

Preventing Censorship of LGBT Information in Public School Libraries

STUDENTS HAVE THE RIGHT BE OUT, SAFE & RESPECTED. . . IN THE LIBRARY.

This fact sheet is designed to ensure that students have access in their school libraries to LGBTQ materials (information related to lesbian, gay, bisexual or transgender individuals and those questioning their sexual orientation or gender identity). It suggests ways that students, parents and educators can combat unlawful censorship of LGBTQ materials and information from public school libraries and serves as a guide for anyone who wants to enhance school libraries by making them more inclusive, supportive and informative for all students. This fact sheet is a supplement to Lambda Legal's *Out, Safe & Respected* toolkits on youth rights in schools.

THE SCHOOL LIBRARY: AN IMPORTANT RESOURCE FOR LGBTQ (AND ALL) STUDENTS

LGBTQ and gender-nonconforming youth are disproportionately subjected to bullying, harassment, intimidation and discrimination. The consequences can be terrible—in addition to the possibility of compromised academic performance, many LGBTQ students are at higher risk for depression and suicide.

As educators and administrators become more aware of the presence of LGBTQ students in their schools, many of them are working to provide all of their students with a diverse library collection that includes information about LGBTQ issues. Schools may have different reasons for taking these steps. Some want to promote greater awareness of human diversity. Some may be responding to a violent or discriminatory campus incident and still others may be reacting to studies that show LGBTQ students are among those most frequently targeted for bullying and harassment in schools. Whatever the reason, research shows that inclusive school programs have a positive

In 2000, school librarians and students in conservative Orange County, California, sued the Anaheim Union High School District for removing the book *Lives of Notable Gay Men and Lesbians* from school libraries. The school district settled and amended its policy to state that “no books shall be removed from the library of any AUHSD school where the primary reason for removal is that their subject matter involves sexual orientation.”

impact and are associated with reduced harassment and safer environments for all students, and that **LGBTQ-themed books and other materials in school libraries help to provide the support, reassurance and information that students need.**

Government experts and health professionals have concluded that LGBTQ and gender-nonconforming youth often need increased support from school officials. State agencies and library experts agree that schools can foster an inclusive environment by maintaining LGBTQ-related materials in school libraries:

- The American Library Association has repeatedly emphasized a school librarian's duty to include LGBTQ materials in any library collection, and the Association specifically discourages efforts to systematically exclude such materials.¹
- The Centers for Disease Control and Prevention (CDC) has advocated for increased support for LGBTQ youth to help decrease the incidence of suicidal behavior.²
- A broad coalition of professional organizations including the American Academy of Pediatrics, the American Association of School Administrators, the American Psychological Association, the American Federation of Teachers and the American School Health Association collaborated on a statement urging schools to foster a more positive environment for LGBTQ students.³

¹ American Library Association, “Access to Library Resources and Services Regardless of Sex, Gender Identity, or Sexual Orientation: An Interpretation of the Library Bill of Rights,” <http://www.ala.org/Template.cfm?Section=interpretations&Template=/ContentManagement/ContentDisplay.cfm&ContentID=31878> (accessed November 29, 2010).

² Centers for Disease Control, “Strategic Direction for the Prevention of Suicidal Behavior: Promoting Individual, Family, and Community Connectedness to Prevent Suicidal Behavior,” (2008), http://www.cdc.gov/ViolencePrevention/pdf/Suicide_Strategic_Direction_Full_Version-a.pdf (accessed November 29, 2010).

³ American Psychological Association, “Just the Facts About Sexual Orientation and Youth: A Primer for Principals, Educators, and School Counselors,” <http://www.apa.org/pi/lgbt/resources/just-the-facts.aspx> (accessed November 29, 2010).

- State commissions and task forces in states such as Rhode Island⁴, Massachusetts⁵ and New Jersey⁶ have released studies that suggest increased LGBTQ library holdings in schools as a way to combat bullying and harassment.

In addition, reading LGBTQ-themed books can have important positive effects for all young people, and the school library is a key source of such materials.

- Many books written for young LGBTQ readers directly address common problems faced by LGBTQ youth, and suggest helpful solutions. They also remind students that they are not alone.
- While LGBTQ-themed materials in a school library can provide much-needed support to LGBTQ students struggling with feelings of isolation, non-LGBTQ students can also gain greater understanding of sexual orientation and gender identity in ways that contribute to an overall environment of respect. Particularly in schools with less LGBTQ visibility, these materials can show students that the LGBTQ community is diverse and inclusive of a wide variety of voices.
- Critics and library organizations have singled out many LGBTQ titles for praise, both as works of literary merit and as influential educational texts.

Are public school libraries legally *required* to stock LGBTQ-friendly materials?

