

KNOW YOUR RIGHTS

Safe & Just Schools

For many of South Carolina's LGBT youth, the journey to self-discovery can encompass both uncertainty and fear. This is why it is important that all students feel safe in their educational environment. According to a study by the [Williams Institute](#), statistics show that 40% of homeless youth identify as LGBT. Additionally, [GLSEN](#) finds that finds that 8 out of 10 LGBT students experience harassment on the basis of their identity. These staggering numbers are unacceptable and South Carolina's youth deserve so much more. We must ensure that all of our LGBT and allied students **Know Their Rights**.

Gay-Straight Alliances

Am I legally allowed to start a GSA at my middle school, high school, or on my college campus?

Federal

- Equal Access Amendment ([20 U.S. Code § 4071](#)) ([Equal Access Act](#))
 - States that "if a public school permits a non-curricular clubs, then it must allow students to form a GSA" ... treating it the same as any other non-curricular club. ([ACLU](#))
- The ACLU has published a resource guide of previous GSA Federal Court victories to be cited as examples the Equal Access Amendment - [Follow The Link](#)

South Carolina

The [South Carolina Gay-Straight Alliance](#) is a proud program of South Carolina Equality, helping mentor GSA leaders from around the state in the areas of fundraising and GSA maintenance. The SC GSA Network also serves as a training resource for education professionals; including community agencies, counselors, and school faculty & staff on the topic of LGBTQ youth competency. Trainings utilize information regarding state and federal mandates, ethical codes of conduct by discipline, and empirically based practice for negotiating the concerns and realities of LGBTQ youth. For more information, please contact our team at info@scgsan.org.

In South Carolina there are currently:

- 14 high school GSAs • 18 college/university GSAs • 4 graduate school GSA

[CLICK HERE TO REGISTER YOUR GSA WITH THE SC GSA NETWORK](#)

Starting a Gay-Straight Alliance

- Need tips on starting a Gay-Straight Alliance in your school? Check out this resource guide from the ACLU. ([link](#)) ([video](#))
- Here you can find an open letter to school administrators and staff on why they must allow students to form Gay-Straight Alliances in a public school setting. ([See this open letter from the ACLU to school leaders](#))



SCEquality.org/KnowYourRights

Funded by Richland County Government



Harassment & Bullying

Am I protected in my school from harassment and bullying in school on the basis of sexual orientation or gender identity?

Federal

- Currently, there are no federal laws which aim to directly address bullying; however, there is an area of overlap between “discriminatory harassment” under civil rights statutes.
- These statutes are to be enforced directly by the Department of Education and the Department of Justice and include:
 - [Title IV](#) and [Title VI](#) of the Civil Rights Act of 1964
 - [Title IX of the Education Amendments of 1972](#)
 - [Section 504 of the Rehabilitation Act of 1973](#)
 - [Title II](#) and [Title III](#) of the Americans with Disabilities Act
- *It should be noted that while sexual orientation and/or gender identity are not explicitly protected under these statutes, harassment often will overlap in these other areas, under which all students are protected. **Check out the link for more information on these may apply, the responsibilities of schools to protect students from harassment, along with additional resources.** [Check out stopbullying.gov for more information.](#)*

State

- Safe Schools Climate Act of 2006 ([S.C. Code Ann. § 59-63-110 \(2006\).](#))
 - Aims to prevent school harassment, intimidation, or bullying in order to “protect the health and welfare of, and improve the learning environment for South Carolina school children,” however this law does not specifically address sexual orientation or gender identity.
 - Each school district in South Carolina is required to adopt a policy prohibiting harassment, intimidation, or bullying.
 - Accordingly, each district policy must include 10 standard components as specified by the law.
 - A complete list can be found under [Section 59-63-140 \(B\)](#) of the law but include procedures for reporting and investigating violations of the policy.
 - The State Board of Education has developed a “model policy” to be used to help schools comply with the law. These are available upon request from the South Carolina Department of Education.

For more information on your school’s policy or how to report incidents of bullying or harassment, check your local school district’s website.



KNOW YOUR RIGHTS

Safe & Just Schools

Local

- The Safe Schools Climate Act of 2006 recommends that each school district implement a bullying prevention program to ensure compliance with the law.
- The following districts have enumerated policies which name protected classes:
 - Charleston (enumerated with "sexual orientation" & "gender identity") - [Click Here](#)
 - Richland One (enumerated with "sexual orientation" & "gender identity") - (policy not yet online...)
 - Anderson Five (enumerated with "sexual orientation" only) - [Click Here](#)
 - Allendale (enumerated with "sexual orientation" only) - [Click Here](#)
- Together, the South Carolina Department of Education and ETV have developed a [model bullying prevention program](#).
- [OLWEUS](#) is another commonly implemented bullying prevention program which provides a host of resources to educators, administrators, and students in regards to bullying prevention.

Privacy

Am I entitled to privacy in regards to my sexual orientation and/or gender identity within the context of a school setting?

Federal

- The ACLU states that “students have the constitutional right to share or withhold information about their sexual orientation or gender identity from their parents, teachers, and other parties, and it is against the law for school officials to disclose, or compel students to disclose, that information.”
- Refer:
 - Whalen v. Roe, 429 U.S. 589, 599-600 (1977)
 - Sterling v. Borough of Minersville, 232 F.3d 190, 196 (3d Cir. 2000) (“It is difficult to imagine a more private matter than one's sexuality and a less likely probability that the government would have a legitimate interest in disclosure of sexual identity.”);
 - Eastwood v. Dep’t of Corr., 846 F.2d 627, 631 (10th Cir. 1988) (right to privacy “is implicated when an individual is forced to disclose information regarding sexual matters.”).
- [ACLU’s Letter to a School Administrator Regarding LGBT Privacy](#)



Freedom of Speech and Expression

As a student, am I allowed to speak openly about my sexual orientation or gender identity in my school?

Federal

- The First Amendment of the United States Constitution guarantees an individual's right to freely express themselves as they so choose. When applied to context of a public school setting, the Supreme Court found in the 1969 case of "*Tinker v. Des Moines Independent Community School District*" that these rights still apply, so long as the expression is not "materially or substantially disruptive."
- For more, see the ACLU's [Your Right to Free Expression](#) factsheet.

State

- Comprehensive Health Education Act (CHEA)
 - South Carolina law states ([SECTION 59-32-30\(5\)](#)) that during Comprehensive Health Education including sexual health education, "The program of instruction provided for in this section may not include a discussion of alternative sexual lifestyles from heterosexual relationships including, but not limited to, homosexual relationships except in the context of instruction concerning sexually transmitted diseases."
 - This law is often misinterpreted as a "no promo homo law" -- meaning that no school teacher or course can discuss LGBT topics anywhere on school grounds. Specifically, this section is ONLY referencing which topics can be covered in comprehensive health courses.
 - Additionally, as the law states, health course topics which cover sexually transmitted diseases ARE allowed to discuss risk factors and prevention methods for same-sex, sexual activity in the context of preventing STDs.
 - If you are a teacher or student and have experienced school administration tell you otherwise, please contact SC Equality and we will look into the matter further.

Trans* and Gender Non-Conforming Issues

Are there any specific issues I should be aware of as a Trans or Gender Non-Conforming student?*

As a Trans* or gender non-conforming student, you should be aware that you are also protected by the same aforementioned policies regarding harassment and bullying, free speech and expression, and the right to privacy. To better understand how they specifically apply, see GLSEN and the ACLU's [Guide for Trans and Non-Conforming Students](#)

