

'Day of Silence' in Schools Brings Unity, Controversy

Protest supporting gay students upsets some religious groups

For a protest based on quiet symbolism, the Day of Silence in schools generates a lot of conversation.

The annual event is meant as a show of support by students and teachers for gay young people. Participants remain silent throughout the school day, and some wear T-shirts or buttons with messages about gay rights or against bullying.

This year's Day of Silence, the 12th annual event sponsored nationally in K-12 schools by the Gay, Lesbian, and Straight Education Network, is set for Friday, April 25.

GLSEN, a New York City-based support organization that has registered more than 3,700 gay-straight

alliances in schools, says that some 5,000 college and high school campuses will participate in this year's event. While the schools may or may not endorse the event, many permit students to be excused from speaking in class during the day.

As participation levels have grown over the years, however, so has a counter-movement backed by religious conservatives.

The Alliance Defense Fund, a Scottsdale, Ariz.-based legal organization that works on religious-freedom issues, promotes an event called the Day of Truth, held on the first school day after the Day of Silence, in which students who say the gay-supportive event offends their religious beliefs are encouraged to express their own views.

"The Day of Truth is a national project established to counter the promotion of the homosexual agenda and allow students to express an opposing viewpoint from a Christian perspective," the ADF says on its Web site. This year, the event is set for Monday, April 28.

Some students' actions on the Day of Truth in recent years have involved wearing anti-gay messages on T-shirts, and school officials' responses have led to at least two high-profile court cases about the scope of free-speech rights for students in public schools.

Meanwhile, another conservative group has come up with a different way to object to the Day of Silence. The American Family Association, based in Tupelo, Miss., is encouraging parents to tell school administrators they will withhold their children from school on the gay-supportive day.

The AFA offers a sample letter for parents to send to schools that says: "By allowing students to remain silent, administrations fail to protect the classroom from intrusive, political exploitation. My child/children will not be part of this political appropriation of the classroom."

Mourning a Death

In the 132,000-student Charlotte-Mecklenburg, N.C., school district, board member Kaye McGarry this month sought to allow students opposed to the Day of Silence to receive excused absences if they stayed home from school on the day of the event.

In a letter to The Charlotte Observer newspaper, Ms. McGarry criticized the Day of Silence as involving "one group of students, spurred on by an outside group, being permitted to disrupt the teaching process for an entire day in order to promote a highly controversial gay/lesbian agenda."

The Charlotte-Mecklenburg school board last week voted 8-1 against Ms. McGarry's proposal to grant the excused absences, and 7-2 against a motion to prohibit Day of Silence activities in its schools.

Supporters of the Day of Silence object to the characterization that the effort is part of the "homosexual agenda."

The Day of Silence is a student-led and student-run event whose sole goal is to bring attention to and help end the bullying and harassment that over three-quarters of [lesbian, gay, bisexual, and transgender] students experience in school," said Kevin Jennings, the founder and executive director of GLSEN. "Any insinuation otherwise is motivated by politics and malice."

This year's Day of Silence is being held in memory of Lawrence King, a gay 15-year-old Oxnard, Calif., youth who was slain. Mr. King, who reportedly wore eye shadow and lipstick, was shot in the head in a junior high school classroom on Feb. 12, allegedly by a 14-year-old classmate who had received expressions of affection from the youth. Mr. King died within a few days, and the 14-year-old has been charged as an adult with murder.

The killing of Mr. King "throws into clear relief the consequences of the failure to act" to end harassment of gay students, Mr. Jennings said.

Christian Fuscarino, a senior at Columbia High School in Maplewood, N.J., is the president of the

Gay-Straight Alliance at the school and has participated in the Day of Silence for three years.

"All the students are encouraged to speak to their teachers" the day before the event, he said, and on the Day of Silence, participants tape cards to their clothing indicating they are keeping their lips sealed. Some respond in class by writing on paper, he said.

"In no way does the Day of Silence take away from the educational day," Mr. Fuscarino said.

