

## **It's Your Fight**

A high school student in Missouri wore a T-shirt to school one day that carried the message "I'm gay and proud." His homeroom teacher sent him to the principal's office, and the assistant principal told him that some students might find the message offensive. The official told the student to either turn the shirt inside out so the wording could not be seen or go home and change. If that happened to you, what would you have done?

At a high school in California, a girl gave her girlfriend a kiss and hug, like other girls would give to their boyfriends. But in this case, the principal suspended the girl from school and called her parents to tell them—without her permission—that she was gay. How would your parents have reacted?

A physical education teacher at another high school in California learned that one of her students was a lesbian. She barred the student from attending her gym class. Would you know where to turn for help if this happened to you?

In Nevada, some students forcibly put a lasso around an openly gay student's neck and threatened to drag him from behind a truck. School officials responded not by punishing the attackers but by transferring the gay student to a school for troubled youth. What would school officials in your town have done?

And at a high school in Florida, when a female student chose to wear pants and a suit jacket instead of a feminine low-scooped shoulder drape for her senior portrait, the principal ordered a yearbook editor to omit the photograph from the annual. Would you have given in and worn what they told you to wear?

## **Law Degree Not Required**

Given the enormous advances of the gay civil rights movement in recent years, one might guess that these events occurred in the 1950s or 1960s. But they all happened in just the last few years. Similar incidents are taking place in all parts of the country. In each case, young people had their legal rights trampled on. But with the help of a lawyer, each of these individuals fought back to protect those rights, with some measure of success.

But how do you know when your rights are being violated? Sometimes school officials and other authorities have a right to tell you what you can and cannot do. Sometimes they have a legal *obligation* to talk to your parents about your personal life. What can be done to stop someone from calling you names or attacking you? The answers to many of these questions are matters of law, but it doesn't always take a lawyer to figure out what your rights are and how to protect them. And while you may not need a lawyer, you need the law and you need to know enough about the law to know when to say, "You can't do that. I have rights." And then, if somebody violates your rights anyway, you need to know how to go about getting help to make them stop.

Generally speaking, the rights of young persons are the same as those of adult citizens of the United States. Some rights are guaranteed by the U.S. Constitution to every citizen; some are matters of federal law but apply only in certain circumstances.

But some of a young person's rights can be legally curbed. If you're under twenty-five years of age, car rental companies can deny you the right to rent a car or they can charge you more than they do older drivers. If you're under twenty-one, most bars

and restaurants can't sell you an alcoholic beverage. And until you're eighteen, you can't vote in federal elections.

Age limits on other rights can vary by state.

The “age of majority” is a legal term that defines the age at which you can legally be considered an adult and when you become responsible for most, if not all, of the decisions regarding your life. That age is eighteen in all but four states. (In Alabama and Nebraska it is nineteen; in Mississippi and Pennsylvania it is twenty-one.)<sup>1</sup> Prior to reaching this age, you are, legally speaking, considered an “unemancipated minor,” and your parents or guardians have a legal responsibility to take care of you—to feed you, clothe you, give you shelter, and see that you receive necessary medical care.

In most cases, once you reach the age of majority you are “emancipated.” That means you are automatically deemed to be an adult and can enter into legal contracts, manage your own property, consent to medical treatment, join the military without your parents' consent, and file a lawsuit.

It is possible for you to become an “emancipated minor”—assume legal adulthood sooner than your state's age of majority. This has two major impacts: It gives you the right to be treated as an adult before you reach the age of majority as defined in your state of residence, and it releases your parents or guardians from their legal responsibility to take care of you and make decisions for you. One way to achieve this status is to get married—assuming you meet state-defined age requirements for marriage. Another way is to petition the court to declare your emancipation. Requirements for these petitions differ from state to state. California, for instance, requires that you be at least

fourteen years old, fill out a form showing your living expenses and means of support (a legal source of income), and persuade the court that you are willingly choosing to separate from your parents or guardians and that you have either their “consent or acquiescence” to this decision.<sup>2</sup>

