



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.