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[Home](#) > District To Pay Lesbian Teen \$35K Over Prom Dispute

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## District To Pay Lesbian Teen \$35K Over Prom Dispute

A school district in rural Mississippi that canceled its prom rather than allow a lesbian student to attend with her girlfriend has agreed to pay \$35,000 to settle a discrimination lawsuit the ACLU filed on her behalf.

The school district also agreed to follow a nondiscrimination policy as part of the settlement, though it argues such a policy was already in place.

Constance McMillen, 18, said the victory came at the price of her being shunned in her small hometown of Fulton.

"I knew it was a good cause, but sometimes it really got to me. I knew it would change things for others in the future and I kept going and I kept pushing," McMillen said in an interview Tuesday.

The flap started in March when McMillen challenged the Itawamba County School District's rules banning prom dates of the same gender and allowing only male students to wear tuxedos. The district responded by canceling its prom, prompting the ACLU to file suit claiming the teen's rights had been violated and demanding the prom be reinstated.

U.S. District Judge Glen H. Davidson refused to make school officials hold the prom, but he said in a March 23 ruling that the district had violated McMillen's rights.

The district later announced parents would sponsor another prom chaperoned by school officials. But ACLU lawyers claimed the event was a "sham prom" attended by only about 10 students, while most of McMillen's classmates went to a private event elsewhere, a claim the school denied. McMillen's suit also said she's been harassed for her stand against the school's policy.

McMillen's lawyers filed notice Monday in U.S. District Court to accept a judgment offer from school district that will pay \$35,000, plus attorney's fees. As part of the agreement, the district also said it would follow a policy not to discriminate based on sexual orientation in any educational or extracurricular activities or allow harassment based on sexual orientation and gender identity.

School officials contend that their agreement to follow the nondiscrimination policy merely reaffirms inclusiveness rules the district already had, said school board attorney Michele Floyd.

She said the district's insurance company will pay McMillen.

District officials said in the settlement offer that they didn't believe they violated McMillen's rights.

The ACLU, however, contended that if the district really had such an inclusiveness policy all along, it wouldn't have banned same-sex prom dates. It also said the district is the first in Mississippi to implement a policy banning discrimination and harassment on the basis of sexual orientation and gender identity.

Ben Griffith, the attorney who represented the district in the suit, said school officials are focused on preparing for the upcoming fall semester and wanted to avoid protracted litigation.

"The defendants have consistently taken the position throughout this case that their actions and conduct at all times have been constitutional and lawful in every respect," Griffith said.

Christine P. Sun, an ACLU lawyer, said the case has "inspired countless other people around the world to stand up for what's right."

McMillen has moved to Memphis, Tenn., where she plans to attend Southwest Community College in the spring, majoring in psychology. She said she'll use the settlement money for her college education.

She eventually withdrew from Itawamba Agricultural High School and finished her senior year at a school in Jackson, Miss.

Eliza Byard, executive director of GLSEN: The Gay, Lesbian and Straight Education Network, said only 12 states and the District of Columbia require school district to have policies recognizing sexual orientation and gender identity.

McMillen's case gained national attention and she was featured on talk shows and served as a grand marshal for New York's Gay Pride Parade, among other events. She also visited the White House.

Sun said the ACLU had represented other students in similar cases around the country, but none had garnered as much attention as McMillen's legal battle.

McMillen said she thinks the case resonated with so many people because "prom is a common theme and everyone knows how it feels to want to go to prom. With my story, even if people didn't agree with being gay, they understood. They figured out how cruel some people can be."

Jul. 21, 2010

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