

You have the right to

BE YOUR SELF!

A Resource for LGBT
Youth and Allies
in Illinois Schools



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Too often, lesbian, gay, bisexual
and transgender (LGBT) youth face
unfair treatment at school. Schools
regularly allow LGBT kids to be bullied
and school staff sometimes even
participate in the harassment.¹

Sexual orientation and gender identity are often thought to be the same thing but they are distinct. Every person has both a sexual orientation and a gender identity. Sexual orientation is the scientifically accurate term for an individual's enduring romantic, emotional, physical and/or spiritual attractions. Gender identity is a person's internal, personal sense of being a man or a woman.

Lesbian and Gay are used to describe people whose enduring emotional, romantic, physical and/or spiritual attractions are to people of the same sex. Gay is more commonly used to describe men, while lesbian is usually the preferred term for women.

Bisexual is used to describe people whose enduring emotional, romantic, physical and/or spiritual attractions are to people of either sex.

Transgender describes people whose gender identity and/or gender expression differ from their birth-assigned sex. It does not mean only people who have chosen to alter their bodies hormonally or surgically.

Gender expression is the way people show their gender identity, for example, through behavior, clothing or voice characteristics.

At times, schools treat LGBT youth differently from other students. Bullying and unequal treatment hurt LGBT students and create a negative climate for the entire school community. A school that is unsafe for LGBT kids or discriminates against them is also probably breaking the law.

Knowing your rights and taking action to protect them may stop the unfair treatment. If it doesn't, people at the ACLU of Illinois and the Illinois Safe Schools Alliance can help.

Coming out.

LGBT students have the right to be out at school. Schools can't punish students for being open about their sexual orientation or gender identity, and they can't respond to anti-LGBT bullying by telling students that they have brought it on themselves by coming out. Also, schools can't reveal students' sexual orientation or gender identity to their parents without the students' consent.

1. In a recent Illinois survey, 74% of students reported hearing their classmates say "faggot" or "dyke" and 83% reported hearing other students say "that's so gay" or "you're so gay." Eleven percent (11%) of students also reported hearing teachers or other school personnel make homophobic remarks. See GLSEN, *From Teasing to Torment: A Report on School Climate in Illinois* (Oct. 2006), available at www.glsen.org; see also Zogby Int'l (March 2001) (nearly half of the 1000 high school students surveyed nationally reported witnessing their classmates being called homophobic slurs).

“You’re so focused on whether to go to school or what hallways to avoid when you get there, that you just don’t get an education.”

—Bethany F., Peoria, IL

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Bullying.

fter coming out as a lesbian her sophomore year of high school, Bethany endured harassment and intimidation that caused her so much anxiety she was hospitalized. She estimates she missed 30 days of school in one year, often because she was too depressed to get out of bed.

Unfortunately, Bethany’s experience is not unique. LGBT students are three times more likely than their non-gay peers to miss school because they feel unsafe.²

Know Your Rights!

You don’t have to put up with name-calling, threats or physical harm because you are LGBT, or because people think you are. The law requires schools to protect you from bullying because of your sexual orientation or gender identity.

In some situations like Bethany’s, courts have forced schools to pay large amounts of money for ignoring or even participating in anti-LGBT bullying. Courts have also ordered schools to educate teachers, staff and students about bullying and how to prevent it. See *The Cost of Harassment: A Fact Sheet for Lesbian, Gay, Bisexual and Transgender High School Students* found at www.aclu.org/safeschools, by clicking on Library and scrolling down to Harassment.

Stand up for your rights!
If you are being bullied...

Tell someone. While you should talk to a teacher or counselor you trust, it is particularly important to let your principal know what’s going on. Don’t let the school claim it wasn’t aware of the problem.

Write it down. Every time you are called a name, threatened or touched by another student because you are LGBT (or because someone thinks you are), write it down. Note each time it happened, who did it, what they said or did, and who saw it or heard it—even if a teacher saw what happened. When you tell your teacher or other school official about being bullied, write that down too. Include the details of the bullying and your reports of it in a letter to your counselor or principal either before you’ve met with them or afterwards.

File a complaint. Your school may have a complaint form you can fill out and turn in if you are being bullied. Look for a form in your student handbook or ask for one in the principal’s office. If you find one, fill it out with as much detail as you can, make a copy, and turn it in to the principal.

