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LGBTQ Advocates and South Carolina Youth File Lawsuit Challenging State's Anti-LGBTQ Curriculum Law

CHARLESTON, SC – Today the [National Center for Lesbian Rights](#) and [Lambda Legal](#), along with private counsel [Womble Bond Dickinson](#), [Brazil & Burke](#), and law professor [Clifford Rosky](#), filed a federal lawsuit challenging a South Carolina statute that prohibits public school health education from including any discussion of same-sex relationships except in the context of sexually transmitted diseases. The lawsuit is filed on behalf of the student organization Gender and Sexuality Alliance, as well as [South Carolina Equality Coalition](#) and the [Campaign for Southern Equality](#), including their members who are public school students in the state.

The lawsuit, *Gender and Sexuality Alliance v. Spearman*, alleges that S.C. Code § 59-32-30(A)(5), a provision of the South Carolina's 1988 Comprehensive Health Education Act, violates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution by discriminating against students who are lesbian, gay, bisexual, transgender, and queer (LGBTQ). The statute prohibits districts from including in their health education any "discussion of alternate sexual lifestyles from heterosexual relationships including, but not limited to, homosexual relationships except in the context of instruction concerning sexually transmitted diseases."

The law singles out LGBTQ students for negative treatment and does not impose any comparable restriction on health education about heterosexual people. Any teacher who violates the provision is subject to dismissal. The South Carolina Attorney General has recently issued an [opinion](#) that a court would likely find the law unconstitutional.

"LGBTQ kids at our school – and every school in South Carolina – just want to feel safe, respected, and equal to other students in the classroom," said **Eli Bundy**, a tenth grader who is the president of the **Gender and Sexuality Alliance (GSA)**, an organization of high school students at a public magnet school in the Charleston County School District. "This discriminatory law treats LGBTQ students like we are outsiders in our own community, and that we aren't equal to our peers. School should be a safe place for all students to be treated fairly and equally."

"South Carolina's Anti-LGBTQ Curriculum Law was enacted in 1988 as a provision of the Comprehensive Health Education Act," said **Jeff Ayers**, Executive Director of **South Carolina Equality**. "It had the express



and singular purpose of voicing moral disapproval of non-heterosexual people, and it serves no state purpose at all. This statute attempts to, at best ignore, and at worst to completely stigmatize young people who identify as LGBTQ in South Carolina and it must be struck down.”

“The state law sends a message to students that ‘homosexual relationships’ are so shameful or dangerous that they can only be discussed in a negative context,” said **Julie Wilensky**, Senior Staff Attorney at the **National Center for Lesbian Rights**. “This contributes to a hostile school climate in a state where nearly 90% of LGBTQ middle and high school students regularly hear homophobic remarks from other students.”

“This discriminatory law is archaic, outrageous, and profoundly damaging to LGBTQ students, treating them as pariahs,” added **Peter Renn**, Counsel for **Lambda Legal**. “It should come as no surprise that where the government stigmatizes a group of students as ‘unmentionable,’ it risks breeding a school environment hostile to LGBTQ students, with more harassment and abuse in classrooms, hallways, and locker rooms.”

“Every young person in South Carolina – including those who are LGBTQ – deserves an equal opportunity to learn and to thrive. But the current anti-LGBTQ curriculum law both stigmatizes LGBTQ youth and denies them access to critical information about their health,” said **Rev. Jasmine Beach-Ferrara**, Executive Director at the **Campaign for Southern Equality**. “The law sends a chilling signal to LGBTQ youth and it’s long past time to strike it down.”

“In South Carolina, people across the political and ideological spectrum understand that no one should be excluded because of their LGBTQ identity,” said **Kevin Hall**, office managing partner at **Womble Bond Dickinson** based in Columbia, SC. “That’s why Republicans and Democrats alike are working in this case to overturn this clearly unconstitutional statute – and we’re honored to represent the effort by supporting these courageous students and the many young people in South Carolina who are being harmed by it each year.”

“We were especially delighted to see that the state’s leading attorney, the South Carolina Attorney General, agrees that the anti-LGBTQ Curriculum Law is unconstitutional,” said **Clifford Rosky**, a professor of constitutional law at the **University of Utah**, referring to a recent [opinion issued by the Attorney General’s Office](#). “For now, this discriminatory law unfortunately remains in effect, and it inflicts ongoing harm against LGBTQ students in South Carolina’s public schools. To protect these students, we’ll need a judge to prevent the law’s enforcement, or state lawmakers to repeal it—as lawmakers have recently done in Utah and Arizona.”

The lawsuit is the latest constitutional challenge to anti-LGBTQ curriculum laws, which still remain in a handful of states. In 2019, a lawsuit in Arizona brought by NCLR, Lambda Legal, Professor Rosky, and private counsel led to the state legislature repealing the challenged law. In 2017, the Utah legislature repealed similar state laws following a 2016 lawsuit brought by NCLR and private counsel.

Students in states with discriminatory curriculum laws report more hostile school climates. 2017 data from [GLSEN’s National School Climate Survey](#) surveying LGBTQ middle and high school students demonstrates that South Carolina schools are not safe for most LGBTQ students; nearly 90% said they regularly heard homophobic remarks, 76% experienced verbal harassment, 34% experienced physical harassment, and 14% were physically assaulted due to their sexual orientation.



South Carolina Equality is a non-profit organization with the mission to secure equal civil and human rights for all lesbian, gay, bisexual and transgender South Carolinians and their families, and has a vision of a South Carolina where everyone is equal. www.scequality.org

The **Campaign for Southern Equality** works for full LGBTQ equality – both legal and lived – across the South. Our work is rooted in commitments to empathy and equity. <http://www.southernequality.org>

The National Center for Lesbian Rights (NCLR) is a national legal organization committed to advancing the human and civil rights of the lesbian, gay, bisexual, transgender, and queer community through litigation, public policy advocacy, and public education. Since its founding, NCLR has maintained a longstanding commitment to racial and economic justice and the LGBTQ community’s most vulnerable. <http://www.nclrights.org>

Lambda Legal is a national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and everyone living with HIV through impact litigation, education and policy work. More information at: www.lambdalegal.org