And in case you’ve ever thought of running away from home, you should know that you could be subject to arrest in some states and that—if you’re under the age of twenty-one—your parents can get police help in finding you.<sup>3</sup>

Interestingly, war has had a significant influence on the legal definition of adulthood. According to the Close Up Foundation, a nonprofit citizenship-education organization, the logic behind considering twenty-one as the age of adulthood dates back as far as the eleventh century, when it was believed that a man was not strong enough to wear armor until that age.<sup>4</sup> In the United States in the early 1970s, the voting age was lowered to eighteen nationwide because males were being drafted as young as age eighteen to serve the U.S. military in Vietnam. Proponents argued that if you were old enough to fight and die for your country, you were old enough to vote.

### **The Purpose of Law**

Most of us trust that the authority figures in our lives—school officials, police officers, parents—are justified to tell us things like, “You can’t do this” or, “I’m going to make you do that.” But adults are human and they can’t know everything; they don’t know every law, and they won’t always know how to help you.

Unless you're an exceptionally wealthy and resourceful young person, you can't whip out your cell phone and call a lawyer every time someone calls you a "faggot." And in fact there may not be a legal response to every trespass against you as a lesbian, gay, bisexual, or transgender (LGBT) person.<sup>5</sup> But there *are* times when actions and words directed at you—because, as an LGBT person, you are part of a sexual minority—pose a serious enough threat or have serious enough consequences that you *must* act.<sup>6</sup> Your knowledge of the law can be a powerful weapon in your arsenal of defense.

As complicated as it can get, on one level law is simple: It's a rulebook. When you live with other human beings, there have to be rules. At home, these are probably unwritten: "If you're not coming straight home after school, call me and let me know where you are." Or, "No foul language in front of your little sister." Or, "No television until after dinner." These kinds of rules protect you and your family members. And they create an environment that makes it possible for several people to share limited space and resources.

The same is true for towns and states and countries, except the rulebook is much more formal and complex. As fellow citizens we share much more than a bathroom and two televisions. As a country, we share land, water, air, and schools. We pool our energies and money to build highways, hospitals, and cable lines.

Laws are created to help us live together peacefully, share our mutual resources fairly, and make sure we don't kill one another over the last available parking space at the shopping mall. The rules are as complicated as the tax code and as easy as knowing on which side of the road we're supposed to drive.

When it comes to making laws, different groups of people—whether they constitute nations, states, or cities—have different opinions about what is civil and what is fair, and so their laws can be different. In the United States, most of us believe that all people should be treated as equals; but in some countries, many people believe that men are superior to women (a belief generally held by men, in male-dominated societies in which women’s views are held to be unimportant). In the United States, women and men are treated equally under the law; in Ukraine, Moldova, Nigeria, the Dominican Republic, Burma, and Thailand, women can be bought and sold.<sup>7</sup>

In the United States, the law protects the right of each citizen to worship through whatever religion he or she chooses, while in Saudi Arabia, the law requires that each citizen be a Muslim.<sup>8</sup>

Many laws directed toward young people in the United States were created to protect youth from abuse and exploitation. These include laws that attempt to stop the sexual abuse of children by defining the age at which an individual can legally consent to sex. Other laws protect minorities and groups subject to victimization, such as laws aimed at stopping hate-motivated assaults by allowing courts to inflict harsher punishments for crimes motivated by hatred toward a particular group, such as LGBT people.

### **It’s Not All about Protection**

But not all laws that affect sexual-minority youth are aimed at protecting you. Some create obstacles for you and for other young people who want to explore their sexual identities. In 1996, for instance, Congress passed a law to prohibit the sending or

displaying of “patently offensive” messages over the Internet in a manner that would make such messages available to a person under eighteen years of age. It also prohibited the transmission of obscene or indecent messages to any recipient younger than eighteen.

