

# WHAT SCHOOLS NEED TO KNOW

## WHAT SCHOOLS NEED TO KNOW:



## LESBIAN, GAY, BISEXUAL AND TRANSGENDER STUDENTS AND THE LAW

### THE RIGHTS AND THE RESPONSIBILITIES

of Michigan School Administrators, Educators and School

Personnel regarding Sexual Orientation Issues and the Education

of our Lesbian, Gay, Bisexual and Transgender Students



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# INTRODUCTION

The American Civil Liberties Union of Michigan (ACLU) and the Gay, Lesbian and Straight Education Network (GLSEN) of Detroit undertook the project of researching, writing, publishing and distributing this publication because of the often-asked legal questions regarding the education and rights of our Gay, Lesbian, Bisexual and Transgender (LGBT) students, and the responsibilities of all school personnel to protect these students.

Numerous studies have confirmed that LGBT youth have higher rates of suicide, drug and alcohol abuse, pregnancy, running away, dropping out of school, harassment and violence at school than our heterosexual youth. This at-risk youth population includes those who are perceived by others to be gay, and students who are questioning their sexual orientation. The quotes cited throughout this booklet are from LGBT youth located in Michigan.

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One goal of this publication is to answer the legal questions that will help ensure that all students, regardless of sexual orientation, receive a quality education within a safe learning environment. All students have a U.S. constitutionally protected right to benefit from the educational programs and activities (extracurricular and otherwise) offered in schools. A second goal is to assist school personnel – school administrators, teachers, counselors, support staff, coaches, activity sponsors, and bus drivers – in positive interactions with LGBT students. The final goal is to help to avoid costly and, usually, unnecessary litigation and the ensuing negative media spotlight.

This publication is divided into three parts: Issues of Freedom, Issues of Equality and Safety, and Suggestions for School Personnel. Also included are a listing of local, state and national resources, examples of policy, and an assessment for assessing a school's climate. Regardless of whether a school is public or nonpublic, all school personnel are professionally and ethically responsible for every student in their charge.

We hope you will find this publication useful in assisting you in achieving your goal of providing a school environment where each student is valued and respected.

## ISSUES OF FREEDOM

*“CONGRESS SHALL MAKE NO LAW RESPECTING AN ESTABLISHMENT OF RELIGION, OR PROHIBITING THE FREE EXERCISE THEREOF, OR ABRIDGING THE FREEDOM OF SPEECH, OR OF THE PRESS; OR THE RIGHT OF THE PEOPLE PEACEABLY TO ASSEMBLE, AND TO PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCES.”*

### U.S. Constitution, First Amendment

**1**  
Do students have a right to form a Lesbian, Gay, Bisexual and Transgender (LGBT) student group at school?

**YES.**

*“[My school] is safe for everyone...as long as you had respect for yourself, everything was okay. People can only ridicule a person if you let them.”*

If a school allows a non-curricular group to form and meet at the school, then the school must permit *all* non-curricular groups to meet on an equal footing. This is true even if a school disapproves of or disagrees with the group’s message and goals or if the community opposes it. The Court ruled that schools choosing to recognize only student groups that are “curricular” in purpose are not required to allow any non-curricular groups to meet. *Bd. of Educ. of the Westside Cmty. Schs. v. Mergens*, 496 U.S. 226 (1990).

The right of students to organize a LGBT student group (club, organization, activity) at school is rooted in the First Amendment of the Bill of Rights which is the U.S. Constitution’s protection for Free Speech, and reinforced by the Equal Access Act (EAA) of 1984. Congress passed this federal law as a result of lobbying by religious student groups who wanted the clear right to organize and to meet in public schools.

The Equal Access Act, 20 U.S.C. § 4071(a), applies to public secondary schools that receive federal funds if they allow a “limited open forum.” A school has a “limited open forum” if it permits just one non-curricular group to meet at the school during non-instructional times.

Some schools have attempted to change the rules about non-curricular clubs after receiving a request to form a Gay-Straight Alliance (GSA). Courts have not looked favorably on attempts to change the application process if it is done to delay making a decision regarding the GSA. *Boyd County High School GSA v Bd of Ed of Boyd County*, 258 F Supp 2d 667 (ED Ky 2003).

2

Can a school district condition the recognition of a GSA on removing “gay” from the club’s name or can it require that the GSA meet as part of a broader diversity group, instead of as their own club?

NO.

