

UNDERSTANDING THE EQUAL ACCESS ACT CONCERNING STUDENT-LED MEETINGS

The Equal Access Act became law in 1984 and was upheld by the Supreme Court in 1990. There are three major components of the law:

- 1) Nondiscrimination: if a public secondary school allows non-curriculum, student-led meetings then the school must treat all meetings equally.
- 2) Student-initiated, student-led meetings: In order for the meetings to be deemed lawful on a public secondary campus, meetings must be student-initiated and student-led.
- 3) Local control: the act does not limit authority of the school leadership to maintain control.

Equal Access Act

The Equal Access Act is a United States federal law passed in 1984 to compel federally funded secondary schools to provide equal access to extracurricular clubs. It shall be unlawful for any public secondary school which receives Federal financial assistance and which has a limited open forum to deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings.

(b) "Limited open forum" defined

A public secondary school has a limited open forum whenever such school grants an offering to or opportunity for one or more non-curriculum related student groups to meet on school premises during non-instructional time.

Access Defined

"Access" refers not only to physical meeting spaces on school premises, but also to recognition and privileges afforded to other groups at the school, including, for example, the right to announce club meetings in the school newspaper, on bulletin boards, or over the public-address system. Non-instructional time is "time set aside by the school before actual classroom instruction begins or after actual instruction ends," and covers student meetings that take place before or after school as well as those occurring during lunch, "activity periods," and other non-instructional periods during the school day.

See Donovan v. Punxsutawney Area Sch. Bd., 336 F.3d 211, 222 (3d Cir. 2003) ("Simply because the period may fall within the more general parameters of the school day does not indicate that all time within those parameters necessarily constitutes actual classroom instruction."); *Ceniceros ex rel. Risser v. Bd. of Trustees*, 106 F.3d 878, 880 (9th Cir. 1997) (holding that the plain meaning of the term "non-instructional time" under the Act includes meetings held during lunch time).

For more information on the Equal Access Act, check out:

The Equal Access Act itself found online, www.freedomforum.org, www.aclj.org, www.ceai.org.