Contact the ACLU of Illinois or the Illinois Safe Schools Alliance. Letting your teachers and principal know you are being bullied, writing a letter, or filing a complaint may convince your school to stop students from bullying you. If the harassment doesn’t stop, your efforts will help the ACLU of Illinois and the Illinois Safe Schools Alliance advocate for you. However, you don’t have to complete these steps before you contact one of these groups.

2. Chicago Public Schools Youth Risk Behavior Survey (2003).

Transgender Students.

Ryan was designated male at birth but felt from an early age that she was female. Ryan was an accomplished student who was often chosen to represent her school or to help lead field trips. With the support of her parents, Ryan began to express her female gender identity her sophomore year. Everything changed. Ryan was made to wash off her make-up while other students watched. She was prohibited from wearing her favorite sweatshirt because it was “too feminine.” Ryan was told not to discuss her gender identity. Finally, Ryan grew so depressed, she dropped out of school. After the ACLU intervened on her behalf, Ryan’s school agreed to let her follow the girls’ dress code and use a private bathroom and locker room so Ryan was able to return to school. Now Ryan reports: “To be able to be who I really am makes it a lot easier to focus on being a student now and feel hopeful about the future.”

“I’ve known I was meant to be a girl since I was 8 years old. That made it even harder when my teachers made me feel like I was choosing to be this way. If you wanted to stop this, you could,” they said.”

—Ryan C., Elgin, IL

Know Your Rights!

Under federal and Illinois laws, transgender youth are entitled to the same educational opportunities, anti-harassment protections, and expressive freedoms as other students.

Dress Codes

Schools must enforce their student dress codes equally and equitably. Schools should permit transgender students to comply with the dress code that reflects their gender identity. *Doe v. Yunits* (2001) is a case recognizing that right.

Bathrooms and Locker Rooms

The obligation of schools to keep transgender students safe extends to bathrooms and locker rooms. A transgender student should be able to use the bathroom that reflects his or her gender identity (for example, a female transgender student should be able to use the girls’ bathroom). However, if the

student prefers, the school should let him or her use a separate, single-occupant bathroom, such as a staff or nurse’s bathroom. A transgender student should not be required to use a single-occupant bathroom because other students object. Isolating transgender students may send a message that it is acceptable to discriminate against them. Schools also typically provide transgender students the choice to use a private place to dress for gym or athletics. See *Making Schools Safe One Bathroom at a Time* at www.aclu.org/getequal/scho/ by clicking on Success Stories.

Stand up for your rights!

If you are treated unequally or bullied at school because of your gender identity or expression, contact the ACLU of Illinois or the Illinois Safe Schools Alliance.

Equal Treatment.

“One day I was student council president, and the next day I wasn’t— All because I’m a lesbian.”

—Jordan B., Stanford, IL

When the mother of Jordan’s girlfriend found out about their relationship, she called the school’s principal and demanded that Jordan be removed from her position as president of the student council. And the principal did just that. Jordan and her mother complained to the school about the discrimination, and then when their efforts were unsuccessful called the ACLU of Illinois. After ACLU lawyers wrote to the school about its unlawful action, Jordan was restored to her student council position.

Know Your Rights!

If your teachers or administrators treat you differently from other students at school because you are LGBT (or the school thinks you are), you don’t have to put up with it! The law requires schools to treat LGBT students the same as other students. Students whose classmates think they are gay are protected too, even if they’re not. Schools can’t exclude students from school or extra-curricular activities such as class projects, student council or sports, because of their sexual orientation or gender identity, and they can’t discipline students more severely because they are LGBT. For example, a school may not discipline a lesbian student for holding hands with her girlfriend when it doesn’t discipline non-gay students for holding hands.

Straight Allies.

The law protects non-LGBT students who stand up for their LGBT friends or speak in favor of LGBT rights. It’s illegal for a school to discriminate or retaliate in any way against non-LGBT students who report harassment or discrimination. Non-LGBT students’ right to speak out for tolerance is protected by the First Amendment of the U.S. Constitution. See T-Shirts on the next page.

“I got tired of the ways things felt at school— despite repeated anti-gay bullying and epithets being tossed around, the administration took little notice and even less action.”

