

School-Based Gay-Affirmative Interventions: First Amendment and Ethical Concerns

Ilan H. Meyer, PhD, and Ronald Bayer, PhD

Public health professionals and educators have developed effective school-based interventions to reduce prejudice and stigma against lesbian, gay, bisexual, and transgender (LGBT) students. Such interventions can reduce the harm caused to sexual minority youths by stigma and can improve health outcomes. However, critics have warned that these interventions attempt to control speech and religious beliefs protected by the First Amendment. We review this critique and assess the legal and ethical arguments. We conclude that, both legally and ethically, there is great leeway for schools to implement LGBT-affirmative interventions. Still, we recommend that interventionists attend critics' concerns using principles of community-based participatory research (CBPR). Using CBPR approaches, interventionists can achieve better community acceptance and cooperation and more successful interventions. (*Am J Public Health*. 2013;103:1764–1771. doi:10.2105/AJPH.2013.301385)

Minority stress related to stigma and prejudice against lesbian, gay, bisexual, and transgender (LGBT) people causes adverse health outcomes, including poor mental health, decreased well-being, and suicide.^{1,2} Minority stress causes well-documented health disparities between LGBT and nontransgender (also referred to as cisgender³) heterosexual populations in the United States.^{4,5} The articles in this special issue, using a composite data set of representative samples of youths residing in various states and localities in the United States, show remarkable health disparities between sexual minority and cisgender heterosexual youths. The disparities reported in these articles are remarkable both for their large magnitudes and the consistency with which findings appear across a variety of public health topics.

In *Healthy People 2020*, the US Department of Health and Human Services describes its aim “to achieve health equity, eliminate disparities, and improve the health of all groups.”⁴ To achieve such aims, public health professionals prefer “upstream” interventions that have the potential to change structural causes of ill health.² Addressing minority stress as a cause of ill health among LGBT populations would mean that interventions ought to reduce anti-LGBT stigma and prejudice.^{6,7}

To protect sexual minority youths, writers from a variety of disciplines, including

psychology, sociology, social work, public policy, and education, recommend a comprehensive approach to reduce stigma and prejudice, focusing in particular on school-based LGBT-affirmative interventions.^{8–14} These writers seem unified in their belief that reducing stigma is an important step toward improving the health and well-being of disadvantaged populations. The writers note that without intervention, the school environment is unresponsive, if not hostile, to lesbian, gay, bisexual, transgender, and questioning (LGBTQ) students (“questioning” refers to students who are not heterosexual but do not use an identity label such as gay). As Nichols described it, “Homophobia, which some argue is an inherent aspect of public schools, is one lesson students (both gay and straight) learn in the informal curriculum.”^{8(p514)} Writers note the need for intervention at all school levels to reduce sexual minorities' health disparities.^{8–14} Writers also cite ethics codes by professional organizations like the American Psychological Association,¹⁵ the National Association of Social Workers,¹⁶ and the National Association of School Psychologists,¹⁷ which also call on schools to “promote awareness, acceptance, and accommodation of LGBTQ students and their needs.”^{17(p3)}

Few, if any, writers in public health, the social sciences, or education have considered

the potential negative aspects of such interventions, but critics abound. As we describe in this article, critics—primarily coming from law and conservative public advocacy groups—have warned that, in an attempt to lessen homophobia and transphobia, LGBT-affirmative school-based interventions have limited freedoms protected by the First Amendment to the US Constitution. Reducing stigma and prejudice against LGBT people in schools is still a hotly debated topic in American society. Both critics and school interventionists agree that, when it comes to targeting anti-LGBT attitudes, deeply held culturally and religiously embedded beliefs and values are at stake. In the eyes of interventionists, stigma and prejudice against LGBT people need to be uprooted from schools because they are social ills that cause harm to LGBT youths (if not the entire school community). First Amendment and conservative critics, on the other hand, see the attitudes that social scientists describe as stigma and prejudice as a valid point of view that is protected regardless—indeed, because—of how reprehensible it may appear to some.

The opposing views of interventionists and critics have rarely, if ever, been negotiated despite their significance in current American social debate; for example, they were central to the 2011 US Commission on Civil Rights' examination of peer-to-peer violence and bullying.¹⁸ In a review of relevant literature, we found not one paper in public health, social science, or education that addresses these issues. We redress this gap in the literature, hoping that our analysis can guide policymakers and interventionists in designing and implementing LGBT-affirmative school-based interventions.

