

# Know Your Rights



## A Students Rights Handbook

*Researched and Written by the American Civil Liberties Union  
of Vermont for Vermont Students*

# I. Introduction

*Know Your Rights*, written by the American Civil Liberties Foundation of Vermont (the public education and litigation branch of the American Civil Liberties Union of Vermont), is a handbook for Vermont public school students about their rights. It also offers an overview of the American legal system from which these rights evolve.

By educating yourself about civil liberties, you can join other students and be watchdogs for the protection of your own rights and the rights of your friends. You need to familiarize themselves with your school's policies, too, which should (but may not always) follow the law. Knowing about your rights and school policies gives you the power to exercise the freedoms guaranteed by the Vermont and U.S. constitutions.

Get involved in shaping the policies that affect your rights at school. You can attend school board meetings and talk to the members of the school board about the issues that matter to you.

At the state level, Vermont students can get involved with the Vermont Board of Education -- two students sit as members on the board. The governor appoints one student each year for a two-year term, the first year as a "junior member" and the second as a member with full voting rights. If you're interested in this opportunity, ask your principal or guidance counselor for an application (applications are reviewed in the spring for an appointment beginning in the fall) or find information on the [Vermont Board of Education's Web site](http://www.education.vermont.gov/) (<http://www.education.vermont.gov/>).

Please note that this handbook discusses rights of students in *public* schools. Students in *private* schools (such as religious schools or prep schools) don't enjoy the same rights. That's because public schools are run by the government and attendance is required. Private schools are not run by the government and attendance is not required. The Constitution protects you against actions by the government, but not (generally) actions by private organizations.

## A. Student Rights: An Overview

Although people often think of the law as "set in stone," rights change over time.

Student rights, like those of all citizens, expand and contract as the courts interpret and reinterpret the Constitution. The 1960s and 1970s saw a burgeoning of interest in the rights of students and young people generally. However, in more recent years, school officials, judges, and legislators have increasingly questioned to what degree rights should be extended to young people, some arguing that students learn better if they are told what to wear, and allowed less personal freedom. Schools in some parts of the country have installed metal detectors, surveillance cameras, and locks with buzzers; erected fences, and hired security personnel. Many schools have even introduced new restrictions on hair, dress, speech, and expression in print and on the Internet. Following a 1999 school shooting in Columbine, Colo., "zero tolerance" was increasingly applied to student expression seen as threatening. Students have been suspended, expelled, and even arrested for jokes, doodles, remarks taken out of context or made on home Web sites or social networking sites, or for wearing blue hair and black clothing.

Of course, schools must be safe and students should be able to feel safe in school. But schools must also be places where students can express themselves without fear of punishment and where they believe their ideas truly matter. Students should not simply learn about their civil liberties in social studies class -- students should also learn to exercise their rights, both in and out of school.

Despite new restrictions, students do have rights.

Forty years ago the U.S. Supreme Court ruled that “School officials do not possess absolute authority over their students. Students in school as well as out of school are ‘persons’ under our Constitution. They are possessed of fundamental rights, which the State must respect . . .” (*Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 511 (1969)). If students think their rights have not been respected, there is something they can do about it. However, students must know what their rights are before they can act to protect them.

## **B. Where Your Rights Come From: The Supreme Law of the Land**

The rights of everyone in this nation come from the Constitution of the United States, including its 27 amendments. (The first 10 amendments are called the Bill of Rights). Whereas the main body of the Constitution gives authority to government to act, the Bill of Rights and several other amendments set limits on what the government may do. The Constitution is the supreme law of the land, and so all government officials are bound by it -- including public school teachers and personnel.

Other laws and regulations (including school rules) may *add* to the rights guaranteed by the Constitution, but *may never reduce those rights*. The same applies to state constitutions: state constitutions may provide *greater* protection of civil liberties than the U.S. Constitution, but they may never provide less protection. For example, our state outlawed slavery through the Vermont Constitution in 1777, but the U.S. Constitution was not amended to ban slavery in all states until 1865.

Government laws or regulations that violate or diminish the rights guaranteed by the Constitution can be challenged in court by those directly affected. When such cases go to court (many are resolved beforehand, through discussions and negotiations), judges decide whether constitutional rights have been violated. The U.S. Supreme Court is the highest court in the country, but very few cases actually reach the Supreme Court. The decisions that the Supreme Court justices write become the basis for interpreting the bounds of our rights. All other federal courts and all state courts are required to follow Supreme Court rulings.

When a new law is passed or a new school policy is adopted, the assumption is that the rule is just and constitutional -- the rule is “innocent unless proven guilty,” in other words. But if a rule is enforced and a person affected thinks the rule is unconstitutional -- that it violates his or her constitutional rights -- the person may challenge the rule.

For example, in July 2003, a U.S. District Court struck down a Pennsylvania law requiring public and private school students to recite the Pledge of Allegiance or sing the national anthem each morning (*Circle School v. Phillips*, 270 F. Supp.2d 616 [E.D. Pa. 2003]). In the ruling, Judge Robert F. Kelly said that the law “unconstitutionally interferes with the School Plaintiffs’ ability to express their values and forces them to espouse the Commonwealth’s views.” If those plaintiffs had not decided to stand up for their rights, the Pennsylvania law would still be considered valid, even though it has been determined to be unconstitutional.

Many groups have demanded and won their rights by court challenges to rules they believed to be unconstitutional. Students should know that students who came before them stood up for their rights and won, and now today’s students can stand up, too. They can follow the example of their peers whose courageous actions, described in detail in the final section of this guide, achieved most of the rights that students have today.

The next section contains the answers to some frequently asked questions about student rights in public schools.

## II. Freedom of Expression

*“Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”*

-- U.S. Constitution, Amendment I

### A. Freedom of Speech

#### 1. What is freedom of speech?

Freedom of speech is a guarantee of the First Amendment of the U.S. Constitution. It protects what you say, what you write, and your right to meet freely with other people in clubs, organizations, rallies, and demonstrations.

#### 2. Do I have a right to freedom of speech while I am in school?

Yes. You do not surrender your constitutional rights when you enter school. In 1969, in the U.S. Supreme Court’s landmark *Tinker v. Des Moines Independent School District* decision, the court stated: “It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech . . . at the schoolhouse gate.”

#### 3. Can the school place limits and restrictions on expressive activities, such as speech?

Yes. First Amendment rights are not absolute. To prevent disruption of the educational process, public schools can adopt reasonable rules to regulate when (“time”), where (“place”), and how (“manner”) students may exercise their free speech rights.