<sup>9</sup> The U.S. Supreme Court struck down the laws the following year, noting, among other things, that they could stifle a serious discussion about homosexuality and other controversial topics.<sup>10</sup>

Even straight people can be affected by laws that are aimed at helping or obstructing LGBT people. Straight students can be misidentified as gay, lesbian, bisexual, and transgender—whether accidentally or on purpose—and be subjected to the same kind of harassment. And if the local library blocks out Internet searches that include the word “sex,” the computer blocks them out for everybody.

While the three-letter word “sex” seems to stand out in many people’s minds whenever discussions revolve around LGBT people, for many young people, sex—including sex with a person of the same gender—is one part of a natural and significant search for self. And in that search, some young people find themselves experiencing attractions toward people of the same sex. Those who do may find themselves wondering, “Am I gay or is this just a phase?” Confronting questions about love and attraction is part of growing up, and answering them is part of the process of developing character.

Fortunately, for a growing number of people, it is no longer considered healthy to run away from such tough questions or to hide from answers that might identify you as a sexual minority. Today, there is greater acceptance of sexual-minority youth among

young people and that growing acceptance provides you with a greater level of security in being open about who you are.

Nevertheless, greater openness toward sexual difference among youth still runs up against an older, less accepting part of society—a part that still controls many positions of authority. In some cases, that authority is parents, teachers, and principals. In other cases, it is those who make and enforce laws at the local, state, and federal levels.

Figuring out whether your sexual attractions are to people of the same sex is one thing. Deciding whether to act on them is another, and like your straight friends, many LGBT young people could benefit from advice from a safe source. Straight youth often find this safe source in school. Sex education courses cover such topics as how to avoid pregnancy and sexually transmitted diseases. But those kinds of courses are geared almost exclusively toward heterosexual sex. Relatively few provide any information about the how-tos and what-not-to-dos of same-sex sexual activity. And asking a question about homosexuality in class could feel intimidating or embarrassing for many sexual-minority youth.

Once you come out as an LGBT person, you know you will be treated differently, but whether you come out or not, your sexual orientation will affect your relationships with your family, your friends, and others. It will probably factor into what college you want to go to, whether you will join the military, and where you choose to live. In some places, laws make these decisions easier, and in some places, more difficult.

It's Just One Difference

Every young person faces difficulties. Some have trouble making good grades. Others have a physical disability. Some perceive themselves to be too big or too small. Some feel unattractive. Others feel pressure to keep up with their parents' expectations of success. Many have problems at home—an alcoholic parent, an abusive sibling, or even an eating disorder or drug addiction.

The difficulty you face as a young lesbian, gay man, bisexual, or transgender person is similar in some ways to the difficulties that other young people face. The difference can cause emotional pain and worry, and it distracts you from concentrating on school, work, and enjoying life.

For some youth in some places, being LGBT may not cause much hardship. Some communities welcome diversity and have safeguards in place to make sure that every young person is treated with dignity and respect.

In other places, hostile attitudes toward sexual minorities can drive a young person to drop out of school, run away from home, or engage in self-destructive behaviors.

### **But It's a Powerful Difference**

A professional polling firm surveyed 3,450 students ages thirteen to eighteen and 1,011 secondary school teachers from around the country in 2005. Its findings, contained in *From Teasing to Torment: School Climate in America, A Survey of Students and Teachers*,<sup>11</sup> demonstrated that a majority of students (65 percent) were harassed for some reason—their race, sexual orientation, or disability, just to name a few. Thirty-nine percent were

harassed because of some aspect of their physical appearance. One-third of students were harassed because they were gay or because someone perceived them to be gay.

Sixty-nine percent of students said they frequently heard phrases such as “You’re so gay” or “That’s so gay” as a put-down of another student. Fifty-two percent reported frequently hearing fellow students make homophobic remarks.

