

School Legal Responsibilities

Students and families in California have a number of legal protections in public and private schools that receive state funding to ensure that they are protected and treated equitably. The following document provides some of the highlights of the rights and responsibilities in California that explicitly, but not exclusively, affect LGBTQ+ students and families.

- 1. Schools are mandated by law to create an inclusive and welcoming school environment and to protect students from bullying and harassment** with regard to actual or perceived gender, gender expression, gender identity and sexual orientation. If a school employee witnesses such harassment they must intervene, if it is safe to do so. (Ed. Code §§ 200, 201, 220; see also Ed. Code §§ 234-234.5 [Seth's Law of 2011]).
- 2. Schools must adopt and publicize a policy prohibiting discrimination, including explicitly on the basis of gender, gender identity, gender expression, and sexual orientation.** This policy must include procedures for filing complaints and timelines for how these complaints will be investigated. (Ed. Code §§ 234-234.5 [Seth's Law of 2011]).
- 3. Schools must recognize students by the gender identity with which they identify,** including addressing students by their stated name and personal gender pronouns and allowing them to dress according to their identity or in gender non-conforming ways. Purposefully using the incorrect name or pronouns for a student may constitute harassment. Schools must also allow students to use school facilities, such as restrooms and locker rooms, that best match their gender identity and may be required to provide accommodations depending on students' needs. (Ed. Code §§ 200, 201, 220; § 221.5(f) [School Success & Opportunity Act of 2013]).
- 4. Schools must allow students to participate in all school programs and activities, including physical education and sports teams, according to their gender identity,** irrespective of the gender listed on the student's records. Students cannot be excluded from physical education, athletic teams, or any other school activity or facility based on their gender identity. (Ed. Code § 221.5(f) [School Success & Opportunity Act of 2013] & Title IX)
- 5. Rules that apply to one gender must apply to all genders and must be enforced consistently.** (Ed. Code §§ 200, 201, 220; § 221.5 [School Success & Opportunity Act of 2013]; Title IX)



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6. **School staff must respect students' right to privacy and may not affirmatively disclose a student's LGBTQ status to others without the student's permission.** Students have a right to privacy in personal information about their sexual orientation and gender identity, and outing students both at school or at home violates this right and also risks exposing students to harassment. If a student is not out at home, schools should offer them support for working towards family acceptance. (CA Constitution; Ed Code §§ 200 et seq.)

7. **Schools must include the accurate portrayal of the contributions of lesbian, gay, bisexual, and transgender (LGBT) people** in social science and history instruction. Portrayal of LGBT individuals or groups that promote discriminatory bias is prohibited. (Ed. Code §§ 51204.5, 51500, 51501, 60040, 60044 [FAIR Education Act of 2011])

8. School districts must ensure that all students receive comprehensive sexual health education and HIV prevention education at least once in middle school and once in high school. Sexual health education **must include and address the needs of students of all genders and sexual orientations.** Parents/guardians must be provided notice and opportunity to review sexual health education materials and opt their student out of such instruction if they wish. (§§ 51930-51939 [CA Healthy Youth Act of 2015])

9. Schools must provide parents/guardians with notice and opportunity to opt their student out of sexual health and HIV prevention-related education, as defined by statute. Schools are not required to provide parents/guardians with notice or the opportunity to opt their student out of other topics, including history or social science. **Schools may not facilitate selective opt out of instruction or programming relating to LGBTQ people or issues.** (§§ 51931, 51932, 51938 [CA Healthy Youth Act of 2015])

10. If a school receives federal funding and permits any non-curricular student group to meet then it **must also allow groups such as GSA (Gender and Sexuality Alliance) clubs to meet.** All student groups and/or clubs must be provided equal access to school facilities and resources and be subject to the same policies and requirements. (20 U.S.C. § 4071 [Equal Access Act])

11. **Existing law authorizes a minor who is 12 years of age or older to consent to their own mental health treatment or counseling,** except as specified, on an outpatient basis, or to residential shelter services, if specified conditions are met. (Fam. Code § 6924; H&S Code § 124260)

