

August 26, 2020

Dear Principal or Superintendent,

You're being given this letter because your school or a school in your district has refused to let a student run for a position on prom or homecoming court because of their gender. Discrimination on this basis violates federal sex discrimination prohibitions. We urge your school to take immediate action to remedy this issue, and allow students to be considered as candidates for prom or homecoming court, regardless of their gender.

Title IX of the Education Amendments of 1972 ("Title IX") prohibits discrimination based on sex in any education program, such as a public school, that receives federal financial assistance. 20 U.S.C. § 1681(a). It is well established that under Title IX and the Equal Protection Clause, school officials cannot force students to conform to sex stereotypes. *See, e.g., Whitaker v. Kenosha Unified Sch. Dist.*, 858 F.3d 1034, 1048-52 (7th Cir. 2017); *Dodds v. U.S. Dep't of Educ.*, 845 F.3d 217, 221 (6th Cir. 2016); *Glenn v. Brumby*, 663 F.3d 1312, 1319-20 (11th Cir. 2011); *Sturgis v. Cobia Cty. Sch. Dist.*, No. 3:10-CV-455-DPJ-FKB, 2011 WL 4351355, at *4-5 (S.D. Miss. Sept. 15, 2011).

In other words, the prohibitions against sex discrimination under Title IX and the Equal Protection Clause of the U.S. Constitution protect students from discrimination based on their gender identity, transgender status, or gender nonconformity. These protections extend to the female student who seeks to run for prom king, and vice versa. There is no important government interest—or *any* interest—that justifies excluding this student from that place on the homecoming court.

We hope this letter has given you a firm understanding of why schools must, under federal law, not bar students from running for a position—and, if elected, representing their school—on prom or homecoming court based on their gender identity. Please do not hesitate to contact the ACLU if you have any questions about this letter or wish to discuss it further. We can be reached at 212-549-2673.

Sincerely,



James D. Esseks
Director
ACLU Lesbian Gay Bisexual Transgender & HIV Project

Students and parents: Feel free to use this letter as an advocacy tool in your school.

