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NYCLU REPORT EXPOSES ILLEGAL TREATMENT OF TRANSGENDER AND GENDER NONCONFORMING STUDENTS IN NEW YORK PUBLIC SCHOOLS

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NEW YORK — The New York Civil Liberties Union today released a report today revealing the serious and pervasive discrimination and harassment faced by transgender and gender nonconforming youth in New York public schools across the state. Despite New York’s reputation as a progressive leader, the state is failing to protect the right to an education of one of its most vulnerable student populations.

“In public schools across New York, transgender and gender nonconforming children as young as five face relentless harassment, threats and even violence for trying to access their right to an education,” said NYCLU Executive Director Donna Lieberman. “And instead of supporting kids, too many schools are magnifying the problem by imposing discriminatory and even illegal policies.”

The report, *Dignity For All? Discrimination Against Transgender and Gender Nonconforming Students in New York State*, documents anti-transgender discrimination in public schools since the passage of the Dignity for All Students Act five years ago, state civil rights legislation that was supposed to protect all public school students from bullying and harassment and explicitly prohibits discrimination based on actual or perceived gender, gender identity and gender discrimination. Unfortunately, the State Education Department has failed to provide schools with guidance on applying the law to transgender youth. As a result, communities large and small across the state have created their own ad-hoc policies – most of which are insufficient, illegal and deeply damaging to transgender and gender nonconforming youth. The NYCLU regularly receives requests for legal assistance from children and families across the state, and

Dignity for All? is based on those stories, as well as analysis of harassment incidences reported under the Dignity Act by the state.

The NYCLU's analysis of statewide data in *Dignity for All?* shows that incidents of harassment involving gender stereotypes (*i.e.*, harassment related to a student's sex, gender or sexual orientation) were the most commonly reported incidents of harassment in public schools. During the 2012-13 school year, New York schools reported 24,478 incidents of harassment under the Dignity Act, 19 percent of which were related to gender stereotypes.

"My daughter Sara* suffered so much bullying in ninth grade that she had an emotional breakdown over her safety. We have reported so many bullying incidents to the school -- but not a single one was recorded or investigated," said Michele, mother of a transgender youth from the North Country region of New York who is featured in the report. "Her anxiety and depression now make it impossible for her to go to school. Families are struggling. Kids are struggling. We need support."

Student stories in the report provide a snapshot of the damaging school climate that pushes transgender and gender nonconforming youth out of school across the state.

Despite the fact that gender transition for most young children involves no medical intervention, administrators routinely require burdensome medical or legal "proof" of a student's gender identity or ask invasive and inappropriate questions. Gender nonconforming students are often targeted for "dress code violations" that can even lead to disciplinary action. Many transgender students also keep their status private – they have a constitutional right to do so – but schools as a matter of course "out" them to the classmates and staff by refusing them access to the appropriate bathrooms. Most students featured in this report were discouraged or outright prohibited from playing on sports teams that correspond with their gender identity

"I wanted to be private about my transgender status, but my school wouldn't even agree to call me 'he' or put my name on attendance sheets. It's like I don't belong in

my own school. I had an anxiety attack and just broke down,” said Locke, an 18-year-old student from the Southern Tier region of Upstate New York. “I don’t have parents that back me up so I’m doing my best to advocate for myself, but I don’t know where to turn.”

Compounding these violations is the fact that in New York, many school staff members – even those trained according to the Dignity Act’s requirements – receive little to no guidance about how to set up a gender-inclusive learning environment. Transgender youth feel antagonized and avoid reporting incidents of harassment out of fear they will be labeled “troublemakers.” Schools in turn fail to provide a complete picture to the state: One-third of schools in New York State did not report any data whatsoever on harassment and discrimination for the 2012-13 school year.

Discrimination is harmful to all students, but for transgender students, it also undermines their full integration into society. National data links harassment in schools to sky-high rates of depression, unemployment and homelessness for transgender individuals. A staggering 41 percent of people who are transgender will attempt suicide at least once. Virtually all transgender students whose stories are featured in *Dignity for All?* have asked to leave school or have taken matters in their own hands by avoiding classes and disengaging from the school community.

“Our report documents what many have known for years: that discrimination on the basis of gender identity and expression is pervasive in New York public schools and the rights of transgender and gender nonconforming students remain largely misunderstood by educators and administrators,” said NYCLU Lead Organizer Lauren Frederico, an author of the report. “Only clear and immediate action by the State Education Department will ensure the rights of transgender and gender nonconforming students are respected in all schools across the state.”

The NYCLU included in its report a model policy for school districts to follow to ensure that all students are respected and nurtured, regardless of their gender identity or expression. It also recommends the State Education Department take

the following actions to ensure that all New York public schools know how to comply with state and federal law:

- **Issue immediate guidance and training for all school staff.**

Issue clear and immediate guidance outlining the responsibilities of all schools to respect the preferred names and gender pronouns of students, provide all students with access to restrooms and locker rooms that correspond with their gender identity, provide private bathrooms and changing spaces to all students who desire additional privacy, and provide transgender students the same opportunities to participate in sports and physical education as other students.

Require mandatory and regular training for all adults working in schools – not just teachers – to ensure they understand the range of gender identities and expression and know what they can do to create a supportive environment for all students.

- **Improve data collection and reporting.**

Increase oversight to ensure all schools are in compliance with Dignity Act reporting requirements and revise the current Dignity Act reporting form to clarify what information must be captured. In addition, creating a shorter reporting period (currently, schools report incidents only once every school year) would assist in tracking and addressing ongoing violations.

- **Ensure all schools have an accessible, confidential means of accepting complaints or reports of discrimination, harassment and bullying.**

- **Pass and enforce a Commissioner's Regulation to ensure transgender and gender nonconforming youth have the same educational benefits and opportunities that all students are entitled to.**

To read the full report, see photos and video of one of the students featured or to learn more about the ongoing advocacy visit: <http://www.nyclu.org/news/report->

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*Most of the students featured in the report are referred to by pseudonyms to protect their privacy.

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