**The name that a group chooses is an integral part of their speech and association rights.**

*Colin ex rel Coliln v Orange Unified School District*, 83 F Supp 2d 1135 (CD Cal 2000). Equal access means that a non-curricular club with a specific purpose does not have to be part of a broader non-curricular club. *Bd of Education of Westside County Schs v Mergens*, 496 US 226 (1990).

3

Do GSAs have the right to post relevant information on a student bulletin board, in the school yearbook or make announcements about meetings over the public address system?

YES.

**GSAs must be given the same access as other groups, including funding, meeting space, yearbook photos, and use of the bulletin boards.**

*Prince v Jacoby*, 303 F 3d 1074 (9th Cir 2002). If a bulletin board is open for use by all groups, the school cannot prohibit its use by any one group, unless such a prohibition is “necessary to serve a compelling state interest and...is narrowly drawn to achieve that end.” *Widmar v. Vincent*, 454 U.S. 263, 270 (1981).

This is true for groups of students as well as for students as individuals. LGBT students and LGBT groups may not be specifically excluded from posting relevant information on student bulletin boards that are generally available for any kind of postings. Schools may, consistent with the First Amendment, regulate the time, place and manner of the use of school bulletin boards.

4

Do students have the right to express their points of view on LGBT issues?

YES.

**A student has the right to express a viewpoint when speaking on an issue relevant**

to a discussion. However, expressive conduct that “materially disrupts classwork or involves substantial disorder or invasion of the rights of others” is not constitutionally protected. *Tinker v. Des Moines Indep. Sch. Dist.*, 393 U.S. 503, 507-509 (1969).

This principle was tested in the U.S. Supreme Court after a school district prevented students from wearing armbands protesting the Vietnam War. The Court ruled the school’s action unconstitutional because students in public schools do not “shed their constitutional rights to freedom of speech or expression at the school house gate.” More recent federal court decisions have held that students’ First Amendment

rights are not violated if a school institutes a no-symbol rule and applies and enforces it uniformly to all symbols, or if the display of a symbol has the potential for disruption. See, e.g., *Guzick v. Drebus*, 431 F.2d 594 (1970); *Melton v. Young*, 465 F.2d 1332 (1972).

In 1986, the U.S. Supreme Court ruled that schools may regulate students' political expression when the students' speech is part of a school-sponsored activity or could be seen as endorsed by the school. After a male student was punished for making a sophomoric, sexually suggestive student government campaign speech at a school assembly, the Court upheld the punishment on grounds that the school's legitimate function in teaching students "the shared values of a civilized social order" allows schools to ban "offensively lewd and indecent speech." *Bethel Sch. Dist. v. Fraser*, 478 U.S. 675, 683, 685 (1986).

\_\_\_\_\_   
 "A teacher was suspended for two   
 days for discussing 'the issue'."

Under the *Bethel School* decision, students' verbal political expression that bears the imprimatur of the school or is school-sponsored may be regulated if it is "vulgar, lewd, obscene, or offensive," or likely to cause a material disruption of classwork, substantial disorder or invasion of the rights of others.

Student speech exhibiting political support for GLBT students or issues, however, such as speaking in opposition of anti-gay violence, should not be considered "obscene." Therefore, student speech that demonstrates support for GLBT students and issues is entitled to First Amendment protection. When the speech occurs outside the context of school sponsorship, it should be protected.

Furthermore, under the *Tinker* standard, students wearing symbols, such as rainbow ribbons or buttons depicting a pink triangle, are protected unless the school can make a substantial factual showing that the student expression at issue violates the *Tinker* "material disruption" standard. Courts explicitly require a school to show more than mere speculation, but rather reveal an actual threat to school order. *Id.* at 680.

If a school has created an opportunity for open discussion (a limited public forum), which is not school-sponsored speech, it may not exclude viewpoints from that forum because it disagrees with them or because others may be uncomfortable with the discussion. This would mean that a non-school sponsored event discussing issues about tolerance toward gays and lesbians could not prohibit a speaker who wanted to express religious

or moral objections to homosexuality. A limited public forum may be created when the event is sponsored by students or outside organizations, even if it is held on school property. Although schools can set parameters about the purpose of the forum, the ability to limit speech within a limited public forum cannot be based on the speaker's viewpoint. *Widmar v Vincent*, 454 US 263 (1981).

