

GSA Federal Court Victories

A quick guide for lesbian, gay, bisexual, and transgender high school students

Why?

Gay-Straight Alliances (GSAs) are student-organized school clubs that aim to create a safe, welcoming, and accepting school environment for all youth, regardless of sexual orientation or gender identity. GSAs provide a supportive environment for lesbian, gay, bisexual and transgender (LGBT) students, as well as those who are perceived by others to be LGBT, are questioning their identity, have LGBT friends or family, or just care about LGBT issues.

School administrators sometimes balk at allowing students to start GSAs, but federal law guarantees that students have the right to do so. There are two types of clubs in public high schools: curricular clubs (those that relate directly to things that are taught in the school, like Math Club), and non-curricular clubs (those that don't relate directly to things that are taught in the school, such as Key Club). The federal Equal Access Act (EAA) says that if a public high school allows students to form non-curricular clubs at all, then it must allow students to form any non-curricular club they want, and the school must treat all non-curricular clubs equally.

GSAs started appearing in schools in the U.S. in the late 80's and early 90's. In 1998, the first lawsuit defending students' right to form a GSA in a public school was filed. Since then, at least a dozen federal courts have upheld students' right to form GSAs at public schools (and the ACLU has been involved in nine of those cases), the U.S. Department of Education has also affirmed students' rights under the Equal Access Act, and GSAs now exist in every state, in thousands of schools. Here is information on many of those cases.

2012: Students at Vanguard High School in Ocala, Florida, were disappointed when their principal told them he was denying their request to start a GSA because he was "uncomfortable with having a club based on sexual orientation at the high school level." After the ACLU of Florida sued, the school board quickly voted to allow the GSA. A consent decree has been submitted to the court. *Vanguard High Sch. Gay-Straight Alliance v. Yancey, et al.*

2011: A brother and sister sued their upstate New York high school for denying their request to start a GSA and refusing to act on their reports of anti-gay harassment. After the case was filed by Lambda Legal, the school finally allowed a GSA to form. Although other parts of the case continue, the court has already ruled that the EAA requires all student clubs to receive equal treatment. *Charles Pratt and Ashley Petranichuk v. Indian River Central Sch. Dist. et al.*, 7:09-CV-0411, 2011 WL 1204804 (N.D.N.Y. Mar. 29, 2011).

2011: When the school board in West Bend, Wisconsin denied club status to students who wanted to form a GSA at their high school, the students filed a federal lawsuit against the district. A month later, the school board re-voted

and decided to allow the GSA. *West Bend High Sch. Gay Straight Alliance v. Bd. of Educ., West Bend Joint Sch. Dist. No. 1*, No. 11-c-0453 (E.D. Wis. May 12, 2011).

2009: This Florida school rejected the group's application for recognition, objecting to the word "gay" in "Gay-Straight Alliance" as well as a past incident involving one of the club members when she was in middle school. When the ACLU sued the school, a federal court ruled that the school couldn't require the GSA change its name, nor could it prove that one student's behavior at another school raised any real threat to order and discipline. Eventually, the school allowed the GSA to organize under the name students wanted, and paid \$40,000 in attorney fees and court costs. *Gay-Straight Alliance of Yulee High Sch. v. Sch. Bd. of Nassau County*, 602 F. Supp. 2d 1233 (M.D. Fla. 2009).

2008: When students tried to start a GSA at Maple Grove Senior High School in Minnesota, the school refused to grant them the same access to school resources that other clubs enjoyed, giving a convoluted explanation of why groups like the Synchronized Swimming Club but not the GSA were curricular clubs.

When the ACLU sued, the court ruled that the school had illegally misclassified clubs in order to treat some groups better than the GSA, and ordered the school to treat all clubs according to the law and pay over \$450,000 in attorney fees. *Straights & Gays for Equality v. Osseo Area Sch. Dist. No. 279*, 540 F.3d 911 (8th Cir. 2008).

2008: The school board in Okeechobee, Florida denied students' application to start a GSA at their high school, claiming that the club would interfere with the order and discipline of the school and that the club was incompatible with the school's abstinence-only policy. When the ACLU sued the school, a federal court ruled that the club's tolerance-based message didn't interfere with the abstinence education policies of the school and that the school failed to provide any credible reason the club would impact the order and discipline of the school. The court ordered the school to allow the club and to pay \$326,000 in attorney fees. *Gonzalez ex rel. Gonzalez v. Sch. Bd. of Okeechobee County*, 571 F. Supp. 2d 1257 (S.D. Fla. 2008).

