

Out, Safe & Respected

A Guide to LGBTQ Youth in Schools for Educators and Parents

STUDENTS HAVE THE RIGHT TO BE Out, Safe & Respected

This booklet is designed to help parents and educators develop safe, nurturing school environments for lesbian, gay, bisexual, transgender and questioning (LGBTQ) students.

LGBTQ high school students are overwhelmingly subjected to harassment, intimidation and discrimination. According to a 2007 survey of over 6,000 students conducted by the Gay, Lesbian and Straight Education Network (GLSEN):

- 86 percent reported being harassed in the past year.
- 61 percent said they felt unsafe because of their sexual orientation.
- 22 percent reported being physically assaulted.

The consequences can be terrible—in addition to compromised academic performance, many LGBTQ students are at higher risk for depression and suicide.

Lambda Legal has gone to court time and again to protect the rights of LGBTQ students. As a result of our lawsuits and advocacy, we have established legal precedents and secured policy changes that require schools to protect LGBTQ students from harassment and allow youth of any sexual orientation or gender identity to express and celebrate their individuality and diversity.

But students need help from the adults around them.

- If you're an administrator, you can provide teachers and students with diversity training, and implement safe-school and antidiscrimination policies (see page 11).
- If you're a teacher, you can intervene to address antigay slurs and bigotry in your classroom and give equal visibility to the achievements of LGBTQ people in your lesson plans (see page 15).
- If you're a parent, you can encourage your children's self-expression and respect for others and demand that their schools respect their rights and protect their safety (see page 4).

Look within to find these and many more tips, ideas and resources. All young people have the right to feel safe and respected at school.



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How to Be an Adult Ally

Want to help create a safer school environment for LGBTQ and all students? Look here for advice.

An ally is someone who actively supports lesbian, gay, bisexual, transgender and questioning (LGBTQ) people and works with them to achieve equality.

In schools, allies can be anyone, including students, teachers and parents. Allies can play a critical role in stopping and even preventing harassment and discrimination against LGBTQ students in school.

A 2007 survey conducted by the Gay, Lesbian and Straight Education Network (GLSEN), found that students at schools with supportive faculty and staff were less likely to report that they felt unsafe or to miss school because of

their sexual orientation or gender expression.

What Can Faculty and Staff Do?

Adult allies who work in schools can be very helpful. They often have power to take action on behalf of students. Faculty and staff can:

- Make classrooms a safe space where anti-LGBTQ language is addressed.
- Advocate for your school to adopt and enforce a nondiscrimination policy that includes sexual orientation and gender identity (see pages 7 and 11).
- Report anti-LGBTQ harassment or discrimination in writing to the school principal.
- Support students in their decision to bring

a same-sex date to the prom or other social events.

- Request books by LGBTQ authors and about LGBTQ people and issues for the school library.
- Create an inclusive curriculum that highlights the contributions of LGBTQ individuals, like Harvey Milk, and LGBT history, like the Stonewall Riots.
- Be an advisor for a gay-straight alliance, or help students organize and present a proposal for starting a GSA that complies with school requirements (see page 22).
- Make sure health classes discuss sexual orientation and gender identity as well as information about HIV transmission and prevention (taking care to emphasize that HIV affects everyone, not just LGBTQ people).
- Supply and prominently display LGBTQ-friendly materials relating to mental and physical health in nursing and counseling areas.
- Create displays and/or lesson plans about LGBT History Month and other annual observances.

What can parents and guardians do?

In a world where most LGBTQ students still experience harassment and discrimination, knowing they have their own or another parent or guardian on their side can make all the difference.

Whether or not your child is LGBTQ, you can often be the strongest and most effective advocate for LGBTQ students. School administrators may hear from parents who want to limit the rights of LGBTQ students, so it's even more important for all parents who support LGBTQ youth to make sure their voices are also heard. You can:

- Support your children and their friends who question their sexuality or identify as LGBT.

"YOU CAN OFTEN BE THE STRONGEST AND MOST EFFECTIVE ADVOCATE FOR LGBTQ STUDENTS."

- Meet with school faculty and staff to discuss issues like safety, antidiscrimination and inclusive curricula.
- Hold your child's school accountable for complying with the school district's nondiscrimination policy and state or federal laws.
- Help students' efforts to start a GSA by contacting the school and communicating your support.
- Assist your children or their friends in filing complaints about discrimination or harassment.
- Help organize events like celebrations for LGBT History Month.
- Challenge discriminatory or stereotyped statements at meetings and events like PTA meetings or parents' night.

What if I experience harassment for being an ally?

Unfortunately, allies sometimes experience harassment or discrimination for standing up for LGBTQ rights or because they themselves are perceived to be LGBTQ. However, you are not without rights or recourse (see "Cheryl Bachmann Botsolas," page 6).

If your school system forbids you from being an advocate or makes you feel that your job is on the line, it may be infringing on your rights to equal protection and free speech. In *Pickering v. Board of Education*, the U.S. Supreme Court

HOW TO BE AN ALLY

announced that where employee speech touches on a matter of public concern, the employee's right to speak out may be strong enough to trump the employer's interest in restricting employee speech. In such cases, the employer may not punish the employee.

However, while the First Amendment and federal laws like the Equal Access Act generally protect the right of students to freedom of expression, they generally do not apply to curricular speech by schools and school officials. Schools constantly make choices about what to teach and what to exclude from curricula, and the law generally upholds these choices. Moreover, the EAA does not explicitly protect faculty members.

In states where anti-discrimination laws exist and retaliation occurs as a result of sexual orientation or gender identity, these laws may be used to protect adult allies. Many teachers' unions provide strong representation for teachers in the event they are punished simply for advocating for fairness. In addition, you

may be able to enlist supporters to advocate for your fair treatment at school board meetings. If you have concerns, recruiting other allies and taking action together with them might reduce your risk. If you encounter discrimination, please contact Lambda Legal's Help Desk at 1-866-542-8336 or visit www.lambdalegal.org/help/online-form for more information and assistance.

"LGBTQ STUDENTS WHO KNOW THEY HAVE THEIR OWN OR ANOTHER PARENT OR GUARDIAN ON THEIR SIDE CAN MAKE ALL THE DIFFERENCE."



TAKING ACTION:

Cheryl Bachmann Botsolas


This New Jersey teacher made her classroom a safe haven from harassment.

Cheryl Bachmann Botsolas, a teacher at West Milford High School in New Jersey, taught history for three years and received terrific reviews from students and supervisors.

However, soon after the school administration recommended her for tenure, Botsolas disciplined two of her students for using antigay slurs in the classroom. One of the students lashed out at the teacher, threatening her life. Even more shocking, Botsolas' tenure recommendation was revoked.

Botsolas didn't back down. With representation from Lambda Legal, she challenged the decision at a school board hearing, supported by fellow teachers and students. The board voted to overturn the superintendent's decision and restored Botsolas' tenure.

Botsolas' commitment to creating a respectful classroom environment is a model for other educators and allies in ensuring the safety and well-being of LGBTQ students.



Protecting Students From Harassment and Discrimination: It's the Law

Learn how the law protects LGBTQ students at school – and how to draft school policies that protect your students and staff.

Does the law protect LGBTQ students from discrimination and harassment at school?

The United States Constitution guarantees all people, including LGBTQ people, “equal protection of the laws.” State constitutions contain similar protections. This means that public school officials and employees may not single out a student for negative treatment based on prejudices against LGBTQ students. Nor may they discriminate against students just because they (or members of the community) disapprove of being gay or because they feel uncomfortable around those who do not conform to traditional gender stereotypes. The Constitution’s equality guarantee also means that school officials may not turn a blind eye to anti-LGBTQ harassment or treat

it less seriously than other forms of harassment. If a public school official deliberately ignores antigay or antitransgender peer abuse, or refuses to apply antibullying protections on a nondiscriminatory basis, the official – and even the school district itself – may be held liable for violating students’ constitutional rights.

Federal civil-rights statutes – particularly Title IX – reinforce these provisions. Under Title IX, public and private schools receiving federal funds can be held liable when they discriminate against students based on sex or gender expression, or when they knowingly permit their employees or students to engage in sexual harassment or harassment based on sexist stereotypes. LGBTQ youth are frequent targets of these forms of harassment, and have



TAKING ACTION:

Derek Henkle

Antigay abuse and school blunders cut short this Nevada youth's education – but he was vindicated in court.

From the age of 14, when Derek Henkle came out on public-access television, his life in the Nevada school system was a nightmare. "I would be spit on, punched and kicked," he remembers. "I was humiliated every day." School

administrators and teachers stood by while other students harassed, threatened and physically assaulted Henkle. One assistant principal actually laughed after students tried to tie Henkle to a truck and drag him down the street. Rather than addressing the antigay harassment and violence, school administrators transferred Henkle to other schools — as if he were the problem. At 16, Henkle, who had been in a program for gifted and talented students since the fourth grade, was forced to resort to adult-education classes, where it was impossible to obtain a high school diploma. Henkle fought back. He contacted Lambda Legal and with our help secured a precedent-setting court ruling recognizing the rights of gay students. After the ruling, the school district agreed to sweeping policy changes to protect students from harassment, paid a \$450,000 settlement and put a letter in his academic file explaining why his education was cut short.

successfully asserted their rights under Title IX in a number of court cases.

