

Supporting LGBTQ+ Youth in California Schools:
Ethical, Legal, and Practical Considerations for School Counselors

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Introduction

LGBTQ+ students often face harassment, discrimination, and school disengagement, which can lead to increased absences and related child welfare concerns. In California, recent legislation (e.g. the SAFETY Act, SB 107) offers new protections, but school counselors must still navigate ethical, legal, and other challenges in supporting these students. Safe and affirming school environments are crucial for all students' well-being, but especially for LGBTQ+ youth who are more vulnerable to bullying, rejection, and mental health challenges. School counselors are pivotal in upholding equity and student welfare and have professional obligations under the American School Counselor Association (ASCA) ethical standards to advocate for equitable access, reduce barriers to learning, and protect students' welfare.

History and Definition of the Problem

Although the queer community has fought for many rights, and are more accepted and tolerated across the country, there is still work to be done to address bigotry. Historically, LGBTQ+ identities were marginalized or pathologized, contributing to institutional neglect of their safety needs in schools. Over recent decades, with growing visibility and activism, laws and policies have evolved (both regressively and progressively) to address this marginalization. In many districts, however, gaps remain. Queer students commonly experience hostile school environments, and face a daily fear of harassment and/or unsafe conditions, which increases the risk factor for school avoidance. Harassment correlates with higher rates of absences, lower academic performance, and increased dropout risk. Chronic absenteeism is defined by missing

10% or more of school days and has been known to correlate with developmental, behavioral, and ecological stressors (Kearney, Benoit, Gonzálvez, & Keppens, 2022).

In California, state law prohibits discrimination based on sexual orientation and gender identity, although some local practices have lagged. The legislative backlash in many U.S. states has heightened pressure on school systems to define protections. Now, California has taken more proactive steps (SAFETY Act, SB 107) to buttress protections. (CSBA & Equality California Institute, 2025).

Chronic absences among LGBTQ+ youth are addressed by with the child welfare and attendance frameworks. Child Welfare & Attendance (CWA) combines counseling and legal resources to address chronic absences and/or behavior concerns. (California Department of Education, n.d.). LGBTQ+ students often don't attend school as a coping strategy to avoid harassment, and this may trigger CWA involvement. However, if underlying causes (e.g., unsafe climate, discrimination) are not addressed, the interventions may misdiagnose the root issues, which can be a common occurrence if professionals lack sensitivity training and cultural competence when working within the queer community.

Ethical and Legal Concerns

The ASCA Ethical Standards for School Counselors states that counselors must promote equitable access, advocate for the removal of barriers, and protect student confidentiality (ASCA, 2022). When LGBTQ+ students share their identity and in turn experience harassment, school counselors are ethically obliged to maintain trust and confidentiality, unless mandated to report due to a risk. Counselors must protect queer students from being forced to "out"

themselves. Counselors must ensure they have access to supportive services and safe spaces for these clients. Doing so aligns with the school counselor's duty to act in the best interests of their student clients. School counselors are ethically responsible for addressing systemic and institutional barriers and advocating for policies that foster equity.

Legal Obligations:

With Title IX, Student-on-Student Harassment, schools receiving federal funds may be held liable if they are "deliberately indifferent" to peer harassment that is severe, pervasive, and objectively offensive (*Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999)).

Although Title IX was originally framed to address sex discrimination, courts have extended it to include harassment against the queer community.

If a school ignores bullying or harassment of LGBTQ+ students, the school can face legal liability, particularly when the harassment impedes access to the educational program. Thus, failure to respond to queer-based harassment is not only an ethical lapse but potentially a federal civil rights violation.

California has recently passed new legislation that more explicitly addresses the privacy and safety of LGBTQ+ students. The SAFETY Act (AB 1955), effective January 1, 2025, prohibits school districts from requiring staff to disclose a student's sexual orientation, gender identity, or gender expression to others (including parents) without the student's consent (unless required by other law). This law invalidates school board policies mandating "forced outing" or mandatory parental notification. It strengthens protections for LGBTQ+ student privacy and shields educators from retaliation for supporting inclusive environments.

Another relevant statute is SB 107 (2022), which establishes California as a sanctuary for transgender youth and protects families who come from other states to seek gender-affirming care. SB 107 also prevents the enforcement of out-of-state laws or subpoenas regarding gender-affirming care information.

