

This pamphlet provides information about students' rights as they relate to sexual orientation, and gender identity and expression in K-12 public schools in Rhode Island.

Lesbian, gay, bisexual, transgender, and queer (LGBTQ) students face discrimination and harassment at school all too often. Since some school officials may know little about how the law requires them to protect LGBTQ students, this pamphlet provides info about students' rights on this topic.

HARASSMENT & DISCRIMINATION

You have a right to be free from discrimination or harassment in school based on your actual or perceived sexual orientation or gender identity. Public schools have an obligation to address any harassment or discrimination against LGBTQ students.

Federal and state anti-discrimination laws also bar public schools from discriminating against you based on gender stereotyping. This means that public schools can't discriminate against you based on appearance or behavior that doesn't "match" your gender: for example, boys who wear makeup or girls who dress "like a boy." As a result, school dress codes should be gender neutral.

**YOU HAVE A
RIGHT TO BE FREE
FROM
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BASED ON YOUR
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PRIVACY

Your school does not have the right to "out" you to anyone without your permission, even if you're out to other people at school. If a teacher, counselor, or any other school official threatens to tell your parents or anyone else that you're gay and you don't want them to, make it clear that this is against your wishes.

FREEDOM OF SPEECH

Just as you have a right to keep your sexual orientation private, you also have a constitutional right to be open about it at school if you want to be. In the case of *Tinker v. Des Moines*, the U.S. Supreme Court ruled that students don't "shed their constitutional rights to freedom of speech at the schoolhouse gate."

Instead, schools are generally limited to restricting a student's speech to situations when it can cause a significant disruption. While yelling "I'm gay!" in the middle of English class isn't okay, talking about it with other students between classes or at lunch is.

Speech isn't disruptive just because someone else doesn't like it. Thus, you have the right to wear a gay rights button or ribbon at school, or wear a t-shirt that has a rainbow or says something about gay pride, even if some students claim they find it offensive.

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TRANSGENDER & NONBINARY STUDENTS

The RI Department of Education has adopted detailed guidelines – and almost all school districts in the state have adopted strong policies based on those guidelines – that are designed to protect the rights of transgender students. Among other things, these guidelines make clear that school officials:

- Should have a plan for using a student's preferred name and pronoun within the school.
- Should not disclose information that reveals a student's transgender status unless authorized by the student or legally required.
- Should allow students the right to dress in accordance with their gender identity.
- Should allow students to access restrooms, locker rooms and changing facilities that correspond to their gender identity, and provide a non-stigmatizing alternative to a sex-segregated facility.
- Should allow students to participate in both intramural and interscholastic athletics in a manner consistent with their gender identity. (In fact, the RI Interscholastic League has its own policy to that effect.)

GAY-STRAIGHT ALLIANCES

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

A federal law known as the Equal Access Act ensures that if a public school permits any noncurricular clubs, then it must allow students to form a GSA if they want to, and the school can't treat it differently from other noncurricular clubs. (Noncurricular clubs are groups that aren't directly related to classes taught in the school.) Blocking a GSA from forming, or treating it differently from other noncurricular clubs, is against the law.

PROM, HOMECOMING, AND OTHER SCHOOL EVENTS

If you're a girl, can you go to homecoming or prom with another girl? If you're a boy, can you run for Prom Queen? Yes. The First Amendment and your right to equal protection guarantee you the right to express yourself by bringing a same-sex date to the prom or homecoming, or to participate in events without having to conform to gender stereotypes.

SCHOOL CENSORSHIP

Across the country, there have been attempts to ban books and library materials with LGBTQ characters and themes, raising serious constitutional issues. The right to freedom of expression includes the right to access ideas and information. In *Board of Education v. Pico* (1982), the U.S. Supreme Court said that a school couldn't remove books from the library simply because it disagreed with the ideas expressed in them.

IF YOU SUSPECT THAT YOUR SCHOOL IS TREATING YOU UNFAIRLY BECAUSE OF YOUR SEXUAL ORIENTATION OR GENDER IDENTITY:

Document everything.

Keep detailed notes, including dates, where things happened, who was there, who said or did what, and any other details that might come in handy. If the school gives you anything in writing or if you submit anything in writing yourself, keep copies. The more you document what is happening, the better your chances of getting it addressed.

Get support.

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

Don't just believe what school officials tell you.

Sometimes school officials don't know what the law requires them to do. If in doubt, call the ACLU of RI for more information.

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


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ACLU

AMERICAN CIVIL LIBERTIES UNION
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KNOW YOUR RIGHTS

LGBTQ STUDENTS

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