State and local civil rights laws provide additional protections, and often go into more detail about what they require of schools. As of 2009, about half the states in the U.S. — plus the District of Columbia — have enacted statutes, regulations or other policies that specifically address harassment and/or discrimination based on sexual orientation. While only about a quarter of states (and D.C.) expressly include gender identity in student civil-rights protections, courts and enforcement agencies increasingly recognize that sex-discrimination provisions are properly interpreted to prohibit discrimination against transgender and other gender-nonconforming students.

In addition, in a growing number of cities and counties — from small rural towns to major metropolitan areas like Dallas, Detroit, Miami-Dade and Nashville — local governments and school boards have adopted antidiscrimination

safeguards that specifically include sexual orientation and/or gender identity. (See "Put It In Writing" on page 10 for information on enacting an antidiscrimination policy in your school or district.)

What if the antidiscrimination laws in my area don't expressly include sexual orientation or gender identity?

The federal Constitution and federal laws apply throughout the country with equal force, regardless of what additional protections may or may not exist at the state or local level.

This has been powerfully demonstrated in several landmark civil-rights cases brought by Lambda Legal against school officials for antigay discrimination, which were won in federal courts applying federal law.

Henkle v. Gregory ended in a settlement of \$450,000, even though no state law at the time specifically addressed antigay harassment in school. In *Nabozny v. Podlesny* (see "Jamie Nabozny," page 9), which ended with a

nearly \$1 million settlement, a unanimous federal appeals court specifically noted that school officials could be liable for antigay discrimination under the federal Constitution regardless of what state law provided.

Moreover, even in states and localities without a statute or other policy that explicitly mentions sexual-orientation or gender-identity discrimination, various other laws may require schools to take preventive and remedial action against harassment and bullying.

A large majority of states, for example, have enacted anti-bullying laws that require local school districts to adopt specific measures addressing physical and verbal peer abuse at school. The federal Constitution prohibits schools from discriminating against LGBTQ students in the implementation of these laws.

“Negligent supervision” laws can also protect LGBTQ students from harassment by imposing liability on schools for harms suffered by students in their care.

See pages 10 and 11 for ideas on how to create

a safe school environment for LGBTQ students and on responding to anti-LGBTQ harassment.

What if the target of harassment isn't “out” or even LGBTQ?

Students don't need to be “out” to be protected under the law, or even LGBTQ. By guaranteeing “equal protection of the laws” to all people, the Constitution also protects students who are perceived to be LGBTQ, as well as students who associate with LGBTQ people. Many state and local civil rights policies, moreover, expressly protect students from discrimination and harassment based on perceived sexual orientation and/or perceived gender identity.

Where do I get more information about the laws governing my school?

Given the enormous diversity of laws that exist at the state and local level, school professionals should contact their state's Department of Education, a local attorney or Lambda Legal's Help Desk at 1-866-542-8336 or visit www.lambdalegal.org/help/online-form if they have specific questions about protections and requirements in their jurisdiction.

TAKING ACTION:

Jamie Nabozny

Take proactive steps to reduce the risk of this happening at your school: This former high school student endured unspeakable abuse. A court found his school liable for nearly \$1 million.

Jamie Nabozny attended a public high school in Ashland, Wisconsin, enduring both physical and verbal antigay abuse for four years from fellow students. Students urinated on him and even simulated raping him while in class. At one point, finding Nabozny alone, a few students repeatedly kicked him in the stomach so many times that he required surgery. School officials, however, ignored these instances of abuse, telling Nabozny that because he is gay, he should expect that kind of reaction from his fellow students. Overcoming the mental distress that led him to three suicide attempts and his dropping out of school, Nabozny sought to protect other LGBT students from the kind of torment that he faced — he sued the school. Although Nabozny's initial lawsuit was dismissed, Lambda Legal later took over his case in a federal appeals court. The decision was a first of its kind — the appeals court found that the school district could be held liable for not stopping the antigay abuse. Going back to the trial court, the case was eventually settled for nearly \$1 million.

Put It In Writing!

WRITTEN POLICIES ARE CRUCIAL TO PROTECTING STUDENTS AND ENSURING COMPLIANCE WITH THE LAW.

Components of an effective school district policy on discrimination and harassment include:

- ✓ A clear prohibition of discrimination and harassment, applying to both staff and students.
- ✓ Enumeration of "actual or perceived," "sexual orientation" and "gender identity" among the prohibited bases for discrimination and harassment.
- ✓ Procedures and guidelines for reporting harassment. Students suffering mistreatment should not be restricted to reporting harassment to any particular person, but there should be a procedure to ensure the information reaches the principal. And any staff member who witnesses or learns of discriminatory misconduct should have a clear duty set forth in the written policy to report that misconduct to the staff members designated to handle such concerns.
- ✓ A prohibition on retaliation against any person who reports harassment or discrimination.
- ✓ Information about the disciplinary consequences of violating the policy.
- ✓ A procedure for promptly investigating complaints.
- ✓ Requirements that the policy be displayed prominently at school, be distributed annually to students, parents, faculty and staff, and appear in school publications (including web pages) that set expectations for student or staff conduct.
- ✓ Procedures for regularly measuring and evaluating compliance with the policy by employees at all levels.
- ✓ Clear designation of supportive staff members with a responsibility to address discrimination, harassment, bullying and violence.

For information about additional requirements that may exist under state law, contact Lambda Legal's Help Desk at 1-866-542-8336 or visit www.lambdalegal.org/help/online-form, a local attorney or speak with a representative of your state's Department of Education.



How to Make Your School Safe

School professionals can take many actions to create a safer, more inclusive environment for LGBTQ youth and their allies.

Through proactive measures, you can:

- ☐ address discrimination and harassment at school
- ☐ help ensure the school and staff's compliance with legal and professional obligations
- ☐ reduce the school's exposure to liability

TO PROACTIVELY CREATE A SAFER SCHOOL...

DO enact written policies

If you're an administrator or policy-maker, advocate for, formulate and enact written policies specifically addressing and prohibiting discrimination and harassment based on sexual orientation and gender identity and expression (see page 6).

DO train all employees

School districts can provide training to faculty and staff to help them recognize and respond to anti-LGBTQ harassment. Information on LGBTQ-inclusive training programs is available from organizations such as the Gay, Lesbian and Straight Education Network (www.glsen.org) and the Anti-Defamation League (www.adl.org). Make sure the program you use specifically addresses sexual orientation and gender identity and expression.

DO protect employees from discrimination

The Constitution prohibits the government, including public schools, from discriminating based on anti-LGBT hostility or prejudice. In over twenty-five states, moreover, statutes, regulations or executive orders provide additional protection against employment discrimination based on sexual orientation; an increasing number of states include gender identity in these laws as well. School district policies expressly prohibiting discrimination against employees based on sexual orientation and gender identity help ensure respect for employees' legal rights. In addition, they help foster a climate of inclusion and acceptance and increase the possibility of LGBTQ students finding positive role models among faculty and staff.

DO show your support

Statements by individual staff members emphasizing their support of LGBTQ people can have a substantial impact, both on students who experience mistreatment (who will find comfort in knowing that the employee is available as a resource and ally), and on students who engage in such mistreatment (who need to be reminded that such conduct will not be condoned). There are many ways in which staff members can communicate their support. You can display an "LGBTQ Safe Zone" sticker in offices and classrooms, for example, or participate in student-sponsored events like the Day of Silence. You can, when setting expectations for student conduct, specifically mention LGBTQ issues. In addition, you can:

- Adopt LGBTQ-inclusive curricula (see page 15).
- Support LGBTQ-supportive student groups, such as gay-straight alliances (GSAs, see page 22).
- Remember and support the needs of transgender students (see page 26).

DON'T forget the Internet

An increasing amount of peer abuse occurs online, but valuable online resources for students, especially LGBTQ students, are available on the Internet as well. Schools must be careful not to unduly restrict Internet access or to punish students for constitutionally protected speech (see "Don't Block the Net," page 16).

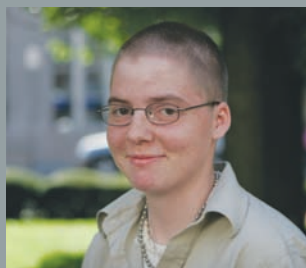
At the same time, schools must not tolerate abusive speech that disrupts the education, health and well-being of their students. Contact your state Department of Education, a local attorney or Lambda Legal's Help Desk (1-866-542-8336

or visit www.lambdalegal.org/help/online-form) to help clarify these matters. Also, see page 18.

DON'T limit your policies to what's required by law.

Educational and related professional organizations, including the National Education Association, the American School Counselor

Association and the American Psychological Association have issued codes of ethics and/or other official statements that provide important guidance on issues affecting LGBTQ youth and their allies. School officials and employees should inform themselves of their professional obligations, regardless of what the law provides for or requires.



TAKING ACTION:

Megan Donovan, Joey Ramelli, Nancy Wadington

From coast to coast, students are successfully holding their schools accountable — in court.

Megan Donovan and Joey Ramelli, students at Poway High School in Poway, CA, both endured antigay abuse from fellow students. Ramelli was slammed into lockers, knocked to the ground and even found life-threatening messages taped to his car in the school's parking lot. Donovan was physically attacked by a fellow student. Although they reported the abuse to school officials, the issue was not further addressed. In June 2005, a San Diego jury found that school officials failed to take appropriate action to protect them from harm. Though the school district and school officials appealed that decision, Lambda Legal defended the verdict, and in October 2008, a California appellate court unanimously upheld it. Lambda Legal reached a settlement on behalf of Donovan and Ramelli.

