

## **Gay/Straight Clubs Formed by Public School Students: Why School Officials Need to Treat Them Equally**

*Lawyers at the American Civil Liberties Union LGBT Project, Lambda Legal Defense and Education Fund, and the National Center for Lesbian Rights developed this document along with other concerned citizens fighting bans on gay/straight alliances. We encourage you to use this document if faced with similar proposals in your community. For further help, contact any one of the above organizations.*

### **I. SCHOOLS SHOULD BE SETTING AN EXAMPLE OF RESPECT FOR THE CONSTITUTION AND OUR NATION'S LAWS.**

One reason we have public schools is to teach young people how to become good citizens. Part of that teaching centers on respect for and appreciation of the United States Constitution. The legal requirement that school officials not discriminate against any non-curriculum related student club because of the message or subject matter of that club reinforces for students one of our most cherished and important constitutional principles -- government may not interfere with freedom of speech or association simply because the content of a group's or individual's expression is controversial or unpopular.

The First Amendment and the federal Equal Access Act (20 U.S.C. §§4071-4074) establish this requirement of equal treatment for all non-curriculum related clubs. A secondary school that provides a meeting place during non-instructional time for any voluntary, student-initiated club is required by law to provide the same meeting facilities for all non-curriculum related groups. The school is thus facilitating an "open forum" for student group activities. As the Equal Access Act itself emphasizes, schools do not endorse the views or activities of any of the groups they allow to meet on campus; instead, they create a forum for the students to discuss the issues the students choose.

Banning certain clubs because students' views are unconventional or unpopular guts the very point of the First Amendment and the Equal Access Act. The Constitution and this federal statute would not be needed if only majority, well-established views were allowed to be heard. By honoring the core principles of the Constitution and the Equal Access Act, schools set an example of respect for the law and for freedom of expression.

### **II. SCHOOLS SHOULD PROMOTE STUDENT CLUBS AS PART OF DEVELOPING FUTURE GOOD CITIZENS AND HEALTHY MEMBERS OF OUR SOCIETY.**

Student clubs are a valuable part of teenagers' junior high and high school experiences. By creating a forum for voluntary, student-initiated clubs that meet on school grounds when classes are not in session, school officials give teenagers the opportunity to learn how to create and run an organization, how to plan political, social, cultural, religious, or recreational activities, and how to get along and interact productively with one another.

Abolishing all non-curriculum related student clubs just because a club with a controversial political or religious perspective has been established would be a tragedy for and disservice to all students.

### **III. GAY/STRAIGHT STUDENT CLUBS BENEFIT THE STUDENTS WHO FORM THEM AND THE STUDENTS WHO LATER BECOME MEMBERS.**

Gay/straight alliances and similar student groups that teenagers form to address sexual orientation issues should be treated just like any other student-initiated groups. As with other groups, meetings at school during non-instructional times provide a safe, central place for students with similar concerns and interests to gather.

By junior high and high school, students are becoming aware of their own sexuality. They are also aware of sexual orientation issues, both in the political sphere and more personally. Sexual orientation is daily made an issue: by school activities, such as dances and other social events; by cultural influences, such as television; and by more informal interactions that presume heterosexuality and a growing interest of teenagers in those of a different sex. Thus, gay/straight alliances do not introduce sexual orientation concerns to students -- instead, they provide helpful forums for students to discuss already-developing personal and political concerns with one another.

Schools should not ban these helpful forums for discussion. Doing so takes a difficult adolescent experience and introduces more fear and confusion.

### **IV. GAY/STRAIGHT STUDENT CLUBS ALSO BENEFIT THE SCHOOL COMMUNITY AS A WHOLE.**

Anti-gay harassment and violence are particularly prevalent in schools and among teenagers. Hearings on the issue have occurred in Kansas, Massachusetts, Rhode Island, and Texas. Perhaps the most common way today for young people to disparage one another is to call a peer a "faggot" or a "dyke." A disproportionate amount of the widespread physical violence against gay men and lesbians, of all ages, is committed by teenage boys.

