



Laws & Policies Protecting LGBTQ+ Youth in CA Systems of Care



NON-DISCRIMINATION & HARASSMENT

Foster youth have a right not to be subjected to discrimination and harassment on the basis of actual or perceived sexual orientation or gender identity. Youth have the right to be placed in homes and facilities according to their gender identity. Caregiver trainings must be culturally competent.



The CA Foster Care Non-Discrimination Act, Foster Youth: LGBT Cultural Competency (HSC1522, 1522.41, 1529.2, and 1563; WIC 903.7, 16001.9, 16003, and 16013). & Protection from Discrimination Based on sexual Orientation and Gender Identity in State Operated or State Funded Programs (GOV11135)

SAFETY IN SCHOOLS



Training programs for foster youth, child welfare personnel, foster parents and relative caregivers must include information on current school safety laws that protect students from bias-motivated harassment and discrimination.

Foster Youth School Safety Education (HSC 1522.41, and 1529.2; WIC 16001.9, 16003, and 16013)

MENTAL HEALTH CARE

youth ages 12-17 can consent to mental health treatment or counselling when the attending professional believes the youth is mature enough to participate. Care should be culturally competent and should not utilize conversion therapy or attempts to change a minor client's sexual orientation or gender identity.



Mental Health Services for At-Risk Youth (HSC 124260; WIC 14029.8), Protecting LGBT Youth From Psychological Abuse (BPC 865), FAM 6924, and HSC 124260

SAFETY IN DETERNTION



Harassment and discrimination based on actual or perceived sex, sexual orientation, and gender identity is prohibited in Department of Juvenile Justice facilities. Facilities must screen all individuals to assess risk of experiencing abuse and all staff must receive culturally competent training. Housing for transgender and intersex individuals should be made on a case-by-case basis.

The CA Juvenile Justice Safety and Protection (WIC 224.70-224.74) & Prison Rape Elimination Act (PREA)

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The California Foster Care Non-Discrimination Act – AB (2003)

All foster children and all adults engaged in the provision of care and services to foster children have a right and equal access to all available services, placement, care, treatment and benefits. All foster children and all adults engaged in the provision of care and services to foster children have a right not to be subjected to discrimination or harassment on the basis of actual or perceived sexual orientation or gender identity. All community college districts that provide orientation and training to relative caregivers must make available to relative and extended family caregivers courses that cover the right of a foster child to have fair and equal access to all available services, placement, care, treatment, and benefits and the right of foster youth not to be subjected to discrimination or harassment on the basis of actual or perceived sexual orientation or gender identity.

Protection from Discrimination Based on Sexual Orientation and Gender Identity in State Operated or State Funded Programs in California – SB 1441 (2006)

Amended the existing California Bias Free Government Funded State Services & Programs Law, section 11135 of the CA Government Code, so that it explicitly includes sexual orientation and gender identity as prohibited grounds for discrimination. Section 11135 prohibits discrimination against individuals applying for, participating in, or receiving services from: any program or activity operated, administered, or conducted by the state; any program or activity operated, administered, or conducted by any state agency; or any program or activity that receives funding or financial assistance from the state. In addition to the programs and activities that California directly operates, SB 1441 also covers programs the state also funds or gives financial assistance to (in the form of a contract or a grant, for example), many different activities, programs, and local agencies across the state.

The California Juvenile Justice Safety and Protection Act – SB 518 (2007)

Prohibits harassment and discrimination based on actual or perceived sex, sexual orientation, gender identity, and HIV status in all California Department of Juvenile Justice (DJJ) facilities. That means that all DJJ facilities must ensure the safety and dignity of every youth in their care, and must provide care, placement, and services to youth without discriminating on these bases. SB 518 establishes a Youth Bill of Rights, requires all DJJ facilities to inform youth about their rights during orientation and to give youth a copy of these rights, and requires the DJJ ombudsperson to monitor a toll-free helpline and investigate all complaints from youth and parents.

