

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. This brochure provides some information about the rights of LGBT students. The information here applies specifically to K-12 public school students.

## **HARASSMENT**

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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.

## **PRIVACY**

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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. 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**

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You have a Constitutional right to be out of the closet at school if you want to be. 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 what disruption really means. 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.

## **TRANSGENDER AND GENDER NONCONFORMING STUDENTS**

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Your gender expression is protected by the U.S. Constitution, Title IX, and state laws that ban 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 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.

The Rhode Island Department of Education has clear guidelines to help public schools accommodate students as they transition, which address privacy and confidentiality, harassment, restroom and locker room accessibility, gender pronouns and names, and how official records should be handled. For more information, contact the ACLU of RI.

## **GAY STRAIGHT ALLIANCES**

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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 and 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. Blocking a GSA from forming or treating it differently from other noncurricular clubs is against the law.

## **PROM, HOMECOMING, AND OTHER SCHOOL EVENTS**

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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.

## GENERAL TIPS

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

**Document everything.** Keep detailed notes, including 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. The more you document what you're going through, the better your chances of getting it addressed.

**Get support.** There are many groups for LGBT youth, and you can also find online discussions where you can be yourself and get reassurance that you're not alone.

**Don't just believe what school officials tell you.** Sometimes school officials don't know what the law requires them to do, so if in doubt, call the ACLU of RI for more information.

For nearly 100 years, the American Civil Liberties Union has been our nation's guardian of liberty, working in courts, legislatures, and communities to defend and preserve the individual rights and liberties that the Constitution and laws guarantee everyone in this country.

The information in this brochure should not be taken as legal advice. If you have additional questions, or feel your rights may have been violated, please contact an attorney or the ACLU.

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## KNOW YOUR RIGHTS: LGBT Students



Information and frequently asked questions about the rights of LGBT students.