

## SB 48: The Fair, Accurate, Inclusive, and Respectful (FAIR) Education Act

SB 48 has three provisions that instruct public schools and the State Board of Education to:

- ✓ Add to instruction in history-social science about the role and contribution of persons with disabilities and lesbian, gay, bisexual, transgender Americans and other ethnic and cultural groups to the economic, political, and social development of California and the United States with a particular emphasis on portraying the role of these groups in contemporary society,
- ✓ Prohibit teachers from instructing, or a school district from sponsoring, any activity that promotes discriminatory bias on the basis of race or ethnicity, gender, religion, disability, nationality, or sexual orientation,
- ✓ Adopt textbooks and instructional materials that accurately portray groups as identified.

**Note:** This law does not change the social science content standards, nor does it include any authority for the State Board of Education (SBE) to change the standards to reflect the law's provisions.

The law took effect January 1, 2012. However, it is up to local districts (administrators, school board, and the teacher) to determine how the instructional content is covered and at which grade level(s). The law provides a great deal of flexibility on how is implemented.

School districts should be open and transparent in determining policies with regard to the implementation of this and any legislation.

The California Safe Schools Coalition recommends for Local School Officials and Administrators to:

- ✓ Make age-appropriate LGBT issues a regular part of the curriculum (e.g. current events, history, social sciences, and literature)
- ✓ Identify and eliminate barriers to inclusion of LGBT issues in the curriculum and support efforts to make curriculum more inclusive
- ✓ Encourage teachers to address LGBT issues within existing statewide Curriculum standards and frameworks. Arrange for staff training on age-and subject appropriate LGBT inclusive curriculum implementation

Resources:

California Three Rs Project: Rights, Responsibility, and Respect: [www.CA3RsProject.org](http://www.CA3RsProject.org)

LAUSD Office of Human Relations, Diversity, and Equity:  
[http://notebook.lausd.net/portal/page?\\_pageid=33,1166406&\\_dad=ptl&\\_schema=PTL\\_EP](http://notebook.lausd.net/portal/page?_pageid=33,1166406&_dad=ptl&_schema=PTL_EP)

The California Department Of Education: [www.cde.ca.gov/ci/cr/cf/senatebill48faq.asp](http://www.cde.ca.gov/ci/cr/cf/senatebill48faq.asp)

The California Safe Schools Coalition: [www.casafeschools.org](http://www.casafeschools.org)

Teaching Tolerance (Classroom activities, teaching kits, prof. development): [www.tolerance.org](http://www.tolerance.org)



**California Three Rs Project**  
**Rights, Responsibilities, and Respect**  
A Project of the California County Superintendents Educational Services Association  
and the First Amendment Center at Vanderbilt University and the Newseum

**Finding Common Ground in Public Schools on the Difficult Issue  
of Student Sexual Orientation Policy**

Dr. Margaret Hill, Director CA 3Rs Project

Many public schools in California have become a front line in the escalating debates over homosexuality in American society. Conflicts over issues involving sexual orientation in the curriculum, student dress and speech policies, campus clubs and anti-bullying efforts increasingly divide communities, spark bitter lawsuits, and undermine the educational mission of schools. In the next months the 3Rs Finding Common Ground Process will be critical as educational leaders and communities develop school policies related to the passage of *The Fair, Accurate, Inclusive, and Respectful (FAIR) Education Act*, otherwise known as Senate Bill 48. According to the bill's co-sponsors, Equality California and the Gay Straight Alliance Network, its purpose is to end LGBT history exclusion in education and to promote school safety. The FAIR Education Act's purpose is based on a recent study by California Safe Schools Coalition showing that inclusion of LGBT people in instructional materials is linked to greater feeling of safety at school for both straight and gay students and lower rates of bullying. The California Senate Bill 48 Fact Sheet states that schools where the contributions of the LGBT community are included in educational instruction, bullying declined by over half and LGBT students were more likely to feel they have an opportunity to make positive contributions at school.

SB48 has three provisions that instructs public schools and the State Board to:

1. Add to instruction in history-social science about the role and contribution of persons with disabilities and lesbian, gay, bisexual, and transgender Americans and other ethnic and cultural groups to the economic, political, and social development of California and the United States with a particular emphasis on portraying the role of these groups in contemporary society,
2. Prohibit teachers from instructing, or a school district from sponsoring, any activity that promotes discriminatory bias on the basis of race or ethnicity, gender, religion, disability, nationality, or sexual orientation,
3. Adopt textbooks and instructional materials that accurately portray groups as identified.