In some situations, speech can be restricted at school even if it would be protected if you were off school grounds. In the *Tinker v. Des Moines* case, the U.S. Supreme Court said students have the right to free speech at school unless their speech would cause a “material and substantial disruption” to class or school activities, or would infringe on the rights of others. Speech does not create a material and substantial disruption just because it draws attention, or because a teacher does not like it. To be a material and substantial disruption, it must be a real disruption of the class or school activity.

There are some limits on free speech that apply to everyone, whether you’re a student or not. For example, the First Amendment does not protect speech that is a “*true threat*.” In order to be considered a “true threat,” speech must have the intent to threaten harm. Your words must be so clear and convincing that the person has a reasonable fear for his or her safety.

The First Amendment also does not protect false personal attacks against another person that are *defamatory*. Defamatory speech is speech that is untrue and harms someone’s reputation, and that you know, or should have known, that it was untrue when you said or wrote it.

The right to free speech also does not protect speech that is *obscene*. The courts have said that speech is obscene if it deals with sex in a manner appealing to lustful interest in a patently offensive manner and lacks serious literary, artistic, political or scientific value. When speech is directed toward minors, the standard for obscenity is lower. Then, the “standard” is that speech is obscene if it appeals to the prurient, shameful, or morbid interest of minors, is patently offensive

with respect to what is suitable for minors, and is without redeeming social importance for minors.

#### **4. Can school officials ban speech that they claim is false?**

Here, there is no simple answer. The law only allows the prohibition of speech that is “libelous” or “slanderous.” These are also highly technical legal terms that generally cover writing or saying something that you know, or should know, is false, that injures someone’s reputation, and that you are careless in writing (by not finding out whether it is false or not).

Nothing that you say or write can be slanderous (speaking) or libelous (writing) if it is true. Also, only information can be false -- your opinion cannot be considered libelous. The line between a fact and an opinion, however, is not always clear.

Harassment is prohibited in Vermont schools. Harassment includes things you say or expressive actions you take belittling or intimidating people who belong to what’s called “protected classes” -- African-Americans, women, gays and lesbians, disabled individuals, and people expressing religious beliefs. Once again, though, the line between harassment and free speech can be very blurry at times.

Finally, privacy considerations must sometimes also be taken into account. These considerations are often encountered when you’re writing an article for a newspaper or publishing something on the Web, where there’s an expectation many people will see the information you’re producing.

#### **5. Can school officials prevent me from expressing an opinion because they think it is too controversial?**

Generally, no. The *Tinker* case makes clear that students have rights, and these rights “don’t end at the schoolhouse gate.” However, these rights aren’t absolute. *Tinker* does allow school officials to prohibit certain speech if it disrupts the school or interferes with other students’ learning. For example, if your opinion on some topic isn’t relevant to the class you’re in, you don’t necessarily have a right to express it. If you harass other students because they’re black, Hispanic, gay, disabled, or Jewish (or any other of the “protected classes” recognized in law), the school may intervene to stop the harassment. Two further limits on student free speech rights: A U.S. Supreme Court case called *Hazelwood v. Kuhlmeier* allowed a school to censor an article about divorce and pregnancy that students had written for a school-sponsored newspaper. The court said such censorship is allowed “so long as their actions are reasonably related to legitimate pedagogical concerns” -- in other words, an identified educational purpose. A more recent U.S. Supreme Court case called *Morse v. Frederick* (known familiarly as “Bong Hits 4 Jesus”) allowed a school to censor a banner a student had unfurled at a public event outside the school. The banner said “Bong Hits 4 Jesus,” which the school claimed encouraged the use of illegal drugs. The court said that since fighting drug use was an important education goal for the school, censorship of a pro-drug message was allowed. It’s important to note that the court made clear that this censorship authority applies only to illegal drugs; it cannot be used to censor political, religious, or other forms of “protected” speech. So, generally, when you want to comment on a new school rule or the latest national news, or criticize the school administration, the school cannot censor or discipline you unless it has a good reason for believing that your expression will cause a substantial disruption or infringe on the rights of others, or unless the speech is slanderous or libelous. Speech on sensitive topics is bound to stir passionate feelings. Remind school officials that the best response is usually more speech -- not less.

## 6. Can I be punished for saying or writing something provocative at school?

Sometimes school authorities will try to punish students who make provocative statements or joke about school violence. They may argue that the student is threatening the safety of the school. In order for a remark to be considered a “true threat,” however, school officials must show that you intend that others take your words as a threat. Your words must be so clear and convincing that they would cause another person to really believe that you intend to carry out the threat -- and therefore have a reasonable fear for his or her safety.

When it comes to “vulgar, lewd, indecent or plainly offensive language,” the U.S. Supreme Court has given schools censorship authority through its decision in the *Bethel School District No. 403 v. Fraser* case. In this case, a student had made a number of sexual suggestions in a speech he gave before a school assembly. He was disciplined, and sued the school on free speech grounds. The court said that the school acted within its authority. The *Tinker* standard – which says that a student’s rights can only be curtailed if the speech disrupts the school or collides with other students’ rights – didn’t apply because Fraser’s remarks were “unrelated to any political viewpoint.”

## 7. What about a Web site?

Your right to express yourself is not limited to the technology of yesterday. It applies in cyberspace too, whether you are writing e-mails, keeping a Web blog, creating a homepage, or posting in a chat-room. However, many school officials have tried to regulate what students can and cannot post or access online. The law in this area is still developing because the technology is new, but there are a few guidelines.

**On-campus Internet Speech:** If you are using a *school* computer, you should be prepared to follow the school’s rules for the use of its equipment. Most schools have “Internet use” policies stating what those restrictions are. Any restrictions should be based on some valid educational reason. Be sure to check your school handbook for your school’s Internet use policies.

**Off -campus Internet Speech:** Expressing yourself from a computer *outside* of school is a different matter. Schools’ authority to limit student speech has generally *not* been extended to speech that takes place off-campus, but recent decisions have left this unclear. You should not be censored or disciplined for your expression on a private Web site, a posting on a Web blog, or a personal e-mail -- if it is sent from your personal account, on your own time, using your own resources from a computer outside of school -- even if the content is school-related. But some courts have said that schools can discipline students for off-campus Internet speech if it has disruptive effects at school. (An interesting case from Connecticut is *Doninger v. Niehoff*.) So exercise good judgment, recognizing that anything you post online or send in an e-mail may be seen by people other than those to whom your post or e-mail is intended. Some college admissions officers or potential employers have been known to look at applicants’ Web pages or Facebook/MySpace accounts -- or anything else that pops up when they type your name in a search engine such as Google.