**5**  
**Can students wear t-shirts that say  
Gay Pride or GSA?**

**YES.**

**The First Amendment protects** the wearing of such t-shirts so long as such expression does not “materially or substantially interfere” with the work of the school or impinge on the rights of other students.

**6**  
**Can students wear t-shirts with  
anti-gay messages?**

**This will depend on the message.**

**Courts have allowed schools to prohibit** lewd, vulgar, indecent and clearly offensive speech, as well as speech contrary to the school's educational mission. *Bethel School District No 403 v Fraser*, 478 US 675 (1986). Some courts have held that messages or images deemed at odds with the values schools instill, such as civility, human dignity, and self-respect, were contrary to the school's educational mission. *Boroff v Van Wert City Board of Education*, 220 F 3d 465 (6th Cir 2000) *Scott v School Board of Alachua County*, 324 F 3d 1246 (11th Cir 2003) But restriction is allowed if the school can show that the speech substantially disrupts or interferes with the work of the school or the rights of others. *Pyle v South Hadley School*. The fact that other students, teachers, or school administrators may disagree with, dislike, or object to a message conveyed on student clothing does not constitute sufficient disruption of the learning environment or interference with other student's rights.

7  
Do students have the right to access  
LGBT information that is in  
the school library?

YES.

The right of students to access GLBT information in the school library is well established and protected.

The U.S. Supreme Court ruled against a local school board that removed books that it deemed morally offensive from a school library because the policy was aimed, not at any legitimate educational purpose, but at suppressing ideas. *Bd. of Educ. of Island Trees Union Free Sch. Dist. v. Pico*, 457 U.S. 853 (1982).

The Court stated that “educational suitability” is a proper motivation behind school library censorship. Therefore, a school must show that GLBT information in the school library is not educationally suitable or it cannot limit students’ access to GLBT information for partisan or political reasons. *Id.* at 871.

8  
May parents elect to remove their  
student from general curricula  
containing LGBT relevant and  
non-sexual material?

This has not yet been  
determined.

Such instruction is not required and upon written request of a student or student’s parent, a student shall be excused from “attending classes in which the subject of sex education is under discussion” without any penalty issued against the student. This applies to any type of sex education, regardless of whether it includes GLBT issues.

The Michigan School Code, Michigan Statutes Annotated § 15.41507 (1999), permits local school districts to provide instruction in sex education, including family planning, human sexuality, and reproductive health.

9  
May parents elect to remove  
their student from general curricula  
containing LGBT relevant and  
non-sexual material?

This has not yet been  
determined.

The Michigan School Code does not provide guidance as to permitting parents to excuse their child from general curricula not related to sex or health education, such as mathematics, science, social sciences, language arts and modern languages. Local school policy may provide guidelines as to whether teachers are required to inform parents of the content of potentially controversial lessons, the parent’s rights to remove his/her child, and the student’s right to opt out of certain classes.

General curricular courses may be required of students for high school completion, and include GLBT relevant and non-sexual material as established by local school board policy. While the courts have not yet determined the parameters of local school policy and parents’ rights in the general curricular area regarding the inclusion or exclusion of GLBT relevant and non-sexual material, the court cases presented in the following questions may provide insight.

10  
Do students have the right to raise  
LGBT issues relevant to the  
classroom discussion?

YES,  
if the discussion is relevant to  
the topic at hand and initiated  
by the student.

**While a school has broad authority to determine curriculum,** a student’s gay-positive speech in a classroom discussion may not be treated differently from other viewpoints expressed in a discussion. The content of school curriculum, and of school-sponsored speech, may be restricted as long as the restrictions are based on “legitimate pedagogical concerns.” (*Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 273 (1988)).

It is currently undetermined if a school can prohibit presentation of relevant materials and discussion in non-religious areas, such as LGBT, and could depend on the breadth of the class assignment. However, the U.S. Supreme Court has consistently emphasized the importance in the public schools of the free flow of ideas. *See, e.g., Keyishian v. Bd. of Regents*, 385 U.S. 589 (1967). *See also Mozart v. Hawkins City Bd. of Educ.*, 827 F.2d 1058 (6th Cir., 1987).

11  
May a LGBT student take a  
same-gender date to a prom or  
other school functions?

YES.

**A gay male student in Rhode Island successfully sued his school** after the school refused to let him attend the prom with a male date. The court concluded that unless the school has a solid basis to believe that a same-gender couple would cause “severe disruption” to the school environment, the school had to permit everyone to attend with their chosen date. *Fricke v. Lynch*, 491 F. Supp. 381, 387 (D.R.I. 1980).