Foster Youth School Safety Education – AB 3015 (2008)

Requires that existing training programs for foster youth, foster youth group homes, child welfare personnel, foster parents, and relative caregivers, include information on school safety laws that protect students from bias-motivated harassment and discrimination.

Mental Health Services for At-Risk Youth – SB 543 (2010)

Allows youth ages 12 – 17 to consent to mental health treatment or counseling when the attending professional believes the youth is mature enough to participate intelligently in the services or when the youth would present a danger of serious physical or mental harm to self or others without the services. SB 543 still requires the involvement of the minor's parent/guardian if/when it is determined that parental involvement is appropriate.

Foster Youth: LGBT Cultural Competency – AB 1856 (2012)

Requires that existing training programs for foster youth caregivers include information related to cultural competency and best practices for serving lesbian, gay, bisexual, and transgender (LGBT) youth.

Protecting LGBT Youth from Psychological Abuse – AB 1856 (2012)

Prohibits mental health professionals from using "conversion therapy" to attempt to change a minor client's sexual orientation.

PREA: Prison Rape Elimination Act (2012)

PREA Standards are a comprehensive set of federal rules that address all aspects of a facility's operations as they relate to preventing, detecting, and responding to abuse. Among the protections are the following: Facilities must screen all individuals at admission and upon transfer to assess their risk of experiencing or perpetrating abuse, including identifying those who may be at risk because of their transgender status, gender nonconformity, sexual orientation, or intersex condition. Decisions about where a transgender person, or a person with an intersex condition, is housed must be made on a case-by-case basis; they cannot be made solely on the basis of a person's anatomy or gender assigned at birth. All facilities must train staff on a variety of issues related to sexual abuse prevention, including interacting professionally with LGBT and gender nonconforming people and those with intersex conditions.

Respecting Gender Identity in Foster Youth Placements – SB 731 (2015)

Youth in out-of-home care have the right to be placed in homes and facilities according to their gender identity, regardless of their biological sex. SB 731 ensures that caregivers provide appropriate supportive care, including respecting and affirming every child's gender identity. This bill enables a child welfare worker to place a child according to the child's gender identity by amending the Foster Care Bill of Rights. It also directed the Department of Community Care Licensing to develop regulations to implement this right.

Laws & Policies Protecting LGBTQ+ Youth in CA K-12 Public Schools



NON-DISCRIMINATION & HARASSMENT

Students may not be harassed or discriminated based on actual or perceived sexual orientation, gender identity, or gender expression, or association with. Schools must have an inclusive, publicized anti-bullying policy and complaint process. School personnel are required to be trained in identifying and intervening during instances of bullying and cyberbullying when safe to do so. School personnel for grades 7-12 are also to receive annual professional development training and information on resources available to LGBTQ+ students

AB-2291, Safe and Supportive Schools Act, title IX, Seth's Law, & Education Code Section 2341 (b)(1)



EXPRESSION & PRIVACY

Freedom of speech and expression, to be out, and to access LGBTQ websites apply on campus and to other school-sponsored programs. Students also have the right to privacy, including the right to keep information about their sexual orientation and/or gender identity private from other school staff/faculty, parents, and students, even if they are out.

1st & 4th Amendments, & Lawrence V. Texas 539 U.S. 558

HEALTH EDUCATION & CARE

Students 12 and older have the right to leave school without parental consent to access confidential medical services. Schools must excuse absences without notifying parents/ guardians and allow students to make up missed assignments. Sexual health education must be comprehensive and appropriate for students of all sexual orientations and genders. Schools are required to adopt suicide prevention policies for students in grades 7-12 that address the needs of LGBTQ+ youth.