## **B. Pledge Of Allegiance**

### **1. Can I be made to recite the Pledge of Allegiance?**

No. The Supreme Court has ruled that just as the First Amendment protects an individual's right to say what he or she wants, it also protects his or her right *not* to say something. Almost 60 years ago the court determined that compulsory flag salutes are a violation of an individual's right to free speech. So, students in public schools may refuse to participate in the Pledge of Allegiance and choose to remain quietly seated instead. Note, however, that if you decline to say the pledge that you do not have the right to disrupt the proceedings.

### **2. What about a moment of silence?**

It depends on what the purpose of the moment of silence is, and how it is carried out. If the only purpose or effect is to promote religion, then it is forbidden. (See the section on religion for more information in this area.) On the other hand, if the purpose of the moment of silence has nothing to do with religion -- for example, the purpose is to remember someone who died or to think about world peace -- then it is probably okay.

## **C. Dress Codes**

### **1. Can the school tell me what I can or can't wear?**

People express themselves through their dress just as they do through their speech. So, the First Amendment should protect student dress. However, school officials in many states claim dress codes are necessary to prevent gang activity, promote safety, and prevent distraction and disruption in public schools. The U.S. Supreme Court has not heard a case involving a challenge to a public school dress code or uniform policy.

Lower courts have generally sided with schools and supported the constitutionality of dress codes. Some scholars believe the Supreme Court would be unlikely to overturn a school's dress code unless it felt the code was really unreasonable or discriminatory. In general, federal courts have found schools' grooming requirements to be reasonable. Whatever dress code a school uses, the code must be written clearly so students know exactly what is or is not permitted.

Vermont school boards have wide discretion in establishing school policies, so dress codes may vary from one school to another. Vermont law requires that any policy adopted by a Vermont school board be written, codified, and made available to the public. And a school board must notify the public of its intent to adopt a new policy at least 10 days before its adoption, so students should be on the lookout for any proposed changes to their school's dress codes.

Like some other school policies, established school dress codes are subject to constitutional challenges. If students feel their school's dress code policy violates their rights, they can challenge it. However, there is no assurance that a court will overturn a formal school policy, unless it is unreasonable or discriminatory.

There's a Vermont case on dress codes -- at least one portion of such codes. The case, *Guiles v. Marineau*, was brought by the ACLU-VT in 2004. Zachary Guiles, a Williamstown Middle School student, was sent home from school for wearing a T-shirt referring to President George W. Bush's alleged illegal drug use as a young man. He had worn the T-shirt to school for

several weeks without incident, but the school took action when a parent complained. The principal cited a portion of the school's dress code that said student clothing couldn't contain images of drugs or alcohol, and Zach's shirt did as part of the shirt's message. The school won on the federal district court level, but lost on appeal. The Second Circuit Court of Appeals said that the images were part of a political message, and thus deserved protection, despite the school's dress code. The court was careful to say, however, that it was not ruling that the school's dress code wasn't proper in other contexts. You can read more about the Guiles case on the [ACLU-VT Web site](http://www.acluvt.org/issues/guiles_scotus_ruling.php) ([http://www.acluvt.org/issues/guiles\\_scotus\\_ruling.php](http://www.acluvt.org/issues/guiles_scotus_ruling.php)).

## **2. Can a school's dress code keep students from wearing T-shirts that have certain slogans or messages on them?**

Generally no, but you may want to look at a previous question/answer in the Freedom of Speech section that discussed if school officials can prevent students from expressing an opinion because they think it is too controversial.

Courts have allowed schools to place limits on certain student speech, and a slogan on a T-shirt is considered speech. So, a pro-drug message (which might be something as simple as a T-shirt with a beer can or marijuana cigarette) might not enjoy constitutional protection. Remember also that the U.S. Supreme Court's *Tinker* case allows expressive speech or behavior as long as it's not disruptive or interferes with other students' rights to learn.

What a school most definitely cannot do, however, is to allow a T-shirt with, say, one message ("Support the war in Afghanistan") but not allow a T-shirt with a contrary message on the same subject ("Oppose the war in Afghanistan").

## **3. Can my school make me wear a school uniform?**

Many courts have upheld dress code and uniform policies in public schools as a reasonable way to instill discipline and create a positive educational environment. The courts determined that the policies were not intended to suppress students' freedom of expression but to further reasonable educational objectives. Schools have to show what those reasonable objectives are, however, and how mandating uniforms will help achieve those objectives. Private schools, of course, are not subject to the same rules as public schools and can impose any uniform standards they want.

## **4. Can the school say I can't wear my hair in a certain way or say I can't have a mustache?**

The right to choose a hairstyle is in some ways more important than the right to dress as one likes, because hairstyles are harder to change than clothing. The Supreme Court has not ruled on this issue, and so it's currently a matter for the lower courts. In general, federal courts have found schools' grooming requirements to be reasonable. In some states, students can wear their hair any way they want as long as it's not a safety hazard (for instance, if your hair is very long, you may have to tie it back during a science experiment). Courts in other states allow school hair codes, usually as part of a dress code. As with dress codes, if you think your school's hair code is unfair, you can challenge it. But you would probably have to demonstrate that the code is unreasonable or discriminatory in order to get it overturned by a court.

## D. Books

### 1. Can school officials remove books from the school library?

Campaigns to remove books from school curricula and libraries go back decades. In one incident in 1975, seven members of the school board in Island Trees, N.Y., ordered the removal from school libraries of nine books that had been listed as “objectionable” by a local advocacy group. The books included Kurt Vonnegut's *Slaughterhouse Five*, Piri Thomas's *Down These Mean Streets*, Desmond Morris's *The Naked Ape*, and *Best Short Stories by Negro Writers*, edited by Langston Hughes. The school board members explained that they had been told the books were “anti-American, anti-Christian, anti-Semitic, and just plain filthy.” A student named Steven Pico took the school district to court over the banning, and the case ended up at the Supreme Court.

The Supreme Court ruled that on the one hand, school boards have broad discretion to not include in libraries or have as texts books they consider “pervasively vulgar” (*Board of Education v. Pico*, 457 U.S. 853 (1989)). But on the other hand, said a narrow majority of five justices, some reasons for the removal of books from school libraries violate the First Amendment. Four justices then joined an opinion explaining that school boards may not act “in a narrowly partisan or political manner” because “our Constitution does not permit the official suppression of ideas.” This decision is called the “*Pico* standard” and it still governs book censorship in schools.

So the answer to the question of whether school officials can remove books is “yes and no.”

School boards, therefore, generally frame book censorship decisions in terms of “vulgarity” rather than suppression of particular ideas. But remember there’s a big distinction between possible censorship and the choice of one book over another for legitimate standards such as quality, readability, and price.

And remember that people have different ideas about what is “vulgar.” That’s why students (and parent) should work diligently to prevent unjustified library censorship.

