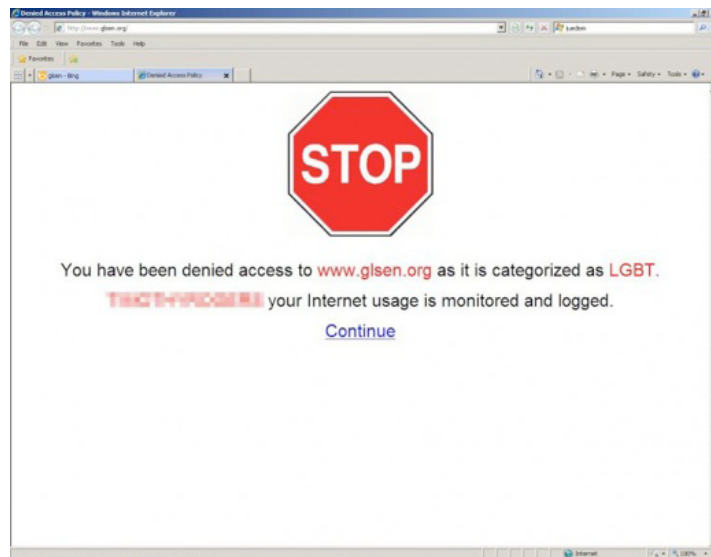


# “Don’t Filter Me” Interim Report

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## Overview

In February of 2011 the ACLU launched the “Don’t Filter Me” campaign to prevent viewpoint-discriminatory censorship of positive LGBT web content in public schools nationwide.

Many public schools use web filtering software to block students’ access to pornographic websites, in accordance with federal law. Unfortunately, many of the most commonly used web filtering software packages include a special category for websites that contain information about LGBT issues and organizations, even though the websites are not sexually explicit in any way. When public school districts block these LGBT categories, preventing students from accessing websites for positive LGBT rights organizations, they often still allow access to anti-LGBT sites that condemn LGBT people or urge us to try to change our sexual orientation. This viewpoint discrimination violates students’ rights under the First Amendment.

In just six months the ACLU, through the “Don’t Filter Me” campaign, has made significant progress on the issue, is responsible for instituting major changes in public school policy nationwide, and has influenced major web software filtering companies to change their products so that they do not block positive LGBT materials. As of September 1 we have:

- Gotten web filters changed to stop blocking pro-LGBT websites in 96 schools nationwide, improving access to information for 144,670 students
- Prompted reforms in five of the leading software filtering companies
- Investigated and confirmed 84 reports of anti-LGBT viewpoint-discriminatory web filtering at public schools in 24 states
- Implemented a public education strategy around the campaign which led to over 100 news stories about the “Don’t Filter Me” initiative

In the following report we’ll tell you how we did it.

## “I was just looking for information about scholarships...”

In 2009, a high school senior in Knoxville, Tennessee sat down at a computer in his school library to search for scholarship information for lesbian, gay, bisexual, and transgender (LGBT) students. But instead, all Andrew Emitt found was one roadblock after another. Every website for an LGBT organization that came up in his search engine turned out to be blocked by his school district’s web filtering software. Curious about the blocks, Andrew then attempted to visit the websites espousing the opposite point of view about LGBT people, searching for “ex-gay” organizations that support so-called “reparative therapy.” Those sites popped right up when he clicked on the links.

“I wasn’t looking for anything sexual or inappropriate,” said Andrew. “I wasn’t looking for games or chat rooms or dating sites. I was just looking for information about scholarships for LGBT students, and I couldn’t get to it because of this software. And I just thought this couldn’t possibly be okay.”

Andrew first contacted the filtering software company, which told him it would be up to his school whether to change the filter settings. Then he contacted school officials, who also shrugged off his concerns. Then Andrew contacted the American Civil Liberties Union because of our well-known advocacy both to defend free speech rights and to protect the rights of LGBT people.

A few months later, we took on Andrew’s school district as well as another district in Nashville with *Franks v. Metropolitan Board of Public Education*, a lawsuit that resulted in increased access to positive LGBT information for students in dozens of school districts around Tennessee.

## LGBT web filters

Andrew was being blocked from accessing LGBT-related websites because his school was using a special filter in its software that blocks websites that provide resources to LGBT people or advocate in support of their legal rights. Here’s how it works.