Specifically, we ask what are the legal and ethical issues that confront interventionists when designing an intervention to reduce stigma and prejudice against LGBT people? What, if any, role should the critique about freedom of expression have in the design and

study of LGBT-affirmative interventions? And what could interventionists do to address speech-based opposition to their interventions?

We conclude with recommendations, suggesting that good clinical practice demands that researchers and interventionists become more attentive to the potential for a clash between proposed interventions and community norms and values. By attending to such concerns, using approaches that have been shown effective in other public health areas such as community-based participatory research (CBPR), interventionists can design more successful LGBT-affirmative interventions.

SCHOOL-BASED LGBT-AFFIRMATIVE INTERVENTIONS

California and Massachusetts have led the United States in efforts on behalf of LGBTQ students with the establishment, in the 1980s, of the Los Angeles Unified School District Project 10 and a gay-straight alliance (GSA) group in Boston.¹⁹ Subsequently, the Safe Schools Program for Gay and Lesbian Students was established by the Massachusetts Board of Education in 1993; the Gay, Lesbian & Straight Education Network was established in 1995 as a national organization (taking this name in 1997); and the national Gay-Straight Alliance Network (GSA Network) was established in San Francisco in 1998.¹⁹

Such programs aim at increasing sensitivity and awareness of staff and students about LGBT people and developing school policies that protect LGBTQ students from harassment, violence, and discrimination.²⁰ For example, GSAs, one of the most discussed forms of student support in US schools, have been established to support LGBTQ students by sponsoring social events and initiating changes in schools that enhance understanding of and reduce stigma, prejudice, and hostility toward sexual minority students.²¹ The GSA Network's mission is to (1) create safe environments in schools for students to support each other and learn about homophobia, transphobia, and other oppressions; (2) educate the school community about homophobia, transphobia, gender identity, and sexual orientation issues; and (3) fight discrimination, harassment, and violence in schools.²²

Although there are no determinative studies, such as randomized clinical trials, of the

efficacy and effectiveness of school-based interventions to reduce anti-LGBT stigma and prejudice, evidence that such interventions are promising is quite robust. Studies that suggest that interventions can be effective now span over a decade. They have been conducted in different states and locales, using a variety of methods. These studies consistently indicate that interventions have been successful at improving school environments—including reduced dating violence, threats, and violence, and increased sense of safety by LGBT youths—and improving health and educational outcomes, such as reducing truancy, injuries at school, and suicide attempts.^{21,23,24} For example, ecological studies^{24,25} have shown that disparities in suicide attempts between sexual minority and cisgender heterosexual students were significantly lower in regions that had a more LGBT-supportive environment than in regions that did not (the definition of “supportive environment” included the presence of GSAs in schools, but their effect was not tested separately). In qualitative studies, LGBT students who were exposed to LGBT-affirmative school-based interventions reported the positive impact of such programs on their well-being and academic success.²³ In one study of LGBT youths recruited from college and university organizations for LGBT students, researchers found that LGBT youths who had attended a high school with a GSA had significantly more favorable outcomes related to school experiences, alcohol use, and psychological distress than similar LGB youths who had attended a high school without a GSA.²⁶ A study of an antibullying intervention in the general (not specifically LGBT) population has shown that such interventions also have cost benefits related to reduced health care utilization, decreased rates of children leaving schools or placed in alternative settings, and decreased school dropout rates.²⁷

LGBT-affirmative interventions have an intuitive appeal. As described by a student respondent in a focus group on LGBTQ-inclusive school curricula, “I think the only way you can really achieve in high school is if you feel comfortable with yourself, and you feel confident, and you feel that you can approach your teachers, and you can say things in class.”^{23(p8)}

These and other studies suggest that, from public health and education perspectives,

interventions to reduce stigma and prejudice against LGBT youths can help reduce health and educational disparities between LGBT and cisgender heterosexual youths. Based, in part, on such data, the California legislature passed the FAIR Education Act (SB 48, 2011), which mandates that educational materials in the state include information on the contributions of LGBT people “to the development of California and the United States.” The bill's sponsors explained that such an intervention would help address “an environment of discrimination and bias in school[s] throughout California,” which is a “primary obstacle to addressing California's bullying epidemic that continues to plague a majority of LGBT youth.”²⁸