At Nequa Valley High School in Naperville, Ill., administrators and teachers have been supportive of the Day of Silence in recent years — so supportive that the 29,000-student Indian Prairie School District No. 204, of which Nequa Valley High is part, found itself in one of the high-profile legal battles over the event and its counterpart.

On the day after the 2006 event at the 4,200-student high school, then-junior Heidi Zamecnik wore a hand-lettered shirt to school that said, "My Day of Silence, Straight Alliance" on the front, and "Be Happy, Not Gay" on the back.

Ms. Zamecnik wanted to use the latter slogan "to communicate her belief that homosexual behavior does not lead to happiness," the Alliance Defense Fund, which is representing her, said in court papers.

Midway through the school day, Ms. Zamecnik was confronted by school officials, who told her that her T-shirt's message had offended some students. An administrator told the student and her mother that a shirt with the phrase "Be Happy, Be Straight" would have been acceptable because that would have been a positively phrased message, court papers say.

School officials ended up marking out the words "Not Gay" on Ms. Zamecnik's T-shirt.

Ms. Zamecnik and another student, Alexander Nuxoll, and their parents sued the Indian Prairie district in 2007, seeking an injunction that would allow them to display the "Be Happy, Not Gay" message.

'Severely Damaging'

This was not the first time the Day of Silence and the Day of Truth had resulted in a lawsuit over a student's anti-gay message. In 2004, a student named Tyler Chase Harper sued the Poway, Calif., school district seeking the right to wear a T-shirt in response to the Day of Silence with the message "Homosexuality is shameful."

The Poway district won a widely noted ruling from the U.S. Court of Appeals for the 9th Circuit, in San Francisco, that it could restrict such derogatory messages. But the U.S. Supreme Court tossed out the ruling last year because Mr. Harper had graduated and no longer had legal standing. Still, that case is working its way back through the courts, with Mr. Harper's younger sister substituted as the plaintiff. (See Education Week, Jan. 5, 2005, and March 9, 2007.)

In the Illinois case, a federal judge in Chicago twice declined to issue an injunction allowing the "Be Happy, Not Gay" shirt to be worn. Because Ms. Zamecnik has graduated, only Mr. Nuxoll is now seeking an injunction to wear the shirt on this year's Day of Truth.

Lawyers for the ADF and the Indian Prairie district argued the case before a panel of the U.S. Court of Appeals for the 7th Circuit, in Chicago, on April 4.

Mr. Nuxoll's desired T-shirt message "is an idea, and a core principle of the First Amendment is that you can't ban speech because an idea is offensive," Jonathan A. Scruggs, an ADF lawyer representing the student, said in an interview.

During the oral arguments before the 7th Circuit panel, which is available as a recording on the court's Web site, John F. Canna, the lawyer for the Indian Prairie district, said, "If the suggestion 'Be Happy, Not Gay' means that if you follow a gay lifestyle you cannot be happy, I think that is severely damaging to a high school student."

U.S. Circuit Judge Richard A. Posner, one of three judges who will decide the case, aggressively questioned both sides during the argument. The judge, considered one of the leading right-of-center intellectuals in the federal judiciary, seemed more skeptical of the district's arguments.

"People are very sensitive, so almost anything could be said which would offend," Judge Posner said to Mr. Canna. "You can't treat offense as an invasion of rights. What's the right to be free from criticism? Of free from being told your way of life is bad? Why is that a right?"

PHOTO (COLOR): T-SHIRT CONTROVERSY: Heidi Zamecnik displays a shirt that originally said, "Be Happy, Not Gay." Administrators at her Illinois high school told her the latter half of the slogan was offensive.

PHOTO (COLOR): VIGIL: Vyxsin Fiala, right, joins a vigil on March 26 in Los Angeles for Lawrence King, a 15-year-old gay student who died after being shot at school, allegedly by a classmate. This year's Day of Silence has been dedicated to him.

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By Mark Walsh

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