Web filtering software categorizes websites into different categories, such as “education,” “politics,” or “alternative lifestyles” and the school or library selects which categories to block on its computers. Public schools and libraries that receive federal funding are required by law to block categories that include pornography.

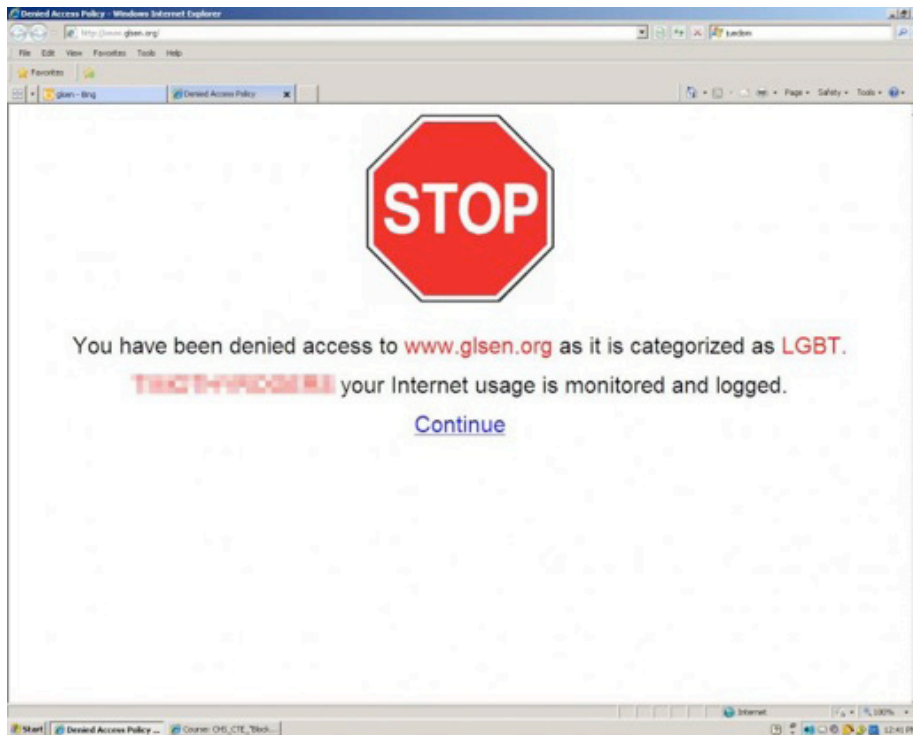
Unfortunately, many of the most commonly used web filtering software packages include a special category for websites that contain positive information about LGBT issues and

organizations. This special category does *not* contain pornographic sites. It also does *not* include any websites that condemn homosexuality or oppose nondiscrimination protections for LGBT people.

This special LGBT category amounts to a “booby trap” for schools and librarians who often don’t realize that it doesn’t contain pornographic material. The impact of a school choosing to block this LGBT category is solely to prevent its students from online access to positive and accepting LGBT viewpoints and organizations. This viewpoint discrimination violates student First Amendment rights to free speech and may also violate the federal Equal Access Act.

## Launch of “Don’t Filter Me” campaign

We already knew from working on *Franks* that dozens of public school districts in Tennessee alone used the same software to block positive LGBT websites, and we suspected we were merely scratching the surface of the problem. For example, a student from Virginia contacted us in 2010 and sent us a screenshot of what he saw when, using a computer at his school, he tried to visit the website for the Gay, Lesbian and Straight Education Network (GLSEN) in order to plan activities for the school’s gay-straight alliance:



We worked with the student to get his school to take down its anti-LGBT web filter, but we knew we had to find a way to systematically expose and challenge this kind of censorship.

With the assistance of students in [the LGBT Litigation Clinic at Yale Law School](#) and led by ACLU LGBT Project Staff Attorney Josh Block, we [launched a campaign](#) in February of 2011 called “Don’t Filter Me” to take on viewpoint-discriminatory censorship of positive LGBT web content in public schools nationwide. The campaign asked students to find out whether their schools’ web browsers were blocking web content that provides resources to LGBT students or expresses support for the equal treatment of LGBT people while blocking anti-LGBT viewpoints. We provided an online form so students, teachers, parents, or concerned community members could easily report instances of censorship to us. We also released an [open letter to schools](#) that students or parents can use to advocate on their own behalf about anti-LGBT web filtering.