### 2. If schools can censor books, can they censor the Internet through controls on access?

School computers usually are equipped with filtering software that prevents you from accessing Web sites that the principal or librarians consider improper for a school setting. Many of the improper sites are pornographic. However, filters can sometimes block too much -- blocking, for example, information on “breast cancer” simply because the site contains the word “breast” and “breast” triggers a block. If you think your school is blocking information that would be useful to you or other students, ask whether the filter can be adjusted. Check your school’s policy on internet use, though, so you know what is considered acceptable.

## E. Clubs and Activities

### 1. Can a school refuse to allow an after-school club, such as a gay-straight alliance, to meet at the school because the group’s views are unpopular or controversial?

Yes, if the school doesn’t allow any clubs to meet or use school facilities, but no if the school allows some but not others.

In 1984 Congress passed the Equal Access Act. This made it illegal for school authorities to prevent particular student-initiated groups from meeting after school if school facilities are available to other student-run groups. Public schools may choose to deny the use of school space to *all* “non-curricular related” groups or adopt a policy limiting the use of school facilities to “school-sponsored” groups, but otherwise schools may not discriminate against groups of students who wish to hold meetings in the school.

When a public school allows student groups to use its facilities, the school must ensure that the meetings are attended voluntarily, are student-run, do not interfere with school work, and that people from outside the school are not directing the meetings. Public schools are not required to provide funding for student groups, other than covering the expenses arising from use of school space for meetings.

## **2. What rights do I have to protest and organize?**

Peaceful demonstrations are considered free speech and therefore are protected by the First Amendment. School officials cannot stop a demonstration simply because they don't like its message, but appropriate “time, place and manner” regulations may apply. If students choose to walk out of class or cut class to attend a demonstration, the same rules about missing class apply to them as to students who skip class for any other reason. Note, though, that schools may not impose harsher punishments just because a student skips class to engage in a political protest. As for on-campus demonstrations, schools should prohibit them only if the conduct of the demonstrators will substantially disrupt the school. Further, authorities cannot judge a demonstration by the reaction of its audience. If other students react inappropriately to a protest, administrators should take steps to deal with that disruption. Unfortunately, in many cases the courts have ruled against students who wanted to demonstrate on school property or during school hours. Many of those decisions are based on disruption caused by the protest.

## **3. Can students be prevented from distributing leaflets in school?**

No, unless officials can show the leaflets or the distribution of the leaflets is disruptive. Schools cannot adopt a blanket rule prohibiting all “disruptive leaflets,” nor can they place a ban on all leaflets dealing with a certain subject.

However, as is true of most free speech activities in school, administrators can set limits to ensure that students who distribute leaflets follow “reasonable time, place, and manner” rules. For instance, students can't interrupt a class to leaflet, or block the halls and disrupt the flow of traffic while distributing leaflets. Generally, school officials can't ban leafleting or information tables in the school if there is a lobby or open area where these activities can be carried out safely without disturbing foot traffic. Only if the school bans leafleting by all groups and all individuals in all places can it stop distribution. But if an animal rights group can pass out leaflets in school, then so, too, can a hunter/trapper group.

## **4. Can students start non-curricular clubs?**

It depends on whether the school has allowed students to have *any* non-curricular clubs. The school may prohibit all student clubs that are not directly related to school classes. However, if the school permits some students to form non-curricular clubs, it cannot discriminate because of the political, philosophical, or religious content of the meetings and must allow all clubs.

### **III. Religion**

*“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . . .”*

U.S. Constitution, Amendment I

#### **1. What is freedom of religion, and what does it entail?**

There are two parts to the freedom of religion guarantees of the First Amendment. First, everyone has the right to the free exercise of religion: that is, the right to practice your own religion, or no religion at all, without interference from the government. Second, the government may not establish religion: that is, the government may not endorse, sponsor, or require participation in any particular religion or religious activity. Public schools must maintain their religious neutrality so that all students of any religion, or no religion, can enjoy freedom of belief.

#### **2. Can a school allow Christmas programs or other types of religious pageants or displays?**

Schools cannot promote any one religion over another. A “Christmas Concert” by its nature promotes Christianity, and is not allowed. A “Winter Concert” with some Christmas songs is allowed as long as the music of other religious traditions is included. Religious objects are allowed if part of a study of religions, and then the objects cannot be from just one religion. Generally speaking, a school’s role is not to teach religion -- that’s the job of a church, temple, or mosque.

#### **3. Can school officials sponsor prayers or other religious exercises in school?**

No. School officials may not sponsor, facilitate, promote, or participate in religious activities. Teachers may include readings from religious texts, as long as these are presented objectively as part of a secular (non-religious) course, such as in history, world studies, or literature classes. But schools may not teach that one religion is better than any other religion or no religion.

#### **4. What about a moment of silence?**

It depends on what the purpose of the moment of silence is, and how it is carried out. If the only purpose or effect is to promote religion, then it is forbidden. On the other hand, if the purpose of the moment of silence has nothing to do with religion -- for example, the purpose is to remember someone who died or to think about world peace -- then it is probably okay.

#### **5. Do I have to participate in religious activities at school?**

No. First, the only time religious activities should take place in schools is if they are initiated and led by students. The First Amendment protects the rights of students who wish to pray individually or in groups at school, or to discuss their religious views with their peers. But even then, no one can compel you to participate. Also, the activities can’t disrupt normal school activities.

## **6. Can we learn about religion in class? Can we read religious materials as part of our curriculum?**

Your teachers may teach about religion, but they can't teach religion. The distinction is very important. In a class, you may study different prayers and religious books if they are part of a course such as history or literature, and do not promote any particular religion. But your teacher can't promote Islam, for example, by teaching about the Koran and saying how important a part of her life the teachings of the prophet Mohammed are. Also, schools can't teach creationism or "intelligent design" instead of or along with evolution in a science class. That's because creationism and intelligent design are not sciences. They are religious concepts.

## **7. What about prayers or religious references at graduation or other school ceremonies?**

Teachers and other school officials may not lead classes or assemblies in prayer and may not try to persuade students to participate in prayer or other religious activities. It doesn't matter whether the prayers are supposedly "nondenominational," because no single prayer can capture the wide range of religious beliefs -- or no belief -- that people are entitled to hold. Your school cannot invite a member of the clergy or a student to deliver a prayer at a graduation ceremony, football game, or other school event. Also, a school may not require a "moment of silence." if the purpose is to encourage prayer.

However, if the school allows student expression on the basis of genuinely neutral criteria *and* students have primary control over the content of their expression, students individually may choose to express religious beliefs. For example, if all students are given space to express themselves under their yearbook photos, then students can choose to express their religious beliefs. The school may include disclaimers to clarify that the speech is the student's alone, and not the school's. Any disclaimers should be neutral and should not criticize particular viewpoints.

