

SCHOOL HARASSMENT AND BULLYING



SOME NEW AND OLD TOOLS IN THE LEGAL TOOLKIT

Recent tragedies around the country have renewed the focus on the very real consequences of bullying in schools. This fall alone, several students committed suicide after being harassed and bullied, in many instances because they were gay, including Rutgers freshman Tyler Clementi, whose roommate secretly recorded and broadcast a video of his sexual encounter with another man. A 2009 survey of middle and high school students found that nearly 9 out of 10 LGBT students (84.6%) experienced harassment at school in the previous year.

There is a growing public will to acknowledge that we can't dismiss school bullying as simply a part of growing up, with a "kids will be kids" approach. For example, the It Gets Better Project is an internet phenomenon featuring thousands of videos posted by gay adults, urging LGBT teens not to commit suicide. The legal community is also following this anti-bullying trend. We hope stronger legal protections, including a new law in Washington, can provide new tools to address the harmful effects of school harassment and bullying, all of which ultimately result in the denial of equal educational opportunity.

A NATIONWIDE CIVIL RIGHTS ISSUE

Just last month, the federal enforcing agency, the U.S. Department of Education's Office for Civil Rights (OCR), took action to assist students who are bullied. The OCR issued guidance to schools, reminding them that bullying can in certain circumstances violate not only school policies, but also students' federal rights. Existing civil rights laws already protect against certain types of harassment. This includes Title IX of the Educational Amendments of 1972, which prohibits sex-based harassment in schools. The OCR guidance confirms that schools must investigate known possible incidents of student-on-student harassment and take prompt and effective steps reasonably calculated to end the harassment.

In addition, the guidance clarifies that gender-based harassment may include the types of bullying behavior that Tyler Clementi and other LGBT students have experienced: acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping: *"Thus, it can be sex discrimination if students are harassed either for exhibiting what is perceived as a stereotypical characteristic for their sex, or for failing to conform to stereotypical notions of masculinity and femininity."*

ANTI-BULLYING LEADERSHIP IN THE NORTHWEST

As a part of the Washington Safe Schools Coalition, Legal Voice has protected kids by helping Washington State become a leader in promoting anti-bullying and anti-harassment efforts. Since 2002, Washington has required all schools to adopt policies prohibiting harassment, intimidation, or bullying. In 2010, in response to a study finding that bullying had not declined despite this law, the Legislature passed a new law (HB 2801) requiring the Office of Superintendent of Public Instruction (OSPI) to revise and update its model policies and procedures for responding to bullying. To create greater consistency in schools' treatment of bullying, schools must then conform their anti-bullying policies to the revised model, and ensure that parents, students, teachers, employees and volunteers know about those policies. .

Washington is now one of only a few states to explicitly protect students against discrimination based on sexual orientation and gender identity. This year, the Washington Legislature enacted a new law (HB 3026) prohibiting discrimination in schools based on sexual orientation, including gender expression or identity, as well as race, creed, religion, color, national origin, veteran or military status, and disability. This augments existing state law, which already included protections against discrimination based on sex, and federal civil rights laws, which offered some protections based on other characteristics. Further, the new legislation allows the state OSPI to monitor and enforce this and other state and federal civil rights laws.

To some degree, the old adage that "girls will be girls, and boys will be boys" may be true. But we can work toward stronger laws to ensure that girls and boys who don't act like stereotypical girls or boys don't lose out on their education – or worse, pay for their nonconforming behavior with their lives.



Photographs by Elisa Sherman

AND THE WINNING BIDDER IS...

YOU! Thank you to all of our friends, fans, sponsors and colleagues who participated in Legal Voice's Annual Auction on Saturday, October 2 at the Seattle Renaissance Hotel! It was a smashing success. With your help, we raised more than \$110,000! Guests dashed away with trips to Mexico, homemade dinners and house parties, photography, tickets to sporting events and the arts, and desserts!

We couldn't have done it without all of the generous support of this year's sponsors. Thank you.



LORETTA'S STORY

Her first partner abused one of her sons while babysitting the child. After ending that relationship because of the abuse, Ms. Vandermeer had a relationship with a partner who abused her. Although Ms. Vandermeer was able to escape that relationship, the court terminated her parental rights due to her "decision-making with respect to men."

Ms. Vandermeer's case is an example of how victims of domestic violence are punished for the actions of their abusers. This policy of "blaming the victim" is not only blatantly unfair, but also sends a dangerous message: If a mother reports domestic violence to the police, she may risk losing her children.

We learned of this case from Mindy Carr, a former Legal Voice intern who represented Ms. Vandermeer in appealing the termination ruling. With cooperating counsel Rima Alaily of Microsoft and Molly Terwilliger of Summit Law Group, Legal Voice submitted an amicus curiae brief on Ms. Vandermeer's behalf to the Washington Court of Appeals. We argued that domestic violence victims should not be blamed for the actions of their abuser and pointed out how the termination decision was contrary to Washington's laws and policies that seek to protect victims of domestic violence and to hold abusers accountable.