—Alissa N., Homewood, IL

T-Shirts.

With some of her friends, Alissa organized an anti-homophobia t-shirt campaign at their high school to draw attention to the hostile environment there for LGBT students and to promote acceptance and safety on campus. They encouraged fellow students to wear shirts that read “Gay? Fine by me.”³ After the campaign, Alissa’s school approved her request to start a Gay Straight Alliance and also agreed to add sexual orientation to its anti-harassment policy.

Know Your Rights!

Your school must let you wear a t-shirt expressing your support for LGBT rights if it lets other students wear t-shirts expressing other political or social viewpoints. Your speech is protected by the First Amendment so long as it doesn’t include obscenities, threats, “lewd or vulgar” statements, promote illegal drug use, significantly disrupt classes, or interfere with the rights of others. Even if your message is unpopular or offensive, your school can’t censor it. The hostile reaction of other people to your message doesn’t mean the school can silence you.

Students who want to express opinions that could be offensive to LGBT youth also have the right to express their views. Your school can and should, however, respond to all derogatory speech by promoting tolerance and the value of diversity.

Stand up for your rights!

For more information, see *Speaking Out with Your T-Shirt*, found at www.aclu.org/safeschools, by clicking on Library and scrolling down to Free Speech/Free Expression/Prom.

3. For more information about the Gay? Fine By Me Project, see www.finebyme.org.



“Every time we asked the principal to approve our GSA, he found a new excuse not to.”

—William B., Rochelle, IL

Gay Straight Alliances.

For nearly two years, William and other students at his high school tried to start a Gay Straight Alliance (GSA). Even though they met all of the school's requirements for starting a club, the principal put them off, claiming he was worried that approving the GSA would cause kids to get hurt, disrupt school, or spur other students to try to start a “Nazi Club.” William's persistent efforts, along with some legal assistance from the ACLU, convinced his school to allow the GSA to meet as an official student club.

Know Your Rights!

If your public school lets students form groups such as Key Club or the drama club, it must also let you start a GSA. The federal Equal Access Act of 1984 requires your school to grant your request to start a GSA if it allows students to start other non-curricular students groups. It also prevents a school from treating the GSA differently from other clubs. Students in Utah, California, Kentucky, Georgia, Florida, Minnesota, and other states have sued their schools for the right to start a GSA—and have won.

Although the Equal Access Act only applies to public schools, Illinois law also prevents discriminatory treatment of GSAs at many private schools.⁴

GSA's are great for your school and easy to start!

See the growing list of some of these GSAs at www.safeschoolsillinois.org. The following section discusses potential obstacles that schools sometimes create, but many schools quickly approve student requests for GSAs.

4. The Illinois Human Rights Act prevents discrimination on the basis of sexual orientation and gender identity at “non-sectarian” schools, so LGBT students at private schools that are not religious are protected.

Stand up for your rights! Want to start a GSA at your school?

Follow the rules.

Find out what your school's rules are for starting a student group (you may find them in your student handbook or you may have to ask for them in the principal's office) and follow them carefully. You may have to find a school employee to sponsor the GSA (some schools also allow people outside the school to be sponsors), write a mission statement, or develop a set of rules for members.

Make your case.

1) Research shows that in schools with GSAs, students experience less anti-LGBT verbal and physical bullying, LGBT students are less likely to miss school, and students report improved school experiences, academic achievement and future goals.⁵

2) Be prepared to respond to the arguments you might hear against GSAs—

“A GSA is a club about sex.”

Your school has the facts wrong. GSAs are not about sex, but about recognizing diversity and promoting acceptance of all students and people in the school community and beyond, including LGBT, straight and questioning people. Also, GSAs welcome any student, not just LGBT students, who are interested in creating a safe space for LGBT students and students with LGBT parents and in promoting tolerance and equality for

LGBT persons. Student members decide together what the group's specific mission and activities will be.

“We've already got a diversity club.”

You—not your teachers, principal, or school board—get to decide what kind of student group you'll have, including its name and its mission. Even if there is a diversity club at your school, it may not be a safe space for LGBT students. Homophobic remarks are among the most frequently heard expressions of bias in schools, so a GSA's focus on the safety and acceptance of LGBT students makes sense.

