

Lesbian, Gay, Bisexual, and Transgender Students



United States Student Association

Hate Crimes and the Higher Education Act

LGBT Related Harassment on Campus

Lesbian, gay, bisexual, and transgender (LGBT) students on college campuses often face harassment ranging from hateful graffiti to verbal abuse and physical violence. One recent study shows that about one-third of LGBT undergraduate students report having been harassed in the past year. Unfortunately, these incidents of hate are not often reported to the university or law enforcement. LGBT students do not always report anti-gay and anti-trans abuse for fear of being "outed" or of being further harassed by police. Even when they are reported, campus police may be unequipped to properly identify and deal with them as hate crimes since campus police at many colleges have never had an LGBT sensitivity training or a training on identifying and responding to hate crimes. When hate crimes are reported they are often not properly categorized as hate crimes and the campus statistics are often not reported to the FBI. Reporting hate crimes to the FBI is not mandated but it's important because we get our national hate crimes statistics from the FBI.

The Clery Act and the Higher Education Act

The Higher Education Act (HEA) of 1965 is a federal law establishing the many programs that support higher education on a national level. The HEA includes things such as student financial aid, graduate assistance, and recruitment and retention programs. In 1998, the Clery Act was passed amending the HEA to include provisions on tracking hate crimes on college campuses. It is important that as students we understand these provisions and hold our universities accountable!

Campus Hate: Did You Know...

- ◆ Statistics on hate crimes must be reported by category of prejudice: race, gender, religion, **sexual orientation**, ethnicity, or disability.
- ◆ **Campuses that do not comply with the reporting requirements can be fined \$25,000 by the Department of Education.**
- ◆ Campus crime log information must be open to the public two business days after a crime is reported, except for information that would jeopardize the confidentiality of the victim or the investigation. This provision will allow students to hold their administrations more accountable for crime on their campus.



CAMPUSES MUST REPORT HATE CRIMES...

A study by the General Accounting Office (GAO) found that only 1/5 of institutions even mentioned hate crimes in their campus crime statistics. Some campuses were not aware of the requirements in reporting campus hate and harassment.

The Department of Education has recently started enforcing reporting requirements, levying the first fine last spring. **Does your campus report hate crimes?**

PROBLEMS:

- Only 30 states list sexual orientation in their hate crime statutory provisions. Only 5 states have provisions that include protections for transgender people.
- Of the over 6,000 institutions of higher learning in the United States, only roughly 400 include Sexual Orientation in their nondiscrimination policies. Only 15 explicitly include gender identity and expression as a protected category.
- There was almost a 23% decrease in the number of hate crimes reported to the FBI compared to the 2001 numbers. However, **from 2001 to 2002, the number of sexual orientation hate crimes reported to the FBI by colleges and universities actually increased.**
- For 2002, **sexual orientation based hate crimes represent over 37% of all hate crimes reported to the FBI by colleges and universities**, the most of any category of prejudice. Nationally, sexual orientation hate crimes only account for just over 16%, making it the third highest category of prejudice. Yet, sexual orientation based crimes are often not legally considered hate crimes.
- Historically, Justice Department prosecutors have used hate crimes provisions only in a limited fashion. **Since enactment in 1969, no more than 10 indictments have been brought in a single year.**

What Can You Do?

FACT:

Schools and Colleges are the 3rd most common place for hate crimes to occur.

- 1** Make sure your campus security/police understand what hate crimes are and that they have appropriate training to be able to report them by category. Sensitivity training on LGBT concerns will help too. A manual on how to collect hate crimes data is available at <http://www.fbi.gov/ucr/hatecrime.pdf>. If they do not collect this data already, they may be fined by the Department of Education. Contact the LGBT Student Empowerment Project (lgbt@usstudents.org) at USSA if you need any help.
- 2** Check to see if your campus is reporting hate crimes to the FBI. While they are not required to report to the FBI (only to the Department of Education), reporting to the FBI ensures your campus statistics are part of the national statistics. You can check to see if your college is listed as reporting in the 2002 Hate Crime Statistics report <http://www.fbi.gov/ucr/hatecrime2002.pdf>. Ask your campus security/police to report to the FBI in the future if they did not for 2002. If they are resistant, find out why and let us know.
- 3** If your campus already reports hate crimes to the FBI, are they reporting the right numbers? A number of colleges have reported different numbers to the FBI than to the Department of Education in the past. The reason for this discrepancy is unclear. You can see what your campus reported to the FBI (if anything) at: <http://www.fbi.gov/ucr/hatecrime2002.pdf>. You can see what they reported to the Department of Education at: <http://ope.ed.gov/SECURITY/Search.asp>. If they did not report the same numbers, please try to find out why and report your findings about these discrepancies back to us.

Continue the fight for LGBT student rights, police trainings, non-discrimination policies, and resource centers as these statistics make it clear that LGBT students need resources.