HOW THE LAW PROTECTS LGBTQ YOUTH

Laws and policies exist at multiple levels to prohibit discrimination based on sexual orientation and gender identity/expression.

The U.S. and State Constitutions

The U.S. Constitution guarantees all people, including LGBTQ people, "equal protection of the laws." State constitutions contain similar protections. This means that public schools can't single out LGBTQ students for negative treatment just because school officials disapprove of being gay or feel uncomfortable around people whose gender identity or expression is different from theirs. When it comes to peer conflicts and abuse, courts have made clear that the federal Constitution prohibits public schools from taking bullying and harassment any less seriously just because the targets are LGBTQ.

Read "Legal Victories for Youth" to learn about lawsuits resolved in favor of LGBTQ youth who were discriminated against.

You don't have to be out to be protected under the Constitution from anti-LGBTQ discrimination. You don't even have to be LGBTQ. Discrimination based on perceived sexual orientation or gender identity violates your constitutional rights, as may discrimination based on your friendship, family relationship or other association with LGBTQ people.

Title IX

A federal law called Title IX, which bans discrimination based on sex, protects students at schools that receive federal funds. Courts have agreed that the sex discrimination prohibited by Title IX not only includes discrimination for being a girl or boy, but also includes sexual harassment and discrimination for failing to conform to gender stereotypes. LGBTQ targets of sex discrimination and harassment have successfully relied on Title IX's protections in several court cases involving schools.

State Antidiscrimination Laws and Antibullying Laws

A growing number of states are taking additional steps to protect LGBTQ youth by explicitly including sexual orientation, gender identity, and gender expression in laws that protect against discrimination and harassment in schools. States can vary widely in how they structure, apply and enforce these laws, and you should consult Lambda Legal (www.lambdalegal.org/help) or a local attorney if you are facing discrimination and need more specific information about laws in your area.

Detailed safeguards exist in California, Iowa, Maryland, New Jersey, New York, Vermont and a growing number of other states. Laws in all of these states require local school boards to enact antiharassment policies that specifically include sexual orientation and gender identity/expression. The policies must allow for complaints and investigations, impose consequences for violations and protect students who report harassment from retaliation. Schools must also make sure students learn about these policies.

While laws in other states may not take the same form or go into the same detail, they may still protect against abuse and discrimination at school. For example, in addition to the states listed above, Colorado, the District of Columbia, Illinois, Maine, Minnesota, Oregon, Rhode Island and Washington State have laws barring discrimination against students based on sexual orientation and gender identity/expression. A growing number of courts are interpreting laws addressing sex discrimination to prohibit discrimination based on gender identity/expression.

Many other states have enacted antibullying laws without specifically mentioning sexual orientation or gender identity/expression. But this doesn't mean that schools can ignore anti-LGBTQ bullying. Remember, Title IX covers all schools that receive federal funds (nearly all schools in the country). The federal Constitution requires states to apply antibullying protections equally to all public school students.

Local Laws and School District Policies

Even if your state legislature hasn't specifically banned anti-LGBTQ discrimination and harassment in school, city ordinances and local school districts within your state may have done so. More and more communities—from small rural towns to large urban areas like Dallas, Miami-Dade, Nashville and Philadelphia — have enacted rules protecting students from discrimination and harassment based on sexual orientation and/or gender identity. Consult with a friendly school official, a local attorney or Lambda Legal (www.lambdalegal.org/help) to learn more.

Student Expression

In addition, LGBTQ students have the right:

- to voice your support for LGBTQ equality at school
- to wear T-shirts or distribute leaflets expressing LGBTQ-positive statements without censorship based on your opinion or viewpoint
- to hang posters, make announcements and hold meetings for LGBTQ-related groups on the same terms as other student organizations
- to write a column or article in a personal or student-led publication addressing LGBTQ issues without discrimination based on your LGBTQ-supportive ideas

Learn more about student expression.
A Note on Private Schools

Private schools are often governed by a very different set of legal rules from those described above. If you have questions about what sorts of protections exist for private school students in your state, check out “Private Schools” or visit www.lambdalegal.org/help.