OPPOSITION AND CRITIQUES

Despite their almost universal appeal among public health professionals, social scientists, and educators, LGBT-affirmative school-based interventions have been met with strong opposition on the ground that they infringe on free speech and constrain religious freedoms, including parents' right to control their children's education. As described by Hiram Sasser, director of litigation at the Liberty Institute (a conservative civil rights group dedicated to defending religious liberty in America), such interventions call for “system-wide indoctrination of students to counteract a perceived anti-homosexual climate,” which

will only worsen matters for the religious liberty and free speech rights of students and will lead to further attempts to stop religious thought and expression by students. For example, a common element of many anti-discrimination and sensitivity training programs is to induce the participants, in this case, teachers and students, to affirm or agree with certain propositions. To the extent that the schools . . . seek to have the teachers and students affirm something that is contrary to their personal beliefs, such action constitutes compelled speech in violation of the First Amendment.^{18(pp15-16)}

Eugene Volokh, a distinguished First Amendment scholar, recognized that “it is probably right” that anti-LGBT stigma and prejudice pose some danger to the mental health of LGBT students.¹⁸ But he and others worry about interventions that address stigma as an expressive point of view, rather than specifically, and more narrowly, violence or harassment. Volokh is concerned that

the consequence of broadly defined LGBT-affirmative interventions is that “if you take that logic seriously, then . . . speech . . . that expresses and contributes to the stigma [and] prejudice would be punishable.”^{18(p263)} Volokh noted that when schools propose to use a broad LGBT-affirmative approach to stigma interventions to reduce bullying and harassment, “what is labeled bullying and harassment are capacious enough to include . . . speech that is protected by the First Amendment.”^{18(pp259-262)}

Added to critics’ concerns about freedom of speech and religion is the concern that LGBT-affirmative interventions take moral education out of parents’ hands and, worse, that children will be instilled with values that conflict with their parents’ values and their religion. Such sentiments have prompted several state legislators to initiate so-called “don’t say gay” or “no promo homo” bills, which forbid school personnel from discussing homosexuality in schools. The Gay, Lesbian & Straight Education Network lists 8 states with such laws: Alabama, Arizona, Louisiana, Mississippi, Oklahoma, South Carolina, Texas, and Utah.²⁹

For example, Representative Joey Hensley, one of the sponsors of a 2012 Tennessee bill, expressed his reason for voting for the bill: “I have two children—in the third- and fourth-grade—and don’t want them to be exposed to things I don’t agree with.”³⁰ Utah legislators expressed similar concerns when “many said they just don’t feel it’s a school’s place to discuss such topics.”³¹ For example, Utah State Senator John Valentine said, “[W]e as a society should not be teaching or advocating homosexuality or sex outside marriage or different forms of contraceptives for premarital sex.”³¹ And Utah State Senator Stuart Reid expressed his sense that “To replace the parent in the school setting, among people who we have no idea what their morals are, we have no ideas what their values are, yet we turn our children over to them to instruct them in the most sensitive sexual activities in their lives, I think is wrongheaded.”³¹

LEGAL CONSIDERATIONS

Legal analysis can focus on different elements of possible critiques of LGBT-affirmative intervention, among which are

(1) the acceptability of LGBT-inclusive formal and informal curricula, such as California’s FAIR Education Act and GSAs, respectively (the GSA is a student club and not a part of formal school curricula); (2) student speech expressing anti-LGBT views, which may range from opposition to LGBT rights or school-endorsed efforts to reduce homophobia to antipathy toward LGBTQ individuals; and (3) school personnel speech and, related to this, the rights of counselors and therapists to practice their profession in a manner consistent with their anti-LGBT, purportedly religious beliefs even if these go against professional standards of practice and ethics.^{32,33}

Complicating things further, speech that is relevant to school is no longer limited to the schoolyard; speech is easily disseminated electronically from any other locale outside of the school itself and outside of school hours. Thus, a student’s or teacher’s speech on, for example, Facebook from home may be relevant to the school environment, leading, as warned by Volokh, to speech restrictions (should such restrictions exist) that are almost limitless.

