

Know Your Prom Night Rights!

A quick guide for lesbian, gay, bisexual, and transgender high school students

Why? For most high school students, prom night is a special time for making memories and sheer fun. But for those teens who identify as lesbian, gay, bisexual, or transgender, prom night can be a source of anxiety. While their classmates are busy lining up the perfect outfit and date, LGBT students often have to worry about whether they will be harassed at the dance or excluded from it altogether. However, there are laws protecting your right to be yourself at the prom, and it's important that you know about them so that you too can be safe and have fun on the big night!

Same-Sex Dates

Many LGBT students want to attend prom with a date of the same sex. However, some meet with opposition from school officials who cite policies banning same-sex dates, or who claim they're concerned for the same-sex couple's safety. Courts have ruled, however, that preventing a student from attending prom with his or her desired date, regardless of gender, infringes upon the student's Constitutional rights.

In 1980, Rhode Island student Aaron Fricke decided he wanted to go to his prom with a boy as his date. His request was denied by his principal, who said he was worried that Aaron and his date might be harmed by other students. Whether those concerns were sincere or not, a federal judge still ruled in Aaron's favor.

The court found that Aaron's desire to attend prom with a male date was protected by the free speech guarantees of the 1st Amendment, because Aaron wanted to express his view that as a gay student he had the same right as his heterosexual peers to enjoy the prom with a same-sex date. The court also found that Aaron was protected under the Equal Protection Clause of the 14th Amendment, which requires schools to treat everyone equally. So

the court said that Aaron's school had to not only allow Aaron and his date to attend the prom together, but also provide them with adequate protection.

If your school won't allow you to attend prom with the date of your choice, tell them about Aaron's case, *Fricke v. Lynch*. If they still don't honor your rights, contact your local ACLU affiliate or the ACLU's LGBT Project.

Attire

Another common problem LGBT students run into at the prom is the question of attire. Sometimes a lesbian may want to attend in a tuxedo, or a transgender girl may want to wear a dress, but often school officials say no.

The most recent case of this nature was 2009's *McMillen v. Itawamba County School District*. Itawamba Agricultural High School in Fulton, Mississippi, cancelled its prom after senior Constance McMillen requested to attend wearing a tux, with her girlfriend as her date. The court ruled that the school had violated Constance's First Amendment freedom of expression rights.

If your school won't allow you to attend prom dressed in gender-nonconforming clothes, you should

contact your local ACLU affiliate or the ACLU LGBT Project.

Prom Royalty

Prom kings and queens have often been symbolic of traditional gender roles, but things are changing. A transgender woman may want to run for prom queen, while a young transgender man may want to run for king. At present, there have been no reported court decisions on this issue, but the First Amendment and the Equal Protection Clause should protect your right to freely express your gender identity as a prom king or queen candidate.

In 2007, two Fresno, California transgender students ran for prom royalty in accordance with their gender identity. Cinthia (a.k.a. Tony) Covarrubias ran for prom king, and was the first transgender person ever to run for prom royalty. While he didn't win the crown, he paved the way for future gender non-conforming students. Just a month later, transgender Fresno High student Crystal Vera ran for prom queen and won.

If your school tries to prevent you from running for prom royalty, or to restrict your candidacy because of your birth

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sex, you should contact your local ACLU affiliate or the ACLU LGBT Project.

What Else?

Your school can't charge you more money than your heterosexual peers for your prom tickets because of your or your date's sexual orientation, gender identity, or gender expression. Your school can't ask you to get parental permission to attend prom with a date of the same sex if it doesn't ask the same of opposite sex couples.

Further, your school can't prevent you and your date from showing the same level of public affection as the heterosexual couples around you. These freedoms, and many more, are protected under your First and Fourteenth Amendment rights to free expression and equal protection.

If you ever suspect that your school is treating you unfairly because of your sexual orientation or gender identity:

Be respectful and follow the rules.

Don't give your school any excuses for treating you badly by behaving badly or losing your temper.

Document everything. Keep thorough notes about what happened, with dates, names, witnesses, and any other details that might come in handy. If the school gives you anything in writing or if you submit anything in writing yourself, keep copies.

Get support! There are groups all over the country for LGBT youth, and if you live somewhere that doesn't have one, you can probably find an online discussion forum where you can be yourself and get reassurance that you're not alone.

Don't just believe what your school tells you! A lot of the time, school officials either don't know what the law requires them to do or just figure you won't question what they say. Find out what your rights under the law are!

Contact your local ACLU affiliate or the ACLU LGBT Project! The ACLU can help you get in touch with the information and resources you need to make sure that you can be safe and have fun on prom night.

Got more questions? Do you have a specific question about something that has happened at your school? Want to know whether it was illegal? Want someone to talk with about what you can do about it? Contact us at aclu.org/safeschools! It's confidential – we won't ever contact your school, your parents, your friends, or anyone else without your okay, and any communication between you and the ACLU is private.