The First Amendment generally protects students' rights to access material that is already in the public school library, but it does not require schools to actively seek out LGBTQ books for purchase. Schools constantly make choices about what to buy and what not to buy, and the law usually upholds these choices. That is why it is so important for LGBTQ students and their allies to be proactive in making the case for greater inclusiveness.

⁴ Rhode Island Department of Education, "Band-aids Don't Cut It: A Statewide Plan to Address the Needs of Lesbian, Gay, Bisexual, Transgender, Queer and Questioning Youth in Rhode Island." (2006) <http://www.dcyf.state.ri.us/docs/bandaids.pdf> (accessed November 29, 2010).

⁵ The Commonwealth of Massachusetts Commission on Gay, Lesbian, Bisexual, and Transgender Youth "Annual Report (2009), http://www.mass.gov/cgly/MCGLBTY_Annual_Report_June_2009.pdf (accessed November 29, 2010).

⁶ New Jersey Commission on Bullying in Schools, "There Isn't A Moment To Lose: An Urgent Call for Legal Reform and Effective Practices to Combat Bullying in New Jersey Schools," (Dec. 15, 2009), http://www.edlawcenter.org/ELCPublic/elcnews_091216_BullyingCommissionReport.pdf (accessed November 29, 2010).

In 1995, students and parents in Johnson County, Kansas, filed suit against their school district after it removed from school libraries the young adult novel *Annie on My Mind* about a relationship between two teenage girls. A federal district court found in favor of the students and demanded that the school restore access to the book.

MAKING YOUR SCHOOL LIBRARY MORE INCLUSIVE

Here are some ways that students, educators, administrators and parents can promote the inclusion of LGBTQ materials in your school library:

- Request that your school library acquire specific titles that deal with LGBTQ issues or contain LGBTQ characters that are age-appropriate for your school. Educators can also include LGBTQ-themed books in lesson plans and request that the school library acquire particular titles or collections. Various organizations like the National Coalition Against Censorship and the American Library Association often provide lists of recommended novels, biographies, anthologies and other books with LGBTQ themes.
- Parents can encourage their children's desire to seek out LGBTQ-themed books and demand that their schools respect their children's rights and protect their safety.
- Request permission to present a display in the library in conjunction with an annual observance, such as National Freedom to Marry Day (February 12), Day of Silence (varies, April), LGBTQ Pride Month (June), National Coming Out Day (October 11) or Transgender Day of Remembrance (varies, November).

Make an inclusive library just one part of an inclusive school environment:

- Administrators and educators can implement a curriculum that promotes awareness of LGBTQ subjects; create guidelines instructing staff and students how to address issues relating to LGBTQ students and enact and enforce school anti-discrimination and anti-harassment policies.
- Students can form gay-straight alliances (GSAs) or other clubs or groups that promote diversity and provide support for LGBTQ students; organize events around LGBTQ issues or annual observances; and speak up about LGBTQ issues when they are relevant to classroom discussions.

STOPPING THE REMOVAL AND CENSORSHIP OF LGBTQ BOOKS AND MATERIALS: IT'S THE LAW

Unfortunately, some school districts, organizations and individuals have attempted, unlawfully, to restrict students' access to books or websites purely because they address LGBTQ themes or other issues related to diversity. As the National Coalition Against Censorship has pointed out, "Calling a book 'gay-themed' or even 'LGBTQ-themed' doesn't tell you much about it. In fact, it creates an artificial category, albeit a seemingly necessary one for a discussion about homophobic censorship attempts. Many of the banned books... under the label 'LGBTQ-themed' are really just books about everyday life. While they may have gay characters or address homophobia, those themes are often not central to the plot."⁷.

Here are some frequently asked questions – and answers, about whether public school libraries can restrict LGBTQ materials:

Can books be removed from public school libraries because some people in the community disagree with the LGBTQ-inclusive ideas presented in them?

No. Schools may not remove books from library shelves merely because they dislike the books' politics—the Supreme Court has ruled that such "viewpoint discrimination" violates the First Amendment. Unlike in the classroom, where administrators control the details of a school's curriculum, in the library students have a constitutional right to access information that administrators might disagree with. This means that when schools target LGBTQ materials for removal simply because school officials disagree with LGBTQ-related political or social issues or disapprove of LGBTQ individuals, they have broken the law.

What if the library places restrictions on access to LGBTQ materials, like requiring permission slips or moving books out of a children's section?

Restricting access to books or other materials simply because they deal with LGBTQ themes is unconstitutional. Courts have held that restricting access to LGBTQ materials, such as requiring guardian signed permission slips, unconstitutionally burdens students. Schools may not target LGBTQ-themed materials for removal from library shelves. The inclusion of LGBTQ topics and themes alone does not render these materials vulgar or obscene, or otherwise appropriate for removal.

