

The Right to Be Out: Orientation and Gender Identity in America's Public Schools

Stuart Biegel

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During the forty-some years during which LGBT (lesbian, gay, bisexual, and transgender) rights have been the topic of public debate, Americans have grown more accepting and supportive of LGBT people and relationships. Yearly Gallup polls, for example, measure this growing acceptance. Considering the importance of education in affecting one's beliefs, it is surprising (or perhaps not so surprising) to learn that the schoolroom continues to be one of the arenas in which contention over LGBT rights continues.

In the military, organized religion, professional sports, and education, many people within these institutions support LGBT rights, and a notable percentage are themselves gay or transgender. “[But] the stigma that was once associated with homosexuality and gender nonconformity throughout the country may still be widely prevalent in these settings,” writes Stuart Biegel, a member of both law and education faculties at UCLA, who also authored *Beyond Our Control?: Confronting the Limits of Our Legal System in the Age of Cyberspace and Education and the Law*.

Biegel's dual interests in law and education intersect nicely for purposes of examining the educational policy issues that are cropping up in regards to sexual and gender orientation. As a gay man, Biegel is able to provide a personal view on the topic as well.

Issues relating to students and teachers who are gay and “gender nonconforming”—as Biegel puts it—have only recently begun to be publicly discussed. For example, Biegel's book is coming out only months after the controversy about Constance McMillen, the Mississippi lesbian teenager forbidden to go to prom with her girlfriend. Increasing access to digital communication has created a new arena for that oldest of schoolyard dynamics: bullying. LGBT teens, frequent targets of cyberbullying, are increasingly looking to the schools for help and protection.

These situations can put a school district in the center of a public firestorm, and Biegel's lucid and helpful analysis of the legal and social implications of LGBT rights can be a boon to any administrator, teacher, counselor, or parent trying to quench those flames through discussion and understanding.

He provides summations of a number of First Amendment cases brought by LGBT students, including lawsuits centering on the right to form gay-straight alliance groups, and the right of protection against harassment by fellow students or administrators.

With this foundation, Biegel's exploration of challenges for LGBT educators is particularly useful and cogent. He expertly interweaves legal precedent with insight about larger shifts within school environments and curriculum, giving not only a solid basis for understanding the issues, but also a strong starting point for those attempting to work toward a reasonable middle ground within an educational setting.

ELIZABETH MILLARD (November / December 2010)

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