

Your Right to Form a Gay Straight Alliance (GSA)

Gay-straight alliances (GSAs) and similar student-initiated groups addressing Lesbian, Gay, Bi-Sexual, Transgender (LGBT) issues can play an important role in promoting safer schools and creating more welcoming learning environments. Nationwide, students are forming these groups in part to combat bullying and harassment of LGBT students and to promote understanding and respect in the school community. Although the efforts of these groups focus primarily on the needs of LGBT students, students who have LGBT family members and friends, and students who are perceived to be LGBT, messages of respect, tolerance, and inclusion benefit all our students. By encouraging dialogue and providing supportive resources, these groups can help make schools safe and affirming environments for everyone.

But in spite of the positive effect these groups can have in schools, some such groups have been unlawfully excluded from school grounds, prevented from forming, or denied access to school resources. These same barriers have sometimes been used to target religious and other student groups, leading Congress to pass the Equal Access Act.

In 1984, Congress passed and President Ronald Reagan signed into law the Equal Access Act, requiring public secondary schools to provide equal access for extracurricular clubs. Rooted in principles of equal treatment and freedom of expression, the Act protects student-initiated groups of all types. By allowing students to discuss difficult issues openly and honestly, in a civil manner, our schools become forums for combating ignorance, bigotry, hatred, and discrimination.

The Act requires public secondary schools (including high schools and some middle schools) to treat all student-initiated groups equally, regardless of the religious, political, philosophical, or other subject matters discussed at their meetings. Its protections apply to groups that address issues relating to LGBT students and matters involving sexual orientation and gender identity, just as they apply to religious and other student groups.

Although specific implementation of the Equal Access Act depends upon contextual circumstances, these guidelines reflect basic obligations imposed on public school officials by the Act and the First Amendment to the U.S. Constitution. The general rule, approved by the U.S. Supreme Court, is that a public high school that allows at least one noncurricular student group to meet on school grounds during noninstructional time (e.g., lunch, recess, or before or after school) may not deny similar access to other noncurricular student groups, regardless of the religious, political, philosophical, or other subject matters that the groups address.

Source: <http://www2.ed.gov/policy/elsec/guid/secletter/110607.html>

HOW TO FILE A COMPLAINT OF VIOLATIONS OF THE EQUAL ACCESS ACT

There is no government body tasked with specific oversight of the Equal Access Act. However, several federal and state agencies do have authority to handle complaints based on civil rights violations.

Under certain circumstances, a school's refusal to recognize a GSA may constitute unlawful discrimination under federal and state statutes that prohibit sex discrimination. For instance:

- If a school treats one group of students differently from or worse than other students because that group represents gender-nonconforming or transgender students, that different treatment may constitute unlawful sex discrimination.
- If a school has engaged in unlawful sex discrimination by permitting a hostile environment for gender-nonconforming or transgender students, a school may be required to recognize a GSA as part of a series of steps to eliminate that environment.
- If a school refuses to recognize a GSA or other group because the school anticipates the group will be a vehicle for advocating for the rights of gender-nonconforming or transgender students (or because of past advocacy by the students now seeking recognition of the GSA), that decision may constitute unlawful retaliation.

Complaints may be filed with the U.S. Department of Justice, U.S. Department of Education - Office for Civil Rights, U.S. Attorney's Office or at the Connecticut state level with the Connecticut Commission on Human Rights and Opportunities.

FEDERAL: U.S. DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION

The Educational Opportunities Section enforces federal laws that protect students from harassment or discrimination. The Section is responsible for enforcing Title IV of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, national origin, sex, and religion in public schools and institutions of higher learning; the Equal Educational Opportunities Act of 1974 which, among other things, requires states and school districts to provide English Language Learner (ELL) students with appropriate services to overcome language barriers; and the Americans with Disabilities Act, which prohibits disability discrimination. The Section also plays a significant role in enforcing Title VI of the Civil Rights Act of 1964 (prohibiting discrimination on the basis of race, color, and national origin by recipients of federal funds); Title IX of the Educational Amendments of 1972 (prohibiting discrimination on the basis of sex by recipients of federal funds); and Section 504 of the Rehabilitation Act and the Individuals with Disabilities Education Act (both of which address disability discrimination and appropriate disability-related services).

