



Know Your Rights:

Student Expression and the Day of Silence

The ACLU of Texas wants all Texas students to have a safe and respectful learning environment, no matter their sexual orientation. Every year, students across the country participate in a National Day of Silence to raise awareness about the harassment lesbian, gay, bisexual and transgender students face all too often in our public schools. To help protect your right to participate in this special day, the ACLU of Texas has put together this list of five things you need to know about your rights during Day of Silence:

1. You **DO** have a right to participate in Day of Silence and other expressions of your opinion at a public school during non-instructional time: the breaks between classes, before and after the school day, lunchtime, and any other free times during the day.¹
2. You **DO NOT** have a right to remain silent during class time if a teacher asks you to speak.² If you want to stay quiet during class on Day of Silence, we recommend that you talk to your teachers ahead of time, tell them what you plan to do, and ask them if it would be okay for you to communicate on that day in writing.
3. You **MAY** have a right to wear a t-shirt or button explaining the Day of Silence, depending on your school's dress code.³ Certainly, if your school allows t-shirts or buttons with other non-school messages written on them, then you have a right to wear a t-shirt or button about Day of Silence, as long as it does not disrupt school discipline and order.
4. Your school is **NOT** required to "sponsor" Day of Silence. Some schools have announced that they won't sponsor Day of Silence because some national anti-gay groups have pressured them to say so. But Day of Silence is rarely a school-sponsored activity – it's almost always an activity led by students. So don't be confused – just because your school isn't officially sponsoring or participating in Day of Silence doesn't mean that you can't.
5. Students who oppose Day of Silence **DO** have the same right to express their views, too.⁴ Like you, they must do so in a civil, peaceful way, and they must limit their speech to non-instructional time. They do **NOT** have a right to skip school on Day of Silence without any consequences, just as you don't have a right to skip school just because you don't like what they think or say.⁵

It's up to **YOU** to educate yourself about these rights and hold your school to its responsibility to protect and enforce them. If you think your rights may have been violated, you should contact our office by submitting a complaint at www.aclutx.org/request-legal-assistance.

For more information on Day of Silence, check out www.dayofsilence.org. And for more information on your rights in public schools, check out the ACLU's Lesbian Gay Bisexual Transgender Project website at www.aclu.org/safeschools.

¹ *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 513 (1969).

² *Id.*

³ *Palmer ex rel. Palmer v. Waxahachie Indep. Sch. Dist.*, 579 F.3d 502, 509 (5th Cir. 2009); *Canady v. Bossier Parish Sch. Bd.*, 240 F.3d 437 (5th Cir. 2001).

⁴ *Zamecnik v. Indian Prairie Sch. Dist. No. 204*, 636 F.3d 874 (7th Cir. 2011).

⁵ Tex. Educ. Code § 25.087.