Each of these areas requires a separate analysis, but this is well beyond our scope here. We therefore attempt to air some pertinent issues. We ask whether, as critics have warned, LGBT-affirmative interventions, in aiming to reduce stigma, in and of themselves threaten the First Amendment rights of students who do not agree with the message conveyed in such interventions.

Responding to critiques, legal scholars have noted that although students do not shed their First Amendment rights as they enter the schoolyard,³⁴ these rights are not completely without exception. For example, in a statement to US Commission on Civil Rights Commissioner Roberta Achtenberg, Stuart Biegel, an expert in education and law, addressed critics’ legal concerns: “First and foremost, K-12 [kindergarten through 12th grade] public school officials are required to comply with the dictates of campus safety law. If educational institutions are not safe, little else matters. The primary importance of the unimpeachable legal mandates in this context is reflected in, but not limited to, the areas of negligence law, assault and battery, threat law, and the doctrine of in loco parentis.”³⁵ Biegel quoted Supreme Court Justice Samuel Alito, who said, “[D]ue to the

special features of the school environment, school officials must have greater authority to intervene before speech leads to violence.”³⁶

As Biegel has described, courts have wrestled with the tension between safety and other concerns that may impair the school’s educational mission and individual First Amendment rights. Still, the Supreme Court has instructed that restrictions on speech cannot be made lightly. Importantly, speech restrictions cannot be motivated by a nonspecific fear of disruption.³⁴ Courts sought to identify reasonable limits to the rights of K-12 public school students, and have identified a series of guidelines for school districts. For example, Seventh Circuit Judge Richard Posner, a highly regarded conservative scholar, explained that “severe harassment . . . blends insensibly into bullying, intimidation, and provocation, which can cause serious disruption of the decorum and peaceable atmosphere of an institution dedicated to the education of youths. School authorities are entitled to exercise discretion in determining when student speech *crosses the line between hurt feelings and substantial disruption of the educational mission*, because they have the relevant knowledge of and responsibility for the consequences [italics added].”³⁷

We can thus conclude that the courts allow some leeway to school personnel. Speech restrictions can be applied to protect the school environment from violence and disruption, but what defines violence and disruption is not without debate. In fact, not only physical attacks and threatening behavior may be prohibited but also verbal or physical activity placing someone in fear of being physically attacked, and verbal or physical activity that can reasonably be foreseen to lead to substantial disruption or interference with the rights of others on school grounds. In such cases, school officials can—and, indeed, are typically expected to—take steps to restrict bullying and other potentially harmful behavior.

Moreover, school personnel and First Amendment critics have become concerned with behaviors that occur outside of the school, which easily reaches inside the school environment through electronic messages and media. As Biegel noted, parameters of the legal doctrine in the area of education law, including but not limited to the First Amendment, are shifting with regard to holding students

accountable for off-campus activity. Biegel noted numerous examples of circumstances where judges and legislatures have found that the reach of school officials does extend beyond the formal boundaries of the schoolhouse gate. Under a range of relevant legal theories, courts and legislatures have recognized at least some level of responsibility on the part of school officials to assert jurisdiction over the off-campus behavior of students if the behavior has a real and palpable impact on the day-to-day activities of a school community. And the law recognizes that the obligations of school officials do not necessarily stop at the boundaries of the institution's property, whether online or offline.^{35,37,38}

In summary, schools have a responsibility to educate all children, and this mission may at times, and under special conditions, place restrictions on speech that may not be tolerated in other contexts. Where the line falls between speech that is disruptive and speech that is not is a question that has no easy answer. We attempt to address this in the next section, in the context of religious freedoms.