Nancy Wadington (above) endured antigay abuse at her high school in southern New Jersey until the middle of 11th grade, when she had to leave school to protect her safety. In a lawsuit Lambda Legal filed on her behalf against school officials, Wadington asserted that she suffered verbal and physical attacks from other students over a two-and-a-half year period. In an effort to avoid the attacks, she stayed out of the hallways, walked around the outside of the school building to get to her next class, and stopped using the school bathrooms, which led to abdominal pain during class. Under New Jersey's Law Against Discrimination, school officials who know or should know about discriminatory abuse must take effective remedial action. After a mediation, school officials agreed to mandatory training for administrators, faculty and staff, and to pay Wadington an amount as long as she kept it confidential.

IF HARASSMENT OR DISCRIMINATION OCCURS...

DO respond swiftly

School employees at every level should react quickly when they witness or hear reports of anti-LGBTQ slurs, name-calling or other harassment. In addition to disciplining the perpetrators or referring them to designated authorities, school employees can offer support to the targeted student and/or alert guidance counselors and other supportive staff to the problem.

DON'T treat the target as the problem

Some reactions to harassment can isolate and stigmatize the student targeted for harassment without having any real effect on the underlying problem. Common counterproductive efforts include physically isolating a student who is experiencing harassment, providing the student with an “escort” or suggesting that the student change her or his behavior to avoid mistreatment. Escorts and physical separation might have temporary value when there is a serious, imminent threat to a student’s safety, but typically such measures only give school officials a false sense of having solved the problem while failing to improve the environment for students in a meaningful or sustainable way.

DON'T assume discipline is the only possible remedy

School officials sometimes assume that once they’ve disciplined an offender, they’ve adequately addressed the problem. They may also assume that if they’re unable to discipline an offender (for example, because they do not know her or his identity), there is no way to respond to the problem. There are many ways to respond proactively to harassment beyond discipline, including:

- written policies, counseling and trainings for staff and/or students (see above)
- making statements to students and staff reaffirming your school’s commitment to a safe environment
- monitoring troublesome areas within the school
- providing institutional support for gay-straight alliances and similar groups (see page 22), as well as for days of action like the Day of Silence (see page 21).

DON'T use confidentiality and anonymity as excuses not to act

School officials often mistakenly assume that if the student is unwilling or unable to identify a perpetrator, or requests confidentiality or anonymity, there is no way to respond to harassment. Many of the individual and institutional remedies discussed in this booklet can be implemented even without knowing the identity of individual harassers and without compromising requests for confidentiality.

DON'T go it alone

If you need further guidance, reach out to local advocacy and community organizations with knowledge of LGBTQ youth issues or Lambda Legal’s Help Desk at 1-866-542-8336 or visit www.lambdalegal.org/help/online-form.



How to Make Your School's Curriculum Inclusive

Growing numbers of schools are incorporating LGBTQ facts, issues and perspectives into their curricula, whether the class is health, social studies, history or literature.

Why should our school's curriculum be inclusive?

Some educators recognize that LGBTQ people currently enjoy greater visibility, acceptance and rights and want their curricula to reflect that. Others want to promote greater awareness of human diversity, or take a proactive response to the dangers of bullying. Still other administrators are compelled to find ways to teach acceptance of diversity after a violent or discriminatory incident at their school.

Whatever the reason, studies show that inclusive curricula have a positive impact and are associated with reduced harassment and safer environments for all students. LGBTQ-inclusive curricula can also be one part of good planning or intervention to help reduce a

school's exposure to liability for school-related harassment and discrimination.

Are school curricula legally required to be LGBTQ-friendly?

The First Amendment and federal laws like the Equal Access Act generally protect students' expressive rights, but they do not control curricular speech by schools and school officials. These laws do not, however, restrict schools' authority to design curricula.

Schools constantly make choices about what to teach and what to exclude from curricula, and the law upholds these choices, with good reason. Geography instruction does not have to include "flat-earth" theories to be fair to that point of view, and health classes do not

DON'T BLOCK THE NET

How to keep youth- and LGBTQ-friendly sites accessible.

Many school districts use Internet-filtering software to prevent student access to certain websites on school computers. Unfortunately, sometimes this software blocks access to sites that provide valuable assistance and resources for LGBTQ youth. If you are concerned that this may be an issue in your district, consider taking the following steps:

- Log onto a school computer and try visiting LGBTQ-supportive websites such as lambdalegal.org, pflag.org, glsen.org and gsanetwork.org. Next, try visiting anti-LGBTQ websites such as pfox.org and americansfortruth.com.
- If LGBTQ-supportive websites are blocked, ask school administrators whether they are intentionally blocking them. If they are not, the school should work with the filtering software company to unblock these sites.
- If school administrators are intentionally blocking LGBTQ-supportive sites, they may be acting illegally — especially if they do not block antigay sites. Contact Lambda Legal's Help Desk at 1-866-542-8336 or visit www.lambdalegal.org/help/online-form for legal resources if this is the case.

have to include arguments in favor of tobacco use. If school professionals decide to include health, tolerance and anti-bullying in their curricula, that choice is also protected by the law.

Whichever road schools and communities decide to take, numerous leading professional organizations support inclusion of LGBTQ-supportive materials in school curricula, including:

- The American Academy of Pediatrics
- The American Association of School Administrators
- The American School Health Association
- The National Association of Social Workers

Furthermore, schools are legally required at the federal level, as well as commonly under state and local laws, to protect students against harassment and discrimination. It is against federal law to discriminate or harass based on sex stereotypes, or stereotyped ideas about masculinity or femininity. Many state and local laws, as well as local school policies, specifically protect students against discrimination based upon sexual orientation and gender identity. (Employees have protections against discrimination as well. See page 4.)

Inclusive curricula align with these legal requirements and also promote the safety and well-being of students and staff.

What are some ways we can promote awareness of LGBTQ subjects in our curriculum?

- **History, social studies and civics teachers** can include the discussion of LGBTQ rights, activists, political figures and key events, such as the 1969 Stonewall riots, Harvey Milk's election or assassination or Lambda Legal's Supreme Court victory in *Lawrence v. Texas*, a watershed for LGBTQ civil rights.
- **English, literature or humanities teachers** can include the work of LGBTQ writers and artists as well as plays, novels or films with

LGBTQ characters.

- **Health teachers** can include facts about sexual orientation and gender identity and expression, impart nonjudgmental, fact-based information about HIV transmission and prevention and combat HIV stigma by emphasizing that it affects everyone, not just LGBTQ people.
- **Counselors** can supply and prominently display LGBTQ-friendly materials relating to mental and physical health.
- **Administrators and school boards** can adopt standards that require inclusive, comprehensive, evidence-based curricula. These standards can provide guidance while allowing some flexibility within individual districts.
- **Parents and parent-teacher associations** can contact school staff and school officials to lobby for the use of LGBTQ-friendly curricula.
- **Teachers, student group advisors and student activity administrators** can structure presentations, events or discussions around annual observances such as National Freedom to Marry Day (February 12); Pride (varies, many dates in June); National Coming Out Day (October 11) and Transgender Day of Remembrance (varies, November).

TAKING ACTION:

Montgomery County School Board

How Lambda Legal helped to win curriculum inclusiveness in one school system in Maryland



In 2007, public school administrators in Montgomery County, Maryland, revised the eighth- and tenth-grade curricula to include classes on "Respect for Differences in Human Sexuality." School officials developed these lessons with the help of an advisory panel, including community members and medical experts, and the local board approved the lessons.

But a small group of community members challenged the curriculum. The State Board of Education upheld the County's decision. But the group, which called itself "Citizens for a Responsible Curriculum," appealed in court, raising procedural objections and claiming, for instance, that since the curriculum was devoid of religious references, it illegally promoted the religion of "secular humanism."

School officials' curricular choice was supported in court by Lambda Legal, representing the local chapter of the national nonprofit group Parents, Family & Friends of Lesbians & Gays (PFLAG). A Montgomery County Circuit judge ruled in 2008 to uphold the curriculum, citing the role of trained professionals in developing the lesson plans and rejecting the opposing arguments.



Respecting Student Speech and Expression

What rules apply when it comes to LGBTQ-friendly posters, presentations and gender nonconforming clothing – and does the same hold true for antigay slurs?

Protecting LGBTQ-supportive expression is not merely a matter of First Amendment rights — it also plays a crucial role in fostering a safe, welcoming environment for all students

Censoring LGBTQ students and their allies sends a hurtful message to the entire student body. Moreover, it can expose a school to greater liability in a lawsuit (see page 11).

What free speech rights do students have under the Constitution?

Public school students have a constitutional right under the First Amendment to express themselves at school. This includes not only the right to speak (or not speak) particular words, but also the right to share written materials with each other and to wear messages and images on clothing, buttons, or jewelry, without censorship or discrimination based on the ideas that the students wish to express. In most cases, the First Amendment also protects students' right to form groups like gay-straight alliances (GSAs, see page 22). It also protects students' right to self-identify as LGBTQ or as allies.

Schools may not discriminate based on particular ideas by imposing extra restrictions or procedural hurdles. For example, a public school would violate the First Amendment if it generally allowed

students to wear written messages on their T-shirts but required students to receive prior approval for T-shirts supporting LGBTQ equality.

Are there limits to students' freedom of speech at school?