We launched “Don’t Filter Me” with a [press release](#), [YouTube video](#), [blog](#), and a push on our social networking sites. The *It Gets Better* Project, GSA Network, American Association of School Librarians, GLSEN, and other allied groups helped put the word out to their own email lists, blogs, and social networking sites.

## The students respond

Within days, we started hearing from students, parents, teachers, and concerned community members all over the U.S. By August 31, we had investigated and confirmed 84 reports of anti-LGBT viewpoint-discriminatory web filtering at public schools in 24 states: Alabama, Arkansas, Arizona, California, Georgia, Illinois, Indiana, Louisiana, Massachusetts, Maine, Michigan, Minnesota, Missouri, North Carolina, New Jersey, Nevada, New York, Ohio, Pennsylvania, South Carolina, Texas, Virginia, Washington, and Wisconsin.

The students we worked with gave us accounts of how their schools’ anti-LGBT web filters had interfered with their learning. Nick Rinehart of Rochester High School in Rochester Hills, Michigan had tried to look up information to help plan activities for his school’s gay-straight alliance, only to have the computer display a message that said his search violated the school’s “acceptable use” policy. “It’s not fair for the school to try to keep students in the dark about LGBT resources,” Rinehart told us.

Jacob Ratliff was researching a news story for a current events class when he ran up against web filtering software at Goose Creek Memorial High School near Houston, Texas. “I was trying to find information for a current events assignment about how Chik-Fil-A is being boycotted for donating to some anti-gay organizations, but all of the sites that came up on Google News were blocked,” said Ratliff, a high school senior. “For something that’s in the

news and that people are talking about to be blocked like that makes it feel like my school is putting a political slant on our Internet access, and that makes me really uncomfortable,” he added.

Justin Rodriguez and Shaun Laurencio, students at Vineland High School in Vineland, New Jersey, told us that they had voiced concern about anti-LGBT filtering to school administrators multiple times over the past couple of years, with the school removing individual blocks in a piecemeal fashion. “It was a little frustrating every time I found an individual site we would have to tell them,” Rodriguez said. Rodriguez contacted the ACLU after he ran up against filtering problems yet again when trying to do research on pioneering gay activist Harvey Milk for a class report.

## Convincing public schools to remove their anti-LGBT filters

After receiving complaints, the next step for the ACLU was to investigate them with the help of the law students from Yale. Some of the students and teachers we heard from were able to provide us with screenshots, which gave us immediate proof of the school’s censorship. For schools where we were unable to obtain screenshots, we sent public records requests about their web filtering practices. While this investigatory process is not yet complete, we’ve worked with local ACLU affiliates to take on all schools whose censorship has been confirmed.

Our first pair of formal letters demanding the end to anti-LGBT web censorship went to schools in [Rochester Hills, Michigan](#) and [Kansas City, Missouri](#) in late March. The Michigan school gave us assurances that it would replace its filtering software entirely before the beginning of the fall semester, and the Kansas City school adjusted its software right away. As of mid-June, we had sent out 24 demand letters and gotten 75% of those schools to fix their web filters to allow students viewpoint-neutral access to positive, non-sexual LGBT content. We also got 11 schools to reconfigure their filtering software without having to send them a formal demand letter.

It is encouraging to note that the overwhelming majority of schools we contacted told us that they did not intend to censor LGBT content. Instead, many of these schools had activated anti-LGBT filters in their software because they mistakenly believed that the filter was designed to block sexually explicit content. Other schools did not even realize that their anti-LGBT filters had been activated in the first place. School officials told us and their local newspapers that they had no use for a filter of educationally appropriate LGBT sites and that they wished the software company hadn’t included one in the first place.

The “Don’t Filter Me” campaign has also garnered significant media attention, bringing the public’s attention to the issue of anti-LGBT web censorship in public schools. As

of mid-June, over 115 news stories about the campaign and our accompanying direct advocacy with schools had appeared in a variety of traditional and online media outlets. Several Associated Press stories appeared in dozens of outlets across the country, and individual stories appeared in such newspapers and blogs as *Kansas City Star*, *Detroit News*, *Press of Atlantic City*, *Sacramento Bee*, *Atlanta Journal-Constitution*, The Huffington Post, *Gainesville Times*, and *Chicago Tribune*. “Don’t Filter Me” was also covered by many LGBT outlets, including *The Advocate*, Joe. My. God., Towleroad, Sirius OutQ News, The Savage Lovecast, *Dallas Voice*, Bilerico, Queerty, and Autostraddle. More importantly, the campaign was covered by many education and tech outlets like the American Association of School Librarians blog, eSchoolNews, Ars Technica, *The Hill’s* Hillicon Valley blog, *Education Week*, and *The Today Show’s* Digital Life blog, reaching the very audience that most needs to be informed about schools’ legal obligation to provide viewpoint-neutral web access to all students.

