

The Education Act

GSA and Inclusion Groups

Protections for students under the Education Act

- Alberta will have among the most comprehensive legal protections for GSAs in Canada.
- The Education Act specifically guarantees students are entitled to create inclusion groups, including GSAs and QSAs.
- Schools cannot disclose a student's membership in any inclusion group, as there are student privacy considerations that trump other legislation.
- All school authorities are required to follow the law: public schools must follow the *Freedom of Information and Protection of Privacy Act*, and private schools must adhere to the *Personal Information Protection Act*.
- Legislation needs to balance protecting children and their privacy with the rights of parents, so children are getting the supports they need.
- Under Alberta's privacy legislation, disclosure of GSA membership would only be justified if a student is at risk of harm.
- Educators will need to navigate these difficult situations to do what is in the best interest of kids.

Steps to create a GSA

1. Students ask a staff member at the school to start a GSA.
2. The principal permits the GSA.
3. The principal designates a staff liaison to support the GSA.
4. The students select a group name.
5. If the principal cannot find a staff liaison, the principal informs both the board and the Minister, and then the Minister will appoint a responsible adult.
6. As a student-led group, the students, with support from their staff liaison plan next steps such as meeting dates, times and activities.

Respect for the law

- School authorities are bound by privacy laws to protect personal information and may only disclose personal information if authorized under these laws.
- Any student participating in a GSA has the right to ask their school authority not to disclose their participation.
- While a student can and has the right to ask their school authority not to disclose such information, the school authority has an obligation to consider each student's unique circumstances and the law.

- Though it would be rare, disclosure of GSA/QSA membership would be justified on the basis that the disclosure would avert or minimize a risk of harm.
- Some situations could occur that would justify disclosure to parents or others. These may include the following:
 - where a school received credible information that someone was threatening to harm GSA members;
 - if information came to the attention of a teacher as a result of a student disclosure made in the GSA setting (e.g. possibility of self-harm), disclosure may be justified in order to avert or minimize a risk of harm; or
 - if disclosure is required for the purposes of law enforcement.
- Schools routinely inform parents about student information that is included in the student record, such as grades and attendance.
- Participation in a GSA is not included in a student's record and is protected under privacy law, so it cannot be disclosed without careful consideration of privacy legislation.
- All school authorities are required to follow the law: public schools must adhere to the *Freedom of Information and Protection of Privacy Act*, and private schools must adhere to the *Personal Information Protection Act*.