Courts interpreting the First Amendment have recognized a few narrow categories of student speech that schools may restrict, including speech that is verbally abusive, promotes illegal drug use or is lewd or profane. Schools may also restrict student speech where school officials can show facts that reasonably lead them to conclude that the speech will cause an actual, substantial disruption to the school's operation. Schools may not simply *assume* that speech will be substantially disruptive. Nor may they label speech "substantially" disruptive merely because it could cause controversy, inconvenience or discomfort, or because other people respond to the student's speech in a disruptive way. If a group of students harasses a classmate because he or she wears a T-shirt supporting LGBTQ equality, the school must take disciplinary action against the harassers. It may not "solve" the problem by pressuring the student to wear a different shirt. As one federal court has explained in the context of gay-supportive speech, the First Amendment "does not tolerate mob rule by unruly school children."

Can LGBTQ-supportive expression be restricted if school officials find it inappropriately "sexual" in nature?

Schools occasionally attempt to silence student speech related to LGBTQ issues by claiming that such speech is inappropriately "sexual" for young people, or by claiming that such speech contravenes a school's abstinence-only curriculum.

There is nothing "sexual" about discussing inclusion and respect; nor is there anything "sexual" about opposing harassment, discrimination and violence. In 2008 and 2009, three federal courts flatly rejected

claims that LGBTQ-supportive student expression could be restricted because it was inappropriately sexual or interfered with an abstinence-only curriculum.

Can schools restrict access to their public address system, or limit the types of posters that students display on school property?

While schools have some leeway under the Constitution to decide whether they will allow student announcements on a public address system or allow students' posters on school property, rules must apply evenhandedly, without discrimination based on the ideas students want to express. So if students are allowed to announce support for a canned-goods drive through posters or announcements, schools must provide the same privilege to students who wish to announce an LGBTQ-related event. The only exceptions are those narrow exceptions to student free-speech rights discussed above.

What if a student is speaking as part of a class, or in a student or school publication?

Courts have allowed schools to exercise a greater degree of control over student expression where it forms part of the school's official curriculum. Student expression in school publications can fall into this category when the publication is tied to the curriculum, such as in a journalism class. However, even in this context of curricular speech, the First Amendment requires that restrictions on student expression be reasonably related to legitimate pedagogical concerns. Several courts have recognized, moreover, that restrictions aimed at suppressing particular ideas are unconstitutional even in the context of curricular expression. Thus, if a student is disciplined for presenting a critique of the president during an oral presentation to her class, the disciplinary action may violate the First Amendment if its purpose is to suppress or discourage the student's ideas. If, however, the same student is disciplined because she

disregarded the teacher's instruction that all presentations focus exclusively on the French Revolution, the First Amendment would provide the student with no defense, because the discipline was reasonably related to pedagogical interests. The First Amendment similarly would not apply if one of the earlier-described exceptions applied – for example, if the student expressed herself in a lewd or profane manner.

What other laws protect student speech?

The First Amendment provides only the minimum requirements that public schools must meet in respecting students' free speech rights. Other constitutional guarantees may provide additional protections in certain contexts. Moreover, several states, including Arkansas, California, Colorado, Iowa, Kansas, Massachusetts and Oregon, have enacted statutes that provide students with enhanced expressive freedom beyond what the First Amendment requires. For more information about a particular jurisdiction, contact a local attorney, the Student Press Law Center (www.splc.org) or Lambda Legal's Help Desk (866-542-8336 or visit www.lambdalegal.org/help/online-form).

What about antigay speech or speech opposing LGBT equality?

Students have a constitutional right to discuss political and social issues from all perspectives. But as discussed above, students do not have a constitutional right to substantially disrupt the educational environment, express themselves in a lewd or profane manner or inflict verbal abuse. As one federal appeals court explained, "[i]ntimidation of one student by another, including intimidation by name calling, is the kind of behavior school authorities are expected to control or prevent. There is no constitutional right to be a bully."

Distinguishing between offensive but constitutionally protected speech and

unprotected verbal harassment may occasionally present a challenge. Courts have not yet settled on a single approach to borderline cases, and resolution often requires a fact-intensive inquiry. But there are ways to create a supportive school environment without infringing on any student's First Amendment rights.

The First Amendment may in some circumstances protect a student's right to voice, at school, his or her objection to homosexuality or LGBTQ rights. But nothing requires school officials to agree. Thus, if officials are concerned that a student's expression in opposition to LGBTQ equality could foster an intolerant environment or upset other students, school officials may take the opportunity to remind the student body that, while the school respects freedom of speech on these issues, the school itself remains committed to the full inclusion of, and respect for, all students, including LGBTQ students.

School officials might express this affirming message by, for example, making an announcement, or implementing or redistributing copies of an anti-harassment policy (see page 11). Schools can also make additional LGBTQ-supportive resources available to students, or encourage students who are upset to speak with a counselor.

Of course, school officials should not punish or otherwise discipline a student based on his or her constitutionally protected speech; nor should they permit LGBTQ-supportive students (or staff members) to harass the student with anti-LGBTQ ideas. But provided school officials prohibit such misconduct, they are entitled (and in some circumstances, required) to convey the school's institutional support for LGBTQ students and their allies.

Do public school teachers and staff members have free speech rights at school?

The First Amendment protects some types of expression for teachers and staff, but employers are allowed under the law to restrict the speech of employees in certain ways. The nature and scope of allowable restrictions depend highly on the context and the jurisdiction (see page 5). Public employees with specific questions should contact Lambda Legal or a local attorney.

Do private school students have free speech rights?

Students in private schools do not have a constitutional free speech right, because the Constitution is about limiting the actions of the government (including public schools). They may, however, have rights under certain federal and state laws. For information about private school student rights in a particular context or jurisdiction, contact Lambda Legal (866-542-8336 or visit www.lambdalegal.org/help/online-form) or a local attorney.

"THERE IS NOTHING 'SEXUAL' ABOUT DISCUSSING INCLUSION AND RESPECT; NOR IS THERE ANYTHING 'SEXUAL' ABOUT OPPOSING HARASSMENT, DISCRIMINATION AND VIOLENCE."

DAYS OF ACTION

Questions about students' expressive rights often arise in response to student "days of action," such as the student-run National Day of Silence supported by the Gay, Lesbian and Straight Education Network (see page 34), or Allies Week. The principles discussed throughout this section apply to these days of action, protecting students' rights to organize and participate in them. When students participate through an extracurricular group, they may have additional rights under the Equal Access Act (see page 22). A school's support for LGBTQ-supportive events can help create a safe school environment and discourage harassment and discrimination.



A photograph showing a female teacher with blonde hair, wearing a white shirt, standing and pointing at a document on a desk. Three students are seated around the desk: a young woman with long brown hair on the left, a young man with glasses and a grey vest in the center, and a young woman with long dark hair on the right. They are all looking at the document. The background is a classroom setting with a bulletin board and other students working at desks.

Helping Students Start Gay-Straight Alliances

Gay-straight alliances (GSAs) are clubs for lesbian, gay, bisexual, transgender, questioning (LGBTQ) and straight students.

There are over 3,000 GSAs in schools nationwide.

GSAs can provide a space for students to:

- exchange information and find or offer support
- socialize, hold dances and movie nights
- discuss challenges and concerns like coming out, homophobia or transphobia
- have dialogues with guest speakers
- organize events to raise awareness and pride, especially around annual observances like National Coming Out Day or LGBT History Month

GSAs can create community, increase awareness and understanding, cultivate leadership skills and reduce discrimination and hostility at school. Whether you are an administrator, faculty member, parent or guardian, here are some key facts about GSAs that can help you support students.

ORGANIZE BY THE RULES

UNSYMPATHETIC ADMINISTRATORS MAY REFUSE TO ALLOW A GSA TO FORM IF STUDENTS FAIL TO PROPERLY REQUEST PERMISSION OR OTHERWISE MISS SOME ADMINISTRATIVE DETAIL. SO ENCOURAGE STUDENTS TO:

- **Know their rights** for their club to be treated exactly like all other noncurricular* clubs, and be prepared to provide a copy of the Equal Access Act to their administration.
- **Ask for requirements and procedures for forming a club** from the principal or other administrator in charge of student activities. In cases where student handbooks or other school materials don't define the process, emails and written requests that specifically ask for written responses are helpful, as is asking for this information in the presence of a witness.
- **Follow up and document their efforts** to meet the school's obligations for forming new clubs.
- **Seek assistance** from Lambda Legal when administrations place obstacles in students' paths. See "Need Outside Help?" on page 25.

Can public schools legally prevent GSAs from meeting?

No. Federal law requires schools to treat GSAs and their members exactly the same as they would other non-curriculum related clubs and the students who participate in them.* The First Amendment guarantees students the right to speak freely and to associate for expressive purposes, so long as doing so does not "materially and substantially" interfere with the educational environment. The Equal Access Act (EAA) requires that any public high school that allows even one "noncurriculum-related student group" to meet "may not deny other clubs, on the basis of the content of their speech, equal access to meet on school premises during noninstructional time."*

Does our school need to grant a GSA access to bulletin boards, the PA system and other privileges?

Yes, if it extends these privileges to any other non-curriculum related club. Failure to grant a GSA the same privileges, or to treat the GSA in any way that discriminates against it, may violate the EAA, the Equal Protection Clause of the federal or state constitutions, the First Amendment and/or state statutes prohibiting discrimination on the basis of sexual orientation or gender identity.

Can a school require a GSA to tone down its name?