The gay male student’s choice to bring a same-gender date to the senior prom was a political statement protected by the First Amendment and the school’s fear of disruption was insufficient to justify the ban. The court even required the school to provide security in case the couple was harassed. *Id.*

Under Title IX, just as a school is prohibited from discriminating on the basis of sex in its invitation to the prom, a school is prohibited from discriminating in any program or activity of the school, including extra-curricular activities.

12  
Are the Boy Scouts allowed to meet  
at school even though their policy  
excludes gay people?

YES.

**The No Child Left Behind Act contains a provision** called the Boy Scouts of America Equal Access Act, 20 USC Section 7905(a)(2004). The Act requires public schools that receive federal funds to provide the Boy Scouts with the opportunity to meet at school, as long as the district makes school facilities available to other outside groups. However, this does not mean that a district is required to sponsor a Boy Scout troop or that the Boy Scouts can be given additional privileges that other clubs are not provided.

**13**  
**Are military recruiters permitted  
on a school campus?**

**YES.**

The **No Child Left Behind Act** contains a provision requiring any school that receives federal funds to provide military recruiters with the same access as provided to colleges and employment recruiters. Additionally, schools are required to provide recruiters with student “directory information,” such as names, addresses, phone numbers, unless a parent or student has requested that this information not be disclosed. The law requires the school district to notify parents and students of their right to opt out and to explain the procedure for doing so. *20 USC Section 7905(b)(2004)*.

**14**  
**Can a school prohibit students from  
participating in an event that raises  
awareness of LGBT issues,  
such as a Day of Silence during which  
students agree to remain silent  
for all or part of the day?**

**NO.**

*As long as an event does not substantially interfere with the work of the school or the rights of other students, the First Amendment allows students to participate.*

## ISSUES OF EQUALITY AND SAFETY

*“ALL PERSONS BORN OR NATURALIZED IN THE U.S., AND SUBJECT TO THE JURISDICTION THEREOF, ARE CITIZENS OF THE U.S. AND OF THE STATE WHEREIN THEY RESIDE. NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE U.S.; NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW, NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS.”*

**U.S. Constitution, Fourteenth Amendment, § 1.**

**1**  
Does the Equal Protection Clause  
of the 14th Amendment offer  
LGBT students protection  
from harassment?

**YES.**

*“One and only one teacher provided a safe space by stopping other students from using anti-gay slurs.” (52% of prospective teachers surveyed said they would feel uncomfortable working with an openly gay or lesbian student)*

(U.S. Department of Health and Human Services, Report of the Secretary’s Task Force on Youth Suicide, Volume 3: Prevention and Intervention in Youth Suicide. Rockville, MD: (Government Printing Office, 1989).)

**LGBT students, like all other students, are protected** by the Fourteenth Amendment of the U.S. Constitution’s requirement of equal treatment under the law.

The equal protection clause is intricate in two ways. First, although sexual orientation is not a “suspect classification” for equal protection purposes, the State still must have a rational basis for discriminating against LGBT people. *Romer v. Evans*, 517 U.S. 620 (1996). Public officials may not impose discriminatory burdens or unequal treatment on LGBT people simply because of the public’s animosity towards them. In the public school setting, this means, among other things, that a school district must protect students from anti-gay harassment and discrimination just as it protects students from other kinds of harassment.

Second, a school must respond to sexual harassment directed at a boy perceived as gay in the same way as it would to sexual harassment directed at a girl. A Wisconsin court held that a gay student could allege discrimination and harassment against his school based on both gender and sexual orientation if school district officials failed to protect the student to the same extent that other students were protected from harassment and from harm by other students due to the student’s gender and sexual orientation. The jury found that the school district failed to respond to repeated acts of harassment. The school district settled the case for more than \$900,000 in damages. *Nabozny v. Podlesny*, 92 F.3d 446 (1996). In another case, the court ruled that a school district

## 2 How does the law define sexual discrimination and sexual harassment?

“Other kids were ‘out’ to each other but not to the school, and we used to have fights. The other kids would say they couldn’t be seen with me because then they’d be identified.”  
(Over 90% of students in 323 states said they sometimes or frequently heard homophobic remarks in their schools)

(U.S. Department of Health and Human Services, Report of the Secretary’s Task Force on Youth Suicide)

acted with deliberate indifference in response to gay students’ complaints of harassment by other students in violation of Equal Protection clause of the 14th Amendment and awarded damages. *Flores v Morgan Hill*, 324 Fc 1130 (9th Cir 2003).

