

# Know Your Rights!

## A Guide for LGBT High School Students



Lesbian, gay, bisexual, and transgender (LGBT) students face discrimination and harassment at school all too often. Unfortunately, many school officials know very little about how the law requires them to protect LGBT students. And sometimes they do know that they're breaking the law, but they think that students won't question their actions. That's why it's important for you to learn about your rights and what you can do if your school isn't treating you fairly!

### Harassment

Anti-LGBT harassment is one of the most pervasive, frightening, and potentially damaging threats LGBT students face in our public schools. If you're being bullied, called names, threatened, or physically harmed at your school because of your sexual orientation, you don't have to take it!

Under the U.S. Constitution, public schools have to address any harassment against LGBT students the same way they would address harassment against any other student. And a federal education law called Title IX bars public schools from ignoring harassment based on gender stereotyping. What this all means is that public schools can't ignore harassment based on appearance or behavior that doesn't "match" your gender: boys who wear makeup, girls who dress "like a boy," or students who are transgender. Nor can school officials tell you that you have to change who you are or that the harassment is your fault because of how you dress or act.

If anyone at school is harassing or threatening you, it's crucial that you report it to a principal or counselor. Then the school has been put on notice and can be held legally responsible for protecting you. And keep notes about all incidents of harassment and interactions with the school about it. There are tips on how to effectively do this at the end of this handout.

If you've reported harassment to your school and they've done little or nothing to stop it, contact your local ACLU affiliate or the ACLU LGBT Project.

### Privacy

Your school does NOT have the right to "out" you to anyone without your permission, even if you're out to other people at school.

Doing this to a young person can have tragic consequences, such as when police officers in 1997 told a young man in Pennsylvania that they were going to tell his family he was gay. He committed suicide rather than face what he feared would be rejection from his family. His mother sued, and a federal appeals court has held that threatening to disclose private information violated the teenager's Constitutional right to privacy. This applies to schools, too.

If a teacher, counselor, or any other school official threatens to tell your parents or anyone else that you're gay and you don't want them to, make it clear that this is against your wishes. If they still do it or threaten to do so, you should contact your local ACLU affiliate or the ACLU LGBT Project.

### Freedom of Speech

Sometimes schools try to silence students who are open about their sexual orientation. But you have a Constitutional right to be out of the closet at school if you want to be. Sometimes schools punish students for talking about being gay. Sometimes schools censor students for wearing gay-themed t-shirts, even when the shirts aren't obscene and other students are allowed to wear t-shirts expressing their views on political or cultural issues.

In *Tinker v. Des Moines*, over 40 years ago, the U.S. Supreme Court ruled that

students don't "shed their constitutional rights to freedom of speech at the schoolhouse gate." The only time a school can legally restrict a student's speech is when it causes significant disruption in the classroom. And while schools often use disruption as an excuse to censor student speech, there are clear legal guidelines about disruption really is. It's not just whenever a school administrator says something is disruptive. For example, yelling, "I'm gay!" in the middle of English class isn't okay, but talking about being gay with other students between classes or at lunch is. Nor is your speech disruptive just because someone else might not like it. And if your school's dress code allows other students to wear t-shirts about their beliefs, then it's illegal for them to ask you to take off your t-shirt just because it has a rainbow or says something about gay pride.

If your school is trying to keep you from talking about your sexual orientation or expressing your beliefs about it, you should contact your local ACLU affiliate or the ACLU LGBT Project.

### Transgender and Gender Nonconforming Students

Everyone has the right to be themselves in school — including you! Your gender expression is protected by the U.S. Constitution, Title IX, and any state or local law that bans discrimination based on gender identity. This right to free expression includes your choice of clothes. As long as what you want to wear would be appropriate if worn by other students — a skirt, for example, or a

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tuxedo — then you should be able to wear that clothing even if it isn't stereotypically associated with your gender.

Your right to be yourself in school includes the right to be transgender or to transition your gender in school. Unfortunately, there aren't yet clear rules in most places about how schools should accommodate students when they transition. There are often many obstacles to deal with, including restroom and locker room accessibility, your name and what pronouns to use when talking about you, and how official records classify you. Call your local ACLU affiliate or the ACLU LGBT Project if you want help making sure your school treats you with respect and keeps you safe.

### Gay-Straight Alliances

Gay-Straight Alliances (GSAs) are student clubs, just like Drama Club or Key Club, that allow students with a common interest to get together and have discussions or activities about that interest. GSAs are made up of students of any sexual orientation or gender identity, not just gay students. They can be support groups, social groups, or they can be activist organizations dedicated to making school safer for all students, or some combination of any of those.

The federal Equal Access Act says that if a public school permits any noncurricular clubs, then it must allow students to form a GSA if they want to, and the school can't treat it differently from other noncurricular clubs. Noncurricular clubs are groups

that aren't directly related to classes taught in the school. For example, Math Club is curricular but Chess Club isn't.

Starting a GSA is like starting any other club! Find out your school's rules for forming an official student organization (like getting a faculty sponsor if one is required, etc.) and then follow those rules carefully. And document everything just in case the school gives you a hard time about your GSA. There are tips on how to do this at the end of this handout.

We've found that school officials often don't know much about the law or think they can find some way to get around it. Blocking a GSA from forming or treating it differently from other noncurricular clubs is against the law, and if your school does it you should contact your local ACLU affiliate or the ACLU LGBT Project.

### Prom, Homecoming, and other School Events

If you're a girl, can you go to homecoming with another girl? If you're a boy, can you run for Prom Queen? Yes! The First Amendment and your right to equal protection guarantee you the right to express yourself by bringing a same-sex date to the prom or homecoming. Similar protections should apply if you are a boy and want to run for Prom Queen or if you're a girl and want to run for Prom King.

If you go to a public school and school officials try to tell you that you can't bring a same-sex date to prom, you

can contact your local ACLU affiliate or the ACLU LGBT Project.

### General Tips

If you ever suspect that your school is treating you wrong because of your sexual orientation or gender identity:

*Be respectful and follow the rules*

Don't give your school any excuses for treating you badly by behaving badly or losing your temper.

*Document everything*

Keep detailed notes about everything: dates, where things happened, who was there, who said or did what, and any other details that might come in handy. If the school gives you anything in writing or if you submit anything in writing yourself, keep copies. If you have to fill out any forms or submit anything in writing, keep copies of those things. The more you document what you're going through, the better your chances of getting it addressed.

*Get support*

There are groups all over the country for LGBT youth, and if you live somewhere that doesn't have one, you can probably find an online discussion forum where you can be yourself and get reassurance that you're not alone.

*Don't just believe what school officials tell you*

A lot of the time, school officials either don't know what the law requires them to do or they're just betting that you won't question what they say. Don't take their word for it!

### Want to know more?

Has something happened at your school that you think may have violated your rights? Do you want to talk with someone about what you can do about it? Contact us at [ACLU.org/safeschools](http://ACLU.org/safeschools)! We won't ever talk to your school or anyone else without your okay, and any communication between you and the ACLU will be kept private.



# ACLU

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