2006: After reluctantly allowing a GSA to form, this Georgia school adopted a policy banning all non- (continued)



curricular groups in a transparent attempt to get rid of the GSA. The ACLU sued the school on the students' behalf, and the court determined that the ban violated the EAA because several other non-curricular groups were still allowed to continue meeting, including the prom committee and 4-H. The final settlement allowed the GSA to meet and ordered policies and training to combat anti-LGBT bullying. *White County High Sch. Peers In Diverse Educ. v. White County Sch. Dist.*, CIV 2:06CV29 WCO, 2006 WL 1991990 (N.D. Ga. July 14, 2006).

2003: After months of foot-dragging, an Eastern Kentucky school allowed a GSA to form. Community protests then led the school to ban all student groups that were not curriculum-related, including the GSA. However, the school violated the EAA when it secretly allowed groups like Bible Club and Beta Club to keep meeting. The ACLU sued. Despite the local uproar, the court held that neither the GSA nor its members caused any disruption, and free speech couldn't be restricted by a "heckler's veto." In settlement, the school district agreed to treat all school groups equally and conduct annual anti-harassment training for all staff and students. *Boyd County High Sch. Gay Straight Alliance v. Bd. of Educ. of Boyd County, Ky.*, 258 F. Supp. 2d 667 (E.D. Ky. 2003).

2002: In denying a GSA application, the principal of an Indiana school tried to pressure students to change the name of the GSA to "Diversity Club" and broaden its focus to include all

marginalized students. He also claimed he denied the application out of concern for students' safety. When the ACLU took the school to court, the judge ruled that asking students to change the name of the club violated their expression rights and that fear that some students might object to the club wasn't a valid reason to justify the denial. The court ordered the school to allow the GSA to meet and pay attorney fees. *Franklin Cent. Gay/Straight Alliance v. Franklin Twp. Cmty. Sch. Corp.*, IP01-1518 C-M/S, 2002 WL 32097530 (S.D. Ind. Aug. 30, 2002).

2000: After months of delay, the school board in Orange County, California denied a student application to form a GSA at El Modena High School. School officials wanted the name changed to drop references to sexual orientation and a clause in the club's mission statement promising that the GSA wouldn't discuss sex or sex education. Lambda Legal and People For the American Way Foundation sued. The court ruled that the school violated the EAA, noting that a club's name is tied to free speech rights and that no other club was asked to include similar clauses in its mission statement regarding sex and sex education. The case settled when the district agreed to everything requested by the students including monetary damages and attorney fees. *Colin ex rel. Colin v. Orange Unified Sch. Dist.*, 83 F. Supp. 2d 1135 (C.D. Cal. 2000).

2000: Less than a year after losing another GSA case in the same school

district, a Salt Lake City school administrator denied a club application by a group of students who wanted to discuss curriculum-related topics through the point of view of lesbian and gay people. The ACLU, along with Lambda Legal and the National Center for Lesbian Rights, represented the students in their case. The court found the school had violated students' rights under the First Amendment and the Equal Access Act and ordered that the school allow the club. The case settled when the school finally ended its ban on non-curricular clubs and allowed GSA clubs to form. *E. High Sch. Prism Club v. Seidel*, 95 F. Supp. 2d 1239 (D. Utah 2000).

1999: In 1996, a school district in Salt Lake City, Utah adopted a policy that barred all groups that were not curriculum-related. Represented by Lambda Legal with help from the ACLU and the National Center for Lesbian Rights, a group of students sued the school because another group that didn't fit the definition of curricular clubs was still allowed to meet on campus. After the court ruled that the school had violated students' rights, the school decided to allow the GSA and other non-curricular clubs to meet, the case was dismissed, and the court ordered the district to pay attorney costs. *E. High Gay/Straight Alliance v. Bd. of Educ. of Salt Lake City Sch. Dist.*, 81 F. Supp. 2d 1166 (D. Utah 1999).

Got more questions? Have you been told you can't start a GSA at your school? Or has the school allowed you to start a GSA, but isn't allowing the GSA to do things other clubs get to do, like appear in the yearbook, organize awareness events, or participate in announcements? Want someone to talk with about what you can do about it? Contact us at aclu.org/safeschools! It's confidential – we won't ever contact your school, your parents, your friends, or anyone else without your okay, and any communication between you and the ACLU is private.