A school cannot require a GSA to change its name (e.g., change it to the "Diversity Club" or

*A "noncurriculum-related" club is a student group that is unrelated to any class or to the overall curriculum offered at the school where the club meets. Whether clubs are curriculum-related or not is a legal question – one that schools generally get wrong when justifying banning a GSA by claiming that all other clubs are curriculum-related. In fact, under the law, a school cannot ban a GSA or other noncurriculum-related club unless all other student groups allowed to meet either: 1) involve subject matter that is actually taught or will soon be taught; 2) concern the body of courses as a whole; 3) result in academic credit or 4) are a course requirement. Courts have required schools to recognize GSAs where they found many clubs that claimed to be curriculum-related were, in fact, noncurriculum-related – including student councils, youth advisory clubs, dance teams, cheerleading teams, chess clubs and many others.

“CLAIMING THAT A CLUB CREATES A ‘CONTROVERSY’ IS A LEGALLY INSUFFICIENT EXCUSE TO DENY ACCESS TO PRIVILEGES GRANTED OTHER CLUBS.”

“Tolerance Club”) because doing so impacts students’ right to be treated equally and their right to free expression. Claiming that a club creates “controversy” is a legally insufficient excuse to deny access to privileges granted other clubs, or to otherwise treat the club differently. Only where the students in the clubs themselves directly disrupt the educational environment may the school have grounds to deny them their right to meet on equal terms. If other people complain or protest the existence of a GSA, that does not mean that the GSA itself has caused the disruption – in other words, the law says there is no “heckler’s veto” over someone else’s speech. GSA members should be cautioned, though, about engaging in heated confrontations that could be construed as disruptive.

As an adult ally, how can I be most helpful to GSAs?

Most schools require clubs to have faculty sponsors. You can lend vital support by becoming a club sponsor or co-sponsor. If you would like to help but lack time, you can send inquiries around to other faculty members. GSAs are student-initiated and student-run, so students dictate their groups’ missions and activities. As an advisor or ally guest, you can propose ideas for discussion or activities, as long as you don’t appear to direct, conduct, control or regularly attend meetings.

In the classroom, teachers should be aware that they may not enjoy much free-speech protection for discussing LGBTQ issues (though generally there are employment contracts that allow for warnings before adverse action is taken). Like other employers, schools are allowed to limit what is said by employees on the job and can also create curricula that prescribe what can be taught.

If you’re a guardian or parent and there is no GSA at your child’s school, try bringing up the idea of a GSA with another sympathetic parent, teacher or guidance counselor. See the Resources in this booklet for materials and organizations that may help you convince administrators, school board members, teachers, parents and young people that GSAs are important and that LGBTQ students deserve to be treated with dignity, equality and respect.

When trying to help students organize a GSA, bear in mind that individuals and organizations unaffiliated with the school generally cannot distribute information on campus. However, students can distribute materials as long as the distribution does not “materially and substantially” disrupt the school environment or infringe upon the rights of others.

NEED OUTSIDE HELP?

Lambda Legal is eager to help young people and adult allies stand up for LGBTQ students' right to equal treatment. Contact Lambda Legal's Help Desk at 1-866-542-8336 or visit www.lambdalegal.org/help/online-form whenever you, your students or children:

- Have questions about their legal rights to form a GSA, or otherwise have questions about their rights as a LGBTQ person
- Encounter any resistance to forming a GSA
- Experience frustration because the administration is not responding to their request to start a GSA
- Are told that the school will not provide access to the school website, when other noncurricular clubs have access
- Are told that the school forbids the use of the school name in association with the GSA
- Discover that the school bans or blocks websites with LGBTQ information
- Are told their faculty advisor may not participate in their meetings in a manner similar to participation in all other clubs
- Are told that they cannot have outside speakers
- Have their GSA meetings monitored by administrators or staff
- Are told they need parental permission to participate



TAKING ACTION:

Charlie Pratt and Ashley Petranchuk

Charlie Pratt and his younger sister Ashley Petranchuk were both denied the right to form a GSA at their upstate New York high school. Pratt's efforts to form the club came several years ago, when he suffered relentless antigay and sexist

harassment from his classmates. School officials, aware of the harassment, refused to allow him to form the club. Pratt withdrew from school to protect his own safety. Petranchuk, his younger sister, made a similar effort to form a GSA in 2008, but the principal turned her down, telling her that other students and parents would not approve. Lambda Legal filed a federal lawsuit against the school in April 2009, alleging illegal and unconstitutional discrimination, harassment and censorship. Five days after the suit was filed, school officials stated that they would allow Petranchuk to form a GSA. Lambda Legal is pressing forward with other claims on behalf of both Petranchuk and Pratt.



Working with Transgender Students

From gender-neutral restrooms to safe changing areas, school districts are learning how to accommodate transgender students.

School professionals should take active steps to protect and promote the well-being of a particularly vulnerable youth population: transgender students.

If your child is transgender, or if you're an educator working with transgender youth, your children or students are dealing with issues that have become increasingly visible. Transgender youth have gained more acceptance in the media and society. Transgender students – and all people who challenge gender stereotypes and expectations – should know they are no longer alone.

However, transgender students can still confront serious misunderstandings, insensitivity and discrimination.

In a 2007 study by the Gay, Lesbian and Straight Education Network (GLSEN), 87 percent of transgender students reported that they had been verbally harassed because of their gender expression, and 53 percent reported that they had been physically harassed. The more harassment that students faced, the less likely they were to maintain higher GPAs, attend all their classes and plan for college.

You can take action to protect transgender students from harassment, to support their expression and to ensure that they are treated equally.

Do transgender students have the right to express their gender identity in school?

Yes. Some states have passed gender-identity antidiscrimination laws that apply to educational settings. Some states have also passed laws that specifically prohibit bullying on the basis of gender identity. Frequently, there are other explicit protections in place for transgender students at the local level.

However, even in states that lack such specific protections, transgender students still have enforceable legal rights from several sources. More general state and local laws may be used to protect transgender students facing discrimination, harassment, and privacy issues. Federal statutes like the Equal Access Act and Title IX of the Civil Rights Act protect equal opportunity and free expression rights. The U.S. Constitution — like many state constitutions — guarantees equal protection, so public schools must present valid reasons for treating someone differently.

By learning about the applicable laws in your jurisdiction (contact Lambda Legal's Help Desk at 1-866-542-8336 or visit www.lambdalegal.org/help/online-form for more information) you will be better prepared to encourage policies protecting transgender rights. But remember that these laws are a floor, not a ceiling. Schools can and should do more than the legal minimum to ensure safety and equal education for transgender students.

How can educational professionals be supportive of transgender students?

We live in a society that often rewards people who fall into one category or another — male or female, masculine or feminine — and often discriminates against those who do not. When communicating with transgender students, you can try to think from their perspective. To be

supportive, there are certain actions that can be very helpful.

DO use inclusive, non-gender-specific language.

DO create an affirming environment where individual gender expression is supported and there's room for discussion.

DO create a forum for antiviolence discussions with other students, or hold an assembly program addressing bullying.

DO invite guest speakers to share their experiences as transgender youth or adults.

DO support transgender students in creating a forum, such as a trans-inclusive gay-straight alliance (GSA, see page 22), for communication and support.

DON'T make assumptions about transgender students, such as what gender a person is, or whether that person prefers to be called "he" or "she." Ask them, respectfully.

DON'T ask a transgender student invasive, inappropriate questions about his or her body or sexuality.

How can we develop transgender-inclusive policies in our school?

As a first step, ensure that your school district's nondiscrimination policy specifically bars discrimination and harassment based on "gender identity and expression," not just "sexual orientation." After this policy is adopted, make sure that the entire school community is aware of it.

Next, issue comprehensive guidelines to help administrators and teachers implement the nondiscrimination policy and to ensure equal access to educational programs. These guidelines should:

- instruct school personnel to protect transgender students' rights and privacy.
- instruct school personnel to respect transgender students' gender identity and use the students' preferred pronouns (i.e. "he" and "him," or "she" and "her").

"TAKE PROACTIVE STEPS TO HELP TRANSGENDER STUDENTS FEEL INCLUDED, AND MAKE OTHER STUDENTS AWARE OF TRANSGENDER ISSUES."

- address the use of sex-segregated school facilities and activities.
- respect transgender students' self-expression, including students' choices to dress in clothing and accessories that assert their gender identity, and to wear clothes, stickers, and the like that express transgender pride.
- recommend steps to help transgender students feel included, and make other students aware of transgender issues, such as by teaching diversity in sexual orientation and gender identity in health classes.

Should school administrators provide special bathroom and locker facilities?

Transgender students often face particular challenges when using bathrooms or locker rooms. Because these facilities are traditionally segregated by sex, transgender students can face harassment from other students or even discipline from the school for using bathrooms or locker rooms that conform to their gender. As a result, some transgender students avoid these facilities, which can lead to health risks. Accommodating transgender students is simpler than schools expect. You can:

- allow students to use the restrooms or locker rooms that conform to their particular gender identity.
- hang curtains or designate private spaces in

locker rooms, where transgender students can feel comfortable changing.

- create unisex bathroom facilities.
- allow transgender students to use the teachers' restrooms.

Should schools let transgender athletes play with the team that corresponds to their gender identity?

Transgender athletes have participated in a variety of sports events, from recreational leagues to the Olympics. You can make sure transgender athletes enjoy a level playing field when it comes to school sports participation.

DON'T assume that transgender athletes will have unfair advantages on the playing field, or that they won't be accepted by their teammates.

DO adopt a case-by-case approach to athletic participation, consulting with each student to determine which team is safest and most appropriate for the individual.

DO educate coaches and student athletes about respect for gender identity.

For more information on this topic, contact Lambda Legal's Help Desk at 1-866-542-8336 or visit www.lambdalegal.org/help/ online-form, the Sports Project at the National Center for Lesbian Rights (www.nclrights.org/) or another organization that advocates for transgender athletes.