Gay/straight alliances help combat an atmosphere of verbal and physical harassment by explicitly condemning the bigotry as an organized group of students, or by simply providing an opportunity for the discussion of different student perspectives on such anti-gay incidents. Students talking to fellow students is a particularly effective way of making young people aware of the harms caused by discrimination and violence.

### **V. SCHOOLS SHOULD ADDRESS ANTI-GAY ABUSE BY DISCIPLINING THE ABUSERS, NOT BY BANNING MEETINGS BY THOSE WHO ARE ABUSED.**

When acts of anti-gay harassment, particularly physical violence, occur in the schools, administrators should respond promptly to take action against the perpetrators and to support the students who have been harassed. Providing a safe, welcoming school environment for all students is one of the core responsibilities of public school officials.

Incidents of, or the potential for, anti-gay violence do not provide a reason for forbidding gay/straight alliances or similar groups. Such a "blame the victim" argument is often made by

those who do not want to face up to the ugly bigotry of gay harassment and do not want to take appropriate action against victimizers.

Voluntary gay/straight alliances among students are part of the solution, not part of the problem of anti-gay violence. If schools treat the alliances as the problem, they are teaching all students that might makes right, and that the school's lessons about respecting others are not meant to be taken seriously.

## **VI. GAY AND LESBIAN TEENS SUFFER BECAUSE OF ANTI-GAY PREJUDICE, NOT BECAUSE OF WHO THEY ARE.**

Teen years are a stressful time of rapid development into adulthood. That passage can be especially stressful for young people beginning to realize their gay, lesbian or bisexual orientation, because they face anti-gay prejudice. If youth wondering about their sexual orientation or coming to terms with a gay or bisexual orientation are isolated from supportive peers and adults, those youth will often suffer from lack of self-esteem and self-worth and may tend toward self-destructive behavior, including drug use and suicide. Isolated gay youth have a hard time concentrating on their education, leading many to drop out.

Such problems develop not because homosexuality or bisexuality is a pathology -- for these are merely normal variations in human sexual orientation. Rather, isolated youth dealing with sexual orientation issues internalize the prevailing anti-gay sentiments in schools and in society and, based on little information, often judge themselves extremely harshly.

Student groups help diminish feelings of isolation and help build self-esteem for their members. Student-initiated group discussions, social events, and political organizing are a safe and healthy means of working through what for many is otherwise a difficult and alienating time.

## **VII. GAY-RELATED CLUBS DO NOT PROMOTE SEX, NOR DO THEY FOSTER ADOLESCENT SEXUALITY ANY MORE THAN HETEROSEXUALLY-ORIENTED TEENAGE ACTIVITIES DO.**

Contrary to the wholly unsubstantiated arguments of opponents, gay/straight alliances do not cause young people to become involved in sexual activity earlier than they otherwise would, or to "choose" a sexual orientation that would otherwise not be their orientation.

A student club focusing on sexual orientation issues no more causes sexual activity than do student clubs such as a glee club, a math club, or a Young Republican club. All clubs, and many other circumstances, bring teenagers together to meet and get to know one another, sometimes leading to dating and other appropriate adolescent socializing. That is far from, however, bringing about sexual intercourse before a young person is ready. If schools sponsor athletic exhibitions, cheerleading, dances and proms without concerns about promoting sex, it is difficult to see how allowing a gay-straight student alliance to meet for discussions would promote sex.

Any decision about actually beginning to be sexually active is made by each individual, based on many highly personal factors. Rather than playing a harmful role, gay/straight alliances and similar groups dedicated to learning about sexual orientation assist youth in making intelligent choices about their present and future behavior. If students can talk openly about and feel good

about their identity, they will be less likely to feel that they have to discover their identity in an uninformed and clandestine manner, which may involve risky sexual behavior. Instead, they will be informed and secure enough to make good decisions, which may include abstinence.

