

## GSAs and the Law - Legal Responsibility

### Equal Protection Clause of the 14<sup>th</sup> Amendment

**What it says:** "No state shall...deny to any person within its jurisdiction the equal protection of the laws."

**What it means:** This guarantees equal protection under the law to **ALL** citizens, and applies to public schools. All students have a federal, constitutional right to equal protection under the law, which means that **schools have a duty to protect LGBT students from harassment on an equal basis with all other students.**

### Title IX of the Education Amendment Acts of 1972

**What it says:** "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

**What it means:** This also applies to public schools, and **prohibits gender-based harassment**, including harassment on the basis of a student's failure to conform to stereotyped notions of masculinity and femininity.

### Wisconsin State Statute 118.13

**What it says:** "No person may be denied the benefits or be discriminated against in any curricular, extracurricular, pupil services, recreational or other program or activity because of the person's sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability."

**What it means:** A pupil may not be excluded from a public school, or from any school activities or programs, or be treated in a different manner for any of the reasons listed above. Each public school is required by law to have written policies that prohibit discrimination against pupils for any of the reasons listed above, and they must have a way for pupils to file complaints of discrimination.

### Equal Access Act

**What it says:** "It shall be unlawful for any public secondary school which receives Federal financial assistance and which has a limited open forum to deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of religious, political, philosophical, or other content of the speech at such meetings."

**What it means:** First used to argue for the right of students to form Bible Clubs, this law also protects the rights of students to form a Gay-Straight Alliance, provided their school allows other non-curricular clubs to meet. The Equal Access Act holds that schools may not impose additional rules or restrictions onto GSAs; they must treat GSAs on an equal basis with other non-curricular clubs.