

# Student Rights

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# U.S. Constitution

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- The United States Constitution generally applies equally to everyone, regardless of age, color, race, religion, or any other factor.
  - Schools cannot discriminate against students on the basis of race, color, national origin.
- However, minors are a special category of person, and in many cases, the rights of minors can be suppressed in ways that the rights of adults simply may not be.
- A four-year-old, or even a ten-year-old, cannot make, nor be expected to make, the same sorts of decisions that an adult can make.

# Student Rights

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- Student rights are those rights, such as civil, constitutional, contractual and consumer rights, which regulate student rights and freedoms and allow students to make use of their educational investment.
- These include such things as the right to free speech and association, to due process, equality, autonomy, safety and privacy, and accountability in contracts and advertising, which regulate the treatment of students by teachers and administrators.

# School is not a Constitutional Dead Zone

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- How can we expect today's students to grow up to be tomorrow's civic leaders if we do not respect these fundamental national values in our schools?
- If students are suspected of criminal activity, school administrators should be forced to make their case before searching students or seizing property.
  - Likewise, students should be free from discipline for speaking out on issues of the day or criticizing teachers or officials.
  - If we respect these principles in the schoolhouse, we protect them in the future.
- <https://www.aclu.org/issues/free-speech/student-speech-and-privacy>

# Speech Rights

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- In America, students do not lose their constitutional rights “at the schoolhouse gate.”
- The protection of students’ rights to free speech and privacy—in and out of school—is essential for ensuring that schools provide both quality education and training in our democratic system and values.
  - Unfortunately, schools continue to demonstrate a disturbing willingness to abridge students’ rights.
- In recent years, educators have repeatedly disciplined students for speech critical of teachers and administrators.
- <https://www.aclu.org/issues/free-speech/student-speech-and-privacy>

# Dress Codes

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- While schools are allowed to establish dress codes, students have a right to express themselves.
- Dress codes can also infringe on a student's religious rights by barring rosaries, headscarves and other religious symbols.
- Schools must make the case that a certain kind of dress is disruptive to school activities.
- They cannot use dress codes to punish girls, people of color, transgender and gender non-conforming students and free speech.

# LGBT Rights

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- Bullying of LGBT students can be pervasive at schools, and is all too often ignored or encouraged by the schools themselves. LGBT students have a right to be who they are and express themselves at school.
  - Students have a right to be out of the closet at school.
  - Schools are not allowed to threaten to “out” students.
- Transgender and gender non-conforming students often face hostile environments.

# Pregnancy Discrimination

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- Since Title IX, the federal law barring sex discrimination in education, was passed in 1972, schools have been prohibited from excluding pregnant students and students with children.
  - Yet schools often push such students to drop out.
  - Denying these students an education, access to school activities and reasonable accommodations violates their rights.
- Schools are also not allowed to punish students who choose to terminate a pregnancy or reveal a student's private medical information.



# Disability Rights

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- Schools are prohibited by federal law from discriminating against people with disabilities.
  - Cannot deny them equal access to academic courses, field trips, extracurricular activities, school technology, and health services.
- Sometimes, educators and administrators discriminate by refusing to make necessary medical accommodations, restricting access to educational activities and opportunities, ignoring harassment and bullying, and failing to train staff on compliance with state and federal laws.
  - Schools have a duty to defend students with disabilities from bullying and biased treatment

# Special Education/IDEA

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- Educating students with special needs in a way that addresses their individual and needs.
- Involves the individually planned and systematically monitored arrangement of teaching procedures, adapted equipment and materials, and accessible settings.
- Designed for those students who are mentally, physically, socially and/or emotionally delayed in physical, cognitive, scholastic skills:
  - Places them behind their peers.
  - One or more disabilities.
  - Cannot be met within the traditional classroom environment.

# FERPA

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- The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.
- FERPA gives parents certain rights with respect to their children's education records.
  - These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level.
  - Students to whom the rights have transferred are "eligible students."

# FERPA

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- Parents or eligible students have the right to inspect and review the student's education records maintained by the school.
- Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading.
- Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record.