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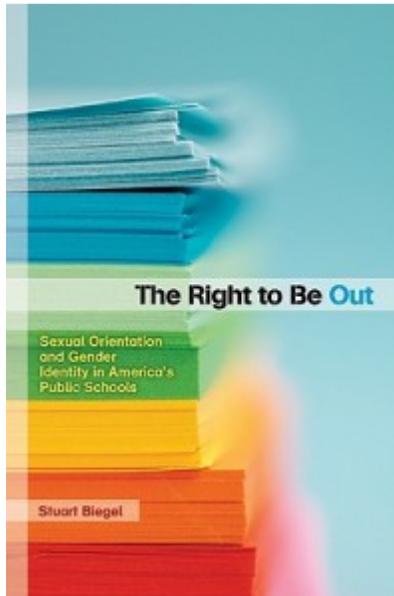
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‘The Right to Be Out: Sexual Orientation and Gender Identity in America’s Public Schools’ By Stuart Biegel

Posted on 6 Oct, 2010 by Rachel Wexelbaum



THE RIGHT TO BE OUT:

Sexual Orientation and Gender Identity in America’s Public Schools
by Stuart Biegel

[University of Minnesota Press](#)

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Paperback, 320p, \$19.95

Over the past twenty years, more American cities and states have passed anti-discrimination legislation that includes sexual orientation and gender identity. More workplaces have included anti-discrimination policies that address the same—some even going so far as to offer domestic partner benefits, even if the state where they are housed may not recognize same-sex partnerships. In spite of these changes in legislation that acknowledge the existence of LGBTIQ people and allow them to work and live with dignity and security under the law, the fact remains that many heterosexual K-12 teachers and administrators promote homophobia and transphobia in their schools.

Many books have been published about homophobia in public schools and how to address it. Though well-intentioned, few if any of those books were written by people with a legal background. Stuart Biegel is a longtime member of the faculty at the UCLA Graduate School of Education & Information Studies and the UCLA School of Law, and is a recognized expert in the field of Education Law. Previous to writing *The Right to Be Out*, he wrote the casebook *Education and the Law* (2nd ed., 2009, West Thomson/Reuters).

He has also published many articles on Fourteenth Amendment rights, church-state issues, and court-mandated education reform. Biegel has served as Director of Teacher Education at UCLA, Special Counsel for the California Department of Education, and the Independent State Monitor for the U.S. District Court in the expansive federal consent decree focusing on the San Francisco public schools. He has also served as a consultant for the American Civil Liberties Union of Northern California and the National Education Association on issues relating to equal educational opportunity for marginalized and disenfranchised youth.

Armed with this knowledge and experience, Biegel has written a sobering yet empowering book.

In his book, Biegel puts the concept of *the right to be out* at the heart of featured legal case studies and policy analysis. According to Biegel, “[The right to be out is] Derived from basic constitutional guarantees under the First and Fourteenth Amendments, and strengthened by ongoing court decisions and legislative enactments [...It] is both a right to express fundamental aspects of identity and personhood and a right to be treated equally as a result of such expression” (“Q&A with Stuart Biegel”, University of Minnesota Press).

The book is then divided in two parts: first, “The Law: The Emergence of the Right to Be Out,” then “Public Policy: Implementing the Right to Be Out.”

“The Law” addresses its legal foundations in detail: the rights of LGBTIQ students to receive treatment with dignity and respect; the challenges that LGBTIQ educators face in homophobic or transphobic work environments; and how religion, “morality,” and “values” affect curriculum development and clash with LGBTIQ-friendly legislation.

“Public Policy” provides many examples—some successful, some not—of K-12 schools that have attempted to add LGBTIQ content to their curriculum, and diversity training for teachers and administrators. The second section of this book also blasts apart the myths about openly gay and lesbian students participating on athletic teams, and provides a final chapter on the challenges that transgender students face in K-12 environments and how some schools have chosen to address their needs or not.

What is eye-opening about *The Right to Be Out* is that many of the discrimination cases and hate crimes depicted in the book take place in California, a state with extensive anti-discrimination legislation and legal recognition of domestic partnerships; the fact that the murder of gender non-conforming high school students and punishment for lesbian intimacy on school grounds takes place in California shows that the K-12 education system is endangering minors by choosing not to interpret the civil rights of LGBTIQ people as recorded in state law, which puts these California school districts at risk for more lawsuits to come if teachers and administrators do not address LGBTIQ issues among themselves and with their students.

In states where no such legislation exists, LGBTIQ students and teachers are at more risk for harm and rejection from the K-12 system. If they choose to sue a school district for damages, their lawyers must work harder to find laws the schools violated by allowing harm to come to LGBTIQ people in an educational environment.

Biegel allows the shocking nature of the case studies to speak for themselves and does not allow the injustices of which he writes to color his objective, academic style. He also compares some of the LGBTIQ student activist cases to those of Christian students who sued their public schools because they also were not allowed to express their point of view, and does not demonize the Christian students for their perspectives on LGBTIQ issues.

Unlike the majority of writers and scholars who address LGBTIQ issues of any kind, Biegel does not wear his sexual orientation or gender identity on his sleeve. A Google search for “Stuart Biegel” will also not reveal his sexual orientation, which is curious, as he is such a strong proponent of the right to be out for others.

If Biegel is indeed a heterosexual writing this book, then he is a true ally for the LGBTIQ community who deserves an award for this book. If he is a gay man or a transman, is it possible that he experienced this type of discrimination firsthand as a classroom teacher in Los Angeles, and has therefore chosen to keep his orientation or gender identity confidential in order to work more smoothly with K-12 administrators, lawyers, and government officials? Did he experience this type of discrimination in the K-12 environment as a young student, and this experience has given him the fire to pursue a career in education law and do the in-depth research for this book?

Biegel has chosen not to make any personal statements to justify why he wrote *The Right to Be Out*.

Homophobic and transphobic bullying of young students continues, is tolerated, and is even conducted by the teachers and principals themselves. This results in depression, substance abuse, post-traumatic stress disorder, and even suicide, among LGBTIQ students and those perceived to be LGBTIQ.

Some students have even gone so far as to kill LGBTIQ students or those perceived to be LGBTIQ, with little outcry from the school or the community. Ironically, it seems that the number of cases of homophobic or transphobic acts committed against K-12 students or teachers who have decided to come out are increasing, during a time in American history where more cities and states have passed LGBTIQ-friendly employment policies, academic enrollment policies, and civil legislation.

More than ever, K-12 teachers and administrators not only need diversity training that addresses LGBTIQ people and their needs, but they need to know what the consequences are for promoting homophobia and transphobia in public schools.

For this reason, Stuart Biegel’s *The Right to Be Out: Sexual Orientation and Gender Identity in America’s Public Schools* should become required reading for everyone.