



Education Department Resource

Equal Protection Under the Law?

Suggestions for Classroom Discussion (for Secondary Schools)

Many of your students may not realize that men who love other men, and women who love other women, are not guaranteed the same rights that other people take for granted. This season there are a large number of measures/bills which will affect Lesbian and Gay people and their families. Perhaps your students could better understand lobbying and the lawmaking process, during a busy season of potentially controversial legislation, via a discussion on issues which affect Lesbian and Gay people and their families.

In states where there is a contested and public battle over Lesbian and Gay Rights, your students may well be aware that an issue is pending. We should consider using this as a learning opportunity for them to explore their feelings and thoughts on these topics, to bring them to a more critical understanding of how laws play out in "real life". Current issues include hate crimes (Colorado, Mississippi, New York, Virginia, Oklahoma, Idaho, Montana, Texas, Indiana, South Carolina, California, and Wyoming); work and housing rights (California, Delaware, Nebraska, New York, Oregon, West Virginia); and family rights (New Hampshire, Arizona, Indiana, Oklahoma, Texas, Utah, and Virginia).

In these states, you could begin by asking your students what they know about the local issue. You will probably elicit several different opinions, and some ideas about the legislation which are factual, and some which are inaccurate understandings of the

issue as it stands in the courts or before your state congress. It's important too give students a chance to vent out what they already know. You may also meet blank stares.

Outlined below are a series of points and questions for raising this discussion with your students.

INTRODUCING THE TOPIC

In a state or region without a public or controversial issue, you could begin by asking your students a leading question like: if you were an employer, do you think you could fire someone for being gay or lesbian? Your students probably do not realize that this is legal in most places. Ask them, "Why do you think this is legal?"

Only ten states have laws against discrimination on the basis of sexual orientation. In some cases, such as Wisconsin, Massachusetts, and New Jersey, this is not true, due to lobbying efforts. Do your students know what "lobbying" means? Lobbying is defined as "to seek to influence (legislators) on behalf of a special interest."

Why might city and state governments be afraid of imposing legislation that impacts on the decision-making process of private corporations? (In other words, how might private employers react if they were not permitted to exclude homosexuals from their businesses?)

Do your students know that gay and lesbian people can lose their apartments simply for being gay or lesbian?

Do your students think it's right that employers or landlords can pick and choose who works for them or who lives in their homes? How do you protect an individual's right to find a decent job (compete in the marketplace) or find a place to live? At the same time, how would you feel if one of your employees or co-workers were engaged in something (in their private life) which you found morally wrong? What rights does one have to impose their own moral view on others?

What options do people in the minority have for changing the way things are?

What is the difference between "equal rights" and "special rights"?

RIGHTS, PRIVILEGES, AND EXPECTATIONS

What other rights do heterosexual people (women who love men, and men who love women) take for granted?

Examples:

The right to have a job and a home. Only ten states and the District of Columbia have laws protecting gay and lesbian people from discrimination. The right to marry.

Although no states currently recognize gay or lesbian marriage, 30 states have laws banning same gender marriages. The right to adopt children. Varying from state to state, this is a particularly difficult issue for gay or lesbian partners who are raising children when one is the biological parent. Issues involve insurance, state and federal aid, and parental custody following the death of one parent are all affected by the varying (and fluctuating) laws from state to state.

Advantages in obtaining loans to start a business or build a house. The right to not

fear imprisonment for having a physical relationship with one's partner. 19 states have laws prohibiting sodomy. Six of those refer to only same sex couples.

What are some of the other expectations that people who are heterosexual take for granted; that people growing up gay or lesbian might not consider a given? (Examples include: the right to compete equally; keep a job; dance at the prom.) Your students may suggest that everyone can lose their jobs, or do not expect those things. It would be appropriate to respond by affirming their observations ("Yes, that's true") and asking "but what does it mean to be denied these status symbols simply because of who or how you are, rather than on your merits?"

If your students haven't already raised the issue, it is critical to expand the discussion to include issues experienced by different minorities. Ask your students, "What other people may routinely be denied equal chances?" Ask them, "What do white people take for granted?" This is a critical learning opportunity.

REPRESENTATION

Ask your students, "Do you believe your government represents you? Why/why not?" This may be the most pivotal question you can ask them. You will get a variety of answers. Overall general class responses may vary somewhat dependent on economic status, region, ethnic background, religious/cultural contexts, and citizenship status. Ask your students if they believe that everyone feels the same way that they do about this. And then, do they believe that, within American democracy, the government should represent everybody? Is this a desirable goal?

