaii, California, Maine, Delaware and New Jersey. Most of these states also have laws or constitutional amendments that prohibit actual marriage.  
*-- according to the NY Times, 11/12/04*
- b) On the other hand:
  - i) "In 1996, Congress passed and President Clinton signed the 'Defense of Marriage Act.' It limits the **federal definition of marriage to exclude same-gender couples** and bars [legally married] same-gender couples [who might have been married in a country that allows same-sex marriage or in Massachusetts] from receiving the federal economic protections and recognition afforded opposite gender couples."  
*-- from the web site of COLAGE (Children of Lesbians and Gays Everywhere) 11/04*
  - ii) **Seventeen** states have **constitutional amendments** that prohibit same-sex marriage. (The amendments in Arkansas, Kentucky, North Dakota, Ohio, Oklahoma, and Utah prohibit even civil unions and/or other forms of legal protection for these families, as well as prohibiting marriage.)
  - iii) Another **twenty-four** states have **laws** that ban same-sex marriage. (Lawsuits currently working their way through the courts in 11 states may overturn some of these.)  
*-- according to the NY Times, 11/12/04*