



Stuart Biegel. *The Right to Be Out: Sexual Orientation and Gender Identity in America's Public Schools.* Minneapolis: University of Minnesota Press, 2010. 320 pp. \$60.00 (cloth), ISBN 978-0-8166-7457-2; \$19.95 (paper), ISBN 978-0-8166-7458-9.



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LGBT Rights in Public Schools

The Right To Be Out: Sexual Orientation and Gender Identity in America's Public Schools is a timely work of legal and political analysis that considers the human cost of interpersonal and institutionalized intolerance. Grounding the text in constitutional provisions and statutory law analysis, Stuart Biegel poignantly exposes the lived consequence of continuous overt and covert harassment of LGBT youth in the public school context and argues for the expansion of laws, policies, and programs that support a safe and secure educational atmosphere free from discrimination, harassment, violence, and abuse. Further, the author cites legal and political endeavors that have successfully altered the environment in which American youth come to understand themselves as sexual and gendered beings.

The Right To Be Out is divided into two parts. The first part outlines legal precedence integral in establishing the right of all Americans to express (or not express) their sexual and gender identities and to live without threat of reprisal or harm. Biegel opens the book with a re-

view of fifty years of case law rooted in the First Amendment right to free expression and the Fourteenth Amendment right to equal treatment under the law. Starting with *Tinker v. Des Moines Independent Community School District* (1969) the author grounds his argument in the Supreme Court extension of free speech rights to students in the school context. Biegel cites the breakthrough 1996 *Nabozny* decision establishing a school's responsibility to ensure students's safety and the Student Organization Cases of the 1970s and 1980s as transformative of both the legal and social climate for LGBT youth in public schools. Biegel selectively explores pertinent oral arguments and apparent moral underpinnings of salient victories in cases brought by LGBT students. Additionally, *The Right To be Out* prudently details rulings advancing the rights of gay and gender nonconforming educators (chapter 3). Demonstrating the limitations of state statutes, collective bargaining agreements, and case law in transforming day-to-day lived experiences, the author highlights that much work is still required to create and maintain a safe and fair school environment for faculty

and administrators, as well as students.

The second part of this book discusses the difficulties in translating legal victories into authentic and abiding changes in communal and school climates. This section opens with a review of proactive and preventative research-based strategies that have proven effective in fostering empathetic school relations. Biegel explores community- and school-based programs and initiatives targeting students, administrators, and educators, and the scholarly literature that grounds them. This section underscores the importance of sustained systematic interventions that work to abate hostilities and harassment felt by lesbian, gay, bisexual, and transgender students and school personnel. The author views LGBT-sensitive pedagogic strategies and curriculum content as effective sites of conscious-raising. For example, Biegel explores the opportunity to incorporate LGBT experiences in high school history lessons by pointing out that, "Too often, the extent to which Hitler's atrocities included the persecution, torture, and brutal murder of gay people is left out of the history books. A full treatment of the issues surrounding the U.S. response—or lack thereof—to ongoing reports from cities occupied by Nazis and concentration camps run by Nazis necessarily includes referencing what was nothing less than Hitler's efforts to exterminate gays and lesbians" (p. 149). Emphasizing that it must be done in a manner that does not reinforce negative stereotypes, the author contends that the inclusion of LGBT-relevant content offers a more accurate and discursive coverage of subject matter, while simultaneously satisfy-

ing nationwide curricular mandates. Adding dimension to the conversation, in this section Biegel also devotes separate chapters to the often charged environment of school athletic programs for LGBT students and school personnel (chapter 7), and gives special attention to the particular challenges of gender nonconforming and genderqueer faculty and students confronting transphobia (chapter 8).

In an era where individual states and federal courts are grappling with gay and trans rights on a number of fronts, *The Right To Be Out* is an opportune addition to the growing body of literature documenting an historic shift in American law and culture. Ensuring that all students have access to an academic setting void of anti-gay bigotry and abuse is desperately important in light of recent school- and peer-related tragedies involving sexual minority youth. Specific to its scholarly contribution, this text has the potential to add depth and delineation to courses on gay rights and school policy. I would strongly recommend this book for upper-level undergraduate or graduate courses in political science, education law, family law, and LGBT legal studies that seek to explore anti-discrimination policies and sexual minority civil rights and liberties in the school setting. This text might also inform safe school organizations and programs of the legal and social trajectory of K-12 gay and transgender rights towards cultivating a climate of acceptance and safety for lesbian, gay, bisexual, transgender, and questioning students and school personnel.

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