RELIGIOUS FREEDOMS

In conservative critiques based on the protection of religious freedom, LGBT-affirmative interventions are the culprits and religious students (always portrayed as non-LGBT) are the victims. For example, echoing arguments made by “don't say gay” legislators, Sasser argued that LGBT students' issues should not be discussed in K-12 education because doing so would constitute indoctrination and the promotion of homosexuality.¹⁸

Addressing this critique, Biegel pointed out that an important distinction is missed in this critique.³⁵ Under First Amendment principles, the values of nonreligious people must be respected in the public sector just as the values of religious people are respected: the “tolerance of divergent . . . religious views” referred to by the Supreme Court is a civil, not a religious, tolerance. That is, it does not require that we accept any person's religion; it merely requires recognition that in a pluralistic society we must “live and let live.”³⁹ Indeed, it is generally recognized under the Establishment Clause of the First Amendment that public school officials may not favor one religious perspective

over another.³⁸ It is also important to recognize, in this context, that although many branches and denominations of organized religion in the United States oppose homosexuality as sinful, other branches and denominations have favorable or tolerant views.⁴⁰ Thus, respect for religious freedom is not synonymous with respect for anti-LGBT views.

An oft-quoted example of schools interfering with religious expression is the case of *Harper v Poway*.⁴¹ In that case, 15-year-old student Tyler Chase Harper wore a T-shirt with a homemade slogan stating that his gay and lesbian peers were shameful and condemned by God. Harper was told that the shirt was too inflammatory and he was asked to remove it. He then filed a lawsuit in federal court, arguing unsuccessfully that his First Amendment rights had been violated under both freedom of expression and freedom of religion principles.

Of the many opinions issued by the courts in the Harper case, perhaps the most relevant to distinguishing between allowed and disallowed speech is the 2006 Ninth Circuit Court of Appeals decision written by Judge Stephen Reinhardt, quoting language from *Tinker v Des Moines Independent Community School District*³⁴:

Public school students who may be injured by verbal assaults on the basis of a core identifying characteristic such as race, religion, or sexual orientation, have a right to be free from such attacks while on school campuses. . . . [and] to “be secure and to be let alone.” *Being secure involves not only freedom from physical assaults but from psychological attacks that cause young people to question their self-worth and their rightful place in society* [italics added].^{41(p1178)}

In a similar case addressing the First Amendment rights of religious students on public high school campuses, Judge Posner upheld the constitutionality of a contested school policy that focused on negative psychological effects by prohibiting “derogatory comments that refer to race, ethnicity, religion, gender, sexual orientation, or disability.” In language that seems to mirror the verbal assault rule set forth by Judge Reinhardt, Posner wrote:

People are easily upset by comments about their race, sex, etc., including their sexual orientation, because for most people these are major components of their personal identity—none more so than a sexual orientation that deviates from the norm. Such comments can strike a person at the core of his being.^{42(p671)}

It is interesting to contrast *Harper v Poway* with the case of Seth Groody, a Connecticut high school student who was not allowed to wear a T-shirt advertising his objection to his school's dedication of a day of awareness about LGBT issues. Groody's T-shirt depicted a rainbow with a slash through it and the back side showing male and female stick figures holding hands above the message “Excessive Speech Day.” Defending Groody's right to wear the T-shirt in a letter sent to the school, the American Civil Liberties Union (ACLU) of Connecticut objected to the school's policy.⁴³ (Later, responding to the ACLU, school officials reversed their decision and allowed the T-shirt.⁴⁴)

The distinction between the Harper and Groody cases is illustrative. A reasonable middle ground is often difficult to discern in this area. The question seems to be, At what point does speech as expression cross the line to speech “verbal assault”? Judge Reinhardt's decision in *Harper v Poway* points the way to a viable position. Under the rule adopted by the Ninth Circuit panel, students are able to share their religious and other anti-LGBT values and beliefs on issues as long as they state these values and beliefs in ways that do not rise to the level of “verbal assaults on core identifying characteristics.”⁴¹

We see Groody's T-shirt as conforming to this standard (the case has not been adjudicated). Unlike Harper, Groody did not directly condemn fellow students. Compared with the declaration on Harper's T-shirt, Groody's is a more detached expression of his viewpoint. Such a viewpoint does not demean LGBTQ students personally even if it is objectionable to them. By contrast, it is impossible for LGBTQ students and their supporters to ignore the hot-button nature of the word “shameful” in Harper's case. Shame goes to the heart of community denigration with which LGBTQ youths must contend.

