

Know Your Rights

STUDENTS' RIGHTS

The Supreme Court ruled in 1969 that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." This is true for other fundamental rights, as well.

Do I have First Amendment rights in school?

- You have the right to speak out, hand out flyers and petitions, and wear expressive clothing in school — as long as you don't disrupt the functioning of the school or violate school policies that don't hinge on the message expressed.
- What counts as "disruptive" will vary by context, but a school disagreeing with your position or thinking your speech is controversial or in "bad taste" is not enough to qualify. Courts have upheld students' rights to wear things like an anti-war armband, an armband opposing the right to get an abortion, and a shirt supporting the LGBTQ community.
- Schools can have rules that have nothing to do with the message expressed, like dress codes. So, for example, a school can prohibit you from wearing hats — because that rule is not based on what the hats say — but it can't prohibit you from wearing only pink pussycat hats or pro-NRA hats.
- Outside of school, you enjoy essentially the same rights to protest and speak out as anyone else. This means you're likely to be most protected if you organize, protest, and advocate for your views off campus and outside of school hours.
- You have the right to speak your mind on social media, and your school cannot punish you for content you post off campus and outside of school hours that does not relate to school.

Can my school tell me what I can and cannot wear based on my gender?

- Public schools can have dress codes, but under federal law dress codes can't treat students differently based on their gender, force students to conform to sex stereotypes, or censor particular viewpoints.

- Schools can't create a dress code based on the stereotype that only girls can wear some types of clothes and only boys can wear other types of clothes. For example, your school can require that skirts must be a certain length, but it cannot require that some students wear skirts and prohibit others from doing so based on the students' sex or gender expression. That also applies to pants, ties, or any other clothing associated with traditional gender roles.
- Dress codes also must be enforced equally. For example, rules against "revealing" clothing, such as bans on tank tops or leggings, shouldn't be enforced only or disproportionately against girls.
- All students should be allowed to wear clothing consistent with their gender identity and expression, whether they identify as transgender or cisgender. This also applies to homecoming, prom, graduation, and other special school events. Schools shouldn't require different types of clothing for special events based on students' sex or gender identity — for example, requiring tuxedos for boys and prom dresses for girls.

Can my school discipline me for participating in a walkout?

- Because the law in most places requires students to go to school, schools can discipline you for missing class. But schools cannot discipline you more harshly because of the message or the political nature of your action. If this is happening to you, you can contact us.
- The punishment you could face will vary by your school district and school. If you're planning to miss a class or two, look up the policy for unexcused absences for your school and school district. If you're considering missing several days, read about truancy. Also take a look at the policy for suspensions.
 - In Arizona, missing more than five days "unexcused" might result in criminal charges, so you may want to consult an attorney. The law isn't totally clear what is excused versus unexcused, but you or your parent can ask the principal to excuse your absence.
- If you are facing a suspension of 10 days or more, you have a right to a formal process and can be represented by a lawyer.
- You should be given the same right to make up work just as any other student who missed classes.

What do I do if I'm confronted by police at my school?

- If you're stopped by a police officer at your school, stay calm. Don't argue, resist, run away, or otherwise interfere with the officer. Ask if you're free to leave. If the answer is yes, calmly and silently walk away from the officer.
- If the officer asks you a question, you have the right to remain silent. You also have the right to refuse to write or sign a statement. But if you waive these rights, anything you say, write, or sign can be used against you. And if you choose to make a statement, ask to have a lawyer, parent, or guardian present before you are questioned.
- You can refuse to give your consent to be searched by the police. This may not stop the search, but this is the best way to protect your rights if you end up in court.
- Don't consent to a phone search; police need a warrant to search your phone. The same goes for a strip-search. No police officer or school employee has the authority to strip-search you.
- Don't resist, fight, or flee from an officer who is arresting you. Say you wish to remain silent and ask for a lawyer immediately. Don't say anything, sign anything, or make any decisions without a lawyer present.

The rights of immigrant students

- Schools cannot discriminate against students on the basis of race, color, or national origin.
- Undocumented children cannot be denied their right to a free public education, and schools should not require families to prove their immigration status in order to enroll their children in school.
- Students with limited English proficiency cannot be turned away by public schools, which must provide them with language instruction.

The rights of students with disabilities

- Public schools are prohibited by federal law from discriminating against people with disabilities, and cannot deny them equal access to academic courses, field trips, extracurricular activities, school technology, and health services.

- Educators and administrators must make necessary academic and medical accommodations, ensure equal access to educational activities and opportunities, and respond to harassment and bullying.
- Students with disabilities have protection from being suspended if the conduct was a “manifestation of their disability.”

LGBTQ student rights

- LGBTQ students have a right to be who they are and express themselves in public schools.
- Public schools should not proactively “out” students to their families, BUT under state and federal law, parents have the right to see all their child’s education records, which includes health and counseling records, and state law forbids school officials from encouraging students to withhold information from their parents.
- Public schools have a responsibility to create a safe learning environment. They cannot ignore harassment based on a student’s LGBT status. Students should report harassment or threats to a principal or counselor. This puts the school on notice that officials can be held legally responsible for not protecting students.
- Public schools cannot force students to wear clothing inconsistent with their gender identity.
- If a public school permits any noncurricular clubs — clubs that aren’t directly related to classes taught in the school — then it must allow students to form a Gender and Sexuality / Gay-Straight Alliance or other LGBTQ-themed clubs, and the school can’t treat it differently from other noncurricular clubs.
 - Some schools are trying to find a “loophole” in this law – if you are having trouble forming a GSA please contact the ACLU of Arizona!
- Students’ transgender status and gender assigned at birth are confidential information protected by federal privacy law. If your school reveals that information to anyone without your permission, it could be violating federal law. If you don’t want school officials revealing your private information to others, including your legal name, tell them very clearly that you want your information kept private and that they should not disclose that information to anyone without your consent. If you can get your parents to state in writing that the school cannot disclose your “directory information,” that’s even better.

- You should be allowed to use restrooms and locker rooms consistent with their gender identity. And, if you are uncomfortable using either restroom or locker room (for example if you are nonbinary), the school should give you a private option. This is an area of the law that is changing a great deal right now. We recommend that you contact us if you have any questions about these rights at school.

The rights of pregnant students

- Public schools and all schools that get federal funds are prohibited from excluding pregnant or parenting students from school, classes, or extracurricular activities, or pressuring them to drop out or change schools.
- These schools must provide pregnant students the same accommodations that students with other temporary medical conditions are given, including the ability to make up missed classwork, attend doctor's appointments, take time off for childbirth and recovery, and learn in a safe, nonjudgmental environment.

You can find additional resources or contact the ACLU of Arizona by visiting <https://www.acluaz.org/en/about/ask-help> (scroll down for the online complaint form).