Keep notes.

While starting a GSA shouldn't be any different from starting another student group, your school may resist your efforts or create different rules for you to follow. Write down the details of your efforts to start a GSA, including the dates you did something, what you did, and the names of people you spoke to, so that you'll be prepared if your school unfairly refuses to approve the GSA. If you give your principal or activities director a club application or something else in writing, make a copy for yourself.

Contact the ACLU of Illinois or the Illinois Safe Schools Alliance.

If your school won't approve your GSA, gives you the run around, or refuses to treat your GSA the same as other student groups, contact one of these groups.

5. GLSEN, *Gay-Straight Alliances: Creating Safer Schools for LGBT Students and Their Allies* (2007), available at www.glsen.org.

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hen Lavelle tried to buy tickets for prom, she was turned away when the school discovered that she was bringing her girlfriend and planning to wear a tuxedo instead of the required ball gown. The school pointed out that the prom was taking place at an upscale Chicago hotel, and claimed that a girl in a tux with a female date would reflect poorly on the school. However, after ACLU lawyers contacted the school, it allowed Lavelle to go to the prom wearing her tux and escorting her girlfriend.

“For all of high school, the school let me bring a girl to every dance—but when it came to my senior prom, they told me no.”

—Lavelle R., Calumet City, IL

Know Your Rights!

If your school tells you that you can't bring your same-sex date to prom, you don't have to put up with it! It's illegal for schools to prohibit a student from bringing a same-sex date to the prom or any other school event.

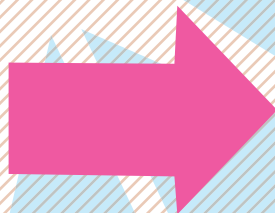
Prom.

Stand up for your rights!
School won't let you take your same sex date to prom?

Tell them about the case of Aaron Fricke.

In 1980, Aaron sued his school for the right to take his boyfriend to the prom and won. A federal court decided that taking a same-sex date to the prom is protected expression under the First Amendment and ordered the school to let Aaron and his male date go to prom together. For more information about Aaron's case, go to www.aclu.org/safeschools, click on Library, and scroll down to Free Speech/Free Expression/Prom.

Contact the ACLU of Illinois or the Illinois Safe Schools Alliance.



Take Action!

Bullying.

Schools must protect students who are bullied because of their sexual orientation or gender identity/expression, just as they must protect students who are bullied because of race, religion, or other protected categories.

Discrimination.

Schools must address disciplinary infractions equally regardless of a student's sexual orientation or gender identity/expression.

If a school permits students to form non-curricular clubs like the Key Club or the drama club, it also must permit students to form Gay Straight Alliances.

Expression.

Students have a right to be out at school. Schools may not prohibit a student from bringing a same-sex date to the prom or any other school event.

If a school permits students to wear t-shirts expressing support for political candidates, opinions about abortion, or other issues, the school must permit students to wear pro-gay t-shirts.

Privacy.

Schools may not reveal students' sexual orientation or gender identity/expression to their families or anyone else without the students' permission, even if the students are out at school, unless there is a legitimate school-related reason for doing so.

This brochure has discussed many actions you can take to protect your rights and make your school safer and more welcoming for LGBT students. For more information about your legal rights, see *What's Your Problem?* found at www.aclu.org/safeschools. For links to handouts, letters, and legal briefs from the ACLU and other organizations, see the *Library* page found at www.aclu.org/safeschools. For additional ideas, see the *Change Your School* page at www.aclu.org/safeschools.

If you or somebody you know has been bullied or treated unfairly because of sexual orientation or gender identity or expression, contact the ACLU of Illinois or the Illinois Safe Schools Alliance.

The American Civil Liberties Union is the oldest civil rights organization fighting for fairness and equality for LGBT people. It has challenged baseless raids of meetings of gay organizations, the hurtful presence of laws preventing gay people from marrying, laws restricting gay people from having custody of their children, discrimination and bullying of LGBT students in schools, and much more.

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The Illinois Safe Schools Alliance promotes safety, support and healthy development for lesbian, gay, bisexual, transgender and questioning youth, in Illinois schools and communities, through advocacy, education, youth organizing and research.

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