The lesson of the Ninth Circuit standard is that disagreement must necessarily be civil and that it is not civil for students to refer to other students as shameful and condemned by God.⁴⁵ Thus, not all speech that expresses a negative point of view regarding LGBT people (and so has the potential to contribute to stigma) may be punishable (as feared by Volokh), but dehumanizing speech is not

allowed because it rises to a “verbal assault” and thus disrupts the school’s mission to provide education to all students.

In summary, this analysis suggests that gay-affirmative interventions to reduce stigma do not inherently or typically violate religious or other First Amendment freedoms.^{18,38} Contrary to Sasser’s assertion,¹⁸ LGBT-affirmative school-based interventions do not require that everyone in the community endorse LGBT-affirmative views, only that LGBTQ youths are provided with an affirmative safe climate. We therefore see no evidence to support the claim that the presence of an LGBT-affirmative intervention at a school in and of itself infringes on First Amendment rights.

ETHICAL CONSIDERATIONS

Questions raised by the introduction of LGBT-affirmative school-based interventions are complex and require not only legal but also ethical analysis. The answers to the critiques of LGBT-affirmative school-based interventions are different from a public health perspective than they are from a legal perspective. Public health professionals have an important ethical bar to pass in designing interventions. Childress and colleagues⁴⁶ proposed that before initiating public health programs, we ask whether the program is necessary, effective, and proportional to the problem; involves the least possible infringement; and can be publicly justified. These are important questions to consider when evaluating any intervention and in particular interventions that can provoke strong public concerns. What are the ethical foundations for intervening to reduce stigma and prejudice against LGBT people?

Underlying the First Amendment critique is the ethical principle that, with some exceptions, few limits on speech are justifiable because such limits violate a core principle of respect for liberty. The concern is that limits on speech invariably would lead to limits on liberty far greater than proponents of establishing some limits on speech might imagine—that limits on speech would rapidly escalate to greater intolerance of individual freedoms.

It is interesting to contrast this view with that prevailing in some European nations, where hate speech limitations are lawful. In *The Harm of Hate Speech*, Waldron⁴⁷ has asked why some

democratic nations believe that limitations on hate speech are not incompatible with liberty. The difference between European and American notions of liberty, as expressed by Whitman, is illuminating: “On the one hand, we have an Old World in which it seems fundamentally important not to lose public face; on the other, a New World in which it seems fundamentally important to preserve the home as a citadel of individual sovereignty.”^{48(p1162)} That is, the European focus is on preventing degradation and ensuring the dignity of its citizenry, whereas the American focus is on preventing governmental intrusion on individual liberty, including speech.

The principles upon which laws restricting hate speech are premised are different from the principles underlying freedom of expression. Waldron notes that hate speech laws are premised on the idea that society ought to “be concerned with upholding and vindicating the elementary dignity of even its nonofficial citizens—and of protecting their status (as a matter of public order) from being undermined by various forms of obloquy.”^{47(p46)} Such laws are about group defamation; they “are set up to vindicate public order not just by preempting violence, but by upholding against attack a shared sense of the basic elements of each person’s status, dignity and reputation as a citizen or member of society in good standing.”^{47(p47)} Speaking about adult members of stigmatized groups, Waldron asks, “Can their lives be led, can their children be brought up, can their hopes be maintained and their worst fears dispelled in a social environment polluted by [stigmatizing] materials?”^{47(p33)}

Regarding the concerns of Childress and colleagues about whether interventions to reduce anti-LGBT prejudice and stigma are publicly justified, we believe that the consideration of the social good that comes out of interventions is at the core of the ethical question. Concerns about how hate speech harms society, and how it conflicts with public interest, are central to the ethical analysis of LGBT-affirmative school-based interventions. Here, the dignity of LGBTQ youths is at risk. In this analysis, stigmatizing speech—which interventionists aim to suppress and critics defend—subverts the public good represented by society’s respect for dignity: “[H]ate speech and group defamation are actions performed

in public with a public orientation, aimed at undermining public goods.”^{47(p100)}

Public health ethics are consistent with the view that LGBTQ youths are entitled to human dignity and protection from a degrading, demeaning, and stigmatizing environment in school. This generates a correlative duty on the part of teachers and school administrators to vindicate this entitlement. This premise entails a much broader claim than that permitted by the legal analysis, which focuses on the requirement that children have a safe educational environment. Even more, this ethics-based claim is not linked to instrumental concerns about potential injuries and the impact of stigma on health and academic achievement. Those consequences certainly should not be minimized, but the ethical principles suggest that the right to dignity exists regardless of potential specific harms. From a legal perspective as well, although dignity is a core European legal principle that is different from the American principle of liberty, it is not without legal resonance in the United States. Dignity in the sense discussed here is referenced, for example, in Supreme Court decisions such as *Lawrence v Texas* and *Planned Parenthood of Southeastern Pennsylvania v Casey*⁴⁹ and in Reinhardt’s and Posner’s concerns for students’ “self-worth” and “identity,” quoted in the section Religious Freedoms.

