

Dear School Administrator,

It has recently come to our attention that your school district may potentially be violating the federal Equal Access Act and First Amendment by discriminating against or denying equal access to student clubs like Genders and Sexualities Alliances (GSAs) that relate to sexual orientation or gender identity.

Although a recently enacted state law, S.B. 12 (2025), states that school districts and charter schools may not authorize or sponsor clubs “based on sexual orientation and gender identity,” a federal court preliminary blocked this provision (and three other challenged aspects of S.B. 12) against Houston, Katy, and Plano ISD. *GSA Network v. Morath*, No. 4:25-CV-04090, 2026 WL 483018, at *14 (S.D. Tex. Feb. 20, 2026). The court also reminded *all* school districts and charter schools in Texas that they “remain obligated to comply *first and foremost* with federal law, even when doing so requires disregarding contrary state directives.” *Id.*

Because federal law is supreme over any contrary state law, we urge you to fully comply with the Equal Access Act and First Amendment and not deny access or discriminate against student organizations based on the religious, political, philosophical, or other content of the club.

If your school district receives federal funding and allows any non-curricular clubs to be formed, it is bound by the Equal Access Act to not deny access or discriminate based on the content of the club, as long as the club does not “materially and substantially interfere with the orderly conduct of educational activities within the school.” 20 U.S. Code § 4071(c)(4). Under the First Amendment, public schools and charter schools may also not discriminate based on viewpoint, or an entire class of viewpoints, without satisfying strict scrutiny if they have established a limited public forum for student clubs. This means that your school district is obligated under federal law to treat GSAs and similar clubs the same as all other non-curricular clubs.

In the ongoing lawsuit challenging the constitutionality of several aspects of S.B. 12, the Christian Legal Society submitted an *amicus* (friend of the court) brief, stating that “A state law that denies LGBT students their rights under the EAA [Equal Access Act] could easily be adapted by another state to deny religious students their rights under the EAA. Court decisions protecting LGBT students’ EAA rights necessarily reinforce religious students’ EAA rights.” Br. Amicus Curiae of Christian Legal Society in Support of Plaintiffs, *GSA Network et al. v. Morath et al.*, Case No. 4:25-cv-04090, Dkt. 82 at 2 (Dec. 23, 2025).

Indeed, the Equal Access Act and First Amendment protect all students from government censorship based on their religious, political, philosophical, and other beliefs. If your district chooses to flout federal law and follow the unlawful and unconstitutional GSA Ban in S.B. 12, you are exposing your district to legal liability while harming your students’ ability to learn, thrive, and engage fully in our democracy. As the U.S. Supreme Court has consistently reiterated, “America’s public schools are the nurseries of democracy. Our representative democracy only works if we protect the ‘marketplace of ideas.’” *Mahanoy Area Sch. Dist. v. B. L. by & through Levy*, 594 U.S. 180, 190 (2021).

We ask that you help your school district continue to thrive by following federal law and the First Amendment regardless of any contrary mandate under S.B. 12. We would be happy to speak with you more about these issues and you can monitor updates in our ongoing lawsuit challenging aspects of S.B. 12’s constitutionality at <https://www.aclutx.org/cases/gsa-v-morath/>.

Sincerely,

ACLU of Texas
Transgender Law Center