

# Important Guiding Legislation, Policies and Regulations

Schools should promote and support environments that contribute positively to students' physical, psychological and emotional development. This responsibility extends to all students regardless of race, ethnicity, ability, class, gender, religion, sexual orientation, gender identity and gender expression. The following legal and legislative policies provide a framework that supports the establishment of student organizations that promote equity and anti-discrimination including GSAs.

## 1. Canadian Charter of Rights and Freedoms

<http://laws-lois.justice.gc.ca/eng/const/page-15.html>

**Section 15(1)** Every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Although section 15(1) of the Charter does not explicitly make reference to sexual orientation in its equality provisions, the courts have regarded sexual orientation as analogous to the other personal characteristics listed. The inclusion and the accommodation of difference are the spirit of section 15.

## 2. Alberta Bill of Rights

[www.qp.alberta.ca/documents/Acts/A14.pdf](http://www.qp.alberta.ca/documents/Acts/A14.pdf)

### Recognition and declaration of rights and freedoms

1. It is hereby recognized and declared that in Alberta there exist without discrimination by reason of race, national origin, colour, religion, **sexual orientation, sex, gender identity or gender expression** [emphasis added], the following human rights and fundamental freedoms, namely:

- (a) the right of the individual to liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;
- (b) the right of the individual to equality before the law and the protection of the law;
- (c) freedom of religion;
- (d) freedom of speech;
- (e) freedom of assembly and association;
- (f) freedom of the press;
- (g) the right of parents to make informed decisions respecting the education of their children.

### 3. *Alberta Human Rights Act*

[www.qp.alberta.ca/documents/Acts/A25P5.pdf](http://www.qp.alberta.ca/documents/Acts/A25P5.pdf)

#### **Preamble**

WHEREAS it is recognized in Alberta as a fundamental principle and as a matter of public policy that all persons are equal in: dignity, rights and responsibilities without regard to race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation ...

Of particular interest to educational professionals is that, under the act, discrimination based on sexual orientation is prohibited in *all* of the following areas:

- Public statements, publications, notices, signs, symbols, emblems or other representations that indicate discrimination or the intent to discriminate or expose individuals or groups to hatred or contempt
- Goods, services, tenancy or facilities that are customarily available to the public
- Employment practices (refusing to hire, promote or provide equal treatment to someone because of his or her sexual orientation. Employees have the right to work in an environment free of harassment based on their sexual orientation.)
- Employment applications or advertisements
- Membership in trade unions, employers' organizations or occupational organizations

### 4. *The School Act*

[www.qp.gov.ab.ca](http://www.qp.gov.ab.ca)

#### **Preamble**

WHEREAS students are entitled to welcoming, caring, respectful and safe learning environments that respect diversity and nurture a sense of belonging and positive sense of self ...

#### **Support for student organizations**

**Section 16.1**(1) If one or more students attending a school operated by a board request a staff member employed by the board for support to establish a voluntary student organization, or to lead an activity intended to promote a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging, the principal of the school shall

- (a) permit the establishment of the student organization or the holding of the activity at the school, and

(b) designate a staff member to serve as the staff liaison to facilitate the establishment, and the ongoing operation, of the student organization or to assist in organizing the activity.

(2) For the purposes of subsection (1), an organization or activity includes an organization or activity that promotes equality and nondiscrimination with respect to, without limitation, race, religious belief, colour, gender, gender identity, gender expression, physical disability, mental disability, family status or sexual orientation, including but not limited to organizations such as gay-straight alliances, diversity clubs, anti-racism clubs and anti-bullying clubs.

(3) The students may select a respectful and inclusive name for the organization, including the name “gay-straight alliance” or “queer-straight alliance”, after consulting with the principal.

(4) The principal shall immediately inform the board and the Minister if no staff member is available to serve as a staff liaison referred to in subsection (1), and if so informed, the Minister shall appoint a responsible adult to work with the requesting students in organizing the activity or to facilitate the establishment, and the ongoing operation, of the student organization at the school.

(5) If a staff member indicates to a principal a willingness to act as a staff liaison under subsection (1),

(a) a principal shall not inform a board or the Minister under subsection (4) that no staff member is available to serve as a staff liaison, and

(b) that staff member shall be deemed to be available to serve as the staff liaison.

## Notice to parent

**Section 50.1** (1) A board shall provide notice to a parent of a student where courses, programs of study or instructional materials, or instruction or exercises, include subject-matter that deals primarily and explicitly with religion or human sexuality.