California Healthy Youth Act (2016), Confidential Medical Release, CDE Code§ 48205, AB-2246



ACCESS FOR TRANSGENDER STUDENTS

Students can access sex-segregated school programs/activities, including athletic teams & competitions, and use facilities consistent with their gender identity, irrespective of the gender listed on the pupil's records. Includes, but not limited to: bathrooms, locker rooms, sports teams, 7 classes

The School Success & Opportunity Act (2013). Cal. Civ. Code 51 (b)]

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Title IX

Bans sex discrimination in schools and has been interpreted by courts and the US Justice and Education Departments to prohibit discrimination based on sexual orientation and against transgender and gender non-conforming students, including but not limited to: being treated according to the gender you identify with, being called by the name and pronouns consistent with your gender identity, dressing and presenting yourself in a way consistent with your gender identity, and access to single-sex spaces (including bathrooms and locker rooms) and activities consistent with your gender identity. Protects all students who experience sexual violence, irrespective of the gender of the survivor or the alleged perpetrator(s), including harassment or assault where the perpetrator and survivor are the same gender. Schools must investigate and take action in instances of sexual violence against LGBTQ+ students using the same policies and procedures used in all reports of sexual violence.

Confidential Medical Release: Educ. Code & 48205; 87 Ops. Cal. Atty. Gen. 168, 172 (2004)

Education Code Section 48205 requires school officials to excuse students from school to attend confidential medical appointments. Students 12 years and older have the right to leave school without parental consent to access confidential medical services including, but not limited to: HIV or STI testing, mental health or counseling services, drug or alcohol treatment/counseling, abortion care, obtaining birth control. Schools must excuse these absences without notifying parents/guardians and allow students to make up missed assignments.

Seth's Law – AB 9 (2012)

Strengthened existing state anti-bullying laws to help protect all California public school students. Seth's Law requires public schools in California to update their anti-bullying policies and programs, and it focuses on protecting students who are bullied based on their actual or perceived sexual orientation and gender identity/gender expression, as well as race, ethnicity, nationality, gender, disability, and religion. Requires school districts to: Adopt a strong anti-bullying policy that specifically spells out prohibited bases for bullying, including sexual orientation and gender identity/gender expression; Adopt a specific process for receiving and investigating complaints of bullying, including a requirement that school personnel intervene if they witness bullying; Publicize the anti-bullying policy and complaint process, including posting the policy in all schools and offices; Post on the district website materials to support victims of bullying. Seth's Law specifically contains the following requirement: "If school personnel witness an act of discrimination, harassment, intimidation, or bullying, he or she shall take immediate steps to intervene when safe to do so." (Education Code Section 234.1(b)(1))

The School Success & Opportunity Act – AB 1266 (2013)

Clarified existing state law to ensure that students can access sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with their gender identity, irrespective of the gender listed on the pupil's records. Includes but not limited to: bathrooms, locker rooms, sports teams, and classes.

The California Healthy Youth Act – AB 329 (2016)

The California Healthy Youth Act, which took effect in January 2016, requires school districts to provide students with integrated, comprehensive sexual health and HIV prevention education at least once in middle school and once in high school. The California Healthy Youth Act includes new language about adolescent relationship abuse and sex trafficking and reinforces a focus on healthy attitudes, healthy behaviors, and healthy relationships. It is also strengthened previous requirements that instruction and materials be appropriate for students of all sexual orientations and genders and ensures that sexual health education does not promote outdated gender norms. The law also updated the existing HIV prevention education mandate to reflect the developments made in our understanding of and ability to treat and prevent HIV over the last 20 years.

Privacy: Lawrence v. Texas, 539 U.S. 558

Extended constitutional right to privacy/autonomy, including being "outed". Students have a right to privacy, which includes the right to keep information about their sexual orientation and/or gender identity private from other school staff/faculty, parents, and students.

Suicide Prevention Policies in Schools – AB 2246 (2016)

Ensured implementation of suicide prevention policies for students in grades 7-12 that address the needs of LGBTQ+ youth.

Online Anti-Bullying Training for Teacher and School Staff – AB 2291 (2018)

Required that schools' student suicide prevention policies are reviewed and updated regularly, a minimum of every five years.

Safe and Supportive School Act – AB-493 (2019)

Required schools to provide staff and teachers working with students in grades 7-12 with annual training and information on resources for LGBTQ+.

The Support Academic Futures & Educators for Today's Youth (SAFETY) Act – AB 1955 (2024)

Ensures that no student will be subjected to forced outings and provides critical support for both students and educators who face potential retaliation for creating inclusive environments.