Schools can also be liable for harassment of LGBT students by faculty or staff members. *McLaughlin v Board of Education of Pulaski County Special School District*, 396 F Supp 2d 960 OED Ark 2003).

**Sexual harassment is a form of sex discrimination** included under Michigan and federal laws, such as Michigan’s Elliott-Larsen Civil Rights Act., Mich. Comp. Laws § 37.2402 (2000), and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., (“Title IX”).

Michigan law defines sexual harassment as “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.” Mich. Comp. Laws § 37.2103 (2000). Sexual harassment is gender neutral and both men or women can be the victims or the perpetrators of harassment. *Radtke v. Everett*, 501 N.W.2d 155 (1993).

LGBT students are protected by the right to be free from sexual harassment and sex discrimination whether or not the harasser is of the same sex. Any sexual advance aimed at a LGBT student is considered gender-based discrimination. Mich. Comp. Laws § 37.2103 (2000).

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., (“Title IX”), prohibits recipients of federal financial assistance from discriminating in their education programs on the basis of sex, including sexual harassment. Title IX Guidelines state:

“If students heckle another student with comments based on the student’s sexual orientation... but their actions or language do not involve sexual conduct, their actions would not be sexual harassment covered by Title IX [of the federal Education Amendments of 1972]. On the other hand, harassing conduct of a sexual nature directed toward gay or lesbian students... may create a sexually hostile environment and therefore may be prohibited by Title IX.”

### 3 What kind of conduct is considered to be sexual harassment?

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*“I came out in middle school and it was a little easier there because certain teachers would protect me because I was constantly being harassed. At high school it was harder ... high school was one of the most hellish experiences of my life — I dropped out of school because I was gay.” (61% of LGBT students report verbal harassment; 46.5% report sexual harassment.)*

(U.S. Department of Health and Human Services, Report of the Secretary’s Task Force on Youth Suicide)

“Quid pro quo” and “hostile environment” sexual harassment are the two forms of sexual harassment recognized under Michigan and federal law. Quid pro quo harassment occurs when a teacher or staff member engages in a sexual relationship, explicitly or implicitly, of some kind with a student. Hostile environment sexual harassment in the school context usually involves peer, or student-to-student, sexual harassment leading to an environment in which a student’s educational opportunities or ability fully to participate in an educational program or activities are circumscribed.

The actions of a student who makes a comment based on a student’s sexual orientation (e.g., “gay students are not welcome at this table in the cafeteria”), but whose actions or language do not involve sexual conduct, would not be considered sexual harassment under Title IX. On the other hand, harassing conduct of a sexual nature directed toward gay or lesbian students (i.e., if a male student or a group of male students targets a lesbian student for physical sexual advances) may create a sexually hostile environment and may be prohibited by Title IX.

Other examples would be if male students circulated sexually explicit drawings of a gay student around the school; if female students teased a lesbian student, saying she was not “a real girl” and joked about her body as not sexual enough for boys; or if boys repeatedly taunted a lesbian student, demanding that she have sex with them as the other girls would.

Harassment targeted at LGBT students often includes epithets or mistreatment directed at the students’ perceived failure to meet gender stereotypes. For instance, students may tease a boy by calling him a girl or a sissy, or a teacher may tell a girl she should paint her fingernails and grow out her hair to be more feminine.

**4**  
**Can a school be liable for peer sexual harassment of LGBT students occurring at school?**

**YES.**

**A school district can be liable if a student is sexually harassed** under Title IX of the Education Amendments of 1972 when the school demonstrates deliberate indifference to known acts of harassment in its programs, and the harassment is so severe, pervasive and offensive that it bars the student from participating in the student's education program. *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629 (1999).

A school district can also be liable for damages for the peer sexual harassment where (1) the board acted with deliberate indifference to acts of harassment of which it had knowledge, and (2) the harassment was so severe, pervasive, and objectively offensive that it barred the student's access to an educational benefit or opportunity. A school board may also be held liable if the student can show that the school discriminated against him or her by failing to act appropriately, once made aware of the problem. *Alton v. Bd. of Educ. of Boyne City Pub. Schs.*, No. 96 Civ. 564 (W.D. Mich. Nov. 24, 1997); *Nelson v. Almont Cmty. Schs.*, 931 F. Supp. 1345 (E.D. Mich. 1996).

