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# Know Your Rights: A Guide for Transgender and Gender Nonconforming Students

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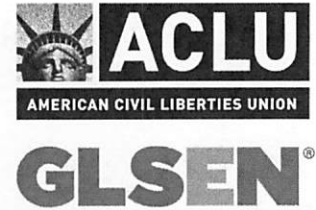
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# KNOW YOUR RIGHTS:

## A Guide for Transgender and Gender Nonconforming Students



Whether you're a girl who "doesn't act like one," identify as transgender, or just feel like you don't "match" the sex you were assigned at birth, you have the right to be safe and to be yourself at school. The American Civil Liberties Union (ACLU) and GLSEN have put together this simple guide to inform gender nonconforming and transgender students about their rights.

### Your Right to Be Safe in School

Public schools are legally required to protect all students from harassment. Under the U.S. Constitution, schools must address any harassment against you the same way they would for any other student. A federal law called Title IX bars public schools from ignoring harassment based on gender stereotyping. Many states also have laws banning schools from discriminating based on gender identity and/or expression.

What this all means is that public schools can't ignore harassment or bullying based on appearance or behavior that doesn't "match" your gender: boys who wear makeup, girls who dress "like a boy," or students who are transgender. Nor can school officials tell you that you have to change who you are or that you brought the harassment on yourself by dressing or behaving "inappropriately."

If you're being harassed or bullied or see it happening to someone else, you should report it immediately to an administrator, counselor, or other school official. They have a legal responsibility to respond.

### Your Right to Be Yourself in School

Everyone has the right to be themselves in school—including you! Public schools are required to respect your gender identity and expression.

**What you say:** Your speech is protected by the First Amendment to the U.S. Constitution, which gives all public school students the right to free speech and expression. This means you can talk and write about who you are and about issues relating to gender identity and expression. Your right to free speech doesn't mean that you can say whatever you want at any time; it's not protected if it disrupts class time, if it's meant to encourage other students to break school rules, if it's obscene, or if it's untrue about someone and could damage their reputation. Your school can put some limits on where and when certain kinds of speech are allowed, but those limits must

be reasonable and apply to everyone equally. Be aware that schools often use "disruption" as the reason to illegally censor students. Much of the time that turns out to be an invalid excuse. So if your school uses that as a reason for censoring you, don't just take their word for it—ask the ACLU!

**What you wear:** Your gender expression is protected by the U.S. Constitution, Title IX, and any state or local law that bans discrimination based on gender identity. This right to free expression includes your clothes. As long as what you wear would be appropriate if worn by other students, such as a skirt or a tuxedo, then you should be able to wear it even if it isn't stereotypically associated with your gender. School dress codes have to treat all students equally.

**Prom and other school events:** If you're a girl, can you go to homecoming with another girl? If you're a boy, can you run for Prom Queen? Yes! The First Amendment and your right to equal protection grant you the right to express yourself by bringing a same-sex date to the prom, homecoming, or similar school events. You're also protected in your choice of prom date by any state or local law that prohibits discrimination based on sexual orientation and/or gender identity. Similar protections should apply if you're a boy who wants to run for Homecoming Queen or a girl who wants to run for Prom King.

### A.'s Story

A school in South Carolina told A., a gender nonconforming student, that they couldn't wear a tux in their senior picture. When the ACLU intervened, the district backed down on that, and further discussion also said A. could wear pants instead of a dress at graduation.

When A.'s mother went to the school to do some paperwork at the end of the year, she was thrilled to see the tuxedo picture in the records system as A.'s official school picture.

### Your Right to Be Trans or Transition at School

Your right to be yourself in school includes the right to be transgender or to transition your gender in school. Unfortunately, there aren't yet clear rules in most places about how schools should accommodate students when they transition. There are often many obstacles to deal with, including your name and what pronouns to use when talking about you, restroom and locker room accessibility, and how official records classify you. We strongly suggest calling the ACLU or GLSEN to help you chart this course, and check out GLSEN's model school policy for trans and gender nonconforming students at [glsen.org/modeltranspolicy](http://glsen.org/modeltranspolicy).

**How to talk with your school about being transgender or transitioning:** The more support you have in talking to your school about being transgender, the better. If you can, involve your parents or guardians and your doctor, and reach out to supportive teachers and other staff. Explain to the school that it is legally obligated to create a safe learning environment for all students, including you, and that you have a constitutional right to express who you are in school. If your state or city bans discrimination in schools based on gender identity, make sure your school knows about the law.