<p>The Educational Opportunities Section accepts complaints of potential violations:</p> <ul style="list-style-type: none">• By e-mail to education@usdoj.gov• By telephone at (202) 514-4092 or 1-877-292-3804 (toll-free)• By facsimile at (202) 514-8337• By letter to the following address: <p>U.S. Department of Justice Civil Rights Division 950 Pennsylvania Avenue, N.W. Educational Opportunities Section, PHB Washington, D.C. 20530</p>	<p>In order to properly respond to a complaint, the Section requests that complainants provide their name, address, and the name of the school/school district/university where the alleged discrimination occurred.</p> <p>Additional information regarding how to file a complaint is available at</p> <p>http://www.justice.gov/crt/complaint/</p>
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FEDERAL: U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS

The Office for Civil Rights (OCR) enforces federal laws that protect students from harassment or discrimination. OCR plays a significant role in enforcing Title VI of the Civil Rights Act of 1964 (prohibiting discrimination on the basis of race, color, and national origin by recipients of federal funds); Title IX of the Educational Amendments of 1972 (prohibiting discrimination on the basis of sex by recipients of federal funds); and Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act (both of which address disability discrimination).

<p>OCR accepts complaints of potential violations:</p> <ul style="list-style-type: none">• By e-mail to ocr@ed.gov or OCR.Boston@ed.gov• Online at http://www.ed.gov/about/offices/list/ocr/complaintintro.html• By telephone at (617) 289-0111 or TDD: (800) 877-8339• By facsimile at (617) 289-0150• By letter to the following address: <p>Office for Civil Rights, Boston Office U.S. Department of Education 8th Floor 5 Post Office Square Boston, MA 02109-3921</p>	<p>In order to properly respond to a complaint, OCR requests that complainants provide:</p> <ul style="list-style-type: none">• Name, address and, if possible, a telephone number;• Information about the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required);• The name and location of the institution that committed the alleged discriminatory act(s); and• A description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, color, national origin, sex, disability, age or the Boy Scouts of America Equal Access Act).
<p>Additional information regarding how to file a complaint is available at http://www.ed.gov/about/offices/list/ocr/complaintintro.html</p>	

FEDERAL: UNITED STATES ATTORNEY'S OFFICE

United States Attorney's Office – District of Connecticut

New Haven Office - Headquarters
US Attorney's Office
New Haven Office
Connecticut Financial Center
157 Church Street
Floor 25
New Haven, CT 06510
(203) 821-3700
Fax: (203) 773- 5376

* for a list of U.S. Attorneys in other states go to <http://www.justice.gov/usao/us-attorneys-listing>

STATE: CONNECTICUT COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

Commission on Human Rights and Opportunities (Connecticut)

25 Sigourney Street

Hartford, CT 06106

860/ 541-3400

Connecticut Toll Free 1-800-477-5737

TDD 860-541-3459

Agency Mission: The mission of the Connecticut Commission on Human Rights and Opportunities (CHRO) is to eliminate discrimination through civil and human rights law enforcement and to establish equal opportunity and justice for all persons within the state through advocacy and education.

Statutory Authority: Connecticut General Statutes, Chapter 814c. Link directly to the Connecticut General Statutes at: <http://www.cga.ct.gov/2011/pub/chap814c.htm>

It is the statutory responsibility of the Commission to:

- Enforce human rights laws that ban illegal discrimination in employment, housing, public accommodations and credit transactions.
- Monitor compliance with state contract compliance laws and with laws requiring affirmative action in state agency personnel practices.
- Establish equal opportunity and justice for all persons in Connecticut through education and outreach activities.

General statutes section 10-15c (and 46a-58(a) Deprivation of Rights) prohibits schools from discriminating against children in connection with permitting attendance and making schools open to them. If students are allowed to form other types of student organizations, then the school should not treat students differently on the basis of sexual orientation and gender identity or expression.

To permit the formation of other student organizations and associations and to prohibit the formation of GSAs would constitute discrimination under 10-15c and a complaint could be filed with the CHRO claiming a violation of 46a-58(a) through the violation of 10-15c. Also, if a school permits access to school facilities to other clubs/organizations, as it cannot prohibit religious clubs it also cannot prohibit LGBT (Lesbian, Gay, Bisexual, Transgender) clubs.

Connecticut law prohibits discrimination in places of public accommodation such as schools.

It is the CHRO's position that the State's public accommodations law applies to the schools. Therefore the State's public accommodations law would prohibit the banning of GSAs in high school and middle schools.

If students have been denied an opportunity for equal access in a place of public accommodation based on their protected class status, they may be able to file a complaint with the Commission on Human Rights and Opportunities.

How to Contact State and Local Agencies

<http://www.justice.gov/crt/legalinfo/stateandlocal.php>

May 13, 2015