



Mr. Heo, Kwang Tae
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Mr. Kim, Sang Hyun
Chairperson, the Education Committee of the Seoul Metropolitan Council
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Re: Seoul Student Rights Ordinance

Dear Mr. Heo Kwang Tae and Mr. Kim Sang Hyun,

I write to you from the International Gay and Lesbian Human Rights Commission (IGLHRC), a twenty-one year-old human rights organization with offices around the world, to express deep concern with the proposed Seoul Student Rights Ordinance. The proposed ordinance would prohibit discrimination on the basis of various categories, however in the most recent draft, language that would prohibit discrimination on the basis of “sexual orientation” and “gender identity” was eliminated—specifically, Articles 6, 13, 20 and 28, which are critical components of the original draft.¹

The ordinance, which would be the first-ever legislation in the history of the Republic of Korea to protect students’ rights, should offer protection for all students in their pursuit of education, regardless of sexual orientation or gender identity.

On November 16, 2011, at least six of the fifteen members of the Education Committee of the Seoul Metropolitan Council refused to include sexual orientation and gender identity as grounds for

¹ Article 6: Right to Nondiscrimination where students have the right not to be discriminated based on sex, religion, age, social status, regional, national, or ethnic origin, language, disability, physical condition including appearance, pregnancy or birth, family type or family status, race, economic status, color, ideological or political opinion, sexual orientation, gender identity, medical history, discipline, grade, and others. Article 13: Freedom of Privacy and Right to Privacy Protection where students have the right to enjoy freedom of privacy, and the right to protection of personal information, including family, peer relation, grade, medical history, record of discipline, record on failure to pay school fee, and sexual orientation and gender identity. Article 20: Right to School Welfare where the education superintendent, founder and administrator of school, and principal shall prioritize allocation of budget and other resources for students who have difficulties in realizing their rights due to economic, social, and cultural reasons, including students in poverty, students with disability, students from multi-cultural family, foreign students, sexual minority students, and working students. Article 28: Rights of Minority Students where the education superintendent, founder and administrator of school, and principal shall ensure the rights of minority students, as required by their distinctive characteristics, at an appropriate level, including students in poverty, students with disability, students from single family, students from multi-cultural family, foreign students, athletic students, sexual minority students, and working students.

prohibiting discrimination in the draft Students Rights Ordinance. Members of the Committee also made a series of discriminatory remarks about lesbian, gay, bisexual and transgender (LGBT) people. One member of the committee, Mr. Jung Moon-Jin, stated that, “homosexuality is a mental disorder” and that the Student Rights Ordinance is “worrisome because it will spread AIDS among young people.” The same day, according to eyewitnesses, you stated your refusal to review the draft ordinance unless clauses pertaining to LGBT students were removed.

In the current educational environment in South Korea, LGBT students are violently disciplined by teachers and school principals; disparaged by their teachers; sent for psychological counseling; forced to transfer to different schools; and sometimes suspended without justification apart from their sexual orientation and/or gender identity. It is perhaps unsurprising that LGBT students are more likely than heterosexual students to commit suicide.²

By singling out sexual orientation and gender identity for exclusion, the Education Committee of the Seoul Metropolitan Council and the Seoul Metropolitan Council would contravene international human rights standards and state obligations that South Korea has agreed to uphold. These include rights enshrined in the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The actions of the Seoul Metropolitan Council and its Education Committee contradict the recent vote by the Government of the Republic of Korea in favor of Resolution 17/19 with regard to “Human Rights, Sexual Orientation and Gender Identity” adopted by the United Nations Human Rights Council on June 2011. The resolution, which the government supported, “expressed “grave concerns at acts of violence and discrimination against individuals because of their sexual orientation and gender identity.”³

The significance of the Students Rights Ordinance cannot be overemphasized. Seoul is not only the capital of Korea but a powerful influence nationwide. A negative outcome would send a dangerous message to schools in the rest of the country that discrimination on the basis of sexual orientation and gender identity is permissible.

IGLHRC strongly urges all members of the Education Committee and the Seoul Metropolitan Council to:

- Restore the original language of the Student Rights Ordinance, specifically, Article 6 on the right to nondiscrimination, which includes the grounds of sexual orientation and gender identity;
- Restore sexual minority students as a protected category in Article 28 on school welfare;
- Retain explicit references to sexual minority students, sexual orientation and gender identity in Article 13 and 20 of the Student Rights Ordinance;

² Information collected by the LGBT Coalition for Seoul Student Rights Ordinance.

³ A/HRC/17/L.9/Rev.1, June 15, 2011.

- Ensure that corporal punishment by teachers and school principals against all students, including LGBT students, is not tolerated in schools;
- Promote an environment where students enjoy the rights to freedom of expression and opinion, regardless of sexual orientation or gender identity;
- Ensure the safety of the peaceful protesters who are currently demonstrating at the building where the Seoul Metropolitan Council is housed to express their concern for the mistreatment of LGBT youth; and
- Train and sensitize teachers, principals and all education officials about LGBT rights to end the arbitrary punishment and bullying of LGBT students.

Sincerely,

Jessica Stern
Acting Executive Director

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