The Los Angeles Unified School District

This school system is a model for creating policies and facilities that respect transgender students.



In 2005, the school district administration for Los Angeles — the largest district in California and the second-largest in the United States — created guidelines instructing staff on how to address issues related to transgender and gender-nonconforming students.

The guidelines are comprehensive. They

- instruct teachers to address students by the pronouns of their choice (i.e., “he” and “him” or “she” and “her”).
- update the school’s student database to include his or her preferred name (which may be distinct from the student’s legal name).
- direct staff to protect students’ privacy by disclosing gender identity on a need-to-know basis.
- allow students to use the restroom or locker room that conforms to his or her gender – and make alternatives available according to the preferences and needs of each student.
- let students dress according to the gender identity that they consistently assert at school.
- treat gender-identity-based harassment or discrimination with the same seriousness as any other harassment or discrimination.
- allow for the possibility of transfer between schools when necessary.

By adopting thorough guidelines for school staff, the Los Angeles Unified School District has helped teachers and administrators to develop a safe, respectful environment for transgender students — and, in the process, has set an example for other districts around the country.



Proms, Dances & Dating

How to make sure LGBTQ youth and their allies can join in on the fun.

When it comes to proms, dances and dating, many students still experience discrimination and roadblocks.

Students may worry that bringing a same-sex date or wearing an outfit that expresses their gender identity, but doesn't fit gender norms, will make them a target for harassment or will not be welcomed by school administrators. Additionally, administrators or teachers may misguidedly try to bar students from these forms of expression "for their own good," anticipating that they will not be accepted. But in most cases, LGBTQ students have legal rights to equal treatment.

Are students allowed to take a same-sex date to dances?

Yes. More than 20 years ago, a federal court upheld high-school senior Aaron Fricke's right to bring his male date to the prom. The court also ruled that how other students might react to Aaron and his date did not justify banning them.

Supreme Court and federal court cases since then have strengthened the argument that any policy or action that excludes same-sex couples from proms and dances, as well as any policy adopted as a pretext for such discrimination, violates the rights to free expression and association guaranteed by the First Amendment to the United States Constitution.

A federal court upheld this fundamental right to equal treatment in 2008 in Scottsboro, Alabama, ordering Scottsboro High School to let two female students attend the prom together and defeating the school board's efforts to block them.

Can students wear clothing considered gender nonconforming to a dance? Can the school set any dress code?

Schools can set general dress standards for prom, like requiring formal attire. Courts sometimes have found that a school's concern about safety or substantial disruption is valid, and some have upheld sex-specific dress codes.

But for the most part, barring a female student from wearing a tuxedo or a male student from wearing a dress may subject the school to a sex-discrimination claim under state education laws, antidiscrimination laws, Title IX or the U.S. Constitution. The same goes for transgender or "gender-queer" students who want to dress in a way that reflects their gender identity or expression. The right to express gender identity through appropriate clothing also finds support in the First Amendment and state anti-discrimination laws.

Can schools forbid same-sex couples from holding hands and other permissible public displays of affection?

School officials may apply disciplinary limits to student displays of affection. But these limits must be imposed neutrally, regardless of students' sexual orientation or gender identity, keeping in mind that expressions of sexual orientation and gender identity generally fall under First Amendment protections.

Are schools required to provide additional security to protect same-sex couples at proms and dances?

Prejudice and homophobia are realities. Adults have a moral and professional responsibility to protect students from the effects of antigay and anti-trans discrimination. Adult allies can talk to

their children's or students' principal or other administrator, reminding them that the law requires the school to take appropriate security measures to ensure the safety of all students at any event. Despite common fears, the presence of same-sex couples has rarely proven to be disruptive at school events. Nonetheless, it is important to remain vigilant and attentive to any safety needs. When needed, additional security should protect the safety of all students and not single out or focus on those LGBTQ students.

What else can adult allies do to protect young people at proms and dances?

- Inform administrations and school boards about students' constitutional rights, and encourage them to protect them.
- Encourage school boards and administrations to pass non-discrimination policies that explicitly include sexual orientation and gender identity (see pages 7 and 11).
- Talk to students before prom to address questions and concerns.

Lambda Legal can provide resources that describe students rights, and can communicate directly with school policymakers and decision-makers if need be.

What should students do if they run into problems?

- If the school tells students they can't take a same-sex date to a dance, urge them to ask (or ask their parents or guardians) to contact the school principal and ask for the reasons for denial in writing.
- If the school tells students they need their parents' permission to attend, suggest they (or their parents or guardians) ask the principal in writing whether parental permission is required of all students. There is no legal justification for demanding permission because of sex or sexual orientation.

"ANY POLICY OR ACTION THAT EXCLUDES SAME-SEX COUPLES FROM PROMS AND DANCES VIOLATES THE RIGHTS TO FREE EXPRESSION AND ASSOCIATION GUARANTEED BY THE FIRST AMENDMENT."

- If students are harassed at the prom or dance, report or encourage them to report any incidents to officials, security personnel or other monitors/chaperones at the dance. Suggest students enlist friends and allies to get on the dance floor with them to break the ice. After the event, report any incidents of harassment to the principal in writing.
- If students are barred from entering or from dancing together, ask to speak with the person in charge of the event. Let them know that LGBTQ students have the same right as all other students, including to attend and to dance together. Students may also tell their school principal in advance that they're bringing a same-sex date and ask for a short note confirming that they are allowed to attend. Adult allies or students can also take along a copy of this Q&A for backup. If all else fails, report the incident to the principal in writing.

If students continue to encounter obstacles, contact Lambda Legal's Help Desk at 1-866-542-8336 or www.lambdalegal.org/help/online-form.



TAKING ACTION: K.K. Logan

Throughout K.K. Logan's high school career, he expressed a deeply rooted femininity in his appearance and demeanor. While choosing to be addressed with male pronouns, Logan wore clothing typically associated with girls his age. Logan's classmates and teachers were supportive of his dress and gender expression. However, when Logan wore a dress to his

prom, Logan's principal physically blocked him from the entrance. Despite Logan's classmates and various community members rallying to his defense, he was never let inside for his prom. Administrators cited school policy against "advertising" one's sexual orientation through dress. Lambda Legal filed a lawsuit on Logan's behalf, asserting that barring Logan from his prom for wearing a dress is a violation of his First Amendment right to freedom of speech, symbolic action and expressive conduct. While it is important for schools to have policies that regulate student behavior, these policies must also respect students' rights. LGBTQ students have the right to express themselves in and out of the classroom, and silencing their right to self-expression is an unlawful violation of the First Amendment.

Resources

Where to find more information and materials.

NATIONAL RESOURCES

LAMBDA LEGAL

www.lambdalegal.org
www.lambdalegal.org/help/online-form
Help Desk 1-866-542-8336

Lambda Legal is a national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and those with HIV through impact litigation, education and public policy work. The organization provides legal assistance and representation to students and school professionals facing discrimination, harassment or censorship based on sexual orientation or gender identity.

National Headquarters

120 Wall Street, Suite 1500
New York, NY 10005-3904
T 212-809-8585
F 212-809-0055

Western Regional Office

3325 Wilshire Boulevard,
Suite 1300
Los Angeles, CA 90010-1729
T 213-382-7600
F 213-351-6050

Midwest Regional Office

11 East Adams, Suite 1008
Chicago, IL 60603-6303
T 312-7663-4413
F 312-663-4307

Southern Regional Office

730 Peachtree Street, NE,
Suite 1070
Atlanta, GA 3030-1210
T 404-897-1880
F 404-897-1884

South Central Regional Office

3500 Oak Lawn Avenue,
Suite 500
Dallas, TX 75219-6722
T 214-219-8585
F 214-219-4455

ADVOCATES FOR YOUTH

2000 M Street, NW, Suite 750
Washington, DC 20036
T 202-419-3420, ext. 30
F 202-419-1448

www.advocatesforyouth.org
www.youthresource.com
information@advocatesforyouth.org

Advocates for Youth creates programs and advocates for policies that help young people make informed and responsible decisions about their reproductive and sexual health. It also provides information, training and strategic assistance to youth-serving organizations, policy makers, youth activists and the media in the United States and the developing world. YouthResource, a project of Advocates for Youth, is a website created by and for LGBT youth 13 to 24 years old, which offers support, community, resources and peer-to-peer education.

RESOURCES

AMERICAN CIVIL LIBERTIES UNION LGBT AND AIDS PROJECTS

125 Broad Street, 18th Floor
New York, NY 10004
T 212-549-2627
www.aclu.org/getequal
getequal@aclu.org

Founded in 1986, the LGBT Rights and AIDS Project are special divisions of the American Civil Liberties Union. The “Get Equal” website provides, among other things, a step-by-step guide showing how to get an anti-harassment policy in your school district and tools for a gay-straight alliance at your school.

BISEXUAL RESOURCE CENTER

P.O. Box 1026
Boston, MA 02117-1026
T 617-424-9595
www.biresource.org
brc@biresource.org

The Center educates the public and organizations about bisexuality and provides an information and support network.

CHILDREN OF LESBIANS AND GAYS EVERYWHERE (COLAGE)

1550 Bryant Street, Suite 830
San Francisco, CA 94110
T 415-861-5437
F 415-255-8345
www.colage.org
colage@colage.org

COLAGE is an international organization that supports young people with gay, lesbian, bisexual and transgender parents through education and community building.