**5**  
**Do school personnel have an obligation to report the abuse or neglect of a LGBT student occurring at home?**

**YES.**

**Michigan law mandates the school to report if there is suspicion** that a student may be the subject of abuse or neglect by a parent or guardian for any reason, including sexual orientation. Michigan Compiled Laws § 722.623 states:

"A school administrator, school counselor or teacher who has reasonable cause to suspect child abuse or neglect shall make immediately, by telephone or otherwise, an oral report of the suspected child abuse or neglect to the Department [of Social Services]. Within 72 hours after making the oral report, the reporting person shall file a written report."

**6**  
**Are schools required to have a sexual harassment policy?**

**YES.**

**Public Act 335 (1993) of the School Code of Michigan Public Schools requires** that schools have written policy. It states:

Section 1300a. Not later than January 1, 1995, the board of each school district shall adopt and implement a written sexual harassment policy. At a minimum, the policy shall prohibit sexual harassment by school district employees, board members and pupils directed toward other employees or pupils and shall specify penalties for violation of the policy.

Federal law requires that all schools have a process for handling sexual harassment complaints. The federal Office of Civil Rights (OCR) has the authority to investigate claims of discrimination. Following an investigation of a discrimination claim in Arkansas, an agreement was reached between the OCR and a public school district that serves as a model for school districts that wish to take preventative action to limit incidents of sexual harassment toward all students, including LGBT students.

The school district promises to:

1. discipline students who sexually harass others;
2. monitor incidents of sexual discrimination and harassment;
3. conduct training for faculty and staff to deal with sexual harassment, including that directed at gay students;
4. reiterate to students, faculty, and staff that sexual harassment is prohibited;  
and
5. hold an information and discussion session for students on sexual harassment.

*Model policies are included in the Addendum.*

## SUGGESTIONS FOR SCHOOL PERSONNEL

*A SCHOOL'S CLIMATE MAY MEAN THE DIFFERENCE BETWEEN LIFE OR DEATH FOR A LGBT STUDENT. TO COMBAT THE PROBLEMS FACED BY LGBT STUDENTS, IT IS IMPORTANT TO ESTABLISH AND ENFORCE ANTI-DISCRIMINATION, ANTI-HARASSMENT AND ANTI-VIOLENCE POLICIES, EDUCATE SCHOOL STAFF ON SEXUAL ORIENTATION ISSUES, AND ASSIST LGBT STUDENTS WITH COUNSELING AND PEER SUPPORT GROUPS.*

To meet the needs of LGBT students:

- Include appreciation for diversity and respect for all in the school mission statement.
- Add sexual orientation as a protected category to existing anti-harassment, anti-violence, equal access to educational opportunity, and nondiscrimination policies. Ensure that the policies are enforced.
- Encourage all school personnel, especially school counselors and social workers, to expand their knowledge, understanding and resources of sexual orientation issues by providing opportunities for staff development.
- Incorporate materials about LGBT issues and resources in the school media center. Address sexual orientation topics in various subject areas.
- Establish a peer counseling or student support group for LGBT students and their supportive friends.
- Establish classroom guidelines about name-calling and address it immediately if it occurs.
- Incorporate LBGT issues in curriculum if appropriate.
- Recognize all family structures and make no assumptions about students' families or their sexual orientation.

—————  
*“One teacher kept telling me to act more like a man.”*

—————  
*The CDC Division of Adolescent and School Health (DASH) has identified gay, lesbian, bisexual, transgender, and questioning adolescents as a priority population for HIV infection.*

—————  
*“I didn’t want to deal with all the other things that happen when you come out. I didn’t want to be persecuted!”*

## SOURCES

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Ryan, Caitlin and Futterman, Donna, Lesbian and Gay Youth: Care and Counseling. (Columbia University Press: New York, 1998).

## **MODEL ANTI-HARASSMENT POLICY**

The \_\_\_\_\_ School District is committed to providing all students with a safe and supportive school environment. To that end, teaching basic respect for each other, and tolerance of our differences and different ideas, is a top priority. Members of the school community are expected to treat each other respectfully. Teachers and other staff members are expected to teach and demonstrate by example that all members of the community are entitled to respect as human beings.

