

Know Your Rights!

A quick guide for lesbian, gay, bisexual, and transgender high school students

Why? Lesbian, gay, bisexual, and transgender (LGBT) students often face discrimination and harassment in their schools. Unfortunately, many school officials know very little about how the law requires them to protect LGBT students. Sometimes they do know that they’re breaking the law but hope that students won’t question them when they do. That’s why it’s so important for *you* to educate yourself about your legal rights and what you can do if your school isn’t treating you fairly!

Harassment

Anti-gay 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! Public schools are required under federal law to remedy the abuse of lesbian and gay students.

The most important thing for you to do if anyone at school is harassing you is to report it to your principal or counselor. If the school doesn’t do anything to protect you, then it has been put on notice and can be held legally responsible. Keep a record of each time you were harassed - what happened, when it happened, who was involved, and to whom you reported it.

If you’ve reported harassment to your school and they’ve done little or nothing to stop it, you should contact your local ACLU affiliate or the ACLU’s Lesbian, Gay, Bisexual, Transgender Project.

Privacy

Your school does NOT have the right to “out” you to anyone without your permission.

To do 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’s Lesbian, Gay, Bisexual, Transgender 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 30 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 Court went on to say that the only time a school can restrict an individual student’s speech is when it causes

significant disruption in the classroom. For example, standing up and yelling, “I’m gay!” in the middle of English class isn’t okay, but talking with a friend at school about being gay between classes or at lunch is. 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’s Lesbian, Gay, Bisexual, Transgender Project.

Gay-Straight Alliances

Gay-Straight Alliances (GSA’s) 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. GSA’s are made up of students of any sexual orientation, not just gay kids. They can be support groups, or they can be educational or political organizations dedicated to making a school a safer space for all students, or both.

The federal Equal Access Act says that if a public school permits non-curricular clubs, then it must allow students to form a GSA if they want to and the school has to treat it the same as it does other (continued)



non-curricular clubs. Non-curricular 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 what your school's rules are for forming an official student organization (things like getting a faculty sponsor if one is required, etc.) and then follow those rules carefully. Document everything in case you have any trouble from the school later on. If you have to fill out any forms or submit anything in writing, keep copies of those things. Keep a record of dates when you submitted anything to the school, and how and when the school responded.

We've found that schools 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 non-curricular clubs is against the law, and if your school does it you should contact your local ACLU affiliate or the ACLU's Lesbian, Gay, Bisexual, Transgender Project.

Prom

Did you know that your school can't stop you from bringing a same-sex date to prom? In 1980, a Rhode Island teenager successfully sued his school for the right to take his boyfriend to prom. A federal court ruled that taking a same-sex date to prom is a matter of free expression under the First Amendment and told the school that it had to let him go to the prom with his boyfriend.

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, tell them about the case of *Aaron Fricke v. Richard B. Lynch* - you can find a copy of the decision from this case on our website. Or you can contact your local ACLU affiliate or the ACLU's Lesbian, Gay, Bisexual, Transgender Project.

What else?

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 thorough notes about what happened, with dates, names, 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.

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 your school tells you! A lot of the time, school officials either don't know what the law requires them to do or just figure you won't question what they say. Find out what your rights under the law are!

Got more questions? Do you have a specific question about something that has happened at your school? Want to know whether it was illegal? Want someone to talk with about what you can do about it? Email us at getequal@aclu.org! It's confidential - we won't ever contact your school, your parents, your friends, or anyone else without your okay, and any communication between you and the ACLU is private.