**What should you ask your school to do?** Your school should assess your needs on an individual basis, and you and your school should create a plan that works for you. In all cases, your school's goals should be to ensure your safety and support your emotional well-being so that you can learn and achieve your full potential. They can do this by acting to prevent harassment or bullying, making accommodations with respect to restrooms and lockers, and protecting your privacy by not revealing that you are transgender to others unless you have given them permission to do so. Your school should not be outing you to anyone.

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### M.'s Story

Since kindergarten, M. changed into girls' clothing the moment she got home from her school in Texas, and her family had always honored her gender identity at home. When M.'s parents decided to let her start 3<sup>rd</sup> grade at a new school as a girl, the principal singled out the 8-year-old, pulling her out of class repeatedly to lecture her about how she isn't really a girl and sending her home when she wore a skirt or pink nail polish. The principal also insisted that M. use the boys' restroom, which caused a commotion because the boys didn't like having a girl in their restroom. Almost every day M. came home in tears.

After the ACLU intervened, the school finally agreed to call her the correct name, use the proper pronouns, and let her dress like any other little girl. M. is no longer being forced to use the boys' restroom.

### Important Terms

You can talk about yourself however you want to, but some terms are used more than others in describing people who don't conform to gender stereotypes. When you talk to school officials, you may want to use these terms:

*Gender identity* is a person's deeply held sense or psychological knowledge of being a particular gender or being neither gender, regardless of the sex assigned to them at birth.

*Transgender* describes people whose gender identity is different from the sex assigned to them at birth, but it can also be used to describe a broad range of identities and experiences that fall outside of traditional notions of gender.

*Gender expression* refers to the way a person shows gender, such as through clothing, hairstyles, or mannerisms.

*Gender nonconforming* describes people whose gender expression differs from stereotypical expectations, such as "feminine" boys, "masculine" girls, and those who are perceived as androgynous. Other terms for this are "gender variant" or "gender queer."

*Transition* describes the process of changing one's birth-assigned sex to match his or her gender identity.

### Important Laws

There are federal and state laws that protect you from discrimination and harassment based on your gender identity and expression. This isn't a complete list—there might be other laws out there that also protect you—but it's a good start.

**U.S. and state Constitutions:** The U.S. Constitution and most state constitutions guarantee you equal protection under the law, the right to freedom of speech and expression, and the right to privacy.

**Title IX of the Civil Rights Act of 1964:** Title IX is a federal law that applies to all schools that receive federal funding; that's all public schools and some private schools. Title IX prohibits discrimination, harassment, and bullying based on sex, which includes gender stereotyping.

**State laws:** Your state might have a law that prohibits discrimination, harassment, and/or bullying in school based on gender identity and/or expression. States that have such laws include Arkansas, California, Colorado, Connecticut, District of Columbia, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New York, North Carolina, Oregon, Rhode Island, Vermont, and Washington.

**Local laws or school policies:** If your state doesn't ban discrimination, harassment, and/or bullying in school based on gender identity and/or expression, then your city, county, or school might.

### What to Do if You Have Problems at School

If you think that your school is discriminating against you or is ignoring harassment or bullying against you, here are some things you can do:

To protect yourself and be in the best position to change your school's policies, be respectful and follow school rules.

Document everything:

- Who was involved,
- What happened,
- Where it happened,
- When it happened,
- Who you reported it to,
- Witnesses, if there were any.

Report everything to school officials: We know this can be frustrating, but it's important to report every incident of discrimination or harassment to school

officials, like your principal or your district superintendent. In many states schools have to be officially put "on notice" about harassment in order for them to be held legally responsible for addressing it. Keep copies of everything that you give the school. Take notes about any conversations you have with school administrators and be sure to write down when you talked to administrators.

**File a complaint:** Your school is required to have a clear process for filing complaints of discrimination or harassment. Ask school administrators what the process is and follow it. The school must keep your identity confidential and cannot retaliate against you.

The U.S. Department of Education Office for Civil Rights also has a complaint process for discrimination and harassment. For an explanation about how to file a complaint, check out [www2.ed.gov/about/offices/list/ocr/docs/howto.html](http://www2.ed.gov/about/offices/list/ocr/docs/howto.html).

### Who to Contact for Help



ACLU LGBT and HIV Project  
[aclu.org/safeschools](http://aclu.org/safeschools)  
212.549.2627

The Project is a special division of the ACLU that leads the organization's nationwide advocacy to secure the rights of lesbian, gay, bisexual and transgender people. We won't ever talk to your school or anyone else without your okay, and any communication between you and the ACLU will be kept private.



GLSEN  
[glsen.org](http://glsen.org)  
212.727.0135  
GLSEN, the Gay, Lesbian & Straight Education Network, is the leading national education organization focused on ensuring safe schools for all students.