As of September 1, we have gotten the filters changed to stop blocking pro-LGBT websites in 96 schools nationwide, improving access to information for 144,670 students.

## Which brings us to the software filtering companies...

We soon realized that the best way to fix the problem was to go directly to the filtering companies. Based on the reports received from students, we identified six companies selling web filters that included a special filter designed to target LGBT-related content:

- Lightspeed Systems
- Fortinet
- M86 Security
- Websense
- Blue Coat Systems
- URL Blacklist

Some of these companies acted on their own to fix the problems with their software after learning that their customers were unintentionally blocking LGBT content. We decided to engage other companies directly. To assist these efforts, we added a new element to the “Don’t Filter Me” campaign: an online petition to enlist the public in urging the manufacturers of filtering software to remove anti-LGBT filters from the software they sell to public schools. In just a couple of weeks of going live on the ACLU website, the petition garnered over a thousand signatures.

We are pleased to report that our advocacy focused on these companies has already had significant success. Two filtering companies have now agreed to eliminate their anti-LGBT



filters entirely. One company has implemented significant reforms to ensure that its filter no longer operates as a mechanism for censoring educationally-appropriate LGBT websites. Two companies are working with us to reform their software and provide warnings to their public school customers so the filters are not accidentally activated. As for the sixth company, we have challenged their anti-LGBT filter in court.

Here's a rundown of the reforms already instituted by each of the web filtering companies:

### ***Lightspeed Systems***

Lightspeed Systems had a category for LGBT content called "education.lifestyles," which included sites such as [Gay Straight Alliance Network \(GSA Network\)](#); the [Gay, Lesbian and Straight Education Network \(GLSEN\)](#); and the official website for the annual [Day of Silence](#) to protest anti-LGBT bullying. Even before we created the online petition, we were thrilled to learn in May 2011 that [Lightspeed had decided to update its software to remove the "education.lifestyles" filter entirely](#). Now that the "education.lifestyles" category has been removed, all websites are categorized on a viewpoint-neutral basis regardless of whether the sites take a positive view of LGBT people. Lightspeed's decision to remove its "education.lifestyles" demonstrates that software companies can remove their anti-LGBT categories with minimal difficulty and better serve the needs of their customers by providing unbiased, viewpoint-neutral filtering.

### ***Fortinet***

Fortinet had a category called "Homosexuality" that blocked access to websites such as [Youth Pride](#), [Lambda Legal](#), and [Gay and Lesbian Alliance Against Defamation \(GLAAD\)](#). After learning about the "Don't Filter Me" campaign and the action taken by Lightspeed Systems, Fortinet conducted a review of its own software and [has agreed to modify its software to remove its "Homosexuality" category entirely](#). Websites formerly included in the "Homosexuality" category will be reclassified on a viewpoint-neutral basis. Fortinet has told the ACLU that these changes will be rolled out in the next update to Fortinet's software.

### ***M86 Security***

M86 Security's "lifestyles" category included such sites as [Human Rights Campaign \(HRC\)](#), [GLAAD](#), and the [L.A. Gay & Lesbian Center](#). After learning about our campaign, M86 contacted us and implemented significant changes to ensure that its "lifestyles" filter no longer functions as an anti-LGBT filter. M86 changed the title of the category to "lifestyle and culture," and changed the website examples used in the official description to more general cultural organizations, not just LGBT ones. Further, M86 agreed to work with the ACLU to make sure LGBT-related websites are more accurately categorized in its software and not automatically placed in the "lifestyle and culture" category.

### **Websense**

Websense’s software includes a category called “Gay or Lesbian or Bisexual Interest.” We discovered that several school districts were blocking this category in the mistaken belief that it included sexually explicit material. As a result, these schools were inappropriately blocking students from accessing websites such as [GSA Network](#) and [GLSEN](#).

