



The Legal Landscape

Freedom of expression is critically important to LGBT rights. It was pressure that our love “dare not speak its name” that kept us closeted and unequal for centuries. Because our sexual orientation and gender identity may not be obvious to others, speaking out may be the only way we find one another to make progress together, and it is our best way to change attitudes. This is especially true in our nation’s schools. Invoking free speech principles, Lambda Legal has worked hard to win cases establishing that LGBT youth have the right to be out at school, to discuss issues relating to their identities in class and to form student clubs to discuss curricular topics from lesbian and gay perspectives.

Recently, Lambda Legal became involved in an ACLU case before the U.S. Supreme Court, which might seem far removed from LGBT students’ rights at first blush. *Morse v. Frederick* involves a student disciplined for holding a “Bong Hits 4 Jesus” banner at an event outside his school. School officials claimed they could bar the student’s speech because it conflicted with the school’s asserted mission of opposing illegal drug use. We realized that an overly broad ruling in this case would threaten LGBT students’ rights. What if other administrators claimed their school’s mission encompassed valuing only “traditional” family structures or insisting that all people remain abstinent unless they are legally married? Our friend-of-the-court brief urged the justices not to allow censorship of student speech simply because it may be at odds with a school’s alleged mission.

A central tenet of free speech is that all government regulation of viewpoints be neutral. When we fight for students’ rights to express support for LGBT rights, we therefore also may be bolstering their classmates’ rights to disagree.

In *Morse*, we ended up on the same side as right-wing groups who try to further students’ rights to express religious (and sometimes antigay) sentiments at school. While we believe the Constitution can limit students who harass their classmates through speech, whenever LGBT people support restrictions on others’ expression, we have to be willing to accept parallel restrictions on our own speech.

As we await the Court’s ruling, we’re hoping for a decision that protects student speech without restricting equal educational opportunity. As with much of our work, what we seek is simply to have the same rules apply to us as to everyone else.

A handwritten signature in blue ink that reads "Jon W. Davidson".

JON W. DAVIDSON
LEGAL DIRECTOR