## **8. Can student groups hold religious meetings on school property?**

Yes, during non-class hours, if other student groups are also allowed to meet there. The law about this (the federal Equal Access Act of 1984) requires that the meetings be student-initiated; school staff may not participate or sponsor religious clubs, although staff may be present to ensure order. People from outside the school may not lead, control, or regularly attend the meetings -- although they may be invited as speakers.

## **9. Is it legal for students to hold "prayer rallies 'round the flagpole'?"**

Yes. Students may hold informal "prayer rallies" on school grounds before or after school. But school officials may not organize, attend, or lead such rallies.

## IV. Search & Seizure

*“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated”*

U.S. Constitution, Amendment IV

*“The people have a right to hold themselves, their houses, papers, and possessions free from search or seizure; and therefore warrants, without oath or affirmation first made, affording sufficient foundation for them...ought not to be granted.”*

Article 11 of the Vermont Constitution

### 1. Can a principal or teacher search me?

Yes, if they have “reasonable suspicion” that the search will produce evidence that you are violating the law or a school rule. Also, the search itself must be reasonable based on your age and what is being searched for. Strip searches are prohibited. If you voluntarily consent to a search, the school does not need even reasonable suspicion to justify the search. (You never have to consent to a search, even though you may feel pressure to say “yes.”) A search by school officials requires a “lower threshold” of suspicion than a search by police. Police need “probable cause” and must have a warrant. (But as with school searches, if you consent to a police search, police need no proof you’ve done something wrong.) The U.S. Supreme Court set the rules for school searches in the case *New Jersey v. T.L.O.*

### 2. What is “reasonable suspicion”?

Unfortunately, there is no clear definition of “reasonable suspicion.” Reasonable suspicion might be based on a school official hearing, seeing, or smelling something first-hand, or on a tip from a reliable source that you are breaking a school rule or the law.

### 3. Can school officials search the entire student body or an entire class just because they suspect one student of wrongdoing?

No. If a teacher or the principal has a reasonable suspicion that *someone* has drugs or alcohol, that does not mean they can search *everyone*. They must have “*individualized suspicion*.” That means school officials must have a reasonable suspicion that a search of a *particular* student might uncover evidence of a violation of a school rule or of the law. For example, if a school official has some information that some students are using drugs or drinking alcohol, it would not justify a search of all students in a class or at a game. However, if the issue is the safety and security of the entire school, then it may be OK.

### 4. Can school officials search my locker?

School officials often argue, and school policies often state, that since lockers belong to the school, officials have the right to search them at any time. Courts usually agree -- as long as the school has in place a policy that says student lockers may be searched at any time. Check your school handbook to see if your school does in fact have such a policy. But generally, it’s not a good idea to keep anything in your locker that you don’t want school officials to see.

### **5. Can the school turn evidence they seize over to police? Can that evidence be used against me in a criminal proceeding?**

The evidence gathered by school officials can be turned over to police, but whether it would be admissible in court is another question. That's because school officials don't have to meet the usual standard for searching and seizing evidence. A judge may decide the lower standard ("reasonable suspicion") for school officials is not good enough for court (where the usual standard is "probable cause" and a warrant). The evidence would, however, be admissible if you had consented to the search. And the evidence could be used in any school disciplinary proceeding against you.

### **6. Can a school bring in drug-sniffing dogs for searches?**

Generally, yes. The Supreme Court has held that a sniff of unattended personal belongings is not a search, and thus there is no need for reasonable suspicion. However, some courts have held that when a dog is used to sniff an individual student, it is a search and must be reasonable under the circumstances.

### **7. Can I say "no" to a search?**

Yes. Always remember that you can say "no" to a search (unless you're presented with a valid search warrant).. If you say "yes," a search that otherwise might have been illegal (say, the principal didn't have reasonable suspicion) becomes legal. Do not, however, physically resist a search even if you think it is illegal. Just make sure to state clearly that you don't give permission for the search, and that you'd like another adult present to witness the search and your objection to it. How you respond to a search request may influence sanctions you receive if you're guilty of the offense you're suspected of committing. Schools often stress that a student must take responsibility for his/her actions. Consenting to a search, and even admitting something you've done, shows school officials you are willing to do that. The important point to remember, though, is that the Fifth Amendment of the Constitution protects you from having to testify against yourself. "Taking the Fifth" means you are asserting your right against "self-incrimination."

### **8. What limits are there on police in school?**

Police officers need more justification to search students in school than school officials do, even if the officers are there because school authorities call them. Generally, police must have "probable cause" and a warrant to search a student at school (just as with any adult on the street) unless there is an emergency. A police officer may "stop and frisk" a student in school but only if the officer has a reasonable suspicion that the student is armed and breaking the law. Otherwise, to conduct a more thorough search, a police officer must obtain a warrant or place a student under arrest. If you are placed under arrest, you have a right to call a lawyer. And you may always ask to call your parents before any questioning occurs.

### **9. Can the school make me take blood, urine, or breathalyzer tests for drugs and alcohol?**

Generally, the Fourth Amendment protects us from "suspicionless" searches. A "suspicionless" search is one conducted without any reason to suspect evidence of a crime. Conducting drug testing of all students, or all athletes, would mean conducting suspicionless searches. However, in *Board of Education of Pottawatomie County v. Earls*, the U.S. Supreme Court said it was okay for schools to require all students in voluntary extracurricular activities

(including sports, clubs, and events such as proms) to submit to drug-testing. Such tests are not allowed for attending regular classes. An “individualized” search of a specific student whom officials reasonably suspect is under the influence of drugs or alcohol would be allowed, however.

## V. Equal Protection & Discrimination

“ . . . No state shall . . . deny to any person within its jurisdiction the equal protection of the laws.”

U.S. Constitution, Amendment XIV, Section 1

In the United States, all young people have the right to a free public education. Each student must have equal access to the opportunities his or her school provides. Reasonable restrictions may be based on access to certain classes or activities (for example, you may have to take algebra before you can take trigonometry, or to be in good physical condition before you can play soccer). In the 1997 *Brigham v. State* decision, the Vermont Supreme Court said that the Vermont Constitution also required all Vermont schoolchildren to have substantially equal educational opportunities. The result of the *Brigham* decision was to change the way schools are funded so all districts have equal access to school funds.

Even non-citizens who are in the United States illegally have the right to attend public school. Youth who do not speak English also have the right to attend public schools, and schools are required to provide them with English language instruction or a bilingual education or both. Students who think they or someone they know is being discriminated against in school should talk to an adult who can help, such as a teacher, school counselor, or lawyer. Or contact the ACLU.