Educators and community leaders tasked with implementing these changes in the California Education Code must stay on the focus of the purpose of the bill or be lost in the rhetoric of past clashes among differing worldviews over issues involving schools and the lesbian, gay, bisexual, and transgender (LGBT) community. An important way to do this is for educators and communities to build their process for creating policies on the principles of the First Amendment by only supporting policies that **respect** the **rights** of people to have differing views, some based on religious understandings, as well as the **responsibility** imperative to protect the physical and psychological safety of young people in their critical formative years.

Public schools belong to all Americans. For the 3Rs Common Ground Process to work, school officials must be fair, honest brokers of a dialogue that involves all stakeholders. That means, first

and foremost, that school leaders must refrain from choosing sides in the culture-war debate over homosexuality, and to fairly and sensitively implement the changes in the California Education Code they are required to do by January 2012.

A good first step in toning down the rhetoric so that people do not exacerbate divisions by shouting past one another is to seek common ground around the goal of the new legislation. In this case the purpose is one that educators, parents and the public alike can identify as the critical need for schools... to provide a safe, supportive learning environment for all students. One of the biggest challenges to success in this always difficult task has been the loss of anonymity and the explosion of bullying with the advent of social media. The vulnerable years of adolescence, when students of vastly different educational needs, feelings about themselves, and relationships to others are the times when bullying and harassment have the most devastating consequences. Some students come to school seeking meaning and acceptance and instead find intolerable pain and rejection. The authors of SB48 point out the group with the highest suicide rate resulting from school bullying and hazing has been LGBT students. Their claim has long been documented. A 1989 U.S. government study found that LGBT youth are two to three times more likely to attempt suicide than other young people.<sup>1</sup> This finding was supported by a 2001 study that found LGBT adolescents 2.3-2.5 times more likely to commit suicide than their heterosexual peers.<sup>2</sup> The suicide rate has not abated among LGBT students in the last 10 years, and if anything several recent high profile cases have led many people to believe there has been an increase. These feelings of hopelessness seem to start early. By middle school, studies show that students who are bullied based on actual or perceived sexual orientation feel so unsafe that they skip school and their grades suffer compared to their peers.<sup>3</sup>

A few years ago, the First Amendment Center brought together representatives from the American Association of School Administrators, the Association for Supervision and Curriculum Development (ASCD), BridgeBuilders, the Christian Educators Association International, and the Gay, Lesbian and Straight Education Network (GLSEN) to develop a consensus document on a process to resolve conflicts related to sexual orientation and public schools. The document this group developed, entitled *Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground*, is available in pdf format at the First Amendment Center website <http://www.firstamendmentcenter.org/publications>. Scroll to the section on religion.

*Public Schools and Sexual Orientation* first acknowledges that no ideological or religious consensus is possible in today's diverse society. But it further argues that a civic agreement is not only possible, but essential to creating the kinds of schools and communities where young people of all backgrounds and orientations can grow and thrive. The place to begin is for school districts to form a Common Ground Task Force around the Three Rs Principles of Rights, Responsibilities and Respect.

**Rights:** Religious liberty and freedom of expression are inalienable rights for all people guaranteed by the First Amendment of the U.S. Constitution. Every effort must be made in public schools to protect these rights for all students.

**Responsibilities:** All American citizens have the civic responsibility to respect and protect these rights for everyone, including those with whom we deeply disagree.

**Respect:** Conflict and debate are fundamental, maybe even essential elements of a democratic society. How people debate is a critical element of finding common ground. Especially in a public school setting debate must be civil and respectful, always striving to be accurate and fair.