Harassment of a member of the school community by another member of the community is a violation of school policy. This includes (but is not limited to) harassment based on race, religion, national origin, marital status, gender, sexual orientation, gender identity, or disability. Harassment means conduct, including verbal conduct (1) that substantially interferes with a student's educational benefits, opportunities, performance, or with a student's physical or psychological well-being; or (2) that is intimidating.

Sexual harassment is also against school policy. Sexual harassment includes an unwelcome sexual advance or sexual behavior, including verbal behavior (1) that is tied to a student's educational benefits, opportunities, or performance, or to a student's physical or psychological well-being; or (2) that substantially interferes with a student's educational benefits, opportunities, or performance; or a student's physical or psychological well-being; or (3) that is intimidating.

The first response of any staff member to an act of harassment should be to teach — to teach why harassment is wrong and tolerance and respect are essential to a free society. Serious or repeated violations of school policy may require more intense counseling and/or appropriate discipline.

Note: Federal law requires all schools to have a process for handling sexual harassment complaints.

# HARASSMENT INCIDENT REPORT FORM

We maintain a firm policy prohibiting all forms of harassment. All persons are to be treated with respect and dignity. Harassment by any person – male or female – which creates an intimidating, hostile or offensive environment, will not be tolerated. If you believe you are a victim of harassment, complete this form with the assistance of a staff member. Your complaint will then be investigated by the proper school authorities.

Student: \_\_\_\_\_

Home Address: \_\_\_\_\_

Parent's Name: \_\_\_\_\_

Home Telephone: \_\_\_\_\_ Parent Work Telephone: \_\_\_\_\_

Date(s) of Alleged Incident: \_\_\_\_\_

Name of Person(s) You Believe Harassed You:

\_\_\_\_\_  
\_\_\_\_\_

List Any Witnesses Who Were Present:

\_\_\_\_\_  
\_\_\_\_\_

CONTINUED

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## **EQUAL EMPLOYMENT OPPORTUNITY**

The Board of Education shall comply with all Federal laws and regulations prohibiting discrimination and with all requirements and regulations of the U.S. Department of Education. It is the policy of the Board that no staff member or candidate for a position in this District shall, on the basis of race, color, religion, national origin, creed or ancestry, age, gender, sexual orientation, marital status, or disability, be discriminated against, excluded from participation in, denied the benefits of any program or activity for which the Board is responsible or for which it receives financial assistance from the U.S. Department of Education.

The Superintendent shall appoint a compliance officer whose responsibility it will be to ensure that Federal and State regulations are complied with and that any complaints are dealt with promptly in accordance with law.

M.C.L.A. 37.2101 et seq.

Civil Rights Act of 1964, 42 U.S.C., 2000e, et seq.

Americans with Disabilities Act of 1990, 42 U.S.C. 12112

Rehabilitation Act of 1973, 29 U.S.C. 701 et seq.

# ASSESSING YOUR SCHOOL CLIMATE

Gay, lesbian and bisexual students, school personnel and parents are part of your educational community. Is your school meeting their needs?

## Assessment checklist

Please check if the following statements are true:

- 1. Sexual orientation is included in the student anti-harassment policy.
- 2. Sexual orientation is included in the student nondiscrimination policy.
- 3. Sexual orientation is included in the school personnel anti-harassment policy.
- 4. Sexual orientation is included in the student anti-harassment policy.
- 5. Administrators have received training on issues of sexual orientation.
- 6. Guidance counselors and support staff have received training on issues of sexual orientation.
- 7. Faculty have received training on issues of sexual orientation.
- 8. Athletic staff, club sponsors, and other school personnel have received training on issues of sexual orientation.
- 9. The media resource center has current and accurate materials about gay, lesbian and bisexual topics.
- 10. The classroom curriculum addresses gay, lesbian and bisexual topics in various subject areas, i.e., history, social sciences, English, science, health and diversity programs. Please list:

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- 11. A peer counseling or student support group exists for gay, lesbian and bisexual students.
- 12. School authorities have sponsored educational programming about sexual orientation for parents and the larger school community.
- 13. Medical and bereavement leave includes consideration for partners of all school personnel regardless of sexual orientation.

