



# We the People

## LGBT Americans and Education

By Hannah Hussey March 10, 2015

High-quality education is vital to the success of today's young people, providing preparation for careers, social relationships, and civic life. However, the U.S. education system earns a failing grade in providing equal opportunities to lesbian, gay, bisexual, and transgender, or LGBT, students. The current lack of explicit protections leaves limited remedies or recourse for students facing discrimination and unfair or unsafe treatment within our nation's schools.

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### Discrimination in education

Discrimination against LGBT students occurs at all ages, from preschool through elementary and secondary school and into higher education, and it takes many forms.

- Harassment and bullying remain prevalent for LGBT students. One survey found that more than half of LGBT middle and high school students feel unsafe at school in connection with their sexual orientation, and more than one-third feel unsafe in connection with how they express their gender.<sup>1</sup> Educators often do not intervene in incidents of bullying or harassment, and in some cases, they perpetrate it.
- Zero-tolerance policies mean that LGBT students may be punished for conflicts or incidents of harassment even when they are the victims or are acting in self-defense. School staff may also single LGBT students out for not following gender-based dress codes or for expressing affection with partners of the same gender. Educators may refuse to use the correct names and pronouns for transgender students or permit them appropriate access to sex-segregated spaces.<sup>2</sup>
- Few federal protections currently exist to ensure that LGBT students and their families are treated equally in admissions or enrollment processes. As a result, students may be denied admission to or expelled from some educational institutions in connection with their sexual orientation or gender identity and may face barriers within the financial aid process.<sup>3</sup>
- School-based harassment and victimization of LGBT middle and high school students are correlated with lower grade point averages and higher rates of missing school due to safety concerns.<sup>4</sup> In some instances, negative school climate creates a serious interruption to students' academic careers, causing them to skip or drop courses or leave school altogether: Approximately one-quarter of LGBT college students reported having contemplated leaving campus.<sup>5</sup>

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## Current protections

The Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, the Age Discrimination Act of 1975, and the Americans with Disabilities Act of 1990 mean that students in schools that receive public funding—and sometimes private schools as well—are protected on the basis of race, color, national origin, sex, age, and ability. The Department of Education has stated that discrimination on the basis of a student’s gender identity or nonconformity with gender stereotypes constitutes sex discrimination, but there are no federal statutes that explicitly protect students on the basis of actual or perceived sexual orientation or gender identity. Additionally, only 13 states plus the District of Columbia have nondiscrimination laws that specifically protect LGBT students, while Wisconsin has protections based on sexual orientation alone.<sup>6</sup>

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## Recommendations

Congress should pass a comprehensive nondiscrimination bill banning discrimination based on sexual orientation and gender identity in employment, public accommodations, housing, credit, and federal funding.

- Congress and state legislatures should appropriate necessary funds for full enforcement of nondiscrimination protections.
- Updating the law to protect LGBT people from discrimination in education and federal funding will provide the necessary clarity and uniformity for students and educators alike, while ensuring that all people are treated fairly in their pursuit of the American dream.

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## Endnotes

1 Joseph G. Kosciw and others, “The 2013 National School Climate Survey” (Washington: GLSEN, 2014), available at <http://glsen.org/nscc>

2 Ibid

3 Kiera Feldman, “Who Are Women’s Colleges For?,” *The New York Times*, May 24, 2014, available at <http://www.nytimes.com/2014/05/25/opinion/sunday/who-are-womens-colleges-for.html>; FinAid, “Guide to Completing the FAFSA for LGBT Families,” available at <http://www.finaid.org/fafsa/lgbtfafsa.phtml> (last accessed November 2014); Center for American Progress and Movement Advancement Project,

“Paying an Unfair Price: The Financial Penalty for Being LGBT in America” (2014), available at <http://www.lgbtmap.org/file/paying-an-unfair-price-full-report.pdf>.

4 Ibid.

5 Patricia A. Tetreault and others, “Perceptions of Campus Climate by Sexual Minorities,” *Journal of Homosexuality* 60 (7) (2013): 947-964.

6 GLSEN, “State Maps,” available at <http://glsen.org/article/state-maps> (last accessed March 2015).

This document was compiled from material in Chapter 7 of the CAP report, “We The People: Why Congress and the U.S. States Must Pass Comprehensive Nondiscrimination Protections.”