Ask your students if government can represent everybody; if it's meant to; and what are the ways that people seek or achieve representation. It may be necessary to list some of these on the board, and

prompt your students if they run out of ideas. Suggestions include: voting, contributing money to political campaigns, fielding their own representatives, petitions, using individual connections, organizing letter-writing campaigns, staging rallies/demonstrations, and mobilizing the media.

If your students suggest that government is ruled by popular opinion, it would be appropriate for you to ask them how popular opinion is shaped, and how issues which face minorities - whether sexual, racial, religious or otherwise, can possibly be brought into the public sphere, to influence the general opinion.

CHALLENGES AND CONCLUSIONS

Some of your students may raise the following question: Why do gay and lesbian people fight for rights? And its corollary: If they face so much discrimination, wouldn't it just be easier for them to be "quiet" about their sexuality, and "pass" as straight?

Address this on a personal level by asking your students if they've ever had a secret which they had to hide away. How did this make them feel? How would they feel about having to do this all the time?

Address on a social and historic level by asking: Is it more American to "pass", or is it more American to speak out and agitate for change? Which more closely fits the ideals of democracy?

Or, you may wish to discuss tolerance and responsibility. Within minority/majority dynamics, on whom should the burden lie? In this case, is the burden on gay people to be quiet and tolerate a lack of equality? Or is the burden on the majority - heterosexuals - to be tolerant and accepting of the minority as it really is, via acknowledging their contributions to society, and giving them an equal seat at the table for shaping policy? Tell your students that there is no one right answer here. The point is to illicit

conversation and their thinking. What do they believe about tolerance in individual situations?

And, finally, how do our most challenging political conflicts come back to this central issue? Use the example in your class that has most instigated discussion. (For instance, some heterosexual politicians have stated that having Gay or Lesbian marriage will demean heterosexual marriage. Ask your students if this is fair to gay and lesbian people. As seen by heterosexual people opposed to gay marriage, this is about changing the whole institution. Ask your students to imagine both sides of this argument. Do lesbian and gay people deserve the same opportunities and protections that marriage grant? What purpose is there in keeping the definition of marriage between men and women? What might happen if that definition is expanded? The question then is: how is this decision made?)

Finally, explain that this type of conflict is central to the whole idea of Democracy, and that these types of debates are inherent in the process. Learning about them is only the beginning of democracy.

Your students may raise the idea that being "gay" isn't a state of being, like race, but a lifestyle choice; and therefore that people who are gay do not deserve the same rights ((tolerance or understanding) that might be bestowed upon people "who are born that way". One or more students might suggest that people who "choose" to live their life a certain way, do not deserve the same inherent equal opportunity that other people do.

Instead of countering this opinion by citing studies, which suggest a genetic or biological cause of homosexuality, you might choose to address this idea. Explain that American history is about (and full of stories) of freedom of choice, freedom from religious tyranny, and the freedom to seek opportunity and compete economically.

(Perhaps other subjects that you have covered this year, or books your students have read, speak to this issue.) Ask your students whether it's "American", in accord with those principles, to legally ensure that people are free to live as they choose - so long as they don't endanger themselves or others - free from fear of retribution or consequence. Choice is a powerful tool. America values, above all else, the freedom to choose to live as one wishes. This is what separates America, and democracies at large, from oppressive states. Ask your students if this is a right that they value; and you may suggest that this is an important freedom to protect.

Why does living in a pluralistic democracy, which favors the rule of the majority, sometimes make it difficult for the needs of the minority to be heard above, or even alongside, the majority? What can / what does America do to protect the rights of its minorities? (Bring the discussion back to lobbying, getting possible legislation considered, using the courts, etc.) Reference one of the "hot topics" that were raised earlier. Ask your students to see the conflict -- the bill, the hearing -- as an aspect of this tension.

How to integrate these suggestions into your classroom: Social Studies and Civics courses could raise these points as a current events discussion. Social Studies classes may wish to introduce the topic by using segments from Kevin Jennings' *Becoming Visible*. English classes may wish to read a novel or biography that has a theme of activism, civil rights, or the personal-as-political. Some possibilities include Alice Walker's *Meridian* or Eric Marcus' *Making History* (an oral history of the struggle for gay and lesbian rights). Both English and Social Studies classes could consider viewing segments of *Out of the Past*. *Out of the Past* is the first gay and lesbian history documentary for high schools and all audiences, and two of its five historic segments are on writers, and have been used in English classes as an aspect of understanding literature.

If you have time, ask your students to write an opinion piece expressing their views on one of these issues, and how they believe that issue might best be resolved.