FAMILY EQUALITY COUNCIL

P.O. Box 206

Boston, MA 02133
info@familyequality.org
www.familyequality.org

The Family Equality Council works to ensure equality for LGBTQ families by building community, changing hearts and minds, and advancing social justice for all families.

THE GAY AND LESBIAN NATIONAL HOTLINE (GLNH)

2261 Market Street PMB 296
San Francisco, CA 94114
National Hotline: 1-888-843-4564
GLBT National Youth Talkline: 1-800-246-7743
www.glnh.org
questions@GLBTNationalHelpCenter.org

GLNH provides nationwide toll-free peer counseling, information and referrals to the LGBTQ community. Peer counselors are available Monday–Friday, 4:00 p.m. to midnight, and Saturday, noon to 5:00 p.m. EST.

THE GAY, LESBIAN AND STRAIGHT EDUCATION NETWORK (GLSEN)

90 Broad Street, 2nd Floor
New York, NY 10004
T 212-727-0135
F 212-727-0254
www.glsen.org
glsen@glsen.org

GLSEN strives to assure that each member of every school community is valued and respected regardless of sexual orientation or gender identity/ expression. It provides safe school tools and guides and is an official sponsor of the Day of Silence (www.dayofsilence.org), an annual event to raise schools’ awareness of and protest discrimination against LGBT students.

GAY-STRAIGHT ALLIANCE NETWORK

1550 Bryant St., Suite 800
San Francisco, CA 94103
T 415-552-4229
F 415-552-4729
www.gsanetwork.org
info@gsanetwork.org

GSA Network is a youth-leadership organization that connects school-based GSAs to each other and community resources.

GENDER SPECTRUM EDUCATION AND TRAINING

1122 E Pike St #796
Seattle WA 98122
T 877-809-4159
www.genderspectrum.org
info@genderspectrum.org
This organization provides education, resources and training to help create a more gender-sensitive and supportive environment for all people, including gender-variant and transgender youth.

HUMAN RIGHTS CAMPAIGN
1640 Rhode Island Avenue, NW
Washington, DC 20036-3278
T 202-628-4160
F 202-347-5323
TTY 202-216-1572
www.hrc.org

HRC is a nonpartisan organization that works to advance equality based on sexual orientation and gender expression and identity, to ensure that LGBT Americans can be open, honest and safe at home, at work and in the community. The Youth & Campus Outreach Program provides tools, facilitates connections and empowers high school and college-aged young people to fight for LGBT equality on campus and beyond.

YIG NATIONAL HOTLINE FOR GAY, BISEXUAL AND LESBIAN YOUTH

1-800-347-TEEN

Provides comprehensive information about national and local resources for GLBTQ teens.

NATIONAL CENTER FOR LESBIAN RIGHTS (NCLR)

870 Market Street, Suite 370
San Francisco, CA 94102
Legal Help Line: 800-528-6257
T 415-392-6257
F 415-392-8442
www.nclrights.org
info@nclrights.org

NCLR staffs a toll-free youth legal information line and provides resources on building safe school environments, with a special focus on LGBTQ youth in sports.

NATIONAL GAY AND LESBIAN TASK FORCE (NGLTF)

1325 Massachusetts Avenue,
NW Suite 600
Washington, DC 20005
T 202-393-5177
F 202-393-2241
TTY 202-393-2284
www.thetaskforce.org
info@thetaskforce.org

The Task Force is a national progressive organization working for the civil rights of LGBT people. Its website provides reports and guides for activists, including a report on making schools safe. At its annual conference—"Creating Change"—it offers a number of LGBTQ youth-related sessions and panels.

NATIONAL RUNAWAY SWITCHBOARD

3080 N. Lincoln Avenue
Chicago, IL 60657
Hotline: 1-800-RUNAWAY

Agency and Information Line:
800-344-2785
T 773-880-9860
F 773-929-5150
www.1800runaway.org
info@nrscrisisline.org

The National Runaway Switchboard provides crisis intervention and local and national referrals to youth and their families, training materials and resources for communities and schools and is the federally designated national communication system for runaway and homeless youth.

NATIONAL CENTER FOR TRANSGENDER EQUALITY

1325 Massachusetts Ave.,
Suite 700
Washington, DC 20005
T 202-903-0112
F 202-393-2241

www.nctequality.org
ncte@nctequality.org
NCTE is a social justice organization dedicated to advancing the equality of transgender people through advocacy, collaboration and empowerment.

NATIONAL YOUTH ADVOCACY COALITION (NYAC)

1638 R Street, NW, Suite 300
Washington, DC 20009
Toll free: 800-541-6922
T 202-319-7596
F 877-492-8916
TTY 202-319-9513
www.nyacyouth.org
nyac@nyacyouth.org

In collaboration with national and community organizations, NYAC addresses public policy issues related to LGBTQ youth and distributes resources and information about local LGBTQ youth agencies.

OUTPROUD: THE NATIONAL COALITION FOR GAY, LESBIAN, BISEXUAL AND TRANSGENDER YOUTH

369 Third Street, Suite B-362
San Rafael, CA 94901-3581
www.outproud.org
info@outproud.org
OutProud provides advocacy, information, resources and support to LGBTQ youth.

PARENTS, FAMILIES AND FRIENDS OF LESBIANS AND GAYS (PFLAG)

1726 M Street, NW, Suite 400
Washington, DC 20036
T 202-467-8180
F 202-467-8194
www.pflag.org
info@pflag.org

PFLAG is a national nonprofit organization with over 200,000 members and supporters and almost 500 affiliates in the United States. As part of its "Our House to the Schoolhouse" campaign, PFLAG provides resources and plans for making schools safe for LGBTQ youth.

THE SAFE SCHOOLS COALITION

2124 Fourth Avenue
Seattle, WA 98121
24-Hour Crisis Line:
1-877-723-3723
T 206-957-1621
www.safeschoolscoalition.org

The Safe Schools Coalition offers a variety of resources to help youth, educators, administrators, parents and guardians end bullying and create safe school environments for LGBTQ youth. Resources include hotlines for LGBTQ youth experiencing harassment.

RESOURCES

TRANSGENDER LAW CENTER

870 Market Street, Room 823
San Francisco, CA 94102
T 415-865-0176
F 877-847-1278
www.transgenderlawcenter.org
info@transgenderlawcenter.org

Transgender Law Center is a civil rights organization advocating for transgender communities.

TRANSYOUTH FAMILY ALLIES

P.O. Box 1471
Holland, MI 49422-1471
www.imatyfa.org
info@imatyfa.org

Transyouth Family Allies partners with educators, service providers and communities to develop supportive environments in which gender may be expressed and respected.

THE TREVOR PROJECT

9056 Santa Monica Boulevard,
Suite 208
West Hollywood, CA 90069
Toll-free hotline:
866-4U-TREVOR
T 310-271-8845
F 310-271-8846
www.thetrevorproject.org
Support@thetrevorproject.org

The Trevor Project provides a national 24-hour toll-free suicide prevention hotline aimed at LGBTQ youth and offers an educational package and other resources to raise tolerance for LGBTQ youth in school and institutional settings.

UNITED STATES
DEPARTMENT OF
EDUCATION
www.ed.gov

The Department of Education's Office for Civil Rights, in partnership with the

Bias Crimes Task Force of the National Association of Attorneys General, published a resource for school administrators, *Protecting Students from Harassment and Hate Crime: A Guide for Schools*, which includes harassment and hate crime on the basis of sexual orientation. It can be downloaded at www.ed.gov/offices/OCR/archives/Harassment/harassment.pdf

YOUTH GUARDIAN SERVICES

101 E. State Street, #299
Ithaca, NY 14850
T 877-270-5152
www.youth-guard.org

Youth Guardian Services is a youth-run, nonprofit organization that provides support and services on the Internet to LGBT and straight, supportive youth.

REGIONAL RESOURCES

CALIFORNIA

PROJECT 10 (Pasadena)
T 626-577-4553
www.project10.org

Project 10 is a Los Angeles Unified School District on-site support program for LGBTQ youth. Its focus is dropout- and suicide-prevention, substance-abuse education, student empowerment, reduction of verbal and physical abuse, and accurate HIV/AIDS information. Support groups are led by trained facilitators on the high-school level, and provide a "safe zone" for discussions of issues surrounding the subject of sexual orientation.

FLORIDA

ALSO OUT YOUTH (Sarasota)
T 941-951-2576
www.alsoyouth.org

Also Out Youth provides peer-support services, social activities, educational programs and workshops, advocacy and referrals for LGBTQ youth ages 13 to 21, their families and friends and the community, thereby enhancing self-esteem, promoting healthy dialogue and increasing awareness of sexual minority youth issues.

COMPASS COMMUNITY CENTER (West Palm Beach)

T 561-533-9699
www.compassglcc.com

Compass aims to diminish stereotypes by challenging longstanding misconceptions about the character of the LGBTQ community by emboldening our youth, promoting pride in our community and acting as an educator, advocate, health service provider and focal point for community organizing.

JASMYN (Jacksonville Area Sexual Minority Youth Network)

Gay Youth Information Line:
(904) 389-0089
T 904 389-3857
www.jasmyn.org

A resource and support network for LGBTQ youth in the Jacksonville area.

GEORGIA

MEGA FAMILY PROJECT (statewide)

T 404-808-3350
www.megafamilyproject.org

A nonpartisan, statewide organization dedicated to

providing support, education and advocacy work on behalf of LGBTQ families.

