

# Your Rights as a Student Legal Self-Advocacy Training

Students Rights and School Responsibilities



# Presentation Overview

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- Lesbian, Gay, Bisexual, Transgender, Queer and Questioning student rights
- Rights of pregnant and parenting teens
- Military recruitment and students' opt-out rights
- Rights of students facing suspensions
- Rights of students with special education needs
- Questions



# LGBTQ Student Rights



# State and Local Laws

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- NYS Human Rights Laws
  - Gender Expression Nondiscrimination Act
- Buffalo Human Rights Laws
- Dignity for All Students Act
- New York State Education Department Guidelines

# Federal Protections: Title IX Education Amendments of 1972

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- “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.”
- US Department of Education, April 29, 2014
  - “Title IX's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity and OCR accepts such complaints for investigation.”



# Knowing this, LGBTQ Students have the right to:

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- Access LGBTQ positive websites
- Speak freely about LGBTQ issues and wear LGBTQ positive garb
- Create and join a Gay Straight Alliance
- Be out at school and not be “outed” to their parents by school personnel
- Wear clothing or behave in ways that do not fit with stereotypes about their gender
- Bring a same sex partner to school functions



# Bathroom and Locker Rooms

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- Title IX
- DASA
- Buffalo Human Rights Law
- 14<sup>th</sup> Amendment

# NYS Education Department Guidelines 2015

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- *“The purpose of this guidance is to assist school districts in fostering an educational environment for all students that is safe and free from discrimination—regardless of sex, gender identity, or expression—and to facilitate compliance with local, state and federal laws concerning bullying, harassment, discrimination, and student privacy.”*
- Names and Pronouns
- Privacy, Confidentiality, and Student Records
- Gender-Based Activities, Rules, Policies, and Practices
- Resources, Education, and Training for School Districts and Communities



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# Safe and supportive school climate



# Pregnant and Parenting Teens

# Federal and State Protections

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- Title IX
- Dignity for All Students Act
- HIPPA

# When a student thinks they are pregnant:

- Confidential STI and pregnancy testing at school facility or off-site
- The right for their pregnancy to remain confidential from family members, unless abuse or neglect is suspected

# When a student is pregnant:

She has the right to:

- Stay in school; student cannot be expelled or transferred
- Reasonable accommodations
  - Excused time off for doctors visits, abortion care and recovery, family court proceedings
  - Excused from physical education with doctor's note
  - Allowed to take elevator if needed

# Contd.

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- Receive all missed class work while at appointments or on medical leave
- Receive home instruction and additional support services if a student must remain at home during her pregnancy and postpartum care
- Make all decisions regarding her pregnancy without a parent's consent, including abortion care and labor/delivery options



# Military Recruitment and Students' Rights

# Opting Out

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- **Department of Defense's JAMRS database**
- **No Child Left Behind Database**
- **Armed Services Vocational Aptitude Battery (ASVAB)**
- **Delayed Entry Program (DEP)**

**Students must remain, unless otherwise requested, on college and employment recruitment lists if they have opted out of military recruitment**



# Recruiters on Campus

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- Access but not preferred treatment
- Allowing groups, speakers and organizations on campus

## **Optional Protocol on the Involvement of Children in Armed Conflicts**

# Suspensions and Superintendents Hearings

# Historical Context

How did we get here?

- **Zero Tolerance Legislation:** post-Columbine culture intended to increase student safety following national tragedy has resulted in criminalization of common childhood behaviors.
- NYS Education Law 3214 (3)
  - A pupil who is insubordinate or disorderly or violent or disruptive, or whose conduct otherwise endangers the safety, morals, health or welfare of others.
- NYS law trumps local codes



# Student Conduct

## When can I be suspended?

Schools can consider:

- The District's Code of Conduct
- NYS Education Law 3214 (3)
  - A pupil who is insubordinate or disorderly or violent or disruptive, or whose conduct otherwise endangers the safety, morals, health or welfare of others.
- NYS law trumps local codes

# The Superintendent's Hearing

What is it and when do we hold one?

- Parental Notification
- Principal can suspend for up to 5 days
- Further suspension will require a Superintendent's hearing
  - Conducted by an independent hearing officer, with both sides given an opportunity to present their side of the story.
- Evidentiary packet and requirements
- Adjourning/Waiving the Superintendent's hearing



# The Superintendent's Hearing contd.

What is it and when do we hold one?

- Two-phase process
- IHO issues recommendation to Superintendent, who makes the final decision
- Some offenses have mandatory punishments, all others are discretionary
- MDR for students with a disability
- Appeals process

# During and After the Suspension

What is it and when do we hold one?

- Alternate Instruction
- Receiving Special Education Services
- Re-Entry meeting
- For more information please visit:  
[http://www.advocatesforchildren.org/get\\_help/guides\\_and\\_resources](http://www.advocatesforchildren.org/get_help/guides_and_resources)

# Rights of Students with Special Education Needs



# What is Special Education

## Legalese and Alphabet Soup

- Individuals with Disabilities Education Act (“IDEA”)
- Free and Appropriate Public Education (“FAPE”)
- Committee on Special Education (“CSE”)
- Least Restrictive Environment (“LRE”)
- Individualized Educational Program (“IEP”)

# How does Special Education work?

## The Step-by-Step Process

- Referral and Consent
- Evaluation
- IEP Development
- Placement and Services
- Re-Evaluations

# Additional Considerations

- Transportation
- CPSE/Pre-K Special Education
- Transition Planning
- Due Process and Appealing Determinations
  - Mediation
  - Fair Hearing
  - State Appeals Process



## For more information, contact:

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