### **1. Can schools discriminate against students because of their race, gender, religion or sexual orientation?**

No. In 1955, the U.S. Supreme Court, in *Brown v. Board of Education*, established that racial discrimination in public schools is a violation of the Fourteenth Amendment. This applies to all school activities including enrollment in classes, extracurricular activities, and clubs.

Sexual discrimination is also illegal. Title IX of the federal Education Amendments of 1972 as well as Vermont law prohibits sex discrimination in schools. Public schools cannot offer academic classes that are only for one sex. Girls and boys must be provided with all the same educational and extracurricular opportunities, including equal athletic opportunities. However, many courts have allowed separate athletic teams for boys and girls, so long as schools provide both sexes with the opportunity to participate in a particular sport.

The First Amendment protects students’ right to free exercise of religion. Students can’t be prevented from attending public school, excluded from any school group, or denied access to school property because of their religion. Students also have the right to wear symbols of their religion and cannot be sent home for doing so.

Vermont’s Public Accommodations Act bars discrimination in places that provide public services, including schools. It, along with other laws, contains provisions designed to prevent

discrimination and harassment. These provisions say a student can't be treated differently, or harassed, because of his or her race, religion, color, national origin, marital status, sex, sexual orientation or preference, or disability. (These classifications are sometimes referred to as "protected classes" because people within these groups have special protections from discrimination under the law.)

Before schools can take steps to stop discrimination or harassment, though, they have to know about it. When a school receives a complaint of harassment, it is required to look into it and take steps to protect you from further harassment. Remember to look at your school's policy and follow the process for raising a complaint. Keep careful notes about what happened, when it happened, who was involved, and when you reported it.

Note that harassment is different from bullying or hazing. Investigations of complaints about each of these kinds of misconduct varies, as do possible consequences -- something even some school officials are sometimes not aware of.

Generally speaking:

- Harassment is conduct (speech and actions) intended to disparage someone based on their race, gender, religion, ethnic origin, sexual orientation or preference, marital status, or disability.
- Hazing is humiliating and demeaning acts forced on others before they are accepted into a group, such as a sports team or a fraternity.
- Bullying is conduct meant to hurt or humiliate any student in any way.

Efforts to protect students from offensive conduct can sometimes collide with First Amendment rights. A federal court ruled in a Pennsylvania case, *Saxe v. State College Area School District*, that a Bible passage condemning homosexuality could not be considered harassment when printed on a student's T-shirt. A gay student may find the slogan demeaning and offensive, but the other student's religious expression rights trump perceived harassment, the court said. Other courts have ruled differently in similar types of cases, however. More litigation is likely.

If you have reported harassment by a student, teacher, or staff member and the school has done nothing, contact the Vermont Human Rights Commission or the ACLU for assistance. You may also contact us if you think your free speech rights have been violated.

## **2. Can schools offer certain sports programs only to boys or girls?**

Sports programs remain one of the few areas in which schools may operate separate programs for boys and girls. If a school chooses to maintain separate athletic programs, federal and state laws require the school to ensure that boys and girls have an equal opportunity to participate. Illegal discrimination can result if your school does not provide the same number of opportunities or roster spots proportionate to the number of boys and girls enrolled at the school.

A school that offers separate athletic teams for male and female students must also ensure that both boys and girls receive "equitable treatment." This means that all student athletes should have comparable benefits regardless of gender: locker rooms, practice and competitive facilities, publicity, equipment and supplies (i.e., uniforms), transportation, coaching, scheduling of games, and practice times.

If you believe you or your team is not being treated the same as another team of the opposite sex, you may have a discrimination complaint. Speak with others on your team to see if they feel the same way. Every school is required to have a written procedure for responding to discrimination complaints filed by student athletes. There should be information posted in your

school and also printed in your handbook about how you can make a complaint. If you cannot find it, ask a teacher or principal to give you a copy and explain the process to you.

If you have filed a complaint about discrimination in an athletic program and the school has done nothing, call the Vermont Human Rights Commission or the ACLU for assistance.

### **3. What about other kinds of programs? Can classes be segregated by sex?**

U.S. law (Title IX of the federal Civil Rights Act) forbids sex discrimination in academic and other high school programs. All courses and other school-related activities must be open to both boys and girls.

### **4. Can I bring a date of the same sex to the school prom?**

If your school allows couples at the prom or other school functions, it should allow same-sex couples. Additionally, you should be able to wear what you wish, so long as it does not cause substantial or material disruption. Dress choices apply to transgender individuals as well.

### **5. Can I be denied a public education because of my immigration status?**

All children living in the U.S. -- whether they are U.S. citizens or not -- have a right to a public education. Schools cannot refuse you admission based on your immigration status. In fact, the school cannot require you or your parents to provide a green card, Social Security number, or other proof of citizenship or immigration status for you to go to school. If you do not have a Social Security number, the school can assign you a number generated by the school for identification purposes. U.S. immigration laws are enforced by federal officials, not local school officials.

### **6. What if my primary language is not English?**

Students who are still learning English have the right to transitional bilingual instruction or an alternative program designed to help them learn English. "Transitional bilingual instruction" means instruction where concepts are introduced in a student's primary language and reinforced in English. Students are then tested in English. Whatever program a school provides, the student should be able to keep learning in other school subjects, such as math, history and science, while learning English.

Schools are also required to send letters and notices to parents in their primary language whenever it is practical. Parents should get written notices in their primary language, especially important notices relating to school discipline, school attendance, and special education. Parents should also be able to talk with a student's teacher or principal, with a translator if necessary.

### **7. What if I have special needs or am disabled?**

Students with mental, physical, or learning disabilities are entitled to a free and appropriate education. A federal law called the Individuals with Disabilities in Education Act (IDEA) requires schools to provide special education and related services to students with disabilities. Schools are required to try to make the school, as a whole, accessible to all students, and must provide evaluations, free of charge, to determine whether a child is eligible for special education services. Schools must develop Individualized Education Plans (IEPs) for students with disabilities, tailored to their particular needs. To the extent practicable, schools must provide services that allow students with disabilities to learn in the regular classroom alongside their peers.

## VI. Due Process & Discipline

*“No state shall . . . deprive any person of life, liberty, or property, without due process of law.”*

U.S. Constitution, Amendment XIV, Section 1

When you go to school, you have the obligation to obey your school’s written rules. But there are some limits on what kinds of conduct the school can ban. School rules must be reasonable and have a logical relationship to the school’s legitimate interests. Rules -- usually written as policies -- must also respect your fundamental rights, including your rights to free speech and freedom of religion.