## RESOURCES

American Civil Liberties Union of Michigan  
LGBT Project  
60 W. Hancock  
Detroit, MI 48201  
(313)578-6812  
kaplan@aclumich.org  
www.aclumich.org

American Friends Service Committee  
LGBT Issues Program  
1414 Hill Street  
Ann Arbor, MI 48104  
(734)-761-8283  
www.afsc-fan.org

AIDS Michigan Hotline  
9 am to 9 pm weekdays  
9 am to Noon Saturdays  
(800)872-AIDS (800-872-2437)

Blue Water Pride  
P.O. Box 611203  
Port Huron, MI 48060  
(810)364-1080  
www.gaybluewater.com

Carl Rippberger Youth Services  
c/o Affirmations  
195 W. Nine Mile Road  
Ferndale, MI 48220  
(248) 398-4297  
(800) 398-4297  
info@goaffirmations.org  
www.goaffirmations.org

Common Ground Sanctuary  
Youth Outreach Center  
12295 Washington  
Royal Oak, MI 48077  
(248)336-9272

Friends North  
P.O. Box 562  
Traverse City, MI 49685-0562  
(231)946-1804  
www.friendsnorth.org

Gay and Lesbian Community Network of Western Michigan  
343 Atlas Avenue S.E.  
Grand Rapids, MI 49506  
(616)458-3511  
www.the-lgbt-network.org

Gay/Lesbian Educators Association of Michigan (GLEAM)  
P.O. Box 271  
Royal Oak, MI 48068  
(586)573-9932

Gay Lesbian Straight Education Network (GLSEN)  
Ann Arbor/Ypsilanti (734)930-0357  
www.glsen-aaypsi.org  
Grand Rapids (616)791-9755  
glsenr@aol.com  
National (New York) (212)727-0135  
www.glsen.org

Kalamazoo Gay and Lesbian Resource Center  
629 Pioneer Street  
Kalamazoo, MI 49008-1801  
(269)349-4234  
kgllrcbond@aol.com  
www.kglrc.com

Karibu House  
Community Center for LGBT Persons of Color  
P.O. Box 21578  
Detroit, MI 48221  
(313)865-2170, ext. 3

La Comunidad  
429 Livernois  
Ferndale, MI 48220  
(248)545-1435

## RESOURCES

Lansing Association for Human Rights  
P.O. Box 6565  
East Lansing, MI 48826  
Lahr1@geocities.com  
<http://come.to/lahr>

Michigan Equality  
P.O. Box 13133  
Lansing, MI 48901  
(800)858-9107  
[www.michiganequality.org](http://www.michiganequality.org)

Perceptions  
P.O. Box 1525  
Midland, MI 48641  
[www.perceptionsv.org](http://www.perceptionsv.org)

Parents and Friends of Lesbians and Gays (PFLAG)  
*Michigan chapters:*  
Ann Arbor: Hotline (734)741-0659, [www.flagaa.org](http://www.flagaa.org)  
Detroit (Royal Oak): Hotline (248)656-285,  
[www.pflagdetroit.org](http://www.pflagdetroit.org)  
Downriver: (734)783-2950, [www.pflagdownriver.org](http://www.pflagdownriver.org)  
Genesee County: [www.pflagflint.org](http://www.pflagflint.org)  
Grand Rapids: (616)336-1382, [www.geocities.com/pflagger](http://www.geocities.com/pflagger)  
Lansing: (517)332-4550, [pflaglans@aol.com](mailto:pflaglans@aol.com)  
Port Huron/Sarnia: P.O. Box 611866,  
Port Huron, MI 48061-1866  
Southwest Michigan (Portage): (269)327-8107  
Traverse City: (231)271-5045  
Tri-Cities (Bay City): (989)893-2475,  
[www.concentric.net/~pflag](http://www.concentric.net/~pflag)

Ruth Ellis Center  
2727 Second Avenue, #158  
Detroit, MI 48201  
(313)964-2091

Transgender Michigan  
P.O. Box 224  
Swartz Creek, MI 48473  
(517)420-1544  
[www.transgendermichigan.org](http://www.transgendermichigan.org)

Triangle Foundation  
19641 W. Seven Mile Road  
Detroit, MI 48219  
(313) 537-3323  
[www.tri.org](http://www.tri.org)

Washtenaw Rainbow Action Project  
325 Braun Court  
P.O. Box 7951  
Ann Arbor, MI 48107  
(734)-995-9867

Windfire Grand Rapids  
233 E. Fulton, Suite 226  
Grand Rapids, MI 49503  
(616) 452-3816



THE ACLU MICHIGAN IS PROUD TO BE AN OFFICIALLY DESIGNATED HERITAGE ORGANIZATION