Upon learning about the “Don’t Filter Me” campaign, Websense [issued clarifying statements to the media](#) and to its sales staff explaining that schools do not have to block the “Gay or Lesbian or Bisexual Interest” category in order to block adult or pornographic websites. Websense has also posted a similar clarification on its website. Despite these important clarifications, however, Websense stated that it would not eliminate the “Gay or Lesbian or Bisexual Interest” category because its private customers may wish to block the category.

We continue to believe that even if certain private entities could legally block LGBT-related websites, private software companies have no obligation to provide them a tool for doing so. The ultimate solution to this problem is for software companies not to set aside websites into a separate category based on their LGBT-related viewpoints.

### **Blue Coat**

Blue Coat’s software prompted our 2009 lawsuit in Tennessee. Blue Coat’s filtering software has a category called “LGBT” that identifies LGBT-related websites that are not sexually explicit, such as the [It Gets Better Project](#), [GSA Network](#), and [HRC](#). Blue Coat’s LGBT category was created in 2007 to separate out non-sexual LGBT websites from sexually explicit content in order to make the content more accessible for students. But many public schools have blocked the LGBT category in the mistaken belief that the websites are somehow sexually explicit or inappropriate for students. We are currently in discussions with Blue Coat about ways the company could reform its software or better communicate to public schools and libraries that they should not block the LGBT category.

We continue to believe that even if certain private entities could legally block LGBT-related websites, private software companies have no obligation to provide them a tool for doing so. The ultimate solution to this problem is for software companies not to set aside websites into a separate category based on their LGBT-related viewpoints.

### **URL Blacklist**

URL Blacklist is not a software company in the same sense that the other major filtering companies are; rather it’s a database of URL’s available for use by other software packages (e.g., locally-created, “homegrown” filtering packages like squidGuard and DansGuardian). Some schools opt for creating their own filtering software using URL Blacklist because it’s a cheaper option. URL Blacklist’s “Sexuality” filter is worse than the anti-LGBT filters created by the other filtering companies because the “Sexuality” filter groups non-sexual, positive LGBT websites together with sexually explicit sites.

On August 15, 2011 we filed *PFLAG v. Camdenton R-III School District* against a school district in Missouri that has been using URL Blacklist's "Sexuality" filter. The plaintiffs in the lawsuit are organizations whose websites are blocked in the district: [Campus Pride](#); [DignityUSA](#); the [Matthew Shepard Foundation](#); and [Parents, Families, and Friends of Lesbians and Gays \(PFLAG\)](#).

## **“Don’t Filter Me” campaign at its six-month juncture**

The ACLU's "Don't Filter Me" campaign has made encouraging progress in just six months:

- Enlisting and empowering students and supportive parents and teachers throughout the country, the campaign has demonstrated that the problem of censorship of positive and appropriate LGBT information is widespread and that people care about its effects.
- “Don't Filter Me” has exposed the problem that many public schools and libraries inadvertently censor positive, appropriate LGBT websites because of the mistaken assumption that filters called “Homosexuality” or “Gay or Lesbian or Bisexual Interest” contain sexually explicit sites inappropriate for school-age kids. More importantly, when this mistake is revealed, schools and librarians often are willing to work with us to end the censorship once they better understand how the filters work.
- Most of the software filtering companies have agreed to work with us to ensure that their filters are not complicit in robbing students of their First Amendment rights.
- We have sued at least one school district and are in pre-litigation negotiations with several more.

## Findings

Our experience with the “Don’t Filter Me” campaign so far has helped clarify two important points. First, the vast majority of public schools don’t need or want anti-LGBT filters. Public schools purchase filtering software to block students from accessing pornography and to supply their students with educationally appropriate materials. These schools are relying on software companies to help them fulfill that educational mission—not to discriminate against particular viewpoints or to marginalize their LGBT students. Software companies can and should provide these schools with unbiased, viewpoint-neutral filtering that helps them serve the needs of their students. A software company that sells a product with an anti-LGBT category is doing a disservice to its customers and to the students they serve.

Second, public schools administrators and teachers should educate themselves about the filtering software their district is using and be actively engaged in setting the software’s configurations. Filtering software is not infallible, and some types of software are more fallible than others. Administrators and teachers need to “look under the hood” to make sure they are only using viewpoint-neutral categories and that students are not needlessly being blocked from accessing important resources.

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