### 1. What is due process?

The basic idea of due process is that no one should be assumed to have violated any laws, regulations, or ethical codes without first having a fair hearing in front of people who can judge him or her impartially, according to objective procedures, and without prejudice. Essential to the fairness of such a hearing is the idea that anyone accused of a violation of a rule or law has the right to face his or her accusers and defend her or himself, or have a lawyer or other advocate do so. Stated most simply, everyone is innocent until proven guilty by just and fair means. In a school setting, no one should be assumed to have violated either laws or school rules -- whether the accusers are school officials or the police -- without having a chance to defend her or himself in a fair and unbiased hearing. This is the law and the ideal. Informed students and parents can help to make it the reality in schools that fall short of the ideal.

### 2. What due process rights do students have in school?

In 1974, the Supreme Court heard the case *Goss v. Lopez*, a case involving students who had been suspended without a hearing, and ruled that students have a right to due process in school. The court’s decision gives any student accused of wrongdoing that could result in a suspension the right to tell his or her side of the story in an informal hearing. The student must be told the accusation against him or her, and the basis for the accusation. If a student is facing a more serious punishment (suspension for more than 10 days, or expulsion), the student is entitled to a formal hearing before an impartial body (usually the local school board). The student may have a lawyer present and may cross-examine witnesses.

A school can suspend or expel a student without prior notice or a hearing only if officials think he or she poses a danger to other students or school property. In that case, the school is still required to give notice of the charges and schedule a hearing as soon as possible following the disciplinary action. Students are *not* entitled to hearings for minor punishments.

Students facing suspension have the right to refuse to answer questions from a school official or a police officer without an attorney present, or before they have had a chance to get advice and counsel from an adult. Interrogations must take place in the presence of a knowledgeable, disinterested adult.

### 3. Does the law require schools to have written codes of discipline?

Yes. Vermont law requires all Vermont schools to publish written codes of discipline. If students want to know about the codes of discipline that may affect them, they should ask at their school office how to obtain a copy.

#### **4. What can a student be suspended or expelled for?**

Usually it depends where a student goes to school and what written codes of discipline the school has adopted. Most school administrators consider suspension and expulsion to be extreme punishments and use them only in very serious cases in which a student has done something illegal or dangerous.

Vermont law *requires* school districts to expel for not less than one year a student who brings a weapon to school, with few exceptions. Also, any Vermont student who brings a weapon to school is referred to a law enforcement agency, so he or she may face criminal charges as well as school penalties.

School districts are *not* required to provide an alternative education for suspended or expelled students, but state law authorizes and encourages them to do so.

#### **5. Can students be punished at school for something they did off-campus?**

As noted in the “Freedom of Expression” section, this can be a tricky area of the law.

Vermont students may be punished for misconduct on a school bus or at an off-campus school-sponsored activity, such as a class field trip or a sport team’s game played at another school. A student may also be removed from school if his or her conduct poses an ongoing danger to other pupils or the school, or if she or he continually disrupts the educational activities of the school.

Schools may also curtail participation in extracurricular activities by students because of off-campus use of drugs or alcohol, provided this is done through concise and narrowly tailored regulations and is based on adequate facts. Many schools require students participating in extracurricular activities to sign a “contract” where they agree not to use drugs. A student can’t be suspended or expelled for breaking the contract, but they can be prohibited from participation in the extracurricular activity.

Beyond these examples, schools’ authority to discipline students has generally *not* been extended to things that happen off-campus. This may be changing, however, due largely to technology. Technology allows actions taken outside of school to come into school and cause disruptions, some courts have said. So exercise good judgment, recognizing that anything you post online or send in an e-mail may be seen by people other than those to whom your post or e-mail is intended.

#### **6. Is corporal punishment at school legal?**

In Vermont, no. Vermont law prohibits any “person employed by or agent of a public or approved school” from inflicting corporal punishment upon a pupil of the school or institution. This statute, however, does not prevent school officials from using reasonable and necessary force to quell a disturbance, to obtain possession of weapons or other dangerous objects, to defend themselves, or to protect persons or property. Federal law allows corporal punishment, however. In 1977 the U.S. Supreme Court found in the case *Ingraham v. Wright* that paddling did not constitute “cruel and unusual punishment.” More than 20 states, however, have made corporal punishment illegal. (The additional protection of a state law over-rides the federal decision allowing states to use corporal punishment.)

## **VII. Sexual Health & Education**

### **1. Are students entitled to learn about HIV/AIDS, birth control, pregnancy, and abortion at school?**

All schools must provide medically accurate instruction about AIDS prevention. You should receive education about AIDS prevention at least once a year, starting no later than the fifth grade. The content of the course must be medically accurate. Your parent or guardian can opt you out of the AIDS prevention education if they attend a presentation about what the course will include and what materials will be used.

Each school district can decide whether or not it wants to teach general sex education. If a school chooses to teach sex education, then classes must be medically accurate. They must include information about both contraceptives and abstinence. And, they must not be taught from a religious viewpoint. If your district does teach sex education, your parent or guardian can opt you out by filing a written request.

### **2. Can a student be kicked out of school for being pregnant?**

No. Under federal law it is illegal for public schools to discriminate against students who are pregnant, have children, or are married. Nor can schools discriminate against a student who chooses to terminate a pregnancy or needs time to recover from medical procedures related to childbirth or abortion. All students, including those who are pregnant or have children, have the right to an education, and school officials cannot prevent them from attending classes, participating in extracurricular activities, and taking part in graduation ceremonies. Even if a school offers special classes for pregnant students or alternative programs, school officials cannot require pregnant students to participate in these if they would rather attend regular classes.

### **3. Can a student with HIV or AIDS go to school?**

Yes. If you are living with HIV or AIDS, you have the right to go to school and the right to privacy in your medical information. Students living with HIV or AIDS should not be barred from school or extracurricular activities. Because HIV/AIDS cannot be easily transmitted during the types of incidental contact that take place at school, you should not be required to disclose your HIV/AIDS status to the school.

Schools must take special care to protect the privacy of students' HIV or AIDS status and related medical records:

- School officials may not disclose your HIV or AIDS status to others without specific written consent.
- The school may not disclose the identity of any student who has asked about or requested testing or treatment for a sexually transmitted disease, including HIV or AIDS.
- The school may not release HIV test results without a signed release. A general written consent to release medical information is not enough to allow release of HIV records.

#### **4. Do I need my parents' consent to get birth control? Will my parents be told? Do I need my parents' consent for an abortion?**

All people in our state -- including young people -- have a right to privacy for personal reproductive decisions. Every person has the right to choose or refuse birth control. Every woman has the right to choose or refuse to have an abortion. In Vermont, even as a minor, *you* are the one with the right to consent to family planning (e.g., birth control) or abortion. You are also the one who can authorize the release of information relating to birth control or abortion, not your parent or guardian. That means the school cannot release information about birth control or abortion to your parent or guardian or others without *your* written authorization.

