

Your PROM

DURING PROM SEASON, MILLIONS OF HIGH SCHOOL STUDENTS ALL AROUND THE COUNTRY ARE BUSY FINDING THE RIGHT TUX, THE RIGHT DRESS, THE RIGHT DATE. IT'S THE BIGGEST PARTY OF THE YEAR FOR MANY STUDENTS, AND IF YOU DECIDE YOU WANT TO BE A PART OF IT, YOUR SEXUAL ORIENTATION OR GENDER IDENTITY SHOULD NOT BE A BARRIER.

In the 21st century, society has become significantly more exposed to, and oftentimes more accepting of, LGBT people. Years of activism have led to more positive portrayals of LGBT people in TV, film and other media outlets, which can sometimes help LGBTQ students feel comfortable being themselves and coming out. All of those factors have contributed to this generation of students being the most accepting and understanding of LGBTQ concerns yet.

That being said, many students still experience discrimination and roadblocks around prom time. You may worry that bringing a same-sex date or wearing an outfit that expresses your gender identity but doesn't fit within gender norms will make you a target for harassment by students or will be unwelcomed by your school administrators. Administrators or teachers may misguidedly try to bar you from these forms of expression "for your own good," anticipating that you will not be accepted. But in most cases, you have rights.



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IF YOU ARE IN PUBLIC SCHOOL AND CONSIDERING YOUR RIGHTS WHEN PLANNING FOR PROM, HERE ARE SOME ISSUES TO CONSIDER.

AM I ALLOWED TO TAKE A SAME-SEX DATE TO THE PROM?

Yes. You are allowed to bring your same-sex date to the prom.

You have the right to equal treatment from your school. Some state education laws prohibit discrimination on the basis of sex or sexual orientation; some state antidiscrimination laws apply to schools; and Title IX, a federal law, prohibits discrimination on the basis of sex in any education program or activity receiving federal financial assistance. Equal protection guarantees of the state and federal constitutions also prohibit irrational discrimination based on sex or sexual orientation.

Your attendance with your same-sex date is considered an “expressive activity” — you are expressing your identity and communicating that you and your date have the same right as any other couple to attend and enjoy the event. More than 20 years ago, a federal court recognized that the First Amendment protects this expression, when it ruled that high school senior Aaron Fricke had the right to bring his male date to the prom. The school’s concern that other students might react negatively to Aaron and his date did not justify banning Aaron. The school was required to take appropriate security measures to ensure the safety of all students at the event.

WHAT SHOULD I DO IF MY SCHOOL TELLS ME I CAN’T TAKE A SAME-SEX DATE TO THE PROM AND WON’T SELL ME TICKETS?

First, try to get the support of your parent(s) or legal guardian(s). Ask them to contact the school principal on your behalf and ask that the school provide the reasons for its denial to you in writing. If the school continues to object, call Lambda Legal’s Help Desk at 1-866-542-8336 or email legalhelpdesk@lambdalegal.org.

WHAT IF THE PRINCIPAL SAYS THE SCHOOL WILL LET ME BRING MY DATE BUT REQUIRES US TO GET OUR PARENTS’ PERMISSION?

Schools should not single out same-sex couples for different treatment. There is no legal justification for demanding permission for some couples because of their sex or sexual orientation. Unless a school requires parental permission for all couples, it should not demand that from you.

HOW CAN WE BE SURE THAT WE’LL BE SAFE AT THE PROM?

Schools cannot refuse to provide you with the same protection that they provide to all other couples. If you are concerned about your safety, you need to talk with your school principal or district superintendent before the prom. Provide them with as much detail as you can about what’s happened or who’s been threatened. In Aaron Fricke’s case, the court found that “meaningful security measures are possible, and the First Amendment requires that such steps be taken to protect rather than to stifle free expression.” You cannot be heckled or harassed out of attending your prom.

WHAT IF I WANT TO WEAR CLOTHING THAT ISN’T TRADITIONAL FOR MY GENDER OR BIOLOGICAL SEX? CAN THE SCHOOL SET ANY DRESS CODE BASED ON GENDER STEREOTYPES?

While schools can set general dress standards for prom — like requiring formal attire — they shouldn’t force you to wear clothes based on your gender. Barring a female student from wearing a tuxedo because only male students wear tuxes, or barring a male student from wearing a dress, is sex stereotyping and may subject the school to a sex-discrimination claim under state education laws, antidiscrimination laws, Title IX or the U.S. Constitution. The same goes for trans or “gender-queer” students who want to dress in a way that reflects their gender identity or expression. The right to express your gender identity through appropriate clothing should also be also protected by the First Amendment or a similar state law. But despite these arguments, courts sometimes have

found that a school's concern about safety or substantial disruption is valid and have upheld sex-specific dress codes. So you should advocate for the right to wear the clothes that you want — the clothes that make you feel most comfortable and express your identity — but you also should consider alternatives.

EVEN IF THE SCHOOL DOES TAKE MEASURES TO ENSURE OUR SAFETY, WHAT CAN WE DO IF WE'RE HARASSED BY OTHER STUDENTS (OR ANYONE) AT THE PROM?

You need to report any incidents to officials, security personnel or other monitors/chaperones at the dance. If you think there might be problems, enlist friends and allies who will get on the dance floor with you during the first dance to break the ice. This can set a fun, enjoyable, supportive and safe environment for the evening. After the event, report any incidents of harassment to the principal in writing.

IF WE GET TO THE PROM AND THE SCHOOL OFFICIALS OR MONITORS DON'T LET US IN, WHAT CAN WE DO?

Ask to speak with the person in charge of the event and advocate with them. Let them know that you have a right to attend, that you will not cause any disruption and will

abide by the same conduct rules (no fighting, no drinking) as all other couples. If you know before the actual night of prom that there might be problems, you can take steps that might prevent you from being turned away at the door. You could tell your school principal in advance that you're bringing a same-sex date. If the principal objects, then you can advocate for your right to be there and address any issues the school may have beforehand. Once the principal is on your side, ask for a short note stating that you are allowed to attend with your date. Bring it with you with the hope that you'll never need to use it.

ONCE INSIDE, WHAT IF SOMEONE TRIES TO STOP US FROM DANCING TOGETHER?

You have the right to participate in prom the same way that any other couple does. While the school can have rules of conduct that apply to everyone, it cannot create a special "no dancing" rule for you and your date. The same legal principles that allow you to attend with your date also allow you to participate fully and equally in the evening's activities and fun. If someone tries to stop you, ask to speak with the person in charge and inform them of your rights. If you can, take along a copy of this Q&A for backup.

TAKING ACTION:

K.K. Logan

Throughout K.K. Logan's high school career, he expressed a deeply rooted femininity in his appearance and demeanor. K.K. wore clothing typically associated with girls his age. K.K.'s classmates and teachers were supportive of his dress and gender expression. However, when K.K. wore a dress to his prom, K.K.'s principal physically blocked him from the entrance. Despite K.K.'s classmates and various community members rallying to his defense, he was never let inside for his prom. Administrators cited school policy against "advertising" one's sexual orientation through dress. Lambda Legal filed a lawsuit on K.K.'s behalf. Barring K.K. from his prom for wearing a dress is a violation of his First Amendment right to freedom of speech, symbolic action and expressive conduct. While it is important for schools to have policies that regulate student behavior, these policies must also respect students' rights. LGBTQ students have the right to express themselves in and out of the classroom, and silencing their right to self-expression is an unlawful violation of the First Amendment.