

Know Your Rights - LGBTQ+ Rights in California

Source: <https://oag.ca.gov/lgbtq/rights>

You have the right to access and utilize public accommodations: In the State of California, it is illegal to discriminate against people using public accommodations on the basis of sexual orientation or gender identity.

You have the right to use the restroom consistent with your gender identity: You have the right to use the restroom consistent with your gender identity both in public settings, like schools, and at your workplace. As an employee in California, you have a right to safe and appropriate restroom facilities. Your employer cannot dictate which restroom you use. If your place of employment has single-stall restrooms, they must be labeled as “All Gender,” “Unisex,” “Gender Neutral,” or something similar.

You have the right to rent property without fear of discrimination in

California. The federal Fair Housing Act prohibits sex discrimination by most landlords and, as the Supreme Court held in 2020 (*Bostock v. Clayton County*), discrimination on the basis of sexual orientation and gender identity is sex discrimination. Thus, the Fair Employment and Housing Act prohibits discrimination on the basis of sexual orientation or gender identity. Housing discrimination against people with HIV/AIDS, or people perceived to have HIV/AIDS, is also illegal under the Fair Housing Act’s protections against disability discrimination.

Violations of California’s Fair Employment and Housing Act include:

- Refusal to sell, rent, or lease rooms, apartments, condos or houses to protected individuals
- Refusal to negotiate for the sale, rental, or lease of housing
- Representation that a housing accommodation is not available for inspection, sale, or rental when it is in fact available
- Denial of a home loan or homeowner’s insurance
- Cancellation or termination of a sale or rental agreement
- Policies, practices, terms, or conditions that result in unequal access to housing or housing-related services
- Offering inferior terms, conditions, privileges, facilities or services in connection with the housing accommodation
- Sexual harassment involving unwanted sexual advances or requiring sexual favors for housing rights or privileges
- Refusal to permit, at a disabled tenant’s expense, reasonable modifications when necessary to accommodate a disability
- Refusal to make reasonable accommodations in housing rules, policies, practices, or services where necessary to afford a disabled person equal opportunity to use and enjoy a dwelling
- Retaliation against someone filing a complaint

- Overly restrictive rules limiting the activities of daily life for families with children, including where children are allowed to play

You have the right to receive service, regardless of the provider's religion. This includes wedding services, medical care, and child welfare services. California has banned religious exemption laws.

You have the right to a discrimination-free workplace. Both the California Fair Employment and Housing Act (FEHA) and Title VII of the federal Civil Rights Act (Title VII) make it illegal for an employer to fire, demote, fail to hire, fail to promote, harass, or otherwise discriminate against you (such as by paying a lower wage or denying benefits that other workers receive) because of your sexual orientation, gender identity, and/or gender expression.

While the majority of employees in California are covered under these laws, there are a few types of employees that are exempt from the laws:

- Certain employees of religious entities like churches and mosques; and
- Employees of very small employers. California discrimination protections described here apply to entities with at least 5 employees (and the harassment provisions apply to every entity, even if you are the only employee); and federal discrimination protections apply to entities with at least 15 employees.

You have the right to learn about and teach LGBTQ+ history. Education Code Section 51204.5 prescribes the inclusion of the contributions of various groups in the history of California and the United States. This section includes: both men and women, Native Americans, African Americans, Mexican Americans, Asian Americans, Pacific Islanders, European Americans, lesbian, gay, bisexual, and transgender Americans, persons with disabilities, and members of other ethnic and cultural groups, to the economic, political, and social development of California and the United States of America, with particular emphasis on portraying the role of these groups in contemporary society.

You have the right to discuss LGBTQ+ issues and topics in school under Section 48907 of the California Education Code. In addition, under Section 48950, no public school, charter school, or non-religious private high school can discipline you for talking about being LGBTQ or for discussing LGBTQ issues.

You have the right to disclose – or not disclose - your gender identity on your own terms, regardless of your age. Your school, whether public or private, doesn't have the right to "out" you as LGBTQ+ to anyone without your permission, including your parents. Under the California and U.S. constitutions, you have a protected right to privacy, which includes the right to keep your sexual orientation, gender identity or that you are transgender private (what courts call a "reasonable expectation of privacy"). In other words, you have the right to control to what extent and to whom you disclose

highly personal information about your sexual orientation or gender identity. This means that even if you are “out” about your sexual orientation or gender identity at school, if you’re not ‘out’ to your parents at home, and you can reasonably expect that they’re not going to find out, then school staff can’t tell your family that you are LGBTQ+ without your permission. Being open about your sexuality in school doesn’t mean you automatically give up your right to privacy outside school.

However, under some limited circumstances your school can tell your parents something about your sexual orientation or gender identity—but only if they have a very good reason for doing so. It really depends on the circumstances. But they can’t do it just to punish you, harass you, discriminate against you, or retaliate against you for complaining about something. For example, if you complain to the principal about a teacher making or allowing anti- LGBTQ+ comments in class, they can’t then call your parents (or threaten to call them) and discuss anything about your actual or perceived sexual orientation. If your principal or teachers are threatening to “out” you to your parents and you need advice, give us a call. You should also explain your desire and your right to keep this information private.

You have the right to play on a sports team that aligns with your gender identity.

You have the right to services, activities, and programs in the California Juvenile Justice System.

You have the right to refuse and prosecute conversion therapy providers in California. Conversion therapy for LGBTQ+ youth is illegal in California.

You have the right to have your gender-affirming care covered by your private or public health insurance plan. Under California law, employer-provided health plans and Medi-Cal must cover medically necessary gender-affirming care just like they cover other medically necessary treatments.

You have the right to have your same-sex spouse or registered domestic partner covered by your health insurance plan. Under California law, same-sex spouses and registered domestic partners are entitled to the same health care coverage as different-sex spouses.

You have the right to request that your California driver’s license, birth certificate, and death certificate have a gender marker other than “M” or “F”. California allows residents to be identified by a gender marker other than “F” or “M” on their driver’s license. It is also the first State to allow a nonbinary gender marker on birth certificates. You can also choose “bride,” “groom,” or “neither” on your marriage certificate.

You have the right to serve on a jury. California does not allow discrimination based on sexual orientation or gender.

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Attachment 5

You have the right to donate blood and plasma.

You do NOT have the right to use a “panic defense” in murder cases (i.e. argue your way to a lesser charge of manslaughter by expressing your discomfort with, surprise at, or fear of a victim's sexual orientation or gender identity). In September 2014, California became the first state in the U.S. to officially ban the use of "trans panic" and "gay panic" defenses in court.