## **Steps to Finding Common Ground**

(Adapted from the *Public Schools and Sexual Orientation*)

1. Create a “common ground task force,” appointed by the district school board and representing a wide range of community views and school leaders. By building relationships among people of opposing views, the task force builds trust and mutual respect that may lead to finding the middle ground for agreements on policy and practice that supports the needs of all students.
2. Agree on the civic ground rules, preferably around the 3Rs Principles of Rights, Responsibilities and Respect. Review and come to a shared understanding about current state law including the Education Code related to the issues of LGBT in public schools and the research on which they are based. This will set the parameters of the discussion.
3. Include all the stakeholders in public education policy. Affirm that democracy does not require people to compromise their most deeply held convictions but it does require us to state our views in a respectful manner. If everyone does this, creative solutions often emerge and people whose views have been respected tend to become advocates for these compromises in support of all the students.
4. Think outside the “us vs them” political boxes. Public schools have the role of serving the needs of all children in the community and creating policies that support the common good.
5. Listen to all sides. On the ground experience of Finding Common Ground Process facilitators has shown that given the opportunity, the vast majority of parents, students, administration and school board members commit to principled dialogue that will work for solutions that bring the school and community together.
6. Work on agreements on civic principles and the need for a safe, welcoming learning environment for all students. For the process to be successful, it is important to start deliberations where agreement is most likely. All parents want a school that is safe and free of bullying and harassment for young, vulnerable people. Work for policies that provide appropriate avenues for students to seek adult support, that prohibit mistreatment, and that provide appropriate procedures for redress of grievances.
7. Provide students a wide number of educational opportunities for civic dialogue using the 3Rs principles described above. Recent research in civic education has shown that providing experiences to apply academic content to real world issues and opportunities to deal with controversial issues in an open and balanced manner builds critical skills for citizenship. These skills lead students to become more committed to the democratic process and to participate constructively and frequently in finding solutions to issues for the common good. This in itself will lead to a safer learning environment for all students.

## **Classroom Materials**

After the Common Ground Process is in place, and trust is established, schools and communities are ready to begin the process of determining what types of instructional materials relating to LGBT issues to include in the curriculum. The goal is to provide accurate depictions of LGBT Americans in history-social science classrooms the inclusion of which, as research by the California Safe Schools Coalition has shown, will in turn lead to an increasing respect for differences and a safer learning environment for gay and straight students alike. The new sections of the Education Code suggest the inclusion of fair, inclusive and age-appropriate materials in the same way as they have been used in teaching about the contributions of other groups listed in education code such as ethnic and racial minorities. *There is no mandate for specific materials or lesson topics.*

Recent budget cuts led to the suspension of the curriculum development process at the state level, but did not suspend the H-SS Content Standards. The process for coming up with materials to

implement the Education Code changes needs to begin at the local level with the current curriculum as the base. The Finding Common Ground Process will point to the areas in the curriculum most likely to be areas of agreement for inclusion.

Senate Bill 70 (Chapter 7 of the Statutes of 2011) extended the suspended State process and procedures for adopting instructional materials, including framework revisions until the 2015-16 school year. In a public statement at the time SB48 was signed into law by governor Brown on July 13, 2011, Superintendent of Public Instruction Tom Torlakson said that the California Department of Education would begin to provide instructional materials support to schools when the curriculum process was reinstated.

However, knowing that many districts are under intense pressure to come up with a response to the legislation, the Instructional Resources Unit of the California Department of Education has provided clarification about the new legislation in **Frequently Asked Questions: Senate Bill 48** <http://www.cde.ca.gov/ci/cr/cf/senatebill48faq.asp>. Also posted at the CDE website is support material for schools addressing the issue of bullying, the primary intent of SB48, entitled **Bullying and Hate-Motivated Behavior Prevention** <http://www.cde.ca.gov/ls/ss/se/bullyingprev.asp>.

SB 48 changes to the California Education code take effect in January 2012. This date of implementation allows time for the Finding Common Ground Process but also reinforces the fact that the issue is a local matter at this time. Several state curriculum organizations are currently evaluating existing resources and developing supplemental materials to assist schools and districts until the textbook adaption process is reinstated. Some county offices of education are also at work on such efforts.

As resources become available, the California 3Rs Project will post them on our website at <http://CA3RsProject.org>. Two consultants with experience in both 3Rs work and conflict resolution are also available to districts:

Dr. Wayne Jacobsen of **BridgeBuilders** <http://www.bridge-builders.org/>, one of the consensus team that developed the Public Schools and Sexual Orientation Guidelines has worked on these issues all across the U.S. and is on the Advisory Board for the California Three Rs Project.

Marcia Beauchamp of **Beauchamp Consulting**, <http://www.linkedin.com/in/marciabeauchamp>, former director of the California Three Rs Project now living in Oklahoma, has had good success in bringing groups together around these issues.