Beyond the matter of how individual LGBT youth experience their sexual-minority status, there are outside factors that have a positive or negative impact on that experience. For instance, when prominent individuals or celebrities—such as Ellen DeGeneres and Elton John—publicly acknowledge being gay, the general public’s familiarity with sexual-minority status is increased. That often increases the public’s comfort level when encountering ordinary LGBT people. Similarly, when public figures express negative sentiments toward gays—such as when a majority of senators in Congress support an antigay law—public sentiment often hardens against sexual minorities, creating an environment where some people feel it’s OK to harass or attack LGBT people.

Lambda Legal Defense and Education Fund, a national gay-civil-rights group, reported seeing a dramatic increase in hostilities directed at sexual-minority youth in late 2004—a spike the organization attributed to the widespread debate around same-sex marriage generated by the presidential campaign.

“We’re alarmed by a noticeable increase in gay youth facing discrimination or hostility in just the last month since the election,” said Michael Adams, director of education and public affairs at Lambda in December 2004.<sup>12</sup> That election—which in

November 2004 led to a second term for Republican president George W. Bush—put an unprecedented amount of focus on LGBT people and issues. The campaign media focused frequently on the perceived differences between the two major-party candidates on the issue of gay marriage, and many states had measures on their ballots asking the public to ban same-sex marriage in their states. While the surface issue was marriage, the subtext was whether gay people deserve the same rights as other U.S. citizens.

Lambda found that many jurisdictions were not ensuring that LGBT youth had the same rights as others. For instance, near the end of 2004, a high school in Utah instituted a new requirement that any student wanting to take a same-sex date to a school dance had to first get written permission from their parents. Written parental permission was not required to take a different-sex date.

“The rights of gay youth are very clear,” said Lambda’s Adams, adding that they should not be “up for public debate.”<sup>13</sup>

### **Fear of Fighting Back**

But such rights may not always be clear to *you* or to those who have a responsibility to protect you. Many sexual-minority youth do not know what their rights are or how to assert them. One national survey documenting the experiences of LGBT students in schools found that, although most schools had antiharassment policies, four out of five did not mention anti-LGBT harassment.<sup>14</sup>

Another survey, *Hatred in the Hallways*, found that many LGBT students spend “an inordinate amount of time plotting how to get safely to and from school, how to

avoid the hallways when other students are present so they won't be slammed into lockers, how to cut physical education class to escape being beaten up—in short, how to become invisible so they will not be verbally and physically attacked by their peers. . . . Exacerbating the abuse from peers is the failure of adults to protect them.”<sup>15</sup>

Regardless of whether an individual school or school district has a policy to discourage harassment, sexual-minority youth, like all Americans, should be protected by the U.S. Constitution's guarantee of freedom of expression and equal protection. And yet there have been numerous reports of school officials refusing to allow students to wear T-shirts with gay-pride messages. Sexual-minority youth, like all Americans, should have the freedom of association, yet some librarians have been required to use content-filtering software that can obstruct students' Internet access to research into LGBT-related science and sociology. Federal laws ensure that groups, including LGBT groups, can meet on an equal basis with other groups, yet parents can wield veto power over what clubs their children belong to and who they take to a school dance.

Many LGBT youth have fought back against these injustices and many are winning. As you'll see later in this book, the student who wanted to wear his gay-pride T-shirt to school eventually dropped out of school, but his initial efforts to fight the antigay policy inspired other students who were able to change it. The girl who refused to wear the ultrafeminine drape for her senior portrait forced the school to change its policy, too. The girl who was transferred out of her school because she hugged and kissed her girlfriend was able to return to her original high school to finish her senior year. The student assaulted by classmates who tied a lasso around his neck and threatened to drag

him from the back of a truck won a large monetary settlement plus agreements by his school district to change its policies for handling harassment and to train its faculty to better respond. And the student who was thrown out of gym class because she is a lesbian is fighting that decision in court. Just by fighting back, each of these young people has contributed to a better world for others. The key to their success has been in recognizing when their rights had been violated and defending those rights through the law.