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Support HB 1942: Ensure Safe, Accountable, Bully Free Texas Schools

HB 1942 would amend the Texas Education Code to better ensure that school districts investigate and remedy instances of bullying on their campuses. HB 1942 would also ensure that curriculum include lessons on evidenced based approaches to addressing bullying in Texas' schools.

HB 1942 would clarify the existing authority, and duty, to protect students from bullying. Under Chapter 37 of the Texas Education Code, school districts are required to include a prohibition against bullying in their student codes of conduct. In addition, current law requires "that district officials enforce those prohibitions[.]"ⁱ Unfortunately, many reports of bullying are not addressed by school officials. As a 2007 GLSEN survey found, only 32% of Texas students who reported incidents of bullying to district officials had effective intervention.ⁱⁱ HB 1942 strengthens the obligation to prohibit bullying and enforce the prohibition by ensuring that district policies include a procedure for reporting, investigating, and responding to instances of bullying on their campuses. By providing additional guidance to Texas' public schools, HB 1942 would help ensure that all district employees are on the same page.

HB 1942 would strike a proper balance between ensuring protection for the victims of bullying and ensuring the protection of First Amendment speech rights. The US Supreme Court has stated that district officials have limited authority to curtail students' free speech rights to "facilitate education and maintain order" in school, but once students exit the schoolhouse gate they are no longer students, but minors who happen to be students, and therefore regain whatever rights they shed upon entry.ⁱⁱⁱ By limiting the authority of school officials to discipline students for speech that occurs on-campus or at school sponsored events, HB 1942 would both provide district officials with a clear definition for actions that constitute bullying as well as ensure that districts do not infringe on minor's constitutionally protected free speech rights.

HB 1942 would provide students with educational tools to help nip bullying in the bud. Ensuring enforcement of the existing bullying prohibition is only part of the solution to combating bullying in Texas' public schools. Any solution must also include a process for educating students about the pitfalls of bullying. HB 1942 would provide guidance to the Texas State Board of Education to ensure that the next round of health curriculum include a discussion of evidenced based approaches to effectively address awareness, prevention, identification, and resolution of and intervention in bullying. In doing so, HB 1942 would utilize proven methods for teaching Texas' children about why bullying is wrong.

ⁱ TEX. EDUC. CODE § 37.001(a)(7) (Under the Education Code, school district codes of conduct must “prohibit bullying[] [and] harassment ... and ensure that district officials enforce those prohibitions[.]”).

ⁱⁱ GLSEN Research Brief, *Inside Texas Schools: The Experiences of LGBT Students* (2007) *available at* <http://www.glsen.org/cgi-bin/iowa/all/library/record/2235.html?state=research&type=research>.

ⁱⁱⁱ In each of the US Supreme Court’s four student-speech cases, the Court focused on school officials’ control over in-school speech. In upholding a school’s punishment of a student for unfurling a banner advocating drug use during a school-sponsored field trip, the Court recognized that “the rights of students must be applied in light of the special characteristics of the school environment.” *Morse v. Frederick*, 551 U.S. 393, 397 (2007) (citations and quotations omitted). In upholding censorship of school-sponsored student newspapers, the Court noted that “[t]he determination of what manner of speech in the classroom or in school assembly is inappropriate properly rests with the school board.” *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 267 (1988). The Court has also held that lewd and profane speech “has no place” in a “high school assembly or classroom.” *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675, 686-87 (1986). And the Court’s holding that schools can prohibit students from engaging in speech at school if it will cause a material and substantial disruption to the school day recognized school officials’ “comprehensive authority ... to prescribe and control conduct in the schools.” *Tinker v. Des Moines Indep. Sch. Dist.*, 393 U.S. 503, 508 (1969). Furthermore, the Court in *Morse* noted that *Fraser* drew an explicit distinction between in-school and out-of-school speech, and the Court emphasized the strict limits on a school district’s authority to punish a student under *Fraser*’s rationale. “Had Fraser delivered the same speech in a public forum outside the school context, it would have been protected. In school, however, Fraser’s First Amendment rights were circumscribed ‘in light of the special characteristics of the school environment.’” *Morse*, 551 U.S. at 405 (citations omitted) (*quoting Tinker*, 393 U.S. at 506). *Morse* also noted that *Kuhlmeier* drew the same in- and out-of-school speech distinction. *See Morse*, 551 U.S. at 405-06 (“*Kuhlmeier* acknowledged that schools may regulate some speech ‘even though the government could not censor similar speech outside the school.’”) (emphasis added) (*quoting Kuhlmeier*, 484 U.S. at 266).