#### References in the Article

1. Feinleib, Marcia R., Ed. "Report of the Secretary's Task Force on Youth Suicide." Alcohol, Drug Abuse, and Mental Health Administration (DHHS/PHS), Rockville, MD. 1989.
2. Russell ST, Joyner K (August 2001). "Adolescent sexual orientation and suicide risk: evidence from a national study," *American Journal of Public Health* **91** (8): 1276-81.
3. California Safe Schools Coalition (2006). "LGBT Issues in the Curriculum Promotes School Safety." (California Safe Schools Coalition Research Brief No. 4). San Francisco, CA.

## Resources for Educators and Communities

**ACLJ (American Center for Law and Justice)** “Parent Rights in Education.”

<http://aclj.org/education/parental-rights-in-education>

**Bill Documents Related to SB 48** [http://www.leginfo.ca.gov/cgi-](http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=sb_48&sess=CUR&house=B&author=alquist)

[bin/postquery?bill\\_number=sb\\_48&sess=CUR&house=B&author=alquist](http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=sb_48&sess=CUR&house=B&author=alquist)

**California Safe Schools Coalition Research Brief #4**, “LGTB Issues in the Curriculum Promotes School Safety,” <http://www.casafeschools.org/FactSheet-curriculum.pdf>

**California Safe Schools Coalition Tools** “ Question & Answer Guide On California’s Parental Opt-Out Statutes: Parents’ and Schools’ Legal Rights and Responsibilities Regarding Public School Curricula.” <http://www.casafeschools.org/tools.html>

**FAIR Education Act (SB 48) Fact Sheet**

<http://www.gsanetwork.org/files/.../FAIR%20Education%20Fact%20Sheet.pdf>

**First Amendment Center** (Consensus Document) “Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground,”

<http://www.firstamendmentcenter.org/publications>.

Haynes, Charles and Oliver Thomas. **Finding Common Ground: A First Amendment Guide to Religion and Public Schools**. First Amendment Center

<http://www.firstamendmentcenter.org/publications>

**Safe School Coalition Bullying, Harassment, School-based Violence**

[http://www.safeschoolscoalition.org/RG-bullying\\_harassment\\_schoolbasedviolence.html](http://www.safeschoolscoalition.org/RG-bullying_harassment_schoolbasedviolence.html)

**Student Religious Rights: Survival Tips for School Boards**

[http://legalclips.nsba.org/?page\\_id=634](http://legalclips.nsba.org/?page_id=634)

## Contact Information

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**Los Angeles Unified School District  
Commission on Human Relations, Diversity and Equity**

**Lesbian, Gay, Bisexual and Transgender and Sexual Orientation Anti-Bullying Resolution**

WHEREAS, anti-LGBT (lesbian, gay, bisexual, and transgender) language and bullying targeting both LGBT and non-LGBT individuals are pervasive and have resulted in harassment, hate crimes, suicides, killings, and other tragedies,

WHEREAS, California passed the Safe Schools Act of 2000 and LAUSD created Project 10 over 25 years ago to make schools safe from such behavior, and previous policies, memoranda, and resolutions, have reinforced that goal,

WHEREAS, SB 48, the FAIR Education Act of 2011 mandates that public schools include the contributions of lesbian, gay, bisexual and transgender American in its curriculum,

WHEREAS, LAUSD has a responsibility to provide a safe environment for students and staff,

WHEREAS, this behavior affects and is affected by students and staff; now, therefore be it

Resolved, that upon the recommendation of the Los Angeles Unified School District Commission on Human Relations, Diversity, and Equity the Governing Board of the Los Angeles Unified School District require that all schools be proactive in decreasing anti-LGBT language and bullying by:

- Promoting positive images of LGBT individuals
- Making available age-appropriate LGBT inclusive curriculum for elementary and secondary schools;
- Requiring that newly adopted social studies materials include positive representations of LGBT and persons with disabilities
- Including LGBT sensitivity in outreach, education, and training for students, parents, and staff
- Reminding staff of their duty to ensure that all students are safe and affirmed on campus, and to proactively intervene with acts of bias, harassment or bullying that they see, including, but not limited to LGBT-biased language and bullying.
- Implementing for all staff a training specifying legal responsibilities, effective practices, and concerns unique to LGBT individuals, similar to the district's child abuse module; and, be it finally

Resolved, that the Superintendent shall report back to the Board on the status of, and plan for, implementation of each point in the above resolution within 60 days.

*Approved September 13, 2011*