CHRIS KIDS RAINBOW PROJECT (Atlanta)

T 404-486-9034

www.chriskids.org

The CHRIS Kids Rainbow Program provides a safe and supportive residence for homeless and runaway LGBTQ youth. Rainbow is a transitional living life skills program for homeless and runaway sexual minority youth that provides both services and referrals. Life and job skills training are provided as youth become connected with a variety of community resources such as counseling, medical and legal services and volunteer opportunities.

STAND OUT YOUTH (Savannah)

T 912-657-1966

www.standoutyouth.org

Stand Out is a safe space where young LGBTQ men and women can be proud of themselves and feel empowered to achieve their ambitions. They are a place where LGBTQ youth can share their joys and concerns surrounded by peers and adults who support them. Through weekly meetings, their outreach in the community and other special events, Stand Out is Savannah's voice for the young, gay and proud.

YOUTHPRIDE (Atlanta)

T 404-521-9711

www.youthpride.org

YouthPride is a youth-focused grassroots organization in metropolitan Atlanta governed

by and for the local LGBTQ community; serves teenagers (13-17) and young adults (18-24).

ILLINOIS

ILLINOIS SAFE SCHOOL ALLIANCE (statewide)

T 312-368-9070

www.illinoisafeschools.org

The Alliance's mission is to promote safety, support and healthy development for LGBTQ youth in Illinois schools and communities through advocacy, education, youth organizing and research. The goals of the Alliance are: 1) public education, 2) youth organizing and 3) policy advocacy.

NORTH CAROLINA

YOUTHOUTRIGHT (Asheville)

<http://youthoutright.org/>

YouthOUTRight is a youth-advocacy and leadership program dedicated to providing affirmation, information, support and resources for LGBTQ youth between the ages of 14 and 20 in Asheville and the surrounding areas.

SOUTH CAROLINA

AFFIRM YOUTH (Greenville)

T 864-467-9004

www.affirmyouth.org

AFFIRM provides safety, support, acceptance, advocacy and encouragement for LGBTQ youth in Upstate South Carolina.

OUTSMART IN THE MIDLANDS (Columbia)

www.myspace.com/outsmart

OutSmart in the Midlands is an advocacy and education organization for youth (16-22) who identify as LGBTQ.

Offers monthly meetings.

GLASS (Greensboro)

(336) 272-6053

www.geocities.com/glassgso/aboutus.html

email_glass@yahoo.com

GLASS serves youth from Guilford County and the surrounding areas. Our members include local high school and college students and other youth in the community.

VIRGINIA

RICHMOND ORGANIZATION FOR SEXUAL MINORITY YOUTH (ROSMY)

Youth Support Line:

888.644.4390

T 804-644-4800

www.rosmy.org

For LGBTQ youth between the ages of 14-20, ROSMY is a source of support, education, advocacy and opportunities to promote healthy sexual and gender-identity development. Youth-driven programs help youth be themselves by empowering them to guide important discussions and develop events and activities that best meet their needs in a safe and supportive way. Offers youth support groups, training in public speaking, board service, orienting new youth, outreach, leading workshops, drop-in hours and a youth support line.

WEST VIRGINIA

DAYMARK, INC. (Charleston)

T 304-340-3675

www.daymark.org

Organization that advocates and provides services for at-risk youth – including but not limited to LGBT youth – and their families in the community.



Glossary

Here's a quick reference for some of the most commonly used terms in the LGBTQ community, as well as terms that might be useful as you advocate for and support students.

Remember that people defy labels and not everyone will fit into a definition, label or box, no matter how large we make it.

ALLY: A person who may not share the sexual orientation or gender identity of LGBTQ students, but who supports and honors sexual and gender diversity and challenges homophobic, transphobic and heterosexist remarks and behaviors.

ANTIDISCRIMINATION LAWS: Federal, state, and local laws that prohibit the government and/or private organizations from discriminating against someone based on certain personal characteristics, such as race, religion, age, sex, disability, sexual orientation, or gender identity.

BIOLOGICAL SEX, SEX: A term used historically and within the medical field to refer to the chromosomal, hormonal and anatomical characteristics that are used to classify an individual as female or male.

BISEXUAL: A person who has significant sexual, romantic and/or spiritual attractions to both men and women or someone who identifies as a member of this community.

COMING OUT: The process of disclosing one's sexual orientation or gender identity to other people.

CYBERBULLYING: Harassment or intimidation conducted through digital communications methods such as the internet and text messages.

DAY OF SILENCE: A national observance, usually occurring in April and organized by student groups, during which students take a day-long vow of silence to recognize and protest discrimination against LGBTQ students.

DISCRIMINATION: The different and unfair treatment of certain groups of people based on specific characteristics, such as race, religion, age, sex, disability, sexual orientation, or gender identity.

DIVERSITY DAY: A day devoted to educational activities about characteristics such as race, class, sex, disability, sexual orientation, and gender identity.

EQUAL PROTECTION: A constitutional guarantee that the government will treat one person or group of people the same way that it would treat any other person or group of people under the same circumstances.

FIRST AMENDMENT: A provision of the U.S. Constitution that guarantees freedoms of association and expression, including freedom of speech.

FREEDOM OF ASSOCIATION: The constitutional right to associate with individuals of your choice, including for the purpose of discussing or pursuing a common interest.

FREEDOM OF SPEECH: The constitutional right to express your thoughts, ideas, and opinions without interference from the government.

FTM (FEMALE TO MALE), TRANSGENDER MAN: A term used to identify a person who was assigned a sex of female at birth but who has a male gender identity.

GAY: A term that can be used to describe either a man whose primary sexual and romantic attraction is to other men or to reference anyone whose primary sexual and romantic attraction is to a person who is the same sex as themselves.

GAY-STRAIGHT ALLIANCE: A student club for LGBTQ students and their straight allies, designed to provide a safe and supportive

environment for social interaction, education, and advocacy.

GENDER: A set of social, physical, psychological and emotional traits, often influenced by societal expectations, that classify an individual as feminine, masculine, androgynous or other.

GENDER EXPRESSION: The outward manifestation of internal gender identity, through clothing, hairstyle, mannerisms and other characteristics.

GENDER IDENTITY: An individual's self-concept of whether he or she is male or female, regardless of sex or sexual orientation; the inner sense of being a man, a woman, both or neither. Gender identity may or may not align with a person's birth-assigned sex.

GENDER-NONCONFORMING: Behaving in a way that does not match social stereotypes about female or male gender, usually through dress or physical appearance.

GENDER ROLE: The social expectation of how an individual should look or behave, often based upon the sex assigned at birth.

GENDER TRANSITION: The social, psychological or medical process of transitioning from one gender to another. Gender transition is an individualized process and does not involve the same steps for everyone. Transition may include telling one's social support network; legally changing one's name or sex; therapeutic treatment with hormones; and possibly, though in not all instances, surgery.

HARASSMENT: Actions or words that harm or distress a person, and do not otherwise serve a legitimate purpose. Harassment often interferes with the ability to take full advantage of educational opportunities.

HATE CRIME: A crime that is motivated by race, religion, sex, disability, sexual orientation, or gender identity. Under federal law and some state and local laws, hate crimes may be investigated by additional law enforcement personnel and can carry additional penalties.

GLOSSARY

HETEROSEXISM: The assumption that sexuality between people of different sexes is normal, standard, superior or universal and other sexual orientations are substandard, inferior, abnormal, marginal or invalid.

HOMOPHOBIA: A fear of or hostility toward lesbian, gay, and/or bisexual people, often expressed as discrimination, harassment and violence.

INTERSEX: A health condition, often present at birth, involving anatomy or physiology that differs from societal expectations of male and female. Intersex conditions can affect the genitals, the chromosomes and/or other body structures. Intersex conditions are sometimes referred to as “disorders of sexual development.” People with intersex conditions should not be assumed to be transgender.

LESBIAN: A woman whose primary sexual and romantic attraction is to other women.

LGBT HISTORY MONTH: A month-long celebration of the LGBT rights movement and of historical LGBT figures, celebrated in October in the United States.

MTF (MALE TO FEMALE), TRANSGENDER WOMAN: A term used to identify a person who was assigned the sex of male at birth but who has a female gender identity.

OUT: A description for someone who expresses, or does not hide, his or her sexual orientation or gender identity.

PRIDE: The idea, and events celebrating the idea, that people should be proud of their sexual orientation and/or gender identity.

QUEER: A traditionally pejorative term for LGBTQ people that has been reclaimed by some LGBTQ activists, who use it self-descriptively as a means to empower the LGBTQ community.

QUESTIONING: A term that describes someone

who is unsure of his or her sexual orientation or gender identity.

SEX REASSIGNMENT SURGERY (SRS): Any one of a variety of surgeries they may be involved in the process of transition from one gender to another. Many transgender people will not undergo SRS for health or financial reasons, or because they choose not to.

TITLE IX: A federal law that prohibits sex discrimination in any educational program or activity that receives assistance from the federal government.

TRANSGENDER: An umbrella term for people whose gender identity and/or gender expression differs from the sex they were assigned at birth. The term may include but is not limited to: transsexuals, cross-dressers, gender-nonconforming people and so on. People must self-identify as transgender in order for the term to be appropriately used to describe them.

TRANSPHOBIA: The fear or hatred of those who challenge gender stereotypes, often expressed as discrimination, harassment and violence.

TRANSSEXUAL: A person who experiences intense, persistent, long-term discomfort with their body and self-image due to the awareness that their birth-assigned sex is inappropriate. Transsexuals may take steps to change their body, gender role and gender expression to align them with their gender identity.

Contact Lambda Legal

NATIONAL HEADQUARTERS

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