These laws layer onto existing protections under California's Education Code (e.g., Section 220, which prohibits discrimination on the basis of gender identity or expression). From a child welfare and attendance perspective, school districts must ensure that interventions triggered under CWA do not infringe upon student rights or confidentiality. This includes identity-related disclosures. The intersection of privacy law, civil rights protections, and attendance support systems are ethically and legally complex scenarios for counselors.

Court Cases and Precedents

In *Nabozny v. Podlesny* (1996), the U.S. Court of Appeals for the Seventh Circuit held that a public school can be held liable under 42 U.S.C. § 1983 when it fails to protect a gay student from pervasive harassment. The court found school officials' deliberate indifference to repeated student-on-student harassment violated the student's equal protection rights. This case is foundational in establishing that schools can bear responsibility for ignoring harassment of LGBTQ+ students.

In *Davis v. Monroe County Board of Education* (1999), the Supreme Court found that Title IX imposes liability for student-on-student harassment when the school is indifferent and the harassment is severe enough to deny the victim access to the educational program. This case

is often applied in LGBTQ+ harassment claims (e.g., when harassment is based on sexual orientation or gender identity).

In *Ray v. Antioch Unified School District* (N.D. Cal. 2000), a California federal court held a school district accountable when it failed to respond appropriately to anti-gay harassment of a student. The court recognized that a school has an affirmative duty to protect students from harassment and that failure to do so, particularly when staff knew of the harassment, can constitute liability under federal civil rights law.

These cases form a legal backbone linking school harassment of LGBTQ+ students to civil rights liability and reinforce the school's duty to intervene proactively.

How Cases Have Shifted School Responses

Court precedents such as *Nabozny v. Podlesny* (1996), *Ray v. Antioch Unified School District* (2000), and *Davis v. Monroe County Board of Education* (1999) have significantly influenced how schools approach policies and practices related to LGBTQ+ student safety. Many districts have responded by adopting or strengthening anti-harassment and nondiscrimination policies that explicitly protect students on the basis of sexual orientation, gender identity, and gender expression. These policies emphasize zero tolerance for harassment, establish clear complaint procedures, and outline staff responsibilities in responding to reported incidents. Schools are more inclined now to investigate cases of discrimination. Additional school staff are being trained to respond promptly to harassment while document incidents. This growing awareness is critical to protect vulnerable students and ensure federal and state civil rights laws are followed.

To grow inclusive environments, many schools have created supportive structures such as Gay–Straight Alliances (GSAs) and safe spaces. Some districts now assign school counselors or coordinators specifically to address LGBTQ+ concerns, ensuring that students have a confidential and affirming resource within the school.

Privacy protections have also become central to school reform. Many schools use the students' requested names and pronouns on attendance rosters, identification cards, and class lists. It is becoming common knowledge that respecting identity is essential to student well-being.

Restroom and locker room access policies are being changed to allow students to use facilities consistent with their gender identity or to provide an all-gender restroom.

Future Implications

The future of LGBTQ+ rights in schools is fragile, due to the current state of polarization in law, religion, and politics. The interpretation of gender identity and sexual orientation within Title IX continues to be contested, with future court rulings unlikely to expand or limit existing protections. Laws across the nation could still affect California if people start challenging the SAFETY Act or similar protections. These issues connect with things like disability rights, free speech, and religious freedom, which makes the legal situation more complicated for schools to handle.

Digital communication adds a new layer of risk to student safety. Social media and online platforms are rife with harassment, and go connect beyond the physical school environment. Counselors and administrators must therefore adapt monitoring, reporting, and intervention frameworks to address cyberbullying effectively.

LGBTQ+ students who also belong to other marginalized groups—such as racial and ethnic minorities, low-income youth, undocumented students, or those with disabilities—face unique and layered challenges. Attendance interventions and support services must be designed through an intersectional lens, addressing overlapping systems of disadvantage.

Personal Beliefs, Religious, and Cultural Values

It can be uncomfortable and highly nuanced to communicate effectively with educators and parents who hold beliefs that conflict with inclusive practices. Counselors must navigate these tensions with grace while advocating for their student clients best interest. Counselors need to consult, attend therapy themselves, and practice constant self-awareness and reflect on personal biases. This is essential to ensure that ones beliefs do not hinder equitable and ethical support for LGBTQ+ students who come from many diverse backgrounds.

Conclusion

School counselors in California occupy a major role in the protection and empowerment of LGBTQ+ youth. Their work exists at the intersection of ethics, law, and student welfare, requiring both clinical sensitivity and policy advocacy. In doing so, counselors help transform schools into environments where LGBTQ+ youth are not only safe but also affirmed, valued, and fully able to participate in their education.

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