## **VIII. Student Records & Privacy**

### **1. What are student records, and what is in mine?**

Schools keep records of each student's academic and personal progress. The records may include academic grades, teacher evaluations, disciplinary actions, attendance records, test scores and health records. A federal law, the Family Educational Rights and Privacy Act, commonly called "FERPA," gives parents access to student records. (If you're 18 or over, you have the right to access your own records.) It also prevents the release of your records to others without written consent.

### **2. Are my student records private?**

Generally, yes. The school must get written consent before it can disclose your records to anyone. In certain cases, schools can disclose your records without prior consent to:

- school officials who have "legitimate educational interests"
- another school, if you transfer
- a court to comply with a court order
- financial aid personnel (financial records)

Certain identifying and contact information, often called "directory information," has less protection and can be released without prior written consent unless your parent requests in advance that it not be given out. Your student handbook or school district's policy should tell you what information your school releases as directory information. Typically, it's your name, address, honors and awards received, dates of attendance, current grade, participation in activities and sports, and weight and height of members of athletic teams.

### **3. What about records concerning sensitive matters such as HIV status or abortion?**

These are private, and are actually protected by a higher standard. Such private records include HIV status or other sexually transmitted diseases, drug or alcohol treatment, mental health treatment, and family planning or abortion.

### **4. Do military recruiters have access to my records?**

Yes, unless you opt out. A section of the federal "No Child Left Behind Act" gives military recruiters access to the names, addresses, and telephone numbers of high school students (Grades 9 and up). The law requires schools to give the information to military recruiters upon request unless you or your parents have opted out of having your information disclosed. The

school must give your parents (or you, if you are over 18) annual advance notice of the right to opt out and information about how and when to do it. Under Vermont law, schools must also allow you to opt out of the military receiving your information without requiring you to opt out of colleges or job recruiters receiving your information. If your information was given to the military before you had a chance to opt out and you want to remove your name from the military's lists, you must contact the company that operates the Pentagon's JAMRS database. Visit the [Leave My Child Alone](http://www.leavemychildalone.org/optout.html) (<http://www.leavemychildalone.org/optout.html>) Web site for contact information and an opt-out letter.

### **5. Can I see my records?**

You and your parents have the right to see most of your student records. Once your request is made, the school has five school business days to comply unless it gives you a written explanation for why it cannot. In no case can the school delay beyond 45 days. Certain records may be withheld, including notes from a teacher, records of students' post-graduate activities, personnel records of school employees, and the records of a school where a student applied but never attended. Adult students may be denied access to psychiatric records, recommendation letters, and parents' financial records.

# Be Your Own Advocate: Stand Up For Your Rights!

This section describes six general strategies to use if you feel that your rights are being violated. Remember that freedom cannot protect itself. You might find a sympathetic teacher, a parent or adult who will stand up for you when the school is violating your rights, but often it is up to *you* to ask for help. Most educators -- including school administrators -- want to do the right thing. If you carefully and respectfully explain to school officials that certain actions of the school are improper, you might find that they will agree with you.

## 1. Know Your Rights

You cannot protect your rights if you do not know what they are. A good place to start looking is in the written policies and procedures adopted by your school district. You should find some of those in your student handbook, and you can find more by asking your principal or superintendent's office. However, you should not stop there. Laws and policies are constantly changing, so sometimes school policies are outdated. They may not give you full information about your rights. You can find out more about your rights from this guide. If you have a specific question about your rights and cannot find an answer, talk to your school counselor or teacher to see if they can help you. You can also contact the ACLU ([info@acluvt.org](mailto:info@acluvt.org) or 223-6304) to see if we can help.

## 2. Investigate The Facts

If something happens that you think is unfair, keep track of the details. The best way to keep things straight is to write things down! Ask for statements from witnesses. Try to find out the points of view of the different people involved, including school staff or administrators. If the school gives you anything in writing or if you submit anything in writing yourself, make and keep copies.

*As soon after the incident as possible, write out a statement, including:*

- Who was involved? Who saw it?
- What happened? What was said?
- When did it happen? When did you report it?
- Where were you?
- Why did the school take the action it did?

## 3. Think About What You Want

What do you think the school *should* do? Some changes may affect only you. Other changes may involve a rule or policy that will affect everyone in your school, district, or state. When you have an idea about what you want to happen, think about how you can make the case for it.

## 4. Figure Out Who Has The Power To Help

When you know what you want, figure out who has the power to make it happen. If you want help in understanding something you think is unfair, you might start with a teacher or counselor. If your problem involves a teacher, other school staff, or school activity, you should go to the principal or school counselor. If your problem is with the principal, or if the principal is not helping you, your next step may be to contact the superintendent (or in some cases, the school board). Changes in school policy can only be made by the school board, but you will

generally want to start by talking with your principal and the superintendent. When it comes to school discipline, there are usually specific steps you must follow to challenge a punishment or other sanction. Look in your handbook and read disciplinary notices carefully to understand your appeal rights.

## **5. Find Your Allies And Work In A Group**

If you see a problem, you are likely not the only one who is affected or concerned. Your message will be stronger if you can work in a group. Look for other students, teachers, parents, or community members to work with you.

*You can build awareness and support for an issue by:*

- writing an article for the school paper
- going to school board meetings
- getting petitions signed by other students, parents, and teachers.

## **6. Meet With The Decision-Makers**

*If you plan a group meeting with the principal or another school administrator:*

- be sure to meet first just with your group
- outline the points you want to make and how you will make them
- designate one person to talk while another takes notes
- let the principal know in advance who will be attending the meeting.

Remember, you will have the most success if you remain calm and reasonable. Always treat school officials with respect, even if you disagree with them. If school administrators say “no” to your request, ask for the reasons behind their decision and try to respond. If that does not change their minds, try going to the next step -- usually, an appeal to the superintendent or school board. After any meeting, write a brief note to the official you met with, following up and confirming any agreements that were reached or stating your understanding of what will happen next.

Standing up for your rights at school and in court takes courage, but your success can help prevent future violations of other students’ rights. The ACLU has helped many students stand up for their rights, and has often succeeded. However, sometimes courts have favored schools’ interest in keeping order over students’ rights. Sometimes schools are allowed to punish students for speech that we believe should be protected, or search students’ things for reasons we think aren’t valid. Nevertheless, don’t get discouraged -- just because schools are *allowed* to do something doesn’t mean it’s right or a good idea. That’s something everyone needs to be reminded of at times.

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