In addition to the principle of dignity for a stigmatized group, an ethical mandate concerns public good potentiated by LGBT-affirmative interventions as they serve to build a diverse society. Researchers, public policymakers, and some courts have recognized diversity as an important social goal that benefits society.^{50,51} Although the benefits of diversity—for example, with regard to school admissions or employment policies—can be debated, the reality is that American society is diverse. Preparing citizens to live in a diverse society provides a social service independent of the benefits of diversity. Therefore, we argue, a tolerant school environment would benefit not only LGBTQ students but all students and society as a whole. Fostering a climate of tolerance and respect in schools would produce a collective good that benefits all citizens.

In making these claims, we must contend with the reality that, at times, diversity demands may come in conflict with other value

systems. Here we confront a central conflict that the interventions described in this article have provoked. If tolerance is desirable, how should we respond to the argument, pro-pounded by religious freedom advocates, that tolerance necessitates accepting religious views even if they claim that homosexuality is sinful? Here it is important to note that advocating for values that contradict some religious teachings is not synonymous with intolerance toward religion. Religious freedom is a freedom to practice one's religion, not the freedom to insist that others abide by it. An ethical analysis suggests that public good goals of dignity and diversity would favor interventions to reduce stigma and prejudice as long as such interventions do not betray the commitment to tolerance and diversity by impinging on religious freedoms. But this analysis does not suggest that interventions should be disallowed for being inconsistent with some religious views.

CONCLUSIONS AND RECOMMENDATIONS

Our review is not complete. For example, we did not address First Amendment issues of school personnel, such as teachers and counselors, who, as part of their professional responsibilities, may be required to endorse views in support of gay students even if these views go against their personal beliefs. This is a complex issue that is beginning to reach the courts and is outside the scope of our discussion. It involves a very particular conflict between professional responsibility and personal views.

In our review of LGBT-affirmative school-based interventions, we found that researchers and interventionists from a variety of disciplinary backgrounds do not typically consider public perceptions of the interventions and, specifically, the extent to which interventions may bring about public debate and opposition. Indeed, public health interventionists typically presume an upper hand in the moral debate. Our own analysis agrees with this perspective on the grounds that a greater social good is achieved by LGBT-affirmative interventions. As public health research has shown, such interventions can contribute to the health and well-being of LGBTQ students and can thus

reduce health disparities related to sexual orientation. Our ethical analysis has shown that interventions are valuable for at least two reasons: they promote the dignity and status of LGBTQ students and contribute to social good by preparing students (LGBTQ and others) to live and work as citizens of a diverse society.

Still, we believe that ignoring public debates is presumptuous. Similar attitudes on the part of public health interventionists have led to the accusation that public health displays a paternalistic and manipulative stance, where public health professionals administer what they believe is good for the public without taking into account the public's view.⁴⁶

Partly in response to such critiques, state-of-the-art intervention research has begun to include the community's input. This is most seriously attempted with CBPR, where researchers, interventionists, and the public are seen as equal partners in the design and evaluation of programs. The overarching aim of CBPR is to facilitate negotiation between researchers and communities so that the priorities and needs of both are addressed.⁵² CBPR views research as a process that requires the acquaintance of researchers and community members with their mutual needs and perspectives. We suggest that school-based LGBT-affirmative interventions ought to be introduced and conducted in accordance with CBPR principles. Although, typically, CBPR is used to negotiate perspectives on a goal that is mostly understood to be desirable by both community and researchers (e.g., improving cancer screening), it is suitable also as a step toward negotiating perspectives and values.⁵³

This approach is not without challenges. For example, because we view LGBT-affirmative interventions as effective, ethically valuable, and allowable by the Constitution, we do not believe that a CBPR approach ought to afford communities the power to outright reject such interventions. But CBPR principles can help interventionists introduce programs with care and consideration of community values and ensure that they avoid First Amendment violations. CBPR-inspired work may include discussion of the motivation for the intervention, where people who support gay and transgender rights and those who oppose them can find common ground. For example, the need to protect children in schools and provide them

an effective learning environment is typically supported by both sides of the debate.