In September, the Court of Appeals agreed that Ms. Vandermeer's parental rights were wrongly terminated and reversed the trial court's decision. But while her appeal of the parental termination decision was pending, her sons were adopted by another family. This means the children (not to mention Ms. Vandermeer and the adoptive family) will face even more disruption to their lives as the adoption is dissolved. All of this could have been avoided if the system had treated Ms. Vandermeer fairly in the first place.

So while we're pleased by this victory for Ms. Vandermeer, we know that many other victims of domestic violence are still at risk of losing their children. We will continue fighting to protect the parental rights of domestic violence survivors and to ensure that victims are not blamed for abuse committed by their partners.

PROTECTING THE PARENTAL RIGHTS OF DOMESTIC VIOLENCE SURVIVORS

LEGAL VOICE DEFENDS WOMEN'S RIGHT TO DECIDE HOW TO FORM AND MAINTAIN THEIR FAMILIES

Last year, a Washington state court terminated Letitia Vandermeer's parental rights to her two young sons. The evidence at trial showed that she had excellent parenting skills and never harmed her children. But the trial court still found that she was an unfit parent. The reason? She had been in relationships with two abusive men.

WOMEN'S BILL OF RIGHTS UPDATE

The right to economic equality and independence

BIG WIN FOR WORKING PARENTS!

A federal court in Spokane, Washington, concluded in October that treating women adversely because they are pregnant or new mothers is illegal gender discrimination. Norma Maxwell was criticized by her employer for having a negative attitude at work during her pregnancy. Despite her past stellar work performance, the employer believed that Ms. Maxwell's work would suffer "because the children will come first." Just a few weeks after returning from maternity leave, she was fired.

In ruling that the employer had discriminated against Ms. Maxwell, the Court said the employer "type-cast" Ms. Maxwell and "appears to have been convinced that as a new mother Ms. Maxwell would not be as good of an employee as she had been prior to her second pregnancy, regardless of any individualized evidence to the contrary."

Legal Voice, along with cooperating counsel Kammi Mencke Smith of Winston & Cashatt, celebrates this decision as a victory for our client, and for working parents everywhere.



The right to be safe

DOMESTIC VIOLENCE SURVIVOR IS FIRED FOR PROTECTING FAMILY; LEGAL VOICE SUES

The injustice is unbelievable: an eastern Washington woman was abused and stalked by her husband; when she took time off to get her family to safety she was fired. Legal Voice stepped in to represent her in a lawsuit against her former employer.

Our client, "Jane," filed the lawsuit under a pseudonym because she fears for her life. Jane secretly relocated to Moses Lake, Washington, to start a new life with her children after fleeing her abusive husband. She explained to her supervisors at work her fears and her history of being abused. A protection order prohibited her ex-husband from coming near her or her children because of multiple incidents of domestic violence, including threats to kill her. In 2008, Jane's ex-husband found her in Moses Lake and began stalking her and her children.

Fearing for her own and her children's safety, she again spoke with her supervisors and took time off to confer with the police, research options for secure shelter, and make sure her children could safely attend school. Rather than provide any support or assistance to Jane, her employer, in direct violation of state law, initially sanctioned, then ultimately fired her.

Jane is the first person to file suit under the Domestic Violence Leave Act, a Washington state law passed in 2008 that requires employers to give employees reasonable time off to attend court, take steps to achieve safety, and ensure the safety of their children if the employee is a victim of domestic violence, sexual assault or stalking.

Jane was fired for protecting her family. Not only is it outrageous and wrong: it's also illegal. Working with our co-counsel Columbia Legal Services in Moses Lake, we are seeking justice for Jane and for women across the Northwest who work hard to protect their families.



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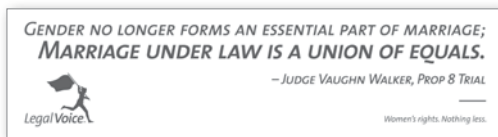
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NEW!
LEGAL VOICE
BUMPER STICKERS



Thanks to the generosity of a Legal Voice supporter who donated the printing costs, now even your car can sport a Legal Voice look. We're featuring Judge Vaughn Walker's up-to-date definition of marriage from the recent Prop 8 trial: "Gender no longer forms an essential part of marriage; Marriage under law is a union of equals."

<http://tinyurl.com/LegalVoiceStore>

SAVE-THE-DATE!

Legal Voice's Cocktails for a Cause: Thurs., March 24, 2011
Legal Voice's Annual Auction: Sat., September 24, 2011



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