(2) Where a teacher or other person providing instruction, teaching a course or program of study or using the instructional materials referred to in subsection (1) receives a written request signed by a parent of a student that the student be excluded from the instruction, course or program of study or use of instructional materials, the teacher or other person shall, in accordance with the request of the parent, permit the student, without academic penalty,

- (a) to leave the classroom or place where the instruction, course or program of study is taking place or the instructional materials are being used for the duration of the part of the instruction, course or program of study, or the use of the instructional materials, that includes the subject-matter referred to in subsection (1), or
  - (b) to remain in the classroom or place without taking part in the instruction, course or program of study or using the instructional materials.
- (3) This section does not apply to incidental or indirect references to religion, religious themes or human sexuality in a course, program of study, instruction or exercises or in the use of instructional materials.\*

\*This section of the *School Act* was formerly included in the *Alberta Human Rights Act*. Teachers have expressed concern that this regulation has caused a chilling effect on all classroom conversations related to sexual orientation and gender identity.

### **Board Responsibilities**

Section 45.1 (1) ensure that each student enrolled in a school operated by the board and each staff member employed by the board is provided a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging.

(2) A board shall establish, implement and maintain a policy respecting the board's obligation under subsection (1)(d) to provide a welcoming, caring, respectful and safe learning environment that includes the establishment of a code of conduct for students that addresses bullying behaviour.

(3) The code of conduct established under subsection (2) must

(d) contain the following elements:

- (i) a statement of purpose that provides a rationale for the code of conduct, with a focus on welcoming, caring, respectful and safe learning environments;
- (ii) one or more statements that address the prohibited ground of discrimination set out in the *Alberta Human Rights Act*;
- (iii) one or more statements about what is acceptable behaviour and what is unacceptable behaviour, whether or not it occurs within the school building, during the school day or by electronic means;

- (iv) one or more statements about the consequences of unacceptable behaviour, which must take account of the student's age, maturity and individual circumstances, and which must ensure that support is provided for students who are impacted by inappropriate behaviour, as well as for students who engage in inappropriate behaviour,

## 5. Alberta Education *Guide to Education 2015-2016*

[http://education.alberta.ca/media/15225880/guide\\_to\\_ed\\_2015.pdf](http://education.alberta.ca/media/15225880/guide_to_ed_2015.pdf)

### **Controversial Issues**

Controversial issues are those topics that are publicly sensitive and upon which there is no consensus of values or beliefs. They include topics on which reasonable people may sincerely disagree. Opportunities to deal with these issues are an integral part of student learning in Alberta.

Studying controversial issues is important in preparing students to participate responsibly in a democratic and pluralistic society. Such study provides opportunities to develop the ability to think clearly, to reason logically, to open-mindedly and respectfully examine different points of view and to make sound judgments.

Teachers, students and others participating in studies or discussions of controversial issues need to exercise sensitivity to ensure that students and others are not ridiculed, embarrassed or intimidated for positions that they hold on controversial issues.

Discussing or studying controversial issues provides opportunities to:

- represent alternative points of view, subject to the condition that information presented is not restricted by any federal or provincial law
- reflect the maturity, capabilities and educational needs of the students
- meet the requirements of provincially prescribed and approved courses and programs of study and education programs
- reflect the neighbourhood and community in which the school is located, as well as provincial, national and international contexts.

Controversial issues that have been anticipated by the teacher, and those that may arise incidentally during instruction, should be used by the teacher to promote critical inquiry and/or to teach thinking skills.

The school plays a supportive role to parents in the areas of values and moral development and shall handle parental decisions in regard to controversial issues with respect and sensitivity.

## 6. The ATA Code of Professional Conduct

Go to [www.teachers.ab.ca](http://www.teachers.ab.ca) > About the ATA > Upholding Professional Standards > Professional Conduct

### In relation to pupils

**#1** The teacher teaches in a manner that respects the dignity and rights of all persons without prejudice as to race, religious beliefs, colour, gender, sexual orientation, gender identity, physical characteristics, disability, marital status, family status, age, ancestry, place of origin, place of residence, socioeconomic background or linguistic background.

**#4** The teacher treats pupils with dignity and respect and is considerate of their circumstances.

## 7. The Declaration of Rights and Responsibilities for Teachers

Go to [www.teachers.ab.ca](http://www.teachers.ab.ca) > Teaching in Alberta > Becoming a Teacher

**Article 9** Teachers have the right to be protected against discrimination on the basis of prejudice as to race, religious beliefs, colour, gender, sexual orientation, gender identity, physical characteristics, disability, marital status, family status, age, ancestry, place of origin, place of residence, socioeconomic background or linguistic background and have the responsibility to refrain from practising these forms of discrimination in their professional duties.