Our review shows that religious and First Amendment advocates have some valid reasons to be suspicious of how interventions are implemented. At times, as exemplified by the case of Seth Groody, school personnel apply rigid rules that unnecessarily suppress critical speech, perhaps because of insufficient discussion and deliberation.

Interventionists ought to seriously and genuinely address concerns that proposed interventions aim to alter religious beliefs or values or suppress critical speech. They ought to provide assurances that both sides of the debate will be respected. CBPR-inspired negotiation will help interventionists, school personnel, and communities tailor interventions to their needs. CBPR principles should guide not only initiation but also the maintenance of such interventions. For example, school personnel, students, parents, and other community members can negotiate what are acceptable and unacceptable expressions of anti-LGBT values and beliefs. This can prevent the capricious, rigid, and unnecessarily broad application of illegal limits on speech about which Volokh warned.

Reviewing the legal and ethical debates, we believe that one of the main difficulties and causes for disagreement is where to draw the line between protected speech and speech that incites violence or otherwise disrupts the educational mission of schools. One of the important allowances in the law is that First Amendment rights may be limited where safety is threatened. This has been acknowledged by both proponents and critics of interventions to reduce anti-LGBT stigma and prejudice in schools. As Judge Posner noted, there is a point "when student speech crosses the line between hurt feelings and substantial disruption of the educational mission."³⁷ However, the argument persists about where this point is. On the one hand, public health interventionists see the line crossed "upstream," far from a potential for threat, harassment, and violence. They prefer broad interventions that aim to change the school environment so that it promotes the dignity of LGBTQ students and therefore not only protects them from harm but allows them to thrive. On the other hand, First Amendment critics draw the line much closer to the threat,

harassment, or violence, so it can be prevented with no infringement on speech. Critics agree that violence ought to be prevented even at the cost of infringement on speech, but they disagree with interventions that are defined so capaciously as to include protected speech, as articulated by Volokh,¹⁸ for example.

We believe that these perspectives are negotiable if interventions to reduce stigma promote more speech rather than limit speech. The CBPR approach can address critics' concerns about threats to the First Amendment and go a step further: by promoting discussion and debate, it supports more speech, which is at the heart of the First Amendment. Schools, by their mission, should be an ideal environment for teaching not only inclusion and respect for diversity but also how to argue and disagree on issues—especially issues that are so central to contemporary public debate—in a civil manner.^{54–57} We believe that expressions of anti-LGBT attitudes and beliefs should be allowed in schools, as they are in society at large, as long as they occur in an environment that ensures the safety and dignity of LGBTQ students. Even LGBTQ students, who are not otherwise insulated from anti-LGBT attitudes in their communities, may benefit from an opportunity to have a safe, school-monitored discussion with their opponents.

Currently, LGBT-affirmative school-based interventions tend to concentrate in more liberal parts of the United States. A careful approach along principles of CBPR, as suggested here, needs to be developed. Such an approach, which takes into account community considerations, can assuage concerns about speech and religion, educate communities about the benefits of gay-affirmative interventions, and thus help in implementing LGBT-affirmative school-based interventions broadly. ■

About the Authors

Ilan H. Meyer is with the Williams Institute, School of Law, University of California, Los Angeles. Ronald Bayer is with the Center for the History and Ethics of Public Health, Department of Sociomedical Sciences, Mailman School of Public Health, Columbia University, New York, NY.

Correspondence should be sent to Ilan H. Meyer, The Williams Institute, UCLA School of Law, Box 951476, Los Angeles, CA 90095-1476 (e-mail: meyer@law.ucla.edu). Reprints can be ordered at <http://www.ajph.org> by clicking the "Reprints" link.

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Contributors

Both authors contributed equally to this article.

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Human Participant Protection

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