#### **VIII. SCHOOLS DO NOT CREATE HETEROSEXUAL OR HOMOSEXUAL STUDENT IDENTITIES.**

There is no empirical support for the notion, advanced by some who oppose the open and truthful discussion of sexuality, that some adolescents are "waverers" and can be influenced during their teenage years to adopt a heterosexual, rather than a gay or bisexual orientation. While adolescents only gradually come to realize their sexual nature and their sexual orientation, and may go through a period of not being sure of their personal make-up, this gradual realization of an aspect of their identity certainly does not mean that sexual orientation is open to manipulation by the policies of school officials. Sexual orientation is a very deep-seated personal characteristic that appears to be fixed by early childhood and determined by the complex interaction of genetic, biological, psychological, and environmental forces. Even if manipulation were possible, moreover, a government plan to change such a central aspect of individuals' personalities would be an unprecedented, Orwellian interference with individual liberty.

#### **IX. NO PARTICULAR SEXUAL ORIENTATION CAN BE EQUATED WITH CRIMINALIZED SEXUAL ACTS.**

No particular sexual orientation can be equated with particular sexual acts that are criminalized in some states and often referred to under the catch-all term: "sodomy." Sodomy, typically defined to include oral and anal sex, describes conduct in which adults of all sexual orientations may engage; indeed, studies show that virtually all Americans, whether gay or straight, participate in one or both of those sexual behaviors during their adult years. By contrast, sexual orientation concerns the gender of the sexual partners one is attracted to. One's orientation can be felt, acknowledged and discussed without any sexual behavior, whether sodomy or otherwise, taking place.

Thus, discouraging the open discussion of homosexuality or bisexuality among teenagers cannot be justified with some sweeping reference to "criminality" or "criminal behavior," as those who would discourage gay/straight alliances and similar groups attempt to do.

#### **X. GAY/STRAIGHT STUDENT CLUBS ARE NOT THE ONLY STUDENT GROUPS THAT MIGHT ADDRESS HOMOSEXUALITY OR SEXUALITY IN GENERAL.**

Gay/straight alliances are not the only student clubs that discuss issues related to sexual orientation or sexuality more generally. Religious clubs may discuss their religious perspective on gay men and lesbians, which might be supportive or antagonistic. Political clubs may discuss the current debates about same-sex marriage, or gays in the military, again from a positive or negative perspective. The science club may delve into the scientific research around the origins of sexual orientation. All contribute to a vibrant "open forum" of safe, after-school activity.

The proper role for school officials, as mandated by the First Amendment and the Equal Access Act, is to remain neutral in this student-initiated debate, investigation and discussion. Schools

cannot deem a perspective of some students' "dangerous" and ban those students' views to "protect" young people. The notion of silencing dangerous ideas is incompatible with our free political system. Though teachers and others of course must look out for students' physical well-being, that protective role cannot extend to policing the content of student-to-student communication.

**XI. SCHOOLS RETAIN ALL CONTROL OVER THE CURRICULUM AT THE SAME TIME AS THEY ENCOURAGE AND MAINTAIN AN OPEN FORUM FOR STUDENT ASSOCIATIONS.**

Student-initiated groups that meet on school grounds during non-instructional time are separate and distinct from the curriculum. The groups at issue are not school-sponsored or -endorsed; they represent only the interests and views of the students involved.

School boards, officials and teachers, on the other hand, remain free to design and implement a curriculum that they determine best meets students' educational needs. Neither the federal Equal Access Act nor gay/straight alliances interfere in any way with schools' ability to focus the content of the curriculum as they see fit.

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**For further help, contact the following:**

**American Civil Liberties Union**

Lesbian Gay Bisexual Transgender Project  
125 Broad Street, 18th Floor  
New York, NY 10004-2400  
<http://www.aclu.org/lgbt>

**Lambda Legal Defense and Education Fund**

National Headquarters  
120 Wall Street, Suite 1500  
New York, NY 10005-3904  
<http://www.lambdalegal.org>

**National Center for Lesbian Rights**

870 Market Street, Suite 370  
San Francisco, CA 94102  
<http://www.nclrights.org>