My public school uses internet-filtering software that blocks LGBTQ-supportive websites, but not anti-LGBTQ sites. Is that legal?

Probably not. Internet filters have proven to be a double-edged

⁷ National Coalition Against Censorship, "KRRP LGBTQ-Content Right to Read Resource," <http://www.ncac.org/LGBTQ-Right-to-Read-Resource-Main-Page> (accessed November 29, 2010).

One book that has been at the center of numerous book-banning debates in recent years is *And Tango Makes Three*, a children's book about a pair of male penguins raising a chick at New York's Central Park Zoo. School officials from Ankeny, Iowa; Shiloh, Illinois; and Loudoun County, Virginia, have all properly denied requests to remove the book from libraries.

sword. Although it is important to protect students from obscene and harmful material, schools cannot block websites for merely containing LGBTQ-related content. For example, many LGBTQ-supportive websites (like lambdalegal.org) are important resources to students, especially to those who may be isolated from such support. As in the case of LGBTQ books, the First Amendment protects students' access to information and prohibits "viewpoint discrimination" targeting certain materials for their politics.

What if there is strong community support for removing LGBTQ books from the library?

Censorship is not a matter of majority rule. No matter where in the country you live, the Constitution protects your rights.

Students, educators, administrators and parents can combat efforts to remove LGBTQ materials or filter LGBTQ website in a number of ways:

- Use the law. Let school officials and those attempting to censor LGBTQ materials and resources know that the law prohibits them from targeting LGBTQ materials for removal or restricted access. Often, when administrators and school boards learn that the law protects students' rights to access these materials in the library, they will make the right decision on their own and move to protect whatever book has been challenged.
- Gather support. Use petitions, letters, public meetings and other methods to show school officials that many students and parents *want* them to maintain an inclusive library collection, and that LGBTQ materials are a much-needed resource for students. This approach sends a positive, powerful message to combat those motivated by hate, ignorance and fear, and may make it easier for school officials to act quickly and restore materials to the shelves.
- Make it a public issue. Find ways to bring the issue to the attention of the larger community by addressing the school board or writing a letter or an op-ed for the newspaper.

- Consider taking the issue to court. If you have questions about your state’s laws, or if you think that your constitutional rights have been violated, contact your state’s Department of Education, a local attorney or Lambda Legal’s Help Desk, reachable at 1-866-542-8336 or www.lambdalegal.org/help/online-form.

Actions that target LGBTQ library materials for removal or censorship often reflect a broader problem in many schools: unlawful anti-LGBTQ discrimination.

When officials remove LGBTQ materials from libraries, it may be evidence that the school is also fostering an unlawful discriminatory environment, failing to address anti-LGBTQ harassment or unconstitutionally stifling LGBTQ students’ attempts to express themselves.

- Schools may not permit a discriminatory or abusive environment for LGBTQ students. Courts across the nation have applied federal, state and local laws to protect LGBTQ students from harassment and discriminatory treatment.
- The Constitution also provides broad First Amendment protections to LGBTQ students wishing to express themselves in public schools. For example, many courts have ruled in favor of students bringing same-sex dates to the prom and wearing clothing that displays LGBTQ-inclusive messages.
- The federal Equal Access Act has been routinely applied to ensure students the right to form gay-straight alliance clubs if any other non-curricular school club exists.
- In addition to federal protections, many states and cities have passed laws and ordinances that specifically include LGBTQ students. These “safe schools” laws exist in many jurisdictions across the country.

ADDITIONAL RESOURCES

For more information on issues relating to LGBTQ students, including a glossary of terms, please refer to Lambda Legal’s toolkits: *Out, Safe & Respected—Your Rights at School* (<http://www.lambdalegal.org/publications/out-safe-respected/>), *Out, Safe and Respected—A Guide to LGBTQ Youth in Schools for Educators and Parents* (<http://www.lambdalegal.org/publications/out-safe-respected-admin/>) and *Bending the Mold – An Action Kit for Transgender Students* (<http://www.lambdalegal.org/publications/bending-the-mold/order-bending-the-mold.html>).

You can also find more information at the National Coalition Against Censorship website at www.ncac.org.

To reach our Legal Help Desk or to get information about any of Lambda Legal’s publications, educational programs or other resources, contact us at one of the numbers below or go to our website at www.lambdalegal.org.

National Headquarters, New York
212-809-8585

Midwest Regional Office, Chicago
312-663-4413

South Central Regional Office, Dallas
214-219-8585

Southern Regional Office, Atlanta
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866-542-8336